

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

GOLDMAN SACHS TRUST)
COMPANY, N.A., as Executor of the)
Estate of RALPH L. FALLS, JR.,)

Plaintiff,)

v.)

RALPH L. FALLS, III,)

Defendant.)

No. 5:14-CV-777-FL

RALPH L. FALLS, III,)

Plaintiff,)

v.)

GOLDMAN SACHS TRUST)

COMPANY, N.A. as Executor of the)

Estate of Ralph L. Falls, Jr.; GOLDMAN)

SACHS TRUST COMPANY, N.A.)

as Trustee of the Ralph Lane Falls)

Revocable Declaration of Trust; DIANE)

C. SELLERS; LOUISE FALLS CONE)

individually and on behalf of her minor)

children and unborn issue; TOBY CONE;)

MARY COOPER FALLS WING)

individually and on behalf of her minor)

children and unborn issue; GILLIAN)

FALLS CONE individually and on behalf)

of her minor children and unborn issue;)

K.L.C. by her next friends and parents,)

Louise Falls Cone and Toby Cone,)

Defendants.)

No. 5:16-CV-740-FL

ORDER

These matters come now before the court on motion by Ralph L. Falls III to sever and consolidate, which motion is fully briefed and ripe for ruling. Defendant in the first case captioned above seeks the court to sever Ralph L. Falls III's first counterclaim for breach of fiduciary duty (see No. 5:14-CV-777-FL, DE 9 ¶¶ 17-21), and consolidate that claim with plaintiff's other claims pending in the second case captioned above. As a result, the sole claim proceeding next month to trial in case No. 5:14-CV-777-FL would be the claim by plaintiff Goldman Sachs Trust Company, N.A., for breach of contract (see No. 5:14-CV-777-FL, DE 1 ¶¶ 30-36).

COURT'S DISCUSSION

The Federal Rules of Civil Procedure permit severance of claims and consolidation of actions, in the interests of justice, and to avoid unnecessary cost or delay. See Fed. R. Civ. P. 21 & 42(a); Arnold v. E. Air Lines, Inc., 681 F.2d 186, 193 (4th Cir. 1982). Upon review of the records, and with careful consideration of the arguments of the parties, including response to the court's August 11, 2016, order to show cause, in its discretion the court **ALLOWS** the motion.¹

In order to promote effective management of the consolidated claims in case No. 5:16-CV-740-FL the court **AMENDS** deadline previously prescribed in its initial order for provision of the parties' discovery plan. The court sets a new deadline of December 30, 2016, for the parties discovery plan in the second action captioned above.

¹ Consolidation is without prejudice to further review by the court of such issues in the context of determining an appropriate case schedule and plan for discovery in case No. 5:16-CV-740-FL, including available measures to reduce costs, streamline proceedings, and expedite issues for resolution. The court expresses in this ruling no opinion on the still-pending motion to dismiss Ralph L. Falls III's claim for breach of lease.

The court NOTICES a Rule 16(b) scheduling conference in case No. 5:16-CV-740-FL, for 1:30 p.m., January 3, 2017, at the United States Courthouse, in New Bern, North Carolina, to be held concurrently with the previously-scheduled pre-trial conference in case No. 5:14-CV-777-FL.

Unless relieved by this court upon motion made for good cause, all parties personally shall ATTEND said conference January 3, 2017, at which time the court also will consider utility of settlement mechanism(s) which may lead to a global resolution of the issues raised in these cases.

SO ORDERED, this the 20th day of December, 2016.


LOUISE W. FLANAGAN
United States District Court Judge