

No. 132601

IN THE SUPREME COURT OF ILLINOIS

ANDREW LUTZENKIRCHEN, as Independent Administrator of the
ESTATE OF WILLIAM J. LUTZENKIRCHEN, Deceased,

Plaintiff-Appellant,

v.

OSF HEALTHCARE, d/b/a OSF SAINT ANTHONY MEDICAL
CENTER, et al.

Defendants-Appellees.

On Appeal from the First District Appellate Court, No. 1-25-0028
There Heard on Appeal from the Circuit Court of Cook County,
No. 2024 L 005546, The Honorable Charles S. Beach, Judge Presiding.

**MOTION OF THE CHAMBER OF COMMERCE OF THE
UNITED STATES, AMERICAN MEDICAL ASSOCIATION,
AND ILLINOIS STATE MEDICAL SOCIETY
IN SUPPORT OF DEFENDANTS**

Pursuant to Illinois Supreme Court Rules 345 and 361, the Chamber of
Commerce of the United States (Chamber), American Medical Association
(AMA), and Illinois State Medical Society (Medical Society) respectfully
request that this Court grant them leave to file the accompanying *amici curiae*
brief in support of Defendants and affirmance.

In support of this Motion, Movants state as follows:

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I. Statement of Identity and Interest of Proposed *Amici Curiae*

1. The U.S. Chamber is the world's largest business organization. As the nation's leading advocate for business, the U.S. Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the U.S. Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the U.S. Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

2. The AMA, headquartered in Chicago, Illinois, is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all physicians, residents, and medical students in the United States are represented in the AMA's policy-making process. The AMA was founded in 1847 to promote the art and science of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every medical specialty and in every state, including Illinois.

3. The Medical Society is a non-profit, I.R.C. § 501(c)(6), professional organization that represents and unifies its physician members in their practice of medicine throughout the State of Illinois. Born out of a gathering of 12 physicians and surgeons in 1840, the Medical Society has grown into the

leading advocate for Illinois physicians and patients, representing approximately 9,000 physicians in the State across all specialties and practice areas. The Medical Society represents the interests of its member physicians, fellows, residents, and medical students, as well as those of patients, and promotes the doctor-patient relationship, the ethical practice of medicine, the betterment of public health, and the delivery of quality, affordable care. The Medical Society has participated as *amicus curiae* in cases of importance to physicians and the medical community.

4. The AMA and Medical Society appear on their own behalf and as representatives of the AMA Litigation Center. The Litigation Center is a coalition among the AMA and the medical societies of each state and the District of Columbia. Its purpose is to represent the viewpoint of organized medicine in the courts.

II. Reasons to Allow the Proposed *Amici* Brief

5. This Court has held that *amicus curiae* briefs will ordinarily be allowed when presented by an individual or group that can provide the Court with “a unique perspective” that will assist the Court beyond the argument provided by litigants. *Kingel v. Cingular Wireless, L.L.C.*, No. 100925, 2006 Ill. LEXIS 1, at *4 (Ill. Jan. 11, 2006).

6. This Court has previously acknowledged that the U.S. Chamber, AMA, and Medical Society each has a unique perspective and may assist the Court in explaining the potential impact its rulings may have on Illinois

businesses and physicians, respectively, by granting them leave to file *amicus* briefs in many other cases. For example, the Court has granted the U.S. Chamber leave to file an amicus brief in *Fausett v. Walgreen Co.*, 2024 No. 129783 (granted Dec. 14, 2023); *Mosby v. Ingalls Mem. Hosp.*, 2023 IL 129081, ¶ 26 (granting motion by the Chamber of Commerce of the United States of America “to file *amicus curiae* briefs[.]”); *Price v. Philip Morris, Inc.*, 219 Ill. 2d 182, 185 (2005) (“We have permitted the Chamber of Commerce of the United States . . . to file briefs *amici curiae* on behalf of the defendants.”).

7. The Court permitted the AMA to appear as *amicus curiae* with the Medical Society in *Cleeton v. SIU HealthCare, Inc.*, 2023 IL 128651 (granted Dec. 28, 2022); *Bailey v. Mercy Hospital and Medical Center*, 2021 IL 126748 (granted June 15, 2021); *Lebron v. Gottlieb Mem’l Hosp.*, 237 Ill. 2d 217 (2010); *Neade v. Portes*, 193 Ill. 2d 433 (2000); and *Berlin v. Sarah Bush Lincoln Health Ctr.*, 179 Ill. 2d 1 (1997), as well as separately in *Price v. Philip Morris, Inc.*, 219 Ill. 2d 182 (2005). And the Court has permitted the Medical Society to appear as *amicus curiae* in *Manago By and Through Pritchett v. County of Cook*, 2017 IL 121078; *Lawler v. Univ. of Chicago Med. Ctr.*, 2017 IL 120745; and *McVey v. M.L.K. Enterprises, L.L.C.*, 2015 IL 118143.

8. These organizations collectively represent Illinois businesses and healthcare professionals and advocate for fairness, balance, efficiency, and predictability in civil litigation. They have a strong interest in this case because the doctrine of *forum non conveniens* is critical to preserving the fair

administration of justice in a wide range of cases affecting *amici's* members. Being forced to litigate medical liability, business, and other lawsuits in forums with no connection to the dispute at issue has adverse consequences extending beyond this case.

9. First, the proposed brief puts this case in the context of the proper application of the State's longstanding *forum non conveniens* jurisprudence, which is based on the criteria set forth by the Supreme Court of the United States. It explains the continued importance of the doctrine of *forum non conveniens* to "fundamental fairness and sensible and effective judicial administration." *Dawdy v. Union Pac. R.R. Co.*, 207 Ill. 2d 167, 171 (2003). It also discusses the longstanding value that this and other courts have placed on having cases "decided at home" and not in a jurisdiction with no practical connection to the case. *First Am. Bank v. Guerine*, 198 Ill. 2d 511 (2002).

10. Second, the proposed brief underscores a core concern that *amici* and courts have long expressed with respect to the value that the doctrine of *forum non conveniens* provides—particularly in medical liability and personal injury cases like the one at bar: namely, the adverse impact on health care services in communities around the State when their physicians, nurses, and other health care professionals are required to travel to distant jurisdictions for lawsuits. If this Court were to weaken the doctrine here, Illinois residents in many counties would find it more difficult to access medical services. This

problem would be particularly acute when first responders travel for litigation purposes, and residents cannot get timely emergency care.

11. Third, the proposed brief shows that *forum non conveniens* serves the purpose of “curtailing forum shopping by plaintiffs” when there is no practical tie between the chosen venue and the litigation. *Guerine*, 198 Ill. 2d at 521 (2002); *Dawdy*, 207 Ill. 2d at 174 (“[C]ourts have never favored forum shopping.”). It explains that when a plaintiff’s choice of venue can be understood only as an attempt to gain a strategic advantage because the county’s judges or juries are perceived as favoring liability, possessing biases against some parties, or prone to high awards, the doctrine permits transfer to a “more appropriate forum.” *Dawdy*, 207 Ill. 2d at 175. As a practical matter, if the Court undermines the doctrine of *forum non conveniens*, personal injury and other civil cases arising around the State would be disproportionately litigated in three counties—Cook, Madison, and St. Clair Counties.

12. Finally, the proposed brief explains that technology and the interests of the plaintiffs’ bar must not be allowed to overcome the availability of *forum non conveniens* to facilitate the fair administration of justice. Advances in communication technology may alleviate *some* burdens of litigation, but they do not completely eliminate the obstacles to fairly litigating a case in a jurisdiction with no connection to the dispute, which the proposed *amici* brief discusses.

For the foregoing reasons, the undersigned proposed *amici curiae* respectfully request leave to file the attached brief.

Respectfully submitted,

**THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA,
AMERICAN MEDICAL ASSOCIATION,
AND ILLINOIS STATE MEDICAL
SOCIETY**

By: /s/ Matthew C. Wolfe

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BRIEF OF *AMICI CURIAE*
THE CHAMBER OF COMMERCE OF THE UNITED STATES,
AMERICAN MEDICAL ASSOCIATION, AND
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IN SUPPORT OF DEFENDANTS

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INTEREST OF *AMICI CURIAE*

Amici curiae are the Chamber of Commerce of the United States of America (U.S. Chamber), American Medical Association (AMA), and Illinois State Medical Society (Medical Society). These organizations collectively represent Illinois businesses and healthcare professionals that advocate for fairness, balance, efficiency, and predictability in civil litigation. *Amici* have a strong interest in this case because the doctrine of *forum non conveniens*, which *amicus curiae* Illinois Trial Lawyers Association (ITLA) invites this Court to abandon,¹ is critical to preserving the fair administration of justice in a wide range of cases affecting *amici's* members. Being forced to litigate medical liability, business, and other lawsuits in forums with no connection to the dispute at issue has adverse consequences extending beyond this case.

The U.S. Chamber is the world's largest business organization. As the nation's leading advocate for business, the U.S. Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the U.S. Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the U.S. Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation's business community.

¹ See ITLA Br. at 1.

The AMA, headquartered in Chicago, Illinois, is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all physicians, residents, and medical students in the United States are represented in the AMA's policy-making process. The AMA was founded in 1847 to promote the art and science of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every medical specialty and in every state, including Illinois.

