UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

----------x

INTERNATIONAL UNIONS, SECURITY POLICE AND FIRE PROFESSIONALS OF AMERICA (SPFPA), AN INTERNATIONAL UNION, AND DAVID L. HICKEY, THE INTERNATIONAL PRESIDENT OF THE SECURITY POLICE AND FIRE PROFESSIONALS OF AMERICA

Plaintiffs,

-against-

STEVE MARITAS, AN INDIVIDUAL, CALVIN WELLS, AN INDIVIDUAL, JAMES BURKE, AN INDIVIDUAL, BRIKENER JEAN-GILLES, AN INDIVIDUAL AND LAW ENFORCEMENT OFFICERS SECURITY UNION, AN UNINCORPORATED UNION,

Defendants.

----------x

Case No: 2:19-cv-10743-AC-MKM

Hon. Avern Cohn

DEFENDANTS' MOTION FOR DISMISSAL UNDER FED. R. CIV. PRO. 12(b) and/or CHANGE OF VENUE 28 U.S.C. § 1404(a)

DEFENDANTS' MOTION FOR DISMISSAL UNDER FED. R. CIV. PRO. 12(b) and/or CHANGE OF VENUE UNDER 28 U.S.C. § 1404 (A).

NOW COMES the Defendants, STEVE MARITAS, AN INDIVIDUAL, CALVIN WELLS, JAMES BURKE, BRIKENER JEAN-GILLES, AND LAW ENFORCEMENT OFFICERS SECURITY UNION (hereinafter Defendants) by and through their attorney and for their Motion to states as follows:

STATEMENT OF FACTS FOR DEFENDANTS' MOTION

Defendants, Law Enforcement Officers Security Union ("LEOSU"), Steven Maritas, Calvin Wells, James Burke, and Brikener Jean-Gilles, submit this following Statement of Undisputed Material Facts in Support of their Motions to Dismiss Each Defendant, for lack of minimum contacts with the State of Michigan, or, in the alternative, to transfer venue to the United States District Court for the Eastern District of New York.

1. Plaintiffs SPFPA and David Hickey claim that Defendants defamed them by posting a series of videos posted on the video hosting site "YouTube.com" for use in union elections in Washington, DC, New York, Pennsylvania, and Virginia. (Docket Entry No. 1, Exhibit A, Complaint ¶ 16).

2. Plaintiffs' claim a violation of Michigan state defamation laws. (Docket Entry No. 1, Exhibit A, Complaint ¶ 22).

3. Defendant LEOSU is a labor union organized under the laws of the State of New York, with its headquarters in Mineola, New York, located in the Eastern District of New York. (Docket Entry No. 1, Notice of Removal ¶ 10).

4. Defendant Steven Maritas is an officer of Defendant LEOSU, and has resided for the past six (6) years in Merrick, New York, in the Eastern District of New York. (Docket Entry No. 1, Notice of Removal ¶ 11).

5. Defendant Calvin Wells resides in New York, serves on the Board of Defendant LEOSU and has never been to the State of Michigan. (Docket Entry No. 1, Notice of Removal ¶ 12).

6. Defendant Brikener Jean-Gilles resides in New York, serves on the Board of Defendant LEOSU, and has never been to Michigan. (Docket Entry No. 1, Notice of Removal ¶ 14).

7. Defendant James Burke resides in New York, serves on the Board of Defendant LEOSU, and has never been to Michigan. (Docket Entry No. 1, Notice of Removal ¶ 13).

8. The Plaintiff, SPFPA and the Defendant LEOSU are rival unions representing guards, as defined under 9(B) (3) of the National Labor Relations Act ("NLRA").

9. The Plaintiff SPFPA and the Defendant LEOSU have contested approximately 12 elections against each other over the past two (2) years, to represent guards.

10. The elections to represent security guards contested against each other between Plaintiff SPFPA and Defendant LEOSU were supervised by the United States National Labor Relations Board ("NLRB"), a federal agency.

11. None of the contested elections occurred in the State of Michigan.

12. The elections to represent security guards contested against each other between Plaintiff SPFPA and Defendant LEOSO have all occurred outside the State of Michigan.

