

1 On May 8, 2018, District Judge Troy L. Nunley issued an order adopting the findings and
2 recommendations with respect to dismissal of plaintiff's first, third, and fourth causes of action
3 for lack of personal jurisdiction. ECF No. 31. However, upon finding that the plaintiff did not
4 have an adequate opportunity to brief the issue of forum non conveniens, Judge Nunley referred
5 the issue back to the undersigned for further proceedings. Id. at 2. The same day, the
6 undersigned issued a minute order requiring the parties to submit supplemental briefing on the
7 issue of forum non conveniens. ECF No. 32. Plaintiff and defendants each submitted a response
8 to the court's request and replies to one another's responses. ECF Nos. 33-36.

9 Now before the undersigned is defendant's motion to dismiss with respect to plaintiff's
10 second cause of action, the only cause of action remaining in this case. ECF No. 12, 31.
11 Defendant's motion seeks only dismissal for improper venue or for lack of personal jurisdiction.
12 ECF No. 12 at 3. Although the undersigned initially recommended dismissal of plaintiff's second
13 cause of action on grounds of forum non conveniens, plaintiff correctly points out that the venue
14 transfer statute, 28 U.S.C. § 1404, is the correct vehicle for the transfer of a case between district
15 courts in which either venue may be permissible, but a venue other than the one chosen by the
16 plaintiff is preferable. ECF No. 35 at 4.

17 Under 28 U.S.C. § 1404(a), a district court “[f]or the convenience of parties and
18 witnesses, in the interest of justice, may transfer any civil action to any other district or division
19 where it might have been brought....” This statute “partially displaces the common law doctrine
20 of forum non conveniens” with respect to transfers between federal courts. See Decker Coal
21 Co. v. Commonwealth Edison Co., 805 F.2d 834, 843 (9th Cir.1986). In passing § 1404(a),
22 Congress “intended to permit courts to grant transfers *upon a lesser showing of inconvenience*”
23 than is necessary for dismissal under the doctrine of forum non conveniens. Norwood v.
24 Kirkpatrick, 349 U.S. 29, 32 (1955) (emphasis added). The factors considered in deciding
25 whether to transfer a case pursuant to § 1404(a) are largely the same as those considered in a
26 forum non conveniens analysis, but the “discretion to be exercised [by the district court] is
27 broader.” Id. A transfer of venue pursuant to § 1404(a) may arise pursuant to the motion of
28 either party or by the court sua sponte, so long as the parties are first given the opportunity to

1 present their views on the issue. Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir. 1986) (citing
2 Starnes v. McGuire, 512 F.2d 918, 934 (D.C. Cir.1974)).

3 In light of the foregoing, the parties are each ORDERED TO SHOW CAUSE, within 14
4 days, why this case should not be transferred to the District of Idaho pursuant to 28 U.S.C.
5 § 1404.

6 DATED: June 27, 2018.

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9 ALLISON CLAIRE
10 UNITED STATES MAGISTRATE JUDGE
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