UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

RUSS McCULLOUGH, a/k/a "Big Russ McCullough," RYAN SAKODA, and MATTHEW R. WIESE, a/k/a "Luther Reigns," individually and on behalf of all others similarly situated, **Plaintiffs,** **v.** **WORLD WRESTLING ENTERTAINMENT, INC.,** **Defendant.**	**LEAD CONSOLIDATED CASE** **CIVIL ACTION NO.** **3:15-cv-01074-VLB** **August 6, 2015**

ANSWER TO THE ORDER TO SHOW CAUSE WHY SUCH ACTIONS AGAINST WWE SHOULD CONTINUE TO BE FILED IN OTHER JURISDICTIONS

Plaintiffs' Counsel hereby submit their Answer to the Order to Show Cause why further cases against WWE should be permitted to be filed in forums other than this Court, and responds that the enforceability and applicability of the forum selection clause contained in an alleged minority of contracts is a question of fact and law to be determined based upon the unique facts and circumstances presented at such time as a future injured wrestler brings an action against WWE, especially given the fact only one court has ruled on the enforceability of the forum selection clause.

INTRODUCTION

A plaintiff can bring an action in their home jurisdiction, and the action should remain in that jurisdiction absent compelling reasons to the alternative.

The plaintiffs are severely injured and not able to pay to travel to Connecticut (in some cases from the West Coast). It would be impossible to assess every injured wrestler's rights and whether each individual wrestler is bound by a forum selection clause provision in a booking contract they may or may not have signed with WWE.

Plaintiffs' Counsel have alleged counts of fraud and negligence which alleged claims potentially violate individual states' public policy considerations, unwaivable state rights and which claims Plaintiffs' Counsel believe would invalidate WWE's forum selection clause. To prevent future plaintiffs from bringing claims in their selected forums would violate their Fourteenth Amendment due process rights since the validity of the forum selection clause is determined by the forum state, not by the forum contained in the forum selection clause. Therefore, to attempt to deny future plaintiffs' rights from filing in their home jurisdictions or jurisdictions where they were injured would fly in the face of justice and the fundamental civil procedure concepts established under the *Erie* Doctrine.

There have been three (3) related cases filed by injured wrestlers against WWE and two (2) wrongful death actions brought against WWE by some of Plaintiffs' Counsel. Of these five (5) cases, there has been only one ruling enforcing the forum selection clause provision in WWE's booking contract for one plaintiff. The issue of enforceability is still very much in dispute, as is the very existence of forum selection clauses in the majority of potential plaintiffs' contracts with WWE.

These wrestlers and plaintiffs have severe medical conditions resulting from their wrestling careers with WWE. WWE has left many of them destitute, injured, and alone.[1] They have no health insurance, no care and treatment, and no opportunity to protect themselves from the abuse of a billion dollar company who has for years taken advantage of these wrestlers' talents while attempting to insulate themselves from liability from the severe neurological injuries the WWE knew their wrestlers were continuously sustaining.[2]

The wrestlers themselves relied entirely on WWE's superior knowledge, care, and treatment since they did not have health insurance and could not afford personal medical care. WWE knew this, and paid in full for any injuries sustained while on the job the WWE believed would affect the wrestlers' performances. The WWE would assess their wrestlers before and after performances with the producers, agents, and medical personnel always watching the wrestlers. Even the executives including Vince McMahon, Stephanie McMahon, and John Laurinaitis were very much aware of the conditions of the wrestlers. Vince McMahon was so personally involved with wrestlers' performances and moves that protocol required his personal permission for the allowance of specific moves.

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[1] Which the Head of Talent Relations, Stephanie Levesque, admits she is ignorant about. *See* "Interview of: Stephanie McMahon Levesque", Committee on Oversight and Government Reform, U.S. House of Representatives, Washington, D.C., p. 62 (December 14, 2007).

[2] Statement by Stephanie Levesque regarding wrestlers health insurance:
"Q: Do you provide health insurance to your wrestlers, your talent?
A: No, we do not."
Committee on Oversight and Government Reform, U.S. House of Representatives, Washington, D.C., p. 130 (December 14, 2007).

Although WWE has and continues to attempt to hide behind a veil of ignorance and lack of responsibility, WWE has throughout its history taken up the responsibility for the health and well-being of its wrestlers, but has intentionally disregarded any acknowledgment of long-term care and treatment for the severe, chronic, and latent injuries including CTE, concussions, and sub-concussive injuries.[3] Despite the duty undertaken by WWE and its medical personnel, WWE refused to diagnose, treat, and rehabilitate its wrestlers who suffered repeated concussions and sub-concussive injuries. In fact, WWE repeatedly asserted the complete absence of concussive injuries in their wrestlers despite the overwhelming evidence to the contrary.[4] Such negligent and fraudulent acts and omissions have resulted in the severe and life-long, permanent injuries of hundreds of WWE wrestlers. These wrestlers are neurologically impaired and physically disabled. Many cannot work or maintain relationships. Many have difficulty even leaving their homes. To enforce a forum selection clause carte blanche against all wrestlers, regardless of whether they even signed a contract containing one, requiring these permanently physically and neurologically disabled wrestlers, each with their own individual conditions and specific contracts to fight to protect their rights in a foreign forum would be unconscionable and fly in the face of justice.

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[3] ***See*** **Committee on Oversight and Government Reform, U.S. House of Representatives, Washington, D.C., p. 114 (December 14, 2007):**

> **"Q: Have ringside doctors or treating physicians ever diagnosed a wrestler with a concussion and reported this to WWE?**
> **A: That I am aware of, no."**

[4] ***Id.*** **at 118:**

> **"Q: So, if I understand you correctly, since the enactment of the wellness policy, WWE has documented no concussions?**
> **A: As far as I know, as far as I was told -- .... no."**

II. PROCEDURAL HISTORY

A. *Haynes III v. World Wrestling Entertainment, Inc.*, 3:14-cv-01689-ST

Plaintiff's Counsel filed Billy Jack Haynes, III's action against WWE in October, 2014 in Portland, Oregon more than two months before the second filing. Mr. Haynes is a lifelong Oregon resident who was recruited and performed for WWE in Oregon. Oregon was therefore the appropriate forum to file in. Mr. Haynes never had a formal, written contract with WWE, nor *any* forum selection clause or choice of law provision. WWE admits as much. Plaintiff's Counsel appropriately filed in Mr. Haynes' home jurisdiction, where he had and is suffering injury.

In a blatant attempt at bullying Plaintiff's Counsel and consistent with the sharp practice by the defense, WWE's Counsel Mr. McDevitt informed Plaintiff's Counsel *in the very first phone conversation* WWE would be filing Rule 11 sanctions against Plaintiff's Counsel. Such document was sent to Plaintiff's Counsel on March 24, 2015 accusing Mr. Kyros of criminal conduct (barratry) and incorrectly stating Mr. Kyros never represented NFL players. This was just the beginning of Mr. McDevitt's abusive and obstreperous conduct more focused on creating a script for a WWE performance than on the fair and collegiate administration of justice.[5]

[5] An example of Mr. McDevitt's unprofessional behavior are his false statements to the media outlet TMZ.com, where he disparaged and mischaracterized plaintiff's counsel and the injured wrestlers themselves: Per the reporter: "the guys suing the WWE over alleged brain injuries are a bunch of 'nobodies' brainwashed by lawyers to believe they can score a quick buck. Mr. McDevitt is then quoted stating that the wrestlers only wrestled for a short time and were "being targeted by attorneys who tell them there's hundreds of thousands of dollars they can make by joining a class action suit like this". Mr. McDevitt continued, "We know these claims are fraudulent, and will fight them." "WWE Brain Injury Lawsuit Is Nothing But a Cash Grab", TMZ.com,

WWE asserted Mr. Haynes' claims were time-barred under Oregon law, challenged the jurisdiction of the Oregon court over WWE, and sought a transfer to Connecticut for lack of jurisdiction. To save time and expense (a concept Mr. McDevitt incessantly complains of despite his aptitude for theatrics and filing of excessive and multiple motions for declaratory judgments and sanctions), Mr. McDevitt refused to bifurcate the transfer and jurisdictional arguments, allowing the transfer motion to be ruled on first before the substantive Motion to Dismiss. Both motions were required to be briefed simultaneously.

Having fully briefed and filed the Motion to Dismiss and Motion to Transfer under Oregon law, both parties were scheduled and prepared for Oral Argument in Portland, Oregon on June 30, 2015. On the afternoon of Thursday, June 25, the court issued a Transfer order. This Transfer order *is not based on the applicability of any forum selection clause*. Obviously, in Mr. Haynes' case, the applicability of a forum selection clause is moot because Mr. Haynes' never signed a formal contract with WWE and never had a forum selection clause.

Plaintiffs' Counsel believed the existence of the clause in absent class members' contracts and the lack of the clause in Mr. Haynes' agreement with WWE were not factors rightly weighed and appealed the ruling. The ruling was affirmed July 27, 2015.

