

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

LAMAR ADVERTISING OF PA, INC.,  
Plaintiff

vs.

JILL B. ROBERTS,  
Defendant

: No. 99-00798

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: CIVIL ACTION - LAW

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: Preliminary Objections

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**ORDER**

AND NOW, this \_\_\_\_ day of July 1999, upon consideration of the defendant's preliminary objection raising improper venue, the same is GRANTED. There is case law that indicates that equitable relief cannot be granted in an action at law and causes of action in law and equity cannot be joined. See Du Puy's Estate, 373 Pa. 423, 96 A.2d 318 (1953); City of Philadelphia v. Penrose Management Co., 142 Pa.Comm. 627, 635, 598 A.2d 105, 109-110 (1991). In its brief, the plaintiff appears to cite cases and commentary to the contrary. However, these cases involve instances on the equity side of the Court where a cause of action at law was pled or legal relief sought. In these cases, the courts held that legal relief could be awarded so that complete justice may be afforded. See White v. Young, 409 Pa. 562, 566, 186 A.2d 919, 921 (1963); Sutton v. Miller, 405 Pa.Super. 213, 217 n.1, 592 A.2d 83, 85 n.1 (1991). Therefore, it appears that if the two causes of action asserted by the plaintiff can be joined it is only on the equity side of the court. Since the plaintiff conceded that venue is not proper in Lycoming County on the equity side of the court, see Plaintiff's brief at p.6, the Court is granting the defendant's preliminary objection regarding venue and directing that this matter be transferred to Columbia County.<sup>1</sup>

The Lycoming County Prothonotary is directed to transfer this matter to Columbia County.

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<sup>1</sup>The Court believes venue for both causes of action is proper in Columbia County. Therefore, venue would still be proper in Columbia County even if that court found that the plaintiff had an adequate remedy at law.

The costs of such transfer shall be placed on the plaintiff.

In light of the Court's ruling regarding venue, the Court will not address the defendant's remaining preliminary objections. Rather, the Court believes those issues should be addressed to the Court of Common Pleas of Columbia County.

By The Court,

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Kenneth D. Brown

cc: Richard A. Gahr, Esquire  
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