

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**Jaqueline Barnard, et al.,**

*Plaintiffs,*

**v.**

**Case No. 3:15-cv-008  
Judge Thomas M. Rose**

**U.S. Bank, N.A., et al.,**

*Defendants.*

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**ENTRY AND ORDER *SUA SPONTE* ORDERING BRIEFING  
ON VENUE.**

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On January 8, 2015, Plaintiffs filed a complaint against U.S. Bank, N.A., Assurant, Inc., Voyager Indeminty Insurance Company and American Security Insurance Company. On March 5, 2015, Defendants filed a Motion to Reassign the case to this judge, seated in Dayton, Ohio, as the case is related to a prior case between these parties, *Barnard v. U.S. Bank, N.A.*, 3:13-CV-391 (*Barnard I*). Because these cases are related, the motion was granted.

*Barnard I*, however, was dismissed prior to an answer or any responsive pleading being filed by Defendants. The Court had not even had time to consider whether the case had been properly filed in Dayton, Ohio.

The Court needs to determine “whether this action is properly brought in Dayton rather than in Cincinnati.” *GCG Austin, Ltd. v. City of Springboro, Ohio*, 284 F. Supp. 2d 927, 929 (S.D. Ohio 2003). A court may *sua sponte* transfer a case for improper venue. *Carver v. Knox County*.

*Tenn.*, 887 F.2d 1287, 1291 (6th Cir. 1989); see also *Cosmichrome, Inc. v. Spectra Chrome. Inc. LLC*, 504 F. App'x 468, 472 (6th Cir. 2012).

According to the Complaint, Defendant U.S. Bank has its principal place of business in Cincinnati, Ohio. Defendant Assurant, Inc. is a Delaware corporation which is headquartered in New York, New York. Defendant ASIC is a Delaware corporation with its principal place of business in Atlanta, Georgia. Defendant VIIC is a Georgia corporation with its principal place of business in Atlanta, Georgia. Doc. 1 at ¶¶ 12-15.

According to Local Rule 82.1:

**(d) Corporate Residence, Venue When Indeterminate.** A corporation that is deemed to reside in this District pursuant to 28 U.S.C. § 1391(c)[2] is further deemed to reside in that county in which its principal place of business within the District is located, or, if none, in that county with which it has the most significant contacts. If such a corporation's county of residence cannot be determined under this Rule, an action against such corporation shall be filed at a location of Court determined in accordance with the following Rules, in order of preference: (1) a county in which a substantial part of the events or omissions giving rise to the claim occurred or a substantial part of the property that is the subject to the action is located; or (2) any location of Court.

Local Rule 82.1(d).

Moreover,

**(b) Location of Court.** For venue purposes, the area served by each location of Court consists of the following counties:

\* \* \* \* \*

**Western Division:** Cincinnati: Adams, Brown, Butler, Clermont, Clinton, Hamilton, Highland, Lawrence, Scioto, and Warren.

**Western Division:** Dayton: Champaign, Clark, Darke, Greene, Miami, Montgomery, Preble, and Shelby.

Local Rule 82.1(b).

The Parties are **ORDERED** to file briefs by April 22, 2015 as to why *Barnard I*, was properly filed in Dayton and why *Barnard II* should not be transferred to Cincinnati for reassignment.

April 6, 2015

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE