

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEN KNIGHT

Plaintiff,

-against-

MARIO LAVANDEIRA a/k/a PEREZ
HILTON

Defendant.

Case No. 07 CV 3751 (LBS)

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the annexed Declaration of Mario Lavandeira, dated August 10, 2007, the accompanying Declaration of Jeffrey M. Eilender, dated August 13, 2007, and the exhibits attached thereto, and the accompanying Memorandum of Law in Support of Defendant Mario Lavandeira's Motion to Dismiss the Complaint, dated August 13, 2007, Defendant Mario Lavandeira will move this Court before the Honorable Leonard B. Sand, United States District Judge, at the United States Courthouse, Courtroom 15-A, 500 Pearl Street, New York, New York, on September 11, 2007 at 2:15 P.M., or at such other date and time as the Court may direct or as counsel may agree, for an order, pursuant to Fed. R. Civ. Proc. 12(b)(2) and 12(b)(5), dismissing Plaintiff's Complaint for lack of personal matter jurisdiction and insufficient service of process, and for such other and further relief as the Court deems appropriate.

Dated: New York, New York
August 13, 2007

SCHLAM STONE & DOLAN LLP

By: 

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DECLARATION OF MARIO LAVANDEIRA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEN KNIGHT

Plaintiff,

-against-

MARIO LAVANDEIRA a/k/a PEREZ
HILTON

Defendant.

Case No. 07 CV 3751 (LBS)

**DECLARATION OF
MARIO LAVANDEIRA**

Pursuant to 28 U.S.C. § 1746, MARIO LAVANDEIRA hereby declares under penalty of perjury:

1. I am the defendant in this action and the sole owner and proprietor of the website PerezHilton.com.
2. I submit this declaration in support of my motion pursuant to Fed. R. Civ. Proc. 12(b)(2) and 12(b)(5) to dismiss the Complaint of Plaintiff Ken Knight for lack of personal jurisdiction and insufficient service of process.
3. Unless otherwise stated, the matters set forth herein are based upon my personal knowledge.
4. I am a resident of the state of California. Apart from a period of eight months from March to November 2005, during which time I resided in New York City, I have been a full-time resident of Los Angeles, California since August 2002.
5. I currently rent an apartment in Los Angles, California, which serves as my residence and home office.
6. I hold a California driver's license, maintain a California bank account and pay taxes in California. Los Angeles is my permanent residence and it is my current intention that Los Angeles continue to be my permanent residence.

7. I created the PerezHilton.com website while a resident of California in September 2004.

8. I maintain and operate the site from my home office in Los Angeles, California.

9. I maintain a mailbox at a private P.O. box called Sunset Financial, which is located at 8174 Sunset Boulevard, #993, Los Angeles, California, 90046. I use that location solely as a mailing address and do not hold it out as my place of business through regular solicitation or advertisement.

10. I was never served with a copy of the summons and complaint in this action. I only received a copy of the summons and complaint when I retrieved my mail from the Sunset Financial P.O. box on June 23, 2007.

11. I do not maintain an office or have any employees in New York, nor do I have a bank account in the state.

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

Executed on August 16 2007



MARIO LAVANDEIRA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KEN KNIGHT

Plaintiff,

-against-

MARIO LAVANDEIRA a/k/a PEREZ
HILTON

Defendant.

Case No. 07 CV 3751 (LBS)

NOTICE OF MOTION AND DECLARATION OF MARIO LAVANDEIRA

SCHLAM STONE & DOLAN LLP

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