

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SPUD SOFTWARE, INC.,

Plaintiff,

v

Case No. 2014-142680-CK
Hon. Wendy Potts

GRAMERICA, LLC, et al,

Defendants.

OPINION AND ORDER RE: MOTION FOR CHANGE OF VENUE

At a session of Court
Held in Pontiac, Michigan

On

NOV 03 2014

Plaintiff/Counter-Defendant Spud Software moves the Court to change of venue to Genesee County. Spud initially filed this action as a collections case in the 52-3 District Court. Defendant/Counter-Plaintiff Gramerica, LLC filed a counter-complaint that exceeded the District Court's jurisdictional limit and the case was transferred to this Court. See MCR 4.002(A)(1). The Court is deciding Spud Software's motion without a hearing. MCR 2.119(E)(3).

Spud Software requests the Court transfer the case to Genesee County for the convenience of the parties. Specifically, Spud Software argues Oakland County presents an inconvenient forum because two out of three parties in this litigation are domiciled in Genesee County. Spud Software further argues, had Gramerica's counter-claim been filed as an original action, instead of as a counter-complaint, venue would have been proper in Genesee County.

Gramerica responded that Spud Software has not demonstrated a persuasive showing of actual inconvenience or prejudice by keeping this litigation in Oakland County. Gramerica also argues Spud Software initially and properly filed this action in Oakland County and that venue is determined when a lawsuit is filed, and not disturbed by subsequent actions. Defendant Light Visions LLC filed a concurrence to Gramerica's response.

The Court agrees with Gramerica that Spud has failed to demonstrate Oakland County presents an inconvenient venue for this litigation. Further, Gramerica is correct that venue is determined at a case's filing, and not defeated by subsequent actions. *Kerekes v. Bowlds*, 179 Mich. App. 805, 808 (1989). Further, the Court does not find Oakland County is an improper venue. See MCR 2.223.

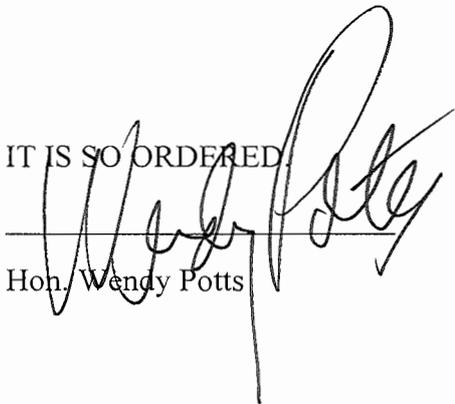
Therefore the Court denies the motion. As previously ordered, the Court will conduct an initial case management conference on ~~Tuesday~~, **November 18, 2014 at 9:00am**. The parties' joint plan submission is due ~~Wednesday, November 12~~, **2014 by 4:30pm**.

This is not a final order.

Dated:

NOV 03 2014

IT IS SO ORDERED



Hon. Wendy Potts