

Circuit Court for Baltimore City  
Case No. 24-C-19-006993

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0475

September Term, 2020

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JORDAN GUY

v.

GREATER BALTIMORE MEDICAL  
CENTER, INC., ET AL.

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Graeff,  
Beachley,  
Eyler, Deborah S.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Graeff, J.

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Filed: March 18, 2021

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Jordan Guy (“Jordan”), appellant, by his Legal Guardian, Kimberly Guy (“Ms. Guy”), filed a medical malpractice suit in the Circuit Court for Baltimore City against appellees, Greater Baltimore Medical Center, Inc. (“GBMC”), Ehab Aly Mohamed, M.D. (“Dr. Mohamed”), Ann Bridget Bird, M.D. (“Dr. Bird”), and Gary Lawson-Boucher (“Dr. Lawson-Boucher”). Appellees filed motions to transfer venue to Baltimore County on the grounds of *forum non conveniens*.<sup>1</sup> Following a hearing, the court granted appellees’ motions and ordered the case transferred to the Circuit Court for Baltimore County. Jordan filed a timely Motion to Alter or Amend Judgment, which the court denied.

On appeal, appellant presents one question for this Court’s review:

Did the circuit court abuse its discretion in granting the motions to transfer the case and in denying his Motion to Alter or Amend Judgment?

For the reasons set forth below, we answer that question in the negative, and therefore, we shall affirm the judgment of the circuit court.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Because the sole issue raised on appeal is the propriety of the transfer of venue, we will address only briefly the underlying allegations against appellees. Jordan filed a medical malpractice claim against appellees based on the care that Ms. Guy received during her pregnancy and delivery of Jordan and the alleged injuries that he suffered as a result of that care. On July 9, 1999, Jordan was born prematurely, at 26 weeks and 3 days, at GBMC

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<sup>1</sup> Dr. Lawson-Boucher was not added as a defendant until appellant’s amended complaint, so he did not participate in the proceedings regarding the motions to transfer venue.

in Baltimore County. Jordan alleges that he suffered developmental delays and cerebral palsy, among other disabilities.

### **The Lawsuit**

On December 30, 2019, Jordan, by and through Ms. Guy, filed a Complaint and Demand for Jury Trial in the Circuit Court for Baltimore City against GBMC, Dr. Mohamed, and Dr. Bird.<sup>2</sup> The lawsuit alleged medical malpractice and a breach of the duty of care that “a reasonably competent hospital, obstetrician, perinatologist, and/or similar healthcare provider would have exercised under the same or similar circumstances.”

With respect to Jordan’s residence, Ms. Guy stated in her answers to interrogatories that Jordan lived with her in Baltimore City from his birthdate until October 2005. Between 2005 and 2016, Jordan resided at several different residences in Baltimore County. Ms. Guy stated that, from 2016 to the time she filed suit on Jordan’s behalf, Jordan resided in Baltimore City.

### **Appellees’ Motion to Transfer**

In February 2020, appellees filed motions to transfer venue to Baltimore County based on the ground of *forum non conveniens*. They noted that the alleged medical negligence occurred in Baltimore County, not Baltimore City, and they argued that Baltimore County was “the most convenient forum. It is where all of the relevant treatment occurred, where all of the hard evidence from GBMC is located, and where many of the

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<sup>2</sup> Maryland extends the statute of limitations for a minor to sue to three years after reaching the age of majority. *See* Md. Code Ann., Cts. & Jud. Pro. § 5-201 (2013 Repl. Vol.).

non-party witnesses live and work.” Appellees argued that the public interests favored transfer because Baltimore City did not have a strong interest in the obstetrics care that GBMC provided exclusively in Baltimore County. They asserted that the lawsuit would unduly burden Baltimore City juries given the already high caseload that existed in the Circuit Court for Baltimore City, stating that “[t]he citizens of Baltimore City should not be burdened as potential jurors to decide the propriety of medical care that occurred outside of their community, and Baltimore City itself should not have to shoulder the financial and administrative burden of the trial.”

