JESSICA AND ADAM GEARHART, H/W,	:	IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY
Plaintiffs	:	NO. 2025 CV 44
v.	:	
GEISINGER HEALTH, GEISINGER CLINIC, GEISINGER LEWISTOWN HOSPITAL, KASSANDRA TROTTS, DPM, VERONICA CURLEY, CRNP, and JORDAN YOUNES, PA-C,	:	
Defendants	:	

LACKAWANNA COUNTY
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MEMORANDUM AND ORDER

NEALON, J.

Mifflin County plaintiffs instituted this medical negligence action against a Mifflin County podiatrist and nurse practitioner, a Union County physician assistant, a Mifflin County hospital, and their employer and corporate parent that are both headquartered in Montour County. The health care providers, their employer, and the corporate parent seek to transfer venue to Mifflin County pursuant to Pa.R.Civ.P. 1006(d)(1) on the *forum non conveniens* grounds that the litigation and trial of this case in Lackawanna County will be oppressive for them and their witnesses and that the parties, treatment, and claims have no connection with Lackawanna County where no sources of proof are located.

The deposition testimony, affidavits, and exhibits submitted by the parties reflect that the trial of this matter in Lackawanna County, which is more than 130 miles from the sites of the primarily actionable treatment and associated evidence, will be unduly burdensome for the podiatrist, nurse practitioner, and physician assistant and impose considerable hardships relating to their professional and familial responsibilities. Mifflin County will provide far easier access to material witnesses possessing pertinent information and other sources of proof

regarding the claimed malpractice and damages. Based upon the totality of the relevant circumstances, Lackawanna County is an oppressive forum for the continued adjudication of this malpractice action, and the motion seeking to transfer venue to the Court of Common Pleas of Mifflin County will be granted pursuant to Pa.R.Civ.P. 1006(d)(1).

I. FACTUAL BACKGROUND

Jessica and Adam Gearhart (the "Gearharts") have initiated this professional liability action against a podiatrist, Kassandra Trotts, DPM ("Dr. Trotts"), certified registered nurse practitioner, Veronica Curley, CRNP ("Curley"), and certified physician assistant, Jordan Younes, PA-C ("Younes"), who were involved with the treatment of Jessica Gearhart's right foot injury at Geisinger Lewistown Hospital (the "Hospital"), as well as their multi-specialty group practice employer, Geisinger Clinic (the "Clinic"), and its corporate parent, Geisinger Health ("Health"). (Docket Entry Nos. 1, 8). They allege that Dr. Trotts, Curley, Younes, and other agents of the Hospital, the Clinic, and Health failed to timely diagnose and treat a vascular condition involving Jessica Gearhart's lower right extremity related to her antiphospholipid syndrome, which alleged malpractice resulted in acute limb ischemia of the right popliteal artery and left segmental pulmonary embolism that eventually required mechanical and surgical thrombectomy and a right below-the-knee amputation. (Docket Entry No. 8 at ¶¶ 23-59). Jessica Gearhart seeks to recover economic and noneconomic damages as a result of the claimed negligence of Dr. Trotts, Curley, Younes, the Hospital, the Clinic, and Health, while Adam Gearhart has asserted a claim for loss of consortium. (Id. at ¶¶ 62-65, 67-70, 72-75, 77-80, 82-84, 86-88, 90-92).

According to the Gearharts' Complaint, the Gearharts reside at 222 West Third Street, Lewistown, which is 139 miles from the Lackawanna County Courthouse, but only 0.4 miles

from the Mifflin County Courthouse. (Docket Entry No. 18 at ¶¶ 5, 15; Docket Entry No. 20 at ¶¶ 5, 15). The Complaint states that Dr. Trotts, Curley, and the Hospital practice at 400 Highland Avenue, Lewistown, which is situated 133.1 miles from the Lackawanna County Courthouse, and 1.7 miles from the Mifflin County Courthouse. (Docket Entry No. 18 at ¶¶ 9-11, 17). Per the Complaint, Younes practices in Lewisburg, Union County, whereas the Clinic and Health are located in Danville, Montour County. (Docket Entry No. 18 at ¶¶ 7-8, 12). It is noteworthy that none of the care and treatment at issue in this litigation occurred in Lackawanna County. (Docket Entry No. 8 at ¶¶ 23-59).

Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes filed a "Motion for *Forum Non Conveniens* to Transfer Venue Pursuant to Pa.R.Civ.P. 1006(d)," which included verifications signed by Curley and Younes and Google Maps calculations and maps of various distances involving the parties' addresses and the locations of the Lackawanna County Courthouse and the Mifflin County Courthouse. (Docket Entry No. 18 at pp. 3-14, 16-17, 42-43). They maintain that "trial in Lackawanna County would cause significant disruption to the personal and professional lives" of Dr. Trotts, Curley, and Younes, and that "public interest factors weigh in favor of trial in Mifflin County," as a result of which "it is clear that the Lackawanna County Court of Common Pleas is an oppressive venue and this matter should be transferred to the Mifflin County Court of Common Pleas." (Id. at pp. 9-11). In their response, the Gearharts argued that Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes "attach[ed] no evidence other than self-serving verifications to support their purported claims of inconvenience." (Docket Entry No. 20 at p. 2).

On the afternoon of the last business day before the scheduled oral argument on the motion to transfer venue under Rule 1006(d), defense counsel produced and attached affidavits that were executed by Dr. Trotts, Curley, and Younes. (Docket Entry No. 26 at pp. 1-15).

Consequently, after brief oral argument was presented by counsel, and in light of the timing of the production of the affidavits of Dr. Trotts, Curley, and Younes and their "stated intention to produce an additional affidavit from an administrator on behalf of Geisinger Lewistown Hospital," an Order was issued directing the parties to depose Dr. Trotts, Curley, Younes, and Geisinger's designated administrative officer, and to thereafter submit those deposition transcripts together with the parties' supplemental memoranda of law in support of their respective positions. (Docket Entry No. 28). The parties have completed that *forum non conveniens* discovery and filed their additional briefs, as a result of which the motion to transfer venue pursuant to Rule 1006(d) is now ripe for disposition.

