

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

REZA GANJAVI,)	Case No. 06 C 4189
Plaintiff,)	
v.)	Plaintiff's Motion for Leave to File Sur-
JEREMY C. SMITH, CINDY SMITH,)	response to Defendant Todd Tipton and
TODD TIPTON, WILLIAM D.)	William Jennings' Dismissal Motions
JENNINGS, DOES 1-3)	
Defendants.)	Honorable Judge Gettleman
)	Honorable Magistrate Judge Denlow

PLAINTIFF'S MOTION FOR LEAVE TO FILE SUR-RESPONSE

NOW COMES Plaintiff, REZA GANJAVI ("Plaintiff") by and through his attorneys, Law Offices of Khoi Dang-Vu, P.C. And Khoi Dang-Vu, and respectfully requests this Honorable Court leave to file a Sur-response to Defendant Todd Tipton ("Tipton") and William Jennings' ("Jennings") (collectively as "Defendants") Motions to Dismiss on the grounds that in their Replies Defendants: a) made two untrue statements regarding plaintiff's assertions of why jurisdiction is proper; b) made erroneous assumptions in citations of case law with regards to general vs. specific types of Usenet postings. Plaintiff would like to have the opportunity to respond accordingly, in a Sur-response.

**Defendants' Make Two Untrue Statements Regarding Plaintiff's Assertions of Why
Jurisdiction is Proper**

In his Response, Plaintiff argued that Jurisdiction is proper since Defendants had direct contact with Smith, knew Smith was in Chicago, had contact with him through various means, and collaborated with him in carrying attacks on Plaintiff. In their Replies, Defendants completely misrepresented Plaintiff's assertion as follows: "*Even if*

Defendant had been aware of Jeremy Smith's residence, Plaintiff is arguing for a rule that if Defendant A knows where Defendant B lives, and both are named as Defendants in a case filed in Defendant B's home state, then Defendant A is subject to personal jurisdiction in that state." That is an untruthful statement which Plaintiff never made and never implied to. Defendants are cunningly leaving out a very important aspect of the argument, namely, their direct contact and collaboration with Smith on numerous occasions with regards to attacks on Plaintiff and how those contacts availed them to Smith's forum.

Defendants made a second untrue, misrepresentation of Plaintiff's argument as follows: *"Additionally, in Footnote 1 of Plaintiff's Response and Memorandum, he articulates a second rule that would essentially create personal jurisdiction over Defendant A in Defendant B's home state so long as Defendant A and Defendant B were both sued in a different jurisdiction and dismissed from the original case."* This is an untrue statement which Plaintiff never made and never alluded to.

Defendants' Replies Make Erroneous Assumptions in Citations of Case Law with Regards to General vs. Specific Types of Usenet postings

Defendants made erroneous assumptions on the cases they cited. They referred to decisions involving general mailings to forum members as insufficient in availing a party to that forum's jurisdiction. However, Plaintiff's case does not involve general mailings via a "mailto link", a free e-mail subscription options, or any other type of non specific contact as exemplified in the cases cited by Defendants. Plaintiff's argument is about specific contact targeted at a forum's resident.

Defendants erroneously assumed that just because a message is posted on Usenet it is to a general, unspecific audience. However, the fact is, even Usenet postings can be directed and addressed to a certain individual. The case at bar contains several such instances of communications where a Usenet message was specifically addressed to Smith, and with the knowledge that Defendants had that Smith lived in Illinois, those particular communications, along with other forms of contacts such as emails and collaborative message and webpage developments, availed them to Smith's forum state, Illinois.

In their Motion Defendants argued that they had no contact with Smith prior to filing of the original Complaint and that they did not know about his Illinois residency. In his response, Plaintiff proved these to be untrue based on specific Usenet postings such as a message from Tipton giving a online lesson to Smith while addressing Smith by his real name, and a message from Smith to Tipton specifically, stating: "*I live in Chicago*". Similar examples were provided about Jennings. Numerous examples were provided regarding specific incidents of contact between Defendants and Smith in in collaboration against Plaintiff. These were specific messages, addressed to Smith particularly, while posted on Usenet. Defendants, in their Reply, completely ignore this specific type of communication and misrepresent all Usenet postings as general and arbitrary to specific contact.

CONCLUSION

Defendants' false representation of Plaintiff's assertions, and their erroneous assumptions were intended for the improper purpose of misleading the Honorable Court. Plaintiff would like to respond accordingly in a Sur-response immediately, within seven (7) days of the leave.

DATED this 21st day of February 2007.

RESPECTFULLY SUBMITTED BY:

/s/ Khoi Dang-Vu

Khoi Dang-Vu

Attorney for Plaintiff, REZA GANJAVI

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