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7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

8 MARLE CORDEIRO

9 Plaintiff,

10 v.

11 MICHAEL POSTLE

12 Defendant.
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Case No. 2:20-cv-640-JCM-EJY

**OPPOSITION TO MOTION TO
DISMISS**

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18 **Statutes**

19 28 U.S.C. § 1404..... 13

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1 Comes now Marle Cordeiro (“Ms. Cordeiro” or the “Plaintiff”), by and through
2 undersigned counsel, and in opposition to the motion to dismiss (the “Motion,” as found at DE
3 #10) her complaint (the “Complaint,” as found at DE #1) herein, states as follows:

4 **I. Introduction**

5 The Defendant systematically cheated a broadcast poker game in Sacramento for more
6 than a year, fraudulently luring professional poker players from throughout Nevada to come lose
7 their money to him and be swindled by him. It was reasonably foreseeable that a fraud on the
8 professional poker community, operated miles from the Nevada state line, would encompass
9 myriad victims within Nevada. Much of the fraud perpetrated upon these victims – including Ms.
10 Cordeiro – occurred in Nevada. Now sued in Nevada by one such victim, the Defendants protests
11 he is not properly subject to the jurisdiction of this Honorable Court or, alternatively, this is an
12 inconvenient forum.
13

14 As discussed in greater detail *infra*, the Defendant is properly subject to the jurisdiction
15 of the State of Nevada: by purposefully directing an intentional tort at persons situated within
16 Nevada, be properly brought himself within the state’s jurisdiction under governing precedent.
17 Moreover, this Honorable Court is an appropriate and convenient forum for this litigation as the
18 majority of witnesses herein are actually resident within Nevada, and all but a *de minimis* number
19 of the non-Nevada witnesses can more easily travel to Las Vegas than to Sacramento.
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21 For these reasons, and as extrapolated upon below, the Motion merits denial. However, to
22 the extent this Honorable Court believes there to be any ambiguity or infirmity on the
23 jurisdictional inquiry, Ms. Cordeiro respectfully requests leave to take jurisdictional discovery.
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1 **II. Summary of Salient Allegations**

2 The Defendant herein cheated in broadcast poker games from July 18, 2018 through
3 September 21, 2019, when his activity was halted due to its public revelation. *See* Complaint,
4 *passim*. These games were aired “live” on the internet to a community of poker viewers. *Id.* at ¶¶
5 6-9, 12, 46. The Defendant cheated through manipulation of the radio-frequency identification
6 technology used to air the poker games, with the aid of a confederate. *Id.* at ¶¶ 26-29, *passim*.
7 Specifically, the Defendant cheated by gaining knowledge of his opponents’ “hole cards” so as
8 to play the subject games of poker with the advantage of omniscience. *Id.*

9 Ms. Cordeiro was one of the viewers who became familiar with these broadcasts, from
10 her home in Nevada. *Id.* at ¶ 46. A significant part of the broadcasts she consumed consisted of
11 fraudulent fodder aimed at making the Defendant appear to be an honest and gifted poker player.
12 *Id.* at ¶¶ 15-16.

13 Believing these poker games to be fair and honest, and falling for the Defendant’s dupe,
14 Ms. Cordeiro traveled from her home in Nevada to California to partake in one such game with
15 the Defendant. *Id.* at ¶¶ 47-49.

16 Ms. Cordeiro suffered damages in the form of her travel from Nevada to California on the
17 fraudulent pretense of such being to partake in an honest poker game. *Id.* at ¶ 83. A significant
18 part of the fraud at issue herein was perpetrated upon Ms. Cordeiro in the State of Nevada, as it
19 is there that she consumed broadcasts of the fraudulent play of the Defendant and the fraudulent
20 representations of the at-issue poker game being honest. *Id.* She ultimately traveled to California,
21 based on these fraudulent representations, where she suffered additional damages in the form of
22 being swindled in the game itself. *Id.* at ¶¶ 83-85.

1 III. Response to Forum Shopping Allegation

2 The Motion argues Ms. Cordeiro's maintenance of this case in Nevada is "a blatant
3 attempt to forum shop." Motion 2:11. In light of this allegation, some explanation and context is
4 warranted, as Ms. Cordeiro's decision to bring suit in her home state is most certainly not an act
5 of forum shopping.

6 As an initial matter, bringing suit in one's home district is antithetical to forum shopping.
7
8 *See, e.g., Gass v. Marriott Hotel Services, Inc.*, 558 F.3d 419, 425 (6th Cir. 2009) ("[t]here is no
9 forum-shopping concern when the forum is also the plaintiff's state of citizenship") (quoting
10 *Olmstead v. Anderson*, 400 N.W.2d 292, 303 (Mich. 1987)); *Lee v. Walworth Valve Co.*, 482 F.2d
11 297, 300 (4th Cir. 1973) ("In this case there is no taint of forum shopping. It was natural for the
12 plaintiff to prefer courts in her home state, and South Carolina, as we have seen, does have an
13 interest in the controversy."); *Shaw Family Archives, Ltd. v. CMG Worldwide, Inc.*, 434 F. Supp.
14 2d 203, 210 (S.D. N.Y. 2006) ("...it is not forum-shopping for the Indiana plaintiffs to have
15 availed themselves of their home state..."); *Kash 'n Gold, Ltd. v. ATSPI, Inc.*, 690 F. Supp. 1160,
16 1164 (E.D. N.Y. 1988) ("there is no evidence that ATSPI was forum shopping in selecting its
17 home district for litigation"); *Law Sch. Admission Council, Inc. v. Tatro*, 153 F. Supp. 3d 714,
18 727 (E.D. Pa. 2015) ("Having filed in his home California, Judge Klausner's court is more
19 convenient for him. We cannot find bad faith or forum shopping motivated Tatro."); *Century*
20 *Furniture, LLC v. C & C Imports, Inc.*, 2007 WL 2712955, at *3 (W.D. N.C. 2007) ("the forum-
21 shopping exception does not appear to come into play, inasmuch as it cannot be surmised that
22 defendant herein engaged in any forum shopping when it filed in its home district"); *Church v.*
23 *California Dep't of Managed Health Care*, 2016 WL 11621588, at *3 (S.D. Cal. 2016)
24 ("Moreover, the fact that Plaintiff filed the present action in its home forum weighs against an
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1 inference of forum shopping”) (citing *Parker v. FedEx Nat., Inc.*, 2010 WL 5113809, at *3 (E.D.
2 Cal. 2010) *Peregrine Semiconductor Corp. v. RF Micro Devices, Inc.*, 2012 WL 2068728, at *4
3 (S.D. Cal. 2012)); *Rose Stone Enterprises v. Altaire Pharm., Inc.*, 2013 WL 12205181, at *3 (C.D.
4 Cal. 2013) (“Rose Stone’s contentions about forum-shopping are similarly unpersuasive. Altaire
5 filed the New York action in its home state, not in an unrelated forum”).

6
7 All parties acknowledge the Defendant was previously sued by numerous individuals – of
8 which Ms. Cordeiro is not, and never has been, one – in the Eastern District of California. When
9 this suit was filed, Ms. Cordeiro identified that proceeding as a related case. *See* DE #3. When
10 the Defendant was subsequently excused from that suit (which is presently ongoing against other
11 parties) on technical grounds related to California’s law governing the collection of gaming-
12 related obligations, Ms. Cordeiro promptly notified this Honorable Court and went so far as to
13 file in this case a copy of the California court’s memorandum opinion. *See* DE #9.

14
15 The Defendant suggests Ms. Cordeiro, who opted not to join the larger case but, rather,
16 bring her own suit, elected this forum “[k]nowing that she was drawing dead in California.”
17 Motion at 2:6. This is an odd – and objectively inaccurate – assertion.

18
19 When this suit was filed on April 4, 2020, the plaintiffs in the California action had filed
20 an amended complaint less than two weeks prior. *See Brill, et al. v. Postle, et al.*, Case No. 2:19-
21 cv-02027-WBS-AC (E.D. Cal. 2019), at DE #40. The Defendant would not move to dismiss that
22 amended pleading until four days *after* this suit was brought. *Id.* at DE #50. None of the arguments
23 set forth in the Defendant’s motion to dismiss (or one he filed previously aimed at the original
24 complaint in that case) would actually serve to ultimately excuse him from the case; it was a
25 combination of arguments made by his co-defendants, and brought about by the court’s own
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1 initiative, that invited his ultimate dismissal.¹ (There is a noted irony that the Defendant’s co-
2 defendants made arguments in favor of dismissal which did not ultimately serve to excuse them
3 from the case but which, vicariously, excused the Defendant from that case.)

