

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FEC HOLDINGS, LP., *et al.*,
Plaintiffs,

versus

INCREDIBLE PIZZA FRANCHISE
GROUP, LLC., *et al.*,
Defendants.

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CIVIL ACTION NO. H-09-3289

ORDER

Pending before the Court is the Defendants' Motion to Dismiss, filed pursuant to Federal Rule of Civil Procedure 12(b)(3). (**Instrument No. 13**). Where a party files a motion to dismiss for lack of venue, the Court may *sua sponte* transfer venue to an alternative district, rather than dismiss the case outright. 28 U.S.C. § 1404.

In light of the forum selection clause included in the relevant franchise agreements, the Court finds that this case should be transferred to the Western District of Missouri. *Collins County, Texas v. Siemens Business Services, Inc., et al.*, 250 Fed. Appx. 45, 50 (5th Cir. 2007); *Haynsworth v. Corporation*, 121 F.3d 956, 963 (5th Cir. 1997). Given that Defendants have sought immediate injunctive relief, which the Court finds should be addressed as soon as possible, the Court **HEREBY TRANSFERS** this case to the Western District of Missouri.

IT IS SO ORDERED.

The Clerk shall enter this Order and provide a copy to all parties.

SIGNED on this the 1st day of February, 2010, at Houston, Texas.



VANESSA D. GILMORE
UNITED STATES DISTRICT JUDGE