

STATE OF MICHIGAN
IN THE 17th CIRCUIT COURT FOR KENT COUNTY

KANE & CO., PLC, a Michigan
professional limited liability company,

Plaintiff,

Case No. 13-10907-CKB

vs.

HON. CHRISTOPHER P. YATES

CHRISTOPHER ROBERTS, a Michigan
resident; and 24/7 BAIL AGENCY, INC.,
a Michigan corporation,

Defendants.

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ORDER GRANTING DEFENDANTS' MOTION FOR CHANGE OF VENUE

Plaintiff Kane & Co., PLC (“Kane”) filed this breach-of-contract action against Defendants Christopher Roberts and 24/7 Bail Agency, Inc. (“24/7 Bail Agency”) on November 18, 2013. During the course of the parties’ relationship, Kane had provided legal services to the defendants, who operated a bail-bond company primarily in Macomb County. Kane alleges that the defendants also conduct business throughout the State of Michigan, including in Kent County. See Complaint, ¶ 12. Therefore, Kane contends that venue is proper in Kent County. The defendants, on the other hand, contend that venue is not proper in Kent County because they do not conduct business here, so they filed a motion to change venue under MCR 2.223.

If a plaintiff initiates a civil action in a county where venue is improper, the Court “shall order a change of venue on timely motion of a defendant[.]” See MCR 2.223(A)(1). Beyond that, if venue is proper, the Court nonetheless “may order a change of venue . . . for the convenience of parties and witnesses[.]” See MCR 2.222(A). “Venue is controlled by statute in Michigan.” Dimmitt & Owens Financial, Inc v Deloitte & Touche (ISC), LLC, 481 Mich 618, 624 (2008). Under Michigan law, venue

is proper in “[t]he county in which a defendant resides, has a place of business, or conducts business[.]” See MCL 600.1621(a). In this case, the Court’s analysis turns upon whether the defendants “conduct business” in Kent County. On this issue, a “plaintiff has the burden to establish that the county it chose is a proper venue, and the plaintiff must present some credible factual evidence that the venue chosen is proper[.]” Provider Creditors Committee v United American Health Care Corp, 275 Mich App 90, 94 (2007).

Plaintiff Kane admits that the defendants primarily conduct business in Macomb County, but it also maintains that the defendants conduct enough business in Kent County to permit the Court to hear this case. Kane has presented the Court with evidence of three bail bonds issued by the defendants to three different individuals in Kent County in 2006, see Plaintiff’s Brief in Opposition to Defendants’ Motion for Change of Venue, Exhibit 2, and Kane has also presented the Court with evidence that the defendants hold themselves out as conducting businesses in Kent County on their website. See id., Exhibit 3. Accordingly, the Court must decide whether the three bail-bond contracts and the defendants’ advertising efforts amount to “conducting business” in Kent County. See MCL 600.1621(a).

Our Court of Appeals recently reminded us that “‘the purpose behind the venue statute [is] that an action should be instituted in a county in which the defendant has some real presence such as might be shown by systematic or continuous business dealings inside the county.’” Hills and Dales Gen Hosp v Pantig, 295 Mich App 14, 22 (2011). “‘Conducting business does not include the performance of acts merely incidental to the business in which the defendant is ordinarily engaged.’” Id. at 23. Instead, “‘proper venue lies in the county where a defendant conducts ‘its usual and customary business’” Id. “‘The activity must be of such a nature as to localize the business and make it an operation within the county.’” Id. Based on these standards, our Court of Appeals has found that a defendant was not

conducting business in a county where it had “received a single referral” even though the defendant regularly advertised in that county. Id. at 22, citing Saba v Gray, 111 Mich App 304, 312-313 (1981).

Likewise, the defendants in this case do not “conduct business” in Kent County. Plaintiff Kane produced evidence that the defendants advertise in Kent County, see Plaintiff’s Brief in Opposition to Defendants’ Motion for Change of Venue, Exhibit 3, but Kane presented evidence of just three bail-bond contracts that were actually written by the defendants in this county, and each of these contracts was written back in 2006. Id., Exhibit 2. This evidence does not give rise to a “real presence such as might be shown by systematic or continuous business dealings inside the county.” Hills and Dales Gen Hosp, 295 Mich App at 22. Thus, the Court must conclude that venue is not proper in Kent County, and it must grant the defendants’ motion for change of venue to Macomb County.*

IT IS SO ORDERED.

Dated: January 30, 2014



HON. CHRISTOPHER P. YATES (P41017)
Kent County Circuit Court Judge

* Plaintiff Kane places great significance on the fact that the contract between the parties was executed in Kent County, but in a breach-of-contract action, venue is not determined by the county in which the cause of action arose. See MCL 600.1627 and 600.1621.