

**Case Name:** Robert Barr v. National Railroad Passenger Corporation (Amtrak)

**Date Decided:** October 28th, 2009

**Originally Filed in:** Pennsylvania (State)

**Decided by:** Pennsylvania Eastern District Court (Federal)

**Court:** U.S.D.C. Eastern District of Pennsylvania

**Judge:** Judge Tucker

**Citation:** 2009 WL 3497776 (E.D.Pa.)

**Background:**

Plaintiff, Robert Barr ("Barr"), filed this action under the Federal Employers' Liability Act ("FELA") alleging that he suffered a back injury while working for defendant, Amtrak. Barr initiated this matter in a Philadelphia Court of Common Pleas on February 8, 2007. The court dismissed this action pursuant to the forum non conveniens doctrine and ordered refiling in Delaware court. Amtrak filed this motion to transfer venue alleging that the District Court for the District of Delaware is appropriate because the witnesses, parties, and evidence involved in the lawsuit are all located in Delaware. It would also be unfair for Pennsylvania jurors to sit on the case because it has no relationship to the witnesses or the cause of action.

**Issue:**

Did this Court find that the Delaware Court was a more appropriate forum than Pennsylvania?

**Overall Issues Discussed or Touched Upon in this Case:**

- *Venue Issues*

**Held:**

Generally, district courts are permitted to transfer a case to another venue, within its discretion, where the case could have been brought for the convenience of the parties and witnesses in the interest of justice. The primary concern of the forum non conveniens is avoiding a plaintiff's temptation to resort to strategy of forcing the trial at the most inconvenient place for an adversary. Generally, the burden is on the moving party to establish the need for transfer. First, the Courts will establish that the (1) current and (2) proposed venues are proper and will then weigh public and private interests in play. This Court then held that the Delaware and Pennsylvania venues are qualified as proper. As to the second prong, the Court found that the close proximity of the venues narrowed the factors to the (1) preference of the plaintiff and defendant (2) where the cause of action arose (3) local interest in deciding local controversies and (4) familiarity of the judge with the applicable law. Amtrak argued that Delaware was proper because he injury occurred in Delaware and Delaware possesses the local interest in deciding local controversies. However, FELA expressly grants Barr the right to file in 1 of 3 locations. (1) Where Defendant resides (2) where the injury occurs and (3) where defendant does business. This Court held in favor of Barr by reasoning that doing otherwise would make

the plaintiff's choice of forum meaningless.

**Comments:**

This Court determined that the convenience factors of the forum non conveniens doctrine were inapplicable because the Delaware and Pennsylvania courts were so close together. As such, absent a strong local interest of Delaware to hear the action, this Court found in favor of the plaintiff because FELA allowed Barr to file the action in Pennsylvania. Steve Gordon