

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
TOPEKA DIVISION

CATO INSTITUTE,

Plaintiff,

v..

U.S. DEPARTMENT OF EDUCATION, *et al.*,

Defendants.

Case No. 5:22-cv-04055-TC-RES

DEFENDANTS' MOTION TO DISMISS
OR IN THE ALTERNATIVE TO TRANSFER

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(3), Defendants hereby move to dismiss to dismiss Plaintiff Cato Institute's complaint, ECF No. 1, for lack of subject-matter jurisdiction and for improper venue. In the alternative, Defendants move the Court to enter an order pursuant to 28 U.S.C. § 1406(a) transferring this case to the United States District Court for the District of Columbia. In support of this motion, Defendants rely upon and incorporate by reference their Brief in Opposition to Plaintiff's Motion for Temporary Restraining Order and Preliminary Injunction and in Support of Defendants' Motion to Dismiss or Transfer, and the Declaration of James Richard Kvaal and its associated exhibits, which are filed contemporaneously with this motion.

Dated: November 7, 2022

Respectfully submitted,

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MARCIA BERMAN
Assistant Branch Director

/s/ Cody T. Knapp

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CERTIFICATE OF SERVICE

I hereby certify that on November 7, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically serve a copy to all counsel of record.

/s/ Cody T. Knapp
CODY T. KNAPP