

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

JOHN FLYNN *et al.*,

Plaintiffs,

v.

THIBODEAUX MASONRY, INC. *et al.*,

Defendants.

Civil Action No.: 02-0710 (RMU)

Document Nos.: 6, 7

**MEMORANDUM ORDER**

**DENYING THE DEFENDANTS' MOTION TO TRANSFER VENUE**

**I. INTRODUCTION**

This matter is before the court on the *pro se* defendants' motion to transfer this action to the U.S. District Court for the Middle District of Louisiana pursuant to 28 U.S.C. § 1404. Defs.' Mot. to Transfer at 1-2. The plaintiffs filed this action pursuant to the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 *et seq.*, to collect pensions from the defendants. The defendants, Thibodeaux Masonry, Inc., Thibodeaux Masonry, and Thomas Thibodeaux (collectively, "Thibodeaux" or "the defendants"), are employers located in Louisiana. Compl. ¶ 1, 5-9. The plaintiffs are the trustees of Bricklayers & Trowel Trades International Pension Fund ("the Fund"), a multi-employer employee benefit plan administered in the District of Columbia. *Id.* ¶ 3. The plaintiffs oppose the defendants' motion to transfer venue, asserting that the court should give deference to the Fund's choice of venue under the ERISA collection statute, 29 U.S.C. § 1132(e)(2). Pls.' Opp'n at 2. For the reasons that follow, the court denies the defendants' motion to transfer venue.

## II. ANALYSIS

### A. Legal Standard for a Motion to Transfer Venue in an ERISA Case

A district court may transfer venue “[f]or the convenience of the parties and witnesses, in the interests of justice.” 28 U.S.C. § 1404(a). A strong presumption exists, however, in favor of the plaintiff’s choice of forum. *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 255-56 (1981). The moving party can overcome this presumption only by demonstrating that private and public factors clearly favor a trial in an alternative forum. *Id.*

In an ERISA case, a defendant seeking a transfer of venue has the additional burden of surmounting ERISA’s special venue provision. 29 U.S.C. § 1132(e)(2); *Flynn v. Daly & Zilch Mason Contractors, Inc.*, No. 00-3027, slip op. at 1-2 (D.D.C. June 6, 2001). This provision states:

[W]here an action under this subchapter is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

29 U.S.C. § 1132(e)(2). By allowing the action to occur in the district where the plan is administered, the special venue provision makes collection efforts efficient, economical, and inexpensive for ERISA Funds. *Int’l B’hood of Painters & Allied Trades Union v. Best Painting & Sandblasting Co.*, 621 F. Supp. 906, 907 (D.D.C. 1985). This result reflects Congress’ intent to protect the financial integrity of such funds. *Id.*; *Dugan v. M&W Dozing & Trucking, Inc.*, 727 F. Supp. 417, 419 (N.D. Ill. 1989). Accordingly, courts give special weight to plaintiffs’ choices of forum in ERISA cases. *John Flynn v. Ravare Masonry, Inc.*, No. 01-1236, slip op. at 1-2 (D.D.C. Jan. 3, 2002); *Joyce v. E. Concrete Paving Co.*, 1996 WL 762323, at \*1 (D.D.C. Sept. 5, 1996).

**B. The Court Denies the Defendants' Motion to Transfer Venue**

The defendants have failed to cite to any legal authority in support of their motion. LCvR 7.1(a) (stating “[e]ach motion shall include or be accompanied by a statement of the specific points of law and authority that support the motion”).

Additionally, the defendants have failed to acknowledge the many cases that interpret the ERISA venue statute and recognize the uniqueness of ERISA delinquency collection actions. *E.g. Flynn*, No. 00-3027, slip op. at 1-2; *Int’l B’hood of Painters & Allied Trades Union*, 621 F. Supp. at 907. Failing to address this law and any related facts, the defendants failed to meet the burden of surmounting ERISA’s special venue provision. *Flynn*, No. 00-3027, at 1-2.

Furthermore, considering that the funds are administered in the District of Columbia and recognizing the case law giving special deference to the plaintiffs’ choice of venue in ERISA cases, the court determines that the District of Columbia is a more suitable forum for the trial of this case than the Middle District of Louisiana. *Id.*; Compl. ¶ 2. Additionally, because the defendants provide the court with no compelling reason to transfer venue and fail to meet their heavy burden to demonstrate that a transfer is warranted, the court denies their motion. *Joyce*, 1996 WL 762323 at \*1.

Accordingly, it is this \_\_\_\_ day of October 2002,

**ORDERED** that the defendants’ motion to transfer venue is **DENIED**.

**SO ORDERED.**

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Ricardo M. Urbina  
United States District Judge

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