

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

DOE I, AND DOE II,)	
)	
Plaintiffs,)	Case No. 307CV00909 CFD
)	
v.)	
)	
MATTHEW C. RYAN, a.k.a. “:D”; and)	
individuals using the following)	
pseudonyms: paulie walnuts; neoprag;)	
STANFORDtroll; lkjhgf; yalelaw;)	
Spanky; ylsdooder; HI; David Carr;)	
Vincimus; Cheese Eating Surrender)	
Monkey; A Horse walks into a bar, a.k.a.)	
RYAN MARINER; The Ayatollah of)	
Rock-n-Rollah; DRACULA; Sleazy Z;)	
Whamo; Ari Gold; Ugly Women;)	
playboytroll; Dean_Harold_Koh; kr0nz;)	
reminderdood; r@ygold; who is; Joel)	
schellhammer; Prof. Brian Leiter;)	
hitlerhitlerhitler; Lonelyvirgin; Patrick)	
Zeke <patrick8765@hotmail.com; Patrick)	
Bateman <batemanhls08@hotmail.com>;)	AUGUST 13, 2008
[DOE I] got a 157 LSAT; azn; azn; azn;)	
Dirty Nigger; leaf; t14 gunner; kibitzer;)	
Yalels2009; AK47,)	
)	
Defendants.)	

**MOTION TO DISMISS PURSUANT TO RULE 12(B)(6)
OR IN THE ALTERNATIVE MOTION TO DISMISS FOR FAILURE TO PROSECUTE
PURSUANT TO RULES 4 AND 41**

NOW COMES Defendant, A horse walks into a bar, a.k.a. Ryan Mariner (“Mariner”), and specially appears, without having been properly served and without waiving his right to service, and moves to dismiss this Second Amended Complaint against him. Mariner first moves to dismiss this Second Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to set forth “‘a short and plain statement of the claim’ that will give the defendant fair

ORAL ARGUMENT NOT REQUESTED

notice of what the plaintiff's claim is and the grounds upon which it rests." *Conley v. Gibson*, 355 U.S. 41, 47 (1957); *see also Swierkiewicz v. Sorema, N.A.*, 534 U.S. 506 (2002). Alternatively, the Second Amended Complaint should be dismissed for failure to state a claim because "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley*, 355 U.S. at 45-46. Again, construing all facts in favor of Plaintiffs, they have failed to meet either standard.


In the event that the Complaint is not dismissed pursuant to Rule 12(b)(6), Mariner requests that this Court dismiss that Second Amended Complaint for failure to prosecute pursuant to Federal Rules of Civil Procedure 4 and 41. Despite Mariner's counsel's offer to accept service on June 11, Plaintiffs have refused to serve him and continued afterwards to seek extensions to serve defendants. Plaintiff's failure to prosecute their claims is unfair to Mariner and warrants dismissal. Alternatively, this Court should refuse any further requests from Plaintiffs for extensions of time to serve Mariner.

For the reasons set forth here, and in the accompanying Memorandum of Law in Support, filed contemporaneously herewith, Mariner requests that this Motion be Granted and the Second Amended Complaint against him be dismissed.

Respectfully submitted this 13th day of August, 2008.

DEFENDANT,
A HORSE WALKS INTO A BAR

By:

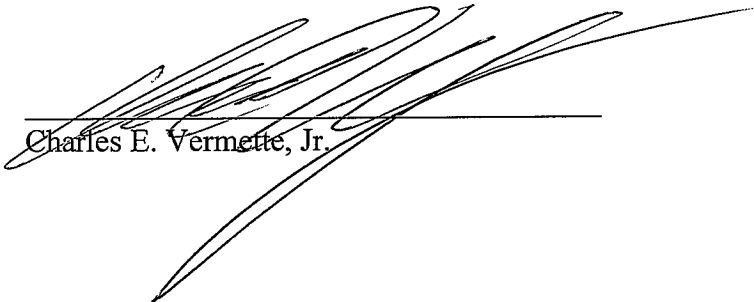

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a.k.a. Ryan Mariner

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CERTIFICATION

I hereby certify that on August 13, 2008, I electronically filed a copy of the foregoing, using the CM/ECF system, which will automatically send e-mail notification of such filing to all counsel of record.



Charles E. Vermette, Jr.