

Court of Appeals, State of Michigan

ORDER

Service Professor Inc v Gregg Trovinger

Docket No. 351386

LC No. 19-007021-CB

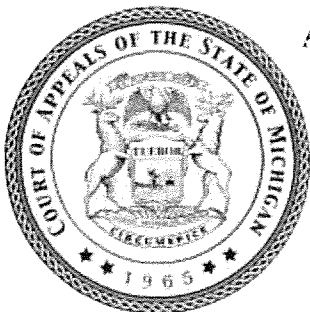
Mark T. Boonstra
Presiding Judge

Jane M. Beckering

James Robert Redford
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the Court PEREMPTORY REVERSES the October 25, 2019 order and REMANDS for entry of an order transferring the case to Muskegon County. Before entering the order, the trial court shall determine the cost of the transfer, which is to be paid by plaintiff. MCR 2.223(B)(1). "The county in which a defendant resides, has a place of business, or conducts business . . . is a proper county in which to commence and try an action." MCL 600.1621(a). This statute is written in the present tense, and venue must be determined at the time the complaint is filed, *Shiroka v Farm Bureau Gen Ins Co of Mich*, 276 Mich App 98, 104; 740 NW2d 316 (2007). On August 12, 2019, defendant did not reside in Kent County, nor did he have a place of business in Kent County. The affidavit from plaintiff's president, when read in conjunction with the allegations in the complaint, only indicates that defendant, after he left plaintiff's employment in May 2019 and began working for a new employer, solicited four of plaintiff's employees to work for his new employer and that his solicitations were successful as to one of the employees. Assuming without deciding that defendant conducted business in Kent County when he solicited plaintiff's employees to work for his employer, there was no credible factual evidence that the solicitations continued throughout the summer of 2019 and up to August 12, 2019. *Marsh v Walter L Couse & Co*, 179 Mich App 204, 208; 445 NW2d 204 (1989). Accordingly, the trial court clearly erred in finding that Kent County was a proper venue. *Colucci v McMillin*, 256 Mich App 88, 93; 662 NW2d 87 (2003).

We do not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

JAN 17 2020

Date


Chief Clerk