13. Pursuant to local rule 7.1(a), Defendants' Counsel states that on April 29, 2019 a conversation took place between Plaintiffs' Counsel, during which time Defendants' Counsel proposed the motion set forth and concurrent to the relief requested was not granted.

WHEREFORE Defendants, STEVE MARITAS, AN INDIVIDUAL, CALVIN WELLS, JAMES BURKE, BRIKENER JEAN-GILLES, AND LAW ENFORCEMENT OFFICERS SECURITY UNION, prays:

1. In the name of justice, equity, and due process Order that this complaint be dismissed for lack of personal jurisdiction under FED. R. CIV. PRO. 12 (b) in the Eastern District Southern Division of Michigan;
2. Alternatively, In the name of justice, equity, and due process Order that this complaint be transferred to the Eastern District of New York based on 28 U.S.C. § 1404 (a) as venue is improper; and
3. Order all and any other relief as this Court deems appropriate.

Dated: May 10, 2019

Respectfully Submitted,
/s/ Thomas M Nunley

NUNLEY WHEELOCK, P.C.
THOMAS M. NUNLEY (P56363)
Attorney for Defendants
Business Address:
4051 Haggerty Road
West Bloomfield, Michigan 48323
Telephone: (248) 366-5000
Facsimile: (248) 363-7834
TMNunley@NunleyWheelock.com

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

----------x

INTERNATIONAL UNIONS, SECURITY POLICE AND FIRE PROFESSIONALS OF AMERICA (SPFPA), AN INTERNATIONAL UNION, AND DAVID L. HICKEY, THE INTERNATIONAL PRESIDENT OF THE SECURITY POLICE AND FIRE PROFESSIONALS OF AMERICA

Plaintiffs,

-against-

STEVE MARITAS, AN INDIVIDUAL, CALVIN WELLS, AN INDIVIDUAL, JAMES BURKE, AN INDIVIDUAL, BRIKENER JEAN-GILLES, AN INDIVIDUAL AND LAW ENFORCEMENT OFFICERS SECURITY UNION, AN UNINCORPORATED UNION,

Defendants.

----------x

Case No: 2:19-cv-10743-AC-MKM

Hon. Avern Cohn

DEFENDANTS' BRIEF IN SUPPORT OF ITS MOTION FOR DISMISSAL UNDER FED. R. CIV. PRO. 12(b) and/or CHANGE OF VENUE 28 U.S.C. § 1404(a)

DEFENDANTS' BRIEF IN SUPPORT

STATEMENT OF ISSUE PRESENTED

1. DEFENDANTS ARE NEW YORK RESIDENTS, THE PLAINTIFFS' COMPLAINT CONCERNS UNION ELECTION VIDEOS PRODUCED IN NEW YORK, AND HAVE NO "MINIMUM CONTACTS" SUFFICIENT FOR MICHIGAN TO EXERCISE JURISDICTION

Defendants state the answer to this issue is "Yes."

2. MICHIGAN MAY ACQUIRE JURISIDCITON OVER A DEFENDANT ONLY IF THAT DEFENDANT "PURPOSEFULLY AVAILED" HIMSELF OF THE PROTECTIONS OF THAT JURISDICTION

Defendants state the answer to this issue is "Yes."

3. PLAINTIFFS CONTENTION THAT DEFENDANTS POSTING A VIDEO ON A PASSIVE WEBSITE "YOUTUBE" CREATES "MINIMUM CONTACTS" IS ABSURD AND IGNORES LONG-STANDING, WELL SETTLED JURISDICTIONAL RULES

Defendants state the answer to this issue is "Yes."

4. ALTERNATIVELY, THIS ACTION SHOULD BE TRANSFERRED TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

Defendants state the answer to this issue is "Yes."

5. DEFENDANTS' FIRST AMENDMENT RIGHTS TO POST AND USE VIDEOS IN NEW YORK AND WASHINGTON D.C. – ARE PROTECTED SPEECH – WITH ANTI-SLAPP LIABILITY AGAINST PLAINTIFF – WHICH PLAINTIFF IS TRYING TO ILLEGALLY INVADE

Defendants state the answer to this issue is "Yes."

