

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

**UNITED STATES OF AMERICA, for)
the use of, ELECTRICAL)
ENGINEERING and EQUIPMENT)
COMPANY, a/k/a 3E,)**

8:13CV334

Plaintiff,

V.

ORDER

**TRAVELERS CASUALTY AND)
SURETY COMPANY OF)
AMERICA, and KINGERY)
CONSTRUCTION, Co.,)**

Defendants.

In its Complaint, Plaintiff alleges that it supplied materials to subcontractor Boss Electric, LLC (“Boss”) for use in connection with a federal project wherein Defendant Kingery Construction, Co. (“Kingery”) was the principal contractor. ([Filing 1.](#)) Plaintiff claims that it has not been fully paid for the materials it furnished for the project. (*Id.*)

This case is presently set for trial in Omaha, Nebraska. Defendants have requested that the place of trial be changed from Omaha to Lincoln, Nebraska. Defendants maintain that Lincoln is a more convenient forum because (1) all of Kingery’s witnesses and project records are located in Lincoln; (2) at least one third-party witness is located in Lincoln; (3) Kingery’s counsel is from Lincoln; and (4) the subject project is located in Lincoln.

Plaintiff opposes Defendants’ request, arguing that (1) Plaintiff chose Omaha as the place of trial by filing this action there; (2) Plaintiff’s business premises for purposes of the circumstances underlying its claim is located in Omaha; (3) all of Plaintiff’s knowledgeable employee representatives, including the salesman through whom all equipment and materials for the project were purchased and its credit manager live in or near Omaha; (4) Omaha is a more convenient trial location for Plaintiff’s counsel who resides in Des Moines, Iowa; and (5) the business location for Boss is in Omaha and the owner and president of Boss, as well

as the project manager for Boss, live in the Omaha area.

Having considered the convenience of the litigants, witnesses and counsel, the Court finds that the place of trial should be Omaha, Nebraska. A number of Plaintiff's witnesses and its attorneys are located in or near the Omaha area, and there is no indication that Defendants have any witnesses who would be particularly burdened by having trial in Omaha. Judicial economy would best be served by conducting the trial in Omaha, Nebraska.

IT IS ORDERED that Defendants' request to change the place of trial from Omaha to Lincoln is denied.

DATED February 5, 2014.

BY THE COURT:

**S/ F.A. Gossett
United States Magistrate Judge**