

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE WELSPUN LITIGATION

DOROTHY MONAHAN,

Plaintiff,

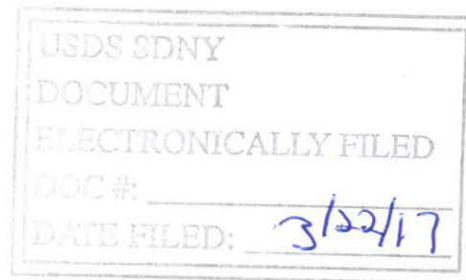
-v-

WAL-MART STORES, INC.,

Defendant.

No. 16-cv-6792 (RJS)
ORDER

No. 16-cv-8662 (RJS)
ORDER



RICHARD J. SULLIVAN, District Judge:

The Court is in receipt of Plaintiffs' request to consolidate the above-captioned cases pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, dated March 10, 2017. (No. 16-cv-6792 (RJS), Doc. No. 75.) On March 15, 2017, Plaintiff Monahan submitted a letter indicating that she does not oppose consolidation. (No. 16-cv-8662, No. 24.) On March 20, 2017, Defendant Wal Mart Stores, Inc. ("Wal Mart") submitted a letter indicating that it also consents to consolidation. (No. 16-cv-8662 (RJS), Doc. No. 26.)

Pursuant to Federal Rule of Civil Procedure 42(a), a district court may "consolidate" two or more actions that "involve a common question of law or fact." Fed. R. Civ. P. 42(a)(2); *see Devlin v. Transp. Commc'ns Int'l Union*, 175 F.3d 121, 130 (2d Cir. 1999); *Johnson v. Celotex Corp.*, 899 F.2d 1281, 1284 (2d Cir. 1990). District courts have "broad discretion to determine whether consolidation is appropriate," *Johnson*, 899 F.2d at 1284, but this discretion is "not unfettered," and, therefore, "[c]onsiderations of convenience and economy must yield to a paramount concern for a fair and impartial trial," *id.* at 1285. Accordingly, courts must determine:

[W]hether the specific risks of prejudice and possible confusion [are] overborne by the risk of inconsistent adjudications of common factual and legal issues, the burden on parties, witnesses, and available judicial resources posed by multiple lawsuits, the length of time required to conclude multiple suits as against a single one, and the relative expense to all concerned of the single-trial, multiple-trial alternatives. *Id.*

After considering these factors, the Court finds consolidation appropriate. It is obvious, upon review of the operative complaints, that there are “common factual and legal issues” in both cases. *Id.*; (see also No. 16-cv-6792, Doc. No. 60; No. 16-cv-8662, Doc. No. 1.) In addition, all parties consent to consolidation, and the Court fails to discern how any party would be prejudiced by consolidation. Furthermore, it is clear that consolidation would prevent waste and duplication in the various cases.

Accordingly, IT IS HEREBY ORDERED THAT the above-captioned cases shall be consolidated under the caption *In re Welspun Litigation*, No. 16-cv-6792 (RJS). The Clerk is respectfully directed to close the case numbered 16-cv-8662 (RJS) and to terminate the motion pending at docket number 75 in the case numbered 16-cv-6792 (RJS).

Wal-Mart also requests an adjournment of the deadline to respond to Plaintiff Monahan’s complaint. (No. 16-cv-8662, No. 26.) In light of the Court’s Order consolidating these actions, Wal-Mart’s motion is denied as moot. The Clerk is respectfully directed to terminate the motion pending at docket number 26 in matter number 16-cv-8662. All answers to the consolidated amended complaint shall be filed by April 28, 2017. (See No. 16-cv-6792, Doc. Nos. 60, 78.)

SO ORDERED.

Dated: March 22, 2017
New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE