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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOSEPH HILL, et al.,
Plaintiffs,

v.

CHRIS A. LUND, et al.,
Defendants.

Case No. [16-cv-02453-MEJ](#)

**ORDER GRANTING MOTION TO
TRANSFER**

Re: Dkt. No. 11

INTRODUCTION

Pending before the Court is Defendants Old Dominion Freight Line, Inc. (“ODFL”) and Chris A. Lund’s (collectively, “Defendants”) Motion to Transfer Action to United States District Court for the Eastern District of California. Dkt. No. 11. Plaintiffs Joseph Hill and Quiante Hadnot (“Plaintiffs”) filed an Opposition (Dkt. No. 17), and Defendants filed a Reply (Dkt. No. 18). The Court finds this matter suitable for disposition without oral argument and **VACATES** the June 23, 2016 hearing. *See* Fed. R. Civ. P. 78(b); Civ. L.R. 7-1(b). Having considered the parties’ positions, relevant legal authority, and the record in this case, the Court **GRANTS** Defendants’ Motion and **TRANSFERS** this case to the Eastern District of California for the following reasons.

BACKGROUND

This matter arises from a fatal motor collision occurring on eastbound US-50 in the City and County of Sacramento, California. Compl. ¶ 10, Dkt. No. 2-2. On December 14, 2015, Plaintiffs allege Lund negligently and recklessly drove a 2014 Volvo Tractor-truck with a 2012 Waba Trailer, owned by ODFL, and caused a collision with a 2000 Suzuki motorcycle being operated by Keymonei A. Hadnot (“Decedent”). *Id.* Plaintiffs are the Successors in Interest of the

1 Decedent. *Id.* ¶ 16. They now bring causes of action for Wrongful Death and Survival. *Id.* ¶¶ 9-
2 14, 15-18. Plaintiffs also allege Decedent incurred medical expenses for treatment and care “as a
3 result of injuries sustained” in the collision. *Id.* ¶ 17. In their accompanying declaration, Plaintiffs
4 state Decedent died at U.C. Davis Medical Center, located in Sacramento, California. Decl. of J.
5 Hill & Q. Hadnot, ¶ 3, Dkt. No. 2-7.

6 Hill resides in Alameda County, which is in this District. Compl. ¶ 2. Hadnot resides in
7 Solano County, which is in the Eastern District of California. *Id.* ¶ 3. Lund resides in Utah. *Id.* ¶
8 4. Although ODFL is registered to do business in and does business in California, it does not have
9 a principal place of business in California nor is it incorporated in California. *Id.* ¶ 5.

10 On March 11, 2016, Plaintiffs filed this case in Alameda County Superior Court. Not. of
11 Removal, Dkt. No. 2. Defendants removed the case to this Court on May 5, 2016. *Id.*

12 On May 12, 2016, Defendants filed the present Motion to Transfer.

13 **LEGAL STANDARD**

14 “For the convenience of the parties and witnesses, in the interest of justice, a district court
15 may transfer any civil action to any other district or division where it might have been brought.”
16 28 U.S.C. § 1404(a). The purpose of this statute is “to prevent the waste of time, energy and
17 money and to protect litigants, witnesses and the public against unnecessary inconvenience and
18 expense.” *Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964).

19 When determining whether a transfer is proper, a court must employ a two-step analysis.
20 A court must first consider the threshold question of whether the case could have been brought in
21 the forum to which the moving party seeks to transfer the case. *Hoffman v. Blaski*, 363 U.S. 335,
22 344 (1960); *see also Hatch v. Reliance Ins. Co.*, 758 F.2d 409, 414 (9th Cir. 1985) (“In
23 determining whether an action might have been brought in a district, the court looks to whether the
24 action initially could have been commenced in that district.” (citations omitted)). Once the party
25 seeking transfer has made this showing, district courts have discretion to consider motions to
26 change venue based on an “individualized, case-by-case consideration of convenience and
27 fairness.” *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 29 (1988) (quoting *Van Dusen*, 376
28 U.S. at 622).

