

Court of Appeals, State of Michigan

ORDER

Victory Lane Quick Oil Change Inc v Gordon W Fish

Docket No. 300580

LC No. 10-000787-CZ

David H. Sawyer
Presiding Judge

Joel P. Hoekstra

Jane M. Beckering
Judges

The motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the decision of the circuit court denying the motion to change venue is PEREMPTORILY REVERSED and its September 3, 2010, order effectuating that ruling is VACATED. The trial court clearly erred when it found that venue was proper in Washtenaw County. Venue is determined at the time the lawsuit is filed, *Shiroka v Farm Bureau Gen Ins Co*, 276 Mich App 98, 104; 740 NW2d 316 (2007), not when the cause of action accrues, *DesJardin v Lynn*, 6 Mich App 439, 442-443; 149 NW2d 228 (1967); *T&K Fiberglass, Inc v Avalon & Tahoe, Inc*, unpublished opinion per curiam of the Court of Appeals, issued January 16, 2007 (Docket No. 272051), unpub op at 7-8. Plaintiff offered no factual evidence that defendants resided, had a place of business, or conducted business in Washtenaw County at the time plaintiff commenced its suit in 2010. Accordingly, plaintiff failed to carry its burden to establish that the county it chose is a proper venue. MCL 600.1621; *Provider Creditors Committee v United American Health Care Corp*, 275 Mich App 90, 94; 738 NW2d 770 (2007). This matter is REMANDED to the trial court for entry of an order transferring venue to Jackson County. The order has immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

FEB 04 2011

Date


Chief Clerk