IN THE IOWA DISTRICT COURT IN AND FOR MUSCATINE COUNTY

LAURIE FREEMAN, SHARON MOCKMORE, BECCY BOYSEL, GARY D. BOYSEL, LINDA L. GOREHAM, GARY R. GOREHAM, KELCEY BRACKETT, and BOBBIE LYNN WEATHERMAN Plaintiffs, v. GRAIN PROCESSING CORPORATION, Defendant.	Case No. LACV021232 **RULING ON PLAINTIFFS' MOTION FOR CHANGE OF VENUE**

On December 15, 2017, Plaintiffs, the *Freeman* Class, by and through their counsel, filed their Motion for Change of Venue. In brief, Plaintiffs claim that they cannot receive a fair trial in Muscatine County due to pervasive bias against the *Freeman* Class and undue influence possessed by the Defendant, Grain Processing Corporation ("GPC"). Accordingly, Plaintiffs request that the Court transfer venue for trial pursuant to Iowa Rule of Civil Procedure 1.801(3). GPC filed its Resistance on January 31, 2018, to which Plaintiffs replied on February 12, 2018. The Plaintiffs' Motion came before the Court for oral argument in a hearing held on February 14, 2018. Plaintiffs were represented by Attorneys James Larew, Sara Siskind, and Scott Entin. GPC was represented by Attorneys Kelsey Knowles, Eric Knoernschild, and John Kuhl. The Court, having considered the written and oral arguments of counsel for both sides, and the applicable law, enters the following ruling on Defendants' Motion for Change of Venue.

Factual Background and Proceedings

GPC is a large business located in Muscatine County. Along with its parent company, the Kent Corporation, it employs over 1,000 Muscatine residents.[1] GPC is a major economic force to the Muscatine area, spending an estimated $1 million per day in local and state economies and reporting more than $1 billion in sales.[2] GPC has a long and familiar history with the Muscatine area; the company has conducted its operations in Muscatine since 1936 and the city has grown to rely on its presence in the community for business, jobs, and even philanthropy. *See* Pl.'s Mot. Ex. B, Clark Aff. ¶ 18; Ex. D, Stanley Aff. ¶¶ 8, 10. As such, GPC is considered to be an important corporate citizen that holds a great deal of influence in the community. *See* Clark Aff. ¶ 18; Pl.'s Mot. Ex. C, Whitaker Aff. ¶¶ 6, 8. The activities of GPC—and its parent conglomerate—are widely reported as news in the Muscatine community.[3]

Plaintiffs originally filed this action on April 23, 2012, in the Iowa District Court for Muscatine County, Iowa. Plaintiffs' lawsuit has been up on appeal before the Iowa Supreme Court twice. First, the Hon. Mark Smith granted summary judgment in favor of GPC on the basis that Plaintiffs' common law property claims were preempted by state and federal environmental regulations; the Iowa Supreme Court reversed and reinstated Plaintiffs' lawsuit in a ruling dated

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[1] *See* Greater Muscatine Chamber of Commerce and Industry, *Major Employers of Muscatine*, http://www.muscatine.com/pages/MajorEmployers.

[2] *See* Kevin Smith, *GPC: Making Progress*, Muscatine Journal (Sept. 1, 2015), http://muscatinejournal.com/news/local/gpc-making-progress/article_0b0a5415-ba8f-5835-a0d1-e75d0a49b1b8.html.

[3] *See, e.g.*, Sam Leary, *PROGRESS: Export market leads to growth for Muscatine's GPC plant*, Muscatine Journal (Mar. 24, 2017), http://muscatinejournal.com/muscatine/news/local/progress-export-market-leads-to-growth-for-muscatine-s-gpc/article_052bda0a-5539-55e3-84d3-0021e37d3e37.html; Sarah Ritter, *Kent Corp. to match community donations for Pearls of Progress projects*, Muscatine Journal (Oct. 9, 2017), http://muscatinejournal.com/muscatine/news/kent-corp-to-match-community-donations-for-pearls-of-progress/article_5e3dc565-8e20-5b89-8f62-0677dbb44a03.html; *Promotions and new hires at Kento Corporation companies*, Muscatine Journal (June 23, 2016), http://muscatinejournal.com/muscatine/news/kent-corp-to-match-community-donations-for-pearls-of-progress/article_5e3dc565-8e20-5b89-8f62-0677dbb44a03.html.

June 13, 2014. *See Freeman v. Grain Processing Corp.*, 848 N.W.2d 58 (Iowa 2014) (*Freeman I*). The *Freeman* lawsuit was later certified as a class action by this Court in an order dated October 28, 2015 and affirmed by the Iowa Supreme Court on May 12, 2017. *See Freeman v. Grain Processing Corp.*, 895 N.W.2d 105 (Iowa 2017) (*Freeman II*). Plaintiffs allege a wide array of property-related claims against GPC, including nuisance, negligence, and trespass. GPC and all members of the *Freeman* class, along with their residences, are located in Muscatine County.

Plaintiffs now seek a change of venue for trial. Plaintiffs contend that a jury from Muscatine County called to evaluate the merits of their claims against GPC will inevitably be biased in favor of GPC and against the *Freeman* class. Plaintiffs argue that GPC's "exceptionally high status in Muscatine County" and evidence of prejudice and pre-set opinions among community members against the efforts of the *Freeman* class action requires transfer of venue away from Muscatine County. Plaintiffs contend that GPC enjoys a special, privileged position within the community. According to Plaintiffs, there is a strong sentiment among many Muscatine area residents against the *Freeman* lawsuit because of the fear that it will persuade GPC to abandon its facilities in Muscatine and move to a location where less environmental regulations exist—in effect, undermining the efforts of a generous philanthropic corporate citizen, removing millions of dollars from the local economy, and eliminating the jobs of hundreds, if not thousands, of Muscatine residents.

