

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

PAUL PIPER, JR.

PLAINTIFF

v.

Civil No. 09-3001

PIONEER PLASTICS, LLC, an
Arkansas Limited Liability Company;
and AMERICAN ACQUISITION, LLC,
a Delaware Limited Liability Company

DEFENDANTS

O R D E R

Now on this 5th day of March, 2009, comes on for consideration **Defendant American Acquisition, LLC's Motion To Consolidate** (document #7), and from said motion, and the response thereto, the Court finds and orders as follows:

1. Plaintiff Paul Piper, Jr. ("Piper") requests that this case be consolidated with another case pending in this district. Defendants object to consolidation. The matter is fully briefed and ripe for decision.

2. **F.R.C.P. 42(a)** provides that actions which "involve a common question of law or fact" may be consolidated or joined for hearing or trial on any or all matters. The Eighth Circuit has held that the threshold issue is whether the cases to be consolidated involve both a common party and common issues of fact or law. Consolidation is permitted as a matter of convenience and economy, but it "does not merge the suits into a single cause, or change the rights of the parties, or make those who are parties in one suit parties in another." Enterprise Bank v. Saettele, 21

F.3d 233, 235 (8th Cir. 1994) (internal citations and quotation marks omitted).

3. Plaintiff objects to consolidation, and points out that it would be premature to consolidate this action with Case No. 08-5263. The Court agrees, given that there is no evidence that any defendant in Case No. 08-5263 has been served, although that case was filed and summons issued on December 19, 2008. The motion will, therefore, be denied, but without prejudice to its renewal should circumstances change.

IT IS THEREFORE ORDERED that **Defendant American Acquisition, LLC's Motion To Consolidate** (document #7) is **denied**.

IT IS SO ORDERED.

 /s/ Jimm Larry Hendren
JIMM LARRY HENDREN
UNITED STATES DISTRICT JUDGE