IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

Sara Elizabeth Wojtovich, as independent administrator of the estate of Lillie Morgan Wojtovich, deceased,	)	
Plaintiffs,	)	
v.	)	No. 16 L 4046
Advocate Health and Hospitals Corporation, d/b/a Advocate Good Samaritan Hospital, Summer Wirth, M.D., and Du Page Medical Group d/b/a DuPage Medical Group,	)	
Defendants.	)	

MEMORANDUM OPINION AND ORDER

The doctrine of *forum non conveniens* permits a circuit court to transfer a case to another jurisdiction, but only after weighing a variety of public- and private-interest factors and determining that they strongly favor the transfer. Although the plaintiff currently lives in Cook County, a weighing of the factors support the conclusion that DuPage County is the locus of the plaintiff's cause of action and that a transfer there would be more convenient for all parties. The defendant's motion is, therefore, granted.

Facts

In 2014, Sara Wojtovich was pregnant when she moved from Arizona to Illinois. After the move, Sara and her husband, Matthew, lived at 735 Irving Park Road in Roselle, a city located in DuPage County. Sara received her prenatal and postpartum care from Dr. Summer Wirth, a practitioner at DuPage Medical Group, located at 3743 Highland Avenue in Downers Grove, also located in DuPage

County. The record does not indicate that Sara received any medical care related to her pregnancy or delivery in Cook County.

On November 10, 2014, while living in DuPage County, Sara delivered a baby girl, Lillie, at Advocate Good Samaritan Hospital (AGSH), located at 3815 Highland Avenue in Downers Grove, also located in DuPage County. Lillie died merely 24 minutes after birth.

On April 16, 2016, Sara filed a complaint in the circuit court of Cook County naming as defendants AGSH, Wirth, and DuPage Medical Group. The complaint contains causes of action against each defendant under the Illinois survival and the wrongful death acts. The complaint alleges that each defendant owed Lillie a duty to employ the standards of care applicable to the delivery and birth of a baby. The complaint claims that the defendants breached those standards by failing to appreciate the severity of Lillie's decelerations during delivery, perform intrauterine resuscitation, and monitor Lillie for the last 37 minutes before her birth. Sara alleges that these failures proximately caused Lillie's death. Attached as an exhibit to the complaint is a physician's report attesting that there exists a reasonable and meritorious cause for filing the lawsuit.

On August 11, 2016, AGSH filed a motion to transfer this case to the circuit court of DuPage County based on the doctrine of *forum non conveniens*.[1] Attached to the motion are two affidavits. The first is by Laura DeSilva, the risk management director for AGSH. DeSilva avers that she is the designated representative for AGSH and that it is mandatory she attend the trial in this case. DeSilva further avers that AGSH is 11.3 miles from the DuPage County courthouse in Wheaton and 22.6 miles from the Daley Center in Chicago. DeSilva does not indicate where she lives, but she avers that it would be "extremely difficult and significantly inconvenient for [her] personally and professionally" to attend trial in Cook County and "much more convenient" for her to attend trial in DuPage County, in part because of rush-hour traffic to and from Chicago.

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[1] *Forum non conveniens* originated as a common-law, equitable doctrine that since 1986 has been reflected in Supreme Court Rule 187. *See* Ill. S. Ct. R. 187.

DeSilva further avers that, in the event documents and other evidence are needed from AGSH during the trial, it would be easier for her to coordinate efforts to obtain them if she were at the DuPage County courthouse. She also avers that she will be responsible for coordinating the schedules of the AGSH employees and medical staff who may be called as witnesses at trial. Given that "emergencies routinely and regularly arise," DeSilva avers that addressing scheduling problems and conflicts would be more efficient if the trial occurred in DuPage County. She avers that a trial in Wheaton would "increase the convenience to the [AGSH] witnesses involved in this case" by significantly shortening travel times to and from AGSH and would be financially beneficial for AGSH, its employees, and medical staff.

The second affidavit attached to the motion is by Wirth. She avers that she is employed by the DuPage Medical Group and has privileges at AGSH, both located in Downers Grove. She further avers that as of November 10, 2014 she practiced and currently practices exclusively at those two locations. Wirth avers that it would be inconvenient for her if the litigation proceeded in Cook County because she "neither reside[s] nor work[s] in Cook County." Conversely, she avers that litigating the case in DuPage County would be more convenient.