4 After Ms. Cordeiro filed this suit, the plaintiffs’ counsel in the California litigation (who
5 is undersigned counsel) filed a 56-page opposition brief addressing, *inter alia*, the question of
6 whether gaming-related obligations are justiciable under California law. *Id.* at DE #56. Thereafter,
7 extensive oral argument was heard in that case. The judge in that matter then issued a 24-page
8 opinion addressing these issues. *See* DE #9 (herein). And, to be clear, this all happened *after* this
9 suit was filed.
10

11 In fact, the only reason the Defendant was excused from the California suit before his
12 motion to dismiss came due in this case is because he meticulously evaded service of process
13 herein. *See* DE #6 (Motion for Alternative Service); DE #7 (Order).

14 So, no, Ms. Cordeiro did not file suit in Nevada “[k]nowing that she was drawing dead in
15 California.” Rather, having elected to pursue her own case against the Defendant, in lieu of joining
16 a larger case, she opted to bring suit in her home forum. And, as discussed *infra* in connection
17 with the Defendant’s argument to transfer this case, she also did so knowing the majority of
18 witnesses in this case will come from Nevada, making it the most convenient forum in which to
19 contest the matter *sub judice*.
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23 ¹ The Defendant did incorporate the arguments of his co-defendants by reference. This is not
24 nearly the same as making the subject arguments – which concern the justiciability of gaming-
25 related obligations in the prism of antebellum California case law adopted through almost 170
26 years – directly or in whole form. However, Ms. Cordeiro does not mean to suggest the
Defendant did not willingly adopt these arguments as part of his motion to dismiss; he most
certainly did.

1 **IV. Argument**

2 **a. Mr. Postle is Subject to Nevada’s Personal Jurisdiction Under the *Calder* Test**

3 The Motion merits denial as the allegations in this suit concern the purposeful direction
4 of an intentional tort across state lines into Nevada, and thereby subject Mr. Postle to the
5 jurisdiction of this Honorable Court. The fraudulent activity at issue *sub judice* was broadcast
6 over the internet, knowingly directed at an audience of poker players (like Ms. Cordeiro), from a
7 casino within driving distance of Nevada – a state generally known to be a hotbed of poker
8 players. Under the Supreme Court’s holding in *Calder v. Jones*, 465 U.S. 783 (1984) and its
9 progeny, jurisdiction is properly established in this forum.
10

11 As the *Calder* Court observed, “An individual injured in California need not go to Florida
12 to seek redress from persons who, though remaining in Florida, knowingly cause the injury in
13 California.” *Calder*, 465 U.S. at 790. Indeed, “The plaintiff’s lack of ‘contacts’ will not defeat
14 otherwise proper jurisdiction, but they may be so manifold as to permit jurisdiction when it would
15 not exist in their absence.” *Id.* at 788 (citing *Keeton v. Hustler Magazine, Inc.*, 465 U.S. 770
16 (1984); *McGee v. International Life Ins. Co.*, 355 U.S. 220 (1957)). *See also, Kumarelas v.*
17 *Kumarelas*, 16 F. Supp. 2d 1249, 1253–54 (D. Nev. 1998) (“in tort cases, jurisdiction may attach
18 if the defendant’s conduct is aimed at **or has an effect in the forum state.**”) (citing *Calder*, 465
19 U.S. 783) (emphasis added).
20

21 Interpreting the *Calder* holding, the United States Court of Appeals for the Ninth Circuit
22 has emphasized that where tortious conduct is committed online, a tortfeasor with actual – or even
23 constructive – knowledge of the subject internet content’s active viewership in a separate state
24 may become subject to the personal jurisdiction of that state:
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1 A substantial number of hits to Brand's website came from California residents.
2 One of the ways we know this is that some of the third-party advertisers on Brand's
3 website had advertisements directed to Californians. In this context, it is immaterial
4 whether the third-party advertisers or Brand targeted California residents. The fact
5 that the advertisements targeted California residents indicates that Brand knows—
6 either actually or constructively—about its California user base, and that it exploits
7 that base for commercial gain by selling space on its website for advertisements.

