



Policy Position Statement on Venue Shopping

BACKGROUND:

The legal climate of any state has a significant impact on its overall business climate and attractiveness to corporations for investment. Over the past few years, the Pennsylvania state legislature has recognized the limitations that a negative legal climate can have on a state's economy and has acted by making various improvements in our overall system. Yet more work remains and a recently introduced bill to curtail "venue shopping" suggest that more work is, in fact, being considered.

"Venue Shopping" refers to the practice of filing a lawsuit in a jurisdiction other than where the action may have occurred. For reasons ranging from judicial choices to jury awards, plaintiffs can choose to connect their case to a specific jurisdiction that they believe would favor the circumstances of their case. In other words, plaintiffs are essentially able to "shop" for a venue that would be in their best interest, even if the venue does not seem to link to the pending case.

In Pennsylvania, venue shopping historically has produced an inordinate amount of personal injury lawsuits being filed in Philadelphia. Plaintiff's attorneys are drawn to those courts because they perceive their clients will receive a more favorable decision than in the jurisdiction in which the incident actually occurred. One needs to look no further than to the fact that only 13% of all the personal injury lawsuits filed in Philadelphia actually occurred there to know that venue shopping is a problem in Pennsylvania and that the Philadelphia court system is viewed as the most "pro-plaintiff" system in the state.

Currently, Pennsylvania law allows for a corporation to be sued in any county where it "regularly" conducts business, even if the facts giving rise to the lawsuit have nothing to do with the county where the suit is filed. In fact, the Pennsylvania Supreme Court has held that doing as little as 1% of a company's business in a specific jurisdiction (i.e., Philadelphia) is adequate to meet the test for "regularly" conducting business.

In 2003 the state Supreme Court amended its Rule of Civil Procedure to limit the practice of venue shopping in cases involving medical malpractice. Since the time of the reform, medical malpractice filings in Philadelphia have dropped from 1,365 in 2003 to 577 in 2011, a 58% decrease. While this reform has clearly demonstrated a significant improvement in the legal climate involving malpractice, it needs to go further in applying to other lawsuit claims, as well.

Now, a bill has been introduced that would restrict the counties in which a Pennsylvania corporation can be sued in a state court lawsuit for personal injury or wrongful death. The proposed legislation would limit venue choice options to the following: the county where the plaintiff lives; the county where all or a predominant part of the cause of the action arose; or the county where the principals place of business is located.

Make no mistake about it, while every Pennsylvanian must be guaranteed his or her right to due process, it is completely appropriate to provide that process through a court system that more directly relates to the incident being considered. To that end, enacting this type of reform would in no way restrict a person's access to the court system, yet would go a long way toward improving Pennsylvania's litigation climate and, in turn, the broader business climate.

POLICY POSITION:

The Board of Directors of The Lancaster Chamber of Commerce & Industry calls for the enactment of legal reforms that would end the practice of venue shopping, in general, and, more specifically, offers our full support to pending legislation aimed at ending the practice in civil cases against corporations involving personal injury or death.

The Chamber will work with the Pennsylvania State Chamber, others chambers and appropriate partners to advance continued legal reform, ending the practice of venue shopping and, more specifically, expressing our support of House Bill 1976.

Approved by the Board of Directors on March 20, 2012.