

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Sam Sloan,

Plaintiff,

Civil Action No. 07-CV-8537 (DC)

-against-

Hoainhan “Paul” Truong, Zsuzsanna “Susan” Polgar,
Joel Channing, William Goichberg, The United States
Chess Federation, Bill Hall, Herbert Rodney Vaughn,
Gregory Alexander, Frank Niro, Grant Perks, William
Brock, Randall Hough, Randy Bauer, Jim Berry,
Texas Tech University and United States of America,

Defendants

AFFIDAVIT IN OPPOSITION TO MOTION
TO DISMISS ON DIVERSITY ISSUE

Samuel H. Sloan, the plaintiff herein, being duly sworn, deposes and says:

1. I make this affidavit in opposition to the motion by William Goichberg and others to dismiss this action on the grounds of lack of diversity jurisdiction. This affidavit only addresses the diversity issue. I will address other issues in other affidavits.
2. Please note that the affidavit of William Goichberg in support of his motion to dismiss sworn to the 9th day of January 2008 is notarized by Pi Ning Cheung, Notary Public – California, Los Angeles.
3. It seems odd that a person who claims to reside in New York and who has known about this lawsuit since it was filed on October 2, 2007 would not be able to obtain a notary public in New York State who is willing to state that he knows Mr. Goichberg.
4. I have known William Goichberg since 1961 when he defeated me in the Eastern Open Chess Championship in Washington DC. One would imagine that since I have known him for 47 years and served on the board with him for one year that I would know where he lives.
5. In his moving affidavit he states that his residence is at 2084 Route 94, Salisbury Mills NY 12577. If that is the case, how come I cannot find this address listed anywhere? Not only it is not listed anywhere as his address, but it is not listed anywhere at all.
6. In fact, the address of 2084 Route 94, Salisbury Mills NY 12577 **DOES NOT EXIST**.
7. My investigation confirms that 2084 Route 94, Salisbury Mills NY 12577 is not a residence or a domiciliary address. I have checked every possible source for the address of 2084 Route 94, Salisbury Mills NY 12577. For example, I checked the US Postal Service website which has the full 9-digit zip code for every address in America at <http://zip4.usps.com/zip4/welcome.jsp>

8. Inputting that address yields the following answer:

We're sorry! We were unable to process your request.

The address was not found. Please check the address below.

You may want to utilize the Yellow Pages and/or White Pages below.

9. I have checked every other possible source, including mapquest.com , Google Earth, Google Maps and none of them show an address in existence of 2084 Route 94, Salisbury Mills NY 12577.

10. A real estate site, zillow.com , shows 2084 Route 94, Salisbury Mills NY 12577, to be an empty lot.

11. Bill Goichberg had better come up with a really good explanation for this.

12. Bill Goichberg lives a vagabond life, constantly traveling from place to place, from chess tournament to chess tournament, from horse racing track to horse racing track. It is true that he has a telephone number in Salisbury Mills but in the many times I have called that number over a period of many years nobody has ever answered the phone. He seems to have it on permanent voicemail. For the past more than 40 years, Bill Goichberg has carried ads for his chess tournaments in every issue of Chess Life, always providing another address where to send the entry fees for his chess tournaments. The street address he provides in this pleading has never previously been provided anywhere else. I know many people who know Bill Goichberg even better than I do and none of them had ever heard of this street address before. If what he says is true, he has been keeping his residence address secret for the last 17 years and has revealed it now just to defeat my diversity claim.

13. So far, Goichberg has submitted no evidence in support of his claim. He has provided no income tax returns, no deed or title to property, no gas nor electric bills nor anything else to establish that his primary domicile is in New York State. (The law speaks of “domicile” not residence.)

14. Bill Goichberg is not presently in New York State. He is now in Southern California and has been there since October. He currently resides at the Santa Anita Inn, at 130 West Huntington Drive, Arcadia, CA 91007 and plans to stay there at least through the winter. As the name suggests, it is next to the Santa Anita Race Track where Bill Goichberg is a race horse handicapper. He plays a system based on the USCF Rating System.

15. His claim is that he “intends to return to New York State”. Intent to return to New York does not establish residence or domicile and does not defeat diversity jurisdiction. Indeed, asserting that he intends to return is a tacit admission by Mr. Goichberg that he is not currently a resident or domiciliary of New York State.

16. Accordingly, diversity is established and a motion to dismiss on that ground must be denied. At a very minimum there will have to be a fact-hearing where Goichberg will be required to produce evidence if he has any that he is domiciled in New York State, especially since he is nowhere to be found in New York State and has not been here in quite some time.

17. In addition, it is not necessary to reach diversity because there are federal questions involved in this case. Also, if worse comes to worst I would just have to drop Goichberg as a defendant because it is clear that all of the other defendants are domiciled outside of New York State.

Samuel H. Sloan
1664 Davidson Ave., Apt. 1B
Bronx NY 10453

917-507-7226
1-347-869-2465
samsloan@samsloan.com

STATE OF NEW YORK)
 ss:
COUNTY OF BRONX)

VERIFICATION

Signature of Petitioner

On the 2nd Day of February, 2008 before me personally came Samuel H. Sloan to me known to be the person described herein and who executed the foregoing instrument. Such person duly swore to such instrument before me and duly acknowledged that he executed the same.

NOTARY PUBLIC

Affidavit of Service

Samuel H. Sloan, being duly sworn, deposes and says that on February 2, 2008 he mailed the within affidavit in opposition to motion to dismiss this action for lack of diversity to the following addresses:

Jeremy Brown
Attorney for USCF, William Goichberg defendants
Proskauer Rose LLP
One Newark Center
Newark NJ 07102-5211

Joseph J. Ortego
Nixon Rose LLP
Attorneys for Hoainhan "Paul" Truong and Zsuzsanna "Susan" Polgar
50 Jericho Quadrangle
Jericho NY 11753-2729

Emily E. Daughtry
Attorney for United States of America
US Attorney's Office
86 Chambers Street, 3rd Floor
New York NY 10007-2632

Patrick M. O'Brien, Esq.
Attorney for William Brock
309 Elmore Street
Park Ridge, Illinois 60068-3569

Arthur M. Handler
Attorney for William Brock
Handler & Goodman LLP
805 Third Avenue
8th Floor
New York NY 10022

Scot M. Graydon
Attorney for Texas Tech University
Assistant Attorney General, General Litigation Division
Attorney General of Texas
PO Box 12548
Austin Texas 78711-2446

June Duffy
Assistant Attorney General of New York
120 Broadway
New York NY 10271

Samuel H. Sloan

Sworn to before me this 2nd
Day of February, 2008

NOTARY PUBLIC