## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA HAMMOND DIVISION

NEW BERRY INC,	
Plaintiff,	
v.	Case No. 2:19-CV-159 JD
TODD G. SMITH, et al.,	
Defendants.	

## **OPINION AND ORDER**

Plaintiff New Berry and Defendants Allan MacRae and MacRae Technologies ("MacRae Defendants") filed a stipulation and joint motion with the Court seeking a transfer of venue for all of New Berry's claims against the MacRae Defendants to the Northern District of California. (DE 85.) New Berry and the MacRae Defendants stated that they were moving for a transfer to avoid protracted motion practice on jurisdiction and venue in this Court because the MacRae Defendants have represented that their home and principal place of business are within the Northern District of California. (*Id.* at 2.) The parties agree that the claims New Berry brought against the MacRae Defendants in this case could have originally been brought in the Northern District of California and that the Northern District of California would prove a more convenient venue to litigate the case for the parties and potential witnesses, making transfer of venue appropriate under 28 U.S.C. § 1404. (*Id.* at 3.) Given the parties' agreement and the Court's determination that transfer is appropriate under § 1404, the Court GRANTS the parties' joint motion. (DE 85.)

The Court thus ORDERS, consistent with the parties' stipulation and joint motion, that New Berry's claims against the MacRae Defendants asserted in New Berry's original complaint,

specifically Counts 2, 4, 6, 8, 10, 11, 12, and 13, shall be transferred to the Northern District of

California, with each party bearing its own fees and costs related to such transfer. The Court

further ORDERS that New Berry shall be granted leave upon the completion of the transfer of its

claims against the MacRae Defendants to the Northern District of California to file an amended

complaint to reassert its claims solely against the MacRae Defendants within 30 days after venue

has been transferred. The MacRae Defendants shall then have 30 days from the filing of New

Berry's amended complaint to plead, answer, move, or otherwise respond to the amended

complaint.

SO ORDERED.

ENTERED: December 2, 2021

/s/ JON E. DEGUILIO

Chief Judge

United States District Court

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