

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY FLORIDA

APPELLATE DIVISION (CIVIL): AY
CASE NO.: 2014AP000069
L.T. NO.: 502014SC008799XXXSB

AMLONG & AMLONG, P.A.,
Petitioner,

v.

LAURIE SEMO,
Respondent.

Opinion filed: **NOV - 9 2015**

Petition for Writ of Certiorari from the County Court in and for Palm Beach County,
Judge Edward A. Garrison.

For Petitioner: Jennifer Daley, Esq.
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For Respondent: Laurie Semo
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Petitioner, the law firm of Amlong & Amlong, P.A., the defendant in the lower court, formerly provided legal representation to Respondent, Laurie Semo, the plaintiff in the lower court, in an unrelated action filed in the Broward County Circuit Court. Broward County is where the offices of Amlong & Amlong are located, where payments for services rendered were made from Semo and to the law firm, and where the initial consultations with Semo took place. Semo terminated Amlong & Amlong as her counsel and subsequently filed suit against the law firm in Palm Beach County Small Claims Court seeking \$5,000.00 for what appears to be a refund of funds that she paid the law firm for representation in the Broward County action.

Amlong & Amlong filed a Verified Motion to Dismiss or Transfer for Improper Venue, or in the Alternative to Transfer Due to Forum Non Conveniens, which the trial court denied. Amlong & Amlong then filed a timely Petition for Writ of Certiorari (“the Petition”) seeking review of the trial court’s non-final order. In the Petition, Amlong & Amlong argued that venue is not proper in Palm Beach County, but instead in Broward County, where it has its principal and sole place of business and where all of the acts and omissions alleged in the Statement of Claim took place. For the reasons set forth below, we agree and grant the Petition for Writ of Certiorari.

To obtain a common law writ of certiorari, a petitioner must demonstrate (1) irreparable injury that cannot be corrected on final appeal, and (2) that the injury was caused by a departure from the essential requirements of law. *Bared & Co., Inc. v. McGuire*, 670 So. 2d 153, 156 (Fla. 4th DCA 1996). As to the first prong, a petitioner can show irreparable injury “by demonstrating either that the injury cannot be redressed in a court of law or that there is no adequate legal remedy.” *A.G. v. Florida Dept. of Children and Families*, 65 So. 3d 1180, 1182 (Fla. 1st DCA 2011). As to the second prong, a departure from the essential requirements of law is “something more than a simple legal error.” *Allstate Insurance Co. v. Kaklamanos*, 843 So. 2d 885, 889 (Fla. 2003). To warrant certiorari review, there must be “a violation of a clearly established principle of law resulting in a miscarriage of justice.” *Id.* These clearly established principles of law “can derive from a variety of legal sources, including recent controlling case law, rules of court, *statutes*, and constitutional law.” *Id.* at 890. (emphasis added).

In the instant case, Amlong & Amlong filed a motion to dismiss or transfer, asserting that venue is not proper in Palm Beach County, but rather venue is proper in Broward County. In light of the case law, the erroneous denial of such a motion would be an irreparable, material injury that cannot be remedied on post-judgment appeal. The entire purpose of the motion is to

transfer the case from an improper venue to a proper venue. If Amlong & Amlong is forced to litigate in the wrong venue, it will not have an adequate remedy on appeal because the case will have already been litigated in Palm Beach County. As such, the trial court's order causes irreparable, material injury that cannot be remedied on post-judgment appeal.

Florida Small Claims Rule 7.060 provides that if a defendant has been sued in an improper venue, the defendant has "the right to request that the case be moved to a proper location or venue." The rule also provides two methods for requesting a transfer: (1) orally request a transfer on your court date, or (2) file a written request for transfer in affidavit form, sworn to under oath, seven (7) days prior to the first court date and provide a copy to the plaintiff. Fla. Sm. Cl. R. 7.060. Here, Amlong & Amlong attached a sworn affidavit to the motion to dismiss or transfer that alleged the various ways in which it would suffer hardship if required to litigate in Palm Beach County. The motion and supporting affidavit were filed on September 22, 2014, well in advance of the first court date, which was rescheduled to November 19, 2014. Therefore, Amlong & Amlong's motion was procedurally proper under the Florida Small Claims Rules.

With respect to the substantive merits of Amlong & Amlong's motion, section 47.011, Florida Statutes, provides that "[a]ctions shall be brought *only* in the county where the defendant resides, where the cause of action accrued, or where the property in litigation is located." (emphasis added). Further, section 47.051, Florida Statutes, specifies that for purposes of venue, a corporate defendant resides where "such corporation has, or usually keeps, an office for transaction of its customary business." Based on the plain language of the statutes, venue is proper in Broward County because that is where the law firm has its sole and principal place of business and where the events giving rise to the cause of action occurred. Specifically, the

consultations and correspondence with Semo and the legal services provided to Semo all took place in Broward County. Further, the only connection that this case has to Palm Beach County is that Semo is a resident of Palm Beach County. Semo's residence is not a proper venue location under section 47.011 as she is the plaintiff in the matter from which this case arises. Therefore, the trial court departed from the essential requirements of law when it denied Amlong & Amlong's Motion to Dismiss or Transfer for Improper Venue.

Accordingly, the Petition for Writ of Certiorari is **GRANTED**. The trial court's November 4, 2014 order denying the Motion to Dismiss or Transfer for Improper Venue is **QUASHED**. This matter is **REMANDED** to the trial court to enter an order granting Amlong & Amlong's Motion to Dismiss or Transfer for Improper Venue.

G. KEYSER, ARTAU, OFTEDAL, JJ., concur.