Philadelphia, Pennsylvania—the City of Brotherly Love—is known for a lot of things. Cheesesteaks, the Phillies baseball team, our “Iggles” football team, Rocky Balboa. And in the litigation world, Philadelphia is known as one of the worst defense venues in the state, if not the entire country.

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Historically, it has been quite difficult to have a case transferred to another of the state’s sixty-seven counties because generally, the plaintiff has the “right” to choose the venue
The Le Court relied on the Pennsylvania Supreme Court case of Cheeseman v. Lethal Exterminator, Inc., 549 Pa. 200, 701 A.2d 156 (1997), which clarified the factors for transfer and stated that a petition should be granted if the defendant "demonstrates, with detailed information on the record, that the plaintiff's chosen forum is oppressive or vexatious to the defendant."

The so called 'public interest' factors that many think will assist in obtaining a transfer, such as the court's own convenience or other concerns, are not controlling because the rules only speak to the convenience of the parties and not the courts. Thus, it is very important that the moving parties show that the chosen forum is more than merely inconvenient for it.

What should the moving parties submit? The Court notes that detailed, fact-specific affidavits from the various witnesses (not "cookie-cutter" forms), noting problems with travel, child care, work responsibilities, location of evidence and/or records should be put on the record. The Le Court relied on seven such personalized affidavits. It specifically referenced one where the supervisor of the Office of the Physical Plant at Penn State noted that he supervises 1,300 employees and would be required to miss multiple days of work to attend a trial in a court house hours away, whereas if the trial was in Centre County, it would only be 10 minutes away.

The Court also explained that counsel’s arguments complaining about the accuracy or credibility of the facts in the affidavits would not be considered, but only the evidence.

The Court continued and explained that the decision to transfer is fact-specific and travel issues would be less of a concern when the requested transfer of the case was to one of the counties adjacent to Philadelphia.

In a recent trucking case, we witnessed the same labor-intensive process of obtaining individualized affidavits from parties and witnesses. This resulted in a court in the Scranton/Wilkes Barre area (Luzerne and Lackawanna Counties) agreeing to transfer the case to Washington County (south of Pittsburgh and arguably more conservative), which is where the accident occurred.

As a practical matter, the result changed the strategy and handling of the case, especially when the plaintiff’s attorney might be “a local” in one county and no longer has that possible advantage. Thus, the playing field is made more reasonable for the defendants.

As a result, simply do not “give up” when your case is filed in a “bad” venue, especially if that venue is not where the accident/incident occurred. Seriously consider taking the time and making the effort to file a motion to transfer, but be certain to prepare detailed, itemized, fact-specific affidavits executed by the people who might be adversely affected.

This may be a lot of work and some expense initially, but wouldn’t you rather be trying your case in a county other than Philadelphia, Luzerne or Lackawanna counties?

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He graduated magna cum laude from Widener University School of Law (Harrisburg campus) in 1992. Gary was the recipient of the James C. Crumlish Jr. Award for Excellence in Scholarship and Administrative Law. He received his undergraduate degree from the U.S. Merchant Marine Academy at Kings Points, NY, and holds U. S. Coast Guard professional licenses as Master of Oceans, Steam or Motor Vessels up to 1600 gross tons as well as Chief Officer, unlimited tonnage, all oceans. Gary served as the law clerk for the Honorable Rochelle Friedman, Commonwealth Court of Pennsylvania in Harrisburg.

He has been selected by his peers, as a Transportation/Maritime Pennsylvania Super Lawyer in 2012, 2011, 2010, 2009 and 2007. It is an honor reserved for the top 5% of all Pennsylvania lawyers.

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as long as he or she can obtain jurisdiction over the defendants. Plaintiffs would allege that the motor carrier defendant “routinely” did business in Philadelphia County and in most cases, at least a truck or two would. Most times, a motion to transfer or change the venue would fail.

However, this situation may be changing. On October 22, 2014, the Pennsylvania Superior Court, which is the intermediate appellate court, upheld the transfer of a case from Philadelphia to another county and presented a possible “roadmap” to assist attorneys to accomplish this in the future.

In *Lee v. Beier Lewis Thresher*, No. 2421 EDA 2013, plaintiff was injured on the main campus of Penn State University when she was struck by a pick-up truck driven by a PSU employee who was on his way home from work. The location where this occurred was adjacent to an area supervised 1,300 employees and would be required to miss multiple days of work to attend a trial in a court house hours away, whereas if the trial was in Centre County, it would only be 10 minutes away.

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