

CLOSED, DRYWALL, TRANSFER

**U. S. District Court
Eastern District of Louisiana (New Orleans)
CIVIL DOCKET FOR CASE #: 2:12-cv-00497-EEF-JCW**

Herman et al v. Cataphora, Inc. et al
Assigned to: Judge Eldon E. Fallon
Referred to: Magistrate Judge Joseph C. Wilkinson, Jr
Demand: \$500,000
Lead case: 2:09-md-02047-EEF-JCW
Member case: (View Member Case)
Case in other court: USCA 5th Circuit, 12-30966
Cause: 28:1332 Diversity-Libel, Assault, Slander

Date Filed: 02/23/2012
Date Terminated: 09/19/2012
Jury Demand: Plaintiff
Nature of Suit: 320 Assault Libel &
Slander
Jurisdiction: Diversity

Plaintiff

Russ M Herman

represented by **Russ M. Herman**
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Plaintiff

Arnold Levin

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V.

Defendant

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Defendant**Roger Chadderdon**

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Melissa M. Lessell
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/23/2012	<u>1</u>	COMPLAINT against Cataphora, Inc. & Roger Chadderdon (Filing fee \$ 350) filed by Russ M Herman & Arnold Levin. (Attachments: # <u>1</u> Exhibit A - C, # <u>2</u> Civil Cover Sheet)(caa,) (Entered: 02/24/2012)
02/23/2012	2	Summons Issued as to Cataphora, Inc. & Roger Chadderdon. (caa,) (Entered: 02/24/2012)
02/27/2012	<u>3</u>	MOTION for Issuance of Preservation Order by Russ M Herman, Arnold Levin. Motion set for 3/21/2012 09:30 AM before Judge Kurt D. Engelhardt. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Proposed Order, # <u>3</u> Notice of Submission, # <u>4</u> Exhibit A, # <u>5</u> Exhibit B, # <u>6</u> Exhibit C)(Levin, Arnold) Modified on 2/28/2012 to edit text (cab). (Entered: 02/27/2012)
02/28/2012	4	Correction of Docket Entry by Clerk re <u>3</u> MOTION for Issuance of Preservation Order ; Document contains incorrect Section and Magistrate Judge. All future pleadings must reflect Section "N" and Magistrate Judge (1). (cab) (Entered: 02/28/2012)
02/28/2012	<u>5</u>	Certification Pursuant to Local Rule 3.1 and Request for Transfer of Proceeding

