



[Yet Another Reason That Your Contract Matters](#)



I have discussed on several occasions the fact that [construction contracts matter](#). The words in them matter and, in Virginia (as well as other states), most provisions, if not all [will be enforced to the letter](#). Recently, the Western District of Virginia federal court ruled in a way that reminded me of another reason for a well drafted contract.

In [Rockingham Precast, Inc. v. American Infrastructure - Maryland, Inc.](#)

the Western District of Virginia Court considered a motion to transfer venue to Maryland filed by American Infrastructure. The plaintiff, Rockingham Precast, a Virginia based company sued in Virginia. American Infrastructure conceded that VA could be a proper forum for the lawsuit but argued that the form was much to inconvenient and costly for the party and non-party witnesses and that the cost made the forum an unfair place to try the case.

The Court disagreed and basically stated that non-party witnesses can be deposed in lieu of live testimony and that moving the case to MD would only inconvenience Rockingham Precast in the same way that VA inconvenienced American Infrastructure. In short, the plaintiff's choice of venue tips the scales of a virtual tie.

Now, how, you may ask, does this non-contract related decision illustrate that a good contract can help? Read the first paragraph of this post. *Contracts will be enforced in Virginia*. This last axiom applies to jurisdictional and [forum selection provisions](#).

While this court broke the tie with the plaintiff's choice of forum, the outcome could have been quite different. If the parties had a forum selection provision in their contract, the Court would have enforced it, regardless of where Rockingham Precast filed the case. This would be true even if both companies were Virginia companies and every event of the transaction occurred in Virginia. With a forum selection clause stating that Maryland would be where any suit had to be filed, American Infrastructure would have had an easy time getting the case moved. Without it, American Infrastructure and not

Rockingham Precast had to bear the additional travel and witness expenses, a not insignificant burden.

Of course these provisions cut both ways. Because the contractual forum choice will be enforced, all contractors, subcontractors and suppliers should consult with an [experienced construction attorney](#) to assure that their contracts are written in the most advantageous fashion possible.

Image via [Wikipedia](#)

Please check out my [Construction Law Musings Blog](#) for more on Virginia construction law and other topics.