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11 and MAURICE LASEL WILLIAMS

12 UNITED STATE DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DISTRICT

14 AMETHYST KELLY,
15 Professionally Known As
16 IGGY AZALEA
17 Plaintiff,

18 vs.

19 PRIMCO MANAGEMENT, INC.
20 et al.,
21 Defendants

22 Case No.: CV-14-7263-BRO-SH
23 Hon. Beverly Reid O'Connell

24 **DECLARATION OF**
25 **ENZO WEINBERG**
26 **RE: MAURICE LASEL WILLIAMS**
A/K/A MAURICE LASEL A/K/A
NUWINE AKA WINE-O A/K/A
JEFE WINE A/K/A HEFE WINE
A/K/A ENZO WEINBERG A/K/A
ENZO VALIDO WEINBERG,
DOING BUSINESS AS "WINE
ENTERPRISES, INC., A/K/A
"WINEENTERPRISES INC."
APPEARANCE AND CHALLENGE
TO THE JURISDICTION FED. R.
CIV. P. 12(b)(3) IMPROPER
VENUE AND LACK OF
PERSONAL JURISDICTION

27 I, Enzo Weinberg, declare:

28 **Exhibit**
29 1

1 1. I am Enzo Weinberg f/k/a and a/k/a Maurice Lase! Williams, and other
2 names, professional and/or business. I am one of the Defendants in this case. I have
3 personal knowledge of the matters below, which information is true and correct.

4 2. The purpose of this declaration is to support the motion to dismiss the claims
5 against me on the basis of lack of personal jurisdiction, and/or transfer the claims in this
6 lawsuit to the appropriate courts in the state of Texas.

7 3. I reside in Harris County, Texas. I am not now nor have I ever been a
8 resident of the State of California.

9 4. I personally do not systematically conduct business in the State of
10 California. Wine Enterprises, Inc. does not systematically conduct business in the State
11 of California.

12 5. I have had very limited contacts within California. In the 1990s I performed
13 in a couple of concerts. In 2004 I made some trips to California. I made a trip to
14 California in 2006 or 2007. In 2014 I was invited to attend a presentation with a music
15 scoring company which had agreed to attempt to place some of my songs, none of which
16 have been placed to my knowledge. Other than these limited trips, I have not visited the
17 state of California. I do not reside in California.

18 6. I lived with the Plaintiff in this suit, in Harris County, Texas. I witnessed her
19 signing the agreement which is attached to her original and amended complaint as an
20 exhibit. She read and understood the agreement. The signature on the agreement is her
21 signature. It is not a forgery, nor was her signature taken from another document and
22 made a part of the agreement attached as Exhibit 1 to Plaintiff's amended complaint. The
23 agreement which Plaintiff seeks to avoid has a mandatory venue and forum selection
24 provision that dictates all proceedings are to be conducted in Texas. See Doc. 18, Exhibit
25 1, at page 49 of 61.

1 7. The agreement which Plaintiff read and signed expressly provides: This
 2 contract has been entered into in the State of Texas and its validity, construction,
 3 interpretation and legal effect shall be governed by the laws of the State of Texas
 4 applicable to contracts entered into and performed entirely within the State of Texas
 5 (without giving effect to any conflict of laws principles under Texas law). The venue for
 6 any action, suit or proceeding arising from or based upon this contract shall be the
 7 appropriate state and federal courts located in Harris County in the State of Texas.
 8 Accordingly, you and we agree that any action, suit or proceeding arising from or based
 9 upon this contract shall be commenced and determined by those appropriate state and
 10 federal courts located in Harris County and the State of Texas. In connection with the
 11 foregoing, you and we each agree to submit to and be bound by the jurisdiction of the
 12 appropriate state and federal courts located in Harris County and the State of Texas. *Id.*

13 8. I, nor any of the following entities or assumed names, Maurice Williams,
 14 a/k/a Maurice Lasel, a/k/a Nuwine, a/k/a Jefe Wine, a/k/a Hefe Wine, a/k/a Enzo
 15 Wienberg, a/k/a Enzo Valido Weinberg, doing business as "Wine Enterprises, Inc., a/k/a
 16 "wineenterprises inc." have had no continuous and/or systematic contacts with any
 17 person or entity in California.

