STATEMENT OF THE ISSUES

I. Did the trial court abuse its discretion in denying Plaintiffs/Appellants' Motion to Reconsider the trial court's prior granting of Defendant/Appellee's motion to transfer venue from Hendricks County to Newton County when Plaintiffs/Appellants' complaint sought recovery for damage to a chattel and alleged the regular keeping of the chattel in Hendricks County?

II. May this Court treat Plaintiffs/Appellants' Motion to Reconsider as a motion to correct errors so that this appeal is timely?

STATEMENT OF THE CASE

This civil action for personal injuries and property damage began when a mini-van owned and occupied by Appellants/Plaintiffs Bruno Vendramin and Ilse Vendramin ("Vendramins") was hit broadside by a vehicle driven by Appellee/Defendant Dennis Lee Strain, Jr. ("Strain") when Strain ran a stop sign, with the collision occurring on U.S. 41 in Newton, County, Indiana. (App 6-7, ¶¶ 3-4, 6-7)[1]. The Vendramins filed their Complaint for Damages and Request for Trial by Jury on November 6, 2002 in the Hendricks County Superior Court. (App 6).

The Vendramins' complaint alleged, *inter alia*, that "the Plaintiffs' vehicle, a white 1998 Pontiac Transport van, was regularly located and kept in Danville, Hendricks County, Indiana" (App 6, ¶ 3), that as a direct and proximate result of the Defendant's negligence, Plaintiffs' vehicle was damaged and Plaintiffs suffered property damage to the vehicle (App 7, ¶ 9), and prayed for relief including "property damages." (App 8).

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[1] References herein shall be to the Appellant's Appendix, noted by the abbreviation "App" followed by page numbers and, where appropriate, by paragraph numbers.

On December 12, 2002, counsel for Strain timely appeared and filed a successful motion for enlargement of time to file a responsive pleading that expired on January 8, 2003. On December 23, 2002, counsel for Strain timely filed his Answer, T.R. 12(B)(3) Defense and Request for Jury Trial and a Motion to Transfer Venue from Hendricks County to Newton County. (App 11-12). That Motion cited as the basis for transfer that: (1) the motor vehicle collision occurred in Newton County; and (2) the Defendant resided in Newton County. (App 11, ¶¶ 1-2). These facts were alleged to show that "preferred venue lies in Newton County, Indiana" under Ind. Trial Rule 75(A)(1) and (3). (*Id*. ¶ 4).[2]

Vendramins' counsel received the Motion to Transfer Venue on December 26, 2002 (App 11), and filed a response to it on December 27, 2002. (App 13-20). This Response, which contained a motion for attorney fees and costs,[3] was received by the trial court on December 30, 2002, and file marked as received on December 27, 2002, as required by T.R. 5(E). (*Id*.). On December 26, 2002, the day the Vendramins' counsel received the Motion to Transfer Venue (App 11), the trial court granted the requested transfer, although Vendramins' counsel did not receive that Order until January 9, 2003–two weeks after it had been signed. (App 4).

After receiving the Court's December 26, 2002, order transferring venue on January 9, 2003, the Vendramins' counsel prepared and filed Plaintiff's Motion to Reconsider the order granting transfer, which was filed under T.R. 5(E) on January 17, 2003. (App 21-23). This

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[2] The Vendramins agree that Newton County would be ***a*** county of preferred venue.

[3] The trial court denied the motion for attorney fees and costs by an order signed on January 21, 2003. The Vendramins are not appealing that order.

motion was denied by the trial court on January 21, 2003. (App 3). That order, which is the subject of this appeal, stated:

> Plaintiff filed **PLAINTIFFS' MOTION TO RECONSIDER** on 01-17-03.
> Comes now the Court, and **DENIES** said motion.
> SO ORDERED this 21st day of January, 2003.
>
> /s/ Karen M. Love
> Karen M. Love, Judge
> Hendricks Superior Court 3

(*Id*.). Although the motion to reconsider also requested reconsideration of the trial court's denial of the request for attorney fees and costs, the Vendramins appeal the denial of the motion to reconsider only so far as it involved the transfer of venue.[4] This appeal is an interlocutory appeal as of right under Ind. Appellate Rule 14(A)(8).

