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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BARBARA WOOD,  
Plaintiff,  
v.  
IGATE TECHNOLOGIES, INC.,  
Defendant.

Case No. 15-cv-00799-JD

**ORDER RE REMAND AND INTRA-DISTRICT TRANSFER**

Re: Dkt. No. 19, 23

This order addresses whether this employment case, which was initially brought in California state court, should be sent back there. The plaintiff, Barbara Wood, claims that it should be, based on a forum-selection clause found in the employment agreement between her and the defendant, iGate Technologies:

Jurisdiction and venue is exclusively limited in any proceeding by the Company or Employee to enforce their rights hereunder to any court or arbitrator geographically located in Alameda County, California.

Wood Decl., Ex. A ¶ 9, Dkt. No. 19. The Court disagrees that remand is required by this provision. But it clearly selects a venue in Alameda County, and so the Court transfers the case to the Oakland Division of this district.

**BACKGROUND**

The case was initially filed by Wood in Alameda County Superior Court, and removed by iGate to the United States District Court for the Northern District of California. When iGate removed the case, it selected this district’s Oakland Division, which is located in Alameda County, *see* Steenhoek Decl. ¶ 2, Dkt. No. 22-1, and the case was initially assigned to Magistrate Judge Donna M. Ryu, whose chambers are in Alameda County. iGate consented to proceed before Magistrate Judge Ryu, Dkt. No. 10, but Wood did not file either a consent or declination to

1 magistrate judge jurisdiction, so the case was sent back to the wheel for reassignment to a district  
2 judge. Our local rules allow cases arising in Alameda County to be assigned either to the Oakland  
3 Division or the San Francisco Division (which is not in Alameda County), and the case ended up  
4 in San Francisco.

5 Wood filed a motion to remand the case to state court, arguing that the forum-selection  
6 clause did not permit venue in this federal district court. iGate’s response was twofold: It argued  
7 that Wood’s claims do not arise out of the employment agreement, so the forum-selection clause is  
8 inapplicable. Alternatively, it moved for the case to be transferred to the Oakland Division, which  
9 it claimed would satisfy the forum-selection provision.

10 **DISCUSSION**

11 iGate first argument -- that the complaint is outside the venue provision -- is not well  
12 taken. Plaintiff’s first three causes of action are breach of contract claims for unpaid commissions;  
13 her fourth and fifth claims are for breach of restricted stock agreements, her sixth is for the breach  
14 of the covenant of good faith and fair dealing based on the facts that gave rise to the previous  
15 claims, and her last two claims are for wrongful termination, alleging that she was terminated to  
16 avoid payment of her commissions. Even if these do not turn on an actual breach of the  
17 employment contract, they are likely to relate to interpretation of the contract, given the fact that it  
18 governs at least Wood’s initial compensation. *See* Employment Agreement ¶ 2, Dkt. No. 1-3. The  
19 forum-selection clause is therefore in play. *See Manetti-Farrow, Inc. v. Gucci Am., Inc.*, 858 F.2d  
20 509, 514 (9th Cir. 1988) (finding claims covered by forum-selection clause when they relate to  
21 interpretation of contract).

22 But the applicability of the venue clause does not, as plaintiff seeks, require a remand to  
23 state court. A district court can certainly remand a case based on a forum-selection clause. *See*  
24 *Kamm v. ITEX Corp.*, 568 F.3d 752, 754 (9th Cir. 2009). But since the venue clause here allows  
25 litigation in “any court” in Alameda County, it is not limited to state courts. *See Simonoff v.*  
26 *Expedia, Inc.*, 643 F.3d 1202, 1206 (9th Cir. 2011) (holding that when a forum-selection clause  
27 specifies “courts in” a given county venue is proper in a federal district court that sits in that  
28 county). The slight wrinkle here is whether this conclusion holds when the federal district court to

1 which the case is removed covers more than just the county specified by the forum-selection  
2 clause, and there is a possibility (in this case actualized) that the case will be assigned to a judge  
3 outside of the county by operation of the district court’s internal assignment procedures.

