

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

VERLYN WILLIAMS : CIVIL ACTION  
 :  
 v. :  
 :  
 WEIS MARKETS, INC. and :  
 MICHAEL A. SNYDER : NO. 01-4474

MEMORANDUM ORDER

This is a negligence action. Plaintiff is suing for damages for injuries allegedly sustained when a tractor-trailer owned by defendant Weis Markets, Inc. ("Weis") and driven by defendant Snyder collided with plaintiff's passenger car on Interstate 80 in central Pennsylvania.

Plaintiff is a citizen of Connecticut and resident of Norwalk, Connecticut. Defendant Snyder is a citizen of Pennsylvania and resident of Sunbury, Pennsylvania. Defendant Weis is incorporated under the laws of Pennsylvania and has its principal place of business in Sunbury. The accident at issue took place on the westbound side of Interstate 80 in South Centre Township in Columbia County, Pennsylvania.

Presently before the court is defendants' Motion to Transfer Venue to the Middle District of Pennsylvania pursuant to 28 U.S.C. § 1404(a). Pursuant to § 1404(a), a district court may transfer a civil action to another district in which it might have been brought if the transfer is for convenience of the parties and witnesses, and in the interests of justice. See 28

U.S.C. § 1404(a); Coffey v. Van Dorn Iron Works, 796 F.2d 217, 219-20 (7th Cir. 1986); Shutte v. Armco Steel Corp., 431 F.2d 22, 24 (3d Cir. 1970), cert. denied, 401 U.S. 910 (1971); Supco Automotive Parts, Inc. v. Triangle Auto Spring Co., 538 F. Supp. 1187, 1191 (E.D. Pa. 1982).

The Middle District of Pennsylvania is clearly a district in which this action might have been brought. Defendant maintains its principal place of business in that district. All of the events or omissions giving rise to plaintiff's claim occurred there.

The relevant private and public interest considerations in deciding a § 1404(a) motion include the plaintiff's choice of venue; the defendant's preference; where the claim arose; the relative condition of the parties; the extent to which witnesses may be unavailable for trial in one of the fora; the extent to which records or other documentary evidence could not be produced in one of the fora; the enforceability of any judgment; practical considerations that could make the trial easy, expeditious or inexpensive; the relative administrative difficulty in the two fora resulting from court congestion; the local interest in deciding the controversy; the public policies of the fora; and, the familiarity of the trial judge with the applicable state law in diversity cases. See Jumara v. State Farm Ins. Co., 55 F.3d 873, 879 (3d Cir. 1995). The moving party bears the burden of

showing that a balancing of the pertinent factors weighs in favor of transfer. See Stewart Org., Inc. v. Ricoh Corp., 487 U.S. 22, 29 (1988); Jumara, 55 F.3d at 879.

A plaintiff's choice of forum is generally entitled to great weight. Id. Plaintiff's choice is not conclusive, however, or the courts would not employ a multi-factor test, a defendant could never obtain a change of venue and § 1404(a) would be rendered meaningless. Moreover, the deference given to a plaintiff's choice of forum is reduced when he does not reside and none of the key events underlying the claim occurred in the forum selected. See Lindley v. Caterpillar, Inc., 93 F. Supp. 2d 615, 617 (E.D. Pa. 2000); Matt v. Baxter Healthcare Corp., 74 F. Supp. 2d 467, 469-70 (E.D. Pa. 1999); Tranor v. Brown, 913 F. Supp. 388, 391 (E.D. Pa. 1996); Burstein v. Applied Extrusion Technologies, Inc., 829 F. Supp. 106, 110 (D. Del. 1992); Cain v. DeDonatis, 683 F. Supp. 510, 512 (E.D. Pa. 1988); Vivident (U.S.A.), Inc. v. Darby Dental Supply Co., 655 F. Supp. 1359, 1360 (D.N.J. 1987); Schmidt v. Leader Dogs for the Blind, Inc., 544 F. Supp. 42, 47 (E.D. Pa. 1982).

The Eastern District of Pennsylvania is neither plaintiff's home district nor the locus of any operative facts underlying this action. No witness resides in this district and no pertinent records are located here. There is no connection between this litigation and this forum. The only connection of

any party to this district is the operation by Weis of a supermarket in Pottstown. By contrast, in Superior Precast, Inc. v. Safeco Ins. Co. of America, 71 F. Supp. 2d 438 (E.D. Pa. 1999) on which plaintiff relies, the Court found that substantial underlying events had occurred in the forum and a number of witnesses resided there. Id. at 447.

The trial of this case in the Middle District would clearly be more convenient for defendants. Sunbury is more than 100 miles closer to Harrisburg than Philadelphia. Trial in this district would be slightly more convenient for plaintiff if she is driving and no more convenient if she is flying. According to MapQuest, the driving time from Norwalk to Harrisburg is 57 minutes longer than to Philadelphia. Norwalk is about thirty miles from La Guardia from which there are multiple daily flights to Harrisburg and Philadelphia with a marginal difference in flight time. It follows that the same would be true for the physicians who treated plaintiff in Norwalk, while the Middle District would be more convenient for those who treated plaintiff there following the accident. Moreover, treating physicians, wherever residing, routinely give court testimony by videotape.

There has been no showing that the testimony of any witness or production of any pertinent record could not be secured in either district. There are no public policy considerations or issues regarding the enforcement of any

judgment, court congestion or judicial familiarity with applicable law.

Plaintiff suggests that litigation in this district may be more efficient as she has asked for damages "in an amount not in excess of \$150,000" and the case would thus presumably be assigned to this court's arbitration program. The pertinent considerations, however, are those which could make "the trial" more efficient. Moreover, any disappointed party may demand and receive a trial de novo following arbitration in which case resolution of the action would be less expeditious and inexpensive.

Defendants' preference is the Middle District and trial there would be more convenient for them without appreciably inconveniencing anyone else. Plaintiff has chosen this forum and the court accords that choice significant but not overwhelming weight given the circumstances. Far more significant, however, is the lack of any connection between this litigation and this forum. Not only did the claim arise in the Middle District, but every act and omission giving rise to it occurred there. Except perhaps for the District of Connecticut, it is the only district with a relationship to and interest in the litigation. The case involves alleged wrongful and dangerous conduct on the roadways of that district by a resident of that district.

**ACCORDINGLY**, this                    day of January, 2002, upon consideration of the defendants' Motion to Transfer Venue (Doc. #7) and plaintiff's response thereto, **IT IS HEREBY ORDERED** that said Motion is **GRANTED** and, pursuant to 28 U.S.C. § 1404(a), the above action is **TRANSFERRED** to the U.S. District Court for the Middle District of Pennsylvania at Harrisburg.

**BY THE COURT:**

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**JAY C. WALDMAN, J.**