WWE's Counsel has repeatedly touted the impropriety of Plaintiffs' Counsel's filings, and yet the evidence does not indicate any improper forum shopping as Plaintiff filed in the disabled Mr. Haynes' home state, a state with

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http://www.tmz.com/2015/04/10/www-brain-damage-injury-lawsuit-scam/, (April 10, 2015), *last visited* August 5, 2015.

personal and subject matter jurisdiction, and for a plaintiff without any forum selection clause. In fact the WWE itself asserted that Oregon law applies to Haynes both in its Motion to Dismiss and Motion to Transfer. Indeed, WWE's Counsel used the Oregon Statute of Repose and Oregon law as its substantive defense, and wrote "that "[t]his Court's [Oregon] familiarity with Oregon law strongly weighs in favor of this Court deciding WWE's Motion to Dismiss as opposed to a Connecticut court less versed in the Oregon law Issues." See Motion to Transfer Venue and Supporting Memorandum at 2 n. 1 (Dkt. 47 Mar. 31, 2015). Thus the WWE's attempt to have the Oregon court decide Rule 12 motions while simultaneously trying to transfer the matter to its home district is an obvious example of forum shopping certainly more obvious than the initiation of a lawsuit in Oregon by a lifelong Oregon resident.

Further following the transfer of the Haynes case from Oregon, the WWE has not (yet) withdrawn its motion to dismiss the action based on Oregon law. Instead of withdrawing the motion, the WWE filed a declaratory judgment action (itself procedurally strange) against four other wrestlers which contained a myriad of allegations regarding Haynes (including calling him a "drug mule"), yet curiously argued that all claims should be governed by Connecticut law. So procedurally, the WWE has left the court with the procedural quagmire created by the WWE of addressing this Order to Show Cause and the WWE's declaratory judgment action seeking application of Connecticut law against all wrestlers, while at the same time being asked by the WWE to determine the viability of the Haynes action pursuant to Oregon law.

B. *Singleton, et al. v. World Wrestling Entertainment, Inc.*, 3:15-cv-00425-VLB

Filed in January, 2015 in the Eastern District of Pennsylvania, both plaintiffs Evan Singleton and Vito LoGrasso are residents of Pennsylvania and both suffered disabling injuries. Mr. LoGrasso first wrestled for WWE in 1990 and suffered repeated brutal and sustained beatings to his head resulting from the frequent addition of choreographed "heat" written into his scripts by WWE's Creative department, including by the McMahon family themselves. Mr. Lograsso ended his career with WWE in 2007 and is disabled, unemployed, and has been diagnosed with cervical dysfunctia, depression, recurring headaches, and is deaf.

Mr. Singleton signed with WWE immediately after high school and was given no realistic opportunity to negotiate terms, but was told the contract was "take it or leave it". He did not have a lawyer representing him. After being instructed to perform numerous dangerous moves without the proper training and without experienced wrestlers performing the dangerous moves against him, Mr. Singleton was grabbed by the neck and thrown to the mat with excessive force suffering a blow to the head and causing brain damage which WWE refused to acknowledge for a critically long period of time. Just one more example of WWE's attempted ignorance through blind refusal to acknowledge the severe and extreme injuries sustained by their wrestlers, Mr. Singleton required immediate medical attention to treat his life-threatening brain damage. Instead, WWE employees sent Mr. Singleton home where his condition worsened. Numerous WWE physicians downplayed Mr. Singleton's injuries, urging "rest". Mr.

Singleton had in fact suffered a traumatic brain injury. At the age of 22, Mr. Singleton has been diagnosed almost completely disabled.

Despite the permanently disabled nature of both Mr. Singleton and Mr. LoGrasso, WWE refused to litigate the case in the disabled wrestlers' home state of Pennsylvania resulting from the forum selection clause in Mr. Singleton's contract and in a portion of Mr. LoGrasso's contracts with WWE. Plaintiffs' Counsel agreed to a transfer to Connecticut while reserving the argument for transfer to prevent WWE's Counsel from twisting the procedural history into the appearance that Plaintiff was acquiescing the enforceability of the forum selection clause. Despite the clear language in the motion to the Pennsylvania court reserving the argument against transfer, WWE in their gamesmanship filed a motion after the agreement to transfer in order to create the judicial record they wanted. A letter dated March 19 and attached hereto as Exhibit A and filed with the Pennsylvania court by the defense was in fact a substantive brief on the forum selection clause. The letter itself acknowledges Plaintiff agreed to the transfer while reserving rights to the argument.

> **Prior to the filing of the formal motion, counsel for plaintiffs agree that transfer to Connecticut was appropriate in correspondence attached to our motion, but did not appear to agree that transfer was due to forum selection clause.**

Mr. Pogust, an attorney representing Singleton and LoGrasso responded to WWE's letter to the court which is attached as Exhibit B with the following:

> **Please note that although plaintiffs do not agree with all the representations set forth in counsel's letter dated March 19, 2015, plaintiffs will not be opposing defendant's motion to transfer this case to the district of Connecticut.**

The Pennsylvania court made no ruling on either the applicability or enforceability of the forum selection clause. The court did not issue a transfer order based on the forum selection clause, despite WWE's attempts to distort the procedural history. In fact, WWE characterized the transfer as:

> **After the WWE's counsel notified Kyros that both Singleton and LoGrasso had signed forum selection clauses, Kyros refused to withdraw the improperly-filed lawsuit and refile it in Connecticut. WWE then filed a motion to enforce the forum selection clauses and to transfer, and neither he nor any of the cadre of lawyers offered any justification for not honoring the forum selection clause. The order transferring the case to this court found that plaintiffs "agree[d] the District of Connecticut is an appropriate forum.**
> **Complaint, *World Wrestling Entertainment, Inc. v. Windham, et al.*, No. 3:15-cv-00994, p. 11-12.**

In a tactful revision of the procedural history WWE's Creative department would be proud of, WWE's Counsel created a false record of the filings and falsely implied that the court somehow ruled on the motion. The reality is WWE's motion to enforce the forum selection clause and to transfer venue was filed after Plaintiff agreed to a non-substantive transfer while reserving the rights to such substantive arguments. The reality is WWE's motion to transfer was never ruled on in Pennsylvania, and no motion to enforce the forum selection clauses was ever ruled on in Pennsylvania. The reality is Plaintiffs' Counsel never engaged in improper procedure, and WWE's Counsel is merely engaging in script-writing through their motions. In concurrence, the *Singleton, et al.* case was transferred to Connecticut on January 1, 2015 absent any order on the applicability or enforceability of the forum selection clause.

C. *Russ McCullough, et al. v. World Wrestling Entertainment, Inc.*, 3:15-cv-01074-VLB

In April 2015, three wrestlers alleging they suffered serious injury from their tenure with WWE filed an action against WWE in their home state of California with California counsel, Audet & Partners LLP. Suddenly, WWE shifted their defense away from forum selection clause applicability and enforceability to a smear campaign against Mr. Kyros and the other firms representing Mr. Singleton, Mr. LoGrasso, and Mr. Haynes accusing them of "concealing their identity on the case".

In a sleight of hand, Mr. McDevitt feigned indignation and rebuke on Mr. Kyros for referring residents of California to a reputable and well-qualified California law firm to distract from the substantive issues in all the cases and to buttress WWE's twisted argument that because the lawyers on *Singleton, et al.* agreed to a transfer to Connecticut from Pennsylvania, entirely different counsel should agree to a transfer to Connecticut from California and because Mr. Kyros did not order the transfer he must be doing something improper.

WWE filed a transfer motion which was fully briefed with good faith arguments advanced establishing why three injured men who reside across the country should not be bound by the non-negotiated clauses requiring them to travel to Connecticut. On July 13, 2015, the California court agreed with WWE for the first time in any case, ruling the clauses were enforceable under California law; albeit with questions left unresolved with respect to governing law.

In addition to the three cases above, there are two other cases filed by some of Plaintiffs' Counsel in two other jurisdictions. Plaintiffs' Counsel believes

these cases are distinct, present different issues, and are not before the Connecticut Court at this time. Procedurally, both cases predate the July ruling in *McCullough*.

D. *Cassandra Frazier v. World Wrestling Entertainment, Inc.*, 2:15-cv-02198-JPM-cgc

The widow of Nelson Frazier, Jr. brought a wrongful death action against WWE on February 18, 2015, the one year anniversary of Nelson Frazier, Jr.'s death. Mr. Frazier was one of the most storied and prolific WWE performers and ranks in the top 100 most all time appearances. One of only a few African American performers for WWE, he was billed as a 500 pound monster, in which some of his roles appear to have been exploitative and in poor taste. Per the filing, WWE required him to wrestle hundreds of nights per year with no rest where he allegedly sustained injuries that led to his death at the age of 43. WWE allegedly provided no health care to him during his tenure with WWE or after his retirement.

Despite the tragedy of Nelson Frazier, Jr.'s death, and the objective reasonableness of bringing such a suit against WWE, and instead of merely offering condolences to the family of Nelson Frazier, Jr., Mr. McDevitt replied to the media that he would likely "seek sanctions" against Mr. Kyros for bringing "frivolous lawsuits".[6] Mr. McDevitt continued, "It's an embarrassment to be a lawyer sometimes. It's ridiculous that someone can…try to blame someone because a gentleman with a weight problem died of a heart attack in the shower

[6] ***See*** **Boston Herald, *available at* http://www.bostonherald.com/news_opinion/columnists/2015/03/full_court_press_wwe_mass_lawyer_in_legal_cage_match, *last visited* August 5, 2015.**

eight years after he last performed. It's ridiculous to try and blame someone for that." *Id.* These statements by WWE's Counsel encapsulates their view that latent injuries arising from damage occurring while wrestling for WWE is not their problem. They refuse to accept responsibility for any type of latent injury resulting from the abusive and dangerous workplace they fostered and created, yet concealed this reality from their employees.

