

APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, SIXTH DIVISION

Milton v. Boeing Co.

2023 IL App (1st) 220647 · No. 1-22-0647 · Decided February 3, 2023

SUMMARY

The Illinois Appellate Court affirmed the denial of The Boeing Company’s forum non conveniens motion in a contaminated-cabin-air products-liability action brought by three flight attendants. The court held that Boeing failed to show that the relevant private and public interest factors strongly favored transfer from Cook County to Washington, emphasizing the trial court’s considerable discretion, the litigation’s progress in Illinois, and the absence of supporting witness affidavits.

CASE DETAILS

COURT	Appellate Court of Illinois, First District, Sixth Division
WRITING FOR THE COURT	Justice Oden Johnson; Justice C.A. Walker; Justice Tailor
JURISDICTION	Illinois
DECIDED	February 3, 2023
DOCKET	1-22-0647
DISPOSITION	affirmed
PROCEDURAL POSTURE	Boeing took a permissive interlocutory appeal under Illinois Supreme Court Rule 306(a)(2) from the circuit court's denial of its motion to dismiss on forum non conveniens grounds.
STANDARD OF REVIEW	Abuse of discretion. Reversal is warranted only when no reasonable person could take the view adopted by the trial court; the defendant bears the burden of showing that the relevant private and public interest factors strongly favor transfer.
PRECEDENTIAL VALUE	Published Illinois Appellate Court opinion; precedential under Illinois law.
PARTIES	The Boeing Company v. Cynthia Milton, Demitrios Mavrogiorgos-Spencer, Amanda Calvert

TOPICS

- forum non conveniens
- interlocutory appeal
- appellate procedure
- standard of review
- civil procedure

PRACTICE AREAS

civil procedure

torts

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying Boeing's motion to dismiss under the doctrine of forum non conveniens.
2. Whether the private and public interest factors strongly favored litigating the case in Washington rather than Cook County, Illinois.

HOLDINGS

1. The circuit court did not abuse its discretion in denying Boeing's motion to dismiss because Boeing failed to show that the relevant private and public interest factors strongly favored transfer to Washington.
2. The circuit court properly gave plaintiffs' choice of Cook County some deference, although less than it would have received had plaintiffs resided in Illinois or had the injury occurred there.
3. The private and public interest factors, considered together, did not require dismissal or transfer to Washington.

KEY QUOTATIONS

"The issue for an appellate court is not what we would have done in the first instance—that is irrelevant." (¶ 34)

"the burden is always on the movant to show that the relevant factors strongly favor a transfer." (¶ 40)

"Thus, we must affirm the trial court's order and remand for further proceedings consistent with this opinion." (¶ 70)

FACTUAL BACKGROUND

The plaintiffs, three U.S. flight attendants residing outside Illinois, alleged that they were injured during a contaminated-air event on a Boeing 767-300 flight from Frankfurt, Germany, to Detroit, Michigan. The aircraft was manufactured and designed by Boeing, whose corporate headquarters were in Chicago during much of the litigation. Boeing litigated in Illinois for approximately a year and a half, including participating in discovery consolidation and removal proceedings, before seeking transfer to Washington. Boeing identified numerous Washington-based employee witnesses but submitted no affidavits from witnesses claiming that Illinois testimony would be difficult or unavailable.

PROCEDURAL HISTORY

Plaintiffs filed suit in the Circuit Court of Cook County alleging injuries arising from contaminated cabin air aboard a Boeing aircraft. After extensive Illinois litigation, Boeing removed the case to federal court, but the Northern District of Illinois remanded it as untimely and characterized the removal as gamesmanship. Boeing later moved for dismissal under forum non conveniens, arguing that Washington was a more convenient forum.

The circuit court denied the motion, and the appellate court granted Boeing's petition for leave to appeal, affirmed, and remanded for further proceedings.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remanded to the circuit court for further proceedings consistent with the opinion.

CASES CITED

- Langenhorst v. Norfolk Southern Ry. Co., 219 Ill. 2d 430 (2006)
- Vinson v. Allstate, 144 Ill. 2d 306 (1991)
- Glass v. DOT Transportation, Inc., 393 Ill. App. 3d 829 (2009)
- Dawdy v. Union Pacific R.R. Co., 207 Ill. 2d 167 (2003)
- Vivas v. Boeing Co., 392 Ill. App. 3d 644 (2009)
- Hefner v. Owens-Corning Fiberglas Corp., 276 Ill. App. 3d 1099 (1995)
- Mowen v. Illinois Valley Supply Co., 257 Ill. App. 3d 712 (1994)
- Ruch v. Padgett, 2015 IL App (1st) 142972
- Koss Corp. v. Sachdeva, 2012 IL App (1st) 120379
- First American Bank v. Guerine, 198 Ill. 2d 511 (2002)
- Erwin v. Motorola, Inc., 408 Ill. App. 3d 261 (2011)
- Woodward v. Bridgestone/Firestone, Inc., 368 Ill. App. 3d 827 (2006)
- Ammerman v. Raymond Corp., 379 Ill. App. 3d 878 (2008)
- Malloy v. DuPage Gynecology, S.C., 2021 IL App (1st) 192102
- Gridley v. State Farm Mutual Automobile Insurance Co., 217 Ill. 2d 158 (2005)
- Wakehouse v. Goodyear Tire & Rubber Co., 353 Ill. App. 3d 346 (2004)
- Horney v. City of Springfield, 12 Ill. 2d 427 (1957)
- Wagner v. Eagle Food Centers, Inc., 398 Ill. App. 3d 354 (2010)
- Fennell v. Illinois Central R.R. Co., 2012 IL 113812
- Milton v. The Boeing Co., No. 1:20-CV-3089 (N.D. Ill. Aug. 12, 2020)
- Walker v. Trailer Transit, Inc., 727 F.3d 819, 821 (7th Cir. 2013)