IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
ST. LOUIS DIVISION

UNITED STATES OF AMERICA,	)	
Plaintiff,	)	
v.	)	Case No. 4:06CR00337CEJ (MLM)
GARY STEPHEN KAPLAN,	)	
Defendant.	)	

DEFENDANT GARY STEPHEN KAPLAN'S MOTION TO TRANSFER
PURSUANT TO RULE 21(b) AND INCORPORATED MEMORANDUM OF LAW

Defendant Gary Stephen Kaplan moves this Court to transfer the above-captioned prosecution to the Southern District of Florida, pursuant to Rule 21(b) of the Federal Rules of Criminal Procedure.[1] Apart from Betonsports PLC, which is attempting to negotiate a resolution of the charges against it, defendants are unanimous in their desire for the transfer of this case.[2]

At the time that this Court (Hon. Carol E. Jackson) issued its Memorandum and Order denying the consolidated motions for transfer, in April, 2007, twelve defendants had appeared

[1] Gary Kaplan does not concede that venue is appropriate for any or all of the counts in the indictment, and raises the issue of *improper venue* in other motions.

[2] Defendants Neil Scott Kaplan, Lori Beth Multz Kaplan, Tim Brown, William Hernan Lenis, William Luis Lenis, Manny Gustavo Lenis, Monica Lenis and DME Global Marketing and Fulfillment, Inc. previously filed transfer motions that were ruled on by Judge Jackson in April, 2007. Thereafter, defendants Direct Mail Expertise, Inc. and Mobile Promotions, Inc. have moved for a transfer of venue, and we are advised by their attorneys for the remaining defendants, David Carruthers and Penelope Ann Tucker, that they agree to this request for transfer of venue to the Southern District of Florida.

and eight had moved for a transfer of venue to the Southern District of Florida. Rather than transfer the trial as to some defendants and bifurcate the trials, the Court denied the motion by Memorandum and Order dated April 10, 2007, a copy of which is annexed hereto as Exhibit A. Now, however, that balance has shifted: of the now fourteen defendants who have appeared before this Court to answer the indictment, all who are contesting the charges join in that request for transfer.[3]

OVERVIEW

The basis for this motion is that venue in the Eastern District of Missouri is premised almost exclusively on a "sting operation," in which undercover agents in Missouri, posing as internet gamblers, placed bets with defendant BetonSports, an internet "sportsbook" located in Costa Rica. No other significant element of venue in this matter, be it the location of BetonSports, the advertising which is at the heart of the government's mail fraud claim, the banking and financial aspects of BetonSports' business, the residences of the defendants, the residences of almost all of their primary counsel, or the residences of the majority of trial witnesses, has any connection whatever to the Eastern District of Missouri. Because the creation of venue in this District places undue and unnecessary hardship, inconvenience and expense upon the defendants and their witnesses, and because it will both complicate and prolong the trial of this matter, transfer to the Southern District of Florida is necessary and appropriate under the principles articulated by the United States Supreme Court in *Platt v. Minnesota Mining Co.*, 376 U.S. 240, 84 S.Ct. 769, 11 L.Ed.2d 674 (1964).

As set forth below, defendants' motions have raised substantial grounds under the *Platt*

[3] It appears that this Court, having ruled on these motions previously, will retain this issue without referral to Magistrate Medler.

factors that militate in favor of transfer. Given the unanimity of defendants in seeking transfer, in the face of the onerous burdens and widespread consequences of proceeding in Missouri, we submit that transfer is singularly appropriate in this case.

LEGAL STANDARDS

It bears noting that the United States Constitution *twice* safeguards a defendant's venue rights, providing first that, "Trial of all Crimes. . . shall be held in the State where the said Crimes shall have been committed," (Article III, Section 2, Clause 3). Further, the Sixth Amendment mandates that trial shall be "by an impartial jury of the State and district wherein the crime shall have been committed." These guarantees were expressly included to protect an accused defendant from the hardship and unfairness that would stem from facing a trial in a venue far from his or her home: precisely the condition faced by Gary Kaplan and the other defendants who have appeared before this Court to answer the charges in the indictment.

Moreover, the Constitutional venue protections were a reaction to abuses committed by the Crown against the colonists, including the King's transportation of persons in the colonies "beyond Seas to be tried." *See United States v. Cabrales*, 524 U.S. 1, 6 (1998). These concerns were reflected in the codification of the criminal rules, which provide that, "[t]he court must set the place of trial within the district *with due regard for the convenience of the defendant and the witnesses* . . .". Fed. R. Crim. Pro. 18. (Emphasis supplied) Thus, "[q]uestions of venue in criminal case ... are not merely matters of formal legal procedure. They raise deep issues of public policy in the light of which legislation must be construed." *United States v. Johnson*, 323 U.S. 273, 276 (1944).

Transfers of venue under Rule 21(b) lie within the sound discretion of the Court. *United States v. Phillips*, 433 F.2d 1364 (8th Cir. 1970), *cert. denied*, 401 U.S. 917, 91 S.Ct. 900, 27

L.Ed.2d 819 (1971). Moreover, "[v]enue provisions are to be liberally construed so as to minimize inconvenience to the parties, especially the defendant." *United States v. Lopez*, 343 F.Supp.2d 824, 835 (E.D.Mo. 2004) (citing *United States v. Cashin*, 281 F.2d 669, 675 (2d Cir. 1960)); *United States v. Johnson*, 323 U.S. 273, 65 S.Ct. 249, 89 L.Ed.2d 236 (1944). The factors to be considered in determining whether a motion under Rule 21(b) is appropriate are well established. As the court in *Lopez* explained:

> In *Platt v. Minnesota Mining Co.*, the Supreme Court noted with approval a number of factors considered by the district court in granting a motion for change of venue including: 1) location of the defendant; 2) location of the witnesses; 3) location of events in issue; 4) location of documents and records likely to be used in trial; 5) disruption of the defendant's business; 6) expense to the parties; 7) location of counsel; 8) accessibility of the place of trial; 9) docket condition of the respective districts; and 10) any other considerations which might effect transfer. Many courts have used these factors as a guide in considering a motion for change of venue under Rule 21(b), including the Eighth Circuit Court of Appeals.

Lopez, 343 F. Supp. 2d 824 at 835 (internal citations omitted). Applied to the case at bar, the factors enunciated in *Platt* compel a transfer of this matter to the Southern District of Florida.

DISCUSSION

I. PROSECUTION IN THIS MULTI-JURISDICTIONAL CONSPIRACY DOES NOT BELONG IN THE EASTERN DISTRICT OF MISSOURI.

The Superceding Indictment (hereinafter the "indictment") alleges a vast international RICO conspiracy involving defendants, activities and business operations in numerous states and countries all over the world, in which events taking place in Missouri have no real significance other than the fact that undercover agents decided to conduct their sting here. The mere fact that an alleged multi-jurisdictional conspiracy allegedly involved limited overt acts in Missouri does not mandate that the trial proceed here. *United States v. Templin*, 251 F.Supp.2d 1223, 1225 (S.D.N.Y. 2003) ("Defendant's internet business touched all 50 states and there is

no particular reason why this case should be tried n the Southern District of New York, rather than in Indiana—the state where defendant resides and works, and where all of the charged illegal activities took place."); *United States v. Haley*, 504 F. Supp. 1124, 1124 (D.C.Pa. 1981) ("Where the Government alleges a multi-district conspiracy, venue is proper in any district in which a co-conspirator has committed overt acts. However, the mere fact of proper venue in the district where the Government brings the prosecution does not require that trial be held therein."). To the contrary, application of the *Platt* factors to the case at bar demonstrates that this matter does not belong in the Eastern District of Missouri, but in the Southern District of Florida. Each of these factors is addressed in turn below.

II. APPLICATION OF THE PLATT FACTORS WARRANTS TRANSFER.

A. Location Of Defendants.

Not a single defendant lives within five hundred miles of St. Louis, Missouri. BetonSports, a U.K. corporation, was located in Costa Rica, and David Carruthers is a citizen and resident of the U.K. Defendant Gary Stephen Kaplan is a United States citizen who, with his wife and children, has resided in Costa Rica for the last nine years, and, prior to that, in Florida. His parents and in-laws all reside in South Florida, and his siblings, both of whom are co-defendants and were released on bond, live in New York and Florida, respectively. Kaplan has never lived in the Eastern District of Missouri, and was brought here, involuntarily, by federal authorities. Since defendant Gary Kaplan's recent incarceration, his wife and children have returned to the United States to support him. His wife has incurred the cost of purchasing a home in St. Louis so as to keep her family together and near her husband during the duration of the proceedings; however, her parents live in the Southern District of Florida and, since his parents live there too, for Gary Kaplan—like his sibling co-defendants—a trial in the Southern

District of Florida would represent not only a significant financial savings but would provide important family support during what is predicted to be a very long trial.

