

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KRISTIN D. TAPLEY,

Plaintiff(s),

CASE NUMBER: 09-14182

HONORABLE VICTORIA A. ROBERTS

v.

**WAGEWORKS, INC., JOHN DOHENY, and
MAY SPECK in their individual and official
capacities, jointly and severally,**

Defendant(s).

_____ /

ORDER

On September 18, 2009, Plaintiff filed a four-count Complaint in the Oakland County Circuit Court for: (1) intentional infliction of emotional distress (count I); (2) retaliation and violation of public policy (count II); (3) conspiracy to violate Plaintiff's Civil Rights (count III); and (4) violation of the Whistle-Blower Protection Act (count IV). The case was removed to this Court on October 23, 2009. Pursuant to a Stipulated Order, counts I, II, and III were dismissed on November 2, 2009.

Before the Court is Defendants' Motion to Dismiss. (Doc. #5). Defendants ask the Court to dismiss Plaintiff's claim under the Whistle-Blower Protection Act for failure to state a claim upon which relief can be granted.

Also before the Court is Defendants' Motion to Transfer Venue Pursuant to 28 U.S.C. §1404(A). Defendants ask the Court to transfer this case to the United States District Court for the Northern District of California. (Doc. #3).

Under the Whistle-Blower Protection Act, "[t]here must be a public element to the

matter about which a whistleblower raises an alarm.” *Meier v. Detroit Diesel Corp.*, 2006 WL 2089208 at *1 (Mich. App. July 27, 2006) (citing *Shallal v. Catholic Soc. Services of Wayne County*, 455 Mich. 604, 621 (1977) (“The primary motivation of an employee pursuing a whistleblower claim ‘must be a desire to inform the public on matters of public concern, and not personal vindictiveness’”)); *see also Dolan v. Continental Airlines/Continental Express*, 454 Mich. 373, 381 (1997) (“The act was intended to protect employees who alert the public to ‘corruption or criminally irresponsible behavior in the conduct of government or large businesses’”) (citation omitted).

Plaintiff alleges Defendants violated the Whistle-Blower Protection Act by terminating her employment after she threatened to tell the Attorney General that Defendants stole her commissions. The allegation that Defendants stole Plaintiff’s commissions is not a matter of public concern, and it is not established.

Defendants’ motion to dismiss is **GRANTED**, Plaintiff’s Complaint is **DISMISSED**, and Defendants’ motion to transfer is **MOOT**.

IT IS ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: January 5, 2010

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on January 5, 2010.

s/Carol A. Pinegar
Deputy Clerk