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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

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9 World Resorts International, LLC, a
Nevada limited liability company,,

No. CV 12-00878-PHX-NVW

10 Plaintiff,

ORDER

11 vs.

12 Interval International, Inc., a Florida
13 corporation; Interval Leisure Group, Inc., a
14 Delaware corporation; Trading Places
15 International, LLC, a California limited
liability company; Worldwide Vacation &
Travel, Inc., a Florida corporation,

16 Defendants.

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19 Before the Court are Defendants' Motion to Dismiss Complaint with Prejudice

20 (Doc. 16), Specially Appearing Defendant Interval Leisure Group, Inc.'s Motion to

21 Dismiss Complaint for Lack of Personal Jurisdiction (Doc. 17), and Defendants' Motion

22 to Transfer Venue Pursuant to 28 U.S.C. § 1404(a) (Doc. 18). Defendants move this

23 Court to dismiss Plaintiff's action on the basis that it was filed in an improper forum, or,

24 alternatively, for failure to state a plausible claim for relief. In the alternative to

25 dismissal, Defendants request this case be transferred to the Central District of California

26 as a more convenient forum.

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1 Under 28 U.S.C. § 1404(a), “For the convenience of parties and witnesses, in the
2 interest of justice, a district court may transfer any civil action to any other district or
3 division where it might have been brought or to any district or division to which all
4 parties have consented.” In order to determine whether a motion to transfer venue is
5 appropriate, the Court considers factors, including:

6 (1) the location where the relevant agreements were
7 negotiated and executed, (2) the state that is most familiar
8 with the governing law, (3) the plaintiff’s choice of forum, (4)
9 the respective parties' contacts with the forum, (5) the
10 contacts relating to the plaintiff's cause of action in the chosen
11 forum, (6) the differences in the costs of litigation in the two
12 forums, (7) the availability of compulsory process to compel
13 attendance of unwilling non-party witnesses, and (8) the ease
14 of access to sources of proof.

15 *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498-99 (9th Cir. 2000). While Plaintiff’s
16 choice of forum should be given deference, the “interest of justice factor is the most
17 important of all.” *Conte v. Ginsey Indus., Inc.*, 2012 WL 3095019 (D. Ariz. 2012)
18 (quoting *Amazon.com v. Cendant Corp.*, 404 F.Supp.2d 1256, 1261 (W. D. Wash.2005)).
19 Ultimately, the Court has the “discretion to adjudicate motions for transfer according to
20 an individualized, case-by-case consideration of convenience and fairness.” *Jones*, 211
21 F.3d at 498.

22 Here, the relevant factors weigh largely in favor of transferring venue. First, the
23 convenience of the parties and witnesses favors transfer to California: the majority of
24 Defendants, many of the witnesses, and some of Plaintiff’s members are all located in
25 California. Because the pertinent witnesses are located mainly outside the subpoena
26 power of the District of Arizona, transfer to California will facilitate the efficiency and
27 fairness of this litigation. Further, California is the locus of the events and transactions
28 underlying this litigation, and is the place where the majority of the meetings between the
parties took place. Plaintiff appears to have selected Arizona as the forum for this lawsuit
because its lawyer and two of its members are located here. This fact does not outweigh

1 the other compelling reasons justifying transfer of venue. The Court will therefore grant
2 Defendants' motion to transfer venue.

3 Also pending is Defendant's motion to dismiss, which seeks dismissal of
4 Plaintiff's complaint under Fed. R. Civ. P. 12(b)(3) for improper venue or, in the
5 alternative, under Fed. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief
6 may be granted. Defendants' argument under Rule 12(b)(3) is misplaced, as removed
7 cases are governed by 28 U.S.C. § 1441(a), not the general venue statute 28 U.S.C. §
8 1391. *See Polizzi v. Cowles Magazines, Inc.*, 345 U.S. 663, 665 (1953) (noting venue in
9 cases removed from state court is governed by 28 U.S.C. § 1441(a) rather than 28 U.S.C.
10 § 1391). Defendants' motion for dismissal under Rule 12(b)(3) will therefore be denied
11 (Doc. 16). In any event, the Court will grant Defendants' motion to transfer venue,
12 obviating any concerns that Arizona is an improper venue for this action. Because the
13 Court will grant Defendants' motion to transfer venue, it is more appropriate for the
14 California court to decide Defendants' pending Rule 12(b)(6) motion to dismiss on the
15 merits.

16 Finally, Specially Appearing Defendant Interval Leisure Group, Inc.'s Motion to
17 Dismiss Complaint for Lack of Personal Jurisdiction (Doc. 17) is now moot. It will be
18 denied without prejudice to refile a motion challenging the California court's exercise
19 of personal jurisdiction over it.

20 IT IS THEREFORE ORDERED that Defendants' Motion to Transfer Venue
21 Pursuant to 28 U.S.C. § 1404(a) (Doc. 18) is granted. The Clerk is directed to transfer
22 this case to the Central District of California.

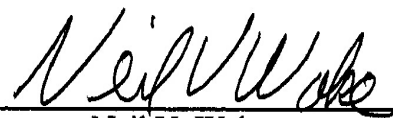
23 IT IS FURTHER ORDERED that Defendants' Motion to Dismiss Complaint with
24 Prejudice (Doc. 16) is denied as to the motion to dismiss under Fed. R. Civ. P. 12(b)(3)
25 only.

26 IT IS FURTHER ORDERED that Specially Appearing Defendant Interval Leisure
27 Group, Inc.'s Motion to Dismiss Complaint for Lack of Personal Jurisdiction (Doc. 17) is
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denied without prejudice to refiling a motion challenging the California court's exercise of personal jurisdiction over it.

Dated this 8th day of August, 2012.



Neil V. Wake
United States District Judge