Sara responded to the motion and attached affidavits by both she and Matthew. Sara avers that they live in Hoffman Estates, located in Cook County, but does not indicate where they currently work. Sara avers that the trial of this case in Cook County, "my home County[,] would be more convenient for me than trial in DuPage County." Further, Sara avers that, "I selected my Home County of Cook County for trial because trail [sic] in DuPage County would be inconvenient for me as I do not wish to have my case proceed in a jurisdiction foreign to my home county." The affidavit makes plain that Sara understands that, "if this case is moved to DuPage County, my attorneys will need to get office space in DuPage County around and during the time of trial. I would find this expense reasonable and would expect that it would be reimbursed from the recovery in this case." Conversely, Sara avers that if the trial were to

be held at the Daley Center, her attorneys would have no need to rent office space since their offices are within a block of the courthouse. Understandably, Sara avers that she would prefer not to incur the additional rental expense. According to her affidavit, Sara avers that she will be present at court "at various times but not present at other times." To that end, "it would be more convenient for me to wait . . . at the office of my attorney. If this case proceeds in DuPage County – I will not have such a place to wait." Sara also avers that her and Matthew's families are both from out of state and that it would be more convenient for them to fly to an airport in Cook County and that, "[t]o my knowledge, there are no commercial airports in DuPage County."

The second affidavit attached to Sara's response brief is by Matthew. His averments are nearly identical to Sara's and provide no additional information. Matthew concludes by averring that, "Cook County, my home county, is my choice of forum and [is] more convenient than DuPage County."

This court permitted the parties to engage in limited written discovery before completing the briefing of the motion to transfer. To that end, Sara's answers to the interrogatories of AGSH provided information not contained in either the motion, response brief, or affidavits. For example, Sara answered that at both the time she filed her complaint – April 21, 2016 – and at the time AGSH filed its motion to transfer – August 11, 2016 – she and Matthew lived in Roselle. Sara and Matthew moved to Hoffman Estates from Roselle only after AGSH filed its motion to transfer but before she filed her response brief. The reply brief filed by AGSH also points out that although Sara and Matthew now live in Cook County, they live 15.1 miles from the Wheaton courthouse but more than twice that from the Daley Center.

On January 6, 2017, this court presented an oral ruling granting the motion and ordering the case transferred to DuPage County circuit court. Neither party had ordered a court reporter to transcribe the ruling. At the end of the ruling, Sara's attorney indicated that it was likely she would appeal pursuant to Illinois

Supreme Court Rule 306(a)(2). To that end, the parties and this court agreed that a bystander's report should be prepared; however, the attorneys later informed this court that they could not agree to the report's contents. This court decided that it preferred to draft a written ruling rather than re-read its ruling before a court reporter. This memorandum opinion and order is, therefore, a reconstruction of this court's extensive notes that served as the basis for the January 6, 2017 ruling.

Analysis

There exists an extensive body of law governing a court's consideration of a motion to transfer litigation based on the doctrine of *forum non conveniens*. At its essence, the doctrine "is founded in considerations of fundamental fairness and sensible and effective judicial administration." *Gridley v. State Farm Mut. Auto. Ins. Co.*, 217 Ill. 2d 158, 169 (2005). The modern application of the doctrine came with the United States Supreme Court's decision in *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501 (1947), a decision Illinois courts have consistently followed. *See Fennell v. Illinois. Cent. R.R.*, 2012 IL 113812, ¶ 12 (2012), *citing* cases.

A motion to transfer based on *forum non conveniens* differs from one based on venue. In Illinois, venue is a product of statute. *See* 735 ILCS 5/2-101. In contrast, *forum non conveniens* arises from the common law and is based on equitable principles. *See Lagenhorst v. Norfolk S. Ry.*, 219 Ill. 2d 430, 441 (2006), *citing Vinson v. Allstate Ins. Co.*, 144 Ill. 2d 306, 310 (1991). In short, a circuit court is instructed to "look beyond the criteria of venue when it considers the relative convenience of a forum." *Id., quoting Bland v. Norfolk & W. Ry.*, 116 Ill. 2d 217, 226 (1987).

