

**TERRY M. PLANT, #2610**  
**CORY D. MEMMOTT, #8346**  
**STEWART B. HARMAN #11313**  
**PLANT, CHRISTENSEN & KANELL**

Attorneys for Defendant World Wide Association of Specialty Programs and Schools,  
Ken Kay, and Robert B. Lichfield  
136 East South Temple, Suite 1700  
Salt Lake City, Utah 84111  
Telephone: (801) 363-7611

---

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF UTAH

---

WILLIAM CHASE WOOD, *et al.*,

Plaintiffs,

v.

WORLD WIDE ASSOCIATION OF  
SPECIALTY PROGRAMS AND  
SCHOOLS, INC., *et al.*,

Defendants.

**DEFENDANTS WORLD WIDE  
ASSOCIATION OF SPECIALTY  
PROGRAMS AND SCHOOLS, KEN KAY  
AND ROBERT LICHFIELD'S MOTIONS  
TO DISMISS AND FOR MORE DEFINITE  
STATEMENT**

**Civil No. 2:06-cv-00708**

**Judge Ted Stewart**

---

DEFENDANTS World Wide Association of Specialty Programs and Schools, Ken Kay and Robert B. Lichfield (hereinafter "Defendants"), pursuant to Fed R. Civ. P. 12(b)(6) and 12(e), hereby move this court to dismiss Plaintiffs' action for failure to state a claim upon which relief can be granted, failure to plead all essential elements of RICO violations, failure to plead allegations of fraud and alter ego with particularity and for an order requiring plaintiff to provide a more definite statement for all claims not dismissed hereby.

The Utah Code of Criminal Procedure § 77-1-5 requires any violation of a state statute to be prosecuted in the name of the state of Utah. Plaintiffs have alleged various causes of action arising out of §§ 76-5-109, 76-5-103, 76-5-401.1, 76-5-404 and 76-5-404.1 of the Utah Criminal Code and § 62A-4a-411 of the Utah Human Services Code. Therefore, because Plaintiffs lack standing to prosecute Defendants in the name of the State of Utah, their claims arising out of the Utah Criminal Code should be dismissed for failure to state a claim upon which relief can be granted.

Next, Plaintiffs' Amended Complaint alleges violations under the Federal Racketeer-Influenced and Corruption Organizations (RICO) Act, 18 U.S.C. § 1961 et seq. Plaintiffs' RICO allegations must be dismissed for failure to plead the required elements of such claims. Plaintiffs' have made bare conclusions and have failed to plead the specific elements essential to their claim. Further, Plaintiffs cannot show the required elements of a RICO violation.

Third, Plaintiffs' Amended Complaint alleges that all Defendants are liable for civil conspiracy and fraudulent concealment, actual and constructive fraud, negligent misrepresentation involving risk of physical harm, and deceptive trade practices violations. However, Plaintiffs have failed to plead any of the allegations of fraud, those arising in fraud, or alter ego with particularity and thus fail to apprise Defendants of the specific allegations against them or to give fair notice.

Finally, Plaintiffs have additionally alleged that Defendants acted in concert, and are liable for Negligence, Actual and Constructive Fraud, Breach of Contract/Breach of Warranty, Breach of Statutory Duty to Prevent Child Abuse, Breach of Duty to Act

Imposed by Prior Dangerous Conduct, Breach of Duty to Aid Another Harmed by Defendants' Conduct, Defendants' Intentional and Negligent Infliction of Emotional Distress, Negligent Assumption of Risk of Intentional or Criminal Conduct, Negligent Misrepresentation Involving Risk of Physical Harm, Battery, Assault, False Imprisonment, Utah Deceptive Trade Practices Violations, RICO Violations, and Gross Negligence and Exemplary Damages. However, nowhere in the amended complaint is there any detail provided as to which plaintiffs assert which causes of action, against which defendants. Plaintiffs have failed to give Defendants reasonable notice in this case as to who is asserting what causes of action, when the cause became actionable, and where the alleged misconduct took place. Without such additional details, Defendant cannot respond the Plaintiffs' allegations. Therefore, the court should require any claims which survive this motion be sufficiently stated to allow each defendant to frame a responsive pleading.

A memorandum in support of this motion is submitted herewith.

DATED this 22nd day of November 2006.

**PLANT, CHRISTENSEN & KANELL**



TERRY M. PLANT  
CORY D. MEMMOTT  
STEWART B. HARMAN  
Attorneys for Defendants World Wide  
Association of Specialty Programs and  
Schools, Ken Kay and Robert B.  
Lichfield