

8-30-1968

Hawkins v National Basketball Assn

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Recommended Citation

288 F.Supp. 614

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288 F.Supp. 614

United States District Court W.D. Pennsylvania.

Cornelius HAWKINS, a/k/a Connie Hawkins, Plaintiff,

v.

NATIONAL BASKETBALL ASSOCIATION,
an unincorporated association, J. Walter Kennedy,
individually and as President of the National
Basketball Association, Boston Celtics Basketball
Club, an unincorporated Massachusetts trust,
Zollner Corporation, a corporation, Cincinnati
Basketball Club Co., a corporation, California
Sports, Incorporated, a corporation, Madison Square
Garden Corporation, a corporation, St. Louis Hawks
Basketball Club, Inc., a corporation, Chicago
Professional Basketball Corporation, a corporation,
San Francisco Warriors, a partnership, the Baltimore
Bullets Basketball Club, Inc., a corporation, and
Riko Enterprises, Inc., a corporation, Defendants. *

Civ. No. 66-1320.

* The caption was amended by stipulation filed on
August 13, 1968, wherein it was also stipulated that
extra-territorial service of the summons and complaint

|
was made on duly authorized agents
of each corporate defendant, and each

|
defendant

|
waives any objection to the
forms of the marshals' returns.

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Aug. 30, 1968.

Synopsis

Civil antitrust suit against defendant basketball association and individual teams comprising the association, in which defendants moved to dismiss for lack of proper venue. The District Court, Marsh, J., held, inter alia, that venue requirements of Clayton Act were met on the basis of the transacting of business in the Western District of Pennsylvania by defendant basketball teams.

Order in accordance with opinion.

West Headnotes (10)

[1] **Federal Courts**  Presumptions and burden of proof

170B Federal Courts

170BXI Location of Forum; Venue in General

170BXI(C) Objections, Proceedings, and Determination

170Bk2859 Evidence; Affidavits

170Bk2861 Presumptions and burden of proof
(Formerly 170Bk96, 106k277)

Plaintiff has burden of proving that venue is properly laid.

6 Cases that cite this headnote

[2] **Antitrust and Trade Regulation**  Venue

29T Antitrust and Trade Regulation


29TXVII Antitrust Actions, Proceedings, and Enforcement

29TXVII(B) Actions

29Tk969 Jurisdiction and Venue

29Tk969(3) Venue

(Formerly 29Tk969, 265k28(3))

Since antitrust venue statutes are phrased in the present tense it must be shown that defendants transacted business or were doing business in the Western District of Pennsylvania contemporaneously with the time of service and at time the cause of action arose. Clayton Act, §§ 4, 12,  15 U.S.C.A. §§ 15, 22.

3 Cases that cite this headnote

[3] **Antitrust and Trade Regulation**  Jurisdiction and Venue

29T Antitrust and Trade Regulation

29TXVII Antitrust Actions, Proceedings, and Enforcement

29TXVII(B) Actions

29Tk969 Jurisdiction and Venue

29Tk969(1) In general

(Formerly 29Tk969, 265k28(3))

Plaintiff who commenced civil antitrust suit presumably sustained injurious impact of alleged conspiracy in Pennsylvania, where he alleged citizenship.

[4] **Antitrust and Trade Regulation** 🔑 Venue

29T Antitrust and Trade Regulation
29TXVII Antitrust Actions, Proceedings, and Enforcement
29TXVII(B) Actions
29Tk969 Jurisdiction and Venue
29Tk969(3) Venue
(Formerly 29Tk969, 265k28(3))

Corporate members of professional athletic venture, who were defendants in civil antitrust action, should not, for purpose of venue requirements of Clayton Act, be governed by rules evolved with reference to manufacturing or selling, nor by “atomizing” or “pulverizing” their activities into minute parts or events in disregard of the actual unity and continuity of their whole course of conduct. Clayton Act, § 12, 15 U.S.C.A. § 22.

