

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

Henry Koltys v. Frank Bisignano

Koltys v. Bisignano, Case No. 25-cv-04028-SI (N.D. Cal. Jan. 7, 2026) · No. 25-cv-04028-SI · Decided January
7, 2026

OPINION

Koltys

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 HENRY KOLTYS, Case No. 25-cv-04028-SI 8 Plaintiff,

ORDER GRANTING MOTION TO

9 v. TRANSFER

10 FRANK BISIGNANO, Re: Dkt. No. 19 11 Defendant. 12 13 Before the Court is the motion by
defendant Frank Bisignano, Acting Commissioner of the 14 Social Security Administration's
("SSA"), to dismiss for improper venue, or in the alternative, to 15 transfer to the Central District
of California. Dkt. No. 19 ("Mot."). Defendant also moved to dismiss 16 claims under Federal
Rule of Civil Procedure 12(b)(1) or 12(b)(6). Plaintiff Henry Koltys filed an 17 opposition,¹ and
defendant filed a reply. Dkt. Nos. 26 ("Opp'n"), 31 ("Reply"). Pursuant to Civil 18 Local Rule 7–
1(b), the Court finds this matter suitable for disposition without oral argument and 19 therefore
VACATES the hearing scheduled for January 9, 2026. Having considered the parties' 20 papers,
and for good cause found, the Court hereby DENIES the motion to dismiss for improper 21 venue,
GRANTS the motion to transfer venue, and TRANSFERS this action to the Central District 22 of
California. The Court does not rule on the motion to dismiss under Rules 12(b)(1) and 12(b)(6).
23

24 BACKGROUND

25 Plaintiff, an Administrative Law Judge ("ALJ") who lives in Montecito, California, brings 26 1
Plaintiff originally filed his opposition on September 26, 2025 at Dkt. No. 22. Shortly 27
thereafter, the Court granted defendant's motion to stay the case due to the government shutdown.
1 this employment discrimination action against the Social Security Administration ("SSA"),
alleging 2 discrimination based upon his disability, sex, and age, and retaliation due to his
reasonable 3 accommodation requests. Dkt. No. 1 ("Compl.") ¶¶ 1, 12. Plaintiff is seventy-three
years old and 4 has worked as an ALJ for the SSA's Office of Hearings Operations ("OHO") in
Santa Barbara, 5 California since March 2015. Id. ¶¶ 1, 2, 15, 19. Plaintiff has hereditary
hematology and pulmonary 6 disorders that have caused blood pulmonary embolism (blood clots

in his lungs). Id. ¶ 2. Plaintiff 7 alleges that his medical history of near-fatal pulmonary emboli coupled with his age could cause 8 death if he contracts Covid. Id. In 1991, plaintiff suffered a twenty percent spinal fracture of his 9 L1 vertebrae from an accident and works lying on his back as a result. Id. ¶ 16. 10 Before the Covid-19 pandemic, Plaintiff conducted in-person hearings using a reclining 11 chair and stand to hold his laptop computer. Id. ¶¶ 19, 20. Defendant closed all OHO offices due 12 to the Covid-19 pandemic from approximately February 2020 until October 2021, during which 13 time ALJs conducted only virtual hearings via telephone and video. Id. ¶ 22. On July 24, 2020, 14 plaintiff filed a reasonable accommodation (“RA”) request to continue conducting only virtual 15 hearings after defendant reopened courtrooms post-Covid, which defendant denied. Id. ¶ 9; Dkt.

16 No. 19-1. Exs. 4, 5, 6. Plaintiff then filed an equal employment opportunity (“EEO”) complaint 17 against defendant with defendant’s Office of Civil Rights and Equal Opportunity (“OCREO”) on

18 February 11, 2023. Id. ¶ 10; Dkt. No. 19-1, Ex. 8. Defendant issued a Final Agency Decision 19 (“FAD”) denying plaintiff’s reasonable accommodation request on November 17, 2023. Id. ¶¶ 11, 20 26; Dkt. No. 19-1, Ex. 10. Plaintiff filed an appeal to the Equal Employment Opportunity 21 Commission (“EEOC”), and the EEOC issued a decision upholding defendant’s position on 22 February 10, 2025. Id. ¶ 11; Dkt. No. 19-1, Ex 11.

