

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Nov 29, 2021

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MAMIE COLLINS,	No. 2:21-cv-00206-SMJ
Plaintiff,	<b>ORDER GRANTING MOTION TO TRANSFER VENUE</b>
v.	
GUARDIAN LIFE INSURANCE COMPANY OF AMERICA,	
Defendant.	

Before the Court is Defendant’s Motion to Transfer Venue, ECF No. 8. Defendant moves to transfer venue under 28 U.S.C. § 1404(a) to the District Court for the District of Hawaii. Plaintiff opposes the motion. Having reviewed the pleadings and the documents submitted, the Court is fully informed and grants the motion.

**BACKGROUND**

Plaintiff, formerly a resident of Hawaii and now a resident of Maine, filed this action in the Eastern District of Washington under the Employee Retirement Income Security Act of 1974 (“ERISA”). While residing in Hawaii, Plaintiff was employed as a sales manager at NSMG Shared Services, LLC (“NSMG”). ECF No. 10 ¶ 2. NSMG maintains an employee welfare benefit plan governed by ERISA. *Id.*

1 Defendant Guardian Life Insurance Company of America (“Guardian”) issued a  
2 group policy to NSMG to fund the long-term disability (“LTD”) component of the  
3 Disability Income Insurance Plan (the “Plan”). *Id.* Defendant Guardian serves as  
4 the claims administrator for LTD claims under the Plan and exercises sole discretion  
5 to make disability determinations. ECF No. 1 ¶ 3.2.

6 Plaintiff submits that on or before September 9, 2019, she became disabled  
7 from her sedentary occupation as a sales manager at NSMG, causing her to cease  
8 working. *Id.* ¶ 6.1; ECF No. 10-3 at 2. She received Hawaii Temporary Disability  
9 Insurance benefits from September 10, 2019, through March 16, 2020. ECF No. 1  
10 ¶ 6.2. On February 26, 2020, Plaintiff applied to Guardian for LTD benefits, noting  
11 her address as Kaneohe, Hawaii. ECF Nos. 1 ¶ 6.3; 10-3 at 2. On July 24, 2020,  
12 Defendant Guardian denied Plaintiff’s LTD claim. ECF No. 1 ¶ 6.4.

13 Plaintiff timely appealed and Guardian upheld the denial on May 14, 2021.  
14 *Id.* ¶¶ 6.5–6.6. In response, Plaintiff submitted a request for reconsideration that  
15 included the findings of the Social Security Administration in awarding Social  
16 Security Disability Insurance (“SSDI”) benefits to Plaintiff. *Id.* ¶ 6.7. Guardian  
17 sustained the denial. *Id.* ¶ 6.8. Plaintiff then filed this action, seeking to recover “all  
18 unpaid [LTD] benefits” and reinstatement of benefits from the date of judgment  
19 until she reaches age 67. *Id.* ¶ 1.1.

1 **LEGAL STANDARD**

2 Under 28 U.S.C. § 1404(a), this Court may transfer a case to another district  
3 where the case might have been brought. To show a transfer is appropriate, the  
4 moving party must show (1) venue is proper in the current district, (2) the plaintiff  
5 could have brought the current action in the target venue, and (3) the transfer would  
6 serve the convenience of the parties and witnesses and promote the interest of  
7 justice. *See, e.g., Goodyear Tire & Rubber Co. v. McDonnell Douglas Corp.*, 820  
8 F. Supp. 503, 506 (C.D. Cal. 1992). Transfer may be warranted “to prevent the  
9 waste of time, energy and money and to protect litigants, witnesses and the public  
10 against unnecessary inconvenience and expense.” *Van Dusen v. Barrack*, 376 U.S.  
11 612, 616 (1964) (quoting *Cont'l Grain Co. v. Barge FBL – 585*, 364 U.S. 19, 26–  
12 27 (1960)).

13 The Court may flexibly consider a variety of factors in evaluating a § 1404(a)  
14 motion to transfer, including

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

20 *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498–99 (9th Cir. 2000).

1 **DISCUSSION**

2 The special ERISA venue provision provides that an action “may be brought  
3 in the district where the plan is administered, where the breach took place, or where  
4 a defendant resides or may be found.” 29 U.S.C. § 1132(e)(2). Defendant does not  
5 dispute that venue is proper in this district, but requests a Section 1404(a) transfer  
6 in the interest of justice to the District of Hawaii, as this matter could have been  
7 brought there. ECF No. 9 at 8. Plaintiff does not dispute that the action could have  
8 been brought in the District of Hawaii. *See generally* ECF No. 11. The Court now  
9 turns to a flexible, individualized inquiry to determine whether transfer is  
10 appropriate.

11 The considerations weighing against transfer are few. While this district is  
12 Plaintiff’s choice of forum, “this fact is not significant in this matter, as Plaintiff is  
13 not a resident of this District (or even of this Circuit or this state).” *Deputy v. Long-*  
14 *Term Disability Plan of Sponsor Aventis Pharms.*, No. C02-2010 TEH, 2002 WL  
15 31655328, at \*3 (N.D. Cal. Nov. 21, 2002). The only connection this action has to  
16 this District is that the LTD policy allows claimants to “write to The Guardian” at  
17 an address in Spokane, Washington. ECF No. 10-5 at 148. But Plaintiff does not  
18 contend that she ever wrote or corresponded with Guardian at this address or  
19 anywhere else within this District except to serve her waiver of summons and  
20 complaint in this matter. No decisions relevant to this action were made in this

1 District. Moreover, none of the parties reside in this District, so Plaintiff’s argument  
2 for convenience of the parties is unavailing. While the Court recognizes that  
3 transferring this case to the District of Hawaii may impose greater travel burdens  
4 on the parties in the event this case goes to trial, both parties have acknowledged  
5 this matter will likely be tried solely on the administrative record without a need to  
6 appear in Court. Moreover, Plaintiff—who currently resides in Maine but filed this  
7 action in Washington—has already consented to a distant forum.

8 On the other hand, the considerations weighing in favor of transfer are  
9 considerable. Plaintiff resided in Hawaii during all relevant events relating to her  
10 claim, is now a resident of Maine, and has never been a resident of Washington.  
11 Plaintiff applied for LTD benefits while living in Hawaii and her treating physicians  
12 are presumably still located there. “Even if discovery does not involve live  
13 testimony and does not go beyond the administrative record (as is typical in ERISA  
14 cases), these individuals would have to travel great distances to testify at a trial in  
15 this District.” *Long-Term Disability Plan of Sponsor Aventis Pharms.*, 2002 WL  
16 31655328, at \*3 (N.D. Cal. Nov. 21, 2002); *see also Saleh v. Titan Corp.*, 361 F.  
17 Supp. 2d 1152, 1160 (S.D. Cal. 2005) (“[T]he convenience of non-party witnesses  
18 is the more important factor.”). For the same reason, access to proof, if needed, will  
19 be substantially easier in Hawaii.

1           Moreover, the alleged breach occurred in Hawaii. *See Keating v. Whitmore*,  
2 981 F. Supp. 890, 892 (E.D. Pa. 1997) (breach of an ERISA plan takes place where  
3 benefits are to be received). The relative congestion of the districts also favor  
4 transfer. The District of Hawaii has a lower number of civil case filings, which may  
5 allow the parties to obtain a more expeditious resolution of Plaintiff’s claims.<sup>1</sup>  
6 Finally, the Court agrees with Defendant that Hawaii has a greater interest in  
7 deciding a local controversy between its former resident and a company whose plan  
8 applies specifically to Hawaii employees. *Decker Coal Co. v. Commonwealth*  
9 *Edison Co.*, 805 F.2d 834, 843 (9th Cir. 1986) (In ruling on a motion to transfer  
10 venue, courts may properly consider “the local interest in having localized  
11 controversies decided at home.”).

12           Ultimately, the Court concludes that it is in the interest of justice to transfer  
13 this case to the District of Hawaii. Plaintiff’s claims are unrelated to the Eastern  
14 District of Washington and this District lacks an interest in them. The Court  
15 recognizes that prosecuting this action in the District of Hawaii may present a  
16 burden for Plaintiff if this case proceeds to trial, but this is not a sufficient reason to  
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18 <sup>1</sup> *See* UNITED STATES COURTS, STATISTICAL TABLES FOR THE FEDERAL JUDICIARY  
19 tbl.C-1: U.S. District Courts—Civil Cases Commenced, Terminated, and Pending  
20 During the 12-Month Period Ending June 31, 2021 (2021),  
<https://www.uscourts.gov/statistics/table/c-1/statistical-tables-federal-judiciary/2018/12/31>; *Heller Fin., Inc. v. Midwhey Powder Co.* 883 F.2d 1286,  
1293 (9th Cir. 1989) (noting that speedy trials are in the interest of justice).

1 keep this action in an unrelated forum.

2 Accordingly, **IT IS HEREBY ORDERED:**

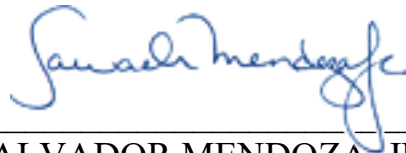
3 1. Defendant's Motion to Transfer Venue, **ECF No. 8**, is **GRANTED**.

4 2. The Clerk's Office shall **TRANSFER** this matter to the United States  
5 District Court for the District of Hawaii.

6 3. The Clerk's Office is directed to **CLOSE** this file.

7 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order and  
8 provide copies to all counsel.

9 **DATED** this day 29th of November 2021.

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11 \_\_\_\_\_  
12 SALVADOR MENDOZA, JR.  
13 United States District Judge