

1 **IN THE UNITED STATES DISTRICT COURT**
2 **FOR THE WESTERN DISTRICT OF MICHIGAN**

3 LEIF ALFENAS,

4 Plaintiff,

5 vs.

Case No. 1:07-cv-749

6 PANTERA PARTNERSHIP, a
7 common-law partnership; VINCENT
8 PAUL ABBOTT; PHILIP HANSON
9 ANSELMO; REX ROBERT BROWN;
10 and ESTATE OF DARELL LANCE
11 ("DIMEBAG DARRELL") ABBOTT,
12 individually and severally,

13 Defendants.

Hon. Richard Alan Enslen
United States District Judge

14 ERIC C. GRIMM (P58990)
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21 Attorneys for Plaintiff.

22 **UNOPPOSED MOTION TO TRANSFER VENUE**

23 Plaintiff, Mr. Leif Alfenas, through his attorneys WILLIAMS, HUGHES & COOK, PLLC,
24 under 28 U.S.C. §§ 1404(a), 1406, respectfully moves to transfer venue to the U.S. District
25 Court for the Eastern District of Michigan, to enable this civil action to be consolidated with
26 Civil Action No. 2:2007-cv-13244 (E.D. Mi. *filed* Aug. 3, 2007). **This Motion is unopposed.**

27 The reasons supporting this Motion are set forth in the Supporting Memorandum,
28 which commences on the next page.

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MOTION TO TRANSFER VENUE

SUPPORTING MEMORANDUM

Plaintiff, Mr. Leif Alfenas, under 28 U.S.C. §§ 1404(a), 1406, respectfully moves to transfer venue to the U.S. District Court for the Eastern District of Michigan, to enable this civil action to be consolidated with Civil Action No. 2:2007-cv-13244 (E.D. Mi. *filed* Aug. 3, 2007). **This Motion is unopposed.**

In support of this Motion to Transfer Venue, Mr. Alfenas respectfully states:

1. This Declaratory Judgment action, under 28 U.S.C. § 2201(a) (the “Dec Action”), commenced on August 2, 2007, against five (5) Defendants: (1) Vincent Abbott; (2) Anselmo; (3) Brown; (4) Estate of Darrell Abbott; and (5) Pantera Partnership.

2. The following day, August 3, 2007, Defendant No. 5 (Pantera Partnership), commenced an action in the U.S. District Court for the Eastern District of Michigan, against Mr. Leif Alfenas (the Plaintiff in this action), involving essentially the same issues and the same subject-matter as the Dec Action. See Pantera Partnership v. Alfenas, C.A. No. 2:2007-cv-13244 (E.D. Mi. *filed* Aug. 3, 2007).

3. All parties to both lawsuits, through their respective legal representatives, have voluntarily stipulated and agreed to transfer the Dec Action (this case) from Kalamazoo to the Eastern District of Michigan, so that the Dec Action may promptly be consolidated with the later-filed case Pantera Partnership v. Alfenas, C.A. No. 2:2007-cv-13244 (E.D. Mi. *filed* Aug. 3, 2007), for the convenience of parties and witnesses, and the promotion of judicial economy.

4. Solely on the condition that venue is transferred to the Eastern District of Michigan, Defendant (1) – Vincent Abbott – has voluntarily consented to venue and to personal jurisdiction in the Eastern District of Michigan, and has voluntarily waived service

1 of Summons. All parties have agreed that an Answer shall be due from Mr. Abbott sixty (60)
2 days after the Transfer of Venue becomes effective.

3 5. Solely on the condition that venue is transferred to the Eastern District of
4 Michigan, Defendant (2) – Philip Anselmo – has voluntarily consented to venue and to
5 personal jurisdiction in the Eastern District of Michigan, and has voluntarily waived service
6 of Summons. All parties have agreed that an Answer shall be due from Mr. Anselmo sixty
7 (60) days after the Transfer of Venue becomes effective.

8 6. Solely on the condition that venue is transferred to the Eastern District of
9 Michigan, Defendant (3) – Rex Brown – has voluntarily consented to venue and to personal
10 jurisdiction in the Eastern District of Michigan, and has voluntarily waived service of
11 Summons. All parties have agreed that an Answer shall be due from Mr. Brown sixty (60)
12 days after the Transfer of Venue becomes effective.

13 7. Solely on the condition that venue is transferred to the Eastern District of
14 Michigan, Defendant (4) – Estate of Darrell Abbott – has voluntarily consented to venue and
15 to personal jurisdiction in the Eastern District of Michigan, and has voluntarily waived
16 service of Summons. All parties have agreed that an Answer shall be due from the Estate of
17 Mr. Abbott, sixty (60) days after the Transfer of Venue becomes effective.

18 8. Solely on the condition that venue is transferred to the Eastern District of
19 Michigan, Defendant (5) – Pantera Partnership – has voluntarily consented to venue and to
20 personal jurisdiction in the Eastern District of Michigan, and has voluntarily waived service
21 of Summons. All parties have agreed that an Answer shall be due from Pantera Partnership,
22 sixty (60) days after the Transfer of Venue becomes effective.

23 9. On the condition that this Motion is GRANTED, Plaintiff Leif Alfnas has

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**MOTION AND SUPPORTING
MEMORANDUM TO TRANSFER VENUE**

6 10. Such a Transfer of Venue is proper, and within the authority of this Court,
7 under 28 U.S.C. §§ 1404(a), and 1406.

11. Immediately upon the assignment of a civil action number to this case, by the Eastern District of Michigan, the parties shall jointly notify Chief Judge Friedman (before whom Pantera Partnership v. Alfenas, C.A. No. No. 2:2007-cv-13244 (E.D. Mi. *filed* Aug. 3, 2007), is pending), and whichever judge is assigned the Dec Action (this case), post-transfer, that the two cases are related. All parties already have jointly stipulated and agreed, post-transfer, to submit a Joint Motion to Consolidate the two related cases.

15 Plaintiff prays that this Unopposed Motion be GRANTED.

17 Dated the 18th day of SEPTEMBER, 2007

19	By : <u> /s/ Eric C. Grimm </u>
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**MOTION AND SUPPORTING
MEMORANDUM TO TRANSFER VENUE**

CERTIFICATION BY COUNSEL FOR DEFENDANTS

I declare under penalty of perjury, 28 U.S.C. § 1746, that I have been retained by Pantera Partnership and its individual members, and that I have authority to consent to the relief requested in the Plaintiff's Unopposed Motion to Transfer Venue. Pantera Partnership; Vincent Paul Abbott; Philip Hanson Anselmo; Rex Robert Brown; and the Estate of Darell Lance Abbott, through authorized counsel, each respectfully consents to and does not oppose, the relief requested in said Motion.

"I declare under penalty of perjury that the foregoing is true and correct.

Executed on September __, 2007.

Howard Hertz (P26653)
Derek D. McLeod (P66229)
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Attorneys for Defendants.

**EXECUTED CERTIFICATION IS
ATTACHED AS EXHIBIT 3**

CERTIFICATE OF FILING

I certify that the foregoing Unopposed Motion to Transfer Venue was filed, using the ECF System of the U.S. District Court for the Western District of Michigan, on the 21st day of September, 2007.

/s/ Eric C. Grimm
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Attorneys for Plaintiff.

CERTIFICATE OF SERVICE

I certify that the foregoing Unopposed Motion to Transfer Venue was served on the following counsel of record for all Defendants, by first class mail, postage prepaid, and by electronic mail, on the 21st day of September, 2007:

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