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DISMISSAL FROM DEFENDANT'S FORUM — FORUM NON CONVENIENS — *Manu International, S.A. v. Avon Products, Inc.*, 641 F.2d 62 (2d Cir. 1981).

Manu International, S.A. (Manu), a Belgian corporation, brought suit in the United States District Court for the Southern District of New York against Avon Products, Inc. (Avon), a New York corporation with its principal offices in New York, seeking damages for tortious interference with contract, fraudulent misrepresentation, misappropriation of confidential trade secrets and alleging that the foregoing acts were the product of a conspiracy.

Manu, a handbag supplier for Avon's European market, alleged that it disclosed the Taiwanese source of its designer bag in response to representations by Avon that an Avon employee was coming to Taiwan to determine whether Manu had the production capacity to handle the American markets for the designer bag. Manu alleged fraudulent misrepresentation in that Avon's real purpose was to discover Manu's Taiwan sources and lure them into direct dealing. Avon moved to dismiss for forum non conveniens.

The district court granted the motion concluding that the focal point of the litigation was in Taiwan; that the issue should be decided in accordance with Taiwanese law; and that the Southern District of New York had little interest in deciding the controversy. On appeal, the Second Circuit reversed. In a unanimous opinion, Judge Mansfield analyzed the private and public interests in the doctrine of forum non conveniens as outlined in *Gulf Oil v. Gilbert*:¹

The private interest concerns the "practical problems that make trial of a case easy, expeditious, and inexpensive . . . , the likelihood of obtaining an enforceable judgment and the relative advantage to a fair trial." The public interest factors involved include the problems of court congestion, jury duty, local interest in the controversy and the advantages of having a court familiar with the law which is being applied [U]nless the balance is strongly in favor of the defendant, the plaintiff's choice of forum should rarely be disturbed.²

The court, examining the private interests, concluded that all of the

1. 330 U.S. 501 (1947).

2. *Manu Int'l, S.A. v. Avon Products, Inc.*, 641 F.2d 62, 64-65 (2d Cir. 1981).

acts did not occur in Taiwan. The disclosure was not in Taiwan, and the alleged conspirators were not based in Taiwan. It further noted that Avon's initial attempt to contact Manu occurred in New York and that the alleged false representations were made in London. Next, it concluded that most of the witnesses were not in Taiwan; they spoke English and the documents were in English.

Weighing the public concerns, the court further noted that New York was the defendant's forum.

It [would be] a perversion of the *forum non conveniens* doctrine to remit a plaintiff, in the name of expediency, to a forum in which, realistically, it will be unable to bring suit when the defendant would not be genuinely prejudiced by having to defend at home in the plaintiff's chosen forum.³

Finally, the court thought the need to apply foreign law was not, in itself, a reason to apply the doctrine of *forum non conveniens*.

LABOR — SOVIET INVASION OF AFGHANISTAN — LONGSHOREMEN'S BOYCOTT — JURISDICTION OF NATIONAL LABOR RELATIONS BOARD — UNLAWFUL CONDUCT — NLRB; *International Longshoremen's Association, AFL-CIO*, 257 N.L.R.B. No. 151 (Aug. 28, 1981).

In response to the Soviet invasion of Afghanistan, the International Longshoremen's Association (ILA) issued an order suspending the handling of cargo destined for or originating from the Soviet Union. This action was instituted by businesses challenging the lawfulness of ILA's suspension order. The administrative law judge (ALJ) determined that the ILA's act was not within the National Labor Relations Board's (NLRB) jurisdiction. The ALJ, interpreting Supreme Court decisions, concluded that the Board's jurisdiction was limited when the disputed conduct interfered with the maritime operations of foreign vessels.

In this appeal, the NLRB concluded that it possessed jurisdiction to entertain a challenge to the legality of a labor union's actions in the absence of an express jurisdictional bar from the Supreme Court. The

3. *Id.* at 67.