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6 Attorneys for plaintiff Brad Zigler,  
 on behalf of himself, the general public and all  
 7 others similarly situated

8 **IN THE UNITED STATES DISTRICT COURT**  
 9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
 10 **SAN FRANCISCO DIVISION**

11 ELVEY, et al.

12 Plaintiffs

13 v.

14 TD AMERITRADE, INC., et al.

15 Defendants.

**Case No.: C-07-2852 MJJ**

**ADMINISTRATIVE MOTION TO  
 CONSIDER WHETHER CASES  
 SHOULD BE RELATED**

**[Filed pursuant to Civil L.R. 3-12]**

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 18 Pursuant to Civil L.R. 3-12, plaintiff Brad Zigler (“plaintiff”) hereby submits this  
 19 Administrative Motion to Consider Whether Cases Should be Related.

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 21 The two cases which plaintiff believes should be related are as follows:

- 22 1. *Elvey v. TD Ameritrade, Inc.*, Case No. C 07 2852 MJJ, assigned to the  
 23 Honorable Martin J. Jenkins. The complaint in this action was originally filed  
 24 on May 31, 2007.
- 25 2. *Zigler v. TD Ameritrade, Inc.*, Case No. C 07 4903 MMC, assigned to the  
 26 Honorable Maxine M. Chesney. The complaint in this action was filed on  
 27 September 21, 2007.

1 The *Elvey* and *Zigler* matters concern substantially the same parties and allegations.  
2 Each complaint alleges a National class action against TD Ameritrade, Inc. (“Defendant  
3 Ameritrade”) for its failure to secure the personal and private information of its customers,  
4 the purported class members, which resulted in class members receiving spam and the  
5 release of their confidential information to persons in the general public. Each action also  
6 alleges that Defendant Ameritrade was aware that unauthorized individuals had accessed the  
7 data files containing private information of the purported class, including social security  
8 numbers. Further, each complaint alleges that Defendant Ameritrade did not act to fix the  
9 security breach and that it profited from the improper disclosure of class members’ private  
10 information.

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12 Accordingly, plaintiff requests that the *Elvey* and *Zigler* actions be deemed related  
13 pursuant to Civil L.R. 3-12, and the Honorable Martin Jenkins, assigned to the earlier-filed  
14 *Elvey* action, preside over both matters.

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16 DATED: November 2, 2007

PARISI & HAVENS LLP

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19 By: /s/ David C.Parisi \_\_\_\_\_  
20 David C. Parisi  
21 Suzanne Havens Beckman  
22 Attorneys for plaintiff Brad Zigler,  
23 on behalf of himself, the general public and all  
24 others similarly situated  
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**CERTIFICATE OF SERVICE**

Pursuant to 28 U.S.C. §1746, I hereby certify that on November 2, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses on the attached attorney list for Case No. 07 2825 MJJ, and that this filing will also notify the only other party in Case No. 07 4903 MMC.

DATED: November 2, 2007                      PARISI & HAVENS LLP

By: /c/ David C. Parisi \_\_\_\_\_  
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