

CHALLENGING PLAINTIFF'S CHOICE OF JURISDICTION LEADS TO CASE DISMISSAL

Sometimes the best litigation strategy is to find a way not to litigate.

Recently, a Plunkett Cooney client faced a significant claim filed in one of Michigan's circuit courts. The case involved goods and services, and the plaintiff alleged numerous torts and contractual breaches while seeking substantial damages.

The plaintiff was based in Michigan, but the firm's client was not, although the company had been doing business in the state for years. Further compounding the difficulty of the case, were the facts that the actions underlying the plaintiff's claims allegedly took place outside Michigan and most of the potential witnesses and records were located in another state.

Faced with the prospect of litigating in the plaintiff's home court, but recognizing that the plaintiff's choice of forum is typically given deference, particularly when the only other choice is the defendant's home court, Plunkett Cooney, nonetheless, recommended that our client fight the choice of venue and seek to have the case dismissed on jurisdictional grounds. This would force the plaintiff to litigate in the other state or drop the claim entirely.

Working closely with our client, Plunkett Cooney's legal team narrowed the issues by focusing upon, and discounting the significance of, our client's prior business activities in Michigan. The legal team then highlighted the lack of contacts in Michigan that related to the plaintiff's claims. Next, the team drafted a compelling factual affidavit for our client to sign, wrote a legal brief informing the court of the merit of our client's objections, and prepared to head to court.

While the burden is typically on the defendant in such cases, after reading Plunkett Cooney's written submissions, the court actually challenged the plaintiff to justify its reasoning for suing in Michigan and not in our client's home state. When the plaintiff could not answer the court's challenge, the case was dismissed in its entirety.

Plunkett Cooney's recommendation to challenge the court's jurisdiction paid dividends for our client. We avoided protracted litigation in the wrong forum, saving our client valuable time and inconvenience, and achieved a speedy resolution of an otherwise potentially costly case.