		to the Honorable Eldon E. Fallon Pursuant to Local Rule 3.1.1 by All Plaintiffs. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Levin, Arnold) (Main Document 5 replaced on 2/28/2012) (cab). Modified on 2/29/2012 to edit text (cab). (Entered: 02/28/2012)
02/28/2012	<u>6</u>	First AMENDED COMPLAINT with Jury Demand against All Defendants filed by Russ M Herman, Arnold Levin. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Levin, Arnold) (Entered: 02/28/2012)
03/01/2012	<u>7</u>	ORDER TRANSFERRING CASE. Case transferred to Judge Eldon E. Fallon and Magistrate Judge Joseph C. Wilkinson, Jr for all further proceedings. Judge Kurt D. Engelhardt, Magistrate Judge Sally Shushan no longer assigned to case. Signed by Judge Kurt D. Engelhardt on 3/1/2012.(cab) (Entered: 03/02/2012)
03/02/2012	<u>8</u>	EXPARTE/CONSENT MOTION to Substitute <i>Exhibit to Amended Complaint</i> by Russ M Herman, Arnold Levin. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit Amended Exhibit D, # <u>3</u> Proposed Order)(Levin, Arnold) (Entered: 03/02/2012)
03/06/2012	<u>9</u>	ORDER granting <u>8</u> Motion to Substitute Exhibit D. Signed by Judge Eldon E. Fallon on 3/5/12. (ala,) (Entered: 03/06/2012)
05/15/2012	<u>10</u>	ERROR: FILED IN WRONG CASE. WAIVER OF SERVICE Returned Executed; waiver sent to Roger Chadderdon on 5/4/2012, answer due 7/3/2012. (Levin, Arnold) Modified on 5/16/2012 (rll,). (Entered: 05/15/2012)
05/15/2012	<u>11</u>	ERROR: FILED IN WRONG CASE. WAIVER OF SERVICE Returned Executed; waiver sent to Roger Chadderdon on 5/4/2012, answer due 7/3/2012. (Levin, Arnold) Modified on 5/16/2012 (rll,). (Entered: 05/15/2012)
05/16/2012	<u>12</u>	Correction of Docket Entry by Clerk re <u>10</u> <u>11</u> Waiver of Service Executed. Documents filed in wrong case. Documents must be re-filed by attorney in MASTER case - 09-md-2047. (rll,) (Entered: 05/16/2012)
06/05/2012	<u>13</u>	MOTION to Dismiss for Lack of Jurisdiction <i>and Improper Venue</i> by Cataphora, Inc., Roger Chadderdon. Motion set for 6/20/2012 09:00 AM before Judge Eldon E. Fallon. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Proposed Order, # <u>6</u> Notice of Submission) (Marshall, Nancy) (Entered: 06/05/2012)
06/05/2012	<u>14</u>	Request/Statement of Oral Argument by Cataphora, Inc., Roger Chadderdon regarding <u>13</u> MOTION to Dismiss for Lack of Jurisdiction <i>and Improper Venue</i> (Attachments: # <u>1</u> Proposed Order)(Marshall, Nancy) (Entered: 06/05/2012)
06/05/2012	<u>15</u>	MOTION to Strike <u>6</u> Amended Complaint, <u>1</u> Complaint <i>Pursuant to Louisiana's Anti-SLAPP Statute</i> by Cataphora, Inc., Roger Chadderdon. Motion set for 6/20/2012 09:00 AM before Judge Eldon E. Fallon. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit 1, # <u>3</u> Exhibit 2, # <u>4</u> Exhibit 3, # <u>5</u> Proposed Order, # <u>6</u> Notice of Submission)(Marshall, Nancy) (Entered: 06/05/2012)
06/05/2012	<u>16</u>	Request/Statement of Oral Argument by Cataphora, Inc., Roger Chadderdon regarding <u>15</u> MOTION to Strike <u>6</u> Amended Complaint, <u>1</u> Complaint <i>Pursuant to Louisiana's Anti-SLAPP Statute</i> (Attachments: # <u>1</u> Proposed Order)

