2012 IL App (1st) 110935-U

FOURTH DIVISION
May 24, 2012

No. 1-11-0935

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

DANIEL FRAWLEY,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County
	)	
v.	)	No. 10 L 0884
	)	
GEORGE E. WEAVER,	)	Honorable
	)	Drella C. Savage,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE STERBA delivered the judgment of the court.
Justices Fitzgerald Smith and Pucinski concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court did not abuse its discretion in denying defendant's motion to transfer based on the doctrine of *forum non conveniens* because the balance of private and public interest factors does not weigh strongly in favor of transferring the legal malpractice case from Cook County to DuPage County.

¶ 2 In this legal malpractice case, defendant George Weaver appeals the circuit court's denial

of his motion to transfer the case from Cook County to DuPage County based on the doctrine of *forum non conveniens* ("motion to transfer"). Defendant claims that the circuit court failed to consider the effect of plaintiff Daniel Frawley invoking the Fifth Amendment privilege against self-incrimination had on the amount of information that was available for the circuit court to consider when ruling on the motion to transfer. Defendant also claims that the balance of private and public interest factors strongly favors transferring this case to DuPage County because his law practice and residence are located in that county, his legal representation of plaintiff in 2006 and thereafter occurred in DuPage County, which is a less congested forum than Cook County, and DuPage County residents have a greater interest in the litigation than Cook County residents because defendant is an attorney currently practicing within that county. For the reasons that follow, we affirm.

¶ 3 BACKGROUND

¶ 4 On July 9, 2010, plaintiff filed a complaint in the Circuit Court of Cook County against defendant and his law office alleging the following causes of action: (1) negligence arising out of defendant's legal representation of plaintiff; (2) negligent infliction of emotional distress; (3) intentional misrepresentation; (4) intentional infliction of emotional distress; and (5) conversion. The complaint stated that in December 2000, plaintiff retained defendant to represent him in ongoing legal matters against both himself and his corporation. The complaint also stated that defendant represented plaintiff from late 2000 through July 9, 2008, when plaintiff retained new counsel. Plaintiff asserted in the complaint that on March 13, 2006, defendant specifically instructed him not to cooperate with the government in an ongoing criminal investigation. Plaintiff also asserted that from March of 2006 to July of 2008, defendant repeatedly instructed

him to withhold certain specified information from the government relating to an ongoing criminal investigation. Plaintiff further asserted that defendant withheld a retainer payment, intentionally and knowingly misadvised plaintiff, failed to disclose conflicts of interest, and intentionally and knowingly wrongfully advised plaintiff not to enter into settlement agreements. When plaintiff filed his complaint, he resided at 2908 Ashton Court located in Westchester, which is in Cook County, Illinois.

¶ 5 On August 23, 2010, in response to plaintiff's legal malpractice complaint, defendant filed a motion to transfer the case to DuPage County pursuant to the doctrine of *forum non conveniens* and Illinois Supreme Court Rule 187. Defendant asserted that Cook County would be an inconvenient forum and that it would be more convenient for the parties to litigate the matter in DuPage County. Defendant also asserted that Cook County had little interest in the controversy since the matter involved the standard of care of DuPage County attorneys. Defendant attached his affidavit as an exhibit to the complaint, and averred that at all times after January 15, 2006, he maintained his law office at 105 East 1st Street, Suite 203 in Hinsdale, Illinois, and that he and his family reside at 120 West Ayres in Hinsdale, Illinois. Hinsdale is located in DuPage County. Defendant also averred that located at his Hinsdale office were several thousand pages of documents pertaining to plaintiff's 2006 arrest and other criminal matters against plaintiff. Defendant further averred that it would be far more convenient for him to litigate the matter in DuPage County.

¶ 6 After filing the motion to transfer, the circuit court granted defendant leave to conduct discovery pertaining to the motion. The parties exchanged interrogatories, and both plaintiff and defendant were disposed.

