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

9 || DONALD COLLIER, No. C 13-755 SI

10 Plaintiff,

ORDER GRAN

ORDER GRANTING DEFENDANTS' MOTION TO TRANSFER VENUE

111 || v.

12 || VALLEJO POLICE DEPARTMENT, *et al.*,

Defendants.

15 Defendants' motion to dismiss the complaint, or alternatively to transfer venue, is scheduled for
16 a hearing on May 3, 2013. Pursuant to Civil Local Rule 7-1(b), the Court determines that this matter
17 is appropriate for resolution without oral argument, and VACATES the hearing. For the reasons set
18 forth below, the Court GRANTS defendants' motion to transfer venue to the Eastern District of
19 California.

BACKGROUND

22 Plaintiff Donald Collier, who is acting *pro se*, filed this lawsuit on February 20, 2013. The
23 complaint names as defendants the following entities: the Vallejo Police Department, Sutter Solano
24 Hospital, the Vallejo Social Security Administration office, the Solano County Sheriff's Department,
25 and the City of Vallejo. The complaint lists plaintiff's address as located in Vallejo, California. Vallejo
26 is located in Solano County. All of the defendants are located in Solano County, and Solano County is
27 within the jurisdiction of the Eastern District of California.

28 Although somewhat unclear, it appears that the complaint alleges that defendants retaliated

1 against plaintiff after plaintiff initiated lawsuits on behalf of a third party, Fran Wilson. The complaint
2 alleges “City and County Officials conspired after a settlement was reached in Fran Wilson’s claim
3 against the City of Vallejo for personal injuries, in which the Plaintiff initiated on Ms. Wilson’s behalf.
4 Subsequently, the plaintiff was subject to discrimination by the City of Vallejo through prior litigations
5 regarding Ms. Wilson’s claim, for which racial profiling was used as a method in which discrimination
6 was exhibited, specifically from Vallejo Water Company, in addition to Vallejo Transit.” Compl. at p.
7 2.¹

DISCUSSION

10 Defendants City of Vallejo and the Vallejo Police Department have moved to dismiss the
11 complaint for failure to state a claim, and alternatively to transfer based on improper venue. In general,
12 venue is covered by 28 U.S.C. § 1391. Under 29 U.S.C. 1391(b), where federal subject matter
13 jurisdiction is not based solely on diversity of citizenship, venue is proper in the following districts: (1)
14 a judicial district where any defendant resides, if all defendants reside in the same State; (2) a judicial
15 district in which a “substantial part of the events or omissions” giving rise to the claim occurred, or a
16 “substantial part of the property” that is the subject of the action is situated; or (3) if there is no district
17 in which the action may otherwise be brought, a judicial district in which any defendant may be found.
18 28 U.S.C. § 1391(b). Plaintiff has the burden of establishing that venue is proper. *See Piedmont Label*
19 *Co. v. Sun Garden Packing Co.*, 598 F.2d 491, 496 (9th Cir. 1979).

20 Here, all of the defendants (and plaintiff) reside in the Eastern District of California, and a
21 “substantial part of the events or omissions” giving rise to plaintiff’s claims occurred in that district.
22 Indeed, from the face of the complaint it does not appear that any of the events or omissions giving rise

24 ¹ The complaint references previous lawsuits filed by plaintiff against these defendants in both
25 the Northern District of California and the Eastern District of California. In 2012, plaintiff filed a lawsuit
26 against the Vallejo Water Company, the City of Vallejo, the County of Solano, and the Vallejo Transit
27 Bus Company, *Collier v. Vallejo Water Company*, C 12-1635 SI. After a Magistrate Judge of this court
28 granted plaintiff’s application to proceed in forma pauperis, the case was reassigned to the undersigned
judge. The Vallejo defendants moved to dismiss the complaint, and alternatively to transfer based on
improper venue. After plaintiff failed to respond to the motion, the Court issued an order to show cause
why the case should not be dismissed for failure to prosecute. Plaintiff did not file a timely response to
that order, and on October 1, 2012, the Court dismissed the case without prejudice for failure to
prosecute. The current lawsuit was reassigned to this Court because it is related to the 2012 lawsuit.

1 to plaintiff's claims occurred in the Northern District of California. Plaintiff's opposition to defendants'
2 motion does not set forth any facts or argument regarding why venue would be proper in the Northern
3 District of California.

4 Accordingly, in light of plaintiff's *pro se* status, the Court finds that dismissal is not appropriate
5 and exercises its discretion and TRANSFERS this case to the Eastern District of California. Based upon
6 the record before the court, it appears that this lawsuit may be related to prior lawsuits filed by plaintiff
7 in the Eastern District of California.

8

9 **CONCLUSION**

10 For the foregoing reasons, the Court GRANTS defendants' motion to transfer venue. Docket
11 No. 14.

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13 **IT IS SO ORDERED.**

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15 Dated: April 30, 2013



SUSAN ILLSTON
United States District Judge

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