23 Plaintiff contends that defendant has failed to provide plaintiff with the reasonable 24 accommodation of conducting 100 percent virtual hearings but has assigned 100 percent virtual 25 hearings to ALJs who are not disabled, younger, and female. Id. ¶ 3. Plaintiff also alleges that 26 defendant has failed to provide plaintiff with the reasonable accommodations of a modified or larger 27 courtroom or other venue with protected indoor air quality. Id. ¶ 4. Plaintiff further claims that 1 Plaintiff brings claims under the Rehabilitation Act, 29 U.S.C. § 791; the Age Discrimination 2 Employment Act of 1967, 29 U.S.C. § 621 (“ADEA”); and the Civil Rights Act of 1964, 42 U.S.C. 3 § 2000e et seq. Defendant moves to dismiss the action based on improper venue, failure to state a 4 claim, and failure to exhaust administrative remedies, or alternatively, to transfer the action to the 5 Central District of California. 6

7 LEGAL STANDARD

8 I. Federal Rule of Civil Procedure 12(b)(3) 9 A defendant may move to dismiss a case for improper venue under Rule 12(b)(3) and 28 10 U.S.C. § 1406. Where, as here, a defendant challenges venue, “the plaintiff bears the burden of 11 showing that venue is proper.” *Autodesk, Inc. v. Kobayashi + Zedda Architects Ltd.*, 191 F. Supp. 12 3d 1007, 1020 (N.D. Cal. 2016) (citing *Piedmont Label Co. v. Sun Garden Packing Co.*, 598 F.2d 13 491, 496 (9th Cir. 1979)). When considering a Rule 12(b)(3) motion, the court need not accept as 14 true all allegations in the complaint and may consider facts outside the pleadings. See *Murphy v. 15 Schneider Nat’l, Inc.*, 362 F.3d 1133, 1137 (9th Cir. 2004). 16 If the initial venue is improper, the district court “shall dismiss, or if it be in the interest of 17 justice, transfer the case to any district or division in which

it could have been brought.” 28 U.S.C. 18 § 1406(a); see also *In re Hall, Bayoutree Assocs., Ltd.*, 939 F.2d 802, 804 (9th Cir. 1991). The 19 interest of justice ordinarily requires transferring the case to the proper venue rather than dismissing 20 the case. *Baeta v. Sonchik*, 273 F.3d 1261, 1264-65 (9th Cir. 2001). 21 22 II. Transfer Under 28 U.S.C. § 1404(a) 23 If the court finds that initial venue is proper, “[f]or the convenience of parties and witnesses, 24 in the interest of justice, a district court may transfer any civil matter to any other district or division 25 where it might have been brought.” 28 U.S.C. § 1404(a). The purpose of section 1404(a) is to 26 “prevent the waste of time, energy, and money and to protect litigants, witnesses and the public 27 against unnecessary inconvenience and expense.” *Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964) 1 An action may be transferred to another court if: (1) venue is proper in the transferor district; 2 (2) the transferee district is one where the action might have been brought; and (3) the transfer will 3 serve the convenience of the parties and witnesses, and will promote the interests of justice.” *Foster 4 v. Nationwide Mut. Ins. Co.*, No. C 07-04928 SI, 2007 WL 4410408, at *2 (N.D. Cal. Dec. 14, 2007).

5 Section 1404(a) “does not condition transfer on the initial forum being ‘wrong.’” *Atlantic Marine*

6 *Const. Co., Inc. v. U.S. Dist. Ct.*, 571 U.S. 49, 59 (2013). Rather, district courts have “discretion to 7 adjudicate motions for transfer according to an ‘individualized, case-by-case consideration of 8 convenience and fairness.’” *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498 (9th Cir. 2000) 9 (quoting *Stewart Org. v. Ricoh Corp.*, 487 U.S. 22, 29 (1988)). The moving party bears the burden 10 of showing that the transferee district is the “more appropriate” forum. See *id.* at 499. 11 In weighing the interests of convenience and justice, the Ninth Circuit requires that courts 12 consider a variety of factors. See *Jones*, 211 F.3d at 498. Factors include: (1) plaintiff’s choice of 13 forum, (2) convenience of the parties, (3) convenience of the witnesses, (4) ease of access to the 14 evidence, (5) familiarity of each forum with the applicable law, (6) feasibility of consolidation of 15 other claims, (7) any local interest in the controversy, and (8) the relative court congestion and time 16 of trial in each forum.” *Lax v. Toyota Motor Corp.*, 65 F. Supp. 3d 772, 776 (N.D. Cal. 2014). 17

18 DISCUSSION

I. Venue is Proper in this District 19 The relevant venue statute states that a civil action against a federal officer may “be brought 20 in any judicial district in which (A) a defendant in the action resides, (B) a substantial part of the 21 events or omissions giving rise to the claim occurred, or a substantial part of property that is the 22 subject of the action is situated, or (C) the plaintiff resides if no real property is involved in the 23 action.” 28 U.S.C. § 1391(e)(1). 24 Because neither defendant² nor plaintiff resides in the Northern District, the dispute in the 25 26 2 Plaintiff states that defendant has not provided evidence to demonstrate that defendant does not reside in the Northern District of California. *Opp’n* at 12. The Court has no trouble finding that 27 defendant does not reside in the Northern District. The presence of a regional office in a district is

1 instant case is whether “a substantial part of the events or omissions giving rise to the claim 2 occurred” in this District. Plaintiff argues venue is proper in the Northern District of California 3 because a substantial part of the events and omissions giving rise to the complaint occurred in 4 defendant’s regional headquarters in San Francisco. Compl. ¶¶ 7-9; Opp’n at 3. Specifically, 5 plaintiff argues that the decision to deny plaintiff’s RA request was made by Regional Chief 6 Administrative Law Judge (“RCALJ”) Jennifer Horne and several supporting employees, all located 7 in San Francisco. Opp’n at 3, 6; Dkt. No. 22-1, Exs. 3 & 5. While plaintiff acknowledges that 8 National Reasonable Accommodation Coordinator (“NRAC”) Rachel Urdan, located in Maryland, 9 adopted the RA denial drafted by RCALJ Horne’s staff, he asserts venue is proper here because 10 Judge Horne “began the RA denial process by refusing to approve the RA request.” Id. at 6. 11 Defendant argues that venue is improper in the Northern District of California because only 12 NRAC Rachel Urdan, located in Baltimore, had the delegated authority to deny plaintiff’s RA 13 request. Mot. at 11; Dkt. No. 19-1, Exs. 10 at 6, n.6 & Ex.6. Therefore, as defendant would have 14 it, RCALJ Horne and her staff “did not actually take any of the actions that form the basis for 15 [p]laintiff’s complaint.” Id. at 11. 16 The Court agrees with plaintiff that a substantial part of the events giving rise to plaintiff’s 17 claim occurred in the Northern District. The substantiality inquiry “focuses on the relevant activities 18 of the defendant, not of the plaintiff.” See *Knuttel v. Omaze, Inc.* 572 F.Supp.3d 866, 869 (N.D.

19 Cal. 2021) (internal quotation marks and citation omitted). Section 1391 does not limit venue to the

20 district where the most substantial events or omissions giving rise to the action occurred. See, e.g., 21 *Ward v. Certain Underwriters at Lloyd’s of London*, 2019 WL 2076991 *5 (N.D. Cal. May 10, 22 2019); *Ibrahim v. Chertoff*, 2007 WL 1558521 * 5 (S.D. Cal. May 25, 2007); *Adab v. United States* 23 *Citizenship & Immigr. Servs.*, 2015 WL 6249563 *5 (C.D. Cal. Feb. 9, 2015). Plaintiff contends, 24 and defendant does not dispute, that RCALJ Horne and her staff located in San Francisco engaged 25 Oct. 23, 2001). It is well established that where, as here, an action is brought against a federal officer 26 in his or her official capacity, residence exists where the federal agency is located. See, e.g., *West Coast Regional Center, Inc. v. Jaddou*, 2024 WL 3498242 * 3 (N.D. Cal. July 19, 2024) (“A federal 27 officer’s residence is determined by the location where she performs her official duties.”). 1 in discussions with plaintiff regarding his reasonable accommodation request and recommended 2 denial of his reasonable accommodation request to NRAC Urdan. Comp. ¶¶ 7-9, 13, 22-29; Mot. 3 at 11; Dkt. No. 19-1, Exs. 5, 6, 10; Opp’n at 6. Once local management makes a denial 4 recommendation, the NRAC reviews that recommendation and makes a final decision. Reply at 3; 5 Dkt. No. 19-1, Ex.11 at 22-23. Plaintiff establishes management officials in San Francisco handled 6 all the initial phases of the reasonable accommodation process and recommended denial of his 7 reasonable accommodation request to NRAC Urdan. Opp’n at 6-7; Dkt. No. 22-1, Exs. 2,3,5. 8 Plaintiff also establishes that RCALJ Horne issued him an official reprimand for failing to report to 9 the OHO to conduct in-

person hearings, which he alleges is a discriminatory and retaliatory act 10 giving rise to his claims. Compl. ¶¶ 33-35; Opp’n at 7; Dkt. No. 22-1, Ex. 6. The Court finds this 11 is sufficient to establish venue under 1391(e). 12 The Court rejects defendant’s contentions that only the “ultimate legally relevant decision is 13 what matters for venue purposes,” and that “advisory actions of an intermediate management 14 official” cannot constitute a substantial part of the events giving rise to plaintiff’s claim. Reply at 15 3; see also Mot. at 10. The cases defendant cites do not stand for that proposition, as in each case 16 the court reasoned that venue was improper based largely on other factors. Defendant’s briefing 17 relies primarily on *West Coast Regional Center, Inc. v. Jaddou*, a case involving an immigration 18 center’s challenge to a federal policy. 2024 WL 3498242 * 3 (N.D. Cal. July 19, 2024). In *West 19 Coast*, the court found that existence of plaintiff’s investment project in the district was not a 20 substantial event directly giving rise to plaintiff’s claim. *Id.* (“second-level economic or social 21 impact of investments in this District is too tenuous to justify [plaintiff’s] choice of venue”). Here, 22 however, the actions RCALJ Horne and her staff took at the regional headquarters in San Francisco 23 leading up to the reasonable accommodation denial are less tenuous and cannot be characterized as 24 only second-level economic or social impact.³ The Court finds that management decisions made by 25 3 The Court finds the other two cases defendant cites no more relevant to the question of 26 whether the ultimate legally relevant question is what matters for venue purposes. See *Pars Equality Center v. Blinken*, 2024 WL 4700636 * 8-9 (N.D. Cal. Nov. 5, 2024) (severing claims for improper 27 venue where there was indica of forum shopping); *Basey v. United States*, 2022 WL 4485817 * 5 1 RCALJ Horne and staff in San Francisco directly gave rise to the alleged discrimination and 2 retaliation plaintiff challenges in this case. 3 Accordingly, because venue is proper, the Court rejects defendant’s motion to dismiss based 4 on improper venue. 5

II. Transfer is Appropriate

Under § 1404(a) 6 Because venue is proper in the Northern District of California, the Court proceeds to weigh 7 the interests of convenience and justice to determine whether transfer to the Central District of 8 California is appropriate. Defendant argues that the Central District of California is the more 9 appropriate venue because plaintiff resides in the Central District, the workplace plaintiff has put at 10 issue is in the Central District, and key witnesses are in the Central District. Mot. at 12. 11 Furthermore, defendant contends that plaintiff’s choice of forum is entitled to little deference 12 because plaintiff does not live in the Northern District and there is little connection between the 13 facts of this case and the Northern District. *Id.* 14 Plaintiff primarily argues that transfer to the Central District of California is inappropriate 15 because several “management witnesses” are in San Francisco and no relevant “management 16 witnesses” are in the Central District. Opp’n at 7, 10-11. Plaintiff also suggests that the physical 17 location of his place of work in the Central District is “totally irrelevant” because the case involves 18 an OHO policy decision requiring in-person hearings. *Id.* at 7. Further, plaintiff contends that the 19 Court should give considerable weight to his choice of venue. *Id.* at 8. 20 As discussed above, courts evaluate several factors in determining whether transfer is 21 appropriate.

See Jones, 211 F.3d at 498; Lax, 65 F. Supp. 3d at 776. 22 23 A. Plaintiff's Choice of Forum 24
"The plaintiff's initial choice of forum usually receives some weight, and is given substantial 25
deference if the plaintiff is a resident of the district in which the action is brought." Headstart 26
Nursery, Inc. v. Palmeri, 2018 WL 4961664, at *7 (N.D. Cal. Oct. 12, 2018) (internal quotation 27
1 venue is substantially reduced where the plaintiff's venue choice is not its residence or where the
2 forum chosen lacks a significant connection to the activities alleged in the complaint." Fabus
Corp. 3 v. Asiana Exp. Corp., No. C-00-3172 PJH, 2001 WL 253185, at *1 (N.D. Cal. Mar. 5,
2001). The 4 Ninth Circuit has held that courts should disregard a plaintiff's forum choice where
the suit is a 5 result of forum shopping. See Alltrade, Inc. v. Uniweld Products, Inc., 946 F.2d 622,
628 (9th Cir. 6 1991); see also Pars Equal. Ctr.v. Blinken, 2024 WL 4700636 (N.D. Cal. Nov. 5,
2024). 7 Plaintiff resides in Montecito, California. Compl ¶ 12. Plaintiff also works for defendant
8 in Santa Barbara, California. Id. ¶ 12, 15. Both cities are in the Central District of California. 9
Plaintiff brings this case related to whether he must be physically present at the OHO courtroom
10 there and whether defendant must make changes to its courtroom's physical infrastructure. Id.
¶¶ 11 4-5, 13, 28-33. Thus, venue in the Central District of California is proper and appropriate.
12 Conversely, as discussed above, the only connection that plaintiff alleges this case has to the 13
Northern District is "management decisions" related to plaintiffs' accommodation requests made
by 14 several SSA employees in San Francisco. Id. ¶ 13 While it appears that some relevant
activities 15 alleged in the complaint occurred in San Francisco, many of the relevant activities
occurred in Santa 16 Barbara. The Court agrees with defendant that plaintiff's choice of forum
should be given 17 considerably less weight in the venue analysis, particularly where, as here,
plaintiff resides in the 18 Central District. 19 Defendant also alleges that plaintiff's decision to
bring this case in the Northern District of 20 California indicates forum shopping, and there are
concerning indica of forum shopping here. Mot. 21 at 1, 6-7; Reply at 5. In response, plaintiff
argues only that defendant's characterization of plaintiff 22 as a serial litigant is "really about
plaintiff's exercise of his legal rights by seeking RA's for his 23 severe disabilities." Opp'n at 23.
However, the Court's forum shopping concerns are not allayed. 24 Prior to the Covid-19
pandemic, plaintiff filed an employment discrimination action against SSA 25 similar to this one
in the Central District of California based on the SSA's denial of his requests to 26 transfer to the
San Francisco Bay Area and to telework on hearing days, once hearings were over. 27 See Koltys
v. Berryhill, 2019 WL 13254073 *1 (C.D. Cal. Jan. 9, 2019). The court dismissed the 1 claims. Id.
at *4-6.4 The court also found that plaintiff had "not pled facts establishing how 2 teleworking on
partial days would enable him to perform the fundamental job duties of his position." 3 Id. A
similar issue of whether holding in-person hearings is an essential job duty of ALJs underlies 4
this case. Compl. ¶ ¶ 19, 26. These facts, coupled with plaintiff's residence outside of the Northern
5 District of California, suggest that plaintiff may have filed suit here to obtain what he perceives
to 6 be a more favorable forum. 7 Whether or not plaintiff's choice is in fact the product of forum
shopping, the Court finds 8 that plaintiff's choice of forum merits little deference in this case

