UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

ARKEL INTERNATIONAL, L.L.C.

VERSUS

PARSONS GLOBAL SERVICES, INC.

CIVIL ACTION

NUMBER 07-474-FJP-DLD

RULING

This matter is before the Court on the defendant Parsons Global Services, Inc.'s Motion to Dismiss Pursuant to Rule 12(b)(3) of the Federal Rules of Civil Procedure or, in the Alternative, to Transfer Pursuant to 28 U.S.C. § 1404(a).[1] Plaintiff Arkel International, L.L.C. has filed an opposition to the motion.[2] For reasons which follow, the Court denies the defendant's Motion to Dismiss but grants defendant's alternative Motion to Transfer this case to the Central District of California pursuant to 28 U.S.C. § 1404(a).

I. Factual & Procedural Background

Parsons Global Services, Inc. ("Parsons") and Arkel International, L.L.C. ("Arkel") entered into a series of subcontracts to build healthcare centers in Iraq. Each contract was entered into in Iraq for work that was also to take place in Iraq. The parties reached a dispute over the sums owed and due

[1]Rec. Doc. No. 6.

[2]Rec. Doc. No. 8.

under the contracts. Thereafter, Arkel filed this suit in the district court for the Middle District of Louisiana for adjudication of these contractual disputes.

In response to plaintiff's suit, Parsons filed a Motion to Dismiss for improper venue arguing that the contracts between the parties contain a forum selection clause which excludes the Middle District of Louisiana as a proper forum. Parsons also contends the forum selection clause specifically places jurisdiction over a contractual dispute in the Superior Court of the State of California for the County of Los Angeles or arbitration, if mutually agreed to, in Pasadena, California. Parsons also argues this Court lacks personal jurisdiction over it, since it is not authorized to do nor is doing business in the State of Louisiana and has no contacts in or with the State of Louisiana.

Parsons argues in the alternative that if the Court finds that the Middle District of Louisiana is a proper venue for this dispute, then the Court should transfer this case to the Central District of California under 28 U.S.C. § 1404(a), especially in light of the forum selection clause in the parties' contracts.

In its opposition to Parsons' motion, Arkel contends that the forum selection clause at issue is permissive rather than mandatory, thus making the Middle District of Louisiana a proper forum. Arkel also argues that the damages it seeks have a direct effect in Louisiana, the majority of Arkel employees who worked on

the project at issue are in Louisiana, and several of the documents required to prove Arkel's case are maintained in Louisiana. Thus, Arkel argues the Court should deny the motion to transfer under the factors set forth in 28 U.S.C. § 1404(a).

The Court now turns to a discussion of the law and jurisprudence to be applied to the facts of this case.

II. Law and Analysis

As an initial matter, the Court must determine whether 28 U.S.C. § 1404(a) or 28 U.S.C. § 1406(a) controls the resolution of the defendant's motion. Section 1404(a) applies where both the original and requested venue are proper under federal law and provides for transfer of the action. In contrast, Section 1406(a), which was not raised by the defendant but is raised *sua sponte* by the Court, applies only when the original venue is improper and provides for either transfer or dismissal of the suit.[3]

The relevant portions of 28 U.S.C. § 1391(a) and (c), the federal venue statute, provide as follows:

> (a) A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated,

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[3]*The Shaw Group, Inc. v. Natkin & Company*, 907 F.Supp. 201, 203 (M.D. La. 1995).

> or (3) a judicial district in which any defendant is subject to personal jurisdiction at the time the action is commenced, if there is no district in which the action may otherwise be brought.
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> . . . .
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> (c) For purposes of venue under this chapter, a defendant that is a corporation shall be **deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced.** In a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, **such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State**, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.[4]

The Court finds that it is unable to determine from the current record whether the Court has personal jurisdiction over Parsons. Parsons has challenged this Court's personal jurisdiction over it claiming it is not authorized to do business in Louisiana and did not enter into the contracts at issue in Louisiana. The Fifth Circuit has clearly held that, "[a]lthough a single act by the defendant directed at the forum state can be enough to confer personal jurisdiction if that act gives rise to the claim being asserted, entering into a contract with an out-of-state party,

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[4]28 U.S.C. § 1391(a) & (c)(emphasis added).