18
 19 I declare under penalty of perjury under the laws of the United States of America
 20 that the foregoing is true and correct. Executed on December 4, 2014 at Richmond,
 21 Texas.



22
 23 Enzo Weinberg, individually and on behalf of
 24 Maurice Williams, a/k/a Maurice Lasel, a/k/a Nuwine,
 25 a/k/a Jefe Wine, a/k/a Hefe Wine, a/k/a Enzo Wienberg,
 26 a/k/a Enzo Valido Weinberg, doing business as
 "Wine Enterprises, Inc., a/k/a "wineenterprises inc."

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

AMETHYST KELLY, professionally
Known as IGGY AZALEA
Plaintiff,

vs.

PRIMCO MANAGEMENT, INC., et
al.,
Defendant

Case No.: CV-14-7263-BRO-SH
Hon. Beverly Reid O’Connell

**DEFENDANT MAURICE
WILLIAMS A/K/A MAURICE
LASEL A/K/A NUWINE A/K/A
WINE-O A/K/A JEFE WINE A/K/A
HEFE WINE A/K/A ENZO
WEINBERG A/K/A ENZO VALIDO
WEINBERG, DOING BUSINESS AS
“WINE ENTERPRISES, INC.,
A/K/A WINE ENTERPRISES, INC.
APPEARANCE AND CHALLENGE
TO THE JURISDICTION FED. R.
CIV. P. 12(b)(3) IMPROPER
VENUE AND LACK OF
PERSONAL JURISDICTION**

Defendant, Maurice Williams a/k/a Maurice Lasel a/k/a Nuwine a/k/a Wine-O
a/k/a Jefe Wine a/k/a Hefe Wine a/k/a Enzo Weinberg a/k/a Enzo Valido Weinberg,
doing business as “Wine Enterprises, Inc.”, a/k/a Wine Enterprises, Inc., an unknown
entity, subject to further pleadings, file this their Appearance and Challenge to the

1 Jurisdiction, pursuant to Fed. R. Civ. P. 12(b)(3), Improper Venue, and lack of personal
2 jurisdiction and in support show:

3 **I. INTRODUCTION**

4 1. Plaintiff sued, among others, Defendant, Maurice Williams a/k/a Maurice
5 Lasel a/k/a Nuwine a/k/a Wine-O a/k/a Jefe Wine a/k/a Hefe Wine a/k/a Enzo Weinberg
6 a/k/a Enzo Valido Weinberg, doing business as “Wine Enterprises, Inc.”, and Wine
7 Enterprises , Inc., an unknown entity (collectively “Defendant Williams”). Defendant
8 Williams makes this appearance and challenges the jurisdiction as provided by Fed. R.
9 Civ. P. 12(b)(3), improper venue, and lack of personal jurisdiction solely for the purposes
10 of asserting these issues.

11 **II. IMPROPER VENUE**

12 2. Challenge to venue pursuant to Fed. R. Civ. P. 12(b)(3) prior to or asserted
13 with Defendant’s answer is the proper method to resolve questions relating to venue.

14 3. Plaintiff’s causes of action against Defendant arise from an agreement
15 between Plaintiff and Wine Enterprises, Inc. All of the Defendants in this lawsuit are
16 either signatories of, assignors of, or in the case of Primco Management, Inc., the parent
17 of ESMG and Top Sail Productions, in transactions relating to the contracts asserted by
18 Plaintiff in her pleadings. The contract attached as Exhibit 1, at pp. 49 – 50 to Plaintiff’s
19 First Amended Complaint states:

20 **“(j) THIS CONTRACT HAS BEEN ENTERED INTO IN THE STATE**
21 **OF TEXAS AND ITS VALIDITY, CONSTRUCTION,**
22 **INTERPRETATION AND LEGAL EFFECT SHALL BE GOVERNED**
23 **BY THE LAWS OF THE STATE OF TEXAS APPLICABLE TO**
24 **CONTRACTS ENTERED INTO AND PERFORMED ENTIRELY**
25 **WITHIN THE STATE OF TEXAS (WITHOUT GIVING EFFECT TO**
26 **ANY CONFLICT OF LAWS PRINCIPLES UNDER TEXAS LAW). THE**

1 VENUE FOR ANY ACTION, SUIT OR PROCEEDING ARISING
2 FROM OR BASED UPON THIS CONTRACT SHALL BE THE
3 APPROPRIATE STATE AND FEDERAL COURTS LOCATED IN
4 HARRIS COUNTY IN THE STATE OF TEXAS. ACCORDINGLY,
5 YOU AND WE AGREE THAT ANY ACTION, SUIT OR
6 PROCEEDING ARISING FROM OR BASED UPON THIS
7 CONTRACT SHALL BE COMMENCED IN AND DETERMINED
8 BY THOSE APPROPRIATE STATES AND FEDERAL COURTS
9 LOCATED IN HARRIS COUNTY IN THE STATE OF TEXAS. IN
10 CONNECTION WITH THE FOREGOING, YOU AND WE EACH
11 AGREE TO SUBMIT TO AND BE BOUND BY THE JURISDICTION
12 OF THE APPROPRIATE STATE AND FEDERAL COURTS
13 LOCATED IN HARRIS COUNTY IN THE STATE OF TEXAS”

14 [emphasis added]

15 4. The contract at issue by its specific terms, clearly sets forth the parties’
16 agreement that any dispute arising from or about the contract shall be subject to the laws
17 of the State of Texas and litigated in the appropriate State or Federal courts in Harris
18 County, Texas.

19 5. A motion challenging forum based on a forum-selection clause, rather than a
20 motion to dismiss for improper venue, is the appropriate way for a Defendant to attempt
21 to a enforce forum-selection clause identifying state court as the exclusive venue for
22 disputes arising under agreement. See, *Community Voice Line, L.L.C. v. Great Lakes*
23 *Communication Corp.*, N.D.Iowa 2014, 2014 WL 1794450.

24 6. Federal law governs the validity of a forum selection clause. *Manetti-*
25 *Farrow, Inc v. Gucci America, Inc.*, 858 F.2d 509, 513 (9th Cir.1988). The
26 enforceability of forum selection clauses was discussed and is controlled by the Supreme

1 Court's decision in *The Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 92 S.Ct. 1907, 32
2 L.Ed.2d 513 (1972). In *Bremen*, the Court first held that **forum selection clauses are**
3 **prima facie valid and should not be set aside** unless the party challenging enforcement
4 of such a provision can show it is “ ‘unreasonable’ under the circumstances.” 407 U.S. at
5 10, 92 S.Ct. at 1913. The Supreme Court has construed this exception narrowly. *Argueta*
6 *v. Banco Mexicano, S.A.*, 87 F.3d 320, 324 (9th Cir. 1996). To establish the
7 unreasonableness of a forum selection clause, the Plaintiff herein seeking to avoid the
8 enforcement of the clause, has a “heavy burden of showing that trial in the chosen forum
9 would be so difficult and inconvenient that the party would effectively be denied a
10 meaningful day in court.” *Pelleport Investors, Inc. v. Budco Quality Theatres, Inc.*, 741
11 F.2d 273, 280, 281 (9th Cir. 1984) (citing *Bremen*, 407 U.S. at 18, 92 S.Ct. at 1917).
12 Although *Bremen* was an admiralty case, its standard has been widely applied to forum
13 selection clauses in general. See *Spradlin v. Lear Siegler Mgmt. Servs. Co.*, 926 F.2d 865,
14 867 (9th Cir. 1991) (applying *Bremen* to affirm enforcement of a forum selection clause
15 in an employment contract); *Manetti-Farrow*, 858 F.2d at 512 (applying *Bremen* to
16 affirm enforcement of a forum selection clause in an exclusive dealership contract);
17 *Pelleport*, 741 F.2d at 280 (applying *Bremen* to affirm enforcement of forum selection
18 clause in a domestic contract involving the exhibition of motion pictures).

