IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 12-cv-02918-PAB-BNB

SONYA BOLERJACK,

Plaintiff,

v.

PEPPERIDGE FARM INC.,

Defendant.

ORDER

This matter is before the Court on the Joint Motion to Consolidate Cases, Vacate Current Bolerjack Case Deadlines, and Extend Bolerjack Protective Order [Docket No. 82] filed by plaintiff Sonya Bolerjack and defendant Pepperidge Farm, Inc. ("Pepperidge Farm"). The parties move the Court to consolidate this case with the later filed cases *Koehler v. Pepperidge Farm, Inc.*, No. 13-cv-02607-PAB, *see* Docket No. 17, and *Leo v. Pepperidge Farm, Inc.*, No. 13-cv-02866-PAB, *see* Docket No. 13, pending before the Court. Plaintiffs in the later filed cases, Garett Koehler and Lisa Leo, join in requesting consolidation. Docket No. 82 at 2.

Rule 42(a) of the Federal Rules of Civil Procedure provides that "[i]f actions before the court involve a common question of law or fact, the court may . . . consolidate the actions." FED. R. CIV. P. 42(a)(2). The decision whether to consolidate actions involving common questions of law or fact is committed to the sound discretion of the district court. *Shump v. Balka*, 574 F.2d 1341, 1344 (10th Cir. 1978). The

purpose of Rule 42(a) is "to give the court broad discretion to decide how cases on its docket are to be tried so that the business of the court may be dispatched with expedition and economy while providing justice to the parties." *Breaux v. American Family Mut. Ins. Co.,* 220 F.R.D. 366, 367 (D. Colo. 2004) (quoting 9 C. WRIGHT & A. MILLER, FEDERAL PRACTICE & PROCEDURE § 2381 at 427 (2nd ed. 1995)). Therefore, the Court will consider both judicial economy and fairness to the parties in exercising its discretion under Rule 42(a). *See Harris v. Illinois-California Express, Inc.*, 687 F.2d 1361, 1368 (10th Cir. 1982).

All three of the cases in question are brought against the same defendant, involve essentially the same facts, and seek to answer the same question: whether it is unfair, deceptive, or otherwise misleading to label food products "natural" when they contain genetically modified ingredients. The fact that the claims are asserted under different state laws, namely, the consumer protection laws of California, Colorado, and Florida, is not a sufficient reason to deny consolidation, especially where the state laws are likely to significantly overlap and where all parties agree consolidation is appropriate. *See* Docket No. 82 at 2. Additionally, two of the cases were transferred to this Court within one month of each other. Therefore, because the cases involve common questions of law and fact, *Bolerjack v. Pepperidge Farm,* Inc., No. 12-cv-02918-PAB-BNB, *Koehler v. Pepperidge Farm, Inc.*, No. 13-cv-02607-PAB, and *Leo v. Pepperidge Farm, Inc.*, No. 13-cv-02866-PAB shall be consolidated.

Accordingly, it is

ORDERED that the Joint Motion to Consolidate Cases, Vacate Current Bolerjack

Case Deadlines, and Extend Bolerjack Protective Order [Docket No. 82] is GRANTED insofar as it requests consolidation of the above-mentioned cases. It is further

ORDERED that, pursuant to Fed. R. Civ. P. 42(a) and D.C.COLO.LCivR 42.1, Civil Action Nos. 12-cv-02918-PAB-BNB, 13-cv-02607-PAB, and 13-cv-02866-PAB shall be consolidated for all purposes. It is further

ORDERED that Magistrate Judge Boyd N. Boland shall be assigned to 13-cv-02607 and 13-cv-02866. It is further

ORDERED that the Joint Motion to Consolidate Cases, Vacate Current Bolerjack Case Deadlines, and Extend Bolerjack Protective Order [Docket No. 82] is referred to Magistrate Judge Boyd N. Boland to the extent it requests vacating the Scheduling Order in *Bolerjack v. Pepperidge Farm, Inc.*, 12-cv-02918-PAB-BNB, and entry of protective orders in *Koehler v. Pepperidge Farm, Inc.*, No. 13-cv-02607-PAB, and *Leo v. Pepperidge Farm, Inc.*, No. 13-cv-02866-PAB. It is further

ORDERED that all future pleadings and other filings shall be filed in this case only and shall be captioned as shown below:

Civil Action No. 12-cv-02918-PAB-BNB
(Consolidated with Civil Action Nos. 13-cv-02607-BNB and 13-cv-02866-PAB)

Civil Action No. 12-cv-02918-PAB-BNB
SONYA BOLERJACK,

Plaintiff,

v.

PEPPERIDGE FARM, INC.,

Defendant.

Civil Action No. 13-cv-02607-PAB-BNB
GARETT KOEHLER,

Plaintiff,

v.

PEPPERIDGE FARM, INC.

Defendant.

Civil Action No. 13-cv-02866-PAB-BNB
LISA LEO,

Plaintiff,

v.

PEPPERIDGE FARM, INC.

Defendant.

DATED November 1, 2013.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge