

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

MICHAEL MATHEWS,

Plaintiff,

v.

RESCUECOM CORPORATION and  
DAVID A. MILMAN,

Defendants.

HONORABLE JOSEPH E. IRENAS

CIVIL ACTION NO. 05-4834 (JEI)

**ORDER GRANTING IN PART AND DENYING  
IN PART DEFENDANTS' MOTION TO  
DISMISS OR ALTERNATIVELY TO  
TRANSFER VENUE,  
AND TRANSFERRING CASE TO THE  
NORTHERN DISTRICT OF NEW YORK  
(Docket No. 10)****APPEARANCES:**

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David A. Milman

Edmund J. Gegan, Esq.  
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Counsel for Defendants Rescuecom Corporation and  
David A. Milman

**IRENAS**, Senior District Judge:

This matter having appeared before the Court upon the Motion of Defendants Rescuecom Corporation and David A. Milman to Dismiss the Complaint, or in the alternative, to Transfer Venue

to the District Court for the Northern District of New York, for the reasons set forth in an opinion issued by this Court, which findings of fact and conclusions of law are incorporated herein by reference, and for good cause appearing,

**IT IS** on this 16th day of February, 2006,

**ORDERED THAT:**

1. Defendants' Motion is **GRANTED** to the extent that it seeks a transfer of venue to the Northern District of New York pursuant to 28 U.S.C. § 1404(a) and **DENIED** to the extent that it seeks dismissal of the Complaint pursuant to Fed. R. Civ. P. 12 or 28 U.S.C. § 1406 for failure to lay venue in the proper district.

2. Defendant's Motion is **DENIED WITHOUT PREJUDICE** as to all other relief sought.

3. This action is hereby **TRANSFERRED** to the United States District Court for the Northern District of New York.

*s/ Joseph E. Irenas*

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JOSEPH E. IRENAS  
Senior United States District Judge