

STATE OF MICHIGAN
COURT OF APPEALS

BOBBY GREEN CATCHINGS, Individually and as
Personal Representative of the Estate of ANTONDRA
L. GREEN,

Plaintiff–Appellant,

v

FORD MOTOR CO,

Defendant–Appellee.

UNPUBLISHED

October 11, 1996

No. 173501

LC No. 93-323597-NI

Before: Wahls, P.J., and Fitzgerald and L.P. Borrello,* JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court’s February 17, 1994, dismissal of this products liability action on the ground of forum non conveniens. We affirm.

The doctrine of forum non conveniens establishes the right of a court to resist imposition upon its jurisdiction even though such could properly be invoked. *Holme v Jason's Lounge*, 168 Mich App 132, 134; 423 NW2d 585 (1988). The application of the doctrine lies within the sound discretion of the trial court. *Cray v General Motors Corp*, 389 Mich 382; 207 NW2d 393 (1973). Under *Cray*, the decision to accept or reject jurisdiction requires a balancing out and weighing of the following factors: (1) the private interest of the litigant, including the ease of obtaining witnesses, evidence, and other sources of proof, (2) matters of public interest, including a consideration of which state law will govern the case; and (3) the reasonable promptness in raising the plea of forum non conveniens. *Cray*, *supra* at 396.

In this case, the trial court noted the following in support of its decision to dismiss: (1) the fact that witnesses reside in Louisiana, and jurors in Michigan would be disadvantaged if their deposition, rather than live, testimony is used; (2) those witnesses would not be subject to compulsory process in Michigan, and plaintiff would, therefore, have to file an action in Louisiana to subpoena them; (3) a

* Circuit judge, sitting on the Court of Appeals by assignment.

view of the scene would be helpful to the issue of causation; (4) only one damage witness resided in Michigan, and the personal representative resided in Tennessee and would have to travel to either forum; (5) other discovery would likely take place in Mississippi and Arkansas, both significantly closer to Louisiana than Michigan; (6) Louisiana law would apply in this case; and (7) Louisiana citizens have an interest in remaining safe on their roads and thus having this case litigated in their forum. The trial court appropriately addressed the factors set forth in *Cray*, and we find no abuse of discretion in the trial court's decision to dismiss the action on the grounds of forum non conveniens.

Plaintiff argues, however, that the trial court improperly determined that Louisiana law would apply in this case. We disagree. In general, the law of the forum should be applied unless there is a rational reason to displace it. *Olmstead v Anderson*, 428 Mich 1, 3; 400 NW2d 292 (1987); *Farrell v Ford Motor Co*, 199 Mich App 81, 86; 501 NW2d 567 (1993). The state where an injury occurs has an interest in conduct within its borders, and, therefore, in the litigation stemming from such injury, even if neither party to the action resides in that state. *Olmstead, supra* at 28. Further, where the only connection to Michigan is that the defendant's headquarters are in Michigan and the action was filed in Michigan, Michigan lacks any significant interest in applying its laws to the litigation. *Hampshire v Ford Motor Co*, 155 Mich App 143, 147; 399 NW2d 36 (1986). Thus, under *Olmstead* and *Hampshire*, there is a rational reason to apply Louisiana law in this case. We agree with the trial court, therefore, that Louisiana law would apply.

Because plaintiff failed to raise the issue of the trial judge's disqualification under MCR 2.003(B)(4) at any time prior to appeal, we decline to address it. *In re Schmeltzer*, 175 Mich App 666, 673; 438 NW2d 866 (1989). We would also decline to address the merits of the issue because plaintiff failed to present any authority in support of her argument and failed to raise the issue in the statement of issues presented. *Isagholian v Transamerica Insurance Corp*, 208 Mich App 9, 14; 527 NW2d 13 (1994); *Speaker-Hines & Thomas v Dept of Treasury*, 207 Mich App 84, 91; 526 NW2d 826 (1994).

Affirmed.

/s/ Myron H. Wahls

/s/ E. Thomas Fitzgerald

/s/ Leopold P. Borrello