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NOT FOR PUBLICATION
 IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

VIEN DO,

Appellant,

v.

HOLLINS LAW, P.C.,

Appellee.

No. 3:13-cv-01322-JSW

**ORDER DENYING MOTION TO
TRANSFER VENUE****(Docket No. 20.)**

INTRODUCTION

This matter comes before the Court upon consideration of the Motion to Transfer Venue filed by Defendant Hollins Law, P.C. (“Hollins Law”). The Court has considered the parties’ papers, the relevant legal authority, the record in this case, and it finds this Motion suitable for disposition without oral argument. *See* N.D. Cal. Civ. L.R. 7-1(b). The Court VACATES the hearing set for July 26, 2013, and it DENIES the Motion.

BACKGROUND

Plaintiff Vien Do (“Do”) is a resident of San Francisco, California. (Amended Complaint (“FAC”) ¶ 7.) Defendant Hollins Law is a debt collection law firm located in Irvine, California. (*Id.* ¶ 10; *see also* Declaration of Kathleen Mary Kushi Carter (“Carter Decl.”), ¶ 2.) In January of 2013, Hollins Law called Do’s telephone number at 415-637-13##, seeking and demanding payment on an alleged debt. (FAC ¶¶ 11, 13.) In that same month, Hollins Law called Do and left a voicemail message on Do’s answering machine. (*Id.* ¶ 14.) According to the message, Gregory directed Do to call him back while failing to disclose the nature of the call. (*Id.* ¶¶ 15-16.)

1 *Commonwealth Edison Co.*, 805 F.2d 834, 843 (9th Cir. 1986) (citing *Gulf Oil Corp. v. Gilbert*,
2 330 U.S. 501, 508 (1947)).

3 **B. Hollins Law Has Not Met Its Burden to Show Transfer is Warranted.**

4 **1. Plaintiff’s Choice of Forum.**

5 Hollins Law argues Do’s choice of forum is not entitled to deference because the
6 activities alleged in the complaint have no connection to the Northern District. A court should
7 give a plaintiff’s choice of forum great deference unless the defendant can show that other
8 factors of convenience clearly outweigh the plaintiff’s choice of forum. *Decker Coal Co.*, 805
9 F.2d at 843. There are, however, factors that diminish the deference given to a plaintiff’s
10 choice of forum. For example, if the operative facts have not occurred within the forum of
11 original selection and that forum has no particular interest in the parties or the subject matter,
12 the plaintiff’s choice is entitled only to minimal consideration. *Pacific Car and Foundry Co. v.*
13 *Pence*, 403 F.2d 949, 954 (9th Cir. 1968).

14 As deference to a plaintiff’s choice of forum decreases, a defendant’s burden to upset
15 the plaintiff’s choice of forum also decreases. *Chodock v. Am. Econ. Ins. Co.*, 2005 WL
16 2994451, *3 (D. Ariz. Nov. 7, 2005) (quoting *Chrysler Capital Corp. v. Woehling*, 663 F. Supp.
17 478, 482 (D. Del. 1987) (“[W]hen the plaintiff chooses a forum which has no connection to the
18 plaintiff himself or the subject matter of the suit...the burden on the defendant is reduced and it
19 is easier for the defendant to show that the balance of convenience favors transfer.”)).

20 Hollins Law argues Do’s choice of forum should not be given deference because the
21 events giving rise to the dispute occurred in the Central District. Do brought his claim under
22 the FDCPA, and courts have held that an FDCPA claim may be brought in the district in which
23 the plaintiff received the offending communication or debt collection letter. *See Partee v.*
24 *United Recovery Group*, 2010 WL 1816705 at *2 (C.D. Cal. May 3, 2010) (citing *Maloon v.*
25 *Schwartz, Zweban & Slingbaum, LLP*, 399 F. Supp. 2d 1108, 1114 (D. Haw. 2005)). Hollins
26 Law contends that Do never specified whether the San Francisco phone number was residential
27 or mobile and that a phone number is not evidence that Hollins Law made contact with the
28 Northern District. Do alleges not only that Hollins Law called Do at a 415 area code and left a

1 message on his answering machine but also alleges that he is a San Francisco resident. Those
2 facts not only show a connection to the Northern District but also show a substantial part of the
3 events giving rise to the claim occurred in the Northern District.