Of the other defendants appearing in this Court, Lori Beth Kaplan Multz resides in West Nyack, New York; Tim Brown resides in Doylestown, Pennsylvania, and Neil Kaplan, Penny Ann Tucker, William Hernan Lenis, William Luis Lenis, Manny Gustavo Lenis and Monica Lenis all live in the Southern District of Florida. Corporate defendants Mobile Promotions, Inc., Direct Mail Expertise, Inc., and DME Global Marketing & Fulfillment are all Florida corporations with their only place of business in the Southern District of Florida. Thus, of the fourteen defendants appearing in this Court to answer the indictment, two are foreign nationals, one has been a resident of Costa Rica, one lives in New York, one in Pennsylvania, and the remaining nine reside in the Southern District of Florida.

In light of the foregoing, this key Rule 21(b) factor strongly supports a transfer to the Southern District of Florida and militates against the case remaining in the Eastern District of Missouri. *See e.g., Templin*, 251 F. Supp. 2d at 1225; *United States v. Daewoo Indus. Co., Ltd.*, 591 F. Supp. 157, 160 (D.C.Or. 1984) ("I will simply note that none of the individual defendants has either an office or home in Portland. It appears that absent any countervailing hardship to the government, the location of the defendants favors transfer."). As is made clear in affidavits of other defendants submitted with previous transfer motions, a trial of this matter in St. Louis (projected to last between two and three months) will create extreme hardships that can only be obviated by transfer.[4]

[4] *See* Affidavits of William Hernan Lenis, Monica Lenis, and Lori Multz, attached as exhibits A through C to Lori Beth Kaplan Multz's Memorandum of Law in Support of Motion to Transfer, which was filed with the Court on December 18, 2006, (Dkt. # 168), as well as the Affidavit of Manny Gustavo Lenis in support of his Motion to Transfer, filed February 2, 2007

As set forth in the affidavit of William Hernan Lenis, the Lenis family owns and operates Direct Mail Expertise, Inc. ("DME") in Miami, Florida. DME is the principal source of income of the Lenis family and their 50 employees. Defendants William Hernan Lenis, William Luis Lenis, Manny Gustavo Lenis and Monica Lenis run the business. The only other principal operator of the business is William Hernan Lenis' wife, Polly, who will certainly attend the trial of her husband, son, daughter and nephew. Thus, if the trial of this matter takes place in St. Louis, DME will be left with all of its principals more than one thousand miles and one time zone away. This will cause the business to fold, putting fifty people out of work.

The affidavit of defendant Monica Lenis sets forth the special hardship she will face if this case proceeds to trial in St. Louis. Monica, who tragically lost an infant to crib death in 2005, now has an infant less than one year old, in addition to a two-year-old toddler. The care for these children, and particularly the baby, will obviously be far more difficult if she is on trial in St. Louis than it would be if the trial takes place in her home district.

Gary Kaplan's sister, defendant Lori Multz, would also face substantial family problems if this case is tried in the Eastern District of St. Louis, as outlined in her affidavit. The mother of two teenage sons, she and her family live in West Nyack, New York. A trial in the Southern District of Florida, where her parents (and brother, defendant Neil Kaplan) live—rather than Missouri—would lend not only significant financial savings, but that extended family network of grandparents, an aunt, an uncle and cousins, would provide substantial family support.

