

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Christopher Anthony Roller, Plaintiff, v. David Copperfield's Disappearing, Inc., Defendant.	Case No.: 05-446 (JRT/FLN) DEFENDANT'S MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS ORAL ARGUMENT REQUESTED
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INTRODUCTION

Plaintiff Christopher Roller ("Roller") has commenced an action for a purported labor dispute against David Copperfield's Disappearing, Inc. ("Copperfield") under Minnesota Statute § 179.06. This statute relates to the notice required to negotiate or make changes to a collective bargaining agreement. Seeing as how Roller has never worked for Copperfield in any capacity anywhere ever and has no relation to Copperfield whatsoever, he has no claim currently nor could he ever have any employment or labor claim against Copperfield. Plaintiff's Complaint is best described as a claim for usurpation of Godly powers, which as this Court is aware, is beyond the jurisdiction of this Court or any court of this earth.

Plaintiff's Complaint fails to state a claim against Copperfield for which relief can be granted and it should be dismissed with prejudice pursuant to FED. R. CIV. P. 12(b)(6). As an additional and alternative basis for dismissal, this Court does not have jurisdiction over this matter and it should be dismissed pursuant to FED. R. CIV. P. 12 (b)(2).

FACTUAL BACKGROUND

David Copperfield's Disappearing, Inc. ("Copperfield") is the corporate entity that brings the magic of world famous magician David Copperfield to the stage and television screen. Copperfield is a Nevada corporation and has no employees or operations in Minnesota.

Plaintiff Christopher Roller is an individual residing in the State of Minnesota.

Plaintiff served and filed a Complaint against Copperfield on or about June 1, 2005. In the Complaint, Plaintiff alleges that Mr. Copperfield has "been using my godly powers to perform his magic" and that this usurpation of godly powers constitutes a labor dispute under Minnesota Statute § 179.06. However, Plaintiff does not allege that he has ever been employed by, for, or with Copperfield and fails to identify any facts relating to a labor dispute. In fact, it is undisputed that Plaintiff is not now, nor has he ever been, an employee of Copperfield.

Instead of alleging any facts which would state a claim upon which an allegedly cognizable claim might otherwise exist – because there are none¹ – Plaintiff's Complaint collapses into this non-cognizable demand: Roller's promise to leave Mr. Copperfield

¹ Defendant respectfully urges the Court to visit Plaintiff's website, www.mytrumanshow.com, to which the Plaintiff refers both the Court and Defendant. Therein Plaintiff makes the following claims including:

- Plaintiff is running for President of the United States in 2008 with Bill Gates as his running mate.
- Plaintiff claims he is Jesus Christ.
- Plaintiff claims he is God.
- Plaintiff claims that Katie Couric and Celine Dion are his wives and are going to have his children.
- Plaintiff claims there is a movie coming out soon about his life that stars Tom Hanks.
- Plaintiff claims he has killed all of his enemies.
- Plaintiff claims he will father 1,000,000 babies.

alone in exchange for Mr. Copperfield performing and divulging *in the courtroom* the magic behind Mr. Copperfield's tricks.

As it turns out, Plaintiff's claims are not unique against Copperfield. On or about June 7, 2005, Plaintiff filed a virtually identical Complaint against another magician, David Blaine. (**Affidavit of André J. LaMere, Ex. A.**)

ARGUMENT

A. Plaintiff's Complaint Fails to State a Claim.

A claim is subject to dismissal under FED. R. CIV. P. 12(b)(6) when "plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *Conley v. Gibson*, 355 U.S. 41, 45 (1957). Minnesota Statute § 179.06 relates to the notice required to negotiate or change a collective bargaining agreement between employees and employers. Since there has never been any employment relationship between Plaintiff and Defendant; there are no facts, and no legal theory, set forth in the Complaint that could conceivably provide the basis for the relief sought by Plaintiff. Furthermore, Defendant is unaware of any cause of action in this jurisdiction or in any jurisdiction related to relief for an alleged usurpation of godly powers. Thus, even were one to take Plaintiff's allegations as "true," his Complaint does not state a cognizable claim as a matter of law. Accordingly, dismissal with prejudice is warranted.²

² Without waiving its right to later do so, it should be noted that Defendant has not brought a Rule 11 motion at this time despite ample grounds to do so. Obviously, to the extent Plaintiff were to continue to pursue his "claim" herein, Defendant may be forced to seek sanctions under Rule 11 in order to deter Plaintiff from the repetition of such conduct. FED. R. CIV. P. 11.

B. Alternatively, This Court Lacks Jurisdiction over Plaintiff's Employment Claim.

In addition to Plaintiff's failure to state a claim, it also appears that this Court does not have jurisdiction to decide alleged employment claims in this case. In the employment context, the Court does not have personal jurisdiction over an employer where the corporation has no meaningful "minimum contacts" related to the cause of action. *Lucachick v. NDS Americas, Inc.*, 169 F.Supp.2d 1103, 1107-09 (D. Minn. 2001). In *Lucachick*, an employee sued his former employer for breach of contract and fraud related to his employment contract. *Id.* at 1105. The District Court granted the employer's motion to dismiss, finding that the alleged breach of employment contract was not related to any of the defendant's "minimum contacts" with Minnesota. *Id.* at 1108-09. All of the employment contract negotiations, the only contacts related to the cause of action, were conducted either on the telephone or in California – not Minnesota. *Id.* at 1108. Here, to the extent that Copperfield engages in any in-state conduct, it cannot possibly be related to an employment dispute as Copperfield has never had any employees in the state of Minnesota including Roller.

In *Lucachick*, the plaintiff had actually been a former employee of the defendant – and still, the Court held that there was no jurisdiction over plaintiff's employment claims in that case. To confer jurisdiction in an alleged employment dispute because of some unrelated and, in this case never-alleged, "minimum contacts" of Defendant with this forum would violate the principles of federal due process. *Id.* at 1108-09. Plaintiff has

alleged no facts whatsoever which would establish jurisdiction in this Court over this employment claim.

As a matter of public policy, this Court does not have jurisdiction. To hold otherwise would subject any celebrity or other person of notoriety or their management corporation to the jurisdiction of this Court, no matter where the celebrity resides, if someone, as here, were to be bring completely unsubstantiated employment claims.

CONCLUSION

Plaintiff's Complaint fails to state a cause of action because (a) there has never been an employment relationship between Plaintiff and Defendant, and (b) there is no known or recognized cause of action for usurpation of godly powers. In addition, and alternatively, this Honorable Court does not have personal jurisdiction over the Defendant for the purpose of adjudicating the employment nature of the claims made by Plaintiff in his Complaint. Accordingly, Plaintiff's Complaint should be dismissed with prejudice pursuant to Fed. R. Civ. P. 12(b)(2) & 12(b)(6).

Dated: June 15, 2005

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