

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

PRENDA LAW, INC.,

Plaintiff,

v.

**PAUL GODFREAD, ALAN COOPER,
and JOHN DOES 1-10,**

Defendants.

Case No. 13-cv-207-DRH-SCW

ORDER

HERNDON, Chief Judge:

Before the Court is defendants Paul Godfread & Alan Coopers' motion to dismiss for improper venue or, in the alternative, transfer venue to the Northern District, Eastern Division of Illinois (Doc. 7). Defendants filed their motion on March 26, 2013. While plaintiff has since filed numerous motions of its own,¹ it chose not to respond to defendants' instant motion to dismiss for improper venue. Pursuant to LOCAL RULE 7.1(c), the Court deems plaintiff's failure to respond as an admission of the merits of defendants' motion. *See* SDIL-LR 7.1(c).

Defendants seek dismissal for improper venue under FEDERAL RULE OF CIVIL PROCEDURE 12(b)(3). However, as defendants filed a responsive pleading prior to the filing of their 12(b)(3) motion (Doc. 5), defendants seemingly waived their

¹ Most notably, plaintiff has filed a motion to remand (Doc. 12). The Court adopts the reasoning and assertions of defendants' response in opposition to remand (Doc. 24) and accordingly **DENIES** plaintiff's motion to remand (Doc. 12).

ability to bring their arguments in a Rule 12(b)(3) motion. *See* Fed. R. Civ. P. 12(b),(h).² Defendants alternatively seek transfer of this action to the Northern District of Illinois under either 28 U.S.C. §§ 1404(a) or 1406(a).

As stated above, plaintiff has not responded to defendants' instant motion. Thus, the Court deems plaintiff to have admitted that transfer is warranted under either § 1404(a) or § 1406(a). On the basis of defendants' assertions, the Court finds transfer to the Northern District of Illinois is warranted in the "interest of justice." 28 U.S.C. §§ 1404(a), 1406(a). The allegations of the complaint have virtually no connection to this district. Plaintiff's principal place of business is in Chicago, Illinois. The appearing defendants are citizens of Minnesota. Further, a virtually identical, first-filed action is currently pending in the Northern District of Illinois. *See Duffy v. Godfread, et al.*, 13-cv-1569 (N.D. Ill. 2013) (Darrah, J.). Defendants concede venue is proper in the Northern District of Illinois. Accordingly, defendants' motion is **GRANTED** (Doc. 7). Thus, this action is **TRANSFERRED** to the Northern District of Illinois, Eastern Division.

IT IS SO ORDERED.

Signed this 6th day of June, 2013.


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David R. Herndon
Date: 2013.06.06
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**Chief Judge
United States District Court**

² However, the Court notes defendants' answer denies that venue was initially proper in plaintiff's chosen forum; St. Clair County, Illinois.