

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

LISA BLUM in her own right	:	
and on behalf of "BABY BLUM,"	:	CIVIL ACTION
deceased,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 98-4855
	:	
PETCO ANIMAL SUPPLIES, INC.,	:	
	:	
Defendant.	:	

MEMORANDUM

ROBERT F. KELLY, J.

DECEMBER 7, 1998

This diversity action arose out of an incident in which the Plaintiff slipped and fell in a retail store owned by the Defendant. The incident occurred in New York City, where the Plaintiff also resides. The Defendant is a Delaware corporation with its principal place of business in California. The Defendant filed the instant Motion to dismiss the claim of Baby Blum and to transfer venue (pursuant to 28 U.S.C. § 1404(a)) to the Southern District of New York.

Section 1404(a) provides: "For the convenience of the 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." In considering a motion to transfer, courts generally balance the following factors:

1. the relative ease of access to sources of proof;
2. the availability of compulsory process for attendance of unwilling witnesses;

3. the cost of obtaining attendance of willing witnesses;
4. the possibility of viewing premises, if applicable;
5. all other practical problems that make trial of a case easy, expeditious and inexpensive; and
6. "public interest" factors, including the relative congestion of court dockets, choice of law considerations and the relationship of the community in which the courts and jurors are required to serve to the occurrences that give rise to the litigation.

Leonardo Da Vinci's Horse, Inc. v. O'Brien, 761 F. Supp. 1222, 1229 (E.D. Pa. 1991) (citing Gulf Oil v. Gilbert, 330 U.S. 501, 508-09 (1947)). In addition, courts should look to the plaintiff's choice of forum and the residences of the parties and potential witnesses. Weinstein v. Friedman, 859 F. Supp. 786, 788 (E.D. Pa. 1994).

Applying these principles to the facts of this case, it is clear that it should be transferred to the Southern District of New York. The Plaintiff's residence is in that district, as is the Defendant's retail store in which the accident took place. All of the potential witnesses listed by the parties in their disclosures have addresses in either New York or northern New Jersey. The only relationship between the parties and the Eastern District of Pennsylvania is the fact that the Defendant operates two retail stores in Philadelphia. Thus, the Southern District of New York is a far more appropriate and convenient forum for all of the parties to this action. Therefore, this case will be transferred pursuant to section 1404(a).

Because this case will now be transferred, this Court

declines to rule on the Defendant's Motion to Dismiss the claim of Baby Blum. This Motion is more properly decided by the court in which this case will be tried.

An appropriate Order follows.