given his residence in the Central District. 10 11 B. Convenience of the Parties and Witnesses 12 The Court concludes that these factors weigh in favor of transfer. Neither plaintiff nor 13 defendant resides in the Northern District. Plaintiff's only claim of convenience rests on his desire 14 to depose several SSA employees located in San Francisco. Opp'n at 7,11. However, plaintiff 15 makes no argument as to why he would choose to depose these witnesses in person. Indeed, 16 considering plaintiff is proceeding pro se and alleges that his medical needs prevent him from 17 holding hearings in person, it seems likely that conducting remote depositions would be more 18 convenient. As such, the Court finds it unlikely that the Northern District of California would 19 actually be a more convenient location for plaintiff. 20 Moreover, while plaintiff argues that there are no relevant witnesses in the Central District 21 because the management decisions related to his reasonable accommodation request were made in 22 San Francisco, the Court is not persuaded. Opp'n at 10. For instance, the other ALJs who defendant 23 claims would be burdened by an increased backlog of hearings if plaintiff's request to work remotely 24 25 4 In December of 2020, plaintiff also filed an unrelated Freedom of Information Act (FOIA) case against SSA and then Acting Secretary of Homeland Security Chad Wolf arising from a 26 workplace investigation of plaintiff's alleged possession of a firearm in this district. See *Koltys v. Kijakazi*, No. 20-cv-08700-SK, 2022 WL 432441 (N.D. Cal. Jan. 28, 2022). That case was 27 transferred to the Central District of California due to improper venue. *Id.* The Central District of 1 is granted are in Santa Barbara. Mot. at 1 & Dkt. No. 19-1, Exs. 3,6. One of these ALJs, Hearing 2 Office Chief ALJ Aubri Masterson, is plaintiff's first-line supervisor. Reply at 4, Dkt. No. 19-1, 3 Ex. 6. Thus, defendant demonstrates that relevant witnesses are also located in Santa Barbara, and

4 the Central District would likely be a more convenient venue for them.5 5 6 C. Ease of Access to the Evidence 7 The Court also concludes that this factor counsels toward transfer. The workplace at issue 8 is in the Central District, and defendant argues that if this case were to proceed to trial, a site visit 9 may be necessary. Reply at ¶ 5. Plaintiff's contention that the physical location of his place of work 10 in the Central District is "totally irrelevant," Opp'n at 7, is misguided, especially considering 11 plaintiff puts the physical characteristics of his courtroom at issue in his complaint. Plaintiff's 12 complaint states that defendant has "refused to provide Plaintiff with the reasonable 13 accommodations of a modified or larger courtroom[.]" Compl. ¶ 5. Plaintiff further references the 14 reasonable accommodation request he filed regarding combining two courtrooms, a glass wall in 15 his courtroom, and an isolated air supply system in his courtroom and chambers. *Id.* ¶ ¶ 30, 32. 16 17 D. Other Factors 18 Plaintiff suggests that "judicial economy" counsels against transfer because this Court has 19 "extensive experience adjudicating federal employment complaints." Opp'n at 7. The same is true 20 of the Central District. Parties do not address the remaining factors in their briefing, and the Court 21 finds that the remaining factors are either neutral or favor transfer. 22 In sum, the Court agrees with defendant that this case belongs in the Central District. 23

24 CONCLUSION

25 Having weighed weigh the interests of convenience and justice, the Court concludes that 26 27
5 Defendant also notes that relevant witnesses are in Maryland, including NRAC Urdan who 1
transfer is appropriate. For the foregoing reasons, the Court and GRANTS defendant's motion to 2
|| transfer venue. The Court does not rule on defendant's motion to dismiss under Rules 12(b)(1)
and 3 12(b)(6). 4 5 IT IS SO ORDERED. 6 || Dated: January 7, 2026 7

SUSAN ILLSTON

8 United States District Judge 9 10 11 a 12 15 16 it 4 18 19 20 21 22 23 24 25 26 27 28