3 Cases that cite this headnote

[5] **Antitrust and Trade Regulation** 🔑 Venue

29T Antitrust and Trade Regulation
29TXVII Antitrust Actions, Proceedings, and Enforcement
29TXVII(B) Actions
29Tk969 Jurisdiction and Venue
29Tk969(3) Venue
(Formerly 29Tk969, 265k28(3))

Venue requirements of Clayton Act were met on the basis of the transacting of business in the Western District of Pennsylvania by defendant basketball teams. Clayton Act, § 12, 15 U.S.C.A. § 22.

2 Cases that cite this headnote

[6] **Federal Courts** 🔑 Particular Contexts and Causes of Action

170B Federal Courts
170BX Personal Jurisdiction

170BX(B) Actions by or Against Nonresidents; “Long-Arm” Jurisdiction

170Bk2737 Particular Contexts and Causes of Action

170Bk2738 In general
(Formerly 170Bk84, 106k274(14))

Defendant basketball teams, who participated in games in Philadelphia, were doing business in Eastern District of Pennsylvania and should be regarded as residents of that district pursuant to statute providing, inter alia, that a corporation may be sued in any judicial district in which it is incorporated or is doing business. 🚩 28 U.S.C.A. § 1391(c).

4 Cases that cite this headnote

[7] **Antitrust and Trade Regulation** 🔑 Venue

Federal Courts 🔑 Particular Claims or Causes of Action

29T Antitrust and Trade Regulation
29TXVII Antitrust Actions, Proceedings, and Enforcement
29TXVII(B) Actions
29Tk969 Jurisdiction and Venue
29Tk969(3) Venue
(Formerly 29Tk969, 265k28(3))

170B Federal Courts
170BXI Location of Forum; Venue in General
170BXI(B) Grounds; Factors Considered
170Bk2822 Factors Concerning Claim or Cause of Action
170Bk2825 Particular Claims or Causes of Action
170Bk2825(1) In general
(Formerly 29Tk969, 265k28(3))

Provisions contained in statute relating to venue generally supplement the liberal special venue provisions contained in the Clayton Act. Clayton Act, § 12, 15 U.S.C.A. § 22; 🚩 28 U.S.C.A. § 1391(c).


[8] **Antitrust and Trade Regulation** 🔑 Venue

29T Antitrust and Trade Regulation
29TXVII Antitrust Actions, Proceedings, and Enforcement
29TXVII(B) Actions

29Tk969 Jurisdiction and Venue

29Tk969(3) Venue

(Formerly 29Tk969, 265k28(3), 106k274(8))

Civil antitrust action, not of local nature, brought against corporate defendants, could be brought in Western District of Pennsylvania under statute providing, inter alia, that any civil action against defendants residing in different districts in same state may be brought in any of such districts, and fact that two of the corporate defendants, deemed to reside in Western District, contemporaneously resided in Eastern District where their codefendants, foreign corporations, also resided for venue purposes, would not militate against venue in Western District.  28 U.S.C.A. § 1392(a).

1 Cases that cite this headnote

[9] **Antitrust and Trade Regulation**  Venue

29T Antitrust and Trade Regulation

29TXVII Antitrust Actions, Proceedings, and Enforcement


29TXVII(B) Actions

29Tk969 Jurisdiction and Venue

29Tk969(3) Venue

(Formerly 29Tk969, 265k28(3))

Term “found”, as used in Clayton Act venue statute, should be construed, with respect to an unincorporated association whose members reside in several states, by analogy to a

corporation, so that suit should be permitted wherever the unincorporated association is doing business. Clayton Act, § 4,  15 U.S.C.A. § 15.

6 Cases that cite this headnote

[10] **Antitrust and Trade Regulation**  Venue

29T Antitrust and Trade Regulation

29TXVII Antitrust Actions, Proceedings, and Enforcement

29TXVII(B) Actions

29Tk969 Jurisdiction and Venue

29Tk969(3) Venue

(Formerly 29Tk969, 265k28(3))

Venue in civil antitrust action was properly laid in Western District of Pennsylvania as to unincorporated basketball association where the association during the period involved did substantial business continuously in both the Western and Eastern Districts of Pennsylvania.

Clayton Act, § 4,  15 U.S.C.A. § 15;  28 U.S.C.A. § 1392(a).

3 Cases that cite this headnote

All Citations

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