19 7. Here, the forum selection clause was presented clearly in the contract, the
20 forum selection clause is an integral part of the contract sought to be interpreted by
21 Plaintiff. Therefore, all aspect of that contract are subject to mandatory forum selection
22 of the Federal Courts at Harris County, Texas. Consequently Plaintiff's lawsuit should
23 be dismissed. Alternatively it should be transferred to the State or Federal Courts of
24 Harris County, Texas, i.e., the U.S. District Court for the Southern District of Texas –
25 Houston Division, or the Harris County, Texas District Courts.

II. LACK OF PERSONAL JURISDICTION

8. The Plaintiff seeking to establish court's in personam jurisdiction as to Defendant Williams carries the burden of proof. The burden does not shift to the party challenging jurisdiction. *Epps v. Stewart Information Services Corp.*, 327 F.3d 642, C.A.8 (Ark.) 2003. On a Defendant's motion to dismiss for lack of personal jurisdiction, the burden is on the Plaintiff to prove the grounds of jurisdiction by a preponderance of the evidence. *Noble Sec., Inc. v. MIZ Engineering, Ltd.*, 611 F.Supp.2d 513 E.D.Va.2009. When faced with a motion to dismiss for lack of personal jurisdiction, Plaintiff Azalea, must do more than merely allege that jurisdiction exists; Azalea as the Plaintiff must carry her burden of establishing facts in support of personal jurisdiction specifically as to Defendant Williams. *Lacovara v. Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 551 F.Supp. 601 E.D.Pa.1982. Once a jurisdictional defense is raised, Azalea as the Plaintiff bears the burden of proving, through affidavits, or competent evidence, sufficient contacts with the forum state to establish personal jurisdiction, and must establish those contacts with reasonable particularity. *Saudi v. Acomarit Maritimes Services*, 245 F.Supp.2d 662 S.A., E.D.Pa. (2003), affirmed 114 Fed.Appx. 449, 2004 WL 2165405, certiorari denied 125 S.Ct. 1850, 544 U.S. 976, 161 L.Ed.2d 727. When personal jurisdiction is challenged, the Plaintiff bears the burden of establishing personal jurisdiction over each individual Defendant. The establishment of jurisdiction over any other Defendant does not imply or create jurisdiction as to Defendant Williams or for that matter each of multiple names or businesses Plaintiff sued. Azalea as the Plaintiff must specifically show jurisdiction as to each of Defendant Williams entities. See, *Burman v. Phoenix Worldwide Industries, Inc.*, 437 F.Supp.2d 142, D.D.C.(2006).

9. The Due Process Clause of the Fourteenth Amendment constrains a State's authority to bind a nonresident Defendant to a judgment of its courts. *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 291, 100 S.Ct. 559, 62 L.Ed.2d 490 (1980).

1 Although a nonresident's physical presence within the territorial jurisdiction of the court
2 is not required, the nonresident generally must have "certain minimum contacts ... such
3 that the maintenance of the suit does not offend 'traditional notions of fair play and
4 substantial justice.'" *International Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S.Ct.
5 154, 90 L.Ed. 95 (1945) (quoting *Milliken v. Meyer*, 311 U.S. 457, 463, 61 S.Ct. 339, 85
6 L.Ed. 278 (1940)).