8 *Mavrix Photo, Inc. v. Brand Techs., Inc.*, 647 F.3d 1218, 1230 (9th Cir. 2011) (citing *Brayton*
9 *Purcell LLP v. Recordon & Recordon*, 606 F.3d 1124, 1130 (9th Cir.2010); *Cybersell, Inc. v.*
10 *Cybersell, Inc.*, 130 F.3d 414, 419 (9th Cir.1997)).

11 In *Freedom Mentor, LLC v. Saeger*, 2019 WL 313788 (M.D. Fla. 2019), a Florida entity
12 brought a trademark infringement claim against non-resident defendants whose “only alleged
13 contacts with Florida are (i) the operation of the website YOURFREEDOMMENTOR.COM,
14 which is accessible in Florida, and (ii) the purchase of sponsored listings on internet search
15 engines.” *Freedom Mentor*, 2019 WL 313788 at *3. The court there observed, “As alleged, these
16 activities were not ‘purposefully directed’ toward Florida, but instead indiscriminately targeted
17 any individual with an internet connection regardless of their state of residence.” *Id.*

18 Notwithstanding the lack of contacts between the defendants and the State of Florida, the
19 *Freedom Mentor* Court found jurisdiction to be appropriate, as “Notwithstanding the absence of
20 minimum contacts, the Calder ‘effects’ test provides a substitute basis for the exercise of personal
21 jurisdiction in intentional tort cases.” *Id.* (citing *Calder*, 465 U.S. at 790).

22 Here, Mr. Postle has substantial and ongoing contacts with the forum state – unlike the
23 defendants in the *Freedom Mentor* case. Indeed, Mr. Postle visits Nevada “once or twice a
24 month.” Motion, DE #10, at 3:13. Additionally, “Because it is only a two hour drive from his
25 home in California and because it is marketed as, and intended to be, a place to go for rest and
26

1 relaxation, Reno is a convenient and obvious destination for [the Defendant] to occasionally
2 visit.” *Id.* at 3:17-20.

3 Yet not even those regular, reoccurring, and systematic contacts are necessary for
4 jurisdiction to exist under the *Calder, Mavrix Photo* and *Freedom Mentor* standards. Rather, the
5 allegations herein need simply show the Defendant (i) engaged in intentionally tortious conduct;
6 (ii) that tortious conduct was indiscriminately – or intentionally – aimed at Nevada; and (iii) that
7 tortious conduct caused harm to be suffered in Nevada.
8

9 As noted *supra*, Mr. Postle is herein alleged to have engaged in a pattern of fraudulent
10 conduct aimed at cheating myriad persons in broadcast poker games and luring subsequent
11 victims to partake in those cheated poker games. The games were targeted at an audience of poker
12 players; it is a reasonable inference such an audience will be replete with individuals residing in
13 Nevada. The games were played a relatively short distance from the California/Nevada state line.
14 The games attracted players to partake in subsequent games, and persons from Nevada often did
15 so. Ms. Cordeiro is a Nevada resident who saw these games and was thusly lured into
16 participating, causing her to be ultimately swindled and defrauded by the Defendant.
17

18 Importantly, Ms. Cordeiro was swindled *in* Nevada. While she ultimately partook in a
19 rigged poker game in California, it was the Defendant’s fraudulent conduct in prior cheated games
20 – broadcast to Ms. Cordeiro in Nevada – that constituted the core of the dupe herein. Had Ms.
21 Cordeiro not believed the poker games to be fair and honest, she would not have traveled to
22 California to play in one with the Defendant.
23

24 Jurisdiction was found to be proper in the *Freedom Mentor* case even though (i) the
25 defendants had no alleged ties to the State of Florida; and (ii) the defendants’ alleged conduct was
26 only aimed at the State of Florida in an indiscriminate fashion by virtue of being conducted online.

1 Here, the Defendant has chronically reoccurring ties to the State of Nevada and his alleged
2 tortious conduct was rather precisely aimed at a pool of persons residing in the State of Nevada.

3 The *Calder* Court makes clear the victim of an intentional tort ought not be compelled to
4 travel to the home state of a tortfeasor to have her or his day in court. Here, Ms. Cordeiro was
5 lured to Sacramento once by the Defendant’s fraudulent conduct; case law holds she ought not be
6 compelled to again make that journey as part of her effort to seek civil recourse.
7

8 **b. Alternatively, Jurisdictional Discovery is Appropriate as to Mr. Postle Being
Subject to the General Jurisdiction of this Honorable Court**

9 Should this Honorable Court not find the Defendant to be subject to personal jurisdiction
10 on the grounds discussed *supra*, Ms. Cordeiro respectfully requests jurisdictional discovery be
11 permitted to assess the scope and extent of the Defendant’s contacts with the State of Nevada. As
12 noted above, the Motion itself acknowledges the Defendant travels to Nevada once or twice each
13 month, the Defendant is a professional poker player living a short drive from the Nevada state
14 line, and the Defendant appears to have systematic and ongoing ties to the City of Reno.
15

16 As the United States Court of Appeals for the Ninth Circuit has noted, “General
17 jurisdiction exists when there are ‘substantial’ or ‘continuous and systematic’ contacts with the
18 forum state, even if the cause of action is unrelated to those contacts.” *Gator.Com Corp. v. L.L.*
19 *Bean, Inc.*, 341 F.3d 1072, 1076 (9th Cir. 2003), rev’d on other grounds on reh’g *en banc*, 398
20 F.3d 1125 (9th Cir. 2005) (citing *Bancroft & Masters, Inc. v. Augusta Nat’l Inc.*, 223 F.3d 1082,
21 1086 (9th Cir. 2000) (citing *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408,
22 415 (1984))).
23

24 While the Motion suggests the Defendant to be a professional poker player but one whose
25 gambling in Nevada is limited to “penny slots” and “sports betting” (Motion at 3:21), those
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1 assertions strike as suspect. Ms. Cordeiro actually alleges the Defendant’s poker play in Nevada
2 to be minimal, in her Complaint, and believes such to be true since the Defendant is without the
3 ability to cheat games of poker in Nevada. However, “travel for business purposes is relevant to
4 general jurisdiction.” *Table de France, Inc. v. DBC Corp.*, 2019 WL 6888043, at *9 (C.D. Cal.
5 2019). And if the Defendant is profiting off his sports betting on a regular basis (which would not
6 be unusual for a professional poker player, as the two disciplines enjoy appreciable overlap), or
7 is regularly playing poker in Reno (despite Ms. Cordeiro’s belief to the contrary), the same would
8 well inform his being subject to the general jurisdiction of Nevada.
9

10 Similarly, if the Defendant’s trips to Nevada are more frequent than suggested in his
11 Motion (which takes pains to only discuss his travels to Reno – not Lake Tahoe or Las Vegas), if
12 he holds property interests (whether real or person) in Nevada incidental to his custodial
13 arrangement, or his time in Nevada has increased since being deemed *persona non grata* in
14 California poker rooms on account of the revelation of his cheating activities, the same would
15 weigh in favor of general jurisdiction.
16

17 Indeed, the Defendants purports to be “a professional poker player” (Motion at 3:4), but,
18 upon information and belief, he has been unable to play in any legal casino in California since
19 revelation of his cheating, and online poker is unlawful in the State of California. So for the
20 Defendant to be carrying on the trade he professes, and not doing so in Nevada, is enigmatic.
21 Either he is no longer carrying on as a professional poker player (which would thusly call into
22 question the veracity of his other assertions), he is doing so in Nevada (which would suggest him
23 to be subject to the general jurisdiction of this Honorable Court), he is regularly traveling to a
24 third state despite making one to two monthly custodial stops in Reno (which would seem
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1 logistically difficult), or he is honing his trade illegally (which would seem unusual for someone
2 currently believed to be under criminal investigation for the events complained of herein).

3 Jurisdictional discovery, to the extent necessary, would permit clarification of these issues
4 and allow more precise briefing as to the existence, *vel non*, of general jurisdiction over the
5 Defendant. Ms. Cordeiro does not believe such to be required, as she believes the *Calder* Doctrine
6 to control *sub judice*. But to the extent this Honorable Court believes the specific jurisdiction
7 spoken of by the *Calder* Court to be lacking instantly, it is reasonable and practical to engage in
8 discovery to assess the true scope of the Defendant’s ongoing contacts with the State of Nevada.
9

10 **c. The Doctrine of *Forum Non Conveniens* is Not Applicable to this Case**

11 The Defendant, alternatively, seeks dismissal of this action under the doctrine of *forum*
12 *non conveniens*. Under governing law, this remedy is not appropriately invoked in federal
13 litigation such as this case, where the proposed alternative forum is, too, a court of the United
14 States. Accordingly, this portion of the Motion merits denial.
15

