

DISTRICT OF COLUMBIA COURT OF APPEALS

Nixon Peabody LLP v. Beaupre

791 A.2d 34 (D.C. 2002) · Decided February 7, 2002

SUMMARY

The District of Columbia Court of Appeals affirmed the denial of a motion to dismiss on forum non conveniens grounds in litigation arising from the publication of articles about Chiquita Brands and the subsequent termination of a newspaper editor. The court held that the trial court properly considered the private and public interest factors, including the District of Columbia’s connection to alleged conduct by attorneys practicing there, and did not abuse its discretion.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                 |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | District of Columbia Court of Appeals                                                                                                                                                                                                                                                                                                                           |
| WRITING FOR THE COURT | Pryor, Senior Judge; Pryor; Reid; Ruiz                                                                                                                                                                                                                                                                                                                          |
| JURISDICTION          | District of Columbia                                                                                                                                                                                                                                                                                                                                            |
| DECIDED               | February 7, 2002                                                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                        |
| PROCEDURAL POSTURE    | Interlocutory appeal from the Superior Court's denial of appellants' joint motion to dismiss on forum non conveniens grounds.                                                                                                                                                                                                                                   |
| STANDARD OF REVIEW    | The appellate court independently evaluates the pertinent forum non conveniens factors with close scrutiny of the specific factors identified and evaluated by the trial court, but reviews the ultimate decision for abuse of discretion. A trial court's reasonable balancing of relevant private and public interest factors receives substantial deference. |
| PRECEDENTIAL VALUE    | Published appellate opinion; precedential authority of the District of Columbia Court of Appeals.                                                                                                                                                                                                                                                               |
| PARTIES               | Nixon Peabody LLP, Robert C. Bernius, Henry J. DePippo, Gannett Co., Inc., Thomas L. Chappie, Barbara W. Wall, Gannett Satellite Information Network, Inc., The Cincinnati Enquirer, Cameron McWhirter v. Lawrence K. Beaupre                                                                                                                                   |

TOPICS

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

## PRACTICE AREAS

civil procedure

appellate procedure

forum non conveniens

contracts

torts

## QUESTIONS PRESENTED

1. Whether the Superior Court abused its discretion by denying the defendants' motion to dismiss on forum non conveniens grounds.
2. Whether the trial court gave undue deference to the forum choice of a nonresident plaintiff.
3. Whether the trial court improperly disregarded evidence that many material witnesses resided in Ohio.
4. Whether the District of Columbia lacked a sufficient public interest or connection to the dispute.
5. Whether it was error for the trial court to consider potential conflicts-of-law issues in evaluating forum non conveniens.

## HOLDINGS

1. The Superior Court properly denied the motion to dismiss because it considered the relevant private and public interest factors and reasonably concluded that the balance was not strongly in favor of the defendants.
2. The trial court did not give undue deference to Beaupre's choice of the District of Columbia as the forum.
3. The trial court did not err by declining to dismiss based on the defendants' assertion that most material witnesses resided in Ohio.
4. It was not error for the trial court to consider potential conflicts-of-law issues as part of its forum non conveniens analysis, although it was not required to reach a definitive conflicts-of-law conclusion.

## KEY QUOTATIONS

*“The specific forum non conveniens analysis articulated by the Supreme Court in Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 67 S.Ct. 839, 91 L.Ed. 1055 (1947) has been adopted by this court.” (37)*

*“Where the [trial] court has considered all relevant public and private interest factors, and where its balancing of these factors is reasonable, its decision deserves substantial deference.” (38)*

*“Unless the balance of factors is strongly in favor of the defendant, the plaintiffs choice of forum should rarely be disturbed.” (40)*

## FACTUAL BACKGROUND

Lawrence K. Beaupre was an editor and vice president of The Cincinnati Enquirer, an Ohio newspaper owned by Gannett. After the newspaper published articles concerning Chiquita Brands, Gannett and Chiquita entered settlement negotiations involving attorneys and executives located in Washington, D.C., Virginia, Ohio, and New York; the settlement included an agreement restricting Beaupre's future writing about Chiquita. Beaupre alleged that Gannett and others scapegoated him, transferred him, and ultimately terminated his employment, and he

sued in the District of Columbia. The defendants argued that Ohio was the more convenient forum because many witnesses and events were located there.

## PROCEDURAL HISTORY

Beaupre filed an action in the District of Columbia Superior Court alleging fraud, conspiracy, tortious interference, breach of fiduciary duties and contracts, attorney malpractice, and related claims arising from his employment termination and events surrounding publication of articles about Chiquita Brands. The defendants moved to dismiss for forum non conveniens, but the Superior Court denied the motion and later rejected arguments concerning the District's connection to the dispute. The defendants took an interlocutory appeal, which the District of Columbia Court of Appeals affirmed.

## DISPOSITION

affirmed

## CASES CITED

- Blake v. Professional Travel Corp., 768 A.2d 568, 569 (D.C. 2001)
- Smith v. Alder Branch Realty Ltd., 684 A.2d 1284, 1287 (D.C. 1996)
- Frost v. Peoples Drug Store, 327 A.2d 810, 812-13 (D.C. 1974)
- Eric T. v. National Medical Enterprises, 700 A.2d 749, 754 (D.C. 1997)
- Gulf Oil Corp. v. Gilbert, 330 U.S. 501, 508 (1947)
- Coulibaly v. Malaquias, 728 A.2d 595, 600 (D.C. 1999)
- Future View, Inc. v. CritiCom, Inc., 755 A.2d 431, 433 (D.C. 2000)
- Kaiser Foundation Health Plan v. Rose, 583 A.2d 156, 156-58 (D.C. 1990)
- Jenkins v. Smith, 535 A.2d 1367, 1369 (D.C. 1987) (en banc)
- Piper Aircraft Co. v. Reyno, 454 U.S. 235, 257 (1981)
- Dunkwu v. Neville, 575 A.2d 293, 294 (D.C. 1990)
- Wyeth Laboratories, Inc. v. Jefferson, 725 A.2d 487, 491-92 n. 9 (D.C. 1999)
- Mills v. Aetna Fire Underwriters Insurance Co., 511 A.2d 8, 12 (D.C. 1985)
- Neale v. Arshad, 683 A.2d 160, 162-63 (D.C. 1996)