

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  
SOUTHERN DISTRICT OF CALIFORNIA**

EDUARDO MALDONADO LOPEZ  
and ALEJANDRO LOPEZ  
FERREIRA,  
  
Plaintiffs,  
  
vs.  
  
AQUI ES TEXCOCO, INC.,  
FRANCISCO PEREZ, and DOES 1-  
10, inclusive,  
  
Defendants.

CASE NO. 12-CV-1215 BEN (WVG)  
CASE NO. 12-CV-2113 BEN (WVG)  
  
**ORDER DENYING MOTION TO  
CONSOLIDATE CASES FOR  
TRIAL AND ADOPT A  
UNIVERSAL SCHEDULING  
ORDER**

AQUI ES TEXCOCO, INC., a  
California Corporation; FRANCISCO  
PEREZ, an individual,  
  
Plaintiffs,  
  
vs.  
  
EDUARDO MALDONADO LOPEZ,  
an individual; ALEJANDRO LOPEZ  
FERREIRA, an individual; SANDRA  
CASTILLO, an individual; all  
defendants doing business as Aqui  
Esta Texcoco; AQUI ESTA  
TEXCOCO, a business entity; DOES 1  
through 10, inclusive,  
  
Defendants.

1 Before the Court is a motion to consolidate two cases for trial. The cases are:  
2 *Eduardo Maldonado Lopez et al. v. Aqui Es Texcoco, Inc. et al.*, U.S. District Court  
3 Case No. 3:12-cv-01215-BEN-WVG (“the Wage case”), and *Aqui Es Texcoco, Inc.*  
4 *et al. v. Eduardo Maldonado Lopez et al.*, U.S. District Court Case No. 3:12  
5 cv-02113-BEN-WVG (“the Trademark case”). In the Wage case, Eduardo  
6 Maldonado Lopez and Alejandro Lopez Ferreira assert claims for unpaid overtime  
7 and other wages against defendants Aqui Es Texcoco, Inc. and Francisco Perez. In  
8 the Trademark case, Aqui es Texcoco and Francisco Perez assert claims against  
9 Eduardo Maldonado Lopez, Alejandro Lopez Ferreira, and others. That case  
10 involves claims of trademark infringement, trade libel and trade secret  
11 misappropriation.

12 Aqui Es Texcoco, Inc. and Francisco Perez request consolidation and adoption  
13 of the Court’s scheduling order in the Trademark case for both actions. Currently,  
14 the Wage case has a Final Pretrial Conference set for October 28, 2013, and the  
15 Trademark case has a Final Pretrial Conference set for April 7, 2014. Discovery is  
16 closed in the Wage case.

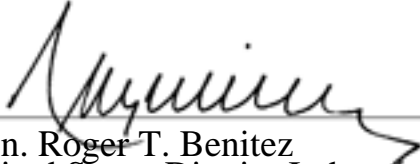
17 The extent to which the opposing parties support or oppose consolidation is  
18 unclear. On June 12, 2013, counsel for Eduardo Maldonado Lopez, Alejandro  
19 Lopez Ferriera, and others in the Trademark case filed a notice of joinder on his  
20 clients’ behalf. On June 25, 2013, the attorney for Eduardo Maldonado Lopez and  
21 Alejandro Lopez Ferriera in the Wage case *opposed* the motion on Lopez’s behalf  
22 (the attorney stated that he had been unable to reach Ferreira). The Court need not  
23 resolve this inconsistency. It declines to order consolidation. *See* CivLR 7.1.d.1 (“A  
24 judge may, in the judge’s discretion, decide a motion without oral  
25 argument.”)

26 The Court has discretion to consolidate cases that involve a “a common  
27 question of law or fact.” Fed. R. Civ. P. 42(a); *In re Adams Apple, Inc.*, 829 F.2d  
28 1484, 1487 (9th Cir. 1987). However, “[w]here a case that is ready for or close to

1 trial would be held up pending completion of pretrial proceedings in another case,  
2 courts have consistently denied consolidation.” *Antoninetti v. Chipotle Mexican*  
3 *Grill, Inc.*, No 05-CV-1660-J WMC, 2007 WL 2669531, at \*2 (S.D. Cal. Sept. 7,  
4 2007). Because discovery has closed in the Wage case, and because the legal and  
5 factual overlap between these cases is minimal, consolidation for the purposes of  
6 trial is not appropriate at this juncture. The motion is denied. The hearing on this  
7 motion, scheduled for July 8, 2013, is vacated.

8 **IT IS SO ORDERED.**

9  
10 DATED: June 27, 2013

11  
12   
13 Hon. Roger T. Benitez  
14 United States District Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28