7 10. As in *Walden v. Fiore*, 134 S.Ct. 1115 (2014), 188 L.Ed.2d 12, 82 USLW
8 4097, 14 Cal. Daily Op. Serv. 1932, the Plaintiff's case here against the Williams'
9 entities and Williams personally requires examination of the "minimum contacts"
10 necessary to create specific jurisdiction. *Walden*, examined the minimum contacts
11 necessary for a Defendant to be subject to the jurisdiction of the forum state. The *Walden*
12 Court held, because the Defendant had insufficient contacts with the forum state, Nevada,
13 and because a Plaintiff's contacts with the forum State cannot be "decisive in determining
14 whether the Defendant's due process rights are violated," the forum state Nevada could
15 not exercise personal jurisdiction. Further *Rush v. Savchuk*, 444 U.S. 320, 332, 100 S.Ct.
16 571, 62 L.Ed.2d 516 (1980). The inquiry here whether a California court may assert
17 specific jurisdiction over the nonresident Defendant Williams focuses on the relationship
18 between the Defendant Williams and the forum, and the litigation, not the relationship of
19 the Plaintiff to the forum. *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770, 775, 104 S.Ct.
20 1473, 79 L.Ed.2d 790 (1984) (quoting *Shaffer v. Heitner*, 433 U.S. 186, 204, 97 S.Ct.
21 2569, 53 L.Ed.2d 683 (1977)). For a State to exercise jurisdiction consistent with due
22 process, the Defendant's **suit-related conduct must create a substantial connection**
23 **with the forum State**. Here, Williams' **suit related conduct** does not establish the
24 minimum contacts requisite to create jurisdiction. See Declaration of Williams attached
25 as **Exhibit 1**.

1 11. Further, “Specific” or “case-linked” jurisdiction “depends on an ‘affiliatio[n]
2 between the forum and the underlying controversy’ ” (i.e., an “activity or an occurrence
3 that takes place in the forum State and is therefore subject to the State’s regulation”).
4 *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. —, —, 131 S.Ct. 2846,
5 2851, 180 L.Ed.2d 796 (2011). Plaintiff’s suit relates to a contract executed by Plaintiff,
6 which is subject by the terms of the contract to enforcement of any dispute in Texas.
7 Specific or case linked jurisdiction fails. This is in contrast to “general” or “all purpose”
8 jurisdiction, which permits a court to assert jurisdiction over a Defendant based on a
9 forum connection unrelated to the underlying suit (e.g., domicile). General jurisdiction
10 also fails as Defendant Williams is not a resident of the State of California. See
11 Declaration of Williams attached as **Exhibit 1** .

12 12. The relationship must arise out of contacts that Williams, the “Defendant
13 himself ” creates with the forum State. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462,
14 475, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985). There are none. Williams is not a resident
15 of California, nor was the contract the subject of this suit executed in California. Further,
16 the contract in dispute specifically stipulates the proper forum as the State of Texas. See
17 Declaration of Williams **Exhibit 1** . Due process limits on the State’s adjudicative
18 authority principally protect the liberty of the nonresident Defendant Williams, not the
19 convenience of Azalea as Plaintiff, or other third parties, i.e., the remaining Defendants.
20 See *World-Wide Volkswagen Corp.*, supra, at 291–292, 100 S.Ct. 559. The Courts have
21 consistently rejected attempts to satisfy the Defendant-focused “minimum contacts”
22 inquiry by demonstrating contacts between the Plaintiff (or third parties) and the forum
23 State. See *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 417, 104
24 S.Ct. 1868, 80 L.Ed.2d 404 (1984) (“[The] unilateral activity of another party or a third
25 person is not an appropriate consideration when determining whether a Defendant has
26 sufficient contacts with a forum State to justify an assertion of jurisdiction”). For

1 example, the Courts have rejected a Plaintiff's argument that a Florida court could
2 exercise personal jurisdiction over a trustee in Delaware based solely on the contacts of
3 the trust's settlor, who was domiciled in Florida and had executed powers of appointment
4 there. *Hanson v. Denckla*, 357 U.S. 235, 253–254, 78 S.Ct. 1228, 2 L.Ed.2d 1283
5 (1958). The Court likewise held that Oklahoma courts could not exercise personal
6 jurisdiction over an automobile distributor that supplies New York, New Jersey, and
7 Connecticut dealers based only on an automobile purchaser's act of driving it on
8 Oklahoma highways. *World-Wide Volkswagen Corp.*, supra, at 298, 100 S.Ct. 559. Put
9 simply, however significant the Plaintiff's contacts with the forum may be, those contacts
10 cannot be “decisive in determining whether the Defendant's due process rights are
11 violated.” *Rush*, 444 U.S., at 332, 100 S.Ct. 571.

