

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

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MICHAEL KORNMEIER,

Plaintiff-Appellant,

v

GREAT LAKES TOWING COMPANY,

Defendant-Appellee.

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UNPUBLISHED  
December 4, 2003

No. 241113  
Wayne Circuit Court  
LC No. 01-125270-NO

Before: Murray, P.J., and Gage and Kelly, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion to dismiss on the basis of forum non conveniens. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff, an Ohio resident, was employed by defendant, a Delaware corporation, at defendant's docking facilities in Wayne County, Michigan and Toledo, Ohio. On January 7, 2001, plaintiff was working on the tugboat LOUISIANA, owned and operated by defendant, when he slipped and fell on an oily stairway/ladderway leading to the engine room. At the time of the accident, the LOUISIANA was in Ohio waters near the Toledo facility. Plaintiff filed this action in Michigan for damages, alleging claims of negligence under the Jones Act, 46 USC 688, and breach of warranty.

Defendant filed a motion to dismiss under MCR 2.116(C)(4) and the doctrine of forum non conveniens. It asserted that plaintiff lived in Ohio, was working at defendant's Toledo docking facility, and received all of his medical care in Toledo. It further asserted that the accident happened while the tugboat was assisting a ship near the Toledo dock, and that one of the two people known to have witnessed the accident lived in Monroe but worked at the Toledo dock. Finally, defendant asserted that it was a Delaware corporation with its principal place of business in Cleveland and its only connection to Michigan was that it had docks in Ecorse and Sault Ste. Marie, and that neither man employed at either facility nor the crews of the tugs docked there had any knowledge of this incident.

"The principle of forum non conveniens establishes the right of a court to resist imposition upon its jurisdiction although such jurisdiction could properly be invoked. It presupposes that there are at least two possible choices of forum." *Manfredi v Johnson Controls, Inc.*, 194 Mich App 519, 521-522; 487 NW2d 475 (1992).

When a party requests that a court decline jurisdiction based on the doctrine of forum non conveniens, there are two inquiries for the court to make: whether the forum is inconvenient and whether there is a more appropriate forum available. If there is not a more appropriate forum elsewhere, the inquiry ends and the court may not resist imposition of jurisdiction. If there is a more appropriate forum, the court still may not decline jurisdiction unless its own forum is seriously inconvenient. [*Robey v Ford Motor Co*, 155 Mich App 643, 645; 400 NW2d 610 (1986).]

There are various factors to be considered in determining the convenience of the forum under the categories of the litigants' private interest, matters of public interest, and the defendant's promptness in raising the issue. *Cray v General Motors Corp*, 389 Mich 382, 395-396; 207 NW2d 393 (1973). "A plaintiff's selection of a forum is ordinarily accorded deference" and should not be disturbed unless the balance of the factors is strongly in the defendant's favor. *Anderson v Great Lakes Dredge & Dock Co*, 411 Mich 619, 628; 309 NW2d 539 (1981). The trial court's decision to dismiss an action on the basis of forum non conveniens is reviewed on appeal for an abuse of discretion. *Miller v Allied Signal, Inc*, 235 Mich App 710, 713; 599 NW2d 110 (1999).

Defendant raised this issue promptly, filing its motion to dismiss with its answer to the complaint. The private interest to plaintiff in having this case litigated in Michigan is slight. Plaintiff lives in Ohio and defendant's principal place of business is in Ohio. The accident occurred in Ohio waters while plaintiff was working at defendant's Ohio docking facility, the tugboat's home port. Plaintiff's treating physicians and medical records are in Ohio. Michigan law does not apply to this action. The only connection to Michigan is that several potential witnesses reside in this state, or did at one time. Plaintiff has not shown that any of these potential witnesses have knowledge of the accident or the condition that allegedly contributed to it and, according to defendant, one named witness is dead, another was never employed by the company, and most of the others either were not employed by defendant at the time of the accident or worked out of another port and would have no reason to know of the conditions on the tugboat. Given that Michigan is a convenient forum only for a few potential witnesses and for counsel but otherwise has no connection to plaintiff's cause of action, the trial court did not abuse its discretion in granting defendant's motion.

Plaintiff also contends that the trial court erred in failing to make detailed findings of the relevant factors on the record. However, such findings were not required. MCR 2.517(A)(4).

Affirmed.

/s/ Christopher M. Murray

/s/ Hilda R. Gage

/s/ Kirsten Frank Kelly