

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Memmott v. Manning

Memmott · No. 2:24-cv-1395-TLN-CKD · Decided March 11, 2025

SUMMARY

The United States District Court for the Eastern District of California determined that venue was improper because the defendants and disputed real property were located in North Carolina and the complaint did not establish that a substantial part of the events occurred in California. The court transferred the action, including the pending in forma pauperis motion, to the Western District of North Carolina under 28 U.S.C. § 1406(a), or alternatively § 1404(a), and closed the case.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 11, 2025
DOCKET	2:24-cv-1395-TLN-CKD
DISPOSITION	other
PROCEDURAL POSTURE	Pro se plaintiff filed a complaint, a motion to proceed in forma pauperis, and a first amended complaint. Before screening the amended complaint, the court addressed venue and transferred the action to the Western District of North Carolina.
STANDARD OF REVIEW	The court applied the statutory venue and transfer standards under 28 U.S.C. §§ 1391(b), 1404(a), and 1406(a), exercising discretion to transfer rather than dismiss in the interest of justice.
PRECEDENTIAL VALUE	unpublished and nonprecedential
PARTIES	Orion Douglas Memmott v. Bonnie Manning, et al.

TOPICS

- venue
- civil procedure
- personal jurisdiction
- real estate

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether venue was proper in the Eastern District of California under 28 U.S.C. § 1391(b).
2. Whether the action should be transferred to the Western District of North Carolina rather than dismissed under 28 U.S.C. § 1406(a).
3. Whether transfer was alternatively appropriate for convenience and in the interest of justice under 28 U.S.C. § 1404(a).

HOLDINGS

1. Venue did not lie in the Eastern District of California because neither defendant resided there, the disputed property was located in North Carolina, and the complaint did not show that a substantial part of the events or omissions occurred in California.
2. When venue is improper, the court may transfer the action to a district in which it could have been brought if transfer is in the interest of justice; transfer to the Western District of North Carolina was appropriate here.
3. Even assuming venue could lie in the Eastern District of California, transfer to the Western District of North Carolina was appropriate for the convenience of the parties and witnesses and in the interest of justice.

KEY QUOTATIONS

“If a court determines the appropriate venue for a case lies in another division or district, the court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.”” (at 1)

“Although a nonresident’s physical presence within the territorial jurisdiction of the court is not required, the nonresident generally must have certain minimum contacts... such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.” (at 2)

FACTUAL BACKGROUND

The action concerns real property located in Iron Station, North Carolina. Both named defendants reside in North Carolina, and the complaint did not establish that a substantial part of the events or omissions giving rise to the claims occurred in the Eastern District of California. Plaintiff asserted that he received communications concerning the dispute in California, but the court found that circumstance insufficient to establish venue there.

PROCEDURAL HISTORY

Plaintiff filed the action on May 16, 2024, followed by a first amended complaint on August 23, 2024. The court issued an order to show cause concerning transfer for improper venue, and plaintiff opposed transfer. The Eastern District of California concluded that venue did not lie there and transferred the action, including the

pending in forma pauperis motion, under 28 U.S.C. § 1406(a) or alternatively § 1404(a), directing the clerk to close the case.

DISPOSITION

other

REMAND INSTRUCTIONS

The action, including the pending motion to proceed in forma pauperis, was transferred to the United States District Court for the Western District of North Carolina. The clerk was directed to close the Eastern District of California case, and plaintiff was instructed to direct future filings or inquiries to the transferee court.

CASES CITED

- World–Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291 (1980)
- Walden, 571 U.S. at 283

OPINION

(PS) Memmott v. Manning

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 ORION DOUGLAS MEMMOTT, No. 2:24-cv-1395-TLN-CKD PS