Dr. Trotts attests that she practices at the Hospital in Lewistown which is 133.1 miles from the Lackawanna County Courthouse and 1.7 miles from the Mifflin County Courthouse. (Deposition of Kassandra Trotts dated 1/14/26, attached to Docket Entry No. 30 as Exhibit A, at p. 9, Exhibit No. 1 at ¶¶ 4, 12). She resides in Spring Mills, Centre County, which is 138 miles from the Lackawanna County Courthouse, but only 24.2 miles from the Mifflin County Courthouse. (Id. at pp. 5-6, Exhibit 1 at ¶¶ 5, 12). If the trial is conducted in Lackawanna County, she intends to commute daily by way of a five hour round trip drive in order to see and care for her children who are both under the age of five years. (Id. at pp. 8, 10-11, Exhibit 1 at ¶ 9).

Dr. Trotts "is the only full-time podiatrist in [her] practice and sees approximately 30 patients per day," and if this trial is conducted in Mifflin County, she will be able to treat her patients before the start of trial at 9:00 a.m. and after the conclusion of trial each day between 4:00 p.m. and 5:00 p.m. (Id. at pp. 6-7, Exhibit 1 at ¶ 7). Conversely, if this trial is held in Lackawanna County, she will attempt to have the part-time podiatrists at the Hospital provide some level of coverage for her patients "if need be." (Id. at p. 9). Dr. Trotts submits that a

daily, five hour commute for a trial in Lackawanna County "would impede [her] ability to care for [her] patients, as cancelling and rescheduling their appointments would interrupt their care." (Kassandra Trotts Depo., Exhibit 1 at ¶ 8).

Dr. Trotts' husband is "a stay-at-home dad" who primarily cares for their two children during the day, and will continue to do so regardless of whether the trial is conducted in Lackawanna County or Mifflin County. (Kassandra Trotts Depo. at pp. 8-9). Nevertheless, she "would drive five hours" each day "to see [her] kids" if the trial is in Lackawanna County so as to minimize her "time away from [her] family." (Id. at p. 11). Dr. Trotts states that a trial in Lackawanna County "would greatly hinder [her] ability to care for [her] family" and "would place a significant hardship on [her] professional and personal life." (Kassandra Trotts Depo., Exhibit 1 at ¶¶ 10-11).

Curley resides 147 miles from the Lackawanna County Courthouse, and practices at the Hospital in Mifflin County, Gray's Woods Clinic, Port Matilda, and Mount Nittany Medical Center, State College, which are situated 133.1 miles, 157 miles, and 152 respectively from the Lackawanna County Courthouse. (Deposition of Veronica Curley dated 1/14/26, attached to Docket Entry No. 30 as Exhibit B, Exhibit 1 at ¶¶ 4-6, 8). She has testified that if the trial is held in Lackawanna County, she "would be forced to stay over with that type of commute." (Id. at p. 14). But, if the trial proceeds in Mifflin County, she will be able to "schedule some of [her] patients before or after court hours" and to "tend to some of [her] administrative tasks," which "can include things like external defibrillators, disability paperwork, short-term disability, long-term disability, FMLA" and comparable matters "because they are things that delay patients' care." (Id. at pp. 9, 14). In contrast, a trial in Lackawanna County "would interrupt the care of [her] cardiac patients, for whom cancellation would result in up to an 8-to-10 month delay in their care." (Veronica Curley Depo., Exhibit 1 a ¶ 12).

Curley's husband is "employed by the Pennsylvania Department of Transportation" as a "heavy equipment operator" who "travels for work," and at least "four, five times per month, easily," he is "required to stay out of town, not including longer trips that could result in him coming home late." (Id. at pp. 10-11). Curley is "the mother of an elementary school-aged son" who "rides the bus home from school," and she asserts that a Lackawanna County trial "would inhibit [her] ability to care for [her] family." (Id. at pp. 11-12, Exhibit 1 at ¶¶ 13-14). She posits that a trial in Mifflin County "would enable [her] to see [her] patients and care for [her] child during the duration of the trial," whereas a Lackawanna County trial "would place a significant hardship on [her] professional and personal life." (Veronica Curley Depo., Exhibit 1 at ¶¶ 15-16).

Younes verifies that her residence and place of employment in Lewisburg, Union County, are 95 miles and 97 miles from the Lackawanna County Courthouse, while the Mifflin County Courthouse is approximately 48 miles from those sites. (Deposition of Jordan Younes dated 1/14/26, attached to Docket Entry No. 30 as Exhibit C, Exhibit 1 at ¶¶ 4-5, 13). She provides "care and treatment to approximately 18-23 patients per day," and submits that a trial in Mifflin County "would enable [her] to see [her] patients and care for [her] home life during the duration of the trial." (Id. at ¶ 7, 13). Younes is "expecting the birth of a child" later this month and "will need to be close to home and [her] treating physicians to care for [her] infant child," particularly since her maternity leave will expire by the date of the scheduled trial from April 12, 2027, to April 23, 2027. (Younes Depo. at pp. 7-8, Exhibit 1 at ¶ 9).

Younes' husband is employed as a painter and "is required to travel approximately once per month for work," and she will be compelled to board the "animal in [her] care" in the event of a Lackawanna County trial. (Id. at pp. 4-5, 7, Exhibit 1 at ¶ 8). She acknowledges that regardless of whether the trial takes place in Lackawanna County or Mifflin County, she will

"have to take off work in order to participate in trial." (Id. at pp. 6-7). However, she asserts that "[a] trial in Lackawanna County, several hours round trip from [her] residence and place of employment, would hinder [her] ability to tend to obligations in [her] home life and impede [her] ability to care for [her] patients, as cancelling and rescheduling their appointments would interrupt their care and place a significant burden on the other providers at Geisinger Lewisburg." (Younes Depo., Exhibit 1 at ¶ 11).