Pursuant to Iowa Rule of Civil Procedure 1.801(3), Plaintiffs present the non-party affidavits of Daniel Clark, Kimberlee Whitaker, and Sandra Stanley in support of their Motion for Change of Venue.[4] Mr. Clark is a member of the organization Clean Air Muscatine

[4] GPC argues that the affidavits of Mr. Clark and Ms. Stanley do not comply with the requirements of Rule 1.801(3) because, as members of CLAM, they are not "disinterested persons" in this litigation as required by the Rule. Rule

("CLAM"), a local nonprofit organization, which has advocated for environmental efforts in the Muscatine area for several years. Mr. Clark states that he has had many personal conversations with Muscatine residents and has observed online commentary on social media expressing views critical of CLAM's environmental efforts, as well as doubting the legitimacy of the *Freeman* class action. Clark Aff. ¶¶ 11–12. He states that most residents have an opinion one way or another on the issue of GPC's emissions—either in support of or opposed to the large companies in Muscatine and their business practices. *Id.* ¶¶ 15, 17. Clark reports that many area residents are worried that litigation will drive GPC out of town and result in the loss of jobs in Muscatine since GPC is such a major employer in the area. *Id.* ¶ 12. For example, Mr. Clark cites an instance in the recent past where GPC "locked out a union" while negotiating with its laborers for their workers' rights. According to Mr. Clark, this event became a significant point of

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1.801(3) requires only that the affiants be "disinterested persons" who are not "the agent, servant, employee or attorney of the movant, nor related to the movant by consanguinity or affinity within the fourth degree." Both affiants attest that they have observed CLAM's neutrality regarding the *Freeman* litigation and are in compliance with this requirement. *See* Clark Aff. ¶¶ 9–10; Clark dep. at 77–78, 90; Stanley Aff. ¶¶ 3–4; Stanley dep. at 19–20, 48–49. Rather, "[a] disinterested person is one without pecuniary interest." *Daniels v. Holtz*, 794 N.W.2d 813, 821 (Iowa 2010) (citing *Cent. Life Ins. Co. v. Aetna Cas. & Sur. Co.*, 466 N.W.2d 257, 261 (Iowa 1991)). Mr. Clark and Ms. Stanley are not class members, nor has GPC presented evidence to suggest that they work on behalf of the *Freeman* Class to advance the Class's interests. Although CLAM succeeded in intervening in the Iowa DNR's regulatory action against GPC in 2012, *see* Order Granting Motion to Intervene, *State of Iowa, ex rel. Iowa Dep't of Nat. Res. v. Grain Processing Corp.*, No. CVCV020979 (Iowa Dist. Ct. June 25, 2012), the interests at stake in the *Freeman* litigation are fundamentally different than those in the State's lawsuit. In the lawsuit brought by the Iowa DNR, the Court ruled that CLAM had standing to intervene in the claims brought by the State of Iowa on behalf of *Iowa citizens* at large, seeking to promote compliance with environmental regulations governing emissions standards. As a citizens group focused on local environmentalism, the organization had a direct interest in the outcome of that matter. *See* Order at 9–10 (citing Iowa Code § 455B.11(3) (2012) (current version at Iowa Code § 455B.111(3))). Here, by contrast, the class action is brought by a group of private homeowners asserting their own *personal* claims against GPC. Moreover, the relief sought in the State's enforcement action contrasts drastically with that of the present class action. Rather than injunctive relief demanding compliance with Iowa environmental law, the *Freeman* class members seek to be privately compensated with money damages. Neither affiant here stands to enjoy any financial gain from their testimony in support of Plaintiffs' Motion for Change of Venue precisely because they are not members of the *Freeman* Class who can partake in any pecuniary award in favor of Plaintiffs. Thus, CLAM as an organization could not credibly assert that its interests would be directly affected by the outcome of this lawsuit. As CLAM members, and Iowan citizens generally, Mr. Clark and Ms. Stanley may support the environmental goals of the *Freeman* class action; but this does necessarily not make them "interested parties" who stand to benefit more than the average Iowa citizen.

contention in the community that incited extremely strong emotions for and against GPC for the very same reasons that concern residents with the *Freeman* class action. *Id.* ¶ 19.

Ms. Whitaker now resides in Michigan, but lived in Muscatine from 2009 through 2012. Ms. Whitaker states that during her residence there she would discuss GPC's pollution with residents of the Muscatine area. Although many she spoke with were also bothered by the pollution, other residents did not believe anything could be or should be done to change it. According to Ms. Whitaker, these residents believed that GPC's status as a major employer and economic boon to the Muscatine community should not be threatened by lawsuits. Whitaker Aff. ¶¶ 6–7.

Finally, Ms. Stanley serves on the CLAM board of directors, acting as the organization's president. Ms. Stanley echoes many of the same sentiments expressed by Mr. Clark—namely, that many members of the Muscatine community have been highly critical of and hostile to efforts to curb pollution by GPC over the years, citing GPC's importance as a major employer and economic pillar of the community. Stanley Aff. ¶¶ 7–8. Ms. Stanley states that most people she has encountered in Muscatine have an opinion about GPC and the Kent Corporation. *Id.* ¶ 8. This sentiment, she attests, stems from the large number of individuals in the community that have some relationship to either company. *Id.*

Plaintiffs also submit the affidavit of Kelcey Brackett, one of the named *Freeman* plaintiffs in this case. Mr. Brackett was recently elected to the Muscatine City Council. While running for office, Mr. Brackett states that he was heavily criticized for his involvement in the *Freeman* litigation by the many individuals in Muscatine with strong feelings against the class action. Voters expressed the fear that efforts to curb GPC's emissions would take jobs away from the community and harm the local economy, he states. Brackett Aff. ¶¶ 3, 5–6. Though he

ultimately won the local election to City Council, Mr. Brackett states that he was specifically opposed by many because of his involvement in litigation against GPC. *Id.* ¶ 3.

GPC resists transferring venue away from Muscatine County. According to GPC, Plaintiffs' case for moving venue away from Muscatine County hinges only on allegations of power disparities between the parties and rests on factors that fail to rise to the standard of establishing bias or prejudice to justify changing venue. GPC urges that Plaintiffs cannot meet the high bar that requires them to show that they cannot receive a fair trial from impartial jurors from Muscatine residents.

GPC presents its own counter-affidavits of Muscatine community members attesting to their opinion that Plaintiffs can indeed obtain a fair trial on the merits of their claims in Muscatine County. Alan Ostergren is the Muscatine County Attorney. Mr. Ostergren states that he has tried many high profile cases in Muscatine County, with only one—involving a double homicide standoff with local law enforcement—ever being transferred to a different venue. Def.'s Resistance Ex. B, Ostergren decl. ¶¶ 2–3. Mr. Ostergren states that he has no concerns about the GPC trial taking place in Muscatine. *Id.* ¶ 4. Scott Edwards is also an attorney in private practice in the Muscatine area. Mr. Edwards states that he has represented individuals from the "Southend"—the area largely affected by emissions from GPC and making up a large portion of the *Freeman* class—and states that he has not experienced issues of prejudice towards his clients based on where they live or their standing in the community. Def.'s Resistance Ex. D, Edwards decl. ¶ 4. Mr. Edwards further reports that, to his knowledge, the *Freeman* class action is not a common topic of conversation. *Id.* ¶¶ 2–3. Mr. Edwards reports that he himself has rarely discussed the ongoing litigation with other locals. *Id.* Mr. Edwards is similarly convinced that Plaintiffs can receive a fair trial in Muscatine County. *Id.* ¶ 5. Finally, Marty Hills is the Mayor

of Fruitland—a nearby town in Muscatine County. Mr. Hills attests that the *Freeman* class action has not been the subject of any of his conversations with residents of Muscatine County. Def.'s Resistance Ex. H, Hills decl. ¶¶ 3–4, 6. Mr. Hills states he is unaware of CLAM and its environmental efforts in Muscatine, and has not heard any negative or critical views of that organization. *Id.* ¶ 5.

