

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

CHRISTOPHER ROLLER,

Plaintiff,

v.

**MEMORANDUM OF LAW & ORDER**

Civil File No. 05-1297 (MJD/AJB)

GE MEDICAL SYSTEMS INFORMATION  
TECHNOLOGIES, INC.,

Defendant.

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Christopher Roller, pro se.

Judith A. Williams-Killackey, Quarles & Brady LLP, Counsel for Defendant.

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**I. INTRODUCTION**

This matter is before the Court on Defendant GE Medical Systems Information Technologies, Inc.'s Motion to Transfer Venue. [Docket No. 38]

**II. BACKGROUND**

Plaintiff Christopher Roller was an employee for Defendant GE Medical Systems Information Technologies, Inc. ("GEMS IT"). According to Roller's Complaint, GEMS IT dismissed him on February 18, 2002, and this decision was based on his mental illness.

Roller is currently a Minnesota resident. At all times relevant to the actions giving rise to this lawsuit, Roller was a resident of and worked in Sioux Falls, South Dakota. GEMS IT is a Wisconsin corporation with its principal place of business in Milwaukee, Wisconsin. GEMS IT operates several facilities, including one in Sioux Falls, South Dakota.

On approximately July 19, 1999, Micro Medical Systems, Inc., in Sioux Falls, South Dakota, hired Roller. In September 2000, GEMS IT acquired Micro Medical Systems, Inc., and Roller became a GEMS IT employee. Roller was a Senior Engineer at GEMS IT.

Roller's Complaint contains allegations regarding actions occurring from 2000 through February 2002, when he was terminated by GEMS IT. In April 2002, Roller signed a Separation Agreement and Release, under which his GEMS IT employment ended on July 26, 2002.

Roller initiated a lawsuit against GEMS IT in Dakota County District Court in June 2005, alleging violation of the South Dakota Human Rights Act based on discrimination for mental illness causing pain, suffering, and the loss of his job. On June 30, 2005, GEMS IT removed the case to this Court based on diversity jurisdiction.

GEMS IT brought a motion to dismiss the Complaint based on the statute of limitations. The Court denied the motion on December 5, 2005 and also held that

South Dakota law applied to Roller's suit.

GEMS IT now brings this Motion to Transfer Venue to South Dakota.

### **III. DISCUSSION**

#### **A. Standard**

Under 28 U.S.C. § 1404(a), “[f]or the convenience of the parties and witnesses, and in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” “In general, federal courts give considerable deference to a plaintiff’s choice of forum and thus the party seeking a transfer under section 1404(a) typically bears the burden of proving that a transfer is warranted.” Terra Int’l, Inc. v. Miss. Chem. Corp., 119 F.3d 688, 695 (8th Cir. 1997). When considering a motion to transfer, the Court must consider three factors: “(1) the convenience of the parties, (2) the convenience of the witnesses, and (3) the interests of justice.” Id. at 691. However, “such determinations require a case-by-case evaluation of the particular circumstances at hand.” Id.

Venue would be proper in the District of South Dakota because “a substantial part of the events or omissions giving rise to the claim occurred” in South Dakota. 28 U.S.C. § 1391(a)(2). Thus, the Court must decide whether GEMS IT has demonstrated that transfer is warranted under the multi-factor test.

**B. Convenience**

When analyzing the convenience prong, courts typically consider “(1) the convenience of the parties, (2) the convenience of the witnesses – including the willingness of witnesses to appear, the ability to subpoena witnesses, and the adequacy of deposition testimony, (3) the accessibility to records and documents, (4) the location where the conduct complained of occurred, and (5) the applicability of each forum state’s substantive law.” Terra Int’l, Inc., 119 F.3d at 696.

**1. Convenience of the Parties**

GEMS IT claims that litigating in Minnesota would be inconvenient because it has no offices here. Furthermore, most of the witnesses that it will call are located in South Dakota.

Roller is a Minnesota resident and individual plaintiff who claims that he lacks the resources to travel to South Dakota to conduct his lawsuit. He notes that GEMS IT’s legal department is located in Wisconsin, so they will travel whether or not the transfer is granted. He also argues that he has many cases currently pending in Minnesota and lacks the time to travel to South Dakota to pursue this litigation. However, Roller does offer to conduct all depositions of South Dakota witnesses in South Dakota.

