

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

MEDICAL SUPPLY CHAIN, INC.,)
)
Plaintiff,)
)
vs.)
)
NOVATION, LLC, et al,)
)
Defendants.)

Case No. 05-0210-CV-W-ODS

ORDER (1) GRANTING DEFENDANTS' MOTIONS TO TRANSFER AND
(2) TRANSFERRING THE MATTER TO THE DISTRICT OF KANSAS

Pending are Defendants US Bancorp, US Bank, Jerry Grundhoffer, Andrew Cesere, Piper Jaffray Companies and Andrew Duff's Motion to Transfer, Dismiss and/or Strike (Doc. # 18), Defendant Shughart Thomson & Kilroy's Motion to Transfer, Dismiss and/or Strike (Doc. # 25) and Defendants Novation, VHA and University Healthcare Consortium's Motion to Transfer Venue or Dismiss (Doc. # 26). For the following reasons, the motions to transfer are granted.

I. BACKGROUND

On October 22, 2002, Plaintiff Medical Supply Chain, Inc., filed suit in the District of Kansas (Medical Supply Chain, Inc. v. US Bancorp, NA, Case No. 02-2539-CM) against various defendants alleging a conspiracy to prevent Plaintiff's entry into the health care supply market. The Honorable Carlos Murgia, United States District Court Judge for the District of Kansas, ultimately dismissed the case. The Tenth Circuit Court of Appeals affirmed the district court's decision and remanded the case to the district court to impose sanctions against Plaintiff's counsel for prosecution of a frivolous appeal.

On March 9, 2005, Plaintiff filed the above-captioned matter alleging almost identical claims against many of the same defendants. Defendants request that this Court transfer the case to the District of Kansas.

II. DISCUSSION

Pursuant to 28 U.S.C. § 1404(a), “[f]or the convenience of the 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.” Essentially, the Court must consider: (1) whether there is a justification for the transfer by balancing factors of convenience and justice, and (2) whether there is a proper alternative district to which the case may be transferred. See Terra Int’l v. Miss. Chem. Corp., 119 F.3d 688, 691 (8th Cir. 1997).

Plaintiff argues that the District of Kansas is not the proper venue for this case because the district court and court of appeals have displayed a bias against Plaintiff when issuing rulings on Plaintiff’s previous case. Plaintiff also claims that the District of Kansas lacks the resources to manage an antitrust case. Defendant contends, quite persuasively, that venue is more properly set in the District of Kansas because the District of Kansas is thoroughly familiar with the same allegations and claims Plaintiff asserts in this case and, in order to conserve judicial resources and avoid the possibility of conflicting ruling from different courts, the case should be transferred to the District of Kansas.

Mere disappointment with the result of a case does not give a party the right to file an almost an identical second cause of action and, moreover, does not entitle a party to forum shop. Based on the District of Kansas’ extensive experience with the almost identical previous lawsuit and in the interest of justice, the above-captioned matter is transferred to the District of Kansas.

III. CONCLUSION

For the foregoing reasons, the Defendants' Motions to Transfer are granted, and the case is transferred to the District of Kansas, along with the remaining pending motions, for all further proceedings.

IT IS SO ORDERED.

DATE: June 15, 2005

/s/ Ortrie D. Smith
ORTRIE D. SMITH, JUDGE
UNITED STATES DISTRICT COURT