

United States District Court  
Southern District of Texas

**ENTERED**

September 29, 2022

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

PERFORMANCE SERVICES, INC.,  
Plaintiff

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v.

Civil Action No. 1:22-cv-133

HARMONY BUSINESS CONSULTING,  
LLC, et al,  
Defendants

**OPINION AND ORDER OF TRANSFER**

The Court is in receipt of Plaintiff Performance Services, Inc.’s Original Complaint filed on September 23, 2022. Dkt. No. 1. For the reasons provided below, it is **ORDERED** that this case be transferred to the United States District Court for the Southern District of Texas, McAllen Division.

**I. Jurisdiction**

This Court has jurisdiction pursuant to 28 U.S.C. § 1332.

**II. Legal Standards**

Pursuant to Section 1404(a) of Title 28, “[f]or the convenience of the parties and witnesses, and in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented.” 28 U.S.C. § 1404(a). The application of Section 1404(a) is a two-part process. *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004). A court must first determine if the plaintiff could have filed their complaint in the alternative transferee venue. *Id.* If so, the court must then determine whether the transfer would serve “the convenience of the parties and witnesses” and “the interests of justice.” *Id.*

### **III. Discussion**

Plaintiff asserts that “venue is proper pursuant to 28 U.S.C.A. § 1391(b)(2) because a substantial part of the actions and/or omissions giving rise to this claim occurred within the Southern District of Texas.” Dkt. No. 1 at 2. Plaintiff is located in Indianapolis, Indiana. *Id.* at 1. Defendant Harmony Business Consulting, LLC has its principal place of business in Weslaco, Hidalgo County, Texas. *Id.* at 1-2. Defendant Antonio Gonzalez, III resides in Hidalgo County, Texas. *Id.* at 2. In addition, the agreement at issue contemplated consulting services to obtain certain contracts within Hidalgo County. *Id.* at 2. Hidalgo County is in the McAllen Division of the Southern District of Texas. 28 U.S.C. 124(b)(7) (“The McAllen Division comprises the counties of Hidalgo and Starr.”). Neither the parties nor the events that led to the filing of the lawsuit allege any connection to the Brownsville Division of the Southern District of Texas. Accordingly, the interests of justice would be served by a transfer to the McAllen Division of the Southern District of Texas.

### **IV. Conclusion**

For the foregoing reasons, it is **ORDERED** that this case be transferred to the United States District Court for the Southern District of Texas, McAllen Division. The Clerk of Court is directed to **CLOSE** this case in this division.

**SIGNED** on this **29th** day of **September, 2022**, at Brownsville, Texas.

  
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**Ignacio Torteya, III**  
**United States Magistrate Judge**