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6 **UNITED STATES DISTRICT COURT**  
7 **EASTERN DISTRICT OF CALIFORNIA**  
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9 **IN RE:**

**1:10-CV-1847 AWI**

10 **TIMOTHY JOHN HARDT and**  
11 **MICHELLE RENE HARDT**

12 **Debtors.**

**ORDER TO SHOW CAUSE WHY  
RELATED CASES SHOULD NOT  
BE CONSOLIDATED**

13 **HILDA SOLIS,**

14 **Plaintiff,**

15 **v.**

16 **TIMOTHY JOHN HARDT and**  
17 **MICHELLE RENE HARDT,**

18 **Defendants.**

19  
20 In 2002, Timothy Hardt and Mark Dell Donne formed Hardel Enterprises, Inc., Journey  
21 Electronic Technologies, Inc., and Tri-State, Inc. (collectively "JET"). In that year they created  
22 an employee benefit plan ("JET 401(k) Plan"), whereby employees could direct JET to withhold  
23 salary and put it into the JET 401(k) Plan to be invested on their behalf. Timothy Hardt and  
24 Mark Dell Donne were the trustees. The U.S. Department of Labor is alleging that Timothy  
25 Hardt and/or Mark Dell Donne failed to place all of the withheld salary into the JET 401(k) Plan  
26 in violation of ERISA. Husband and wife, Timothy and Michelle Hardt filed for chapter 7  
27 bankruptcy on January 7, 2010.

28 Civil Case No. 10-2283 was filed by the Secretary of Labor against Timothy Hardt and

1 Mark Dell Donne, seeking to recover funds owing to the JET 401(k) Plan. Civil Case No. 10-  
2 2341 was filed by Mark Dell Donne, JET, and the JET 401(k) Plan against Herbert Hardt, L.  
3 David Brandon, and Lisa Plank, alleging that they cooperated with Timothy and Michelle Hardt  
4 in embezzling money from JET and the JET 401(k) Plan.

5 Civil Case No. 10-1847 was filed by the Secretary of Labor, Hilda Solis, and Civil Case  
6 No. 10-2014 was independently filed by Mark Dell Donne, JET, and the JET 401(k) Plan against  
7 Timothy and Michelle Hardt, seeking to have the amount owed to the JET 401(k) Plan  
8 determined to be non-dischargeable. These cases appear to seek the same relief against the same  
9 defendants. The parties are ordered to provide briefing on whether it is possible and advisable  
10 for these two cases to be consolidated. The parties are also invited to share alternate proposals  
11 for dealing with this constellation of cases that they feel would serve to expedite litigation.

12 The parties are ordered to file an initial brief by 4:00 PM, Friday, February 25, 2011.

13 If they so choose, parties may file a response by 4:00 PM, Tuesday, March 8, 2011.

14 A hearing on this matter is scheduled for 1:30 PM, Monday, March 14, 2011 in  
15 Courtroom 2.

16  
17 IT IS SO ORDERED.

18  
19 Dated: February 8, 2011

  
CHIEF UNITED STATES DISTRICT JUDGE