THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

MARGARET CRUZ-ACEVEDO, individually on her own behalf and others similarly situated,

Plaintiff,

v.

UNILEVER UNITED STATES, INC.; PEPSICO, INC.; AND THE PEPSI LIPTON TEA PARTNERSHIP,

Defendants.

Civil No. 15-2175 (ADC)

OPINION AND ORDER

Pending before the Court is a motion for transfer of venue to the United States Court for the Northern District of California pursuant to 28 U.S.C. §1404(a) by co-defendants Unilever United States Inc., PepsiCo Inc., and The Pepsi Lipton Tea Partnership (collectively "defendants"), filed on November 24, 2015. **ECF No. 8**. The named plaintiff of a putative class, Ms. Margaret Cruz-Acevedo ("plaintiff"), has not filed an opposition or made any other appearance regarding defendants' venue-transfer request, being the complaint her only filing in this case. **ECF No. 1**. Thus, pursuant to L.Civ. R. 7(b), defendants' venue-transfer request and their arguments in support thereof are deemed unopposed. For the reasons set forth below, the Court **GRANTS** defendants' motion to transfer.

I. Procedural Background

On August 26, 2015, plaintiff filed the instant action titled "Class Action Complaint." **ECF No. 1**. In essence, plaintiff alleges that defendants engaged in:

> [a] pervasive pattern of fraudulent, deceptive, false and otherwise improper advertising, sales and marketing practices, in violation of Puerto Rico Consumer Protection Laws codified at 23 LPRA § 1014 and 24 LPRA 729 [*sic*]. Specifically, the Defendant deceptively informed and led its customers to believe that its Pure Leaf Iced Tea, sold in a variety of flavors, is "All Natural," despite containing unnatural ingredients, which are synthetic, artificial, and/or genetically modified, including but not limited to Citric Acid and/or "Natural Flavor." Defendant obtained substantial profits from these unlawful and deceptive sales, entitling the putative

Class to relief under Article 1802 of the Puerto Rico Civil Code.

Id. at 2.[1]

Plaintiff also cites the Food, Drug and Cosmetic Act (FDCA), 21 U.S.C. § 301 et seq., in support of her allegations of false or misleading labeling. **ECF No. 1** at 9-16. For the alleged violations and concomitant damages, plaintiff requests that this Court certify a class, issue injunctive relief, order the creation of a fund to pay restitution to the class members, order the "distribution of moneys recovered on behalf of the members of the [c]lass"and grant attorney's fees. *Id.* at 27-28.

In light of plaintiff's "Class Action Complaint," on November 24, 2015, defendants filed a motion to transfer the proceedings pursuant to 28 U.S.C. § 1404(a), and a memorandum of law in support thereof. **ECF No. 8.** In said motion, defendants request a venue transfer of the captioned case to the United States District Court for the Northern District of California, "where an earlier-filed action raising nearly identical issues has been actively litigated for the past three years. *Maxwell v. Unilever U.S., Inc.*, No. 5:12-cv-1736-EJD (N.D. Cal. filed Apr. 6, 2012)" (hereinafter "*Maxwell*"). **ECF No. 8** at 6. As mentioned above, plaintiff has not filed an opposition or otherwise appeared regarding defendants' request for transfer of venue. *See* **ECF No. 12** (defendant's motion requesting adjudication of unopposed motion to transfer proceedings)**.**

In their request for venue transfer, defendants point to the fact that *Maxwell*, like the instant case, is based on claims related to the content and labeling of the Pure Leaf Tea products. **ECF Nos. 8** at 6. As further averred by defendant, and as corroborated in the corresponding case's docket, *Maxwell* "has already progressed through two rounds of motions to dismiss ... and the operative pleading is now Ms. Maxwell's Third Amended

[1] Because the instant complaint duplicates some paragraph numbers (see **ECF No. 1** at 11-27), to avoid confusion, all references to the complaint will consist of page numbers instead of paragraph numbers.