without more, is not sufficient to establish minimum contacts."[5] In breach of contract cases, a court must evaluate prior negotiations and contemplated future consequences, along with the terms of the contract and the parties' actual course of dealing to determine whether a nonresident defendant purposefully availed itself of the forum so as to confer personal jurisdiction.[6] In its opposition, Arkel did not address the issue of whether the Court has personal jurisdiction over Parsons. Thus, the Court does not have sufficient information before it to determine if it has personal jurisdiction over the defendant. However, the Court also finds that, in any event, the final result of this opinion is unaffected because, if the Court does lack personal jurisdiction over Parsons, it would merely transfer the case under 28 U.S.C. § 1406(a) to the proper forum.[7]

A. Motion to Dismiss for Improper Venue

As noted earlier, Parsons seeks to have the Court dismiss this action under Rule 12(b)(3) of the Federal Rules of Civil Procedure. Parsons contends that the Middle District of Louisiana is an

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[5]*Latshaw v. Johnston*, 167 F.3d 208, 211 (5th Cir. 1999), citing *Ham*, 4 F.3d at 415-16; *Dalton v. R & W Marine, Inc.*, 897 F.2d 1359, 1361 (5th Cir. 1990) and *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 478-79, 105 S.Ct. 2174, 85 L.Ed.2d 528 (1985).

[6]*Id.*, citing *Burger King*, 471 U.S. at 479, 105 S.Ct. 2174.

[7]Thus, whether the Court does or does not have personal jurisdiction over the defendant will not affect the final decision made by the Court on the pending motion.

improper venue for this action based on the forum selection clause agreed to by the parties in the contract at issue. In support of its motion, Parsons relies on *Lim v. Offshore Specialty Fabricators, Inc.* wherein the Fifth Circuit held that "our court has treated a motion to dismiss based on a forum selection clause as properly brought under Rule 12(b)(3). (improper venue)."[8] The *Lim* decision further states: "We have also affirmed, without comment on procedural posture, a district court's granting a Rule 12(b)(3) motion to dismiss based on a forum selection clause.[9] And other circuits agree that a motion to dismiss based on an arbitration or forum selection clause is proper under Rule 12(b)(3)."[10]

It is well-settled in the Fifth Circuit that a forum selection clause requiring exclusive venue in a state or foreign court triggers application of the Supreme Court's *Bremen* test to

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[8]404 F.3d 898, 902, (5th Cir. 2005), citing *Albany Ins. Co. v. Almacenadora Somex, S.A.*, 5 F.3d 907, 909 & n. 3 (5th Cir. 1993).

[9]*Id.*, citing *Mitsui & Co. (USA), Inc. v. MIRA M/V*, 111 F.3d 33, 37 (5th Cir. 1997).

[10]*Id.*, citing *Continental Ins. Co. v. Polish S.S. Co.*, 346 F.3d 281, 282 (2d Cir.)(affirming Rule 12(b)(3) dismissal in favor of foreign arbitration); *Lipcon v. Underwriters at Lloyd's, London*, 148 F.3d 1285, 1290 (11th Cir. 1998), *cert. denied*, 525 U.S. 1093, 119 S.Ct. 851, 142 L.Ed.2d 704 (1999)(motion to dismiss based on forum selection clause in international agreement should be brought under Rule 12(b)(3)); *Argueta v. Banco Mexicano, S.A.*, 87 F.3d 320, 324 (9th Cir. 1996)(Rule 12(b)(3) motion proper method to invoke forum selection clause); *Frietsch v. Refco, Inc.*, 56 F.3d 825, 830 (7th Cir. 1995)(same).

determine if an action should be dismissed.[11] Thus, the Court must determine if the forum selection clause at issue requires an exclusive venue or is permissive in nature in order to determine if dismissal under Rule 12(b)(3) is proper.

It is also well-settled that in diversity cases, motions to transfer venue pursuant to a forum selection clause are analyzed under 28 U.S.C. § 1404(a).[12] Therefore, the Court must determine whether the forum selection clause at issue is mandatory or permissive in order to determine whether dismissal rather than transfer is proper under Rule 12(b)(3).

