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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Karen Contreras,
Plaintiff,

vs.

Jo Anne B. Barnhart, Commissioner of
Social Security,
Defendant.

No. CIV 05-973-PHX-EHC
ORDER

Before the Court is Defendant's Motion to Transfer Venue and to Extend Time to Answer [Dk. 5]. Plaintiff responded [Dk. 6]. Defendant did not reply.

Plaintiff has filed a civil action pursuant to 42 U.S.C.A. § 405(g) for judicial review of a final decision of the Commissioner of Social Security. This action "shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business." 42 U.S.C.A. § 405(g). Plaintiff, a Nevada resident living near the Arizona border, argues that the hearing below was held in Arizona and that, if Plaintiff prevails on appeal, further proceedings on remand would probably be held in Arizona.

Venue under § 405(g) is waivable. Weinberger v. Salfi, 422 U.S. 749, 764, 95 S.Ct. 2457, 2466 (1975). It is arguable that Defendant waived venue in this appeal by holding the hearings below in Arizona. Furthermore, there may be "strong advantages of

1 having this appeal decided by a district court in the same state where the administrative
2 action occurred." O'Brien v. Schweiker, 563 F.Supp. 301, 302 (E.D.Pa. 1983).

3 Accordingly,

4 **IT IS ORDERED GRANTING** Defendant's Motion to Extend Time to Answer
5 [Dk. 5-2]. Defendant shall have until **August 12, 2005** to answer the Complaint.

6 **IT IS FURTHER ORDERED** that Defendant shall have until **July 29, 2005** to
7 reply to the Motion to Transfer Venue.

8 DATED this 15 day of July, 2005.

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Earl H. Carroll
United States District Judge