

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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GARY BRADBURY,

Plaintiff-Appellant,

v

TRW VEHICLE SAFETY SYSTEMS, INC., and  
FORD MOTOR COMPANY,

Defendants-Appellees.

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UNPUBLISHED

December 8, 1998

No. 202115

Wayne Circuit Court

LC No. 96-607309 NO

Before: Murphy, P.J., and Fitzgerald and Gage, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendant TRW Vehicle Safety Systems, Inc.'s motion to dismiss based on forum non conveniens.<sup>1</sup> We affirm.

Plaintiff first contends that the trial court erred in failing to articulate on the record its reasons for granting defendant's motion. Although the trial court did not explain the reasons underlying its decision to grant defendant's motion, this failure does not necessarily constitute error requiring reversal. Generally, unless otherwise required by court rule, decisions on motions do not require findings of fact. MCR 2.517(A)(4); *Michigan Nat'l Bank v Metro Institutional Food Service, Inc*, 198 Mich App 236, 241-242; 497 NW2d 225 (1993).<sup>2</sup> Furthermore, because plaintiff ultimately fails to demonstrate that the trial court abused its discretion in granting defendant's motion to dismiss, we may affirm the trial court's decision without remanding for a clarification of the bases for its ruling. *Michigan Nat'l Bank, supra* at 242.

Plaintiff argues that an analysis of the factors set forth in *Cray v General Motors Corp*, 389 Mich 382, 396; 207 NW2d 393 (1973), establishes that this case should remain in Michigan, and that the trial court erred in concluding otherwise. We review a trial court's decision regarding a motion to dismiss on the basis of forum non conveniens for an abuse of discretion. *Russell v Chrysler Corp*, 443 Mich 617, 621; 505 NW2d 263 (1993). An abuse of discretion exists when an unprejudiced person, considering the facts on which the trial court acted, would say there was no justification or

excuse for the ruling made. *Auto Club Ins Ass'n v State Farm Ins Cos*, 221 Mich App 154, 167; 561 NW2d 445 (1997).

The principle of forum non conveniens establishes the right of a court to resist imposition on its jurisdiction although such jurisdiction could properly be invoked. *Cray, supra* at 395. It presupposes that there are at least two possible choices of forum. *Id.* The courts are charged to consider the plaintiff's choice of forum and to weigh carefully the relative advantages and disadvantages of jurisdiction and the ease of and obstacles to a fair trial in this state. *Id.* at 396. More specifically, a court should balance the following factors in determining whether to invoke the forum non conveniens doctrine:

1. The private interest of the litigant.
  - a. Availability of compulsory process for attendance of unwilling and the cost of obtaining attendance of willing witnesses;
  - b. Ease of access to sources of proof;
  - c. Distance from the situs of the accident or incident which gave rise to the litigation;
  - d. Enforceability of any judgment obtained;
  - e. Possible harassment of either party;
  - f. Other practical problems which contribute to the ease, expense and expedition of the trial;
  - g. Possibility of viewing the premises.
2. Matters of public interest.
  - a. Administrative difficulties that may arise in an area, which may not be present in the area of origin;
  - b. Consideration of the state law that must govern the case;
  - c. People who are concerned by the proceeding.
3. Reasonable promptness in raising the plea of forum non conveniens.

*Id.* at 395-396.

An analysis of the *Cray* factors in light of the instant record establishes that many factors favor defendant, including the timeliness of its plea, the fact that most of the res gestae witnesses essential to defendant's defense reside elsewhere, and, in light of the fact that Michigan is not the situs of

the accident or the location where the alleged negligent conduct occurred, ease of access to sources of proof. We also consider the burdened Wayne County dockets and the fact that there is only a slight nexus between the chosen forum and the incidents that gave rise to plaintiff's complaint. *Holme v Jason's Lounge*, 168 Mich App 132, 135; 423 NW2d 585 (1988). Those factors that weigh in favor of maintaining the case in Michigan include plaintiff's residency, the location of his treating physicians in Michigan, and the amount of time that has passed between the time plaintiff filed his complaint and defendant's motion was granted. The other factors--enforceability of any judgment and matters of public interest--weigh evenly in favor of neither party.

Because our review of the record indicates that plaintiff's residence constitutes the only significant Michigan connection to the instant case and that it is a close question regarding which witnesses, who are located throughout Michigan, Tennessee, Indiana, Illinois, Pennsylvania and elsewhere, will be available to which party in any of the fora available to plaintiff, we cannot conclude that the trial court abused its discretion in granting defendant's motion to dismiss the case. *Auto Club Ins Ass'n, supra*.

Affirmed.

/s/ William B. Murphy  
/s/ E. Thomas Fitzgerald  
/s/ Hilda R. Gage

<sup>1</sup> The trial court granted Ford Motor Company's motion for summary disposition. While Ford Motor Company did file an appearance in this appeal, none of plaintiff's issues on appeal involve defendant Ford.

<sup>2</sup> Although MCR 2.517(A)(4) does not compel the trial court to elaborate on the record its findings of fact regarding defendant's motion, we direct the trial court's attention to the following rationale underlying MCR 2.517's fact finding requirement:

The purpose of MCR 2.517 is to aid the appellate court by affording it a clear understanding of the grounds or the basis for the trial court decision. Another purpose of the rule is to make definite just what was decided in the case; this information is essential to apply the doctrines of res judicata and collateral estoppel in future cases which might arise. Lastly, and perhaps most important, the court rule forces the trial judge to take great care in examining the facts and ruling thereon. [3 Martin, Dean & Webster, Michigan Court Rules Practice, p 302.]

We note that, though MCR 2.517's fact finding requirement technically does not apply to defendant's motion, this reasoning behind the rule does apply to the balancing of factors required in the trial court's instant forum non conveniens inquiry. In a complex, fact-specific determination such as this, the court's enunciation of its reasoning reflects that it actually ascertained the facts and considered them in ruling on the motion with care, thus clarifying a basis for the court's decision, and in turn fostering a sense of public confidence in the integrity and workings of the judiciary to the extent that an unexplained ruling cannot.