The Hospital's Chief Administrative Officer, Tammy Anderer, has verified that Jessica Gearhart's treatment by Dr. Trotts, Curley, the Clinic, and the Hospital from May 9, 2023, to May 29, 2023, occurred exclusively in Mifflin County, and that her sole encounter with Younes on May 22, 2023, took place in Union County. (Deposition of Tammy Anderer dated 1/14/26, attached to Docket Entry No. 30 as Exhibit D, at pp. 5, 8-9, Exhibit 1 at ¶¶ 2, 6-14, 16). She states that "the potential witnesses, Geisinger Lewistown Hospital professional staff and administrators, sources of proof, including medical records, testing, imaging, non-defendant Geisinger medical care providers, and other third-party medical care provider witnesses noted in the medical records, [a]re overwhelmingly located in Mifflin and Centre Counties," and that "[r]equiring these parties, employees, and witnesses to travel to Lackawanna County would present a significant disruption to their personal and professional lives." (Tammy Anderer Depo., Exhibit 1 at ¶¶ 15, 17). Ms. Anderer represents that a trial in Lackawanna County "will remove them from their offices" and "the care of patients" for the entire "period of time of both commuting and the trial process." (Tammy Anderer Depo. at p. 11). She maintains that the various medical providers' "patients would have to be covered" by other available providers during "the time that they would spend commuting back and forth between Lewistown and

Lackawanna County," which "would interrupt the continuity of the patient care if [patients] wanted to stay with a specific provider."[1] (Id. at pp. 13-14).

In seeking to transfer venue to Mifflin County pursuant to Rule 1006(d)(1), Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes argue that the Gearharts "initiated this action with neither justification nor explanation in Lackawanna County, more than 139 miles distant to where the case arose" and "[n]o witness, allegations, care and treatment are claimed to be located." (Docket Entry No. 23 at pp. 1-2). They note that we previously transferred venue in Leone v. Gusick, 2024 WL 894653 (Lacka. Co. 2024) and Mitchell v. Gentry, 2023 WL 2370015 (Lacka. Co. 2023) based upon the fact that the defendants, witnesses, and sources of proof were located in Lycoming County which is more than 100 miles from the Lackawanna County Courthouse. (Id. at pp. 11-12). Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes contend that the court-ordered depositions "serve to reinforce that Lackawanna County is an oppressive venue for the parties and their witnesses, and that the proper venue for this action is Mifflin County, which is a venue that unquestionably, as the central locale of the alleged events giving rise to this action, 'would provide easier access to witnesses and other sources of proof.'" (Docket Entry No. 30 at p. 3) (quoting Cheeseman v. Lethal Exterminator, Inc., 549 Pa. 200, 213, 701 A.2d 156, 162 (1997)). They argue that the Gearharts' reference to the Montour County situs of Health and the Clinic "is a red herring that distracts from this case's true epicenter of events, which is Mifflin County," as evidenced by the Gearharts' failure

[1] Ms. Anderer also attests that "Geisinger Health, formerly known as Geisinger Health System Foundation," is a "non-profit and non-membership corporation" which "serves as the corporate parent" with a mission "to ensure that Geisinger affiliate entities have adequate financial resources to fulfill their missions and to initiate and administer grant and philanthropic support programs for all Geisinger entities." (Tammy Anderer Depo., Exhibit 1 at ¶ 16 n.1). She further verifies that "Health is not a licensed healthcare provider, does not provide health care services to patients and does not maintain medical records," and "did not employ any individual involved in the medical care and treatment of Ms. Gearhart." (Id.).

to identify any "providers or potential witnesses who regularly work in Danville" or "a single witness or other form of proof located within 100 miles of the Lackawanna County Courthouse." (Id. at pp. 6, 10).

Additionally, Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes submit that "[b]ecause of the respective civil case loads in Mifflin and Lackawanna Counties, public interest factors weigh in favor of venue transfer to Mifflin County." (Docket Entry No. 23 at p. 14). They note that "[a]s of December 31, 2023, Mifflin County had 121 civil cases pending, substantially fewer than Lackawanna County's 2,158," and that "after accounting for the number of judgeships in each county, Mifflin County's average of 60.5 cases per judge is far less than Lackawanna County's 239.78 cases per judge." (Id. & n.7-8). They acknowledge that "Lackawanna County and Mifflin County are similarly efficient in managing civil cases in a timely manner," in that "20.6% of Mifflin County's civil cases are pending for more than 24 months, while 21.6% of Lackawanna County's cases are pending for more than 24 months." (Id. at p. 14 & n.9). Based upon all the relevant factors, they posit that "it is clear that the Lackawanna County Court of Common Pleas is an oppressive venue for all parties and witnesses, and that venue in this matter should be transferred to the Mifflin County Court of Common Pleas." (Id. at p. 14).

The Gearharts contend that "a plaintiff's choice of forum is paramount under Pennsylvania law" and "should rarely be disturbed by the grant of a Rule 1006(d)(1) motion." (Docket Entry No. 24 at pp. 2-3). They allege that Moody v. Lehigh Valley Hospital Center – Cedar Crest, 179 A.3d 496, 507 (Pa. Super. 2018), *app. denied*, 648 Pa. 544, 194 A.3d 117 (2018) "emphasized that plaintiff has ***no burden*** of proving that litigation in his or her chosen forum is more convenient than another proposed forum." (Id. at p. 4) (emphasis in original). The Gearharts represent that "they agree to attend trial in Lackawanna County and do not find

the distance oppressive," and claim that "Lackawanna County is closer to Geisinger Health and Geisinger Clinic than Mifflin County." (Id. at pp. 6-7).

The Gearharts observe that Health "operates Geisinger Community Medical Center in Lackawanna County and employs a multitude of physicians, nurses and other health professionals in Lackawanna County."[2] (Id. at p. 7). They submit that the testimony and affidavits of Dr. Trotts, Curley, Younes, and Tammy Anderer do not establish the requisite "familial and professional hardships" justifying a transfer of venue since those witnesses "would be subject to the same general burdens of litigation regardless of the forum in which this matter is litigated." (Docket Entry No. 31 at p. 4 & n.1). The Gearharts allege that "[a]s the only cognizable burden that [Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes] can rely on is distance, [they] have failed to meet their heavy burden under Rule 1006(d)." (Id. at p. 4).

[2] On January 7, 2023, the Supreme Court of Pennsylvania promulgated Pa.R.Civ.P. 1006(a.1) which provided that "a medical professional liability action may be brought against a health care provider for a medical professional liability claim only in a county in which the cause of action arose," and incorporated the definition of a "medical professional liability action" in Section 5101.1(c) of the Judicial Code, 42 Pa.C.S., that defines it as any claim seeking damages for "injury or death resulting from the furnishing of health care services which were or should have been provided." Hughes v. Wilkes-Barre Hospital Company, 67 Pa. D. & C.5th 377, 386-387 (Lacka. Co. 2017). However, Rule 1006(a) was amended effective January 1, 2023, to eliminate subsection 1006(a.1), such that proper venue in medical professional liability actions is once again governed by Pa.R.Civ.P. 1006(a)-(g). Mazzuca v. Abreu, 310 A.3d 775, 785 n.7 (Pa. Super. 2024). Under Rule 2179(a)(2), venue is proper in an action against a corporation or similar entity in any county where it "regularly conducts business," Pa.R.Civ.P. 2179(a)(2), and in an action where a party seeks "to enforce a joint or joint and several liability against two or more defendants," Rule 1006(c) provides that such an action "may be brought against all defendants in any county in which the venue may be laid against any one of the defendants" under the general venue rules. Pa.R.Civ.P. 1006(c). Since venue is proper as to Health in Lackawanna County under Rule 2179(a)(2), and the Gearharts assert joint and several liability on the part of Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes, venue is proper in Lackawanna County under Rule 1006(c). Shala v. Ryan, 53 Pa. D. & C.4th 129, 135 (Lacka. Co. 2001).

II. DISCUSSION

(A) STANDARD AND SCOPE OF REVIEW

"'Standard of review' and 'scope of review,' although distinct, are not concepts that are considered in isolation from one another." Bowling v. Office of Open Records, 631 Pa. 133, 170, 75 A.3d 453, 475 (2013); Mecca v. Mills, 73 Pa. D. & C.5th 440, 442 (Lacka. Co. 2019). "Scope of review" refers to the confines within which a court must conduct its examination, "or to the matters (or 'what') the [reviewing] court is permitted to examine." Samuel-Bassett v. Kia Motors America, Inc., 613 Pa. 371, 407, 34 A.3d 1, 21 (2011), *cert. denied*, 567 U.S. 935 (2012); KMB Shamrock, LLC v. LNR Reapportionment Commission, 50 Pa. D. & C.5th 259, 268 (Lacka. Co. 2015). "Standard of review" concerns the manner in which (or "how") that examination is to be conducted. Holt v. 2011 Legislative Reapportionment Commission, 614 Pa. 364, 392, 38 A.3d 711, 728 (2012); Kazmierczak v. Taylor Borough Department of Zoning and Code Enforcement, 62 Pa. D. & C.5th 345, 346 n.1 (Lacka. Co. 2017).

"Plaintiffs have long been provided with the initial choice of the court in which to bring an action, if that court has jurisdiction." Bratic v. Rubendall, 626 Pa. 550, 559, 99 A.3d 1, 6 (2014); Horst v. Union Carbide Corp., 49 Pa. D. & C.5th 81, 87 (Lacka. Co. 2015). Although a challenge to improper venue is waivable and must be raised by preliminary objection, *forum non conveniens* as a basis for a change of venue may be asserted by petition "at any time." Kim v. Dept. of Transportation, 270 A.3d 1284, 1291-1292 & n.6 (Pa. Cmwlth. 2022). To that end, Rule 1006(d)(1) states that "[f]or the convenience of parties and witnesses, the court upon petition of any party may transfer an action to the appropriate court of any other county where the action could originally have been brought." Pa.R.Civ.P. 1006(d)(1).

While "'the plaintiff's choice of forum is entitled to weighty consideration,'" Tranter v. Z & D Tour, Inc., 343 A.3d 1106, 1121 (Pa. 2025) (quoting Bratic, 626 Pa. at 560, 99 A.3d at 6-7), "'that right is not absolute'" and "the plaintiff's selection is not unassailable." Id. (quoting Zappala v. Brandolini Property Management, 589 Pa. 516, 532, 909 A.2d 1272, 1281 (2006)). The "doctrine of *forum non conveniens* is 'a necessary counterbalance to ensure fairness and practicality,'" Ritchey v. Rutter's, Inc., 286 A.3d 248, 254 (Pa. Super. 2022) (quoting Okkerse v. Howe, 521 Pa. 509, 517-518, 556 A.2d 827, 832 (1989)), and "provides that a court may resist imposition upon its jurisdiction, even when jurisdiction is authorized by the letter of a general venue statute." Zappala, 589 Pa. at 534, 909 A.2d at 1283; Hughes, 69 Pa. D. & C.5th at 241. As the Supreme Court of Pennsylvania has observed, "[a]lthough Rule 1006(d)(1) speaks of the 'convenience of parties and witnesses,' the doctrine of *forum non conveniens* that is embodied in the Rule concerns more than 'convenience' in the common sense of the word." Tranter, 343 A.3d at 1122. Rather, "the term *forum non conveniens* is actually a misnomer because inconvenience is not enough reason to transfer venue." Moody, 179 A.3d at 507. "In order to overcome the deference due to the plaintiff's choice of venue, 'the defendant must show more than that the chosen forum is merely inconvenient to him.'" Tranter, supra (quoting Cheeseman, 549 Pa. at 213, 701 A.2d at 162).

