

“Key Witnesses” No More: The Pennsylvania Supreme Court Restores Traditional Forum Non Conveniens Doctrine

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Today, the Supreme Court of Pennsylvania issued its long-awaited opinion in *Tranter v. Z&D Tour, Inc.* clarifying the standard to transfer venue under the doctrine of *forum non conveniens*. *Tranter* concerned a consolidated lawsuit venued in Philadelphia regarding a multi-vehicle collision in Westmoreland County, Pennsylvania. The Superior Court reversed the trial court’s grant of the defendants’ motion to transfer venue under the doctrine of *forum non conveniens* finding that, although the defendants had submitted affidavits attesting to the hardship attendant to witnesses being forced to travel hundreds of miles to testify in Philadelphia, these affidavits were legally insufficient because they did not identify the affiants as “key witnesses” who would provide “relevant and necessary” testimony “critical to their defenses.”

Most significantly, the *Tranter* court clarified that the “key witness requirement” imposed by the Superior Court is unsupported by Pennsylvania Supreme Court precedent and “imposes an excessively high burden upon the defense.” The Court held that, so long as the witnesses identified have relevant information, the burden imposed on them can be considered whether or not these witnesses are “key to the defense.” With the elimination of the key witness requirement, the Supreme Court re-reviewed the trial court’s determination and held that the 200-mile distance between Westmorland County and Philadelphia County, in and of itself, was sufficient to find that litigation in Philadelphia was “oppressive” within the meaning of past Supreme Court precedent and that transfer was appropriate.

This decision provides important clarification and guidance for Pennsylvania courts as to a petitioner’s burden in seeking transfer of venue under the doctrine of *forum non-conveniens*. This decision restores the traditional *forum non conveniens* analysis and should make it easier for defendants to challenge venue.

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