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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

RUDOLF SANCHEZ; SYLVIA
SANCHEZ,

Plaintiffs,

v.

SERVIS ONE, INC., dba BSI
FINANCIAL SERVICES;
RESIDENTIAL CREDIT
SOLUTIONS, INC.; NATIONSTAR
MORTGAGE LLC; HOMEWARD
RESIDENTIAL; AURORA BANK,
FSB; EQUIFAX INFORMATION
SERVICES LLC; and TRANS
UNION LLC,

Defendants.

CASE NO. 18cv0586 JM(JMA)
CASE NO. 18cv0587 JM(JMA)

ORDER GRANTING MOTION TO
CONSOLIDATE

Pursuant to Fed.R.Civ.P. 42(a), Defendant Residential Credit Solutions, Inc. (“RCS”) moves to consolidate the separately filed consumer class action complaints filed individually by Plaintiff Rudolf Sanchez in 18cv0586 JM(JMA) and Plaintiff Sylvia Sanchez in 18cv0587 JM(JMA). Plaintiffs Rudolf Sanchez and Sylvia Sanchez oppose the motion. Defendants Servis One, Inc., dba BSI Financial Services (“BSI”); Nationstar Mortgage LLC (“Nationstar”); Homeward Residential (“Homeward”); Aurora Bank, FSB (“Aurora”); Equifax Information Services LLC (“Equifax”); and Trans Union LLC (“TransUnion”) have not responded to the motion. Pursuant to Local Rule 7.1(d)(1), the court finds the matters presented appropriate for resolution without

1 oral argument. For the reasons set forth below, the court grants the motion to
2 consolidate, instructs the Clerk of Court to file a copy of this order in both above
3 identified cases, and instructs the parties to file all future filings in the low number
4 action, 18cv0586 JM(JMA).

5 **BACKGROUND**

6 On March 20, 2018, Plaintiffs commenced these actions by alleging three claims
7 for relief: (1) violation of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §1681,
8 et seq.; (2) violation of the California Consumer Credit Reporting Agencies Act
9 (“CCRAA”), Cal. Civ. Code §1785.1, et seq.; and (3) violation of the automatic
10 bankruptcy stay provision, 11 U.S.C. §362(a). The FCRA claim is alleged against all
11 Defendants except RCS; the CCRAA claim is alleged against all Defendants; and the
12 violation of the automatic stay claim is alleged against RCS and BSI. Defendant
13 Nationstar is not a named Defendant in 18cv0587. All other Defendants are the same
14 in both actions.

15 In the main, Plaintiffs’ complaints set forth over one hundred generalized
16 allegations, including general policy arguments and statements of law related to their
17 statutory claims.¹ Defendants BSI, RCS, Nationstar, Homeward, and Aurora
18 (collectively, the “Furnisher-Defendants”) are alleged furnishers of information for
19 purposes of the FCRA. (Compl. ¶27, all references are to the Court Docket in
20 18cv0856). Defendants Equifax and TransUnion (collectively, the “Credit Bureaus”)
21 are alleged consumer reporting agencies for purposes of the FCRA. Plaintiffs’ claims
22 arise from the following allegations.

23 On August 28, 2012, Plaintiffs filed for a Chapter 13 bankruptcy in the Southern
24 District of California and, on March 13, 2013, the bankruptcy court approved their
25 repayment plan. (¶¶94, 105). On December 17, 2012, Plaintiffs filed a Motion to
26

27 ¹Fed.R.Civ.P. 8(a) requires a “short and plain statement of the claim showing that
28 the pleader is entitled to relief.” The court notes that Plaintiffs’ profuse pleading style
is not consistent with Rule 8(a).

1 Value Real Property, Treat Claim as Unsecured and Avoid Junior Lien (“Motion to
2 Value”) regarding a junior lien held by RCS. (Compl. ¶120). On October 12, 2018,
3 Plaintiffs’ bankruptcy successfully discharged.

4 Plaintiffs allege that Furnisher-Defendants “caused to be reported inaccurate
5 information after the Bankruptcy was filed on Plaintiff’s credit reports.” (Compl.
6 ¶129). Such conduct allegedly violated bankruptcy court orders, constituted an illegal
7 collection activity, and constituted a materially misleading statement for purposes of
8 the FCRA and CCRAA. (Compl. ¶130). Furnisher-Defendants also are alleged to have
9 reported inaccurate derogatory information based upon pre-bankruptcy contract terms
10 no longer enforceable after discharge. (Compl. ¶131). The Credit Bureaus, BSI,
11 Nationstar, Homeward, and Aurora are also alleged to have reported, or caused to be
12 reported, inaccurate information in Plaintiffs’ credit reports (primarily by reporting on
13 alleged debts extinguished in bankruptcy, or otherwise rendered unenforceable).
14 (Compl. ¶¶194-341).

15 DISCUSSION

16 Rule 42(a) of the Federal Rules of Civil Procedure provides: “If actions before
17 the court involve a common question of law or fact, the court may: (1) join for hearing
18 or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue
19 any other orders to avoid unnecessary cost or delay.” The primary purpose of the rule
20 is to promote trial court efficiency and avoid the danger of inconsistent adjudications.
21 See E.E.O.C. v. HBE Corp., 135 F.3d 543, 551 (8th Cir. 1998). While considerations
22 of judicial economy and convenience play an important role in deciding whether to
23 consolidate two actions for trial, the paramount concern is whether the parties are
24 afforded a fair and impartial trial.

25 As a threshold issue, the court notes that the term “consolidation” for purposes
26 of Rule 42(a) has several different meanings. Wright Miller; Federal Practice and
27 Procedure: Civil 2d §2382. The majority of courts hold that consolidation does not
28 merge the separate lawsuits into a single consolidated action. Schwarzer, Tashima

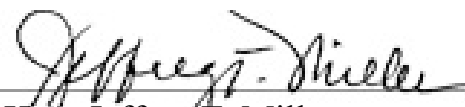
1 Wagstaffe, Federal Civil Procedure Before Trial, §16.140 (2008). In this district two
2 different procedures apply to related actions. First, the low number rule of L.R. 40.1
3 generally provides for the coordinated treatment of actions that arise from substantially
4 identical transactions, involve the same parties or property, or call for resolution of the
5 same or substantially identical issues of law and fact. L.R. 40.1(b). Here, the Sylvia
6 Sanchez action (18cv0857) has been low numbered to the Rudolf Sanchez action
7 (18cv0856). As a consequence, coordinated discovery and case management
8 procedures have already been implemented for these cases.

9 The second procedure provides for consolidation of two actions, as if they were
10 the same case. Where two related actions present the same factual and legal issues,
11 consolidation provides that the two cases proceed under a single case number. Here,
12 the legal claims are identical, the same underlying transaction or occurrence underlies
13 both complaints, and the evidence to support or negate Plaintiffs' claims applies
14 equally to all claims. Further, no management concerns are identified by the parties,
15 even though Nationwide is a Defendant only in 18cv0856 and each Plaintiff possesses
16 an individual credit report. Moreover, Plaintiffs do not identify any prejudice should
17 the cases be consolidated as one. Accordingly, the court finds that consolidation of the
18 two actions will bring additional efficiencies.

19 In sum, the court grants the motion to consolidate, and instructs the parties and
20 the Clerk of Court to file all future filings in the low number action, 18cv856 JM(JMA).

21 **IT IS SO ORDERED.**

22 DATED: May 23, 2018

23 
24 Hon. Jeffrey T. Miller
United States District Judge

25 cc: All parties
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