¶ 7 Plaintiff's answers to defendant's *forum non conveniens* interrogatories identified the following individuals as having witnessed or claimed to have witnessed certain meetings between defendant and plaintiff: (1) Daniel Mahru, who resides in Highland Park, Illinois located in Lake County; (2) plaintiff's sister, Kathleen Frawley, who resides in LaGrange, Illinois located in Cook County; and (3) Jackie Stern, from the Chicago office of the U.S. Attorney's Office, located in Cook County. Plaintiff also identified four individuals who have knowledge of the underlying interactions between plaintiff and defendant: (1) Steven Blanc, who resides in Cook County; (2) Jeffrey Steinback, who resides in Cook County; (3) Carolyn McNiven from the U.S. Attorney's Office, located in Cook County; and (4) Pat Murphy from the Federal Bureau of Investigation (F.B.I.), located in Cook County. Plaintiff filed an amended answers to defendant's interrogatories, which now listed Kathleen Frawley as residing in Flagler Beach, Florida.

¶ 8 Plaintiff also provided the following answer to defendant's interrogatory regarding each meeting, telephone conversation or email discussion:

¶ 9 "Defendants[1] represented Plaintiff in various litigation and other matters from 1983 through 2009. During that time period, Plaintiff met with George E. Weaver on numerous occasions. Further, Defendants are already in possession of the same information. Notwithstanding said objections, Plaintiff and George E. Weaver had numerous meetings at Defendants' office located on LaSalle Street in Cook County, Illinois, including the January 2001 meeting with First Bank; the meeting regarding settlement of the Polyliner matter; and a meeting on March 14, 2006 at which George E. Weaver instructed Plaintiff to

[1] "Defendants" refers to defendant individually, as well as his law firm.

never reveal certain information to his criminal defense attorneys, the F.B.I. agents or the U.S. Attorney's Office. Plaintiff also met George E. Weaver at the Four Season Hotel in Chicago, Illinois in February 2006, and at Shaw's Crab House in Chicago, Illinois in March or April 2006, at which time George E. Weaver reiterated to Plaintiff that he should not reveal certain information from the February 2006 meeting at the Four Seasons Hotel to his criminal defense attorneys or the governmental agents."

¶ 10 In response to plaintiff's *forum non conveniens* interrogatories, defendant identified the following individuals as having relevant knowledge of the underlying case: (1) Janice Weaver, residing in DuPage County; (2) Peter Chiopelas, residing in DuPage County; (3) individuals who worked at 105 East 1st Street, which is defendant's DuPage County law office; (4) Kathleen Frawley Cullen, who resides in Flager Beach, Florida; (5) F.B.I. agent Patrick Murphy, who maintains his office in DuPage County; (6) Owen Frawley, who resides in DuPage County; (7) Tony Rezko, who is currently incarcerated; and (8) Dan Mahru, with an unknown address.

¶ 11 Defendant further stated in his answers to plaintiff's interrogatories that after 2007, no meetings with plaintiff occurred outside of DuPage County. Also, defendant stated that after March 2008, he met with F.B.I. agents at his DuPage County office regarding their investigation pertaining to certain individuals.

¶ 12 On December 1, 2010, plaintiff participated in a discovery deposition. In response to questions relating to the location of documents, the contents of documents that plaintiff brought to defendant's office located in DuPage County, the location where he suffered his penal injuries and who were the witnesses to his penal injuries, plaintiff asserted his Fifth Amendment privilege against self-incrimination. Plaintiff also raised the Fifth Amendment privilege in response to

questions asking where he meet with defendant and Tony Rezko simultaneously and if he participated in a meeting with defendant located in Hinsdale the subject of which was disclosure of Mr. Rezko's payment of money. Plaintiff further raised the Fifth Amendment privilege when asked whether there were any recordings of defendant in Cook or DuPage County. Plaintiff also raised the Fifth Amendment privilege when asked whether he contacted defendant about the return of his retainer after he was asked by the F.B.I. not to contact defendant. Plaintiff asserted his Fifth Amendment rights when asked about plea agreement discussions and where he committed bank fraud. When asked whether he brought records to defendant in Hinsdale, plaintiff responded that defendant "represented me for a long time. I brought documents to George's different offices. Whether what documents - whether it was his office in Chicago, whether it was office in Hinsdale, I don't recall exactly which one. And I don't recall exactly which documents."

