

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ESTATE OF HIMOUD SAED ABTAN, <i>et al.</i>)	
)	Civil Case No. 1:07-cv-01831 (RBW)
Plaintiffs,)	
)	
v.)	
)	
BLACKWATER WORLDWIDE, <i>et al.</i>)	
)	
Defendants.)	
_____)	

**DEFENDANTS’ MOTION TO DISMISS THE AMENDED COMPLAINT
FOR LACK OF VENUE AND TO DISMISS NON-LEGAL ENTITIES**

Defendants Blackwater Worldwide; Blackwater USA; Blackwater Lodge and Training Center, Inc.; Blackwater Security Consulting, LLC; Blackwater Armor and Targets, LLC; Blackwater Airships, LLC; Blackwater Logistics, LLC; Blackwater Canine; Raven Development Group, LLC; Greystone Limited; Total Intelligence Solutions, LLC; Prince Group LLC; EP Investments, LLC; and Erik Prince (collectively, “Defendants”), pursuant to 28 U.S.C. § 1406(a) and Fed. R. Civ. P. 12(b)(3) move for dismissal of Plaintiffs’ Amended Complaint for lack of venue or, in the alternative, for the transfer of this action to the Eastern District of Virginia. Defendants also move for dismissal of three named non-legal entities—Blackwater Worldwide, Blackwater USA, and Blackwater Canine—for lack of personal jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(2); for lack of capacity to be sued, pursuant to Fed. R. Civ. P. 17(b); and for misjoinder of Parties, pursuant to Fed. R. Civ. P. 21.¹

¹ The spelling “Atban” is used in the caption of the Complaint, the Court’s docket sheet, and the Court’s December 19, 2007 order. The spelling “Abtan” is used in the Amended Complaint. This Motion and all supporting papers adhere to the naming convention used in the Amended Complaint.

As required by Local Rule 7(a), the reasons supporting this motion are set forth in the attached Defendants' Memorandum in Support of Their Motion to Dismiss the Amended Complaint for Lack of Venue and to Dismiss Non-Legal Entities. A Proposed Order is also attached as required by Local Rule 7(c). Defendants have served counsel for Plaintiffs with copies of this Motion, the Memorandum and its supporting documents, and the Proposed Order.

Respectfully submitted,

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Dated: January 22, 2008

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INTRODUCTION

Blackwater Worldwide; Blackwater USA; Blackwater Lodge and Training Center, Inc. (“Blackwater Lodge”); Blackwater Security Consulting LLC (“Blackwater Security”); Blackwater Armor and Targets LLC (“Blackwater Armor”); Blackwater Airships LLC (“Blackwater Airships”); Blackwater Logistics LLC (“Blackwater Logistics”); Blackwater Canine; Raven Development Group LLC (“Raven Development”); Greystone Limited (“Greystone”); Total Intelligence Solutions, LLC (“Total Intelligence”); Prince Group LLC (“Prince Group”); EP Investments LLC (“EP Investments”); and Erik Prince (collectively, “Defendants”), respectfully submit this Memorandum in Support of Their Motion to Dismiss the Amended Complaint for Lack of Venue and to Dismiss Non-Legal Entities.

This Memorandum establishes grounds for dismissal of the Amended Complaint itself and, in any event, of three named Defendants. First, pursuant to Fed. R. Civ. P. 12(b)(3) and 28 U.S.C. § 1406(a), all claims should be dismissed because Plaintiffs committed an obvious error by filing in the wrong court an Amended Complaint that neither alleges venue properly nor satisfies Plaintiffs’ burden of establishing that venue is proper. Second, pursuant to three Rules of Federal Civil Procedure—12(b)(2), 17(b), and 21—the claims against Blackwater Worldwide, Blackwater USA, and Blackwater Canine should be dismissed because these purported Defendants are not legal entities, and a suit may not be brought against something that is not a legal entity.

ARGUMENT

Plaintiffs cite two venue provisions, but neither provides any grounds for venue in this Court. When venue is defective, 28 U.S.C. § 1406(a) authorizes this Court either to dismiss or to transfer the action. All Defendants that are legal entities reside for venue purposes in Virginia, and venue would therefore be proper in the Eastern District of that State (“E.D. Va.”). Here, however, because Plaintiffs have committed an obvious error in suing without even alleging any plausible basis for venue in the District of Columbia, Defendants request that this Court dismiss all claims. Moreover, this Court has independent grounds to dismiss claims against the three nominal Defendants that in fact are not legal entities.