Applicable Law and Analysis

I. Change of Venue Standard.

Iowa Rule of Civil Procedure 1.801 permits a district court to change the place of trial upon a sufficient showing of cause by the moving party. Specifically, a district court *may* transfer the venue in which the case is to be tried to a jury where the movant demonstrates that "the inhabitants of the county are so prejudiced against the moving party, or if an adverse party has such undue influence over the county's inhabitants that the movant cannot obtain a fair trial." Iowa R. Civ. P. 1.801(3).

Actual prejudice need not be shown; it is enough that the moving party establishes the *appearance* of impropriety to justify changing venue. *Thompson v. Rozeboom*, 272 N.W.2d 444, 447 (Iowa 1978) ("In order that the institution of jury trials be preserved and its usefulness continued, its deliberations and pronouncements must be kept pure, and untainted, not only from all improper influences, but from the appearance thereof.") (quoting *Daniels v. Bloomquist*, 138 N.W.2d 868, 872 (Iowa 1965)). Moreover, "[p]rejudice" "is not to be limited to personal hatred, dislike, or ill will, but includes as well the idea of prejudgment of the merits of his claim." *Hamill v. Joseph Schlitz Brewing Co.*, 143 N.W.99, 109 (Iowa 1913).

In evaluating whether a party's right to a fair and impartial jury will be lost if venue is not moved, the relevant inquiry is whether "'a reasonable likelihood' exists that 'a fair trial cannot be

had.'" *Pollard v. Dist. Court of Woodbury Cty.*, 200 N.W.2d 519, 519–20 (quoting *Sheppard v. Maxwell*, 384 U.S. 333, 362 (1966)). The decision to grant or deny a motion for change of venue is within the sound judgment of the district court, and is reviewed only for an abuse of discretion. *Richards v. Anderson Erickson Dairy Co.*, 699 N.W.2d 676, 679 (Iowa 2005).

II. Analysis.

In resisting Plaintiffs' Motion for Change of Venue, GPC relies heavily on the "local action rule"—the common law policy that local juries are best situated to hear claims involving competing property rights because residents of the county where the property is located have the best knowledge of local community standards governing property use. According to GPC, the local interest in balancing the utility of industry with its effects on the rights of neighboring property owners makes the evaluation of nuisance and negligence claims inherently local in nature. It follows, GPC argues, that Muscatine residents should be the ones to decide the fate of Plaintiffs' claims against GPC, rather than a jury foreign to the area. Moreover, GPC urges that Plaintiffs cannot meet the high bar that requires them to show that they cannot receive a fair trial from impartial jurors from Muscatine residents. For the reasons explained below, the Court disagrees. Although Muscatine residents certainly have a strong interest in determining issues of local property use themselves, so too do aggrieved parties have a right to a fair trial, free from pre-formed opinion or outside influence. Due to the exceptionally public nature of the case, GPC's fundamental role in the community, the personal knowledge regarding the pollution held by the vast majority of residents, and the divisive nature of this lawsuit, along with the compounding factor of the large number of individuals who are either class members or related

to class members[5], the Court finds that Plaintiffs have met their burden of demonstrating that there is a reasonable likelihood that they cannot receive a fair trial by an unbiased and impartial jury in Muscatine County.

A. Iowa Law and the Local Action Rule: Default Rule for Original Venue in Property Law Claims.

GPC first argues that the "local action rule" requires that the Court deny Plaintiffs' Motion for Change of Venue because the motion ignores the longstanding principle that property law claims are most appropriately tried by local residents of the county in which the property at issue is located. According to GPC, this is because claims implicating property rights, such as nuisance lawsuits, are decided according to "local community standards" set by residents of that area where the property is located. In effect, GPC argues that because determining whether a party's property use constitutes a nuisance is governed by the *standard* of "normal persons or property in the particular locality," only a local Muscatine jury can decide Plaintiffs' claims against GPC. Transferring venue, GPC claims, deprives Muscatine residents of the right to judge the merits of Plaintiffs' claims against GPC for themselves and evaluate environmental issues on the basis of their own expectations of GPC and the standards they choose to live by in Muscatine, Iowa. Because the "local action rule" controls only original venue, however, and not cause for transfer of venue based on the need for a fair trial, the Court disagrees.

As a general rule, Iowa law requires that any action affecting a "right" to or an "interest" in real property must be commenced in the county in which the property is physically located. Chapter 616 of the Iowa Code controls original venue:

[5] Iowa Rule of Civil Procedure 1.915(6)(d) provides that a juror may be challenged for cause because they are related within the 9th degree of consanguinity or affinity to a party. The parties to this case agree that this would extend to the entire class.

> Actions for the recovery of real property, or of an estate therein, or for the determination of such right or interest, or for the partition of real property, must be brought in the county in which the subject of the action or some part thereof is situated.

Iowa Code § 616.1; *see also* § 616.2 ("Actions for injuries to real property may be brought either in the county where the property is, or where the defendant resides."). Sections 616.1 and 616.2 are broadly applicable, and include actions alleging damage to real property. *See Cornell v. Wunschel*, 329 N.W.2d 651, 653 (Iowa 1983) ("The word 'interest' is the broadest term applicable to claims in or upon real estate . . . it is broad enough to include any right, title, or estate in, or lien upon, real estate."). Lawsuits alleging nuisance and trespass on the basis of alleged air pollution necessarily implicate the right to enter, interfere with, or alter the property of the owner and ultimately affect the owner's interest in the land, and are thus included in this class of actions that fall within the scope of sections 616.1 and 616.2.

