

IN THE IOWA DISTRICT COURT IN AND FOR JEFFERSON COUNTY

KORYNN TJADEN DICKEY, SHAWNA HUSTED, and ALLEN HUSTED,

Plaintiffs,

vs.

ADRIAM JEREMY DICKEY and MARK MYERS in his capacity as JEFFERSON COUNTY, IOWA, TREASURER,

Defendants.

Case No. CVEQ004601

MOTION TO CHANGE VENUE

COMES NOW, plaintiffs Korynn Tjaden Dickey, Shawna Husted, and Allen Husted, and for their motion to change venue pursuant to Iowa Rule of Civil Procedure 1.801(1), state:

1. This is a lawsuit against the Treasurer of Jefferson County and a state senator elected to represent Iowa Senate District 44, which encompasses all of Jefferson County.

2. Plaintiffs were required to initiate this case in Jefferson County. *See* Iowa Code § 616.5.

3. Pursuant to Iowa Rule of Civil Procedure 1.801, venue may be changed “[i]f the county where the case would be tried is a party, the motion is by an adverse party, the issue is triable by a jury, and a jury has been demanded.” Iowa R. Civ. P. 1.801(1).

4. Although the Rule 1.801 uses the word “may,” the Iowa Supreme Court has held that “where the county is a party, ... and the pleadings meet the requirements of the rule as to change of venue, no discretion remains in the trial court.” *Willesen v. Davidson*, 90 N.W.2d 737, 739 (Iowa 1958); *Riessen v. Neville*, 425 N.W.2d 665, 667 (“Where the county is a party and the pleadings meet the requirement of the rule as to change of venue a change of venue is mandatory.”).

5. Because the Jefferson County Treasurer—a representative of the County—is a party, the issues in this case are triable by a jury, and a jury trial has been demanded, a transfer of venue is “mandatory.” *Riessen*, 425 N.W.2d at 667.

6. In addition, venue may be changed where “an adverse party has such undue influence over the county’s inhabitants that the movant cannot obtain a fair trial.” Iowa R. Civ. P. 1.801(3).

7. The other defendant in this case, Adrian Dickey, is an elected representative of the legislative district that includes Jefferson County. Indeed, he is the only Iowa State Senator that represents Jefferson County.

8. Jurors in Jefferson County have a personal interest in the County and their elected Senator by virtue of being County residents. It would be unfair and problematic to require such jurors to be impartial arbiters of the law and the facts in this case:

Throughout the history of the state it has been customary that where a claim for damages is made against a city,¹ property owners in the city are disqualified as jurors. The basis for the disqualification is that they have a vital interest in the outcome of the case. If a judgment is rendered against the city the property owner as a taxpayer will be obligated to pay a part of it. Even though a peculiarly fair-minded juror might state that he would not be prejudiced, yet it is an unfair position in which to place a juror, and the plaintiff in the case.

Alber v. Dubuque, 101 N.W.2d 185, 190 (Iowa 1960).

9. Plaintiffs are entitled to a change of venue because Jefferson County is a party to this case. *Riessen*, 425 N.W.2d at 667.

10. Plaintiffs are also entitled to a change of venue because inhabitants of Jefferson County are likely to be so unduly influenced by defendant Adrian Dickey, as their State Senator, that plaintiffs cannot obtain a fair trial in Jefferson County.

¹ Although *Alber* discussed lawsuits against cities, its logic applies equally to counties.

11. A change of venue is required to ensure a fair trial by an impartial tribunal, which is the most essential requirement of due process. *Irvin v. Dowd*, 366 U.S. 717, 721 (1961); *State v. Siemer*, 454 N.W.2d 857, 861 (Iowa 1990).

12. Plaintiffs request that this case be transferred to Johnson County, Iowa, to avoid any residual influence arising from the counties surrounding Jefferson County.

WHEREFORE, plaintiffs Korynn Tjaden Dickey, Shawna Husted, and Allen Husted respectfully request that this Court grant their motion to change venue to Johnson County as mandated in Iowa Rule of Civil Procedure 1.801(1) and grant such further relief as the Court deems appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on **August 9, 2023**, by:

<input checked="" type="checkbox"/> EDMS	<input type="checkbox"/> CM/ECF
<input type="checkbox"/> Email	<input type="checkbox"/> U.S. Mail
<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Certified Mail

By: /s/Elisa C. Ryan