STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

QCI NURSE SPECIALISTS, INC.,
d/b/a QCI HEALTHCARE,

Plaintiff,

vs.

MHV SENIOR LIVING, LLC, d/b/a
FIRST AND MAIN OF METRO
HEALTH VILLAGE; GRANGER
GROUP OF COMPANIES, LLC; and
AH WYOMING SUBTENANT LLC,

Defendants.
_____/

Case No. 20-02540-CBB

HON. CHRISTOPHER P. YATES

ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION

Something about the theory of unjust enrichment seems to draw attorneys to such claims in the same manner that Lancelot was drawn to Guinevere. Even though the attorneys can never have a viable claim for unjust enrichment, they pine for the claim to such an extent that they cannot live without it even in the face of a compelling explanation from the Court about why the claim is simply not meant to be in the context of the case. So the attorneys file utterly pointless motions demanding reconsideration under MCR 2.119(F) even after the Court tells them in clear and detailed terms why the relationship with that claim can never, ever happen. That, in a nutshell, is the story of Plaintiff QCI Nurse Specialists, Inc. ("QCI") and its claim for unjust enrichment here.

On June 26, 2020, the Court heard oral arguments on a motion by Defendant AH Wyoming Subtenant LLC ("AH") for summary disposition on Counts Five and Six of Plaintiff QCI's complaint in this case. Those two counts set forth claims against AH for successor liability and "restitution,"

which was predicated upon a theory of quantum meruit or unjust enrichment. The Court awarded AH summary disposition on both counts, but permitted QCI to amend its claim for successor liability pursuant to MCR 2.116(I)(5). In contrast, the Court denied QCI leave to amend its claim for unjust enrichment based upon the conclusion that amendment of that claim would be futile. See Ormsby v Capital Welding, Inc, 471 Mich 45, 53 (2004). The Court spent nearly 20 minutes on the record explaining its decision. Alas, without even bothering to order the transcript, QCI promptly sought reconsideration under MCR 2.119(F), asserting that "the Court misstated the facts of Morris Pumps" v Centerline Piping, Inc, 273 Mich App 187 (2006). In an abundance of caution, the Court watched the argument, which was recorded on Zoom, and the Court can now report with confidence that the Court accurately described the facts of Morris Pumps in its decision,* QCI's unjust enrichment claim is fatally flawed because QCI cannot plead or prove "'some misleading act'" by AH that may support a claim for unjust enrichment, Landstar Express America, Inc v Nexteer Automotive Corp, 319 Mich App 192, 205 (2017), quoting Morris Pumps, 273 Mich App at 196, and leave to amend Count Six would be "futile." See Ormsby, 471 Mich at 53. Accordingly, the Court shall deny reconsideration to QCI with respect to the Court's decision to disallow amendment of the unjust-enrichment claim.

IT IS SO ORDERED.

Dated: July 29, 2020

HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge

* In discussing the Morris Pumps case, Plaintiff QCI insists that the general contractor in that case merely "acquiesced to the[ ] use" of supplies left at the construction site, and thereby "derived an indirect benefit by way of completion of the construction project." But the Morris Pumps opinion explains that the general contractor "had been unjustly enriched when it retained ***and used*** without paying the equipment and materials delivered by plaintiffs." Morris Pumps, 273 Mich App at 192.