

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

MARGARET LONG,)
Plaintiff,)

v.)

1:09-cv-592-GZS

FAIRBANK FARMS, INC., et al.)
Defendants and)
Third-Party Plaintiffs,)

v.)

GREATER OMAHA PACKING)
COMPANY, INC.,)
Third-Party Defendant)

ORDER ON MOTION
FOR CONSOLIDATION

ALICE SMITH)
Plaintiff,)

v.)

2:10-cv-60-GZS

FAIRBANK FARMS, INC., et al)
Defendants and)
Third-Party Plaintiffs,)

v.)

GREATER OMAHA PACKING)
COMPANY, INC.,)
Third-Party Defendant.)

The third-party plaintiff, FAIRBANK FARMS RECONSTRUCTION CORP.,
(hereinafter “Fairbank”) moved for an order of the Court, pursuant to Rule 42 of the Federal
Rules of Civil Procedure, consolidating for trial the actions set forth above on the grounds that
the matters involve common questions of law and fact and that the consolidation of these matters
will conserve judicial resources. Fairbank requested that the *Long* matter now pending before

the U.S. District Court in Bangor with docket number 1:09-cv-592 be consolidated with the *Smith* matter, such that there will be only one trial of these two cases, to be held in Portland.

Rule 42 of the Federal Rules of Civil Procedure states that if actions before the Court involve common questions of law or fact, the court may consolidate the actions for trial.

Fed.R.Civ.P. 42(a). The rule grants to courts broad discretion in making the determination as to whether to consolidate matters. *Peter Condakes Company, Inc. v. Sandler Bros.*, 2009 U.S.

Dist. LEXIS 66762.

To determine whether consolidation is appropriate, a court should consider both equity and judicial economy. If savings of expense and gains of efficiency can be accomplished without sacrifice of justice, a court may find actions merit consolidation....If the parties at issue, the procedural posture and the allegations in each case are different, however, consolidation is not appropriate.

Id. at 2 (quoting *Hanson v. Dist. Of Columbia*, 257 F.R.D. 19, 21 (D.D.C. 2009)(citation and internal punctuation omitted in the original))

Fairbank seeks indemnification from Greater Omaha Packing Company, Inc. Substantial factual issues regarding the identification of the source of the contamination germane to both these causes of action are identical.

The Court has, throughout the discovery process, treated the matters simultaneously for purposes of ruling on discovery disputes and establishing deadlines. The Court held a joint pretrial conference on August 4, 2011 and both matters have been set for trial commencing October 31, 2011.

Because consolidating these matters for trial will result in substantial judicial economy and because the critical legal and factual issues are the same, it is ordered that these matters be consolidated for trial in Portland.

/s/George Z. Singal
George Z. Singal
Judge, U.S. District Court

Dated this 15th day of August, 2011.