Although acknowledging that deference to Jordan’s choice of venue was appropriate, they asserted that it was not absolute. They questioned whether Baltimore City was a more convenient forum for Jordan, noting that social media and MVA records suggested that he lived in Baltimore County. Even if he lived in Baltimore City, Jordan had “a large number of contacts” with Baltimore County. Jordan attended a Baltimore County public high school until June 2019, and as of the year suit was filed, Jordan “was actively taking advantage of the public services offered by Baltimore County – not Baltimore City.” Appellees asserted that the circuit courts in the City and the County both were 22 minutes from the Baltimore City address listed in the answers to interrogatories, and they argued that parking in Baltimore City was “more taxing, more challenging and more costly” than in Baltimore County.

### **Jordan's Opposition**

Jordan filed a response in opposition to appellees' motions ("Opposition"). He argued that the appellees had "failed to meet their 'heavy' burden of proof," and "the balance of interests [did] not weigh strongly in favor of transfer." Indeed, Jordan argued that the balance of interests weighed strongly in favor of the case remaining in the Circuit Court for Baltimore City, noting his residence in the City, GBMC's business activities in the City, his disabilities, which made travel to the Circuit Court for Baltimore County difficult for him, and the convenience of the parties and witnesses.

The Opposition contained an affidavit by Ms. Guy affirming that she was a resident of Baltimore City. Additionally, Jordan asserted that his residence was only 15 minutes from the Circuit Court for Baltimore City, which he would pass by if he had to travel to the Circuit Court for Baltimore County, and the Circuit Court for Baltimore County was between 35 and 40 minutes away during rush hour. He stated that, because Dr. Bird and Dr. Mohamed presumably would fly into Baltimore Washington Thurgood Marshall Airport ("BWI"), Baltimore City would be more convenient for them than Baltimore County due to the proximity of the City to BWI. Although appellees asserted that Baltimore County was a more convenient forum for many other witnesses, he argued that, with the exception of one witness, appellees failed to support their motion with affidavits, as required by Md. Rule 2-311(d).<sup>3</sup>

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<sup>3</sup> In their motion, appellees included one affidavit, that of Susan Martielli, GBMC's general counsel, which stated her position as general counsel for GBMC, affirmed

Jordan argued that his choice of venue was entitled to strong deference. With respect to the fact that the negligent act arose in Baltimore County, he asserted that “the *situs* of a specific negligent act does not control the venue analysis.”

With respect to the public interest, Jordan argued that it weighed against transfer. He asserted that, using a “per judge” statistical caseload, the Circuit Court for Baltimore City was less congested than the Circuit Court for Baltimore County. He further argued that “the burdens of jury duty” were greater in the Circuit Court for Baltimore County than in the Circuit Court for Baltimore City, stating that “Baltimore County’s courthouse is farther from the residences of its average citizens than the courthouse in Baltimore City,” and because many citizens residing in Baltimore County lack access to public transportation to and from the court, venue in Baltimore City would be less burdensome on the jury.

Regarding the local interests in the litigation, Jordan argued that GBMC had ties to Baltimore City, and once those ties were considered, Baltimore City and its citizens clearly had an interest in the outcome of the litigation. In sum, Jordan argued that appellees “fail[ed] to meet their heavy burden of proof for transfer.”

### **The Appellees’ Reply**

Appellees filed a reply to Jordan’s Opposition (“Reply”) and advanced three main arguments: (1) Jordan’s choice of venue was neither dispositive nor absolute; (2) the

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GBMC’s location in Baltimore County, and affirmed that GBMC did not provide obstetric services in Baltimore City.

convenience of the parties and witnesses strongly favored transfer; and (3) the interests of justice weighed strongly in favor of transfer. Regarding the convenience of the parties and witnesses, appellees reiterated that “[t]he majority of the GBMC providers involved in the allegedly negligent care work in Baltimore County.” With respect to Jordan’s argument that their previous exhibits were not submitted as affidavits, appellees attached physician profiles published by the Maryland Board of Physicians relating to seven health care providers, which showed that they worked in Baltimore County. With respect to the other doctors, they stated that they would, if feasible, supplement with an affidavit regarding the doctors’ presence in Baltimore County.

Appellees again questioned whether Jordan resided in Baltimore City, stating that there was “conflicting information about [Jordan’s] true residence in recent years.” Appellees noted that, although Ms. Guy’s sworn Answers to Interrogatories represented that Jordan had resided in Baltimore City since 2016, he attended high school in Baltimore County at that time, a violation of the Baltimore County Public School rules. Appellees stated that, if Jordan did not live in Baltimore City, then his choice of Baltimore City as the venue was due “little weight.”

Appellees further argued that the Circuit Court for Baltimore County was a more convenient venue for Ms. Guy and Jordan because it had ample parking, which was “more convenient for the disabled than the more hazardous and unwieldy parking options in Baltimore City.” They noted, however, that recent medical records described Jordan’s strength as “5/5 throughout” and his gait as “normal” and “without difficulties.”

Finally, appellees argued that Jordan's education records likely would be in Baltimore County, as that was the county in which he received his education, and therefore, Baltimore County would be more convenient for those staff who would be required to testify and produce relevant records. Appellees concluded by asserting that "there can be no debate that the convenience of the fact witnesses hereto overwhelmingly favors transfer to Baltimore County."

With respect to its own contacts with Baltimore City, GBMC noted that, although "conducting regular business activity in a given forum may permit venue there," the issue before the court was *forum non conveniens*, not improper venue. Given that there was no dispute that GBMC only offered obstetrical care in Baltimore County, its other contacts with Baltimore City were not relevant, and any assertion to the contrary was a "red herring." By contrast, the location of the negligent acts was a relevant factor in the *forum non conveniens* analysis.

Appellees disputed Jordan's assertion that BWI made Baltimore City a more convenient venue. They argued that, in *Smith v. Johns Hopkins Cmty. Physicians, Inc.*, 209 Md. App. 406, 417 (2013), this Court rejected such an argument, noting that both Baltimore County and Baltimore City were serviced by the same transportation hubs. Appellees also noted that the out-of-state witnesses might elect to fly into Philadelphia International Airport, in which case Baltimore County would be a more convenient location for trial.



Appellees argued that the public and private interests strongly favored transfer, asserting that, because Jordan’s allegations of negligence dated back to 1999, the relevant medical records would not be electronically stored, and therefore, “[i]f there is a need to inspect those original records, as there often is, this would most easily be done at GBMC in Baltimore County where the original records are stored.” They asserted that Baltimore County had a greater interest in the litigation, and “jurors should only be called upon to sit for matters that are most relevant to their own community interests.”

On May 26, 2020, GBMC and Dr. Mohamed filed a supplement to their Reply, attaching several affidavits, including two from health care providers who affirmed that Baltimore County was a more convenient venue than Baltimore City. Additionally, appellees asserted that, although Jordan’s “travel time [would be] similar to both courthouses, GBMC’s party representative would have to travel three times the distance from her home in Towson to the Circuit Court for Baltimore City.” Moreover, Jordan’s sole witness, Ms. Guy, still sought medical care in Baltimore County, and therefore, appellees asserted that travel to Baltimore County would not be as difficult for Ms. Guy as she had alleged.

Appellees also disputed Jordan’s statistics regarding the congestion of the two courthouses. They argued that, based on the Maryland Judicial Abstract, Baltimore City handled thousands more cases than Baltimore County, including more cases involving complex civil litigation. They argued that, given the increased revenue and clerks allotted

to the Circuit Court for Baltimore County, it would be less burdened than the Circuit Court for Baltimore City if the case was transferred there.

### **Jordan's Reply**

On May 29, 2020, Jordan filed a supplement to his Opposition, attaching a copy of the Guardianship Order on file with his Baltimore County high school, which listed an address in Baltimore City.

### **The Hearing**

On May 29, 2020, the court held a virtual hearing on the Motion to Transfer. Counsel for GBMC and Dr. Mohamed began by asking the court to transfer the case to “Baltimore County where it belongs.” Counsel stated:

This case involves care and treatment that was rendered entirely in Baltimore County in terms of the alleged negligence on multiple occasions by Baltimore County based healthcare providers. The care was rendered to the plaintiff, who has lived more than half of his life in Baltimore County, who is educated in Baltimore County from grades 1 through 12, and that care was rendered by providers who are virtually all based in Baltimore County. This cause of action undeniably arose in Baltimore County.

Counsel asserted that there was “not a dispute about proper or improper venue,” and therefore, Jordan’s reliance on GBMC’s Baltimore City contacts was misplaced and irrelevant to the *forum non conveniens* analysis.

Counsel noted that it had “named 13 witnesses either th[r]ough the official business record of the Maryland Board of Physicians Profile, through affidavits, or through the Maryland’s SDAT demonstrating residence in Baltimore County, for 13 witnesses.” Counsel took issue with Ms. Guy’s previous assertions that her commute to the Circuit

Court for Baltimore County would be 35 to 40 minutes, asserting that “Google Maps” showed that the commute to Baltimore County was “about 20 to 22 minutes,” equal to the driving time to the Circuit Court for Baltimore City.

With respect to the public interest factors, counsel noted that those factors include “the burdens on the judiciary, the burdens on the jurors, and the local interest in having local controversies decided at home.” He asserted that “[a]ll three of those prongs weigh strongly in favor of transfer here.”

Counsel argued that the Circuit Court for Baltimore City was known as “the busiest trial court in the state,” noting that it handled significantly more filings in 2018 than the Circuit Court for Baltimore County. Counsel conceded that the Circuit Court for Baltimore City had “a few more judges” than the Circuit Court for Baltimore County, but he highlighted that the Circuit Court for Baltimore County had “a lot more judicial clerks” and brought in more revenue. Because of the population of Baltimore City, as well as the number of court filings in that venue, counsel argued that venue in Baltimore County would be less burdensome on jurors. Finally, counsel stated that “[c]itizens in Baltimore County ha[d] a greater interest in deciding whether reasonable care was rendered at their hospital,” and therefore, all three of the public interest factors strongly weighed in favor of transfer.

Regarding private interest factors, counsel argued that the private interests strongly favored transfer to Baltimore County. In support, counsel stated that the records, from GBMC and the schools, were in Baltimore County.

Jordan's counsel argued that Jordan's choice of venue was entitled to deference. With respect to the 13 witnesses that were alleged to live in Baltimore County, counsel argued that "99.9 percent of the time, all of these doctors that had been listed out by the defendants are never called to testify at trial," and therefore, the court should not strongly consider them. Even assuming that appellees did call those 13 witnesses, counsel stated that he found

it really hard to believe that it is inconvenient -- so inconvenient that none of the people from Baltimore County would ever even think about driving their cars across the line and coming into Baltimore City to attend an event, that they would consider it so inconvenient, and that's the same with court.

Counsel argued that Baltimore City's citizens had an interest in the outcome of the litigation because GBMC solicited and treated patients from Baltimore City. Finally, counsel argued that "[a]ll of the people who treated Jordan Guy pretty much after the third month of his life [were] all located in Baltimore City," and the situs of the alleged negligence, Baltimore County, was only relevant because that is where the medical records were stored.

### **The Court's Ruling**

Following counsel's arguments, the court issued its oral ruling. The court noted that it was required to consider the public and private interests of justice, as well as "considerations of court congestion."

With respect to the burden on the court and the jury, the court referenced the Maryland Judicial Statistical Abstract, finding that "obviously the Baltimore City Court has many, many more filings, cases, and pleadings. The dockets are much heavier than

they are in Baltimore County.” It stated that it was “not persuaded by what the plaintiff[] had attempted to do to manipulate those figures” to a per-judge ratio, and it found that the consideration of court congestion weighed strongly in favor of a transfer of the case to Baltimore County.

