

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DAVE CAMPBELL and  
DAWN CAMPBELL,

*Plaintiffs,*

v.

C. A. No. 4:12-cv-00165

NATIONAL DEVELOPMENT COMPANY,  
INC., CLYDE ENGLE, WOODLAND  
LAKES TRUSTEESHIP, INC., FRANCIS  
OSCAR DARIAN, JR., LAWRENCE DEIS,  
CRAIG KINMANN, ARTHUR HURLBURT,  
RUSSELL RICHARDS, DEBORAH  
CLUTTER, PATTY EDGAR, CRYSTAL  
KALLANSRUD, SIMONE HATTON,  
LAWRENCE ANDERSON, LINDA  
WADE, CHERYL DAVIS, AND  
TOM COLYOTT,

*Defendants.*

**DEFENDANTS' RESPONSE TO PLAINTIFFS'  
MOTION FOR LEAVE OF COURT TO AMEND PETITION**

TO THE HONORABLE JUDGE ELLISON:

Defendants Woodland Lakes Trusteeship, Inc., Deborah Clutter, Lawrence Deis, Francis Darian, Jr., Russell Richards, Craig Kinmann, Arthur Hurlburt, Thomas Colyott, Linda Wade, Crystal Kallansrud, Patty Edgar, Simone Hatton, Cheryl Davis, and Larry Anderson respectfully request that this Court deny Plaintiffs' Motion for Leave of Court to Amend Petition and issue an order dismissing this action pursuant to Federal Rule of Civil Procedure 12(b)(2) for the following reasons:

**1. The Court lacks personal jurisdiction over Defendants.**

Plaintiffs Dawn and Dave Campbell sued Woodland Lakes Trusteeship, Inc., Deborah Clutter, Lawrence Deis, Francis Darian, Jr., Russell Richards, Craig Kinmann, Arthur Hurlburt, Thomas Colyott, Linda Wade, Crystal Kallansrud, Patty Edgar, Simone Hatton, Cheryl Davis, and Larry Anderson.<sup>1</sup> All of these defendants are nonresidents that lack contacts with Texas and have thus asked this Court to dismiss plaintiffs' claims against them for lack of personal jurisdiction. *See* Docket Entry No. 5.

**2. Plaintiffs' amended petition and opposition to the motion to dismiss do not meet Plaintiffs' burden to establish personal jurisdiction.**

When a nonresident defendant moves to dismiss for lack of personal jurisdiction, it is the plaintiff's burden to establish a *prima facie* case for personal jurisdiction. *Stuart v. Spademan*, 772 F.2d 1185, 1192 (5th Cir. 1985); *see also Ham v. La Cienega Music Co.*, 4 F.3d 413, 415 (5th Cir. 1993). As explained in Defendants' Motion to Dismiss, Plaintiffs did not meet this burden in their Petition. Likewise, Plaintiffs make no attempt to meet this burden in either their Amended Petition or their Opposition or Objections to Defendants' Motion to Dismiss. *See* Docket Entry Nos. 6 & 9.

In fact, the Plaintiffs concede that "Defendants are residents of Missouri, Illinois/or Hawaii, and North Carolina." (Docket Entry No. 9 at 9-22; *see also* Docket Entry No. 1 at 9). And Plaintiffs cannot point to a single contact between Defendants and the State of Texas. The single piece of evidence Plaintiffs do rely upon, a website printout attached to Plaintiffs' Objections and Opposition to Defendants' Motion to Dismiss, is not relevant to the issue before the Court. As evidenced by Plaintiffs' exhibit, this website is maintained not by any of the

---

<sup>1</sup> Plaintiffs also sued National Development Company, Inc. and Clyde Engel. The undersigned counsel believes that National Development Company no longer exists. Neither National Development Company nor Clyde Engel has been served.

defendants, but rather by the Woodland Lakes Property Owners Association. *See* Docket Entry No. 6. But even if this website were maintained by Defendants, it is not an interactive website through which defendants do business with Texas residents. Rather, it is a passive website which, the Fifth Circuit has decided, is "not grounds for the exercise of personal jurisdiction." *Mink v. AAAA Development LLC*, 190 F.3d 333, 336 (5th Cir. 1999).

**3. Conclusion.**

Since Plaintiffs cannot meet their burden of establishing a *prima facie* case for personal jurisdiction, Defendants respectfully request that this Court deny Plaintiffs' Motion for Leave to Amend Petition and grant Defendants' Motion to Dismiss.

Respectfully submitted,

/s/ Casey T. Wallace

Casey T. Wallace  
State Bar No. 00795827  
Southern District Bar No. 20117  
1221 McKinney Street, Suite 2100  
Houston, Texas 77010-2007  
Telephone: (713) 547-2516  
Facsimile: (713) 236-5695  
[casey.wallace@haynesboone.com](mailto:casey.wallace@haynesboone.com)

OF COUNSEL:

ATTORNEY-IN-CHARGE FOR DEFENDANTS

Mike A. Stafford  
State Bar No. 18996970  
Southern District Bar No. 20898  
[mike.stafford@haynesboone.com](mailto:mike.stafford@haynesboone.com)  
Katharine D. David  
State Bar No. 24045749  
Southern District Bar No. 576771  
[kate.david@haynesboone.com](mailto:kate.david@haynesboone.com)  
HAYNES AND BOONE, LLP  
1221 McKinney Street, Suite 2100  
Houston, Texas 77010-2007  
Telephone: (713) 547-2000  
Facsimile: (713) 547-2600

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of March 2012, a true and correct copy of this motion was filed with the Court's ECF system and was served on the following parties via First Class and certified mail, return receipt requested:

***Plaintiffs, Pro Se:***

Dave and Dawn Campbell  
109 Rainbow Drive #921  
Livingston, Texas 77399

/s/ Casey T. Wallace  
Casey T. Wallace