

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WINSOM J. ALVARES : CIVIL ACTION
 :
 v. :
 :
 MONTELL USA, INC., et al. : No. 00-4762

MEMORANDUM AND ORDER

J. M. KELLY, J. JANUARY 4, 2001

Presently before the Court is a Motion to Dismiss filed by the Defendants, Montell USA, Inc. ("Montell"), Montell Short-Term Disability Plan ("STDP"), and Montell Long-Term Disability Plan ("LTDP"). Plaintiff, Winsom J. Alvares ("Alvares"), filed suit in the United States District Court for the Eastern District of Pennsylvania in order to collect employee benefits she believes Montell owes her. Montell now seeks to have the Complaint dismissed for improper venue pursuant to Federal Rule of Civil Procedure 12(b)(3) or, in the alternative, to transfer venue to the United States District Court for the District of Delaware. For the following reasons, Montell's Motion to Dismiss is denied, but the Court will transfer venue to the District of Delaware.

I. BACKGROUND

Alvares, a former employee of Montell's, is a resident of

Delaware. Montell is a Delaware corporation with its principal place of business in Delaware. Montell administers its STDP and LTDP in Delaware. Montell did not, during any time referred to in Alvares's Complaint, maintain offices in the Eastern District of Pennsylvania. Alvares avers that current and former employees of Montell reside within the Eastern District of Pennsylvania.

While working at Montell, Alvares participated in Montell's employee disability plans, the STDP and LTDP. Alvares began suffering from fibromyalgia in 1992. The illness eventually caused her to lighten her work-load to four working days per week. Montell accordingly reduced her employment benefits, including her salary, accrued vacation time and 401(k) contributions, to eighty percent of what they had been when she was working full-time. Alvares eventually ceased active work and Montell terminated her employment on June 30, 1998.

Alvares believed she was qualified to receive benefits under Montell's STDP and LTDP. In a June 26, 1998 letter, Alvares applied for benefits from Montell's employee disability benefits programs. Alvares requested the appropriate forms, which she claims Montell did not provide. On October 1, 1998, Montell denied Alvares's claims for benefits under either plan, but advised her that she could appeal its decision to the Named Fiduciary Committee. On November 24, 1998, Alvarez appealed Montell's decision. Alvares received no formal response. Four

months later, on March 10, 1999, Alvares wrote Montell and informed them that she considered her appeal effectively denied. On March 19, 1999, Montell wrote Alvares and told her that her appeal had been submitted to the Named Fiduciary Committee. Eleven months later, on February 7, 2000, the Named Fiduciary Committee formally denied Alvares's appeal.

Alvares filed suit in the United States District Court for the Eastern District of Pennsylvania, seeking benefits she believes are owed to her under Montell's STDP and LTDP. She also alleges that Montell breached a fiduciary duty owed to her as a participant in the STDP and LTDP. Montell filed a Motion to Dismiss for improper venue, which the Court will now consider.

II. STANDARD OF REVIEW

"For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." 28 U.S.C. § 1404(a). Although the district court is vested with wide discretion in making the transfer decision, the burden of establishing the need for the transfer rests with the movant. Solomon v. Continental American Life Ins. Co., 472 F.2d 1043, 1045 (3d Cir. 1973); Shutte v. Armco Steel Corp., 431 F.2d 22 (3d Cir. 1970). First, the movant must demonstrate that venue would be proper in the proposed transferee district, meaning that

the Plaintiff could have brought this action there originally. Solomon, 472 F.2d at 1045. Second, transferring venue must be appropriate in light of a number of factors, including the plaintiff's choice of forum; the relative ease of access to sources of proof; the availability of compulsory process to secure the attendance of unwilling witnesses; the costs of obtaining the attendance of willing witnesses; the possibility of viewing the premises, if appropriate; any practical problems that make the trial of a case easy, expedient and inexpensive; and, finally, the public interest. See Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 508-09 (1947); Rowles v. Hammermill Paper Co., 689 F. Supp. 494, 495 (E.D. Pa. 1988). Although a plaintiff's choice of forum "should not be lightly disturbed," Jumara v. State Farm Ins. Co., 55 F.3d 873, 879 (3d Cir. 1995), transferring venue is proper if the other relevant factors combine to advocate doing so.

III. DISCUSSION

The Court would be remiss were it not to begin by mentioning that both parties have failed to satisfy the minimal requirements of Local Rule of Civil Procedure 7.1(c) of the United States District Court for the Eastern District of Pennsylvania, which requires that litigants accompany most motions with a "brief containing a concise statement of the legal contentions and authorities relied upon in support of the motion." E.D. Pa. R.

Civ. P. 7.1(c). Local Civil Rule 7.1(c) protects opposing parties from the severe disadvantage that would result if courts were to consider motions that lacked the requisite briefing; courts cannot expect parties to divine the movant's contentions, research the basis of those contentions, and then perform the research necessary to present a persuasive contrary position. Montell presents neither its opposing party nor the Court with any legal authority other than 28 U.S.C. § 1391(b) and 29 U.S.C. § 1132(e)(2). As a sophisticated litigant represented by counsel, Montell has no excuse for its failure to provide more than the two statutes governing venue in this case. Although Alvares's Response does little better, she cannot be expected to adequately respond to a motion that fails to either explain or support its position. Because Montell has failed to explain its position or support it with persuasive legal authority, its Motion to Dismiss could be denied for this reason alone.

Nevertheless, the facts of this case are clear. Because the District of Delaware is a viable and preferable court in which to try this matter, the Court will, in the interests of justice, transfer this case to the District of Delaware. Given Alvares's position that this case involves universal service and venue, she cannot dispute that this case could have been brought in the District of Delaware originally pursuant to either 28 U.S.C. § 1391(b) or 29 U.S.C. § 1132(e)(2). Although Alvares elected to

bring this action in the Eastern District of Pennsylvania instead, that decision can be disturbed if other factors weigh in favor of doing so. In this case, almost all of the relevant facts occurred in Delaware, and all relevant sources of proof can be found in Delaware. Transferring venue to the District of Delaware would decrease the costs of obtaining the attendance of willing witnesses, and would make the trial of this matter easier, more expedient and less expensive. In the interests of justice, the Court will transfer venue to the District of Delaware.

