

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ZURICH AMERICAN INSURANCE)
COMPANY, a New York)
Corporation,)

Plaintiff,)

V.)

RICHARD ANDREW, JANE)
ANDREW, LUKE ANDREW, and)
BRYCE ANDREW,)

Defendants.)

8:15CV403

ORDER

This case is presently set for trial in Omaha, Nebraska. Defendants Luke and Bryce Andrew (collectively “Defendants”) have requested that the place of trial be changed from Omaha to Lincoln, Nebraska ([filing 9](#)). Defendants maintain that Lincoln is a more convenient forum because (1) the jury pool in Omaha will not include Nebraskans from the portion of the State (Nemaha County) affected by the events giving rise to this litigation; (2) travel to Lincoln is more convenient for several witnesses and interested parties; (3) relevant records and records custodians are located in Lincoln; and (4) Defendants are oriented to Lincoln for business and social connections, and the attorney for Defendants Richard and Jane Andrew is from Lincoln.

When deciding the place of trial, “a judge considers the convenience of litigants, witnesses, and attorneys.” [Wang v. Nebraska Public Power District, No. 4:13CV3161, 2014 WL 1767316, *2 \(D. Neb. May 2, 2014\)](#). The party seeking to change the place of trial bears the burden of establishing that the transfer should be granted. [Id.](#) The forum should not be disturbed “unless the movant makes a clear showing that the balance of interests weighs in favor of the movant.” [Id.](#) “A transfer should not be granted if the effect is to merely shift the inconvenience from one party to the other.” [Id.](#)

Defendants have not shown that a change in trial location is appropriate here. Defendants have not demonstrated that Omaha jurors would be less capable of reaching a fair

verdict than those from a Lincoln jury pool. Also, any potential travel inconvenience caused for a few witnesses is minor and in no way necessitates moving the location of trial. Moreover, it appears that Omaha is actually a more convenient location for potential out-of-state witnesses. Although Defendants may be more oriented to Lincoln, moving trial on this basis would simply result in impermissible burden shifting. Therefore, having considered the convenience of the litigants, witnesses, and counsel, the Court finds that the place of trial should remain Omaha, Nebraska.

Accordingly,

IT IS ORDERED that Defendants Luke and Bryce Andrew's Motion for Trial in Lincoln, Nebraska ([filing 9](#)) is denied.

DATED February 3, 2016.

BY THE COURT:

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