IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STEVEN ALAN MAGRITZ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No. 1:12-cv-00806-EGS**
	)	
OZAUKEE COUNTY, *et al.*,	)	
	)	
Defendants.	)	
	)	

DEFENDANTS' STATEMENT OF POINTS AND AUTHORITIES IN SUPPORT OF THEIR MOTION TO DISMISS, OR ALTERNATIVELY, FOR CHANGE OF VENUE

Defendants Ozaukee County, Wisconsin; Ozaukee County Sheriff's Department; and Thomas E. Winker, Robert A. Brooks, William S. Niehaus, Lee Schlenvogt, Daniel P. Becker, Joseph A. Dean, Raymond G. Meyer II, Timothy F. Kaul, Jacob Curtis, Daniel R. Buntrock, Kathlyn T. Geracie, Andrew A. Petzold, Patrick Marchese, Karl V. Hertz, Cynthia G. Bock, Robert T. Walerstein, Nancy Sharp Szatkowski, John J. Slater, Jennifer K. Rothstein, Rose Hass Leider, Donald G. Dohrwardt, Richard C. Nelson, Alan P. Kletti, Thomas H. Richart, John C. Grosklaus, Glenn F. Stumpf, Gerald E. Walker, Gustav W. Wirth, Jr., James H. Uselding, Kathlyn M. Callen, Mark A. Cronce, Maurice A. Straub, Karen L. Makoutz, Ronald A. Voigt, Dennis E. Kenealy, Thomas W. Meaux, Andrew T. Struck, and Rhonda K. Gorden, in their official capacities (individuals hereinafter referred to collectively as "County Officials"); by and through counsel of record, respectfully submit this Statement of Points and Authorities in support of their Motion to Dismiss, or Alternatively, for Change of Venue.

Plaintiff's allegations, to the extent they can be understood, are patently false and barred from prosecution.[1] Even taken as true for purposes of this Motion, Plaintiff's suit should be dismissed immediately. Plaintiff fails to establish this Court's jurisdiction over his claims and the Defendants named herein. Moreover, Plaintiff fails to establish that this Court is the proper venue to hear his claims. Lastly, Plaintiff fails to state a claim upon which relief may be granted. Accordingly, this Court must dismiss Plaintiff's Complaint in its entirety, or alternatively, transfer his claims to a proper forum.

I. PRELIMINARY STATEMENT

Plaintiff is no stranger to the court system, having filed the matter presently before this Court after an unsuccessful attempt to litigate the same or substantially similar claims in the Eastern District of Wisconsin in 2009; Plaintiff's use of the court system for the filing of involuntary bankruptcy petitions and 37 false tax liens against Ozaukee County officials, many of the same officials named as Defendants herein, resulting in a five (5) year prison term for the Plaintiff; and culminating in a harassment restraining order[2] filed against the Plaintiff by Ozaukee County Officials as the result of the Plaintiff filing numerous fraudulent lawsuits and complaints in Wisconsin state courts. At the heart of each attempt by the Plaintiff to utilize judicial process for a wrongful purpose is a 2001 foreclosure on Plaintiff's property (the 62.25 acres of land Defendant) by Ozaukee County for Plaintiff's failure to pay property taxes, and Plaintiff's erroneous belief that the foreclosure action over one decade ago was improper.

Prior to addressing the substantive deficiencies of the Complaint under Rule 12(b)(6), Defendants first focus on the threshold matter of whether this Court may even consider

[1] Plaintiff filed substantially similar claims in the United States District Court for the Eastern District of Wisconsin, said claims being dismissed with prejudice on June 8, 2009. *See Magritz v. Ozaukee County, et al.*, Civil Action No.: 2:07-cv-00714-CNC, (E.D. WI June 8, 2009) (hereinafter referred to as "*Magritz 1*") (courtesy copy attached here to as Exhibit "A".)

[2] Attached hereto as Exhibit "B" is a true and correct copy of the December 14, 2011 Harassment Restraining Order.

Plaintiff's claims. Plaintiff cannot demonstrate that this Court has subject matter jurisdiction over the alleged claims, nor may Plaintiff demonstrate this Court's personal jurisdiction over any of the named Defendants. Lastly, Plaintiff fails to show that venue is proper in the District of Columbia. Should the Court reach the substantive claims of the Plaintiff, dismissal is proper under Rule 12(b)(6) and the *Rooker-Feldman* doctrine. For the reasons set forth below, this Court should grant Defendants' motion to dismiss under Rule 12(b), subsection (1), (2), (5) and (6), or in the alternative, transfer this matter to the Eastern District of Wisconsin.

II. STATEMENT OF FACTS

A. Plaintiff's Allegations

Plaintiff's Complaint, filed on May 15, 2012, asserts purported claims and seeks relief based on the following enumerated causes of action: (1) imposition of a constructive trust; (2) an accounting of all property taken or held in trust; (3) breach of the public trust/breach of fiduciary duty by public officers; (4) breach of fiduciary duty by officers of the court and retaliation against victim/witness[3]; (5) quo warranto – "The state of Wisconsin" ex rel. Steven Alan Magritz; and (6) quo warranto – revocation of "Charter" of "Ozaukee County" for corporate acts committed in excess of its corporate charter. Plaintiff asserts his claims naming Ozaukee County; the Ozaukee County Sheriff's Department; each of the identified County Officials; Defendants Sandy A. Williams, Andrew T. Gonring and Adam Y. Gerol (hereinafter collectively referred to as "Judicial Defendants"); and John Does #1-30 as Defendants. (Doc. 1, *generally*.)

All of the allegations of Plaintiff's Complaint arise out of the foreclosure of tax liens on his land (the Defendant 62.25 acres of land in the Town of Fredonia (hereinafter referred to as "62.25 acres")) by Ozaukee County to satisfy unpaid property taxes, the subsequent physical

[3] Inasmuch as Plaintiff's Fourth Cause of Action is inapplicable to the Defendants moving to dismiss herein, Defendants will not address the claims against the Judicial Defendants.

eviction of Plaintiff from the property at the hands of the Ozaukee County Sheriff, and the Ozaukee County Circuit Court Order, dated August 9, 2001, case no.: 01-cv-58-B3. Therein, Ozaukee County Circuit Judge Joseph D. McCormack Ordered as follows:

> NOW, THEREFORE, IT IS ADJUDGED, that Ozaukee County, a subdivision of the State of Wisconsin, is vested with an estate in fee simple absolute in the following described lands. . . .
>
> IT IS FURTHER ORDERED, that all persons, both natural and artificial, excepting said Ozaukee County, but including the State of Wisconsin and infants, incompetents, absentees and nonresidents, who may have any right, title, interest, claim, lien or equity of redemption in such lands hereinafter described and all persons claiming under or through them or any of them from and after the date of filing the said list of tax liens as aforesaid are forever barred and foreclosed of such right, title, interest, claim, lien or equity of redemption.

(Attached hereto as Exhibit "C" is a true, correct and certified copy of the August 8, 2001 Order Authorizing Entry of Judgment and Judgment granted in the Circuit Court of Ozaukee County, Wisconsin.).

B. The Parties

Plaintiff alleges that he is not a United States citizen, nor is he a resident of the State of Wisconsin. (Doc. 1, ¶ 9.)[4] However, Plaintiff has taken residence in Wisconsin for a number of years, as evidenced through several Wisconsin residences noted in the Exhibits attached to Plaintiff's Complaint. (*See* Doc. 1-4, *generally*.) Plaintiff concedes that Defendant Ozaukee County is a public corporation, a political subdivision of the State of Wisconsin and Defendant Ozaukee County Sheriff's Department is a department of the County. (Doc. 1, ¶¶ 12-13.) Defendants County Officials are all residents of the State of Wisconsin. (Doc. 1, ¶¶ 13-49, 52.)

[4] Courts give zero credence to theories of individual sovereignty, immunity from prosecution, and their ilk. See *U.S. v. Burke*, 425 F.3d 400, 408 (7th Cir. 2005); *U.S. v. Hilgeford*, 7 F.3d 1340, 1342 (7th Cir. 1993) (rejecting the "shop worn" argument that a defendant is a sovereign and is beyond the jurisdiction bounds of the district court); *Mason v. U.S.*, No. 00-CV-00272, 2001 WL 241799 (D.C. Cir., Feb. 2, 2001) (argument that an individual is a sovereign citizen not subject to federal taxing authority is frivolous).

Without exception, Plaintiff's Complaint alleges that the business and activity of County Officials has taken place exclusively within Ozaukee County and the State of Wisconsin. (Doc. 1, *generally*; Doc. 1-1, *generally*.) None of the respective County Officials have offices, residences, or businesses, nor personal or professional pursuits in Washington, D.C. The County Officials work primarily out of offices located in Ozaukee County and do not conduct county business in Washington, D.C. For that matter, none of the County Officials live or work in Washington, D.C. Likewise, neither the County, the Sheriff's Department, nor any County Official regularly does or solicits business, engages in any other persistent course of conduct or derives substantial revenue from goods used or consumed or services rendered in Washington, D.C. Rather, the business of Ozaukee County is that of a political subdivision of the State of Wisconsin, and accordingly, the business of the Sheriff's Department and the County Officials is conducted in accordance with County policy and practice as a subdivision of the State of Wisconsin. Rather, Ozaukee County, the Sheriff's Department, and all County Officials are subject to service of process in the Eastern District of Wisconsin.

C. The Eastern District of Wisconsin Dismissed Plaintiff's Claims

On August 7, 2007, Plaintiff filed a *pro se* complaint in the United States District Court for the Eastern District of Wisconsin asserting approximately twenty (20) different claims in a lengthy and dense 107-page complaint. Therein, Plaintiff alleged actions both by individuals named as defendants, and actions by Ozaukee County employees and officials, which the Court believed suggested that Plaintiff copied pages from other complaints he has filed. *See Exhibit A.* Judge Clevert, in dismissing Plaintiff's claims, found that the bulk of Plaintiff's claims focused on the facts and proceedings concerning the foreclosure of tax liens on the 62.25 acres of land in

Fredonia by Ozaukee County to satisfy unpaid property taxes, plus Plaintiff's subsequent physical eviction from the property at the hands of the Ozaukee County Sheriff.

Among other issues relating to the tax liens, foreclosure court proceedings, and eviction subsequent to the foreclosure judgment, Plaintiff raised the following issues: improprieties in the county treasurer's office (for instance, the treasurer would not accept his promissory notes, other instruments, or cash as payment of his taxes), the clerk of court's record (for example, the clerk did not file Plaintiff's answer to the complaint in the docket of the foreclosure case), and the court proceedings (for instance, Ozaukee County officials and the judge knew Plaintiff answered the complaint but granted default judgment anyway). The Court found that numerous claims made by the Plaintiff were barred by the *Rooker-Feldman* abstention doctrine, *infra*. Because Plaintiff's claims sought review and rejection of Judge McCormack's August 2001 foreclosure order, the Court dismissed Plaintiff's complaint in its entirety.

Despite Judge Clevert's dismissal with prejudice of all of Plaintiff's claims under Federal Rule of Civil Procedure 12(b)(6) or the *Rooker-Feldman* abstention doctrine, Plaintiff has again filed similar causes of action and claims that arise out of the 2001 foreclosure action, now before this Court. All of the claims Plaintiff brings in the present matter relate to the 2001 foreclosure action and involve the same Defendants or those in privity with the Defendants named herein.

D. The Harassment Restraining Order

Notwithstanding the dismissal of Plaintiff's claims by the United States District Court for the Eastern District of Wisconsin, Plaintiff continued in his efforts for judicial intervention and appeal of his foreclosure order. On December 14, 2011, the Ozaukee County Circuit Court, State of Wisconsin, entered a harassment restraining order against Plaintiff prohibiting him from filing "fraudulent legal proceedings in any Court against any County employee, official or supervisor."

See Exhibit B. Nevertheless, Plaintiff disregarded the protective order issued in the Wisconsin state court and continues his attempts to utilize the courts to harass these County Officials. Not less than six (6) months after the protective order was issued, Plaintiff is now here before this Court, against the same County and individuals the order is in place to protect.

III. STANDARDS OF REVIEW

A. Subject Matter Jurisdiction

On a motion to dismiss for lack of subject matter jurisdiction under Rule 12(b)(1), a plaintiff's factual allegations are subject to closer scrutiny than they would be on a motion to dismiss for failure to state a claim. *Flynn v. Veazey Constr. Corp.,* 310 F.Supp.2d 186, 190 (D.D.C. 2004). The court may "consider the complaint supplemented by undisputed facts evidenced in the record, or the complaint supplemented by undisputed facts plus the court's resolution of disputed facts." *Hunter v. U.S. Bank Nat'l Ass'n.*, 698 F.Supp.2d 94, 98 (D.D.C. 2010); *Coalition for Underground Expansion v. Mineta,* 333 F.3d 193, 198 (D.C. Cir. 2003). In addition, "[i]n 12(b)(1) proceedings, it has been long accepted that the [court] may make appropriate inquiry beyond the pleadings to satisfy itself [that it has] authority to entertain the case." *Haase v. Sessions,* 835 F.2d 902, 906 (D.C. Cir. 1987); *see also Jerome Stevens Pharm., Inc. v. Food & Drug Admin.,* 402 F.3d 1249, 1253 (D.C. Cir. 2005) ("[T]he district court may consider materials outside the pleadings in deciding whether to grant a motion to dismiss for lack of jurisdiction."). The Plaintiff bears the burden of proving subject matter jurisdiction by a preponderance of the evidence. *Hunter*, 968 F.Supp.2d at 98.

B. Personal Jurisdiction

The plaintiff has the burden of establishing a factual basis for asserting personal jurisdiction over each individual non-resident defendant. *See* Fed.R.Civ.P. 12(b)(2). *Pease v.*

Burke, 535 F. Supp. 2d 150, 151-52 (D.D.C. 2008) ("A court's jurisdiction over a defendant satisfies the demands of due process when there are "minimum contacts" between the defendant and the forum "such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice."); *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 90 L.Ed. 95 (1945) (internal quotation marks omitted). Further, the defendant's conduct and connection with the forum State must be such that he should reasonably anticipate being haled into court there. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297, 100 S. Ct. 559, 62 L.Ed.2d 490 (1980)); *Mwani v. bin Laden*, 417 F.3d 1, 7 (D.C. Cir. 2005); *Crane v. New York Zoological Soc'y*, 894 F.2d 454, 456 (D.C. Cir. 1990). Accordingly, the plaintiff must allege specific acts connecting each defendant with the forum and cannot rely on conclusory allegations. *See Pease*, 535 F.Supp.2d at 152; *Second Amendment Found. v. U.S. Conf. of Mayors*, 274 F.3d 521, 524 (D.C. Cir. 2001); *GTE New Media Serv. Inc. v. BellSouth Corp.*, 199 F.3d 1343, 1349 (D.C. Cir. 2000).

C. Improper Venue

Federal Rule of Civil Procedure 12(b)(3) provides that a case may be dismissed for improper venue upon motion. *Kelly v. NovaStar*, 637 F. Supp. 2d 34, 37 (D.D.C. 2009); Fed.R.Civ.P. 12(b)(3). "Because it is the plaintiff's obligation to institute the action in a permissible forum, the plaintiff usually bears the burden of establishing that venue is proper." *Kelly*, 637 F. Supp. 2d at 37; *Freeman v. Fallin*, 254 F. Supp.2d 52, 56 (D.D.C. 2003). However, "[i]n considering a Rule 12(b)(3) motion, the court accepts the plaintiff's well-pled factual allegations regarding venue as true, draws all reasonable inferences from those allegations in the plaintiff's favor, and resolves any factual conflicts in the plaintiff's favor." *Kelly*, 637 F. Supp. 2d at 37; *Darby v. U.S. Dep't of Energy*, 231 F. Supp.2d 274, 276 (D.D.C.2002). To prevail on a

motion to dismiss for improper venue, a defendant must present facts sufficient to defeat a plaintiff's assertion of venue. *Kelly*, 637 F. Supp. 2d at 37; *Darby*, 231 F. Supp.2d at 276.

D. Failure to State a Claim

"To survive a [Rule 12(b)(6)] motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Hernandez v. Dist. of Columbia*, Civ. A. 11-956 ABJ, 2012 WL 604017, *2 (D.D.C., Feb. 27, 2012) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937, 1949, 173 L.Ed.2d 868 (2009); *accord Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 1955, 167 L.Ed.2d 929 (2007)). In *Iqbal*, the Supreme Court reiterated the two principles underlying its decision in *Twombly:* "the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions," and "only a complaint that states a plausible claim for relief survives a motion to dismiss." *Hernandez*, 2012 WL 604017, *2; *Iqbal*, 129 S. Ct. at 1949-1950.

When considering a motion to dismiss under Rule 12(b)(6), the complaint is construed liberally in plaintiff's favor, and the Court should grant plaintiff "the benefit of all inferences that can be derived from the facts alleged." *Hernandez*, 2012 WL 604017, *2. The Court need not accept inferences drawn by the plaintiff if those inferences are unsupported by facts alleged in the complaint, nor must the Court accept plaintiff's legal conclusions. *Id*. A court may ordinarily consider only "the facts alleged in the complaint, documents attached as exhibits or incorporated by reference in the complaint, and matters about which the Court may take judicial notice." *Id*.

IV. ARGUMENT AND CITATION OF AUTHORITY

A. This Court Lacks Subject Matter Jurisdiction Over Plaintiff's Claims

As a threshold matter, jurisdiction must be resolved before a Court may consider the merits of a case. *See Richardson v. Am. Sec. Mortg. Corp.*, No. 11-1786 RWR, 2012 WL

2104246 (D.D.C. June 11, 2012). In Plaintiff's case, the jurisdictional question relates directly to Plaintiff's attempt to circumvent the appropriate channel for appeal of state court decisions. "The *Rooker-Feldman* doctrine prevents lower federal courts from hearing cases that amount to the functional equivalent of an appeal from a state court" because they are without jurisdiction to do so. *Jerdine v. F.D.I.C.*, 730 F. Supp. 2d 218, 224 (D.D.C. 2010); *Gray v. Poole*, 275 F.3d 1113, 1119 (D.C. Cir. 2002) (citing *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 103 S. Ct. 1303, 75 L.Ed.2d 206 (1983) and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 44 S. Ct. 149, 68 L.Ed. 362 (1923)); *see also Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284, 125 S .Ct. 1517, 161 L.Ed.2d 454 (2005) ("The *Rooker-Feldman* doctrine ... is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments.").