4 Another judge in this district, interpreting an identical forum-selection clause in a suit  
5 against iGate, held that it does not. *Dodd v. iGate Techs., Inc.*, No. 15-cv-00431-VC, Dkt. No. 21,  
6 slip op. at 1 (N.D. Cal. Apr. 8, 2015), *appeal docketed*, No. 15-15688 (9th Cir. Apr. 9, 2015).  
7 That judge found the forum-selection clause susceptible of two interpretations: (1) the parties  
8 consented to proceed in this district in either the San Francisco or the Oakland Division, because  
9 of the possibility that the case could be assigned to either even when removed to the Oakland  
10 Division; or (2) the parties did not consent to removal to this district at all, given the possibility  
11 that the case could be assigned outside of the Oakland Division. *See id.* slip op. at 1-2. Finding  
12 the clause ambiguous, the judge applied the canon that ambiguous forum-selection clause should  
13 be construed against the drafter (there, as here, iGate), chose the second interpretation, and  
14 remanded the case back to state court. *See id.*

15 This Court has a different take on the forum-selection clause. The venue provision here  
16 unambiguously states that the parties consented to suit in this federal district court, but only to the  
17 extent that the court allows it to be heard in Alameda County, whether through operation of its  
18 internal assignment procedures or through intra-district transfer. That is the conclusion the Court  
19 draws from footnote 2 of *Simonoff*, which was also discussed in *Dodd*:

20 Simonoff claims that the Western District of Washington is not truly  
21 “in” King County because it encompasses and has physical locations  
22 in several counties. However, the present action was removed to the  
23 Seattle Division of the Western District of Washington, which has  
24 its only courthouse in King County. This case unquestionably was  
25 removed to a court “in” King County, Washington.

26 *Simonoff*, 643 F.3d at 1206 n.2. Significantly, the Ninth Circuit’s analysis stopped after observing  
27 that the case had been removed to the Seattle Division, and did not go on to consider whether there  
28 was any chance of its being reassigned to another division through operation of the Western  
District of Washington’s internal rules. In other words, the possibility that a case could be sent  
elsewhere by virtue of the court’s local rules, despite being removed to a division appropriate

1 under the forum-selection clause, was not a consideration in determining whether removal was  
2 proper.<sup>1</sup> *See also Global Satellite Comm'n Co. v. Starmill U.K. Ltd.*, 378 F.3d 1269, 1273 (11th  
3 Cir. 2004) (holding that removal was proper despite possibility that district court might transfer  
4 case to division outside of selected forum because the district's local rules "do not by their own  
5 operation make certainty of venue in a particular division impossible").

6 Consequently, the issue here is whether this case can be situated in Alameda County by an  
7 intra-district transfer to this court's Oakland Division. Our local rules allow transferring cases to  
8 another division of this district if "the convenience of parties and witnesses and the interests of  
9 justice will be served by transferring the action to a different division within the district." Civil  
10 L.R. 3-2(h). The wording of this standard is almost the same as the one found in 28 U.S.C. §  
11 1404(a), which the Supreme Court has interpreted to require giving effect to forum-selection  
12 clauses "in all but the most exceptional cases."<sup>2</sup> *Atlantic Marine Const. Co. v. U.S. Dist. Court*,  
13 134 S. Ct. 568, 581 (2013). The Court concludes that the parties' agreement to make venue proper  
14 in the Oakland Division but not here is ample reason to transfer this case to the Oakland Division.  
15 *See Global Satellite Comm'n*, 378 F.3d at 1273 (suggesting that "any contractual provision  
16 mandating a particular locality for venue" would be a consideration in applying a local rule that  
17 provided for intra-district transfers "in the interest of justice").

18 Wood waves the specter of judge shopping if transfer were permitted in cases like this one,  
19 arguing that parties may strategically agree to "forum-selection clauses" that specify forums  
20 restricted to particular floors of court buildings, or even specific courtrooms. But that  
21 circumstance is not before the Court. The venue provision here is a plain vanilla clause with  
22 nothing extraordinary or troubling about it. Should parties ever try to effect the stratagem plaintiff  
23 fears, the Court is confident that such overt gamesmanship will be properly answered by judges  
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25 <sup>1</sup> The Court acknowledges that *PQ Labs, Inc. v. Yang Qi*, C 12-0450 CW, 2012 WL 2061527, at  
26 \*12 (N.D. Cal. June 7, 2012), read *Simonoff* differently.

27 <sup>2</sup> Section 1404(a) itself permits transferring cases "to any other . . . *division* where it might have  
28 been brought or to any district or division to which all parties have consented." 28 U.S.C.  
§ 1404(a) (emphasis added). Wood argues that "division" here refers only to divisions specified  
in 28 U.S.C. § 84(a), rather than the divisions created by Civil Local Rule 3-1. The Court need  
not resolve this issue, since it bases the transfer here on Civil Local Rule 3-2(h).

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exercising their discretion under the local rules to decline transfer.

**CONCLUSION**

The clerk is directed to transfer this case to a district judge in the Oakland Division.

**IT IS SO ORDERED.**

Dated: April 22, 2015



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JAMES DONATO  
United States District Judge