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The Medical Society and AMA appear on their own behalf and as representatives of the AMA Litigation Center. The Litigation Center is a coalition among the AMA and the medical societies of each state and the District of Columbia. Its purpose is to represent the viewpoint of organized medicine in the courts.

STATEMENT OF THE CASE

William Lutzenkirchen sought treatment from OSF Saint Anthony Medical Center in Rockford, Illinois, which is in Winnebago County. During surgery, his palate and uvula were allegedly lacerated from the anesthesia services, ultimately leading to his passing. Rather than filing this action in Winnebago County, Plaintiff filed it in Cook County. Defendants filed a motion for *forum non conveniens* seeking transfer of the case to Winnebago County. The Cook County circuit court found the private interest factors—convenience of the parties and witnesses, accessibility to live testimony, and location of the events—favored transfer, and the public interest factors favored transfer or were neutral. Nevertheless, it denied the motion for transfer.

The Appellate Court reversed. It agreed with the circuit court that the private interest factors supported transfer to Winnebago County and found that the public interest factors favored transfer as well. Therefore, it held that the Cook County circuit court abused its discretion in denying the motion.

INTRODUCTION

This case epitomizes the importance of the doctrine of *forum non conveniens* and the value it provides to the fair administration of justice. All

events of this litigation took place in Winnebago County, the vast majority of parties and witnesses live in or adjacent to Winnebago County, and the Illinois-based medical professionals who would appear at trial or as witnesses work in Winnebago County. Yet, this lawsuit was filed 90 miles away in Cook County, leading Defendants to file a motion for *forum non conveniens* to have the case transferred to Winnebago County. The Cook County circuit court, despite acknowledging Cook County's lack of connection to this case, that Cook County was inconvenient for most plaintiffs, defendants and potential witnesses, and that there were no countervailing public interests for keeping the case in Cook County, denied the motion. The Appellate Court, in correcting this ruling, found this was not a close call, even under the circuit court's findings.

This Court has long and often appreciated that, in cases such as this one, *forum non conveniens* is critical for advancing “fundamental fairness and sensible and effective judicial administration.” *Adkins v. Chicago, Rock Island & Pac. R.R. Co.*, 54 Ill. 2d 511, 514 (1973); *Langenhorst v. Norfolk S. Ry. Co.*, 219 Ill. 2d 430, 441 (2006) (citing this same language); *Vinson v. Allstate*, 144 Ill. 2d 306, 310 (1991) (same). This Court has consistently applied the doctrine across a wide variety of cases to advance these core judicial purposes and has encouraged lower courts to do the same. *See, e.g., Dawdy v. Union Pac. R.R. Co.*, 207 Ill. 2d 167, 171 (2003); *Peile v. Skelgas, Inc.*, 163 Ill. 2d 323, 345 (1994). At bottom, this Court has explained, the doctrine is intended to “curtail[] forum shopping by plaintiffs” by allowing defendants to transfer a case when

plaintiffs file in a jurisdiction that may provide them with strategic benefits, but has no legitimate connection to the litigation, *First Am. Bank v. Guerine*, 198 Ill. 2d 511, 521 (2002). Local controversies in Winnebago and other Illinois counties should be decided in their local courts.

Here, the Appellate Court properly applied this Court's well-defined jurisprudence in finding *all* of the private and public interest factors favored transfer to Winnebago County. Consequently, reversing the Appellate Court could effectively neuter the doctrine by allowing any case to proceed in any Illinois county meeting the technical definition of the venue statute, *see* ILCS 5/2-101, 5/2-102 (West 2000). Such an outcome may meet the goals of Plaintiff and their *amicus*, but it would not serve the purpose of the courts: to assist parties to fairly and efficiently resolve their disputes. It would invite plaintiffs' attorneys to select courts and name defendants purely for location reasons; take physicians, business owners, and other parties or witnesses away from serving their communities by requiring them to travel excessive distances to court; and unnecessarily burden jurors and courts in the chosen counties. The result would undermine the integrity of the State's civil justice system and have profound consequences for people and businesses throughout this State.

Amici respectfully request that the Court uphold the ruling below and reject this latest invitation to undercut or abandon the doctrine of *forum non conveniens*. The Court should reaffirm the importance of local disputes being resolved in courts that have an appropriate connection to the case.

ARGUMENT

I. *Forum Non Conveniens* Remains a Valuable and Fair Legal Doctrine that Illinois Courts Have Long Relied on to Correct Unjustifiable Forum Shopping.