Plaintiffs' Counsel asserts that Tennessee is the most appropriate forum for this case, and the issue has been fully briefed, filed, and argued as to why WWE's forum selection clause should not govern his widow's claims under Tennessee and Connecticut law. The Tennessee court has not yet ruled on WWE's transfer motion.

E. *James v. World Wrestling Entertainment, Inc.*, 3:15-cv-02146-L

This wrongful death action was filed on behalf of Michelle James, the mother of two minor children whose father, Matt Osborne, died June 28, 2013 allegedly due to injuries and drug addiction resulting from his WWE career. The case was filed in Texas where Mr. Osborne resided at the time of his death. WWE, not surprisingly at this point, but in violation of Texas local rules, has already served Rule 11 sanctions against Plaintiffs' Counsel in this matter. The case was filed June 26, 2015, two weeks before the *McCullough* ruling and three days before the two year Statute of Limitations in Texas would have run. Yet Mr. McDevitt seems to believe protecting clients' rights is sanctionable under Rule 11.[7]

[7] **Further, despite Mr. McDevitt's theatrics, this case resembles the wrongful death action filed by the Estate of Curtis Whitley, an NFL player whom died of a drug overdose in 2008 allegedly from**

WWE's Counsel emphasizes the *Haynes'* transfer order was issued one day before *James* was filed in Texas. However, the transfer order did not determine the validity of the forum selection clause in Texas, nor would it have been reasonable to presume the requirement that we file a Texas wrongful death action in Connecticut because a transfer order from Oregon was issued and before Plaintiffs' Counsel's opportunity to appeal the transfer order.

The *James* case presents unique issues yet to be decided – namely, does a forum selection clause bind the minor children of a decedent under governing law. A related issue (does such a clause bind a widow) at the time of this writing is still pending in federal court in the Western District of Tennessee.

Both this case and the *Frazier* case are examples why such a purported forum selection clause cannot be *the* determining factor in deciding the jurisdiction for future filings. Each case is unique, with distinct parties, sets of facts, and specific contracts and agreements.

F. *World Wrestling Entertainment, Inc.*, v. Windham, et al., 2:15-cv-00994

In similar language from the initially threatened Rule 11 sanctions in Oregon, Mr. McDevitt recycled most of his rambling, irrelevant allegations verbatim for use in a declaratory judgment action in this Court. Plaintiffs' Counsel had sent letters of representation for four wrestlers to WWE and requested that their booking contracts be provided. Instead of providing the booking contracts, WWE filed a declaratory judgment against the four wrestlers requesting the court to determine that Connecticut law governs the wrestlers'

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complications of head injuries related to his NFL career. *See Camarena v. National Football League*, No. 3:12-cv-02290-EDL (ND CA 2012).

actions and that the Connecticut Statute of Limitations applies to their claims. WWE has since sought to identify other retained clients that may have claims in a John Doe action.

Plaintiffs' Counsel believes three of the wrestlers did not have booking contracts with WWE, a fact supported by the WWE's affidavits, the years they wrestlers performed for WWE, and the declaration by WWE that the forum selection clauses were introduced at a very late stage in the history of WWE – sometime around 1991 and fully integrated in 2000.

Two of the men are confined to wheelchairs, and none are residents of Connecticut. Instead of working with Plaintiffs' Counsel in the interests of judicial economy, WWE choked-out any efforts at collegiality by filing this unusual lawsuit that ignored the fact some performers in question (Plaintiffs' Counsel believes three of the four) do not have contracts with forum selection clauses or choice of law provisions and are severely disabled. Mr. McDevitt, in yet another attempt at scriptwriting, went to the media:

> **"WWE attorney Jerry McDevitt said the company is being targeted by a lawyer who is improperly shopping lawsuits to former wrestlers across the country. He said the wrestlers are being convinced they can make a windfall similar to former NFL players who brought similar litigation. "Before this guys started trolling around looking for people to sue, we didn't have one person, none, claiming they had any kind of traumatic brain injuries, or dementia or ALS or any of the kind of stuff you seek associated with the NFL", McDevitt said.**
> **"WWE Seeking to Block Concussion – Related Lawsuits", AP News, http://bigstory.ap.org/article/8e0c9cb3f7d748b29fb1d4d595f9d7bd/wwe-seeking-block-concussion-related-lawsuits, *last visited August 5, 2015***

Ironically, a few paragraphs later Mr. Windham, one of the wrestlers targeted by WWE in its lawsuit tells the AP reporter that he is in fact diagnosed

with dementia. Additionally, the statement by Mr. McDevitt is not true as WWE was investigated by Congress after its main star killed himself and his family. His autopsy revealed he had CTE and brain trauma of the type found in many NFL players. This diagnosis is something Mr. McDevitt continues to dispute. WWE continues to intentionally hide behind feigned ignorance of the neurological diseases and illnesses their wrestlers and former wrestlers suffer from, and the causes that WWE promotes and allows to repeatedly occur.

WWE filed a lawsuit against its own disabled retired wrestlers with the goal to strip them of any state law claims where they reside and drag them into a Connecticut court that WWE believes will bar their claims by statute. This case will be argued in coming months, but it should be noted to the Court WWE is committed to a policy of distorting the factual record regarding the serious injuries wrestlers sustained while performing for WWE, the procedural history and context of the cases, as well as the existence, prevalence, and effect of the forum selection clauses in wrestlers' booking agreements.

III. THE EXISTENCE, PREVALENCE, AND EFFECT OF FORUM SELECTION CLAUSES IN PUTATIVE CLASS MEMBERS' BOOKING AGREEMENTS REMAIN A FACTUAL DISPUTE

WWE has continually asserted the prevalence of forum selection clauses in the booking contracts for WWE wrestlers and by extension, the plaintiffs in the above mentioned cases and potential future plaintiffs. However, once again this is a distortion of the truth and an effort to conceal the facts. In reality, many wrestlers were labeled as "jobbers" or "enhancement talent" that performed for WWE. These jobbers had no booking contract with WWE and had no forum

selection clause. These wrestlers could have performed just as often or more than wrestlers with contracts, and were employed for many decades as part of WWE's business model. Jobbers would perform the same moves, and sustain the same injuries as any other wrestler performing for WWE.

In a declaration to the court in the *Haynes* case, Mr. Kyros stated: "I have spoken with many wrestlers who wrestled in WWF/WWE events after 1991 who state that they performed with no booking contract. Additionally, I have reason to believe based on investigation that there are hundreds of such wrestlers. These are wrestlers that are asked to perform in WWF/WWE events as 'jobbers' or 'enhancement talent' with no WWE booking agreements."

Plaintiffs' Counsel stands by the above assertions as factually accurate observations that WWE and most of the wrestling world knows to be true despite WWE's Counsel asserting that the entire declaration should be disregarded as "wholly conclusory- hearsay statements that summarize his alleged conversations with certain unidentified wrestlers." *See* Exhibit C attached hereto.

Besides the jobbers and enhancement talent that never even had a contract, numerous wrestlers before 1991 never had a forum selection clause or choice of law provision in their contracts, and even after 1991 it will be a question of fact to be determined during discovery whether one actually existed in each individual wrestler's booking contract or agreement as that wrestler comes forward and decides to bring an action against WWE for the injuries he or she sustained while performing for WWE. Ultimately, it will be a question of fact

whether a forum selection clause actually exists. If a forum selection clause does not exist, then the plaintiff's choice of forum must be given deference.

IV. ENFORCEABILITY OF FORUM SELECTION CLAUSE IS DETERMINED BY PLAINTIFF'S CHOSEN FORUM

"There is ordinarily a strong presumption in favor of the plaintiff's choice of forum, which may be overcome only when the private and public interest factors clearly point towards trial in the alternative forum." *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 256 (1981) (noting that the plaintiff's choice of forum is given greater deference when the plaintiff has chosen the home forum); *Atl. Recording Corp. v. Project Playlist, Inc.*, 603 F. Supp. 2d 690 (SD NY 2009) (holding a plaintiff's choice of forum is entitled to substantial deference and that presumption is even stronger where the chosen forum is also the plaintiff's home). However, where a contract with a valid forum selection clause exists, "the valid forum selection clause should be given controlling weight in all but the most exceptional cases." *Atl. Marine Constr. Co. v. United States Dist. Court*, 134 S. Ct. 568, 581 (2013)

"Because *Atlantic Marine's* rule only applies in the context of a valid forum selection clause, district courts must consider arguments that the clause is invalid." *Bayol v. Zipcar, Inc.*, No. 14-cv-02483-THE, 2014 U.S. Dist. LEXIS 135953, 2014 WL 4793935 (N.D. Cal., Sept. 25, 2014). Here, to properly assess whether a WWE forum selection clause would apply to any future plaintiff, first it must be determined whether the plaintiff actually has a forum selection clause in his or her contract with WWE. *Atlantic Marine* makes clear that the strict calculus

removing plaintiff's convenience only applies with a "valid" forum selection clause.

Plaintiffs' Counsel asserts that many, if not most, of the injured wrestlers and potential putative class never signed an agreement with a forum selection clause as WWE themselves asserted the forum selection clause provision was only implemented in 1991 and was not fully implemented until 2000. If no forum selection clause exists, then a plaintiff has the right to bring an action in a reasonable jurisdiction of his or her choosing.

In the event a forum selection clause actually exists in contract with a hypothetical future plaintiff, then the forum state that future plaintiff brings the action in must determine the validity of the forum selection clause based upon that individual state's public policy considerations and the unique facts of that case. To attempt to analyze the overwhelming plethora of potential facts and circumstances which could give rise to the unenforceability or enforceability of the forum selection clause at this time with hypothetical future plaintiffs would be a task laden with futility.

