UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

MAGDA GONZALEZ, et al.,

Plaintiffs,

vs.

COMPASS VISION, INC., et al.,

Defendants.

COMPASS VISION, INC.
Third-Party Plaintiff/Counterdefendant,

vs.

MAXIMUS, INC.
Third-Party Defendant/Counterclaimant.

DEBORAH JEAN SMITH AND JENNIFER JEAN MCKEE,

Plaintiffs

vs.

COMPASS VISION, INC. et al.

COMPASS VISION, INC.
Third-Party Plaintiff/Counterdefendant,

vs.

MAXIMUS, INC.
Third-Party Defendant/Counterclaimant.

CASE NOS. 07cv1951 BEN (AJB)
08cv1684 BEN (AJB)

ORDER GRANTING PLAINTIFFS' MOTION TO CONSOLIDATE

[Dkt. No. 260 in 07cv1951]

[Dkt. No. 188 in 08cv1684]

Plaintiffs move to consolidate two related cases, *Gonzalez v. Compass Vision*, 07cv1951 BEN (AJB), and *Smith v. Compass Vision*, 08cv1684 BEN (AJB), pursuant to Federal Rule of Civil Procedure 42(a). (Dkt. No. 260 in 07cv1951; Dkt. No. 188 in 08cv1684.) Defendant Compass Vision, Inc. opposes consolidation.

"If actions before the court involve a common question of law or fact, the court may . . . consolidate the action." FED. R. CIV. P. 42(a). The purpose of consolidation is to enhance efficiency and avoid the danger of inconsistent adjudications. *See EEOC v. HBE Corp.*, 135 F.3d 543, 550 (8th Cir. 1998).

Plaintiffs have demonstrated that the two cases involve commons questions of law and fact. While there are some factual distinctions between Plaintiffs, the common questions of law and fact far outweigh those distinctions. Questions common to the two cases include: whether Defendants promoted EtG testing as a reliable basis for professional discipline; whether EtG testing was reliable; whether Defendants continued to promote EtG testing as reliable when Defendants knew it was unreliable; whether Defendants utilized unscientifically supported cut-off limits for positive test results; and whether the above conduct constituted a breach of Defendants' duty of care to Plaintiffs. Any prejudice to Defendants or confusion to jurors resulting from factual distinctions between Plaintiffs can be addressed through appropriate jury instructions.

Plaintiffs motion to consolidate *Gonzalez v. Compass Vision*, 07cv1951 BEN (AJB) and *Smith v. Compass Vision*, 08cv1684 BEN (AJB) pursuant to Federal Rule of Civil Procedure 42(a) is **GRANTED**. The two actions shall be consolidated for all purposes. All further proceedings in the consolidated action shall be docketed under *Gonzalez v. Compass Vision*, 07cv1951 BEN (AJB).

IT IS SO ORDERED.

DATED: November 3, 2010

Hon. Roger T. Benitez
United States District Court