

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

ROBERT COLAVITA : CIVIL ACTION  
 :  
 V. :  
 :  
 MUTUAL OF OMAHA AND UNITED OF :  
 OMAHA INSURANCE COMPANY, : NO. 07-3081

**MEMORANDUM AND ORDER**

FULLAM, Sr. J.

September 11, 2007

Defendants have moved to dismiss this ERISA action for improper venue or to transfer it to Florida. Plaintiff, a Florida resident, has sued Defendants, Nebraska corporations authorized to conduct insurance business in most states, including Pennsylvania and Florida. Plaintiff alleges that he became disabled, but has been denied benefits under his Florida employer's disability benefit program administered by Defendants. In response to Defendants' motion, Plaintiff admits that he has received all of his medical treatment in Florida.

Venue lies in this District pursuant to ERISA's specific venue statute. See 29 U.S.C. § 1132(e)(2) ("Where an action under this subchapter is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.").

Nevertheless, this litigation belongs in Florida, where Plaintiff and his employer are located, where the medical treatment occurred, and where the insurance policy was issued. See Jumara v. State Farm Ins. Co., 55 F.3d 873, 879 (3d Cir. 1995). The only apparent tie to Pennsylvania is in the location of Plaintiff's counsel's office.

An order follows.

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OMAHA INSURANCE COMPANY, : NO. 07-3081

**ORDER**

AND NOW, this 11<sup>th</sup> day of September 2007, upon consideration of Defendants' Motion to Dismiss or Transfer the Action and the response thereto,

IT IS hereby ORDERED that Defendants' Motion to Dismiss or Transfer the Action is GRANTED and the Clerk is directed to transfer the action, pursuant to 28 U.S.C. § 1404(a), to the United States District Court for the Middle District of Florida.

BY THE COURT:

/s/ John P. Fullam  
John P. Fullam, Sr. J.