

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
NEW YORK

In re Eisner Advisory Group, LLC Data Breach Litigation

In re Eisner Advisory Group Data Breach Litigation · No. 25-CV-03044 (MMG) · Decided February 25, 2026

SUMMARY

The United States District Court for the Southern District of New York grants the defendant’s unopposed motion to transfer consolidated data-breach class actions to the District of Minnesota under 28 U.S.C. § 1404. The court finds that venue is proper in Minnesota and that the convenience of the parties, witnesses, access to evidence, locus of operative facts, and interests of justice strongly favor transfer.

CASE DETAILS

COURT	United States District Court for the Southern District of New York
WRITING FOR THE COURT	Margaret M. Garnett
JURISDICTION	United States District Court for the Southern District of New York
DECIDED	February 25, 2026
DOCKET	25-CV-03044 (MMG)
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under 28 U.S.C. § 1404 to transfer a consolidated putative class action from the Southern District of New York to the District of Minnesota. Plaintiffs did not oppose the motion.
STANDARD OF REVIEW	District courts have wide latitude in deciding whether to transfer venue under 28 U.S.C. § 1404. The court applied a two-step inquiry: whether venue is proper in the transferee district and whether transfer serves the convenience of the parties and witnesses and the interests of justice.
PRECEDENTIAL VALUE	nonprecedential district court memorandum and order
PARTIES	David Fallen, Chris Ouellette, Hannah Watzka, Timothy Rushing, Plaintiffs in the consolidated class action v. Eisner Advisory Group, LLC

TOPICS

venue

class actions

civil procedure

PRACTICE AREAS

civil procedure

venue

class actions

data breach litigation

QUESTIONS PRESENTED

1. Whether venue was proper in the District of Minnesota under 28 U.S.C. § 1391(b), such that transfer under 28 U.S.C. § 1404(a) was permissible.
2. Whether the convenience of the parties and witnesses and the interests of justice favored transferring the consolidated action from the Southern District of New York to the District of Minnesota.

HOLDINGS

1. Venue was proper in the District of Minnesota because a substantial part of the events or omissions giving rise to the claims occurred there.
2. Transfer to the District of Minnesota was appropriate because the relevant convenience factors and the interests of justice strongly favored Minnesota.

KEY QUOTATIONS

“For the convenience of parties and witnesses, 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.” (Discussion)

“The Clerk of Court is respectfully directed to terminate the motion at Dkt. No. 26, TRANSFER the consolidated cases to the United States District Court for the District of Minnesota, and CLOSE this case.” (Conclusion)

FACTUAL BACKGROUND

The consolidated litigation arises from an alleged September 2023 data breach involving Eisner Advisory Group, LLC. The breach and related activities occurred in Minnesota, where most likely witnesses and relevant materials were located. The named Plaintiffs brought a nationwide putative class action, none resided in the Southern District of New York, and all stated that they did not oppose transfer.

PROCEDURAL HISTORY

Four related actions were filed in the Southern District of New York between April 11 and April 15, 2025, consolidated on April 30, 2025, and later stayed pending mediation. After mediation failed, Plaintiffs filed a Consolidated Class Action Complaint. Defendant moved to transfer the consolidated action to the District of Minnesota, and Plaintiffs filed a notice of nonopposition. The court granted the transfer motion, directed the Clerk to transfer the consolidated cases, and closed the case.

DISPOSITION

CASES CITED

- Everlast World’s Boxing Headquarters Corp. v. Ringside, Inc., 928 F. Supp. 2d 735, 742 (S.D.N.Y. 2013)
- Van Dusen v. Barrack, 376 U.S. 612, 616 (1964)
- D.H. Blair & Co. v. Gottdiener, 462 F.3d 95, 106-07 (2d Cir. 2006)
- In re Bystolic Antitrust Litig., No. 20-CV-05735 (LJL), 2021 WL 148747, at *3 (S.D.N.Y. Jan. 15, 2021)
- Tlapanco v. Elges, 207 F. Supp. 3d 324, 329 (S.D.N.Y. 2016)
- In re Eisner Advisory Group Data Breach Litigation, No. 25-CV-01409 (D. Minn.)

OPINION

DOCUMENT ELECTRONICALLY FILED DOC #: UNITED STATES DISTRICT COURT | DATEFILED: 2/25/2026 | SOUTHERN DISTRICT OF NEW YORK 25-CV-03044 (MMG) IN RE EISNER ADVISORY GROUP, LLC DATA BREACH LITIGATION MEMORANDUM & In all related cases ORDER MARGARET M. GARNETT, United States District Judge: This consolidated action comprises multiple cases arising from an alleged data breach involving Eisner Advisory Group, LLC (“Defendant”) that occurred in September 2023.

See Dkt. No. 13 at 2. Before the Court is Defendant’s unopposed motion to transfer the case to the United States District Court for the District of Minnesota. See Dkt. Nos. 26,27. For the reasons set forth below, the motion is GRANTED. BACKGROUND Plaintiffs David Fallen, Chris Ouellette, Hannah Watzka, and Timothy Rushing (“Plaintiffs”) initiated four separate actions in this Court between April 11 and April 15, 2025.

