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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Serguei Silaev,

10 Plaintiff,

11 v.

12 Swiss-America Trading Corporation,

13 Defendant.  
14

No. CV-14-02551-PHX-JAT

**ORDER**

15 Pending before the Court is Defendant Swiss-America Trading Corporation's  
16 Stipulated Motion to Transfer and Consolidate. (Doc. 35).

17 This Motion concerns three different removed cases currently pending in the  
18 District of Arizona. (Doc. 35). The first, *Silaev v. Swiss-America Trading Corp.*, is before  
19 this Court. (*Id.* at 1). The second, *Mann v. Swiss-America Trading Corp.*, is before Judge  
20 Silver. (*Id.*). The third, *Christopherson v. Swiss-America Trading Corp.*, is before Judge  
21 Holland. (*Id.*). "In all three lawsuits, Plaintiffs are represented by the same legal counsel,  
22 and Defendant Swiss-America Trading Corp. is represented by the same legal counsel."  
23 (*Id.* at 2).

24 All three cases concern Defendant allegedly selling coins to Plaintiffs "under  
25 various misrepresentations and misleading sales tactics concerning quality, rarity, and  
26 value of the coins. (*Id.*). Additionally, Plaintiffs allege that "Defendant did not honor a  
27 purported money back guarantee if Plaintiffs did not realize their initial investment."  
28 (*Id.*).

1 Defendant filed partial motions to dismiss in all three lawsuits, which were  
2 granted. (*Id.*). In the present case and in *Mann*, the remaining claims are: breach of  
3 contract; “fraud, negligent misrepresentation, fraudulent inducement, & negligence”; and  
4 breach of warranty. (*Id.* at 3). In *Christopherson*, the remaining claims are breach of  
5 contract and breach of warranty. (*Id.*).

6 The parties stipulate that consolidation is necessary to “avoid or minimize  
7 unnecessary costs, delays, and potentially different conclusions on common allegations  
8 and substantially similar questions of law.” (*Id.*). As such, they stipulate that the case  
9 should be consolidated before this Court for all purposes except motion practice and trial.  
10 (*Id.* at 5).

11 “If actions before the [C]ourt involve a common question of law or fact, the  
12 [C]ourt may: (1) join for hearing or trial any or all matters at issue in the actions; (2)  
13 consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.”  
14 Fed. R. Civ. P. 42(a). The Court has broad discretion “under this rule to consolidate cases  
15 pending in the same district.” *In’rs Research Co. v. United States Dist. Court for Cent.*  
16 *Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989). To make this discretionary decision, the  
17 Court “weighs the interest of judicial convenience against the potential for delay,  
18 confusion and prejudice caused by consolidation.” *Sw. Marine, Inc. v. Triple A Mach.*  
19 *Shop, Inc.*, 720 F. Supp 805, 807 (N.D. Cal. 1989). Consolidation is inappropriate “if it  
20 leads to inefficiency, inconvenience, or unfair prejudice to a party.” *Garcia v. Bana*, No.  
21 C 11–02047 LB, 2012 WL 2119157, at \*11 (N.D. Cal. June 9, 2012) (internal quotation  
22 marks omitted) (quoting *EEOC v. HBE Corp.*, 135 F.3d 543, 551 (8th Cir. 1998)).

23 The parties in this case have made stipulations, which by their very nature are  
24 conclusory. Given this Court’s wide degree of discretion, the Court elects to evaluate the  
25 issue of judicial convenience *de novo*.

26 The Court disagrees with the parties’ stipulation that consolidation “will likely  
27 result in greater convenience for the parties and court.” (Doc. 35 at 4). The factual  
28 determinations to be made in each case will be mostly unrelated. The sole commonalities

1 in this case are the Defendant, the products sold, and counsel. The Plaintiffs are all  
2 different individuals, who made purchases from different states at different times. (Doc.  
3 13 at 2); Plaintiff's First Amendment Complaint at 3, *Mann v. Swiss-America Trading*  
4 *Corp.*, No. CV-14-2552-PHX-ROS (D. Ariz. Dec. 23, 2014) (Doc. 12); Plaintiff's First  
5 Amended Complaint at 1, *Christopherson v. Swiss-America Trading Corp.*, No.  
6 CV-14-2553-PHX-HRH (D. Ariz. Jan. 22, 2015) (Doc. 17). While there are certain  
7 parallels between the cases, the distinct nature of each action belies the notion that  
8 judicial economy will best be served by consolidation. Rather, forcing together actions  
9 where distinct and significant issues must be determined would serve to mire each case in  
10 the intricacies of the others.

11 Additionally, the attorneys implicitly acknowledge this unrelatedness by asking  
12 the Court to refrain from consolidating dispositive motions and trial. (*Id.* at 5). They  
13 assert that such consolidation will hinder "Defendant's ability . . . to fully present its  
14 defenses in anticipated dispositive motions in regard to each lawsuit." (*Id.*). The fact that  
15 Defendant will have various defenses for each particular case underscores the unique  
16 character of each action. Accordingly, because grouping these actions would frustrate  
17 judicial economy, the Court denies the Motion to Consolidate.

18 Because the Court has not granted consolidation, it does not independently reach  
19 the issue of whether transfer is appropriate.

20 Accordingly,

21 **IT IS ORDERED** that Defendant's Stipulated Motion to Transfer and  
22 Consolidate, (Doc. 35), is **DENIED**.

23 **IT IS FURTHER ORDERED** that a copy of this Order be filed in Case Nos.  
24 CV-14-2551-PHX-JAT, CV-14-2552-PHX-ROS, and CV-14-2553-PHX-HRH.

25 Dated this 21st day of July, 2015.

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James A. Teilborg  
Senior United States District Judge