

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

IROQUOIS MANOR, et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 3:99CV-27-S

WALGREEN CO.

DEFENDANT

MEMORANDUM OPINION AND ORDER

This matter is before the Court on motion of the defendant, Walgreen Co. (“Walgreen”), to alter or amend this Court’s Memorandum Opinion dated May 12, 2000. For the reasons set forth below, the defendant’s motion will be granted.

Walgreen asks this Court only to alter a sentence in the Memorandum Opinion in which the Court stated that “Walgreen does not dispute that it has breached this obligation by failing to share this cost after it vacated the premises.” The Court was referring to Iroquois Manor’s claim that Walgreen breached its obligation under the lease to pay common area maintenance charges. Walgreen did not address the merits of this claim in its motion to dismiss, but now contends that it does dispute Iroquois Manor’s entitlement to recover on this claim. Iroquois Manor does not dispute that, despite Walgreen’s virtual silence on the issue, Walgreen has previously denied this obligation and it remains to be litigated.

To avoid any confusion on this issue, however, the Court will alter its Memorandum Opinion dated May 12, 2000 by eliminating the word “not” from the third sentence of the first paragraph on page three. Therefore, the sentence will read as follows: “Although this issue has not been fully briefed by the parties, Walgreen does dispute that it has breached this obligation by failing to share this cost after it vacated the premises.”

Because this claim remains to be litigated, however, this Court will not amend the accompanying Order entered in this matter. To the extent that Walgreen moved this Court to dismiss Iroquois Manor's claim for breach of the obligation to share in the common area maintenance, that motion is still denied.

For the reasons set forth above, Walgreen's motion to alter or amend is granted. The word "not" shall be stricken from the third sentence of the first paragraph as it appears on page three of this Court's Memorandum Opinion entered May 12, 2000.

IT IS SO ORDERED this _____ day of _____, 2000.

CHARLES R. SIMPSON III, CHIEF JUDGE
UNITED STATES DISTRICT COURT

cc: Counsel of Record