UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0080

September Term, 2014

NADINE EDWARDS, *et al.*

v.

MARYLAND PROVO-I MEDICAL SERVICES, P.C., *et al.*

Eyler, Deborah S.
Leahy,
Sharer, J. Frederick
(Retired, Specially Assigned),

JJ.

Opinion by Leahy, J.

Filed: June 10, 2015

This appeal is from the grant of a motion to transfer venue of a tort action for wrongful death and medical negligence filed in the Circuit Court for Baltimore City. After her husband, Jay Edwards, died from injuries sustained in an automobile accident, Nadine Edwards filed the tort action as the personal representative of the Estate[1] and, in her individual capacity as a wrongful death beneficiary, named the Edwards's three children, Dawn, Kevin, and Dorian Edwards, as use plaintiffs (collectively, "Appellants").[2] The action was filed against Dr. Patricia Melton, Dr. Sylvanus Oyogoa, and Maryland Provo-I Medical Services, P.C. ("Defendants" or "Appellees").[3]

The Circuit Court for Baltimore City transferred the case to Baltimore County where the automobile accident occurred on the evening of September 24, 2010, and where Mr. Edwards was initially treated by Dr. Melton and Maryland Provo-I at Northwest Hospital. After some initial tests, Dr. Melton determined that Mr. Edwards could not be treated at Northwest. Mr. Edwards was transferred at 2:00 a.m. to Sinai

[1] The estate of Mr. Edwards brings the medical negligence claim as a survival action. *See* Md. Code (1974, 2013 Repl. Vol.), Courts & Judicial Proceedings Article ("CJP") § 6-401 ("[A] cause of action at law, whether real, personal, or mixed, survives the death of either party."). We will use the terms "negligence action" and "survival action" to describe the action brought by Mr. Edwards's estate. Hereinafter, unless otherwise indicated, all statutory citations are to the Courts and Judicial Proceedings Article.

[2] "Use Plaintiffs" do not join in the action but are nevertheless entitled to claim damages ("Plaintiffs" or "Appellants"). *See* Md. Rule 15-1001(b); *Carter v. Wallace & Gale Asbestos Settlement Trust*, 439 Md. 333, 364 (2014).

[3] Dr. Oyogoa filed an answer to the complaint on December 16, 2013 (entered on December 17, 2013), denying the allegations and asserting defenses. Dr. Oyogoa did not allege that venue was improper, nor did he move the court to transfer to Baltimore County. He did not participate in the briefing for this appeal.

Hospital in Baltimore City, following a delay allegedly caused by the attending trauma surgeon at Sinai, Dr. Oyogoa. Mr. Edwards died at Sinai Hospital later that morning. Appellants present two questions for our review:

I. "Did the trial court error by finding that Baltimore City was not a proper venue even though it is undisputed that [Mr. Edwards] died in Baltimore City?"

II. "Did the trial court abuse its discretion by finding that the forum *non conveniens* factors weighed strongly in favor of transferring to Baltimore County?"

We hold that the circuit court is afforded substantial discretion under the forum non conveniens doctrine, and irrespective of whether Baltimore City is a proper venue for all the claims in this case, the circuit court did not err in transferring the action to Baltimore County under forum non conveniens.

Factual Background[4]

The complaint, filed on September 24, 2013, alleges that on the evening of September 24, 2010, Mr. Edwards was involved in an automobile crash in Baltimore County in which he sustained a chest laceration as well as minor lacerations on his head and hand. Emergency responders arrived at the scene around 9:30 PM. After assessing Mr. Edwards's injuries, they transported him to Northwest Hospital Center in Randallstown, Baltimore County. Upon arrival at the hospital, Mr. Edwards complained of chest pain, noting that it was more prevalent when he took a deep breath. Dr. Patricia Melton, a physician on duty at Northwest Hospital, evaluated Mr. Edwards at 10:00 PM.

[4] Owing to the early procedural posture of this case, the facts presented here are taken from the complaint and exhibits attached to the motion to transfer.

Noticing the chest laceration, Dr. Melton ordered a chest x-ray, which she interpreted as negative. The complaint alleges negligence in Dr. Melton's interpretation of the x-ray.