1 Pursuant to Section 1404(a), a court should consider: (1) the convenience of the parties, (2)
2 the convenience of the witnesses, and (3) the interest of justice. 28 U.S.C. § 1404(a). As the
3 Ninth Circuit has explained, additional factors that a court may consider include:

- 4 (1) the location where the relevant agreements were negotiated and
5 executed, (2) the state that is most familiar with the governing law,
6 (3) the plaintiff's choice of forum, (4) the respective parties'
7 contacts with the forum, (5) the contacts relating to the plaintiff's
8 cause of action in the chosen forum, (6) the differences in the costs
9 of litigation in the two forums, (7) the availability of compulsory
10 process to compel attendance of unwilling non-party witnesses, and
11 (8) the ease of access to sources of proof.

12 *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498-99 (9th Cir. 2000). "No single factor is
13 dispositive, and a district court has broad discretion to adjudicate motions for transfer on a case-
14 by-case basis." *Ctr. for Biological Diversity v. Kempthorne*, 2008 WL 4543043, at *2 (N.D. Cal.
15 Oct. 10, 2008) (citing *Stewart Org.*, 487 U.S. at 29; *Sparling v. Hoffman Constr. Co.*, 864 F.2d
16 635, 639 (9th Cir. 1988)).

17 DISCUSSION

18 Transfer under Section 1404(a) is only appropriate if the action could have been brought in
19 the transferee venue. *See* 28 U.S.C. § 1404(a). Venue is proper in any judicial district in which "a
20 substantial part of the events or omissions giving rise to the claim occurred." 28 U.S.C. §§
21 1391(b)(2). Here, the subject collision occurred in the City and County of Sacramento, California,
22 which is located within the Eastern District of California, and Decedent was treated in and died in
23 Sacramento. Compl. ¶¶ 10, 17. Thus, all of the events giving rise to Plaintiffs' claims occurred in
24 Sacramento and this action could have been brought in the Eastern District of California. *See* 28
25 U.S.C. § 1391(b) ("A civil action may be brought in . . . (2) a judicial district in which a
26 substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of
27 property that is the subject of the action is situated.").

28 A. Plaintiff's Choice of Forum

Defendants argue Plaintiffs' choice of forum is entitled to little weight because (1)
Plaintiffs did not choose the Northern District of California as their forum; (2) the subject collision
occurred within the Eastern District of California; and (3) the majority of witnesses will be within

1 the Eastern District of California. Mot. at 5. In response, Plaintiffs note they did not take issue
2 with Defendants’ right to remove this case to this District “since there appears to be complete
3 diversity, the amount in controversy is of a sufficient amount, and Alameda County is located
4 within the Northern District of California.” Opp’n at 3. However, they now argue their choice of
5 forum should be afforded “significant weight” because their “choice of venue is presumptively
6 correct.” *Id.*

7 A court should ordinarily give a plaintiff’s choice of forum great deference, absent a strong
8 showing from a defendant. *Piper Aircraft Co v. Reyno*, 454 U.S. 235, 265-66 (1981); *Decker*
9 *Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834, 843 (9th Cir. 1986). However, the
10 deference accorded to a plaintiff’s chosen forum should be balanced against both the extent of a
11 defendant’s contacts with the chosen forum and a plaintiff’s contacts, including those relating to a
12 plaintiff’s cause of action. *Pacific Car & Foundry Co. v. Pence*, 403 F.2d 949, 954 (9th Cir.
13 1968). Thus, “[i]f the operative facts have not occurred within the forum of original selection and
14 that forum has no particular interest in the parties or the subject matter, [a] plaintiff’s choice is
15 only entitled to minimal consideration.” *Id.*

16 Here, Hill resides in Alameda County, which is in this District, and he is therefore entitled
17 to deference in the choice of forum. However, Hadnot resides in Solano County, which is in the
18 Eastern District. Compl. ¶¶ 2, 3; Opp’n at 2. Further, none of the operative facts occurred in the
19 Northern District. The motor vehicle collision that is the subject of the Complaint occurred in
20 Sacramento, which is located within the Eastern District. Compl. ¶ 10. Decedent was treated and
21 died in Sacramento. *Id.* ¶ 17. Thus, aside from Hill’s residence in Alameda County, there is no
22 other connection to the Northern District. Accordingly, the Court finds Plaintiffs’ choice of forum
23 is entitled to minimal consideration. *See Pacific Car*, 403 F.2d at 954; *Lopez v. BeavEx, Inc.*,
24 2015 WL 2437907, at *2 (N.D. Cal. May 20, 2015) (finding the plaintiff’s choice of forum “not
25 entitled to much deference,” even though the plaintiff resided in the Northern District of
26 California, because “the bulk of the pertinent events did not occur in this district”); *Reflex*
27 *Packaging, Inc. v. Audio Video Color Corp.*, 2013 WL 5568345, at *4 (N.D. Cal. Oct. 9, 2013)
28 (granting motion to transfer where “few of the operative facts occurred in the Northern District of