Complaint ("Cal. TAC")." **ECF No. 8** at 7; *see also* Cal. TAC, included by defendants as Exhibit A **(ECF No. 8-1);** *Maxwell***,** 2013 WL 1435232 (N.D. Cal. April 9, 2013) (order granting defendants' motion to dismiss as to first amended complaint); and *Maxwell***,** 2014 WL 4275712 (N.D. Cal. Aug. 28, 2014) (order granting in part and denying in part defendants' motion to dismiss second amended complaint). Subsequently, *Maxwell* defendants moved to dismiss Cal. TAC, and Maxwell requested leave to file a fourth amended complaint, which defendants have opposed as well. **ECF No. 8** at 9 n. 4, and **No. 8-6**. As evidenced by the case docket in *Maxwell*, the aforementioned motions are currently pending before the Northern District of California. ***Maxwell's* docket ECF Nos. 99, 111** (the Northern District of California Clerk's notices of said Court taking motions under submission without oral argument regarding plaintiff's request to amend third amended complaint, and regarding defendants' motion to dismiss third amended complaint)**.**

Moreover, defendants contend that this case "is only the most recent example of plaintiff's counsel's practice of filing carbon-copy putative class action lawsuits in Puerto Rico challenging the labeling of food products. In each case, counsel's tactic has been the same: (1) find a product-labeling putative class action lawsuit that has been pending in another court for some time; (2) recycle the factual and legal allegations from that case; and (3) file a 'new' putative class action lawsuit in this Court." **ECF No. 8** at 6-7. In support of said contention, defendants bring to the Court's attention the following cases, among others: *Rosado-Acha v. Red Bull GmbH*, No. 3:15-cv-01367 (JAF)(D.P.R.), transferred to the Southern District of New York on Sept. 25, 2015, to be consolidated with *Careathers v. Red Bull GmbH*, No. 1:13-cv-00369-KPF (S.D.N.Y.) (**ECF No. 8-2**); and *García-Catalán v. Johnson & Johnson Consumer Cos., Inc.*, No. 3:15-cv-02003 (GAG-BJM) (D.P.R.), transferred to the Central District of California on November 30, 2015, for consolidation with *Real v. Johnson & Johnson Consumer Cos., Inc.*, No. 2:15-cv-05025-SVW-JEM (C.D. Cal.) (**ECF No. 8-2**).

II. Legal Standard

In *Atl. Marine Const. Co., Inc. v. U.S. Dist. Court for the Western Dist. of Tex.*, 571 U.S. ___ (2013), 134 S.Ct. 568 (2013), the U.S. Supreme Court held that when a party seeks the transfer of a case from one federal district court to another, a motion to transfer under 28 U.S.C. § 1404(a) ("§ 1404(a)") is the appropriate procedural mechanism. §1404(a) provides that "[f]or the convenience of parties and witnesses, in the interest of justice, a court may transfer an action to any other district where it might have been brought or to any district to which all parties have consented." Thus, when adjudicating a transfer of venue request under § 1404(a), a court shall perform an individualized, case-by-case analysis of whether venue is adequate in the other court too; weigh factors pertaining to convenience and fairness; and then exercise its sound discretion accordingly. *Van Dusen v. Barrack*, 376 U.S. 612, 622 (1964). *See also: Atl. Marine Const. Co. Inc.*, 134 S.Ct. at 581.

When venue transfer is requested in order to move a case from a federal district court to another one where a similar or related case has also been filed, the First Circuit Court of Appeals has held that "factors to be considered by the district court in making its determination include the convenience of the parties and witnesses, the order in which jurisdiction was obtained by the district court, the availability of documents, and the possibilities of consolidation." *Cianbro Corp. v. Curran-Lavoie, Inc., d/b/a Kenneth E. Curran, Inc.*, 814 F.2d 7, 11 (1st Cir. 1987) (citing *Codex v. Milgo Elec. Corp.* 553 F.2d 735, 737 (1st Cir.), *cert. denied*, 434 U.S. 860 (1977)). Moreover, "[w]here identical actions are proceeding concurrently in two federal courts, entailing duplicative litigation and a waste of judicial resources, the first filed action is generally preferred in a choice-of-venue decision." *Coady v. Ashcraft & Gerel*, 223 F.3d 1, 11 (1st Cir. 2000)(quoting *Cianbro*, 814 F.2d at 11). As such, in class-action claims, "where an action against the same defendants, among others, arising from same factual predicate, is currently pending in another district, and where the putative class is likely spread over many federal districts, the interests of justice and judicial economy weigh in favor of transfer to that district, and deference to the plaintiff's choice of forum is diminished." 6A Fed.