The Appellate Court ruling follows the proper application of the State’s longstanding *forum non conveniens* jurisprudence. As the court explained, the doctrine is deferential to a plaintiff’s choice of forum when the plaintiff chooses a venue where the injury occurred or plaintiff resides. *Peile*, 163 Ill. 2d at 330, 333. In these venues, the court will assume the county is convenient because the case will be “decided at home.” *Guerine*, 198 Ill. 2d at 518 (quoting *Brummett v. Wepfer Marine, Inc.*, 111 Ill. 2d 495, 500 (1986)). If multiple counties have a connection to the case, the plaintiff’s choice among these counties is generally honored. *See Langenhorst v. Norfolk S. Ry. Co.*, 219 Ill. 2d 430, 447, 453 (2006). This case fits neither description; Cook County has no practical connection to this case. As here, when plaintiffs file in counties where they do not reside and the injury did not occur, the plaintiffs’ choice of forum is given much less deference. *See Guerine*, 198 Ill. 2d at 517.

This approach makes sense. The place of the dispute has always played a central role in *forum non conveniens*. When the doctrine was formalized at the federal level, the U.S. Supreme Court identified local concerns as a primary driver for determining the location of a trial: “ease of access to sources of proof; availability of compulsory process for attendance of unwilling, and the cost of obtaining attendance of willing, witnesses; [and] possibility of view of premises.” *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508 (1947). The Court set

forth both private and public factors for courts to consider when deciding the proper venue for a case. *Id.* at 507-09. The Court later explained that “[w]hen the home forum has been chosen, it is reasonable to assume that this choice is convenient. When the plaintiff is foreign, however, this assumption is much less reasonable.” *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 255-56 (1981).

This Court has expressly adopted these federal standards, as well as the U.S. Supreme Court’s rationale for the *forum non conveniens* doctrine. Under this jurisprudence, Illinois courts must weigh the private and public interests to determine if the case should be transferred to an “at home” jurisdiction. *See Dawdy*, 207 Ill. 2d at 172 (“Illinois courts employ the analytical framework of *Gulf Oil*.”); *Griffith v. Mitsubishi Aircraft Intern., Inc.*, 136 Ill. 2d 101, 106 (1990) (adopting *Piper Aircraft*’s reasoning on “foreign” plaintiffs).

Accordingly, Illinois courts are to consider the private interests of “(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 trial of a case easy, expeditious, and inexpensive,” such as the ability of a jury to view a site of importance in the litigation. *Guerine*, 198 Ill. 2d at 516. With respect to the public interest, courts must evaluate how the plaintiff’s chosen forum affects the public and the judicial system, considering “(1) the interest in deciding local controversies locally; (2) the unfairness of imposing the expense of 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.” *Id.* at 516-17. Courts are to “decline jurisdiction when trial in another forum would better serve the ends of justice.” *Langenhorst*, 219 Ill. 2d at 441 (internal quotation omitted).

The Court has consistently explained that the public policy rationale for the doctrine is to minimize forum shopping to a jurisdiction with no practical connection to a case. *See Dawdy*, 207 Ill. 2d at 174 (“[C]ourts have never favored forum shopping.”). Plaintiffs’ attorneys may file an action in a favorable forum permitted by the venue statute, but this practice must be balanced against the judiciary’s interest in “protect[ing] its own good name as well as protect[ing] defendants . . . against the practice of seeking out soft spots in the judicial system in which to bring particular kinds of litigation.” *Dawdy*, 207 Ill. 2d at 175 (quoting *Espinosa v. Norfolk & Western Ry. Co.*, 86 Ill. 2d 111, 122-23 (1981), and *Miles v. Illinois Central R.R. Co.*, 315 U.S. 698, 706 (1942) (Jackson, J., concurring)). “Decent judicial administration could not tolerate forum shopping as a persuasive or even legitimate reason for burdening communities with litigious controversies which arose elsewhere and should in all justice be tried there.” *Id.* (quoting *Pruitt Tool & Supply Co. v. Windham*, 379 P.2d 849, 850 (Okla. 1963), alterations omitted); *see also Fennell v. Illinois Cent. R. Co.*, 2012 IL 113812, ¶ 19 (reaffirming these concerns in the context of interstate *forum non conveniens*).

Accordingly, when a plaintiff's choice can be understood only as an attempt to gain a strategic advantage because the county's judges or juries are perceived as favoring liability, possessing biases against some parties, or prone to high awards, the doctrine permits transfer to a "more appropriate forum." *Dawdy*, 207 Ill. 2d at 175; *see also Langenhorst*, 219 Ill. 2d at 442; *Guerine*, 198 Ill. 2d at 520. "A plaintiff's right to choose a forum 'cannot be permitted to override the public's interest in, and need for, an orderly, efficiently operated judicial system.'" *Dawdy*, 207 Ill. 2d at 175 (quoting *Espinosa*, 86 Ill. 2d at 123). This outcome is necessary to avoid adverse consequences on the litigants and witnesses, as well as the community, which would be negatively affected by the need to litigate local disputes in distant locations. *Peile*, 163 Ill. 2d at 330, 333.

