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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GRANITE ROCK CORPORATION,
et al.,

Plaintiffs,

No. C 12-2579 PJH

v.

**ORDER DENYING MOTION
TO TRANSFER**

PENSION TRUST FUND FOR
OPERATING ENGINEERS, et al.,

Defendants.

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Before the court is plaintiffs' motion to transfer this action to the San Jose Division of this court, where the action was originally filed. Defendants have filed a statement of non-opposition to the motion. Having read the plaintiffs' papers and carefully considered their arguments, the court DENIES the motion.

Plaintiffs filed the complaint in this action with the clerk of the San Jose Division of this court, on May 18, 2012. At that time, the case was randomly assigned to a United States Magistrate Judge sitting in the Oakland Courthouse. On June 8, 2012, plaintiffs filed a notice of declination to proceed before a magistrate judge, and requested reassignment to a United States District Judge. Also on June 8, 2012, plaintiffs filed the present motion to transfer the action to the San Jose Division, for the convenience of parties and witnesses. On June 13, 2012, the case was reassigned to the undersigned.

The court's Executive Committee has taken steps to alleviate a potentially severe imbalance in the assignment of civil cases between the Court's two major divisions – San Francisco/Oakland and San Jose – resulting from the departure of District Judge Jeremy Fogel. Judge Fogel is taking a multi-year leave from the Court to head the Federal Judicial

United States District Court
For the Northern District of California

1 Center in Washington, D.C. Until the judicial vacancy caused by Judge Fogel's departure
2 is filled, there will be only two active district judges in the San Jose Division – a number
3 insufficient to manage the division's civil case workload under the existing assignment plan.

4 Accordingly, on August 2, 2011, the Executive Committee ordered that, effective
5 immediately, all new civil cases that would have been assigned to District Judge Jeremy
6 Fogel will be randomly reassigned on a district-wide basis to other active district judges. As
7 reflected in the Executive Committee order, the purpose of this action is to “maintain an
8 equitable system for a proportionate division of civil cases among the district judges and
9 magistrate judges,” as reflected in Civil Local Rules 3-2 and 3-3, and General Order No. 44.


10 The court refers plaintiffs to the court’s website, to the link for the Notice entitled
11 “Notice Regarding District-Wide Assignment of San Jose Civil Cases.” While the court
12 retains the ability to order intra-district transfer pursuant to Civil Local Rule 3-2(h), which
13 has not been abrogated, the court declines to do so unless a failure to transfer would work
14 an undue hardship on the parties. Here, the court finds that no hardship will befall the
15 parties if this matter is retained in Oakland, and in the interest of complying with the
16 Executive Committee order, the motion to transfer is DENIED.

17 Of course, the parties are always free to consent to the jurisdiction of a Magistrate
18 Judge in the San Jose Division. However, all parties must agree.

19 The date for the hearing on this motion, previously noticed for July 25, 2012, is
20 VACATED.

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22 **IT IS SO ORDERED.**

23 Dated: June 22, 2012



PHYLLIS J. HAMILTON
United States District Judge

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