

Wood v SoulCycle Inc.
2018 NY Slip Op 33204(U)
December 13, 2018
Supreme Court, New York County
Docket Number: 152013/2017
Judge: Carmen Victoria St. George
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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY - - PART 34

DONNA WOOD and STEPHEN WOOD,

Plaintiffs,

Index No.: 152013/2017
Motion Sequence No.: 001

- against -

DECISION/ORDER

SOULCYCLE INC., SOULCYCLE BEVERLY
HILLS, LLC, VILLENCY DESIGN GROUP, and
430 WEST BROADWAY, LLC,

Defendants.

SOULCYCLE INC. and SOULCYCLE BEVERLY
HILLS, LLC,

Third-Party Plaintiffs,

- against -

VILLENCY DESIGN GROUP, LLC, 430 WEST
BROADWAY, LLC,

Third-Party Defendants.

ST. GEORGE, CARMEN VICTORIA, J.S.C.:

Defendants SoulCycle Inc., and SoulCycle Beverly Hills, LLC, move by order to show cause, for an order, pursuant to CPLR § 327, dismissing the complaint on grounds of *forum non conveniens*, arguing that California is the more appropriate forum. In addition, the movants seek a

stay of discovery pending the hearing and determination on the motion.¹ Plaintiffs Donna Wood and Stephen Wood² oppose the motion. For the reasons set forth below, the motion is denied.

In this personal injury and product liability action, the plaintiff Donna Wood alleges that on January 31, 2016, while taking a spin class at the SoulCycle Beverly Hills studio, she sustained a deep laceration to her left leg while dismounting from the stationary bike she was riding. Plaintiff asserts that as she dismounted from her stationary bike at the end of class, crossing her leg over the bike seat, the support bar for the resistance weights on the back of the bike dug into her upper thigh causing a deep laceration. Plaintiff alleges she suffered a deep laceration to her right thigh which required 56 staples and resulted in a permanent scar.

On or about March 1, 2017, plaintiffs commenced this action against defendants SoulCycle Inc. and SoulCycle Beverly Hills, LLC (collectively “SoulCycle”) by filing their summons and complaint with the New York County Clerk’s Office, designating New York as the place of trial. SoulCycle filed its answer on April 7, 2017. The parties appeared for a preliminary conference on June 22, 2017. On November 6, 2017, SoulCycle substituted its prior counsel for its current counsel. Thereafter, on February 9, 2018, SoulCycle brought a third-party complaint against Villency Design Group LLC (“Villency”) and 430 West Broadway LLC (“430 West Broadway”). Villency and 430 Broadway filed their answers on May 8, 2018. Plaintiffs amended their complaint on May 18, 2018 to add Villency and 430 Broadway. On May 2, 2018, the parties appeared for a compliance conference. Subsequently, on June 21, 2018, the instant order to show cause was filed seeking to dismiss plaintiffs’ complaint on the basis of *forum non conveniens*.

¹ The Order to Show Cause signed June 20, 2018 addressed the movant’s request for a stay as follows: the “stay issue shall be addressed, if necessary at [the] August 16, 2018 discovery conference (2:15pm).” However, the Court notes that the compliance conference scheduled for August 16, 2018 was adjourned to October 18, 2018. There is no indication that the stay was addressed on October 18, 2018.

² Plaintiff Stephen Wood, Donna Wood’s husband, asserts a derivative claim for loss of consortium.

SoulCycle argues that plaintiffs' claims are more properly adjudicated in California which is where the incident occurred, and where plaintiff initially treated with medical personnel. SoulCycle further argues that New York is not the convenient forum to litigate this action because all but one of the non-party witnesses are California residents. In support of their motion, SoulCycle, submits, inter alia, the affidavit of Ali Kunen, an attorney employed by Soul Cycle Inc., in its corporate office in New York. Kunen identifies two former SoulCycle employees, Alana Wohlers and Melissa Culler as two of the principal witnesses involved in the case. Kunen avers that Wohlers' and Culler's last known addresses are in California. Further, Kunen attests that Victoria Brown, who was the class instructor at the SoulCycle Beverly Hills studio on the day in question, now resides in Washington D.C.

In addition, SoulCycle asserts that the subject stationary bike claimed to be involved in the incident is currently being held in storage in California. Defendants maintain that California law is applicable to this case, as set forth in the waiver and release form that was signed by the plaintiff in California. Therefore, SoulCycle concludes, there is no sufficient nexus to New York and the more appropriate forum would be in California.

Plaintiffs oppose the motion on multiple grounds. Plaintiffs argue that there is a strong nexus with New York in this matter, because among other reasons, they are New York residents, SoulCycle Inc.'s primary corporate office is located in New York, and SoulCycle Beverly Hills LLC, is subsidiary holding company that is controlled by SoulCycle Inc. Additionally, they contend that SoulCycle's extensive delay in filing this motion and the discovery that has already occurred warrants denial of SoulCycle's motion. Similarly, plaintiffs point out that SoulCycle brought its own claims in this Court against defendants Villency and 430 West Broadway which are both headquartered in New York. Plaintiffs allege that Villency and 430 West Broadway are

responsible for the design of the stationary bike that plaintiff was riding at the time of the incident. In light of this, they surmise that Villency and 430 Broadway will possess documentation on the design of the bike, and those materials and witnesses are presumably in New York. In addition, according to plaintiff, she received medical treatment in California only on the date of the incident when she was seen in the emergency room in Beverly Hills. Plaintiff maintains that the vast majority of her medial care took place in New York. Specifically, plaintiff underwent wound, infection and scar treatment in New York for four months after the incident. Likewise, it is noted that plaintiff's ongoing scar monitoring and psychological treatment takes place in New York.

