

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

FOLEY TUBE, INC,

Plaintiff,

v

Case No. 14-140639-CK
Hon. Wendy Potts

GONZALES GROUP, LLC, et al,

Defendants.

OPINION AND ORDER RE: DEFENDANTS' MOTION FOR CHANGE OF VENUE

At a session of Court
Held in Pontiac, Michigan

On

JUL 14 2014

Defendants Gonzales Group, LLC and Gonzales Group Jonesville, LLC move the Court to order a change of venue on the ground that venue is not proper in Oakland County. Plaintiff Foley Tube, Inc. has the burden to establish that the county it chose is a proper venue. *Johnson v Simongton*, 184 Mich App 186, 188; 457 NW2d 129 (1990). The Court is exercising its discretion to decide the motion without a hearing. MCR 2.119(E)(3).

At the outset, the Court agrees with Plaintiff that this motion is untimely because it was not filed before or at the time Defendants filed their answer to the complaint. See MCR 2.221(A). Defendants waived any objection to venue by not filing the motion within the time limit imposed by the rule. MCR 2.221(C); *Bursley v Fuksa*, 164 Mich App 772, 778-779; 417 NW2d 602 (1987).

Even if the motion was timely filed, venue is proper in Oakland County because Defendants conduct business here. Plaintiff claims that Defendants breached a steel tubing

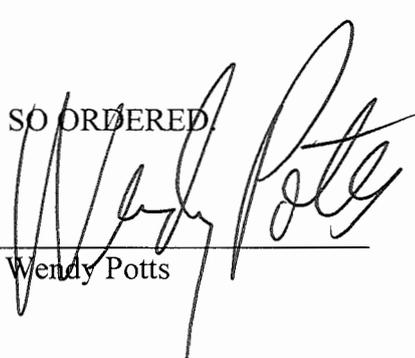
supply agreement by failing to pay Plaintiff. Venue for contract actions is proper where “a defendant resides, has a place of business, or conducts business, or in which the registered office of a defendant corporation is located.” MCL 600.1621(a). Defendants conduct business in Oakland County if they had “systematic or continuous business dealings inside the county.” *Marposs Corp v Autocam Corp*, 183 Mich App 166, 172; 454 NW2d 194 (1990). By regularly purchasing material from a supplier in Oakland County, Defendants had continuous business dealings in the county and thus venue is proper here.

For all of these reasons, the motion is denied.

IT IS SO ORDERED.

Dated:

JUL 14 2014



Hon. Wendy Potts