

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

RONNIE MAURICE STEWART, et al.,

Plaintiffs,

v.

ALEX M. AZAR II, et al.

Defendants.

Civil Action No. 1:18-cv-152 (JEB)

NOTICE REGARDING DEFENDANTS' MOTION TO TRANSFER

The federal defendants have moved to transfer this case to the Eastern District of Kentucky pursuant to 28 U.S.C. § 1404(a), on the ground that considerations of convenience and the interest of justice warrant transfer to that district. *See* Defs.' Mot. Transfer, ECF No. 6; Defs.' Reply, ECF No. 26. We argued that, among other reasons supporting transfer, the Commonwealth of Kentucky's interest in having this localized controversy decided locally should be given dispositive weight. *See e.g.*, ECF No. 6, at 17–21; ECF No. 26, at 2–9. The Commonwealth of Kentucky has now intervened as a co-defendant in this action, underscoring its strong interest in defending the Commonwealth-initiated demonstration project at issue in this case. *See* ECF No. 30, Unopposed Mot. to Intervene by Commonwealth of Kentucky; Min. Order (Mar. 30, 2018) (granting motion). Because the analysis under Section 1404(a) includes consideration of the interests of the parties, and because the Commonwealth has supported the federal defendants' motion to transfer, the federal defendants hereby provide notice to the Court that the

Commonwealth's appearance as a defendant provides further support in favor of transfer of this action.

In the Commonwealth's unopposed motion to intervene, it noted that "[a]lthough Kentucky believes this case should be heard in a Kentucky federal court, as explained in its *amicus curiae* brief in support of the federal government's motion to transfer, the expedited briefing schedule in this case necessitates that Kentucky intervene now to ensure that, if this case remains here, the Commonwealth's defense of its Section 1115 waiver is fully considered." ECF No. 30-1, at 1. Further, the Commonwealth stated that "[l]ike the parties' joint motion for a briefing schedule, this motion to intervene is filed without prejudice to the federal government's motion to transfer." *Id.* at 4.

In considering a motion for transfer under 28 U.S.C. § 1404(a), the Court considers a number of factors, including "the defendant[s'] choice of forum" and "the convenience of the parties." *M & N Plastics, Inc. v. Sebelius*, 997 F. Supp. 2d 19, 23 (D.D.C. 2013) (quotation marks omitted). These factors weigh decidedly in favor of transfer, given the Commonwealth's strong interest in having this case litigated in Kentucky.¹ *See, e.g., Sierra Club v. Flowers*, 276 F. Supp. 2d 62, 71 (D.D.C. 2003) (concluding that "there is a strong local interest in having th[e] action decided in the Southern District of Florida" where parties who moved to intervene in the case were located in Florida).

For these reasons, and for the additional reasons set forth in our briefs supporting our motion to transfer, the federal defendants request that the Court transfer this case to the Eastern District of Kentucky. Moreover, we request that the transfer issue be resolved

¹ The Commonwealth's interests in this litigation, including its arguments in favor of transfer, are detailed in its *amicus curiae* brief filed in support of Defendants' motion to transfer. *See* ECF No. 25 (filed Mar. 5, 2018).

expeditiously, to allow the transferee court to accommodate Plaintiffs' request that the underlying matter be resolved prior to July 1, 2018, *see* ECF No. 27, at 1–2.

Dated: April 4, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

ETHAN P. DAVIS
Deputy Assistant Attorney General

JOEL McELVAIN
Assistant Branch Director
Federal Programs Branch

/s/ Deepthy Kishore
DEEPTHY KISHORE
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W.
Washington, D.C. 20530
(202) 616–4448 (telephone)

Counsel for the Federal Defendants