See Dkt. No. 1; Ouellette v. Eisner Advisory Group LLC, No. 25-CV-03069, Dkt. No. 1; Watzka v. Eisner Advisory Group LLC, No. 25-CV-03081, Dkt. No. 1; Rushing v. Eisner Advisory Group LLC, No. 25-CV-03102, Dkt. No. 1. Fallen and Ouellette moved to consolidate the cases shortly thereafter. See Dkt. No. 8; Ouellette v. Eisner Advisory Group LLC, No. 25-CV-03069, Dkt.

No. 6. All four cases were designated as related and assigned to the undersigned on April 30, 2025. That same day, the Court ordered the consolidation of the four cases and any other cases naming Defendant in connection with the alleged data breach. See Dkt. No. 13.

On June 13, 2025, at the joint request of the parties, the Court stayed the case pending an anticipated mediation scheduled for September 25, 2025. See Dkt. No. 18. The Court lifted the stay on November 5, 2025, after the parties advised that they had failed to reach a settlement. See Dkt. No. 20. Plaintiffs filed a Consolidated Class Action Complaint on November 21, 2025.

See Dkt. No. 22. On December 19, 2025, Defendant filed a motion to transfer the consolidated action to the District of Minnesota, see Dkt. No. 26, which stayed Defendant’s deadline to respond

to the Consolidated Class Action Complaint pursuant to a scheduling order previously issued by the Court, see Dkt. No. 24.

On February 19, 2026, Plaintiffs filed a notice stating that they do not oppose Defendant's motion to transfer venue. See Dkt. No. 34. DISCUSSION Transfer of venue is governed by 28 U.S.C. § 1404. That statute provides: "For the convenience of parties and witnesses, 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.

District courts have "wide latitude to decide whether to transfer venue." *Everlast World's Boxing Headquarters Corp. v. Ringside, Inc.*, 928 F. Supp. 2d 735, 742 (S.D.N.Y. 2013). Generally, a court must engage in a two-step inquiry: first determining whether venue is proper in the transferee district and then determining whether transfer will serve the parties' convenience and the interests of justice.

Van Dusen v. Barrack, 376 U.S. 612, 616 (1964). As to the first step, venue is proper in the District of Minnesota. Federal subject matter jurisdiction exists under 28 U.S.C. § 1332(d) because this is a class action in which the amount in controversy exceeds \$5,000,000, there are more than 100 members in the proposed class, and at least one member of the class is a citizen of a state different from Defendant.

Such an action may be brought in "a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located" or "a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated." 28 U.S.C. § 1391(b).

That standard is met here. Defendant has established that "a substantial part of the events" transpired in the District of Minnesota because that is where the data breach and related activities giving rise to Plaintiffs claims occurred. See Dkt. Nos. 28-1, 28-2. Venue in the District of Minnesota is therefore proper.

As to the second step, transferring venue to the District of Minnesota promotes the parties' convenience and the interest of justice. The convenience inquiry considers, *inter alia*, "(1) the plaintiff's choice of forum, (2) the convenience of witnesses, (3) the location of relevant documents and relative ease of access to sources of proof, (4) the convenience of parties, (5) the locus of operative facts, (6) the availability of process to compel the attendance of unwilling witnesses, and (7) the relative means of the parties." *D.H.*

Blair & Co. v. Gottdiener, 462 F.3d 95, 106-07 (2d Cir. 2006). The relevant factors, considered together, strongly favor transfer. Plaintiffs' choice of forum carries minimal weight where, as here,

they bring a nationwide putative class action, and none of them resides in this forum; in addition, all named Plaintiffs have indicated that they do not oppose the transfer.

See *In re Bystolic Antitrust Litig.*, No. 20-CV-05735 (LJL), 2021 WL 148747, at *3 (S.D.N.Y. Jan. 15, 2021); *Tlapanco v. Elges*, 207 F. Supp. 3d 324, 329 (S.D.N.Y. 2016). Minnesota is the locus of the events giving rise the claims in the case, and the likely witnesses—individuals whose work related to the data breach—mostly are located there. See Dkt. No. 28-1 §§ 15-21.

For similar reasons, the location of relevant documents, the convenience of the parties, and the availability of legal process also favor transfer. The relative means of the parties is inconclusive on the existing record and is therefore neutral.

Finally, the interests of justice favor transfer given the case's strong connection to Minnesota and the fact that another action arising out of the same facts is currently pending in the District of Minnesota, see *In re Eisner Advisory Group Data Breach Litigation*, No. 25-CV-01409 (D. Minn).

The Court thus finds transfer of venue appropriate. CONCLUSION The Clerk of Court is respectfully directed to terminate the motion at Dkt. No. 26, TRANSFER the consolidated cases to the United States District Court for the District of Minnesota, and CLOSE this case. Dated: February 25, 2026 New York, New York SO ORDERED. United States District Judge