"Accordingly, the Supreme Court's framework as set forth in *Atlantic Marine* requires a two-part analysis. First, a district court must determine whether the forum selection clause is valid and enforceable." *Silvis v. Ambit Energy, LP, et al.*, No. 2:14-cv-05005-ER, Paper No. 30, p. 5 (ED PA, March 13, 2015) (stating forum selection clauses are "prima facie valid and should be enforced unless enforcement is shown by the resisting party to be 'unreasonable' under the circumstances") (emphasis added) (internal quotations omitted). "In

other word, that the agreement is undermined by "fraud, undue influence, or overweening bargaining power". *Id.* at 5-6. The second step is considering whether "extraordinary circumstances" exist to find the forum selection clause unenforceable. *Atl. Marine*, 134 S. Ct. at 581.

Further, many states recognizing the two-part test post-*Atlantic Marine* analyzing the enforceability of a forum selection clause based upon state law and state considerations before applying the *Atlantic-Marine* modified 1404(a) test have assessed the validity of the forum selection clauses differently. *See Bayol v. Zipcar, Inc.*, No. 14-cv-02483-THE, 2014 U.S. Dist. LEXIS 135953, 2014 WL 4793935 (N.D. Cal. Sept. 25, 2014) (holding a court must apply *Bremen* to determine whether a forum selection clause is valid before engaging in *Atlantic Marine's* calculus); *Martinez v. Bloomberg LP*, 740 F.3d 211, 227-28 (applying Second Circuit's version of the *Bremen* test to determine forum selection clause validity); *Loeffelholz v. Ascension Health, Inc.*, No. 3:13-cv-1495-J-25JRK, 34 F. Supp. 3d 1187, 2014 U.S. Dist. LEXIS 106571 (M.D. Fla. June 25, 2014 (recognizing the applicability of the Eleventh Circuit's *Bremen* test post-*Atlantic Marine*).

What is constant, however, is the deference the forum state is provided in determining the enforceability of the forum selection clause based upon the individual state's public policy considerations. *See Saladworks, LLC v. Sottosanto Salads, LLC*, No. 13-3765, 2014 U.S. Dist. LEXIS 85525 (E.D. Pa. June 24, 2014) (examining public policy of the forum state to determine whether a forum-selection clause was valid for purposes of *Atlantic Marine*); *see also* (*Trevino v. Cooley Constructors, Inc.*, No. 5:13-cv-00924-DAE, 2014 U.S. Dist.

LEXIS 79154 (W.D. Tex. June 9, 2014); *Turfworthy, LLC v. Dr. Karl Wetekam & Co.*, No. 1:13-cv-390, 26 F. Supp. 3d 496, 2014 U.S. Dist. LEXIS 81930 (M.D.N.C. June 17, 2014); *TempWorks Software, Inc. v. Careers USA, Inc.*, No. 13-2750 (DSD/SER), 2014 U.S. Dist. LEXIS 69617 (D. Minn. May 21, 2014).

Depending on the forum state, the assessment would also critically analyze any choice of law provisions the future plaintiff might have with WWE and such clause can be found invalid just as a forum selection clause. *Bayol*, at 4-10. In this case, it would be up to the forum state selected by the future plaintiff to determine whether Connecticut law should apply to this future plaintiff's claims and therefore it would be impossible at this juncture to determine whether Connecticut law would even govern over this future plaintiff.

The Supreme Court has not identified the test a court should apply to determine whether the forum selection clause is valid. *See Black Hills Truck & Trailer, Inc. v. MAC Trailer Mfg.*, No. 13-4113-KES, 2014 U.S. Dist. LEXIS 157968, at 10-11 (SD SD, Nov. 6, 2014) (noting, however, that the 'interest of justice' test for invalidating a forum selection clause was still appropriate as the public policy of the forum state must be part of the analysis). Therefore, the reasonable forum state selected by the future plaintiff, in the event WWE chose to file a transfer motion to enforce a forum selection clause that may or may not exist, would be required to determine its validity based upon its own public policy considerations and interests of justice given the unique facts and circumstances in that case. *See Verdugo v. Alliantgroup, LP*, 237 Cal. App. 4th 141 (May 28, 2015) (establishing that an employer seeking to enforce a forum selection clause in an employment

agreement bore the burden to show that litigating wage and hour claims in the designated forum of Texas would not diminish in any way the employee's substantive rights under California law, which under the California Labor Code could not be waived).

Plaintiffs' Counsel asserts and has asserted in the cases described above that WWE has engaged in fraudulent and deceptive conduct intentionally designed to shroud the realities of concussion-based injuries from their wrestlers to prevent WWE wrestlers from receiving necessary medical care and treatment in order to maintain the grueling wrestling schedule required to keep up with WWE's Creative scripts necessitating wrestlers' performance on demand to increase WWE's massive profits from its entertainment empire.

WWE was aware of the dangers of receiving concussions and sub-concussive injuries, yet not only omitted any information on preventing concussions and the signs and symptoms of concussions from their wrestlers, but actively downplayed their occurrence in WWE and routinely incorrectly diagnosed their wrestlers with not having concussions and clearing their wrestlers to perform which resulted in multiple, compounding concussions leading to severe, permanent neurological injuries latent until years later where such significant symptoms as dementia, Alzheimer's, and death can and has occurred.

These claims and injuries suffered by wrestlers can certainly fit within the public policy considerations urging a plaintiff's selected forum court to find a forum selection clause and choice of law provision invalid as a result of WWE's

fraudulent and negligent conduct. *See Bayol*, at 10 (quoting the *Bremen* standard by stating "a forum selection clause is invalid if enforcement would contravene a strong public policy of the forum in which suit is brought") (internal quotations omitted); *see e.g. Doe 1 v. AOL, LLC*, 552 F.3d 1077, 1084 (9th Cir. 2009) (finding a forum selection clause invalid where the clause was in violation of the forum state's antiwaiver provision, "as well as California's 'strong public policy' to 'protect consumers against unfair and deceptive business practices'").

It is not unreasonable to presume that a fully neurologically and physically disabled wrestler destitute as a result of his injuries sustained while employed by WWE decides to bring an action against WWE for those injuries in the disabled wrestler's home state. To deny that severely injured and disabled wrestler the opportunity to argue against the enforcement of a hypothetical forum selection clause which would significantly burden him in his or her own state would be a gross miscarriage of justice and a violation of the disabled wrestler's Fourteenth Amendment due process rights.

Finally, where no class has been established or certified, no notice provision enacted, and no method of obtaining contact information for potential class members has been initiated, any attempt to limit future plaintiffs' rights at this point would be a clear violation of their due process rights under the Fourteenth Amendment. *See Phillips Petroleum, Co. v. Shutts*, 472 U.S. 797 (1985).

Therefore, in an action involving potentially hundreds of individuals each with unique circumstances, as in the instant cases involving numerous

individuals with distinct facts and specific contracts (or non-existent contracts), this Court should not prevent Plaintiffs' Counsel from filing actions in other jurisdictions as it is impossible to determine the actual validity of the forum selection clause at this time, or even the existence of the forum selection clause in current or potential plaintiffs' contracts without further discovery. Since the hypothetical future plaintiff is entitled substantial deference in his choice of forum and has the right to argue the validity of a forum selection clause, to prevent all future, disabled, hypothetical plaintiffs from bringing a claim in their home jurisdiction to argue the validity of a forum selection clause would be grossly unconscionable.

Plaintiffs' Counsel requests a hearing on this matter.

DATED: August 6, 2015

Respectfully submitted,

By:_ /s/ Konstantine W. Kyros
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March 19, 2015

VIA FACSIMILE (267) 299-5068
Honorable Lawrence F. Stengel
U.S. District Court
Eastern District of Pennsylvania
3809 U.S. Courthouse
601 Market Street
Philadelphia, PA 19106-1797

RE: Evan Singleton and Vito Lograsso, et al. v.
World Wrestling Entertainment, Inc.
Civil Action No. 15-223

Dear Judge Stengel:

Defendant World Wrestling Entertainment, Inc. ("WWE"), writes to respectfully request an extension to serve a responsive pleading in light of its presently pending and unopposed Motion to Transfer Venue (Doc. 6).

By way of background, WWE moved on February 27, 2015 to transfer venue based on the agreements between both plaintiffs and WWE which contained a mandatory forum-selection provision establishing the U.S. District Court for the District of Connecticut as the exclusive forum for any disputes arising out of or related in any way to the contracts for professional wrestling services between the parties. Allowing for an additional three days service by electronic means, the opposition to the motion was due March 16, 2015. No opposition has been served on WWE or been filed on the Court's CM/ECF system. As such, the motion is unopposed. Prior to the filing of the formal motion, counsel for plaintiffs agreed that transfer to Connecticut was appropriate in correspondence attached to our motion, but did not appear to agree that transfer was due to forum selection clauses. Thus, we filed the motion seeking an order that such a transfer was due to such clauses as it bears on choice-of-law issues which will govern future proceedings.

