

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

SINGH, ET AL.

PLAINTIFFS

v.

CAUSE NO. 1:13CV393LG-JMR

SIGNAL INT'L, LLC, ET AL.

DEFENDANTS

**ORDER TRANSFERRING CASE TO THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF LOUISIANA**

BEFORE THE COURT is the Motion [10] for Transfer and to partially dismiss filed by Signal International, Inc. and Signal International, LLC (“Signal”). Signal argues that this case should be transferred to the United States District Court for the Eastern District of Louisiana, where a substantially similar case was first filed and is pending. The Motion is opposed by the plaintiffs, who argue that the parties and issues in the cases neither completely nor substantially overlap. After due consideration, the Court concludes that this case should be transferred to the United States District Court for the Eastern District of Louisiana. Accordingly, the Motion to transfer will be granted. The Court declines to rule on any remaining motions, leaving them for determination by the transferee court.

BACKGROUND

Signal seeks transfer of this case to the Eastern District of Louisiana, arguing that this case is closely related to a similar lawsuit filed in the Eastern District of Louisiana in March 2008, *David, et al. v. Signal, et al.*, No. 2:08-CV-1220-JCZ-DEK (“*David*”). Signal submits that under the “first filed” rule, this case

should be transferred so that the issues it presents can be resolved with *David*. The Court has previously transferred four cases to the Eastern District of Louisiana on this basis.¹

The Eastern District of Louisiana district judge summarized the *David* plaintiffs' claims as alleging a scheme to lure foreign workers to work for Signal in Mississippi and Texas with the promise of permanent residence in the United States. Once in the United States, the *David* plaintiffs alleged they were subjected to discrimination and adverse working and living conditions. The plaintiffs allege that the recruitment defendants obtained millions of dollars in fees and Signal obtained workers for a lesser cost than if it hired American workers. *David*, Order & Reasons at 4, Jan. 4, 2012 (denying motion to certify class).

Signal is one of twelve defendants in *David*.² The plaintiffs in *David* are a number of Indian nationals who were Signal employees. Their Third Amended Complaint asserts violations of the Racketeer Influenced and Corrupt Organizations Act (RICO), the Victims of Trafficking and Violence Protection Act

¹ *Achari v. Signal*, No 1:13cv222-LG-JMR; *Chakkiyattl v. Signal*, No. 1:13cv318-LG-JMR, *Krishnakutty v. Signal*, No. 1:13cv319-LG-JMR, and *Devassy v. Signal*, 1:13cv327-HSO-RHW.

² The *David* Defendants are: Signal International L.L.C; Malvern C. Burnett; Gulf Coast Immigration Law Center, L.L.C.; Law Offices of Malvern C. Burnett, A.P.C.; Indo-Ameri Soft L.L.C.; Kurella Rao; J & M Associates, Inc. of Mississippi; Billy R. Wilks; J & M Marine & Industrial, L.L.C.; Global Resources, Inc.; Michael Pol; Sachin Dewan; and Dewan Consultants Pvt. Ltd. (a/k/a MedTech Consultants). Signal has also filed claims against a third-party defendant, Zito Companies, LLC.

(TVPA), 42 U.S.C. § 1981, 42 U.S.C. § 1985, the Fair Labor Standards Act (FLSA), and claims of fraud/negligent misrepresentation, and breach of contract. Several plaintiffs also bring individual claims of retaliation under § 1981 and § 1985, and claims of false imprisonment, assault, battery, and infliction of emotional distress.

The plaintiffs in this case are three Indian nationals, and they were previously among the plaintiffs in the *David* case who sought to be certified as a class. After class certification was denied by the Louisiana district court, they filed complaints in this Court, but they also remain among the plaintiffs in the collective Fair Labor Standards Act claim in *David*. They allege in this case that Signal, through recruiters, lured them to the United States to work in deplorable, discriminatory conditions with the promise of permanent U.S. residency. (Compl. 1-5, ECF No. 1). They assert claims of violation of the TVPA, 42 U.S.C. § 1981, fraudulent misrepresentation, negligent misrepresentation, and breach of contract. The defendants are Signal, Global Resources, Inc., Malvern C. Burnett, Law Offices of Malvern Burnett, APC, Gulf Coast Immigration Law Center, LLC, Dewan Consultants Pvt. Ltd. (a/k/a Medtech Consultants), and Sachin Dewan.