STATEMENT OF FACTS

The Vendramins and Strain are residents of the State of Indiana, who were involved in a motor vehicle accident in Newton County, Indiana, which resulted in the Vendramins filing a complaint against Strain in the Hendricks County Superior Court # 3, on November 6, 2002. (App 6-8, ¶¶ 1-4). Along with their allegations of personal injuries and prayer for damages for same, the Vendramins' Complaint sought property damage for their vehicle and the contents thereof, alleging that, "At all relevant times, the Plaintiffs' vehicle, a white 1998 Pontiac Transport van, was regularly located and kept in Danville, Hendricks County, Indiana" (App 6, ¶ 3), that as a direct and proximate result of the Defendant's negligence, Plaintiffs' vehicle was damaged and Plaintiffs suffered property damage to the vehicle (App 7, ¶ 9), and prayed for relief including "property damages." (App 8).

[4] The denial of attorney fees apparently is not an appealable final order.

Strain timely filed his motion to transfer venue to Newton County, arguing that the residence of Strain and the location of the collision in Newton County made that county a preferred county of venue under T.R. 75(A)(1) and (3). Strain's motion neither denied the truth of any allegation in the Vendramins' complaint, and cited no evidence. (App 11-12).

The trial court granted the transfer of venue to Newton County on December 26, 2003. (App 4). Although Vendramins' counsel filed a response to the venue motion the day after he received it (App 11), the trial court had already granted the motion, and when the Vendramins' counsel received that Order on January 9, 2003–two weeks after it had been signed. (App 4). On January 17, 2003, the Vendramins filed a Motion to Reconsider the order transferring venue (App 21-23), that the trial court denied on January 21, 2003. (App 3).

SUMMARY OF ARGUMENT

The trial court abused its discretion in denying the Vendramins' motion to reconsider the trial court's prior order granting transfer of venue to Newton County. Since the motion to reconsider was, in reality, a motion to correct errors, this appeal is timely.

The court abused its discretion in transferring the case to Newton County, although Newton was a preferred venue county under Ind. Trial Rule 75(A)(1) and (3), because Hendricks County was also a preferred venue county under T.R. 75(A)(2). Hendricks was a preferred venue county because the Vendramins sought damages for injuries to chattels, including their mini-van, that was regularly kept in Hendricks County.

This appeal is timely only if the Vendramins' Motion to Reconsider is treated as a motion to correct errors. Since the order transferring venue was a final appealable order divesting the trial court of the authority to reconsider, but not of the authority to entertain and rule on a motion

to correct errors, the Motion to Reconsider must be treated as a motion to correct errors. If it is so treated, this appeal was timely brought.

ARGUMENT

I. THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING THE MOTION TO RECONSIDER ITS PRIOR ORDER GRANTING STRAIN'S MOTION TO TRANSFER VENUE TO NEWTON COUNTY.

Under the well-settled law in Indiana, the Vendramins' claims for property damage to their vehicle which was regularly located and kept in Danville, Hendricks County, Indiana (App 6, ¶ 3), made Hendricks County a preferred venue county in this case under T.R. 75(A)(2), which creates preferred venue in "the county where the . . . chattels or some part thereof are regularly located or kept, if the complaint includes a claim for injuries thereto or relating to . . . such chattels." *Id.* "Ind. Trial Rule 75(A) creates no preference among these subsections, and if the suit is initially filed in a county of preferred venue, a transfer of venue will not be granted." *Bostic v. House of James*, 2003 Ind.App. Lexis 3005 *5 (2003).

A. The Standard of Review.

The trial court's grant or denial of a motion to transfer venue is an interlocutory order. *Hollingsworth, 658 N.E.2d at 655.* This Court reviews interlocutory orders under an abuse of discretion standard. An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it, or when the trial court has misinterpreted the law. *Banjo Corp. v. Pembor*, 715 N.E.2d 430, 431 (Ind. Ct. App. 1999) (citing *Hollingsworth v. Key Benefit Administrators, Inc.*, 658 N.E.2d 653, 655 (Ind. Ct. App. 1995), *trans. denied* (1996).

