STATE OF MICHIGAN

COURT OF APPEALS

ROBERT VANDYKE,

Plaintiff-Appellant,

v

LEELANAU COUNTY and DAVID GILL,

Defendants-Appellees.

UNPUBLISHED
February 23, 2010

No. 286775
Leelanau Circuit Court
LC No. 07-007700-CD

Before: Cavanagh, P.J., and Fitzgerald and Shapiro, JJ.

PER CURIAM.

Plaintiff appeals as of right an order of the circuit court granting defendants' motion for summary disposition. Plaintiff also appeals orders granting defendants' motion to set aside a default, and granting defendants' motion to change venue. We affirm in part, reverse in part, and remand for further proceedings.

I. Background

Plaintiff was the building inspector for defendant Leelanau County, and defendant David Gill was county administrator. Defendants terminated plaintiff's employment on June 4, 2007, asserting that plaintiff was ineffective in managing the building department. Plaintiff claimed that he was terminated in violation of the Whistleblowers' Protection Act (WPA), MCL 15.361 *et seq.*, because he had reported to Gill that a condominium development had been wrongly approved because of numerous existing code violations, had suspended the condominium development's certificates of occupancy, and had submitted warrant disposition requests to the prosecutor's office regarding a contractor's use of unlicensed workers.

The trial court dismissed plaintiff's claim finding that plaintiff had not been involved in activities protected by the WPA and further concluding that there was no evidence supporting plaintiff's claim that his discharge was causally connected to those activities.

II. Standard of Review

A trial court's determination of a motion for summary disposition is reviewed de novo. *Ormsby v Capital Welding, Inc*, 471 Mich 45, 52; 684 NW2d 320 (2004). Because the parties and the trial court relied on matters outside the pleadings when arguing and deciding, respectively, the motion for summary disposition, we review under the rules applicable to MCR

2.116(C)(10). *Silberstein v Pro-Golf of America, Inc*, 278 Mich App 446, 457; 750 NW2d 615 (2008). When reviewing a motion brought under MCR 2.116(C)(10), the court considers the affidavits, depositions, pleadings, admissions, and other evidence submitted by the parties in the light most favorable to the non-moving party. *Rose v Nat'l Auction Group, Inc*, 466 Mich 453, 461; 646 NW2d 455 (2002). Summary disposition is appropriate if there is no genuine issue regarding any material fact and the moving party is entitled to judgment as a matter of law. *Id.*

To establish a prima facie case under the WPA, "a plaintiff must show that (1) the plaintiff was engaged in protected activity as defined by the act, (2) the plaintiff was discharged or discriminated against, and (3) a causal connection exists between the protected activity and the discharge or adverse employment action." *West v General Motors Corp*, 469 Mich 177, 183-184; 665 NW2d 468 (2003). The WPA is a remedial statute and is liberally construed, favoring the persons the Legislature intended to benefit. *Chandler v Dowell Schlumberger Inc*, 456 Mich 395, 398; 572 NW2d 210 (1998).

III. Analysis

Plaintiff argues on appeal that the trial court erred in granting defendants' motion for summary disposition, defendants' motion to change venue and defendants' motion to set aside the default. Because the default claim is potentially dispositive, we address it first. Similarly, an affirmance of the summary disposition would render the venue question moot. Therefore, we will address venue last.

A. Default

We review a motion to set aside an entry of default for abuse of discretion. *Alken-Ziegler, Inc v Waterbury Headers Corp*, 461 Mich 219, 227; 600 NW2d 638 (1999). The trial court does not abuse its discretion when it chooses an outcome within the range of reasonable and principled outcomes. *In re Temple Marital Trust*, 278 Mich App 122, 128; 748 NW2d 265 (2008).

"MCR 2.603(A) authorizes the court to enter a default of a defendant who fails to 'plead or otherwise defend' in an action," including a failure to answer. *Kowalski v Fiutowski*, 247 Mich App 156, 163; 635 NW2d 502 (2001). A default prevents a party from litigating against liability for well-pleaded allegations and leaves only the issue of damages to be determined. *Kalamazoo Oil Co v Boerman*, 242 Mich App 75, 79; 618 NW2d 66 (2000). Failing to plead or answer implies a concession that the party is liable, or perhaps is indifferent to the outcome of the litigation. *Id*. at 87.

