

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA

CHARLES MOREHART,	:
Plaintiff	: NO. CV-22-01040
v.	:
	:
GERMANIA COUNTRY STORE	:
& LODGE, LLC d/b/a	:
(GERMANIA STORE)	:
and JOHN DOE 1-2,	:
Defendants	:

ORDER

Plaintiff Charles Morehart (hereinafter “Morehart”) commenced this action by Complaint filed on October 24, 2022, alleging negligence. Defendant Germania County Store & Lodge, LLC (hereinafter Germania). Morehart allegedly sustained injuries in a fall on a staircase in Germania’s store located at 42 Constitution Avenue in Galeton, Potter County, Pennsylvania. Germania filed timely preliminary objections, arguing that venue is proper at the site of the occurrence, Potter County, rather than Lycoming County.¹ Morehart submitted a memorandum in opposition to the preliminary objections, and sought discovery on the issue of venue. Morehart secured the deposition testimony of a corporate designee of Germania. Thus, the only issue presented on the date of argument thus the only issue before this Court now is whether Lycoming County is a proper venue in this action.

At oral argument, counsel for the parties stipulated to the relevant facts. For many years, agents of Germania have traveled to Lycoming County biweekly to purchase approximately \$500-1000 worth of inventory for sale at the Germania store. Germania’s agents characterize such purchases as “essential” to the business. Germania claims that all Germania sales occur at its Galeton store. Morehart does not contest that claim.

Actions against corporations may be brought in and only in the counties designated by Pa.R.C.P. 2179. Pa.R.C.P. 1006(b). A personal action against a corporation or similar entity may be brought in a county where the corporation regularly conducts business. Pa.R.C.P.

¹ Germania additionally objected to two paragraphs, paragraphs 7 and 15n of the complaint for lack of specificity. Paragraph 7 speaks to the issue of venue which will be adjudged in the following discussion. The parties stipulated for the removal of paragraph 15(n) from the complaint thus the objection to paragraph 15(n) is moot.

2179(a)(2). To determining where a corporation regularly conducts business, the Court must assess “the nature of the acts the corporation performs in that county; those acts must be assessed both as to their quantity and quality.” (hereinafter *Shambe* test). *Gilfor ex rel. Gilfor v. Altman*, 770 A.2d 341, 345 (Pa. Super. 2001); *Shambe v. Delaware and Hudson Railroad Company*, 135 A. 755, 757 (Pa. 1927). Assessment of quality of acts distinguishes between incidental acts, which merely aid the main purpose of a corporation, from essential acts, which directly, further or are essential to the corporation. *Purcell v. Bryn Mawr Hosp.*, 579 A.2d 1282, 1285 (Pa. 1990). Quantity means those acts which are so continuous and sufficient to be general or habitual. For corporate acts, those in aid of a main purpose are collateral and incidental, while those necessary to its existence are direct.” *Id.* (citing *Krosnowski v. Ward*, 836 A.2d 143, 147 (Pa. Super. 2003) (*en banc*) (citing *Purcell*)).

Improper venue shall be raised by preliminary objection. If a preliminary objection to venue is sustained, the action ordinarily should be transferred to another court of appropriate venue. Pa.R.C.P. 1006(e). In such cases, costs and fees for transfer and removal of the record shall be paid by the plaintiff. *Id.*

While it is true that Germania regularly purchases inventory in Lycoming County, the Court finds that those contacts are insufficient to confer venue. Germania is a retail business engaged in selling goods at its Galeton store. Germania does not exist for the purpose of purchasing inventory. Germania’s purchasing of inventory is necessary, but incidental, to its business purpose of operating a retail store. Similarly, its purchase of utilities, insurance, computer services, and the like are all necessary, but incidental, to its business purpose. Under the argument advanced by Plaintiff, a Philadelphia bakery can be sued in Allegheny County for personal injuries arising out of a vehicle crash involving a bakery truck traveling on Broad Street in Philadelphia, if the bakery chooses to buy its Almond Tortes from Parantl’s Bakery. Considering the modern global supply chain, a determination that proper venue exists within any jurisdiction where a business entity purchases inventory or supplies would be absurd.

The present matter is similar to the facts of the case in the unreported Superior Court decision of *Benet v. Thomas* No. 1484 MDA 2014, 2015 WL 6736783 (Pa. Super. Ct. Aug. 7, 2015). There, the plaintiff filed suit in Luzerne County against a corporation engaged in the buying, selling, and trading firearms, registered in Susquehanna County. Plaintiff argued that the trial court erred in transferring venue from Luzerne County to Susquehanna County,

because the corporation—whose business purpose was to buy, sell and trade guns—purchased 90-95% of its guns in Luzerne County. The Superior Court ruled that purchasing inventory, even up to 95% of inventory, was incidental to the operation of a corporation engaged in the business of selling firearms.

For the reasons set forth above, Germania’s Preliminary Objection shall be granted, and this matter will be transferred to the Court of Common Pleas of Potter County. Costs and fees associated with the transfer of venue to Potter County and the removal of the record shall be paid by Morehart.

ORDER

And now, this _____ day of January, 2023, Defendant’s Preliminary Objection in the nature of a Motion to Transfer Venue is granted. This matter shall be transferred to the Court of Common Pleas of Potter County. Costs and fees associated with the transfer of venue to Potter County and the removal of the record shall be paid by the Plaintiff.

By The Court,

Hon. William P. Carlucci, Judge

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