Dr. Melton also ordered chest and head CT scans and other radiological studies. Hospital technicians completed the CT scan close to midnight, which showed internal bleeding in the chest cavity, known as a hemothorax. After receiving the CT report, Dr. Melton determined that Mr. Edwards needed to be seen by a chest surgeon or in a trauma ward for an operation to remediate the hemothorax. Unfortunately, Northwest Hospital did not have a chest surgeon on duty and was not equipped to treat Mr. Edwards's condition. Dr. Melton contacted Dr. Sylvanus Oyogoa, the attending trauma and chest surgeon at Sinai Hospital in Baltimore City, to initiate a transfer to that location.

The complaint charges that Dr. Oyogoa delayed the transfer by refusing to take Mr. Edwards initially. Dr. Melton telephoned another physician in Sinai Hospital's emergency room who accepted the transfer. At Dr. Melton's direction, an ambulance service was contacted at 1:11 AM on September 25 to transfer Mr. Edwards to Sinai Hospital, where he arrived at 2:00 AM.

Mr. Edwards's condition deteriorated rapidly at the Sinai emergency room. After a tube was placed in his chest, Mr. Edwards's blood pressure fell, causing hypotension. Dr. Segairs, a thoracic surgeon, was consulted by telephone. He instructed the team to transfer Mr. Edwards to Shock Trauma in downtown Baltimore, but by that time, Mr. Edwards's condition was not stable enough to permit him to be transferred. Mr. Edwards went into cardiac arrest and died before 4:00 AM on September 25, less than seven hours after emergency services arrived on the scene of the accident.

Mr. Edwards's family, stricken by their loss, subsequently filed suit in the Circuit Court for Baltimore City against Dr. Melton, Dr. Oyogoa, and Maryland Provo-I Medical Services, P.C. on September 24, 2013. Asserting a wrongful death claim and a medical negligence survival claim, they alleged that Dr. Melton at Northwest Hospital negligently misinterpreted the chest x-ray and failed to transfer Mr. Edwards, earlier, to the proper facility. They also alleged that Dr. Oyogoa negligently failed to recommend and accept Mr. Edwards's transfer to Sinai Hospital.

Before filing an answer to the suit, Maryland Provo-I Medical Services, P.C., and Dr. Melton filed a motion to dismiss for improper venue or transfer to the Circuit Court for Baltimore County. They argued that Baltimore County is the only proper venue under CJP §§ 6-201 and 6-202. Alternatively, they argued that it was appropriate to transfer venue to Baltimore County pursuant to Maryland Rule 2-327(c) and forum non conveniens.

The circuit court heard arguments on Defendants' motion and Plaintiffs' opposition on February 26, 2014. Ruling from the bench, the circuit court granted Defendants' motion to transfer, finding that venue was proper in Baltimore County under CJP § 6-202(8) because Baltimore County was where the cause of action arose, and also finding that transfer to Baltimore County was appropriate on grounds of forum non conveniens. The court found that the cause of action arose in the County because "the conduct of concern is all in the county, primarily in the [C]ounty." While acknowledging that Mr. Edwards passed away at Sinai Hospital, the circuit court found it dispositive that the "the primary allegations, the principal allegations" of negligent conduct "in this case

all took place at Northwest Hospital in [Baltimore County]." The court continued, "The cause of action, the survival cause of action, if you will, took place and the critical ingredients to the wrongful death action appear to have taken place at the facility in Baltimore County."

After weighing the convenience, the interests of justice, and the balancing factors, the court found that forum non conveniens dictated a transfer of venue to Baltimore County. The court acknowledged that it is important to "do more than . . . pay lip service to the plaintiff's choice of venue[,]" but cited Judge Molyan's opinion in *Smith v. Johns Hopkins Community Physicians, Inc.*, for the principle that the plaintiff's choice of forum should not be given double weight because "'the plaintiff's entitlement to pick the forum has already been figured into the transfer calculus by virtue of allocating the burden of proof to the party requesting the transfer, and including on that party a heavy burden of persuasion.'" 209 Md. App. 406, 415 (2013) (internal citations omitted). In considering the forum non conveniens factors, the court found it significant that Dr. Melton had no venue ties to the City. On March 5, 2014, the circuit court entered an order granting the Motion to Transfer Venue, and Appellants filed their notice of appeal on March 31, 2014.[5]