16 As this Honorable Court has previously observed, “dismissal under the *forum non*
17 *conveniens* doctrine is not appropriate in federal cases where the alternative forum is another
18 federal district court.” *Fed. Trade Comm’n v. Consumer Def., LLC.*, 2018 WL 2741039, at *5 (D.
19 Nev. 2018) (Mahan, J.) (citing *Atl. Marine Const. Co. v. U.S. Dist. Court for W. Dist. of Texas*,
20 571 U.S. 49, 61 (2013); *Ravelo Monegro v. Rosa*, 211 F.3d 509, 512–13 (9th Cir. 2000)).
21

22 The Motion does not challenge that this matter properly invokes diversity jurisdiction –
23 the matter *sub judice* is a dispute between citizens of different states, with an amount in
24 controversy in excess of \$75,000.00. As such, even if Nevada were an inconvenient forum, the
25 alterative forum (a federal district situated within California) would still be a federal court.
26

1 Accordingly, under the foregoing precedent, dismissal on grounds of *forum non conveniens* is not
2 warranted herein.

3 **d. Transfer Under 28 U.S.C. § 1404 is Inappropriate**

4 While the Motion does not formally seek transfer under Section 1404 of Title 28 of the
5 United States Code, much of the *forum non conveniens* argument made by the Defendant could
6 be applicable to such an effort. And Ms. Cordeiro is mindful “the court may, where the defendant
7 has not waived the defense of improper venue, raise the issue *sua sponte*.” *Chamani v. Quasar*
8 *Mining Group, Inc.*, 2020 WL 2527022, at *4 (D. Nev. 2020) (Mahan, J.) (citing *Costlow v.*
9 *Weeks*, 790 F.2d 1486, 1487–88 (9th Cir. 1986)). Such a transfer is not appropriate instantly,
10 however.

11 Preliminarily, it bears notation that “unless the balance is strongly in favor of the
12 defendant, the plaintiff’s choice of forum should rarely be disturbed.” *Gulf Oil Corp. v. Gilbert*,
13 330 U.S. 501, 508 (1947). *See also, Rubio v. Monsanto Co.*, 181 F. Supp. 3d 746, 762 (C.D. Cal.
14 2016) (“Despite the broad discretion afforded the district court in determining whether to transfer
15 venue, a plaintiff’s choice of venue is generally accorded deference.”) (citing *Gulf Oil Corp.*, 330
16 U.S. at 508; *Decker Coal Co. v. Commonwealth Edison Co.*, 805 F.2d 834, 842 (9th Cir. 1986))

17 Further, “a plaintiff’s choice of its home forum is given more weight than its choice of a
18 foreign forum.” *Rubio*, 181 F. Supp. 3d at 762 (quoting *GTE Wireless, Inc. v. Qualcomm, Inc.*,
19 71 F. Supp. 2d 517, 519 (E.D. Va. 1999)).

20 Here, this Honorable Court is Ms. Cordeiro’s “home forum,” as she is a citizen of the State
21 of Nevada. Complaint at ¶ 1. She is thusly entitled not only to the deference spoken of by Supreme
22 Court in *Gulf Oil Corp.* but, too, the additional weight afforded by the *Rubio* and *GTE Wireless,*
23 *Inc. Courts.*

1 Mindful of the deference to be afforded Ms. Cordeiro’s choice of her home forum, the
2 transfer of venue is to be considered on two grounds:

3 Motions to transfer venue are considered on “an individualized, case-by-case
4 consideration of convenience and fairness.” The statute requires the court to find
5 (1) that the district to which defendants seek to have the action transferred is one in
6 which the action “might have been brought” or to any district to which “all parties
have consented” and (2) that the transfer be “[f]or the convenience of parties and
witnesses, and in the interest of justice.” The burden is on the moving party.

7 *Chamani*, 2020 WL 2527022, at *4 (quoting *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498
8 (9th Cir. 2000); 28 U.S.C. § 1404(a); citing *Commodity Future Trading Comm’n v. Savage*, 611
9 F.2d 270, 279 (9th Cir. 1979)).