Here, defendants' counsel explained that he was late in sending his answer because his office was confused about the method of service of the complaint. Defendants state that they attempted to contact plaintiff's attorney to request a brief extension, but were unable to reach him. The trial court found that defendants mailed the answer on September 13, the day it was due, and it was received on September 17. The default was filed on September 14.

Defendants then filed a motion to set aside the default. Unless premised on a lack of jurisdiction, a motion to set aside a default or a default judgment should be granted only when both good cause is shown and an affidavit of facts evidencing a meritorious defense is filed.

MCR 2.603(D)(1); *Kowalski*, 247 Mich App at 158. The trial court found that defendants' affidavit set forth the meritorious defense that plaintiff was not terminated for reporting a violation but because of poor performance in supervising his department. Plaintiff does not dispute the trial court's determination of a meritorious defense, but argues that the trial court erred in finding good cause.

Good cause consists of: "(1) a substantial defect or irregularity in the proceedings upon which the default was based, (2) a reasonable excuse for failure to comply with the requirements which created the default, or (3) some other reason showing that manifest injustice would result from permitting the default to stand." *Shawl v Spence Bros, Inc*, 280 Mich App 213, 221; 760 NW2d 674 (2008) (quotation marks and citations omitted).

An attorney's neglect is not good cause and may be imputed to the party against whom default is entered. *Alken-Ziegler, Inc*, 461 Mich at 224-225. The good cause and meritorious defense elements of MCR 2.603(D)(1) are separate requirements not to be blurred, and a meritorious defense cannot satisfy the good cause requirement because of manifest injustice. *Id*. at 229-230. Manifest justice does occur "if a default were to be allowed to stand where a party has satisfied the 'meritorious defense' and 'good cause' requirements of the court rule." *Id*. at 233. The strength of the defense can affect the "good cause" showing that is necessary, such that "if a party states a meritorious defense that would be absolute if proven, a lesser showing of 'good cause' will be required than if the defense were weaker, in order to prevent a manifest injustice." *Id*. at 233-234.

Here, the trial court set aside the default stating that it would be a manifest injustice not to do so. The court acknowledged that an attorney's failure to file on time is not good cause, but that defendants Leelanau County and Gill did nothing wrong and had no fault. Noting the public interest in the case, the court stated that it would be unfair to defendants and the public to resolve the case on a technicality, and plaintiff suffered no prejudice.

In *Shawl*, 280 Mich App at 236-237, this Court instructed that a trial court should evaluate the totality of the circumstances and consider several factors when evaluating both the "good cause" and "meritorious defense" elements.

> In determining whether a party has shown good cause, the trial court should consider the following factors: (1) whether the party completely failed to respond or simply missed the deadline to file; (2) if the party simply missed the deadline to file, how long after the deadline the filing occurred; (3) the duration between entry of the default judgment and the filing of the motion to set aside the judgment; (4) whether there was defective process or notice; (5) the circumstances behind the failure to file or file timely; (6) whether the failure was knowing or intentional; (7) the size of the judgment and the amount of costs due under MCR 2.603(D)(4); (8) whether the default judgment results in an ongoing liability (as with paternity or child support); and (9) if an insurer is involved, whether internal policies of the company were followed. [*Id.* at 237-238.]

The list is not intended to be exhaustive or exclusive, and the trial court should consider only relevant factors and determine how much weight any single factor should receive. *Id.* at 239.

To the extent that the trial court based its decision to set aside the default on this case exclusively on "manifest injustice," we conclude that there was clear legal error because defendants must independently satisfy the good cause requirement. *Alken-Ziegler, Inc*, 461 Mich at 229-230. However, as the trial court noted, defendants' answer was only briefly late due to unintentional mistake as to the method of service and defense counsel made a good faith effort to receive a brief extension and to comply with timelines. The matter is significant and of public concern, and plaintiff was not prejudiced by the four day delay. Plaintiff's counsel indicated in the motion hearing that his objection had been the affidavit of meritorious defense, and said, "If they set forth some facts as to . . . what [plaintiff] had done wrong, I probably would have consented to this thing myself." Considering the totality of the circumstances, we conclude that defendants demonstrated "good cause" to set aside the default. *Shawl*, 280 Mich App at 236-238. Accordingly, we conclude that the trial court did not abuse its discretion in granting defendants' motion setting aside the default and affirm that decision.