The "local action rule" reflects the common law principle that claims affecting the rights in or title to real property are most appropriately brought in the county where the property is located. *See Van Beek v. Ninkov*, 265 F. Supp. 2d 1037, 1043–44 (N.D. Iowa 2003) (Bennett, J.) (citing *Livingston v. Jefferson*, 15 F. Cas. 660 (C.C.D. Va. 1811)). Iowa Courts have generally interpreted sections 616.1 and 616.2 to embrace the principle of the local action rule. *See Cornell*, 329 N.W.2d at 653; *Barnes v. Davis*, 2 Iowa 160, 161–62 (Iowa 1855) (holding that the district court's order transferring original venue from the county where the property at issue was located to the county where the defendants resided was improper because the predecessor to Iowa Code section 616.1 required the action for trespass *quare clausum fregit* to be commenced in the county where the property was situated). Consistent with the "local action rule," sections 616.1 and 616.2 vest original venue in Muscatine County, the location of both GPC's facility and

the Plaintiffs' real estate. It is undisputed that Plaintiffs properly initiated the present lawsuit in Muscatine County.

Contrary to the position advanced by GPC, sections 616.1 and 616.2 merely designate the venue in which a lawsuit must be *brought* when litigation is commenced; Iowa law recognizes the difference between statutory law designating original venue for property claims and the procedural rules allowing the Court to move venue when proper cause is established. *See Cornell*, 329 N.W.2d at 654 (stating that the legislative purpose behind section 616.1 is to enable the records of the county where the land is located to reflect how title to or interest in that land has been changed; but noting that where venue is transferred for procedural reasons, the change in venue does not undermine this purpose).[6] Thus, the "local action rule" of sections 616.1 and 616.2 is a presumption, or a default rule—in claims alleging damage to real property, original venue is properly laid in the county where the property is located or the defendant resides. As with all presumptions, however, sections 616.1 and 616.2 have exceptions. Iowa Rule of Civil Procedure Rule 1.801(3) might be considered the exception to the rule of original venue: property claims should be tried locally *except* where it is demonstrated that bias and prejudice prevents a party from receiving a fair trial by an impartial jury in that county. Upon such a showing, the district court can exercise its discretion in moving venue away from the presumptively proper county in which the property is located and suit was originally brought. Rule 1.801(3) is thus read consistently with the rules in chapter 616 governing original venue.

[6] The statutory laws of other states cited by GPC similarly distinguish between statutory laws designating original venue in actions that determine an interest in real property and procedural rules for transferring venue for cause. *E.g.*, Wash. Rev. Code § 4.12.010(1) (stating that actions that actions for any injuries to real be property "shall be commenced" in the county where the property is located) *with* § 4.12.030(2) (permitting a court to "change the place of trial" when "there is reason to believe that an impartial trial cannot be had" in the county of original venue).

Though the legal standard to determine whether emissions constitute a nuisance revolves around "local community standards," nothing in the law requires *that locality* in particular to decide the merits of the nuisance allegation; rather, the fact finder must consider, wherever he or she may reside, whether "normal persons living in the community would regard the invasion in question as definitely offensive, seriously annoying or intolerable." *Weinhold v. Wolff*, 555 N.W.2d 454, 459 (Iowa 1996) (quoting Restatement (Second) of Torts § 821F, cmt. d (1977)). To this end, evidence of environmental standards and property-use expectations held by members of the Muscatine community would be relevant to guide the jury's evaluation of the competing property rights implicated by Plaintiffs' claims. Indeed, evidence of local community standards is precisely the type of evidence that the Court anticipates the parties to introduce at trial to assist the jury in weighing the utility of GPC's industrial facilities with its deleterious effects on Plaintiffs' property rights. *See Freeman II*, 895 N.W.2d at 130; *see also id.* at 124 (noting that evidence at trial will seek to answer the central question of whether the operation of GPC's facilities meets "the objective normal person in the community standard for nuisance.").

Nor is the Court persuaded by GPC's reliance on *Clark v. Tosh Pork*. In that case, an Illinois appellate court considered whether the defendants' motion to transfer venue to the location of their swine facility was required by the doctrine of *forum non conveniens* where the plaintiffs alleged that the defendants' swine facility constituted a nuisance, continuing trespass, and was negligently operated. *Clark v. Tosh Pork, LLC*, 2015 WL 7251834, at *4 (Ill. App. Ct. Nov. 16, 2015). On appeal, the court reversed the district court's order denying the defendants' motion and ordered that venue be transferred so the case would be tried in the county of the defendants' swine facility. *Id.* at *5.As a matter of convenience, the Illinois court ruled that venue should be transferred to the county of the defendants' swine facility because no party

resided in the county where the case was filed; no witnesses or evidence was located in the original county; and the docket in which the case was originally filed was considerably more congested. *Id.* at *3–4.

Clark, however, was not decided on the basis of anticipated juror prejudice, undue influence by an adverse party, or the inability of the movant to receive a fair trial in the county of original venue. Rather, *Clark* was decided on grounds of *forum non conveniens*. *Id.* at *1, *5 (concluding that "the weight of the private-interest factors favors" and "weight of the public-interest factors" favored a transfer of venue based on *forum non conveniens*). Illinois civil procedure required the district court to consider "the policy that local interests should be decided locally" as one of the public-interest factors to be weighed against private-interest factors as an equitable matter of convenience. *Id.* at *2 (citing *Langenhorst v. Norfollk Southern Ry. Co.*, 219 Ill.2d 430, 443–44 (Ill. 2006)); *see also Clark v. Tosh Pork, LLC*, No. 5-14-0007, 2014 WL 5861718 (Ill. App. Ct. Nov. 12, 2014) (remanding the case for the district court to articulate its findings on the balance of public-interest and private-interest factors in denying defendants' motion to transfer venue on the basis of *forum non conveniens*). Accordingly, the court found that the district court abused its discretion because it failed to take into account the public interest that local residents had in determining the utility and use of local property. *Id.* at *4.

In contrast to *Clark*, Plaintiffs here do not move for a change of venue as a matter of convenience. Were *forum non conveniens* the grounds by which Plaintiffs sought to change venue, Plaintiffs would have said so. Moreover, nothing in Iowa law requires a weighing of private-interest and public-interest factors in determining whether a change of venue is warranted

under Rule 1.801(3). The local interest in deciding local property disputes has no bearing on Plaintiffs' ability to receive a fair trial by an impartial jury.[7]

B. Prejudice, Undue Influence, and Inability to Receive a Fair Trial.

Next, GPC argues that venue should not be transferred because Plaintiffs have not met their burden of demonstrating that they cannot receive a fair trial in Muscatine County. Any potential for juror bias against the *Freeman* Class, GPC urges, does not rise to the level required by Rule 1.801(3) to overcome the local action presumption under Iowa Code section 616.1. While Plaintiffs have presented evidence that at least some members of the Muscatine community have opinions regarding GPC and the *Freeman* class action, GPC claims that Plaintiffs have not established that such opinions are so widespread throughout the community as to taint the entire jury pool of Muscatine County. According to GPC, the affidavits and testimony offered by Plaintiffs is the exact type of pre-set opinions that *voir dire* is designed to eliminate from the jury.

