

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS: PART 32

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BORIS ARONBAYB,

Plaintiff,

**DECISION AND ORDER**  
Index No. 25166/2007

-- against --

STEPHANIE DELGADO,

Defendant.

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The following papers numbered were read on this motion:

Papers Numbered

Notices of Motion, Affirm., Exhibits.....	1
Affirmations in Opposition.....	
Affirmations in Reply.....	

**CHARLES J. MARKEY, J.:**

The branch of defendant’s motion to transfer venue from Supreme Court, Queens County, to Supreme Court, Suffolk County is granted without opposition. Defendant properly served a demand for change of venue pursuant to CPLR § 511(b) followed by the present unopposed motion to change venue (*see, Agostino Antiques, Ltd. v. CGU-American Employer’s Ins. Co.*, 6 AD3d 469 [2<sup>nd</sup> Dept. 2004]).

Ordinarily, the motion to change venue is routine. This case deserves one comment. The summons provides an address for the plaintiff in Dallas, Texas. The body of the verified complaint alleges, without elaboration, that plaintiff “at all times hereinafter mentioned,” regarding a motor vehicle collision that allegedly occurred on October 15, 2006, was a resident of Queens County. Counsel for the plaintiff, who did not oppose the motion, signed the verified complaint and the verification. In light of the paradox or contradiction regarding plaintiff’s address, it behooved his counsel to investigate and make clear all the facts regarding venue and plaintiff’s residence before counsel signs and verifies a pleading.

Accordingly, the branch of defendant’s motion to change venue is granted without opposition, and defendant is directed to serve a copy of this order with notice of entry upon plaintiff and the clerk of the court of Supreme Court, Queens County, and it is further ordered that, upon receipt of this order with notice of entry, the Clerk of the Court of Supreme Court, Queens County is directed to transfer this court file to the Clerk of the Court of Supreme Court, Suffolk County.

Defendant's counsel has also alleged that he has not received any response to various discovery devices including a demand for a bill of particulars, a notice of discovery and inspection, a demand for collateral sources, and a demand for the identity of expert witnesses.

In light of the foregoing disposition, transferring the file to Supreme Court, Suffolk County, it would be improvident for the undersigned, as a Justice of the Supreme Court in Queens County, to deal with the remaining issue concerning the allegation that plaintiff's counsel has refused to co-operate with all discovery and is stonewalling. The branch of defendant's motion to compel discovery responses is denied without prejudice, to be made - - if necessary - - to a Justice of the Supreme Court, Suffolk County. Suffice it to say, this Court takes a dim view of any party or counsel who stonewalls discovery or fails to answer a request for communication. Discovery should generally be a cooperative venture, with resort to motion practice only on specific issues. The plaintiff's attention to this suggestion should avoid the necessity of defendant filing another discovery motion that would needlessly further burden another Justice of the Supreme Court (*see, Muller v. Brailofsky*, 179 Misc. 2d 634 [Sup. Ct. Kings County 1999]).

The foregoing constitutes the decision, order, and opinion of the Court.

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Hon. Charles J. Markey  
Justice, Supreme Court, Queens County

Dated: Long Island City, New York  
March 18, 2008

**Appearances:**

**Plaintiff:** Andrew Hirschhorn, Esq., One Cross Island Plaza, suite 116, Rosedale, NY 11422 [no appearance on the motion]

**For Defendant:** Kelly, Rode & Kelly, LLP, by Daniel E. Cerritos, Esq., 330 Old Country Road, suite 305, Mineola, NY 11501