Circuit courts are given "considerable discretion in ruling on a *forum non conveniens* motion. *Id.* at 441-42, *citing Peile v. Skelgas, Inc.*, 163 Ill. 2d 323, 336 (1994). A circuit court's decision will be reversed only if the court abused its discretion in balancing the relevant factors; in other words, if no reasonable person would adopt the view taken by the circuit court. *See Dawdy v. Union Pacific R.R.*,

207 Ill. 2d 167, 176-77 (2003). At the same time, courts are cautioned to exercise their discretion "*only in exceptional circumstances* when the interests of justice require a trial in a more convenient forum." *Lagenhorst*, 116 Ill. 2d at 442, *citing* cases (emphasis in original); *see also Dawdy*, 207 Ill. 2d at 176 ("the test . . . is whether the relevant factors, viewed in their totality, *strongly* favor transfer to the forum suggested by defendant") (emphasis added)), *quoting Griffith v. Mitsubishi Aircraft Int'l, Inc.*, 136 Ill. 2d 101, 108 (1990).

The consideration given to a *forum non conveniens* motion rests on several relevant presumptions. First, as to a plaintiff's choice of forum, "[w]hen the home forum is chosen, it is reasonable to assume that the choice is convenient. [Second,] [w]hen the plaintiff is foreign to the forum chosen . . . this assumption is much less reasonable and the plaintiff's choice deserves less deference." *First Am. Bk. v. Guerine*, 198 Ill. 2d 511, 517-18 (2002), *citing* cases. Third, "[w]hen the plaintiff is foreign to the chosen forum and the action that gives rise to the litigation did not occur in the chosen forum, 'it is reasonable to conclude that the plaintiff engaged in forum shopping to suit his individual interests, a strategy contrary to the purposes behind the venue rules.'" *Bruce v. Atadero*, 405 Ill. App. 3d 318, 328 (1st Dist. 2010), *citing Dawdy*, 207 Ill. 2d at 174, *quoting, in turn, Certain Underwriters at Lloyd's London v. Illinois Cent. R.R.*, 329 Ill. App. 3d 189, 196 (1st Dist. 2002).

A fourth presumption is especially pertinent if the disputed fora are two adjoining counties, as they often are in the Chicago metropolitan area. In those instances, "the battle over the forum results in a battle over the minutiae." *Lagenhorst*, 219 Ill. 2d at 450, *quoting Guerine*, 198 Ill. 2d at 519-20, *quoting*, in turn, *Peile*, 163 Ill. 2d at 335, *quoting*, in turn, *Peile v. Skelgas, Inc.*, 242 Ill. App. 3d 500, 522 (5th Dist. 1993) (Lewis, J., specially concurring). As has been explained, "a trial court abuses its discretion in granting an intrastate *forum non conveniens* motion to transfer venue where . . . the potential trial witnesses are scattered among several counties, including the plaintiff's chosen forum, and no single county enjoys a predominant connection to the litigation." *Guerine*, 198 Ill. 2d at 526, *citing Peile*, 163 Ill. 2d at 345.

In this case, it is reasonable to assume that Cook County is convenient for Sara as it is her current place of residence. At the time Sara filed her lawsuit, however, a court would have presumed that she was forum shopping because she filed her lawsuit in Cook County while living in DuPage County and the alleged malpractice occurred exclusively there. Yet after filing suit and after AGSH filed its motion to transfer, Sara and Matthew moved to Hoffman Estates in Cook County. This court has not discovered a reported opinion addressing a similar change of residence during litigation and whether such a change alters the consideration of the presumptions or interest factors. In short, given the state of the record, this court makes no assumptions about the Wojtovichs' reasons for moving, and while their current residency is presumed convenient for them, that factor, as indicated below, is merely one of many to be weighed.

