IN THE CIRCUIT COURT OF CLINTON COUNTY, MISSOURI

FILED
APR 30 2010
MOLLY LIVINGSTON
Clerk of Clinton Co. Circuit Court

WILLIAM KEMPER, et al.,

Plaintiffs,

v.

PRIME TANNING CORP., et al.,

Defendants.

Case No. 09CN-CV00333

DEFENDANT PRIME TANNING CORP.'S WITHDRAWAL OF ITS APPLICATION FOR CHANGE OF VENUE

Defendant Prime Tanning Corp. ("Prime") hereby withdraws its Application for Change of Venue. In connection with this withdrawal, Prime states:

1. Pursuant to Mo. R. Civ. P. 51.03, Prime filed its Application For Change Of Judge And Change Of Venue on June 8, 2009. The Court has not yet ruled on the application for change of venue.
2. Nothing in the Missouri Rules of Civil Procedure prohibits a party from withdrawing an application to change venue.
3. Missouri courts have held that parties may waive their statutory privilege to a change of venue either before or after requesting such a change. See State v. Smith, 293 S.W.3d 149, 152 (Mo. Ct. App. 2009); State ex rel. Dilliner v. Cummins, 92 S.W.2d 605, 607 (Mo. 1936) (interpreting the virtually identical criminal change of venue rule).
4. Accordingly, Prime's withdrawal of its application for change of venue is proper and should be recognized by the Court.

Dated: April 29, 2010

Respectfully submitted,

POLSINELLI SHUGHART PC

R. Dan Boulware MO #24289
DBoulware@polsinelli.com
Todd H. Bartels MO #45677
TBartels@polsinelli.com
Seth C. Wright MO #51830
SCWright@polsinelli.com
3101 Frederick Avenue
St. Joseph, MO 64506
Phone: (816) 364-2117
Fax: (816) 279-3977

Dennis J. Dobbels MO #32378
DDobbels@polsinelli.com
Twelve Wyandotte Plaza
120 West 12th Street
Kansas City, MO 64105
Phone: (816) 421-3355
Fax: (816) 374-0509

Melissa A. Hewey
DRUMMONDWOODSUM
84 Marginal Way, Suite 600
Portland, ME 04101
Phone: (207) 772-1941
Fax: (207) 772-3627
mhewey@dwmlaw.com

ATTORNEYS FOR DEFENDANTS PRIME TANNING CORP. and PRIME TANNING CO., INC.

CERTIFICATE OF SERVICE

I certify that on this 29th day of April, 2010, copies of the foregoing were transmitted via first-class U.S. mail, postage prepaid, 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 Boulevard
Los Angeles, CA 90017-1904

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

ATTORNEYS FOR PLAINTIFFS

WC Blanton
Stephen J. Torline
HUSCH BLACKWELL SANDERS LLP
4801 Main Street, Suite 1000
Kansas City, MO 64112

ATTORNEYS FOR DEFENDANT NATIONAL BEEF LEATHERS CO. LLC

William G. Beck
Douglas R. Dalgleish
Robert G. Rooney
LATHROP & GAGE, LLP
2345 Grand Boulevard, Suite 2200
Kansas City, MO 64108

ATTORNEYS FOR DEFENDANT ELEMENTIS LTP L.P.

Mark Anstoteter
George E. Wolf
Christopher M. McDonald
SHOOK, HARDY & BACON L.L.P
2555 Grand Boulevard, Suite 2200
Kansas City, MO 64108

ATTORNEYS FOR DEFENDANT
BURNS & McDONNELL ENGINEERING COMPANY, INC.

Attorneys for Defendant Prime Tanning Corp.