I. Plaintiffs’ Claims Should Be Dismissed For Lack Of Venue

A. Plaintiffs provide no basis for venue in the District of Columbia.

The Amended Complaint fails to establish any basis for venue in this Court. Plaintiffs have the “obligation to institute the action in a permissible forum,” and thus bear “the burden of establishing that venue is proper.” *Freeman v. Fallin*, 254 F. Supp. 2d 52, 56 (D.D.C. 2003). Here, Plaintiffs rely on two provisions in support of venue in the District of Columbia—28 U.S.C. § 1391(a)(3) and 28 U.S.C. § 1391(b)(2). Am. Cmplt. ¶ 22. As explained below, neither provision is relevant to this case.

The first provision relied on by Plaintiffs applies to actions “founded *only* on diversity of citizenship.” 28 U.S.C. § 1391(a) (emphasis added). It is inapplicable here because Plaintiffs do not rely only on diversity. Am. Cmplt. ¶ 21 (basing jurisdiction on both diversity and the presence of a federal question); see *Friedman v. Revenue Mgmt. of N.Y., Inc.*, 839 F. Supp. 203, 206 (S.D.N.Y. 1993) (when “[j]urisdiction * * * is based on diversity and a federal question,” Section

1391(a) is “irrelevant for the determination of proper venue”), *aff’d* 38 F.3d 668 (2d Cir. 1994). Indeed, this provision cannot apply because this Court has no diversity jurisdiction over this case. *See Eze v. Yellow Cab Co. of Alexandria, Va., Inc.*, 782 F.2d 1064, 1065 (D.C. Cir. 1986) (per curiam) (“A diversity suit, in line with the *Strawbridge* rule, may not be maintained in federal court by an alien against a citizen of a state and a citizen of some other foreign country.”);² *see also Allendale Mut. Ins. Co. v. Bull Data Sys., Inc.*, 10 F.3d 425, 428 (7th Cir. 1993) (Posner, J.) (explaining in dicta how such a case does “not fit any of the possibly applicable jurisdictional pigeonholes”).

The second provision relied on by Plaintiffs is also inapplicable because it permits suit in “a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.” 28 U.S.C. § 1391(b)(2). No property is at issue here, and the alleged “events or omissions” giving rise to Plaintiffs’ claims occurred in Iraq, not in the District of Columbia—and not even in the United States, for that matter. Plaintiffs do not allege that *any* of the events giving rise to their claims occurred in the District of Columbia, much less “a substantial part” of them. Therefore, Section 1391(b)(2) provides no basis for venue in this Court. *See Rogers v. Metro. & City Police New Scotland Yard of London*, Civ. A. No. 91-2124 (CRR), 1992 WL 23669, at *1 (D.D.C. Jan. 23, 1992) (finding venue improper in this Court under Section 1391(b)(2) because the “complaint describe[d] no important events giving rise to [plaintiff’s] claim which took place in the District of Columbia or property alleged to be located in the District” but rather “describe[d] events occurring mostly in Colorado, California, or overseas”).

² As discussed in Part I.B.3, *infra*, Greystone Limited is an alien corporate Defendant.

Accordingly, as Plaintiffs have committed an obvious error in suing without even alleging any plausible basis for venue in this Court, Defendants request that this Court dismiss all claims.

B. Venue would be proper in the Eastern District of Virginia.

In view of the allegations of the Amended Complaint, venue would be proper in E.D. Va. Under Section 1391(b)(1)—which Plaintiffs do not cite—venue is proper in “a judicial district where any defendant resides, if all defendants reside in the same State.” As demonstrated below, the only State in which all Defendants reside for venue purposes is Virginia, and venue would be proper in E.D. Va. Nevertheless, Defendants submit that this action should be dismissed, not transferred to E.D. Va., for the reasons given below. *See* Part I.C, *infra*.

1. The non-alien corporate Defendants

The Defendants who are non-alien corporations reside in Virginia.³ For venue purposes, a corporation resides in any judicial district in which “it is subject to personal jurisdiction.” 28 U.S.C. § 1391(c). To be subject to personal jurisdiction in Virginia in this case, each Defendant must have “continuous and systematic” contacts with the State. *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 416 (1984) (providing the standard for general personal jurisdiction). This constitutional minimum is the relevant standard, for Virginia law⁴ extends general

³ These are Blackwater Lodge, Blackwater Security, Blackwater Armor, Blackwater Airships, Blackwater Logistics, Raven Development, Total Intelligence, Prince Group, and EP Investments. Three Defendants—Blackwater Worldwide, Blackwater USA, and Blackwater Canine—are not legal entities, *see* Part II, *infra*, and thus should not be considered separately for venue purposes.

