

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.)
Plaintiffs,)
) No. 2:12-cv- 00184-wks
v.)
)
KENNETH L. MILLER, et al.)
Defendants.)

**MOTION TO CERTIFY ORDER FOR INTERLOCUTORY REVIEW
BY DEFENDANT LINDA M. WALL**

Defendant Linda M. Wall moves the Court to certify its Order dated October 24, 2013 (Dk. No. 115) denying her motion to dismiss for lack of personal jurisdiction and change of venue as appropriate for interlocutory review under 28 U.S.C. §1292(b). This motion is based on the following grounds:

1. The Order presents controlling questions of law as to which there is substantial ground for difference of opinion, and an immediate appeal may material advance the ultimate termination of the litigation.
2. Such questions include what the legal standards are for personal jurisdiction and venue in intentional tort cases, an issue that is currently pending before the United States Supreme Court.
3. Additional questions include whether Defendant Wall (1) was a primary participant in the alleged conduct such that personal jurisdiction may be based on the alleged injuries to Plaintiff in Vermont; and (2) whether Plaintiff may rely on allegations in the Amended Complaint to establish personal jurisdiction that Defendant Wall specifically denied by affidavit.

Defendant requests that the Court either amend the Order or issue a Supplemental Order under 28 U.S.C. §1292(b) to reflect certification. *See In re Hamilton*, 122 F.3d 13, 14 (7th Cir. 1997).

Dated: Hamden, Connecticut
November 12, 2013

DEFENDANT LINDA M. WALL

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**DEFENDANT LINDA M. WALL’S MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO CERTIFY ORDER FOR INTERLOCUTORY REVIEW BY**

In support of her motion to certify, Defendant Linda M. Wall hereby incorporates by reference the arguments, points, and authorities identified in Defendants Hyden and Zodiates’ Memorandum of Law in Support of Motion for Interlocutory Appeal (Dk. No. 118) as such arguments, points, and authorities are directly applicable to her defense.

In addition, Wall states there are substantial grounds for a difference of opinion whether *In re Terrorist Attacks of September 11, 2001*, 538 F.3d 71 (2d Cir. 2008) precludes personal jurisdiction over her in this Court. The allegations against Wall are:

- Wall was asked to meet with Lisa Miller to screen her for representation by lawyers working at Liberty University and its related law firm, Liberty Counsel, LLC, and that Wall became friends with Lisa Miller. Amended Complaint (Dk. No. 25-1), ¶ 22;
- In spring of 2008, Lisa Miller and Wall met to discuss what Lisa Miller should do “knowing that Virginia” law was not going to prevent Isabella from having contact with Plaintiff Jenkins, *Id.*, ¶ 26;

- *Upon information and belief*, Wall and Miller decided and agreed as early as June of 2008 that Lisa Miller should flee with Isabella, *id.*, ¶ 26, which was specifically denied by Wall by affidavit in support of her motion to dismiss. Wall Aff., ¶¶ 24-26 (Dk No. 109-1);
- Wall helped organize the Protect Isabella Coalition (“PIC”) in the spring of 2008 in Lynchburg, Virginia. Amended Complaint, ¶ 27;
- In January 2010, Wall appeared on television with several members of the PIC and Thomas Road Baptist Church, including TRBC's Pastor for Outreach and Assimilation Tipton Killingsworth, to endorse the alleged kidnapping. *Id.*, ¶ 51;
- Wall wrote on Facebook that if anyone knew of Lisa and Isabella’s whereabouts, they should not tell anyone, and made several phone calls to law enforcement to instruct them that they should not look for Lisa and Isabella. *Id.*, ¶ 52; and
- Wall sought donations for Lisa Miller after January 2010, *id.*, ¶ 54, which was specifically denied by Wall. Wall Aff., ¶¶ 31-35.

A reasonable person could conclude that the foregoing alleged actions were *at least* as secondary as funding a terrorist organization that had announced its intention to attack the United States. *See In re Terrorist Attacks*, 538 F.3d at 93-95. The Second Circuit should be given an opportunity to decide whether Wall was a primary participant in the alleged kidnapping before the Court and the parties expend further resources. Further, Wall by affidavit specifically controverted the key allegations against her, and Plaintiff submitted no counter-affidavit in rebuttal. This Court denied Wall’s motion to dismiss on the basis of Plaintiff’s allegations without addressing Wall’s affidavit. The Second Circuit should be given an opportunity to decide whether Plaintiff’s resting on pleadings was sufficient to overcome Wall’s sworn testimony.

CONCLUSION

Wall's request for certification for review should be granted.

Dated: Hamden, Connecticut
November 12, 2013

DEFENDANT LINDA M. WALL

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CERTIFICATE OF SERVICE

I hereby certify that, on November 12, 2013, I electronically filed with the Clerk of the Court a Motion to Certify Order for Interlocutory Review and a memorandum of law in support thereof on behalf of Defendant Linda M. Wall, and service of such filing shall be provided by CM/ECF via Notice of Electronic Filing (NEF) to the following NEF counsel of record:

Ritchie E. Berger, Esq.	Thomas E. McCormick, Esq.
Brooks G. McArthur, Esq.	Sophie E. Zdatny, Esq.
Peggy J. Schmitz, Esq.	Sarah Star, Esq.
Steven J. Shrock, Esq.	Frank H. Langrock, Esq.
Joshua M. Autry, Esq.	Katherine B. Kramer, Esq.
Robert G. Cain, Esq.	Lisa B. Shelkrot, Esq.
Robert G. Hemley, Esq.	
Norman C. Williams, Esq.	

Dated and signed at Hamden, CT.

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