4 Accordingly, the Court gives Do’s choice of forum great deference, and it finds this
5 factor weighs against of transfer.

6 **2. Convenience of the Parties and Witnesses.**

7 Hollins Law argues all witnesses for Hollins Law reside in the Central District, which
8 makes the Central District more convenient to parties and witnesses. The Court takes into
9 account the relative convenience to all the parties and their witnesses. *See Decker Coal Co.*,
10 805 F.2d at 843 (citing *Gulf Oil Corp.*, 330 U.S. at 508). The convenience of witnesses is often
11 the most important factor in determining whether transfer is appropriate. *Amini Innovation*
12 *Corp. v. JS Imports, Inc.* 497 F. Supp. 2d 1093, 1111 (C.D. Cal 2007). When considering the
13 convenience of witnesses, the Court examines who the witnesses are, where they are located,
14 and the relevance of their testimony. *A.J. Indus., Inc. v. U.S. Dist. Court*, 503 F.2d 384, 389
15 (9th Cir. 1974). Moreover, the movant of a motion to transfer “is obligated to identify the key
16 witnesses to be called and to present a generalized statement of what their testimony would
17 include.” *Florens Container*, 245 F. Supp. 2d at 1093 (citation omitted).

18 Hollins Law asserts it is located in and conducts all activities in the Central District. It
19 also asserts that all witnesses for Hollins Law reside in the Central District, but Hollins Law
20 does not provide evidentiary support for its statements. Hollins Law neither clearly specifies
21 who their key witnesses are nor makes a generalized statement of what their testimony would
22 be. Additionally, Hollins Law concedes it is a resident of all California districts, including the
23 Northern District. Hollins Law fails to adequately show why transfer to the Central District is
24 convenient to the parties and witnesses.

25 Accordingly, the Court finds this factor weighs against transfer.

26 **3. Ease of Access to Sources of Proof.**

27 Access to evidence is another factor that may favor transfer. *Decker Coal Co.*, 805 F.2d
28 at 843 (citing *Gulf Oil Co.*, 330 U.S. at 508). However, the ease of access to documents “does

1 not weigh heavily in the transfer analysis, given that advances in technology have made it easy
2 for documents to be transferred to different locations.” *Metz v. U.S. Life Ins. Co. in the City of*
3 *New York*, 674 F. Supp. 2d 1141, 1149 (C.D. Cal. 2009). While Hollins Law states that all its
4 evidence is located in the Central District, Hollins Law does not identify what that evidence is.
5 Even if Hollins Law identified specific documents, the Court would still find this favor weighs
6 against transfer, because advances in technology have made it easy for documents to be
7 transferred to different locations. *See id.*

8 Accordingly, the Court concludes this factor weighs against transfer.

9 **4. Local Interest in the Controversy, Familiarity of Each Forum with the**
10 **Applicable Law, and Relative Congestion in Each Forum.**

11 The other factors to consider are the local interest in having localized controversies
12 decided at home, the familiarity of each forum with the applicable law, and the relative
13 congestion in each forum. *Decker Coal Co.*, 805 F.2d at 843 (citing *Gulf Oil Co.*, 330 U.S. at
14 508). Hollins Law fails to provide any evidence or argument on these factors, and, therefore,
15 has not met its evidentiary burden to show transfer is warranted.

16 Accordingly, the Court concludes these factors weigh against transfer.

17 **CONCLUSION**

18 The Court finds that, on balance, the factors weigh against transfer, and Hollins Law has
19 not met its burden to override Do’s choice of forum. The Court DENIES Hollins Law’s Motion
20 to Transfer.

21 **IT IS SO ORDERED.**

22 Dated: July 12, 2013

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25 JEFFREY S. WHITE
26 UNITED STATES DISTRICT JUDGE
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