Though the requisite showing under Rule 1.801(3) is indeed a high bar to meet, the Court again disagrees. Under the governing standard of Rule 1.801(3), the Court finds that Plaintiffs have demonstrated a reasonable likelihood that they cannot receive a fair trial from an impartial and unbiased jury. As such, venue for trial should be transferred.

Plaintiffs bear the burden of demonstrating at least a "reasonable likelihood" of community bias, local prejudice, or pre-formed opinions in order to overcome the presumption of original venue in Muscatine County. *Locksley v. Anesthesiologists of Cedar Rapids, P.C.*, 333

[7] Even the Iowa Supreme Court has indicated that GPC may not be prejudiced by a change of venue in this case because evidence of Muscatine community standards and expectations regarding property use can still be used at trial to guide the jury's evaluation of Plaintiffs' claims. *See Freeman II*, 895 N.W.2d at 130; *see also id.* at 124 (noting that evidence at trial will seek to answer the central question of whether GPC meets "the objective normal person in the community standard for nuisance.").

N.W.2d 451, 454 (Iowa 1983). Plaintiffs argue at length that GPC's influence in the Muscatine community and the company's economic impact on the surrounding area present a problem of inevitable juror bias to such a degree that it will be impossible for jurors to set aside their personal knowledge of and experience with GPC, the alleged pollution, and the *Freeman* litigation to evaluate Plaintiffs' claims on their merits. And as a practical matter, Plaintiffs point out that the sheer number of individuals affected by GPC's presence in the community will render efforts to eliminate bias and pre-formed opinions from the jury time-consuming and impracticable.

The parties rely principally on three Iowa Supreme Court cases. In *Thompson v. Rozenboom*, the Iowa Supreme Court determined that the personal relationships between the defendants and nearly every one of the members of the jury could have enabled the trial court to find that the plaintiff was unable to obtain a fair trial and justified a change of venue. 272 N.W.2d at 447. There, the defendants were a doctor and his staff who "constituted the entire medical profession" in the county where trial was held. *Id.* at 445. *Voir dire* revealed that nearly every prospective juror in the *venire*, as well as all but one of the actual jurors, had some personal or familial relationship with the defendants through their significant role as the community's primary health care provider. *See id.* at 448. The Supreme Court affirmed the district court's decision to grant a new trial because the district court correctly determined, after trial had concluded in a jury verdict for the defendant, that it had committed prejudicial error in declining to change the venue. *Id.* at 447–48.

The Supreme Court reached a similar conclusion in *Peters by Peters v. Vander Kooi*. After the first trial resulted in mistrial and the county entity was dismissed from the action, the plaintiff moved for a change of venue, arguing that "a substantial segment of the population of

[the county of original venue] was influenced favorably toward the defendants." 494 N.W.2d 708, 710 (Iowa 1993). The district court declined to transfer venue on this basis. *Id.* Upon appellate review, the Court reversed on other grounds. *Id.* at 712–14 (ordering a new trial based on prejudicial and improper jury instructions). However, the Supreme Court also encouraged the district court to reconsider its decision denying the plaintiffs' motion for a change of venue because 22 out of 29 prospective jurors examined in the *venire* of the first trial had some personal or familial connection with the defendant hospital clinic, doctors, or both. *Id.* at 711. In dicta, the Court noted that because district court rulings on motions to change venue are reviewed on an abuse-of-discretion standard, it was not clear the plaintiffs would be entitled to transfer the trial to a different county; the Court emphasized, however, that "[i]f there is reason to believe that such relationships will exist for a similar portion of the jurors summoned for a second trial in [the original county where suit was brought], a change of venue should be ordered prior to retrial." *Id.* at 711.

In *Locksley v. Anesthesiologists of Cedar Rapids, P.C.*, however, the Court declined to grant the plaintiff's motion for a change of venue on the basis undue influence and prejudicial publicity. *Locksley* involved a neurosurgeon who brought suit against the only two hospitals in the city and most of the city's anesthesiologists, who refused to administer their services for the plaintiff until an ethics board completed an investigation into his competence to maintain surgical privileges. 333 N.W.2d 451, 452 (Iowa 1983). The plaintiff moved for a change of venue, claiming that he could not receive a fair trial due to local media coverage of his medical competency investigation and the defendants' boycott of their services. *Id.* at 454. Additionally, the plaintiff alleged that the defendants possessed undue influence over the residents of that county because of their status in the healthcare field. *Id.* The Supreme Court disagreed, and ruled

that the trial court did not abuse its discretion in denying neurosurgeon's motion for change of venue because no prejudice was shown:

> Exposure to news accounts does not establish ipso facto a substantial likelihood of prejudice in the minds of prospective jurors. An examination of the pretrial publicity discloses that it was, on the whole, objective, factual reporting. The media expressed no view on defendant's guilt or innocence. Nor was the pretrial coverage inaccurate, misleading, or unfair. . . . No attempts were made to inflame the public mind or to sensationalize the event.

Id. (internal citations omitted). The Court held that the sole newspaper article challenged by the plaintiff, alone, did not establish the requisite prejudice. *Id.* Nor did the extensive *voir dire* indicate that such prejudice was present in that particular jury. *Id.*

Turning to the present case, after reviewing the affidavits, deposition testimony, and other evidence submitted by the parties, the Court determines that Plaintiffs have demonstrated a reasonable likelihood that they cannot obtain a fair trial in Muscatine County. Considering the entire record in its totality, the Court finds that the combination of GPC's influence within the Muscatine community and the notoriety of the *Freeman* litigation have elicited strong, pre-existing opinions in the jury pool that greatly diminishes the likelihood of juror impartiality. This is further hampered by the jurors who reside or work within the City of Muscatine possessing his or her own thoughts, on the GPC emissions, that might be imposed upon the Plaintiffs despite the evidence presented and the best of intentions of the jurors. GPC themselves noted in its resistance to the request for certification, "anyone who did not know GPC created emissions and haze when they moved to GPC's neighborhood had to be 'living under a rock.'" Levetzow Dep. At 564-65 (App. At 117). In other words, the resistance argued, the pollution was so obvious for so many years that no one could have missed it. Similarly, the residents of Muscatine have familiarity with emissions and, thus, preconceived notions regarding said

emissions. A compounding factor[8] is the large number of jurors who will automatically be excluded as a result of being part of the class action or subject to removal as a result of a relationship within the ninth degree of consanguinity or affinity to a party. See Rule 1.915(6)(d). Though any one piece of evidence considered in isolation may be insufficient, alone, to justify a change of venue under Rule 1.801(3), the Court concludes that the combination of factors taints the jury pool to such a degree that Plaintiffs' right to a fair trial is impaired.

1. GPC influence in the Muscatine community.

First, GPC's status as a major employer to the Muscatine workforce creates the potential for hundreds, if not thousands, of potential jurors to have pre-formed opinions about the *Freeman* class action. GPC is a significant player in Muscatine County and has a long history in the community. Stanley Aff. ¶¶ 8, 10. GPC, along with its parent company, the Kent Corporation, currently employs over 1,000 workers.[9] A vast number of individuals in the community are either friends or relatives of employees of GPC or the Kent Corporation, or are employees themselves. Clark Aff. ¶ 13, 18. An equally large number of individuals consist of those who rely on, or have a family member who relies on, pension and retirement benefits from GPC or the Kent Corporation conglomerate.

Second, the significant business activity conducted by GPC and the role the company plays in the local economy support the conclusion that additional jurors will have formed pre-formed opinions about the efforts of the *Freeman* class action, or whether GPC should be liable for its emissions at all. The *Muscatine Journal* reports that GPC spends an estimated $1 million

[8] This is a compounding factor because it is not, by itself, prejudicial to the class members nor does it, by itself, prevent class members from obtaining a fair trial. Nonetheless, it greatly diminishes the jury pool. With notice being sent to 16,000 prospective jurors, it is highly likely that far more than half the County population is subject to exclusion. This reduces the jury pool and increases the risk for the other factors to be dominate.

[9] *See* Greater Muscatine Chamber of Commerce and Industry, *Major Employers of Muscatine*, http://www.muscatine.com/pages/MajorEmployers.

per day in the local and state economy,[10] and GPC advertises its commitment to local business by purchasing more than $400 million of corn from local Iowa farmers.[11] Indeed, for many, the smell of GPC is "the smell of money." *See* Pl.'s Reply Ex. H, Clark dep. at 68; Pl.'s Reply Ex. L, Weatherman dep. at 42. Many, directly or indirectly, have strong economic reliance on GPC and the business it cultivates. *See* Clark Aff. ¶ 18; Whitaker Aff. ¶ 8, Stanley Aff. ¶ 8, 10. GPC maintains strong influence in the area, and many have expressed concern over what would happen to the well-being of the Muscatine community should GPC leave town or shut down as a result of the litigation against it—lost jobs and revenue for the city has been a subject on the minds of many residents. *See* Whitaker Aff. ¶ 7; Pl.'s Reply Ex. J, Phillips dep. at 30–33; Pl.'s Reply Ex. H, Clark Dep. at 78–81, 87–88; Pl.'s Reply Ex. I, Stanley dep. at 52 (stating that many in the community accused CLAM of "trying to bankrupt GPC, [and] run them out of town"), 85–87. A critical "silent majority" purports to stand with GPC and disapproves of any efforts to challenge the company on its emissions.[12] Even the litigants themselves are hesitant to bring any action that could put the economic vitality of their community at risk. *See* Pl.'s Reply Ex. J, Phillips dep. at 30–33.

From the totality of the record, it is clear that GPC possess more influence over the jury pool than a typical local business. The inescapable conclusion is that Muscatine's reliance on

[10] *See GPC: Making Progress*, Muscatine Journal (Sep. 1, 2015), http://muscatinejournal.com/news/local/gpc-making-progress/article_0b0a5415-ba8f-5835-a0d1-e75d0a49b1b8.html.

[11] Pl.'s Reply, Ex. G. http://www.grainprocessing.com/food-beverage-market-only/gpcs-new-dryer-house-is-operational.html.

[12] *See* Bob Keig, Letter to the Editor, *Silent majority appreciates our corporate citizens*, Muscatine Journal (Dec. 10, 2014), http://muscatinejournal.com/news/opinion/mailbag/silent-majority-appreciates-our-corporate-citizens/article_a1cbd848-849d-5af2-99d5-e17d203ba58e.html (reflecting on a "silent majority" in Muscatine "who appreciates what we have, want to support our local businesses, and tell the industries in town that we are grateful for the security they provide" while admonishing the "out-of-State law firm pushing an agenda").

GPC for its economic livelihood will affect the way jurors perceive, and ultimately decide, a lawsuit affecting the bulwark of its economy.

2. Juror bias and prejudice against the *Freeman* Class—lawsuit publicity and notoriety.

The *Freeman* class action and its effects on the Muscatine community are a common topic of conversation, confusion, and debate within the Muscatine community. Residents appear to frequently engage in discussions regarding the lawsuit's merits, its value to class members, and potential detriment to Muscatine should GPC lose. *See* Clark Aff. ¶¶ 11, 14–16; Whitaker Aff. ¶ 6–7.[13] Similar debates flared during a labor lockout with GPC several years ago, resulting in an equally contentious issue among Muscatine residents. Clark Aff. ¶ 19.[14] The "whole issue with GPC"—from the labor lockout years ago to today's *Freeman* class action—has, historically, been very divisive. *See, e.g.*, Pl.'s Reply Ex. I, Stanley dep. at 16–17.

Moreover, news of the *Freeman* litigation against GPC, including the independent settlement, has been widely disseminated throughout the Muscatine community.[15] The lawsuit has been up on appeal to the Iowa Supreme Court twice, and has been followed closely by area

[13] Though GPC presents affidavits to the contrary, the Court finds these statements to be outweighed by the totality of evidence suggesting otherwise in media coverage, public commentary, and residential history on the subject.

[14] *See also* Jennifer Meyer, *GPC workers locked out*, Muscatine Journal (Aug. 22, 2008), http://muscatinejournal.com/news/local/gpc-workers-locked-out/article_aa438aeb-04f0-5e18-90e4-26bf8df44492.html; Melissa Regennitter, *GPC lockout: Some hang on; some move on*, Muscatine Journal (Dec. 30, 2008), http://muscatinejournal.com/news/local/gpc-lockout-some-hang-on-some-move-on/article_b4feee53-0a76-5741-9de5-10db063cf9dd.html.

[15] *See, e.g.*, Mike Ferguson, *The people vs. GPC: Law firms file class action lawsuit against company; suit could expand to include most of Muscatine*, Muscatine Journal (Apr. 23, 2012), http://muscatinejournal.com/news/local/the-people-vs-gpc-law-firms-file-class-action-lawsuit/article_899095ec-8da7-11e1-9877-0019bb2963f4.html*; It should never have come to this*, Muscatine Journal (Apr. 26, 2012), http://muscatinejournal.com/news/opinion/editorial/it-should-never-have-come-to-this/article_87951f8a-8f26-11e1-923f-0019bb2963f4.html; Sarah Ritter, *What to know about the GPC settlement, class action lawsuit*, Muscatine Journal (Sept. 29, 2017), http://muscatinejournal.com/muscatine/news/local/what-to-know-about-the-gpc-settlement-class-action-lawsuit/article_96da5188-b529-5f90-bdbe-1614249f452b.html

residents. Court filings and decisions are regularly reported in the local press;[16] Muscatine citizens are notified even when the parties appear in court.[17] Word has spread throughout the Muscatine community by press, social media, and word of mouth about the attorneys offering a settlement with GPC. This has led many to develop opinions or conclusions about the merits of Plaintiffs' claims against GPC—both their veracity and their value. Clark Aff. ¶ 15; Pl.'s Reply Ex. H., Clark dep. at 94–97. Information about the class action and the procedures accompanying it through litigation are reported to possess "little fact and a lot of rumor." Clark Aff. ¶ 14, Clark dep. at 92. It is unlikely, in litigation as notorious and divisive as this, that there will be jurors truly without pre-formed opinions regarding GPC, the *Freeman* class action, or both.

The age of digital technology and social media also presents a modern twist on the issue of juror bias and pre-formed opinions. At their worst, online comments to the *Muscatine Journal* articles regarding the *Freeman* litigation contain degrading and vulgar opinions about *Freeman* class members, critical of the grievances Plaintiffs raise in their lawsuit against GPC; at their best, they reflect real, pre-formed opinions about the class action and attitudes towards the Plaintiffs and GPC. By itself, this online activity is not sufficient to justify a change in venue. *See United States v. Agriprocessors, Inc.*, No. 08-CR-1324-LRR, 2009 WL 721715, at 4 (N.D. Iowa Mar. 18, 2009) (holding that newspaper articles and online comments were insufficient,

[16] *See* Sarah Ritter, *Judge clarifies on whether minors are class members in suit against GPC*, Muscatine Journal (Feb. 20, 2018), http://muscatinejournal.com/muscatine/news/judge-clarifies-on-whether-minors-are-class-members-in-suit/article_0fa7ac06-0516-5a78-90a8-0802443bda89.html; Sarah Ritter, *Judge rules Muscatine residents not given all information on GPC settlement*, Muscatine Journal (Nov. 17, 2017), http://muscatinejournal.com/muscatine/news/local/judge-rules-muscatine-residents-not-given-all-information-on-gpc/article_57918203-b05e-5484-a45a-165913416a32.html; *Iowa Supreme Court certifies class-action in Muscatine pollution case*, Muscatine Journal (May 12, 2017), http://muscatinejournal.com/muscatine/news/local/iowa-supreme-court-certifies-class-action-in-muscatine-pollution-case/article_944c7986-1ffc-56dd-a8f3-698a62a4948f.html.

[17] *See* Sarah Ritter, *Attorneys for GPC, class action, settlement appear in Muscatine County court*, Muscatine Journal (Oct. 2, 2017), http://muscatinejournal.com/muscatine/news/attorneys-for-gpc-class-action-settlement-appear-in-muscatine-county/article_a9472e1a-cd6f-5f29-a11d-fe7e3af1e1c5.html.

alone, to justify a change of venue); *Gotbaum v. City of Phx.*, 617 F. Supp. 2d 878, 881–82 (D. Ariz. 2008) (holding that blog entries and various online comments posted on them, alone, do not support a presumption of prejudice in the jury pool). But considered alongside corroborating evidence, the online narrative lends credence to the notion that, at the very least, opinionated sentiments and pre-formed thoughts on GPC and the *Freeman* litigation are pervasive throughout the Muscatine community.

3. Likelihood of a fair trial by an impartial jury.

GPC urges that its influence in Muscatine County and the notoriety of the *Freeman* litigation do not rise to the level of depriving Plaintiffs of a fair trial and do not warrant a change in venue. The Court disagrees.

Several factors distinguish this litigation. Significantly, Plaintiffs do not base their claim for a change of venue solely on publicity attending the litigation. Plaintiffs have not asserted that *presumed* prejudice from media attention, alone, justifies a change of venue. Where the moving party seeks to *presume* prejudice based solely on publicity or media coverage, the movant must show a *substantial* likelihood of prejudice. *See State v. Johnson*, 318 N.W.2d 417, 422 (Iowa1981) (emphasis added); *State v. Walters*, 426 N.W.2d 136, 138–39 (Iowa 1988) (holding that the moving party seeking a change of venue based on presumed prejudice solely from allegedly inflammatory press coverage must establish a "substantial likelihood" of bias or prejudice and that "[m]ere exposure to news accounts does not amount to a substantial likelihood of prejudice"); *cf. In re Taft*, No. 05-0573, 2005 WL 3299365 (Iowa Ct. App. Dec. 7, 2005) (declining to presume jury prejudice solely from media attention because the movant failed to show that "publicity attending the trial [was] so pervasive and inflammatory that prejudice must

be presumed").[18] While "[s]heer volume of coverage is not enough to mandate a change of venue," *see In re Taft*, 2005 WL 3299365, at 2 (citing *State v. Morgan*, 559 N.W.2d 603, 611 (Iowa 1997)), the publicity of the class action and the public discourse accompanying it, taken together with GPC's substantial influence in the Muscatine community, creates a reasonable likelihood that Plaintiffs will not be able to receive a fair trial in Muscatine County. In short, there exists a substantial risk that Muscatine jurors will bring their own pre-formed knowledge, experiences, and opinions to the courthouse when evaluating the merits of Plaintiffs' case. Furthermore, potential jurors who live or work within the City of Muscatine will have their own preconceived notions of the GPC emissions based on his or her own perception of these emissions. While the jurors will try hard to set aside those preconceived notions, it is impossible to accurately gauge the subconscious impact these personal observations and experiences will play.

Moreover, the issue in this case, as in both *Thompson* and *Peters,* is not merely the reputation, standing, or notoriety of the defendant within the community; the common element among these cases and the present one is that all involve actual relationships between the defendants and potential jurors that are entrenched in the community. *See Thompson*, 272 N.W.2d at 447 ("The question involves more than just the 'good name' of the defendant in the community; it entails a pervasive professional relationship between the jurors, their families and the defendant."); *Peters*, 494 N.W.2d at 711. A vast number of Muscatine residents will have enough of a connection to GPC to justify being stricken from the jury pool as in *Thompson* and *Peters*. Yet neither *Thompson* nor *Peters* involved a defendant that was quite as pervasively engrained in the economy of the venue as GPC is in Muscatine County. While the average juror

[18] In determining whether publicity attending litigation warrants presumed prejudice in a civil trial, courts employ the same analysis as is used in criminal trials. *See Locksley*, 333 N.W.2d at 454.

would not necessarily benefit from the presence of a prominent doctor or healthcare system in their community, Muscatine residents have a much more symbiotic relationship with GPC.[19] Unlike *Locksley*, the newspaper articles about this case have stimulated considerable public debate about GPC's emissions and the *Freeman* litigation itself. *Cf. Locksley*, 333 N.W.2d at 454 (finding "no prejudice to plaintiff as a result of the [single] newspaper article shown in the record"). Additionally, as explained above, the compounding factor of the large portion of the community who will be excluded as jurors automatically or be subject to discretionary exclusion as a result of a relationship with the class members within the ninth degree of consanguinity or affinity makes the selection of a fair jury even more difficult as it serves to diminish the jury pool and heighten the remaining concerns.

In theory, potentially-biased jurors could be challenged by Plaintiffs during *voir dire* to eliminate those who harbor pre-formed opinions about GPC and the *Freeman* class action, or have some relationship with GPC. *See* Iowa R. Civ. P. 1.915(6)(j) ("A juror may be challenged by a party for any of the following causes: (j) When it appears the juror has formed or expressed an unqualified opinion on the merits of the controversy, or shows a state of mind which will prevent the juror from rendering a just verdict."); *id.* at (d) ("Consanguinity or affinity within the ninth degree to the adverse party."). However, *voir dire* is unlikely to successfully eradicate the widespread public opinion about this litigation from the jury pool. Due to their controversial nature, opinions about GPC and the *Freeman* Class will be difficult to elicit through oral examination of each potential juror. Efforts to remove opinions set against the *Freeman* class, or

[19] Extra-jurisdictional cases cited by GPC that denied a change of venue—*Sever v. Alaska Pulp Corp.*, 931 P.2d 354, 360–61 (Alaska 1996); *Braswell v. Money*, 344 So.2d 767, 769 (Ala. 1977); and *Ex parte Gold Kist, Inc.*, 491 So.2d 869, 871 (Ala. 1985)—are contextually similar in that they involved prominent employers in small local communities. But those cases did not discuss such *pervasive community interest* as the *Freeman* class action litigation against GPC has cultivated. Rather, those cases involved high profile events that made the news in small communities, but without the context of decades of controversy or strong, vocal, and polarizing opinion.

those that unduly favor GPC, will be onerous to identify and time-consuming to remove, likely requiring several days of extensive *voir dire*.

The Court has given extensive consideration to utilizing a pre-trial questionnaire to be mailed to potential jurors to try to sort out those with preconceived notions or direct conflicts. However, the Court has determined that it will not ultimately be effective in preserving Plaintiffs' right to a fair trial. For the same reasons that *voir dire* is insufficient to accomplish the same goals, an attempt to eliminate jurors with pre-set opinions by a questionnaire prior to the juror being called to duty is not likely to adequately exclude juror bias. Repeated admonitions by the Court commanding jurors to not consider their own personal knowledge or experiences in evaluating the evidence, even coupled with meticulous jury instructions, will be inadequate to nullify the implicit bias that personal knowledge and experience brings.

Ultimately, it is the goal of this Court to avoid a situation like *Thompson* where a new trial must be ordered, after years of litigation, because the district court failed to transfer venue of trial despite evidence of pervasive prejudice in the jury pool arising from a long, public, and contentious history within the community of original venue. *Cf. Hydinger v. Chi., B.&Q.R. Co.*, 101 N.W. 746, 746 (Iowa 1904) (ordering new trial where jurors expressed their personal experiences with the parties with each other and discussed the case's merits with outside community members). While local residents certainly have an interest in determining the expectations they intend to hold local business to, allowing such an interest to taint the *Freeman* trial by even the appearance of pre-judgment does not achieve justice or fairness for the parties; nor is it an efficient use of limited judicial resources. This Court, too, is mindful of the teachings of *Thompson*. *Cf. Peters*, 494 N.W.2d at 711. Years of litigation in the *Freeman* class action should not culminate in a "do-over" trial.

III. Trial for *Freeman et al. v. Grain Processing Corporation* Shall Be Transferred to the Iowa District Court for Scott County, Iowa.

Muscatine County is made up of intelligent and hard-working individuals who would try very hard to deliver a fair and impartial verdict in this case. However, the realties are that almost every resident likely has some familiarity with GPC emissions. That familiarity brings with it preconceived notions of the emissions and the impacts of the emissions. Despite great efforts, it is impossible to gauge how this will consciously or subconsciously impact a juror. It is unfair to place people in the position of trying to disregard personal information that he or she possesses. This factor, along with those discussed at length above, mandates a change of venue for the trial in this matter.

The Court has determined that trial should be held in the Iowa District Court for Scott County, Iowa. Changing venue to Scott County will alleviate concerns of juror impartiality while remaining reasonably practical for all purposes. The jury pool from Scott County is much less likely to contain individuals who are economically dependent or socially tied to GPC. Furthermore, the potential jurors are far less likely to have personal knowledge of the GPC emissions and, thus, preconceived notions regarding the impact of the emissions. The number of those who do have a connection to GPC, or have engaged in discourse related to the *Freeman* class action, will be far less in proportion to the jury pool. The compounding factor referenced above is also greatly reduced and potentially eliminated. Efforts to identify and exclude these individuals during *voir dire* will therefore be much more effective. At the same time, proximity to Muscatine County will facilitate evidence of the local community standards by which Plaintiffs' claims are to be judged. Transferring venue to Scott County will not burden the parties or the witnesses they intend to call to testify as much as if venue were transferred to a county

located further away. As a practical matter, the Quad Cities Airport and the venue's location on Interstate 80 will facilitate travel for counsel and witnesses. In sum, transferring venue to Scott County will be least burdensome on the parties, their lawyers, and witnesses for both sides while maintaining Plaintiffs' right to a fair and impartial jury trial.

RULING

For the above-stated reasons, Plaintiffs' Motion for Change of Venue is GRANTED. Trial is to be held July 9, 2018 in the Iowa District Court for Scott County, Iowa. All other preliminary matters, except pre-trial evidentiary motions, will continue to be heard in Muscatine County. All of the above is SO ORDERED.

State of Iowa Courts

Type: OTHER ORDER

Case Number	**Case Title**
LACV021232	FREEMAN LAURIE ET AT VS GRAIN PROCESSING CORPORATION

So Ordered

Tom Reidel, District Court Judge,
Seventh Judicial District of Iowa