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United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KRISTINA KYSONE,  
Plaintiff,  
  
v.  
  
REGIS CORPORATION, et al.,  
Defendants.

Case No. [14-cv-01410-WHO](#) (WHO)

**ORDER GRANTING MOTION TO  
TRANSFER VENUE**

Re: Dkt. No. 15

**INTRODUCTION**

Plaintiff Kristina Kysone lives in Sacramento County. She worked at defendants' hair salon in Sacramento County. She is suing her former employer for violations of the California Fair Employment and Housing Act and the California Labor Code stemming from that work. At least four of her five known witnesses live in Sacramento County. Yet her lawsuit is pending in the Northern District of California.

Not surprisingly, defendants Regis Corporation and Cool Cuts 4 Kids move to transfer this case to the Eastern District of California. Kysone objects to transfer, arguing that many of her claims pertain to occasional work-related travel to Pleasanton, California, in the Northern District. But the Complaint establishes that Kysone's travel plays only a minor role in her claims. As the workplace, the witnesses, and Kysone herself are all located in Sacramento County, the Eastern District provides a more convenient and appropriate forum. Pursuant to Civil Local Rule 7-1(b), this matter is appropriate for resolution without oral argument. The July 2, 2014 hearing is VACATED. The motion to transfer venue is GRANTED.

1 **BACKGROUND**

2 Kysone is a former employee of Cool Cuts 4 Kids (“Cool Cuts”), a subsidiary of Regis  
3 Corporation (“Regis”). Complaint (Dkt. No. 4-1) at ¶ 1; Declaration of Roxanne Saxhaug in  
4 Support of Motion to Transfer (Dkt. No. 15-2) at ¶ 3; Declaration of Carmen Theide in Support of  
5 Removal (Dkt. No. 3) at ¶¶ 4–5. She states that during the bulk of her employment with Regis and  
6 Cool Cuts, she was supervised by defendant Milissa Echols, who then served as District Manager  
7 in Cool Cuts’ West Coast Region. Compl. at ¶ 1; Declaration of Milissa Echols in Support of  
8 Removal (Dkt. No. 2) at ¶ 3.

9 According to the Complaint, Kysone began her employment with Cool Cuts in January  
10 2006 as a stylist at the salon in Elk Grove. Compl. at ¶ 21. She says that she was quickly  
11 promoted and received recognition for the quality of her work. *Id.* at ¶¶ 21–22. However, she  
12 also alleges that she endured a pattern of abuse and mistreatment at the hands of Echols, which her  
13 employers joined, endorsed, or tacitly enabled. *Id.* at ¶¶ 47–52. She contends:

- 14 ▪ Management allegedly denied her training and equipment suited to her position and needs,  
15 at least partly in order to undermine her employment. *Id.* at ¶¶ 23–25.
- 16 ▪ Echols allegedly denied her pregnancy-related work accommodations, contributing to a  
17 miscarriage and subsequent emotional distress. *Id.* at ¶¶ 26–27.
- 18 ▪ Echols allegedly threatened her with demotion in the event of future pregnancies and made  
19 objectionable inquiries regarding her personal life. *Id.* at ¶¶ 28–29.
- 20 ▪ Echols allegedly harassed, refused to promote, and undermined her work and the work of  
21 other employees who are of Asian descent or who speak in “accented” English. *Id.* ¶¶ 30–  
22 33.
- 23 ▪ Management allegedly denied her accommodations for her religious practice. *Id.* at ¶¶ 34–  
24 35.
- 25 ▪ Management allegedly demoted her on false pretenses, cut her hours on false pretenses,  
26 and failed to act on her allegations of mistreatment. *Id.* at ¶¶ 36–41.
- 27 ▪ Management allegedly failed to provide a safe workplace and failed to accommodate her  
28 medical needs. *Id.* at ¶¶ 42–45.



1 (8) the relative court congestion and time of trial in each forum. *Williams v. Bowman*, 157 F.  
2 Supp. 2d 1103, 1106 (N.D. Cal. 2001) (Walker, J.). However, “no single factor is dispositive,”  
3 and district courts are afforded “broad discretion to adjudicate motions to transfer” after weighing  
4 any conflicting considerations. *Ctr. for Biological Diversity v. Kempthorne*, C 08-1339 CW, 2008  
5 WL 4543043 (N.D. Cal. 2008).