B. Summary Disposition

As an initial matter, defendant argued that WPA has no applicability where the report in question was one made by a government enforcement officer as part of his regular duties. We agree with the trial court that our Supreme Court's holding in *Brown v Mayor of Detroit*, 478 Mich 589; 734 NW2d 514 (2007) is controlling on this issue. Therefore, we, like the trial court, must consider whether plaintiff's specific alleged acts constituted protected activities and, if so, whether plaintiff made out a prima facie case on causation.

Plaintiff claims he was fired because he took some or all of the following actions: (1) initiated a criminal prosecution of Feyen-Zylstra Electric, Inc. for alleged violations of the Michigan electrical code; (2) informed the county administrator that he had discovered defects at BayView Condominiums and that he intended to rescind the relevant certificates of occupancy on that basis; and (3) informed the county administrator that he had discovered the fire stopping in the mechanical rooms at the BayView Condominiums did not comply with code, that the mechanical inspectors should have identified these defects, and that he intended to request termination of the mechanical inspector.

The trial court concluded that the filing of the warrant request and informing the county administrator of the additional defects that the mechanical inspectors should have identified constituted "reports" under the WPA, but found that plaintiff had not presented evidence sufficient to create a question of material fact on the issue of causation, i.e. whether the protected activity was a cause of his discharge. The trial court further concluded that neither the revocation of the certificates of occupancy nor plaintiff's alleged communication to Gill that he intended to revoke the certificates due to the defects, constituted a report for purposes of the WPA. Having found one of the alleged actions was not a report and that the other two established no material fact questions, the trial court granted summary disposition to defendants.

1. Criminal Prosecution

The trial court first concluded that that there was no evidence from which it could be concluded by a reasonable juror that county administrator Gill was aware of plaintiff's warrant request related to the violation by Feyen-Zylstra Electric and, therefore, no causal link could be demonstrated. We disagree.

According to the record, plaintiff sent the written requests for warrants to the county undersheriff on May 22, 2007.[1] Prior to making this request, plaintiff sent the contractor a letter informing them of a possible criminal prosecution and provided Gill with a copy of the letter. Gill denies seeing the letter, but there is testimony that it was sent to him and the letter itself states that Gill was to receive a copy. Further, plaintiff testified that on May 23, 2007, he had a conversation with Gill in which he asked Gill for assistance in obtaining information to complete the warrant request application. The conflicting evidence plainly raises a factual dispute. Therefore, viewing the record in the light most favorable to the nonmoving party, we find a genuine issue of material fact as to whether Gill was aware of the warrant disposition requests involving Feyen-Zylstra. *Allison v AEW Capital Mgt, LLP*, 481 Mich 419, 425; 751 NW2d 8 (2008).

We also find that there was a question of material fact whether these reports were causally connected to the decision to fire plaintiff. A plaintiff may establish a causal connection through direct evidence, "which, if believed, requires the conclusion that the plaintiff's protected activity was at least a motivating factor in the employer's actions." *Shaw v Ecorse*, 283 Mich App 1, 14-15; 770 NW2d 31 (2009). Plaintiff was terminated at a June 4, 2007 meeting while meeting with Gill and Hawley. Plaintiff sent the warrant disposition requests on May 22. While a temporal relationship standing alone does not demonstrate a causal connection between the protected activity and any adverse employment action, *West*, 469 Mich at 186, plaintiff's actions against the electrical contractor were raised in the termination meeting. In addition, plaintiff testified that the chairman of the county commissioners, Robert Hawley, told plaintiff that he was not happy with the way that the Feyen-Zylstra matter had been handled. Plaintiff explained Hawley's comments in his deposition:

> *Defense attorney:* What else can you recall was said at this meeting and by whom?
>
> *Plaintiff:* Mr. Hawley had mentioned to me about this Feyen-Zylstra job and how he had gotten a call from somebody there and they weren't happy with the way we handled it.
>
> *Defense attorney:* Hawley said he got a copy from—or a call from the contractor?
>
> *Plaintiff:* The contractor, yes.
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> *Defense attorney:* And the contractor was not happy with the way the building department had handled the matter?
>
> *Plaintiff:* That's correct.

