

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JACK STRUYK JR., THE KANSAS)
CITY SERIES OF LOCKTON)
COMPANIES LLC, CYNTHIA)
CARLSON, DEBORAH RASMUSSEN,)
KATHLEEN FRIDHOLM, PATRICIA)
GALVIN, JANE DAMBROSIA, and)
MARLYS GORSETH,)

8:11CV3151

Plaintiffs,)

ORDER

V.)

HOLMES, MURPHY & ASSOCIATES,)
INC., an Iowa corporation,)

Defendant.)

_____)
HMA, INC., an Iowa Corporation,)

Plaintiff,)

8:11CV427

V.)

JACK STRUYK, LOCKTON)
COMPANIES, LLC, KATHY)
FRIDHOLM, JANE DAMBROSIA,)
CINDY CARLSON, DEB RASMUSSEN,)
MARLYS GORSETH, and PAT)
GALVIN,)

ORDER

Defendants.)

_____)
This matter is before the court following a phone conference with counsel. The parties filed one action, 8:11CV427, in Iowa state court, removed it to the United States District Court for the District of Iowa, and then the Iowa federal district court judge transferred it to the United States District Court for the District of Nebraska. The parties

filed another case earlier on the same day, 8:11CV3151, in the United States District Court for the District of Nebraska. Both actions deal with an alleged breach of contract and an alleged breach of an employment non-compete agreement. The parties are currently briefing a request for expedited discovery and preliminary injunction, and one or more of the parties intend to file summary judgment motions. The magistrate judge set a deadline for these responses of April 20, 2012.

The court discussed a number of issues with counsel, including the possibility of consolidating these two cases for progression and discovery. Following the phone conference, the court thoroughly reviewed the file and determined that complete consolidation is appropriate in this case. The parties, issues, documents, witnesses and evidence are all the same. The court further finds that consolidating the pleadings will not substantially change the claims and relief sought by the parties. Therefore, the magistrate judge's April 20, 2012, briefing and motion deadline should remain in place.

THEREFORE, THE COURT ORDERS the parties and the Clerk of Court to proceed as follows:

1. Henceforth, all filings shall occur in case number 8:11CV3151.¹
2. The Clerk of Court shall close case number 8:11CV427.
3. The plaintiffs in case number 8:11CV3151 shall have 20 days from the date of this order to file an amended complaint which includes all the relevant allegations contained in both cases, 8:11CV3151 and 8:11CV427.

¹The court chose this case as it was filed first in time. A determination of which law applies, Nebraska or Iowa, will be determined at a later date after additional evidence has been submitted to the court.

4. Thereafter, the defendant shall have 20 days after the filing of the amended complaint to file its amended answer, counterclaims, cross-claims or third-party claims, or other appropriate motions.

5. The Clerk of Court shall file this order in both cases. Thereafter, all filings will occur only in case number 8:11CV3151.

6. All attorneys who are involved in this case shall register with cm/ecf within 48 hours of the date of this order.

7. This order will not change the April 20, 2012, deadlines set by the magistrate judge.

DATED this 29th day of March, 2012.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge