

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF CALIFORNIA
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4 CARRIE HAWECKER and
5 MICHELLE BROUSSARD,
6 Plaintiffs,
7 v.
8 RAWLAND LEON SORENSEN,
9 Defendant.
10

1:10-cv-00085 OWW JLT

ORDER RE PLAINTIFFS' MOTION
FOR CONSOLIDATION AND
APPLICATION TO EXTEND TIME TO
FILE MOTIONS IN LIMINE

(DOC. 77, 81)

11 I. INTRODUCTION

12 Before the court are: (1) Plaintiffs' motion for an order:
13 (i) consolidating action with related case, (ii) vacating the
14 amended final pretrial order, and (iii) setting the consolidated
15 action for scheduling conference (Doc. 77); and (2) Plaintiffs'
16 application to extend the time to file motions in limine until
17 after ruling on the motion to consolidate (Doc. 81). The United
18 States, Plaintiff in the related case, does not oppose and joins
19 in the motion to consolidate. Doc. 79. Defendant, in pro per, did
20 not file an objection. The motions were heard April 22, 2011.
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23 II. BACKGROUND

24 On January 15, 2010, Plaintiffs filed a complaint against
25 Defendant alleging sexual harassment and sex discrimination in
26 violation of the Fair Housing Act ("FHA"), 42 U.S.C. § 3601 et
27 seq., and related state laws. Doc. 1. On October 27, 2010,
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1 Plaintiffs moved to certify a class action for injunctive relief
2 (Doc. 22), which was denied due to Plaintiffs' lack of standing
3 to serve as representatives of the proposed class (Doc. 58).

4 On March 22, 2011, an amended final pretrial order was
5 issued. Doc. 74. The order set the deadline for filing motions in
6 limine for April 19, 2011, the deadline for responses was April
7 25, 2011, and the hearing on motions in limine was scheduled for
8 April 29, 2011.

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10 On March 25, 2011, the United States filed a complaint
11 against Defendant to enforce the FHA. Case No. 1:11-cv-00511,
12 Doc. 1. The United States' action seeks declaratory and
13 injunctive relief, monetary damages for each person aggrieved by
14 Defendant's discriminatory conduct, and civil penalties.
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16 III. LEGAL STANDARD

17 Consolidation of cases is governed by Federal Rule of Civil
18 Procedure 42(a), which provides:

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20 When actions involving a common question of law or fact are
21 pending before the court, it may order a joint hearing or
22 trial of any or all the matters in issue in the actions; it
23 may order all the actions consolidated; and it may make such
24 orders concerning proceedings therein as may tend to avoid
25 unnecessary costs or delay.

26 Fed. R. Civ. P. 42(a).

27 A district court has broad discretion to consolidate
28 actions. *Pierce v. Cnty. of Orange*, 526 F.3d 1190, 1203 (9th Cir.
2008); *In re Adams Apple, Inc.*, 829 F.2d 1484, 1487 (9th Cir.
1987). "The district court, in exercising its broad discretion

1 to order consolidation of actions presenting a common issue of
2 law or fact under Rule 42(a), weighs the saving of time and
3 effort consolidation would produce against any inconvenience,
4 delay, or expense that it would cause." *Heune v. United States*,
5 743 F.2d 703, 704 (9th Cir. 1984). Considerations of convenience
6 and judicial economy "must yield to a paramount concern for a
7 fair and impartial trial." *Johnson v. Celotex Corp.*, 899 F.2d
8 1281, 1285 (2nd Cir. 1990).

10 IV. ANALYSIS

11 The two lawsuits share common questions of law and fact. In
12 this action, Plaintiffs, two former female tenants of Defendant,
13 as lessor and owner of numerous rental properties, allege that
14 Defendant engaged in a pattern or practice of sexual harassment
15 and discrimination in violation of the FHA and related state
16 laws. The United States' action advances the same allegations
17 under the FHA against the same Defendant on behalf of persons
18 aggrieved by Defendant's alleged conduct. Defendant is the sole
19 Defendant in both lawsuits, and both actions involve similar
20 questions of fact and law concerning Defendant's alleged
21 liability under the FHA for his conduct toward his female
22 tenants. The United States' pattern or practice action may
23 include individuals already identified in this lawsuit.

24 Consolidating the two lawsuits would save time, effort, and
25 duplication. There is likely substantial overlap of witnesses,
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1 many with limited means and young children. Defendant has not
2 made any showing that consolidation would cause inconvenience,
3 expense, prejudice, or confusion. Consolidation, however, may
4 delay the resolution of this suit. This action was filed in
5 January 2010, an amended pretrial order was entered March 22,
6 2011, and a jury trial is scheduled May 10, 2011, but Defendant's
7 attorney has recently withdrawn. The United States' complaint was
8 filed March 25, 2011. Balancing the interests of judicial economy
9 against potential delay, Defendant will need to hire new counsel
10 to prepare for trial.
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12 Plaintiffs' motion for consolidation is GRANTED. The amended
13 final pretrial order (Doc. 74) is VACATED and the application to
14 set a new scheduling conference to extend the time to file
15 motions in limine is GRANTED.
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17 V. CONCLUSION

18 For the reasons stated:

- 19 1. Plaintiffs' motion for consolidation is GRANTED.
- 20 2. The amended final pretrial order is VACATED.
- 21 3. Plaintiffs' application to extend the time to file motions
22 in limine is GRANTED.
- 23 4. Plaintiffs shall submit a proposed form of order consistent
24 with this memorandum decision within five (5) days of
25 electronic service of this memorandum decision.
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SO ORDERED.

DATED: April 22, 2011

/s/ Oliver W. Wanger
Oliver W. Wanger
United States District Judge