6 The burden is on the moving party to demonstrate that transfer of venue is appropriate.  
7 *Carolina Cas. Co. v. Data Broad. Corp.*, 158 F. Supp. 2d 1044, 1048 (N.D. Cal. 2001)  
8 (Walker, J.). Defendants cannot meet this burden solely by showing that they prefer another  
9 forum, nor by shifting inconveniences from one party to another. *Van Dusen v. Barrack*, 376 U.S.  
10 612, 645–46 (1964).

## 11 DISCUSSION

12 There is no doubt that the Eastern District is the appropriate venue for this case.

### 13 I. THE EASTERN DISTRICT OF CALIFORNIA IS A PROPER FORUM.

14 Venue is proper in “a judicial district in which a substantial part of the events or omissions  
15 giving rise to the claim occurred.” 28 U.S.C. § 1391(b)(2). If no such district exists, venue is  
16 proper in “any judicial district in which any defendant is subject to the court’s personal  
17 jurisdiction with respect to such action.” *Id.*

18 The Complaint establishes that the majority of the events or omissions giving rise to  
19 Kysone’s claims took place in Sacramento County, in the Eastern District of California. Kysone is  
20 a Sacramento County resident who worked in Sacramento County. Compl. at ¶ 1–3. All  
21 allegations relating to the safety and functioning of her workplace — management’s alleged  
22 failure to train, failure to provide equipment, failure to accommodate pregnancy and illness, and  
23 failure to provide breaks and lunch hours — took place substantially if not exclusively at her  
24 workplace in Elk Grove, which is in Sacramento County. Any discriminatory hiring or retaliation  
25 occurred at the Elk Grove salon. Her allegations regarding failure to accommodate religious  
26 practice specifically relate to attending “her *local* temple with her mother.” *Id.* at ¶ 34 (emphasis  
27 added). Although Kysone argues that venue was proper in the Northern District of California  
28 pursuant to 28 U.S.C. § 1391(b)(2), she does not dispute that venue would also be proper in the

1 Eastern District. *See* Pl.’s Opp’n (Dkt. No. 16) at 4.

2 **II. THE CONVENIENCE FACTORS WEIGH IN FAVOR OF TRANSFER.**

3 **A. Plaintiff’s choice of forum**

4 A plaintiff’s choice of forum generally merits substantial deference. *Decker Coal Co. v.*  
5 *Commonwealth Edison Co.*, 805 F.2d 834, 843 (9th Cir.1986). However, this deference is  
6 considerably mitigated where the chosen forum lacks a “significant connection to the activities  
7 alleged in the complaint,” or where the plaintiff has chosen a forum in which she does not reside.  
8 *Carolina Cas. Co.*, 158 F. Supp. 2d at 1048 (quoting *Fabus Corp. v. Asiana Exp. Corp.*, C-00-  
9 3172 PJH, 2001 WL 253185 (N.D. Cal. 2001)); *see also Pac. Car & Foundry Co. v. Pence*, 403  
10 F.2d 949, 954 (9th Cir. 1968).

11 Kysone’s main argument in support of venue in the Northern District is that she was  
12 allegedly unpaid or underpaid after attending work-related conferences “year after year” in  
13 Pleasanton. Pl.’s Opp’n at 4, 7; Declaration of Kristina Kysone in Support of Plaintiff’s  
14 Opposition at ¶ 4. She allegedly suffered further retaliation and demotion after complaining about  
15 management’s failure to compensate her for these conferences. Pl.’s Opp’n at 4. She argues that  
16 these specific allegations form part of her eight causes of action for Labor Code violations, unjust  
17 enrichment, and wrongful termination. *Id.*

18 Without passing judgment on the allegations themselves, nothing in the Complaint  
19 indicates that travel to Pleasanton figures centrally in Kysone’s claims. Indeed, the County of  
20 Alameda appears in the Complaint not in the context of any factual allegations, but only for the  
21 purpose of declaring the adequacy of venue. Compl. at ¶¶ 13–14 (“[A]cts and events set forth in  
22 this Complaint occurred in whole or in part in the County of Alameda.”). Later in the Complaint,  
23 Kysone refers to unpaid wages and to retaliation arising out of her inquiries into missing  
24 compensation. Compl. at ¶¶ 46, 48, 50–52. However, it appears that uncompensated travel time  
25 comprises only a fraction of the total unpaid wages — and travel to Alameda County only a  
26 portion of that travel. Compl. at ¶¶ 26, 46. In her Opposition, Kysone attempts to recast her  
27 claims as stemming substantially from unpaid wages and expenses related to the Pleasanton  
28 conferences. Pl.’s Opp’n at 5. This is incompatible with the Complaint, which focused

1 overwhelmingly on conditions and conduct at her workplace.

2 As Kysone neither resides in the Northern District nor raises claims significantly  
3 connected to the Northern District, Kysone’s choice of forum is not entitled to substantial  
4 deference.

5 **B. Convenience of the parties**

6 For every party to this action, the Eastern District is of greater or equal convenience.  
7 Kysone resides in Sacramento County. Regis is headquartered in Minnesota. Cool Cuts is a d/b/a  
8 entity of Regis. Echols resides in the Reno area, just outside the Eastern District of California.<sup>1</sup>  
9 This factor weighs strongly in favor of transfer.

10 **C. Convenience of the witnesses**

11 For every known witness relevant to this action, the Eastern District is more convenient.  
12 Regis lists five potential witnesses, including three current and two former employees of the Elk  
13 Grove salon. Saxhaug Decl. at ¶¶ 4–8. Four are residents of Sacramento County. *Id.* at ¶¶ 5–8.  
14 The fifth is recorded as a Sacramento County resident at her last known address. *Id.* at ¶ 4.  
15 Kysone does not identify any witness located outside the Eastern District. This factor weighs  
16 strongly in favor of transfer.

17 **D. Other factors**

18 The remaining convenience factors weigh in favor of transfer. First, evidence will be  
19 easier to obtain in the Eastern District, which is where the salon and its past and current employees  
20 are. *See* Saxhaug Decl. at ¶¶ 4–8.

21 Second, although Kysone argues that there is a public policy interest in hearing the case in  
22 the Northern District because her California Labor Code causes of action stem from  
23 uncompensated travel to conferences in Pleasanton, the opposite is true. Kysone’s attendance at  
24 the Pleasanton conferences is not central to the Labor Code claims actually pled in her Complaint.  
25 Rather, the Labor Code allegations are primarily tied to her work at the Elk Grove salon. To the

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27 <sup>1</sup> Although the parties’ attorneys are located in the Northern District, the location and convenience  
28 of counsel is irrelevant to the transfer of venue considerations. *See, e.g., Zimpelman v.*  
*Progressive N. Ins. Co.*, C-09-03306 RMW, 2010 WL 135325 (N.D. Cal. 2010); *Costco*  
*Wholesale Corp. v. Liberty Mut. Ins. Co.*, 472 F. Supp. 2d 1183, 1195 (S.D. Cal. 2007).

1 extent there exists a public policy interest in local resolution of the Labor Code violations, that  
2 interest weighs in favor of transfer to the Eastern District.

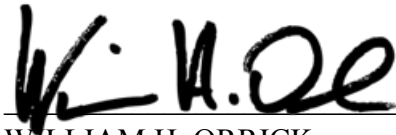
3 Finally, consolidation of claims, familiarity with applicable law, inter-district court  
4 congestion, and differences in time to trial do not weigh in Kysone's favor. Even if they did, the  
5 convenience to the witnesses and parties and the strong nexus to the Eastern District would be far  
6 more powerful factors in favor of transfer.

7 **CONCLUSION**

8 In sum, the limited deference afforded to Kysone's choice of venue is far outweighed by  
9 the convenience to the parties and to the witnesses of transfer to the Eastern District. Defendants'  
10 motion to transfer venue to the Eastern District of California is GRANTED.

11 **IT IS SO ORDERED.**

12 Dated: June 30, 2014



13  
14 WILLIAM H. ORRICK  
United States District Judge

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