

United States District Court
Southern District of Texas

ENTERED

December 23, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

CLAUDIA PATRICIA POSADA, §
Individually and as Surviving Spouse §
of Fernando Manzano, and as §
Successor-in-interest of the Estate §
of Fernando Manzano, ET AL., §
Plaintiffs §
§
v. §
§
9280-8401 QUEBEC, INC., d/b/a §
BKFS LOGISTICS, ET AL., §
Defendants §

Civil Action No. 1:22-cv-139

OPINION AND ORDER OF TRANSFER

The Court is in receipt of Plaintiffs’ Original Complaint filed on October 4, 2022. Dkt. No. 1. For the reasons provided below, it is **ORDERED** that this case be transferred to the United States District Court for the Western District of Texas, Waco Division.

I. Jurisdiction

This Court has jurisdiction pursuant to 28 U.S.C. § 1332.

II. Legal Standards

Pursuant to Section 1404(a) of Title 28, “[f]or the convenience of the parties and witnesses, and in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.” 28 U.S.C. § 1404(a). The application of Section 1404(a) is a two-part process. *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004). A court must first determine if the plaintiff could have filed their complaint in the alternative transferee venue. *Id.* If so, the court must then determine whether the

transfer would serve “the convenience of the parties and witnesses” and “the interests of justice.” *Id.*

III. Discussion

This case stems from the death of Fernando Manzano (hereinafter, “Manzano”) on or about September 26, 2022. Dkt. No. 1 at 3. That morning, Manzano was traveling southbound on Interstate 35, within the city limits of Waco, Texas. *Id.* Defendant Rajinder Pal Singh then allegedly struck Manzano’s vehicle. *Id.* Manzano died from the injuries sustained from the collision. *Id.*

On October 4, 2022, Claudia Patricia Posada filed this lawsuit individually, as the purported surviving spouse of Manzano, as the purported successor to Manzano’s estate, and as next friend of Manzano’s minor child C.E.M. (hereinafter, “Plaintiffs”). Dkt. No. 1. Plaintiffs assert that “venue is proper . . . pursuant to 28 U.S.C. § 1391(b) because the cause of action arose within the Southern District of Texas.” *Id.* at 2. Manzano appeared to be residing in Brownsville, Texas at time of death. Dkt. No. 12-1. Defendant 9280-8401 Quebec, Inc., d/b/a BKFS Logistics has its principal place of business in Dorval, Quebec, Canada. Dkt. No. 1 at 2. Defendant Rajinder Pal Singh resides in Mississauga, Ontario, Canada. *Id.*


Plaintiffs assert the incident in question occurred within McLennan County. *Id.* at 3. McLennan County is in the Waco Division of the Western District of Texas. 28 U.S.C. 124(d)(2) (“The Waco Division comprises the counties of Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Leon, Limestone, McLennan, Milam, Robertson, and Somervell.”). The events that led to Plaintiffs filing this lawsuit allege no connection to the Southern District of Texas in general, or the Brownsville Division in particular.

Accordingly, the interests of justice would be served by a transfer to the Waco Division of the Western District of Texas.

IV. Conclusion

For the foregoing reasons, it is **ORDERED** that this case be transferred to the United States District Court for the Western District of Texas, Waco Division. The Clerk of Court is directed to **CLOSE** this case in this division.

SIGNED on this **23rd** day of **December, 2022**, at Brownsville, Texas.



Ignacio Torteya, III
United States Magistrate Judge