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[1] The forms were received in the prosecutor's office on June 1, and plaintiff was terminated on June 4, 2007

Defense attorney: Did he say anything else?

Plaintiff: He asked me—he says—kind of got the sentences together—and he followed up saying the union didn't have to be involved in that and he asked me why—or why did the union get involved or something. I can't remember how that—and I explained.

This conversation does not specifically reference the warrant disposition requests. However, Hawley did specifically reference the actions of the building department toward the electrical contractor. Further, there is evidence that Hawley and Gill discussed terminating plaintiff before the final decision to terminate was made by Gill. Defendants assert that Hawley was speaking about an issue of union involvement, which was unrelated to the request for warrants, in the meeting where plaintiff was terminated. Plaintiff also notes circumstantial evidence that defendants took notices of non-compliance from the building permit file after he was terminated. Circumstantial evidence can present a factual issue. *Bergen v Baker*, 264 Mich App 376, 387; 691 NW2d 770 (2004). Thus, we conclude that the meaning of Hawley's comments in conjunction with these other factors and the question of causation must be determined by the factfinder.

We conclude that the record contains sufficient evidence from which a reasonable juror could find that Gill was aware of the report and that there was a causal connection between the warrant request and plaintiff's firing. Accordingly, we reverse the trial court's grant of summary disposition as to this claim.

2. Construction Violations and Occupancy Certificate Revocations

Plaintiff also claims that he was engaged in protected activity when he verbally reported to Gill that there were code violations at a condominium development that the building department had wrongly approved, and that he was going to suspend the certificates of occupancy that the department had issued to the development. Plaintiff contends that actually rescinding the certificates of occupancy was also a protected activity. The trial court concluded that neither the rescinding of the certificates nor the report to Gill were protected activities.

We conclude that the verbal reports were protected activity, but suspending the certificates of occupancy was not. "'Protected activity' under the WPA consists of (1) reporting to a public body a violation of a law, regulation, or rule; (2) being about to report such a violation to a public body; or (3) being asked by a public body to participate in an investigation." *Chandler*, 456 Mich at 399, citing MCL 15.362. The WPA is sufficiently broad enough to include reported violations of the law by a third person and a plaintiff may recover even though the violation reported is not that of his employer or of a coworker. *Id.* at 404.

In May 2007, plaintiff inspected the condominium project and saw that an inspector had wrongly approved the project because a firewall was breached, a gas line problem existed, and caulking was omitted. Plaintiff indicated that he informed Gill of the violations. Gill also acknowledged that plaintiff reported the problems at the condominium development to him and was aware that plaintiff intended to revoke the development's certificates of occupancy.

The plain language of the WPA indicates that employees who report violations or suspected violations of the law to a public body are entitled to protection under the act. *Dolan v Continental Airlines/Continental Express*, 454 Mich 373, 381; 563 NW2d 23 (1997). It is not contested in this case that plaintiff's reports to Gill about code violations and the county's wrongful approval constituted a report to a public body. The fact that the public body to which the plaintiff reported was also the employee's employer is not fatal to maintaining the cause of action. See *Brown*, 478 Mich at 594-595. "There is no condition in the [WPA] that an employee must report wrongdoing to an outside agency or higher authority to be protected." *Id.* at 594.

A threshold question does exist, however, on whether relating this information to Gill constituted a protected report for purposes of the WPA. The primary reasoning of the trial court in determining that it was not a "protected report" seemed to be that plaintiff's reports were "just advising his boss of what he's doing," and the WPA "[d]oes not protect actions taken by people on their job to address misconduct, if that's their job."[2] However, our Supreme Court has determined that there is no limiting language found in the WPA that requires that the reporting employee be acting outside the regular scope of his employment. *Id.* at 596.

