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**UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA**

<b>Blane Barry,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>2:15-cv-00004 JWS</b>
	)	
<b>vs.</b>	)	<b>ORDER AND OPINION</b>
	)	
<b>Shell Oil Co., et al.,</b>	)	<b>[Re: Motion at Docket 92]</b>
	)	
<b>Defendants.</b>	)	
	)	

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**I. MOTION PRESENTED**

At docket 92 defendants Arctia Offshore, Ltd. (“Arctia”), Shell Oil Company, and Shell Offshore, Inc. (“Shell”), and Safety Management Systems, Inc. (“SMS”) (collectively, “Defendants”) jointly move for an intra-district transfer of this case from Nome to Anchorage for purposes of trial pursuant to 28 U.S.C. § 1404(c) and Local Rule 3.3(d). Plaintiff Blane Barry opposes at docket 100. Defendants reply at docket 101. Oral argument was not requested and would not assist the court.

1 **II. STANDARD OF REVIEW**

2 28 U.S.C. § 1404(c) states that the district court may “order any civil action to be  
3 tried at any place within the division in which it is pending.” Because the State of  
4 Alaska has only one judicial district that lacks divisions,<sup>1</sup> the court can order the action  
5 to be tried in any location in the state.<sup>2</sup> The trial location is committed to the discretion  
6 of the district court.<sup>3</sup>

8 **III. DISCUSSION**

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10 Defendants argue that trial should be held in Anchorage because the issues to  
11 be tried have no connection to Nome; there is no evidence in Nome; and no parties or  
12 witnesses reside in Nome. Conversely, Shell maintained an office in Anchorage in  
13 2012 where Arctica personnel worked; hotel and airfare costs will be less if trial is held  
14 in Anchorage; and Defendants’ local counsel have offices in Anchorage. The court  
15 finds these reasons persuasive.

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17 Plaintiff opposes Defendants’ motion because (1) Nome is his chosen forum and  
18 (2) transferring the trial to Anchorage may lead to delay because Defendants may seek  
19 a new scheduling order or re-file motions this court has already decided. As to  
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22 <sup>1</sup>28 U.S.C. § 81A.

23 <sup>2</sup>*El Ranco, Inc. v. First Nat. Bank of Nev.*, 406 F.2d 1205, 1219 (9th Cir. 1968) (“Since  
24 no statute or rule exists separating the district into divisions the court simply did what 28 U.S.C.  
25 § 1404(c) recognizes that a court can do, that is ‘order any civil actions to be tried at any place  
26 within the division in which it is pending.’”); D.Ak. L.R. 3.3(d) (“Intra-District Transfer. The court  
27 may decide on motion of a party or its own motion whether the action should be transferred to  
28 another location for case management or trial.”). See also *Smith v. CRST Van Expedited, Inc.*,  
No. CV-07-8041-PHX-LOA, 2008 WL 413946, at \*1 (D. Ariz. Feb. 13, 2008); *Matthews v. N.  
Slope Borough*, 646 F. Supp. 943, 945 (D. Alaska 1986).

<sup>3</sup>*El Ranco, Inc.*, 406 F.2d at 1219; *Matthews*, 646 F.Supp. at 945.

1 Plaintiff's latter argument, Plaintiff has no basis for fearing a new scheduling order or  
2 reconsideration of decided motions. As to his former argument, Plaintiff relies on cases  
3 decided under 28 U.S.C. § 1404(a) that afford deference to the plaintiff's choice of  
4 forum.<sup>4</sup> These cases do not apply here. The plaintiff's choice of forum is entitled to  
5 less deference under § 1404(c).<sup>5</sup>  
6

7 **IV. CONCLUSION**

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9 For the reasons stated above, the motion at docket 92 is GRANTED. The pre-  
10 trial hearings, trial, and post-trial hearings will be held at the Anchorage courthouse.

11 DATED this 11<sup>th</sup> day of January 2017.

12  
13 /s/ JOHN W. SEDWICK  
14 SENIOR JUDGE, UNITED STATES DISTRICT COURT  
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25 <sup>4</sup>Doc. 100 (citing *Decker Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834, 843 (9th  
26 Cir. 1986); *Oxbow Energy, Inc. v. Koch Indus., Inc.*, 686 F. Supp. 278, 280 (D. Kan. 1988)  
27 (relying on *Ammon v. Kaplow*, 468 F. Supp. 1304, 1313 (D. Kan. 1979) (a § 1404(a) case));  
*Home Design Servs., Inc. v. Trumble*, No. 09-CV-00964-WYD-CBS, 2011 WL 1526557, at \*1  
(D. Colo. Apr. 20, 2011) (relying on § 1404(a) caselaw).

28 <sup>5</sup>*Matthews*, 646 F. Supp. at 945–46.