¶ 13 After the parties briefed the motion to transfer, the circuit court, without conducting a hearing, denied defendant's motion in a written order. The circuit court held that "[i]n balancing the private and public factors and evaluating the totality of the circumstances the balance of factors does not strongly favor transferring this case to DuPage County." On April 2, 2011, defendant filed a petition for leave to appeal with this court pursuant to Supreme Court Rule 306(a)(2) (Ill. S. Ct. R. 306(a)(2) (eff. Feb. 26, 2010)), which was denied on May 2, 2011.

¶ 14 On June 3, 2011, defendant filed a petition for leave to appeal with the Illinois Supreme Court pursuant to Supreme Court Rule 315 (Ill. S. Ct. R. 315 (eff. Feb. 26, 2010)). On September 28, 2011, the Supreme Court denied defendant's petition for leave to appeal, but entered a supervisory order directing this court to vacate its May 2, 2011 order and consider the matter on its merits. On November 7, 2011, pursuant to the supervisory order, this court vacated its order

entered on May 2, 2011, and this appeal followed.

¶ 15 STANDARD OF REVIEW

¶ 16 A circuit court has considerable discretion when ruling on a motion to transfer based on the doctrine of *forum non conveniens* and its decision will not be reversed absent an abuse of discretion in the court's balancing of the relevant private and public interest factors. *Dawdy v. Union Pacific R.R. Co.*, 207 Ill. 2d 167, 176-77 (2003)*; Quaid v. Baxter Healthcare Corp.*, 392 Ill. App. 3d 757, 765 (2009). A circuit court abuses its discretion when no reasonable person would take the position adopted by the court. *Quaid,* 392 Ill. App. 3d at 795. This doctrine allows a circuit court to decline jurisdiction in cases where trial in another forum would better serve the ends of justice and the convenience of the parties. *Dawdy*, 207 Ill. 2d at 171. The *forum non conveniens* doctrine provides courts with discretionary power that should be exercised only in exceptional circumstances when the interest of justice requires a trial in a more convenient forum. *Langenhorst v. Norfolk Southern Railway Co.*, 219 Ill. 2d 430, 442 (2006).

¶ 17 ANALYSIS

¶ 18 Defendant contends that the circuit court erred in denying his motion to transfer the case from Cook County to DuPage County based on the doctrine of *forum non conveniens*. Defendant first claims that the circuit court erred in not considering the adverse inferences to be drawn by plaintiff's failure to answer questions during his discovery deposition directed at gathering information to determine the proper forum. Plaintiff declined to answer questions because he invoked his Fifth Amendment privilege against self-incrimination. Defendant contends that plaintiff's failure to answer the questions precluded the disclosure of relevant

information for purposes of determining the most convenient forum to litigate the matter.

¶ 19 We reject defendant's contention that plaintiff invoking his Fifth Amendment privilege and the circuit court's alleged failure to consider the inferences raised by his refusal to answer certain questions negatively impacted the ruling on defendant's motion to transfer. Based on our review of plaintiff's discovery deposition, we conclude that the questions defendant asked to which plaintiff invoked his Fifth Amendment privilege generally were not relevant to determine the proper forum. For example, plaintiff invoked his Fifth Amendment privilege when asked to reveal the substantive content of documents or conversations, whether recordings of defendant existed and if he recorded defendant, whether he contacted defendant after he was instructed not to do so by government officials, where he met with attorneys to discuss plea agreements, where he met with government officials to discuss his cooperation and where he committed bank fraud. Plaintiff's answers to these questions may have potentially incriminated him, and plaintiff's assertion of his Fifth Amendment privilege as a response to these questions does not raise a negative inference that plaintiff was attempting to conceal information for purposes of determining the proper forum.

¶ 20 We agree with the circuit court's statement that "the focus of this Court's analysis should be on the actions or inactions taken by Defendants in their representation of Plaintiff that is of importance." The questions asked by defendant's counsel to which plaintiff asserted his Fifth Amendment privilege would not have furthered the relevant focus for purposes of determining the proper forum, and may have created a risk of plaintiff incriminating himself. Thus, we disagree with defendant's contention that plaintiff invoking his Fifth Amendment privilege raised an inference that the answers to the questions asked would have established that DuPage County

was the proper forum.

