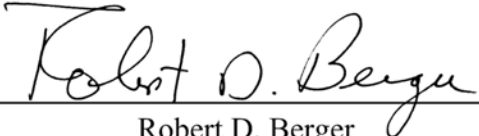


The relief described hereinbelow is **SO ORDERED**.

SIGNED this 1st day of March, 2024.




Robert D. Berger
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF KANSAS**

In re:

SEAN KRISTIAN TARPENNING,

Debtor.

Case No. 23-21455

Chapter 7

ORDER DENYING MOTION TO TRANSFER VENUE

This matter comes before the Court on debtor Sean Tarpenning's *pro se* motion to transfer venue of this case to the Central District of California, the District of Delaware, or the Southern District of Ohio under 28 U.S.C. § 1412.¹

¹ ECF 143 (motion). Under § 1412, “[a] district court may transfer a case or proceeding under title 11 to a district court for another district, in the interest of justice or for the convenience of the parties.” Venue transfer is a core proceeding under 28 U.S.C. § 157(b)(2)(A).

Citing a December 7, 2023 order from the United States Bankruptcy Court for the Southern District of Ohio transferring this case to the District of Kansas pursuant to the same statute, the trustees for the Chapter 7 bankruptcy estates of US Real Estate Equity Builder LLC (Case No. 20-21358), US Real Estate Equity Builder Dayton LLC (Case No. 20-21359) and 1 Big Red LLC (Case No. 21-20044) object to Tarpenning’s motion, arguing that this case ought to remain in the District of Kansas under the law-of-the-case doctrine.²

“As most commonly defined, the doctrine [of the law of the case] posits that when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.” *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 815-16 (1988) (alteration in original) (citation omitted). “[T]he policies supporting the doctrine apply with even greater force to transfer decisions than to decisions of substantive law; transferee courts that feel entirely free to revisit transfer decisions of a coordinate court threaten to send litigants into a vicious circle of litigation.” *Id.* at 816 (citations omitted). Here, the United States Bankruptcy Court for the Southern District of Ohio transferred this case to the District of Kansas under 28 U.S.C. § 1412 as “both . . . more convenient and in the interests of justice for all of the parties in interest.”³ The law-of-the-case doctrine thus prevents this Court from transferring the case back to the Southern

² ECF 161 (citing order docketed at ECF 94). The trustees for the Chapter 7 estates of USREEB, USREEB Dayton, and 1 Big Red appear by attorney Eric Johnson. The Court held a hearing on the motion for venue transfer on February 22, 2024.

³ ECF 94 at 7.

District of Ohio. However, because the Ohio bankruptcy court was never asked to consider whether the Central District of California or the District of Delaware would be preferable to the District of Kansas for purposes of § 1412,⁴ there is no law of the case as to that question.

This Court must therefore decide whether it would be “in the interest of justice or for the convenience of the parties” to transfer this case to the Central District of California or the District of Delaware under 28 U.S.C. § 1412.

Tarpenning says nothing in particular about either venue, instead arguing that the case should be transferred out of the District of Kansas due to the “misconduct,” “harassment,” “collusion,” and “systemic bias” of and by the so-called “Kansas City Bankruptcy Mafia.”⁵ (At the February 22, 2024 hearing on the motion, he also cited “retaliation,” “cronyism,” “back-scratching,” and “conflicts of interest.”) However, those allegations are conclusory, not factual—and conclusory allegations must be disregarded in determining whether a pleading states a claim for relief.⁶ Because Tarpenning has not alleged enough *facts* (as opposed to conclusions) to render it plausible that it would be more convenient for the parties, or in the interests of

⁴ See ECF 94 at 6 (observing that “none of the parties, including the Debtor, have suggested any other specific venue”).

⁵ ECF 143.

⁶ See *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009) (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555-56 (2007)). Although Fed. R. Civ. P. 12(b)(6) and *Twombly/Iqbal* do not automatically apply to a contested matter, Fed. R. Bankr. P. 9014 authorizes their application. See Fed. R. Bankr. P. 9014(c) (“The court may at any stage in a particular matter direct that one or more of the other rules in Part VII shall apply.”); Fed. R. Bankr. P. 7012(b) (“Rule 12(b)–(i) F.R.Civ.P. applies in adversary proceedings.”).

justice, to transfer this case to the Central District of California or the District of Delaware, his motion for venue transfer is hereby denied.⁷

IT IS SO ORDERED.

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⁷ Tarpenning is also cautioned that his submissions to the Court are governed by Fed. R. Bankr. P. 9011.