

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

JOHN IDASETIMA and BELEMA J. IDASETIMA	:	
Plaintiffs,	:	
	:	CIVIL ACTION
v.	:	
	:	NO. 01-197
WABASH METAL PRODUCTS, INC.,	:	
REULAND ELECTRONIC CO. and	:	
BRITISH NUCLEAR FUELS, LTD.	:	
Defendants.	:	

MEMORANDUM AND ORDER

YOHN, J.

NOVEMBER ____, 2001

Plaintiffs John and Belema Idasetima (“Idasetima”) bring this products liability action against Wabash Metal Products, Inc., (“Wabash”), Reuland Electronic Co. and British Nuclear Fuels, Ltd. (collectively “defendants”). Idasetima seeks damages to compensate for the pain, medical expenses and lost wages that resulted when he was injured while operating a hydraulic press composed of mechanical parts designed and manufactured by defendants.

Presently before the court is Wabash’s motion to transfer venue to the Western District of Pennsylvania pursuant to 28 U.S.C. § 1404(a). Because the events giving rise to this cause of action occurred within the Western District and the plaintiffs’ contacts with this district are minimal, I will grant Wabash’s motion.

BACKGROUND

On August 6, 1999, John Idasetima suffered injuries to his left hand while operating a hydraulic press in the course of his employment at Federal Carbide Company.¹ Doc. 13 ¶¶ 5-6. In the months following the accident, Idasetima underwent two surgical procedures at Altoona Hospital to repair his hand. In addition, Idasetima received treatment from numerous physicians and therapists during this time. Doc. 13 ¶¶ 8, 15. With the exception of two physicians who were located within the Middle District of Pennsylvania, and one physician who was located within the Eastern District of Pennsylvania, all of Idasetima's treating physicians were located within the Western District of Pennsylvania. Doc. 13 ¶¶ 13, 16, 17, 28, 30.

On January 4, 2001, John Idasetima and his wife, Belema, filed this action in the Eastern District of Pennsylvania, alleging that the accident resulted from defendants' failure to properly design, manufacture and inspect the hydraulic press. At the time this action was filed and at the current date, plaintiffs reside in York, Pennsylvania, which is part of the Middle District of Pennsylvania.

STANDARD OF REVIEW

28 U.S.C. § 1404(a) provides: "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). The decision to grant a motion for change of venue lies within the discretion of the trial court. *Shutte v. ARMCO Steel Corp.*, 431

¹ The Federal Carbide Company is located in Tyrone, Pennsylvania which is located in the Western District of Pennsylvania. Doc. 13 ¶ 7.

F.2d 22, 25 (3d Cir. 1970); *Superior Precast Ins. v. Safeco Ins. Co. of Amer.*, 71 F. Supp. 2d 438, (E.D. Pa. 1999). While the discretion to transfer is broad, the defendant bears the burden of proving that venue is proper in the transferee district and that convenience and justice would be served by transferring the action to another district. *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 879 (3d Cir. 1995); *Lindley v. Caterpillar, Inc.*, 93 F.Supp.2d 615, 617 (E.D.Pa. 2000).

The Third Circuit has enumerated a host of factors to aid in determining when to allow a transfer of venue. These factors include both private and public interests. *Jumara*, 55 F.3d at 879. The private interests to be considered include: (1) plaintiff's choice of forum; (2) defendant's choice of forum; (3) where the claim arose; (4) the convenience of the parties as indicated by their relative physical and financial condition; (5) the convenience of the witnesses-- but only to the extent that the witnesses may actually be unavailable for trial in one of the fora; and (6) the location of books and records -- similarly limited to the extent that files could not be produced in the alternative forum. *Jumara*, 55 F.3d at 879. The public interests to be considered include: (1) the enforceability of the judgment; (2) practical considerations that could make the trial easy, expeditious, or inexpensive; (3) the relative court congestion of the two fora; (4) the local interest in deciding local controversies at home; (5) the public policies of the fora; and (6) judge familiarity with the applicable state law. *Jumara*, 55 F.3d at 879-80.

DISCUSSION

Wabash suggests that this action should be transferred because venue would be proper in the Western District of Pennsylvania. As venue clearly would have been proper in the Western

District of Pennsylvania,² this court must consider the relevant factors to determine whether transfer of this case is appropriate.

A plaintiff's choice of forum is generally entitled to great weight. *Jumara*, 55 F.3d at 879. When a plaintiff is not a resident of the district in which the case is brought, however, the plaintiff's choice of forum is granted less deference. *United States v. Klearman*, 82 F.Supp.2d 372, 375 (E.D.Pa. 1999). At the time of the accident plaintiffs lived in the Western District of Pennsylvania, and at the current time plaintiffs reside in York, Pennsylvania, which is located in the Middle District. Thus, the significance of plaintiffs' choice of the Eastern District as the forum for this lawsuit is minimized. Plaintiffs' forum preference is further discounted by the fact that the accident giving rise to this action occurred in the Western District. *Lindley* 93 F.Supp.2d at 617 (noting that a plaintiff's preference of forum is minimized when the events giving rise to the action arose in a different district from that where the case is brought). Moreover, the fact that plaintiffs' claim arose in the Western District of Pennsylvania weighs in favor of transferring this case to that district.