As noted above, circuit courts are instructed to balance a variety of private- and public-interest factors to determine the appropriate forum in which a case should be tried. *See Dawdy,* 207 Ill. 2d at 172. The test is "whether the relevant factors, viewed in their totality, strongly favor transfer to the forum suggested by defendant." *Id.* at 176, *quoting Griffith*, 136 Ill. 2d at 108. It is the defendant's burden to show that the relevant factors strongly favor the defendant's choice of forum to warrant disturbing the plaintiff's choice. *See Lagenhorst,* 219 Ill. 2d at 444, *citing Griffith*, 136 Ill. 2d at 107. A court is not to weigh the private- and public-interest factors against each other, but evaluate the totality of the circumstances before deciding whether the defendant has proven that the balance of factors strongly favors transfer. *Id., citing Guerine*, 198 Ill. 2d at 518. "The defendant must show that the plaintiff's chosen forum is inconvenient to the defendant and that another forum is more convenient to all parties." *Id.* The defendant may not, however, assert that the plaintiff's chosen forum is inconvenient to the plaintiff. *Id.*

In *Guerine*, the Illinois Supreme Court listed the private- and public-interest factors a circuit court is to consider when addressing a motion to transfer based on *forum non conveniens*. As stated, the private factors are:

> (1) the convenience of the parties; (2) the relative ease of access to sources of testimonial, documentary, and real evidence; and (3) all other practical problems that make a trial of a case easy, expeditious, and inexpensive – for example, the availability of compulsory process to secure attendance of unwilling witnesses, the cost to obtain attendance of willing witnesses, and the ability to view the premises (if appropriate).

198 Ill. 2d at 516, *citing Griffith*, 136 Ill. 2d at 105-06; *Bland*, 116 Ill. 2d at 224; and *Adkins v. Chicago, Rock Island & Pac. R.R.*, 54 Ill. 2d 511, 514 (1973). Courts have generally broken down the third element to address each aspect separately and have often reorganized the order of the factors, as this court does below.

A. Private Factors

1. Convenience of the Parties

As noted above, Sara and Matthew currently live in Cook County, although they lived in DuPage County at the time of Lillie's death and when Sara filed her lawsuit. Cook County is, therefore, presumed to be convenient for her. Sara and Matthew's affidavits do not, however, provide any insight as to why Cook County is a more convenient forum. Each affidavit simply avers that a trial in DuPage County would be inconvenient because "I do not wish to have my case proceed in a jurisdiction foreign to my home county." That averment indicates a preference but provides no reasoning. Rather than take advantage of the opportunity to explain why Cook County is a more convenient forum, Sara and Matthew merely parrot what the law already presumes – that their county of residence is convenient. In short, Sara and Matthew rest on the presumption and provide no other facts to support their claim of convenience.

Sara's averment that she would be able to wait at her attorneys' Chicago office during trial but would have no similar place to wait in DuPage County is counterfactual. If Sara's attorneys were to rent

office space near the DuPage County courthouse, there is no reason why Sara could not wait there. More fundamental is that Sara presumes that she will not be at the courthouse at all times during the trial. It is difficult to accept that presumption given that Sara is the named plaintiff. Even if that presumption were true, Sara's averment also presumes that the DuPage County courthouse has no place for litigants or the public to wait. That presumption defies common sense. There is nothing in the record to suggest that Sara would be unable to wait in the courtroom, the hallway outside, or any other common area at the courthouse.

Sara's response brief and affidavit noticeably avoid any mention of the distance from Hoffman Estates to the two courthouses. The record shows, however, that although Sara and Matthew now live in Cook County, they live 15.1 miles from the Wheaton courthouse but more than 30 miles from the Daley Center. (Had Sara and Matthew wanted the most convenient forum, they would have remained in Roselle, which is only 8.32 miles from Wheaton. *See* www.distance-cities.com.) Given the equitable basis of a *forum non conveniens* analysis, this court does not have to accept the argument that a move across a county line automatically makes a new county of residence more convenient simply because it is a new county of residence. To accept that logic would require this court to disregard facts, such as in this case, in which Sara and Matthew's residence in Cook County is more than twice the distance to the Daley Center than to the DuPage County courthouse, the county in which the alleged tort occurred. That presumption of convenience defies geography and the travel times in the Chicago metropolitan area.

In contrast, the motion, reply brief, and exhibits filed by AGSH provide a more substantial factual basis to consider the *forum non conveniens* issue. It is a reasonable assumption that AGSH and Wirth will have to present many more factual witnesses at trial than will Sara. To that end, DeSilva's averment that a trial in DuPage County would be more convenient for the defendants is reasonable. In addition, the DuPage County courthouse is only 11.3 miles from AGSH and the DuPage Medical Group, while the Daley Center is 22.6 miles away. Consistent with the conclusion made in the last

paragraph, it is equally reasonable to assume that it is more convenient for any party or witness to travel a distance shorter by half.