[5] The transfer of a case to another county is a final order and thus is proper for immediate appellate review. *See* CJP §§ 12-101(f) & 12-301; *Payton-Henderson v. Evans*, 180 Md. App. 267, 281 (2008) (citing *Brewster v. Woodhaven Bldg. & Dev., Inc.*, 360 Md. 602, 615-16 (2000)) (explaining that "[a]lthough the *denial* of a motion to transfer a case would be only interlocutory and not immediately appealable, the *affirmative order of transfer* is susceptible to immediate appellate review").

I.

Proper Venue

Venue is proper under CJP § 6-201(a) "in a county where the defendant resides, carries on a regular business, is employed, or habitually engages in a vocation." In cases with multiple defendants, venue is proper in a county that is common to all defendants, i.e. a county where all of the defendants do one of the following: reside, carry on a regular business, are employed, or habitually engage in a vocation. *See* CJP § 6-201(b). "It is not necessary for a defendant to maintain an office or have his or her principal place of business in a certain county in order for the defendant to carry on a regular business in that county." *Pac. Mortgage & Inv. Grp., Ltd. v. Horn*, 100 Md. App. 311, 324 (1994) (citing *Dodge Park, Inc. v. Welsh*, 237 Md. 570, 572-73 (1965)). Notably, the first clause of CJP § 6-201(b) is claim independent, i.e. venue is proper irrespective of whether different claims are asserted against each defendant and irrespective of where those claims arose. *Cf. Wilde v. Swanson,* 314 Md. 80, 92-94 (1988) (holding that CJP § 6-201 is independent of and in addition to CJP § 6-202(8)).

We review *de novo* the decision of the circuit court on a motion to dismiss for improper venue. *Payton-Henderson v. Evans*, 180 Md. App. 267, 276 (2008). We resolve that the circuit court correctly concluded that Baltimore County is a proper venue for the underlying action pursuant to CJP § 6-201 because it is the single venue applicable to all defendants. Dr. Melton works at Northwest Hospital in Baltimore County and does not practice at any other hospital in Maryland. She resides in Prince George's County and has no venue relationship to Baltimore City. Dr. Oyogoa works

regularly at both Sinai Hospital in Baltimore City and Northwest Hospital in Baltimore County. Though Maryland Provo-I lists Baltimore City as its principal place of business, it carries on regular business in Baltimore County through its employment of Dr. Melton at Northwest Hospital.[6] *See Pac. Mort. & Inv. Grp.*, 100 Md. App. at 324 (citing *Dodge Park, Inc.*, 237 Md. at 572-73) (holding that venue was proper in county where bank held mortgages even though bank did not maintain an office or have its principal place of business in that county).[7]

Appellants do not address venue under CJP § 6-201, asserting instead that Baltimore City is an appropriate venue under CJP § 6-202(8) (A "[t]ort action based on negligence" may be filed "[w]here the cause of action arose."). Because we hold that the circuit court did not err in transferring the case to Baltimore County, we need not address whether venue was proper in Baltimore City. *See Payton-Henderson*, 180 Md. App. at 278-79 (affirming a circuit court decision to transfer to a proper venue, Baltimore County, without deciding whether Baltimore City was a proper venue). For, "even though venue may be proper in one jurisdiction, a court has the discretion to transfer

[6] Maryland Provo-I does not provide supporting documentation of its employment of other emergency physicians in Baltimore County. However, Appellants do not dispute Maryland Provo-I's employment of Dr. Melton and other physicians in Baltimore County.

[7] Appellees maintain, incorrectly, that because Baltimore County is the single common venue for all defendants under CJP § 6-201, Baltimore County is therefore the only proper venue. However, CJP § 6-202 sets out grounds for venue "[i]n addition to the venue provided in § 6-201 or § 6-203." Thus, regardless of whether venue lies under CJP § 6-201, Appellants may assert that Baltimore City is an appropriate venue under CJP § 6-202(8).

actions to another competent jurisdiction pursuant to the forum non conveniens doctrine." *Id.* at 279 (quoting *Cobrand v. Adventist Healthcare, Inc.*, 149 Md. App. 431, 438 (2003)). We decide only that the circuit court had authority to transfer the case to Baltimore County, where venue is proper under section 6-201(b).[8]

II.

Forum Non Conveniens

"Maryland Rule 2-327(c) permits a trial court to transfer an action on the grounds of forum non conveniens upon motion of any party when it appears that it would be more convenient for the parties and witnesses to have the case heard in another appropriate venue and the interests of justice would be served." *Urquhart v. Simmons*, 339 Md. 1, 10

[8] The circuit court's ruling and accompanying order do not explicitly state which provision the court relied upon in transferring the case to Baltimore County. Even so, transfer was proper under either Rule 2-327(b) or under Rule 2-327(c), discussed *infra*.

As noted by this Court in *Payton-Henderson*, the typical consequence of prevailing on a motion to dismiss for improper venue is transfer to the proper venue. 180 Md. App. at 274. Maryland Rule 2-327(b) provides:

> If a court sustains a defense of improper venue but determines that in the interest of justice the action should not be dismissed, it may transfer the action to any county in which it could have been brought.

Payton-Henderson, 180 Md. App. at 274 (quoting Paul V. Niemeyer & Linda M. Schuett, *Maryland Rules Commentary*, at 189 (2d ed. 1992)).

Although a circuit court may transfer a case to another venue under Maryland Rule 2-327(b) or (c), the subsections apply in distinct circumstances. In the instant case, if Baltimore City were not a proper venue, Maryland Rule 2-327(b) allowed the circuit court to transfer the case to Baltimore County in the interest of justice. On the other hand, if Baltimore City were a proper venue, Maryland Rule 2-327(c) allowed the circuit court to transfer the case to Baltimore County for the convenience of the parties and witnesses and to serve the interests of justice under the forum non conveniens doctrine, discussed *infra*.

(1995). A party who moves to transfer an action to an alternate forum under Maryland Rule 2-327 has the burden of demonstrating that the transfer to that forum better serves the convenience of the parties and witnesses and the interests of justice. *Odenton Dev.*, 320 Md. at 40. "[A] motion to transfer should be granted only when the balance weighs strongly in favor of the moving party." *Id.*

A circuit court's decision to transfer a case to another venue, based on forum non conveniens and pursuant to Maryland Rule 2-327(c), is reviewed for abuse of discretion. *Stidham v. Morris*, 161 Md. App. 562, 566 (2005) (quoting *Cobrand*, 149 Md. App. at 437). A circuit court abuses its discretion when no reasonable person would take the view adopted by the court, "or when the court acts without reference to any guiding rules or principles." *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997) (quoting *North v. North*, 102 Md. App. 1, 13 (1994)) (internal citations, alterations, and quotations omitted). "Accordingly, when reviewing a motion to transfer, a 'reviewing court should be reluctant to substitute its judgment for that of the trial court.'" *Cobrand*, 149 Md. App. at 437 (quoting *Wagner v. Wagner*, 109 Md. App. 1, 52, *cert. denied*, 343 Md. 334 (1996)).

In "determining whether a transfer of the action for the convenience of the parties and witnesses is in the interest of justice, a court is vested with wide discretion." *Odenton Dev. Co. v. Lamy*, 320 Md. 33, 40 (1990) (citing *Norwood v. Kirkpatrick*, 349 U.S. 29, 32 (1955)). As this Court explained in *Cobrand v. Adventist Healthcare, Inc.*:

> The exercise of a judge's discretion is presumed to be correct, he is presumed to know the law, and is presumed to have performed his duties properly. Absent an indication from the record that the trial judge

> misapplied or misstated the applicable legal principles, the presumption is sufficient for us to find no abuse of discretion. Additionally, a trial judge's failure to state each and every consideration or factor in a particular applicable standard does not, absent more, constitute an abuse of discretion, so long as the record supports a reasonable conclusion that appropriate factors were taken into account in the exercise of discretion.

149 Md. App. at 445 (citations and internal quotation marks omitted).

In "determining whether a transfer of the action for the convenience of the parties and witnesses is in the interest of justice, [the circuit] court is vested with wide discretion." *Id.* "Accordingly, when reviewing a motion to transfer, a 'reviewing court should be reluctant to substitute its judgment for that of the trial court.'" *Cobrand*, 149 Md. App. at 437 (quoting *Wagner*, 109 Md. App. at 52). A circuit court considers two overarching factors in deciding a motion to transfer: (1) the convenience of the witnesses and parties and (2) the interests of justice. *See id.* at 438.

A. Convenience of the Witnesses and Parties

The "convenience" factor requires a court to consider the convenience of the forum to the parties and the witnesses. *Id.* at 438 n.5. This consideration centers on where the parties and witnesses live and work in relation to the venue. *Id.* at 441-43. The convenience of the venue for expert witnesses, however, is given little weight. *Id.* at 435.

In support of their motion to transfer, Appellees argued in the circuit court that Ms. Edwards, the individual bringing this case as the personal representative of Mr. Edwards's estate and as the legal plaintiff for the wrongful death claim, resides in Baltimore County, as does one use-plaintiff, Kevin Edwards. Although Dr. Melton lives

in Prince George's County, Appellees noted that she works exclusively in Baltimore County at Northwest Hospital.

Appellees also claimed that the operative facts relevant to the allegations of negligence and wrongful death occurred in Baltimore County, including Mr. Edwards's automobile accident and the alleged negligent treatment at Northwest Hospital. They noted that the complaint did not allege any breaches of the standard of care by practitioners in Baltimore City during the time Mr. Edwards was at Sinai Hospital. They urged that the witnesses are predominantly located in Baltimore County, including: 1) the first responders who arrived at the scene of Mr. Edwards's accident in Baltimore County; 2) the nurses and emergency room personnel at Northwest Hospital who cared for Mr. Edwards and have knowledge of his condition at the time; and 3) the radiologists who interpreted Mr. Edwards's chest x-ray and CT scan work at Northwest Hospital.[9]

Appellants responded by underscoring that two of the three defendants have strong ties to Baltimore City: Dr. Oyogoa works in Baltimore City at Sinai Hospital, and Maryland Provo-I lists Baltimore City as its principal place of business in Maryland.

[9] Appellants correctly observe that Appellees did not obtain any affidavits of witnesses showing that they still work in Baltimore County. This Court in *Murray v. TransCare Maryland, Inc.*, 203 Md. App. 172, 195 (2012), *aff'd*, 431 Md. 225 (2013), held that the circuit court did not abuse its discretion in finding that "[k]ey witnesses are located in Talbot County," when the record did not contain affidavits supporting this fact. The *Murray* Court stated that although "the non-expert witnesses were not specifically listed or identified by the circuit court in its oral ruling, it was reasonable for the court to conclude that residents of Talbot County would be called to testify at trial, including doctors and nurses from Easton Memorial who treated [plaintiff], and appellants themselves [who were residents of Talbot County]." *Id.* We similarly do not find an abuse of discretion in this regard.

They also pointed out that Dawn Edwards and Dorian Edwards, the other use-plaintiffs (who did not join the action), reside in Baltimore City. Finally, they emphasized that the Circuit Court for Baltimore City is closer to Dr. Melton's home by several miles.

Appellees rejoined with the contentions that Dr. Oyogoa also regularly works at Northwest Hospital in Baltimore County and Maryland Provo-I has venue ties to Baltimore County through its employment of Dr. Melton and other physicians at Northwest Hospital. And, noting that Dr. Melton works exclusively in Baltimore County, Appellees contended that the courthouse in Baltimore County and Baltimore City are both far from Dr. Melton's home.

The record supports the conclusion that the convenience factor tilts in favor of Baltimore County. Although Ms. Edwards is free to argue that the county in which she lives is not a convenient forum, we find Appellees demonstrated that Baltimore County, rather than Baltimore City, is a more convenient forum for all of the parties and witnesses. It is undisputed that Baltimore County is the locus of the accident, it is where the witnesses who have been identified work, and it is the location of Northwest Hospital where Mr. Edwards underwent testing and where Dr. Melton allegedly rendered a negligent diagnosis. We cannot say that "no reasonable person would take the view adopted by the [circuit court]" in transferring the case to Baltimore County. *Wilson v. John Crane, Inc.*, 385 Md. 185, 198 (2005) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312-13 (1997)) (internal quotation marks omitted).

B. Interests of Justice

"The 'interests of justice' factor requires a court to weigh both the private and public interests; the public interests being composed of 'systemic integrity and fairness.'" *Cobrand*, 149 Md. App. at 439 n.5 (citing *Odenton*, 320 Md. at 40). The public interests include: (1) considerations of court congestion; (2) the burden of jury duty; and (3) local interest in the matter at hand. *Smith v. Johns Hopkins Cmty. Physicians, Inc.*, 209 Md. App. 406, 419 (2013) (quoting *Murray*, 203 Md. App. at 192-93). The concept of the public interest "embraces such broad citizen concerns as the county's road system, its educational system, its governmental integrity, its police protection, its crime problem, [and] its fire protection." *Payton-Henderson*, 180 Md. App. at 293. No doubt, this concept encompasses a county's healthcare system as well. "'Jury duty,' the Court of Appeals has stressed, 'is a burden that ought not to be imposed upon the people of a community which has no relation to the litigation.'" *Stidham*, 161 Md. App. at 569 (quoting *Johnson v. G.D. Searle & Co.*, 314 Md. 521, 526 (1989)) (noting that there is a local interest in having localized controversies decided at home).

The private interests, on the other hand, are not so broad. "The private interest component concerns the efficacy of the trial process itself," and thus "it is concerned only with a particular case." *Payton-Henderson*, 180 Md. App. at 292. The "[p]rivate interests include '[t]he relative ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; possibility of view of premises, if view would be appropriate to the action; and all other practical problems that make trial of a case easy, expeditious and inexpensive.'"

Stidham, 161 Md. App. at 569 (quoting *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508 (1947)).

Appellees demonstrated that the residents and jurors of Baltimore County have a strong interest in hearing this case. It concerns an accident in Baltimore County involving a Baltimore County resident who received care and treatment by physicians with privileges to practice in a Baltimore County hospital. *See, e.g.*, *Urquhart*, 339 Md. at 18-19; *Murray*, 203 Md. App. at 195-97. If witnesses and care providers—such as the first responders, nurses, and non-party physicians at Northwest Hospital—need to be called, it may be easier for them to appear in Baltimore County. Nevertheless, we do not diminish the concurrent interests that Baltimore City residents have in ensuring a high standard of care provided by Dr. Oyogoa and Maryland Provo-I—two defendants that deliver care in Baltimore City and Baltimore County. However, in considering the interests of justice, we cannot say that the circuit court abused its discretion.

C. Plaintiffs' Choice of Forum

Appellants argue that their choice of Baltimore City as a forum is entitled to significant weight. It is true that "the plaintiff's choice will not be 'altered solely because it is more convenient for the moving party to be in another forum.'" *Murray*, 203 Md. App. at 191 (quoting *Leung v. Nunes*, 354 Md. 217, 224 (1999)). When the forum non conveniens balancing of factors are in equipoise, "the plaintiffs' choice of forum controls." *Leung*, 354 Md. at 229. "Nonetheless, the plaintiff's choice of forum is not dispositive and 'less deference should be accorded' to a plaintiff's choice when the plaintiff is not a resident of the forum or when the choice of forum has 'no meaningful

ties to the controversy and no particular interest in the parties or subject matter.'" *Murray*, 203 Md. App. at 191 (quoting *Stidham*, 161 Md. App. at 569).

Appellants analogize the instant case with *Scott v. Hawit*, 211 Md. App. 620, *cert. denied sub nom. Johns Hopkins Hospital v. Scott*, 434 Md. 314 (2013), claiming that, because this case involves two separate allegations of negligence by actors in different counties that resulted in a single harm, the forum non conveniens factors are in equipoise, necessitating that Appellants' choice of forum controls. We do not agree. In *Scott*, the plaintiffs alleged negligent acts by independent physicians in separate medical consultations in Calvert County and in Baltimore City. *Id.* at 623. There, plaintiffs attended each patient's visit in person and alleged that the independent acts of negligence occurred during the separate visits. *Id.* at 624, 625-26.

In the instant case, Dr. Oyogoa, as the attending trauma surgeon at Sinai Hospital in Baltimore City, allegedly acted negligently when he delayed Mr. Edwards's transfer while he was on the telephone speaking with Dr. Melton at Northwest Hospital. Appellees contend therefore, that at the time of Dr. Oyogoa's alleged negligence, Mr. Edwards was in Baltimore County. Appellants focus on where Dr. Oyogoa was during the alleged negligent act conducted via a telephone call, while disregarding where Mr. Edwards was when the injury occurred. Appellants provide no reason, compelling or otherwise, for us prioritize one over the other in the forum non conveniens analysis. Regardless, the forum non conveniens analysis takes into account the convenience of the parties and witnesses and the interests of justice, as discussed above. We cannot say, as we stated in *Scott*, that the forum non conveniens factors are in equipoise.

This Court, in *Smith v. Johns Hopkins Community Physicians, Inc.*, discussed the role of the plaintiff's choice of forum at the trial and appellate levels when the forum non conveniens factors are not in equipoise:

> We also pointed out in *Payton–Henderson v. Evans,* 180 Md. App. at 287, 949 A.2d 654, moreover, that the plaintiff's entitlement to pick the forum has already been figured into the transfer calculus by virtue of 1) allocating the burden of proof to the party requesting the transfer and 2) putting on that party "a heavy burden of persuasion." It is, therefore, unnecessary to place the plaintiff's choice of forum on the scale yet again as a factor in the ultimate balancing. It has already been given the weight that it deserves in the procedural scheme and should not be given double weight:
>
> > Whenever the trial of a case is transferred from one venue to another on the ground of *forum non conveniens,* the self-evident effect is that other considerations have operated to override the plaintiff's choice of forum. That initial choice of forum by a plaintiff is an ever-present consideration in these transfer cases and is not lightly to be dismissed. As the Court of Appeals pointed out in *Urquhart v. Simmons,* however, the *plaintiff's choice of forum need not be articulated and evaluated all over again as a "factor" in the weighing process for the reason that it has already been factored into the burden of persuasion itself, casting upon the defendants a heavy burden of persuasion. Having thus already been figured into the weighing process, indeed actually configuring the weighing standard, it need not be counted a second and redundant time.*
>
> (Emphasis supplied).
>
> The statements in the case law about the deference to be given to a plaintiff's choice of forum, moreover, are guidelines for the trial judge and not a standard of appellate review. As this Court explained in *Payton–Henderson v. Evans,* 180 Md. App. 267, 287, 949 A.2d 654 (2008):
>
> > *A statement* in the caselaw *about the burden of persuasion's* being a heavy one *is a guideline for the trial judge and not a standard of appellate review.* Once the trial judge enters into

> the balancing process, the discretion entrusted is extremely wide and *the appellate deference owed is concomitantly wide.*

209 Md. App. at 415-16 (quoting *Payton–Henderson*, 180 Md. App. at 287).

Here, in considering this issue, the circuit court acknowledged that "it's important to do more than [] pay lip service to the plaintiff's choice of venue." The court then quoted the passage above from *Smith v. Johns Hopkins Community Physicians, Inc.*, noting that, because Plaintiffs' choice of forum was already accounted for by heavy burden of persuasion placed on the moving party, the forum was not considered again in the ultimate balancing. The circuit court's ruling shows a measured consideration of the forum non conveniens factors and case law.

In view of the substantial discretion afforded to the circuit court in making a decision to transfer, we find no fault in the court's discussion and ruling on the forum non conveniens issue. *See, e.g.*, *Urquhart*, 339 Md. at 17; *Stidham*, 161 Md. App. at 566. We cannot say that the circuit court abused its discretion in deciding to transfer the case to Baltimore County.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE COUNTY FOR FURTHER PROCEEDINGS.

COSTS TO BE PAID BY APPELLANTS.