

1 DAVID LLOYD DOUGLAS
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2 17592 Irvine Blvd., Suite 210
Tustin, California 92780
3 Telephone: (714) 838-7314

4 Attorney for Defendant:
ABAD FOAM, INC.
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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF ALAMEDA

10 UNLIMITED JURISDICTION

11 LAURENCE VINOCUR and PETER
ENGLANDER,

12 Plaintiffs

13 vs.

14 ABAD FOAM, INC.; POMONA QUALITY
FOAM, INC.; FOAM & FIBRE COMPANY
15 INC.;FOAMCO INDUSTRIES

CORPORATION; TALMOLDER, INC.;

16 VALLE FOAM INDUSTRIES, INC.;FUTURE

FOAM, INC.;UREBLOCK, S.A. de C.V.;

17 FLEXIBLE FOAM PRODUCTS, INC.; MEI

YUAN ADORNMENT OF BEDROOM;and

18 DOES 1-150, inclusive,

19 Defendants.
20

) CASE NO.:RG14-710984

) NOTICE OF MOTION AND MOTION
) FOR CHANGE OF VENUE,

) MEMORANDUM OF POINTS AND
) AUTHORITIES AND DECLARATIONS

) OF CESAR CHAVEZ AND DAVID
) LLOYD DOUGLAS IN SUPPORT

) THEREOF

) DATE: June 3, 2014

) TIME: 2:30 P.M.

) DEPT: 17

) JUDGE: HONORABLE GEORGE C.

HERNANDEZ, Jr.

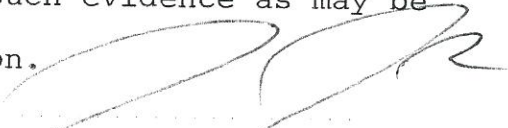
21 TO: PLAINTIFFS LAURENCE VINOCUR and PETER ENGLANDER and to their
22 Attorneys of Record:

23 NOTICE IS HEREBY GIVEN that on June 3, 2014 at the hour of
24 2:30 P.M. or as soon thereafter as the matter may be heard in
25 Department 17 of tht above entitled Court located at 1221 Oak
26 Street in the City of Oakland County of Alameda, Defendant ABAD
27 FOAM, INC., a California corporation ("ABAD") will and hereby does
28 move the Court for an Order pursuant to California Code of Civil

1 Procedure, Section 397 to transfer the venue of this action as it
2 applies to Defendant ABAD to the Superior Court of the State of
3 California in and for either the County of Orange or in the
4 alternative to the County of Los Angeles. The Motion will be made
5 on the ground that the Court designated in the First Amended
6 Complaint is not the proper Court as it relates to this Defendant.

7 The Motion will be based on this Notice of Motion, on the
8 Declarations of CESAR CHAVEZ and DAVID LLOYD DOUGLAS and the
9 Memorandum of Points and Authorities served and filed herewith, on
10 the records and file herein, and on such evidence as may be
11 presented at the hearing on the Motion.

12 DATED: April 16, 2014



DAVID LLOYD DOUGLAS
Attorney for Defendant
ABAD FOAM, INC.,

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I

3 VENUE IN ACTIONS AGAINST CORPORATIONS IS SET BY
4 STATUTE

5 "A corporation or association may be sued in the
6 county where the contract is made or is to be
7 performed, or where the obligation or liability
8 arises, or the breach occurs; or in the county
 where the principal place of business of such
 corporation is situated..."
 California Code of Civil Procedure, Section 395.5

9 II

10 THE COURT MUST ORDER THE ACTION TRANSFERRED TO THE
11 PROPER COURT WHEN IT APPEARS AT THE HEARING FOR
12 CHANGE OF VENUE THAT THE ACTION WAS NOT COMMENCED
13 IN THE PROPER COURT

14 California Code of Civil Procedure, Section 396b

15 California Code of Civil Procedure, Section 397(a)

16 III

17 THE MOTION FOR CHANGE OF VENUE IS MADE TIMELY

18 California Code of Civil Procedure, Section 396b(a)

19 ARGUMENT

20 The First Amended Complaint in this case states at paragraph 8 (a)
21 that ABAD or another Defendant sold the foam that became the padding
22 in chairs specifically the VRICO STACK CHAIR.

23 ABAD is a California corporation with their principal place of
24 business located in the County of Orange, State of California. Please
25 see Exhibit "B" to the Declaration of DAVID LLOYD DOUGLAS.

26 VIRCO MFG. CORPORATION is a Delaware corporation, licensed to
27 do business in the State of California with the principal place of
28 of business within the State of California located in the County of

1 Los Angeles. (Please see Exhibit "C" to the Declaration of DAVID
2 LLOYD DOUGLAS attached hereto)

3 All transactions between ABAD and VIRCO were either in
4 Los Angeles County or Orange County. The orders were placed by
5 VIRCO from the principal place of business in Los Angeles County
6 to ABAD at their principal place of business in Orange County. 1
7 The orders were then filled and shipped from ABAD in Orange County
8 to VIRCO in Los Angeles County. (Please see Declaration of CESAR
9 CHAVEZ attached hereto)

10 Additionally ABAD has had absolutely no dealings within the
11 County of Alameda. (Please see Declaration of CESAR CHAVEZ attached
12 hereto) Liability, if any exists against ABAD did not take place
13 in Alameda County. Said liability, if any exists would have taken
14 place in either Orange County, California, the principal place of
15 business for ABAD or in Los Angeles County, the principal place
16 of business for VIRCO within the State of California. Either way
17 the liability, which ABAD strenuously denies could not have arisen
18 in the County of Alameda, California.

19 It is patently unfair to force a corporation who had not had
20 any contacts with the County of Alameda to travel almost 400 miles
21 to defend an action which they adamantly deny any liability.

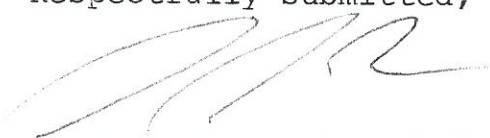
22 CONCLUSION

23 Defendant ABAD FOAM, INC., a California corporation respect-
24 fully pray that the Court grant their Motion for Change of Venue
25 and transfer this case as it relates to them to the Superior Court
26 of the State of California in and for the County of Orange, or in
27 the alternative to transfer this case as it relates to them only
28 to the Superior Court of the State of California in and for the

1 County of Los Angeles.

2 Respectfully submitted,

3 Dated: April 16, 2014

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5 DAVID LLOYD DOUGLAS
6 Attorney for Defendant
7 ABAD FOAM, INC., A CALIFORNIA
8 CORPORATION
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1 of Alameda, California.

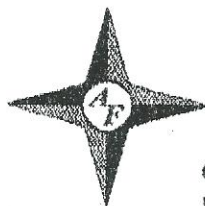
2 4. I have personal knowledge that ABAD does not have nor has
3 ever had a customer or account located in the County of Alameda,
4 California. ABAD has never received any orders from any customer
5 within the County of Alameda, California and ABAD has never
6 shipped any of our products to any location within the County of
7 Alameda, California. ABAD has absolutely no connection at all
8 with the County of Alameda, California prior to this lawsuit.

9 5. It is unreasonable to force ABAD or any business to
10 defend itself in Court close to 400 miles away from their
11 principal place of business in a County in which they have
12 no contacts or connections.

13 I declare under the penalty of perjury that the foregoing is
14 true and correct of my own knowledge except for those matters
15 declared under information and belief and as to those matters I
16 believe them to be true and correct.

17 Executed this 15 day of April 2014 at Buena Park,
18 California.

19 
20 CESAR CHAVEZ
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ABAD FOAM, INC.

Fabrication Specialists Since 1975

6560 Caballero Blvd.
Buena Park, CA 90620
Ph (714) 994-2223
Fax (714) 523-3626

INVOICE

Invoice No.: **115391**
Sales Order No.: 93068
Invoice Date: 11/11/13
Customer No.: C1105
Purchase Order No.: 297000

BILL TO:

Virco Mfg. Corporation
2027 Harpers Way
Torrance, CA 90501

SHIP TO:

Virco Mfg. Corporation
2027 Harpers Way
Torrance, CA 90501

Contact Name: Beverly

Terms: C Net30

Due Date: 12/11/13

Item No.	Description	Order Qty	Qty Ship	Unit Price	Total
1-042229	1-042229 AF12-33 0.75xPATTERN	1,400	1,400	\$ 0.330000	\$ 462.00
1-042901	1-042901 HR70 0.75x18.5x16	75	75	\$ 1.800000	\$ 135.00

Subtotal \$ 597.00
Discount
Shipping
Applied Amount \$ 597.00
Tax
Total Order Value

EXHIBIT A

Remarks: Based On Sales Orders 93068, Based On Deliveries 67376.

Thank You for your continued patronage.

Please note that all products listed above with the code letters AF, FR, RX and HR, meet the requirements of the California Bureau of Home Furnishing Bulletin No. 117-75.

1 DECLARATION OF DAVID LLOYD DOUGLAS

2 STATE OF CALIFORNIA)
3) ss.
4 COUNTY OF ORANGE)

5 I, DAVID LLOYD DOUGLAS, declare that if sworn as a witness in
6 this action I can competently testify as follows:

7 1. I am an attorney at law duly licensed to practice in
8 front of all of the Courts of the State of California and the
9 attorney for ABAD FOAM, INC., a California corporation.

10 2. I personally prepared the Articles of Incorporation for
11 the corporation and to date remain as the Agent for Service of
12 Process. Attached hereto, marked Exhibit "B" and made a part
13 hereof by reference is the Business Entity Detail for ABAD FOAM,
14 INC., which shows their principal place of business in the City
15 of Buena Park, County of Orange, State of California and a date
16 of incorporation of 01/01/1996.

17 3. The sole allegation alleged against ABAD FOAM, INC., in
18 the First Amended Complaint is that they along with another
19 Defendant had some connection with padding in chairs specifically
20 the VIRCO STACK CHAIR #8915, M-8915 CB/OLY/DIST, #89155E5IG3 (#4
21 62314 55998 6).

