

SUPREME COURT OF GEORGIA

Hawthorn Suites Golf Resorts, LLC v. Feneck, 282 Ga. 554

651 S.E.2d 664 (2007) · No. S07A0704 · Decided September 24, 2007

SUMMARY

The Supreme Court of Georgia affirmed dismissal of Hawthorn Suites Golf Resorts, LLC's suit against Dana R. Feneck under Georgia's forum non conveniens statute. The court held that Feneck adequately supported his motion, that OCGA § 9-10-31.1(a) was constitutional, and that the trial court did not abuse its discretion in determining Louisiana was the more convenient forum.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Melton, Justice
JURISDICTION	Georgia
DECIDED	September 24, 2007
DOCKET	S07A0704
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hawthorn Suites appealed the Fulton County Superior Court's dismissal of its action against Feneck on forum non conveniens grounds.
STANDARD OF REVIEW	The trial court's forum non conveniens determination is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of Georgia.
PARTIES	Hawthorn Suites Golf Resorts, LLC v. Dana R. Feneck

TOPICS

- forum non conveniens
- venue
- constitutional law
- standard of review
- commercial litigation

PRACTICE AREAS

- civil procedure
- constitutional law
- appellate procedure
- commercial litigation

QUESTIONS PRESENTED

1. Whether Feneck abandoned his forum non conveniens motion by failing to provide adequate legal authority and factual support.
2. Whether OCGA § 9-10-31.1(a) violates the Georgia Constitution by divesting superior courts of jurisdiction over forum non conveniens cases.
3. Whether the trial court abused its discretion in determining that Louisiana was a more convenient forum and dismissing the action.

HOLDINGS

1. Feneck did not abandon his motion because his motion and supporting brief cited OCGA § 9-10-31.1(a), presented detailed legal arguments, and relied on undisputed facts of record.
2. OCGA § 9-10-31.1(a) does not violate the Georgia Constitution because it does not automatically divest the superior court of jurisdiction; the court first exercises jurisdiction to determine whether the action would more properly be heard elsewhere.
3. The trial court did not abuse its discretion in determining that Louisiana was the more convenient forum and dismissing the action.

KEY QUOTATIONS

“By its explicit terms, OCGA § 9-10-31.1(a) does not automatically divest the superior court of its jurisdiction.” (666)

“Based on these specific and detailed findings, the trial court did not abuse its discretion in dismissing Hawthorn Suites' case.” (667)

FACTUAL BACKGROUND

Hawthorn Suites, a Delaware company managing resort properties, hired Feneck as a consultant and later assigned him to manage Carter Plantation, a property in Louisiana. Feneck moved permanently to Louisiana in April 2005 to be near the property, although he continued to own a home in Fulton County, Georgia. After the parties' relationship deteriorated, Hawthorn Suites sued Feneck in Fulton County over alleged wrongdoing involving the Louisiana property and its management.

PROCEDURAL HISTORY

Hawthorn Suites filed suit in the Superior Court of Fulton County alleging wrongdoing concerning the ownership and management of a Louisiana property. Feneck moved to dismiss on forum non conveniens grounds under OCGA § 9-10-31.1(a), and the trial court granted the motion. The Supreme Court of Georgia affirmed.

DISPOSITION

affirmed

CASES CITED

- R.J. Taylor Memorial Hospital v. Beck, 280 Ga. 660, 631 S.E.2d 684 (2006)
- EHCA Cartersville v. Turner, 280 Ga. 333, 626 S.E.2d 482 (2006)

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