

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SALMAN PANJWANI, INDIVIDUALLY)	Case No. 15-cv-01984-SC
AND ON BEHALF OF ALL OTHERS)	
SIMILARLY SITUATED,)	ORDER GRANTING RECONSIDERATION
)	<u>OF ORDER RELATING CASES</u>
Plaintiff,)	
)	
v.)	
)	
MOBILEIRON, INC., et. al.,)	
)	
Defendants.)	
)	
)	
)	

On September 25, MobileIron, Inc., et. al. ("Defendants") filed a motion to relate three cases to the instant case pending before the Court. ECF No. 25. On September 28, Magistrate Judge Nathanael M. Cousins sua sponte filed a similar motion, albeit lacking argument in support thereof. ECF No. 26. On the morning of October 1, having received no objections after waiting the normal period of at least 4 days per Local Civil Rule 7-11(b), the Court signed the order relating cases. ECF No. 30. Between the morning hour when the Court signed the order and the afternoon hour when the order was posted by Court staff, Plaintiff filed a response. ECF No. 28. Plaintiff later inquired of the Clerk on

1 the phone whether their response had been considered, and argued
2 that the response was technically on time -- even early -- pursuant
3 to the automatic extension provided by Fed. R. Civ. P. 6(d).

4 Upon review, Plaintiff is correct that Fed. R. Civ. P. 6(d)
5 may provide an additional 3 days to respond where an initial motion
6 was served via U.S. Mail, which was used here. See ECF No. 25-3 at
7 2. However, Rule 6(d) only applies "[w]hen a party may or must act
8 within a specified time after service." Local Civil Rule requires
9 a response "no later than 4 days after the motion has been filed,"
10 not after the date of service, and thus on its face does not fall
11 under Rule 6(d). Moreover, Civil Local Rule 5-1(h)(1), Service of
12 Electronically Filed Documents, specifies that:

13 Upon the filing of a document by a party, an email
14 message will be automatically generated by the ECF system
15 and sent to the registered attorneys for all parties in
16 the case. Except for electronically-filed civil
complaints and case-initiating documents, which must be
served manually, receipt of this message constitutes
service on the receiving party.

17 Therefore, notice was immediately complete, not accomplished
18 pursuant to Fed R. Civ. P. 5(b)(2)(C), and thus never subject to
19 Fed. R. Civ. P. 6(d). Yet even without an extension, the Court is
20 loath to deny arguments due to a technicality (such as filing an
21 objection a day late) as doing so may unfairly prejudice the
22 parties represented by counsel. The Court therefore takes the
23 Plaintiff's response filed after the Court had already decided the
24 motion but not yet posted as grounds to grant reconsideration.¹

25 _____
26 ¹ In an ironic twist, after drafting this Order but before filing
27 it, the Court received a joint motion for reconsideration by
28 Plaintiff making arguments that their original filing was timely
and that the Court should not decide a merits issue on the basis of
a technicality. ECF No. 31. Per the above, the Court disagrees
that the original opposition was timely but grants reconsideration.

1 However, upon reconsideration, the Court upholds its existing
2 Order. All parties and the Court agree that the three other cases
3 are related to each other. The crux of Plaintiff's argument is
4 that while related to each other, the three other cases are not
5 related to the instant case. In support thereof, Plaintiff
6 correctly cites that certain specific defendants are different,
7 that the legal basis is slightly different, and that the timeframe
8 is slightly different.

9 The Court finds this unpersuasive. The defendants cited in
10 the related cases are different to the extent necessary to capture
11 those involved in a slightly earlier stage of the company's
12 existence during the Initial Public offering ("IPO"). The Sections
13 of the Securities Act of 1933 are 11, 12(a)(2) and 15 in the
14 related actions and 10(b) and 20(a) in this action due to that same
15 difference in stage. The timeframe at issue in the related cases
16 is the IPO in June 12, 2014 versus misstatements made in February
17 2015 discovered to be false (and thus impacting stock) in April
18 2015. These facts could cut either way, and indeed tend to favor
19 Defendants' argument more than Plaintiffs' argument. However,
20 Defendants have no answer to the core of these claims: Defendants
21 are allegedly engaging in a repeated pattern of obfuscating
22 critical facts the public needed to know when making purchase of
23 its stock. The Court could easily find either way with respect to
24 whether the instant action and other three actions are indeed
25 substantially the same parties and transactions, per Local Civil
26 Rule 3-12. But the Court harbors no doubt that information related
27 to one (set of) case(s) would be of interest and likely to be
28 implicated in discovery with respect to the other case(s).

1 The Court also notes that this decision poses little harm to
2 the Defendants. Defendants argue that there is little risk of
3 duplicative labor or expense given (a) the differences in the cases
4 and (b) that removal was in error. The Court disagrees with the
5 former (per its analysis above) and notes that if removal truly was
6 improper -- a matter the Court in no way reaches here -- there will
7 be no prejudice to Defendants when these cases are remanded.

8 Accordingly, upon reconsideration, the Order of the Court
9 dated October 1, 2015, ECF No. 30, stands.

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IT IS SO ORDERED.

Dated: October 5, 2015



UNITED STATES DISTRICT JUDGE