

1 Stephen M. Adams, pro se  
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2 XX Address blanked XX  
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5 The State Of North Carolina  
6 County of Durham  
7 In the General Court of Justice  
8 Superioir Court Division  
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11 Steve Winter and Prerapture Solution, ) Case No.: No. 2CVS01840  
12 Inc., d/b/a SELLCOM, )  
13 Plaintiff, ) MOTION BY DEFENDANT STEPHEN M. ADAMS  
14 vs. ) FOR DISMISSAL OF PLAINTIF'S COMPLAINT  
15 Mark Bassett, et. al., ) DUE TO LACK OF PERSONAL JURISDICTION  
16 Defendants )  
17

18  
19 THE UNDERSIGNED, Stephen M. Adams, makes this motion on his own behalf  
20 pursuant to Rule 12(b) of the Rules of Civil Procedure<sup>1</sup> to dismiss with  
21 prejudice Plaintiffs' claims against the undersigned in the above captioned  
22 matter pursuant to Rule 41(b) for lack of jurisdiction. This motion is  
23 filed solely for purposes of establishing jurisdiction. The undersigned asks  
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<sup>1</sup> N.C.G.S. 1A-1.

1 the Court to accept this motion for this purpose alone, and to permit the  
2 undersigned to make such a "special response."

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4 In support of this motion, the undersigned states and affirms as  
5 follows:

- 6  
7 1. The undersigned is the defendant named as "Steve Adams" in the  
8 original complaint.
- 9 2. The undersigned's true legal name is "Stephen Mark Adams".
- 10 3. The undersigned is, and has been, a continuous resident of the state  
11 of Illinois since September 1989, and prior to that, as an adult, of  
12 Connecticut, Wisconsin, Illinois, and Massachusetts. The  
13 undersigned is not, and has never been, a resident of the State of  
14 North Carolina.
- 15 4. The undersigned has not as an adult (nor to his personal knowledge,  
16 ever), visited or traveled in North Carolina. The undersigned has  
17 not engaged in any business transaction within the state, nor in any  
18 business transaction involving a resident of the state.
- 19 5. The undersigned has not been served in this case, and became aware  
20 of it only through a reference on the internet, and is acting to  
21 preserve his good name and reputation.
- 22 6. There is no basis in North Carolina Statutes 1.IIIA.6A that grants  
23 this court personal jurisdiction over the undersigned.
- 24 7. The undersigned has not conducted any activity within the state of  
25 North Carolina that would grant this court jurisdiction.

1 8. At no time has the undersigned had sufficient contact with any  
2 citizen or resident of that state that would subject the undersigned  
3 to personal jurisdiction under Section 1-75 of the North Carolina  
4 General Statutes.

5 a. The only direct contact the undersigned has had with the  
6 Plaintiff is the 4 emails, sent more than six(6)years ago.  
7 Plaintiff contacted the undersigned once, via telephone, more  
8 than six(6)years ago.

9 b. Indirect contact has occurred via the Internet (public  
10 newsgroup postings), but no such contact has occurred in more  
11 than two (2) years. The content in question was not directed  
12 only to the Plaintiff, but was made in a public forum, in  
13 response to Plaintiff's own such publication.

14 9. At no time has the undersigned engaged in any action which could be  
15 interpreted as "purposefully availing" himself "of the privilege of  
16 conducting business within the forum State" as defined by the United  
17 States Supreme Court in *Int'l Shoe vs. State of Washington* (326 U.S.  
18 310, 316, 66 S. Ct. 154, 158, 90 L. Ed. 95 (1945)).

19 10. The exercise of personal jurisdiction over the undersigned would  
20 clearly offend "traditional notions of fair play and substantial  
21 justice<sup>2</sup>" and violate the Due Process Clause of the United States  
22 Constitution.

23 11. THEREFORE, the undersigned respectfully moves and requests the  
24 following of the Court:

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25 <sup>2</sup> *Int'l Shoe vs. Washington, supra.*

- 1 a. That the Court accept this motion as a "special appearance"  
2 solely for the purposes of determining personal jurisdiction.
- 3 b. That the name "Steve Adams" be stricken from the list of  
4 defendants in this matter.
- 5 c. That all claims and actions made by the Plaintiff against the  
6 undersigned in this case be dismissed with prejudice against  
7 refilling in the State of North Carolina on the basis of lack  
8 of personal jurisdiction, such a ruling based on the pleadings  
9 and citations above, without requiring oral argument before  
10 the court, which would create undue hardship on the  
11 undersigned because he is not a resident of North Carolina and  
12 has no personal or business interests in the State.
- 13 d. That Plaintiff be ordered and compelled to reimburse the  
14 undersigned for all costs and expenses incurred in the course  
15 of preparing, filing and supporting this motion. A full  
16 accounting of such costs will be provided to the court on  
17 disposition of this matter.
- 18 e. Should the Court deny this motion, that because the  
19 undersigned has no ties or relationships in North Carolina,  
20 the Court permit 90 calendar days from the Court's ruling on  
21 this motion to allow the undersigned to locate appropriate  
22 counsel in the State of North Carolina, and to prepare a  
23 response to the claims in the original action.
- 24  
25

CERTIFICATION

12. The undersigned affirms that he has written the above pleading on his own behalf, and that it is true and correct to the best of his knowledge and belief.

Dated this 25<sup>th</sup> day of April, 2002

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Stephen M. Adams, pro se