1. The Forum Selection Clause

The contract between the parties in this matter provides the following in the event of a dispute relating thereto:

> If, within ten (10) business days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, either party may institute suit in the Superior Court of the State of California for the County of Los Angeles, or, if mutually agreed to by the parties, the dispute shall be settled by arbitration in Pasadena, California ...[13]

Based on the above provision, Parsons argues that any disputes

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[11] *Canvas Records, Inc. v. Koch Entertainment Distribution, LLC*, 2007 WL 1239243 (S.D. Tex. Apr. 27, 2007), *4, citing *Int'l Software Systems, Inc. v. Amplicon, Inc.*, 77 F.3d 112, 114-45 (5th Cir. 1996).

[12] *Id.*, citing *Stewart Org., Inc. v. Ricoh Corp.*, 487 U.S. 22, 108 S.Ct. 2239, 2245, 101 L.Ed.2d 22 (1988).

[13] Rec. Doc. No. 7, Exhibit A, p. 9.

arising out of the contract between itself and Arkel are to be litigated in Los Angeles, California, or arbitrated in Pasadena, California. Parsons also contends in its opposition that this forum selection clause is mandatory and not merely suggestive: "The plain reading of the clause makes clear that the parties contemplated *either* a lawsuit in state court in Los Angeles, *or* arbitration in Pasadena. In other words, there are two options and the parties may choose either one ... The clause does not indicate that the parties 'may' do anything else."[14]

In response to Parsons' arguments, Arkel contends that the forum selection clause is: (1) not mandatory but permissive; and (2) the language of the clause does not establish the chosen venue as exclusive. Arkel argues that a permissive forum selection clause authorizes jurisdiction in a designated forum but does not prohibit litigation elsewhere. Arkel notes that the beginning of the clause states that "[e]ither party **may** institute suit in the Superior Court of the State of California...;"[15] thus, a simple reading would require the Court to find that the use of the word "may" implies a permissive interpretation of the clause. Arkel also contends the clause is nothing more than a waiver of the right to object to the jurisdiction of the court in the venue named and nothing in the clause contains language which could be interpreted

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[14]Rec. Doc. No. 7, p. 3 (emphasis in original).

[15]Rec. Doc. No. 8, p.3 (emphasis in original).

as making that forum exclusive. Further, Arkel contends that since the forum selection clause is permissive and not mandatory, the Middle District of Louisiana has jurisdiction over this matter, venue is proper, and the motion to dismiss should be denied.

Arkel argues in the alternative that if the Court finds that the language of the forum selection clause is ambiguous and subject to more than one reasonable interpretation, the Court should construe any ambiguity against the drafter of the contract (Parsons) pursuant to traditional contract interpretation. Thus, Arkel contends that should the Court find the language of the clause ambiguous, it should interpret the clause in Arkel's favor and deny the defendant's motion to dismiss.

2. Applicable Jurisprudence

The Court finds that under the law and facts of this case, the forum selection clause set forth in the contract is permissive rather than mandatory. In *City of New Orleans v. Municipal Administrative Services, Inc.*, the parties had entered into a contract with a forum selection clause which stated that the Contractor "does further hereby consent and yield to the jurisdiction of the State Civil Courts of the Parish of Orleans and does hereby formally waive any pleas of jurisdiction on account of the residence elsewhere of the undersigned Contractor."[16] Based on this clause, the city argued that the defendant consented to

[16]376 F.3d 501, 504 (5th Cir. 2004).

personal jurisdiction in the Louisiana state courts but also waived its right to remove to federal court. The defendant countered that although it did consent to jurisdiction in Louisiana state courts, the clause did not specify those courts as the exclusive venue for lawsuits arising out of the contract, thus not waiving its right of removal.[17]

The Fifth Circuit stated that, "[f]or a contractual clause to prevent a party from exercising its right to removal, the clause must give a 'clear and unequivocal' waiver of that right."[18] The court continued: "A party may waive its rights by explicitly stating that it is doing so, by allowing the other party the right to choose venue, or by establishing an exclusive venue within the contract."[19] The Fifth Circuit further explained:

> A party's consent to jurisdiction in one forum does not necessarily waive its right to have an action heard in another. For a forum selection clause to be exclusive, it must go beyond establishing that a particular forum will have jurisdiction and must clearly demonstrate the parties' intent to make that jurisdiction exclusive. *Keaty v. Freeport Indonesia*, 503 F.2d 955 (5th Cir. 1974). It is important to distinguish between jurisdiction and venue when interpreting such clauses. Although it is not necessary for such a clause to use the word "venue" or "forum," **it must do**

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[17] *Id.*

[18] *Id.*, quoting *McDermott Int'l, Inc. v. Lloyd's Underwriters*, 944 F.2d 1199 (5th Cir. 1991); *Waters v. Browning-Ferris Indus., Inc.*, 252 F.3d 796 (5th Cir. 2001).