12 Plaintiff, 13 v. ORDER 14 BONNIE MANNING, et al., 15 Defendants. 16 17 18 This matter is
before the undersigned pursuant to Local Rule 302(c)(21). See 28 U.S.C. § 19 636(b)(1).
Proceeding without counsel, plaintiff filed a complaint and a motion to proceed in 20 forma
pauperis on May 16, 2024. (ECF Nos. 1, 2.) Before the complaint could be screened, 21 plaintiff
filed a first amended complaint on August 23, 2024. (ECF No. 3.) On September 24, 22 2024 the
court issued an order to show cause directing the plaintiff to address whether the action 23 should
be transferred to the United States District Court for the Western District of North 24 Carolina.
(ECF No. 4.) Plaintiff responded on October 10, 2024, requesting that the case not be 25
transferred. (ECF No. 5.) Because venue does not lie in this district, however, this action will be
26 transferred to the United States District Court for the Western District of North Carolina. 27 If a
court determines the appropriate venue for a case lies in another division or district, 28 the court
“shall dismiss, or if it be in the interest of justice, transfer such case to any district or 1 division in
which it could have been brought.” 28 U.S.C. § 1406(a). Relatedly, “[f]or the 2 convenience of
parties and witnesses, in the interest of justice, a district court may transfer any 3 civil action to
any other district or division where it might have been brought.” 28 U.S.C. § 4 1404(a). Here, the

plaintiff acknowledges that both named defendants are residents of North Carolina and “[t]he real property which is the subject of this action is located at 2829 Long 6 Circle, Iron Station, North Carolina 28080.” (ECF No. 1.) 7 The federal venue statute provides that a civil action “may be brought in (1) a judicial 8 district in which any defendant resides, if all defendants are residents of the State in which the 9 district is located; (2) a judicial district in which a substantial part of the events or omissions 10 giving rise to the claim occurred, or a substantial part of property that is the subject of the action 11 is situated; or (3) if there is no district in which an action may otherwise be brought as provided in 12 this section, any judicial district in which any defendant is subject to the court’s personal 13 jurisdiction with respect to such action.” 28 U.S.C. § 1391(b). 14 The Due Process Clause of the Fourteenth Amendment limits a court’s ability to exercise 15 personal jurisdiction over nonresident defendants. *World-Wide Volkswagen Corp. v. Woodson*, 16 444 U.S. 286, 291 (1980). “Although a nonresident’s physical presence within the territorial 17 jurisdiction of the court is not required, the nonresident generally must have certain minimum 18 contacts... such that the maintenance of the suit does not offend traditional notions of fair play and 19 substantial justice.” *Walden*, 571 U.S. at 283 (internal citations and quotation marks omitted). 20 As set forth, neither of the defendants are residents of this district for the purpose of 21 determining venue. Further, the property that is the subject of the dispute is in North Carolina. 22 Finally, the complaint’s allegations do not establish that “a substantial part of the events or 23 omissions giving rise to the claim occurred” in this district. 28 U.S.C. § 1391(b)(2). Although 24 plaintiff asserts that he received communications regarding the subject dispute in this district, that 25 is insufficient to establish venue in the Eastern District of California.

26 Under 28 U.S.C. § 1406(a), a district court may “transfer a case brought in the wrong
27 division or district” if it is “in the interest of justice” to do so. If a district court, in its discretion, 28 denies such a transfer, then the court must dismiss the suit. 28 U.S.C. § 1406(a).] Here, the defendants and the property which is the subject of the dispute are in the 2 | Western District of North Carolina. Even if venue could lie in this district, the court finds that in 3 || the interest of justice, the Western District of North Carolina is a more appropriate venue because 4 | a substantial part of the events giving rise to the claim took place within that forum. See 28 5 || U.S.C. § 1404(a). 6 Therefore, the court transfers this action to the United States District Court for the 7 || Western District of North Carolina pursuant to 28 U.S.C. § 1406(a) or, in the alternative, 28 8 | U.S.C. § 1404(a). In transferring this action, this court expresses no opinion regarding the merits 9 || of plaintiff’s claims. 10 HI. Conclusion and Order 1] In accordance with the above, IT IS HEREBY ORDERED that: 12 1. The action, including the pending motion to proceed in forma pauperis, is 13 TRANSFERRED to the United States District Court for the Western District of North 14 Carolina pursuant to 28 U.S.C. § 1406(a) or, in the alternative, 28 U.S.C. § 1404(a). 15 2. The Clerk of Court shall close this case.! 16 | Dated: March 11, 2025 / ae □□ / a Ly a

"7 CAROLYNK.DELANEY

18 UNITED STATES MAGISTRATE JUDGE

19 20 | cKDMemmott395 21 22 23 24 25 26 27 | ' Plaintiff is instructed to direct any filings or inquiries related to this case to the United States 28 | District Court for the Western District of North Carolina.

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