

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION**

THE MOUNTBATTEN SURETY	:	
COMPANY, INC.	:	
	:	March Term 2004
Plaintiff,	:	
v.	:	No.: 00049
	:	
WILLIAMS GRAPHICS, INC.,	:	Commerce Program
DRESSEL ASSOCIATES, INC.,	:	
DONALD WILLIAMS, ANGEL	:	Control No.: 060023
WILLIAMS, JEAN WILLIAMS, and	:	
GARY L. REINERT, SR.	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 12TH day of August, 2004, upon consideration of Defendants' Amended Petition to Strike/Open Judgment Entered by Confession, it is hereby **ORDERED** and **DECREED** that Defendants' Petition is **GRANTED** and that the judgment entered by confession in this action is **STRICKEN**.

BY THE COURT,

C. DARNELL JONES, J.

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	:	
Defendants.	:	

MEMORANDUM

JONES, J.

Presently before the court is Defendants' Petition to Strike/Open Judgment Entered by Confession. The confessed judgment was entered on March 1, 2004, in the sum of \$116,455.33. Following filing of Defendants' Petition and Plaintiff's Response, the parties presented oral argument on August 3, 2004.

A petition to strike a confessed judgment may be granted only for defects appearing on the face of the record. Franklin Interiors v. Wall of Fame Management Co., 510 Pa. 597, 599, 511 A.2d 761, 762 (1986). In this instance, the asserted defect involves venue. Defendants state that venue does not exist in Philadelphia County.

Under Pa. R.C.P. 1006, an action against an individual may only be brought in the county in which the individual may be served, the cause of action arose, or where a transaction or occurrence took place out of which the cause of action arose. Each individual defendant lives in Allegheny County. (Complaint, ¶¶4-8). Plaintiff's

Complaint does not state that the cause of action arose in Philadelphia County or that any transaction or occurrence took place here.

Venue against a corporation exists in those counties in which the corporation's registered office or principal place of business is located, it regularly conducts business, the cause of action arose, or a transaction or occurrence took place out of which the cause of action arose. Pa. R.C.P. 2179. The defendant corporations are located in Allegheny County (Complaint, ¶¶2-3) and the Complaint is silent on the other grounds for venue. Under the Rules, no venue exists against Defendants in Philadelphia County.

Plaintiff contends that the General Indemnity Agreement ("GIA") contains language establishing jurisdiction in this court. Paragraph 27 of the GIA states that Defendants "authorize and empower any attorney of record or prothonotary or clerk of any court in any jurisdiction to appear for any or all of them at any time or times in any court." According to Plaintiff, once Defendants signed the GIA, they "voluntarily made themselves subject to jurisdiction in any competent court," (8/03/04 Hearing Tr. 20: 13-15).

"The fundamental error in [Plaintiff's] reasoning is [its] assumption that *venue* is equivalent to *jurisdiction*." County Construction Co. v. Livengood Construction Corp., 393 Pa. 39, 44, 142 A.2d 9, 13 (1958). In addition, a written document must be strictly construed against its maker, Franklin Interiors, at 601, 763, and the GIA is on Plaintiff's letterhead. A similar principle requires the court to read a warrant of attorney against the party in whose favor it is given. Kline v. Marianne Germantown Corp., 438 Pa. 41, 45, 263 A.2d 362, 364 (1970). Plaintiff's argument fails to overcome this precedent.

Therefore, no venue exists in Philadelphia County and the confessed judgment shall be stricken.

BY THE COURT,

C. DARNELL JONES, J.

Dated: August 12, 2004