Proc., L.Ed. § 12:30; *Wiley v. Gerber Prods. Co.*, 667 F. Supp. 2d 171, 174 (D. Mass. 2009)(citing *Koster v. (Am.) Lumbermens Mut. Cas. Co.*, 330 U.S. 518, 524 (1947)); *Mazzantini v. Rite Aid Corp.*, 829 F. Supp. 2d 9, 11 (D. Mass. 2011).

Furthermore, the overlap between the two cases need not be complete for the transfer of venue to be appropriate. In fact, the First Circuit has held that "where the overlap between two suits is less than complete, the judgment is made case by case, based on such factors as the extent of the overlap, the likelihood of conflict, the comparative advantage and the interest of each forum in resolving the dispute." *TPM Holdings, Inc. v. Intra-Gold Indus., Inc.*, 91 F.3d 1, 4 (1st Cir. 1996) (citing *Colorado River Conservation Dist. v. U.S.*, 424 U.S. 800, 817 (1976) (holding that among federal districts, "the general rule is to avoid duplicative litigation.")).

Thus, based on a case-specific analysis and a balancing of the above-mentioned factors, courts routinely grant venue transfers in relation to similar, but not identical, actions. *See Wiley v. Gerber Prods. Co.*, 667 F. Supp. 2d 171, 173 n. 1 (D. Mass. 2009); *Mercado-Salinas v. Bart Enterprises International*, 669 F. Supp. 2d 176 (D.P.R. 2009); *BMJ Foods P.R., Inc. v. Metromedia Steakhouses Co., L.P.*, 562 F.Supp.2d 229, 233 (D.P.R. 2008); *Aguakem Caribe, Inc. v. Kemiron Atlantic, Inc.*, 218 F. Supp. 2d 199, 203 (D.P.R. 2002); and *Home Prods. Int'l–N. Am. v. Peoplesoft USA, Inc.*, 201 F.R.D. 42, 49-50 (D. Mass. 2001). For example, *Wiley*, like the instant case, was a putative class action suit by a consumer alleging deceptive practices in the labeling and information of consumer products, which in *Wiley's* case comprised drinks for toddlers. *Wiley*, 667 F. Supp. 2d at 172. The named plaintiff filed her claim before the District of Massachusetts. *Id.* at 171. However, a similar complaint had been filed earlier against the same defendant company before the Northern District of California, for which said company requested a venue transfer with the aim of subsequent consolidation of both cases by the Northern District of California. *Id.* at 172. The cases differed in the statutes invoked, and the later-filed case included claims for unjust enrichment and declaratory relief that were not included in the earlier-filed one. *Id.* Nonetheless, after balancing the pertinent factors, the court held that considerations of convenience and the interests of justice were best served by transferring

Wiley to the Northern District of California. *Id.* at 172-174. In its decision, the court gave particular weight to the strong factual overlap between the two cases regarding the allegations of deceptive labeling of the same products. *Id.* at 172.

III. Discussion

1. Jurisdictional Considerations Regarding the Northern District of California

The initial question when evaluating the transfer of venue requested under § 1404(a) in the instant case is whether the transfer would be to a district in which plaintiff could have filed the action originally or regarding which the parties have consented. 28 U.S.C. § 1404(a); *Van Dusen*, 376 U.S. at 616-17. In the instant case, the parties have not expressly agreed to the venue transfer in question. However, as discussed above, plaintiff did not file an opposition to defendants' request, for which it is deemed unopposed under L.Civ. R. 7(b).

As to whether plaintiff could have initiated the instant claim against defendants before the Northern District of California, under the general venue statute, a civil suit may be filed in any district in which all of the claim's defendants reside. 28 U.S.C. § 1391(b)(1). A defendant corporation "shall be deemed to reside ... in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question..." 28 U.S.C. 1391(c)(2). Thus, "a finding of general jurisdiction 'depends largely on whether a corporate party carried on 'continuous and systematic' activities within the forum sufficient to justify requiring it to answer there to a claim...' " *Aguakem*, 218 F. Supp.2d at 202 (quoting *Sandstrom v. ChemLawn Corp.*, 904 F.2d 83, 88-89 (1st Cir. 1990)). In addition, as summarized above, in claims by a putative class of plaintiffs spanning multiple districts, the district of the first-filed claim is generally the proper venue for transfer and consolidation of claims filed in other districts that are based on the same operative facts against the same defendants. *Coady v. Ashcraft & Gerel*, 223 F.3d at 11; and *Wiley*, 667 F. Supp. 2d at 174 (citing *Koster*, 330 U.S. at 524).

In the instant case, defendants contend as follows:

> [a]s alleged in the *Maxwell* action, the Northern District of California has personal jurisdiction over Defendants because the companies "are authorized to do business

> in California, have sufficient minimum contacts with California, and otherwise intentionally avail themselves of the markets in California through the promotion, marketing and sale of merchandise, sufficient to render the exercise of jurisdiction by [that court] permissible under traditional notions of fair play and substantial justice." Cal. TAC ¶ 33. Defendants have not challenged personal jurisdiction or venue in the Northern District of California, nor do they intend to do so.

ECF No. 8 at 18.

In sum, the Court concludes that under applicable law and the above-stated facts, the instant claim could have been brought initially before the Northern District of California. Furthermore, plaintiff's lack of opposition to defendants' venue-transfer request may be construed as a tacit consent to said transfer. L.Civ. R. 7(b).

2. Factual and legal overlapping of the instant case and Maxwell

Defendants allege that the two cases have factual and legal commonalities. Specifically:

> [t]he *Maxwell* action challenges several Unilever, Pepsi, and Lipton beverages. Among them is the sole product challenged by Plaintiff here—Lipton Pure Leaf Iced Tea: Lemon. Both cases assert the same theory: "all natural" statements on the packaging of Pure Leaf Iced Tea are allegedly false, deceptive, and misleading because the tea contains citric acid. Both cases also assert that certain Pure Leaf Iced Tea products are mislabeled because they allegedly contain chemical preservatives. The legal claims overlap as well. Ms. Cruz-Acevedo brings two causes of action: breach of express warranty and unjust enrichment. Ms. Maxwell also asserted both of those causes of action in her original complaint.

ECF No. 8 at 8 (citations omitted). *See also*: **ECF No. 1** at 1-19 and 23-28; and **ECF No. 8-1** at ¶¶ 2, 4, 101-104, 143-144, 148, 157, 167, 185.[2]

[2] There is a discrepancy in the instant case's allegations regarding the products that are object of her complaint. Specifically, in pages 3 to 4 of the complaint, plaintiff identified several varieties of Pure Leaf Iced Tea: Sweet, Extra Sweet, Lemon, and Unsweetened. **ECF No. 1** at 3-4. Nonetheless, in the section of her complaint titled "Class Action Allegations," plaintiff identifies the class as including only "[a]ll persons who purchased Pure Leaf™ Iced Tea: Lemon," thus excluding any reference to the other flavors mentioned in pages 3 to 4. ***Id.*** at 19. Irrespective of the aforementioned discrepancy, there is product overlap between the two cases, inasmuch as the *Maxwell* complaint includes not only Pure Leaf Iced Tea: Lemon, but also Pure Leaf: Sweet, Extra Sweet, and Unsweetened Tea. **ECF No. 8-1** ¶¶ 2, 4.

While the instant complaint's causes of action are raised pursuant to Puerto Rico and federal law as summarized above, those in *Maxwell* are brought under California and federal law, including the FDCA, which was invoked by plaintiff in the instant case as well. **ECF No. 8-1** at ¶¶ 16-24, 35-202, 240-304; **ECF No. 1** at 9-16. In addition, the defendants in both cases are the same (Unilever United States, Inc., Pepsico, Inc., and the Pepsi Lipton Tea Partnership), and the putative classes of plaintiffs of both cases overlap. Specifically, in *Maxwell*, the group of people sought to be represented comprises all persons in California who have purchased any of several products identified in the complaint since April 6, 2008, and which include Pure Leaf Ice Tea: Lemon, among other "substantially similar products." **ECF No. 8-1** at ¶¶ 1-5, 227-239. Given that California has four federal judicial districts, *Maxwell* entails a multi-district putative class.

