

## SUPREME COURT OF OKLAHOMA

# Tucker v. The Cochran Firm-Criminal Defense Birmingham L.L.C.

2014 OK 112 (Okla. 2014) · No. 111181 · Decided December 16, 2014

### SUMMARY

The Oklahoma Supreme Court addresses the proper procedure for enforcing an interstate contractual forum-selection clause. It holds that enforcement should be sought through a motion under 12 O.S. § 2012(B)(6) or a motion for summary judgment, rather than a motion alleging improper venue. The Court also holds that a forum-selection clause is separable from the remainder of the contract and remands for further proceedings concerning its enforceability.

### CASE DETAILS

|                       |                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Oklahoma                                                                                                                         |
| WRITING FOR THE COURT | REIF, V.C.J.; WATT; WINCHESTER; EDMONDSON; TAYLOR; COMBS; GURICH                                                                                  |
| JURISDICTION          | Oklahoma                                                                                                                                          |
| DECIDED               | December 16, 2014                                                                                                                                 |
| DOCKET                | 111181                                                                                                                                            |
| DISPOSITION           | reversed_and_remanded                                                                                                                             |
| PROCEDURAL POSTURE    | Certiorari to the Oklahoma Court of Civil Appeals, Division No. IV, which reversed the trial court's dismissal based on a forum-selection clause. |
| STANDARD OF REVIEW    | De novo review of the trial court's dismissal based on a forum-selection clause.                                                                  |
| PRECEDENTIAL VALUE    | published                                                                                                                                         |
| PARTIES               | Christopher L. Tucker v. The Cochran Firm-Criminal Defense Birmingham L.L.C.                                                                      |

### TOPICS

[forum non conveniens](#) [venue](#) [motions to dismiss](#) [contracts](#) [civil procedure](#)

### PRACTICE AREAS

[civil procedure](#) [contracts](#) [legal malpractice](#)

## QUESTIONS PRESENTED

1. What is the proper procedure for judicially enforcing an interstate forum-selection clause in an Oklahoma district court?
2. Whether a forum-selection clause is separable from the underlying contract and subject to the requirements of a valid contract.
3. How should burdens of pleading, persuasion, and proof be allocated when enforcing a forum-selection clause?

## HOLDINGS

1. When a parties' agreement has an interstate forum-selection clause and a party seeks its judicial enforcement in an Oklahoma District Court by seeking dismissal of the Oklahoma proceeding, then the procedure for its enforcement is by a motion pursuant to 12 O.S. § 2012(B)(6), or Rule 13 motion for summary judgment.
2. An interstate forum-selection clause is separable from the contract in which it appears, and its validity like any other provision in a contract is subject to the requirements of a valid contract.

## KEY QUOTATIONS

*“When a parties' agreement has an interstate forum-selection clause and a party seeks its judicial enforcement in an Oklahoma District Court by seeking dismissal of the Oklahoma proceeding, then the procedure for its enforcement is by a motion pursuant to 12 O.S. § 2012(B)(6), or Rule 13 motion for summary judgment”*

*“An interstate forum-selection clause is separable from the contract in which it appears, and its validity like any other provision in a contract is subject to the requirements of a valid contract”*

## FACTUAL BACKGROUND

Christopher Tucker hired the Cochran Firm to represent him in a criminal case. The retainer agreement contained a forum-selection clause requiring disputes to be heard exclusively in Los Angeles, California. Tucker sued the firm in Oklahoma for fraud, malpractice, negligence, and breach of contract, alleging misrepresentation about the services. The firm moved to dismiss based on the forum-selection clause.

## PROCEDURAL HISTORY

Plaintiff filed suit in District Court of Oklahoma County against the law firm. The trial court granted the law firm's amended motion to dismiss based on a forum-selection clause. Plaintiff appealed, and the Court of Civil Appeals reversed. The law firm sought certiorari from the Supreme Court of Oklahoma.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The matter is remanded to the District Court for further proceedings consistent with this opinion, specifically for the parties to adjudicate their respective claims using proper procedure (12 O.S. § 2012(B)(6) or summary judgment) with proper notice and opportunity to be heard.

#### CASES CITED

- Atlantic Marine Construction Co. v. United States District Court for the Western District of Texas, 134 S.Ct. 568 (2013)
- Conoco, Inc. v. Agrico Chemical Co., 2004 OK 83, 115 P.3d 829
- Stevens v. Blevins, 1995 OK 6, 890 P.2d 936
- Coulter v. First American Resources, L.L.C., 2009 OK 53, 214 P.3d 807
- Rogers v. Dell Computer Corp., 2005 OK 51, 138 P.3d 826
- Gulf Oil Corporation v. Gilbert, 330 U.S. 501 (1947)
- Preston v. Ferrer, 552 U.S. 346 (2008)
- Bakhsh v. JACRRC Enterprises, Inc., 1995 OK CIV APP 40, 895 P.2d 746

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