

MOTION TO DISMISS

I. COURT INFORMATION

Court: _____

Case Name: _____

Case Number: _____

II. PARTIES

This Motion to Dismiss (hereinafter, the "Motion") is filed by the Moving Party, _____, the Defendant in the above-captioned action, whose address is _____.

The Responding Party is _____, the Plaintiff in the above-captioned action, whose address is _____.

III. RECITALS

WHEREAS, the Responding Party filed a Complaint (hereinafter, the "Complaint") against the Moving Party on or about the _____ day of _____, 20_____, initiating the above-captioned action;

WHEREAS, the Moving Party believes that the Complaint, or certain claims therein, are legally deficient and subject to dismissal for the reasons set forth herein;

WHEREAS, the Moving Party seeks an order from this Honorable Court dismissing the Complaint, or portions thereof, with prejudice;

NOW, THEREFORE, the Moving Party respectfully moves this Court for an order dismissing the Complaint filed by the Responding Party, pursuant to the grounds and arguments set forth below and in the accompanying Memorandum of Law.

IV. DEFINITIONS

For the purposes of this Motion, the following terms shall have the meanings ascribed to them below:

- a. **"Complaint"**: Refers to the pleading filed by the Responding Party that initiated the above-captioned action.
- b. **"Court"**: Refers to the _____, where this action is pending.
- c. **"Moving Party"**: Refers to _____, the Defendant in this action.
- d. **"Responding Party"**: Refers to _____, the Plaintiff in this action.

V. GROUNDS FOR DISMISSAL

The Moving Party respectfully requests that this Court dismiss the Complaint, or specific counts thereof, for the following reasons, which will be more fully elaborated in the accompanying Memorandum of Law:

1. Lack of Subject Matter Jurisdiction

- a. The Court lacks subject matter jurisdiction over the claims asserted in the Complaint because:

2. Failure to State a Claim Upon Which Relief Can Be Granted

- a. The Complaint fails to state a claim upon which relief can be granted because, even assuming all factual allegations in the Complaint are true, the Responding Party has failed to allege facts sufficient to establish a plausible claim for relief under applicable law. Specifically:

3. Lack of Personal Jurisdiction

a. The Court lacks personal jurisdiction over the Moving Party because:

4. Insufficiency of Service of Process

a. The service of process upon the Moving Party was insufficient because:

5. Improper Venue

a. Venue in this action is improper because:

6. Other Grounds for Dismissal

- a. The Complaint is subject to dismissal on the following additional grounds:
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-
-
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VI. PRAYER FOR RELIEF

WHEREFORE, the Moving Party respectfully requests that this Honorable Court enter an Order:

- a. Dismissing the Complaint in its entirety, with prejudice;
- b. Awarding the Moving Party its costs and reasonable attorneys' fees incurred in connection with this Motion; and
- c. Granting such other and further relief as the Court deems just and proper.

VII. GOVERNING LAW AND JURISDICTION

This Motion shall be governed by and construed in accordance with the applicable rules of civil procedure and substantive law of the jurisdiction where this action is pending. The Court has jurisdiction to hear and determine this Motion pursuant to its inherent authority and the applicable rules of procedure.

VIII. SEVERABILITY

If any provision or part of this Motion, or the application thereof to any person or circumstance, is held invalid, the remainder of the Motion and the application of such provision or part to other persons or

circumstances shall not be affected thereby.

IX. ENTIRE MOTION

This Motion, together with any accompanying Memorandum of Law and exhibits, constitutes the entire request for dismissal and supersedes all prior or contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter of this Motion.

X. NOTICE PROVISIONS

Any notice or communication required or permitted to be given under this Motion shall be in writing and shall be deemed to have been duly given when delivered personally, sent by recognized overnight courier service, or sent by certified or registered mail, return receipt requested, postage prepaid, to the addresses of record for the parties' counsel as filed with the Court.

XI. AMENDMENT PROCEDURES

This Motion may be amended or supplemented only by leave of Court or by stipulation of the parties, in accordance with the applicable rules of civil procedure.

XII. WAIVER

No waiver by the Moving Party of any breach of any provision of this Motion shall be deemed a waiver of any other preceding or succeeding breach of the same or any other provision. No waiver shall be effective unless made in writing and signed by an authorized representative of the Moving Party.

XIII. HEADINGS

The headings in this Motion are for convenience of reference only and shall not affect the interpretation of this Motion.

XIV. CONSTRUCTION

This Motion shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing it to be drafted.

Respectfully submitted this _____ day of _____, 20_____.

ATTORNEY FOR MOVING PARTY

Signature: _____

Print Name: _____

Date: _____ day of _____, 20 _____

Bar Number: _____

Firm Name: _____

Address: _____

Phone: _____

Email: _____

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 20 _____, a true and correct copy of the foregoing MOTION TO DISMISS was served upon counsel for the Responding Party via:

- U.S. Mail, First Class
- Hand Delivery
- Electronic Mail
- Facsimile
- Overnight Courier

Counsel for Responding Party:

Name: _____

Address: _____

Email: _____

Signature: _____

Print Name: _____

NOTARY PUBLIC ACKNOWLEDGMENT

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 20_____, before me, a Notary Public in and for said County and State, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he/she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

Notary Public: _____

Print Name: _____

My Commission Expires: _____

(SEAL)