

(2) If the debtor so requests, within 20 days after receiving the notice described in section 3101(d) or 3202(b), the action or proceeding in which the writ, order, or judgment was issued shall be transferred to the district court for the district in which the debtor resides.

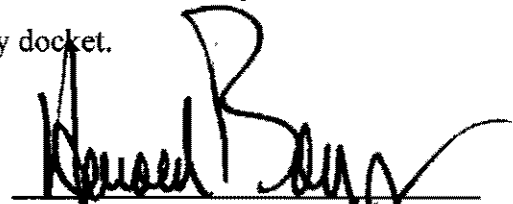
28 U.S.C. § 3004(b).

Venue under the FDCPA is proper in the Southern District of New York, or the Southern District of Indiana, or any other federal court. Although a debtor has the right to request that the action “be transferred to the district court for the district in which the debtor resides,” the statute does not require a court to transfer to any forum of the defendant’s choice.¹

Conclusion

For the foregoing reasons, the motion to retain venue here is DENIED, and the Clerk of the Court is directed to close this matter and remove it from my docket.

SO ORDERED
December 14, 2011
New York, New York



Hon. Harold Baer, Jr.
U.S.D.J.

¹ Applying the factors to a motion to transfer an action under 28 U.S.C. § 1404(a) further confirms the SEC’s forum choice of the Southern District of Indiana as an appropriate one. Those factors include “(1) plaintiff’s choice of forum, (2) the locus of the operative facts, (3) the convenience of witnesses, (4) the convenience and means of the parties, (5) the location of relevant documents and the relative ease of access to sources of proof, (6) the availability of process to compel attendance of unwilling witnesses, (7) a forum’s familiarity with the governing law, (8) trial efficiency and the interest of justice based on the totality of the circumstances.” *Hershman v. UnumProvident Corp.*, 658 F. Supp. 2d 598, 600-01 (S.D.N.Y. 2009). Most of these factors are either neutral or favor the Southern District of Indiana as a forum. The major exception, I suppose is that Harcharik, who is a witness, apparently believes New York is a more convenient forum for him. As the SEC points out, however, “If Harcharik has the funds available to travel to New York, it would be more appropriate for him to apply these funds toward the payment of the Final Judgment.” SEC Mem. Opp. 11-12.