

**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  
Roland L. Candee, Judge  
S. Jacobs/P. Banks, Clerk  
None, Bailiff**

**Friday, February 23, 2007, 9:30 AM**

Item 1    **04AS01319        CALIFORNIA MANTEL, INC. VS. GEORGIA-PACIFIC CORP., ET AL**

Nature of Proceeding: Motion To Bifurcate

Filed By:

This matter is continued to 3/22/2007 at 09:30AM in this department. (By written stipulation)

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Item 2    **04AS01682        LILIYA SHEVCHUK VS. BETTY LOU KLIEN**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and the parties having stipulated thereto, defendant Klein's motion to continue trial and settlement conference currently set for March 5, 2007 and February 28, 2007, respectively, is GRANTED. Trial in this matter is continued to June 25, 2007 at 8:30 a.m. in Department 47. The settlement conference is continued to June 5, 2007 at 1:30 p.m. in Department 59.

The court finds good cause to continue based upon the stipulation of the parties and defendant's expert's unavailability.

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Item 3    **04AS03923        STEVE, ET AL. VS. DELTA BOAR WORKS, ET AL.**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and the parties having stipulated thereto, defendants' motion to continue settlement conference and trial currently set for March 3, 2007 and March 13, 2007, respectively, is GRANTED. This matter shall be placed upon the March 19, 2007 trial setting calendar to be heard at 10:00 a.m in Department 47.

The court finds good cause to continue based upon the stipulation of the parties and defense counsel's conflicts with the current trial date.

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Item 4    **05AS03131        ALMANOR ENERGY PLUS VS. HOLLINGSHEAD, NARDINE, BENNETT,**

**ETAL**

Nature of Proceeding: Motion To Continue Trial

Filed By:

Good cause appearing, and the parties having stipulated thereto, plaintiff's motion to continue trial and settlement conference currently set for April 17, 2007 and March 14, 2007, respectively, is GRANTED. This matter shall be placed upon the June 4, 2007 trial setting calendar to be heard at 10:00 a.m. in Department 47.

The court finds good cause to continue based upon the stipulation of the parties, the impending summary judgment motion and the parties need for additional time to complete discovery.

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Item 5    **05AS05106        MOHAMMAD MAHMOUD VS. RALEYS**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Good cause appearing, and defendant having filed a statement of non-opposition, plaintiff's motion for relief from waiver of jury fees is GRANTED. Plaintiff shall post his jury fees forthwith.

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Item 6    **05AS05106        MOHAMMAD MAHMOUD VS. RALEYS**

Nature of Proceeding: Miscellaneous Motion

Filed By:

See ruling in item no. 5.

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Item 7    **06AS02551        KATHERINE BLAIR AKIN, ET AL VS. FORD MOTOR CO., ET AL**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Fee waiver application. Appearance required.

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Item 8    **06AS05117        STEVE SAXON VS. SAUL LEFORT ET AL**

Nature of Proceeding: Motion To Change Venue

Filed By:

Good cause appearing, defendants Leforts' motion to change venue of this action to the Lake County Superior Court is GRANTED. Plaintiff shall pay transfer fees. Defendants' request for attorney fees and costs pursuant to CCP 396b(b) is DENIED.

Defendants seek to change venue of the current action, have it stayed or have it dismissed . Defendants argue among other things that there is another action pending. The other action which is now in Lake County was originally filed in Sacramento County, but was ordered transferred by this court on defendants' motion.

Defendants assert that venue should be transferred in this action, as was done with the initial action, as the causes and the theories are the same. In the alternative, defendants argue that the action should be transferred under the mixed action rule as venue is only proper as to some of the causes in Lake County. As a consequence they argue that under the mixed action rule all of the causes must be transferred to Lake County.

Plaintiff argues that the instant action is distinct from the initial one, that this action focuses on events relating to the parties agreement to dissolve their previous partnership and on the alleged conversion of a truck that was held in Sacramento County. Plaintiff argues that venue for a cause of action for conversion is proper in either the county where the defendant resides or the county where the injury occurred. In making this argument, plaintiff relies on CCP 395 which provides that a cause of action for injury to person or personal property will lie in the county where the injury occurred or the county where the defendant resides.

Contrary to plaintiff's argument, however, conversion is not considered injury to personal property for venue purposes. (See California Civil Procedure Before Trial (C.E.B.) 8.307 at 407; Spangenberg v. Spangenburg (1932) 123 Cal App 387). Accordingly, venue for a conversion action is only appropriate in the county where the defendant resides. The same rule applies to several other causes alleged by plaintiff, including causes for negligence and intentional infliction of emotional distress. (See Cubic Corp. v. Superior Court (1986) 186 Cal. App. 3rd 622; Carruth v. Superior Court (1978) 80 Cal.App. 3d 215).

For the reasons set forth above, venue as to the various tort actions lies only in Lake County, defendants' county of residence. Assuming for purposes of argument that venue is appropriate in Sacramento as to any of the contract causes of action, the case is subject to the mixed action rule. Under this rule if venue is not proper as to all cause of action in the forum, defendants are entitled to have the entire action transferred to their county of residence. (See Jhirmack Enters. v. Superior Court (1979) 96 Cal. App. 3d 715)). Accordingly, the court finds that transfer to Lake County, defendants county of residence is appropriate.

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Item 9    **06AM07864**    **CACV OF COLORADO, LLC VS. FREDERICK S. TOGNOLI**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Fee waiver hearing. Appearance required.

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