In this case, it is apparent that Plaintiff seeks, yet again, for a federal court to overturn Wisconsin's state court ruling with respect to the foreclosure proceedings in 2001 and thus to reestablish his legal right to the 62.25 acres. Notwithstanding Plaintiff's allegations of violations of federal law, the *Rooker-Feldman* doctrine is jurisdictional, and "a party losing in state court is barred from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party's claim that the state judgment itself violates the loser's federal rights." *Jerdine*, 730 F. Supp.2d at 224-225 (internal cites omitted).

Under the *Rooker-Feldman* doctrine, Plaintiff, as the loser in the state foreclosure proceeding, cannot seek review of the Wisconsin judgment in this Court because the claims brought by Plaintiff are the functional equivalent of a federal appeal from state court. *Id.*

Plaintiff's claims against the County and County Officials challenge the decision by the Wisconsin state court or are inextricably intertwined with such decision, to an extent that the claims are barred by the *Rooker- Feldman* doctrine. *Rodriguez v. Editor in Chief,* 285 F.Appx 756, 759 (D.C. Cir. 2008). Thus, the Court is without jurisdiction.

The *Rooker-Feldman* abstention doctrine is not new to this Plaintiff. In 2007, Plaintiff filed a Complaint against Ozaukee County and several County Officials, some of whom are Defendants named herein, asserting claims that the Eastern District of Wisconsin found were unreviewable because it lacked subject matter jurisdiction to review the state court's foreclosure order. *Magritz 1, Exhibit A.* Like the claims Plaintiff filed in *Magritz 1,* Plaintiff's allegations seek review and rejection of Judge McCormack's August 2001 foreclosure order.

Plaintiff's claims fall squarely within the ambit of *Rooker-Feldman*. Plaintiff lost in the 2001 foreclosure action brought against him in Wisconsin state court. Plaintiff subsequently filed this present action to contest the validity of the judgment and seeking damages and relief for injuries he alleges are the result of the foreclosure. *See Hunter*, 698 F. Supp.2d at 100. As in *Hunter*, although this Plaintiff does not style his claims as an appeal from the foreclosure action, "it is clear from the Complaint that [Plaintiff's] claim is based entirely on the alleged impropriety of the foreclosure." *Id.* Plaintiff's allegations arise and are intertwined with the foreclosure of the 62.25 acres. The relief requested by the Plaintiff implicitly requests this Court to modify the Wisconsin state court's judgment of foreclosure. Like the plaintiff in *Hunter*, Plaintiff's claims involve either a direct attack on a state court judgment or issues that are "inexplicably intertwined with a state court judgment," such that "there are no independent claims over which [this] Court has jurisdiction." *Id.*

Similarly, in *Richardson v. American Sec. Mortg. Corp.*, plaintiff brought suit

challenging the legality of a foreclosure action for constitutional violations and breach of fiduciary duty. *Richardson v. American Sec. Mortg. Corp.*, --- F.Supp.2d ---, Civil Action No. 11–1786-RWR, 2012 WL 2104246 (D.D.C., June 11, 2012). This Court applied *Rooker-Feldman* and dismissed Plaintiff's claims. Therein, Plaintiff sought various forms of relief, including the affirmation of his ownership of the property at issue, an order quieting title to the foreclosed property and an order declaring the foreclosure proceeding and the transfer of property null and void. *Id.* at *2. This Court found, as in *Hunter, supra*, that the plaintiff's suit sought to collaterally attack the state court foreclosure action and subsequent sale of the plaintiff's property. *Id.* at *3. The plaintiff in *Hunter* sought an order declaring the foreclosure proceedings null and void and affirming his title to the property – the exact nature of the relief sought by the Plaintiff in the matter presently before this Court. *See id.* This Court found that the plaintiff's claims were "not truly independent of the previous judgment, but rather 'invite[d] district court review and rejection' of state court claims that harmed him." *Id.* (citing *Exxon Mobil Corp.*, 544 U.S. at 284).

As in *Richardson*, the legality of this Plaintiff's foreclosure action was already raised and decided in state court and Plaintiff's claims in furtherance of the foreclosure are inextricably linked with the state court's judgment. *See Richardson*, 2012 WL 2104246 at *3. All of Plaintiff's claims are dependent upon the foreclosure order issued by the state court. In fact, the relief requested by the Plaintiff, a finding that the foreclosure was a taking of private property, the imposition of a constructive trust over private chattels, an accounting of private chattels, restoration of the foreclosed property to the Plaintiff, a quiet title order on the foreclosed property, disgorgement of income from the foreclosed property, interest on the value of the foreclosed property from the date of the foreclosure action, a permanent injunction with respect

to the foreclosed property, a "legal spanking" (Doc. 1, p. 40) of punitive damages for trespass on the foreclosed property, and two (2) quo warranto actions relating to the actions of the County and its Officials with respect to the foreclosed property, would require this Court to find that the 2001 foreclosure proceeding is null and void. *See id.* Such action is in direct contravention of *Rooker-Feldman*, and thus, dismissal is the proper course.

B. This Court Lacks Personal Jurisdiction Over These Defendants

This Court may exercise personal jurisdiction over a person who is "domiciled in, organized under the laws of, or maintaining [a] principal place of business in, the District of Columbia as to any claim for relief." *Pease v. Burke*, 535 F.Supp.2d 150, 152 (D.D.C. 2008) (*citing* D.C. Code § 13-422). For non-resident defendants, such as all named Defendants herein, the Court utilizes a two-part inquiry: (1) whether jurisdiction may be exercised under the District of Columbia's long arm statute; and (2) whether the exercise of personal jurisdiction satisfies due process. *Pease*, 535 F. Supp.2d at 152 (internal cites omitted). Both elements must be present in order for the Court to proceed.