To warrant a change of venue under Rule 1006(d)(1), "the defendant must demonstrate that the forum is 'oppressive' or 'vexatious.'" Tranter, supra. A defendant may prove "'that the plaintiff's choice of forum is vexatious to him by establishing . . . that the plaintiff's choice of forum was designed to harass the defendant, even at some inconvenience to the plaintiff himself.'" Bratic, 626 Pa. at 561, 99 A.3d at 7 (quoting Cheeseman, 549 Pa. at 213, 701 A.2d at 162); Shala, 53 Pa. D. & C.4th at 136 (same). In the alternative, the defendant may satisfy its burden under Rule 1006(d)(1) by establishing "'that trial in the chosen forum is oppressive to

him; for instance, that trial in another county would provide easier access to witnesses or other sources of proof, or to the ability to conduct a view of premises involved in the dispute.'" Zappala, 589 Pa. at 535, 909 A.2d at 1283 (quoting Cheeseman, supra); Smith v. CMS West, Inc., 305 A.3d 593, 597 (Pa. Super. 2023) (quoting Bratic, supra). But, to establish the requisite oppression, "there is no burden to show near-draconian consequences." Bratic, 626 Pa. at 566, 99 A.3d at 10; Fessler v. Watchtower Bible and Tract Society of New York, Inc., 131 A.3d 44, 49 (Pa. Super. 2015), *app. denied*, 636 Pa. 664, 145 A.3d 166 (2016); Horst, 49 Pa. D. & C.5th at 89.

As for the scope of review governing a request to transfer venue pursuant to Rule 1006(d)(1), the Supreme Court first declared in Cheeseman that "a petition to transfer venue should not be granted unless the defendant meets its burden of demonstrating, with detailed information on the record, that the plaintiff's chosen forum is oppressive or vexatious to the defendant." Cheeseman, 549 Pa. at 213, 701 A.2d at 162; Horst, 49 Pa. D. & C.5th at 88-89. Its "2014 decision in Bratic provided important guidance on the nature of an 'oppressive' venue and the evidentiary showing that a petitioner must provide in order to demonstrate such oppressiveness." Tranter, 343 A.3d at 1123-1124. "Bratic pointed out that affidavits are not even necessarily required" and that "'Cheeseman and Rule 1006(d) do not require any form of proof,'" and confirmed that "'[a]ll that is required is that the moving party present a sufficient factual basis for the petition.'" Id. at 1126 (quoting Bratic, 626 Pa. at 564-565, 99 A.3d at 9). Furthermore, "[t]here is no fixed litmus for the content of a witness affidavit," and "as with the ultimate decision as to whether to transfer venue, the sufficiency of the evidentiary basis is left to the sound decision of the trial court, subject to review for abuse of that discretion." Id.

(B) FORUM NON CONVENIENS UNDER RULE 1006(d)(1)

Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes premise their motion to transfer venue upon Rule 1006(d)(1), and more specifically, the argument that the Gearharts' "chosen forum is oppressive" to them. *See* Fox v. Smith, 211 A.3d 862, 868 n.6 (Pa. Super. 2019), *aff'd*, 669 Pa. 614, 263 A.3d 555 (2021). "Bratic instructs that consideration of the totality of circumstances is critical to the proper resolution of a *forum non conveniens* question." Fessler, 131 A.3d at 49. "The residence of the plaintiffs, indeed, can be a valid consideration, as Cheeseman had 'pointed out that access to witnesses or other sources of proof' was an entirely legitimate factor when determining oppressiveness, and the plaintiffs are certainly 'sources of proof.'" Tranter, 343 A.3d at 1124-1125 (quoting Bratic, 626 Pa. at 563, 99 A.3d at 8 (citing Cheeseman, 549 Pa. at 213, 701 A.2d at 162)).

The Supreme Court has reiterated that as with other relevant factors to a *forum non conveniens* inquiry, "distance alone is not dispositive, but it is inherently part of the equation." Bratic, 626 Pa. at 564, 99 A.3d at 9; Smith, 305 A.3d at 598 (quoting Bratic, supra). "The possibility of oppressiveness grows, however, with each passing mile that witnesses must travel to reach the courthouse." Fessler, 131 A.3d at 49. In its most recent pronouncement in Tranter, the Supreme Court stated that "Bratic deemed it obvious that forcing witnesses to travel one hundred miles to participate in litigation was 'manifestly troublesome,'" and concluded:

> A distance of one hundred miles provides a valuable benchmark for distinguishing between oppressiveness and mere inconvenience. This guideline finds support in the observation that our Rules of Civil Procedure repeatedly use the same distance - - one hundred miles - - as the triggering point for various provisions relating to the conduct and use of depositions, which similarly concern the burdens of requiring witnesses to travel.[footnote omitted]

Tranter, 343 A.3d at 1126.[3] It has also cautioned that "[i]t is not necessary to articulate to a jurist the inherently empirical concept that distance and expedience are inversely proportional," and that "one needs no detailed affidavit to understand the difference in logistics necessitated by a separation of 100 miles." Bratic, 626 Pa. at 564, 99 A.3d at 9.

The Superior Court of Pennsylvania imposed a "key witness" requirement that obligated trial courts to make a threshold determination, before addressing the claimed oppressiveness of a particular forum, whether the particular witness who asserted a hardship would provide testimony that was essential to the defense. Under this approach, the defendant presenting a *forum non conveniens* bore the burden of (a) identifying the allegedly encumbered witness and (b) providing a general statement of what testimony that witness would provide and why that testimony was relevant and necessary to the defense. *See* James v. Wal-Mart Distribution Center, 310 A.3d 316, 320-321 (Pa. Super. 2024); Ehmer v. Maxim Crane Works, L.P., 296 A.3d 1202, 1207-1208 (Pa. Super. 2023). But the Supreme Court in Tranter held that the "imposition and treatment of a 'key witness' requirement bears no resemblance to any aspect of this Court's analyses in Bratic or Cheeseman, or any of our other precedents," and "imposes an excessively high burden upon the defense." Tranter, 343 A.3d at 1114, 1127. *See also*, Duxbury v. Reconstructive Orthopedic Associates II, P.C., 354 A.3d 551, 562 n.8 (Pa. Super. 2026) (stating that Tranter "held that the 'key witness' requirement finds no support in this Court's precedent and imposes an excessively high burden upon the defense, expressly overruling this aspect of Petty [v. Suburban General Hospital, 363 Pa. Super. 277, 525 A.2d

[3] For example, Rule 4008 provides that if a deposition is to be taken at a location more than 100 miles from the courthouse, "the court upon motion may make an order requiring the payment of reasonable expenses, including attorney's fees," and Rule 4020(a)(3)(b) permits a party to use the "deposition of a witness, whether or not a party," at trial if "the witness is at a greater distance that one hundred miles from the place of trial . . . , unless it appears that the absence of the witness was procured by the party offering the deposition." Pa.R.Civ.P. 4008, 4020(a)(3)(b).