This Court's many decisions establishing and applying the doctrine of *forum non conveniens* over the years elucidate the type of unjustifiable forum shopping that animates and continues to necessitate the doctrine across a wide range of litigation. For example, in *Torres v. Walsh*, which was a medical liability action following a car accident, the defendants included eighteen doctors and nurses who practiced in Sangamon County, a hospital in Sangamon County, and a motorist who lived in Sangamon County. *See* 98 Ill. 2d 338, 342-43 (1983). Yet, the plaintiff sued in Cook County. *See id.* at 340. The venue was technically permissible under the statute because the plaintiff included in its lawsuit the hospital's data processing service and the company that owned the hospital, which had registered agents in Cook County. *See id.*

at 343. But the circuit court acted within its sound discretion and transferred the case to Sangamon County, and this Court affirmed. *See id.* at 353.

Similarly, in *Peile*, a plaintiff filed a product liability action in St. Clair County stemming from a gas explosion and fire, even though the plaintiff's destroyed home, the medical and firefighting personnel, the defendant propane company, and all the workers involved were in Pike County, 100 miles away. *See* 163 Ill. 2d at 338. St. Clair County's sole connection to the suit was that a facility that supplied propane to a defendant was located there. *See id.* at 338-39. The forum shopping was particularly glaring as the plaintiff initially filed the lawsuit in Madison County and, after the trial court transferred the case to Pike County, the plaintiff amended the complaint to add the St. Clair County defendant, voluntarily dismissed the action before trial, and refiled it in St. Clair County. *See id.* at 344. This Court found the St. Clair County Circuit Court abused its discretion in denying transfer to Pike County.

This Court also applied *forum non conveniens* in the context of an automobile accident case, where the plaintiffs' attorney filed the action in Madison County even though his client lived in Greene County and the accident occurred in Macoupin County where the other driver and most of the eighteen potential witnesses lived. *See Dawdy*, 207 Ill. 2d at 169-70. Madison County's sole ties to the action consisted of one defendant conducting business there and another defendant maintaining a post office box in the county. *See id.* at 182, 184. The Court rejected those weak links, finding Madison County

had no “legitimate interest” in the case that warranted burdening the defendants, witnesses, local residents who would serve as jurors, as well as Madison County’s congested circuit court. *Id.* at 181-83.

Here, the circuit court’s findings and Appellate Court’s ruling both strongly favored Defendants’ motion for *forum non conveniens*. As the Appellate Court stated, “the private interest factors overwhelmingly support transfer.” *Lutzenkirchen v. OSF HealthCare System*, 2025 IL App (1st) 250028, ¶ 51. Further, none of the public interest factors favored Cook County, instead decidedly favoring transfer to Winnebago County. *Id.* at ¶¶ 68, 72. Thus, there is no basis for keeping this case in Cook County—and it is irrelevant whether Plaintiffs’ chosen location is due “less” deference or “little” deference, as argued in ITLA’s amicus brief. This case’s home is Winnebago County, and the Appellate Court should be upheld.

II. Illinois Courts Have Widely Recognized that Requiring Medical and Public Service Professionals to Needlessly Travel Out of their Communities for Litigation Will Hinder Healthcare Throughout the State.

A core concern for *forum non conveniens*—particularly in medical liability and personal injury cases—is the adverse impact on healthcare services in communities around the State when their physicians, nurses, and other healthcare professionals are required to travel to distant jurisdictions for lawsuits. Indeed, the Appellate Court found it particularly salient here that the healthcare professionals “who work in Winnebago County could continue treating patients without disruption if the case were transferred to Winnebago

County. If the case remained in Cook County, they would face disruption in their medical practices.” *Lutzenkirchen*, 2025 IL App (1st) 250028, ¶49.

Illinois courts have long recognized that burdening healthcare providers with distant litigation adversely affects public health. *See, e.g., Monteagudo v. Gardens of Belvidere, LLC*, 2023 IL App (1st) 220045, ¶¶ 42-48. Pulling healthcare providers “away from their work responsibilities” solely to testify in litigation “create[s] disruptions to staffing and disturbances in continuity of care.” *Hendricks v. Petersen Health Quality, LLC*, 2021 IL App (3d) 200171-U, ¶ 29 (2021). They may have to “postpone or disrupt treatment of their patients.” *Kearns v. Presence Central & Suburban Hospitals Network*, 2020 IL App (1st) 191470-U, ¶ 20 (2020). As a result, if this Court were to weaken this important check on forum shopping, Illinois residents in many counties would find it more difficult to access medical services. *See Brandt v. Shekar*, 2020 IL App (5th) 190137, ¶ 38. The problem would be particularly acute when first responders travel for litigation purposes, and residents cannot get timely emergency care. *See, e.g., Pratt v. Archer Daniels Midland Co.*, 2020 IL App (4th) 190476-U at ¶¶ 7, 37 (expressing concern with requiring six first responders to travel for the case).