		(Marshall, Nancy) (Entered: 06/05/2012)
06/07/2012	<u>17</u>	ORDER Setting Oral Hearing on <u>13</u> MOTION to Dismiss for Lack of Jurisdiction <i>and Improper Venue</i> : Motion set for 7/11/2012 09:00 AM (w/oral argument) before Judge Eldon E. Fallon. Signed by Judge Eldon E. Fallon on 6/6/12.(ala,) (Entered: 06/07/2012)
06/07/2012	<u>18</u>	ORDER Setting Oral Hearing on <u>15</u> MOTION to Strike <u>6</u> Amended Complaint, <u>1</u> Complaint <i>Pursuant to Louisiana's Anti-SLAPP Statute</i> : Motion set for 7/11/2012 09:00 AM (w/oral argument) before Judge Eldon E. Fallon. Signed by Judge Eldon E. Fallon on 6/6/12.(ala,) (Entered: 06/07/2012)
07/03/2012	<u>19</u>	RESPONSE/MEMORANDUM in Opposition filed by All Plaintiffs re <u>13</u> MOTION to Dismiss for Lack of Jurisdiction <i>and Improper Venue Pursuant to Fed.R.Civ.P. 12(b)(2) and 12(b)(3)</i> . (Levin, Arnold) (Entered: 07/03/2012)
07/03/2012	<u>20</u>	RESPONSE/MEMORANDUM in Opposition filed by All Plaintiffs re <u>15</u> MOTION to Strike <u>6</u> Amended Complaint, <u>1</u> Complaint <i>Pursuant to Louisiana's Anti-SLAPP Statute</i> . (Levin, Arnold) (Entered: 07/03/2012)
07/06/2012	<u>21</u>	EXPARTE/CONSENT MOTION for Leave to File <i>Reply Memorandum in Further Support of Their Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue</i> by Cataphora, Inc., Roger Chadderdon. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Proposed Pleading)(Swabacker, Melissa) (Entered: 07/06/2012)
07/06/2012	<u>22</u>	EXPARTE/CONSENT MOTION for Leave to File <i>Reply Memorandum in Further Support of Special Motion to Strike Pursuant to Louisiana's Anti-SLAPP Statute</i> by Cataphora, Inc., Roger Chadderdon. (Attachments: # <u>1</u> Proposed Order, # <u>2</u> Proposed Pleading)(Swabacker, Melissa) (Entered: 07/06/2012)
07/09/2012	<u>23</u>	ORDER Resetting Hearing on <u>15</u> MOTION to Strike <u>6</u> Amended Complaint, <u>1</u> Complaint <i>Pursuant to Louisiana's Anti-SLAPP Statute</i> , <u>13</u> MOTION to Dismiss for Lack of Jurisdiction <i>and Improper Venue</i> : Motion re-set for 7/11/2012 01:30 PM before Judge Eldon E. Fallon. Signed by Judge Eldon E. Fallon on 7/2/12.(ala,) (Entered: 07/09/2012)
07/09/2012	<u>24</u>	ORDER granting <u>21</u> Motion for Leave to File Reply. Signed by Judge Eldon E. Fallon on 7/9/12. (ala,) (Entered: 07/09/2012)
07/09/2012	<u>25</u>	REPLY to Response to Motion filed by Cataphora, Inc., Roger Chadderdon re <u>13</u> MOTION to Dismiss for Lack of Jurisdiction <i>and Improper Venue</i> . (ala,) (Entered: 07/09/2012)
07/09/2012	<u>26</u>	ORDER granting <u>22</u> Motion for Leave to File Reply. Signed by Judge Eldon E. Fallon on 7/9/12. (ala,) (Entered: 07/09/2012)
07/09/2012	<u>27</u>	REPLY to Response to Motion filed by Cataphora, Inc., Roger Chadderdon re <u>15</u> MOTION to Strike <u>6</u> Amended Complaint, <u>1</u> Complaint <i>Pursuant to Louisiana's Anti-SLAPP Statute</i> . (ala,) (Entered: 07/09/2012)
07/11/2012	<u>28</u>	Minute Entry for proceedings held before Judge Eldon E. Fallon: Motion Hearing held on 7/11/2012 re <u>15</u> MOTION to Strike <u>6</u> Amended Complaint, <u>1</u>

