

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

**CARNELL SMITH,**

**Plaintiff,**

**v.**

**Case No: 6:18-cv-476-Orl-41KRS**

**FIFTH THIRD BANK,**

**Defendant.**

\_\_\_\_\_ /

**ORDER**

THIS CAUSE is before the Court on Defendant's Unopposed Motion to Transfer ("Motion," Doc. 23). Therein, Defendant seeks to transfer this case to the United States District Court for the Southern District of Ohio, Western Division, pursuant to a forum-selection clause contained in the contract between the two parties that forms the basis for this action. The forum-selection clause provides the following:

Customer and User hereby consent to service of process, personal jurisdiction and venue in the state and federal courts in Cincinnati, Ohio and Hamilton County, Ohio, and select such courts as the exclusive forum with respect to any action or proceeding brought to enforce any liability or obligation under these Rules & Regulations [a]pplicable to all Fifth Third Accounts and Cards (excluding Express Banking).

(Deposit Account Rules & Regulations, Doc. 1-1, at 25). A valid forum-selection clause<sup>1</sup> "may be enforced through a motion to transfer under [28 U.S.C.] § 1404(a)." *Atl. Marine Constr. Co. v. U.S. Dist. Court for W. Dist. of Tex.*, 571 U.S. 49, 59 (2013). "When the parties have agreed to a

---

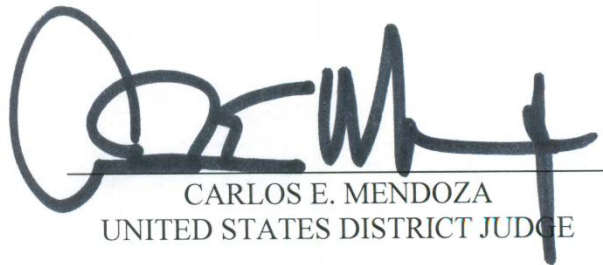
<sup>1</sup> The Court presumes that the forum-selection clause is valid given the presumption that such clauses are valid and the fact that Plaintiff does not contest its enforceability. *See Altobello v. Princess Cruise Lines, Ltd.*, No. 05-60923-Civ-MARRA/SELTZER, 2006 WL 8432183, at \*2–3 (S.D. Fla. Jan. 25, 2006).

valid forum-selection clause, a district court should ordinarily transfer the case to the forum specified in that clause.” *Id.* at 62. “Only under extraordinary circumstances unrelated to the convenience of the parties should a § 1404(a) motion be denied.” *Id.* Additionally, “as the party defying the forum-selection clause, the plaintiff bears the burden of establishing that transfer to the forum for which the parties bargained is unwarranted.” *Id.* at 63. Here, Plaintiff has not demonstrated that such extraordinary circumstances exist, nor does he contest the transfer of this matter. Therefore, Defendant’s Motion will be granted.

Accordingly, is it **ORDERED** and **ADJUDGED** as follows:

1. Defendant’s Unopposed Motion to Transfer (Doc. 23) is **GRANTED**.
2. The Clerk is directed to transfer this case to the United States District Court for the Southern District of Ohio, Western Division. The Clerk is further directed to close this file.

**DONE** and **ORDERED** in Orlando, Florida on July 9, 2018.



CARLOS E. MENDOZA  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record