Already, many counties in Illinois are facing shortages of physicians, police officers, firefighters, emergency medical technicians, and other first responders—making it difficult for their residents to access care as it is. The U.S. Health Resources and Services Administration has estimated that nearly

50% of Illinois residents live in a county where there is a shortage of health services. *See Illinois: 731 HPSAs, 176 Underserved Areas, HRSA Data* (visited Aug. 21, 2026).² *Amicus Medical Society* has reported that 89 of Illinois’s 102 counties are designated as health professional shortage areas with a projected shortfall of 6,200 physicians by 2030. *See Ill. State Med. Soc’y, State of Illinois Healthcare: Part One, Workforce Matters* (Aug. 22, 2025).³ These places, which tend to be rural communities, have “longer appointment wait times for patients or excessive travel times to get necessary care,” and patients often “forgo care altogether until they are too sick to put it off any longer.” *Ill. State Med. Soc’y, Healthcare Access in Rural Illinois* (visited Aug. 21, 2026).⁴ Residents there simply cannot afford to lose access to their healthcare professionals for a day or two at a time so others can forum-shop to unrelated jurisdictions.

For decades, the doctrine of *forum non conveniens* has been critical in keeping healthcare and public service professionals in their communities. For instance, the First District overturned the denial of a *forum non conveniens* motion in a wrongful death action filed in Cook County against a long-term care facility in Boone County (which is closer to Cook County than Winnebago County is). *See Monteagudo*, 2023 IL App (1st) 220045, ¶ 6. The court explained that because Cook County was about 70 miles away from the facility, a trial

² <https://plainhealthaccess.com/state/il>

³ <https://www.isms.org/newsroom-categories/isms-news/aug-22-2025-state-of-illinois-healthcare>

⁴ <https://www.isms.org/Resources/IssueBriefs/RuralAccess>

there would cause the facility’s medical and other staff “to travel longer distances to Cook County, which would cause further disruptions in their professional responsibilities and clinical practices.” *Id.* at ¶ 49; *see also Meier v. Ryan*, 2023 IL App (1st) 211674, ¶ 28 (affirming grant of *forum non conveniens* in medical liability action filed in Cook County where plaintiff, decedent, and hospital were in DuPage County).

Similarly, the Fifth District granted a motion for *forum non conveniens* in cases filed in St. Clair County, another common destination for forum shopping, *see infra* Part III. There, the plaintiff filed a medical liability action in St. Clair County, about 60 miles away from the Marion County hospital at which the defendant radiologist allegedly failed to timely diagnose the plaintiff’s cancer. *See Brandt*, 2020 IL App (5th) 190137, ¶ 12. The Appellate Court found that St. Clair County had “absolutely no practical connection to the litigation” and that requiring medical professionals to travel to St. Clair County would hinder radiological staffing in Marion and other counties served by the radiologists. *Id.* at ¶ 34; *see also Kuhn v. Nicol*, 2020 IL App (5th) 190225, ¶ 21 (reversing denial of *forum non conveniens* motion where Clinton County plaintiffs alleging medical professionals at a Clinton County hospital negligently failed to diagnose a stroke and filed the case in St. Clair County).

If the doctrine of *forum non conveniens* is weakened here, forum shopping in medical liability and personal injury cases will proliferate, forcing these indispensable healthcare workers to travel to arbitrary forums elsewhere

in the State on a regular basis. Such a result would undermine the healthcare needs of people in their communities—for no justifiable rationale.

III. Residents Throughout Illinois Will Be Adversely Affected if Civil Cases Are Disproportionately Litigated in Cook, Madison, and St. Clair Counties.

As a practical matter, if the Court undermines the doctrine of *forum non conveniens* here, or eviscerates it as *amicus* ITLA seeks, personal injury and other civil cases arising around the State would be disproportionately litigated in three counties—Cook, Madison, and St. Clair Counties—when the venue statute permits. For example, if a person alleges harm from a local business in Henry County with a registered agent in Cook County, the lawsuit will be filed there—not in Henry County. So too would medical cases in McDonough, Edgar and other Counties if the hospitals or drug stores are associated with facilities in Cook, Madison, or St. Clair Counties—even when those locations have nothing to do with the case. Slip and fall cases in gas stations, restaurants and other stores in Hardin, Sangamon, and Carroll Counties owned by state or national chains would be heard across the State. As a result, businesspeople, employees, local people driving on local roads, witnesses (willing or compulsory), and countless others would have to travel for hours, sometimes days, to testify or face trial in cases that arose in their own communities.