⁴ Virginia law determines whether Defendants have sufficient contacts with Virginia to support general jurisdiction, and thus to make federal venue proper under Section 1391(b)(1) and Section 1391(c). *Beech Aircraft Corp. v. EDO Corp.*, Civ. A. No. 90-1518, 1991 WL 133551, at *2 (D.D.C. Feb. 15, 1991) (“Whether personal jurisdiction could be established over [the defendant] in the federal courts of Kansas is determined with reference to Kansas law.”).

personal jurisdiction as far as the federal Constitution permits. *English & Smith v. Metzger*, 901 F.2d 36, 38 (4th Cir. 1990); *Witt v. Reynolds Metals Co.*, 240 Va. 452, 454-56 (1990).

Each non-alien corporate Defendant has the requisite “continuous and systematic” contacts with the State of Virginia:

a. Prince Group, EP Investments, and Total Intelligence have their respective principal places of business in Virginia. The location of a corporation’s principal place of business is conclusive evidence that it is subject to general personal jurisdiction. *See Perkins v. Benguet Consol. Mining Co.*, 342 U.S. 437, 447-48 (1952) (finding general personal jurisdiction where the principal place of business had temporarily relocated because of the Second World War); *Devaughn v. Inphonic, Inc.*, 403 F. Supp. 2d 68, 72 (D.D.C. 2005) (finding a corporation subject to personal jurisdiction where its principal place of business was located); *Intranexus, Inc. v. Siemens Med. Solutions Health Servs. Corp.*, 227 F. Supp. 2d 581, 582 n.3 (E.D. Va. 2002) (“[I]t is indisputable that venue would be proper in the Eastern District of Pennsylvania because Defendant has its principal place of business in Pennsylvania and is therefore subject to personal jurisdiction therein pursuant to 28 U.S.C. § 1391(c.)”); *LG Elecs. Inc. v. Advance Creative Computer Corp.*, 131 F. Supp. 2d 804, 813 (E.D. Va. 2001) (“General jurisdiction exists over resident defendants with their principal place of business in the jurisdiction.”); *Witt*, 240 Va. at 455 (“A foreign corporation * * * which has its principal place of business in the forum * * * may be subjected to personal jurisdiction there.”).

All three Defendants have the requisite contacts, because each has its principal place of business in Virginia. The principal place of business of Prince Group and EP Investments is an approximately 10,000 square feet office located at 1650 Tysons Blvd., McLean, Virginia 22102 (“the McLean Site”). Schmitz Decl., Ex. A, ¶ 4; Prince Decl., Ex. B, ¶ 5. All Prince Group em-

employees work at the McLean Site. Schmitz Decl., Ex. A, ¶ 5. Total Intelligence’s principal place of business is nearby at 901 North Glebe, Arlington, Virginia, 22203 (“the Arlington Office”); Total Intelligence also maintains a presence at the McLean Site and at an office in Falls Church, Virginia. Devost Decl., Ex. C, ¶ 4. More than 70% of Total Intelligence’s employees reside in Virginia. *Id.* ¶ 6. Plaintiffs themselves recognize that these Defendants are based in E.D. Va. Am. Cmplt. ¶¶ 12, 13, 18.

b. The remaining non-alien corporate Defendants—Blackwater Lodge, Blackwater Security, Blackwater Armor, Blackwater Airships, Blackwater Logistics, and Raven Development—also reside in Virginia.

First, several of these Defendants have offices in Virginia. Roitz Decl., Ex. D, ¶¶ 9, 22 (Blackwater Lodge, Blackwater Security); Matthews Decl., Ex. E, ¶ 5 (Blackwater Armor). This fact alone is sufficient to establish that these Defendants are subject to general personal jurisdiction. *Schmidt v. Am. Inst. of Physics*, 322 F. Supp. 2d 28, 32 n.1 (D.D.C. 2004); *see* 4 WRIGHT & MILLER, FEDERAL PRACTICE & PROCEDURE § 1067.5 (Westlaw 2008) (“[T]he defendant must be engaged in longstanding business in the forum state, such as marketing or shipping products, or performing services or *maintaining one or more offices* there * * *.”) (emphasis added); *see also Helicopteros Nacionales de Colombia*, 466 U.S. at 416 (finding no general jurisdiction and emphasizing that the defendant did “not have a place of business” in the state).

