

HEARING DATE: SEPTEMBER 21, 2023

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

STATE OF RHODE ISLAND,)
PETER F. NERONHA, in his)
capacity as Attorney General of the)
STATE OF RHODE ISLAND; and)
DR. UTPALA BANDY,)
in her capacity as Interim Director,)
RHODE ISLAND DEPARTMENT)
OF HEALTH,)
Plaintiffs,)
)
v.)
)
PIONEER INVESTMENTS, L.L.C.,)
ANURAG SUREKA)
Defendants)

C.A. No.: PC-2023-02652

**DEFENDANTS PIONEER INVESTMENTS, LLC AND ANURAG SUREKA'S
MOTION FOR A PROTECTIVE ORDER AND STAY OF DISCOVERY**

Now come the Defendants, Pioneer Investments, LLC and Anurag Sureka (“Defendants”), pursuant to Rule 26 of the Rhode Island Rules of Civil Procedure, and hereby move for a protective order to stay discovery as requested below. As grounds for said motion, the Defendants aver the following.

On June 6, 2023, The State of Rhode Island, Peter Nerohna, as the Attorney General, and Dr. Utpala Bandy, as the Interim Director of the Rhode Island Department of Health (“Plaintiffs”), filed a sprawling, wide-ranging enforcement action against the Defendants. In the complaint, the Plaintiffs allege that the Defendants are responsible for creating a public nuisance, violated the Lead Poisoning Prevention Act and Lead Hazard Mitigation Act, violated various provisions of the Rhode Island Property Maintenance Code and Housing Maintenance Code, and violated Rhode Island’s Deceptive Trade Practices Act. Defendant Sureka was served with the complaint on June

14, 2023. The proof of service for Pioneer Investments indicates that service was effectuated on May 7, 2023. This may be a typographical error as the complaint was not filed until approximately a month later.

On July 3, 2023, less than thirty (30) days after serving Defendant Sureka, Plaintiffs propounded interrogatories and requests for production to each Defendant. As to Plaintiffs' interrogatories, it should be noted that they were served within sixty (60) days after service was made without leave of court in violation of Rule 33(a) which provides that leave of court is required to propound interrogatories less than sixty (60) days after service. Thus, under the rules, Defendants are under no duty to file answers to these interrogatories. In addition to the written discovery, on July 12, 2023, again less than thirty (30) days after Defendant Sureka was served, Plaintiffs served notices to take four (4) depositions.

On July 12, 2023, the Defendants filed a motion to have the case assigned to a single justice. The motion was granted and assigned to Justice Taft-Carter.

The complaint spans forty (40) pages and, despite its verbosity, lacks the basic facts and information envisioned by the Rules of Procedure. For example, the complaint alleges that the Defendants own or operate more than one hundred seventy-five (175) rental units throughout Rhode Island and yet fails to identify any specific properties or rental units Plaintiffs claim violated lead paint statutes, housing and maintenance codes, or the Landlord Tenant Act. Plaintiffs also fail to identify any tenants who were allegedly poisoned by lead while residing at the Defendants' properties or the location of each property and/or rental unit. Furthermore, the complaint fails to identify any specific tenants who they claim were victims of deceptive trade practices.

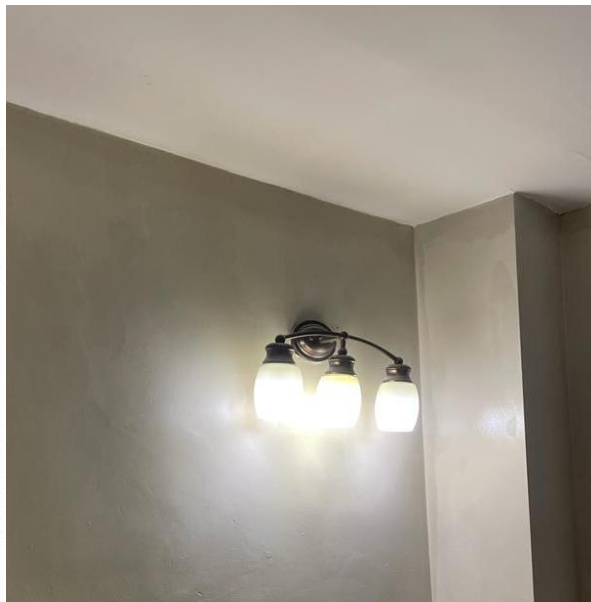
The vagueness of the complaint is either the result of intentional misrepresentations concerning the state of Defendants' properties or the failure to conduct a reasonable inquiry as to

condition of Defendants' properties prior to filing the complaint. For example, the complaint contains the following images of Defendants' properties the Plaintiffs claim represent the condition of Defendants' properties.