DISCUSSION

The “first to file” rule permits a district court to decline jurisdiction over an action when it involves the same parties and issues as a previously-filed action in another court. When related cases are pending before two federal courts, the court in which the case was last filed may dismiss or transfer the case if it involves substantially similar issues which can be resolved in the earlier-filed action. *See W.*

Gulf Mar. Ass'n v. ILA Deep Sea Local 24, 751 F.2d 721, 728-29 (5th Cir. 1985) and *Save Power Ltd. v. Syntek Fin. Corp.*, 121 F.3d 947, 950 (5th Cir. 1997). “The concern manifestly is to avoid the waste of duplication, to avoid rulings which may trench upon the authority of sister courts, and to avoid piecemeal resolution of issues that call for a uniform result.” *W. Gulf Mar. Ass'n*, 751 F.2d at 728.

The Court's inquiry is focused on whether the cases substantially overlap, but where the overlap is “less than complete, the judgment is made case by case, based on such factors as the extent of overlap, the likelihood of conflict, the comparative advantage and the interest of each forum in resolving the dispute.” *Save Power Ltd.*, 121 F.3d at 951. The first-to-file rule is a discretionary doctrine. *Cadle Co. v. Whataburger of Alice, Inc.*, 174 F.3d 599, 603 (5th Cir. 1999) (citing *Kerotest Mfg. Co. v. C-O-Two Fire Equip. Co.*, 342 U.S. 180, 183-84 (1952)). It is not a rigid or inflexible rule to be mechanically applied. *Mann Mfg., Inc. v. Hortex, Inc.*, 439 F.2d 403, 407 (5th Cir. 1971). The decision of whether to apply the first-to-file rule involves determinations concerning “[w]ise judicial administration, giving regard to conservation of judicial resources and comprehensive disposition of litigation.” *Kerotest*, 342 U.S. at 183.

In support of its motion, Signal asserts that there are no differences between this case and the four cases this Court transferred earlier to the Eastern District of Louisiana in *Achari v. Signal Int'l, LLC*, No. 1:13cv222-LG-JMR, 2013 WL 5705660 (Oct. 18, 2013).

In response, the plaintiffs argue that the Court's earlier decision in *Achari* does not compel the same decision in this case, because any decision must be made on a "case by case" basis when the overlap is less than complete. Plaintiffs urge the Court to decide this issue consistently with a district court in the Eastern District of Texas, which denied transfer to the Eastern District of Louisiana in two cases brought by former Signal employees who had been denied class certification but remained as FLSA plaintiffs in *David*. In both *Samuel v. Signal Int'l, LLC*, No. 1:13-cv-323 (E. D. Tex. Dec 2, 2013) and *Joseph v. Signal Int'l LLC*, No 1:13cv324 (E.D. Tex. Feb. 11, 2014), the court found there was not a substantial overlap of the claims between the *David* litigation and the cases that had been filed in the Eastern District of Texas, and with the exception of the plaintiffs' FLSA claims in *David*, none of the *Samuel*, *Joseph* and *David* plaintiffs overlapped.

Nevertheless, this Court finds that there is substantial overlap of parties and issues such that this case should be decided by the *David* court. The fact that the plaintiffs are no longer parties to all of the claims in the *David* case does not negate the presence of many defendants in common. All of the defendants in this case are also named in *David*.

Further, the issues are almost identical. In the two cases, the plaintiffs allege a human trafficking scheme that induced them to emigrate from India with the unfulfilled promise of permanent United States residency, and the imposition of adverse working and living conditions. All of the theories of recovery in this case

are also presented in the *David* case. The *David* plaintiffs allege the same human trafficking, the same unfulfilled promises, and the same deplorable working conditions. There is a possibility of inconsistent judgments on the same subject matter if these three former employees proceed with their claims here, while their former co-employees pursue the same claims in *David*. “And even if the possibility of incompatible judgments were ignored, there remains the unavoidable duplication of effort in having separate courts work to arrive at the same decision.” *White v. Peco Foods, Inc.*, 546 F. Supp. 2d 339, 343 (S.D. Miss. 2008).

For these reasons, the Court finds that transfer to the United States District Court for the Eastern District of Louisiana is appropriate.

IT IS THEREFORE ORDERED AND ADJUDGED that the Motion [10] to Transfer Pursuant to First-Filed Rule filed by Signal International, LLC, is **GRANTED**. The above-captioned consolidated case is **TRANSFERRED** to the United States District Court for the Eastern District of Louisiana.

SO ORDERED AND ADJUDGED this the 31st day of March, 2014.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE