

**JOSHUA H. STEIN, ATTORNEY GENERAL
STATE OF NORTH CAROLINA**

Brian D. Rabinovitz (N.C. Bar No. 41538)
Special Deputy Attorney General and Policy Litigation Counsel
N.C. Department of Justice, Consumer Protection Division
P.O. Box 629
Raleigh, NC 27602
Telephone (919) 716-6000
brabinovitz@ncdoj.gov

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

In re:

MV REALTY PBC, LLC, *et al.*,

Debtors.

Hon. Erik P. Kimball, U.S. Bankruptcy
Judge

Case No: 23-17590-EPK
Chapter 11
(Jointly Administered)

MV REALTY PBC, LLC, *et al.*,

Plaintiffs,

v.

Office of the Attorney General, State of
Florida, Department of Legal Affairs, *et al.*,

Defendants.

Hon. Erik P. Kimball, U.S. Bankruptcy
Judge

Adv. Proc. No. 23-01211-EPK

**DEFENDANT NORTH
CAROLINA'S' AMENDED INITIAL
DISCLOSURES PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 26(a)(1)**

TO: Michael M. Seese, Esq.
Seese, P.A.
101 NE 3rd Avenue
Suite 1500
Ft. Lauderdale, FL 33301
Attorney for Plaintiffs

John Gekas, Esq.
Angela De Cespedes, Esq.
Saul Ewing, LLP
161 North Clark
Suite 4200
Chicago, IL 60601
Attorneys for Plaintiffs

Defendant, State of North Carolina, *ex rel.* Joshua H. Stein, Attorney General (“Defendant”), hereby makes the following amended initial disclosures to Plaintiffs pursuant to Federal Rule of Civil Procedure 26(a)(1), made applicable to this adversary proceeding through Rule 7026 of the Federal Rules of Bankruptcy Procedure and this Court’s November 15, 2023 Order Setting Evidentiary Hearing on and Deadlines in Connection with Plaintiffs’ Request for Preliminary Injunction ¶ 3.a. (ECF No. 40). To the extent continuing investigation and discovery reveal additional potential witnesses and information, the Defendant respectfully reserves the right to supplement these disclosures as necessary, in accordance with Federal Rule of Civil Procedure 26(e). No privileges are waived with respect to these disclosures.

I. Rule 26(a)(1)(A)(i): “the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment”

A. MV Realty and their Employees and Agents

Without prejudice, the below listed individuals are likely to have discoverable information that Defendant may use to support its defenses, including without limitation information related to: (1) Plaintiffs’ likelihood of success in this action; (2) Plaintiffs’ suffering irreparable injury unless the relief Plaintiffs seek in this action is granted; (3) the threatened injury to Plaintiffs does not outweigh the damage the proposed injunction would cause to Defendant; and (4) the harm to the public interest if the relief Plaintiffs seek in this action is granted. As these individuals are current

or former MV Realty PBC, LLC (“MV Realty”) employees, their contact information is known by MV Realty:

- Antony Mitchell, Chief Executive Officer.
- Christina Johnson, Chief Economy Officer.
- David Manchester, Chief Operating Officer.
- Amanda Zachman, Chief Sales Officer.
- Kevin O’Halloran, Chief Restructuring Officer.
- Steven Scott, Senior Vice President for Business Holdings.
- Annette Collado, Underwriting.
- Peter Puccetti, Director.
- James (“Jim”) Terlizzi, Board Member of Holdings.
- Darryl Cook, Former Broker-in-Charge, MV Realty of North Carolina, LLC.
- Other current or former MV Realty employees who may be identified through discovery.

B. Monroe Capital Management Advisors

Without prejudice, the below listed individuals are likely to have discoverable information that Defendant may use to support its defenses, including without limitation information related to: (1) Plaintiffs’ likelihood of success in this action; (2) Plaintiffs’ suffering irreparable injury unless the relief Plaintiffs seek in this action is granted; (3) the threatened injury to Plaintiffs does not outweigh the damage the proposed injunction would cause to Defendant; and (4) the harm to the public interest if the relief Plaintiffs seek in this action is granted.

- Kyle Asher, Managing Director & Co-Head and Co-Portfolio Manager,
Opportunistic Credit
311 S. Wacker Drive
Chicago, IL 60606

- Aaron Peck, Managing Director & Co-Head and Co-Portfolio Manager,
Opportunistic Credit
311 S. Wacker Drive
Chicago, IL 60606
- Joe Valickus, Director, Opportunistic Credit
126 East 56th St.
New York, NY 10022

C. Other Individuals

- Any persons or entities designated by Plaintiffs in their initial disclosures.
- Any persons or entities identified by Plaintiffs in their Schedules.
- All parties identified by MV Realty in any production to Defendants.
- Any persons or entities needed for impeachment or rebuttal purposes.
- All other parties or persons who may have relevant information.

II. Rule 26(a)(1)(A)(ii): “a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment”

Defendant identifies the following documents/materials:

- Documents (including electronically stored information) and responses produced to Defendants by MV Realty during the Defendants’ investigations of MV Realty, to the extent that such documents and responses are discoverable and relevant to this matter.
- Transcript of the 341 meeting of the creditors conducted in the lead bankruptcy case (23-17590-EPK) on November 7, 2023.
- Any and all publicly filed documents regarding MV Realty, including any and all filings in any state and/or federal court.
- Any and all discovery produced in this matter.
- Documents (including electronically stored information) concerning Defendants’ investigations into MV Realty, to the extent that such documents are discoverable and relevant to this matter.

- Documents from Monroe Capital Management Advisors.
- Documents from Grant Thornton LLP.

All of the above categories of documents are or will be located at Defendant's address, which is provided below.

III. Rule 26(a)(1)(A)(iii): "a computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered"

This request is inapplicable to Defendant.

IV. Rule 26(a)(1)(A)(iv): "For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment"

This request is inapplicable to Defendant.

Defendant reserves the right to amend these responses as discovery continues and/or should investigation warrant amendment or supplementation.

Dated: January 3, 2024

JOSHUA H. STEIN, NORTH CAROLINA ATTORNEY GENERAL

By: /s/Keith T. Clayton
Brian D. Rabinovitz
N.C. Bar No. 41538
Special Deputy Attorney General and Policy Litigation Counsel

Keith T. Clayton
N.C. Bar No. 39583
Special Deputy Attorney General

Asa Edwards
N.C. Bar No. 46000

Special Deputy Attorney General

N.C. Department of Justice
Consumer Protection Division

P.O. Box 629

Raleigh, NC 27602

Telephone: (919) 716-6000

brabinovitz@ncdoj.gov

kclayton@ncdoj.gov

*Attorneys for Defendant State of North Carolina, ex rel. Joshua
H. Stein*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Amended Initial Rule 26 Disclosures were served electronically, via CM/ECF, on all counsel of record on the date filed.

/s/ Keith T. Clayton, Esq.

Keith T. Clayton

N.C. Bar No. 39583

Special Deputy Attorney General