Second, Blackwater Lodge, Blackwater Security, and Raven Development are authorized to do business in Virginia. Roitz Decl., Ex. D, ¶¶ 7, 20; Matthews Decl., Ex. E, ¶ 17. This is strong evidence that they are subject to general personal jurisdiction within the State. *Helicopteros Nacionales de Colombia*, 466 U.S. at 416 (finding no general jurisdiction and emphasizing that the defendant “never ha[d] been licensed to do business in the State”); *Inversiones Inmobil-*

iarías El Bosque, S.A. v. Transtainer Corp., No. Civ. A. 03-0962, 2004 WL 325615, at *3 (E.D. La. Feb. 18, 2004) (finding general personal jurisdiction under both Louisiana law and the federal Constitution where defendant was “authorized to do business in Louisiana, ha[d] appointed an agent for service of process, ha[d] solicited business in Louisiana, and ha[d] maintained an office in Kenner, Louisiana”).

Finally, all of these Defendants have other “continuing and systematic” contacts with the State. Blackwater Lodge is the corporation that leases the McLean Site. Roitz Decl., Ex. D, ¶ 9. Blackwater Lodge and Blackwater Security have a host of contacts that meet the “continuous and systematic” test, including contracts with and frequent visits to the State Department’s Office of Acquisition Management, which is located in Arlington, Virginia. *E.g., id.* ¶¶ 7–14, 20–26. Virginia is one of the major places of business for Blackwater Logistics, and a significant amount of its cargo shipments involve Virginia ports. Matthews Decl., Ex. E, ¶ 14. Virginia is also a major place of business for Raven Development, and its business contacts with the State include development of a \$10 million auto-auction facility. *Id.* ¶¶ 19–21. Moreover, the non-alien corporate Defendants routinely conduct business in Virginia with clients and strategic partners or owners (including other Defendants and Mr. Prince),⁵ including frequent business trips, meetings, and acquisition of government contracts. Roitz Decl., Ex. D, ¶¶ 10, 20–21; Matthews Decl., Ex. E, ¶¶ 6, 10, 15, 20. Taken together, these contacts are more than sufficient to subject each of these Defendants to general personal jurisdiction in Virginia, because it is unquestionable

⁵ For example, Blackwater Security is a wholly owned subsidiary of Blackwater Lodge, which is a wholly owned subsidiary of EP Investments, which has its principal place of business in McLean, Virginia. Roitz Decl., Ex. D, ¶ 26; *see also* Part I.B.1.a, *supra*. Although establishing general jurisdiction over a parent corporation does not “automatically establish jurisdiction over a wholly owned subsidiary,” *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 781 n.13 (1984), courts are more likely to find general jurisdiction in a state where “shareholders reside,” *U.S. Gen., Inc. v. Draper City*, No. 2:05-CV-917 TS, 2006 WL 1594184, at *4 (D. Utah June 7, 2006) (relying on an eleven-factor test that includes this point).

that each Defendant “has adopted the state as one of its major places of business.” *Witt*, 240 Va. at 456 (quoting *Ratliff v. Cooper Labs., Inc.*, 444 F.2d 745, 748 (4th Cir. 1971)).

2. *The individual Defendant (Erik Prince)*

An individual defendant resides in the place of his domicile. *King v. Wall & Beaver St. Corp.*, 145 F.2d 377, 378-79 (D.C. Cir. 1944); 14D WRIGHT & MILLER, FEDERAL PRACTICE & PROCEDURE § 3805 & n.12 (Westlaw 2008). In determining a person’s domicile, courts consider “two factors: physical presence in a state, and intent to remain there for an unspecified or indefinite period of time.” *Prakash v. Am. Univ.*, 727 F.2d 1174, 1180 (D.C. Cir. 1984).

Erik Prince resides in Virginia. Mr. Prince’s domicile is in McLean, Virginia, where he lives and intends to continue residing indefinitely. Prince Decl., Ex. B, ¶ 1. Plaintiffs apparently concede the point. Am. Cmpl. ¶ 11 (describing Mr. Prince as “a resident of McLean, Virginia”).