Under the District of Columbia's long arm statute, a District of Columbia Court may exercise personal jurisdiction over a non-resident Defendant who: "(1) transacts business in the District, (2) contracts to supply services in the District; (3) causes tortious injury in the District by an act or omission in the District, or (4) causes tortious injury in the District by an act or omission outside the District." *Id.* (*citing* D.C. Code § 13-423(a) (2001)). When jurisdiction over a person is based solely upon the long-arm statute, only a claim for relief arising from acts enumerated in the statute may be asserted against the defendant. *Pease*, 535 F.Supp.2d at 152; D.C. Code § 13-423(b).

Jurisdiction over a defendant satisfies the demands of due process when there are "minimum contacts" between the defendant and the forum "such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." *Pease*, 535 F.Supp.2d at 152 (citing *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S. Ct. 154, 90 L. Ed. 95 (1945)). Further, "defendant's conduct and connection with the forum state must be such that he should reasonably anticipate being haled into court there." *Pease*, 535 F.Supp.2d at 152; *see also World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297, 100 S. Ct. 559, 62 L. Ed.2d 490 (1980).

Even under these standards, Plaintiff fails to establish a basis for personal jurisdiction over any of these Defendants. General jurisdiction does not exist, as none of the Defendants are domiciled in the District of Columbia – all are domiciled in Wisconsin. Moreover, Plaintiff has not established personal jurisdiction under the District's long-arm statute, as Plaintiff has failed to show that any of the Defendants: (1) transact business in the District, (2) contract to supply services in the District; (3) causes tortious injury in the District by an act or omission in the District, or (4) causes tortious injury in the District by an act or omission outside the District. *See Pease*, 535 F.Supp.2d at 152.

Plaintiff's theory of jurisdiction has been wholly rejected by this Court. *See Footnote 3, supra*. His allegations do not establish jurisdiction under the well-established applicable standards. In *Pease*, Plaintiff alleged violations of his constitutional rights, including as defendants a Texas county, sheriff's office, and individual county officials. *Pease*, 535 F.Supp.2d at 151. Therein, Plaintiff attempted to show that the county and county officials were subject to jurisdiction in the District of Columbia by making the following arguments: (1) defendants transacted business in the District by applying for and receiving tax identification and social security numbers; (2) defendants entered into contracts with federal agencies to provide

services in Texas; and (3) defendants committed tortious conduct in the District which caused injury to plaintiff in Texas. *Id*. at 153. The court found all of plaintiff's arguments to be unavailing and unsupported by precedential authority. *Id.*

Likewise, Plaintiff here has not, and cannot, demonstrate that he suffered any injury in the District of Columbia. Rather, the detailed and exhaustive allegations of Plaintiff's Complaint (Doc. 1) and Affidavit (Doc. 1-1) demonstrate that all of the alleged actions and injury took place in Wisconsin. Defendants simply have not submitted to the jurisdiction of this Court, nor can Plaintiff provide a single iota of evidence that they have done so. Dismissal is proper on this threshold basis alone.

C. Venue is Improper

Under Rule 12(b)(3) of the Federal Rules of Civil Procedure, which "instructs the court to dismiss or transfer a case if venue is improper . . . in the plaintiff's chosen forum," a defendant may challenge the appropriateness of the plaintiff's chosen venue at the outset of a lawsuit. *Black v. City of Newark*, 535 F.Supp.2d 163, 166 (D.D.C. 2008). For the reasons that follow, the Court should dismiss this action under 28 U.S.C. § 1406(a) or, in the alternative, transfer it to the District Court for the Eastern District of Wisconsin under 28 U.S.C. § 1406(a).

As a threshold matter, the question is whether this case – between a Wisconsin resident[5] and a Wisconsin County, County Officials, and County Judicial Officers – is properly venued in this Court. Venue is governed by the provisions of 28 U.S.C. § 1391. Thereunder, venue is proper in (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) 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

[5] Plaintiff contends however, for purposes of filing this present matter, that he is "one of the people and a sojourner on the land of Wisconsin," "not a United States citizen, not a resident of [sic] state of Wisconsin." (Doc. 1, ¶ 9.) However, as noted above, n. 1, *supra*, courts give zero credence to theories of individual sovereignty.

subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action. 28 U.S.C. §1391(a).

None of the circumstances set forth in 28 U.S.C. §1391 apply. None of the Defendants reside in this District (Doc. 1, ¶¶ 10-49, 52), and thus venue is not proper under subsection (1). *See* 28 U.S.C. § 1391(a)(1). Plaintiff bears the burden of demonstrating venue is proper in this District under subsection (2). *See Lamont v. Haig*, 590 F.2d 1124, 1136 (D.C. Cir. 1978). This, Plaintiff cannot do, as nowhere in Plaintiff's 41-page complaint, his 161 pages of Exhibits, his 17-page Affidavit, nor his Exhibit List does Plaintiff demonstrate that a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated. Rather, Plaintiff's complaint is replete with allegations of conduct taking place solely within Ozaukee County, Wisconsin, and in fact, the property at the center of Plaintiff's allegations is located in Ozaukee County, Wisconsin. Venue is improper under subsection (2). *See* 28 U.S.C. § 1391(a)(2).

Lastly, 28 U.S.C. § 1391(a)(3) does not apply because, apart from all of the other deficiencies, venue would have been proper in the Eastern District of Wisconsin, and Section 1391(a)(3) applies only when there is no such jurisdiction in which venue would lie. All of the individuals and entities named as parties are domiciled in the State of Wisconsin, and all reside within the jurisdiction of the District Court for the Eastern District of Wisconsin. *See* 28 U.S.C. § 1391(c). All of the actions and events claimed by the Plaintiff which give rise to this cause of action occurred with the borders of the State of Wisconsin, with the majority, if not all, taking place within the borders of Ozaukee County. Plaintiff's decision to select the District of Columbia – a court more than 800 miles from the place of his residence and every Defendants'

domicile, and where no events giving rise to this matter took place, was deliberate. This facially improper venue provides an independent basis for dismissal.