[19] *Id.*

> **more than establish that one forum will have jurisdiction.**[20]

In *City of New Orleans*, the court found that the clause at issue gave no indication that the defendant gave the city the exclusive right to choose the venue in which the suit would proceed, stating: "Rather, as in *Keaty*, one jurisdiction is specified, but neither is any other jurisdiction excluded, nor does MAS consent to something so indefinite as the jurisdiction of the city's choosing."[21]

The court then discussed a case where a forum selection clause did contain language held to be exclusive:

> In *City of New Orleans v. Nat'l Serv. Cleaning Corp.* [citation omitted], the city included the following clause in its contract: "The contractor hereby consents to and stipulates to the personal jurisdiction and venue of the Civil District Court for the Parish of Orleans, Louisiana in any litigation brought under this Article." The court noted the clarity of the clause in specifying that the contractor 'consents' and 'stipulates' to 'personal jurisdiction' and 'venue.' Here, by contract, the clause evinces conclusively no more than that MAS consented to jurisdiction and agreed not to raise pleas to jurisdiction.
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> As the district court noted, the clause is, at the very least, susceptible to more than one reasonable interpretation. This ambiguity must be construed against the city as drafter. The very presence of ambiguity indicates that the clause does not contain a "clear and unambiguous" waiver of removal rights and is

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[20] *Id.* (emphasis addded).

[21] *Id.* at 505.

> therefore ineffective as a waiver. The city's motion to remand was properly denied.[22]

The Fifth Circuit's decision in *Caldas & Sons, Inc. v. Willingham* is also relevant to the issue pending before this Court.[23] *Willingham* involved a contract dispute between purchasers of agricultural property and the vendor regarding resale of the property to the purchaser at a significantly greater price than originally paid. After the plaintiff filed suit, the defendants moved to dismiss based on a forum selection clause in one of the contracts. The motions alleged lack of jurisdiction, both personal and subject matter, as well as improper venue. The district court treated these as motions for summary judgment since it looked to matters beyond the pleadings, and held that the court "was not compelled by the mere presence of such a clause to dismiss the case."[24] The clause at issue provided in one sentence that "'[t]he laws and courts of Zurich are applicable.'"[25] The district court specifically held "the clause's language 'sufficiently vague to render [it] ambiguous' as to the parties' intent."[26] Accordingly, the court interpreted the clause against the drafter and refused to

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[22] *Id.* at 505-06.

[23] 17 F.3d 123 (5th Cir. 1994).

[24] *Id.* at 126.

[25] *Id.* at 127.

[26] *Id.* at 126.

dismiss the case based on the forum selection clause.[27]

In the alternative, the district court found that even if the clause was not ambiguous, "it was clearly permissive rather than mandatory" because it "merely evidenced the consent of the parties to the jurisdiction of the Zurich courts."[28] The court also stated that, "[i]n other words, regardless of the parties' agreement that disputes could be litigated in Zurich, nothing in the contract mandated Zurich as the exclusive forum."[29]

On appeal, the defendants contended that the clause mandated Zurich as the exclusive forum for the adjudication of disputes arising out of the contract. Plaintiffs countered that the clause was permissive only and disputes may be litigated in any court where jurisdiction and venue are proper. The Fifth Circuit noted that the defendants relied on the *Bremen* analysis, but such analysis addressed a mandatory forum selection clause rather than a permissive clause. As such, the Fifth Circuit stated:

> We need not here consider enforceability of a mandatory forum selection clause, however. In *Keaty v. Freeport Indonesia, Inc.*, 503 F.2d 955 (5th Cir. 1974), we found that a forum selection clause fell short of being mandatory and reversed the district court's dismissal for want of jurisdiction. *Keaty*, 503 F.2d at 957. Accordingly, before determining whether a forum selection clause is mandatory and thus

