

Keeping the Home-Field Advantage in Business Disputes

By CPM Business Attorneys

It is almost inevitable that business disputes be described using sports metaphors. Are you playing hardball? Did your witness hit a home run? Have you thrown the other side a curve? Such rhetoric often sheds no light on what is actually going on in the boardroom or courtroom. One instance where the imagery is apt, however, is when considering the home-field advantage. Statisticians recently confirmed what baseball fans have long known: that, all other things being equal, the home team enjoys a statistically significant advantage. See, e.g., Levernier, *An Analysis of the Home-Field Advantage In Major League Baseball*, *Journal of Quantitative Analysis in Sports*, Vol. 3: Iss. 1, (2007). The reasons for this correlation seem obvious. The home team knows how to exploit the quirks of the field and can capitalize on the support of its fans.

Such advantages become important in business litigation as well. The business litigators at Carlile Patchen & Murphy know the courtrooms, juries and judges of central Ohio. We are familiar with the local rules of practice. In sum, we enjoy the home-field advantage. Of course, in a global economy, your interests don't always end at the state line. Thus, when representing your interests out-of-state, we often partner with local firms equally familiar with their own bit of home turf.

There are important ways, however, that your business team can maximize its home-field advantage before a dispute ever arises. Commercial contracts often contain forum selection and choice of law clauses that control where and how future disputes will be resolved. These provisions may limit your right to pursue claims you otherwise have under Ohio law in an Ohio court. Although there may be a good business reason for a contract to provide exclusive jurisdiction in a Texas court under Texas law, it is important to recognize the increased costs and burden such a distant suit may someday impose upon your witnesses and trial strategy. In short, you could lose your home-field advantage.

If you have questions or would like more information, contact your CPM attorney.