“When plaintiff and defendant are in different states there is no choice of

forum that will avoid imposing inconvenience. . .” In re Nat’l Presto Indus., Inc., 347 F.3d 662, 665 (7th Cir. 2003). When the potential inconvenience to the parties is comparable, “the tie is awarded to the plaintiff.” Id. Thus, this factor weighs against transfer.

## **2. Convenience of the Witnesses**

Most of the witnesses that GEMS IT will call in this case worked with or supervised Roller when he worked in South Dakota. These supervisors and co-workers live and work in or near Sioux Falls, South Dakota. None of them has had any meaningful contact with Minnesota in their professional capacities and they have limited personal contact with Minnesota. These witnesses have sworn that they would not voluntarily come to Minnesota for depositions or trial in this matter. Although Roller has offered to conduct depositions in South Dakota, the witnesses would still be required for trial, and none of them are amenable to process in Minnesota. Additionally, at least one witness who was named in Roller’s Complaint, Rich Adcock, is no longer employed by Defendant. On the other hand, the only potential witness located in Minnesota is Roller. This factor clearly weighs in favor of transfer.

## **3. Accessibility to Records and Documents**

According to GEMS IT, the key documents in this matter, those relating to Roller’s employment, are located in Sioux Falls, South Dakota. This factor favors

transfer.

**4. Location Where the Conduct Complained of Occurred**

Although there is generally a presumption in favor a plaintiff's choice of forum, courts afford less deference to that choice when the underlying conduct did not occur in the plaintiff's chosen forum. Nelson v. Soo Line R.R. Co., 58 F. Supp. 2d 1023, 1026 (D. Minn. 1999). In this case, all of the relevant conduct occurred in South Dakota. Roller lived and worked in South Dakota; all decisions regarding Roller and his employment were made in South Dakota; and all communications with Roller occurred in South Dakota. Minnesota has no connection to the facts underlying Roller's claim. The factor strongly favors transfer to South Dakota.

**5. Applicability of Each Forum State's Substantive Law**

The Court has already determined that the law of the state of South Dakota applies to Roller's claim. This factor weighs in favor of transfer.

**C. Interests of Justice**

When analyzing the interest of justice, courts typically consider "(1) judicial economy, (2) the plaintiff's choice of forum, (3) the comparative costs to the parties of litigating in each forum, (4) each party's ability to enforce a judgment, (5) obstacles to a fair trial, (6) conflict of law issues, and (7) the advantages of having a local court determine questions of local law." Terra Int'l, Inc. v. Miss.

Chem. Corp., 119 F.3d 688, 696 (8th Cir. 1997).

Two of these factors weigh in favor of transfer: South Dakota law applies to this action and the District of South Dakota will be familiar with that law. At least one factor, Roller's choice of Minnesota as his forum, weighs against transfer.

The other factors are neutral. Judicial economy does not weigh for or against transfer. Roller asserts that a transfer may require a new scheduling order in South Dakota, but this would be true in any transferred case. Roller also states that he has other cases pending in the District of Minnesota and that they may need to be heard by the same judge. However, this case has not been consolidated as a related case and is unrelated to his other pending cases.

It would be less expensive for Roller to litigate this case in his home state of Minnesota; however, it would be less expensive for GEMS IT to litigate in South Dakota, where the witnesses and documents are located and where it has an office location. There is no issue with either party's ability to enforce a judgment or any obstacle to a fair trial.

Thus, the interests of justice do not weigh heavily for or against a transfer.

#### **D. Conclusion**

Balancing all of the above factors, the Court concludes that this matter should be transferred to the District of South Dakota. Although deference is given to Roller's choice of forum and residence within Minnesota, the case belongs in

South Dakota. All of the operative facts occurred in South Dakota; almost all of the witnesses and documents in this case are located in South Dakota; and South Dakota law applies to this action.

**IT IS HEREBY ORDERED** that

1. Defendant GE Medical Systems Information Technologies, Inc.'s Motion to Transfer Venue [Docket No. 38] is **GRANTED**.
2. This case is transferred to the United States District Court for the District of South Dakota, Southern Division.

Dated: May 3, 2006

s / Michael J. Davis  
Judge Michael J. Davis  
United States District Court