

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

AUMANN AUCTIONS INC.,)	
)	
Plaintiff,)	8:07CV431
)	
v.)	ORDER
)	
JOAN K. PHILLIPS,)	
)	
Defendant.)	

This matter is before the court upon notification in the planning report (Filing No. 11) that the parties disagree about the appropriate location for trial. The plaintiff initially designated Omaha as the place of trial in the complaint. **See** Filing No. 1. The defendant made a request for place of trial in North Platte, Nebraska as part of the defendant’s Answer. **See** Filing No. 9. This case is currently designated for trial in Omaha, Nebraska, based upon the plaintiff’s request. **See** NECivR 40.1(c). Pursuant to the local rules:

The plaintiff at the time of filing a complaint in a civil action . . . shall make written request for trial of the case at Omaha, Lincoln, or North Platte. . . . Each defendant . . . at the time of filing that defendant’s first pleading in a civil action, . . . may file a written request for trial at Omaha, Lincoln, or North Platte. If the request is for a place different from that requested by the plaintiff, . . . it must be filed as a motion.

NECivR 40.1(b).

The defendant did not file the request as a motion. Under the circumstances, the court will allow the defendant an opportunity to file a motion requesting a different location for trial, with any necessary evidence as required pursuant to NECivR 7.1. Accordingly,

IT IS ORDERED:

1. The defendant shall have to **on or before February 13, 2008**, to file a motion requesting a change in the place of trial for this matter. Otherwise, the case will remain designated for trial in Omaha, Nebraska.
2. The plaintiff shall have to **on or before February 29, 2008**, to file a response.

DATED this 1st day of February, 2008.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge