

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DANIEL CUBA,	)	
	)	
Plaintiff,	)	4:08CV3152
	)	
v.	)	
	)	
FURNAS COUNTY, Nebraska, a	)	MEMORANDUM AND ORDER
political subdivision,	)	
	)	
Defendant.	)	
<hr/>	)	

The defendant has moved to change the place of trial from Lincoln, Nebraska to North Platte, Nebraska for the convenience of the witnesses. [Filing 9](#). The defendant has submitted evidence that the alleged events described in the plaintiff's complaint occurred in Beaver City, Furnas County, Nebraska; the defendant's witnesses are all located in Furnas County and have ongoing safety and law enforcement responsibilities to perform within that county; and the travel distance from Beaver City to Lincoln is 207 miles compared to 112 miles to North Platte. The plaintiff has not responded to defendant's motion to change the place of trial.

The court finds that North Platte is a more convenient trial location for the witnesses. The motion to change trial location will be granted.

The plaintiff has filed a motion to amend his complaint to add allegations that defendant's counterclaim for replevin was filed to retaliate against the plaintiff for filing this lawsuit. [Filing 17](#). The defendant has not responded to the plaintiff's motion to amend. However, in response to the court's order requiring the parties to state whether the replevin counterclaim should be severed and bifurcated from the plaintiff's claims, the

parties have objected to bifurcation. Both parties argue that because the facts underlying the replevin action are inextricably intertwined with the factual background of the plaintiff's claims, the case should not be bifurcated for trial. [Filings 29](#) and [31](#).

IT THEREFORE HEREBY IS ORDERED:

- (1) The defendant's motion to change the place of trial from Lincoln, Nebraska to North Platte, Nebraska, [filing 9](#), is granted. Trial of this case shall be held in North Platte, Nebraska.
- (2) The plaintiff's motion to file an amended complaint, [filing 17](#), is granted, and
  - a. On or before September 15, 2008, the plaintiff shall file his amended complaint, a copy of which is filed with his index of evidence in support of his motion to amend.
  - b. The defendant shall file its response to the plaintiff's amended complaint within eleven days after the filing of the amended complaint.
- (3) The parties' objections to bifurcation, [filings 29](#) and [31](#), are granted. Absent further motion by either or both parties and order of the court, the plaintiff's claims and the defendant's counterclaim shall be tried together.

DATED this 8<sup>th</sup> day of September, 2008.

BY THE COURT:

s/ *David L. Piester*

David L. Piester  
United States Magistrate Judge