

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

GLORIA COSLAN AND JOSEPH COSLAN

VERSUS

WAL-MART STORES, INC.

CIVIL ACTION

NO. 15-4100

SECTION "L"

ORDER & REASONS

Before the Court is Defendant's Motion to Dismiss Pursuant to the First-to-File Rule (R. Doc. 9).

I. BACKGROUND

This personal injury action arises out of a slip-and-fall incident that occurred on or about August 30, 2014. Plaintiff Gloria Coslan alleges that she slipped in liquid that was leaking from an air conditioning vent onto the floor near the meat counter section of Wal-mart SuperCenter #481 on West Thomas Street in Hammond, Louisiana.

Prior to filing this lawsuit, Plaintiffs filed a Complaint in the United States District Court for the Middle District of Louisiana, which is the improper federal venue for claims arising in Hammond, Louisiana. Thereafter, on July 22, 2015, Plaintiffs filed a second lawsuit involving the same parties, claims, facts, and legal issues in the 21st Judicial District Court for the Parish of Tangipahoa. On August 19, 2015, Defendant removed the lawsuit that was filed in the 21st JDC to the Eastern District of Louisiana, where it was designated as case number 15-3631 to be heard before the Honorable Sarah S. Vance. On September 1, 2015, the United States District Court for the Middle District of Louisiana transferred the action pending in their court under case number 15-355 to the Eastern District of Louisiana pursuant to 28 U.S.C. § 1406(a). Pursuant to this transfer, on September 4, 2015, the Eastern District of Louisiana opened the present action

as case number 15-4100. The complaint in this lawsuit contains allegations that are identical to the lawsuit removed to Judge Vance's Court on August 19, 2015. As a result, Defendant has filed this motion to dismiss the present action, which is the later-filed lawsuit of the two proceedings pending in this district.

II. LAW & ANALYSIS

The Fifth Circuit has explained that, “[u]nder the first-to-file rule, a district court may dismiss, stay, or transfer an action where the issues presented can be resolved in an earlier-filed action pending in another federal court.” *Burger v. Am. Mar. Officers Union*, Nos. 97–31099, et seq., 1999 WL 46962, at *1 (5th Cir. Jan. 27, 1999). The first-to-file rule seeks “to avoid the waste of duplication, to avoid rulings which may trench upon the authority of sister courts, and to avoid piecemeal resolution of issues that call for a uniform result.” *Id.* Additionally, the Plaintiffs do not oppose the motion.

III. CONCLUSION

Accordingly, the above-captioned action is hereby **DISMISSED** pursuant to the first-to-file rule.

New Orleans, Louisiana, this 24th day of September, 2015.


UNITED STATES DISTRICT JUDGE