10 While the Defendant does not specifically name the United States District Court for the
11 Eastern District of California as the forum to which transfer would be made, the Motion’s request
12 for the case to be heard in California, coupled with the diversity jurisdiction underlying this case,
13 suggest that is the applicable district to be considered under Section 1404 of Title 28 of the United
14 States Code. Ms. Cordeiro does not contest that district is a forum “in which the action ‘might
15 have been brought,’ though it is certainly not one to which “all parties have consented.”
16

17 The inquiry thus turns on whether transfer to the Eastern District of California would be
18 “for the convenience of parties and witnesses, and in the interests of justice,” with the Defendant
19 having the burden of showing such. Here, the Defendant has not carried, and cannot carry, that
20 burden.
21

22 Ms. Cordeiro is not the only witness located within the District of Nevada. To the contrary,
23 many of the other individuals who were defrauded by the Defendant – and whose testimony will
24 accordingly be elicited as this matter proceeds – are residents of Nevada. This is not coincidence
25 or happenstance; the Defendant defrauded scores of individuals in mid-to-high-stakes poker
26

1 games – that a large portion of his victims are resident within the Las Vegas community comes
2 as no surprise.

3 Moreover, the plurality of the expert witnesses Ms. Cordeiro will enlist in this matter are
4 residents of Nevada. To demonstrate the Defendant’s fraud, Ms. Cordeiro will need to elicit
5 testimony from experts in the game of poker which, pragmatically, will equate to a group of
6 professional poker players. Her counsel has taken steps to secure the expert services of various
7 such persons; of the three who she is likely to designate, two are residents of Nevada and one is
8 a resident of Texas.
9

10 Ms. Cordeiro also plans to call an expert witness with academic credentials related to
11 advanced statistical analysis, as a means of demonstrating the Defendant’s fraud in the parlance
12 of standard deviations and probability distribution. The individual her counsel has identified as
13 likely serving this role is on the faculty of a major public research university in the Midwest.
14

15 Moreover, it stands to reason King’s Casino Management Corp. (the entity trading as
16 Stones Gambling Hall) will be asked to produce a corporate designee herein. Even though the at-
17 issue facility is located in Sacramento, California, King’s Casino Management Corp. actually has
18 its principal place of business in La Jolla, California, and it is believed applicable management is
19 situated at that location and in that general vicinity. The individual King’s Casino Management
20 Corp. publicly designated to lead its investigation into Mr. Postle’s activities is an attorney with
21 offices in San Diego, California.
22

23 Even though La Jolla and San Diego are located in California, they are only approximately
24 330 miles from Las Vegas, whereas they are approximately 500 miles from Sacramento. So it
25 will be easier (albeit only slightly) for travel to occur between San Diego/La Jolla and Las Vegas
26 than it would for such travel to occur between San Diego/La Jolla and Sacramento.

1 In fact, other than Mr. Postle, it is presently believed only one or two other witnesses to
2 be called in this case will be residents of the area subsumed within the Eastern District of
3 California. By contrast, it is contemplated at least half a dozen witnesses will come from within
4 Nevada. Moreover, for the out-of-town witnesses, it is likely easier (and less expensive) to travel
5 to Las Vegas – a major city with a centralized airport directly servicing most of the United States
6 and a plentiful array of hotel rooms – than Sacramento – a city that, notwithstanding its operation
7 as the capital of a major state, is smaller in nature, has a less-busy airport, and appears to have
8 dramatically fewer hotel rooms.
9

10 In short, Ms. Cordeiro has elected to bring this suit in her home state. Not only is that
11 decision to be afforded appreciable deference, but the contours of this case actually make that
12 district the most convenient one in which to try this case. Accordingly, transfer is not instantly
13 warranted.
14

15 **V. Conclusion**

16 WHEREFORE, Ms. Cordeiro respectfully prays this Honorable Court (i) deny the
17 Motion; (ii) alternatively, permit discovery be taken for purposes of obtaining evidence relevant
18 to whether or not Mr. Postle is subject to the general jurisdiction of the State of Nevada; and (iii)
19 afford such other and further relief as may be just and proper.
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26

[SIGNATURE ON FOLLOWING PAGE]

1
2 Respectfully submitted,

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12
13 **CERTIFICATE OF SERVICE**

14 I certify that on this 29th day of June, 2020, I have caused a true and accurate copy of the
15 foregoing to be served on the following person via electronic mail:

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