IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

RAJU MEGANATHAN, *et al.*	§	
	§	
v.	§	**1:13-CV-497**
	§	
SIGNAL INTERNATIONAL L.L.C., *et al.*	§	

ORDER SEVERING AND TRANSFERRING SIGNAL'S CROSS-CLAIMS TO THE EASTERN DISTRICT OF LOUISIANA

This case is assigned to the Honorable Marcia Crone, United States District Judge, and is referred to the undersigned United States magistrate judge for all pretrial matters. (Doc. No. 2.) Per the "first-to-file" rule, and in the interests of judicial economy, the undersigned finds that Signal's cross-claims should be severed from the main action and transferred to the Eastern District of Louisiana.

I. Background

On March 7, 2008, a putative class action was filed in the Eastern District of Louisiana on behalf of over five hundred plaintiffs who were allegedly victims of human trafficking. (See Doc. No. 1, David v. Signal Int'l, L.L.C., No. 2:08-1220 (E.D. La. March 7, 2008)). The court in *David* denied class certification (as to all claims except the plaintiffs' FLSA claims), which caused the putative class members to file suit in the district where their injuries allegedly occurred. The Plaintiffs in this case filed suit in the Eastern District of Texas because they claim to have suffered their injuries at a Signal facility in Orange, Texas.

Like in *David*, the Plaintiffs in this case sued numerous defendants. (See Doc. No. 1); (See also Doc. No. 1, David v. Signal Int'l, L.L.C., No. 2:08-1220 (E.D. La. March 7, 2008)) (naming twelve defendants). For convenience, the Plaintiffs grouped the Defendants into three categories: "Signal" (collectively, Signal International, L.L.C., Signal International Texas, G.P.,

Signal International Texas, L.P., and Signal International, Inc.), "Recruiter Defendants," (collectively, Global Resources, Inc., Michael Pol, Dewan Consultants Pvt., Ltd., and Sachin Dewan), and "Facilitator Defendants" (collectively, Malvern C. Burnett, Malvern C. Burnett A.P.C., and the Gulf Coast Immigration Center, L.L.C). Also common to both cases are cross-claims Signal filed against these defendants. (Doc. No. 61, pp. 55–75.); (Doc. No. 60, David v. Signal, Int'l, L.L.C., No. 2:08-1220 (E.D. La. May 9, 2008)).[1] Signal filed its cross-claims in the *David* case in 2008, and filed its cross-claims in this case in 2014. The cross-claims in *David* were recently tried, and a jury returned a verdict in favor of the cross-defendants on each claim. (Doc. No. 2387, David v. Signal, Int'l, L.L.C., No. 2:08-1220 (E.D. La. April 27, 2015)).

In addition to this case, there are four other cases pending in the Eastern District of Texas involving these same Defendants and the same allegations of trafficking. Signal filed cross-claims in those cases as well. In two of those cases—*Samuel* and *Joseph*—Burnett moved to have Signal's cross-claims transferred to the Eastern District of Texas under the "first-to-file" rule. The undersigned granted Burnett's motion, and no objections were filed.

II. Analysis

"Under the first-to-file rule, when related cases are pending before two federal courts, the court in which the case was last filed may refuse to hear it if the issues raised by the cases substantially overlap." Int'l Fid. Ins. Co. v. Sweet Little Mex. Corp., 665 F.3d 671, 677 (5th Cir. 2011) (citation omitted). "In such a case, the district court in which the later action was filed may dismiss, stay, or transfer the suit in order to avoid duplicative litigation and enforce the principle of comity." Carter v. Dep't of Veterans Affairs, 228 F. App'x 399, 402 (5th Cir. 2007) (per curiam).

1. In this case, Signal claims that is has suspended its cross-claims against defendant Michael Pol (Doc. No. 61, p. 55 n. 1), and in *David*, Signal's claims against him have been dismissed. (Doc. No. 1976, David v. Signal, Inl't, L.L.C., No. 2:08-1220 (E.D. La. Dec. 5, 2014)).

"In deciding whether to apply the first-to-file rule, the Court must resolve two questions: (1) are the two pending actions so duplicative or do they involve such substantially similar issues that one court should decide the subject matter of both actions, and if so, (2) which of the two courts should take the case." Datamize, Inc. v. Fid. Brokerage Servs., LLC, 2:03-CV-321-DF, 2004 WL 1683171, at *3 (E.D. Tex. Apr. 22, 2004) (Folsom, J.) (citing Tex. Instruments v. Micron Semiconductor, 815 F. Supp. 994, 997 (E.D. Tex. 1993)). "Only the first issue is for the second-filed court to decide, however, for in this circuit, '[o]nce the likelihood of a substantial overlap between the two suits ha[s] been demonstrated, it [is] no longer up to the [second filed court] to resolve the question of whether both should be allowed to proceed.'" Nabors Drilling USA, L.P. v. Markow, Walker, P.A., 451 F. Supp. 2d 843, 845 (S.D. Miss. 2006) (alteration in original) (quoting Cadle Co. v. Whataburger of Alice, Inc., 174 F.3d 599, 605–06 (5th Cir. 1999)). The application or propriety of transfer under the first-to-file rule may be raised sua sponte. Strukmyer, L.L.C. v. Infinite Fin. Solutions, Inc., No. 3:13-cv-3798, 2013 WL 6388563, at *5 (N.D. Tex. Dec. 5, 2013); Walker Grp., Inc. v. First Layer Comm'ns, Inc., 333 F. Supp. 2d 456, 460–61 (M.D.N.C. 2004).