In addition, because the accident occurred in the Western District, much of the relevant evidence and sources of proof are located in the Western District of Pennsylvania. The hydraulic press, which allegedly caused John Idasetima's injuries, is located at the Federal Carbide Company plant in Tyrone, Pennsylvania, as are the relevant documents regarding the press, including purchase and maintenance records. The expense and inconvenience of transporting the

² There is no dispute that Idasetima's work-related injuries, which serve as the basis for this lawsuit, occurred while he was operating a hydraulic press located in Tyrone, Pennsylvania, which is located in the Western District. Thus, venue would be proper in the Western District of Pennsylvania. 28 U.S.C. § 1391(a) (A diversity action may be brought in any judicial district where a "substantial part of the events or omissions giving rise to the claim occurred.").

machine and records to this district weighs in favor of transferring this action to the Western District.

The convenience of witnesses is a particularly significant factor in a court's decision whether to transfer. *Lindley* 93 F.Supp.2d at 617. In this case, all potential witnesses to the accident are or were employees of the Federal Carbide Company. Because the Federal Carbide Company is located in the Western District, it is extremely likely that these employee witnesses are residents of cities encompassed by the Western District of Pennsylvania. In addition, virtually all of John Idasetima's treating physicians who may be called as witnesses are located within parts of the Western District. For these witnesses, the Western District would be a much more convenient forum than the Eastern District to maintain this action.

The public interest factors also weigh in favor of transfer. This action has only minimal contacts with the Eastern District, but its contacts with the Western District are extensive. Idasetima's accident occurred in the Western District and the business that maintained the allegedly defective hydraulic press is located in the Western District. Thus, the citizens of the Western District clearly have more of an interest in the outcome of this litigation than the citizens of this district.

Plaintiffs' contacts with this district are extremely limited. To support their choice of forum, plaintiffs rely on the fact that on one occasion John Idasetima underwent x-rays at the Philadelphia Hand Center. This single contact with this district does not outweigh the extensive relationship that this action has with the Western District, as the accident and most of Idasetima's treatment occurred there. Moreover, plaintiffs cannot rely on their contacts with the Middle

District of Pennsylvania to establish venue in the Eastern District.³ Plaintiffs also attempt to argue that because York, Pennsylvania, where they currently reside, is approximately 120 miles closer to Philadelphia than to Pittsburgh, it is more convenient for them to proceed in the Eastern District. While plaintiff's convenience is a factor for this court to consider, plaintiffs' argument is substantially discounted by the fact that they live in the Middle and not the Eastern District of Pennsylvania. *Klearman*, 82 F.Supp.2d at 375 (The plaintiff's convenience interest is diminished when a plaintiff is not a resident of the district in which the case is brought).⁴ Furthermore, the 122-mile differential between plaintiffs' home and the two forum cities is not conclusive of a significant inconvenience should this case proceed in the Western District. *Computers Plus Inc. v. AGS Enters., Inc.*, CIV. A. 89-1406, 1989 WL 37112 (E.D.Pa. Apr. 13, 1989) (90 mile distance between Philadelphia and Baltimore will not cause significant inconvenience); *Buchanan v. New York Cent. R.R. Co.*, 148 F.Supp. 732, 733 (E.D.Pa. 1957) ("In view of

³ John Idasetima was treated by a physician from State College and a physician from Lemoyne, two cities within the Middle District. Plaintiffs maintain that it would be more convenient for these witnesses to have this action litigated in the Eastern District than in the Western District. Although Lemoyne is in fact closer to Philadelphia than to Pittsburgh, State College is relatively equidistant from the two cities. Moreover, these contacts with physicians from the Middle District are heavily countered by the numerous physicians in the Western District that treated Idasetima for his injuries. Idasetima had two surgical procedures at the Altoona Hospital, which is located in the Western District. In addition, he received physical and occupational therapy at a rehabilitation hospital in Altoona. Idasetima also received medical treatment from a physician in Cressen, and he was medically evaluated by physicians from Greensburg and Pittsburgh. Cressen, Greensburg and Pittsburgh are all located within the Western District.

⁴ The fact that plaintiffs' counsel has an office in Philadelphia does not weigh in favor of allowing this case to proceed in the Eastern District. Convenience of plaintiffs' counsel is not a factor for this court to consider in deciding a motion to transfer. *Matt v. Baxter Healthcare Corp.*, 74 F.Supp.2d 467, 469 (E.D.Pa. 1999). Moreover, plaintiffs' counsel maintains an office in Hollidaysburg, Pennsylvania, which is located within the Western District.

available modern transportation facilities,” a 100-mile distance is inconclusive of inconvenience.).⁵

CONCLUSION

Although this court acknowledges the plaintiffs’ preference to have this case proceed in the Eastern District of Pennsylvania, this preference alone does not justify denying Wabash’s motion. Plaintiffs do not live here nor does this action have more than tenuous contacts with this district. The accident giving rise to this cause of action occurred in the Western District of Pennsylvania, and the allegedly defective product and virtually all the relevant witnesses and documents are located there. Thus, this court concludes that the Western District of Pennsylvania is the more appropriate forum in which to litigate this matter. As a result, Wabash’s motion to transfer will be granted.

An appropriate order follows.

⁵ Parties do not suggest that any of the other Jumara factors are relevant to this motion to transfer.

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Defendants.	:	

ORDER

And now, this day of November, 2001, upon consideration of the motion of defendant, Wabash Metal Products, Inc., to transfer venue to the Western District of Pennsylvania (Doc. 13); plaintiff's response (Doc. 20); and defendant's supplemental memorandum in support of its motion to transfer venue (Doc. 24); it is hereby ORDERED that defendant's motion to transfer venue is GRANTED. It is further ORDERED that this case is TRANSFERRED to the United States District Court for the Western District of Pennsylvania.

William H. Yohn, Jr., Judge