

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

CIVIL MINUTES - GENERAL

Case No.	2:19-cv-07955-SVW-KS	Date	January 13, 2020
Title	<i>Kiana Horn v. Nuwave, LLC</i>		

Present: The Honorable STEPHEN V. WILSON, U.S. DISTRICT JUDGE

Paul M. Cruz
Deputy Clerk

N/A
Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

N/A

N/A

Proceedings: ORDER GRANTING DEFENDANT’S MOTION TO TRANSFER [26]

On Sept. 13, 2019, Plaintiff Kiana Horn (“Plaintiff”) filed a putative class action in this Court. Dkt. 1. Plaintiff’s lawsuit alleges a variety of defects in ovens manufactured by Defendant Nuwave, LLC (“Defendant”), and asserts a variety of claims under California statutory and common law. Dkt. 1 at 26-33. On Nov. 22, 2019, Defendant filed a motion to transfer venue to the Northern District of Illinois. Dkt. 26. For the reasons articulated below, Defendant’s motion is GRANTED.

First, Plaintiff has filed no opposition to Defendant’s motion. Under Local Rule 7-12, this Court is permitted to deem Plaintiff’s failure to file an opposition to constitute consent to a motion. The Court thus deems Plaintiff’s lack of opposition to indicate consent to the transfer and grants the motion on these grounds.

Defendant’s motion also fulfills the merits requirements for a motion to transfer. Under 28 U.S.C. § 1404(a), a court has discretion to transfer a civil action “for the convenience of parties and witnesses” to another division or district where it could have otherwise been brought. Under the two-step analysis required in the Ninth Circuit for venue transfer under § 1404(a), a Defendant must show that the matter could have been brought in the district requested for transfer (here the Northern District of Illinois) and that transfer would be fair, convenient, or otherwise justified. *See Sussman v. Soleil Mgmt., LLC*, 2018 WL 6265005, at *2 (C.D. Cal. Nov. 16, 2018). Defendant has made a strong showing that these requirements are met— diversity jurisdiction is alleged under 28 U.S.C. § 1332(d) via the Class Action Fairness Act (“CAFA”), which creates subject matter jurisdiction when minimal diversity exists and the amount in controversy exceeds \$5,000,000, as Plaintiffs contend it does. *See* Dkt. 1 at 6-7.

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PMC

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Defendant is also domiciled in Illinois (where it is incorporated and has its principal place of business), creating personal jurisdiction over Defendant in the Northern District of Illinois. Dkt. 26-1. Additionally, separate class action litigation (the “Illinois Case”) against Defendant has been ongoing in the Northern District of Illinois for about a year regarding the same NuWave products, and Defendant asserts that many of the relevant witnesses, marketing, and advertising activities, and potential sources of evidence are located in the Northern District of Illinois. Dkt. 26. The Court is satisfied that a transfer would streamline resolution of this litigation and promote efficiency through potential consolidation. The California-specific causes of action asserted in this case do not alter this analysis, because as Defendant points out, the Illinois lawsuit already contains claims under the laws of Florida, Colorado, Texas, West Virginia, and Ohio, and a federal district court in the Northern District of Illinois is equally competent to adjudicate class claims under California law. Dkt. 26-2 at 21-33.

On this basis, the Court concludes that Defendant has adequately demonstrated that transfer to the Northern District of Illinois is appropriate under 28 U.S.C. § 1404(a), given both Plaintiff’s failure to oppose the motion, and the underlying merits of the motion to transfer. Defendant’s motion to transfer is GRANTED.

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