

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ELLA B. VALRIE, individually and)	
on behalf of all others similarly)	
situated,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:17-cv-00306-JEO
)	
L'OREAL USA, INC. and SOFT)	
SHEEN-CARSON, L.L.C.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on the Motion of Defendants L'Oréal USA, Inc., and Soft Sheen-Carson, LLC (collectively, "L'Oréal") to transfer and consolidate this matter with the parallel class action lawsuit styled *Angela Carter v. L'Oreal USA, Inc. et al.*, 2:16-cv-00508-CG-B (S.D. Ala.) ("the *Carter* matter"), in the United States District Court for the Southern District of Alabama pursuant to Fed. R. Civ. P. 42 and 28 U.S.C. § 1404(a). (Doc. 8). Plaintiff has filed a response in support of the motion. (Doc. 9). The court finds that the motion is due to be granted to the extent the Clerk of the Court will be directed to transfer this case and deferred to the extent Plaintiff seeks consolidation with the *Carter* matter.

According to the representations of the parties to this action, “the *Carter* matter raises class-wide factual allegations and legal claims against L’Oréal that are identical to those alleged in the instant lawsuit.” (Doc. 8-1 at 2). There is a pending motion to dismiss Carter’s Second Amended Class Action Complaint in the *Carter* matter. (*Id.*) The parties contend that a transfer and consolidation of the cases is appropriate to avoid duplication of the parties’ efforts, a judicial waste, and the potential for disparate rulings. (*Id.* at 3). Similarly, they assert that the matters arise from identical facts, address identical legal claims, and involve the same product. (*Id.*) They conclude that the transfer and consolidation of the two matters will not unduly delay or prejudice the parties’ rights because Plaintiff Valrie “is an absent class member in the *Carter* matter, and L’Oréal is actively litigating and defendant the *Carter* matter.” (*Id.*)

The applicable law for the transfer of venue is clear: “For the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district ... where it might have been brought.” 28 U.S.C. § 1404(a). The court has “broad discretion in deciding whether to transfer an action to a more convenient forum.” *Continental Motors, Inc. v. Jewell Aircraft, Inc.*, 882 F. Supp. 2d 1296, 1312 (S.D. Ala. 2012). The decision, however, must be premised on “an individualized, case-by-case determination

based on principles of fairness and convenience.” *Stewart Organization , Inc. v.*

Ricoh Corp., 487 U.S. 22, 29 (1988). Typically, the relevant factors include:

(1) the convenience of the witnesses; (2) the location of relevant documents and the relative ease of access to sources of proof; (3) the convenience of the parties; (4) the locus of operative facts; (5) the availability of process to compel the attendance of unwilling witnesses; (6) the relative means of the parties; (7) a forum’s familiarity with the governing law; (8) the weight accorded a plaintiff’s choice of forum; and (9) trial efficiency and the interests of justice, based on the totality of the circumstances.

Manuel v. Convergys Corp., 430 F.3d 1132, 1141 (11th Cir. 2005). “L’Oréal asserts, however, that “an exhaustive analysis of these factors is unnecessary given the present action and the *Carter* matter are still in their infant pleading stages.”

(Doc. 8-1 at 5, n. 2).

Premised on the information before the Court, the undersigned finds that the parties have demonstrated good cause for a transfer of this matter to the United States District Court for the Southern District of Alabama. The present case seeks certification of a nationwide class of individuals who used “L’Oréal’s products.” The facts and legal claims asserted by the two cases are identical. The cases involve the same product. A failure to transfer this action likely will result in the duplication of efforts by the parties and the courts. This Court also gives appropriate weight to Plaintiff’s decision to support the requested transfer and

consolidation. The Court sees no disadvantage to the parties, witnesses, or the production of documents as a result of transferring this case to the United States District Court for the Southern District of Alabama. To the contrary, a transfer of the case to the Southern District will, as discussed below, permit that Court to decide whether consolidation of the actions further will expedite disposition of these matters and eliminate unnecessary repetition, delay, and confusion. Accordingly, the portion of the motion seeking a transfer to the Southern District of Alabama is due to be granted.

As to the portion of the motion that seeks a consolidation of this case with the *Carter* matter, the Court agrees that “FEDERAL RULE OF CIVIL PROCEDURE 42(a) codifies a district court’s ‘inherent managerial power’ ” to control “ ‘its docket with economy of time and effort for itself, for counsel, and for litigants.’ ” *Young v. City of Augusta, Ga.*, 59 F.3d 1160, 1168 (11th Cir. 1995) (quoting *Hendrix v. Raybestos–Manhattan, Inc.*, 776 F.2d 1492, 1495 (11th Cir. 1985)). “The Rule ‘is permissive and vests a purely discretionary power in the district court.’ ” *Young*, 59 F.3d at 1168 (quoting *In re Air Crash Disaster at Florida Everglades*, 549 F.2d 1006, 1013 (5th Cir. 1977) (citations omitted)). Typically, that decision is left to the discretion of the judge with the first filed case.

Accordingly, while the relevant factors¹ favor consolidation, that decision properly rests with United States District Judge Callie Grenade in the Southern District.

Premised on the foregoing, the Motion to Transfer and Consolidate (doc. 8) is **GRANTED IN PART AND DEFERRED IN PART**.

The Clerk of the Court is to **TRANSFER** this matter to the United States District Court for the Southern District of Alabama for further proceedings.

DONE and ORDERED, this the 30th day of May, 2017.



JOHN E. OTT
Chief United States Magistrate Judge

¹ The relevant factors include the following:

[W]hether the specific risks of prejudice and possible confusion [are] overborne by the risk of inconsistent adjudications of common factual and legal issues, the burden on parties, witnesses and available judicial resources posed by multiple lawsuits, the length of time required to conclude multiple suits as against a single one, and the relative expense to all concerned of the single-trial, multiple-trial alternatives.

Hendrix, 776 F.2d at 1495 (quoting *Arnold v. Eastern Air Lines, Inc.*, 681 F.2d 186, 193 (4th Cir. 1982), *cert. denied*, 460 U.S. 1102, 103 S. Ct. 1801, 76 L. Ed. 2d 366 (1983) and 464 U.S. 1040, 104 S. Ct. 703, 79 L. Ed. 2d 168 (1984).