

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JENNIFER G. SCHECTER PART IAS MOTION 54EFM

Justice

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INDEX NO. 655987/2020

MEREDITH BUSER, ELLEN BUSER, NANCY TUMPOSKY, JEROME CORTELLESI,

MOTION SEQ. NO. 001

Plaintiffs,

- v -

DESMOND BARRY, THOMAS EGAN, JOHN HEANUE, WILLIAM KELLY, FRANCIS BARRON, WINGED FOOT GOLF CLUB, INC., WINGED FOOT HOLDING CORPORATION,

DECISION + ORDER ON MOTION & X-MOT

Defendants.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 3, 4, 5, 6, 7, 8, 9, 10, 12, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38

were read on this motion to change venue & cross-motion to retain

Upon the foregoing documents, it is ORDERED that defendants' motion to change venue to Supreme Court, Westchester County is GRANTED and plaintiffs' cross-motion to retain venue is DENIED. This action affects title to real property in Westchester County so it must be venued there (CPLR 507; see GAM Prop. Corp. v Sorrento Lactalis, Inc., 41 AD3d 645, 646 [2d Dept 2007] ["the discretionary determination of venue based upon the convenience of witnesses must yield to the mandatory venue provision of CPLR 507"]). But even if this court had discretion to consider the convenience of witnesses, given the parties' prior litigation in federal court in Westchester County, there is no credible basis to contend that it would be more convenient to litigate in New York County. The pandemic, in fact, actually militates against retaining venue. All proceedings are and will be remote during the pandemic so the county in which the action proceeds should not matter to the witnesses. The motion to dismiss (Seq. 002), which is not yet fully briefed, should be decided by the Justice to whom the action is assigned in Westchester County. Accordingly, it is ORDERED that this action shall be transferred to Supreme Court, Westchester County, and upon service by movant of a copy of this order with notice of entry and payment of appropriate fees, if any, the Clerk of this court is directed to transfer the papers on file to the Clerk of Supreme Court, Westchester County.

Handwritten signature of Jennifer G. Schecter, J.S.C. with ID number 20210203135530JSCHECTE315AD7AE12749C8AE7964541DCC9CD2

2/3/2021 DATE

CHECK ONE: CASE DISPOSED (X) GRANTED, DENIED, NON-FINAL DISPOSITION (X), GRANTED IN PART, OTHER, CHECK IF APPROPRIATE: INCLUDES TRANSFER/REASSIGN (X), FIDUCIARY APPOINTMENT, REFERENCE