IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MISSOURI

The Society of Lloyd's,)	
)	
Plaintiff,)	
)	Case No: 4:03CV1113 HEA
VS.)	
)	
Robert W. Fuerst, Hord Hardin II, Harold F	.)	
Ilg, Walter A. Klein, Meade M. McCain,)	
John J. Shillington, Cynthia J. Todorovich)	
and Michael B. Todorovich,)	
)	
Defendants.)	

JOINT MOTION TO DISMISS OF DEFENDANTS ROBERT W. FUERST, WALTER A. KLEIN, MEADE M. McCAIN, CYNTHIA J. TODOROVICH AND MICHAEL B. TODOROVICH PURSUANT TO FED. R. CIV. P. 12(b)(3) AND 28 U.S.C. § 1391 FOR IMPROPER VENUE

COME NOW Defendants Robert W. Fuerst, Walter A. Klein, Meade M. McCain, Cynthia J. Todorovich and Michael B Todorovich, by their counsel, and move this Court as follows:

- Plaintiff The Society of Lloyd's is a corporation organized and existing by a Special Act of Parliament of the United Kingdom.
- 2. This action was commenced on or about August 13, 2003, and was brought in the Eastern District of the State of Missouri.
- 3. Defendants Robert W. Fuerst, Walter A. Klein, Meade M. McCain, Cynthia J. Todorovich and Michael B. Todorovich have become aware, upon the filing of Defendant Hord Hardin II's Amended Answer that Defendant Hord Hardin II is not, and was not at the time of the filing of this Complaint, a resident of Missouri but is, and was, a resident of the State of Michigan.

- 4. Defendants Robert W. Fuerst, Walter A. Klein, Meade M. McCain, Cynthia J. Todorovich and Michael B. Todorovich are all residents of the State of Missouri.
- 5. Plaintiff has alleged jurisdiction due to diversity of citizenship between the parties pursuant to 28 U.S.C. § 1332(a)(2).
 - 6. 28 U.S.C.A. § 1391(a)(1) mandates proper venue for a diversity case as follows:
 - "(a) A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State. . . ."
- 7. Due to the residence of Defendant Hord Hardin II, venue does not exist in this Judicial District.

WHEREFORE, Defendants Robert W. Fuerst, Walter A. Klein, Meade M. McCain, Cynthia J. Todorovich and Michael B Todorovich pray an order of this Court that this matter be dismissed for improper venue; and for such other and further orders as this Court deems just and proper.

LAW OFFICES OF TED F. FRAPOLLI

By: /s/ Ted F. Frapolli
Ted F. Frapolli #10480
Attorney for Robert W. Fuerst, Walter A.
Klein, Meade M. McCain, Cynthia J.
Todorovich and Michael B. Todorovich 275 North Lindbergh, Suite F
St. Louis, MO 63141
(314) 993-4261 telephone
(314) 993-3367 fax

CERTIFICATE OF SERVICE

I certify that on the 8th day of December, 2003, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following: Martin J. Buckley, Attorney for Plaintiff, 1139 Olive Street, Suite 800, St. Louis, MO 63101-1928 Michael T. Hannafan, Esq., Attorney for Plaintiff, One East Waker Drive, Suite 1208, Chicago, IL 60601; Alan C. Kohn, Esq., Attorney for Defendant Shillington, One US Bank Plaza, Suite 2410, St. Louis, Missouri 63101.

I certify that on the 8th day of December, 2003, the foregoing was mailed by United States Postal Service to the following non-participants in Electronic Case Filing: Harold F. Ilg, 100 L'Ambiance Circle, Unit 202, Naples, Florida 34108.

/s/ Ted F. Frapolli
Ted F. Frapolli