

MARKS & WEINBERG, P.C.

DeLage Landen Financial Services, Inc. v. DeSoto Diagnostic Imaging 2002 US. Dist. LEXIS 24744 (E.D. Pa. 2002)

This is another case highlighting the manner in which forum selection should work. The plaintiff, DeLage Landen Financial Services (DLL) sued DeSoto Diagnostic, Inc. (DeSoto) for breach of a lease agreement in Pennsylvania and DeSoto sought to change venue from the U.S. District Court for the Eastern District of Pennsylvania to the U.S. District Court for the Northern District of Mississippi. DeSoto argued that venue should be changed because the equipment DeSoto leased from DLL was located in Mississippi at the time of the breach. Further, most of DeSoto's witnesses and evidence were in Mississippi.

DLL countered that its witnesses and evidence were in Pennsylvania. Most importantly, the lease contract contained a forum selection clause pursuant to which DeSoto consented to personal and subject matter jurisdiction in the U.S. District Court for the Eastern District of Pennsylvania. Further, a choice of law provision in the contract stated that Pennsylvania law would govern disputes arising from the contract. DeSoto countered by claiming that the lease agreement was an adhesion contract (since DLL used form documents and would not negotiate them) and that the forum selection provision was therefore unenforceable.



The district court noted that "a forum selection clause is treated as a manifestation of the parties' preferences as to a convenient forum [and] should be enforced unless enforcement is shown by the resisting party to be unreasonable under the circumstances. It further rejected DeSoto's claim regarding the lease as an adhesion contract and held that, even if the lease were an adhesion contract, DeSoto would have to show that the forum selection provision in particular was the product of fraud or coercion. DeSoto did not show any sort of fraud or unbalanced bargaining power with DLL. In particular, the court noted that "[d]efendants have not alleged that they were unsophisticated lessees or that they were coerced into signing the agreements because they had less power than did [DLL]."

Other points noted by the court were the fact that: (1) each side had witnesses in its home state, and the Mississippi witnesses could testify via videotaped depositions; (2) the equipment, while located in Mississippi at the time of the breach, was in Tennessee and California during the litigation; and (3) due to the choice of law provision, Pennsylvania was the more appropriate location because federal courts in Pennsylvania were in a better position to interpret Pennsylvania law than Mississippi federal courts. DeSoto's change of venue motion was denied.

Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit leaselawyer.com or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