6. THE DEFENDANT LEOSU UNION ELECTION VIDEOS, POSTED ON "YOUTUBE.COM" ARE ALL EXPLICITLY AND ABSOLUTELY TRUE – PROTECTED SPEECH UNDER THE FIRST AMENDMENT

Defendants state the answer to this issue is "Yes."

CONTROLLING AUTHORITIES

Statutes

Federal District Court Cases

Federal Circuit Court Cases

United States Supreme Court Cases

LAW and ARGUMENT

Defendants' respectfully request that this Court dismiss the Plaintiffs' complaint for a lack of personal jurisdiction over all Defendants or, in the alternative, transfer venue to the United States District Court for the Eastern District of New York.

Defendants do not have the "minimum contacts" with the State of Michigan for this court to exercise personal jurisdiction over the Defendants. Defendants do not reside in Michigan and do no business, personal or through Defendant LEOSU, in Michigan. Neither has Defendants "purposefully availed" themselves of the protections of the State of Michigan. The union election videos were created in New York, posted in New York, and used for union elections exclusively outside the State of Michigan. Defendants have not targeted Michigan and do not "do business" in Michigan. (See Affidavits of Defendants attached as Exhibit "E-I").

Alternatively, the Eastern District Court of Michigan is not a convenient forum to try this action. The Defendants reside in New York, the video was created in New York, and the video was posted in New York. Both SPFPA and LEOSU reside in or conduct business in New York. Should this action remain in the Eastern District of Michigan, Defendants will be unnecessarily burdened by defending the action there.

1) DEFENDANTS ARE NEW YORK RESIDENTS, THE PLAINTIFFS' COMPLAINT CONCERNS UNION ELECTION VIDEOS PRODUCED IN NEW YORK, AND HAVE NO "MINIMUM CONTACTS" SUFFICIENT FOR MICHIGAN TO EXERCISE JURISDICTION

A federal court must have both subject matter jurisdiction to hear the claim and personal jurisdiction to enter a valid judgment on the claim. "The Due Process Clause of the Fourteenth Amendment to the United States Constitution permits personal jurisdiction over a defendant in any State with which the defendant has certain minimum contacts … such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice." Calder v. Jones, 465 U.S. 783, 788 (1984) (internal quotation marks omitted); Milliken v. Meyer, 311 U.S. 457, 463 (1940); International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945).

"Whether due process is satisfied must depend rather upon the quality and nature of the activity in relation to the fair and orderly administration of the laws which it was the purpose of the due process clause to insure." International Shoe Co. v. Washington, 326 U.S 310, 319 (1945).

"The Due Process Clause protects an individual's liberty interest in not being subject to the binding judgments of a forum with which he has established no meaningful 'contacts, ties, or relations.'" Burger king Corp v. Rudzewicz, 471 U.S. 462, 471-72 (1985); International Shoe Co. v. Washington, 326 U.S. 310, 319 (1945). "[S]pecific jurisdiction is confined to adjudication of 'issues deriving from, or connected with, the very controversy that established jurisdiction." Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 919 (2011); von Mehren & Trautman, Jurisdiction to Adjudicate: A Suggested Analysis, 79 HARV. L. REV. 1121, 1136 (1966)

"In determining whether limited personal jurisdiction exists over a given defendant, we look to both the long-arm statute of the forum state and constitutional due-process requirements." Air Prods. & Controls, Inc.v. Safetech Int'l., Inc., 503 F.3d 544, 550 (6th Cir.

2007). "The Michigan long-arm statute, however, extends to the limits imposed by federal constitutional due process requirements and thus, the two questions become one." MAG IAS Holdings, Inc. v. Schmuckle, 854 F.3d 894, 899 (6th Cir. 2017) (internal quotation marks omitted); (quoting AlixPartners, LLP v. Brewington, 836 F.3d 543, 549 (6th Cir. 2016).

The Sixth Circuit developed a three-part test to determine whether a court can exercise personal jurisdiction over a non-resident defendant.

