

## EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

BATTLE FOAM, LLC, an Arizona company,

Plaintiff,

vs

OUTRIDER HOBBIES, an Arizona company,  
and Bryan Wade, an Individual

Defendants

CIVIL ACTION NO 1.10-cv-116

**DECLARATION OF BRYAN WADE IN RESPONSE TO PLAINTIFF'S OPPOSITION TO DEFENDANTS'  
MOTION TO DISMISS**

I, Bryan Wade, a sole proprietor, doing business as Outrider Hobbies, make the following declarations in support of the Defendants' Motion to Dismiss, or in the alternative, to transfer venue.

- 1) Bryan Wade is a sole proprietor, doing business as Outrider Hobbies. Outrider Hobbies is not, nor has it ever been, a Corporation as stated by the Plaintiff.
- 2) Outrider Hobbies has never conducted any business in the state of New Hampshire. No customers from New Hampshire have purchased any items from me or Outrider Hobbies. Upon examination of my records, neither I nor Outrider Hobbies have ever sent any promotional materials to any retail or wholesale customers in the state of New Hampshire. A search of my records indicates that I have only done business in Arizona, Pennsylvania, Texas, Illinois, Ohio, Alabama, Colorado, New York, and Michigan.
- 3) Neither I nor Outrider Hobbies have ever conducted any business with a "Jim Kavourias", the confused customer whose e-mail is attached to Plaintiff's Complaint as Exhibit E. Furthermore, there are no records in the Outrider Hobbies Online Store database indicating that Jim Kavourias ever purchased any products from Outrider Hobbies or contacted me or Outrider Hobbies.

Despite my attempts to contact Mr. Kavourias through the email provided, [jkavourias@aol.com](mailto:jkavourias@aol.com), I have never received a response from Mr. Kavourias or an e-mail indicating that my attempt to e-mail him was unsuccessful.

On April 11, 2010, while searching the internet in an attempt to locate Jim Kavourias by other means, I found the names "Jim Kavourias" and "Jim K." on the website for Diablo Bats, another business of Romeo Filip. Jim Kavourias was listed as someone that uses bats manufactured by Diablo Bats and Jim K. had provided a testimonial discussing his use of the bats. On April 12,

2010, Plaintiff's attorney was made aware of these facts regarding Jim Kavourias. When I conducted another search on April 15, 2010, I found that the name "Jim Kavourias" had been removed from the Diablo Bats website.

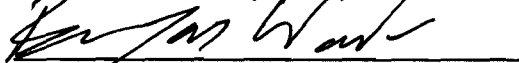
True Examples of the original website as found on April 11<sup>th</sup>, 2010, the changed websites found on April 15<sup>th</sup>, 2010, and a cached, or saved, version of the original page from April 7, 2010 as found through google.com on April 16<sup>th</sup>, 2010 are included as Defendant's Exhibit A.

A True Example of the email, [jkavourias@aol.com](mailto:jkavourias@aol.com), being associated with Jim Kavourias, a minor league baseball player for the Florida Marlins is included as Defendant's Exhibit B. This example was retrieved from the internet on May 14<sup>th</sup>, 2010.

- 4) I filed an Injunction Against Harassment (Case # J-1102-CV-201000520, Casa Grande Justice Court, Arizona) against Romeo Filip, the owner of Battle Foam, LLC. Romeo Filip was represented by an attorney at a hearing on the matter which took place on March 17, 2010. The name of the attorney was Jeff Lorona of Lorona, Steiner, Ducar, LTD.

Under penalty of perjury, I declare that all of the above statements are true.

DATED this 14th day of May, 2010, at Queen Creek, Arizona



Bryan Wade, Defendant Pro Se  
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