¶ 21 Defendant also specifically claims that plaintiff refused to identify the location of documents based on his Fifth Amendment privilege. We note, however, that plaintiff's attorney objected to defendant's counsel's questions regarding the location of documents based on relevance, in addition to his Fifth Amendment privilege. Plaintiff's counsel stated that he maintains documents at his office and acknowledged that defendant had all of the documents in his office, which was now located in DuPage County. The location of documents, however, is of minimal importance for *forum non conveniens* analysis purposes because documents may be easily photocopied and transported with little expense. *Ferguson v. Bill Berger Associates, Inc.*, 302 Ill. App. 3d 61, 73 (1998). Here, the fact that plaintiff invoked his Fifth Amendment privilege as a response to questions asked during his discovery deposition does not establish that the circuit court abused its discretion in denying defendant's motion to transfer nor does it infer that the purpose of plaintiff invoking that privilege was to conceal forum related information.

¶ 22 Next, defendant claims that the circuit court failed to consider the likelihood that plaintiff will be incarcerated in a federal prison located outside of Cook County when this case is litigated. Defendant contends the circuit court erred because it failed to give less deference to plaintiff's choice of forum in light of his future residence outside of Cook County. We disagree.

¶ 23 Courts give deference to the plaintiff's choice of forum because a "plaintiff's right to select the forum is substantial." *Dawdy*, 207 Ill. 2d at 173. When the plaintiff's home forum or the site of the accident or injury is chosen, the forum choice is assumed to be convenient and the plaintiff's choice should be given deference. *Id.*

¶ 24 Here, plaintiff was a resident of his chosen forum of Cook County before and at the time

he filed his legal malpractice action. The record is devoid of evidence indicating that plaintiff moved into Cook County shortly before filing his complaint or that he spent a significant amount of time living outside of Illinois, which may have demonstrated that plaintiff was "forum shopping." In addressing plaintiff's future residence, the circuit court stated that "[i]t is not the residence of [the plaintiff] after a *forum non conveniens* motion has been filed, but rather, the residence of the plaintiff at the time of filing, that is of importance to a [c]ourt's forum analysis." We agree with the circuit court's analysis because the relevant time period to analyze plaintiff's home forum is at the time the litigation is commenced and before substantive merits of the case are addressed. See *McClain v. Illinois Central Gulf Railroad*, 121 Ill. 2d 278, 290 (1988) (indicating that "if the plaintiff does not live in the forum when the cause of action arises or when the suit is filed," the assumptions regarding convenience to the parties and ends of justice require closer scrutiny.) Illinois Supreme Court Rule 187 states that a defendant seeking to transfer a case based on *forum non conveniens* must file his motion "not later than 90 days after the last day allowed for the filing of that party's answer." Ill. S. Ct. R. 187 (eff. Aug. 1, 1986)). This temporal requirement implies that the relevant time period that must be analyzed to determine the forum that will decide the merits of a plaintiff's case is when the plaintiff files his case and after defendant files a motion to transfer. Rule 187 does not support defendant's position that the circuit court must give weight to plaintiff's future residence when deciding a motion to transfer.

¶ 25 Moreover, defendant does not cite case law that supports his proposition that a plaintiff's *future* residence is a concern when deciding a motion to transfer based on the doctrine of *forum non conveniens*. Defendant does cite to *Stein v. Volkswagen of America, Inc.*, 135 Ill. App. 3d

127, 131-32 (1985) and *In re Marriage of Mather*, 408 Ill. App. 3d 853, 858 (2011), but his reliance on those cases is misplaced. In *Stein*, this court afforded less deference to a plaintiff's chosen forum of Illinois because she was only a part-time resident of this state and she had extensive ties to Florida. *Stein*, 135 Ill. App. 3d at 131-32. In *Mather*, this court afforded less, but did afford some, deference to plaintiff's choice of forum because the forum was his primary residence for only 19 days. *Mather*, 408 Ill. App. 3d at 858-59. Those cases are distinguishable because the parties do not dispute that plaintiff was a full-time resident of Cook County nor was it asserted that plaintiff was a newer resident of Cook County when he filed his complaint. Accordingly, even though plaintiff has been convicted in federal court and is awaiting sentencing, his connection to Cook County both prior to and at the time he filed his case provides a sufficient basis to conclude that the circuit court did not abuse its discretion in affording deference to plaintiff's choice of forum because it was his home forum.