22 4. VIRCO MFG. CORPORATION the maker of the above referenced
23 VIRCO STACK CHAIR is a Delaware corporation licensed to do business
24 in the State of California with their principal place of business
25 within the State of California in the City of Torrance, County of
26 Los Angeles. Attached hereto, marked Exhibit "C" is the Business
27 Entity Detail from the California Secretary of State's office for
28 VIRCO MFG. CORPORATION which shows their principal place of
29 business within the State of California to be 2027 Harpers Way, in

1 City of Torrance, County of Los Angeles.

2 I declare under the penalty of perjury that the foregoing is
3 true and correct of my own knowlegde except for those matters I
4 declared under information and belief and as to those matters I
5 believe them to be true.

6 Executed this 16th day of April 2014 at Tustin, California.

7 
8
9 DAVID LLOYD DOUGLAS



Secretary of State

Administration Elections **Business Programs** Political Reform Archives Registries**Business Entities (BE)**

Online Services

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- **Starting A Business**

Customer Alerts

- **Business Identity Theft**
- **Misleading Business Solicitations**

Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Friday, April 11, 2014. Please refer to **Processing Times** for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	ABAD FOAM, INC.
Entity Number:	C1775281
Date Filed:	01/01/1996
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	6560 CABALLERO BLVD
Entity City, State, Zip:	BUENA PARK CA 90620
Agent for Service of Process:	DAVID DOUGLAS
Agent Address:	17592 IRVINE BLVD SUITE 210
Agent City, State, Zip:	TUSTIN CA 92780

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code **section 2114** for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to **Name Availability**.
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to **Information Requests**.
- For help with searching an entity name, refer to **Search Tips**.
- For descriptions of the various fields and status types, refer to **Field Descriptions and Status Definitions**.

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EXHIBIT B



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Business Entity Detail

Data is updated to the California Business Search on Wednesday and Saturday mornings. Results reflect work processed through Friday, April 11, 2014. Please refer to **Processing Times** for the received dates of filings currently being processed. The data provided is not a complete or certified record of an entity.

Entity Name:	VIRCO MFG. CORPORATION
Entity Number:	C1251445
Date Filed:	07/13/1984
Status:	ACTIVE
Jurisdiction:	DELAWARE
Entity Address:	2027 HARPERS WY
Entity City, State, Zip:	TORRANCE CA 90501
Agent for Service of Process:	ROBERT E DOSE
Agent Address:	2027 HARPERS WY
Agent City, State, Zip:	TORRANCE CA 90501

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code **section 2114** for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to **Name Availability**.
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EXHIBIT C

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF _____

I, the undersigned, declare (check and complete applicable paragraphs):

- ☐ I am a party to this action. I have read the foregoing _____ and know its contents. The matters stated in it are true of my own knowledge, except as to those matters which are stated on information and belief and as to those matters, I believe them to be true.
- ☐ I am an officer of _____ a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing _____ and know its contents. I am informed and believe that the matters stated in it are true, and on that ground allege that the matters stated in it are true.
- ☐ I am ☐ a partner ☐ a _____ of _____ a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I have read the foregoing _____ and know its contents. The matters stated in it are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters, I believe them to be true.
- ☐ I am one of the attorneys for _____ a party to this action. Such party is absent from the aforesaid county where I/we have my/our office, and I make this verification for and on behalf of that party for that reason. I have read the foregoing _____ and know its contents. I am informed and believe that the matters stated in it are true, and on that ground allege that the matters stated in it are true.
- ☐ (State) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☐ (Federal) I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Executed on _____

Signature of Declarant

Type or print full name of Declarant and title, if applicable

ACKNOWLEDGMENT OF RECEIPT (other than Summons and Complaint)

The undersigned acknowledges receipt of a copy of the foregoing document on _____

Type or print full name and title, if applicable

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I, GAIL DOUGLAS

am a resident of/employed in the aforesaid county, State of California; I am over the age of 18 years and not a party to the within action; my business/residence address is: 17592 Irvine Boulevard Suite 210, Tustin, California 92780

On April 16, 2014, I served the foregoing (set forth the exact title of the document served) NOTICE OF MOTION AND MOTION FOR CHANGE OF VENUE, MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATIONS OF CESAR CHAVEZ AND DAVID LLOYD DOUGLAS IN SUPPORT THEREOF

on INTERESTED PARTY

in this action by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

LAURENCE D. HAVESON
JOSH VOORHIES
BRIAN C. JOHNSON
2560 Ninth Street,
Parker Plaza Suite 214
Berkeley, California 94710-2565

(check applicable paragraphs)

☒ (BY MAIL) I caused such envelope with postage thereon fully paid to be placed in the United States mail at TUSTIN, California.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

☒ (State) I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ (Federal) I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

WOLCOTT'S FORM 814-Rev. 7-84 Executed on April 16, 2014.

WOLCOTT'S INC. 1984

Gail Douglas
Signature of Declarant