1230 (1987)]"). It nonetheless agreed that "[t]he petitioner necessarily must be able to identify the burdened witnesses and to provide the court with a general statement regarding the expected testimony, for such is necessary to establish that the identified individuals are, indeed, potential witnesses," but underscored that "exacting detail on the precise content of future testimony is not and cannot be required, nor are the petitioners obligated to disclose their ultimate legal strategy or to characterize anticipated testimony as 'necessary,' 'critical,' or a 'benefit' to that legal strategy." Tranter, 343 A.3d at 1129.

Plaintiffs opposing Rule 1006(d)(1) petitions have argued that the availability and use of advanced communication technology (ACT) in civil litigation eliminate, or at a minimum mitigate, any oppressiveness caused by the chosen forum. *See* Daniel E. Cummins, "The COVID-19 Pandemic And Its Impact On The Law," *The Pennsylvania Lawyer*, Vol. 45, Issue 2, at p. 40 (March/April 2023) (predicting "that plaintiffs will continue to reasonably argue that the now-regular use of ACT in civil litigation matters serves to ameliorate the inconvenience to remote parties and witnesses such that *forum non conveniens* arguments in this regard should be rejected," and reasoning "that the courts of Pennsylvania will begin to embrace such arguments as valid in the face of the reality of Zoom depositions in the post-pandemic world"). Some of these remote technology arguments met with success in opposing Rule 1006(d)(1) petitions. *See, e.g.*, Ritchey, 286 A.3d at 258-259 (affirming the refusal to transfer venue from Philadelphia County to York County or Cumberland County, and citing the trial court's finding that "the use of technology to conduct remote depositions and garner witness statements has substantially increased since the onset of the COVID-19 pandemic and has become a vital component of pre-trial discovery in civil trials"); Mason-Dixon Resorts, GP, LLC v. Levan, No. 00303 July Term 2021, Tucker, J., at pp. 6-7 (Phila. Co. July 23, 2021) (remarking that "since the COVID-19 pandemic began, litigants and courts have embraced modern

technologies to conduct virtual depositions, hearings, and trials," announcing that "this Philadelphia Commerce Court intends to continue the practice even after the pandemic subsides," and holding that "[a]ll inconvenience and hardship allegedly caused by the 143 mile distance between Adams and Philadelphia Counties is thereby eliminated"). Noting that ACT could be utilized to conduct discovery depositions but not "jury trials" under Lacka. Co. R.C.P. 175(c), we stated that "while the use of ACT in this county may serve to alleviate inconvenience to witnesses during pre-trial discovery, it does not relieve the hardship imposed upon witnesses at trial in Lackawanna County if they reside in faraway regions." Leone, supra, at *13 (quoting Brooks v. Griffy, 2023 WL 6880248, at *6-7 (Lacka. Co. 2023)). The Supreme Court laid this remote technology dispute to rest in Tranter, and declared:

> The plaintiffs' central argument, however, is that no distance is necessarily burdensome because modern technology allows witnesses to testify remotely. We cannot agree. To be sure, virtual court appearance is a valuable tool when live, in-person proceedings cannot occur. Such technology allowed us to keep our courts open during the worst of the COVID-19 pandemic. But it is not an adequate substitute in the ordinary course. Importantly, absent emergency circumstances such as those brought about by the pandemic, our Rules of Civil Procedure do not provide for the virtual appearance of witnesses at trial as a matter of course. The plaintiffs cite no rule that would authorize the solution that they propose. The core of the plaintiffs' argument is premised upon purely hypothetical procedural rules, rather than actual practice in Pennsylvania courts.
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> * * *
>
> The most significant problem with the plaintiffs' reliance upon remote testimony, however, is that it lacks any limiting principle. If every assertion of the oppressiveness of a venue is met with a suggestion of virtual litigation, then the doctrine of *forum non conveniens* would meet its end. Indeed, plaintiffs appear to acknowledge that this would be the case. We decline the plaintiffs' invitation to depart so radically from well-established law . . . Were we to dismiss the defendants' concerns for witness hardship by mere reference to remove testimony, we would effectively be eliminating the doctrine of *forum non conveniens* from Pennsylvania law. We decline to do so.

Tranter, 343 A.3d at 1130-1131.

The evidence submitted by the parties reflects that Dr. Trotts, Curley, and Younes work more than 130 miles from the Lackawanna County Courthouse, but less than two miles from the Mifflin County Courthouse. A two-week trial in Lackawanna County will force them to cancel or reschedule their patients' appointments, or in the case of Dr. Trotts, attempt to see if a part-time podiatrist at the Hospital can attempt to provide some level of coverage for her. If the trial is conducted in Mifflin County, they likewise will be away from their offices during regular court hours, but unlike a Lackawanna County trial, will remain available to see some patients and to complete administrative responsibilities in the early morning before trial and during the evening hours after court is recessed. Dr. Trotts and Curley both reside more than 135 miles from the Lackawanna County Courthouse, while Younes' residence is located slightly less than 100 miles from our courthouse. Since Dr. Trotts has two children under the age of five years, she will opt to commute to and from Lackawanna County each day in order to spend time with her preschooler children. Curley intends to stay overnight in Scranton if the trial proceeds in Lackawanna County, which will prevent her from seeing her school-aged son for an extended period of time. Younes' child will be ten-months old at the time of the scheduled trial, and her presence in Lackawanna County would deprive her of contact with her infant child for approximately 10 days.

The relevant care and treatment in this case occurred primarily in Mifflin County, and on one stated occasion, in Union County. No treatment or other pertinent event took place in Lackawanna County, nor has any Lackawanna County witness or documentary evidence been identified. To the contrary, the witnesses and other sources of proof are all situated in Mifflin County or Centre County, and the registered business address for Health and the Clinic is located in Montour County.

The record presented by the parties indicates that a trial in Lackawanna County will cause considerable hardship for Dr. Trotts, Curley, and Younes and their ability to treat their patients and maintain a healthy continuity of care. A trial more than 130 miles from their places of employment also will create significant logistical difficulties in their professions and cause marked stress and strain for their personal lives and relationships with their families. Dr. Trotts, Curley, Younes, Health, the Clinic, and the Hospital have satisfied their burden of demonstrating that Lackawanna County is an oppressive forum for them and their anticipated witnesses, and that the remaining litigation and eventual trial of this action in Court of Common Pleas of Mifflin County will provide easier access to material witnesses and other sources of proof.

As for the public interest factors cited by the defense, "Cheeseman made clear that court congestion is not a sufficient basis for granting a transfer of venue under Rule 1006(d)(1)." Tranter, 343 A.3d at 1123. Bratic stated that "Cheeseman merely corrected the practice that developed in the lower courts of giving excessive weight to 'public interest' factors when ruling on a *forum non conveniens* motion," and concluded that any such considerations "are not determinative" and "are only a factor insofar as they bear directly on the ultimate test" of oppressiveness. Bratic, 626 Pa. at 561, 99 A.3d at 8; Hyun Jung Lee v. Thrower, 102 A.3d 1018, 1022 (Pa. Super. 2014). It declared that court congestion may be considered "if the congestion contributes to the oppressiveness of the chosen forum," but that it "is not sufficient in itself to justify a change of venue." Tranter, 343 A.3d at 1124 n.64; Bratic, 626 Pa. at 562, 99 A.3d at 8. For example, in finding that the trial court abused its discretion in transferring venue from Philadelphia County to York County, Fessler noted that York County at that time "ha[d] the largest civil case backlog in Pennsylvania," as a result of which a "[t]ransfer to York

County could significantly delay trial" that had already been scheduled in Philadelphia County. Fessler, 131 A.3d at 52.

In support of their contention that public interest factors militate in favor of a transfer of venue, Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes state that in 2023, Lackawanna County had 2,158 pending cases (or 239.78 cases per judge) while Mifflin County had only 121 civil actions pending (or 60.5 cases per judge), with both counties having slightly more than 20% of their civil action inventories pending for more than 24 months.[4] (Docket Entry No. 23 at p. 14 & n.7-9). In the more recent Annual Caseload Statistics Report published by the Administrative Office of Pennsylvania Courts (AOPC), Lackawanna County had 2,504 civil actions pending as of December 31, 2024, with 16.33% of the cases in that inventory pending for more than 24 months. (*See* https://www.pacourts.us/Storage/media/pdfs/20251209/1955420-lackawannacounty.pdf). The Court of Common Pleas of Mifflin County had 165 civil actions pending by year end, with 14.55% of those cases pending for more than 24 months. (*See* https://www.pacourts.us/Storage/media/pdfs/20251209/195417-mifflincounty.pdf). The 2024 report for Mifflin County indicates that the 130 civil actions processed in 2024 were closed in the following manner: 64 default judgments; one compulsory

[4] "On February 14, 2023, the Administrative Office of Pennsylvania Courts (AOPC) issued a mandate to all civil courts throughout Pennsylvania to reduce the backlog of older civil cases," Matey v. Hahn, No. 2015-02934, Trauger, J., at p. 3 (Bucks Co. Oct. 3, 2023), "and announced that the Supreme Court of Pennsylvania had established a benchmark requiring no more than 25% of a judicial district's civil case inventory to be pending for more than 24 months." Graziano v. Huggler, 2024 WL 2133337, at *5 n.5 (Lacka. Co. 2024). "Since the Court of Common Pleas of Lackawanna County was not in compliance with that 25% benchmark, the undersigned was authorized by the President Judge on April 28, 2023, to devise measures to address the age of the pending civil case inventory" by the AOPC's deadline of May 1, 2023. Slice, Slice Baby, LLC v. Armetta, 2025 WL 1557341, at *3 (Lacka. Co. 2025). "A series of case management initiatives were implemented in an effort to expedite the disposition of pending cases and to administratively close dormant or concluded cases." DK Trading Corporation v. Great Lakes Tissue Co., Inc., 2026 WL 313171, at *1 (Lacka. Co. 2026). As a result of several multi-faceted remedial measures initiated in May 2023, only 21.57% of Lackawanna County's civil action inventory was pending for more than 24 months" as of December 31, 2023, Leone, supra, at *13, and by December 31, 2024, that benchmark number was reduced further to 16.33%. Slice, Slice Baby, LLC, supra, at *3. "As of December 31, 2025, 19.14% of all civil actions in Lackawanna County were pending for more than 24 months, well below the AOPC benchmark of 25%." DK Trading Corp., supra, at *2.

arbitration hearing; five settlements; 58 dismissals; two administrative purges; zero jury trials; and zero non-jury trials. (Id.).

As we previously noted when discussing the public interest factors in Leone, "Lackawanna County achieved those caseload results with two judges assigned to civil cases full-time and an additional judge assigned 50% to civil court, but since October 2023, this county only has two judges assigned to civil cases." Leone, supra, at *13. Leone questioned "whether Lackawanna County will be capable of maintaining its foregoing civil case efficiency with only two of its current eight full-time judges assigned to civil court." Id. At present, two Lackawanna County judges are assigned to civil court on a full-time basis, with a third judge dividing his judicial time equally between family court and civil court, and, fortunately, our civil case closure rate has remained below the 25% benchmark, albeit with declining efficiency success.[5]

Based upon the available data from 2023 and 2024, the public interest considerations cited by Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes do not weigh in favor of or against transferring venue to Mifflin County. The statistical data relied upon by them appears relatively neutral with respect to the efficiency of either forum, and does not support the conclusion that "congestion contributes to the oppressiveness" of Lackawanna County as