WWE has until March 30, 2015 to file and serve a responsive pleading or move to dismiss. However, the decision on the substantive law governing disposition of this case—and therefore the precise arguments and averments in a motion to dismiss—hinges on the disposition of the motion to transfer venue. This is so, because the Supreme Court, in *Atlantic Marine Construction Co., Inc. v. United States Dist. Ct. for W. Dist. of. Texas,*

34 S. Ct. 568 (2013), held that "when a party bound by a forum-selection clause flouts its contractual obligation and files suit in a different forum, a § 1404(a) transfer of venue will not carry with it the original venue's choice-of-law rules." 134 S. Ct. at 582. In light of that issue (raised in WWE's motion), WWE requests that the Court convene a telephonic status conference among all parties to discuss disposition of the transfer motion with respect to the timing of any motion to dismiss (or other responsive pleading) WWE may file. In the alternative, WWE requests the Court enter an order adjourning the date WWE's responsive pleading or motion to dismiss is due until the Court decides the motion to transfer venue.

Please contact undersigned counsel if Your Honor would prefer this request be made by formal motion via CM/ECF.

Respectfully,

Matthew H. Haverstick

MHH/jrw
Enclosure
cc: All counsel (via electronic mail)

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March 20, 2015

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Honorable Lawrence F. Stengel
U.S. District Court
Eastern District of Pennsylvania
3809 U.S. Courthouse
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Philadelphia, PA 19106-1797

Re: *Singleton, et al. v, World Wrestling Entertainment, Inc.*
Civil Action No. 15-223

Dear Juge Stengel:

Please note that although plaintiffs do not agree with all the representations set forth in counsel's letter dated March 19, 2015, plaintiffs will not be opposing defendant's motion to transfer this case to the district of Connecticut.

Respectfully,

Harris L. Pogust

cc: All Counsel (via electronic mail)

Exhibit C

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World Wrestling Entertainment, Inc.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

WILLIAM ALBERT HAYNES III, individually and on behalf of all others similarly situated, Plaintiffs, vs. WORLD WRESTLING ENTERTAINMENT, INC., Defendant.	Case No. 3:14-cv-01689-ST DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS TO OPINION AND ORDER GRANTING MOTION TO TRANSFER VENUE

I. INTRODUCTION & BACKGROUND

By Opinion and Order dated June 25, 2015, Magistrate Judge Stewart ("Judge Stewart") ordered that this putative class action be transferred to the District of Connecticut pursuant to 28 U.S.C. § 1404(a). In concluding that the public and private interests weighed in favor of a transfer, Judge Stewart, relying on controlling Ninth Circuit precedent, found that little deference should be accorded to plaintiff Haynes' choice of forum because (a) he brought this case as a nationwide class action, (b) "many of the putative class members are subject to mandatory forum selection clauses requiring disputes to be resolved in the District of Connecticut," and (c) Haynes' lead counsel, Konstantine Kyros, ("Kyros") had filed multiple, entirely duplicative actions against WWE across the country, which evidenced forum shopping. Judge Stewart found that the rest of the public and private interest factors – the costs of litigation, the respective jurisdictions' relationships to the dispute, and the ease of access to sources of proof – were "either neutral or weigh in favor of a transfer of this case" to Connecticut.

The day after Judge Stewart's rulings regarding the import of forum selection clauses and the forum shopping of Kyros, he filed yet another substantially similar case in Texas. Specifically, Kyros filed an action in the Northern District of Texas against WWE on behalf of the former girlfriend of a deceased wrestler, Matthew Osborne ("Osborne"). Although Osborne died of a drug overdose in 2013, some twenty years after he last regularly performed for WWE, the suit attempts to blame his death on alleged traumatic brain injuries caused by performing for WWE. The case was filed in Texas even though the plaintiff and her children live in Pennsylvania, and in breach of a mandatory forum selection clause contained in Osborne's contract with WWE that establishes the District of Connecticut as the exclusive forum for any such claims. Mr. Osborne is a member of the putative class covered by the *Haynes* case and

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every other class action suit filed by or on behalf of Kyros since he began the forum shopping campaign identified in Judge Stewart's Order.[1] The Osborne case represents the fourth time that Kyros, and those attorneys acting in concert with him, have ignored mandatory forum selection clauses and the unanimous decision of the United States Supreme Court in 2013 holding that such clauses are to be given controlling weight in all but the most exceptional cases. *Atlantic Marine Constr. Co., Inc. v. U.S. Dist. Ct. for the Dist. of Texas*, 134 S. Ct. 568, 581 (2013).

Now, Haynes objects to Judge Stewart's ruling under Rule 72(a) and 28 U.S.C. § 636(b)(1), claiming chiefly that the forum-shopping conclusions were wrong and, incredibly, that there was no record evidence of mandatory forum selection provisions. Haynes' Objection faces a high burden. He must establish that Judge Stewart's non-dispositive and highly discretionary ruling was "clearly erroneous" or "contrary to law." *Id.* The Objection comes nowhere close to meeting this burden – Haynes merely rehashes arguments that were presented to, and rejected by, Judge Stewart. Worse, the Objection flatly misstates the record that was before Judge Stewart.

Haynes specifically objects to the following "private interest" findings made by Judge Stewart: (i) "[t]he difference in costs of litigation is neutral," Order at 6, (ii) "many of the putative class members are subject to mandatory forum selection clauses requiring disputes to be resolved in the District of Connecticut," *id.* at 7, and (iii) Haynes' counsel "may be engaging in forum shopping," *id.* Haynes claims that these findings were not supported by the record and

[1] One might expect that Haynes would have disclosed the filing of the *Osborne* suit in his Objection, given that his lawyers filed it the day after Judge Stewart concluded that there was evidence that Haynes' lawyers had engaged in forum shopping. It was not disclosed. Instead, while attempting to justify the prior forum shopping, Haynes' counsel represented that all of the subsequent suits had been filed by individuals in their home districts. Order at p.9. Obviously, a suit in Texas on behalf of Pennsylvania residents is not a suit in the home district of those plaintiffs.

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were instead a product of "*ad hominem"* attacks on Kyros and the "successful sale of . . . legal conclusions devoid of supporting facts." Doc. 61, Pl.'s Objections to Op. and Order ("Obj.") at 2.

Haynes' arguments should be summarily rejected. First, the facts before Judge Stewart, if anything, showed that the "costs of litigation" weighed in favor of a transfer because there would be more Connecticut witnesses (WWE executives and employees) that would need to travel to Oregon than Oregon witnesses that would need to travel to Connecticut (Haynes). Further, Haynes never claimed – much less submitted facts showing – that the costs of travel to Connecticut would in any sense be burdensome to him.[2]

Second, as to Judge Stewart's finding that many class members were subject to Connecticut forum selection clauses, Haynes incredibly claims that this finding was "marinated in speculation and naked of any supporting facts." Obj. at 3. He goes even further, emphasizing that there is supposedly nothing in the record to suggest the applicability or prevalence of such clauses for putative class members. *Id.* at 4, 8. This is absurd. The evidence before Judge Stewart showed that, as far back as 1991, WWE booking contracts typically required that any disputes be litigated in Connecticut; that some booking contracts entered into between 1997-2000 have an arbitration provision requiring arbitration in Connecticut; and that all known booking contracts entered into after 2000 contain a Connecticut forum selection clause. Judge Stewart, in fact, had no less than five booking contracts before her of members of Haynes' putative class that contained Connecticut forum selection clauses. *See* Doc. 47-2, Ex. 2 to Deft's

[2] This part of the analysis assumes that this matter will survive dispositive motions and necessitate travel to a trial on the part of one or the other parties. WWE respectfully submits that the polemics by Haynes about the hardship of travel must also be viewed from the standpoint of the likelihood that any of his claims survive summary dismissal due to Oregon's ironclad ten year statute of repose. Haynes last performed for WWE in 1988 and, as demonstrated by WWE in its Motion to Dismiss, Haynes' claims were all time barred not later than 1998.

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Mot. to Transfer Venue; Doc. 58-1, Ex. A to May 28, 2015 Declaration of B. John Casey. She was perfectly capable of examining those clauses and determining their significance and applicability. Moreover, as to the applicability of the forum selection clauses, the record reflected that Kyros and other counsel for Haynes agreed that a duplicative class action, the *Singleton* case, they originally filed in Pennsylvania, should be transferred to Connecticut, once WWE raised the issue of forum selection clauses in that case.[3] Neither Kyros nor any of the four lawyers from the two other firms who represent both Haynes and the *Singleton* plaintiffs make any mention of their prior agreement to transfer the *Singleton* case to Connecticut in their objections to Judge Stewart's Opinions and Order. Likewise, they offer no explanation for agreeing to transfer *Singleton*, but then ignoring such clauses when filing other suits. Indeed, they offer no reason at all for filing such multiple duplicative actions, nor explain why they have done everything possible to avoid Connecticut ever since agreeing that it was the proper forum due to the forum selection clauses.

Third, as to Judge Stewart's finding regarding forum shopping, Haynes does not and cannot dispute that, after he filed the instant action, his lawyers filed, or caused to be filed, two other duplicative class actions in other courts, and now two individual actions on behalf of former wrestlers who are also members of these putative classes, all in violation of mandatory forum selection clauses. Notably, since Judge Stewart's venue ruling in this case, the third class action that Haynes' counsel caused to be filed against WWE, styled as *McCullough et al. v.*

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[3] This parallel case is now styled *Singleton, et al. v. World Wrestling Entm't, Inc.*, Case No. 3:15-CV-00425-VLB (D. Conn.). There were four different law firms listed as plaintiffs' counsel on the original complaint in the *Singleton* matter, which was originally filed in the Eastern District of Pennsylvania. Five lawyers from three of those firms are also counsel in the *Haynes* case. Those lawyers are Kyros, and the Kyros Law office; Charles J. LaDuca and Brendan Thompson of Cuneo, Gilbert & La Duca; and Robert Shelquist and Scott Moriarity of Lockridge Grindal Nauen.

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World Wrestling Entertainment Inc., No. 15-2662 (C.D. Cal.), also was transferred by the Central District of California to the District of Connecticut. *See* July 23, 2015 Declaration of B. John Casey ("Casey Decl."), Ex. A. In ordering the transfer, the court in *McCullough* enforced the Connecticut forum selection clauses in WWE's booking contracts, and found that those clauses covered the very disputes placed at issue in these cases. The *Singleton* and *McCullough* actions, along with a related declaratory judgment action filed by WWE in response to Kyros' forum shopping styled *World Wrestling Entertainment, Inc. v. Robert Windham, et al.*, Case No. 2:15-cv-00994 (D. Conn.), have all been consolidated before the Honorable Vanessa L. Bryant in the District of Connecticut.

Furthermore, just hours before filing this Response, Judge Bryant, apparently concerned with Kyros' forum shopping and efforts to avoid jurisdiction in Connecticut, issued an order sua sponte requiring Kyros "to show cause why, in light of the forum selection provisions in WWE's employment contracts resulting in multiple orders of transfer, these actions should continue to be filed in other jurisdictions." *McCullough v. World Wrestling Entertainment, Inc.*, No. 3:15-cv-1074-VLB, Doc. 42 (D. Conn. July 23, 2015).

Thus, two federal judges have already acted to correct Kyros' forum shopping by transferring duplicative class actions to the Connecticut federal court, and a third has ordered him to show cause for why he continues to file suits outside of Connecticut in the face of explicit Connecticut forum selection provisions. Transfer of all such cases to a single judge promotes judicial economy, avoids inconsistent rulings, and curbs Kyros' forum shopping. Accordingly, there is no basis to overturn Judge Stewart's well-reasoned Opinion and Order, and strong principles of comity mandate that it be affirmed.

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II. STANDARD OF REVIEW

A magistrate judge's order on a nondispositive matter like a venue transfer is reviewed under a "deferential standard – 'clearly erroneous' and 'contrary to law.'" *United States v. Abonce-Barrera*, 257 F.3d 959, 968 (9th Cir. 2001) (internal quotations omitted). Unlike dispositive rulings, nondispositive rulings are not subject to *de novo* review. *See British Columbia, Ltd. v. Mercedes-Benz USA, L.L.C.*, No. 08-815, 2009 WL 113766, at *1 (D. Or. Jan. 15, 2009) (affirming Magistrate Judge Papak's venue transfer order). There is "clear error" only "when the court is 'left with the definite and firm conviction that a mistake has been committed.'" *Rapid Funding Grp. v. Keybank Nat. Ass'n*, No. CV 07-1348PK, 2009 WL 1490565, at *1 (D. Or. May 26, 2009) (quoting *Easley v. Cromartie*, 532 U.S. 234, 242 (2001)). A decision is "contrary to law" only if it "applies the wrong legal standard or neglects to consider all elements of the applicable standard." *Nationstar Mortg., LLC v. Decker*, No. 3:13-CV-1793-PK, 2015 WL 519884, at *1 (D. Or. Feb. 9, 2015) (quotations omitted). The reviewing court "may not simply substitute its judgment for that of the deciding court." *Grimes v. City & Cnty. of San Francisco*, 951 F.2d 236, 241 (9th Cir. 1991).

III. ARGUMENT

Judge Stewart's Order clearly shows she applied the correct legal standards, and properly considered each of the elements under that standard. Haynes complains only about the result, which is an insufficient basis to overturn the decision.

Plaintiff conceded the first prong of the § 1404(a) analysis – the District of Connecticut was an appropriate forum to hear the dispute. Doc. 50, Pl.'s Opp. to Mot. to Transfer at 3. Thus, the only issue before Judge Stewart was the second inquiry under § 1404(a), "whether the convenience of the parties, the convenience of the witnesses, and the interest of justice weigh in

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favor of transferring venue to that forum." Order at 4 (citation omitted). This step of the inquiry "requires an 'individualized, case-by-case consideration of convenience and fairness.'" *Id.* (quoting *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498 (9th Cir. 2000)). The following factors are considered in this inquiry, and Judge Stewart specifically cited the controlling decision:

> (1) location where the relevant agreements were negotiated and executed; (2) the state that is most familiar with the governing law; (3) the plaintiff's choice of forum; (4) the respective parties' contacts with the forum; (5) the contacts relating to the plaintiff's cause of action in the chosen forum; (6) the differences in the costs of litigation in the two forums; (7) the availability of compulsory process to compel attendance of unwilling non-party witnesses; and (8) the ease of access to sources of proof.

Jones, 211 F.3d at 498–99 (internal citations omitted)); *see also* Order at 4.

As Judge Stewart also correctly noted in her Opinion and Order, "[t]he district court has great discretion in deciding whether the relevant factors warrant the transfer of the action to another forum." Order at 5 (citing *Sparling v. Hoffman Constr. Co.*, 864 F.2d 635, 639 (9th Cir. 1988) ("'Weighing of factors for and against transfer involves subtle considerations and is best left to the discretion of the trial judge.'") (citation omitted)). Thus, there can be no serious question about whether Judge Stewart cited the correct legal standard.

A. Judge Stewart Was Correct In Her Findings On The Relative Costs of Litigation

Haynes first quibbles with Judge Stewart's finding that "[t]he difference in costs of litigation is neutral, given that either Haynes must travel to Connecticut or WWE must travel to Oregon." Order at 6. However, if anything, this factor is not just "neutral" – it weighs in favor of WWE, which identified at least four witnesses – key WWE executives – who would be inconvenienced through travel to Oregon, and whose absence from Connecticut would impair WWE operations. *See* Doc. 43, Am. Compl. ¶ 18; Doc. 46, March 23, 2015 Affidavit of James

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W. Langham ("Langham Aff."), ¶ 6; Doc. 57, WWE Reply in Support of Mot. to Transfer Venue at 15–16. In contrast, Haynes has failed to identify any witnesses, other than himself, who would be burdened if this case were litigated in Connecticut.

In his Objection, Plaintiff notes that the WWE is a "major public corporation with revenues of approximately $500,000,000," apparently implying that it may not be financially burdensome for the WWE to pay for the cost of witness travel to Oregon. Obj. at 7. Judge Stewart made no such finding, and this should not be a point of comparison, as Haynes never even states – much less submits any evidence showing – that he would have any trouble affording travel to Connecticut if in fact his case survived dismissal motions. Doc. 51, Haynes Decl. in Support of Opp. to WWE's Mot. to Transfer Venue at at *passim*. Moreover, Haynes does not claim he is employed, and thus travel would not disrupt any employment. Conversely, requiring the top executives of a publicly traded company headquartered in Connecticut to travel to and attend proceedings in Oregon would cause substantial disruption of the business affairs of WWE. Accordingly, the parties' relative means here does not favor Haynes in the § 1404(a) analysis. *See, e.g., May v. Haas*, No. 2:12-CV-01791-MCE, 2013 WL 4010293, at *4 (E.D. Cal. Aug. 5, 2013) ("Although a party's financial situation is relevant in the venue transfer analysis, it is not entitled to great weight. Unless Plaintiffs can establish financial inconvenience, Plaintiffs' choice of forum receives no greater weight ….") (internal quotations omitted).

Plaintiff next argues that it would be "extremely burdensome" for him to travel to Connecticut because of "health issues," Obj. at 7, but he never submitted any medical evidence explaining how his alleged ailments would make travel difficult. *See Worker's Comp. Legal Clinic of La. v. Bellsouth Telecm'cs, Inc.*, No. CIV.A. 03-0722, 2003 WL 21750628, at *5 (E.D. La. July 28, 2003) (rejecting plaintiff's conclusory assertion of inconvenience because "much

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case preparation can be handled by telephone, through the mail, or through other means of communication."). More significantly, as noted in WWE's Reply, "the availability of electronic filing and video and teleconferencing technology limits the need for travel [and] in a civil case, a plaintiff may pursue a claim without appearing in court in person." Doc. 57 at 17 (citing *Pratt v. Silversea Cruises, Ltd., Inc.*, No. C 05-0693 SI, 2005 WL 1656891, at *4 (N.D. Cal. July 13, 2005)).

Judge Stewart properly analyzed – and certainly did not commit clear error with respect to – the "costs of litigation" issue. Moreover, quibbling about one finding made in an overall balancing of many factors and associated discretionary judgments hardly demonstrates clear error.

B. The Record Evidence Fully Supports Judge Stewart's Finding About The Connecticut Forum Selection Clauses

In support of her ultimate conclusion that Haynes' choice of venue should be "accorded little deference," Order at 9, Judge Stewart first cited Ninth Circuit law for the proposition that plaintiff's choice of forum is given less weight when the plaintiff purports to represent a nationwide class, *id*. at 6-7 (citing *Lou v. Balzberg*, 834 F2d 730, 739 (9th Cir 1987)). Once again, reliance on a Ninth Circuit decision is certainly not acting contrary to law. Next, Judge Stewart noted that "many of the putative class members are subject to mandatory forum selection clauses requiring disputes to be resolved in the District of Connecticut." *Id.* at 7 ("Whatever remaining deference that is accorded plaintiff's choice of forum is further eroded by [this forum selection clause] evidence[.]"). Remarkably, Plaintiff makes the derogatory remark that this finding was "marinated in speculation and naked of any supporting facts." Obj. at 3. In the very next sentence, with emphasis, Haynes claims that "there is *nothing* in the record to suggest the applicability or prevalence of purported forum selection clauses which *may* exist for *absent*

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putative class members." *Id.* at 4. Haynes repeats this statement a third time on page 8 of his Objection.