> "First, the defendant must purposefully avail himself of the privilege of conducting activities within the forum state; second, the cause of action must arise from the defendant's activities there; and third, the acts of the defendant or consequences cause by the defendant must have a substantial enough connection with the forum state to make its exercise of jurisdiction over the defendant fundamentally fair." Cole v. Mileti, 13 F.3d 433, 436 (6th Cir. 1998); See also Nationwide Mut. Ins. Co. v. Tryg. INt'l Ins. Co., 91 F.3d 790, 794 (6th Cir. 1996); Southern Machine Co. v. Mohasco Industries Inc., 402 F.2d 374, 381 (6th Cir. 1968).

The Plaintiffs' action fails completely as to all three prongs.

First, the Defendants – except for Defendant Steve Maritas – have absolutely no contacts with Michigan – zero. Defendant Maritas has been a New York Resident for over five (5) years.

Second, the Plaintiffs' "cause of action" are all exclusively outside of the State of Michigan. The videos identified by Plaintiffs in the Complaint were all made and posted in New York – for union elections in New York, Virginia, Washington D.C., and Maryland.

Third, there is no "substantial connection" between Defendant LEOSU posting union election videos, and the State of Michigan. None of the union elections have occurred in

Michigan, and LEOSU has never filed for a union election nor represented any union workers in Michigan.

2) MICHIGAN MAY ACQUIRE JURISIDCITON OVER A DEFENDANT ONLY IF THAT DEFENDANT "PURPOSEFULLY AVAILED" HIMSELF OF THE PROTECTIONS OF THAT JURISDICTION

"This 'purposeful availment' requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of 'random,' 'fortuitious,' or 'attenuated' contacts, or of the 'unilateral activity of another party or third person,'" Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985); Keeton v. Hustler Magazine, Inc., 465 U.S. 770 , 774 (1984); World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 , 299 (1980) Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 417 (1984).

"Purposeful availment is something akin to a deliberate undertaking to do or cause an act or thing to be done [in the forum state] or conduct which can be properly regarded as a prime generating cause of the effects resulting from [the forum state]…" Bridgeport Music, Inc. v. Still N The Water Pub., 327 F.3d 472, 478 (6th Cir. 2003); Neogen Corp v. Neo Gen Screening, Inc., 282 F.3d 883, 891 (6th Cir. 2002).

This Court's exercise of personal jurisdiction over the defendants will be a violation of the Due Process Clause of the Fourteenth Amendment. The Defendant, Law Enforcement Officers Security Unions ("LEOSU"), has no contracts in Michigan, does not represent employees in Michigan, and has not negotiated in Michigan. Defendants only connection to Michigan is through the Plaintiffs.

"The unilateral activity of another party or third person is not an appropriate consideration when determining whether a defendant has sufficient contacts with a forum State to justify an assertion of jurisdiction." Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 417 (1984).

The analysis can stop here. Plaintiffs filed suit in the State of Michigan because Plaintiff, SPFPA's, headquarters is in Michigan. Plaintiffs want this Court to base personal jurisdiction on the Plaintiffs' – rather than the Defendants' - "minimum contacts." This is an improper analysis that shifts the constitutional due process protections away from the Defendants.

The "minimum contacts" analysis "looks to defendant's contacts with the forum state itself." Walden v. Fiore, 571 U.S. 277, 285 "Mere injury to a forum resident is not a sufficient connection to the forum." Id. at 290. "The proper question is not where the Plaintiff experienced a particular injury or effect, but whether the Defendant's conduct connects him to the forum in a meaningful way." Id.

None of the Defendants meet the "minimum contact" requirement.

3) PLAINTIFFS CONTENTION THAT DEFENDANTS POSTING A VIDEO ON A PASSIVE WEBSITE "YOUTUBE" CREATES "MINIMUM CONTACTS" IS ABSURD AND IGNORES LONG-STANDING, WELL SETTLED JURISDICTIONAL RULES

Plaintiffs contend that the Eastern District of Michigan may constitutionally exercise personal jurisdiction over the Defendants because Defendants posted a series of videos to the website "YouTube.com."

Plaintiffs ignore long-standing precedent. "A state has power to exercise judicial jurisdiction over an individual who causes effects in the state by an act done elsewhere with respect to any cause of action arising from these effects, unless the nature of the effects and of the individual's relationship to the state make the exercise of such jurisdiction unreasonable." Compuserve, Inc. v. Patterson, 89 F.3d 1257 (6th Cir. 1996).

