

S T A T E O F M I C H I G A N
C O U R T O F A P P E A L S

MARY E. BEALL

Plaintiff-Appellant,

v

ERNST & YOUNG LLP,

Defendant-Appellee.

UNPUBLISHED
February 25, 1997

No. 192874
LC No. 95-530747

Before: White, P.J., and Cavanagh and J.B. Bruff,* JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting summary disposition in favor of defendant on the basis of the doctrine of forum non conveniens. We affirm.

Plaintiff argues that the trial court erred in rejecting jurisdiction because (1) plaintiff resides, and defendant maintains its principal place of business, in Michigan, and (2) Michigan law governs the case. We review a trial court's decision to decline jurisdiction on the basis of the doctrine of forum non conveniens for an abuse of discretion. *Hacienda Mexican Restaurants of Kalamazoo Corp v Hacienda Franchise Group, Inc*, 195 Mich App 35, 38; 489 NW2d 108 (1992). To constitute an abuse of discretion, the result must be so palpably and grossly violative of fact and logic that it evidences not the exercise of will but perversity of will, not the exercise of judgment but defiance thereof, not the exercise of reason but rather of passion or bias. *Holme v Jason's Lounge*, 168 Mich App 132, 135; 423 NW2d 585 (1988).

The principle of forum non conveniens establishes the right of a court to resist imposition upon its jurisdiction although such jurisdiction could properly be invoked. It presupposes that there are at least two possible choices of forum. *Cray v General Motors Corp*, 389 Mich 382, 395; 207 NW2d 393 (1973). In deciding whether to accept or reject jurisdiction, the trial court should consider the following factors:

1. The private interest of the litigant.

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

- a. Availability of compulsory process for attendance of unwilling and the cost of obtaining attendance of willing witnesses;
 - b. Ease of access to sources of proof;
 - c. Distance from the situs of the accident or incident which gave rise to the litigation;
 - d. Enforceability [sic] of any judgment obtained;
 - e. Possible harassment of either party;
 - f. Other practical problems which contribute to the ease, expense and expedition of the trial;
 - g. Possibility of viewing the premises.
2. Matters of public interest.
 - a. Administrative difficulties which may arise in an area which may not be present in the area of origin;
 - b. Consideration of the state law which must govern the case;
 - c. People who are concerned by the proceeding.
 3. Reasonable promptness in raising the plea of *forum non conveniens*. *[Id.*
- at 396.]

A plaintiff's selection of a forum is ordinarily given deference. *Manfredi v Johnson Controls, Inc*, 194 Mich App 519, 523; 487 NW2d 475 (1992). However, when this interest is slight -- as when the plaintiff has chosen a forum where none of the parties or witnesses reside, where Michigan law does not apply, and where none of the operative facts have occurred -- the choice is entitled to much less weight than where there exists a significant nexus between litigation and the chosen forum. *Hamann v American Motors Corp*, 131 Mich App 605, 610; 345 NW2d 699 (1983).

Here, the trial court noted that, even if plaintiff resides in Michigan, the situs giving rise to the litigation is located in Illinois. In fact, plaintiff states in her complaint that while working in Chicago, she was approached by defendant's employee with an offer to work in defendant's Chicago office. The trial court then logically inferred that the significant documents and witnesses would be found in Illinois as well. Moreover, the court expressed concerns regarding enforceability of judgment and the possibility of harassment. Lastly, the court noted that defendant promptly raised the plea of *forum non conveniens* in its response to plaintiff's complaint. Because the trial court's engaged in a reasoned balancing and weighing of plaintiff's interest in Michigan as her chosen forum, matters of public interest, and the timeliness of defendant's plea of *forum non conveniens*, we conclude that the trial court's ruling does not constitute an abuse of discretion.

Affirmed.

/s/ Helene N. White
/s/ Mark J. Cavanagh
/s/ John B. Bruff