The Vendramins are appealing the denial of their Motion to Reconsider the transfer of venue. The Vendramins will–and must–ask this Court to treat that Motion to Reconsider as a Motion to Correct Errors. The trial court has considerable discretion to grant or deny motions to correct error. *Dughaish ex rel. Dughaish v. Cobb*, 729 N.E.2d 159, 167 (Ind. Ct. App. 2000), *trans. denied*. This Court reverses rulings on such motions only if the court has abused its discretion. *Id.* An abuse of discretion occurs when the trial court's action is against the logic and effect of the facts and circumstances before it, and when the court's decision is without reason or is based upon impermissible reasons or considerations. *Id.*

B. Preferred Venue Under Trial Rule 75.

Indiana Trial Rule 75(A) provides that a case may be tried in any county in Indiana. If the initial court is not a preferred venue, the action may be transferred to a preferred venue under the criteria listed in the rule. Ind. Trial Rule 75(A). The criteria for preferred venue in provisions (A)(1) to (A)(9) are equally preferred. *Pembor*, 715 N.E.2d at 431 (citing *Parkison v. TLC Lines, Inc.,* 506 N.E.2d 1105, 1107 (Ind. Ct. App. 1987).

In this case, three provisions of T.R. 75(A) create preferred venue in two different counties. Subsection 75(A)(1) would make Newton County, Defendant Strain's county of residence, a preferred county of venue. Similarly, subsection 75(A)(3) would make Newton County, the site of the underlying motor vehicle collision, a county of preferred venue. These were the basis of the Motion to Transfer Venue, and the Vendramins do not dispute that Newton County was ***a*** preferred county of venue under these subsections.

However, as this Court is well aware, since the subsections of T.R. 75(A) are "equally preferred," *Pembor*, 715 N.E.2d at 431, if any of the subsections make Hendricks County a

county of preferred venue, the trial court abused its discretion in transferring venue. *Bostic*, 2003 Ind.App. Lexis 3005 at *5. Thus, the only question this Court must answer is whether the Vendramins established that Hendricks County was a county of preferred venue under one or more subsections of T.R. 75(A).

C. Because Hendricks County Was a Preferred Venue County Under T.R. 75(A)(2), the Trial Court's Transfer of Venue Was Contrary to Law and Its Denial of the Motion to Reconsider Was an Abuse of Discretion.

Paragraph 3 of the Vendramins' complaint alleged that, "At all relevant times, the Plaintiffs' vehicle, a white 1998 Pontiac Transport van, was regularly located and kept in Danville, Hendricks County, Indiana." (App 6, ¶ 3). The complaint also alleged that, as a result of "Defendant's negligence, Plaintiffs' vehicle was damaged and Plaintiffs suffered property damage to the vehicle and personal property within it." (App 7, ¶ 9), and prayed for relief including damages that would "fully compensate them for their property damages." (App. 8).

These allegations make Hendricks County a preferred county of venue under T.R. 75(A)(2), which provides:

> Any case may be venued, commenced and decided in any court in any county, except, that upon the filing of a pleading or a motion to dismiss allowed by Rule 12(B)(3), the court, from allegations of the complaint or after hearing evidence thereon or considering affidavits or documentary evidence filed with the motion or in opposition to it, shall order the case transferred to a county or court selected by the party first properly filing such motion or pleading if the court determines that the county or court where the action was filed does not meet preferred venue requirements or is not authorized to decide the case and that the court or county selected has preferred venue and is authorized to decide the case. Preferred venue lies in . . . the county where the . . . chattels or some part thereof are regularly located or kept, if the complaint includes a claim for injuries thereto or relating to such . . . chattels, including without limitation claims . . . for injuries. . . .

T.R. 75(A)(2). It is eminently clear that this case, which seeks to recover damages for injuries to the Vendramins' vehicle, which was regularly kept in Hendricks County, is one for which preferred venue exists in Hendricks County under T.R. 75(A)(2).

There is binding authority for this application of the rule. In *Pembor*, the plaintiff filed a case alleging personal injuries and damage to his clothing and equipment that occurred when a valve failed and sprayed him with an herbicide, and alleging that the damaged clothing and equipment were normally kept in Johnson County. 715 N.E.2d at 431-32. The defendant in *Pembor* filed a motion alleging that Johnson County was not a county of preferred venue under T.R. 75(A)(2) and the trial court denied that motion. *Id* at 431. On appeal, the defendant argued:

> [T]hat the Pembors' claim is essentially one for personal injury, with only incidental property damage. Thus, it maintains that T.R. 75(A)(2) cannot be used to establish preferred venue because the Pembor's claim does not "relate to" injury to chattels. While Banjo stipulated that Bruce Pembor's clothing and equipment were damaged in the accident, it contends that the addition of this claim to the Pembors' suit was purely a vehicle to obtain preferred venue in the Pembors' county of residence.

Id. This Court rejected that argument, finding:

> Here, although Banjo questions the Pembors' motivation in adding the claim for the damage to Bruce Pembor's clothing and equipment, it stipulated that the items were damaged in the incident. Based on the plain language of T.R. 75(A)(2), which establishes that preferred venue lies in the county in which the chattels are kept if the claim relates to injury to chattels, we hold that the Pembors established Johnson County as a preferred venue. We decline Banjo's invitation to read the venue provision more narrowly. See *Diesel Construction* [*Co. v. Cotten,* 634 N.E.2d 1351, 1353-54 (Ind. Ct. App. 1994)],(disapproving of earlier decisions interpreting Trial Rule 75(A)(2) more narrowly). The trial court did not err in denying Banjo's motion to dismiss.

Pembor, 715 N.E.2d at 432.

The *Pembor* Court relied on the authority of prior cases applying the same rule to cases seeking damages for injury to chattels, even when the alleged injury to chattels is not the main claim brought. One such case was *Grove v. Thomas*, 446 N.E.2d 641 (Ind. Ct. App. 1983).

Grove found "T.R. 75(A)(2) was unambiguous and clear on its face." *Pembor*, 715 N.E.2d at 432; *Grove*, 446 N.E.2d at 643. The clear meaning of the rule "makes the county in which chattels are regularly located or kept a county of preferred venue when the complaint includes a claim for injuries to those chattels. While this result may not have been intended by the Civil Code Study Commission, it is mandated by the language of Trial Rule 75(A)(2)." *Grove*, 446 N.E.2d at 643.

Grove is controlling in the present case because the facts in *Grove* are virtually identical to those in this case. The *Grove* plaintiffs, who lived in Cass County, were involved in two auto accidents with two different defendants in one day. They filed an action against both defendants in Cass County, although one defendant lived in Fulton County, where the first accident occurred, and the other defendant lived in St. Joseph County where the second accident occurred. The latter defendant claimed that Cass County was an incorrect venue, but this Court disagreed, noting that, under T.R. 75(A)(2), if a claim involves injury to chattels, the county where the chattel is normally kept is a preferred venue, and since the plaintiffs' vehicle that was involved in both collisions was kept in Cass County, Cass County was a preferred venue. *Grove*, 715 N.E.2d at 642-43. As a result, "The trial judge did not err in denying Grove's motion to transfer the case" out of Cass County. *Id*. at 643.

Since *Grove* was decided in 1983, no court of review in Indiana has differed with its holding that the inclusion of a claim for injuries to chattels in a lawsuit creates preferred venue in

the county where the chattels are regularly kept. As was noted in *Pembor*, although *Grove* has been "subject to some criticism, the application of the rule in that case has not." 715 N.E.2d at 432 n. 2 (citing *Diesel Construction Co. v. Cotten*, 634 N.E.2d 1351, 1353 (Ind. Ct. App. 1994)).

The line of authorities that began with *Grove* and that includes *Pembor*, continues to be followed by this Court. *Phillips v. Scalf*, 778 N.E.2d 480 (Ind. Ct. App. 2002), relied on *Pembor* in holding that T.R. 75(A)(2) "provides for preferred venue in the county where 'the chattels or some part thereof are regularly located or kept, if the complaint includes a claim for injuries thereto or relating to . . . such chattels.'" *Phillips*, 778 N.E.2d at 483. The Court also accepted the holding in *Grove* that, in interpreting T.R. 75(A)(2), this Court is "bound by the cardinal rule of statutory construction that 'a statute clear and unambiguous on its face need not and cannot be interpreted by a court.'" *Phillips*, 778 N.E.2d at 482-83 (quoting *Storey Oil Co., Inc. v. Am. States Ins. Co.,* 622 N.E.2d 232, 235 (Ind. Ct. App. 1993) (discussing T. R. 75(A)).

Pembor was also followed in a recent case involving facts identical to those in the present case. In a case arising out of a motor vehicle collision, the plaintiff sought to recover damages for injury to property regularly kept in plaintiff's county of residence, and filed the cause of action there instead of in the county where the collision occurred. *Halsey v. Smeltzer*, 722 N.E.2d 871 (Ind. Ct. App. 2000). Citing *Pembor*, the *Halsey* court found venue proper in the plaintiff's home county, even if the property damage allegations were, as defendant there alleged, a "subterfuge" to get the motor vehicle case venued in his home county. *Halsey*, 722 N.E.2d at 874. On the facts, *Halsey*, too, is controlling of the present case. Even more recently, *Pembor*. has been cited as authority on T.R. 75(A)(2) in *Bostic*, 2003 Ind.App. Lexis 3005 at *5.

Under T.R. 75(A), a trial court deciding proper venue may consider the "'allegations of the complaint' or, alternatively, consider 'evidence thereon or . . . affidavits or documentary evidence filed with the motion or in opposition to it.' Thus, a determination of the preferred venue may be based solely upon the allegations contained in the complaint." *Phillips*, 778 N.E.2d at 483. Since there was no evidence filed with Strain's Motion to Transfer Venue (App 11-12), the only basis for the trial court to determine venue would have been the allegations in the complaint which, as noted above, create preferred venue in Hendricks or Newton County, making the trial court's denial of the motion to reconsider an abuse of discretion.

II. THIS COURT MUST TREAT THE MOTION TO RECONSIDER AS A MOTION TO CORRECT ERRORS, THUS MAKING THE APPEAL TIMELY.

A. The Appeal is Timely If the Motion to Reconsider is Treated as a Motion to Correct Errors.

Indiana Appellate Rule 9(A) requires the Notice of Appeal be filed with the trial court clerk "within thirty (30) days after the entry of a Final Judgment," or, if a Motion to Correct Errors is timely filed, the Notice of Appeal be filed "within thirty (30) days after the court's ruling on such motion, or thirty (30) days after the motion is deemed denied under Trial Rule 53.3, whichever occurs first." The trial court signed he Order Transferring Venue on December 26, 2002. (App 4).[5] A timely appeal of that Order would have required filing a Notice of Appeal not later than Monday, January 27, 2002. This deadline was not met.

However, the timely filing of a Motion to Correct Errors extends the deadline for filing the Notice of Appeal until 30 days after that motion is denied or deemed denied. A timely Motion to Correct Errors must be filed within 30 days of the entry of final judgment. T.R. 59(B).

[5] It was not received by the Vendramins' counsel until January 9, 2003–two weeks later.

The final appealable order here–the order transferring venue to Newton County–was entered on December 26, 2002. (App 4). The Vendramins filed a "Motion to Reconsider" on January 17, 2003 (App 21), before the January 27, 2003 deadline for a timely Motion to Correct Errors.

The Motion to Reconsider was denied on January 21, 2003 (App 3), making a timely Notice of Appeal due by February 24, 2003 if the motion is treated as a motion to correct errors. The Vendramins' Notice of Appeal was filed with the trial court on February 7, 2003, well before the deadline for appealing the denial of a motion to correct errors. Thus, this appeal was timely brought if the Vendramins' "Motion to Reconsider" is treated as a Motion to Correct Errors.

B. The Motion to Reconsider Was Really a Motion to Correct Errors.

While the Vendramins' counsel titled the motion in question a "Motion to Reconsider," that appellation is not binding on this Court.

> [T]he proposition that courts are not bound by a party's characterization of a motion is well-founded in the law. See *Hubbard v. Hubbard,* 690 N.E.2d 1219, 1221 (Ind. Ct. App. 1998) (stating that this Court will not elevate form over substance and therefore, despite being captioned a "Motion to Reconsider," the motion, which was made after the trial court entered final judgment, should have been treated as a motion to correct error); *Dehart v. Anderson,* 178 Ind. App. 581, 383 N.E.2d 431, 436 (1978) (stating that courts are not bound by a party's characterization of a motion); *Commercial Credit Corp v. Miller,* 151 Ind. App. 580, 280 N.E.2d 856, 861 n.1 (1972) (stating that a court is to treat motions and pleadings for what they actually are, regardless of how they are captioned).

Stephens v. Cincinnati Ins. Co., 734 N.E.2d 1133, 1135 n. 1 (Ind. Ct. App. 2000).

Pursuant to App. R. 14(A)(8), the trial court's grant of the motion to transfer venue is an appealable final order. Thus, a "Motion to Reconsider" asks the trial court to change its entry of a final order, after it has already entered a final order. "A final judgment disposes of the subject matter of litigation as to the parties *so far as the court in which the action is pending has the*

power to dispose of it. Matter of J.L.V., Jr., 667 N.E.2d 186, 188 (Ind. Ct. App. 1996)."

