

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

E. DRAKE,  
Plaintiff,  
v.  
SAFEWAY INC., et al.,  
Defendants.

Case No. [19-cv-00048-DMR](#)

**ORDER TO SHOW CAUSE WHY  
CASE SHOULD NOT BE  
TRANSFERRED**

Plaintiff E. Drake filed the complaint and an application to proceed in forma pauperis (“IFP”) on January 3, 2019. [Docket Nos. 1, 2.] According to Plaintiff’s complaint, the incident that forms the basis for his complaint took place in Dallas, Texas, and Plaintiff lives in Atlanta, Georgia. Pursuant to 28 U.S.C. § 1391, a civil action may be filed in

- (1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;
- (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or
- (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court’s personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b). Based on the allegations in the complaint, it appears that the proper venue for this case is the Northern District of Texas because that is where “a substantial part of the events or omissions giving rise to the claim occurred.” 28 U.S.C. § 1391(b)(2). When a plaintiff files his or her case in the wrong district, the court must either dismiss the case or transfer it to the District Court in the correct district. *See* 28 U.S.C. § 1406(a). Thus, unless Plaintiff can establish that this case is properly venued in this district, the court will transfer the case to the Northern District of Texas. Accordingly, IT IS HEREBY ORDERED that, **by no later than January 18,**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**2019**, Plaintiff shall file a statement explaining why this case should not be transferred to the United States District Court for the Northern District of Texas.

**IT IS SO ORDERED.**

Dated: January 8, 2019



---

DONNA M. RYU  
United States Magistrate Judge

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3  
4 E. DRAKE,  
5 Plaintiff,  
6 v.  
7 SAFEWAY INC., et al.,  
8 Defendants.

Case No. [4:19-cv-00048-DMR](#)

**CERTIFICATE OF SERVICE**


9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
10 District Court, Northern District of California.

11  
12 That on January 8, 2019, I SERVED a true and correct copy(ies) of the attached, by  
13 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
15 receptacle located in the Clerk's office.

16  
17 E. Drake  
18 P.O. Box 20084  
Atlanta, GA 30318

19 Dated: January 8, 2019

20  
21 Susan Y. Soong  
22 Clerk, United States District Court

23  
24  
25 By:   
26 Ivy Lerma Garcia, Deputy Clerk to the  
27 Honorable DONNA M. RYU  
28