

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

AGRI-PROCESS INNOVATIONS, INC.
and AP FABRICATIONS, LLC

PLAINTIFFS

v. CASE NO. 4:08CV00558 BSM

GREENLINE INDUSTRIES, LLC

DEFENDANT

GREENLINE INDUSTRIES, LLC
and GREENLINE INDUSTRIES, INC.

COUNTERCLAIM-PLAINTIFFS

v.

AGRI-PROCESS INNOVATIONS, INC.
and AP FABRICATIONS, LLC (f/k/a
GREENLINE FABRICATIONS, LLC)

COUNTERCLAIM-DEFENDANTS

CONSOLIDATED WITH:

GREENLINE INDUSTRIES, INC.

PLAINTIFF

v. CASE NO. 4:08CV03581 SWW

AGRI-PROCESS INNOVATIONS, INC.
and AP FABRICATIONS, LLC (f/k/a
GREENLINE FABRICATIONS, LLC)

DEFENDANTS

ORDER

Pending before this court is plaintiffs' motion to consolidate this case with case number 4:08CV03581 SWW, *Greenline Industries, Inc. v. Agri-Process Innovations, Inc. and AP Fabrications, LLC* [Doc. # 30].

I. BACKGROUND

The parties in the present case (case number 4:08CV00558 BSM) collaborated on several projects involving the construction of biodiesel plants. On February 27, 2008, plaintiffs filed a complaint alleging breach of contract in the Arkansas County, Arkansas, Circuit Court. Case number 4:08CV00558 BSM was removed to this court on June 18, 2008.

Case number 4:08CV03581 SWW was commenced on May 12, 2008, in the United States District Court for the Northern District of California. The defendants in case number 4:08CV03581 SWW filed a motion to dismiss or stay or in the alternative to have the case transferred to this court. The California court denied the motion without prejudice. The California court found that case number 4:08CV00558 BSM was the first-filed and decided to defer to this court for a decision on the appropriate forum and whether an exception to the first-filed rule existed.

Defendant in case number 4:08CV00558 BSM filed a motion to dismiss or in the alternative to transfer or stay the plaintiffs' substituted complaint on July 1, 2008. In a September 4, 2008 order, this court denied defendant's motion. This court specifically found that case number 4:08CV00558 BSM was the first-filed and that this court was the proper venue for hearing the dispute between the parties.

Thereafter, case number 4:08CV03581 SWW was transferred from the United States District Court for the Northern District of California to the United States District Court for

the Eastern District of Arkansas. The case was assigned to the Honorable Susan Webber Wright.

II. DISCUSSION

Rule 42(a) of the Federal Rules of Civil Procedure provides that “if actions before the court involve a common question of law or fact” the court may consolidate the actions. Plaintiffs assert that case number 4:08CV00558 BSM and 4:08CV03581 SWW arise out of the parties’ relationship in connection with the construction of biodiesel plants and the cases are “directly related, inextricably intertwined, and should therefore be resolved together and in the same proceeding.” Defendant does not object to the consolidation of the two cases.

Accordingly, plaintiffs’ motion to consolidate cases [Doc. # 30] is granted. As this case is the oldest, the Clerk is directed to take the appropriate steps to transfer case number 4:08CV053581 SWW to this court’s docket.

IT IS SO ORDERED this 17th day of October, 2008.


UNITED STATES DISTRICT JUDGE