		Complaint <i>Pursuant to Louisiana's Anti-SLAPP Statute</i> filed by Cataphora, Inc., Roger Chadderdon AND <u>13</u> MOTION to Dismiss for Lack of Jurisdiction <i>and Improper Venue</i> filed by Cataphora, Inc., Roger Chadderdon. After oral argument, both motions were TAKEN UNDER SUBMISSION. (Court Reporter Toni Tusa.) (dno,) (Main Document 28 replaced on 7/17/2012) (dno,). (Entered: 07/16/2012)
09/19/2012	<u>29</u>	ORDER & REASONS that Defendants Cataphora, Inc. and Roger Chadderdon's <u>13</u> MOTION to Dismiss for Lack of Jurisdiction <i>and Improper Venue</i> is GRANTED. FURTHER ORDERED that this matter is transferred to the U.S. District Court for the Northern District of California. FURTHER ORDERED that the <u>15</u> MOTION to Strike <u>6</u> Amended Complaint, <u>1</u> Complaint <i>Pursuant to Louisiana's Anti-SLAPP Statute</i> filed by Cataphora, Inc. is DENIED AS MOOT. Signed by Judge Eldon E. Fallon on 9/19/12. (Attachment(s): # <u>1</u> Transfer Letter) (dno,). (Entered: 09/19/2012)
09/20/2012	<u>30</u>	NOTICE OF APPEAL by All Plaintiffs as to <u>29</u> Order, Terminate Motions, Case Transferred Out to Another District,,,,,. (Filing fee \$ 455, receipt number 053L-3665354.) (Attachments: # <u>1</u> Exhibit)(Longer, Fred) (Entered: 09/20/2012)
09/26/2012	<u>31</u>	Receipt of Case transferred from Louisiana Eastern has been opened in California Northern District as case 4:12-cv-04965 (ala,) (Entered: 09/27/2012)
10/15/2012	<u>33</u>	APPEAL TRANSCRIPT REQUEST by All Plaintiffs for proceedings held on 7/11/12 re <u>30</u> Notice of Appeal. (ala,) (Entered: 10/15/2012)
12/27/2012	<u>34</u>	APPEAL TRANSCRIPT of Oral Argument held on July 11, 2012 before Judge Eldon E. Fallon. Court Reporter/Recorder Toni Tusa, Telephone number (504) 589-7778. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Recorder before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Parties have 21 days from the filing of this transcript to file with the Court a Redaction Request. Release of Transcript Restriction set for 3/27/2013. (clu,) (Entered: 12/27/2012)
01/29/2013	<u>35</u>	ORDER granting Plaintiff's Motion to Transfer Case File to Transferor Court. Signed by Judge Jeffrey White (NDCA) on 1/24/13. (Attachments: # <u>1</u> Docket Sheet from Northern District of California)(dno,) (Entered: 02/01/2013)
10/17/2013	<u>36</u>	USCA JUDGMENT issued as mandate on 10/9/13 as to <u>30</u> Notice of Appeal filed by Arnold Levin, Russ M Herman. USCA judge name: SMITH, GARZA AND SOUTHWICK. Judgment of the District Court is vacated, and the cause is remanded to the District Court with instructions to transfer case to the U.S. District Court for the Northern District of California. (dno,) (Entered: 10/25/2013)
10/17/2013	<u>37</u>	Appeal Record Returned (original exhibits and/or non-electronic documents) from U.S. Court of Appeals: <u>30</u> Notice of Appeal (dno,) (Entered: 10/25/2013)
11/01/2013	<u>38</u>	On September 19, 2012 this Court issued an Order and Reasons granting defendants' Motion to Dismiss for Lack of Jurisdiction. (Rec. Doc. 29). Plaintiffs appealed that decision. On October 12, 2013, the Fifth Circuit issued

		a judgment in which it vacated this Court's dismissal and remanded the case with instructions for this Court to transfer the case to the United States District Court for the Northern District of California. Accordingly, IT IS ORDERED that this case be transferred to the Northern District of California for further proceedings in accordance with the judgment of the Fifth Circuit. <u>36</u> Signed by Judge Eldon E. Fallon on 10/30/13 (dno,) (cc: Clerk, Northern District of California) (Entered: 11/01/2013)
02/14/2014	<u>39</u>	**FILED IN WRONG DISTRICT** EXPARTE/CONSENT Joint MOTION to Dismiss Case <i>Pursuant to Fed. Rule Civ. Pro. 41(a)</i> by Russ Herman, Arnold Levin, Cataphora, Inc., Roger Chadderdon. (Attachments: # <u>1</u> Proposed Order) (Lessell, Melissa) Modified docket text on 2/18/2014 (jtd). (Entered: 02/14/2014)
02/18/2014	40	Correction of Docket Entry by Clerk re <u>39</u> Joint MOTION to Dismiss Case <i>Pursuant to Fed. Rule Civ. Pro. 41(a)</i> . This case was TRANSFERRED TO THE NORTHERN DISTRICT OF CALIFORNIA. Therefore, this motion should be filed with the Northern Dist. of California. (jtd) (Entered: 02/18/2014)

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