

TENTATIVE RULINGS

FOR: February 9, 2018

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

Unlawful Detainer Cases – Pursuant to the restrictions in Code of Civil Procedure section 1161.2, no tentative rulings are posted for unlawful detainer cases and appearances are required.

Court Reporting Services – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. These proceedings include civil law and motion hearings. If counsel want their civil law and motion hearing reported, they must arrange for a private court reporter to be present. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

CIVIL LAW & MOTION CALENDAR – Hon. Diane Price, Dept. F (Criminal Courts Bldg.-1111 Third St.)

Tamara R. Slaughter v. Safeway, Inc. et al.

26-67130

DEFENDANT AND CROSS-COMPLAINANT RICHARD D. MOYER AND MARY R. MOYER, MOTION TO ENFORCE THE COURT'S OCTOBER 2, 2017 SANCTION ORDER OR, ALTERNATIVELY, FOR ENTRY OF JUDGMENT; REQUEST FOR FURTHER MONETARY SANCTIONS

TENTATIVE RULING: The Motion is GRANTED IN PART and DENIED IN PART. The outstanding sanctions amount, plus an additional \$1,785 (fees incurred by Defendant in bringing this Motion) is to be paid upon entry of judgment in this case, along with any interest that has accrued (at a rate of 10% per annum) on the unpaid balance.

CIVIL LAW & MOTION CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)

Laurie Hall v. Phillip Bullock, et al.

17CV001109

MOTION TO TRANSFER VENUE

TENTATIVE RULING:

Defendants Phillip Bullock and Angela Ling's motion to transfer venue to Santa Clara County pursuant to Code of Civil Procedure section 396b [wrong court] is GRANTED. "Except as otherwise provided by law and subject to the power of the court to transfer . . . the county where the defendants or some of them reside at the commencement of the action is the proper court for the trial of the action." (Code Civ. Proc., § 395, subd. (a); see *Brown v. Super. Ct.*

(1984) 37 Cal.3d 477, 483 [“It is well established that a defendant is entitled to have an action tried in the county of his or her residence unless the action falls within some exception to the general venue rule.”] Bullock has lived full-time in Santa Clara County since 1994 and intends to remain there. (Bullock Decl. ¶ 2.) He has never been a full-time resident in Napa County. (*Id.*, ¶ 3.) Ling has continuously lived in Santa Clara County since 1997 and intends to remain there. (Ling Decl., ¶ 2.) She has never been a full-time resident in Napa County. (*Id.*, ¶ 3.) Because both defendants are domiciled in Santa Clara County, they have the right to have this action tried in the county where they reside.

Plaintiff Laurie Hall contends venue is proper in Napa County because that is where her physical injury occurred. (See Code Civ. Proc., § 395, subd. (a) [“If the action is for injury to person the court where the injury occurs is a proper court for the trial of the action.”]) According to Hall, Ling caused Hall to suffer physical injury in Napa County beyond mere emotional distress. Hall states due to Ling’s intentional interference with the agreement, Hall began having suicidal thoughts, which culminated in her intentionally cutting herself in Napa County. (Hall Decl., ¶ 7.) This contention fails. Since Hall’s “injury to person” in Napa County was self-inflicted, it cannot serve as a basis for claiming venue here. (See *Lucas v. Lucas Ranching Co.* (1937) 18 Cal.App.2d 453, 456 [“In an action such as plaintiff’s, however, the place where the injury occurs is not the locale of the events which, ultimately, cause the injury. She is injured not at the site of the events, but, brooding over the wrongs done her, at the place or places where worry and loss of sleep finally take their toll. No reason appears why an injury which has no definite situs should be given potency in determining the place of trial.”]) Tellingly, Hall admits she located no cases addressing the situation where a claim for intentional infliction of emotional distress also encompasses a resulting actual self-inflicted physical injury to the plaintiff.

Hall argues defendants failed to negate all possible grounds for venue by failing to address the “injury to person” sentence contained in § 395. This argument is meritless. First, as noted, Hall’s physical injury was self-inflicted. As result, the possible ground for venue Hall invokes is seeking to place a square peg in a round hole. Defendants did not need to negate such a manufactured and legally deficient basis for venue. Second, even if defendants had to negate this ground, they did so in their reply. Third, the Court questions whether the “negate all possible grounds for venue” rule even applies to individual defendants. Hall cites to a practice guide to support her position, which in turn cites to *Karson Indus., Inc. v. Super. Ct.* (1969) 273 Cal.App.2d 7, 8-9. *Karson* only applies the rule to corporate defendants. (*Id.* at pp. 8-9 [“In California there are five potential counties of proper venue for contract actions against a corporation A corporate defendant challenging venue may obtain an order changing venue only to the county of its principal place of business [citation], and in seeking such an order has the burden of negating the propriety of venue as laid *on all possible grounds*.”]) Hall raises no authority applying the rule to individual defendants.

Defendants’ request for an award of attorney’s fees against Hall’s attorney, William H. Paynter, is DENIED. (Code Civ. Proc., § 395b, subd. (b).) An offer to stipulate to change venue was not reasonably made. (*Id.*; see Pappy Decl., ¶¶ 2-3; Paynter Decl., ¶¶ 3-4.)

Hall's request for an award of attorney's fees is DENIED. (Code Civ. Proc., § 395b, subd. (b).)

Hall shall pay the transfer fee.