As the Court in *Lopez*, *supra*, explained, Rule 21(b) is to be liberally construed "to minimize inconvenience to the parties," especially the defendant[s]." Surely, given the

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(Dkt. # 264-2).

substantial overall inconvenience to all defendants, and the special hardship to the Lenis defendants, the need to transfer this matter is compelling.[5]

B. Location Of Witnesses.

Courts have recognized that the "[l]ocation of witnesses appears to be one of the more significant factors in the cases." *Daewoo Indus.*, 591 F. Supp. at 160. Defendant Gary Stephen Kaplan expect that the government's case will contain few, if any, "non-sting" fact witnesses who reside in the Eastern District of Missouri; indeed, it is expected that the government will call more witnesses who reside in Florida. On the defense side it is anticipated that numerous individuals who worked for the Lenis defendants and their Florida corporations are potential trial witnesses. Some of these witnesses testified in the grand jury; others did not. Defendants also intend to call numerous other witnesses who are Florida residents to testify to the events in Tampa and Jacksonville, Florida, charged in the indictment and referenced in discovery. In addition, defendants hope to be able to call witnesses from the United Kingdom and Costa Rica. With respect to witnesses residing in Costa Rica, travel to Florida would surely be more convenient.

Thus, the location of witnesses is another critical consideration that supports transfer to the Southern District of Florida. *See, e.g., United States v. Alter*, 81 F.R.D. 524, 525 (D.C.N.Y. 1979). Indeed, the Eastern District of Missouri has recently transferred a prosecution to Florida based, in part, on the defendant's right and ability to call Florida witnesses. *Lopez*, 343 F.

[5] In this regard, it should be noted that the countervailing inconvenience to the government would be minimal, should this matter be transferred. One of the two prosecutors, Ms. Woelfle, is from the Justice Department in Washington, D.C.; many of the government's witnesses are from Florida; few of their witnesses are actually from St. Louis; and the necessary government facilities, including offices, courtrooms and the like are surely available for use in the Southern District of Florida.

Supp. 2d at 835 ("[E]ven if the government thinks it need not call witnesses from Florida, I believe that defendant's right to do so may be compromised by requiring the trial to take place here."). Given the numerous Florida residents who are potential witnesses for both sides in this matter, an even more compelling case exists to transfer this matter to the Southern District of Florida than in *Lopez*.

C. Location Of Events In Issue.

As is clear from the indictment, the material events at issue in this prosecution take place almost exclusively in two locations: San Jose, Costa Rica, and Florida. First, it is in San Jose, Costa Rica, where it is alleged that BetonSports (and the alleged "enterprise") operated its international telephone and internet gambling services. (Count One, paragraph 25). Second, the alleged enterprise "spent millions of dollars in the United States, advertising enterprise-controlled Internet web sites and telephone services in magazines, sports annuals and other sports publications, on sports radio, and on television." (Count One, paragraph 26). *All of the mailings and media advertising services alleged in this and other paragraphs of the indictment were performed in or ordered from the Southern District of Florida*. Indeed, it is the Florida generated marketing materials that comprise the allegations of mail fraud and wire fraud, upon which the RICO allegations are principally grounded. According to the indictment, the marketing materials "falsely stated that Internet and telephone gambling on sporting events and contests was 'legal and licensed.'" (Count One, paragraph 28). Thus, *all of the allegedly fraudulent activity underlying the RICO charges occurred in or were ordered from Florida*.[6]

[6] While the indictment complains that between September 1 and October 30, 2003, these materials were sent to St. Louis, Missouri (Indictment ¶¶ 11, 37(12)) these mailings apparently took place at the request of undercover agents and, therefore, merely reflect events "manufactured" by the government to create venue in Missouri.

There are additional Florida-based activities that will be part of the trial of this case. As is alleged in Count 13, and is evident from the discovery materials made available thus far, part of the government's proof will relate to promotional activities of certain of the Lenis defendants at sports events in Tampa, Florida and Jacksonville, Florida. Surely, law enforcement and civilian witnesses to these events are less inconvenienced by a trial in the Southern District of Florida than in the Eastern District of Missouri. In addition, numerous other events the government will attempt to prove at trial are alleged to have occurred in Florida: The indictment alleges that defendant Gary Kaplan operated an "illegal gambling operation" in Florida in the early 1990's (Indictment ¶ 1); the enterprise is alleged to have engaged in money laundering via the improper purchase of automobiles, which automobiles were shipped from Miami, Florida (*Id.* ¶ 36(17)); vehicles the government seeks to obtain through forfeiture are identified as vehicles with Florida license tag numbers (*Id.* ¶ 47(a)); based on discovery, it is clear that these vehicles were bought in Florida; and, finally in this regard, allegedly improper wire transfers were made to bank accounts "located in Florida," (*Id.* ¶¶ 37(21) & (22)). Not a single item sought by forfeiture is identified as having come from, or being found in, Missouri, and nowhere in the indictment is Missouri identified as the home of a single bank account materially at issue in this matter.