The defendant in CompuServe purposefully availed himself of the protections of the State of Ohio because the Defendant did business in Ohio with CompuServe, an Ohio company. The defendant's business activities with CompuServe's Ohio facilities provided substantial evidence that defendant knowingly reached into Ohio, did business in Ohio, and created a substantial enough connection between the defendant and the forum state.

Here, no Defendants have "reached into" the State of Michigan to do business. None of the Defendants' do business in Michigan.

"The operation of an Internet website can constitute the purposeful availment of the privilege of acting in a forum state under the first Southern Machine Company v. Mohasco Industries factor only 'if the website is interactive to a degree that reveals specifically intended interaction with residents of the state.'" Bird v. Parsons, 289 F.3d 865, 874 (6th Cir. 2002); (quoting Neogen Corp. v. Neo Gen Screening, Inc., 282 F.3d 883, 890 (6th Cir. 2002)).

The Court in Bird found that defendants did purposefully avail themselves of Ohio's jurisdiction because Defendant maintained a website selling a service and "allegedly accepting the business of 4,666 Ohio residents." Id. at 875.

Here, no Defendant is doing business in Michigan, and none of the union election videos were used for any purpose in Michigan.

YouTube is a "passive website" not owned nor operated by Defendants. A passive website is one that simply provides information, it does not allow commercial transactions." McGill Tech. Ltd. v. Gourmet Techs., Inc., 300 F.Supp.2d 501, 507 (E.D.MI Jan. 27, 2004). "A passive website is insufficient to establish purposeful availment for the purpose of due process." McGill Tech. Ltd. v. Gourmet Techs., Inc., 300 F.Supp.2d 501, 507 (E.D.MI Jan. 27, 2004) (quoting Maynard v. Phila. Cervical Collar Co., 18 Fed. Appx. 814, 816-17 (Fed. Cir. 2001) (citing Cybersell, Inc. v. Cybersell, Inc., 130 F.3d 414, 419-20 (9th Cir. 1997); Mink v. AAAA Dev. LLC, 190 F.3d 333, 336-37 (5th Cir. 1999)).

Defendants, by merely posting videos, did not "reach out and do business" in Michigan. Defendants created and uploaded the videos to support Defendant LEOSU in union elections.

> Under Michigan's long-arm statute, courts may exercise specific jurisdiction over defendants who (i) transact business within the state, (ii) do or cause any act to be done in the state resulting in an action in tort, (iii) own, use, or possess any real or tangible property within the state, (iv) contract to insure any person, property, or risk located within the state, or (v) enter into a contract for services to be performed or for materials to be furnished in the state by the defendant. Mich. Comp. Laws § 600.715.

Plaintiffs bring this action in the Eastern District of Michigan to avoid New York's strong anti-SLAPP laws.

4) ALTERNATIVELY, THIS ACTION SHOULD BE TRANSFERRED TO THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK

The Eastern District of Michigan is not a convenient forum, due to the fact that all the Defendants are in New York; the posting of the videos occurred in New York; and that both the Plaintiff SPFPA and Defendant LEOSU do business in New York.

Should the forum remain the Eastern District of Michigan, all the defendants and the Court will be unnecessarily burdened. A better alternative forum, The Eastern District of New York (EDNY), is one where all the parties reside or do business, and where the videos were posted.

Congress "codified" forum non conveniens in 28 U.S.C.A § 1404(a), the phrase "for the convenience of parties and witnesses, in the interest of justice" intended to "permit courts to grant transfers upon a lesser showing of inconvenience." 28 U.S.C.A § 1404(a); Norwood v. Kirkpatrick, 349 U.S. 29, 31 (1955). "This is not to say that the relevant factors have been changed or that the plaintiff's choice of forum is not to be considered, but only that the discretion to be exercised should be broader." Id.

There are three considerations the courts apply when undertaking a forum non conveniens analysis: "(1) whether an adequate alternative forum is available; (2) whether a balance of private and public interests suggests that trial in the chosen forum would be unnecessarily burdensome for the defendant or the court; and (3) the amount of deference to give the plaintiff's choice of forum." Jones v. IPX International Equatorial Guinea, S.A., 920 F.3d 1085, 1090 (6th Cir. 2019).

