

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUAN MARTINEZ, on behalf of)
themselves and all others similarly)
situated, and ANTONIO GUZMAN,)
on behalf of themselves and all others)
similarly situated,)

Plaintiffs,)

V.)

CARGILL MEAT SOLUTIONS,)
Corporation,)

Defendant.)

4:09CV3079

MEMORANDUM AND ORDER

This matter is before the court on Defendant's motion to consolidate this case with *Haferland, et al. v. Cargill Meat Solutions Corp.*, Case No. 8:09-cv-247 ("*Haferland*") and Defendant's request to reassign *Haferland* to the undersigned ([filing 41](#)). Defendant contends that this case should be consolidated with *Haferland* and that *Haferland* should be reassigned because the two cases present common issues of law and fact. Plaintiffs do not oppose consolidation or reassignment. However, the *Haferland* plaintiffs have filed an objection to consolidation and reassignment in the *Haferland* case, which is currently before United States District Court Judge Joseph F. Battalion. (*Haferland, et al. v. Cargill Meat Solutions Corp.*, Case No. 8:09-cv-247, [Filing 25](#).) Because the court finds that the two cases are related as defined by the local rules, and this action was filed three months before the *Haferland* action, the court will recommend to Judge Battalion that *Haferland* be reassigned. Defendant's motion to consolidate will be held in abeyance pending reassignment.

Under the local rules, cases are related when they involve some or all of the

same issues of fact or arise out of the same transaction. [NEGenR 1.4\(a\)\(4\)\(C\)\(iii\)](#). This case was filed on April 23, 2009, as a collective action under the Fair Labor Standards Act (“FLSA”). The action was filed on behalf of current and former employees of Defendant’s Schuyler, Nebraska facility who allegedly worked without pay while donning and doffing personal protective equipment. *Haferland*, which was filed on July 22, 2009, is also a FLSA collective action for alleged unpaid wages for donning and doffing at Defendant’s Schuyler facility. Clearly, the two cases are related. Under the local rules, related cases may be reassigned to the district judge with the earlier filed or lowest numbered case. [NEGenR 1.4](#). Thus, applying the local rules, I will recommend to Judge Bataillon that the *Haferland* action be reassigned to the undersigned.

Because the *Haferland* plaintiffs have filed an objection to consolidation and reassignment in their respective action, this court will delay ruling on the motion to consolidate filed in this case pending reassignment of the *Haferland* action.

IT IS ORDERED:

1. It is hereby recommended to United States District Judge Joseph F. Bataillon that *Haferland, et al. v. Cargill Meat Solutions Corp.*, Case No. 8:09-cv-247 be reassigned to United States District Court Judge Richard G. Kopf;
2. Defendant’s motion to consolidate will be held in abeyance pending reassignment of *Haferland, et al. v. Cargill Meat Solutions Corp.*, Case No. 8:09-cv-247 to the undersigned;
3. The Clerk of the court is directed to provide a copy of this order to United States District Judge Joseph F. Bataillon and United States Magistrate Judge Thomas D. Thalken.

December 8, 2009.

BY THE COURT:

Richard G. Kopf

United States District Judge