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[27] *Id.*

[28] *Id.*

[29] *Id.*

> enforceable under the *M/S Bremen* line of cases, we must determine whether we are here presented with a mandatory forum selection clause or merely a permissive one.[30]

The court restated that the clause at issue used the language "shall be applicable" in reference to the Zurich courts. However, the court continued, "[e]ven though the clause now before us uses 'shall,' which is generally mandatory, this clause need not necessarily be classified as mandatory. In *Keaty*, we held that, despite the presence of the word 'shall,' the clause was permissive."[31] Relying on *Keaty* and other jurisprudence, the Fifth Circuit found that "the only thing certain about the clause" contained in the parties' contract was "that the parties consented to the personal jurisdiction of the Zurich courts. Beyond that, however, the language does not clearly indicate that the parties intended to declare Zurich to be the exclusive forum for the adjudication of disputes arising out of the contract."[32]

The court further distinguished the *M/S Bremen* holding, stating as follows:

> The forum selection clause before the Supreme Court in *M/S Bremen* specified that "[a]ny dispute arising must be treated before the London Court of Justice." *M/S Bremen*, 407 U.S. at 2, 92 S.Ct. at 1909. The language of the clause hee at issue is not nearly as

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[30] *Id.* at 127.

[31] *Id.*

[32] *Id.* at 128.

> clear, unequivocal and mandatory as that presented to the Supreme Court. In light of such ambiguity and our own precedents, the language is properly construed against Corim as a permissive forum selection clause. Thus the district court did not err in retaining jurisdiction.[33]

Applying the clear precedents from the Fifth Circuit discussed above to the facts of this case, this Court finds that the forum selection clause between the parties in the case is permissive rather than mandatory for several reasons. First, the clause uses the word "may" rather than "shall," which suggests a more permissive reading. Second, even the use of "shall" would not have rendered such a clause mandatory in light of *Keaty* and *Willingham* as discussed above. Also, the clause at issue specifies a particular jurisdiction, but does nothing to exclude any other potential jurisdictions. Finally, based on the above jurisprudence, any ambiguity as to the permissive versus mandatory nature of the language of the forum selection clause must be interpreted against the drafter which in this case was Parsons. Thus, the Court finds that the forum selection clause between Arkel and Parsons is permissive and not mandatory. Accordingly, dismissal is not warranted and the *M/S Bremen* analysis does not apply under the facts of this case.

B. Alternative Motion to Transfer

Parsons has moved in the alternative to transfer this case

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[33] *Id.*

pursuant to 28 U.S.C. § 1404(a) based on the forum selection clause in the parties' contract. The Court has already held that the forum selection clause is permissive rather than mandatory, but this holding does not render the forum selection clause unenforceable or irrelevant.

In deciding this motion to transfer, the Court must apply the provisions of 28 U.S.C. § 1404 since venue is proper in both the original and requested venue under federal law.[34] Section 1404(a) provides: "For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." In *Berg v. Sage Environmental Consulting of Austin, Inc.*,[35] a case involving a dispute between a former employee and employer regarding compensation due under an employment contract, this Court noted that it had "exhaustively set forth the law to be applied in a forum selection clause case in *The Shaw Group v. Natkin & Company*.[36] In *Shaw*, the Court relied heavily on the U.S. Supreme Court's decision in *Stewart Organization, Inc. v. Ricoh*

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[34]The Court notes its previous discussion questioning whether it has personal jurisdiction over Parsons; however, since the end result is the same, the Court will assume for purposes of determining the Motion to Transfer under Section 1404 (a) that venue is proper and personal jurisdiction is also present.

[35]*Berg v. Sage Environmental Consulting of Austin, Inc.*, 381 F.Supp.2d 552 (M.D. La. 2005).

[36]907 F.Supp. 201 (M.D. La. 1995).

