



## Alerts

### Deciphering Forum Non-Conveniens: Global Law Firm Headquarters' Location Deemed a Convenient Forum

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#### Brief Summary

Plaintiffs Lehram Capital Investments (“Lehram”) and Daniel Rodriguez (“Rodriguez”) (collectively “plaintiffs”) filed a lawsuit against Baker & McKenzie LLP (“Baker” or “defendant”) for legal malpractice related to the ownership of a salt mine located in Russia (“underlying action”). Lehram is a London-based business that hired Baker to perform legal work in multiple countries.

Baker is an international law firm headquartered in Chicago, Illinois that the plaintiffs retained because of Baker’s global reach. Baker has an office in London and, at the time of the underlying action, was affiliated with attorneys in Moscow at Baker & McKenzie CIS-Limited (“Baker CIS”). Baker CIS employed the attorneys who allegedly committed the malpractice.

After the plaintiffs filed suit, Baker filed a motion to dismiss based on *forum non conveniens*, arguing the case should be adjudicated in Moscow. After the court denied that motion, Baker supplemented its motion to argue that London was a more convenient forum. The trial court denied the motion, finding that Cook County and London were both adequate and available forums. The court concluded that Baker failed to meet its burden to prove that the factors considered in such a motion strongly weighed in Baker’s favor. The appellate court affirmed.

#### Complete Summary

In Illinois, a court may decline to hear a case under the *forum non conveniens* doctrine when another forum would better serve the ends of justice and be more convenient. This is an exceptional remedy and only occurs when the defendant shows the relevant factors greatly weigh in its favor. Less deference is given to a plaintiff’s chosen forum when the plaintiff is not a resident of the forum it selects.

Here, the plaintiffs are a London-based business and a Spanish citizen who retained Baker because of its global reach. The plaintiffs retained attorneys at Baker’s London office, and, in turn, they directed the plaintiffs to their affiliate attorneys in Moscow. The plaintiffs were seeking to recover their ownership interest in a Russian salt mine that was controlled by an organized crime group

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with ties to London. The attorneys at Baker's Russian office allegedly filed the plaintiffs' lawsuit in the wrong court in Russia, which resulted in the suit being time-barred.

Baker is headquartered in Chicago, Illinois, and is organized as a Swiss Verein business structure with member firms around the world. The plaintiffs alleged that under this structure, there "appears to be one unified body of thousands of lawyers in dozens of domestic and international offices holding themselves out to the public as 'Baker & McKenzie.'"

For its motion, Baker was determined to have a legal unity of liability with all the defendants. The trial court concluded, and the appellate court affirmed that both Cook County and London were adequate and available forums. Thus, Baker established this threshold, showing that London could be an appropriate forum. However, Baker failed to show that the convenience factors strongly outweighed the plaintiffs' right to choose their forum.

## Private Interest Factors

When there are multiple available forums, the court considers both private and public interest factors when determining whether to dismiss a case under *forum non conveniens*. For private interest factors, the court considers the convenience of the parties, the relative ease of access to sources of evidence, as well as the practical problems that make the trial of a case easy, expeditious, and inexpensive.

Baker argued the private interest factors favored London because there were no witnesses to the underlying events in Illinois, important witnesses were in London, and Russia and Spain were closer to London than Illinois. Baker also argued that the litigation was not linked to Cook County.

The plaintiffs argued the private interest factors strongly favored Cook County because Baker is headquartered there and Baker holds itself out as a global law firm, Lehram does not have a physical location in London, the discovery could be conducted from Cook County, and there were several essential witnesses regarding Baker's structure in Cook County. The trial court concluded that:

- (1) neither London nor Chicago was convenient,
- (2) the expense of traveling would be relatively the same,
- (3) technology makes it easier to conduct discovery, and
- (4) the mine would likely not be able to be viewed regardless of the forum. The trial court concluded the private interest factors did not strongly favor transfer, and the appellate court affirmed.

## Public Interest Factors

Public interest factors include the interest in deciding controversies locally, the unfairness of imposing the trial expense and burden of jury duty on residents of a forum that has little connection to the litigation, and the administrative difficulties presented by adding litigation to an already congested court docket.

Baker argued that London had a greater interest in the dispute because Lehram is based in London, and Russian law would need to be analyzed. London has such experience. Baker also argued that London judges are better equipped for this case than a Cook County jury, that Cook County has little connection to the case, and the only connection to Cook County is that Baker is headquartered there.

Plaintiffs argued that Cook County has an interest in deciding a controversy of a global law firm's alleged malpractice when that firm is headquartered in Chicago, that London does not have an interest in applying Russian law, and that jury trials have resumed. The trial court found that the public interest factors did not strongly favor adjudicating the case in London. The appellate court affirmed, stating that Moscow would be the preferred forum but that Cook County residents have an interest in the litigation. Also, Baker is headquartered in Chicago. In sum, when the factors are balanced, the appellate court concluded it was not unreasonable for the trial court to hold that Cook County was an appropriate forum.



## Significance of Decision

When the location of injury is not an available or adequate forum, it can be difficult to determine the next best location. Deference is afforded to a plaintiff's choice of forum. When attempting to disrupt a plaintiff's choice, defendants face a heavy burden of showing that the factors to be considered strongly weigh in favor of dismissal and transfer of a case.

Also, this case demonstrates that a global law firm's headquarters can be an important consideration in determining the most convenient forum when that law firm is alleged to have a legal unity of liability for all of its international branches and affiliates.

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Several iterations/affiliates of Baker & McKenzie were sued by plaintiffs. However, Baker & McKenzie LLP was the only defendant who was served and answered the complaint.