

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

BRAD A. DAVIS, <i>on behalf of himself</i>	:	Case No. 1:21-cv-782
<i>and a class of others similarly situated,</i>	:	
	:	Judge Timothy S. Black
Plaintiff,	:	
	:	
vs.	:	
	:	
HENKEL CORPORATION, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

ORDER GRANTING TRANSFER

This case is before the Court on the parties’ stipulation to have the case transferred to the United States District Court for the District of Connecticut. (Doc. 6).

On December 16, 2021, Plaintiff Brad Davis filed this putative class action against Defendants the Henkel Corporation and Thriving Brands LLC. (Doc. 1). The gist of the claims is that Defendants manufacture and sell antiperspirant sprays (“affected sprays”) that allegedly contain the harmful chemical benzene. (*Id.* at ¶1). Defendant Henkel Corporation (“Henkel”) is a Connecticut-headquartered company. (*Id.* at ¶12). Henkel is alleged to have manufactured and marketed the affected sprays until June 2021, when Defendant Thriving Brands LLC (“Thriving Brands”) purchased the line of affected sprays. (*Id.* at ¶¶12-13). Thriving Brands is an Ohio-based company. (*Id.* at ¶13).

No fewer than five other actions have been filed against Defendants based on similar allegations. (Doc. 6 at ¶7). One of those cases, *Lazo v. Henkel Corp.*, is pending in the District of Connecticut. (*Id.*; *see also* No. 3:21-cv-1702 (D. Conn. 2021)). By

stipulation, the parties seek a transfer to the District of Connecticut. (Doc. 6). A similar transfer is sought in each of the other cases related to the Affected Sprays. (*Id.* at ¶8.) The parties inform the Court that “[u]pon transfer, the parties will inform the court in *Lazo* that the transferred cases are related cases within the meaning of District of Connecticut Local Rule 40(b)(1)(a).” (*Id.*).

28 U.S.C. §1404 governs transfers of venue in civil cases. Transfers between divisions of a district court may be accomplished “[u]pon motion, consent or stipulation of all parties.” 28 U.S.C. §1404(b) (emphasis added). On the other hand, “a district court may transfer any civil action to any other district or division where it might have been brought or to any district or division to which all parties have consented” for the “convenience of the parties and witnesses” and “in the interests of justice.” 28 U.S.C. §1404(a) (emphasis added).

Thus, reading §1404(a) next to §1404(b), it seems the Court cannot transfer this case to another district based on a stipulation alone. *See Young v. iFinex Inc.*, No. C19-1902JLR, 2020 WL 42248, at *1 (W.D. Wash. Jan. 3, 2020). Instead, it must review the potential transfer in terms of its “convenience to the parties and witnesses” and in “the interests of justice,” as dictated by 28 U.S.C. §1404(a). Upon review of the record, the Court finds a transfer to the District of Connecticut is appropriate and accords with convenience to the parties and the interests of justice.

The transfer would be convenient for the parties and witnesses. The Henkel Corporation is headquartered in Connecticut. The parties do not give any indication where their witnesses are located. However, it is a fair inference that many witnesses

would reside in the Connecticut forum because that is where one of the Defendants is headquartered and because litigation is already pending there.

Consolidating related litigation, as the transfer would seemingly accomplish, is also in the “interests of justice.” 28 U.S.C. §1404(a). “[T]o permit a situation in which two cases involving precisely the same issues are simultaneously pending in different District Courts leads to the wastefulness of time, energy and money.” *Blake v. Family Dollar Stores, Inc.*, No. 2:07cv361, 2007 U.S. Dist. LEXIS 47051, at *3 (S.D. Ohio June 19, 2007) (quoting *Ferens v. John Deere Co.*, 494 U.S. 516, 531 (1990)). It would also create the risk of “inconsistent or overlapping determinations.” *See, e.g., In re Litig. Arising from Termination of Ret. Plan for Emp. of Fireman's Fund Ins. Co.*, 422 F. Supp. 287, 290 (J.P.M.L. 1976). The parties have also stipulated to the transfer. (Doc. 6). The Court finds it would further the interests of justice to give effect to a bargain struck by the parties. *See Atl. Marine Const. Co. v. U.S. Dist. Ct. for W. Dist. of Texas*, 571 U.S. 49, 63 (2013). Accordingly, the Court finds a transfer to the District of Connecticut would be in the interests of justice.

To be clear, the Court does not need to engage on questions of personal jurisdiction. §1404(a) permits the transfer “to any other district or division where it might have been brought or to any district or division to which all parties have consented.” (emphasis added). Additionally, to foreclose any speculation that Defendants would raise jurisdictional issues after consenting to the transfer, the stipulation also states that “Defendants have waived all arguments concerning personal jurisdiction and venue...”

(Doc. 6 at ¶8). The Court is satisfied that all parties have consented to having the case heard in the District of Connecticut.

Accordingly, for these reasons, the parties' request, via stipulation (Doc.6), to transfer this case to the District of Connecticut is **GRANTED**. This case is hereby **TRANSFERRED** to the United States District Court for the District of Connecticut, and the Clerk shall act accordingly.

IT IS SO ORDERED.

Date: 2/2/2022

s/Timothy S. Black
Timothy S. Black
United States District Judge