

IN THE CIRCUIT COURT OF CLINTON COUNTY, MISSOURI

FILED  
OCT 13 2009  
MOLLY LIVINGSTON  
CLERK

MICHAEL O'LOUGHLIN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ETEROUTREMER S.A., et al., )  
 )  
 Defendants. )

Case No. 08CN-CV00705

**DEFENDANT NATIONAL BEEF LEATHERS, LLC'S SUGGESTIONS IN SUPPORT OF APPLICATION FOR CHANGE OF VENUE**

Defendant National Beef Leathers, LLC ("NBL") has applied to the Court for a change of venue to Livingston County, Missouri as a matter of right under M.R.C.P. 51.03. NBL's suggestions in support of its application are as follows:

**NBL is entitled to a change of venue as a matter of right under Rule 51.03 because Clinton County, the current venue, has fewer than 75,000 inhabitants.**

Missouri Rule of Civil Procedure 51.03 mandates a change of venue from a county with less than seventy-five thousand inhabitants "upon the filing of a written application therefor not later than ten days after answer is due to be filed." M.R.C.P. 51.03 (2008). NBL's application is timely because NBL filed its answer to Plaintiff's petition on October 13, 2009, and this application is filed with the Court on or before October 23, 2009, within the required ten day period. Furthermore, the application is proper because the population of Clinton County is 21,094, less than the 75,000 threshold set forth in the rule. NBL is therefore entitled to a change of venue from Clinton County as a matter of right.

**Livingston County is the venue most convenient to the parties because it is in the same circuit as the current venue and, therefore, is proximately located to the potential witnesses and location of the of the alleged events set forth in Plaintiff's Petition.**

Upon timely application by a party, Rule 51.03(c) mandates that the Court shall immediately order the transfer, after giving the parties an opportunity to make suggestions for the new venue, based on convenience of the parties. M.R.C.P. 51.03(c) (2008). As to what is convenient for the parties, the Missouri Supreme Court requires a venue that will provide a logical and orderly forum for the litigation. State ex rel. Lebanon School District R-III v. Winfrey, 183 S.W.3d 232, 237 (Mo. banc 2006).

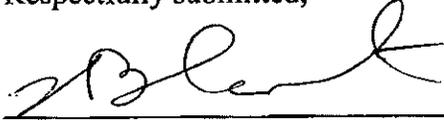
In this case, Livingston County is the most convenient alternative venue. Livingston County is in the 43rd Judicial Circuit, the same circuit as Clinton County. Likewise, many of the potential witnesses in this case are likely to be located in proximity to Chillicothe, given Plaintiff's allegations that Defendants' actions occurred in and around Andrew, Buchanan, Clinton, and DeKalb Counties, all of which are proximately located and within a reasonable driving distance from Chillicothe, where those witnesses may be called to testify at trial. Livingston County will, therefore, provide a convenient, logical, and orderly forum for the trial of this lawsuit.

### **CONCLUSION**

For the reasons stated above, NBL respectfully requests the Court to grant its application for change of venue and to subsequently transfer this lawsuit to Livingston County, and to grant NBL such other relief as the Court deems proper.

Date: October 13, 2009

Respectfully submitted,



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**ATTORNEYS FOR DEFENDANT NATIONAL  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies a true and correct copy of the foregoing **NATIONAL BEEF LEATHERS, LLC'S SUGGESTIONS IN SUPPORT OF APPLICATION FOR CHANGE OF VENUE** was mailed, by regular, first-class mail, postage prepaid, this 13th day of October, 2009 to the following:

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