

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action Nos. 11-cv-02990-WYD-KLM  
12-cv-02927-WYD-KLM

SCOTT BURKE, on behalf of himself and others similarly situated, and  
ANTONIO COOK, on behalf of himself and others similarly situated,

Plaintiffs,

v.

ALTA COLLEGES, INC., d/b/a Westwood College, a Delaware corporation,  
Defendant.

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**ORDER**

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THIS MATTER is before the Court on Plaintiff Antonio Cook's Motion to Consolidate Cases (ECF No. 75), filed February 12, 2013. In the motion, Antonio Cook, Plaintiff in Civil Action No. 12-cv-02927-WYD-KLM, requests that I consolidate his case with *Burke v. Alta Colleges*, 11-cv-02990-WYD-KLM. Defendants does not oppose Plaintiff Cook's request that the *Burke* lawsuit and the *Cook* lawsuit be consolidated pursuant to Fed. R. Civ. P. 42(a) for discovery and pretrial proceedings. (ECF No. 77).

Fed. R. Civ. P. 42(a) provides that when actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters at issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay. Consolidation is within the discretion of the trial court.

*Gillette Motor Transport v. Northern Oklahoma Butane Co.*, 179 F.2d 711, 712 (10th Cir. 1950).

Both the *Burke* and *Cook* cases allege a nationwide FLSA collective action on behalf of all Field Admissions Representatives employed by Westwood for alleged violations of the FLSA. The cases involve employees with the same job title making the same claims for the alleged denial of overtime pay. Therefore, I conclude that consolidation of the two actions is appropriate in this case pursuant to Fed. R. Civ. P. 42(a). Accordingly, it is hereby

ORDERED that Plaintiff Antonio Cook's Motion to Consolidate Cases (ECF No. 75) is **GRANTED**. It is

FURTHER ORDERED that Plaintiff Antonio Cook's case, 12-cv-02927-WYD-KLM, shall be consolidated with *Scott Burke v. Alta Colleges*, 11-cv-02990-WYD-KLM. It is

FURTHER ORDERED that all pleadings and other filings from the date of this Order shall use the 11-cv-02990 case number, and the caption of the case should read "Scott Burke, on behalf of himself and others similarly situated, and Antonio Cook, on behalf of himself and others similarly situated, (Plaintiffs) v. Alta Colleges, Inc. d/b/a Westwood College, a Delaware corporation, (Defendant)."

Dated: April 10, 2013

BY THE COURT:

s/ Wiley Y. Daniel  
Wiley Y. Daniel  
Senior United States District Judge