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11 Attorneys for Defendant  
 12 CARL TOWLEY III

13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION**

16 GARY L. TAVERNETTI,  
 17 Plaintiff,  
 18 v.  
 19 CARL TOWLEY, III, and DOES 1 through  
 100,  
 20 Defendants.

Case No. 5:15-cv-01083 (NMC)

**STIPULATION AND MODIFIED ORDER TO TRANSFER CASE**

Judge: Nathanael M. Cousins

Complaint File: February 14, 2014  
Trial Date: None Set

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1 WHEREAS, on February 14, 2015, Plaintiff Gary L. Tavernetti ("Plaintiff") filed a  
2 Complaint for Damages, Injunctive Relief for and for Imposition of a Constructive Trust for: (1)  
3 Breach of Contract, (2) Breach of Fiduciary Duty, (3) Fraud (Intentional, Misrepresentation,  
4 Concealment and Non Disclosure), and (4) Conversion in Monterey County Superior Court  
5 against, *inter alia*, Defendant Carl Towley, III ("Defendant");

6 WHEREAS, on March 3, 2015, Defendant (through counsel) was served with a First  
7 Amended Complaint for Damages, Injunctive Relief for and for Imposition of a Constructive  
8 Trust for: (1) Breach of Contract, (2) Breach of Fiduciary Duty, (3) Fraud (Intentional,  
9 Misrepresentation, Concealment and Non Disclosure), and (4) Conversion (the "FAC");

10 WHEREAS, on March 9, 2015, Defendant removed the action to this Court pursuant to the  
11 provisions of 28 U.S.C. § 1332 (Dkt. 1);

12 WHEREAS, on March 16, 2015, Defendant filed a Motion To Dismiss (Dkt. 7) seeking,  
13 *inter alia*, transfer of this action to the United States Federal District Court of Minnesota because  
14 this action is improperly venued in California, but venue in Minnesota is proper;

15 WHEREAS, pursuant to 28 U.S.C. § 1406(a), the parties agree that the convenience of  
16 parties and witnesses and the interests of justice support venue in the United States Federal  
17 District Court of Minnesota because the alleged acts or events in the FAC, if true, would have  
18 taken place in whole or in part in Minnesota;

19 WHEREAS, the parties agree and consent to venue in United States Federal District Court  
20 of Minnesota as proper;

21 IT IS THEREFORE STIPULATED AND AGREED THAT:

- 22 (1) Defendant's Motion to Dismiss is GRANTED IN PART;
- 23 (2) the above-captioned case should be transferred to the United States Federal District  
24 Court of Minnesota pursuant to 28 U.S.C. § 1406(a);
- 25 (3) the Court ORDERS the Clerk of Court to transfer this case to the United States  
26 Federal District Court of Minnesota; and

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(3) Defendant's Motion to Dismiss is DENIED AS MOOT in all other respects.

DATED: March 20, 2015

BARRON & ASSOCIATES

By:           /s/ Gerald V. Barron            
Gerald V. Barron  
Attorneys for Plaintiff  
GARY L. TAVERNETTI

DATED: March 20, 2015

COBLENTZ PATCH DUFFY & BASS LLP

By:           /s/ Jeffrey G. Knowles            
Jeffrey G. Knowles  
Attorneys for Defendant  
CARL TOWLEY III

**ORDER**

**GOOD CAUSE APPEARING, IT IS SO ORDERED. In the interest of justice, this case is transferred to the U.S. District Court, District of Minnesota, under 28 U.S.C. § 1406(a).**

Dated:           March 23, 2015          

