## IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI JACKSON DIVISION

ROBERT G. McCONNELL

**PLAINTIFF** 

V.

CIVIL ACTION NO. 3:10-cv-603-TSL-MTP

HIRSCHBACH MOTOR LINES, INC. AND WILLIAM D. TAYLOR **DEFENDANTS** 

## ORDER OF TRANSFER

This matter is before the Court<sup>1</sup> on the motions by Defendant Hirschbach Motor Lines, Inc. (Hirschbach)<sup>2</sup> to dismiss [8] or, in the alternative, transfer venue [10] pursuant to 28 U.S.C. §§ 1391 and 1406(a).<sup>3</sup> Concluding that transfer is appropriate, the Court finds dismissal unnecessary.

This cause of action involves a vehicular accident occurring on October 26, 2009 in Iberville Parish, Louisiana. *See* Complaint [1]. Hirschbach's Answer [7] raised the issue of venue. After a stay was lifted, *see* Text Orders of December 30, 2010 and February 1, 2011, Plaintiff was given a deadline to file his response to Hirschbach's pending motions [8] [10].

Although Plaintiff's response [17] was tardy, he concedes that venue is proper in Louisiana and that the civil action should be transferred to the United States District Court for

<sup>&</sup>lt;sup>1</sup>This cause of action was reassigned from United States Magistrate Judge Keith Ball to the undersigned for all further proceedings. *See* Order [15]

<sup>&</sup>lt;sup>2</sup>Defendant William D. Taylor has not been served with process. Because he is averred to be an adult resident citizen of Arkansas, and at the time of the events giving rise to this cause of action was Hirschbach's employee acting within the scope and course of his employment, his absence is not relevant to the Court's decision.

<sup>&</sup>lt;sup>3</sup>The Court believes that the correct vehicle for transfer is 28 U. S. C. § 1404(a).

the Middle District of Louisiana.4

The Court finds that "[f]or the convenience of parties and witnesses, [and] in the interest of justice . . .," as well as Plaintiff's consent, this cause should be transferred. **IT IS,** 

## **THEREFORE, ORDERED** as follows:

Hirschbach's Motion to Change Venue [10] is **GRANTED.** 

Hirschbach's Motion to Dismiss [8] is **MOOT.** 

The Clerk of Court shall transfer this cause of action to the United States District Court for the Middle District of Louisiana.

**SO ORDERED** this the 14th day of March, 2011.

/S/MICHAEL T. PARKER UNITED STATES MAGISTRATE JUDGE

<sup>&</sup>lt;sup>4</sup>In conjunction with this position, Plaintiff's Mississippi lawyer has filed a Motion for Substitution of Counsel [16], and a member of the Louisiana bar has entered his appearance [18].

<sup>&</sup>lt;sup>5</sup>28 U. S. C. § 1404(a). Venue is also appropriate under 28 U. S. C. § 1391(a).