12 13. The “minimum contacts” analysis looks to Williams Defendant’s, contacts
13 with the forum State itself, not Williams Defendant’s contacts with persons who reside
14 there. See, e.g., *International Shoe*, supra, at 319, 66 S.Ct. 154 (Due process “does not
15 contemplate that a state may make binding a judgment in personam against an individual
16 ... with which the state has no contacts, ties, or relations”); *Hanson*, supra, at 251, 78
17 S.Ct. 1228 (“However minimal the burden of defending in a foreign tribunal, a Defendant
18 may not be called upon to do so unless he has had the ‘minimal contacts’ with that State
19 that are a prerequisite to its exercise of power over him”). Plaintiff doesn’t allege she is a
20 California resident. Williams’ Declaration **Exhibit 1** clearly supports the lack of
21 minimum contact with the State of California.

22 14. Plaintiff cannot be the only link between Williams the Defendant and the
23 forum. Rather, it is the Williams’ conduct that must form the necessary connection with
24 the forum State that is the basis for its jurisdiction over him. See *Burger King*, supra, at
25 478, 105 S.Ct. 2174 (If the question is whether an individual's contract with an out-of-
26 state party alone can automatically establish sufficient minimum contacts in the other

1 party's home forum, the Courts hold the answer clearly is that it cannot); *Kulko v.*
2 *Superior Court of Cal., City and County of San Francisco*, 436 U.S. 84, 93, 98 S.Ct.
3 1690, 56 L.Ed.2d 132 (1978) (declining to “find personal jurisdiction in a State ... merely
4 because [the Plaintiff in a child support action] was residing there”).

5 15. Williams may have engaged in transactions with the Plaintiff or other
6 parties. But as a Defendant, Williams’ relationship with the Plaintiff, standing alone, is
7 an insufficient basis for jurisdiction. See *Rush*, supra, at 332, 100 S.Ct. 571 (“Naturally,
8 the parties' relationships with each other may be significant in evaluating their ties to the
9 forum. The requirements of *International Shoe*, however, **must be met as to each**
10 **Defendant** over whom a state court exercises jurisdiction”) [emphasis added]. Due
11 process requires that Williams as the Defendant be haled into court in a forum State
12 based on his own affiliation with the State of California, not based on the “random,
13 fortuitous, or attenuated” contacts Williams may have had by interacting with other
14 persons affiliated with the State. *Burger King*, 471 U.S., at 475, 105 S.Ct. 2174.

15 III. CONCLUSION

16 16. Plaintiff is the party to a contract she seeks to have interpreted by this Court.
17 The contract sought to be interpreted and ruled upon by this Court provided for
18 mandatory forum in the Federal or State Courts, in Harris County, Texas. The forum
19 selection clause was prominently integrated into the contract.

20 17. The Court lacks personal jurisdiction over the Defendant Williams.
21 Defendant Williams does not have sufficient contact with the forum State of California to
22 create personal jurisdiction. Plaintiff bears the burden of showing the existence of the
23 Court’s personal jurisdiction over Defendant Williams. The evidence presented clearly
24 supports the lack of jurisdiction. Therefore, all causes of action against Williams must
25 be dismissed.
26

PRAYER

18. Defendant Williams prays the Court upon consideration of this appearance challenging the jurisdiction as a result of mandatory forum selection clause, dismiss all of Plaintiff's causes of action against Defendant Williams, or alternatively order the case transferred to the Texas State Courts in Harris County, or the U. S. District Court, Southern District of Texas, Houston Division, Texas for further consideration.

19. Defendant Williams further prays the Court upon consideration of this appearance finds that this Court lacks jurisdiction over the Defendant Williams and dismiss all causes of against Defendant Williams. Defendant Williams prays for general relief.

Respectfully submitted,

Lead Counsel

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By: /s/ David W. Showalter

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel of record by and through the Court's ECF system on the 4th day of December, 2014.

/s/ Robert S. Besser

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