¶ 26 We now turn our focus to consider the relevant private and public interest factors that are analyzed to resolve *forum non conveniens* issues. Defendant claims the circuit court erred in finding that the private and public interest factors do not warrant transferring the case to DuPage County. While still giving deference to the plaintiff's choice of forum, the circuit court must balance private and public interest factors when ruling on a *forum non conveniens* motion. *Czarnecki v. Uno-Ven Co.,* 339 Ill. App. 3d 504, 508 (2003). In doing so, the circuit court should not focus on one factor, but "must consider all of the relevant factors." *Langenhorst*, 219 Ill. 2d at 443.

¶ 27 The private interest factors that a court should consider include:

> "(1) the convenience of the parties; (2) the relative ease of access to

> sources of testimonial, documentary, and real evidence; and (3) all other practical problems that make trial of a case easy, expeditious, and inexpensive-for example, the availability of compulsory process to secure attendance of unwilling witnesses, the cost to obtain attendance of unwilling witnesses, and the ability to view the premises (if appropriate)." *First American Bank v. Guerine*, 198 Ill. 2d 511, 516 (2002).

When addressing the first private interest factor, the defendant may not assert that the chosen forum is inconvenient to the plaintiff, but that the forum is inconvenient to the defendant and another forum is more convenient for all of the parties. *Id.* at 518.

¶ 28 The public interest factors that a court should consider are the following:

> "(1) the interest in deciding localized controversies locally; (2) the unfairness of imposing the expense of a trial and the burden of jury duty on residents of a county with little connection to the litigation; and (3) the administrative difficulties presented by adding further litigation to court dockets in already congested fora." *Id.* at 517.

Of the above factors, consideration of the court's congestion is a relatively insignificant factor, especially if the other forum would not resolve the case more expediently. *Id.*

¶ 29 Regarding the private interest factors, defendant contends that he lives and works in DuPage County, plaintiff now works in DuPage County and plaintiff will likely reside outside of Cook County while the instant case is pending. Defendant also contends that plaintiff's prior employment was located in DuPage County, and that the advice that defendant rendered to plaintiff was to an overwhelming extent given in DuPage County. Defendant further contends that

the circuit court failed to adequately analyze the location of witnesses and consider plaintiff's removal of witnesses in an attempt to skew the location of witnesses who would testify to favor Cook County as the proper forum.

¶ 30 We conclude that the circuit court did not abuse its discretion in finding that the private interest factors do not weigh strongly in favor of transferring forums. The circuit court, in considering the first factor regarding the convenience of the forum to the parties, found that plaintiff chose his home forum, which is also the location where portions of the injury that he alleges against defendant took place. Again, when a plaintiff selects the forum of where his home is located, his selection is presumed to be convenient.

¶ 31 Not only did plaintiff select his home forum, but this forum was also the place where portions of his alleged injury occurred. Plaintiff stated that numerous meetings with defendant occurred at his Cook County law office during his representation of plaintiff, and defendant did not move his law practice to DuPage County until 2006. Plaintiff also disclosed meetings at various restaurants and locations within Cook County from approximately 1984 through 2006, which he claims gave rise to his legal malpractice claim and encompasses the period of time that defendant represented plaintiff. In particular, plaintiff identified a meeting with defendant in February 2006 at the Four Seasons Hotel in Cook County. Plaintiff also identified a meeting at Shaw's Crab House located in Cook County in March or April 2006 where defendant instructed him not to cooperate and not to reveal information he learned during the meeting at the Four Seasons Hotel to his other criminal defense attorneys, F.B.I. agents or the U.S. Attorney's Office. Plaintiff identified another meeting occurring in March 2006 with defendant at the U.S. Attorney's Office located in Cook County where defendant instructed him not to reveal information that he

