

majority of witnesses, therefore, are likely located in Montgomery County.

The citizens of Prince George's County, and this Circuit Court should not be needlessly burdened with the trial of this matter. Pursuant to Maryland Rule 2-327(c), and in the interest of justice and for the convenience of the parties, this case should be transferred to the Circuit Court for Montgomery, County, Maryland.

WHEREFORE, Defendants _____, M.D., _____, USA,
PC, _____, LLC and _____, LLC t/a _____

_____, respectfully request the entry of an Order Granting the Motion to Transfer this action to the Circuit Court for Montgomery County, Maryland, and granting such other and further relief as justice and its cause require.

Respectfully submitted,

_____, CHARTERED

Counsel for the Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion to Transfer was mailed, postage prepaid, this 29th day of June, 2012 to:

Rodney Gaston, Esquire
Miller & Zois
7310 Ritchie Highway, Suite 1001
Glen Burnie, MD 21061

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

	:	
	:	
Plaintiff	:	
v.	:	Civil Action No.
	:	
, M.D.	:	
And	:	
	:	
, PC	:	
And	:	
	:	
(MD) LLC	:	
And	:	
	:	
	:	
	:	
Defendants	:	

MEMORANDUM OF GROUNDS AND AUTHORITIES IN SUPPORT OF MOTION TO TRANSFER

Defendants, , M.D., , USA, PC,
(MD), LLC and , LLC t/a

pursuant to Maryland Rules 2-327(c), file this Memorandum in Support of their Motion to Transfer. As detailed below, the case should be transferred to the Circuit Court for Montgomery County.

BACKGROUND

This is a medical malpractice action filed by Plaintiff, , arising from the treatment and care provided by Dr. to Ms. 's mother, at

Hospital from _____ until her death on _____.
Hospital is located in _____, Montgomery County, Maryland. Dr. _____
only saw Ms. _____ at _____ Hospital in Montgomery
County, Maryland. Dr. _____'s treatment of Ms. _____ has no connection to Prince
George's County, Maryland.

Ms. _____ filed this lawsuit in the Maryland Health Care Alternative Dispute Resolution
Office ("HCADRO") on April _____, _____ (HCA No.: 2012-156). See Exhibit B – Statement of
Claim dated April _____, _____. On April _____, _____, the director of the Maryland HCADRO ordered, *ex*
parte, that this matter be transferred to the Circuit Court for Prince George's County. See
Exhibit C – Order of Transfer dated April _____, _____. On April _____, _____, the Plaintiff filed the
underlying Complaint in this matter, in this Court. See Exhibit A – Complaint.

This case should be transferred to Montgomery County on *forum non conveniens*
grounds, under Maryland Rule 2-327(c), because the vast majority of witnesses, including most
of the relevant treating physicians, are located at _____ Hospital in Montgomery
County. Further, Montgomery County is where all of the events that form the basis of Plaintiffs'
claims allegedly occurred. (Compl. at ¶¶ 8-17).

This Court and the citizens of Prince George's County should not be needlessly burdened
with the trial of this action. Under all these circumstances, under the applicable venue statute, in
the interest of justice and for the convenience of the parties, this case should be transferred to the
Circuit Court for Montgomery County, Maryland.

ARGUMENT

I. THIS ACTION SHOULD BE TRANSFERRED TO MONTGOMERY COUNTY FOR FORUM NON CONVENIENS

The defendants move to transfer the case to Montgomery County under Maryland Rule 2-

327(c), which provides that, “[o]n motion of any party, the court may transfer any action to any other circuit court where the action might have been brought if the transfer is for the convenience of the parties and witnesses and serves the interests of justice.”

The transfer of this action to Montgomery County is appropriate here pursuant to the balancing test of the forum non conveniens doctrine. Specifically, in *Odenton Development v. Lamy*, the Court of Appeals adopted a balancing test that weighs “the convenience of the witnesses and those public-interest factors of systemic integrity and fairness that, in addition to private concerns, come under the heading of ‘the interest of justice,’” and declared that when determining this balance “a court is vested with wide discretion.” 320 Md. 33, 40, 575 A.2d 1235, 1238 (1990). Although the moving party bears the burden of proving that the balance of these factors “weighs strongly” in its favor, the Court noted specifically that “proper regard for the plaintiff’s choice of forum” is not a separate element in the *Odenton Development* analysis, as it is under federal law. *Urquhart v. Simmons*, 339 Md. 1, 18 n.7, 660 A.2d 412, 420 n.7 (1995). Furthermore, a plaintiff’s choice of forum can be given less deference if “a plaintiff’s choice of forum has no meaningful ties to the controversy and no particular interest in the parties or subject matter.” *Stidham v. Morris*, 161 Md.App. 562, 569, 870 A.2d 1285, 1289-90 (2005) (citations omitted).

