

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.)

**DEFENDANT HORD HARDIN II'S MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(b)(2) and (3)
FOR LACK OF PERSONAL JURISDICTION AND IMPROPER VENUE**

COMES NOW Defendant Hord Hardin II, by his counsel, and for his Motion to Dismiss,
states as follows:

1. 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. Defendant Hord Hardin II was served with process in this matter on October 26, 2003 at 6398 Lightfoot Road, Harbor Springs, State of Michigan.
4. Plaintiff has alleged jurisdiction due to diversity of citizenship between the parties pursuant to 28 U.S.C. § 1332(a)(2).
5. Defendant Hord Hardin II is a resident of the State of Michigan. Attached hereto, and incorporated by reference as if fully set out, is the Affidavit of Hord Hardin II swearing and

attesting to the fact that he is a Michigan resident at the time that this action was commenced.

6. An amended answer was filed by Hord Hardin II without objection from Plaintiff and for which leave was granted by this Court which stated:

4. Denied, Defendant Hardin is a resident of the State of Michigan, who became a Name and underwrote insurance in the Lloyd's market.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The Complaint should be dismissed for improper venue, pursuant to 28 U.S.C. § 1991(a), in that Defendant Hord Hardin II is not a Missouri resident, but resides in Michigan and is not subject to personal jurisdiction in this judicial circuit when the action was commenced.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiff lacks personal jurisdiction over this Defendant in that service upon Hord Hardin II was acquired within the State of Michigan and Missouri is not a Missouri resident.

7. To Defendant Hord Hardin II's best knowledge and belief, all other Defendants are residents of the State of Missouri.

8. 28 U.S.C.A. § 1391(a)(1) states 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.”

9. Service upon Hord Hardin II was accomplished in the State of Michigan, and therefore, as a Michigan resident, personal jurisdiction over this Defendant does not lie nor does venue exist in this Judicial Circuit.