"The primary motivation of an employee pursuing a whistleblower claim 'must have been a desire to inform the public on matters of public concern.'" *Shallal v Catholic Social Services of Wayne Co*, 455 Mich 604, 621; 566 NW2d 571 (1997) (citation omitted). The WPA's "main purpose is to alleviate the inability to combat corruption or criminally irresponsible behavior in the conduct of government or large businesses." *Id.* at 612 (quotation marks and citation omitted). To effectuate the goal, and thus promote the health and safety of the public, the WPA is aimed at "removing barriers that may interfere with employee efforts to report violations or suspected violations of the law." *Trepanier v Nat'l Amusements, Inc*, 250 Mich App 578, 584; 649 NW2d 754 (2002). The WPA encourages employees, who are the group best positioned to report violations of the law, to report violations by reducing their fear of retribution through prohibiting future employer reprisals against whistle blowing employees. *Shallal*, 455 Mich at 612.

Here, plaintiff's reports to the county administrator that there were construction code violations that were wrongfully approved and that a certificate of occupancy was wrongfully issued constituted reporting to a public body a violation of a law, regulation, or rule under the clear language of the WPA. See MCL 15.362; *Chandler*, 456 Mich at 399. Significantly, although not specifically delineated in the record, plaintiff's purpose in reporting the violations of the law, and the county inspector's errors in approving them can reasonably be understood as attempts to protect the public from the county's errors. See *Shallal*, 455 Mich at 621; *Trepanier*,

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[2] Defendants had argued, based on the nonbinding authority of *Biggs v City of Taylor*, unpublished opinion per curiam of the Court of Appeals, issued April 15, 2004 (Docket No. 245280), that plaintiff's report was not protected because he was not reporting to alert the public, but in the ordinary course of his employment. However, the primary reasoning of *Biggs* did not focus of the plaintiff's job responsibilities, but on the conclusion that a police officer issuing a citation did not fit the purposes of protested activity under the WPA, i.e., to bring about remediation of a matter of public concern. *Id*. at 2.

250 Mich App at 584. Indeed, after the reports were made, plaintiff and Gill discussed how to discipline the inspector involved and plaintiff took action to prevent any member of the public from living in the condominiums due to the danger. The WPA functions to protect plaintiff from reprisal for these communications. Thus, the record here reveals a genuine issue of material fact regarding protected activity upon which reasonable minds could differ. *Allison*, 481 Mich at 425.

However, we agree with the trial court that plaintiff's act of suspending the certificates of occupancy was not a protected activity. Plaintiff suspended the certificates of occupancy by a letter sent to the condominium developers on May 23, 2007. Because the letter was not directed to a public body, did not specify a violation of the law, and was not intended to inform the public, the act of revocation was not a protected activity under the WPA. See *Dolan*, 454 Mich at 381 ("Employees who report violations or suspected violations of the law to a public body are entitled to protection under the act.").

Nevertheless, because we conclude that plaintiff's reporting of the construction violations to Gill was a protected activity, we must next consider whether there was sufficient evidence to create a material question of fact regarding causation.[3]

Plaintiff argued that he provided direct evidence that these reports were among the reasons he was discharged. He testified that at the termination meeting, he was told that his actions had created a "major hassle" and that Gill told him that he did not like the way the condominium project was handled. Additionally, plaintiff noted that the county paid to settle a prior lawsuit with a different developer in similar circumstances, and that the condominium development's certificate of occupancy was restored the day after he was terminated.

Plaintiff also argued that there was circumstantial evidence that he was fired for his reporting activities. He noted the testimony of Gill's administrative assistant, Georgia Robertson, that Gill had told her that the board wanted to fire plaintiff four to six weeks before he was fired. Plaintiff contends that the timeframe of this statement coincides with his reporting activity. Plaintiff also noted that Gill reinstated the certificates of occupancy at the condominium development the day after plaintiff was fired.

