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UNITED STATES DISTRICT COURT

DISTRI	for the CT OF HAWAII	UNITED STATES DISTRICT COURT DISTRICT OF JANUARY
LIBERTY MEDIA HOLDINGS, LLC)	Q NOV 02 2011
Plaintiff)	at o'clock and o min. A. SUE BEITTA CLERK
V.)	
) Civil Act	ion No. 1:11-cv-00262
BRAD HATCHER, et. al.) DAE-RL	P
)	
Defendant(s))	
)	

MOTION TO DISMISS UNDER RULE 12(b) FOR FAILURE TO STATE A CLAIM

The defendant moves to dismiss the action because:

- 1. The complaint fails to state a claim upon which relief can be granted.
- 2. Plaintiff has failed to provide any adequate basis to support his claims that I am a direct and/or contributory infringer nor has Plaintiff demonstrated any factual predicate that there is an as-yet unidentified co conspirator that I have aided or abetted. The Plaintiff's arguments are without merit and fail to state any claim upon which the requested relief may be granted.
- 3. Plaintiff's claim for negligence fails to identify any cognizable legal duty owed by me to the defendant with regards to the provision of internet services or required safeguards. Plaintiff has failed to show any legal duty owed to Plaintiff under these facts and seeks to create an amorphous and impermissibly vague duty "to secure" that would apply to any residential internet access point.
- 4. Plaintiff has failed to establish in their complaint any fact basis for the assertion that I have (or have caused) the illegal republishing or distribution of any copyrighted work. In addition Plaintiff seeks to legitimize their claim by asserting copyright infringement on behalf of other unidentified and unknown copyright owners, presumably Plaintiffs not a party to this suit.
- 5. Defendant respectfully requests the court dismiss this suit as against Plaintiff (John Doe #4) a.k.a. Brad Hatcher, a.k.a. Ervin Bradford Hatcher to all counts.

Date: 1 November 2011

Ervin B. Hatcher, Pro Se 96-6084 Puapake St. Kapolei, HI 96707 Bradford7@gmail.com

(425) 750-9530