

**NOTICE:**

To request limited oral argument on any matter on this calendar, you must call the Court at (916) 874-5487 (Department 47) by 4:00 p.m. the court day before this hearing and advise opposing counsel. If no call is made, the tentative ruling becomes the order of the court. Local Rule 2.02(D).

**Department 47  
Superior Court of California  
720 Ninth Street  
Michael G. Virga, Judge  
S. Jacobs/P. Banks, Clerk  
None, Bailiff**

**Thursday, January 05, 2006, 9:30 AM**

Item 1    **02AS06836        OBERT C. COOK, SR., ET AL VS. SHELL OIL COMPANY, ET AL**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and a statement of non-opposition having been filed, plaintiffs' motion to continue trial currently scheduled for January 10, 2006 is GRANTED. This matter shall be placed upon the April 17, 2006 trial setting calendar to be heard at 10:00 a.m. in Department 47.

The court finds good cause to continue as one of the defendants requires additional time to employ new counsel as a result of possible conflicts with the other defendant.

Item 2    **03AS02984        RAYMOND BATEMAN VS. CPN INTERNATIONAL INC., ET AL**

Nature of Proceeding: Motion For Leave To Intervene

Filed By:

Good cause appearing, and no opposition having been filed, proposed intervenor, County of Sacramento's motion to intervene as a party plaintiff is GRANTED. As intervenor is a public entity no filing fee shall be charged. Intervenor's complaint in intervention shall be filed by the court.

The court finds good cause to intervene as intervenor is plaintiff's employer and seeks to recoup certain sums it has paid to plaintiff in worker's compensation benefits from defendant herein.

Item 3    **05AS04135        ANGELA LOMBARDI VS. TOMMIE LEI THOMPSON**

Nature of Proceeding: Motion To Change Venue

Filed By:

Defendant Thompson's motion to change venue of this action to the Yolo County Superior Court is GRANTED. Plaintiff shall pay transfer fees.

The court finds good cause to transfer this action as Sacramento is an improper court for venue purposes while venue is proper in both Yolo and Placer Counties. Placer County is the county where the accident occurred and Yolo County is the county where the defendant resides. Defendant seeks transfer to Yolo County.

Plaintiff opposes on the ground that defendant has waived his right to transfer under CCP 396b(a) having filed his motion to change venue three days after filing his answer and apparently after initiating some discovery. Whether a motion based upon improper court is timely filed is a question of waiver. (*Lyons v. Brunswick-Balke* (1942) 20 Cal 2d 579, *Van Gaalen v. Superior Court* (1978) 80 Cal App3rd 371). In the instant case, the court finds the motion to transfer having been filed just days after the answer, that defendant did not intend to waive his right to contest venue in the forum. Accordingly, the court finds the motion to transfer should be granted and the case transferred to defendant's county of residence.