Corp.[37] and summarized the applicable standard as follows:"

> In *Stewart Organization, Inc. v. Ricoh Corp.*, the United States Supreme Court held that federal law, specifically section 1404(a), governed the district court's decision to transfer a diversity action to the venue provided for in the contract's forum selection clause. In addition, the Court recognized that section 1404(a) endows district courts with discretion to decide motions to transfer on an individualized, case-by-case basis, in accordance with the standards established by that section. Such standards include "the convenience of the witnesses and those public-interest factors of systemic integrity and fairness that, in addition to private concerns, come under the heading of 'the interest of justice.'"
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> Thus, within the framework of a section 1404(a) analysis, the forum selection clause evidences the parties' preference regarding a convenient forum. Although such clauses are not dispositive, the *Stewart* court noted that **their presence in a contract is a "significant factor that [should figure] centrally in the district court's calculus" of the above mentioned case-specific factors.**[38]

Thus, the Supreme Court clearly indicated that a forum selection clause should be a significant factor in the district court's determination of a motion to transfer venue under section 1404(a).[39]

In *Berg*, this Court applied the *Stewart* factors and concluded, after reviewing the entire case record, that "the forum selection

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[37]487 U.S. 22, 108 S.Ct. 2239, 101 L.Ed.2d 22 (1988).

[38]*Berg*, 381 F.Supp.2d at 556 (internal citations omitted)(emphasis added).

[39]*Id.* at 556-57.

clause, while not controlling, is the most dispositive factor in the Court's decision to transfer because no other factors weighed in favor of the cases remaining in Louisiana."[40] The Court found that the witnesses and documents involved could be easily available in both forums. The Court also held in *Berg* that "[b]oth the plaintiff and those parties who represent the defendant are experienced and sophisticated business people. Venue mandated by a choice of forum clause should be given controlling weight in all but the most exceptional circumstances. No such exceptional circumstances are involved in this case."[41]

Most recently, the Fifth Circuit rendered a decision on precisely this same issue in *In re Volkswagen of America, Inc.*[42] The Court clarified the proper analysis considering a motion to transfer under 28 U.S.C. §1404(a):

> The private interest factors are: "(1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; and (4) all other practical problems that make trial of a case easy, expeditious and inexpensive." *In re Volkswagen I*, 371 F.3d at 203 (citing *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 n. 6 (1981)). The public interest factors are: "(1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized

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[40] *Id.* at 557.

[41] *Id.* at 558.

[42] ___ F.3d ___, 2007 WL 3088142 (5th Cir. Oct. 24, 2007).

> interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflict of laws or in the application of foreign law." *Id.*[43]

The Court finds that the presence of the forum selection clause in the contracts between Arkel and Parsons, while permissive rather than mandatory, should be considered as the "significant" factor under the precedents discussed above. Further, since the parties contractually agreed that California law governs this case, the transfer of this case to a California court would satisfy public interest factors (3) and (4) under *Volkswagen*. The Court also finds that the private interest factors favor transfer since the Court does not believe a company such as Arkel, which routinely does business in the State of California, would be materially inconvenienced by litigating this case in that state. This is especially true considering Arkel: (1) contracted with a company headquartered in California; (2) agreed to submit itself to the jurisdiction and venue of California courts; and, (3) agreed that California law would govern the contract. In addition, the Court notes as it did in *Shaw* that, "[a]lthough federal courts ordinarily accord a plaintiff's forum choice considerable weight, the presence of a forum selection clause mandates a different analysis."[44] Considering all of the requisite transfer factors, the Court finds

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[43] *Id.*, at *3.

[44] *Shaw Group*, 907 F.Supp. at 205.

that it is in the interest of justice and judicial economy to transfer this case to the United States District Court for the Central District of California, a venue wherein this suit could have been brought originally. The facts of this case when considered with the applicable jurisprudence clearly support the Court's finding that a transfer of the case to the Central District of California is reasonable, proper, and justified.

III. Conclusion

For the reasons set forth above, the defendant's motion is granted in part and denied in part. Parsons' Motion to Dismiss is denied; however, Parsons' alternative Motion to Transfer this case to the United States District Court for the Central District of California pursuant to 28 U.S.C. § 1404(a) is granted. The Clerk of Court shall immediately transfer this case to the United States District Court for the Central District of California.

IT IS SO ORDERED.

Baton Rouge, Louisiana, January 8, 2008.

FRANK J. POLOZOLA
MIDDLE DISTRICT OF LOUISIANA