These statements are misrepresentations to the Court. Before Judge Stewart were the following facts:

- Booking contracts typically entered into between WWE and its wrestlers after June 13, 1991 require that any disputes arising out of or relating in any way to the booking contracts be litigated in Connecticut. Doc. 46, Langham Aff. at ¶ 16.
- Certain booking contracts entered into between1997-2000 have an arbitration provision requiring arbitration in Connecticut. *Id.*
- All known booking contracts entered into after 2000 have a forum selection clause of Connecticut. *Id.*
- No contract between WWE and a wrestler has a forum selection clause of Oregon. *Id.* at ¶ 17.
- The actual booking contracts, containing Connecticut forum selection clauses, of no less than five former WWE wrestlers who would be part of Haynes' putative class – the two named plaintiffs in the Singleton Class Action and the three named plaintiffs in the *McCullough* Class Action. Doc. 47-2, Ex. 2 to Deft's Mot. to Transfer Venue; Doc. 58-1, Ex. A to May 28, 2015 Declaration of B. John Casey.[4]
- The records and e-mails showing that Haynes' lawyers, including Kyros and two other law firms which also represent Haynes, consented to the transfer of the *Singleton* case to Connecticut after WWE raised the issue of forum selection clauses.

This is not "speculation." Obj. at 3. These are facts. And these facts rightly played a role in Judge Stewart's reasoning that little deference should be given to Haynes' chosen forum, as the case law – again undisputed by Plaintiff – confirms. *See Italian Colors Rest. v. Am. Express Co.*, No. C 03-3719 SI, 2003 WL 22682482, at *6 (N.D. Cal. Nov. 10, 2003) (even

[4] Kyros also had in his possession three different contracts of Nelson Frazier containing such clauses. Thus, at the time of the filing of Haynes' Objection suggesting there was some question as to whether such clauses may exist, Kyros had at least eight different contracts produced to him by WWE showing such clauses in fact exist.

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though named plaintiff had no forum selection clause in its contract, transferring putative class action to jurisdiction named in forum selection clauses in class members' contracts).

After falsely representing that Judge Stewart made findings without evidentiary support, Plaintiff also contends in his Objection that he "presented counter-evidence that a substantial portion of participants in WWE events had no written contract with [WWE]." Obj. at 8. The "counter-evidence" to which Haynes refers is a single paragraph from a hearsay declaration – not from any wrestler – but from Haynes' counsel, in which Mr. Kyros states:

> I have spoken with many wrestlers who wrestled in WWF/WWE events after 1991 who state that they performed with no booking contract. Additionally I have reason to believe based on investigation that there are hundreds of such wrestlers. These are wrestlers that are asked to perform in WWF/WWE events as 'jobbers' or 'enhancement talent' with no WWE booking agreements.

Doc. 52, Kyros Decl. in Support of Pl.'s Opp. to Def.'s Mot. to Transfer Venue at ¶ 2.

As noted in WWE's Reply, Mr. Kyros' declaration should be disregarded because it consists of inadmissible – and wholly conclusory – hearsay statements that summarize his alleged conversations with certain unidentified wrestlers.[5] Doc. 57, Reply at 8; *see also LDM Sys., Inc. v. Russo*, No. CIV.A. 97-3111, 1997 WL 431005, at *1 (E.D. Pa. July 15, 1997) (transferring case and disregarding affidavit containing conclusory statements); *Rossi v. Trans World Airlines, Inc.*, 507 F.2d 404, 406 (9th Cir. 1974) (district court properly disregarded affidavit that contained inadmissible hearsay). Moreover, even if the Court considers this vague and conclusory hearsay, it certainly does not contravene Mr. Langham's sworn statement that "[a] substantial majority of the putative class members Plaintiff seeks to certify in this lawsuit

[5] None of these jobbers, who are akin to casual labor, have brought suit against WWE or been named as a plaintiff in any of the litigation commenced by Kyros against WWE. Without exception, in every case filed since *Haynes*, the wrestler at issue signed a contract with the mandatory forum election clause.

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are subject to contracts containing forum selection clauses that require their claims to be litigated in Connecticut." Langham Aff. ¶ 15.

Even if there was evidence that the forum selection clauses apply to less than the majority of the putative class members, which there is not, "this factor still leans in favor of venue transfer" since the clause never mentioned Oregon or any other state. *See Italian Colors Rest.*, 2003 WL 22682482, at *6 (reasoning that transfer was warranted even if only part of putative class was subject to forum selection clauses because there were no forum selection clauses requiring the dispute to be litigated in the transferor court or any court other than the transferee court); *see also* Langham Aff. ¶ 17 ("No contract between WWE and a wrestler has a forum selection clause of Oregon.").

Plaintiff next argues in his Objection that, "even if such clauses are prevalent," they may not apply, pointing out that plaintiffs "in other related matters" have argued that the clauses are unconscionable. Obj. at 8 (emphasis supplied). As an initial matter, Haynes himself never argued in this case that the forum selection clauses agreed to by others were unconscionable or unenforceable for any reason, Doc 50, Opp. at *passim*, so that matter is not before this Court. To be sure, in their attempts to defeat the jurisdiction of the Connecticut federal court, which Kyros and two other firms representing Haynes originally agreed to, Kyros did submit, or cause to be submitted, such arguments to two other federal courts even though such arguments were foreclosed in those circuits when presented, and for that matter, in every circuit. The unconscionability argument was expressly rejected in one of the "related matters" after Haynes' objections here were filed. As noted above, the district court in *McCullough* recently transferred that case to Connecticut, enforcing the WWE's forum selection clause, and rejecting the plaintiffs' argument that the clause is unconscionable. Casey Decl., Ex. A, at p. 5 ("Plaintiffs'

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unconscionability arguments against enforcing the forum selection clause still fall far short of satisfying their heavy burden.").[6]

Haynes has not come close to overcoming the heavy burden to show these clauses are unenforceable. In *Atlantic Marine Constr. Co., Inc. v. United States Dist. Ct. for the W. Dist. of Tex.*, the Supreme Court ruled that mandatory forum selection clauses are entitled to "controlling weight in all but the most exceptional cases." 134 S. Ct. 568, 581 (2013) (internal quotations omitted). Similarly, the Ninth Circuit has ruled that "forum selection clauses are to be specifically enforced unless the party opposing the clause clearly shows 'that enforcement would be unreasonable and unjust, or that the clause was invalid for such reasons as fraud or overreaching.'" *Manetti-Farrow, Inc. v. Gucci Am., Inc.*, 858 F.2d 509, 512 (9th Cir. 1988) (quoting *M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 15 (1972)). Haynes did not even attempt to argue – much less demonstrate – an "exceptional case" here under *Atlantic Marine* or that these forum selection clauses are "unreasonable or unjust" under *Manetti-Farrow*. *See* WWE Reply at 5-10. The reality is that none of the three law firms representing Haynes which also represent the plaintiffs in *Singleton* disputed the enforceability and applicability of the forum selection clauses when raised in that parallel action. WWE submits that, after agreeing to transfer the *Singleton* case to Connecticut, Kyros and co-counsel realized Connecticut also has repose statutes, and began a vexatious campaign of forum shopping which ignored the forum selection clauses, and which included Kyros attempting to conceal his role in the *McCullough* case. As noted, the attempt to invalidate the forum selection clauses before a different trial court in this Circuit in that case recently failed.

In short, Judge Stewart's finding that "many of the putative class members are subject to

[6] In the *Frazier* action, Kyros has also argued that the WWE's forum selection clause is unconscionable in response to the WWE's motion to transfer venue in that case. *See* disc. *infra*.

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mandatory forum selection clauses requiring disputes to be resolved in the District of Connecticut" is plainly correct, not plain error. Order at 7.

C. The Record Evidence Shows That Haynes' Counsel Has Been Forum Shopping

Haynes' last point of error is Judge Stewart's finding that the content and timing of the multi-jurisdictional filings constituted evidence of forum shopping, a finding that was also relevant to her conclusion that Haynes' choice of forum should be "accorded little deference." Order at 7, 8 (citing *Williams v. Bowman*, 157 F. Supp.2d 1103, 1106 (N.D. Cal. 2001) ("If there is any indication that plaintiff's choice of forum is the result of forum shopping, plaintiff's choice will be accorded little deference.")). Plaintiff's counsel apparently does not like the language used by Judge Stewart, and argues that WWE has engaged in an "*ad hominem* attack" against them by "advanc[ing] false and misleading claims about Plaintiff's course and motivation for this litigation." Obj. at 2. Not so. WWE "advanced" facts showing that Plaintiff's counsel was, in fact, forum shopping. The record evidence before Judge Stewart on this issue – undisputed by Haynes or his counsel – was as follows:

- The *Haynes* Class Action: Plaintiff's counsel filed the instant class action on October 23, 2014 on behalf of all U.S. residents who currently wrestle or formerly wrestled for WWE. In December 2014, the undersigned met and conferred with Haynes' counsel and explained that the claims of Haynes – who last wrestled for the WWE in 1988 – were time-barred by Oregon's ultimate statute of repose and were otherwise deficient in a number of respects.

