

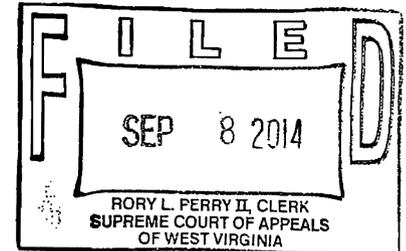


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September 8, 2014

VIA HAND DELIVERY



Rory L. Perry, II, Clerk of the Court
Capitol Complex
Building One, Room E-317
Charleston, WV 25305

**Re: State of WV ex rel. FORD MOTOR COMPANY, et al. v.
The Honorable David W. Nibert, et al.
Supreme Court No. 14-0766**

Dear Clerk Perry:

Pursuant to West Virginia Rule of Appellate Procedure 10(i), we write to advise the Court of the intervening decision of the Court of Common Pleas of Cuyahoga County, Ohio (attached), dismissing for *forum non conveniens* an action filed in Ohio by Plaintiffs Christie Siegel, *et al.*, relating to the same Michigan accident that is the basis of this case.¹

As Petitioners-Relators Ford Motor Company and Jack Garrett Ford (together "Ford") explained in their Petition for a Writ of Prohibition (at 7), Plaintiffs elected to bifurcate their litigation relating to the accident—filing suit in West Virginia against Ford Motor Company and Jack Garrett Ford, while filing suit in Ohio against Kristin Kae Boss ("Boss") and Prestige Delivery Systems ("Prestige"). Plaintiffs allege that Boss caused the accident leading to plaintiffs' injuries while operating her vehicle (while Prestige's agent) when Boss' vehicle collided with Plaintiffs' Ford Explorer. Compl. ¶¶ 16, Appendix 12-13. On August 21, 2014, the Court of Common Pleas of Cuyahoga County, Ohio

¹ The Ohio case is styled *Christie Siegel, et al. v. Kristin Kae Boss, et al.*, Case No. CV-14-826326, and is currently pending before Judge Timothy McCormick in the Court of Common Pleas of Cuyahoga County, Ohio. On June 2, 2014, defendants in that matter, Prestige Delivery Systems, Inc. and Prestige Delivery System, LLC filed *Defendants' Prestige Delivery Systems, Inc. and Prestige Delivery Systems, LLC, Motion to Dismiss Based Upon Forum Non Conveniens*. On June 13, 2014, Plaintiffs' filed their brief in opposition, and on June 17, 2014, the Prestige defendants sought leave to file a reply, and submitted additional briefing on the *forum non conveniens* issue. Should this Court wish to consider the briefs submitted in the Ohio matter, Ford will provide the same for this Court's review. Alternatively, the filings are available electronically at <http://cpdocket.cp.cuyahogacounty.us/>.

dismissed plaintiffs' Ohio action against Boss and Prestige for *forum non conveniens* in favor of a Michigan forum.

In light of the Court of Common Pleas' decision, dismissal of this action for *forum non conveniens* would permit all of Plaintiffs' tort claims relating to the same Michigan accident to be tried in one action in one Michigan forum. See W. Va. Code 56-1-1a(7) (directing courts to consider "[w]hether or not granting the stay or dismissal would result in unreasonable duplication or proliferation of litigation"). The Court of Common Pleas' decision is also relevant because plaintiffs have argued that dismissal of this action for *forum non conveniens* is inappropriate because Jack Garrett Ford—one of the two Defendants that Plaintiffs sued in West Virginia—is a West Virginia corporation. See, e.g., Respondents' Br. 10. But every Defendant in the Ohio action was either an Ohio resident or a corporation incorporated in Ohio. Even so, the Court of Common Pleas concluded that dismissal for *forum non conveniens* was appropriate on the basis of the same considerations that Ford has raised in its Petition for Writ of Prohibition. Because the primary defendant in this action—Ford Motor Company—has its primary place of business in Michigan, the balance of private and public interests weighs even more in favor of dismissal for *forum non conveniens* in this action than it did in the recently dismissed Ohio action.

Thank you for your kind assistance in this matter.

Very truly yours,



William J. Hanna

WJH/sjc
05100-31770

cc: T. Keith Gould, Esquire / Timothy R. Miley, Esquire (via U.S. mail)
David W. Nibert, Chief Judge (via U.S. mail)



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**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

FILED

CHRISTIE SIEGEL ETC, ET AL
Plaintiff

KRISTIN KAE BOSS, ET AL.
Defendant

Case No: CV-14-826326

2014 AUG 21 10:56

Judge: TIMOTHY MCCORMICK
WINDOW 8
CLERK OF COURTS
CUYAHOGA COUNTY

JOURNAL ENTRY

87 DIS. W/O PREJ - FINAL

DEFENDANTS KRISTIN KAE BOSS AND GARRETT J. BROWN'S MOTION TO DISMISS BASED UPON FORUM NON CONVENIENS, FILED 07/07/2014, IS GRANTED.

DEFENDANTS PRESTIGE DELIVERY SYSTEMS, INC. AND PRESTIGE DELIVERY SYSTEMS, LLC'S MOTION TO DISMISS BASED UPON FORUM NON CONVENIENS, FILED 06/02/2014, IS GRANTED.

CASE IS DISMISSED WITHOUT PREJUDICE. FINAL.
COURT COST ASSESSED TO THE PLAINTIFF(S).

[Handwritten Signature] *[Handwritten Date]*

Judge Signature Date

RECEIVED FOR FILING

AUG 21 2014

CUYAHOGA COUNTY
CLERK OF COURTS
By *[Signature]* Deputy