

SUPREME COURT OF DELAWARE

Warburg, Pincus Ventures, L.P. v. Dietrich K.H. Schrapper, M.D.

774 A.2d 264 (Del. 2001) · No. No. 198, 2000 · Decided May 31, 2001

SUMMARY

The Delaware Supreme Court reviewed an interlocutory order denying Warburg, Pincus Ventures, L.P.'s motion to dismiss on forum non conveniens grounds. The court held that the overwhelming-hardship standard applied despite the foreign plaintiff and the defendant's limited Delaware connection, and affirmed because Warburg did not establish particularized hardship under the Cryo-Maid factors.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Veasey, Chief Justice; Walsh; Holland; Berger; Steele
JURISDICTION	Delaware
DECIDED	May 31, 2001
DOCKET	No. 198, 2000
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from the Superior Court's denial of Warburg's motion to dismiss on forum non conveniens grounds.
STANDARD OF REVIEW	A forum non conveniens decision is reviewed for abuse of discretion; the appellate court determines whether the Superior Court's findings and conclusions are supported by the record and resulted from an orderly and logical deductive process.
PRECEDENTIAL VALUE	Published Delaware Supreme Court en banc opinion; precedential.
PARTIES	Warburg, Pincus Ventures, L.P. v. Dietrich K.H. Schrapper, M.D.

TOPICS

- civil procedure
- appellate procedure
- interlocutory appeal
- standard of review
- commercial litigation

PRACTICE AREAS

- civil procedure
- commercial litigation
- contracts
- appellate procedure

QUESTIONS PRESENTED

1. Whether a defendant in a Delaware action brought by a foreign plaintiff must satisfy Delaware's overwhelming-hardship standard to obtain dismissal on forum non conveniens grounds when the defendant's principal Delaware connection is its status as a Delaware business entity.
2. Whether Warburg demonstrated with particularity that litigating in Delaware would cause overwhelming hardship under the Cryo-Maid factors.
3. Whether the Superior Court abused its discretion in denying Warburg's motion to dismiss.

HOLDINGS

1. A defendant seeking dismissal on forum non conveniens grounds in Delaware must demonstrate overwhelming hardship, even when the plaintiff is foreign and the defendant's only significant connection to Delaware is its status as a Delaware business entity.
2. Warburg failed to demonstrate with particularity that the Cryo-Maid factors created overwhelming hardship sufficient to warrant dismissal.

KEY QUOTATIONS

“The issue is whether any or all of the Cryo-Maid factors establish that defendant will suffer overwhelming hardship and inconvenience if forced to litigate in Delaware.” (268-269)

“Warburg's motion to dismiss on the ground of forum non conveniens is based on little more than generalized references to the garden-variety concerns and expenses that characterize transnational litigation.” (272)

FACTUAL BACKGROUND

Schrappner, a German citizen, negotiated with Warburg's wholly owned U.K. subsidiary concerning a proposed joint venture to invest in German healthcare facilities. The parties executed a term sheet under which Warburg allegedly committed to provide financing, and Schrappner claimed he satisfied conditions imposed on the transaction before Warburg ultimately stated that it would not form the contemplated partnership. The negotiations, witnesses, evidence, and alleged damages were centered in Germany and England, while Warburg was a Delaware limited partnership.

PROCEDURAL HISTORY

Schrappner filed suit in the Delaware Superior Court alleging contract and tort claims arising from negotiations for a German healthcare-industry joint venture. Warburg moved to dismiss for forum non conveniens, arguing that the witnesses, evidence, and relevant activities were located in Germany and England and that foreign law might apply. The Superior Court denied the motion because Warburg had not established with particularity that litigation in Delaware would cause overwhelming hardship. The Supreme Court of Delaware accepted the interlocutory appeal and affirmed.

DISPOSITION

affirmed

CASES CITED

- Ison v. DuPont de Nemours, 729 A.2d 832 (Del. 1999)
- Taylor v. LSI Logic Corp., 689 A.2d 1196 (Del. 1997)
- General Foods Corp. v. Cryo-Maid, Inc., 198 A.2d 681 (Del. 1964)
- American Dredging Co. v. Miller, 510 U.S. 443 (1994)
- Chrysler First Business Credit Corp. v. 1500 Locust Limited Partnership, 669 A.2d 104 (Del. 1995)
- Williams Gas Supply Co. v. Apache Corp., 594 A.2d 34 (Del. 1991)
- Levitt v. Bouvier, 287 A.2d 671 (Del. 1972)
- States Marine Lines v. Domingo, 269 A.2d 223 (Del. 1970)
- Martin v. Vogler, 1993 WL 462853 (N.D. Ill. Nov. 9, 1993)
- Piper Aircraft Co. v. Reyno, 454 U.S. 235 (1981)
- Anglo American Ins. Group v. CalFed, Inc., 940 F. Supp. 554 (S.D.N.Y. 1996)
- General Motors v. Lopez, 948 F. Supp. 656 (E.D. Mich. 1996)
- Gulf Oil Corp. v. Gilbert, 330 U.S. 501 (1947)