

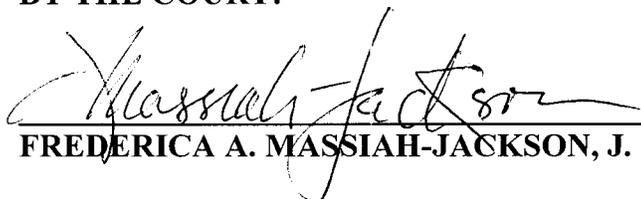
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

JAMES C. LEVERING	:	
Plaintiff	:	JULY TERM, 2013
	:	
vs.	:	NO. 2819
	:	
HATFIELD QUALITY MEATS, INC.;	:	
CLEMENS FOOD GROUP, LLC;	:	
PLEASANT VALLEY PACKING, LLC;	:	
CLEMENS BUSINESS CENTER, LLC;	:	DOCKETED
CLEMENS DEVELOPMENT, LLC;	:	
CLEMENS BUSINESS CENTER	:	
HOLDINGS, LLC; and	:	
CLEMENS FAMILY CORPORATION	:	
Defendants	:	N. JEROME DAY FORWARD

ORDER

And Now, this 17th day of December, 2013, after considering the Defendants' Preliminary Objections, and Plaintiff's Response thereto, and after oral argument held on December 6, 2013, and for the reasons set forth in Court Exhibit "A", attached hereto, it is hereby **ORDERED** that all Preliminary Objections are **OVERRULED**. See also, Rule 1006(c)(1). All Defendants shall Answer Plaintiff's Complaint within twenty (20) days from the date this Order is docketed.

BY THE COURT:


FREDERICA A. MASSIAH-JACKSON, J.

Levering Vs Hatfield Qu-ORDER



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Court Exhibit "A"

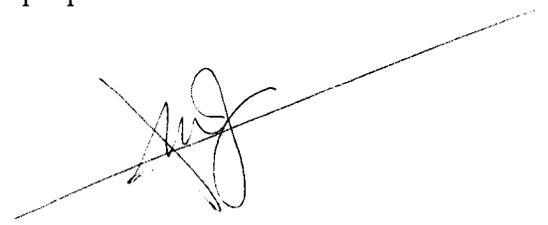
On June 9, 2012, James C. Levering was on the premises of the food processing plant of Clemons Food Group, LLC, located in Hatfield, Montgomery County, Pa. Mr. Levering was a business invitee when he sustained a serious crush injury of his hand while operating defendants' elevator. Plaintiff-Levering initiated this litigation against Clemons Food Group, LLC and the multiple inter-related corporate entities all known collectively as the Hatfield Defendants.

The Hatfield Defendants have filed Preliminary Objections challenging venue per Rules 1006(e) and 1028(a)(1). In the alternative they have made a claim to transfer to Montgomery County based on forum non conveniens per Rule 1006(d).

At our Hearing held December 6, 2013, the Hatfield Defendants were not able to demonstrate by detailed averments, affidavits or argument why Philadelphia is vexatious or burdensome. Our Appellate Courts have held that there is a "vast difference" between inconvenience and oppressiveness, and travelling from Montgomery County to Philadelphia is not a hardship. Hoose v. Jefferson Home Health Care, Inc., 754 A.2d 1, 5 (Pa. Superior Ct. 2000). Relying on a balancing test for the convenience of witnesses has been rejected by the courts. Catagnus v. Allstate, 864 A.2d 1259, 1265 (Pa. Superior Ct. 2004). See also, Zappala v. Brandolini Property Management, Inc., 909 A.2d 1272 (Pa. 2006); Cheeseman v. Morris Rossman, 701 A.2d 156 (Pa. 1997).

Next, the Hatfield Defendants contend that they do not regularly conduct business in Philadelphia. The supplemental discovery and exhibits make it clear that these Hatfield Defendants successfully and strategically market themselves by providing Philadelphia services, Philadelphia foods and regularly engage in Philadelphia business. See Rule 2179(a)(2). For example, Hatfield Quality Meats Partnership Agreement with the Philadelphia Phillies for years 2010 through 2016 provides these defendants with the exclusive rights to the hot dog concessions at Citizens Bank Park located in Philadelphia.

When determining whether a corporation regularly conducts business in a county, this Court makes an assessment both as to quality and quantity of contacts. The Hatfield Defendants send sales representatives to Philadelphia at least once a month. Additionally, Clemons Food Group submitted documents that set forth nearly \$3 million of sales each year in 2010, 2011 and 2012 to Philadelphia wholesalers, and, nearly \$6 million of annual sales to Sysco's Philadelphia location for distribution in the tri-state area. The defendants vigorously suggest that \$9 million of annual Philadelphia business is but a fraction of their nearly \$1 billion annual gross sales, thus, rendering venue improper in Philadelphia. Under the circumstances presented, this Court does not agree. Venue is triggered where there is a continuous, although small amount of business activity with Philadelphia. A corporation may engage "regularly" even though the acts make up a small part of the total activity and enterprise. Cantor v. American Honda Motors, 231 A.2d 140 (Pa. 1967); Lugo v. Farmers Pride, Inc., 967 A.2d 963 (Pa. Superior Ct. 2007). Venue is proper with the Court of Common Pleas of Philadelphia County.

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