

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 22-5317****September Term, 2022****1:22-cv-02147-JMC****Filed On: May 17, 2023**

In re: Simon V. Kinsella,

Petitioner

**BEFORE:** Millett, Pillard, and Rao, Circuit Judges

**ORDER**

Upon consideration of the amended petition for writ of mandamus, the responses thereto, and the replies; and the emergency motion for a temporary restraining order and preliminary injunction, it is

**ORDERED** that the emergency motion for a temporary restraining order and preliminary injunction be denied. It is

**FURTHER ORDERED** that the petition for writ of mandamus be denied. The district court did not abuse its discretion in transferring petitioner's case to the Eastern District of New York. See In re Tripathi, 836 F.2d 1406, 1407 (D.C. Cir. 1988) (per curiam). Petitioner does not dispute that venue is proper in the Eastern District of New York. See 28 U.S.C. § 1391(e)(1); 5 U.S.C. § 552(a)(4)(B). And upon review of the entire record, we conclude that the district court reasonably weighed the various factors for and against transfer and concluded that, on balance, transfer was warranted. Petitioner is correct that the district court did not explicitly consider or allow argument on his independent claims of fraud, which were first raised in his amended complaint. Nonetheless, we are not convinced that consideration of these claims would have altered the outcome of the district court's analysis or that vacating the district court's otherwise proper exercise of its discretion is "essential to the interests of justice." See Starnes v. McGuire, 512 F.2d 918, 929 (D.C. Cir. 1974) (en banc).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

**Per Curiam**

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/  
Scott H. Atchue  
Deputy Clerk