

1 judicial economy and convenience. See Devlin v. Transportation Communications Intern. Union,
2 175 F.3d 121, 130 (2d. Cir. 1999); Young v. City of Augusta, 59 F.3d 1160, 1169 (11th Cir.
3 1995). The purpose of consolidation is to avoid unnecessary cost or delay where the claims and
4 issues contain common aspects of law or fact. E.E.O.C. v. HBE Corp., 135 F.3d 543, 551 (8th
5 Cir. 1998); see also Malone v. Strong, 2016 WL 3546037, n.2 (W.D. Wash. 2016) (citing
6 E.E.O.C., 135 F.3d at 551) (primary purpose of consolidation is to promote trial court efficiency
7 and avoid the danger of inconsistent adjudications).

8 District courts have broad discretion to grant or deny consolidation. Pierce v. Cnty. of
9 Orange, 526 F.3d 1190, 1203 (9th Cir. 2008); see also In re Adams Apples, Inc., 829 F.2d 1484,
10 1487 (9th Cir. 1987). In deciding whether to consolidate, a court should weigh “the saving of
11 time and effort consolidation would produce against any inconvenience, delay, or expense that it
12 would cause,” Huene v. United States, 743 F.2d 703, 704 (9th Cir. 1984); see also Zhu v. UCBH
13 Holdings, Inc., 682 F.Supp.2d 1049, 1052 (N.D. Cal. 2010), as well as balancing “the interest of
14 judicial convenience against the potential for delay, confusion and prejudice caused by
15 consolidation.” S.W. Marine Inc. v. Triple A Mach. Shop, 720 F. Supp. 805, 807 (N.D. Cal.
16 1989).

17 Discussion

18 At the outset, the undersigned describes the claims on which 15-1558 and 15-1526
19 proceed.

20 Case No. 15-1558 proceeds against defendant Lassen County Jail Commander Jones as to
21 plaintiff’s claim that defendant Jones violated plaintiff’s First Amendment rights by denying
22 plaintiff’s request for a Kosher diet in 2015.

23 Case No. 15-1526 also proceeds against defendant Jones. In 15-1526, plaintiff alleges
24 that in 2015, defendant Jones retaliated against him for filing grievances regarding several matters
25 by threatening plaintiff with the loss of good time credits if he continued to use the grievance
26 procedure. In 15-1526, plaintiff claims that defendant Jones threatened to retaliate against him
27 for filing grievances, including one regarding plumbing, and because plaintiff had gone “over his
28 head” to get his Kosher diet approved, via administrative grievance.

1 The undersigned now considers whether 15-1558 and 15-1526 involve common questions
2 of fact or law. Cases 15-1558 and 15-1526 do not involve common questions of law. Case 15-
3 1558 involves whether defendant Jones denied plaintiff's First Amendment right to practice his
4 religion by denying plaintiff's request for a Kosher diet. Case 15-1526 involves whether
5 defendant Jones retaliated against plaintiff for filing grievances.

6 For the reasons stated herein, the undersigned finds that 15-1558 and 15-1526 do not
7 involve common questions of fact. In 15-1558, defendant does not dispute that he denied
8 plaintiff's request for a Kosher diet, which was ultimately approved by Lassen County
9 Undersheriff Mineau. (ECF No. 106 at 2 (defendant's pretrial statement). The main issue to be
10 addressed at trial in 15-1558 is the sincerity of plaintiff's religious beliefs, the harm suffered by
11 plaintiff as a result of not receiving his Kosher meals, and the degree to which plaintiff's exercise
12 of religion was burdened.

13 Case 15-1526 does not involve plaintiff's religious beliefs. Instead, 15-1526 addresses
14 whether defendant Jones retaliated against plaintiff for filing grievances, including the grievance
15 requesting a Kosher meal. In the findings and recommendations filed in 15-1526 addressing
16 defendant's summary judgment motion, Magistrate Judge Brennan stated,

17 [t]he crux of defendant's motion for summary judgment is his
18 argument that by simply informing plaintiff of the disciplinary
19 consequences of abuse of the grievance process, defendant served the
20 legitimate correctional goal of curbing excessive grievances. But the
evidence before the court concerning whether plaintiff's grievances
were excessive – particularly in the time before defendant made the
statement is in conflict.

21 (15-cv-1526 at ECF No. 46 at 12.)

22 It is clear that the sincerity of plaintiff's religious beliefs is not relevant to the retaliation
23 claim raised in 15-1526.

24 Defendant argues that if these actions have separate trials, two different factfinders may
25 have to determine whether plaintiff's grievance with respect to Kosher meals was meritorious or
26 abusive, and each factfinder could come to an opposite conclusion.

27 As discussed above, it is undisputed that Undersheriff Mineau granted plaintiff's
28 grievance requesting a Kosher diet. Based on this circumstance, the undersigned does not


1 understand defendant's argument that two separate jury's will have to decide whether this
2 grievance was abusive or meritorious. In any event, a jury in 15-1526 will not be asked to
3 evaluate the merit of all of the 36 grievances plaintiff filed between March 12, 2015, and August
4 20, 2015, in order to determine whether defendant retaliated against plaintiff. (See 15-1526 at
5 ECF No. 46 at 2, 9-10.) In other words, a jury in 15-1526 will not be asked to decide if
6 plaintiff's religious beliefs were sincere.

7 The undersigned also finds that consolidating these actions for trial, while convenient for
8 defendant, may confuse the jury based on the tangential relationship of the claims raised in these
9 actions.

10 Accordingly, IT IS HEREBY RECOMMENDED that defendants' motion to consolidate
11 15-1526 and 1558 for trial (ECF No. 127) be denied.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
14 after being served with these findings and recommendations, any party may file written
15 objections with the court and serve a copy on all parties. Such a document should be captioned
16 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
17 objections shall be filed and served within fourteen days after service of the objections. The
18 parties are advised that failure to file objections within the specified time may waive the right to
19 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 Dated: September 14, 2018

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23 KENDALL J. NEWMAN
24 UNITED STATES MAGISTRATE JUDGE

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