



AMERICAN
BANKRUPTCY
INSTITUTE

2019 Midwest Regional Bankruptcy Seminar

How to Decide Where to File — and When to Object to the Chosen Venue

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ABI MIDWEST REGIONAL BANKRUPTCY SEMINAR

***HOW TO DECIDE
WHERE TO FILE – OR
WHEN TO OBJECT TO
THE CHOSEN VENUE***



PRESENTERS



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**Hon. Joan N. Feeney, JAMS, Boston and United States
Bankruptcy Court, District of Massachusetts (Ret.)**

Kim Martin Lewis, Dinsmore & Shohl, Cincinnati, Ohio

**Peter R. Morrison, Squire Patton Boggs, Cleveland,
Ohio**

► **What We Will Talk About**



**CHOICES FOR VENUE AND FACTORS
IN DECIDING VENUE**

CHALLENGING VENUE

FORUM SHOPPING CONSEQUENCES

BANKRUPTCY CODE AND FED. R. BANKR. P.



- **28 U.S.C. §§ 1408,1409 – Venue of cases**
- **28 U.S.C. §1412 – Change of venue**
- **Fed. R. Bankr. P. 1014 – Procedures for change of venue**

EVOLUTION OF VENUE LAW

Principal Place of Business, Assets
State of Incorporation
Affiliates
Choice of “Magnet Courts”



The Venue Mobile

FACTORS IN CHAPTER 11 VENUE CHOICE

Objective factors

- Federal precedent – circuit, BAP, district court, bankruptcy judges
- State law
- Local rules, standing orders, and management procedures
- UST views



Subjective Factors in Venue Choice

DEBTOR'S COUNSEL'S PREFERENCE

LENDER'S PREFERENCE

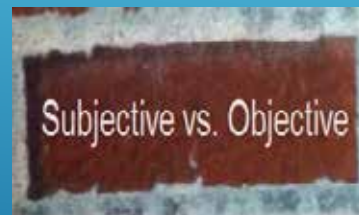
"PREDICTABILITY"

FAMILIARITY

PERCEPTION OF JUDGES

FEES

SPEED



VENUE LITIGATION

Arguments in support of change in venue

- **Interests of justice**
- **Convenience of parties**
- **Procedure**
- **Burden of proof**
- **Timing**



VENUE LITIGATION

Arguments opposing venue change

- **Venue is proper in many districts**
- **Added costs of transfer**
- **Benefits of venue choice**



VENUE REFORM DEBATE



Pros of reform

- ▶ Integrity of system and public confidence
- ▶ Development of the law
- ▶ Uniformity
- ▶ Access to justice
- ▶ Efficient use of judicial resources
- ▶ Reduce administrative costs

Cons of reform

- ▶ Developed case law and procedures
- ▶ Judges' experience
- ▶ Costs of venue litigation
- ▶ Adequate remedy exists



QUESTIONS AND ANSWERS

THE END

