

**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**

**Tuesday, April 10, 2007, 9:30 AM**

Item 1    **05AS04050        CHARLES JOHNSON VS. CITY OF SACRAMENTO, ETAL**

Nature of Proceeding: Motion To Consolidate

Filed By:

Dropped at the request of the moving party.

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Item 2    **05AS04051        ROSETTA ATKINS VS. CITY OF SACRAMENTO, ET AL**

Nature of Proceeding: Motion To Consolidate

Filed By:

This matter is dropped from calendar.

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Item 3    **05AS04051        ROSETTA ATKINS VS. CITY OF SACRAMENTO, ET AL**

Nature of Proceeding: Motion To Consolidate

Filed By:

This matter is dropped from calendar.

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Item 4    **07AS00450        SANDRA B. JOHNSTON VS. ARIEL A. ORTIZ LAGADERE, MD, ETAL**

Nature of Proceeding: Motion To Change Venue

Filed By:

Defendants Ariel A. Ortiz Lagardere, M.D. and OBCT, Inc.'s motion to change venue of this action to the San Diego County Superior Court is GRANTED. Plaintiff shall pay transfer fees. Each party's request for attorney fees and costs pursuant to CCP 396b (b) is DENIED.

Moving defendants seek to change venue of this action to San Diego County on the ground that Sacramento is an improper court for venue purposes, while venue is appropriate in San Diego County as to all counts and all defendants. Plaintiff opposes transfer asserting that the oral contract in question was made in Sacramento County and was performed in Sacramento County.

This action involves a variety of claims arising from plaintiff's prior employment with the moving defendants. Plaintiff, among other things, asserts claims for breach of contract and non-personal injury torts. As moving defendants correctly note when a complaint states multiple causes of action, a defendant who is entitled to a change of venue as to one cause is entitled to a transfer of the entire action. (*Jhirmark Enterprises, Inc v. Superior Court* (1979) 96 Cal. App. 3rd 715, 720; *Gallin v. Superior Court* (1991) 230 Cal. App. 3rd 541, 545). Applying the above rule to the instant case, if venue is found to be improper in the forum as to either contract or tort actions as to the moving defendants, the entire complaint must be transferred.

Venue for a non-personal injury tort action is proper only in the county of the defendant's residence. (*Johnson v. Superior Court* (1965) 232 Cal. App. 2d 212, 218, *Cubic Corporation v. Superior Court* (1986) 186 Cal. App. 3rd 622, 625). In this case, it is not disputed that defendant Dr. Lagadere resides in San Diego County and that defendant OBCT, Inc. has its principal place of business in San Diego County. As moving defendants both reside in San Diego County, venue for all non-personal injury torts lies only in San Diego. As venue of these causes lies only in San Diego under the mixed or multiple action rule the entire complaint must be transferred to San Diego.

The court denies each party's request for attorneys fees and costs under CCP 396b(b) as the case involves a host of different venue provisions and because the court is satisfied that each party has proceeded in good faith.

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Item 5    **06AM09780    HERITAGE COMMUNITY CREDIT UNION VS. CYNTHIA M. CORTEZ-CACHO**

Nature of Proceeding: Motion To Change Venue

Filed By:

Good cause appearing, and defendant having apparently not yet appeared in the action, plaintiff's motion to change venue of this case to the Placer County Superior Court is GRANTED. Plaintiff shall pay transfer fees.

The court finds that transfer of this action is appropriate as plaintiff indicates in a declaration of counsel that defendant resides in Placer County and that the contract was entered into in that county and was to be performed there.

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Item 6    **07CS00295    SUSAN RENEE ANDERSON**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Fee wavier application. Appearance required.

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