

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ERIN HANKS, et al.,	)	
	)	
Plaintiffs,	)	2:14-cv-00786-GMN-PAL
vs.	)	
	)	
BRIAD RESTAURANT GROUP, LLC,	)	
	)	
Defendant.	)	
	)	
TOBY EARL, et al.,	)	
	)	
Plaintiffs,	)	2:16-cv-02217-GMN-PAL
vs.	)	
	)	
BRIAD RESTAURANT GROUP, LLC,	)	
	)	
Defendant.	)	
	)	

## ORDER

Before the Court is the Motion to Consolidate filed by Defendant Briad Restaurant Group, LLC (“Defendant”) in Case Nos. 2:14-cv-00786-GMN-PAL (the “Hanks case”) and 2:16-cv-02217-GMN-PAL (the “Earl case”).<sup>1</sup> Plaintiffs<sup>2</sup> in both cases have opposed the Motions, which are fully briefed. For the reasons discussed below, the Court **DENIES** Defendant’s Motions.

<sup>1</sup> The Motions are docketed as ECF No. 126 in the Hanks case and ECF No. 12 in the Earl case.

<sup>2</sup> In the Hanks case, the named Plaintiffs are Erin Hanks, Jeffrey Anderson, and Robert Baker. In the Earl case, the named Plaintiffs are Toby Earl, Shyheem Smith, Deatra Enari, Michelle Pickthall, and James Skadowski.

1      **I. BACKGROUND**

2      This dispute arises out of alleged violations of an amendment to the Nevada Constitution  
3      setting certain minimum wage requirements for employers known as the Minimum Wage  
4      Amendment (“MWA”). Plaintiffs are current and former employees of various TGI Friday’s  
5      restaurant chain locations throughout Nevada. On May 19, 2014, Plaintiffs initiated the Hanks  
6      case allegedly as “a result of [Defendant’s] failure to pay Plaintiffs and other similarly-situated  
7      employees who are members of the Class the lawful minimum wage, because [Defendant]  
8      improperly claimed eligibility to compensate employees at a reduced minimum wage rate under  
9      Nev. Const. art. XV, § 16.” (Am. Compl. ¶ 1, Hanks case, ECF No. 6).

10     On July 27, 2015, the Court dismissed five Plaintiffs from the Hanks action who were  
11    parties to various arbitration agreements and ordered them to arbitrate their MWA claims against  
12    Defendant. (Order, Hanks case, ECF No. 93). On September 20, 2016, the dismissed Hanks  
13    Plaintiffs initiated the Earl action, “seeking an order from this Court declaring provisions in  
14    Defendant’s arbitration agreements that purport to prohibit class or representative actions, even  
15    in arbitration proceedings, are invalid pursuant to National Labor Relations Act.” (Compl. ¶ 1,  
16    Earl case, ECF No. 1). The Earl Plaintiffs allege that they intend to file a class arbitration, but  
17    that the American Arbitration Association requires a court order declaring such provisions  
18    invalid before accepting any class arbitration claims. (Id. ¶¶ 10, 12).

19     Defendants filed this Motion in both cases, seeking to consolidate the cases. For the  
20    reasons discussed below, the Court DENIES the motion.

21      **II. LEGAL STANDARD**

22     Rule 42(a) of the Federal Rules of Civil Procedure governs motions to consolidate. It  
23    provides:

24     If actions before the court involve a common question of law or fact,  
25    the court may join for hearing or trial any or all matters at issue in the

1 actions, consolidate the actions, or issue any other order to avoid  
2 unnecessary cost or delay.

3 Fed. R. Civ. P. 42(a).

4 When deciding whether to consolidate cases, the threshold question for the court to  
5 answer is whether the actions involve common questions of law or fact. See *id.* If the court  
6 determines that common questions are present, it must then balance the savings of time and effort  
7 that consolidation will produce against any inconvenience, delay, confusion, or prejudice that  
8 may result. *Huene v. United States*, 743 F.2d 703, 704 (9th Cir. 1984). Finally, whether actions  
9 should be consolidated under Rule 42(a) is a matter committed to the trial court's discretion.  
10 *Inv'r's Research Co. v. U.S. Dist. Ct. for the Cent. Dist. of Cal.*, 877 F.2d 777 (9th Cir. 1989).

### 11 **III. ANALYSIS**

12 Although these two cases originate from essentially the same set of facts, in the Court's  
13 view both the parties and claims are not sufficiently similar to merit consolidation. Indeed, while  
14 Plaintiffs in both cases dispute whether Defendant complied with the MWA, only the Hanks  
15 Plaintiffs' MWA claims will be determined before this Court. The MWA claims raised by the  
16 Earl Plaintiffs will be heard by an arbitrator. Furthermore, these cases are at completely different  
17 stages of pretrial litigation. The Hanks case was commenced almost five years ago, and the Earl  
18 case was filed at the end of last year. Consolidation would therefore only cause further delay and  
19 waste judicial resources. Finally, Defendant in the Earl case argues that a stay of that case is  
20 appropriate in light of the Supreme Court's decision to grant petitions for writ of certiorari in  
21 what Defendant claims are cases implicating dispositive issues. Thus, if the cases were  
22 consolidated, it is possible that the Court would then be required to enter a stay as to certain  
23 Plaintiffs but proceed as to others. Plaintiffs in each case should therefore be allowed to pursue  
24 their separate claims independently of the distinct issues raised in the other case.

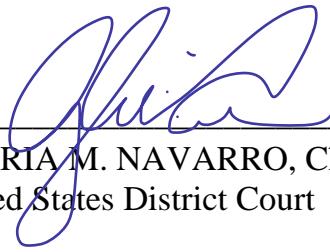
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1      **IV. CONCLUSION**

2      **IT IS HEREBY ORDERED** that Defendant's Motions to Consolidate, ECF No. 126 in  
3      Case No. 2:14-cv-00786-GMN-PAL, and ECF No. 12 in Case No. 2:16-cv-02217-GMN-PAL,  
4      are **DENIED**.

5      **DATED** this 1 day of May, 2017.

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GLORIA M. NAVARRO, Chief Judge  
United States District Court