

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**

Thursday, April 19, 2007, 9:30 AM

Item 1 **07AS00931 BRIAN GOY, ET AL. VS. NORMA WILLIAMS, ET AL.**

Nature of Proceeding: Motion To Change Venue

Filed By:

Defendants Williams and Silver's motion to change venue of this action to the Alameda County Superior Court, Hayward Division is GRANTED. Plaintiff shall pay the transfer fee. Defendants' request to extend time for filing an anti-SLAPP motion must be addressed to the Alameda County Superior Court.

The complaint sets forth various causes of action for breach of contract, fraud and malicious prosecution. The initial dispute resulted from an agreement to sell real property. The malicious prosecution claims arose from attorney Silver's representation of defendants Williams in a bankruptcy court proceeding. It is not disputed that defendants do not reside in Sacramento County. Defendants Williams reside in Santa Clara County. Defendant Silver resides in Alameda County.

It is well established that venue must be appropriate as to all defendants and all causes of action in the forum. (*Brown v. C.C.Myers Inc.*, (1984) 37 Cal. 3rd 477). If venue is not appropriate as to all causes of action or parties, than any party may transfer the entire case to that party's county of residence. (*Ibid.*) Venue of an action for malicious prosecution is appropriate only in the defendant's county of residence. (*Carruth v. Superior Court*, (1978) 80 Cal. App. 3rd 215, 219). In this case that county is Alameda County. Accordingly, the action should be transferred to Alameda County.

Defendants request to extend time for the filing of an anti-SLAPP motion cannot be considered while a venue motion is pending. The filing of a venue motion has the effect of staying all other proceedings in the case. (*See Pickwick Stages v. Superior Court*, (1934) 138 Cal.App 448). Once a venue motion is granted further proceedings must take place in the transferee court. (*Weil & Brown, Cal. Civ. Proc. Before Trial 3-138 at 3:588*). Accordingly, the request to extend time must be made to the Alameda County Superior Court.

Item 2 **07AM02579 AARON D. LOOS, ETAL., VS. ALICE R. ELKINS, ETAL.**

Nature of Proceeding: Miscellaneous Motion

Filed By:

Fee waiver. Appearance required.

Item 3 **07AM02579** **AARON D. LOOS, ETAL., VS. ALICE R. ELKINS, ETAL.**

Nature of Proceeding: Miscellaneous Motion

Filed By:

See ruling in item no. 2.
