

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ADMARK JEWELRY CORP.,	:	CIVIL ACTION
Plaintiff,	:	
	:	NO. 99-2227
v.	:	
	:	
UNITED PARCEL SERVICE,	:	
Defendant.	:	
_____	:	
	:	
ADMARK JEWELRY CORP.,	:	CIVIL ACTION
Plaintiff,	:	
	:	NO. 99-5323
v.	:	
	:	
UNITED PARCEL SERVICE,	:	
Defendant.	:	

MEMORANDUM

BUCKWALTER, J.

March 7, 2000

Presently before the Court is the Defendant's Motion to Consolidate two related cases pursuant to Fed. R. Civ. P. 42(a). For the reasons stated below, the Motion is Granted.

I. BACKGROUND

Plaintiff Admark Jewelry Corp. ("Admark") is a costume jewelry maker and wholesaler. Defendant United Parcel Service ("UPS") is a nationwide delivery service. Admark used UPS's delivery services to ship unsolicited jewelry samples to stores across the nation. Admark filed an Amended Complaint ("Amended Complaint") in an action against UPS on June

17, 1999 (Civil Action No. 99-2227). The Amended Complaint alleged that UPS failed to deliver approximately 6,400 packages (merchandise worth about \$1.6 million). A month later, Admark initiated a second action against UPS (Civil Action No. 99-5323), alleging that UPS had violated federal law by refusing to allow Admark to use its shipping services. This second case was initially assigned to the Honorable John P. Fullam. On January 7, 2000, the case was reassigned to the undersigned.

II. LEGAL STANDARD

Fed. R. Civ. P. 42(a) permits cases pending before the same court to be consolidated:

When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial on any or all matters in issue in the actions, it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delays.

Consolidation is at the discretion of the trial court and should be permitted where the consolidation of separate actions presenting common questions of law or fact will promote convenience and economy in judicial administration. See *Graphic Arts Int'l Union v. Haddon Craftsmen, Inc.*, 489 F. Supp. 1088, 1091 n. 1 (E.D. Pa. 1979).

III. DISCUSSION

This Court finds that judicial economy would benefit by consolidating the two cases. The basis of UPS's decision to terminate service for Admark was its frustration with Admark's business practice of sending unsolicited jewelry to unconfirmed addresses. This Admark practice will also be at the center of its breach of contract claim against UPS

(No. 99-2227). Many of Admark's policies and procedures will likely be covered in both cases.

The witnesses will be similar in Case Nos. 99-2227 and 99-5323. Consolidating the cases should avoid unnecessary duplication. The Court also does not see any reason that Plaintiff should be prejudiced by consolidating the cases. Therefore, the Motion will be granted.

An appropriate Order follows.

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UNITED PARCEL SERVICE,	:	
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ADMARK JEWELRY CORP.,	:	CIVIL ACTION
Plaintiff,	:	
	:	NO. 99-5323
v.	:	
	:	
UNITED PARCEL SERVICE,	:	
Defendant.	:	

ORDER

AND NOW, this 7th day of March, 2000, upon consideration of Defendant's Motion to Consolidate and Amend the Scheduling Order (Docket No. 17), and Plaintiff's Response thereto (Docket No. 19), it is hereby **ORDERED** that the Defendant's Motion is **GRANTED**.

It is **FURTHER ORDERED** that Civil Action No. 99-2227 and Civil Action No. 99-5323 are consolidated pursuant to Rule 42(a) of the Federal Rules of Civil Procedure

It is **FURTHER ORDERED** that the Scheduling Order entered on November 2, 1999 for Civil Action No. 99-2227 is hereby **VACATED** and a revised Scheduling Order for Civil Action No. 99-2227 and Civil Action No. 99-5323 is entered as follows:

1. All discovery in this case is to be completed by July 31, 2000.
2. All dispositive motions are due five (5) days after the discovery period.
3. The case will be placed in the trial pool (published in The Legal

Intelligencer) on August 28, 2000.

4. At least seven (7) days prior to the case being listed in the pool as set forth in paragraph 3, all parties will file their respective pretrial memorandums, which shall include all items set forth in paragraph 8 of the Pretrial and Trial Procedures Before Judge Ronald L. Buckwalter. A copy of the pretrial memorandums shall be sent to opposing counsel and unrepresented parties. Unless otherwise ordered, counsel need not submit a pretrial memorandum, if a dispositive motion is filed, until after the Court's ruling on the motion. If necessary, pretrial memos are due 7 days after the Court's ruling on the motion.

5. If requested by counsel, the court will hold a pretrial conference, but no such conference will ordinarily be scheduled in the absence of a request.

BY THE COURT:

RONALD L. BUCKWALTER, J.