

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

ANDREW WALKER,)	
)	
Plaintiff,)	
)	
v.)	No. 4:08-CV-1117 CAS
)	
COVANCE CLINICAL RESEARCH UNIT,)	
INC., et al.,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This matter is before the Court on the application of Andrew Walker for leave to commence this action without payment of the required filing fee. See U.S.C. § 1915. Upon consideration of the financial information provided with the application, the Court will grant applicant provisional leave to file this action.

The Complaint

Plaintiff seeks monetary relief pursuant to 28 U.S.C. § 1332(a). Named as defendants are Covance Clinical Research Unit, Inc. (“Covance”), Merck & Co., Inc., Unknown Steven¹ (a psychologist), and “Does 1-10.” Plaintiff alleges that the Covance facility is located and licensed to do business in Madison, Wisconsin, Merck & Co. is a New Jersey corporation, and defendant Dr. Steven is employed by Covance and his “offices [are] in the Madison Wisconsin area.” Plaintiff provides no information relative to “Does 1-10.”

¹Although Unknown Steven is not named in the caption of the complaint, he is noted as being a party-defendant under the “Facts” section of the complaint.

Plaintiff alleges that “on or about June 29, 2008, [he] was invited to be in a research study at the Covance facility for a 45 day stay to see how the body uses the research drugs [sic], 0893 . . . an experimental drug that is laced with radiation and is not approved by the Food and Drug Administration.” Complaint at 5-6, ¶ 10. Plaintiff states that he went to Madison, Wisconsin, for “the testing of the experimental drugs performed on [him] between the dates of June 29, 2008 to July 10, 2008.” *Id.* at 9, ¶ 1. Plaintiff alleges that while in Madison, he sustained serious injuries due to the experimental drug testing and defendants’ negligence. Plaintiff seeks \$10 million dollars in monetary damages.

Discussion

Pursuant to 28 U.S.C. § 1391(b), venue for this action is proper where (i) any defendant resides, if all the defendants reside in the same state; (ii) a substantial part of the events or omissions giving rise to the claim occurred; or (iii) where any defendant may be found, if there is no district in which the action may otherwise be brought. The Court finds that venue is not proper in the Eastern District of Missouri, because a substantial part of the events or omissions giving rise to plaintiff’s claim did not occur here. Indeed, all the events and/or omissions described in the complaint occurred in Madison, Wisconsin, which is located in the Western District of Wisconsin. See 28 U.S.C. § 130(b).

Pursuant to 28 U.S.C. § 1406(a), “The district court . . . in which is filed a case laying venue in the wrong division or district shall dismiss or, if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” In cases involving a plaintiff who is proceeding pro se and in forma pauperis, the usual practice is to transfer the case to the proper

district. Therefore, this action shall be transferred to the United States District Court for the Western District of Wisconsin.

Because venue is not proper in the Eastern District of Missouri, no determination has been made as to whether the complaint is frivolous and/or fails to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(A)(B).

In accordance with the foregoing,

IT IS HEREBY ORDERED that plaintiff is provisionally granted leave to proceed in forma pauperis, subject to modification by the Western District of Wisconsin upon transfer, and that the Clerk shall receive and file the complaint in this action without payment of the required filing fee.

IT IS FURTHER ORDERED that the Clerk shall not issue process or cause process to issue upon the complaint because it is being transferred to the Western District of Wisconsin.

An appropriate order of transfer shall accompany this memorandum and order.



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 18th day of August, 2008.