

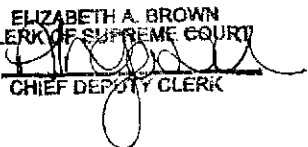
IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MISAEAL ALCANTAR-VERA,  
Appellant,  
vs.  
STEPHEN MCDERMOTT, AN  
INDIVIDUAL; AND ROXANNE M.  
MCDERMOTT, A/K/A ROXANNE M.  
LOCOMETTI, AN INDIVIDUAL,  
Respondents.

No. 73190

**FILED**

FEB 14 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY   
CHIEF DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Misael Alcantar-Vera appeals from a district court order granting a motion for change of venue. Second Judicial District Court, Washoe County; Connie J. Steinheimer, Judge.

Alcantar-Vera filed his tort complaint against respondents, Stephen and Roxanne McDermott, in Washoe County. Alcantar-Vera is a Douglas County resident, the McDermotts are Churchill County residents and the basis for the complaint, an alleged dog bite, took place in Churchill County. The McDermotts filed a motion to change venue to Churchill County pursuant to NRS 13.040 and NRS 13.050 and the district court granted the motion pursuant to NRS 13.050(2)(a) over Alcantar-Vera's opposition. This appeal followed.

An order granting a motion for change of venue pursuant to NRS 13.050(2) is reviewed for an abuse of discretion. *Kenning Car Rental, Inc. v. Desert Rent-A-Car*, 105 Nev. 118, 120, 771 P.2d 150, 151 (1989). NRS 13.040 provides, in relevant part, that "the action shall be tried in the

county in which the defendants, or any one of them, may reside at the commencement of the action.” NRS 13.050(2)<sup>1</sup> provides, in relevant part, that “[t]he court may, on motion, change the place of trial in the following cases: (a) When the county designated in the complaint is not the proper county.”


In the district court, Alcantar-Vera argued that the motion for change of venue should be denied because the McDermotts failed to make a demand for change of venue as required by NRS 13.050(1). In granting the motion, the district court found that the McDermotts were not required to make such a demand under NRS 13.050(2) and that it had discretion to grant the motion under NRS 13.050(2). We agree. The Nevada Supreme Court has stated that a motion “brought pursuant to NRS 13.050(2) need not be preceded by a timely demand and [is] addressed to the discretion of the court.” *See Kenning Car Rental, Inc.*, 105 Nev. at 120, 771 P.2d at 151. Further, we cannot say that the district court abused its discretion in changing venue to Churchill County as the district court noted that is where the events giving rise to the complaint took place and moreover, it is the proper county pursuant to NRS 13.040, as it is the county where the


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<sup>1</sup>NRS 13.050 was amended effective October 1, 2017. *See* 2017 Nev. Stat., ch. 64, § 1, at 253-54. But because these amendments took effect after the challenged order was entered, we apply the version of NRS 13.050 in effect at the time the underlying motion was decided. Nonetheless, we note that the changes enacted by these amendments would have no bearing on our resolution of the issues presented here even if the amended statute was applicable.

McDermotts reside. Accordingly, for the reasons set forth above, we affirm the district court's order.<sup>2</sup>

It is so ORDERED.

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

cc: Hon. Connie J. Steinheimer, District Judge  
Margaret M. Crowley, Settlement Judge  
Jerry H. Mowbray  
Arrascada & Aramini, Ltd.  
Molof & Vohl  
Georgeson Angaran, Chtd.  
Washoe District Court Clerk  
Churchill County Clerk

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<sup>2</sup>To the extent Alcantar-Vera also challenges the district court's refusal to strike the McDermotts' reply to his opposition to the motion to change venue and its resulting consideration of the arguments set forth in the reply, we discern no impropriety in these determinations.