

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FEDERAL DEPOSIT INSURANCE CORPORATION, as Receiver for INDYMAC BANK, F.S.B.,

Plaintiff,

v.

RICHARD K. VARRASSO; PREMIER VALLEY, INC.; and KAREN BHATTI,

Defendants.

No. C 11-3305 SI

**ORDER GRANTING DEFENDANT’S MOTION TO TRANSFER AND TRANSFERRING THIS CASE TO THE EASTERN DISTRICT OF CALIFORNIA**

The motions by defendant Premier Valley Inc.(“Premier Valley”) to transfer venue, to dismiss, and to strike are scheduled for a hearing on October 7, 2011. Pursuant to Civil Local Rule 7-1(b), the Court determines that the matters are appropriate for resolution without oral argument, and VACATES the hearing. For the reasons set forth below, the Court GRANTS defendant’s motion to transfer this action to the United States District Court for the Eastern District of California. All other pending motions are denied without prejudice to renewal in the transferee district.

**BACKGROUND**

On July 6, 2011, plaintiff Federal Deposit Insurance Corporation (“FDIC”) filed this action as the receiver for FDIC-insured IndyMac Bank, F.S.B (“IndyMac”) against defendants Richard K. Varrasso (“Varrasso”), Premier Valley, and Karen Bhatti (“Bhatti”). Plaintiff alleges claims for negligent misrepresentation, breach of contract, and negligence arising out of two real estate transactions involving defendants. The complaint alleges that defendant Varrasso appraised two properties located

1 in Modesto and Sacramento, California, and that both of these appraisals intentionally misrepresented  
2 the value of the properties. Compl. ¶¶ 18-19, 46-47. The complaint alleges that defendant Premier  
3 Valley acted as the real estate broker for the sale of the Modesto property in October 2006, and that  
4 defendant Bhatti acted as the mortgage broker for that transaction. *Id.* ¶¶ 9-14. The complaint alleges  
5 that the Sacramento property was refinanced in January 2008. *Id.* ¶ 15. Plaintiff alleges, *inter alia*, that  
6 IndyMac suffered damages from the inflated appraisals when it funded the mortgage loan for the  
7 Modesto property, and the refinancing loan for the Sacramento property.

8 Defendant Premier Valley has moved to transfer this action to the Eastern District of California.  
9 Defendant Bhatti has appeared in this case, and the parties filed a stipulation stating that the Court’s  
10 ruling on the motion to transfer will apply to defendant Bhatti. The docket reflects that defendant  
11 Varasso was served and that his answer was due on August 23, 2011. Docket No. 9. Defendant Varasso  
12 has not filed an answer or otherwise appeared in this case.

#### 14 LEGAL STANDARD

15 “For the convenience of parties and witnesses, in the interest of justice, a district court may  
16 transfer any civil action to any other district or division where it might have been brought.” 28 U.S.C.  
17 § 1404(a). A motion for transfer lies within the broad discretion of the district court, and must be  
18 determined on an individualized basis. *See Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498 (9th Cir.  
19 2000). To support a motion for transfer, the moving party must establish: (1) that venue is proper in the  
20 transferor district; (2) that the transferee district is one where the action might have been brought; and  
21 (3) that the transfer will serve the convenience of the parties and witnesses, and will promote the  
22 interests of justice. *See Goodyear Tire & Rubber Co. v. McDonnell Douglas Corp.*, 820 F. Supp. 503,  
23 506 (C.D. Cal. 1992). “The general rule is that a plaintiff’s choice of forum is afforded substantial  
24 weight.” *Williams v. Bowman*, 157 F. Supp. 2d 1103, 1106 (N.D. Cal. 2001). Where a plaintiff does  
25 not reside in the forum, however, courts afford the plaintiff’s choice considerably less weight. *See*  
26 *Schwarzer et al., Federal Civil Procedure Before Trial* § 4:761 (2011) (citing *In re Apple, Inc.*, 602 F.3d  
27 909, 913 (8th Cir. 2010)).



1 the seller and buyer of the Modesto property, all of whom reside in the Eastern District. *Id.* ¶ 6(a)-(c).<sup>1</sup>

2 Accordingly, because the properties at issue are in the Eastern District, and the majority of  
3 defendants and witnesses reside in the Eastern District, the Court finds that the interests of convenience  
4 and justice weigh in favor of transfer.

5  
6 **CONCLUSION**

7 For the foregoing reasons and for good cause shown, the Court hereby GRANTS defendant's  
8 motion to transfer. The Clerk shall transfer this action to the Eastern District of California. Docket No.  
9 10. All other pending motions are denied without prejudice to refiling in the transferee district.

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11 **IT IS SO ORDERED.**

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13 Dated: October 4, 2011

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16 SUSAN ILLSTON  
17 United States District Judge

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27 <sup>1</sup> The parties' papers do not address the other factors, such as relative court congestion,  
28 familiarity of each forum with the law, ease of access to evidence, and any local interest in the  
controversy. Some of these factors, such as familiarity of each forum with the law, are neutral, while  
others, such as local interest in the controversy, favor the Eastern District.