

STATE OF MICHIGAN
COURT OF APPEALS

DIANE M. LAMBERT,
Plaintiff-Appellee,

UNPUBLISHED
December 6, 2007

v

CARLA CHAMBERS,
Defendant-Appellant.

No. 268522
Kalamazoo Circuit Court
LC No. 05-000526-NO

Before: Sawyer, P.J., and White and Talbot, JJ.

PER CURIAM.

Defendant appeals by leave granted an order of the circuit court denying her motion for change of venue. We affirm.

Plaintiff, a resident of Van Buren County, worked for Blue Care Network as a Provider Affairs Representative. Her office was located in BCN's Portage office in Kalamazoo County. Defendant, a resident of Kent County, worked for BCN as a Director of Provider Affairs for West Michigan in BCN's Grand Rapids office in Kent County. Defendant was plaintiff's second-level supervisor and was responsible for the Portage office.

Defendant became concerned that plaintiff had disclosed confidential information to a physician. Defendant consulted with her own supervisor and with the human resources department. Ultimately it was determined that plaintiff would be terminated. Defendant informed plaintiff of this decision at the Portage office.

Thereafter, plaintiff filed suit against defendant in Kalamazoo Circuit Court alleging various tort claims. Defendant thereafter moved for a change of venue, arguing that Kent County was the proper venue for the action. The trial court found that there was a factual basis for plaintiff's assertion that the claim arose, at least in part, in Kalamazoo County and that defendant conducted business in Kalamazoo County. Therefore, the trial court concluded, venue was proper in Kalamazoo County.

Defendant argues that the trial court erred in concluding that she conducts business in Kalamazoo County. We do not believe that we need to resolve this question because, regardless whether defendant conducts business in Kalamazoo County, venue was proper in Kalamazoo County.

We begin our analysis by looking to the general tort venue statute, MCL 600.1629, which provides as follows:

Subject to subsection (2), in an action based on tort or another legal theory seeking damages for personal injury, property damage, or wrongful death, all of the following apply:

(a) The county in which the original injury occurred and in which either of the following applies is a county in which to file and try the action:

(i) The defendant resides, has a place of business, or conducts business in that county.

(ii) The corporate registered office of a defendant is located in that county.

(b) If a county does not satisfy the criteria under subdivision (a), the county in which the original injury occurred and in which either of the following applies is a county in which to file and try the action:

(i) The plaintiff resides, has a place of business, or conducts business in that county.

(ii) The corporate registered office of a plaintiff is located in that county.

(c) If a county does not satisfy the criteria under subdivision (a) or (b), a county in which both of the following apply is a county in which to file and try the action:

(i) The plaintiff resides, has a place of business, or conducts business in that county, or has its corporate registered office located in that county.

(ii) The defendant resides, has a place of business, or conducts business in that county, or has its corporate registered office located in that county.

(d) If a county does not satisfy the criteria under subdivision (a), (b), or (c), a county that satisfies the criteria under section 1621 or 1627 is a county in which to file and try an action.

If defendant conducts business in Kalamazoo County, then venue was proper in Kalamazoo County under MCL 600.1629(1)(a). If defendant does not conduct business in Kalamazoo County, then we must look to either MCL 600.1621 or 600.1627. The statute gives no preference for either section, so we conclude that if venue is proper in Kalamazoo under either section, then the trial court did not err in denying defendant's motion.

Turning to MCL 600.1627, that statute provides in pertinent part as follows:

Except for actions founded on contract and actions provided for in sections 1605, 1611, 1615, and 1629, the county in which all or a part of the cause of action arose is a proper county in which to commence and try the action.

Defendant does not challenge the trial court's conclusion that the cause of action arose, at least in part, in Kalamazoo. Accordingly, the trial court did not clearly err in denying defendant's motion for a change in venue. *Massey v Mandell*, 462 Mich 375, 379; 614 NW2d 70 (2000).

Affirmed. Plaintiff may tax costs.

/s/ David H. Sawyer
/s/ Helene N. White
/s/ Michael J. Talbot