Indeed, Cook, Madison, and St. Clair Counties have become the destinations of choice for the Illinois plaintiffs' bar, which is why these three counties are often the subject of *forum non conveniens* motions. According to the latest statistical data, plaintiffs' attorneys filed 16,102 new civil cases

seeking over \$50,000 in the Cook County Circuit Court in 2025—about 56% of the 28,502 filings of this kind statewide, despite the county making up about 40% of the state’s population (5,194,625). *See* Admin. Office of the Ill. Cts., *Circuit Court Statistical Dashboard*, (consolidating quarterly new filing data for Law(LA) > \$50,000 in 2025).⁵ In Madison and St. Clair Counties, attorneys filed 1,558 new lawsuits in Madison County (population 263,110) and 1,496 new lawsuits in St. Clair County (population 250,708) seeking over \$50,000. *See id.* Combined, they host about 11% of the state’s major litigation even though they make up 4% of the state’s population. Major litigation is filed in Madison and St. Clair Counties at a much higher rate than it is filed in Illinois’s second and third most populous counties: DuPage County (1,662 new filings with a population of 934,298) and Lake County (1,141 new filings with a population of 719,339). *See id.*⁶

Plaintiffs’ attorneys file in Cook, Madison, and St. Clair Counties because they believe their clients will get a skewed result in their favor—even if clearly out-of-step with the fair administration of justice. With Cook County, a study of verdicts of \$10 million or more in personal injury and wrongful death

⁵ <https://www.illinoiscourts.gov/courts/circuit-court/illinois-circuit-court-statistical-reports/>. County populations are based on U.S. Census, QuickFacts, population estimates as of July 1, 2025 available at <https://www.census.gov/quickfacts/>.

⁶ Madison and St. Clair counties are also the first and second most popular jurisdictions in the nation to file asbestos claims; Cook County places fifth. *See* KCIC, *2026 Mid-Year Asbestos Filings Update* (Aug. 7, 2026), kcic.com/trending/feed/2026-mid-year-asbestos-filings-update/.

cases over a ten-year period found that “[a]ll but a handful of Illinois’ nuclear verdicts came from the Cook County Circuit Court.” Cary Silverman & Christopher E. Appel, *Nuclear Verdicts: An Update on Trends, Causes, and Solutions* 27 (U.S. Chamber Inst. for Legal Reform, 2024). Another study found Cook County hosted 79% of the state’s verdicts over \$10 million against corporations between 2009 and 2022, despite hosting only 56% of civil lawsuits. See Marathon Strategies, *Corporate Verdicts Go Thermonuclear* 49 (2023).⁷

If there is no viable opportunity to transfer claims filed in Cook, Madison, or St. Clair counties when those counties have no practical connection to the case, physicians, business and other people around the State would be wise to avoid connections to these counties. Physicians may choose not to make referrals to specialists in Chicago, small business owners may choose vendors and suppliers with no connection to these counties, and businesses throughout the State may shy away from hiring workers in these counties, even when those individuals are best suited for the positions. Healthcare and economic impacts would be felt across the State. The doctrine of *forum non conveniens* is a critical check on these harmful results of unjustifiable forum shopping.

⁷ <https://marathonstrategies.com/wp-content/uploads/2026/03/Corporate-Verdicts-Go-Thermonuclear-0313.pdf>

IV. Technology and the Interests of the Plaintiffs’ Bar Must Not Be Allowed to Overcome the Availability of *Forum Non Conveniens* to Facilitate the Fair Administration of Justice.

Finally, the Court should reject overtures by Plaintiff and *amicus* ITLA to largely abandon the doctrine of *forum non conveniens*. ITLA misses many of the doctrine’s purposes when arguing that technological advances make the doctrine an anachronism. Its brief focuses myopically on two private interest factors and disregards other concerns this Court has raised when articulating the need for this doctrine—including the public’s interest in deciding local cases where there is a connection to the case. *See Peile*, 163 Ill. 2d at 336-37 (requiring “evaluation of the total circumstances rather than concentration on any single factor”). Advances in communication technology may alleviate *some* burdens of litigation, but they do not completely eliminate the obstacles to fairly litigating a case in a jurisdiction with no connection to the dispute.

Remote trials are still not the norm and can present practical and due process problems, which the Court has recognized in requiring judges to make individualized determinations whenever someone seeks to appear remotely for evidentiary hearings, settlement conferences, and trials given the value of in-person participation. *See* Ill. S. Ct. Rule 45(c). Remote trials present risks that judges or jurors will miss critical evidence due to a technical issue with a webcam or microphone, that participants cannot fully examine evidence presented on a screen, and that judges are unable to monitor and control jurors and witnesses as they would in a courtroom. *See* Vincent Cail, *Mental Health Court in the Age of Zoom*, 8 Mental Health Matters 1 (Ill. Bar Ass’n, Nov. 2021).