The undersigned finds that the first prong of the first-to-file rule is satisfied here. Signal's cross-claims in *David* are not just similar or related to the ones in this case—they are virtually identical. White v. Peco Foods, Inc., 546 F. Supp. 2d 339, 342 (S.D. Miss. 2008) ("The first-to-file rule does not require that cases be identical, but merely that there is a substantial overlap in issues and parties."). First, the only difference in the parties between the two cases is that Signal sued an additional three Defendants in *David* (the "Labor Broker Defendants") who are not parties to this action.[2] Compare (Doc. No. 61) with (Doc. No. 60, David v. Signal, Int'l,

2. Signal also filed a third-party claim against Zito Companies, L.L.C. that was dismissed. (Doc. No. 391, David v. Signal, Int'l, L.L.C., No. 2:08-1220 (E.D. La. April 7, 2009)).

L.L.C., No. 2:08-1220 (E.D. La. May 9, 2008)); see also Save Power Ltd. v. Syntek Fin. Corp., 121 F.3d 947, 951 (5th Cir. 1997) ("Complete identity of parties is not required for dismissal or transfer of a case filed subsequently to a substantially related action."). It is also worth noting that Signal's cross-claims are in no way impacted by the difference in the make-up of the plaintiffs in each case.

Second, Signal asserted nearly identical cross-claims in each case. The only variation is that Signal asserted a claim for tortious interference with contract in *David* that it did not include here. In addition, beyond just pleading the same causes of action against the same defendants, resolution of Signal's cross-claims involves the same facts and raises the same issues in both cases. In contrast, the undersigned denied Signal's and Burnett's requests to transfer the Plaintiffs' claims to the Eastern District of Louisiana in part because the Plaintiffs in this case worked at a different facility than the plaintiffs in *David*, and as such, the proof and facts for the claims would differ between the two cases. (Doc. No. 44.) This is not the case for Signal's cross-claims. Accordingly, the undersigned finds that there is substantial overlap between Signal's cross-claims in this case and those in *David.*

Therefore, the proper course of action is to either transfer, stay, or dismiss Signal's cross-claims. The undersigned perceives no benefit to merely staying these claims. In fact, Signal's cross-claims were recently tried in *David*, and the parties are now arguing about the preclusive effect of that judgment. In the interest of judicial economy, one court should decide these claims and any related ancillary issues.

Accordingly, the most efficient manner of resolving these claims is to transfer them. But, in order to transfer just Signal's cross-claims, as opposed the entire case (including the Plaintiffs' claims), Signal's cross-claims must first be severed from the main case. Pursuant to Federal Rule of Civil Procedure 21, a "trial court has broad discretion to sever issues to be tried before it." Brunet v. United Gas Pipeline Co., 15 F.3d 500, 505 (5th Cir. 1994) (citing FED. R. CIV. P. 21); see also United States v. O'Neil, 709 F.2d 361, 366 (5th Cir. 1983) (noting that under Rule 21 a district court properly severed a party's counterclaims). The undersigned has authority under Rule 21 to sever Signal's cross-claims even though no party has requested such relief. See Brunet, 15 F.3d at 505; United States v. Nat'l R.R. Passenger Corp., No. CIV.A 86-1094, 2004 WL 1335723, at *6 (E.D. Pa. June 15, 2004) ("Thus, while neither party has asked this Court to sever, Rule 21 permits a court to sever claims *sua sponte*.").

III. Conclusion

For the reasons discussed above, it is **ORDERED** that the Clerk of Court is **DIRECTED** to sever from this action Signal's cross-claims against cross-defendants Malvern C. Burnett, Sachin Dewan, Dewan Consultants Pvt., Ltd., Global Resources, Inc. Gulf Coast Immigration Law Center, L.L.C., Law Offices of Malvern C. Burnett, A.P.C. and Michael Pol; and it is further

ORDERED the Clerk of Court shall **TRANSFER** Signal's cross-claims against Malvern C. Burnett, Sachin Dewan, Dewan Consultants Pvt., Ltd., Global Resources, Inc. Gulf Coast Immigration Law Center, L.L.C., Law Offices of Malvern C. Burnett, A.P.C. and Michael Pol to the Eastern District of Louisiana.

SIGNED this 17th day of June, 2015.

Zack Hawthorn
United States Magistrate Judge