

STATE OF MAINE

SUPERIOR COURT

CIVIL DOCKET

AROOSTOOK, ss

DOCKET NO. CARSC-CV-16-144

TROY THERIAULT )  
 PLAINTIFF )  
 vs. )  
 JAMES GAUGHAN )  
 DEFENDANT )

ORDER OF CHANGE OF VENUE  
AND CONSOLIDATION

Before the Court is Defendant’s Motion to Change Venue and to Consolidate.

This case arises from an accident occurring June 30, 2015 in Nashville Plantation, Maine in which the vehicle Plaintiff was operating collided with the vehicle the Defendant was operating. Plaintiff is a resident of Aroostook County and Defendant is a resident of Cumberland County. At the time of the accident Plaintiff was operating a vehicle owned by Herman Theriault. As a result of the accident Defendant suffered serious bodily injuries, but because he is still in treatment he has not yet filed an action in court. Plaintiff is pursuing damages for emotional injuries allegedly sustained as a result of the accident, but to date has not received any medical treatment. Noteworthy is the accident was the subject of a criminal prosecution in which Plaintiff was charged with Driving to Endanger, which requires a finding of criminal negligence. Plaintiff was found not guilty of that charge. Not counting parties, Plaintiff points to three potential lay witnesses who made observations at or near the time of the accident whose testimony would be needed at trial, all whom testified in the criminal trial.

Of significance is that Herman Theriault previously filed an action in Aroostook County against the same Defendant alleging property damage to his pickup that Plaintiff was driving at the time of the accident. That action has been transferred to Cumberland County (Herman Theriault, et. al. v. James Gaughan, PORSC –CV-16-386) pursuant to a Motion to Change Venue filed by Defendant and remains pending.

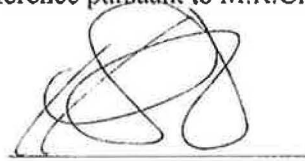
Venue could properly lay in either Aroostook or Cumberland County. 14 M.R.S. §501. Although the potential witnesses outside of parties reside in Aroostook, all such witnesses previously testified in the criminal trial. And it is common in civil matters for witness testimony to be secured via deposition. There are also ample photographs and videos of the accident scene already in existence.

If this matter were to remain in Aroostook County, then two matters arising from the same incident and with nearly identical elements, would be proceeding in separate counties, with potentially inconsistent results. A presiding Justice of the Superior Court may, in the interest of justice and to secure the speedy trial of an action, or for other good cause, transfer any civil action or proceeding from the Superior Court in one county to another county. 14 M.R.S. §508. And, when actions involving a common question of law

or fact are pending before a court, in the same county or division or a different county or division, it may order it may order a joint hearing or trial of any or all matters in issue in the actions; it may order all the actions consolidation; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. M.R.Civ.P. 42(a). Therefore, it is ordered venue of this action is transferred to Cumberland County and it is further ordered it be consolidated with the action of Herman Theriault, et.al. v. James Gaughan, PORSC-CV-16- 386.

The clerk shall incorporate this Order into the docket by reference pursuant to M.R.Civ.P. 79(a).

Dated: February 10, 2016

A handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above a horizontal line.

Justice, Superior