learned at the Four Seasons Hotel meeting. This "do not disclose" advice is one basis of plaintiff's legal malpractice claim against defendant. Plaintiff does not dispute that he did meet with defendant at his DuPage County office in 2006 and thereafter, as well as participated in a meeting with F.B.I. agents that was located in DuPage County. However, those facts do not weigh strongly in favor of transferring the case to DuPage County given that a portion of the injury occurred in Cook County and plaintiff selected his home forum. As previously indicated, we disagree with defendant's contention that because of the uncertainty surrounding plaintiff's future residence, his forum choice should be afforded less deference.

¶ 32 The circuit court also considered the location of witnesses and held that DuPage County was not a more convenient forum for a majority of the witnesses to warrant transferring the case to that forum. The circuit court noted that of the witnesses identified by the parties with known addresses or residences, one resides in Florida, one in Lake County, four in Cook County and four in DuPage County. The circuit court also noted that none of the identified witnesses, apart from defendant himself, attested that they would be inconvenienced if the case was to proceed to trial in Cook County. The circuit court further noted that defendant's sister, who resides in Florida, would be burdened regardless of whether the litigation proceeded in Cook or DuPage County. Defendant claims that the circuit court abused its discretion because it failed to consider the fact that plaintiff subsequently removed individuals from his list of potential witnesses. Defendant contends that consideration of where those witnesses were located would shift the balance of factors toward defendant’s choice of forum of DuPage County. Even if those witnesses were considered, however, defendant produced no evidence demonstrating that anyone other than himself would be unduly burdened by the Cook County forum. Moreover, although the inconvenience to the

defendant is a factor to consider, it is not the determinative factor if other factors favor the plaintiff's choice of forum. *Torres v. Walsh*, 98 Ill. 2d 338, 351 (1983). Even though witnesses are located in both proposed forums, the facts do not support transferring forums where an equal number of witnesses are located in both forums. *Guerine*, 198 Ill. 2d at 526. Thus, the circuit court did not abuse its discretion in finding that this factor weighed in favor of upholding plaintiff's chosen forum.

¶ 33 The circuit court did not err in finding that the second private interest factor, which requires consideration of the relative ease of access to evidence, does not support transferring the matter to DuPage County. The circuit court acknowledged that many of the relevant documents were located at defendant's DuPage County office, but held that these documents could easily be transferred to Cook County. We agree with the circuit court's holding "because today's technology allows documents to be copied and transported easily and inexpensively." *Ammerman v. Raymond Corp.*, 379 Ill. App. 3d 878, 890 (2008).

¶ 34 As previously stated, defendant did not present evidence that witnesses, apart from himself, would be inconvenienced or unaccessible if the case was litigated in Cook County. We note that defendant identified "individuals who worked" at his law office in DuPage County as witnesses. However, defendant did not specify who the individuals were by name and the circuit court "was not free to speculate about the possible inconvenience to a group of unnamed witnesses." *Brant v. Rosen*, 373 Ill. App. 3d 720, 728 (2007). Here, the circuit court analyzed the considerations associated with the second private interest factor and did not abuse its discretion in finding that this factor did not weigh strongly in favor of transferring the case to DuPage County.

¶ 35 The circuit court also did not abuse its discretion in finding that the final private interest

factor did not weigh in favor of transferring the case to DuPage County. This factor considers all practical problems that make trial of a case easy, expeditious, and inexpensive. We agree with the circuit court's reasoning that because the underlying action is based on a claim for legal malpractice and the alleged misrepresentation occurred throughout a period of years in both Cook and DuPage County, no relevant situs exists and the jury would not need to view any particular site. We conclude that the circuit court did not abuse its discretion in finding that consideration of practical problems does not warrant a transfer of this case to DuPage County.

