


1 case is filed in the wrong venue, the district court has the discretion either to dismiss the
2 case or transfer it to the proper federal court "in the interest of justice." 28 U.S.C. §
3 1406(a). Venue may be raised by the court sua sponte where the defendant has not yet
4 filed a responsive pleading and the time for doing so has not run. Costlow v. Weeks,
5 790 F.2d 1486, 1488 (9th Cir. 1986).

6 Accordingly, IT IS ORDERED that, in the interest of justice and pursuant to 28
7 U.S.C. § 1406(a), this action be TRANSFERRED to the United States District Court for
8 the Eastern District of California. In light of the transfer, this Court will not rule on
9 Plaintiff's pending motion seeking to proceed in forma pauperis (docket no. 3). The
10 Clerk shall transfer this matter forthwith.

11 SO ORDERED.

12 DATED: 10/8/08


13 HELTON E. HENDERSON
14 United States District Judge
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