

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT FLIEGLER, M.D.,  
Appellant,

vs.

GARY R. SMITH; TERRY A. SMITH  
AND MALLORIE J. GOULD, ALL  
INDIVIDUALLY AND AS SPECIAL  
ADMINISTRATORS OF THE ESTATE  
OF BONNIE JEAN SMITH,  
Respondents.

No. 44528

**FILED**

APR 19 2006

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY J. Richards  
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order denying a motion for a change of venue. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Dr. Robert Fliegler appeals from an order denying his motion to change venue from Washoe County to the County of Carson City. The parties are familiar with the facts, and we do not recount them in the order except as is necessary for our disposition.

Fliegler raises two arguments on appeal: (1) that he is entitled to a change of venue as a matter of right because none of the defendants reside in Washoe County, and (2) that the convenience of the witnesses warrants a change of venue to the County of Carson City.

First, under NRS 13.040, venue may be laid in the county in which any of the defendants reside. We determine the residence of a corporation for venue purposes by the corporation's principal place of

business.<sup>1</sup> Fliegler admits that one of the corporate defendants in this case, Arger, Dipaolo, Drummer, Fuller, Newmark & Spring, d/b/a Sierra Nevada Cardiology Associates (Sierra), has its principal place of business in Washoe County.

Fliegler contends, however, that because Sierra is a professional corporation, its residence should be determined differently than other corporations for venue purposes. Specifically, Fliegler argues that because professional corporations may only render services through their licensed officers or employees,<sup>2</sup> residency of a professional corporation for venue purposes should be determined by the licensed professional's residence rather than by the corporation's principal place of business. We conclude that Fliegler's argument lacks merit.

The policies underlying our decision in Flournoy v. McKinnon Ford Sales—that a corporation's residence for venue purposes is its principal place of business—apply equally to corporations organized under NRS Chapter 78 and to professional corporations organized under NRS Chapter 89. For either type of corporation, a party bringing suit should be able to rely on the corporation's statements in its filings and, thus, should be able to rely on the corporation's principal place of business as the locus for proper venue. We see no reason to treat professional corporations differently than other corporations in determining residence for venue purposes. Because Sierra's principal place of business is Washoe County, it is a resident of Washoe County for venue purposes. Therefore, Fliegler

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<sup>1</sup>See Flournoy v. McKinnon Ford Sales, 90 Nev. 119, 121, 520 P.2d 600, 601-02 (1974).

<sup>2</sup>See NRS 89.050(3).

is not entitled to a change of venue from Washoe County as a matter of right because one of the defendants resides in the county.

Second, Fliegler argues that the district court abused its discretion by denying his motion to change venue based on the convenience of the witnesses. The determination on a motion to change venue for the convenience of the witnesses under NRS 13.050(2)(c) is within the sound discretion of the district court. We do not disturb that discretion unless manifestly abused.<sup>3</sup> When the record indicates that both sides in a suit have witnesses that would be inconvenienced whether venue is changed or not, we will generally not disturb the district court's decision to deny a motion to change venue.<sup>4</sup>

Both sides in this case presented evidence to the district court that venue would be more convenient for their witnesses in either Washoe County, for the respondents, or in the County of Carson City, for the appellants. The district court found that some considerations favored venue in Washoe County while other considerations favored venue in the County of Carson City. The district court adequately weighed those considerations, and we conclude that it did not abuse its discretion in so doing.

We conclude, therefore, that the district court did not err by denying Fliegler's motion to change venue. Accordingly, we AFFIRM the district court's order denying a change of venue.

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<sup>3</sup>Pearce v. Boberg, 87 Nev. 255, 256, 485 P.2d 101, 101 (1971) (citing Fabbi v. First National Bank, 62 Nev. 405, 413, 153 P.2d 122, 125 (1944)).

<sup>4</sup>See Fabbi, 62 Nev. at 415, 153 P.2d at 126.

It is so ORDERED.

Douglas J.  
Douglas

Becker J.  
Becker

Parraguirre J.  
Parraguirre

cc: Hon. Connie J. Steinheimer, District Judge  
Piscevich & Fenner  
Steven M. Hess  
Stephen H. Osborne  
Washoe District Court Clerk