

PAUL JOHN CISAR, *et al.*, * IN THE
Plaintiffs, * CIRCUIT COURT
v. * FOR
F.O. MITCHELL & BRO, *et al.*, * HARFORD COUNTY
Defendants. * Case No.: C-12-CV-22-000888
* * * * *

PLAINTIFFS' RULE 2-505 MOTION FOR REMOVAL

Plaintiffs, by and through their attorneys, Rignal W. Baldwin V and Baldwin | Seraina, LLC, move this Court pursuant to Maryland Rule 2-505 for the removal of this matter to another County of its choosing, and in support states:

1. This action is for declaratory and injunctive relief, nuisance and compensatory damages, arising out of Defendants' efforts to develop and construct an unlawful Freight Terminal on the Perryman Peninsula. The action was originally filed in Anne Arundel County Circuit Court on June 7, 2022.

2. On July 15, 2023, Defendant Harford County moved for dismissal and change of venue, alleging improper venue based on the theory of forum *non conveniens*. In addition to the change of venue request, Defendants motion on various grounds that the Complaint be dismissed.

3. The matter of venue was scheduled for a motions hearing to be held on December 20, 2022. However, on the evening before the hearing was scheduled to occur, the parties received notice that the court's administrative judge had interceded in the

matter. The Court ultimately granted Defendant's motion for a change of venue, ordering the matter transferred to Harford County Circuit Court.

4. Plaintiffs now move that this case be removed from Harford County to a Maryland county of this Court's choosing, pursuant to Maryland Rule 2-505.

5. "The discretionary power of the courts to remove a case originates from the common law" predating the U.S. Constitution. *Smith v. Pearre*, 96 Md. App. 376, 383 (1993). The Rule that provides for removal, Rule 2-505, is an expression of the rights provided for in Article IV of the Maryland Constitution. *See* Md. Const. art. IV, § 8 (if reasonable grounds for transfer are provided by the movant, "thereupon the court shall order and direct the record of the proceedings in the cause or case to be transmitted to some other court").

6. Rule 2-505 provides that "any party may file a motion for removal . . . alleging that the party cannot receive a fair and impartial trial in the county in which the action is pending." Rule 2-505(a). If this Court finds "reasonable ground" to believe that the allegation in the motion is correct, the Court is required to transfer the case. *Id.*

7. The majority of reported opinions relating to Rule 2-505 removals concern criminal trials. However, "the right to a fair and impartial trial is no less deserving of protection in a civil setting as it is in the criminal courts." *Dinkins v. Grimes*, 201 Md. App. 344, 361 (2011). "When a trial court considers the interests of justice, the court accounts for overall 'systemic integrity and fairness.'" *Univ. of Maryland Med. Sys. Corp.*

v. Kerrigan, 456 Md. 393, 418 (2017), quoting *Odenton Dev. Co. v. Lamy*, 320 Md. 33, 40 (1990).

8. Plaintiffs here have reasonable grounds for removal. "The purpose and intent of the removal provisions . . . is to get rid of the influence of local prejudice in the community from which the jury to try the case will come, and thus, as far as practicable, to secure a fair and impartial trial by jury." *Hoffman v. Stamper*, 155 Md. App. 247, 283 (2004), *aff'd in part, rev'd on other grounds and remanded*, 385 Md. 1 (2005) (citing *Redman v. State*, 363 Md. 298, 323 (2001)). While the burden is on the movant to show that removal would operate in the interests of justice, the burden is a low one. The grounds for removal must merely be "reasonable."

9. Plaintiffs are local residents of a specific part of Harford County – the Perryman Peninsula. Due to the expansion of the I-95 Corridor, the creation of Enterprise Zones, and the relative isolation of its residents, Harford County has pushed industrial projects towards the Perryman Peninsula to avoid controversy with non-Perryman Harford County residents. Thus, what is preferable to a non-Perryman jury-member is likely to be detrimental to Plaintiffs.

10. To be clear, Plaintiffs' motion is not, in any way, a challenge to this Court's impartiality. However, Plaintiffs know that the strongly-held and longstanding prejudice in favor of industrial development on the Perryman Peninsula, rather than elsewhere in the County, will operate in their disfavor.

11. The inability of Plaintiffs to receive an impartial jury pool in Harford County is bolstered by Defendant Chesapeake Real Estate Group's anonymous website, "Perrymanimprovement.com."

12. Therein, Defendant CREG describes Plaintiffs as "bullies" who will "VIOLATE state and local law and will be using the power of the Harford County Council to kill jobs and prevent landowners from exercising their personal property rights!" The "all of Harford County" that the website refers to is presumably the more affluent residents of the northern portion of the County – *i.e.* a substantial portion of the jury pool for this action.

13. A true and accurate reproduction of Defendant CREG's website is attached as Exhibit A.

14. Given Defendants' attempt to influence the potential jury pool in this matter, and the local passions and potential prejudice relating to this matter, this Court should remove this case to another County.

WHEREFORE, for the reasons stated above, Plaintiffs request the Court grant their Rule 2-505 motion for removal.

/s/ Rignal W. Baldwin
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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of March, 2023, a copy of the forgoing Plaintiffs' Rule 2-505 Motion for Removal, Request for Hearing, and proposed Order, was efiled with MDEC, which will provide electronic notice to all counsel of record.

/s/ Rignal W. Baldwin

PAUL JOHN CISAR, *et al.*,
Plaintiffs,

v.

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* IN THE
* CIRCUIT COURT
* FOR
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* * * * *

REQUEST FOR HEARING

Plaintiffs, pursuant to Maryland Rule 2-311(f), request a hearing on their Rule 2-505 Motion for Removal, and any opposition thereto.

/s/ Rignal W. Baldwin
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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of March, 2023, a copy of the forgoing Request for Hearing on Plaintiffs' Rule 2-505 Motion for Removal, with proposed Order, was efiled with MDEC, which will provide electronic notice to all counsel of record.

/s/ Rignal W. Baldwin

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IN THE

CIRCUIT COURT

FOR

HARFORD COUNTY

Case No.: C-12-CV-22-000888

* * * * *

ORDER GRANTING PLAINTIFFS' RULE 2-505 MOTION FOR REMOVAL

This Court having considered Plaintiffs' Rule 2-505 Motion for Removal, and any opposition thereto, and pursuant to Maryland Rule 2-505, it is, this _____ day of _____, 2023, ORDERED, that the motion is hereby GRANTED, and that the matter will be removed to _____ County.

Circuit Court Judge