

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

WALLACE B. RODERICK REVOCABLE
LIVING TRUST, TRUSTEE AMANDA S.
RODERICK, on behalf of itself and others
similarly situated,

Plaintiff,

v.

Case No. 08-1330-EFM-GFB

XTO ENERGY, INC.,

Defendant.

WALLACE B. RODERICK REVOCABLE
LIVING TRUST, TRUSTEE AMANDA S.
RODERICK, on behalf of itself and JOHN
FITZGERALD, on behalf of himself and
others similarly situated,

Plaintiffs,

v.

Case No. 12-1215-EFM-GFB

OXY USA, INC.,

Defendant.

MEMORANDUM AND ORDER

On December 29, 2014, the Court consolidated the above-named cases for purposes of discovery management and pretrial motions. On March 9, 2016, the Court conducted a status conference with the parties in these cases. The parties agreed after consultation that while there are similar legal issues in each case, consolidation of the two cases is no longer necessary.

The decision whether to consolidate actions involving common questions of law or fact is committed to the sound discretion of the district court.¹ In exercising this discretion, the Court will consider both judicial economy and fairness to the parties.² Here, the separate Defendants are competitors, and thus, each objects to consolidation for discovery purposes. Furthermore, the Defendants are now on separate briefing schedules, so consolidation does not meaningfully improve judicial economy with regards to pretrial motions as originally intended. Lastly, the parties agree that there are factual distinctions regarding the marketing methods employed by each Defendant.

In the interest of fairness to the parties, and given that each case does not turn on a common question of fact, the Court finds that consolidation is no longer warranted. The cases shall be deconsolidated and handled separately from this point forward.

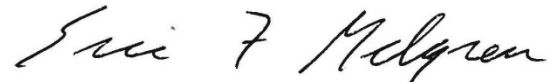
¹ *Shump v. Balka*, 574 F.2d 1341, 1344 (10th Cir. 1978).

² *Harris v. Illinois-California Express, Inc.*, 687 F.2d 1361, 1368 (10th Cir. 1982).

IT IS THEREFORE ORDERED that the above-named cases are hereby
DECONSOLIDATED.

IT IS SO ORDERED.

Dated this 15th day of March, 2016.

A handwritten signature in black ink, reading "Eric F. Melgren". The signature is written in a cursive, flowing style.

ERIC F. MELGREN
UNITED STATES DISTRICT COURT