

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION**

UPOFLOOR AMERICAS, INC.,

Plaintiff,

v.

Case No. 6:16-cv-179-Orl-37DCI

S SQUARED SUSTAINABLE  
SURFACES, LLC,

Defendant.

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S SQUARED SUSTAINABLE  
SURFACES, LLC,

Plaintiff,

v.

Case No. 6:16-cv-1403-Orl-37DCI

UPOFLOOR AMERICAS, INC.,

Defendant.

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**ORDER**

This cause is before the Court on the following:

1. The Court's Order to Show Cause (Doc. 33), filed August 29, 2016;
2. Defendant's Response to Order to Show Cause [ECF NO. 33] (Doc. 34), filed September 15, 2016; and
3. Upofloor America, Inc.'s Response to Order to Show Cause (Doc. 35), filed September 15, 2016.

In February and May of 2016, Upofloor Americas, Inc. ("**Upofloor**") and S Squared Sustainable Surfaces, LLC ("**S2LA**") filed the following related actions in

separate courts—(1) *Upofloor Americas, Inc. v. S Squared Sustainable Surfaces, LLC*, Case No. 6:16-cv-179-Orl-37DCI (“**Upofloor Action**”); and (2) *S Squared Sustainable Surfaces, LLC v. Upofloor Americas, Inc.*, Case No. 6:16-cv-1403-Orl-37DCI (“**S2LA Action**”). The S2LA Action was later transferred to this Court from the U.S. District Court for the Central District of California. (S2LA Action, Doc. 24.)

On August 29, 2016, the Court issued an Order to Show Cause as to why the *Upofloor* and *S2LA* Actions should not be consolidated pursuant to Federal Rule of Civil Procedure 42. (*Upofloor* Action, Doc. 33.) In response, Upofloor agreed that consolidation was appropriate. (*Id.*, Doc. 35.) For its part, S2LA expressed concern that consolidation of the two actions might adversely affect its ability to obtain the relief requested in its then-pending motion to dismiss (“**MTD**”). (*Id.*, Doc. 34.) In particular, one of the grounds raised in the MTD was whether the Court had personal jurisdiction over S2LA. (See *id.*, Doc. 15.) As such, S2LA represented that it could not consent to consolidation if doing so would create a new basis for personal jurisdiction which would otherwise not exist. (*Id.*, Doc. 34, p. 2.)

On October 12, 2016, the Court issued an Order denying S2LA’s MTD for, *inter alia*, lack of personal jurisdiction. (*Id.*, Doc. 37.) Consequently, S2LA’s objections are now moot, and the Court finds that the *Upofloor* and *S2LA* actions are due to be consolidated.

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. Pursuant to Federal Rule of Civil Procedure 42(a)(2), Case Nos. 6:16-cv-179-RBD-DCI and 6:16-cv-1403-RBD-DCI are **CONSOLIDATED**, such that:

a. Case No. 6:16-cv-1403-RBD-DCI is **DISMISSED WITHOUT**

**PREJUDICE.**

- b. The Clerk is **DIRECTED** to close Case No. 6:16-cv-1403-RBD-DCI.
- c. If S Squared Sustainable Surfaces, LLC wishes to pursue the causes of action alleged in Case No. 6:16-cv-1403-Orl-37DCI, it may file such as counterclaims in Case No. 6:16-cv-179-Orl-37DCI on or before Monday, **October 31, 2016**.

2. The Court's Order to Show Cause (Doc. 33) is **DISCHARGED**.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on October 14, 2016.



  
ROY B. DALTON JR.  
United States District Judge

Copies:

Counsel of Record