D. Plaintiff Fails to State a Claim Upon Which Relief May Be Granted

In order for Plaintiff to survive a Rule 12(b)(6) motion to dismiss, he must plead "enough facts to state a claim to relief that is plausible on its face." *Twombly*, 550 U.S. at 570. Plaintiff has failed to do so. He has not asserted a single claim against these Defendants which would entitle him to relief. First, Plaintiff seeks the imposition of a constructive trust over the named Defendant 62.25 acres of land. (Doc. 1, p. 18.) Second, Plaintiff seeks an accounting of the property taken as a result of the 2001 foreclosure action. (Doc. 1, p. 20.) Third, Plaintiff alleges breach of the public trust/breach of fiduciary duty by public officers, alleging "extortion, theft of funds, theft of public records, tampering with public records, concealment of public records, slander of title, infringement of rights secured by Land Patents, trespass on land, aggravated assault, false imprisonment, theft of private property, conspiracy, misprision of felony, racketeering, retaliation against a witness and victim of crime, and domestic terrorism." (Doc. 1, pp. 21-23.) Fourth, Plaintiff seeks quo warranto relief for the alleged "[impairment of] the obligation of contracts" and the "taking of private property." (Doc. 1, pp. 28-30.) Lastly, Plaintiff seeks quo warranto relief for revocation of Ozaukee County's charter and for alleged corporate acts committed in excess of its corporate charter. (Doc. 1, p. 30.)

1. Plaintiff Fails to State a Claim for Relief Under Rule 12(b)(6)

Plaintiff's complaint should be dismissed because it fails to state a claim. To survive a motion to dismiss under Rule 12(b)(6), a plaintiff must plead "enough facts to state a claim to relief that is plausible on its face." *Harbison*, 2012 WL 843886, *6; *Twombly*, 550 U.S. at 570; Fed.R.Civ.P. 12(b)(6). "[N]aked assertions devoid of further factual enhancement" do not

suffice. *Iqbal*, 129 S. Ct. at 1949 (citing *Twombly*, 550 U.S. at 557). Instead, the complaint must plead facts that are more than "merely consistent with" a defendant's liability; "the plaintiff [must plead] factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Harbison*, 2012 WL 843886, *6; *Rudder v. Williams*, 666 F.3d 790, 793–94 (D.C. Cir. 2012). The Court must "assume all the allegations in the complaint are true (even if doubtful in fact) ... [and] must give the plaintiff the benefit of all reasonable inferences derived from the facts alleged." *Harbison*, 2012 WL 843886, *6.

When ruling on a motion to dismiss, legal and factual conclusions are entitled to no presumption of truth. *Iqbal*, 129 S. Ct. 1937at 1949, 1950; *Twombly*, 550 U.S. at 555, 565-66. Thus, Plaintiff's conclusory allegations that the Defendants took Plaintiff's private property or impaired the obligation of contract are entitled to no presumption of truth. *Iqbal*, 129 S. Ct. at 1951. When deciding a motion to dismiss, courts should ignore factual and legal conclusions, accept any well-pleaded facts as true, and "determine whether they plausibly give rise to an entitlement of relief." *Iqbal*, 129 S. Ct. at 1949-50. The facts necessary to meet the plausibility standard will depend on the constitutional provision at issue. *Id.* at 1948. But the standard always requires "more than a sheer possibility that a defendant has acted unlawfully." *Id.* at 1950. Importantly, if the well-pleaded allegations are consistent with lawful behavior, the complaint must be dismissed. *Twombly*, 550 U.S. at 570.

Plaintiff's Complaint is replete with conclusory allegations. When disregarding Plaintiff's conclusory allegations, what remains does not meet the plausibility standard. Each individually named Defendant is liable for only his or her own misconduct. *Iqbal*, 129 S. Ct. at 1949. Plaintiff must allege sufficient facts to establish a constitutional violation on the part of each individual

Defendant. This, Plaintiff does not do. Plaintiff has not stated a single claim, as detailed below, for which he is entitled to relief. Dismissal is warranted.

2. Rooker-Feldman Abstention Doctrine Precludes Plaintiff's Claims[6]

Plaintiff cannot state a claim for relief, as the *Rooker-Feldman* abstention doctrine serves to preclude all of Plaintiff's claims. Aside from the applicable doctrines discussed above divesting this Court of jurisdiction to hear Plaintiff's claims, *Rooker-Feldman* prevents this Court from reviewing claims that "amount to the functional equivalent of an appeal from a state court." *Harbison v. U.S. Senate Comm. on Foreign Relations*, ---F.Supp.2d ----, Civ. A. Nos. 11-01828 (BAH), 11-01965 (BAH), 2012 WL 843886, *9 (D.D.C., Mar. 14, 2012). The 2001 foreclosure of Plaintiff's property is the basis for all of Plaintiff's claims. Plaintiff lost in state court, and *Rooker-Feldman* is implicated by "cases brought by state-court losers complaining of injuries caused by state court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Id.* at *8.

Plaintiff's first enumerated cause of action seeks the imposition of a constructive trust over the named Defendant 62.25 acres of land. (Doc. 1, p. 18.) Plaintiff asserts that "Ozaukee County and the Ozaukee County Sheriff's Department have been unjustly enriched by the taking of [his] *private* land and *private* effects for public use without compensation," and as a result of that action, a constructive trust is required. (Doc. 1. Pp. 18-20.) Such claim would require this Court to proceed contrary to its authority by reviewing and rejecting the state court's action. *Rooker-Feldman* bars such claim. *See Richardson, supra*; *Hunter, supra*.

Likewise, Plaintiff seeks an accounting of all property taken as a result of the 2001 foreclosure action. Again, Plaintiff refers to the loss of his property through the state foreclosure proceedings which implicates this Court's review of the 2001 foreclosure order. Plaintiff's claim

[6] Defendants incorporate, as if stated herein verbatim, their arguments and authorities in Section IV, A, *above*.

for accounting is based entirely upon his contention that the foreclosure was somehow improper. Since the injuries alleged in Plaintiff's Complaint stem from the foreclosure order, and Plaintiff is seeking a judgment from this Court that would have the effect of overturning the foreclosure order, his Complaint is barred by the *Rooker–Feldman* doctrine.

