

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**A.J. TAFT COAL COMPANY, INC.,
et al.,**

Plaintiffs,

v.

**JO ANNE B. BARNHART,
Commissioner of Social Security;
MICHAEL H. HOLLAND, et al.,
Trustees of the United Mine Workers
of America Combined Benefit Fund,**

Defendants.

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Case No.: CV 03-P-1390-S

ORDER

This case is before the court on the following motions and application: (1) Motion to Transfer to the United States District Court for the District of Columbia (Doc #17) filed by Defendant Trustees on July 1, 2003; (2) Motion to Dismiss, or, in the Alternative, to Transfer (Doc #31) filed by Defendant Commissioner on July 28, 2003; (3) Motion to Dismiss, or, in the Alternative, to Transfer (Doc #38) filed by Defendant Trustees on August 12, 2003; (4) Application for Preliminary Injunction (Doc #47) filed by Plaintiffs on September 30, 2003; and (5) Motion to Intervene as Plaintiffs (Doc #50) filed October 3, 2003.

The court held a status conference in this case on October 20, 2003, and a hearing on the above-referenced motions on October 21, 2003. After considering all of the arguments and the relevant case law, the court makes the following rulings consistent with its analysis in the Memorandum Opinion issued contemporaneously with this Order.

The court finds that venue is proper in this court because at least one plaintiff who resides in this district had a justiciable claim at the time of filing. Nonetheless, the court finds that the

claims of the four (4) plaintiffs in this case who currently reside by incorporation in the Eleventh Circuit, A.J. Taft Coal Company, Inc., Alabama Electric Cooperative, Cowin & Company, Inc., and U.S. Steel Mining Company, LLC, are **MOOT** and that the claims of those plaintiffs are due to be, and hereby are, **DISMISSED**.

The court **TRANSFERS** this case to the District of Maryland under 28 U.S.C. § 1404(a). Accordingly, the court **DENIES** the defendants' motions to dismiss and **GRANTS IN PART** the defendants' motions to transfer. The court declines to rule on the application for preliminary injunction¹ and motion to intervene given its decision to transfer the case.

It is **ORDERED** that this case is hereby **TRANSFERRED**, pursuant to 28 U.S.C. § 1404(a), to the United States District Court for the District of Maryland. The Clerk of Court is **DIRECTED** to take all necessary steps to effectuate the transfer.

DONE and **ORDERED** this 14th day of November, 2003.

/s/
R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE

¹ The court is mindful that this order issues after October 25, 2003, the due date of the premium payments from which the plaintiffs sought relief in their application for preliminary injunction. However, the court has serious doubts about whether the plaintiffs can make a showing of irreparable injury based upon the mere financial burden to pay the premiums. *See Sampson v. Murray*, 415 U.S. 61 (1974); *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998). Moreover, at least part of the relief sought in the injunction application is no longer necessary given the defendants' application of the lower premium to all Eleventh Circuit resident plaintiffs. For these reasons, the court did not find it imperative to rule on the preliminary injunction application prior to transferring the case. This is an issue more appropriately decided by the transferee court.