1 California.”).

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

3 In addition to considering Plaintiffs’ choice of forum, the Court must consider the relative
4 convenience of the competing forums for all parties. The convenience of witnesses has been
5 called the most powerful factor governing the decision to transfer a case. *Florens Container v.*
6 *Cho Yang Shipping*, 245 F. Supp. 2d 1086, 1092 (N.D. Cal. 2002). “Generally, litigation costs are
7 reduced when venue is located near the most witnesses expected to testify.” *Park v. Dole Fresh*
8 *Vegetables, Inc.*, 964 F. Supp. 2d 1088, 1095 (N.D. Cal. 2013) (citing *Bunker*, 2006 WL 193856 at
9 *2). The trial court looks at who the witnesses are, where they are located, and the relevance of
10 their testimony. *A.J. Indus., Inc. v. U.S. District Ct.*, 503 F.3d 384, 389 (9th Cir. 1974). Here,
11 Defendants argue the pertinent witnesses, such as the investigating officers and the healthcare
12 providers, are all residents of the Eastern District. Mot. at 6; Vining Decl., Dkt. No. 20. Plaintiffs
13 do not appear to dispute this but instead argue “Defendants have failed in their motion to list
14 potential witnesses by name, state their presumed location, or describe what each person will
15 contribute to the fact finding process.” Opp’n at 3. But even if Defendants have not listed
16 potential witnesses by name, all the evidence before the Court shows they are located in the
17 Eastern District. Further, the Sacramento location is likely to be key given that the collision took
18 place there and Decedent was treated and died there. Thus, the factor of convenience to the
19 witnesses weighs heavily in favor of transfer. *See, e.g., Frias v. Aetna Life Ins. Co.*, 2014 WL
20 5364105, at *4 (N.D. Cal. Oct. 21, 2014) (holding that the convenience of witnesses located in
21 another district weighed “in favor of transfer because of the potential for additional discovery”);
22 *Nozolino v. Hartford Life & Acc. Ins. Co.*, 2013 WL 2468350, at *3 (N.D. Cal. June 7, 2013)
23 (holding that convenience of the witnesses weighed in favor of transfer because “[i]f any witnesses
24 need to be called, such witnesses will likely reside in the Central District”).

25 As to the convenience of the parties, this is also “an important factor in determining
26 whether to allow a transfer of venue.” *Jarvis v. Marietta Corp.*, 1999 WL 638231, at *4 (N.D.
27 Cal. Aug. 12, 1999); 28 U.S.C. § 1404(a). However, the only person with any apparent
28 connection to the Northern District of California is Hill, who resides in Alameda County, and he

1 does not provide any evidence of what his testimony would be or whether there are other relevant
2 witnesses and evidence located here. On the other hand, Hadnot resides in the Eastern District,
3 while Lund resides in Utah and ODFL does not have a principal place of business in California
4 nor is it incorporated in California. Based on this record, the Court finds this factor is, at best,
5 neutral.

6 **C. Other Factors**

7 As to the remaining *Jones* factors and the interests of justice, each of these factors is either
8 neutral or weighs in favor of transfer. Both venues are equally familiar with the applicable law.
9 Neither side has raised any issue regarding other claims that may be brought. The local interest in
10 this controversy is stronger in the Eastern District, where the accident took place and Decedent
11 was treated and died. Neither side has raised any issue regarding judicial efficiency. In sum, most
12 of the factors weigh in favor of transfer or are neutral. Thus, after careful consideration, the Court
13 finds that transfer to the Eastern District of California is appropriate and would serve the
14 convenience of the parties and witnesses, and promote the interests of justice.

15 **CONCLUSION**

16 For the reasons explained above, the Court **GRANTS** Defendants' Motion to Transfer
17 Venue to the Eastern District of California.

18 **IT IS SO ORDERED.**

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20 Dated: June 2, 2016

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MARIA-ELENA JAMES
United States Magistrate Judge