Applying these principles to the present action, the balance of relevant factors weighs strongly in favor of transfer to Montgomery County because that County is more convenient for both witnesses and parties, both private and public interests of justice favor trial there, and any meaningful ties to the controversy exist there, and not in Prince George’s County.

A. Montgomery County is More Convenient for Parties and Witnesses

All events occurred at

Hospital in Montgomery County, Maryland.

See Exhibit A – Complaint at paragraph 8. Montgomery County is the most convenient venue because the vast majority of witnesses are located there, at least during the work week, when they would likely be called to testify at trial.

Additionally, Dr. _____ is employed in Montgomery County, Maryland, and engages in a regular business in Montgomery County. Montgomery County is the locus of the events that form the basis of Plaintiffs' claims, so most witnesses, including Ms. _____'s treating physicians, will come from Montgomery County. Accordingly, Montgomery County would be a more convenient venue than Prince George's County for the parties and witnesses.

B. Both Public and Private Interests of Justice Favor Transfer

1. Transfer Will Make Trial Easier, Quicker, and Less Expensive for the Private Parties Involved

The "private concerns" within "the interest of justice" of the *Odenton Development/2-327(c)* balancing test include "the relative ease of access to sources of proof . . . the cost of . . . witnesses . . . and all other practical problems that make trial of a case easy, expeditious, and inexpensive." *Stidham*, 161 Md.App. at 569, 870 A.2d at 1289. As explained above, Dr.

_____ and the majority of the witnesses and health care providers are located at _____ Hospital in _____ Montgomery County, Maryland. _____ is also the location where the cause of action arose, so transferring this case to that venue would bring any necessary evidence or testimony closer to the location of trial, thus reducing time and expense of any necessary travel. These factors, thus, weigh heavily in favor of transferring this action to Montgomery County.

2. Transfer Will Properly Distribute The Public Burden of Trial

The "public interest" factors similarly strongly favor the transfer of this case to Montgomery County. The "public interests" within "the interest of justice" of the *Odenton*

Development/2-327(c) balancing test include “considerations of court congestion, the burdens of jury duty, and local interest in the matter.” *Id.* The Court of Appeals has warned that “[a]dministrative difficulties follow for courts when litigation is piled up in congested centers instead of being handled at its origin.” *Johnson v. G.D. Searle & Co.*, 314 Md. 521, 526, 552 A.2d 29, 31 (1989). The origin of the current action lies in Montgomery County, not in Prince George’s County, Maryland. The administrative burden of handling this case, therefore, more appropriately lies with the Circuit Court for Montgomery County, Maryland.

Furthermore, “[j]ury duty is a burden that ought not to be imposed upon the people of a community which has no relation to the litigation.” *Id.* This action has nothing to do with the Prince George’s County community. The residents of Prince George’s County who would serve as jurors should not be forced to spend time and resources on a foreign matter. And perhaps most importantly, “[t]here is a local interest in having localized controversies decided at home.” *Id.* The Courts and residents of Montgomery County should have the opportunity to decide the facts of a matter occurring in one of their hospitals – Hospital in

, Montgomery County, Maryland. There is a strong local interest in seeing this action resolved properly since Montgomery County residents are most affected by its outcome.

As a result, this Court and the citizens of Prince George’s County should not be burdened with the trial of this action. Under all these circumstances, in the interest of justice and for the convenience of the parties, this case should be transferred to the Circuit Court for Montgomery County.

CONCLUSION

The considerations of convenience for the parties and in the interest of justice that must be considered under Rule 2-327(c) weigh heavily in favor of Montgomery County as the most

appropriate venue for this action. Accordingly, this case should be transferred to the Circuit Court for Montgomery County.

Respectfully submitted,

Counsel for the Defendants

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