

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Southern Division**

COSTAR REALTY INFORMATION,
INC. et al.,

Plaintiffs

v.

Civil No.: 08-CV-01575-AW

KLEIN & HEUCHAN, INC., et al.,

Defendants

**DEFENDANT’S SUPPLEMENTAL REPLY MEMORANDUM IN SUPPORT OF ITS
MOTION TO DISMISS, OR ALTERNATIVELY, MOTION TO TRANSFER VENUE**

Defendant KLEIN & HEUCHAN, INC. (hereinafter “K&H”), by and through its undersigned counsel, hereby files this Supplemental Reply Memorandum in Support of its Motion to Dismiss and as reasons therefore states:

I. THIS COURT DOES NOT HAVE PERSONAL JURISDICTION OVER K&H.

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K&H relies on the arguments previously raised in its Reply Memorandum without reiterating them herein. K&H expressly incorporates its Reply Memorandum as if fully set forth herein.

II. MARYLAND IS NOT THE PROPER VENUE FOR THIS CASE AND IF THE MOTION TO DISMISS IS DENIED, THE MATTER SHOULD BE TRANSFERRED TO THE MIDDLE DISTRICT OF FLORIDA

K&H relies on the arguments previously raised in its Reply Memorandum without reiterating them herein. K&H expressly incorporates its Reply Memorandum as if fully set forth herein.

However, based on a filing made on November 21, 2008 by CoStar, K&H files this Supplemental Reply in order to bring the Court's attention to the current procedural status of the litigation pending in the United States District Court for the Middle District of Florida ["Florida Federal Litigation"], which substantially undermines CoStar's arguments raised in its Opposition in this Court. CoStar has now filed an Answer and Counter-Claim in the Florida Federal Litigation that includes substantially all of the same parties and causes of action currently raised in this matter. Exhibit A. As such, CoStar's Opposition to K&H's Motion to Dismiss in this Court, which argued that dismissal was inappropriate because the action was incomplete and did not include Defendant Bell, is essentially moot. As is evident from the Answer and Counter-Claim filed in the Florida Federal Litigation, the action in Florida is complete and includes all of the same parties. Dismissal of this action or alternatively transfer would provide the parties with a complete resolution of all of the actual claims against all parties, that have been raised.

On Tuesday, November 25, 2008, given the current posture of the Florida litigation, Florida counsel again contacted counsel for CoStar to inquire whether CoStar would agree to dismissal of the Maryland litigation, but counsel declined to do so.

CONCLUSION

This Court should dismiss this case for lack of personal jurisdiction as K&H does not have sufficient contacts with Maryland to permit this Court to maintain jurisdiction over K&H. Alternatively, should this Court deny K&H's Motion to Dismiss, because the District of Maryland is an improper venue and because the interest of justice and the convenience of the parties and witnesses require it, this Court should transfer this action to the Middle District of Florida, Tampa Division.

Respectfully submitted,

/s/

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¹ Admitted to the Bar of Florida. It is anticipated that counsel will request admission *pro hac vice* in this Court in the event that the case continues in this Court.