

**IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLORADO**

Civil Action No. 09-CV-00309 MSK-KMT SUZANNE

SHELL,

Plaintiff,

v.

AMERICAN FAMILY RIGHTS ASSOCIATION, et al.,

Defendants.

JULY 24, 2009

**BRIEF IN SUPPORT OF MOTION TO DISMISS AND QUASH SERVICE OF
SUMMONS FOR LACK OF PERSONAL JURISDICTION**

Comes now, Defendant William Wiseman and Wiseman studios sole proprietorship and submits this brief in support of thier motion to dismiss and quash service of summons for lack of personal jurisdiction in the above named cause of action.

**THE COURT LACKS PERSONAL JURISDICTION OVER THIS
DEFENDANT**

1. Plaintiff, throughout her Complaint, makes a blanket allegation that all defendants have "maintained systematic and general business contacts with Colorado." Complaint at Paragraph 38.
2. However, Plaintiff has failed to make any specific allegations about the practices or contacts by any individual Defendants that would make them subject to the personal jurisdiction of this Court. Indeed, Defendant William Wiseman and Wiseman studios sole proprietorship, hereby alleges that they had no contact whatsoever with Colorado that would bring Them under the

general personal jurisdiction of this Court, and there is not sufficient contacts or activities within Colorado alleged in the present case to bring Them under the specific personal jurisdiction of this Court. In fact the only contact Defendant William Wiseman and Wiseman studios sole proprietorship had ever had with the Plaintiff has revolved around the Plaintiff's activities in Shell's Extortion Attempts. The Federal Copyright Act, 17 US.C. § 101 et seq., does not allow for nationwide service of process. *Dudnikov v. Chalk & Vermilion Fine Arts, Inc.*, 514 F.3d 1063, 1070 (10th Cir. 2008). Accordingly, the "minimum contacts" due process test announced by the United States Supreme Court in *International Shoe Co. v. Washington* 326 US. 310 (1945) applies.

3. "[T]he Supreme Court has instructed that the 'minimum contacts' standard requires, first, that the out-of-state defendant must have 'purposefully directed' its activities at residents of the forum state, and second, that the plaintiff's injuries must 'arise out of' defendant's forum-related activities." As said before, Defendant William Wiseman and Wiseman studios sole proprietorship has only had contact with the plaintiff through the plaintiff's Extortion Attempts and has had no direct contact Other than Email asking that Shell refrain from her extortion attempt and too take his name off her website because her behavior was wrong. Shell Refused. (d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate or foreign commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined under this title or imprisoned not more than two years, or both. 18 US.C. 875(d).

4. Defendant William Wiseman and Wiseman studios does not have sufficient contacts with Colorado to subject Them to the personal jurisdiction of this Court. The Complaint should be dismissed against the Defendant's for lack of personal jurisdiction (with the exception of the RICO

claims, which are addressed *infra*).

5. Plaintiff should be required to outline specifically what contacts each Defendant has with Colorado that brings them under the personal jurisdiction of this Court. Failing that, the Court should dismiss Defendant William Wiseman and Wiseman studios from this action.

6. With respect to the conspiracy claims (the Plaintiff's Tenth and Eleventh Causes of Action), the Plaintiff has failed to plead the conspiracy claims with enough specificity to establish personal jurisdiction over the Defendant. In order "to establish jurisdiction under a theory of civil conspiracy, the plaintiff must plead with particularity overt acts within the forum taken in furtherance of the conspiracy." "[B]ald speculation or a conclusory statement that individuals are co-conspirators is insufficient to establish personal jurisdiction under a conspiracy theory." *FC Investment Group LC v. IFX Markets, Ltd*, 529 F.3d 1087, 1097 (D.C. Cir. 2008) (internal citations omitted).

7. With the exception of the Plaintiff's RICO claim(Note here that evidence provided by Defendant Swallow proves the Plaintiff is guilty of RICO), the remainder of Plaintiff's claim against Defendant William Wiseman and Wiseman studios, appears to be based on diversity of citizenship. However, it is noted that some of the Defendants reside in Colorado, which is also where Plaintiff resides. See Complaint at Paragraphs 22 (Defendant Contreras) and 26 (Defendant Kamens).

8. It is well established that for diversity of citizenship jurisdiction to apply, there must be absolute diversity. *Strawbridge v. Curtiss*, 7 U.S. 267 (1806).

9. 28 U.S.C. § 1359 provides that a district court "shall not have jurisdiction of a civil action in which any party, by assignment or otherwise, has been improperly or collusively made or joined to invoke the jurisdiction of such court." Plaintiff has failed to provide complete diversity; accordingly, the Court lacks subject-matter jurisdiction over the diversity claims.

Conclusion

For all the above reasons, Colorado does not have personal jurisdiction over the defendant and in the interest of fair play and substantial justice this court should not impose jurisdiction.

Therefore, Defendant William Wiseman and Wiseman studios sole proprietorship's motion to dismiss and quash service should be **GRANTED**.

Plaintiff's Claim Barred by Laches

Plaintiff's Claim Barred by Unclean Hands Plaintiff's Claim Barred by

Statute of Limitations

DATED: this 24th day of July, 2009. DEFENDANT

William Wiseman AKA Wiseman Studios

William Wiseman

William Wiseman

p.o.box 1017

Tulelake, California 96134

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the attached documents defendant's BRIEF IN SUPPORT OF MOTION TO DISMISS AND QUASH SERVICE OF SUMMONS FOR LACK OF PERSONAL JURISDICTION

with Exhibits one threw four sent too:

National Association of Family Advocates and
Dorothy Kernaghan-Baez and
Georgia Family Rights, Inc.
each @ By Email

Leonard Henderson *By
Email*

Susan Adams Jackson *By
Email*

Anne E. Tower *By Email*
William O. Tower *By Email*
American Family Rights Association *By
EmaiBy Email*

Illinois Family Advocacy Coalition *By Email*
Renee Cygan *By Email*
Mark Cygan *By Email*

Thomas M. Dutkiewicz dba Connecticut
DCF Watch *By Email*

Aimee Dutkiewicz *By
Emai*

Dee Contreras *By
Email*

Daniel Slater *By
Email*
attorney for Cheryl Barnes, CPS Watch, Inc. and Sarah Thompson via Court's
ECF system

Patrick D. Vellone and
Jennifer E. Schlatter attorney for Ringo Kamens/Alex Bryan *By Email*
Suzanne **Shell** Court's **ECF** system

July 25,2009

William Wiseman AKA Wiseman Studios

Brief in Support of Motion to Dismiss and 5
Quash Service of Summons for Lack of Personal Jurisdiction – William Wiseman
1:09-cv-309-MSK-KMT

William Wiseman

William Wiseman