

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION**

AGNESIAN HEALTHCARE, INC.,

Plaintiff,

vs.

CERNER CORPORATION,

Defendant.

Eastern District of Wisconsin
Case No. 2:17-cv-01254

**DEFENDANT CERNER CORPORATION’S MOTION TO DISMISS
BASED ON BINDING ARBITRATION AGREEMENT
AND ALTERNATIVE MOTION TO TRANSFER VENUE**

Defendant Cerner Corporation moves the Court under Fed. R. Civ. P. 12(b)(3) and the Federal Arbitration Act (“FAA”), 9 U.S.C. § 1, *et seq.*, to dismiss Plaintiff Agnesian Healthcare, Inc.’s Complaint due to the existence of an enforceable, binding arbitration agreement between Cerner and Agnesian. Alternatively, and if the Court does not dismiss the lawsuit, Cerner asks the Court to transfer the lawsuit to the United States District Court for the Western District of Missouri under 28 U.S.C. § 1406, as it is the appropriate forum for a federal court to compel arbitration under the terms of Agnesian and Cerner’s arbitration agreement (which requires the parties arbitrate in Missouri, the state where the non-petitioning party (Cerner) maintains its principal place of business). *See* 9 U.S.C. § 4 (“The [arbitration] hearing and proceedings, under such agreement, shall be within the district in which the petition for an order directing such arbitration is filed.”)

WHEREFORE, for all the foregoing reasons, as well as those set forth in the supporting memorandum of law, Cerner requests that this Court dismiss Plaintiff's claims or, alternatively, transfer the parties' lawsuit to the United States District Court for the Western District of Missouri.

Dated this 21st day of September, 2017.

s/ Sarah E. Thomas Pagels

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been forwarded to all counsel of record, by U.S. Mail and electronic mail, on this 21st day of September, 2017, as follows:

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