Plaintiff alleges in his third cause of action that the Defendant County Officials breached the public trust and/or breached their fiduciary duty to the Plaintiff. (Doc. 1, pp. 21-26.) Plaintiff's complaint for breach of the public trust and/or breach of fiduciary duty stems from the alleged "dishonest or bad faith acts" of the Defendants, including "extortion, theft of funds, theft of public records, tampering with public records, concealment of public records, slander of title, infringement of rights secured by Land Patents, trespass on land, aggravated assault, false imprisonment, theft of private property, conspiracy, misprision of felony, racketeering, retaliation against a witness and victim of crime, and domestic terrorism." (Doc. 1, pp. 21-23.) Plaintiff also claims Defendants have "impair[ed] the obligation of contracts and [took] Complainant's private property." (Doc. 1, p. 23.)

In *Richardson*, plaintiff also alleged breach of fiduciary duty arising from a foreclosure action in state court. Finding that such claim for breach of fiduciary duty sought to collaterally attack the state court judgment permitting foreclosure and the sale of the plaintiff's property, this Court declined to entertain the plaintiff's claims based on *Rooker-Feldman*. *Richardson*, 2012 WL 2104246, *3. Again, as outlined in *Richardson*, the *Rooker-Feldman* doctrine bars Plaintiff's claims. This Court may not reject the 2001 foreclosure order even if it for some reason determined that there were grounds for doing so, and thus, this claim may not proceed.

Plaintiff's fifth cause of action seeks quo warranto relief for the impairment of contract and taking of private property, and for breach of fiduciary duty in the impairment of contract and

taking of private property. (Doc. 1, pp. 29-30.) Plaintiff's fifth cause of action fails to state a claim for relief, as *Rooker-Feldman* also bars this claim for the same reasons discussed above. As to Plaintiff's sixth cause of action seeking quo warranto relief through the revocation of the Charter of Ozaukee County and for the corporate actions committed in excess of its charter, Plaintiff's claims are likewise barred. (Doc. 1, pp. 30-35.) Plaintiff again seeks to base quo warranto relief on the County's taxation of Plaintiff's private property and subsequent alleged taking through the 2001 foreclosure action. (Doc. 1, pp. 33-35.) Such relief sought by a plaintiff through the lower federal courts is of the exact nature *Rooker-Feldman* seeks to prevent. Accordingly, Plaintiff's claims for quo warranto relief must be dismissed. *See Feldman*, 460 U.S. 462; *Rooker*, 263 U.S. 413; *Exxon Mobil Corp.*, 544 U.S. 280.

3. Plaintiff's Claims Are Barred By Res Judicata

Under the doctrine of res judicata, a subsequent lawsuit will be barred if there has been prior litigation: (1) involving the same claims or cause of action, (2) between the same parties or their privies, and (3) there has been a final, valid judgment on the merits, (4) by a court of competent jurisdiction." *Harbison*, 2012 WL 843886, *9; *Porter v. Shah*, 606 F.3d 809, 813 (D.C. Cir. 2010). The doctrine of res judicata helps advance the "the conclusive resolution of disputes" and "preclude[s] parties from contesting matters that they have had a full and fair opportunity to litigate[,] protects their adversaries from the expense and vexation attending multiple lawsuits, conserves judicial resources, and fosters reliance on judicial action by minimizing the possibility of inconsistent decisions." *Harbison*, 2012 WL 843886, *7; *Montana v. U.S.*, 440 U.S. 147, 153–54, 99 S.Ct. 970, 59 L.Ed.2d 210 (1979). "[A] 'final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or *could have been raised* in that action.'" *Harbison*, 2012 WL 843886, *7; *Drake v. FAA*, 291 F.3d

59, 66 (D.C.Cir.2002).

As was the case in *Harbison*, all of the requirements for res judicata are satisfied. Here, the Plaintiff's complaints involve the same claims between some of the same parties as were earlier adjudicated in the Eastern District of Wisconsin, which court issued a final decision on the merits, dismissing with prejudice Plaintiff's claim. *See Exhibit A.* The Plaintiff's claims against parties herein could have been brought in the earlier lawsuit in the Eastern District of Wisconsin and are thus barred from being brought again under the doctrine of res judicata.

In *Harbison,* the plaintiff alleged various violations of United States and Korean Constitutions, including kidnapping, human trafficking, forced marriage and war crimes. *Harbison,* 2012 WL 843886, *1. Plaintiff's allegations in *Harbison* stemmed from the plaintiff's divorce and subsequent indictment for unlawful marriage and bigamy. Although the divorce and subsequent indictment were resolved, the plaintiff continued to seek judicial review, through the Court of Appeals of Virginia, through a Petition for Writ of Mandamus to the Supreme Court of Virginia, to the U.S. District Court for the Eastern District of Virginia, and eventually the Fourth Circuit Court of Appeals. Much in the same manner, the issues presently before this court were resolved in the United States District Court for the Eastern District of Wisconsin, yet Plaintiff continues to seek judicial review of the issues that were summarily dismissed the Eastern District of Wisconsin

In *Harbison*, this Court analyzed whether the two cases share the same "nucleus of facts." *Harbison,* 2012 WL 843886, *7 (internal cites omitted). In *Harbison,* this Court held that the crux of plaintiff's complaint before it was the same as the plaintiff's claims that had already been considered by the Eastern District of Virginia and thus, thus, the decision of the Eastern District of Virginia constituted a final decision on the merits. The plaintiff was barred from relitigating

the same claims arising from the same nucleus of facts. *Harbison*, 2012 WL 843886, *8.

Plaintiff's claims in this case are similarly barred. Though the causes of action alleged in the Eastern District of Wisconsin vary from some of the causes of action brought before this court, many are identical and all stem from the foreclosure action in 2001. *See Exhibit C.* A number of the parties are identical, including Ozaukee County, the 62.25 acres of land in the town of Fredonia, and Thomas W. Meaux. *Id.* There has clearly been a final, valid judgment on the merits of Plaintiff's claims as evidenced by Judge Clevert's decision and order dated June 8, 2009. *Id.* Plaintiff's claims, like the plaintiff's claims in *Harbison*, are barred by res judicata. Plaintiff's claims are precluded by the judgment in the Eastern District of Wisconsin and Plaintiff is precluded from contesting the matters resolved there to protect these Defendants "from the expense and vexation attending multiple lawsuits, conserves judicial resources, and fosters reliance on judicial action by minimizing the possibility of inconsistent decisions." *Harbison*, 2012 WL 843886, *7; *Montana*, 440 U.S. at153–54. Moreover, Plaintiff's claims which are not identical to those raised in the Eastern District of Wisconsin are also barred by res judicata, as such issues *could have been raised* before that Court. *See Harbison*, 2012 WL 843886, *7; *Drake*, 291 F.3d at 66 (emphasis in original).