- The *LoGrasso/Singleton* Class Action: After the meet and confer session in *Haynes* highlighted the repose problems with Haynes' claims, three of the law firms representing Haynes filed a "copy and paste" class action complaint for the *identical* class of putative plaintiffs, on January 16, 2015, naming former WWE wrestlers Vito LoGrasso and Evan Singleton as representative plaintiffs in federal court in Philadelphia. Both LoGrasso and Singleton signed booking contracts with the WWE that contained forum selection clauses specifying the District of Connecticut as the mandatory venue for disputes between the parties. After initially refusing to withdraw the LoGrasso/Singleton Class Action and refiling in Connecticut as required by LoGrasso's and Singleton's contracts, and thereby

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forcing the WWE to file a motion to transfer, Kyros and the other firms representing plaintiffs in the case decided not to oppose the motion. In its transfer order, the district court in Philadelphia stated that "the plaintiffs do not oppose a transfer of venue and agree the District of Connecticut is an appropriate forum." *See* Doc. 47-4, Ex. 3 to WWE's Mot. to Transfer Venue at 1, n.1.

- The *Frazier* Action: Kyros next filed another duplicative suit with identical claims and theories of liability for a former wrestler, Nelson Frazier, in Tennessee. *Frazier v. World Wrestling Entm't, Inc.*, No. 2:15-cv-02198-JPM-cgc (WD Tenn). Frazier was a member of the same exact class of plaintiffs that Kyros had filed on behalf of in the Haynes and LoGrasso/Singleton Class Actions. Once again, Kyros filed the Frazier Action in knowing violation of the mandatory forum selection clause in at least three contracts signed by Frazier. WWE moved to transfer the Frazier Action to the District of Connecticut, which motion is still pending.

- The *McCullough* Class Action: On April 9, 2015, shortly after conceding that "the District of Connecticut is an appropriate forum," Kyros caused the McCullough Class Action to be filed, another entirely duplicative class action in the U.S. District Court for the Central District of California, instead of simply joining those claims to the then-pending class action in the District of Connecticut. The booking contracts between WWE and the three named plaintiffs in the McCullough Action contain substantially similar mandatory forum selection clauses requiring that action to be litigated in Connecticut. *See* Doc. 58, Decl. of B. John Casey in Support of Def.'s Reply to Motion to Transfer Venue, Ex. A (Langham Decl. filed as Document No. 16-7 in the McCullough Action). To conceal his involvement in the McCullough Action, Kyros did not sign the complaint filed in the McCullough Action, so that California counsel could disavow any connection to Kyros' prior agreement to transfer the Singleton Class Action to Connecticut. Kyros and his California co-counsel refused to respond to WWE counsel's multiple requests to confirm or deny that Kyros represents the named plaintiffs in the McCullough Class Action, a fact noted by Judge Stewart in her opinion. Order at 8. Notably, Kyros' involvement was placed before the California court, and the lawyers there did not dispute his involvement. Likewise, in the Opposition to Judge Stewart's Order, Kyros does not dispute that he was in fact involved in that case and attempted to conceal his role. As noted, the district court in *McCullough* recently transferred the case to the District of Connecticut.

The timing of these suits reveals the reason and purpose of the forum shopping — avoidance of the repose statutes, first of Oregon and now of Connecticut. No other explanation is plausible, and none has been offered. Plaintiff's counsel offers not one sentence explaining why these multiple suits have been brought instead of simply joining all of them to the purported

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class action which they agreed should be transferred from the Eastern District of Pennsylvania to Connecticut. The actual facts satisfy the very definition of forum shopping, which is relevant in the venue transfer analysis, as Judge Stewart properly noted. Order at 7; *see also Italian Colors Rest.*, 2003 WL 22682482, at *4 ("[T]he Ninth Circuit has established that courts should disregard a plaintiff's forum choice where the suit is a result of forum-shopping" and transferring case where, like here, lawsuit involved "a roster of counsel" who had filed multiple overlapping lawsuits in other jurisdictions with different named plaintiffs against the same defendant) (citing *Alltrade, Inc. v. Uniweld Prods., Inc.*, 946 F.2d 622, 628 (9th Cir. 1991)).

Remarkably, since Judge Stewart's ruling, Kyros has engaged in even more forum shopping. Specifically, not twenty-four hours after Judge Stewart issued her ruling, Kyros filed another former wrestler lawsuit in yet another Federal Court in yet another state asserting yet the same substantive claims. *See* Casey Decl., Ex. B. Kyros filed the *Osborne* Action in the United States District Court for the Northern District of Texas despite the fact that (i) the plaintiff and her children live in Pennsylvania, *id.* ¶¶ 16–18, which runs directly counter to the statement in the Objection that "each subsequent suit against the WWE for concussion-related injuries was filed by individuals in their home districts," Obj. at 9 (emphasis supplied); (ii) Mr. Osborne agreed to a forum selection clause that establishes the District of Connecticut as the exclusive forum for his claims; and (iii) Mr. Osborne is a member of the purported class in all three purported class actions initiated by Kyros.[7] Given this conduct, Judge Stewart was absolutely correct in her conclusion that "[P]laintiff's choice of Oregon as one state on a hit-list

[7] In light of the transfer orders in *Haynes* and *McCullough*, counsel for WWE asked Kyros to voluntarily dismiss *Osborne* and *Frazier* without prejudice and re-file in Connecticut. Kyros' let his co-counsel respond and stated that they wanted to wait and see how the Tennessee court would rule on WWE's transfer motion in the *Frazier* case, showing that they are seeking inconsistent court rulings, which itself is evidence of forum shopping. *See* Casey Decl. Ex. C (July 14, 2015 counsel email correspondence).

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of potential venues for his nationwide class action is accorded little deference." Order at 8 (internal quotations omitted).

Judge Stewart is not the only federal jurist concerned about Kyros' forum shopping. The same day this Response was filed, Judge Bryant in the District of Connecticut issued an order, sua sponte, requiring Kyros to "show cause why, in light of the forum selection provision in WWE's employment contracts resulting in multiple orders of transfer, these actions should continue to be filed in other jurisdictions." *McCullough v. World Wrestling Entertainment, Inc.*, No. 3:15-cv-1074-VLB, Doc. 42 (D. Conn. July 23, 2015). Judge Bryant, like Judge Stewart, is justifiably concerned that Kyros has purposefully tried to avoid the jurisdiction of the same Connecticut court that he originally agreed was the appropriate court in which to bring these suits.

Finally, WWE disputes that Judge Stewart's ruling has, as Haynes asserts, "the potential for harm to counsels' reputation." Obj. at 9. It is a measured and well-reasoned opinion which, if anything, understates the actions of Haynes' principal counsel. As set forth herein, two other federal jurists have already acted to correct Kyros' forum shopping, and another has required Kyros to show cause for his duplicative filings in multiple jurisdictions, so Judge Stewart's Order hardly stands alone. There simply is no basis to "modify" Judge Stewart's Order, as confirmed by the single case on this issue cited by Haynes.[8] *See In re Baan Co. Sec. Litig.*, 288

[8] Haynes also takes issue with statements made by WWE's counsel to the media about his attorneys' forum shopping. Obj. at 10. WWE's counsel has had to respond to the tactics used against it designed to garner media attention and prejudice WWE. Kyros has used the media to try to recruit more plaintiffs to file additional lawsuits. *See, e.g.,* Casey Decl., Ex. D at p. 8 (Transcript of March 27, 2015 "Radio Takedown" Podcast (Kyros: "I can win a case against the WWE if people come forward with their stories and their circumstances and their injuries and you know ... if every wrestler who believe that they'd been harmed by the WWE right now decided to file a lawsuit against the WWE, this would surely decide, I think, an outcome.")). Moreover, Mr. McDevitt's comment was made after it became clear that Kyros would not be

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F. Supp. 24 14, 15-16 (D. D.C. 2003) (refusing to modify most of Magistrate's R&R criticizing plaintiff's counsel in fee award ruling even though it had the potential to harm counsel's reputation; deleting one sentence referring to the "number of times that the Court was required to address the issue of lead plaintiffs and the matter of class certification, since it is true that the need for these successive motions cannot be attributed entirely to plaintiffs' counsel").

IV. CONCLUSION

For all of the foregoing reasons and those set forth in the underlying briefing, Judge Stewart's Order should be affirmed.

DATED this 23rd day of July, 2015.

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deterred by Judge Stewart's transfer order, as he filed the very next day the *Osborne* action in Texas, not on behalf of Texas residents, but Pennsylvania residents despite a Connecticut forum selection clause in Mr. Osborne's booking contract with WWE. Notably, Mr. McDevitt's comments were in response to press inquiries garnered by Kyros' inclusion in the *Osborne* complaint of pictures of wrestlers who had died, which deaths had nothing to do with any claim of Osborne, and the inclusion of which ignored a prior admonition of the federal judge in Connecticut in the *Singleton* case not to include such material. *See* Casey Decl. ¶ __, Ex. __ (June 8, 2015 Hrg. Tr. in *Singleton*, at p. 62 ("Are you going to reference every wrestler that's dead in your complaint? I don't - I don't follow that. You really need to read and get a better grip on the pleading standard in the next week and file an amended complaint.")).

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CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of July, 2015, I served a copy of the foregoing DEFENDANT'S RESPONSE TO PLAINTIFF'S OBJECTIONS TO OPINION AND ORDER GRANTING MOTION TO TRANSFER VENUE on the following parties via the Court's CM/ECF System:

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