Hubbard v. Hubbard, 690 N.E.2d 1219, 1221 (Ind. Ct. App. 1998) (emphasis added).

Since an order transferring venue removes the case from the trial court issuing the order, it clearly is a final order. Thus, as in *Hubbard*, a motion to reconsider filed after the entry of such a judgment must be treated as a motion to correct errors under T.R. 59. A review of the procedural posture in *Hubbard* shows why it controls in the present case.

> Following two hearings and after taking the parties' various petitions under advisement, the trial court entered its findings, conclusions and final order on all petitions pending before the court on January 24, 1997. On January 30, 1997, Mother filed what was denominated as a "motion to reconsider." Without allowing Father to respond to Mother's motion, the trial court granted Mother's motion to reconsider on the same day it was filed, vacating its January 24, 1997, findings, conclusions and order. Thereafter, on April 23, 1997, the trial court issued its new findings, conclusions and order. On appeal, Father alleges that the trial court erred when it granted Mother's motion to reconsider, vacated its January 24, 1997, order, and subsequently entered a new judgment. Specifically, Father contends that the trial court was without power to grant Mother's motion to reconsider following the entry of final judgment. In the alternative, Father maintains that even if Mother's motion is deemed a motion to correct error, the trial court committed procedural errors which require reversal.

Hubbard, 690 N.E.2d at 1220.

The *Hubbard* court, in holding that Mother's Motion to Reconsider must be treated as a Motion to Correct Errors, reasoned as follows:

> After final judgment has been entered, the issuing court retains such continuing jurisdiction as is permitted by the judgment itself, or as is given the court by statute or rule. One such rule is Trial Rule 59 which provides the court, on its own motion to correct error or that of any party, the ability to alter, amend, modify or even vacate its decision following the entry of final judgment. Accordingly, ***although substantially the same as a motion to reconsider, a motion requesting the court to revisit its final judgment must be considered a motion to correct error.*** We decline to favor form over substance and, despite its caption, Mother's motion in the instant case should have been treated as a motion to correct error.

Id. at 1221 (citation omitted; emphasis added). The venerable Professor Harvey interprets *Hubbard* to stand for the proposition that "A 'motion to reconsider' filed after the entry of a final judgment is impermissible. The trial court should treat such a motion as if filed under Rule 59." Harvey, 4 INDIANA PRACTICE § 59.5 (Supp. 2002).

Identically, the trial court had banished this case from its docket to Newton County, depriving the trial court of jurisdiction to grant a motion to reconsider, but leaving it with the right to grant or deny a motion to correct errors. Therefore, as in *Hubbard*, because the "Motion to Reconsider" requested the trial court "to revisit its final judgment [it] must be considered a motion to correct error." *Id*.

Thus, the Motion to Reconsider, despite its polite title,[6] must be treated as a Motion to Correct Errors, and the timely filing of the Notice of Appeal of that Motion to Correct Errors makes this appeal timely.

CONCLUSION

Under binding precedent two decades old, Hendricks County was a preferred venue county under T.R. 75(A)(2). Thus, the trial court's grant of the transfer of venue to Newton County was contrary to law, and its denial of the motion to respond/correct errors was an abuse of discretion. Thus, the Vendramins pray that this Court reverse the trial court's orders

[6] Given the clarity and age of the controlling authority on the venue issue, the Vemdramins' counsel presumed that the response to the venue motion and the subsequent motion to reconsider would make it so clear to the court that its Order was contrary to law, that there was no chance of an appeal, and every chance that the case would remain at the trial court. A motion to "Reconsider" is far less likely to offend than a motion to "Correct Errors."

concerning the transfer of venue and remand with instructions to return the case to the docket of the Hendricks County Superior Court # 3.

Respectfully Submitted,

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_____

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served by first class U.S. mail, postage prepaid, on March 31, 2003, to the following counsel of record:

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_____
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IN THE INDIANA COURT OF APPEALS

Cause # 32A04-0302-CV-00069

BRUNO VENDRAMIN and ILSE VENDRAMIN,	)	Appeal from the Hendricks County Superior Court # 3
Appellants/Plaintiffs	)	
v.	)	Trial Court Case # 32D03-0211-CT-35
DENNIS LEE STRAIN, JR.,	)	
Appellee/Defendant.	)	The Honorable Karen M. Love, Judge

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