

**STATE OF OHIO  
IN THE COURT OF COMMON PLEAS IN OHIO  
CIVIL DIVISION**

BRYAN ANTHONY REO  
7143 Rippling Brook Lane  
Mentor, Ohio 44060

Plaintiff/Counter-Defendant,

v.

MARTIN LINDSTEDT  
338 Rabbit Track Road

GRANBY, MISSOURI 64844

Defendant/Counter-Claimant,

v.

MELISSA EPPERSON  
653 W 23rd Street Suite 129  
Panama City, FL 32405

Counterclaim-Defendant.

Case No: 15CV001590

MOTION TO DISMISS  
DEFENDANT'S COUNTER-CLAIM  
FOR LACK OF PERSONAL  
JURISDICTION (Ohio Civil Rule of  
Procedure 12(b)(2))

**MOTION TO DISMISS DEFENDANT'S COUNTER-CLAIM**

Specially appearing individual Counterclaim-defendant Melissa Epperson hereby moves this Court for the Entry of an Order that dismisses all allegations contained against her in the complaint on the basis that this Court lacks personal jurisdiction over the moving defendants.

Should this Court determine that relief pursuant to Rule (12(b)(2) is inappropriate regarding the moving defendant, the defendant respectfully requests that this Court permits her to join in the Motions to Dismiss, pursuant to Rule 12(f), for Failure to State a Claim which has been filed by Plaintiff/Counter-Defendant Bryan Anthony Reo. The frivolous counter-claim of Martin Lindstedt, the Defendant/Counter-Claimant, will only have the affect of causing indigent

third parties to incur attorney's fees.

### **MEMORANDUM IN SUPPORT**

#### **A. The Defendant Lacks Even Minimum Contacts With the State of Ohio.**

The Court lacks personal jurisdiction over moving defendant Ms. Epperson. Ms. Epperson is not a resident of Ohio. She does not transact business within Ohio in any form. She does not have sufficient contacts with the State of Ohio to make her amenable to service of process within Ohio. As a result, this Court may not assert personal jurisdiction over her.

#### **B. In the Absence of Even Minimum Contacts With This Forum, The Exercise of Jurisdiction Over The Moving Defendants Would Violate The Due Process Clause of the United States Constitution And Would Also Exceed The "Long Arm" Statute of This Jurisdiction.**

No federal statute governs jurisdiction in this case, and thus personal jurisdiction exists if defendant is amenable to service of process under Ohio's long-arm statute and "if the exercise of personal jurisdiction would not deny the defendant due process." *Michigan Coalition of Radioactive Material Users, Inc. v. Griepentrog*, 954 F.2d 1174, 1176 (6th Cir.1992). Ohio's long-arm statute is not coterminous with federal constitutional limits. R.C. § 2307.382; *Calphalon Corp. v. Rowlette*, 228 F.3d 718, 721 (6th Cir.2000) (noting that "the Ohio Supreme Court has ruled that the Ohio long-arm statute does not extend to the constitutional limits of the Due Process Clause"), *citing Goldstein v. Christiansen*, 70 Ohio St.3d 232, 638 N.E.2d 541, 545 n. 1 (1994) (per curiam).

Accordingly, in evaluating whether personal jurisdiction is proper under Ohio's long-arm statute, the Sixth Circuit has consistently focused on whether there is due process: whether "there are sufficient minimum contacts between the nonresident defendant and the forum state so as not



to offend ‘traditional notions of fair play and substantial justice.’” *Id.*, quoting, *Int'l Shoe Co.*

*Washington*, 326 U.S. 310, 316 (1945)); *Cole v. Milet*i, 133 F.3d 433, 436 (6th Cir.1998)

(addressing the due process concerns rather than inquiring into the propriety of jurisdiction under Ohio's long-arm statute).

Personal jurisdiction can be either general or specific, depending upon the nature of the contacts that the defendant has with the forum state. *Conti v. Pneumatic Prods. Corp.*, 977 F.2d 978, 981 (6th Cir.1992) (noting that a distinction between general and specific jurisdiction exists for the purpose of the due process analysis). General jurisdiction is proper only where “a defendant's contacts with the forum state are of such a continuous and systematic nature that the state may exercise personal jurisdiction over the defendant even if the action is unrelated to the defendant's contacts with the state.” *Third Natl. Bank in Nashville v. WEDGE Group, Inc.*, 882 F.2d 1087, 1089 (6th Cir.1989) (internal quotation marks omitted).

Specific jurisdiction is permissible only if defendants’ contacts with Ohio satisfy a three-part test:

(1) the defendant must purposefully avail himself of the privilege of acting in the forum state or causing a consequence in the forum state; (2) the cause of action must arise from the defendant's activities there; and (3) the defendant’s acts, or consequences thereof must have a substantial enough connection with the forum state to make the exercise of jurisdiction over the defendant reasonable.”

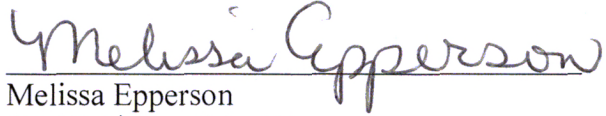
*Southern Machine Company v. Mohasco Industries, Inc.*, 401 F.2d 374, 381 (6th Cir.1968). The maintenance of a passive website that contains advertisements does not even justify the exercise of specific jurisdiction. *Cybersell, Inc. v. Cybersell, Inc.*, 130 F.3d 414, 419-20 (9th Cir.1997).

## **I. CONCLUSION**

The moving defendant asserts that her contacts with the State of Ohio are insufficient to permit this litigation to be maintained against her in this forum. She respectfully requests that she be

dismissed from this action. In the alternative, the moving defendant seeks leave of this Court to join in the Motion to Dismiss for Failure to State a Claim filed pursuant to Ohio Civil Rule of Procedure 12(f) by Bryan Anthony Reo.

RESPECTFULLY SUBMITTED,

A handwritten signature in dark ink, reading "Melissa Epperson". The signature is written in a cursive style with a horizontal line underneath the name.

Melissa Epperson  
653 W 23<sup>rd</sup> Street Suite 129  
Panama City FL 32405

Counterclaim-Defendant

## Certificate of Service

I, Melissa Epperson, do hereby certify that a true and genuine copy of this motion/brief/filing has been dispatched by United States Postal Service, postage prepaid to the Defendant at:

Martin Lindstedt  
338 Rabbit Track Road  
Granby, Missouri 64844

On this 2nd day of Dec, 2015

x Melissa Epperson