The first image is of property located on Pond Street, West Warwick, RI. Defendants signed a purchase and sales agreement to purchase this property in March of 2021. Three days after the documents were executed, the trees caught fire and damaged the siding. Defendants

decided to go forward with purchasing the property despite the fire and a closing took place in April of 2021. After purchasing the property, Defendants replaced the siding and gutters that year. The other images are from a property located on Park Avenue in Woonsocket. There was a report of a leak and Defendants remediated the problem by replacing the ceiling and walls where the damage occurred. Defendants also renovated the bathroom and kitchen of the unit. The images below are photographs of the same areas of the properties subsequent to the repairs and renovations and were taken before the complaint was filed.





It is Defendants' contention that the Plaintiffs' claim that the images of Defendants' properties included in the complaint represent the condition of their properties is completely false, misleading and defamatory. Defendants fully intend to file a counterclaim for defamation when they file their answer.

Due to the vagueness of the complaint, Defendants filed a motion for a more definite statement per Rule 12(e) which is scheduled for hearing on September 21, 2023. Once the issues concerning the Plaintiffs' complaint are resolved by the court and Defendants file their answer, Defendants fully intend to file a motion to dismiss most, if not all, counts of the complaint based on subject matter jurisdiction, standing, *inter alia*.

The Plaintiffs' discovery requests seek specific information from the Defendants that was conspicuously omitted from the complaint and that is the very subject of the Defendants' motion for a more definite statement. Defendants are entitled to know the bare facts allegedly supporting the Plaintiffs' claims before engaging in discovery as contemplated by the Rules of Civil Procedure. Plaintiffs, via discovery, are in effect seeking information from the Defendants, to the

extent such information exists at all, Plaintiffs should have acquired prior to filing the complaint. As noted above, the images included in the complaint establish that the Plaintiffs failed to conduct a reasonable inquiry as to the condition of Defendants' properties prior to filing the complaint. The Plaintiffs' tactic of asserting such bold claims without providing the basic facts and then filing burdensome discovery requests spanning years of documents amounts to nothing more than a fishing expedition in an attempt to find support for the insufficient complaint. As such, Plaintiffs' discovery constitutes an abuse of the discovery process and is contrary to the process contemplated by the Rules of Procedure which places issues related to Rule 12 well before engaging in discovery.

In light of the scope of the complaint and the allegations contained therein, the issues relating to the sufficiency of the complaint which have yet to be ruled upon, the fact that Defendants have yet to file their answer, and the fact that Defendants are going to file a motion to dismiss, an order staying discovery under Rule 26(c) is more than appropriate. Defendants should not be expected nor required to engage in discovery as to claims or counts that are the subject of a motion for a more definite statement and the upcoming motion to dismiss. Therefore, the Defendants request that discovery not begin until sixty (60) days after Defendants file their answer. This period will allow time for the Defendants to file their motion to dismiss (which they intend to file along with the answer or very shortly thereafter), the Plaintiffs to file their objection, and the court to rule on the same before engaging in discovery.

WHEREFORE, the Defendants respectfully request that this court grant this motion and enter an order that discovery not begin until sixty (60) days after the Defendants file their answer to the complaint.

DEFENDANTS,
PIONEER INVESTMENTS, L.L.C.
ANURAG SUREKA
BY THEIR ATTORNEYS,

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CERTIFICATE OF SERVICE

I hereby certify that on the 31th day of August, 2023, I electronically filed and served this document through the electronic filing system with notice to the following parties. The document electronically filed and service is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

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