

IN THE SUPREME COURT OF THE STATE OF NEVADA

VALENTIN PRISECARU,  
Appellant,  
vs.  
PEPPERMILL CASINOS, INC.,  
Respondent.

No. 58549

**FILED**

NOV 21 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting a motion for change of venue from Clark County to Washoe County. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

Venue is proper in a county where one or more defendants resides. NRS 13.040. If a demand for change of venue is timely filed, no defendants reside in the county in which the action was filed, and that county is not otherwise a proper venue, then removal is mandatory and not within the district court's discretion. Washoe County v. Wildeveld, 103 Nev. 380, 382, 741 P.2d 810, 811 (1987); Western Pacific Railroad v. Krom, 102 Nev. 40, 714 P.2d 182 (1986).

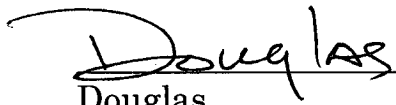
Appellant Valentin Prisecaru contends that the district court misapplied Flournoy v. McKinnon Ford Sales, 90 Nev. 119, 520 P.2d 600 (1974), which Prisecaru argues stands for the proposition that a corporation's "residence" includes the county of the resident agent designation for purposes of determining proper venue. We disagree.

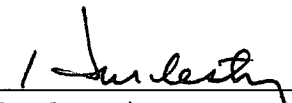
Flournoy establishes that the "designation in the articles of incorporation of the principal place of business [is] conclusive as to the

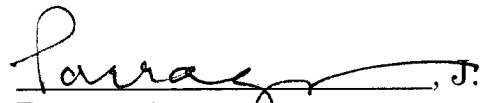
corporation for purposes of venue, although such designation may not be binding on other parties.” Id. at 122, 520 P.2d at 602 (citation omitted).<sup>1</sup> Here, the articles recite that respondent’s principal place of business is Washoe County.

Accordingly we,

AFFIRM the order of the district court.

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

cc: Hon. Valerie Adair, District Judge  
Nersesian & Sankiewicz  
Erickson Thorpe & Swainston, Ltd.  
Eighth District Court Clerk  
Washoe District Court Clerk

---

<sup>1</sup>We note that NRS 78.090(1) has been amended since Flournoy, and it no longer requires that a corporation’s resident agent be “in charge of its principal office.” NRS 78.090(1); see Flournoy, 90 Nev. at 121, 520 P.2d at 601.