This court believes that residency, by itself, does not address the true nature of what is convenient to parties and witnesses. More insightful to the convenience inquiry is where parties and witnesses work and spend their working hours since depositions and trials do not take place in homes before or after work. It is also relevant that an accommodation is nearly uniformly made to medical providers and staff for their depositions to be taken at their workplaces, not at an attorney's office. This fact carries weight here given the number of the defendants' employees who are likely to be deposed and present trial testimony. This fact is of particular importance to Wirth – who lives and works exclusively in DuPage County – and DeSilva – whose job is centered entirely in DuPage County. As noted earlier, Sara and Matthew did not indicate where they work, evidence that would have been highly useful.

Sara correctly points out that Advocate Health and Hospitals Corporation owns hospitals and operates various facilities in Cook County. That fact is important to a discussion of venue but has no real import to a forum analysis, particularly since it is uncontested that Sara received no care or treatment at any Advocate facility located in Cook County. Further, Sara has not raised any institutional claims that might warrant the deposition or trial testimony of an Advocate corporate representative who works at an Advocate facility in Cook County.

In sum, the record provided supports the conclusion that it will be more convenient for the parties to have oral discovery and a trial of this case in DuPage County. In short, this factor favors a transfer of this case to DuPage County.

2. The Relative Ease of Access to Evidence

This factor reveals, to a certain extent, the antique nature of the *forum non conveniens* private-interest factors. The use of real

evidence is far less common given the modern use of photography and video photography both in depositions and at trial. Even if real evidence proves to be at issue in this case – such as a faulty monitoring machine – nothing in the record suggests that such evidence is not portable. As to documentary evidence, nearly all of the documents in this case will be medical records, which are now stored and typically produced electronically. Whether a particular record is used at a deposition or at trial is far more discrete than a typical document production in a medical malpractice case.

The ease of access to evidence is, however, still relevant with regard to testimonial evidence. As noted above, medical providers are generally deposed at their place of business. That fact is important here given that, in addition to Wirth, AGSH has identified nurses Bocki, Bowerman, Morgan, Moist, and Schmidt who apparently provided care and treatment to Sara and Lillie. Since each is a medical treater, it is fair to assume that their depositions would occur in DuPage County. For the same reasons noted above, it is reasonable to presume that a trial in DuPage County during working hours would be more convenient to each of them given the proximity of AGSH and DuPage Medical Group to the Wheaton courthouse.

Sara and Matthew's affidavits point out that they would expect their out-of-state family members to be called as witnesses. The affidavits do not, however, identify any particular relatives, where they live, or what sort of relevant testimony they might provide. Indeed, the complaint's allegations suggest that Lillie's status changed during delivery, making the testimony of extended family members of questionable relevance. Sara and Matthew also aver that it would be more convenient for their family members to fly into an airport located in Cook County and that DuPage County does not have a commercial airport. While it certainly would be more convenient, if not essential, to fly into one of Chicago's two airports, it must be noted that O'Hare International Airport is located in Cook *and* DuPage counties. Given that O'Hare and Midway airports are the only commercial airports in the Chicago metropolitan area, it is ultimately irrelevant where depositions are taken or trial occurs since anyone traveling by air will come through one of those two airports.

What is missing from this analysis are averments from Sara and Matthew explaining the fundamental reason why it is more convenient for them to be deposed or provide trial testimony in Cook County. That missing information runs up against the DeSilva and Wirth affidavits that supply specific reasons why it would be more convenient for the defendants for this litigation to proceed in DuPage County. The lack of an explanation also contrasts with the uncontested mileage figures supplied by AGSH indicating that both Sara and Matthew's home in Hoffman Estates and AGSH and DuPage Medical Group are twice as far from the Daley Center as they are from the DuPage County courthouse in Wheaton.

The available evidence leads to the conclusion that this factor also favors a transfer to DuPage County.

