Nelson Hardiman litigators prevail in venue challenge based on contract clause



Nelson Hardiman attorneys John A. Mills and Salvatore J. Zimmitti recently secured a victory for a hospital system client which filed suit on a contract against two large corporations in the County of San Bernardino that subsequently moved to transfer the entire action to the County of San Francisco, based on a clause in the underlying contract which had purported to obligate all parties to only file suit in San Francisco County.

Nelson Hardiman opposed the transfer motion by summoning California law that specifies that contractual venue selection clauses are valid and enforceable only to the extent they fix venue in a county that would otherwise be a permissible choice under the applicable venue statute, in this case California Code of Civil Procedure ("CCP") 395.5, which provides that "a corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs; or in the county where the principal place of business of such corporation is situated." Accordingly, Nelson Hardiman undertook an exhaustive effort, including two rounds of briefing and two hearings, to demonstrate conclusively that the County of San Francisco was not a statutorily permissible venue choice based on any of the aforementioned grounds under CCP section 395.5.

Nelson Hardiman's successful opposition to the enforcement of the venue selection clause in this case is good news for parties who may have unwittingly executed agreements that include boilerplate venue language that is intended to provide the other party "home court" advantage in the event of litigation. In fact, in this particular case, pre-litigation communications between the parties indicated that the defendant corporations were confident that they had such an advantage and they made aggressive demands that included explicit threats of "dragging" Nelson Hardiman's client before a San Francisco jury. Nelson Hardiman's victory silenced that threat and confirmed that venue selection clauses that would otherwise undermine the legislative intent underlying California's statutory venue scheme are invalid and unenforceable in this state.

For more information/questions regarding any legal matters, please email info@nelsonhardiman.com or call 310.203.2800.