The events at issue in the indictment that have occurred in the United States occurred overwhelmingly in or near the Southern District of Florida. Thus, the third Platt factor, like the first two, strongly supports a transfer.

D. Location Of Documents And Records Likely To Be Used In Trial.

The documents and records that will likely be used in trial will obviously be found in those places where the defendants and the businesses at issue are/were found. As such, for the

purpose of identifying documents and records relevant to this case, there is no district in the United States that will prove as convenient as the Southern District of Florida. Indeed, even the Indictment demonstrates as much by pointing to Florida as the source of mailings, bank records and businesses that were named as defendants. (Indictment ¶¶ 11, 37(12), 37(21), 37(22) and 38). Missouri, on the other hand, is nowhere identified in the Indictment as a source of documents or records relevant to the government's prosecution or the defendants' defense. To the extent that documents are in St. Louis, it is because the government has chosen to seize and bring them to St. Louis: Penny Tucker's computer, for example, was seized from Florida. Such actions do not serve, in turn, to establish St. Louis as the appropriate venue. *See e.g.*, *United States v. Bein*, 539 F. Supp. 72, 74 (D.C. Ill 1982) ("It would be grossly unfair to permit the government to "create" venue, or to alter the balance of relevant considerations, simply by shipping documents."); *Daewoo Indus.*, 591 F. Supp. at 162. Therefore, this factor also favors a transfer to the Southern District of Florida.

E. Disruption Of Defendants' Business.

As is set forth in William Hernan Lenis' affidavit, a multi-month trial in St. Louis will disrupt, if not destroy, the direct mail/marketing business which the Lenises have run for more than 30 years. The loss of the defendants' legitimate source of revenue, particularly in the face of very substantial legal fees and costs which will be incurred as a result of a lengthy out-of-state trial, is yet another factor which also favors transfer to the Southern District of Florida.

F. Expense To The Parties.

Given that not one of the defendants resides in the Eastern District of Missouri, there will obviously be considerable, and unnecessary, expense to be borne by the defendants should the case remain here. On the other hand, the Southern District of Florida—compared to any

other federal jurisdiction—is best suited to minimize the expenses incurred by the defendants (and witnesses) during the prosecution of this matter. The government has initiated a complex prosecution, indicting sixteen defendants, accusing each of them of participating in a wide-ranging international conspiracy. The trial is projected to last between two and three months. The majority of the defendants, and three of their respective counsel, reside in the Southern District of Florida. To defend themselves in St. Louis will require the expenditure of significant time and resources for travel (and pay for their counsel and witnesses to travel) to St. Louis, and to reside in hotels in St. Louis for up to three months. *See Templin*, 251 F. Supp. 2d at 1224 ("Defendant will bear great expense if he is required to travel to New York and to reside in New York during the trial."); *United States v. Morris*, 176 F. Supp. 2d 668, 673 (N.D. Tx 2003) ("If the case was to remain here in Texas, [defendant] would be required to provide the costs of transportation and housing for his twenty-four witnesses."). While transfer of this matter to the Southern District of Florida would save the Florida defendants the most in costs (*see, e.g.*, Affidavit of William Hernan Lenis), even defendants who do not reside in Florida can save considerable additional resources if this matter is transferred to the Southern District of Florida. As set forth above, the parents and extended family of defendants Gary Kaplan and his sister, Lori Multz, live in and near Delray Beach, Florida, and could accommodate and provide support to Gary and Lori and their families during the trial. (*See* Affidavit of defendant Lori Multz; *see also* Affidavit of Manny Gustavo Lenis in support of his Motion to Transfer, filed February 2, 2007 (Dkt #. 264-2)).

Such cost savings are another factor important to Rule 21(b). *See Daewoo Indus.*, 591 F. Supp. at 163. It is unfair and unnecessary to require the defendants (and their witnesses) to bear the expense arising from a long trial in St. Louis, Missouri – where not one defendant or

(upon information and belief) significant third-party witness unrelated to the "sting" resides. Accordingly, this factor plainly favors transfer to the Southern District of Florida.

G. Location Of Counsel.

Most of the principal/lead counsel for the defendants reside outside of the State of Missouri. Three of the principal attorneys reside in the Southern District of Florida, and others are in New York, Washington, D.C., Philadelphia, Houston and Atlanta. The Southern District of Florida is a more convenient location for these attorneys.

H. Accessibility Of Place Of Trial.

Both the Eastern District of Missouri and the Southern District of Florida are based in major metropolitan areas that are readily accessible by air travel. However, St. Louis, Missouri is not nearly as accessible for the vast majority of the defendants and witnesses as the Southern District of Florida. St. Louis is not within driving distance for any of the defendants. The defendant residing closest to St. Louis lives some 500 miles away. In contrast, of the ten non-corporate defendants appearing before this Court, six actually live in the Southern District of Florida, and two more have a home owned by their parents located in the Southern District of Florida that can serve as a residence during trial.

Thus, this factor strongly favors the transfer of this matter to the Southern District of Florida.

I. Docket Conditions Of The Respective Districts.

The Eastern District of Missouri in *Lopez* recognized that "[b]ecause of the provisions of the Speedy Trial Act, 18 U.S.C. § 3161, et seq., this factor is of little import in determining whether to transfer this case." *Lopez*, 343 F. Supp. 2d at 837.

J. Location Of Events In Issue.

Unfortunately, the United States Attorney for the Eastern District of Missouri has unfairly influenced defendants' potential jury pool by publicly connecting this case to drugs and terrorism. In back-to-back articles in the St. Louis Post Dispatch, U.S. Attorney Catherine Hanaway was first quoted as likening online gambling to drug dealing and child pornography, and then the next day citing the government's fears that the money generated by online gambling could be used to fund terrorism. (*See* Exhibit D to Multz Memorandum of Law (Dkt # 168)). Defendants should not have to face a jury pool tainted by such inflammatory and prejudicial pre-trial publicity.[7]

The prejudicing of public opinion about this case with the specter of terrorism is especially vexing given the government's recent admission *that the prosecution against the defendants has absolutely nothing to do with terrorism*. Co-defendant Lori Multz wrote the government on September 15, 2006, seeking additional informal discovery. Among the information requested was "all information in the government's possession or control which supports its public claim that online bets could be used to fund terrorism, as reported in the St. Louis Post Dispatch on August 1, 2006 and August 2, 2006. . . " (Exhibit A to Defendant Lori Beth Kaplan Multz Request for Discovery and Particulars, dated October 20, 2006, Docket 135). In response, the government refused to provide any such information because "[a]nything relating to terrorism is not relevant to the charges against the defendant." (Government's Consolidated Response to Requests for Additional Discovery and Bill of Particulars, at 24)[8] The

[7] Defendants do not believe the statements complained of herein were made intentionally to impact the potential jury pool. However, the end result is that defendants will be confronted with potential jurors who may have read or heard that this case is somehow related to terrorism.

[8] It should be noted in this regard that while the U.S. Attorney's claim of a link between this case and terrorism was all too public, the government's admission that this case has nothing to do with terrorism was in a sealed submission, unavailable to the public.

unwarranted tainting of the potential jury pool provides an additional, important ground for transferring this case to the Southern District of Florida. Indeed, the additional burdens now placed on the Court and counsel to prevent potential prejudice to the defendants arising from the government's potential influencing of the Eastern District of Missouri jury pool alone justifies transfer under Rule 21(a). *United States v. Moody*, 762 F. Supp. 1485, 1490 (N.D.Ga. 1991) (Court held transfer under Rule 21(a) appropriate finding "there has been inordinate, widespread, and prejudicial publicity concerning this case and that government agents have been responsible for much of it.").

CONCLUSION

All of the factors necessary to determine the appropriateness of transfer under Rule 21(b) strongly support transfer to the Southern District of Florida. Given the weight of the factors supporting transfer, the unanimity of defendants in seeking transfer, and particularly in view of the fact that the basis for venue in Missouri was manufactured solely through actions undertaken by federal agents in the "sting operation," Gary Stephen Kaplan's Motion to Transfer the matter to the Southern District of Florida should be granted. Given that all of the appearing defendants who are challenging the charges support the request for transfer, and since the burdens and consequences to the defendants of proceeding in the Eastern District of Missouri are severe, fundamental fairness mandates transfer to the Southern District of Florida.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on August 13, 2007, 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:

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