"The first step in a forum non conveniens analysis is for the court to establish the existence of an adequate alternative forum." Bank of Credit and Commerce International

(Overseas) Ltd. v. State Bank of Pakistan, 273 F.3d 241, 246 (2d Cir. 2001); See DiRienzo v. Philip Servs. Corp., 232 F.3d 49, 56 (2d Cir. 2000); See also Alfadda v. Fenn, 159 F.3d 41, 45 (2d Cir. 1998). "An alternative forum is generally adequate if: '(1) the defendants are subject to service of process there; and (2) the forum permits 'litigation of the subject matter of the dispute.'" Alfadda v. Fenn, 159 F.3d 41, 45 (2d Cir. 1998) (quoting Piper Aircraft Co. v. Reyno, 454 U.S. 235, 254 n. 22 (1981). "It follows that an adequate forum does not exist if a statute of limitations bars the bringing of the case in that forum. See Crimson Semiconductor, Inc. v. Electronum, 629 F.Supp. 903, 908–09 (S.D.N.Y.1986); see also Mercier v. Sheraton Int'l, Inc., 935 F.2d 419, 426 n. 8 (1st Cir.1991); Kontoulas v. A.H. Robins Co., 745 F.2d 312, 316 (4th Cir.1984).

In the Eastern District of New York, the Defendants in this case are subject to service of process due to the fact that the actions being alleged in the plaintiffs' complaint all happened in New York. EDNY also permits the litigation of the subject matter in dispute and, in fact, has an extensive track record of trying similar fact pattern cases. There is no statutory bar on this claim being heard in EDNY. Therefore, the first step is satisfied and there is an adequate alternative where this case can be heard, the alternative being the Eastern District of New York.

The second step in a "forum non conveniens" analysis is whether a balance of private and public interests suggests that trial in the chosen forum would be unnecessarily burdensome for the defendant or the court.

The private factors, while not exhaustive, includes "the relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; possibility of view of premises, if view would be

appropriate to the action, and all other practical problems that make trial of a case easy, expeditious, and expensive." Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 508 (1947).

The third step in a "forum non conveniens" analysis is the amount of deference to give to the plaintiff's choice of forum. There should be no deference given to the Plaintiffs' chosen forum due to the fact that the Plaintiffs only brought this action in Michigan to deliberately inconvenience the Defendants. This should not be enough for the proceedings to remain in Michigan.

5) DEFENDANTS' FIRST AMENDMENT RIGHTS TO POST AND USE VIDEOS IN NEW YORK AND WASHINGTON D.C. – ARE PROTECTED SPEECH – WITH ANTI-SLAPP LIABILITY AGAINST PLAINTIFF – WHICH PLAINTIFF IS TRYING TO ILLEGALLY INVADE

The Plaintiffs are waging a campaign to try to "crush" the Defendants labor union, LEOSU. This "harassment campaign" has included Plaintiffs' posting over fifty (50) "YouTube" videos attacking Defendant LEOSU, and Defendant Maritas, and filing multiple fraudulent lawsuits, to run-up Defendants' attorney fees.

Plaintiffs' David Hickey and SPFPA openly admit their illegal and fraudulent harassment strategy against the Defendants in mocking and threatening emails.

See the attached email from Plaintiff SPFPA to Defendant Maritas, boasting of illegitimate legal tactics (See Exhibit "C"). See also the e-mail dated May 10, 2019 by the Plaintiff David Hickey sent to union members – boasting of his strategy of costly and fraudulent

litigation as a strategy to consume the union dues of Defendant union's members. (See Exhibit "D").

Plaintiffs' strategy is simple: force Defendants to expend union member dues on litigation; and then accuse Defendant of "wasting" union members' dues on litigation.

