



1 **BACKGROUND**

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3 Petitioner Charn Toochinda, M.D. ("Petitioner") is a  
4 licensed physician and surgeon. Petitioner was previously  
5 employed as a physician and surgeon at the California  
6 Rehabilitation Center in Norco, California. In March of 2006,  
7 the Interim Professional Practice Executive Committee, the peer  
8 review body utilized by Respondents, voted to suspend  
9 Petitioner's medical privileges. In October of 2006, Respondents  
10 provided Petitioner with a Notice of Proposed Final Action  
11 indicating their intent to revoke Petitioner's clinical  
12 privileges. At a hearing, a committee found that the suspension  
13 of Petitioner's privileges was warranted, but that the revocation  
14 of his privileges was not. Petitioner received a Notice of Final  
15 Action from Respondents indicating that although they had  
16 reviewed the hearing committee's findings and recommendations,  
17 they had voted to revoke his clinical privileges.

18 Petitioner brought this petition for writ of mandamus in  
19 state court seeking to set aside the suspension and revocation of  
20 Petitioner's clinical privileges based on alleged violations of  
21 state statutes. Respondent Kelso removed the action to federal  
22 court based on his appointment as the Receiver of the California  
23 prison medical care system, appointed by U.S. District Judge  
24 Thelton E. Henderson in the United States District Court for the  
25 Northern District of California in conjunction with the case  
26 Plata, et al., v. Schwarzenegger, et al. currently pending in the  
27 Northern District.

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1 The original receiver was appointed on February 14, 2006, prior  
2 to both the suspension and revocation of Petitioner's clinical  
3 privileges. Respondent Kelso was appointed to replace the  
4 original receiver on January 23, 2008. The Order Appointing  
5 Receiver provides that the Receiver has the power to, *inter alia*,  
6 fire and suspend CDCR employees or contract employees who perform  
7 services related to the delivery of medical health care in  
8 California prisons. On April 25, 2007, the original Receiver  
9 filed a motion in the Plata case relating to the application of  
10 California law to the medical peer review process in the prison  
11 system. On May 23, 2008, Judge Henderson of the Northern  
12 District issued an order granting in part and denying in part the  
13 motion relating to the peer review process. Specifically, that  
14 Order allows for a waiver of state law in order to effect changes  
15 in the peer review process utilized in the California prison  
16 system. This Order is specifically on point with the allegations  
17 brought by Petitioner.

18 Respondent Kelso now moves to transfer this action under  
19 28 U.S.C. § 1404(a) to the Northern District of California so  
20 that he may relate this case to the Plata case because the issues  
21 raised by the petition in this case are related to the pending  
22 motion in that case.

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1 This Court finds that, due to the similarity of issues raised by  
2 this petition and the recent Order in the Plata case, the  
3 interests of justice and judicial economy would be best served by  
4 transferring the case to the Northern District of California so  
5 that it may be related to the Plata case.

6 As for the convenience of the parties, the Eastern District  
7 of California and the Northern District of California are at  
8 least equally convenient. The Eastern District courthouse is  
9 located in Sacramento, California and the Northern District  
10 courthouse is located in San Francisco, California. Petitioner  
11 was employed by the California Rehabilitation Center in Norco,  
12 California. Norco is in Southern California approximately 430  
13 miles from both Sacramento and San Francisco. Additionally,  
14 Petitioner's counsel is located in Los Angeles, California.  
15 Los Angeles is approximately 380 miles from both San Francisco  
16 and Sacramento.

17 Although the Court recognizes that a plaintiff's choice of  
18 forum is entitled to deference, the reasoning supporting that  
19 deference is less forceful where a court transfers a case to a  
20 neighboring district within the same state and where both the  
21 transferor and transferee districts are equidistant from the  
22 plaintiff's location.

23 Because the two forums are, at the very least, equally  
24 convenient and because the interests of justice and judicial  
25 economy are greatly served by the transfer of this case,  
26 Respondent's motion for transfer of venue is granted.

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1 **CONCLUSION**

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3 Based on the foregoing, Respondent Kelso's Motion to

4 Transfer to the Northern District of California is GRANTED. The

5 Clerk of the Court is directed to transfer this case to the

6 Northern District of California forthwith.

7 IT IS SO ORDERED.

8 Dated: September 15, 2008

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11 MORRISON C. ENGLAND, JR.  
12 UNITED STATES DISTRICT JUDGE

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