

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Senior Judge Zita L. Weinshienk

Civil Action No. 08-cv-01959-ZLW-MEH

NORFOLK SOUTHERN RAILWAY CORPORATION,

Plaintiff,

v.

SUPERLOADS, INC.,

Defendant,

and Consolidated Civil Action No. 09-cv-00648-WYD-MJW

NORFOLK SOUTHERN RAILWAY CORPORATION,

Plaintiff,

v.

SUPERLOADS, INC.,

Defendant.

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ORDER

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The matter before the Court is Plaintiff's Unopposed Motion To Consolidate A Related Matter (Doc. No. 51), filed in Case No. 08-cv-01959-ZLW-MEH. Plaintiff moves for the consolidation of Case No. 08-cv-01959-ZLW-MEH with Case No. 09-cv-00648-WYD-MJW. Federal Rule of Civil Procedure 42(a) provides that actions may be consolidated if they involve a common question of law or fact. Although consolidation

pursuant to Fed. R. Civ. P. 42(a) is committed to the discretion of the trial court, it may be inappropriate where it would lead to inefficiency, inconvenience, or unfair prejudice.<sup>1</sup>

Here, the two actions do involve common questions of law and fact, and it does not appear that consolidation will lead to inefficiency, inconvenience, or unfair prejudice. Defendant does not oppose consolidation. Accordingly, it is

ORDERED that Plaintiff's Unopposed Motion To Consolidate A Related Matter (Doc. No. 51) is granted. It is

FURTHER ORDERED that Case No. 08-cv-01959-ZLW-MEH is consolidated with Case No. 09-cv-00648-WYD-MJW. It is

FURTHER ORDERED that Magistrate Judge Michael E. Hegarty will be the referral Magistrate Judge in the consolidated action. It is

FURTHER ORDERED that the above case caption shall be used on future filings in the consolidated action until further Order of the Court.

DATED at Denver, Colorado this 29<sup>th</sup> day of April, 2009.

BY THE COURT:



ZITA L. WEINSHIENK, Senior Judge  
United States District Court

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<sup>1</sup>See Shump v. Balka, 574 F.2d 1341, 1344 (10<sup>th</sup> Cir. 1978); Equal Employment Opportunity Commission v. HBE Corp., 135 F.3d 543, 551 (8<sup>th</sup> Cir. 1998).