4. Plaintiff's Allegations Are Facially Frivolous Under 28 U.S.C. § 1915(e)(2)(B)(i)

Plaintiff's allegations are facially frivolous under 28 U.S.C. § 1915(e)(2)(B)(i), which provides that a court "***shall*** dismiss [a] case at any time if the court determines . . . that the action or appeal . . . is frivolous or malicious." 28 U.S.C. § 1915(e)(2)(B)(i) (emphasis added); *see also Harbison*, 2012 WL 843886, *9. Plaintiff's claims are entirely frivolous and malicious, given Plaintiff's long history of harassing lawsuits and claims lodged against these Defendants. The Plaintiff's claims are clearly baseless.

Plaintiff's allegations run the gamut from taking of private property, impairment of contract, breach of the public trust/breach of fiduciary duty by public officers, "extortion, theft of funds, theft of public records, tampering with public records, concealment of public records, slander of title, infringement of rights secured by Land Patents, trespass on land, aggravated assault, false imprisonment, theft of private property, conspiracy, misprision of felony, racketeering, retaliation against a witness and victim of crime, and domestic terrorism." Such claims are clearly frivolous "where [they] lack an arguable basis either in law or in fact." *Harbison*, 2012 WL 843886, *9; *Meitzke v. Williams*, 490 U.S. 319, 109 S. Ct. 1827, 104 L. Ed.2d 338 (1989); *Hamm v. Obama*, No. 11-11–1429, 2011 U.S. DIST. LEXIS 97600 (D.D.C. Aug. 31, 2011) (dismissing frivolous complaint with prejudice).

Furthermore, Plaintiff has repeatedly filed similar claims and complaints against these Defendants in a manner that can only be described as frivolous and malicious. *See Harbison*, 2012 WL 843886, *9 (barring plaintiff from any future filings against the same defendants, or arising from the same claims, without leave of court); *Rogler v. U.S. HHS*, 620 F.Supp.2d 123, 131 (D.D.C.2009) (noting that "'repetitious filing' constitutes a 'frivolous or malicious' action within the meaning of 28 U.S.C. § 1915(e)(2)(B)"); *Sparrow v. Reynolds*, 646 F.Supp. 834, 839 (D.D.C. 1986) ("A continuous pattern of groundless and vexatious litigation can, at some point, support an order against further filings of complaints. . ."). Dismissal under 28 U.S.C. § 1915(e)(2)(B)(i) is warranted.

V. DEFENDANTS' ALTERNATIVE MOTION FOR CHANGE OF VENUE

Venue is not proper in the District of Columbia. Dismissal is proper under 28 U.S.C. § 1406(a), which provides that the district court in which a case laying venue in the wrong district has been filed, ***shall*** dismiss the case, or if it be in the interest of justice, transfer such case to any

district or division in which it could have been brought. 28 U.S.C. §1046(a) (emphasis added). All relevant factors demonstrate that this case should be dismissed, however if the Court chooses to allow this case to proceed, it should either be re-filed or transferred to the District Court for the Eastern District of Wisconsin.

A. Justice Requires Dismissal, Rather Than Transfer, for Improper Venue

Since venue is not proper in Washington, D.C., 28 U.S.C. § 1406(a) *requires* that this Court must either dismiss this action or, if it finds that it is in the "interest of justice," transfer it to a District where it could have been brought. Here, transfer is not in the "interest of justice" because this action was filed in a judicial district that was *obviously incorrect* and far less plausible than the proper judicial district, the Eastern District of Wisconsin. *See, e.g., Noxell Corp. v. Firehouse No. 1 Bar-B-Que Restaurant*, 760 F.2d 312 (D.C. Cir. 1985) (dismissing action for lack of venue where plaintiff chose District of Columbia forum "simply to suit its own purpose"); *Nichols v. G.D. Searle & Co*., 991 F.2d 1195, 1201 (4th Cir. 1993) (explaining that it is not in the "interest of justice" to transfer an action that was "obviously" or "deliberately" filed in the wrong court). Like the plaintiff in *Noxell Corp.*, the Plaintiff here has selected a forum that is unsupportable in terms of the accessibility of relevant evidence and witnesses and convenience of the parties. *Noxell Corp.*, 760 F.2d 312. Here, as in *Noxell Corp.*, there are virtually no ties between the claims in this action and the District of Columbia, but correspondingly, there are *significant ties to Wisconsin*. Accordingly, the Court should dismiss, rather than transfer, this action under § 1406(a).

B. A Transfer, If at All, Must Be to the Eastern District of Wisconsin

If this Court agrees that venue is improper in the District of Columbia, but finds that it is in the interest of justice to transfer this action rather than to dismiss it, this case should be

transferred to the Eastern District of Wisconsin under the mandatory transfer requirements of subsection (a), which provides that ". . . if it be in the interest of justice, transfer such case to any district or division in which it could have been brought."

In order to transfer a case to another district court under subsection (a), *both* venue and personal jurisdiction must be present in the transferee district. *Packer v. Kaiser Found. Health Plan of the Mid-Atl. States, Inc*., 728 F.Supp. 8, 12 (D.D.C. 1989). All Defendants are residents of Wisconsin and are subject to service of process in the Eastern District of Wisconsin. Accordingly, this matter certainly "could have been brought" in the District Court for the Eastern District of Wisconsin.

VI. CONCLUSION

For all of the foregoing reasons, Defendants respectfully request this Court to dismiss Plaintiff's Complaint for lack of subject matter jurisdiction, lack of personal jurisdiction, insufficient process, insufficient service of process, lack of venue, and/or failure to state a claim, or in the alternative, order that this case be transferred to the Eastern District of Wisconsin where all Defendants reside.

Dated: June 27, 2012

Respectfully submitted,

/s/ Deborah B. Baum

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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Defendants' Statement of Points and Authorities in Support of Their Motion to Dismiss, or Alternatively, for Change of Venue on this 27th day of June, 2012, by First Class Mail on:

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