

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION**

**ROBERT FIRTH; FAN ACTION, INC.; and)
BLUEANDGOLD.COM,)**

Plaintiffs,)

v.)

Cause No. 3:10-cv-00075-PPS-CAN

**YAHOO! INC. d/b/a RIVAL.COM;)
TIM PRISTER; JACK FREEMAN;)
PETE SAMPSON; SHANNON TERRY; and)
BOBBY BURTON,)**

Defendants.)

**DEFENDANTS SHANNON TERRY AND BOBBY BURTON'S
MOTION TO DISMISS**

Defendants Shannon Terry and Bobby Burton, by counsel, respectfully move the Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), to dismiss Plaintiffs Robert Firth, Fan Action, Inc., and Bluandgold.com's Complaint. In support of their motion, Terry and Burton assert the following:

On February 4, 2010, Plaintiffs filed a Complaint in the St. Joseph Indiana Superior Court alleging a myriad of claims against Defendants, including Terry and Burton. On March 3, 2010, Defendants removed the case to this Court.

As explained more fully in their Memorandum of Law filed in support of this Motion to Dismiss and in Defendant Yahoo!'s motion to dismiss and memorandum which Terry and Burton have and herein incorporate and adopt as their own, the Court should dismiss Plaintiffs' Complaint because it fails to state a cause of action upon which relief can be granted. All of the Counts—save for Count III—are time-barred by the applicable statute of limitations, and because neither Terry nor Burton is a party to the contract referenced in Count III, Count III fails to state a cause of action against them.

WHEREFORE, Defendants Shannon Terry and Bobby Burton, by counsel, respectfully move the Court to grant their motion to dismiss, to dismiss Plaintiffs' Complaint against them with prejudice, and for all other just and proper relief.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon the following by *via*
the Court's electronic filing system on this 10th day of March, 2010:

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