Further, remote trials do not allow an attorney to lean over and whisper to his or her client or an expert witness to gather needed information. *See id.* It may also be more difficult to read a witness's or juror's body language or effectively cross-examine an expert. *See* Paul D. Motz et al., *Can You Hear Me Now? Eight Things We Wish We Had Known Before Having a Trial by Zoom*, For the Def. (May 2021) (discussing experience in a complex medical malpractice trial conducted remotely in Cook County). It may also not be possible for jurors to visit a distant accident site when a case may require it. Remote trials are feasible, albeit suboptimal, when circumstances necessitate them. This case presents no such circumstances.

In addition, ITLA seems more concerned about the convenience of their own members—who are in the litigation business—than the parties, witnesses and others in the business of business or who are medical providers and are drawn into litigation. ITLA focuses, for example, on their members being able to file cases where “their office is located” and they know the local customs—not the local communities that have a stake in addressing the alleged wrongs that happened there. ITLA also wrongly blames defendants for delays associated with transfer motions, when it is plaintiffs and their counsel who filed in a county with no practical connection to the case. If plaintiffs want to expedite resolution on the merits, they should file in an “at-home” jurisdiction.

The reality, as the case law throughout this brief demonstrates, is that some plaintiffs' lawyers have a playbook: (1) file a complaint in a county that

is technically proper, but has no substantial connection to the litigation; (2) retain expert witnesses or treating physicians in the favored county to shift the “convenience” balance toward that forum; (3) oppose a *forum non conveniens* motion rather than agree to transfer; (4) urge the trial court in the preferred jurisdiction to deny the motion and require the foreign litigation to move forward there; and (5) hope the appellate courts will not reverse and order transfer to a proper forum. Meanwhile, the threat of litigating in the foreign jurisdiction and mounting legal fees pressure the defendant to settle.

Forum non conveniens serves as a critical defense to this playbook, protecting the interests of the parties, witnesses, public, and judicial system. Thus, “the *forum non conveniens* doctrine continues to serve a valuable policy that the courts of this State are sufficiently equipped to effectuate.” *Peile*, 163 Ill. 2d at 336.

CONCLUSION

For the foregoing reasons, the Court should uphold the ruling below, follow its existing precedent, and reaffirm the value of the doctrine of *forum non conveniens* in this State.

Dated: October 14, 2026 Respectfully submitted,

THE CHAMBER OF COMMERCE OF THE
UNITED STATES, AMERICAN MEDICAL
ASSOCIATION, and ILLINOIS STATE
MEDICAL SOCIETY

By: /s/ Matthew C. Wolfe

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 5,047 words.

Dated: October 14, 2026

/s/ Matthew C. Wolfe

No. 132601

IN THE SUPREME COURT OF ILLINOIS

ANDREW LUTZENKIRCHEN, as Independent Administrator of the
ESTATE OF WILLIAM J. LUTZENKIRCHEN, Deceased,

Plaintiff-Appellant,

v.

OSF HEALTHCARE, d/b/a OSF SAINT ANTHONY MEDICAL
CENTER, et al.

Defendants-Appellees.

On Appeal from the First District Appellate Court, No. 1-25-0028
There Heard on Appeal from the Circuit Court of Cook County,
No. 2024 L 005546, The Honorable Charles S. Beach, Judge Presiding.

ORDER

This cause coming to be heard on Motion of the Chamber of Commerce of the United States of America, American Medical Association, and Illinois State Medical Society to file a brief *instanter* as *amici curiae* in support of Defendants, affirmance, and preserving the availability of intrastate *forum non conveniens*, and the Court being advised in the premises,

IT IS HEREBY ORDERED that the motion for leave to file is

ALLOWED / DENIED.

Dated: _____

Justice

NOTICE OF FILING AND CERTIFICATE OF SERVICE

I, Matthew C. Wolfe, an attorney, hereby certify that on **October 14, 2026**, I caused a true and complete copy of the foregoing **MOTION OF THE CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, AMERICAN MEDICAL ASSOCIATION, AND ILLINOIS STATE MEDICAL SOCIETY and BRIEF OF *AMICI CURIAE* THE CHAMBER OF COMMERCE OF THE UNITED STATES, AMERICAN MEDICAL ASSOCIATION, AND ILLINOIS STATE MEDICAL SOCIETY IN SUPPORT OF DEFENDANTS** to be filed electronically with the Clerk's Office of the Illinois Supreme Court, using e-filing provider Odyssey eFileIL, which sends notification and a copy of this filing by electronic mail to all counsel of record. I further certify that I caused an additional courtesy copy of this filing to be served by electronic mail upon the following:

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Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that the statements set forth in this brief, notice of filing, and certificate of service are true and correct.

/s/ Matthew C. Wolfe