



Defendants do believe that it would be within this Court's discretion to transfer the case to the Eastern District of North Carolina. While Plaintiff correctly notes that this Court's discretion, though broad, is not unlimited, see Objection at 5 (citing Pain v. United Technologies Corp., 637 F.2d 775, 783 (D.C. Cir. 1980)), Plaintiff identifies no considerations that would prohibit transfer here.

4. Further, as Plaintiff correctly notes, the related and/or earlier case in the Eastern District of North Carolina "remains unanticipatedly pending." Objection at 4. At this juncture, it is unclear whether that case will remain pending, or for how long or what purposes, and whether such continuation would be proper. Nevertheless, given the possibility that case will remain pending, a risk arises of inconsistent judgments in the event this case is not transferred.

5. Transfer may be appropriate to avoid subjecting a defendant to the grave risk of inconsistent judgments deriving from the same conduct. Federal Trade Commission v. Cephalon, Inc., 551 F.Supp.2d 21, 29 (D.D.C. 2008). "Courts in this district have clearly stated, 'The interests of justice are better served when a case is transferred to the district where related actions are pending.'" Reiffin v. Microsoft Corp., 104 F. Supp. 2d 48, 56 (D.D.C. 2000) (quoting Martin-Trigona v. Meister, 668 F. Supp. 1, 3 (D.D.C. 1987)). Prior decisions have recognized that there is a "compelling public interest in avoiding duplicative proceedings (and potentially inconsistent judgments) [that] warrants transfer of venue." Id. at 58. Indeed, "the most significant factor weighing in favor of transferring [a] case is the presence of closely related litigation." Barham v. UBS Fin. Servs., 496 F. Supp. 2d 174, 180 (D.D.C. 2007). "[T]he fact that there is an ongoing case dealing with similar issues in another jurisdiction weighs very heavily in favor of a transfer under § 1404(a)." Holland v. A.T. Massey Coal, 360 F. Supp. 2d 72, 77 (D.D.C. 2004)

(citing In re Scott, 709 F.2d 171, 721 n. 10 (D.C. Cir. 1983)); see also California Farm Bureau Fed'n v. Badgley, No. 02-2328, 2005 WL 1532718, \*2, 2005 U.S. Dist. LEXIS 12861 at \*7 (D.D.C. June 29, 2005) (“[A] significant risk that this court and the California court would issue inconsistent orders subjecting [defendant] to inconsistent obligations ... weigh[s] heavily in favor of transfer.”).

6. Thus, transfer could be warranted to reduce the risk of Federal Defendants or other parties facing inconsistent mandates from two different courts.

Respectfully submitted on this 10th day of August 2012,

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