3. Compulsory Process of Unwilling Witnesses

Neither party has indicated that this is a factor to be considered; consequently, this court concludes that this factor is neutral.

4. Cost of Obtaining Attendance of Willing Witnesses

This factor makes little analytic sense. If a witness is willing to be deposed or attend trial, then the witness should be willing to bear the cost of attendance rather than shift it to a party. Regardless, travel costs will be the same for Sara and Matthew's out-of-state family members since they must use O'Hare or Midway airports regardless of where this case is tried. The cost factor does affect the defendants' witnesses, but these costs, do not appear to be exceptional or unusual. For those reasons, this court concludes that this is a neutral factor.

5. Viewing the premises

Neither party has indicated that viewing the delivery room where Lillie was born and died will be necessary. Even if viewing the

premises were necessary, the factor would favor DuPage County. Since this court assumes that viewing the premises is unnecessary, this court concluded that this factor is neutral.

6. Other Practical Considerations that make a Trial Easy, Expeditious, and Inexpensive

The case law discussing this factor acknowledges that the Chicago metropolitan area is well connected by multi-lane highways and commuter train systems. This court also takes judicial notice that these highways and various train stations in both counties are generally convenient to both the Wheaton and Chicago courthouses; consequently, time may be a more relevant factor. While trains usually run on a schedule, travel by car across northern Illinois, particularly in peak hours is often long and frustrating. To that extent, it is reasonable to presume that travel time by car or train is less the shorter the distance. Given the location of the parties and the identified witnesses noted above, this factor would favor this case proceeding in DuPage County.

Sara and Matthew raise a valid point that they would incur the additional cost of renting office space in DuPage County if this case were to proceed there. Such a concern is tempered by the presumption that this case will be one of the less than five percent of all cases that proceed to trial. It also presumes that Sara would obtain a judgment from which the rental costs could be deducted. Most important, Sara and Matthew did not provide any evidence as to the costs of renting office space near the Wheaton courthouse. This information would have been particularly useful to balance against the equally unquantified claims of AGSH that a trial at the Daley Center would be uneconomical given the number of medical and nursing staff members that would have to travel here.

Without precise cost information from either side, it is difficult for this court to assess this factor with any precision; consequently, this court concludes that this is a neutral factor.

B. Public Factors

The court in *Guerine* also identified the private-interest factors a circuit court should address when considering a motion to transfer venue based on *forum non conveniens*. These factors are:

> (1) the interest in deciding localized controversies locally; (2) the unfairness of imposing the expense of a trial and the burden of jury duty on residents of a county with little connection to the litigation; and (3) the administrative difficulties presented by adding further litigation to court dockets in already congested fora.

Guerine, 198 Ill. 2d at 516-17. This court's analysis of these factors follows seriatim.

1. Deciding Localized Controversies Locally

This factor requires this court to consider three interrelated uncontested facts. First, none of Sara's prenatal and postpartum medical care occurred in Cook County. Indeed, the complaint makes plain that the alleged malpractice occurred exclusively in DuPage County. Second, at the time Sara filed her complaint, she and Matthew lived in DuPage County. Third, Advocate Health and Hospitals Corporation (Advocate) owns and operates medical facilities in Cook County.

In support of her argument that this public-interest factor favors Cook County, Sara cites to *Prouty v. Advocate Health & Hosp. Corp.*, 348 Ill. App. 3d 490 (1st Dist. 2004), and *Hackl v. Advocate Health & Hosp. Corp.*, 382 Ill. App. 3d 442 (1st Dist. 2008). Based on those cases, Sara argues that the appellate court "has repeatedly held that any county in which defendant Advocate provides services has an interest in the outcome of the case." Resp. Br. at 9. Based on those citations, that legal conclusion is far too broad given the particularities of each case.

In *Prouty*, for example, the witnesses who would testify against the treating pediatrician and his associated hospital lived in three

northern Illinois counties. *See* 348 Ill. App. 3d at 491-93. The plaintiff's mother filed suit in Cook County, where she lived, although the alleged malpractice occurred at Advocate Good Shepherd Hospital in Lake County. *See id.* The hospital sought to transfer the action to Lake County since the hospital was located there and the doctor worked and lived in Lake County. *See id.* The court affirmed the circuit court's decision to deny the motion to transfer based on *forum non conveniens*, in part, because of the case's "unique circumstances." *Id.* at 496. The court found the accusation of forum shopping unfounded because the physician and hospital, not the plaintiff, had selected Lutheran General Hospital in Cook County as the place where the daughter should be transferred to receive additional treatment. *See id.* at 497. Since Good Shepherd Hospital had made the transfer decision, it could not later complain that the majority of the medical witnesses necessary for either party in discovery or trial lived or worked in Cook County. *Id.* at 496-97.

In *Hackl*, Advocate Good Shepherd Hospital, once again, sought to transfer the lawsuit from Cook County to Lake County because the decedent received treatment and died at the hospital. *See* 382 Ill. App. 3d at 443-44. The circuit court denied the motion, and the hospital appealed. *See id.* The court noted that four of the defendants lived in Cook County, two in Lake County, one in DuPage County, and one in Arizona. *See id.* at 450. While the defendants appeared to have legitimate transportation concerns, the court found the private-interest factors between the two counties "more or less evenly balanced" because the potential witnesses were spread out over multiple Illinois counties and two states; therefore, these factors did not "strongly favor" a transfer. *Id.* at 451. As to the public-interest factors, the court rejected the hospital's argument that Cook County had no interest in the lawsuit specifically because the case "involve[d] defendants who are residents of Cook County and healthcare providers in Cook County." *Id.* at 452.

Unlike *Prouty* and *Hackl*, this case does not involve care and treatment in more than one county or known witnesses spread out over multiple counties. And unlike *Hackl*, this case does not concern defendants who live and work in Cook County. While Advocate owns

and operates medical facilities in Cook County, this court does not believe this fact has much currency. Advocate, itself, did not provide any care and treatment, one of its hospitals did. Advocate's presence in Cook County as a corporate entity and owner and operator of medical facilities may establish venue, but does not mean that this county is convenient for either Sara or the defendants. This court's analysis as to this factor might have been different had Sara brought institutional claims against Advocate that would have required depositions and trial testimony from Advocate representative who live or work in Cook County. Absent such evidence, however, Advocate's presence in Cook County is of little to no importance.

In sum, DuPage County has an overwhelming interest in litigating this controversy since it is local to that jurisdiction. This court concludes that this factor favors a transfer to DuPage County.

2. Unfairness of Imposing Expense and Burden on a County with Little Connection to the Litigation

This public-interest factor generally follows from the first. The only connection Cook County has to this litigation is Sara and Matthew's current residence in Cook County. While Sara and Matthew chose to move to Cook County, they also chose AGSH to provide Sara's prenatal and postpartum care with a doctor who lives and works in DuPage County at medical facilities located in DuPage County. Sara and Matthew's current residence does not alter the fact that all of the alleged malpractice occurred in DuPage County. It follows that residents of Cook County should not sit in judgment about alleged malpractice that did not occur here. Again, this court's analysis might have been different had there been facts in the record suggesting that the acts and omissions that allegedly occurred during Lillie's delivery and leading up to her death also occur at other Advocate facilities located in Cook County. Without such evidence, however, it makes little sense to impose the financial and resource burdens on Cook County and its resident-jurors.

This court concludes that this factor favors transfer to DuPage County.

3. Administrative Difficulties

The most recent statistics available indicate that Cook and DuPage counties are in a virtual dead heat for the length of time from the filing of a lawsuit to its disposition. In Cook County, the average time is 40.2 months, while in DuPage County the average time is 39.3 months. Illinois Supreme Court, "Annual Report of the Illinois Courts – 2015" at 60. A difference of one month is not statistically significant and even if it were, the factor would favor DuPage County. This court concludes that this factor is neutral.

Conclusion

This court concludes that AGSH has shown that litigating this case in Cook County is inconvenient to AGSH and that it is more convenient for all parties that this case to be litigated in DuPage County. For the reasons presented above, it is ordered that:

1. the motion of AGSH to transfer this case to DuPage County circuit court is granted;
2. AGSH will pay all costs associated with the transfer; and
3. this order is entered *nunc pro tunc* to January 6, 2017.

John H. Ehrlich, Circuit Court Judge

Judge John H. Ehrlich

FEB 01 2017

Circuit Court 2075