

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF INDIANA

MALIBU MEDIA, LLC,)
Plaintiff,)
)
Vs.)
)
ANDREW LEIGHTNER, KEVIN DEMPSEY,)
KENNETH REESE, CARL RUDY, LUCAS)
SHULTZ, LUCIAN SAVULESCU, DAN)
COROIAN, JIM GENDRON, JEREMY)
COTTON, NEVILLE FERNANDES, DANIEL)
PITTMAN, JAY GARRETT, JERRY RICHEY)
CONNIE FELONGCO, TERESA)
STEPHENSON, KIRAN POULSEN, CHRIS)
MINOR, SIWEI LI, DERICK BROOKS,)
CLARISSA HENDERSHOT and JOHN DOES)
14, 16, 17, 20, 23, 24 and 29.)
Defendants)

Civil Action No: 1:12-cv-00845-TWP-MJD

DEFENDANT CARL RUDY’S MOTION TO DISMISS PURSAUNT TO RULE 12(b)(3)

Defendant, Carl Rudy, respectfully moves the Court for an order dismissing Plaintiff’s Amended Complaint pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure for improper venue over Defendant Carl Rudy and in support of this Motion to Dismiss, Defendant states the following:

1. A civil action for copyright infringement may only be “instituted in the district in which the defendant or his agent resides or may be found”. 28 U.S.C. §1400(a).
2. Pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure, Plaintiff’s claim should be dismissed against Defendant Carl Rudy for lack of venue in this matter due to the following:
 - a. Defendant Carl Rudy resides in Marion, Grant County, Indiana.
 - b. No alleged actions on the part of Defendant Carl Rudy occurred in this court’s jurisdiction.

c. Proper venue lies with the United States District Court for the Northern District of Indiana.

3. In support of this Motion to Dismiss, the Defendant Carl Rudy relies upon the following:

- a. All pleadings filed to date;
- b. Defendant's Memorandum in Support of Motion to Dismiss filed contemporaneously herewith;
- c. The affidavit of Carl Rudy, attached hereto as Exhibit "1".

WHEREFORE, Defendant Carl Rudy, for the reasons articulated in the accompanying Defendant's Memorandum in Support of Motion to Dismiss, moves the Court to dismiss Plaintiff's Amended Complaint against Carl Rudy without prejudice, and for all other just and proper relief.

Date: December 10, 2012

/s/ Kyle C. Persinger
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of December, 2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to Paul J. Nicoletti, Arend J. Abel, David Scott Klinestiver, Lynn A. Toops, Matthew Thomas Lees, Paul B. Overhauser, Richard E. Shevitz, and William Edwin Wendling, Jr.

I hereby certify that I served a copy of the foregoing document by ordinary U. S. Mail, postage paid, this 10th day of December, 2012, upon the following:

Derick Brooks
529 South 9th Street
Lafayette, IN 47901

Jay Garrett
708 Prospect Street
Crawfordsville, IN 47933

/s/ Kyle C. Persinger
Kyle C. Persinger

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