Meanwhile, in the instant complaint's section titled "Class Action Allegations," the class is defined as "all persons who purchased Pure Leaf Iced Tea: Lemon, product in the United States, District of Puerto Rico, and all U.S. territories, between August 2012, to and including the period following the filing date of this action." **ECF No. 1** at 19. Thus, *Maxwell*'s putative class is contained within that of the instant case. However, in her introductory section of the instant complaint titled "Nature of the Action," plaintiff identifies a different putative class than the one stated in her "Class Action Allegations" by excluding California from its scope, even though it includes the rest of the United States and its territories. **ECF No. 1** at 2. In any event, the Court agrees with defendants' contention that:

> Ms. Cruz-Acevedo should not be permitted to "gerrymander" her way around transfer. *Cf. Brook v. UnitedHealth Grp. Inc.*, No. 06-cv-12954-GBD, 2007 WL 2827808, at *4 (S.D.N.Y. Sept. 27, 2007) ("Plaintiffs cannot simply evade federal jurisdiction by defining the putative class on a state-by-state basis, and then proceed to file virtually identical class action complaints in various state courts."); *Proffitt v. Abbott Labs.*, No. 2:08-cv-151, 2008 WL 4401367, at *5 (E.D. Tenn. Sept. 23, 2008) (rejecting the plaintiff's effort to evade federal court jurisdiction by arbitrarily gerrymandering time frames across eleven duplicative class action complaints). There is no need to determine the rights of the consumers of one state separately from those of the 49 other states and territories. Moreover, Ms. Maxwell's proposed Fourth Amended Complaint includes a putative nationwide class that overlaps with Ms. Cruz-Acevedo's proposed class even if it is construed (contrary to the express language of the class definition in the complaint) to exclude California. *Maxwell*, June 1, 2015, ECF No. 100-1 (attached as Exhibit F).

ECF No. 8 at 12-13 n. 6.

In light of the above, the Court finds that under applicable standards, although the cases are not identical, the substantial overlap between the instant case and *Maxwell* in terms of parties, factual allegations and legal contentions weighs in favor of the venue transfer requested, especially since the *Maxwell* case has been litigated in that forum since 2012 and is currently ongoing. *See Coady*, 223 F.3d at 11; *TPM*, 91 F.3d at 4; *Cianbro*, 814 F.2d at 11; *Wiley*, 667 F. Supp. 2d at 172; *Aguakem Caribe*, 218 F. Supp. 2d at 203. Specifically, the putative classes of plaintiffs overlap, and the defendants are the same. **ECF No. 1** at 19**; ECF No. 8-1** at ¶¶ 1-5, 227-239. Factually, in both cases, plaintiffs allege misleading labeling of Pure Leaf iced tea products. **ECF No. 8** at 12; **ECF No. 8-1** at ¶¶ 2, 4, 101-104, 143-144, 148, 157, 167, 185; **ECF No. 1** at 2-19. Moreover, although some of the statutes invoked by plaintiffs in *Maxwell* are different than in the instant case, "the substantive questions the Court will be called upon to answer in both cases are identical: whether Pure Leaf Iced Tea's 'all natural' claim is false or misleading, whether the packaging violated applicable labeling and consumer protection laws, whether consumers were harmed by the allegedly misleading label, whether consumers have suffered any monetary loss, and whether consumers are entitled to injunctive relief." **ECF No. 8** at ¶¶ 16-24, 35-202, 240-304; **ECF No. 1** at 23-28. "Obvious concerns arise when actions involving the same parties and similar subject matter are pending in different federal district courts: wasted resources because of piecemeal litigation, the possibility of conflicting judgments, and a general concern that the courts may unduly interfere with each other's affairs." *TPM Holdings*, 91 F.3d at 4.

3. Other Pertinent Factors Regarding the Venue Transfer Requested

Additional factors pertinent to the interests of justice and the convenience of parties and witnesses weigh in favor of the requested venue transfer. A transfer of the instant case to the Northern District of California would allow its consolidation with *Maxwell*. Even though the decision whether to consolidate the two cases will rest with the sound discretion of the Northern District of California and not this Court, the First Circuit has held that the possibility of consolidation is a factor that should be considered when adjudicating a venue-transfer request in similar or related cases. *Cianbro,* 814 F.2d at 11*; Coady*, 223 F.3d at 11; *see*

also Wiley, 667 F. Supp. 2d at 173 (holding that "the Court can and should consider consolidation in its decision to transfer" even though the transferee forum would be the one deciding whether to consolidate the cases).