Although there was contrary evidence provided by defendants, taking these facts in the light most favorable to plaintiff, a jury could have reasonably concluded that the discussion of the condominium project in the meeting that resulted in plaintiff's termination was motivated by defendants' desire to avoid a lawsuit, and that the timing of the termination in proximity with plaintiff's reports indicated that plaintiff's protected activity was at least a motivating factor in the employer's actions. See *Shaw*, 283 Mich App at 14-15.[4] Accordingly, we find that the trial

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[3] The trial court did not reach this question, as it was unnecessary based on its conclusion that there was no protected activity.

[4] Both the trial court and defendants pointed out that plaintiff testified at his deposition that he did not believe that he was fired because he told Gill of the violations at the condominium project. However, plaintiff later said in the same deposition that evidence that he was fired for

(continued…)

court improperly granted summary disposition to defendants as to this claim and reverse that decision.

3. Mechanical Code Violations

Plaintiff argues that another cause of his termination was his report to Gill that there was defective fire blocking at the condominium development that had been inspected and approved, and that plaintiff was planning to issue a correction notice in response. Gill believed that plaintiff informed him of the defective fire blocking during the first week of May and that this was when they discussed disciplining the inspector. Plaintiff asserts that there exists circumstantial evidence that this report motivated plaintiff's discharge; namely, that plaintiff was terminated shortly after the report and that Gill did not require the developer to address the issue after plaintiff was terminated.

The trial court noted that plaintiff admitted that he did not have any evidence that this report caused his termination and reasoned that plaintiff's arguments themselves did not amount to such evidence. Inferring that plaintiff was terminated for this report solely because Gill did not follow up on it would be speculative. Liberally applying the WPA "does not transform mere speculation into a genuine issue of material fact." *West*, 469 Mich at 188 n 15. Accordingly, we conclude that the trial court properly granted summary disposition as to this claim and affirm that decision.

C. Venue

Finally, plaintiff argues that the trial court erred in granting defendants' motion for a change in venue. We agree. A trial court's ruling on a motion to change venue is reviewed for clear error. *Dimmitt & Owens Financial, Inc v Deloitte & Touche* (*ISC*), *LLC*, 481 Mich 618, 624; 752 NW2d 37 (2008). Clear error exists when the reviewing court is left with a definite and firm conviction that a mistake has been made. *Id*. A plaintiff has the burden of establishing the propriety of the venue choice. *Gross v Gen Motors Corp*, 448 Mich 147, 155; 528 NW2d 707 (1995).

The establishment of venue is properly within the power of the Legislature. *Keuhn v Michigan State Police*, 225 Mich App 152, 153; 570 NW2d 151 (1997). Here, plaintiffs filed a WPA complaint in Grand Traverse Circuit Court. The WPA addresses establishing venue as follows:

> An action commenced pursuant to subsection (1) may be brought in the circuit court for the county where the alleged violation occurred, the county where

(…continued)

reporting inspection errors consisted of the previous lawsuit publicized in the newspapers involving similar circumstances, and the fact that the same errors were occurring and nothing had been done about it. Plaintiff then concluded that he believed he was fired, in part, for revoking the certificates of occupancy at the condominiums. It should be noted that plaintiff's deposition responses are his perception of factual events and should not be relied on as definitive conclusions of law. A trier of fact should determine the question of what motivated plaintiff's termination by considering all of the evidence.

> the complainant resides, or the county where the person against whom the civil complaint is filed resides or has his or her principal place of business. [MCL 15.363(2).]

It was not disputed below that plaintiff was a resident of Grand Traverse County and, according to the WPA venue was proper in Grand Traverse Circuit Court.

However, defendants moved, pursuant to MCR 2.223(A)(1),[5] for a change of venue to Leelanau County on the grounds that MCL 600.1651 determines that proper venue for this action was in Leelanau County. MCL 600.1615 addresses venue in actions against governmental units thusly:

> Any county in which any governmental unit, including but not limited to a public, municipal, quasi-municipal, or governmental corporation, unincorporated board, public body, or political subdivision, exercises or may exercise its governmental authority is the proper county in which to commence and try actions against such governmental units, except that if the cause of action arose in the county of the principal office of such governmental unit, that county is the proper county in which to commence and try actions against such governmental units.

Defendants argued, and the trial court agreed, that Leelanau County was the proper venue because this action arose in Leelanau County where defendants exercise governmental authority.

The goal of statutory interpretation is to determine and apply the intent of the Legislature. *Adams Outdoor Advertising, Inc v Canton Twp*, 269 Mich App 365, 370; 711 NW2d 391 (2006). The first step in determining legislative intent is to examine the specific language of the statute. *Id.* "This Court must consider the object of the statute and the harm it is designed to remedy, and apply a reasonable construction that best accomplishes the statute's purpose." *Id. at* 371. Additionally, the statutory context in which the words are used is to be considered. *Id*.

Here, there are two statutes that are specific to the particular circumstances and conflict with regard to proper venue. A statutory provision is ambiguous if it irreconcilably conflicts with another provision. *Klapp v United Ins Group Agency, Inc*, 468 Mich 459, 467; 663 NW2d 447 (2003). If a statute is ambiguous, judicial construction is appropriate. *People v Warren*, 462 Mich 415, 427; 615 NW2d 691 (2000). Statutes that relate to the same subject matter or share a common purpose are *in pari materi*a and must be read together as one law. *People v Buehler*, 477 Mich 18, 26; 727 NW2d 127 (2007). If the statutes are *in pari materia*, the more recently enacted and more specific law takes precedence. *Husted v Dobbs*, 459 Mich 500, 516; 591

[5] "If the venue of a civil action is improper, the court shall order a change of venue on timely motion of a defendant . . . ." MCR 2.223(A)(1) (paragraph structure and ordinal omitted).

NW2d 642 (1999). Here the WPA is more specific because it applies to this specific claim and was enacted after MCL 600.1615.[6]

Where venue is established by statute, our primary objective is to "effectuate legislative intent without harming the plain wording of the act." *Keuhn*, 225 Mich App at 153. The WPA specifically includes the political subdivisions of the state as employers as defined in the act. MCL 15.361. Therefore, the Legislature presumably considered and intended to include suits against governmental subdivisions when it wrote the WPA's venue provision. See *Rowland v Washtenaw Co Rd Comm*, 477 Mich 197, 219; 731 NW2d 41 (2007). The Legislature is charged with knowledge of existing laws on the same subject and is presumed to have considered the effect of new laws on all existing laws. *Walen v Dep't of Corrections*, 443 Mich 240, 248; 505 NW2d 519 (1993). Because the Legislature specifically included claims against the government in the WPA and did not exclude these claims from the WPA's venue provision, even though it knew of MCL 600.1615, the Legislature specifically intended WPA suits against governmental subdivisions to be included in the WPA's venue provision.

In *Chilingirian v City of Fraser*, 182 Mich App 163, 165; 451 NW2d 541 (1989), this Court agreed with the plaintiff that, in the WPA, "the Legislature intended to protect the plaintiff from the potential prejudice of trial in the same county where the defendant municipality and its officials are located." Therefore, the WPA should have applied to enable plaintiff to keep the WPA claim in his county of residence, rather than the county where the municipality exercises authority. The trial court clearly erred in granting defendants' motion to change venue in accordance to MCL 600.1615. Accordingly, we reverse the trial court's grant of the motion to change venue. On remand, venue should be transferred back to Grand Traverse County.

IV. Conclusion

In sum, we affirm the trial court's grant of defendants' motion to set aside the default judgment. We also affirm the trial court's grant of summary disposition as to plaintiff's third claim of protected activity as well as its conclusion that the revocation of the occupancy certificates was not a report, but reverse its grant of summary disposition as to the warrant request and plaintiff's reporting to Gill of the condominium defects that plaintiff thought required revocation of occupancy permits. We also reverse the trial court's granting of defendants' motion to change venue. We remand this case to the trial court to transfer venue back to Grand Traverse County and for further proceedings related to plaintiff's remaining claims.

Affirmed in part, reversed in part, and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mark J. Cavanagh
/s/ E. Thomas Fitzgerald
/s/ Douglas B. Shapiro

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[6] MCL 600.1615 was enacted in 1963, and MCL 15.363 was enacted in 1981.