UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In re COINSTAR, INC., Securities and Derivative Litigation	CASE NO. C11-133 MJP ORDER CONSOLIDATING AND JOINING DERIVATIVE ACTIONS
MARTA/ATU LOCAL 732 EMPLOYEES RETIREMENT PLAN Derivatively on Behalf of COINSTAR, INC., a Delaware corporation, Plaintiff v. ARIK A. AHITOV, et. al., Defendants	CASE NO. C11-663 MJP
MELVIN BRENNER, Derivatively on Behalf of COINSTAR, INC., a Delaware corporation, Plaintiff, v. DEBORAH L. BEVIER, et al., Defendants	CASE NO. C11-655 MJP

This comes before the Court on a stipulated motion consolidating actions, transferring actions, and continuing pending motions. (Brenner v. Bevier, C11-655, Dkt. No. 18.) Having determined that MARTA/ATU Local 732 Employees Retirement Plan v. Arik A. Ahitov (C11-663 MJP) and Brenner v. Bevier (C11-655 MJP) are substantially related to In re Coinstar Securities Litigation (C11-133 MJP), the Court GRANTS the stipulation and ORDERS that the actions be joined for pre-trial proceedings.

Discussion

Under Fed. R. Civ. P. 42(a), this Court can consolidate cases that "involve a common question of law or fact." A district court may consolidate actions as part of its broad discretion to manage its caseload. In re Adams Apple, 829 F.2d 1484, 1487 (9th Cir. 1987); see also Devlin v. Transportation Communs. Int'l Union, 175 F.3d 121, 130 (2d. Cir. 1999).

First, the Court consolidates MARTA/ATU Local 732 v. Ahitov and Brenner v. Bevier as related shareholder derivative actions on behalf of nominal defendant Coinstar, Inc. ("Coinstar"). Both actions implicate common questions of law and fact. See also 8 Moore's Federal Practice § 42.14[2] ("consolidation is common in federal securities actions . . .")(collecting cases). Hereinafter, the actions will be referred to as the "Derivative Litigation" and every pleading filed in this consolidated action shall bear the following caption:

IN RE COINSTAR, INC., SHAREHOLDER DERIVATIVE LITIGATION	NO. C11-133 MJP LEAD CASE NO. C11-133 MJP

Second, the Court joins the Derivative Litigation to In re Coinstar Securities Litigation (C11-133 MJP) ("the Securities Litigation") for pre-trial proceedings. Both the Derivative Litigation and the Securities Litigation challenge Defendants' representations or material omissions regarding its management of Redbox Automated Retail LLC ("Redbox"). Both Derivative Plaintiffs and Securities Plaintiffs allege Defendants failed to accurately represent negative factors affecting Redbox's business, including the DVD retail industry's shift to releasing titles 28 days after the studio has begun its own distribution. (See, e.g., Packer Compl. ¶ 3; Wilkerson Compl. ¶¶2-3). There are common questions of fact as to whether the statements were misleading. The Court therefore finds that coordination of both litigations serve judicial efficiency.

Conclusion

The Court CONSOLIDATES MARTA/ATU v. Ahitov and Brenner v. Bevier and will refer to the actions as the Derivative Litigation. The Court JOINS the Derivative Litigation with the Securities Litigation for pre-trial proceedings. Counsel in all cases must arrange to receive all filings in C11-133 MJP through the Electronic Case Filing system.

The Court STRIKES the pending motion for appointment of lead plaintiff or lead counsel in the Derivative Litigation.

The Court ORDERS all parties from the Securities Litigation and Derivative Litigation to meet and confer and submit an amended Joint Status Report within fifteen (15) days of entry of this Order. The Joint Status Report should address protocols regarding electronic discovery, protective orders, and propose streamlined deadlines regarding any motions to dismiss.

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The clerk is ordered to provide copies of this order to all counsel.

Dated this 25th day of May, 2011.

Marsha J. Pechman
United States District Judge