

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

SARAH LYNN ROTEN,)	
)	
Plaintiff,)	Case No. 1:09CV00036
)	
v.)	OPINION AND ORDER
)	
TAYLOR CARTER WERST, ET AL.,)	By: James P. Jones
)	Chief United States District Judge
)	
Defendants.)	

C. Eugene Compton, C. Eugene Compton, P.C., Lebanon, Virginia, for Plaintiff; Eric S. Jensen, Jensen & Associates, P.C., Richmond, Virginia, for Defendants.

For the reasons set forth in this opinion, the defendants’ Motion to Transfer Venue will be denied.

This case began in the state Circuit Court of Russell County, Virginia, where the plaintiff originally filed suit against the defendants for injuries resulting from an automobile accident that occurred in Roanoke County, Virginia. Roanoke County is located in this judicial district. The defendants removed the case to this court based on diversity of citizenship, and now seek transfer to the Roanoke Division of this court, claiming improper venue under 28 U.S.C.A. § 1391(a) (West 2006). That statute does not preclude venue here, however, since it refers only to judicial districts, not divisions.

A state action must be removed “to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C.A. § 1441(a) (West 2006). The Abingdon Division of the Western District of Virginia embraces the state Circuit Court of Russell County, where the plaintiff originally filed suit. Thus, venue here is proper, regardless of whether venue under state law was not. *See Hollis v. Florida State Univ.*, 259 F.3d 1295, 1300 (11th Cir. 2001)(stating that “it is immaterial [to federal venue] that venue was improper under state law when the action was originally filed”).

Although their present motion will be denied, the defendants may still move for a transfer for convenience of the parties and witnesses, in the interest of justice, under 28 U.S.C.A § 1404 (West 2006), if they show proper grounds.

For the foregoing reasons, it is **ORDERED** that the defendants’ Motion to Transfer Venue is DENIED.

ENTER: April 15, 2009

/s/ JAMES P. JONES
Chief United States District Judge