3. *The alien corporate Defendant*

Greystone is organized in Barbados. Burgess Decl., Ex. F, ¶ 3. As an alien, Greystone “may be sued in any district,” 28 U.S.C. § 1391(d), including E.D. Va. In determining proper venue in a suit with alien and non-alien defendants, the alien is ignored—“venue is proper in any district in which the suit could have been brought against the non-alien defendants alone.” 14D WRIGHT & MILLER, FEDERAL PRACTICE & PROCEDURE § 3810 (Westlaw 2008). Here, because all of the other Defendants are subject to general personal jurisdiction in Virginia, venue would be proper in E.D. Va.⁶

⁶ Given that Greystone has significant business relationships with Virginia, Burgess Decl., Ex. F, ¶¶ 6–7, it is likely that it has the requisite “continuous and systematic” contacts. An inquiry into Greystone’s contacts with Virginia is unnecessary, however, given the company’s status as an alien.

C. Dismissal of all claims is appropriate.

In this case, dismissal—not transfer to E.D. Va.—is appropriate. Because Plaintiffs filed this case in the wrong court, the resolution of venue is governed by 28 U.S.C. § 1406(a), which provides:

The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

Id. Accordingly, this Court has the discretion either to dismiss this action or to transfer it to a district court where venue is proper, namely E.D. Va.

It is appropriate for this Court to dismiss rather than transfer an action when a plaintiff has “committed an obvious error in filing [its] action in the wrong court, and thereby imposed substantial unnecessary costs on both the defendant and the judicial system.” *Nichols v. G.D. Searle & Co.*, 991 F.2d 1195, 1201 (4th Cir. 1993) (affirming a dismissal for lack of personal jurisdiction). In such a circumstance, it would not serve the interests of justice and judicial economy “simply to transfer [the] action to the proper court, with no cost to” Plaintiffs or Plaintiffs’ counsel. *Id.*; *Coté v. Wadel*, 796 F.2d 981, 984-85 (7th Cir. 1986) (Posner, J.) (dismissing rather than transferring an action, even though the statute of limitations had run, because “litigants and the public will benefit substantially in the long run from better compliance with the rules limiting personal jurisdiction”). This general rule is also applicable to cases where a plaintiff sues in an obviously improper forum. Although general practice is to transfer a case to a forum where venue is proper, “district courts often dismiss a case, rather than transfer it under Section 1406(a), if the plaintiff’s attorney reasonably could have foreseen that the forum in which the suit was filed was improper and * * * similar conduct should be discouraged.” 14D WRIGHT & MILLER, FEDERAL PRACTICE & PROCEDURE § 3827 & n.37 (Westlaw 2008).

Here, the case for dismissal is strong. First, Plaintiffs offer no explanation that is even remotely plausible for venue in this Court. The Amended Complaint cites two venue provisions, which, as discussed above, are facially irrelevant.

Second, Plaintiffs' own allegations regarding the Defendants invariably refer to McLean, Virginia or Moyock, North Carolina, not Washington, D.C. *E.g.*, Am. Cmplt. ¶¶ 11–19. Plaintiffs mention the District of Columbia only in a paragraph seeking discovery in order to show that Defendants “routinely conduct business and enter into contracts in this District.” Am. Cmplt. ¶ 20. But this generic assertion (1) alleges nothing concrete, (2) bears no relationship to the venue provisions on which Plaintiffs rely, and (3) is undercut by the fact that even when Plaintiffs allege places where Defendants are registered to do business, they include Virginia and ten other States but *not* the District of Columbia. *Id.* ¶ 19.

Third, Plaintiffs' own allegations suggest that the proper venue is E.D. Va. In the Amended Complaint, Plaintiffs allege (albeit incorrectly) that all Defendants are “owned and personally controlled” by one individual, Mr. Prince, and by two corporations, Prince Group and EP Investments. *Id.* ¶ 14. All three—by Plaintiffs' own admission—reside in Virginia. *Id.* ¶¶ 11 (“Erik Prince, a resident of McLean, Virginia”), 12 (“The Prince Group LLC is * * * located at 1650 Tysons Boulevard, McLean, Virginia, 22102”), 13 (“EP Investments, LLC is located at 1650 Tysons Boulevard, McLean, Virginia, 22102”).

Therefore, given the fact that Plaintiffs have made no effort whatsoever to connect their allegations to the venue requirements of federal law or the location of even one of the numerous parties they have named as Defendants, dismissal is appropriate in this case. In the alternative, Defendants request that this Court transfer this case to a court where venue is proper, namely E.D. Va.

II. Plaintiffs' Claims Against Non-Legal Entities Should Be Dismissed

Three of the named Defendants, moreover—Blackwater Worldwide, Blackwater USA, and Blackwater Canine—are not legal entities, and therefore all claims against them should be dismissed. It is axiomatic that a suit may not be brought against “something that is not a legal entity.” 5A WRIGHT & MILLER, FEDERAL PRACTICE & PROCEDURE § 1321 & n.16 (Westlaw 2008). Moreover, an unincorporated corporate division is not a distinct legal entity from the corporation of which it is a part. *E.E.O.C. v. St. Francis Xavier Parochial School*, 77 F. Supp. 2d 71, 75-76 (D.D.C. 1999) (collecting cases that establish this proposition beyond contradiction), *aff'd* 254 F.3d 315 (D.C. Cir. 2000). As one district court said, expressing surprise that a plaintiff sued both a corporation and one of its unincorporated divisions: “counsel must be aware, however, that by definition a corporate division is not a separate legal entity and hence is not suable.” *Salzstein v. Bekins Van Lines, Inc.*, 747 F. Supp. 1281, 1282 n.1 (N.D. Ill. 1990); *see also United States v. BCCI Holdings (Luxembourg), S.A.*, 833 F. Supp. 32, 38-39 (D.D.C. 1993) (collecting “cases which hold that unincorporated divisions of a parent corporation cannot be indicted or sued”), *aff'd* 46 F.3d 1185 (D.C. Cir. 1995).

“Blackwater Canine” is a division of Blackwater Lodge, a named Defendant in this case. Roitz Decl., Ex. D, ¶ 17. “Blackwater Worldwide” and “Blackwater USA” are merely doing-business-as (“d/b/a”) names. Blackwater Lodge is among the corporate entities that use “Blackwater Worldwide,” and Blackwater Lodge has registered “Blackwater USA” as its d/b/a name. Roitz Decl., Ex. D, ¶ 16. Plaintiffs themselves acknowledge in the Amended Complaint that Blackwater USA “is an assumed name under which Defendants [sic] Blackwater Lodge and Training Center, Inc. conducts business.” Am. Cmplt. ¶ 17.

This Court may dismiss the claims against the non-legal-entity Defendants on any one of several grounds. First, pursuant to Fed. R. Civ. P. 17(b), this Court may dismiss because the non-legal entities lack the capacity to be sued. *Yates v. Gayle*, Civil A. No. 6:06cv455, 2007 WL 671584, at *4 (E.D. Tex. Feb. 27, 2007); *see also* Fed. R. Civ. P. 41(b) (permitting a defendant to move dismissal for plaintiff's failure to comply with any rule—here, Rule 17(b)).

Second, pursuant to Fed. R. Civ. P. 21, this Court may dismiss for misjoinder of non-legal entities. *Minn. Mining & Mfg. Co. v. Rynne*, 661 F.2d 722, 724 (8th Cir. 1981) (per curiam) (upholding dismissal of a corporate defendant pursuant to Rule 21 where all that remained was a name without separate officers, assets, or liabilities).

Third, pursuant to Fed. R. Civ. P. 12(b)(2), this Court could dismiss because, as a matter of course, it is impossible for a non-legal entity to have independent contacts with *any* jurisdiction sufficient to establish personal jurisdiction.

There is therefore no reason not to and every reason for this Court to dismiss the non-legal entities—whichever Rule the Court may choose to apply.

* * * * *

WHEREFORE, Defendants respectfully request that the Court grant their Motion and enter an order dismissing the claims against the non-legal entities and dismissing the Amended Complaint in its entirety; or, in the alternative, dismissing the claims against the non-legal entities and transferring the remaining claims to the U.S. District Court for the Eastern District of Virginia.

Respectfully submitted,

/s/ Michael Lackey
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Dated: January 22, 2008

CERTIFICATE OF SERVICE

I, Peter White, an attorney, certify that on January 22, 2008, I caused true and correct copies of the foregoing Motion to Dismiss, the Memorandum and its supporting documents, and the attached Proposed Order to be filed with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following counsel who has registered for receipt of documents filed in this manner:

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In addition, on this same date, I caused the above-mentioned Motion, Memorandum, supporting documents, and Proposed Order to be served upon the following counsel of record via first-class mail:

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