[5] Leone referenced the fact that in 2013 the AOPC conducted a statewide common pleas "judicial needs assessment or weighted caseload study," which "quantifies the time it takes a judge to process cases" and "provides an objective and clear measure of actual workload" in order to determine "the number of judges needed to process that caseload" and "resolve current and future cases coming before the bench in a given county." Id. at n.6. The 2013 "Common Pleas Judicial Needs Assessment Project" completed by the AOPC "calculated Lackawanna County's judicial demands for each division to be: Civil Judge Demand – 2.8 judges; Criminal Judge Demand – 2.05 judges; Family Judge Demand – 1.65 judges; Juvenile Judge Demand – .82 judge; and Orphans' Court Judge Demand - .27 judge." Id. The AOPC, in collaboration with the National Center for State Courts, conducted another judicial needs assessment study in 2024, which determined Lackawanna County's full-time equivalence needs or judicial demands for each division as: Civil – 2.78 judges; Criminal – 2.28 judges; Domestic Relations – 1.66 judges; Juvenile – .86 judge; and Orphans Court - .30 judge. *See* "Pennsylvania Judicial Needs Assessment: 2024," *National Center for State Courts*, at p. 35 (https://www.pacourts.us/Storage/media/pdfs/20250501/170712-153451-ncscfinalreport.pdf).

the chosen forum. *See* Bratic, 626 Pa. at 562, 99 A.3d at 8. Therefore, the AOPC caseload statistics submitted by Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes do not "bear directly on the ultimate test" of oppressiveness. Id. at 561, 99 A.3d at 8.

The totality of the relevant circumstances, including the identified distances which exceed the "valuable benchmark" of 100 miles for "distinguishing between oppressiveness and mere inconvenience," warrant the transfer of venue in this matter on *forum non conveniens* grounds. Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes have furnished "detailed information on the record" and "a sufficient factual basis" supporting the conclusion that Lackawanna County is an oppressive forum for them and their witnesses. Their evidentiary submissions "identify the burdened witnesses" and provide "a general statement" of their anticipated testimony as named parties. Mifflin County will "provide easier access to witnesses or other sources of proof," such as Dr. Trotts, Curley, Younes, the Gearharts, and their medical providers. Consequently, the motion to transfer venue pursuant to Pa.R.Civ.P. 1006(d)(1) will be granted, and this action will be transferred to the Court of Common Pleas of Mifflin County, with any costs and fees associated with the transmission of the record being paid by Health, the Clinic, the Hospital, Dr. Trotts, Curley, and Younes in the first instance under Pa.R.Civ.P. 1006(d)(3) and subject to their taxation as costs pursuant to 42 Pa.C.S. § 1726(a)(2) in the event that they prevail in this case. An appropriate Order follows.

JESSICA AND ADAM GEARHART, H/W,	:	IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY
Plaintiffs	:	NO. 2025 CV 44
v.	:	
GEISINGER HEALTH, GEISINGER CLINIC, GEISINGER LEWISTOWN HOSPITAL, KASSANDRA TROTTS, DPM, VERONICA CURLEY, CRNP, and JORDAN YOUNES, PA-C,	:	
Defendants	:	

LACKAWANNA COUNTY
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ORDER

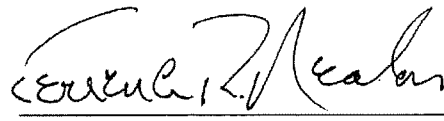
AND NOW, this 5th day of June, 2026, upon consideration of "Defendants' Motion for *Forum Non Conveniens* to Transfer Venue Pursuant to Pa.R.Civ.P. 1006(d)," "Plaintiffs' Response in Opposition to Defendants' Motion for *Forum Non Conveniens* to Transfer Venue Pursuant to Pa.R.Civ.P. 1006(d)," "Defendants' Brief in Support of Their Motion for *Forum Non Conveniens* to Transfer Venue Pursuant to Pa.R.Civ.P. 1006(d)," the "Brief in Support of Plaintiffs' Response in Opposition to Defendants' Motion for *Forum Non Conveniens* to Transfer Venue Pursuant to Pa.R.Civ.P. 1006(d)," "Defendants' Supplemental Brief in Support of the Motion for *Forum Non Conveniens* to Transfer Venue," the "Supplemental Brief in Support of Plaintiffs' Response in Opposition to Defendants' Motion for *Forum Non Conveniens* to Transfer Venue Pursuant to Pa.R.Civ.P. 1006(d)," and the deposition transcripts, affidavits, and exhibits submitted by the parties, and based upon the factual findings and legal reasoning set forth in the foregoing Memorandum, it is hereby ORDERED and DECREED that:

1. "Defendants' Motion for *Forum Non Conveniens* to Transfer Venue Pursuant to Pa.R.Civ.P. 1006(d)" is GRANTED and venue in this matter is transferred to the Court of Common Pleas of Mifflin County under Pa.R.Civ.P. 1006(d)(1);

2. In accordance with Pa.R.Civ.P. 1006(d)(3), the Lackawanna County Clerk of Judicial Records, Lauren M. Bieber Mailen, shall forward to Tammy Stuck, Prothonotary and Clerk of Courts, Court of Common Pleas of Mifflin County, Mifflin County Courthouse, 20 North Wayne Street, Lewistown, PA, 17044, certified copies of the docket entries, process, pleadings, discovery, and other papers filed in the above-captioned case; and

3. The costs and fees associated with the removal and transfer of the record to the Court of Common Pleas of Mifflin County shall, pursuant to Pa.R.Civ.P. 1006(d)(3), be paid by defendants, Geisinger Health, Geisinger Clinic, Geisinger Lewistown Hospital, Kassandra Trotts, DPM, Veronica Curley, CRNP, and Jordan Younes, PA-C, in the first instance, subject to their taxation as costs under 42 Pa.C.S. § 1726(a)(2) in the event that judgment is ultimately entered in favor of those defendants.

BY THE COURT:



J.

Terrence R. Nealon

cc: *Written notice of the entry of the foregoing Order has been provided to each party pursuant to Pa. R.Civ.P. 236(a) and (d) by transmitting time-stamped copies via electronic or regular mail to:*

Andrew Marth, Esquire — andrew.marth@thebeasleyfirm.com
The Beasley Firm, LLC
1125 Walnut Street
Philadelphia, PA 19107-4997
Counsel for Plaintiffs

Frank J. Brier, Esquire — fbrier@mbklaw.com
Frederick J. Lokuta, Esquire — flokuta@mbklaw.com
Myers, Brier & Kelly, LLP
425 Biden Street, Suite 200
Scranton, PA 18503
Counsel for Defendants