¶ 36 We now turn to analyze the public interest factors. Defendant claims that consideration of the public interest factors supports transfer of this case to DuPage County. Defendant contends that any legal representation of plaintiff beginning in early 2006 and beyond would have occurred in DuPage County because that is where defendant's office is located, as well as his home where he met with plaintiff on a few occasions. Defendant also asserts that he and plaintiff met at various restaurants in DuPage County during that time period and at the DuPage County F.B.I. office. Defendant maintains that DuPage County has a greater interest in the litigation because residents of that county would be more concerned with and have a greater interest in deciding an action against an attorney whose practice is located in DuPage County than the interest that residents in Cook County would have in deciding an action against a DuPage County attorney.

¶ 37 The circuit court did not err in finding that the public interest factors do not strongly support the transfer of the instant case to DuPage County. In analyzing the first public interest factor, which considers the interest in deciding localized controversies locally, the circuit court focused on the fact that this case involves a Cook County resident who was allegedly injured by an attorney providing legal services to him at his law firm previously located in Cook County, and the

legal representation occurred over a period of years in Cook County. Even though a portion of the legal representation occurred in DuPage County, the circuit court did not abuse its discretion when it held that "Cook County has an overwhelming interest in deciding a local controversy involving multiple witnesses from Cook County, a Plaintiff who resides in Cook County, and numerous transactions, meetings, and settlement negotiations in Cook County." We do not dispute that DuPage County residents would also have an interest in the litigation on the basis that defendant is currently practicing law in DuPage County, but that consideration does not strongly support transferring the case from a forum where portions of the injury occurred, where defendant practiced law and where plaintiff is a resident. Moreover, plaintiff identified discussions with defendant occurring in Cook County where he instructed plaintiff not to cooperate with government officials. Those facts establish that Cook County has a superior interest in deciding this controversy over DuPage County, and the circuit court did not err in finding that the first public interest factor weighs in favor of Cook County. These same considerations would render it unfair to impose the expense of trial and burden of jury duty on residents of DuPage County since Cook County's connection to the litigation is more substantial than DuPage County's connection. Thus, the facts relating to the second public interest factor do not weigh strongly in favor of transferring the case to DuPage County.

¶ 38 Regarding the last public interest factor addressing administrative difficulties in the forums, defendant claims that the case should be transferred based on the congestion in Cook County's court system in comparison to the less congested DuPage County court system. Defendant cites to 2009 court statistics, which indicated that the Cook County court system had 17,588 cases pending in the law division whereas the DuPage County court system only had 1,259

cases pending in a comparable division. Defendant maintains that these facts support transferring this case to DuPage County.

¶ 39 Consideration of the court's docket in Cook County also does not warrant the transfer of this case to DuPage County. Also looking at 2009 data, the circuit court relied on a report that included data analyzing the amount of time that lapsed between the filing of a case to a verdict date for law cases tried before a jury over $50,000. According to the report, "Cook County received 467 cases that took approximately 37.7 months between the date of filing and the date of the verdict. In contrast, DuPage County received 12 cases, but took nearly 43.3 months to reach a verdict." Based on the data relied upon by defendant and the circuit court, we agree with the circuit court's finding that although Cook County's docket is larger than DuPage County's docket, Cook County disposes of cases more expeditiously. Thus, this last public interest factor does not weigh strongly in favor of transferring the case to DuPage County.

¶ 40 When ruling on a motion to transfer based on the doctrine of *forum non conveniens*, the relevant analysis does not entail a balancing of the private interest factors against the public interest factors. *Guerine*, 198 Ill. 2d at 518. Rather, the circuit court must consider the totality of the circumstances of the case and determine whether the defendant proved that the balance of factors strongly favors the transfer of the case to the defendant's offered forum. *Id.* The balance of factors, however, must *strongly* favor transferring a case to a forum other than plaintiff's chosen forum. Here, after considering the totality of the circumstances, we conclude that the circuit court did not abuse its discretion in denying defendant's motion to transfer. Based on the facts of this case, transfer is not warranted because, as the circuit court stated, Cook County is the forum with the most predominant connection to the litigation and the balance of private and public interest factors does not strongly favor transferring the case to DuPage County.

¶ 41 CONCLUSION

¶ 42 For the reasons stated, we affirm the judgment of the circuit court.

¶ 43 Affirmed.