

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

SEAN ALLEN, et al.,
Plaintiffs,

v.

COUNTY OF SANTA CLARA, et al.,
Defendants.

Case No. [14-cv-03829-BLF](#)

ORDER CONSOLIDATING CASES

Pursuant to Federal Rule of Civil Procedure 42, the Court *sua sponte* considers whether this matter and the related case, *Trbovich v. County of Santa Clara*, Case No. 14-cv-03830-BLF should be consolidated.¹

“When actions involving a common question of law or fact are pending before the court, it . . . may order all the actions consolidated.” Fed. R. Civ. Pro. 42(a). The “district court has broad discretion under this rule to consolidate cases pending in the same district.” *Investors Research Co. v. U.S. Dist. Court for Cent. Dist. of California*, 877 F.2d 777, 777 (9th Cir. 1989). “In determining whether or not to consolidate cases, the Court should weigh the interest of judicial convenience against the potential for delay, confusion and prejudice.” *Bodri v. Gopro, Inc.*, No.

¹ The Court previously related *Allen* and *Trbovich* under Civil Local Rule 3-12, which provides that “[a]n action is related to another when: (1) [t]he actions concern substantially the same parties, property, transaction or event; and (2) [i]t appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” ECF 17.

1 16-CV-00232-JST, 2016 WL 1718217, at *1 (N.D. Cal. Apr. 28, 2016) (quoting *Zhu v. UCBH*
2 *Holdings, Inc.*, 682 F. Supp. 2d 1049, 1052 (N.D. Cal. 2010).

3 The Court finds that *Allen* and *Trbovich* involve several common questions of law and fact.
4 In both cases, Plaintiffs Jona Trbovich and Shona Santos—joined by Sean Allen in *Allen*—bring
5 claims under Title VII, the California Fair Employment and Housing Act (“FEHA”), 42 U.S.C. §
6 1983, and 42 U.S.C. § 1981 against the County of Santa Clara and Douglas Ulrich, as well as
7 other individuals. While *Allen* focuses on gender discrimination and sexual harassment and
8 *Trbovich* focuses on racial discrimination, the two cases are based on similar misconduct over the
9 same time period. For example, allegations that officers harassed Ms. Trbovich for having had a
10 relationship with an African American man are central to both cases. *See* Compl. ¶¶ 28-30, ECF 1;
11 *see also Trbovich* Compl. ¶ 21, ECF 1 in Case No. 14-cv-03830-BLF.

12 The Court also finds that consolidation would minimize the risk of delay and the burden on
13 parties, witnesses, and available judicial resources. Given the substantial overlap in parties and
14 underlying facts, the Court finds that the risks of confusion and prejudice are minimal. Thus, the
15 Court finds that consolidation is warranted here.

16 Accordingly, the Court CONSOLIDATES the actions for all purposes, including trial and
17 dispositive motions. For administrative purposes, the docket in *Trbovich*, the later-filed case, shall
18 be closed. However, Plaintiffs need not file an amended complaint; the Court shall construe the
19 Complaint in each case together as the governing Complaint in the consolidated action.

20 To avoid unnecessary cost or delay, the Court ORDERS that Plaintiffs and each Defendant
21 may file only one motion for summary judgment in this consolidated action. *See* Fed. R. Civ. P.
22 42(a)(3). Any such motion is set for hearing on July 28, 2016. The Court DENIES the request to
23 continue the trial date, *see* ECF 38, which remains set for October 31, 2016.

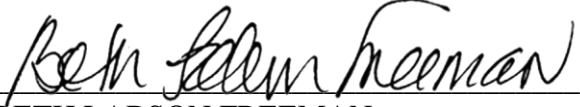
24 In addition, the Court ORDERS the parties to submit a schedule of all depositions for the
25 consolidated case, along with a proposed order, by no later than **May 25, 2016**. If the parties
26 cannot reach agreement, they are ORDERED to come before the Court on **May 26, 2016 at 9:00**
27 **AM** with every deponent whose date has not been set appearing in person, with the exception of
28 Mr. Morin who may appear by telephone.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Finally, pursuant to the parties' stipulation at the May 12, 2016 Case Management Conference, the Honorable James Larson (Ret.) is hereby APPOINTED Special Master of Discovery in the consolidated action. The parties have agreed to use the fee-splitting arrangement currently in place for the *Trbovich* matter.

IT IS SO ORDERED.

Dated: May 16, 2016


BETH LABSON FREEMAN
United States District Judge