

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

Victor Perez,

Plaintiff,

v.

Case No. 08-2072-JWL

Pavlich, Inc.,

Defendant.

MEMORANDUM & ORDER

Plaintiff Victor Perez filed suit against defendant, his former employer, alleging unlawful discrimination in violation of 42 U.S.C. § 1981 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. This matter is presently before the court on defendant's motion to consolidate cases (doc. 7). Specifically, defendant seeks to consolidate this case with another case filed by Mr. Perez that is presently pending before Judge Murguia of this court. In that case, filed as a collective action pursuant to 29 U.S.C. § 216(b), Mr. Perez alleges that defendant and Jim Pavlich violated the Fair Labor Standards Act by failing to record accurately hours worked by employees and failing to compensate employees for all hours worked. The defendants in the case pending before Judge Murguia similarly filed a motion to consolidate cases and Judge Murguia has denied that motion.

This court, too, denies the motion to consolidate. While defendant summarily asserts that the two cases share common witnesses, exhibits and facts, it has not provided the court with any concrete examples and has not shown that any common facts that might exist merit consolidation of the cases. Indeed, on the face of the complaints, the court sees very little factual overlap.

That being said, if the discovery process in this case reveals significant factual overlap with discovery in the FLSA case, the parties are encouraged to work together to ensure efficiency and, to the extent possible, reduction of duplicative costs. If the parties are unable to do so, defendant, if appropriate, may ask the court again to consolidate the cases for purposes of discovery.

IT IS THEREFORE ORDERED BY THE COURT THAT defendant's motion to consolidate cases (doc. 7) is denied.

IT IS SO ORDERED.

Dated this 5th day of November, 2008, at Kansas City, Kansas.

s/ John W. Lungstrum

John W. Lungstrum
United States District Judge