MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MARY CRAWFORD AND JASON CRAWFORD, Appellants,
v.
FAMILY TREE, INC., Respondent.

DOCKET NUMBER WD85628

DATE: March 21, 2023

Appeal From:

Jackson County Circuit Court
The Honorable Marco Roldan, Judge

Appellate Judges:

Division One: Anthony Rex Gabbert, Presiding Judge, W. Douglas Thomson, Judge and Janet Sutton, Judge

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Attorneys:

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MISSOURI APPELLATE COURT OPINION SUMMARY

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WESTERN DISTRICT

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v.
FAMILY TREE, INC., Respondent.

WD85628 Jackson County

Before Division One Judges: Anthony Rex Gabbert, Presiding Judge, W. Douglas Thomson and Janet Sutton, Judges

While at the Family Tree's garden center in Shawnee, Kansas, Mary Crawford fell and was injured. Mary Crawford and her husband, Jason Crawford, (the Crawfords) filed a petition for damages against Family Tree in Jackson County, Missouri. Family Tree filed an answer to the petition, and on the same day filed a motion to dismiss the petition on the basis of *forum non conveniens*. The Crawfords opposed the motion to dismiss, contending that Family Tree failed to prove that the factors in *State ex rel. Chicago, Rock Island & Pac. R.R. Co. v. Riederer,* 454 S.W.2d 36 (Mo. banc 1970), weighed heavily in Family Tree's favor and that Family Tree failed to demonstrate that permitting the case to be tried in Jackson County would be oppressive, prejudicial, and manifestly unjust. Discovery was not conducted before the motion to dismiss was filed, and it does not appear that any occurred after.

The court did not hold a hearing on Family Tree's motion to dismiss and it entered a judgment granting Family Tree's motion to dismiss on the basis of *forum non conveniens*. The court considered the *Riederer* factors and found that all but one, the location of the witnesses, weighed in favor of dismissal. The Crawfords appeal.

REVERSED AND REMANDED.

Division One holds:

1. The doctrine of *forum non conveniens* permits a trial court to dismiss an action if the forum is seriously inconvenient and there is a more appropriate forum available to the plaintiff, even if venue and jurisdiction are otherwise proper. A trial court should weigh six important, but non-exclusive, factors in determining whether a suit should be dismissed on the grounds of an inconvenient forum. They are: (1) the place where the cause of action accrued; (2) the location of witnesses; (3) the residence of the parties; (4) any nexus with the place of suit; (5) the public factor of the convenience to and burden on the court; and (6) the availability to the plaintiff of another court with jurisdiction over

the cause of action that affords the plaintiff a forum for his or her remedy. *Riederer*, 454 S.W.2d at 39.

In this case, it appears that the trial court's conclusions on the factors were framed by Family Tree's assertions that were not supported by evidence. Family Tree failed to establish that the *Riederer* factors weighed heavily in its favor, and the trial court abused its discretion when it dismissed the cause of action on the basis of Missouri being an inconvenient forum for a resolution of the matter.

2. In addition to the *Riederer* factors, we also consider whether trial in Missouri would be oppressive to the defendants or would impose an undue burden on Missouri courts. Family Tree failed to demonstrate that permitting this case to be tried in Jackson County would be oppressive or an undue burden on Missouri courts.

3. The trial court abused its discretion in granting the motion to dismiss on the basis of *forum non conveniens*. The judgment of dismissal is reversed, and the cause is sent back to the trial court for further proceedings.

Opinion by: Janet Sutton, Judge March 21, 2023

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