Furthermore, plaintiffs emphasize that the issues defendants complain of and rely upon in seeking this *forum non conveniens* dismissal are easily resolvable. With respect to SoulCycle's concern regarding the potential chain of custody issue involving the transport of the stationary bike to New York, plaintiffs state that the bike can easily be inspected in California by the parties. Plaintiffs argue the fact that two possible fact witnesses being located in California is not sufficient cause to dismiss this matter under *forum non conveniens*. Although plaintiffs are not required to depose these potential witnesses in California pursuant to CPLR § 3110, they claim they are willing to do so. Alternatively, plaintiffs propose that it could be stipulated that the parties could conduct depositions via telecommunication or video.

In reply, defendants emphasize the hardship imposed on the non-party witnesses who live in California and will have their lives and livelihoods disrupted if they are required to travel to New York "for at least two days of trial" (reply at 3). Defendants argue that the case is still in its initial stages of litigation as there has been minimal document discovery exchanged thus far, they have not received plaintiff's medical records, no depositions have been taken, and that Villency only first appeared in this action in May 2018.

Discussion

Pursuant to the doctrine of *forum non conveniens*, as set forth in CPLR § 327 (a):

“[w]hen a court finds that in the interest of substantial justice the action should be heard in another forum, the court, on the motion of any party, may stay or dismiss the action in whole or in part on any conditions that may be just. The domicile of residence in this state of any party to the action shall not preclude the court from staying or dismissing the action”

“It is well settled that the burden of establish that New York is an inconvenient of forum rests squarely with the party challenging that forum” (*Islamic Republic of Iran v Pahlavi*, 62 NY2d 474, 479 [1984]). The factors to be considered, include: (1) the burden on New York courts; (2) the potential hardship to the defendants; (3) the availability of an alternate forum in which the plaintiff may bring suit; (4) the residence of the parties; and (5) where the events giving rise to the action occurred (*Islamic Republic of Iran*, 62 NY2d at 478-479). The issue of whether New York is an inconvenient forum is subject to the discretion of the trial court and no single factor is controlling (*Id.*).

Under this standard, and after consideration of all the relevant factors, this Court finds that the SoulCycle defendants have not met their burden of showing that New York is an inconvenient forum for the instant action. In short, the factors that weigh in SoulCycle’s favor do not outweigh the factors that support upholding New York as plaintiff’s chosen forum.

As a preliminary matter, while motions to dismiss on *forum non conveniens* grounds have been denied when significant discovery has been conducted or the case is on the trial calendar (*see e.g., Intertec Contracting A/S v Turner Steiner Intl., S.A.*, 6 AD3d 1 [1st Dept 2004]; *Bussanich v United States Lines*, 74 AD2d 510 [1st Dept 1980], in this case, discovery is in its early stages. Further, SoulCycle correctly contends that California may serve as an alternative forum (*cf. Gonzalez v Lebensversicherung AG*, 304 AD2d 427 [1st Dept 2003]).

However, although the subject action occurred in California, and some potential witnesses are presumably located there, defendants have not adequately shown that their witnesses will be inconvenienced by a trial in New York. Notably, defendants fail to submit affidavits from any potential witnesses attesting to their inability to travel to New York to testify. Furthermore, in cases involving “multinational corporations with ample resources,” (as SoulCycle herein) any hardship in bringing documents or witnesses to New York is generally “minimal” (*Mionis v Bank Julius Baer & Co., Ltd.*, 9 AD3d 280, 282 [1st Dept 2004]; *Van Deventer v CS SCF Mgt. Ltd.*, 37 AD3d 280, 281 [1st Dept 2007]).

While plaintiffs’ residency is not dispositive, this is generally “the most significant factor in the equation” (*see Bacon v Nygard*, 160 AD3d 565, 566 [1st Dept 2018], citing *Sweeney v Hertz Corp.*, 250 AD2d 385, 386 [1st Dept 1998]). As noted, plaintiffs are New York residents, and Mrs. Wood purportedly received extensive follow-up treatment in this state. Further, defendants do not dispute that SoulCycle Inc. maintains its corporate offices in New York City. To the extent that defendants argue that California law applies to the written release and waiver signed by the plaintiff, New York courts are more than capable of applying the laws of other jurisdictions and often do (*see Travelers Cas. and Sur. Co. v Honeywell Intl.*, 48 AD3d 225, 226 [1st Dept 2008]). This does not create any undue burden on New York courts.

In light of the foregoing, SoulCycle’s motion for an order staying discovery during the pendency of this motion is denied as moot.

Accordingly, it is

ORDERED that the motion to dismiss this action based on *forum non conveniens* grounds is denied; and it is further

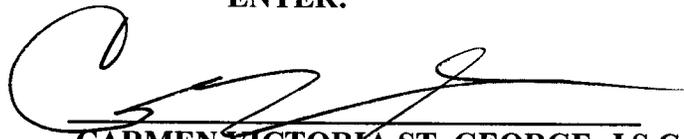
ORDERED that SoulCycle's motion for an order staying discovery during the pendency of this motion denied as moot; and it is further

ORDERED that the the parties shall appear in Part 34, 80 Centre Street, Room 308, for a status conference on January 31, 2019 at 2:15 pm.

This constitutes the Decision and Order of this Court.

Dated: 12/13/18

ENTER:



CARMEN VICTORIA ST. GEORGE, J.S.C.

HON. CARMEN VICTORIA ST. GEORGE
J.S.C.