

responses do. In her interrogatory responses served on May 5, 2010, Ms. Lasher stated that she has worked at the Western Missouri Correctional Center in Cameron, Missouri, since 1996.¹ In response to another interrogatory, Ms. Lasher stated that she believes that “she was exposed to the hexavalent chromium at 609 East Pence Road, Cameron, Missouri from December 1996 to the present while working.”² The Western Missouri Correctional Center, located at 609 East Pence Road in Cameron, is in DeKalb County.³ DeKalb County is one of the four counties where land application of fertilizer from the Prime Tanning facility, to which plaintiffs claim to have been exposed, allegedly took place.⁴

Nothing in the Petition, Ms. Lasher’s discovery responses, or plaintiffs’ response to defendants’ motion to transfer venue would suggest that Ms. Lasher has any connection to Clinton County, much less that she claims to have been first injured in Clinton County. Plaintiffs therefore have failed to meet their burden of proving that venue in Clinton County is proper for Ms. Lasher and, under Rule 51.045, the Court must transfer Ms. Lasher to a court where venue is proper. The best (and only) evidence of proper venue are Ms. Lasher’s interrogatory responses indicating that she has worked in DeKalb County since 1996 and that she was allegedly exposed to the Prime Tanning fertilizer while working in DeKalb County. Accordingly, defendants request that the Court transfer Ms. Lasher’s cause of action to DeKalb County.

As indicated in defendants’ reply suggestions, in a case involving the same defendants, Judge Jackson in the Circuit Court of Buchanan County recently transferred venue of eight

¹ See Pl’s Response to Elementis’ Second Set of Interrogatories, No. 5 (attached as Ex. A).

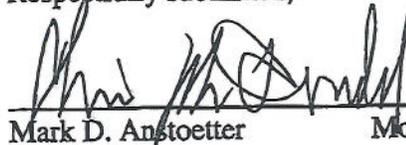
² See Pl’s Response to Elementis’ First Set of Interrogatories, No. 1 (attached as Ex. B).

³ See Information from Missouri Department of Corrections’ website confirming address of Western Missouri Correctional Center (<http://doc.mo.gov/facilities.php>) (attached as Ex. C) and map showing Correctional Center in relation to county lines (attached as Ex. D).

⁴ The other three counties where land application of fertilizer allegedly occurred are Clinton, Andrew, and Buchanan Counties.

plaintiffs to DeKalb County and two plaintiffs to Clinton County, determining that the plaintiffs' alleged first injuries occurred in those counties, not in Buchanan County. See April 23, 2010 Order, Case No. 09BU-CV06421, copy attached to defendants' reply suggestions. Prior to Judge Jackson's ruling, the parties appeared for a hearing on defendants' motion to transfer venue. Defendants would be happy to coordinate scheduling of a hearing in this case to further explain why transfer is required, if the Court would find it useful.

Respectfully submitted,



Mark D. Anstoetter Mo. Bar #47638
George E. Wolf Mo. Bar #35920
Christopher M. McDonald Mo. Bar #39559
Shook, Hardy & Bacon LLP
2555 Grand Blvd.
Kansas City, MO 64108
(816) 474-6550
(816) 421-5547 (fax)

ATTORNEYS FOR DEFENDANT
BURNS & MCDONNELL
ENGINEERING COMPANY, INC.



for
William G. Beck Mo. Bar #26849
Douglas R. Dalgleish Mo. Bar #35203
Robert G. Rooney Mo. Bar #43381
Lathrop & Gage LLP
2345 Grand Blvd., Suite 2200
Kansas City, Missouri 64108
(816) 292-2000
(816) 292-2001 (fax)

ATTORNEYS FOR DEFENDANT
ELEMENTIS LTP L.P.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed, by U.S. Mail postage prepaid, this 26th day of May, 2010, to:

Thomas P. Cartmell
Brian J. Madden
Thomas L. Wagstaff
Wagstaff & Cartmell LLP
4740 Grand Avenue, Suite 300
Kansas City, MO 64112

Thomas V. Girardi
Girardi Keese
1126 Wilshire Blvd.
Los Angeles, CA 90017-1904

Stephen Griffin
W. Mitchell Elliott
Troy Dietrich
Griffin Dietrich Elliott
416 N. Walnut
Cameron, MO 64429

ATTORNEYS FOR PLAINTIFFS

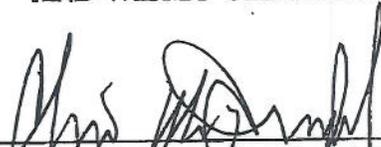
W.C. Blanton
Stephen J. Torline
Derek T. Teeter
Husch Blackwell Sanders LLP
4801 Main Street, Suite 1000
Kansas City, MO 64112

**ATTORNEYS FOR DEFENDANT
NATIONAL BEEF LEATHERS,
LLC**

R. Dan Boulware
Todd H. Bartels
Seth C. Wright
Polsinelli Shughart PC
3101 Frederick Avenue
St. Joseph, MO 64506

Dennis J. Dobbels
Polsinelli Shughart PC
Twelve Wyandotte Plaza
120 W. 12th Street
Kansas City, MO 64105

**ATTORNEYS FOR DEFENDANTS
PRIME TANNING CORP.,
PRIME TANNING CO., INC.,
AND WISMO CHEMICAL CORP.**



ATTORNEY FOR DEFENDANT
BURNS & MCDONNELL
ENGINEERING COMPANY, INC.