

IN THE THIRTEENTH JUDICIAL CIRCUIT COURT  
FOR HILLSBOROUGH COUNTY, FLORIDA  
CIVIL DIVISION

MASON CLASSICAL ACADEMY, INC.,

CASE NO.: 19-CA-011779

Plaintiff,

DIVISION: K

v.

JOSEPH M. BAIRD,

Defendant.

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**ORDER DENYING DEFENDANT’S MOTION TO TRANSFER VENUE**

**THIS CAUSE** came before the Court on May 18, 2020, on Defendant Joseph M. Baird’s (“Defendant”) “Motion to Transfer Venue,” filed on February 13, 2020. The Motion includes affidavits in support. Plaintiff Mason Classical Academy, Inc. (“Plaintiff”) filed a Response in Opposition to the Motion and corresponding Affidavits in support of the Response on May 15, 2020. The Court, having reviewed the court file, the Motion and affidavits in support, the Response in Opposition and corresponding affidavits, argument of counsel, applicable law, and being otherwise fully advised in the premises, **DENIES** the Motion.

The Second District Court of Appeal has held that

Section 47.122 permits the court to transfer a case to another forum based upon two considerations: 1) the convenience of the parties or witnesses, and 2) the interests of justice. The discretion of the trial court under Section 47.122 is not unbridled and must be predicated upon a proper showing of these grounds. Accordingly, the party seeking change of venue under this statute must show that substantial inconvenience or undue expense to the parties will result in the forum chosen by the plaintiff, or that the forum may not afford a fair and impartial decision.

*Ashland Oil, Inc. v. Fla. Dept. of Transp.*, 352 So. 2d 567, 569 (Fla. 2d DCA 1977). “The party seeking the transfer [pursuant to section 47.122] bears the burden of showing substantial

inconvenience or undue expense to establish a basis for the transfer.” *Brown v. Nagelhout*, 84 So. 3d 304, 311 (Fla. 2012) (quoting *Resor v. Welling*, 44 So. 3d 656, 657 (Fla. 5th DCA 2010)). See also *Kirchoff v. Scott*, 736 So. 2d 786 788 (Fla. 2d DCA 1999) (“The trial court made no finding that litigating this case in Polk County, rather than the neighboring county of Orange, would cause the defendants substantial inconvenience or undue expense. Without such a finding, the transfer could not be sustained on the grounds of forum non conveniens.”); *R.J. Reynolds Tobacco Co. v. Mooney*, 147 So. 3d 42 (Fla. 3d DCA 2014) (quoting *Gov’t Emps. Ins. Co. v. Burns*, 672 So. 2d 834, 835 (Fla. 3d DCA 1996)) (“[A] ‘plaintiff’s forum selection is presumptively correct, and in order to successfully challenge that selection, *the burden is upon the defendant* to show either *substantial* inconvenience or that *undue expense* requires a change for the convenience of the parties or witnesses.’”) (emphasis in original).

The Court finds that, for the reasons stated in Plaintiff’s Response in Opposition, Defendant has not shown through record evidence that either substantial inconvenience or undue expense require a change of venue for the convenience of the parties or witnesses here.

Accordingly, it is hereby **ORDERED AND ADJUDGED** that Defendant’s “Motion to Transfer Venue” is **DENIED**.

**DONE AND ORDERED** in Chambers in Hillsborough County, Florida, this \_\_\_\_ day of July, 2020.

Electronically Conformed 7/22/2020

~~Caroline Tesche Arkin~~  
**CAROLINE TESCHE ARKIN**, Circuit Judge

Copies furnished via JAWS to:

All counsel of record via JAWS.