

State of Illinois  
Pollution Control Board  
James R. Thompson Center  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

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STATE OF ILLINOIS  
Pollution Control Board

In the Matter of: )  
CASEYVILLE SPORT CHOICE, LLC, )  
An Illinois Limited Liability Company, )  
Complainant, )  
vs. ) PCB 2008-030  
ERMA I. SEIBER, ADMINISTRATRIX )  
OF THE ESTATE OF JAMES A. SEBIER, )  
DECEASED, AND ERMA I. SEIBER, )  
IN HER INDIVIDUAL CAPACITY, )  
Respondent. )

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**REPLY TO RESPONSE TO MOTION TO DISMISS**

Now comes the Respondent, Erma I. Seiber, Administratrix of the Estate of James A. Seiber, Deceased, and Erma I. Seiber, in Her Individual Capacity, and replies to the Response to Motion to Dismiss filed by the Complainant herein as follows:

1. That is the position of the Complainant that the Complaint before the Illinois Environmental Protection Agency deals with different theories of law as opposed to the Complaint that has been filed in the U.S. District Court for the Southern District of Illinois.

2. That while the Complaint filed in the U.S. District Court is based upon common law theories of breach of contract and fraud the Complaint filed with the Illinois Environmental Protection Agency is based upon alleged violations of that act, it is the position of the Respondent that the Complaints remain duplicative within the meaning of

Section 31(d) of the Environmental Protection Act (415 ILCS 5/31(d)) and Section 101.202 of the Board's Procedural Rules as embodied in (35 Ill. Adm. Code 101.202).

WHEREFORE, the Respondent would renew its Motion to Dismiss the Complaint filed by the Complainant before the Illinois Pollution Control Board and for such other and further relief as to the court is just and equitable.

ERMA I. SEIBER, ADMINISTRATRIX  
OF THE ESTATE OF JAMES A.  
SEIBER, DECEASED, and  
ERMA I. SEIBER, IN HER  
INDIVIDUAL CAPACITY,

BY:   
DONALD W. URBAN

DONALD W. URBAN-#3125254  
SPRAGUE & URBAN  
26 East Washington Street  
Belleville, IL 62220  
(618) 233-8383

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was forwarded to the below listed counsel by enclosing same in an envelope, with proper first class postage fully prepaid and depositing said envelope in a United States mail box in Belleville, Illinois this 5<sup>th</sup> day of November, 2007.

**Mr. John Long**  
Attorney at Law  
1002 E. Wesley Drive, Suite 100  
O'Fallon, IL 62269