As to considerations related to the convenience of litigating the instant case in Puerto Rico vis-a-vis transferring it to the Northern District of California, an important factor is that plaintiff claims to represent a putative class of individuals that spans all over the United States and its territories. **ECF No. 1** at 19. Here, keeping the case in Puerto Rico is weakened in light of the U.S. Supreme Court holding in *Koster*, in which it stated:

> [i]n any balancing of conveniences, a real showing of convenience by a plaintiff who has sued in his home forum will normally outweigh the inconvenience the defendant may have shown. But where there are hundreds of potential plaintiffs, all equally entitled voluntarily to invest themselves with the ... cause of action and all of whom could with equal show of right go to into their many home courts, the claim of any one plaintiff that a forum is appropriate merely because it is his home forum is considerably weakened.

Koster, 330 U.S. at 524; *see also*: 6A Fed. Proc., L.Ed. sec. 12:30 and *Wiley*, F. Supp. 2d at 174 (citing *Koster).*

Thus, because plaintiff represents a nationwide putative class, plaintiff's choice of filing before this Court, her home forum, warrants little deference in this case. Additionally, defendants make a compelling argument in favor of the convenience and fairness of transferring the instant case to the Northern District of California. Specifically, defendants contend that:

> [t]ransferring this case to California will be more convenient than continuing with it here. Pepsi is based in New York, and Unilever and the Tea Partnership are both based in New Jersey. Although in a vacuum, both California and Puerto Rico are inconvenient for Defendants, the existence of the *Maxwell* action shifts the burden considerably. Defendants are already required to litigate the same claims at issue here in California. That obligation is inescapable. But litigating in Puerto Rico *as well* would add unnecessary inconvenience. Defendants must already bear the burden of transporting their employees, many of whom are likely to become witnesses in this action, and documents to California. The obligation to *also* transport them to Puerto Rico would double an already significant burden, as these cases are proceeding at locations that are both over 1,000 miles from corporate headquarters, and 3,000 miles apart from each other. Transfer of this action would allow these witnesses to appear and testify once, in a single location, while still allowing a full resolution of the core issues in the case. While transfer

> may be more inconvenient for Ms. Cruz-Acevedo, the burdens can be minimized by an agreement of the parties to take her deposition in Puerto Rico. In light of that possibility, the minimal level of potential inconvenience does not tip the scales against transfer.

ECF No. 8 at 15.

Finally, the instant case lacks issues that are unique to Puerto Rico. The factual and legal contentions regarding the products object of this case are of equal interest in all the states and territories where the members of plaintiff's putative class reside. Moreover, even if the transferee forum deems, pursuant to its own rules, that the Puerto Rico laws invoked by plaintiff in the instant claim are applicable in the adjudication of this case on the merits, that in itself does not weigh against the transfer requested. To the contrary, it is well known that "federal judges routinely apply the law of a State other than the State in which they sit." *Atl. Marine*, 134 S.Ct. at 584.

Thus, the Court concludes that applicable legal standards of convenience and fairness, especially considering the ongoing litigation in *Maxwell* and its substantial similarities with the present case, favor the venue transfer requested. *Coady*, 223 F.3d at 11; *TPM*, 91 F.3d at 4; *Cianbro,* 814 F.2d at 11; and *Wiley*, 667 F. Supp. 2d at 173 ("The proper inquiry is not whether [Puerto Rico] is more convenient than California in the abstract but instead whether sanctioning a second, nearly identical action here is more convenient than transferring the case for the purpose of consolidation.")

IV. Conclusion

For the foregoing reasons, the Court **GRANTS** defendants' Motion to Transfer Proceedings (**ECF No. 8**) and their related Motion Requesting Adjudication of Unopposed Motion to Transfer Proceedings (**ECF No. 12)**. Additionally, inasmuch as the case will be adjudicated on the merits before the Northern District of California by virtue of the venue transfer, the United States Court for the District of Puerto Rico need not entertain the instant case's issues beyond those related to venue transfer. Accordingly, defendants' Motion for Judgment on the Pleadings and Dismissal under F. R. Civ. Proc. 12(c) or, in the Alternative, for Stay Pursuant to the Primary Jurisdiction Doctrine (**ECF No. 13**) will be transferred with

the case and decided by the northern District of California. The Clerk is **ORDERED** to transfer this case to the U.S. District Court for the Northern District of California.

SO ORDERED.

At San Juan, Puerto Rico, on this 23rd day of September, 2016.

S/AIDA M. DELGADO-COLON
Chief United States District Judge