The court also found that the burden of jury service in Baltimore City weighed strongly in favor of transferring the case to Baltimore County. Given the “overall caseload” in Baltimore City, as well as the older buildings without a large room to gather the jurors, jury service in Baltimore City was generally onerous, with the Covid-19 pandemic increasing the burden.

The court then addressed the local interest in the case. Noting that GBMC was “a local community hospital in Baltimore County,” it stated that the citizens of Baltimore County had a greater interest in the outcome of the litigation because it was related to the care “they should expect to receive.” It found that GMBC’s affiliation with two rehabilitation centers in the City did not weigh heavily in the analysis because the issue in the case was the standard of care in obstetrics, and GMBC did not “offer obstetrics in Baltimore City.” Accordingly, it found the public interest in the case to weigh strongly in favor of transfer to Baltimore County.

Regarding private interests, the court looked to the convenience of the parties. It noted that one of the defendants, GBMC, was in Baltimore County, and “[t]he out of state defendants by virtue of their motions have established that Baltimore County would be the most convenient jurisdiction for them.” The court acknowledged Jordan’s “compelling

argument” that the increased distance to Baltimore County, coupled with his and his mother’s disabilities, was a hardship. It stated, however, that the argument that it was difficult to get to Baltimore County had “been impeached to some extent, by the contrary evidence of their regular activity in Baltimore County,” noting that Jordan had attended Baltimore County public schools while residing in Baltimore City. Under these circumstances, the court found that the convenience of the parties weighed “strongly in favor of transfer.”

Regarding the availability of witnesses, the court noted that appellees had “provided a comprehensive list of potential witnesses, all of whom [were] located in Baltimore County,” with some support by affidavit that Baltimore County was a more convenient forum. Although Jordan had received treatment in Baltimore City following his birth, the court stated that it would not assume that Baltimore City was a more convenient forum for any witnesses that Jordan may call in that regard. The court found that the availability of witnesses weighed in favor of transfer.

The court recognized that deference should be given to Jordan’s choice of venue. It noted, however, that under certain circumstances, deference was diminished, and it found that the deference to Jordan’s choice of venue in Baltimore City was “mitigated by what is either plaintiff’s current -- his recent residence in Baltimore County, or his voluntar[y] commute to Baltimore County consistently for up to three consecutive years.”

Ultimately, the court found, after “giving due deference to [Jordan’s] choice and weighing all the evidence which is relevant to the interest of justice,” that appellees had

met their burden to demonstrate that transfer to Baltimore County was warranted. On June 4, 2020, the court ordered the case to be transferred to Baltimore County.

### **Jordan’s Amended Complaint and Motion to Amend**

On June 8, 2020, Jordan filed a First Amended Complaint and Demand for Jury Trial (“Amended Complaint”) in the Circuit Court for Baltimore City. The Amended Complaint added Dr. Lawson-Boucher as a defendant.

On June 10, 2020, Jordan filed a Motion to Alter or Amend Judgment (“Motion to Amend”) in the Circuit Court for Baltimore City seeking to vacate the court’s order to transfer the case to Baltimore County. After appellees filed an opposition to the motion, asserting that Jordan had “provided no valid basis” for revisiting the court’s decision to transfer the case, the court denied Jordan’s Motion to Amend.

This appeal followed.

### **STANDARD OF REVIEW**

In *Univ. of Md. Med. Sys. Corp. v. Kerrigan*, 456 Md. 393, 401 (2017), the Court of Appeals made clear that, in reviewing a circuit court’s decision regarding a motion to transfer a case to another jurisdiction on the grounds of *forum non conveniens*, an appellate court applies an abuse of discretion standard. The Court explained that, “[a]lthough appellate courts do not rubberstamp the rulings of trial court judges, appellate courts ‘should . . . be reticent’ to substitute their own judgment for that of the trial court unless they can identify ‘clear abuse’ of the wide latitude given to trial courts when ruling on Rule 2-327(c) motions.” *Id.* at 401–02 (quoting *Urquhart v. Simmons*, 339 Md. 1, 17–19

(1995)). *Accord Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 436 (2007) (“So long as the Circuit Court applies the proper legal standards and reaches a reasonable conclusion based on the facts before it, an appellate court should not reverse a decision vested in the trial court’s discretion merely because the appellate court reaches a different conclusion.”).

### DISCUSSION

Jordan contends that the circuit court abused its discretion in granting appellees’ motions to transfer the case to Baltimore County. Appellees contend that the court’s order granting their motions was a proper exercise of discretion.

Before addressing the specific contentions, we shall discuss the law applicable to the doctrine of *forum non conveniens*. Maryland Rule 2-327(c) provides: “On 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.”<sup>4</sup> The Rule “confers on a circuit court the discretionary power to transfer even if the transferring court is a proper venue.” *Leung v. Nunes*, 354 Md. 217, 222 (1999).

When ruling on a motion to transfer a case to another jurisdiction, courts give deference to the plaintiff’s choice of venue. *Id.* at 224. The “plaintiff’s entitlement to pick the forum” is accounted for in the relatively high burden that a defendant must overcome to successfully transfer the case. *Smith*, 209 Md. App. at 415; *Leung*, 354 Md. at 224

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<sup>4</sup> There is no dispute that suit could have been filed in Baltimore County. *See* Cts. & Jud. Proc. § 6-202(8) (Actions may be brought in the county where the cause of action arose.).



(“Proper regard for the plaintiff’s choice of forum is the reason why ‘a motion to transfer [from the forum chosen by the plaintiff] should be granted only when the balance weighs strongly in favor of the moving party.’”) (quoting *Urquhart*, 339 Md. at 18 n.7). The plaintiff’s choice, however, is not an absolute privilege. *Cobrand v. Adventist Healthcare, Inc.*, 149 Md. App. 431, 440 (2003). There are various factors that can “minimize the deference afforded the plaintiff’s choice of forum.” *Kerrigan*, 456 Md. at 410.

When determining whether to grant a motion to transfer for *forum non conveniens* under Md. Rule 2-327(c), the circuit court must weigh the convenience of the parties and witnesses as well as the interests of justice. *Nace v. Miller*, 201 Md. App. 54, 77, *cert. denied*, 424 Md. 56 (2011); *Scott v. Hawit*, 211 Md. App. 620, 628, *cert. denied*, 434 Md. 314 (2013). The interests of justice component is comprised of two factors, public interests and private interests. *Nace*, 201 Md. App. at 77. As the Court in *Nace* explained:

Private interests include “the 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.”

*Id.* (quoting *Stidham v. Morris*, 161 Md. App. 562, 568 (2005)). Public interests, on the other hand, include “considerations of court congestion, the burdens of jury duty, and local interest in the matter.” *Id.* at 78.

Based on our review of the record, we conclude that the court properly considered the pertinent factors, and it did not abuse its discretion in granting appellees’ motions to transfer. As explained below, we are not persuaded by Jordan’s specific claims of error.

A.

**Deference to Plaintiff's Venue**

Jordan contends that the circuit court abused its discretion in not giving “full deference” to his choice of Baltimore City as the forum, and instead, stating that deference to his choice was diminished by his voluntary commute to Baltimore County. He asserts, relying on *Kerrigan*, 465 Md. at 405–06, that there are only two circumstances in which the deference owed to a plaintiff’s choice of forum is diminished: (1) where the plaintiff does not reside in the jurisdiction where suit was filed; and (2) where the plaintiff’s choice of forum has no meaningful ties to the controversy. He argues that neither circumstance was applicable here.

Initially, we note that the court explicitly stated that it was giving “due deference” to Jordan’s choice of venue. And there is nothing in *Kerrigan* that suggests that the two circumstances it discussed were the only two circumstances that could mitigate against a plaintiff’s choice of forum. Indeed, the Court made clear that, “[a]lthough the plaintiff’s chosen venue is the presumed convenient forum for the plaintiff, and, as such, is granted deference, that deference is by no means guaranteed as an absolute.” *Kerrigan*, 456 Md. at 407. Rather, the trial court’s analysis is based on the facts of that case, and the decision whether to transfer a case is made on a “case-by-case” basis. *Id.* at 413.

Here, the circuit court determined that the deference accorded to Jordan based on the presumed convenience of a trial in Baltimore City was diminished by the fact that he either lived in the County at the time suit was filed or he had travelled from Baltimore City

to go to Baltimore County schools for several years. The court did not abuse its discretion in this regard.

**B.**

**Convenience of the Parties and Witnesses**

Jordan next contends that the court abused its discretion by finding that the convenience of the parties and witnesses strongly favored transfer from Baltimore City to Baltimore County. He asserts that the ruling was unreasonable after the court found that the venues are “so close” and BWI, the airport he asserts that the out-of-state witnesses would use for trial, was closer to Baltimore City.

Initially, we note that the court’s comment that the courts in Baltimore City and Baltimore County are “so close” does not preclude a finding, under all the circumstances, that transfer is warranted. *See Urquhart*, 339 Md. at 19 (Despite the close proximity between the two venues, the circuit court did not abuse its discretion in finding that convenience weighed in favor of transfer.). And there was no evidence to support Jordan’s assertion that the out-of-state witnesses would fly into BWI.

In assessing the convenience of the parties, the court noted that GBMC was in Baltimore County and “[t]he out of state defendants by virtue of their motions have established that Baltimore would be the most convenient jurisdiction for them.” Although the motion would not be sufficient, by itself, to justify the court’s conclusion that Baltimore County was a more convenient forum, the court relied on other factors in its determination. As indicated, GBMC’s principal place of business is in Baltimore County, it performs

obstetrical care in Baltimore County, not the City, GBMC's party representative is from Baltimore County and would have to drive significantly farther if trial were held in Baltimore City, and other witnesses were located in Baltimore County. The court acknowledged Jordan's "compelling argument" that Baltimore City was more convenient to him and his mother due to their disabilities, but it noted that the claim of hardship in travelling to Baltimore County had "been impeached to some extent," by the evidence of their regular activity in Baltimore County. Given all the circumstances, we cannot conclude that the circuit court abused its discretion in finding that the convenience of the parties and witnesses strongly favored transferring the case to Baltimore County.

**C.**

**Public Interests**

Jordan next contends that the circuit court abused its discretion in finding that the public interests strongly favored transfer. Jordan advances several arguments to support this contention. First, he argues that the court erred by finding that his contacts with Baltimore County were relevant while simultaneously finding that GBMC's contacts with Baltimore City were irrelevant. Second, Jordan contends that the court abused its discretion in disregarding his argument "that Baltimore County was more congested than Baltimore City on a per judge basis." Third, Jordan argues that the court erred in relying "on its own perceived problems with the [c]ourthouse structure in Baltimore City, none of which was part of the record prior to the [c]ircuit [c]ourt's oral ruling, to conclude that jury duty in Baltimore City is worse than in Baltimore County." Finally, he asserts that the

court’s “over-emphasis on the Covid-19 pandemic” was an abuse of discretion, stating that the pandemic has affected all courthouses, and “[a]t best, this factor would weigh in equipoise.”

We are not persuaded by Jordan’s arguments. In addressing the local interest in the case, the court noted that GBMC was a local hospital in Baltimore County, giving the citizens of the county a greater interest in the outcome of the case. The court stated that GBMC’s affiliation with Baltimore City rehabilitation centers did not weigh heavily in the analysis of the local interest because the issue in the case was “the standard of care in obstetrics that was provided to the plaintiff and his mother, and that does not -- GBMC doesn’t offer obstetrics in Baltimore City.” There was no abuse of discretion in the court’s analysis in this regard. *See Smith*, 209 Md. App. at 419–20 (Transfer from Baltimore City to Baltimore County was proper, in part because the alleged medical malpractice occurred in Baltimore County.). That the court considered Jordan’s contacts with Baltimore County when assessing the convenience of the parties does not impact our conclusion that the court did not abuse its discretion in assessing the public interest in deciding whether to transfer the case.

With respect to the congestion of the courts, the circuit court stated that it was not persuaded by Jordan’s per judge statistics, finding that “Baltimore City has many, many more filings, cases, and pleadings.” As this Court made clear in *Hawit*, 211 Md. App. at 635–36, the use of per judge statistics is a valid, but not exclusive, method for

demonstrating congestion. We will not second-guess the court's finding regarding the caseload of the circuit courts.

The circuit court's reasoning is similar to that set forth in *Payton-Henderson*, 180 Md. App. at 294, where this Court stated:

A possibly protracted trial involving numerous witnesses is a burden properly to be assumed by the Baltimore County court system and not one that should be foisted onto the strained court system of Baltimore City. There is no reason, moreover, why the cost and obligation of jury service should be cast upon the citizens of Baltimore City for the trial of a matter of more vital and immediate concern to the citizens of Baltimore County.

The circuit court here similarly found that neither the strained court system of Baltimore City nor its jurors should be burdened with a trial involving a matter that was of more concern to the citizens of Baltimore County.

Finally, there was nothing improper about the court's discussion of the additional challenges that the Covid-19 pandemic has presented to the Circuit Court for Baltimore City. The court did not abuse its discretion in finding that the public interests of justice strongly favored transferring the case to Baltimore County.

**D.**

**Private Interests**

Jordan next contends that the circuit court abused its discretion in finding that the private interests strongly favored transfer. As indicated, the private interests of justice include the relative ease of access to sources of proof, the availability of compulsory process, the cost of obtaining attendance of witnesses, the possibility to view the premises, and "all other practical problems that make trial of a case easy, expeditious, and

inexpensive.” *Nace*, 201 Md. App. at 77 (quoting *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508 (1947)).

Appellees contend that “the court was within its discretion to find that relevant private interests militate in favor of transfer.” In support, they argue that relevant medical and educational records were in Baltimore County, resulting in “greater ease of access to sources of proof,” and Baltimore County was a “more convenient forum for the willing non-party fact witnesses.”

In assessing this consideration, the court stated that appellees “had provided a comprehensive list of potential witnesses, all of whom are located in Baltimore County, and some support is by affidavit that Baltimore County is in fact more convenient forum for them.” Although Jordan complains that the court considered witnesses who had not filed an affidavit attesting that the County was more convenient, appellees did provide some affidavits, as compared to Jordan, who provided only one affidavit, his mother’s, with respect to Baltimore City being more convenient forum.

The court determined that, given that the “crux of the case” was the standard of care provided by appellees in Baltimore County, the consideration relating to ease of access to sources of proof weighed in favor of transfer. It stated that the consideration relating to viewing the premises was not a factor because there was no need to visit the hospital. With respect to practical problems that would make trial easy or expeditious, the court reiterated its earlier findings regarding court congestion and the burden on the jury, and it stated that this factor weighed strongly in favor of transfer to Baltimore County. The court thoroughly

analyzed the private interests based on the evidence presented by the parties, and the court did not abuse its discretion in finding that the private interests weighed in favor of transfer.

**E.**

**Conclusion**

Based on a review of the record, we conclude that the circuit court properly considered the relevant factors in assessing whether to transfer the case to the Circuit Court for Baltimore County. The court noted, among other things, that the alleged medical malpractice occurred in Baltimore County, where GBMC provides obstetrical care, where GBMC's party representative works and lives, and where many of the physical records would be stored if needed for trial. Although Jordan asserts that Baltimore City is a more convenient forum for him, the circuit court acted within its discretion in finding that any such convenience was mitigated because (1) he actually lives in Baltimore County or (2) he commuted to school in Baltimore County and spent significant time there. The court, after considering all the facts, did not abuse its discretion in transferring the case to Baltimore County.

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE CITY AFFIRMED.  
COSTS TO BE PAID BY APPELLANT.**