Plaintiffs' intend to attempt to escape New York's and Washington D.C.'s "anti-SLAPP" laws. "SLAPP" is an acronym for a "strategic lawsuit against public participation." Ernst v. Carrigan, 814 F.3d 116, 117 (2d Cir. 2016). "SLAPP suits come in many forms camouflaged as ordinary lawsuits. The conceptual thread that binds them is that they are suits without substantial merit that are brought by private interests to 'stop citizens from exercising their political rights or to punish them for having done so.'" Gordon v. Marrone, 590 N.Y.S.2d 649, 656 (1992); (citing Pring, SLAPPs: *Strategic Lawsuits Against Public Participation*, 7 PACE ENVTL L REV 3 [1989]).

SLAPP suits function by forcing the defendant into a judicial proceeding where the plaintiff can force the expenses of a defense upon the target defendant. See Gordon, 590 N.Y.S.2d 649 (1992). As the emails discussed above show, Plaintiffs' only purpose in this frivolous action is to waste Defendant's resources and "bleed the Defendants dry." (See Exhibit "D"-mass e-mail from Plaintiff David Hickey to LEOSU members explaining Plaintiffs' frivolous litigation strategy).

Plaintiffs' should not be rewarded by filing in Michigan's Courts, where only Plaintiff has contacts, to harass a rival union and its members.

6) THE DEFENDANT LEOSU UNION ELECTION VIDEOS, POSTED ON "YOUTUBE.COM" ARE ALL EXPLICITLY AND ABSOLUTELY TRUE – PROTECTED SPEECH UNDER THE FIRST AMENDMENT

The Defendant LEOSU videos were all carefully written and researched with factual verification and documentation.

The truth is that Plaintiff SPFPA has had dozens of its officers criminally indicted and convicted. (See News Articles and Reports of SPFPA Officer convictions attached as Exhibit "A").

The truth is that Defendant LEOSU has beaten Plaintiff SPFPA in over a dozen contested union elections. (See SPFPA Losses and NLRB Records attached as Exhibit "B")

The truth is that the FBI did raid the home of Plaintiff David Hickey.

The truth is that Plaintiff SPFPA has a long history of corruption and embezzlement under the leadership of Plaintiff David Hickey, who has been at the helm of Plaintiff SPFPA since 2000.

The truth is a complete defense to a defamation action. See Andrews v. Prudential Sec., 160 F.3d 304, 308 (6th Cir. 1998); See also Baggs v. Eagle-Picher Indus., Inc., 957 F.2d 268, 273 (6th Cir. 1992) (citing Cochrane v. Wittbold, 359 Mich. 402, 102 N.W.2d 459, 463 (Mich. 1960)). This privilege extends to a great variety of subjects, and includes matters of public concern, public men, and candidates for office." New York Times Co. v. Sullivan, 376 U.S. 254, 281-82 (1964)

CONCLUSION

WHEREFORE, for the above captioned reasons, this Court should dismiss Plaintiffs' Complaint under FED R. CIV. PRO. 12 (b) because this Court lacks sufficient minimum contacts to exercise in personam jurisdiction over any of the Defendants or, in the alternative, this Court should transfer this action under 28 U.S.C. § 1404 (a), to the United States District Court for the Eastern District of New York as it is a more convenient forum to try the case.

Dated: May 10, 2019 Respectfully Submitted,

/s/ Thomas M Nunley
NUNLEY WHEELOCK, P.C.
THOMAS M. NUNLEY (P56363)
Attorney for Defendants
Business Address:
4051 Haggerty Road
West Bloomfield, Michigan 48323
Telephone: (248) 366-5000
Facsimile: (248) 363-7834
TMNunley@NunleyWheelock.com

CERTIFICATE OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

Thomas M. Nunley says that on May 10, 2019, he served one copy of DEFENDANTS' MOTION and BRIEF FOR DISMISSAL UNDER Fed. R. Civ. Pro. 12(b) and/or Change of Venue under 28 U.S.C. § 1404 (a) AND DEFENDANT'S ACCOMPANYING EXHIBITS and PROOF OF SERVICE to the following by CM/ECF FILING to the following electronic mail address:

Young & Associates, PC
Rodger D. Young (P22652)
27725 Stansbury Blvd., Suite 125
Farmington Hills, Michigan 48334
(248) 353-8620
efiling@youngpc.com

I declare that the foregoing Proof of Service is true to the best of my knowledge, information and belief.

/s/ Thomas M Nunley

_____

Dated: May 10, 2019 Thomas M. Nunley