

STATE OF MAINE  
CUMBERLAND, ss.

BUSINESS AND CONSUMER COURT  
CIVIL ACTION  
DOCKET NO.: BCDWB-CV-2019-3

DR. KATHLEEN PRUNIER,

Plaintiff

v.

MARK GOOD, et. al.,

Defendants

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INTERIM ORDER REGARDING  
TRIAL LOCATION

Discovery in this case is complete, and the matter is now awaiting jury trial. In the meantime, Plaintiff Kathleen Prunier (“Dr. Prunier”) has filed a Motion for a Change of Venue. Dr. Prunier seeks to change venue from Hancock County (Ellsworth) to either Penobscot County (Bangor) or Cumberland County (Portland). Publisher Defendants oppose the Motion and seek to keep the case in Hancock County.

Technically, since this case is in the Business Court, what Dr. Prunier seeks is not a change in venue pursuant to 14 M.R.S. § 508, but rather a change of trial location pursuant to M.R. Civ. P. 137(b). Under Section 508, a party moving for a change of venue must show presumed or actual prejudice. *State v. Johnson*, 479 A.2d 1284, 1287 (Me. 1984); *see also State v. Beckus*, 229 A.2d 316, 318 (Me. 1967) (describing grounds for a change of venue). Under Rule 137(b), a trial will be held “in the geographic area of the originating court,” unless the parties agree on another location, or the Court determines there are

unusual circumstances that warrant conducting the trial at another location. M.R. Civ. P. 137(b). Unusual circumstances include scheduling considerations. *Id.* Thus, while the distinction between Section 508 and Rule 137(b) may superficially appear to be form over substance, the standards that apply to a change venue are substantively different than the standards that apply to a change of trial location.

In this case, under Rule 137(b) there are no unusual circumstances that warrant moving the trial to Cumberland County. The slight convenience that would be accorded Dr. Prunier's witnesses from Florida is outweighed by the substantial inconvenience that would be imposed on the Publisher Defendants and their witnesses, all of whom live and work in Hancock County or the surrounding geographic area. Further, even if hypothetically the Court were to determine it would be difficult for Dr. Prunier to obtain a fair trial in Hancock County (which the Court does not determine at this time, one way or the other), it would be unnecessary to relocate the trial all the way to Cumberland County. The Court therefore denies Dr. Prunier's Motion to the extent it seeks to move the jury trial location to Cumberland County (Portland).

It may or may not make sense under Rule 137(b) to move the trial location from Hancock County to Penobscot County, but the Court is not yet prepared to make that determination. The state and the nation are still in the grips of the pandemic. There is no guidance on when civil jury trials will resume in Maine, and when this particular case might get to select a jury. The wait could still be many months, and circumstances can change between now and then. Further, when civil jury trials do re-start, scheduling considerations and the availability of a jury pool may impact the analysis of whether to conduct the trial in Hancock County or Penobscot County.

Accordingly, the Court defers deciding the Motion at this time, at least as between Hancock County or Penobscot County. As the case gets closer to the point of scheduling a jury trial, Dr. Prunier can file a supplemental Motion if she still wishes to move the trial location from Hancock County to Penobscot County, adding any additional information that may be pertinent at that time. Publisher Defendants can oppose any such supplemental Motion as the rules provide.

The Clerk shall incorporate this Order on the docket by reference pursuant to M.R. Civ. P. 79(a).

SO ORDERED.

Dated: February 4, 2021

/s/  
Judge, Business and Consumer Court