

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

<b>Edward L. Ewing,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
	)	
<b>vs.</b>	)	<b>Case No. 09-2495-JAR-JPO</b>
	)	
<b>Allied Services, LLC, Allied Waste</b>	)	
<b>Landfill Holdings, Inc., and Allied Waste</b>	)	
<b>Industries, Inc.,</b>	)	
	)	
<b>Defendants.</b>	)	
_____	)	

**ORDER**

This matter is before the Court on plaintiff Edward L. Ewing’s Unopposed Motion to Consolidate Cases 09-2135 and 09-2495 (Doc. 7).<sup>1</sup> Pursuant to Fed. R. Civ. P. 42(a), the Court may consolidate actions that involve a common question of law or fact. The decision to consolidate is left to the discretion of the district judge.<sup>2</sup>

It is clear to the Court that these cases contain common questions of fact and law. Both lawsuits are for alleged racial discrimination and retaliation experienced by the plaintiff while employed at defendant Allied Waste Services in Kansas City, Kansas. The plaintiff makes the same factual allegations in both cases. Both cases assert claims under Title VII of the Civil Rights Act of 1964; Case No. 09-2495 asserts a claim for retaliation while Case No. 09-2135 asserts claims for hostile work environment and disparate treatment.

The Court further finds that consolidation would serve the interest of judicial efficiency

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<sup>1</sup>Plaintiff also moves to amend the Scheduling Order entered in Case No. 09-2135. The Court does not rule on that request at this time. This motion will be properly considered by Judge Rushfelt.

<sup>2</sup>See *Shump v. Balka*, 574 F.2d 1341, 1344 (10th Cir. 1978).

given that identical witnesses and evidence will be utilized by the litigants in this matter. While Case No. 09-2135 is somewhat further along procedurally than Case No. 09-2495, the parties represent that consolidation will not cause them any hardship or prejudice.

**IT IS THEREFORE ORDERED BY THE COURT** that plaintiff Edward L. Ewing's Unopposed Motion to Consolidate Cases 09-2135 and 09-2495 (Doc. 7) is **granted**.

**IT IS FURTHER ORDERED** that Case No. 09-2135-JAR-GLR should be consolidated with Case No. 09-2495-JAR-JPO, and that Case No. 09-2135-JAR-GLR should be designated the lead case. Magistrate Judge Gerald L. Rushfelt shall be assigned the presiding Magistrate Judge for this consolidated action.

**IT IS SO ORDERED.**

Dated: January 6, 2010

S/ Julie A. Robinson  
JULIE A. ROBINSON  
UNITED STATES DISTRICT JUDGE