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Forum Non Conveniens - Effect of Law of Alternate Forum on Propriety of Dismissal {Piper Aircraft Co. v. Reyno)

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volved the termination of claims, it emphasized that both suits stemmed from the same international crisis that the President had resolved with the acquiescence of Congress. In stressing the narrowness of its holding, the court of appeals merely underscored the conclusion reached by the Supreme Court in *Dames & Moore v. Regan* that further clarification of the limits on the exercise of presidential power in this area cannot be made in the abstract, but must await events which have yet to unfold.

FORUM NON CONVENIENS—EFFECT OF LAW OF ALTERNATE FORUM ON PROPRIETY OF DISMISSAL—*Piper Aircraft Co. v. Reyno*, 454 U.S. 235 (1981).

In July 1976 a small aircraft crashed in Scotland killing the pilot and five passengers who were all Scottish subjects and residents. The plane and its propellers were manufactured in the United States by Piper Aircraft Company and Hartzell Propeller, Inc. Wrongful death actions were brought against the two companies by Gaynell Reyno, an American citizen who was appointed administratrix of the decedents' estates. The actions were commenced in a California state court and subsequently transferred to the United States District Court for the Middle District of Pennsylvania.

Reyno admitted that the suit was brought in the United States rather than in Scotland because of more favorable laws regarding damages, capacity and liability. Scottish law permits recovery of damages in products liability actions only if negligence on the part of the manufacturer is established. Strict liability is not recognized in Scotland. Additionally, Scottish law allows wrongful death actions to be brought only by a decedent's family.

The district court granted Piper's motion to dismiss the suit on the ground of forum non conveniens. This decision was reversed by the Court of Appeals for the Third Circuit which held that dismissal was inappropriate because trial in Scotland would eliminate Reyno's strict liability claim. The Supreme Court reversed. Justice Marshall, writing for the majority, held that "the possibility of a change in substantive law should ordinarily not be given conclusive or even substantial weight in the forum non conveniens inquiry."¹

Justice Marshall stressed the need for a flexible approach when

1. 454 U.S. at 247.

applying the forum non conveniens doctrine. The Court reasoned that if determinative weight were given to the possibility of a change in law in the alternate forum, then the forum non conveniens doctrine would become useless. Because jurisdiction and venue requirements are often easily met, a plaintiff could choose the forum with the most favorable laws, and, under the Third Circuit's approach, a defendant would be forced to litigate in that forum regardless of the inconvenience.

In addition to addressing the impact of substantive law variations on the doctrine of forum non conveniens, the Court reaffirmed the distinction between forum selections made by American as opposed to foreign plaintiffs. It concluded that an American forum choice by a foreign plaintiff could not be presumed convenient when the incident giving rise to the litigation occurred outside of the United States. While the Court did not find that determinative weight should be given to the forum choice of an American citizen or resident plaintiff, it did agree with the district court that the American plaintiff's choice should be given special deference.

Justice White concurred in part and dissented in part, finding it inappropriate for the Court to review the district court's analysis of private and public interest factors. Justices Stevens and Brennan dissented on similar grounds² while Justices Powell and O'Connor took no part in the decision.

JURISDICTION OF THIRD-PARTY CLAIM AGAINST IRAN—FINALITY OF STAY ORDER—SEVERABILITY—*CTI-Container Leasing Corp. v. Uiterwyk Corp.*, 685 F.2d 1284 (11th Cir. 1982).

CTI-Container Leasing Corp. (CTI), a Delaware corporation, leased several ocean cargo containers and related equipment to Uiterwyk Corp. (Uiterwyk), a Florida corporation and an alleged agent for Iran Express Lines (IEL). IEL transported the leased equipment to Iran and retained custody of it. In October 1980 CTI brought suit against Uiterwyk claiming that Uiterwyk breached the leases and failed to pay its obligations to CTI under the leases. In February 1981 Uiterwyk moved to implead Iran and IEL claiming that an agency relationship with them necessitated their joinder as third-party defen-

2. *Id.* at 261.