

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DOE I, and DOE II,
Plaintiffs

: CIVIL ACTION NO.
307CV00909 CFD

V.

ANTHONY CIOLLI, ET AL.
Defendants

: NOVEMBER 6, 2008

MOTION TO DISMISS OF MATHEW RYAN

Defendant Mathew D. Ryan ("Ryan") hereby moves, pursuant to Rules 12(b)(1), 12(b)(2), 12(b)(3), and 12(b)(6) of the Federal Rules of Civil Procedure ("F.R.C.P.") and Conn. Gen. Stat. § 52-596, for an Order dismissing all claims asserted against him.¹

Defendant Ryan seeks dismissal of all claims by both plaintiffs Doe I and Doe II for numerous reasons. First, this court is without subject matter jurisdiction over him. Neither Doe I nor Doe II has asserted a claim stating a federal question against him. While Doe II has asserted a copyright claim against other defendants, she has not asserted such a claim against Ryan. Thus, jurisdiction of 28 U.S.C. § 1331 is not available.

In addition, there is no diversity jurisdiction against Ryan. Plaintiffs have chosen to name over 20 pseudonymous defendants. Under such circumstances there cannot be complete diversity of jurisdiction of citizenship. Thus, jurisdiction under 28 U.S.C. §1331 is not present.

Finally, supplemental jurisdiction under 28 U.S.C. § 1367 is also not proper.

Neither Doe plaintiff has asserted a federal question against Ryan. In addition, the state

¹ Should the Court deem it procedurally necessary so as to grant Ryan's Motion, Movant respectfully requests that the claims against Ryan be, in the first instance, severed from the claims against all other defendants, pursuant to F.R.C.P. Rule 21, and then that the action against Ryan be dismissed.

law claims clearly predominate this matter, and there is no common nucleus of facts between Doe II's copyright claim, on the one hand, and the gravamen of all other claims in this matter.

Lastly, this court is without *in personam* jurisdiction over Ryan. Ryan is a Texas resident who has never been to Connecticut, has never transacted business in Connecticut, does not do business in interstate commerce, and has taken no actions by which he would purposely avail himself of the courts of Connecticut. Given this, under both the Connecticut Long Arm Statute, C.G.S. § 52-59(b), and a minimum contacts analysis, this court is without jurisdiction over Ryan.

A Memorandum in support of this Motion is being filed herewith. In addition, movant relies upon the following additional materials:

- Affidavit of Mathew Ryan, dated November 4, 2008, attached hereto as Exhibit A.
- Affidavit of Joseph G. Fortner, Jr., dated November 6, 2008, and Exhibit A attached thereto which is being filed simultaneously herewith.

Wherefore, defendant Mathew Ryan respectfully requests that the court grant this Motion to Dismiss, along with such other and further relief as may be appropriate.

THE DEFENDANT:
MATTHEW C. RYAN

By _____

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CERTIFICATION

This is to certify that on this 6th day of November, 2008, a copy of the foregoing was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.



Joseph G. Fortner, Jr.