

CAUSE NO. 4:11-CV-23

Extension of Deadline to Respond to Defendants' Motion to Transfer Venue, filed March 3, 2011 (Dkt. No. 34) (the "Motion") based on the following:

1. Plaintiffs' argument that venue is proper in the Eastern District of Texas is misplaced. *See* Pls.' Resp. at p. 2. Defendants have not objected to venue in the Eastern District of Texas as improper. Rather, Defendants have moved to transfer this case to the District of Nevada pursuant to 28 U.S.C. § 1404(a) for the convenience of the parties and witnesses, and in doing so have provided the Court with an analysis of the private and public interest factors under *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (*Volkswagen I*).<sup>1</sup> Plaintiffs' arguments for their "overwhelming basis for venue in the Eastern District" have no bearing on an analysis of the private and public interest factors set forth in *Volkswagen I*. *See* Pls.' Resp. at p. 2. Likewise, Plaintiff's request for Ms. Jenkins's deposition to determine Ms. Jenkins's "contacts" with Texas is unnecessary, as Ms. Jenkins's contacts with Texas have no bearing on an analysis of the private and public interest factors set forth in *Volkswagen I*. *See* Pls.' Resp. at 3.

2. Further, Plaintiffs did explore venue facts at the hearing on the Temporary Restraining Order on January 31, 2011 and obtained answers from Ms. Jenkins to questions related to venue issues.

3. Last, Ms. Jenkins's studies abroad before she started The Cupcakery or had a

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<sup>1</sup> The private factors to be considered are: "(1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; and (4) all other practical problems that make trial of a case easy, expeditious and inexpensive." *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (hereinafter *Volkswagen I*). The public factors are: "(1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflict of laws of the application of foreign law." *Id.*

child have no bearing on whether trial in this matter is more convenient in Texas or in Nevada today. Ms. Jenkins's travels are irrelevant to the analysis required for a venue transfer under 28 U.S.C. § 1404 (a). *See Volkswagen I*, 371 F.3d at 203.

For all of the foregoing reasons, Plaintiffs' Motion should be denied.

Respectfully submitted,

/s/ Jodie A. Slater  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 11th day of March 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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