

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF CONNECTICUT**

Clifton S. FREEDMAN,	:
Plaintiff,	:
	:
-vs-	: Civil No. 3:03cv1048 (PCD)
	:
AMERICA ONLINE, INC., the TOWN	:
of FAIRFIELD, and Detectives	:
William YOUNG and David	:
BENSEY (individually and in their	:
official capacities)	:
Defendants.	:

**RULING ON PLAINTIFF’S MOTION FOR RECONSIDERATION**

Plaintiff moves for reconsideration of the Ruling granting Defendant AOL’s motion to dismiss [Doc. No. 32]. For the reasons stated herein, Plaintiff’s motion [Doc. No. 34] is **granted**.

**I. Background**

The Court presumes familiarity with previous Rulings in this case. Plaintiff seeks reconsideration of the Ruling granting AOL’s motion to dismiss and requests that the Court transfer his claim against AOL to the United States District Court for the Eastern District of Virginia.

**II. Standard**

Reconsideration “will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked -matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” *Shrader v. CSX Transp.*, 70 F.3d 255, 257 (2d Cir. 1995).

### **III. Analysis**

Plaintiff asserts that “[t]ransferring the AOL claims to the Eastern District of Virginia would prevent undue delay and avoid costs that [Plaintiff] will incur if he is required to ‘start from scratch’ by refiling his case.” Pl. Mem. at 1. AOL argues that Plaintiff fails to meet the strict standard for reconsideration.

The Ruling noted that “[t]o bolster his argument that AOL should have brought this motion as a motion to transfer rather than to dismiss, Plaintiff argues that AOL has requested that if the Court declines to dismiss the claims it should transfer the case to the Eastern District of Virginia.” Ruling on Def. AOL’s Mot. To Dismiss at 13 n.5. This was not construed as a statement by Plaintiff that, if the forum selection clause was upheld, that he would select a Virginia federal court as opposed to a state court. In the interests of justice, upon reconsideration it is found that Plaintiff’s statement expressed a preference for federal court in Virginia. Accordingly, Plaintiff’s motion for reconsideration is **granted** and the claims against AOL shall be transferred to the Eastern District of Virginia.

### **IV. Conclusion**

For the reasons stated herein, Plaintiff’s motion for reconsideration [Doc. No. 34] is **granted**. The prior Ruling [Doc. No. 32] is vacated to the extent that it dismisses all claims against AOL. It is hereby ORDERED that the claims against AOL shall be transferred to the United States District Court for the Eastern District of Virginia.

SO ORDERED.

Dated at New Haven, Connecticut, January \_\_, 2004.

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Peter C. Dorsey  
United States District Judge