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IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CIVIL

ERIC S. BRAY,	:	February Term 2021 ..
	:	
Plaintiff,	:	
	:	
v.	:	No. 2454
	:	
ALL RAILROAD SERVICES CORP., ET. AL.,	:	Commerce Program
	:	
Defendants.	:	Control Nos. 22014734/22014735 ¹
	:	

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APR 27 2022

COMMERCIAL PROGRAM

ORDER

AND NOW, this 27th day of April, 2022, upon consideration of Plaintiff's Motion for Coordination and Consolidation of *All Reliable Services, Inc. a/k/a All Reliable Services Corp., v. Bray*, Court of Common Pleas, Bucks County, Docket Number 2022-00289 ("Bucks County Action") with this case, *Bray v. All Railroad Services Corp., et. al.*, Court of Common Pleas, Philadelphia County, Docket Number 2102-2454 ("Philadelphia County Action"), Defendants' responses in opposition, and upon hearing argument on April 20, 2022 and as explained in the attached Opinion, it is hereby **ORDERED** that Plaintiff's Motion for Coordination and Consolidation is GRANTED as follows:

1. Pursuant to Pa. R.C.P. 213.1 (c), the Bucks County Action and the Philadelphia County Action shall be COORDINATED in the Court of Common Pleas of Philadelphia County, Commerce Court.
2. Pursuant to Pa. R.C.P. 213.1 (d)(2) and Pa. R.C.P. 213.1 (d)(3), the Bucks County Action shall be TRANSFERRED to the Commerce Court of the Court of Common

¹ These Court of Common Pleas, Philadelphia County Civil Trial Division control numbers are assigned to Plaintiff's Motions for Coordination and Consolidation. The motions are identical and are addressed here as if they were one motion.

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Pleas, Philadelphia County and CONSOLIDATED with the Philadelphia County Action.

1. The Philadelphia Court Action shall be the lead case and its Case Management Order governs both cases but may be subject to amendment upon motion and order of court.
2. Pursuant to Pa. R.C.P. 213.1(e), Plaintiff shall bear administrative court costs of coordination in the event there are any.
3. Since counsel for the parties in the Bucks County Action and the Philadelphia County Action are the same, notice of coordination pursuant to Pa.R.C.P. 213.1(e) is herewith provided to counsel for all parties in all actions subject to the order of coordination.
4. The Office of Judicial Records in Philadelphia County shall provide the Prothonotary or other designated court administration official of the Court of Common Pleas, Bucks County with a certified copy of this Order and shall also provide the Civil Court Clerk of the Court of Common Pleas, Philadelphia Court with a certified copy, and the administrators of both courts shall take all actions necessary to carry out this coordination and transfer.
5. Pursuant to Pa. R.C.P. 213.1 (f), when a final order is entered disposing of the coordinated actions, the final order shall be certified by the Civil Clerk of the Court of Common Pleas, Philadelphia County and entered in the Court's record.

BY THE COURT


RAMY I. DJERASSI, J.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION-CIVIL**

ERIC S. BRAY,	:	February Term 2021
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Plaintiff,	:	
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v.	:	No. 2454
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ALL RAILROAD SERVICES CORP., ET. AL.,	:	
	:	
Defendants.	:	Commerce Program
	:	
	:	
	:	Control Nos. 22014734/22014735

OPINION

Presently before the court are Plaintiff Eric S. Bray's ("Bray") motions to coordinate and consolidate *All Reliable Services, Inc. et. al. v. Bray*, Court of Common Pleas, Bucks County, Docket Number 2022-00289("Bucks County Action") with this case ("Philadelphia County Action"). For reasons explained, these motions are granted. ²

Philadelphia County Action

On February 25, 2021, Bray filed a complaint against All Railroad Services Corp, All Reliable Services Inc., and Michael Heridia (collectively referred to as "Defendants") in the Commerce Court of the Court of Common Pleas, Philadelphia County. Bray alleges he was promised an 8% ownership interest in defendant All Reliable Services, Inc. when he was hired in 2014 but he contends he was never issued ownership shares as promised. Bray's complaint avers counts for breach of contract, specific performance, promissory estoppel, breach of the duty of good faith and fair dealing, breach of fiduciary duty, an accounting, constructive fraud, and violations of the Wage Payment Collection Law. He also seeks a declaratory judgment regarding the alleged 8% ownership interest, and critically for purposes of coordination and consolidation,

² Plaintiff has withdrawn its request to consolidate the action captioned *Berry et. al. v. All Railroad Services Corp, et. al.*, 2121-1008 (Djerassi, J.)

he asks our court to declare null and void various restrictive covenants associated with his 2014 Shareholder Agreement with defendant All Reliable Services, Inc.

Bucks County Action

Nearly a year later, on January 18, 2022, defendant All Reliable Services, Inc. a/k/a All Reliable Services, Corp., filed a complaint against Bray in the Court of Common Pleas, Bucks County. This Bucks County Action seeks preliminary injunctive and declaratory relief against Bray for alleged breaches of the restrictive covenant provisions that appear in his 2014 Shareholder Agreement. Additionally, All Reliable Services, Inc. a/k/a All Reliable Services, Corp alleges breach of contract, tortious interference with contract, misappropriation of trade secrets, and conversion.

On January 26, 2022, Bray filed the instant motions to coordinate and consolidate this Philadelphia County Action with the Bucks County Action. Defendants filed responses to the motion and we heard oral argument on April 20, 2022.

DISCUSSION

Pennsylvania Rule of Civil Procedure 213.1 governs the coordination of actions in different counties throughout the Commonwealth of Pennsylvania. Rule 213.1 provides in pertinent part as follows:

“In actions pending in different counties which involve a common question of law or fact or which arise from the same transaction or occurrence, upon notice and request of any party, with notice to all other parties, any party, with notice to all other parties, may file a motion requesting the court in which a complaint was first filed to order coordination of the actions.”³

³ Pa. R.C.P. 213.1(a).

The primary purpose of Pa. R.C.P. 13.1 is to provide a mechanism for courts and counsel to avoid duplicative actions across counties.⁴ Coordination is designed “to ensure judicial efficiency... [by] establishing one court to address discovery issues, motions, and other pretrial decisions involving the same facts and circumstances.”⁵

Pa. R. Civ. P. 213.1 (c) lists factors relevant to coordination: (1) whether a common question of fact or law is predominant and significant to the litigation; (2) the convenience of the parties, witnesses and counsel; (3) whether coordination will result in unreasonable delay or expense to a party or otherwise prejudice a party in an action which would be subject to coordination; (4) the efficient utilization of judicial facilities and personnel and the just and efficient conduct of the actions; (5) the disadvantages of duplicative and inconsistent rulings, orders or judgments; (6) and the likelihood of settlement should coordination be denied.⁶

In their discretion, trial courts consider these Rule 213.1 factors but may also consider other matters such as where suit was first filed.⁷ Ultimately, as stated in explanatory comments to Rule 213.1(c), the critical question is whether coordination is “a fair and efficient method of adjudicating the controversy.”⁸

⁴ Pa. R.C.P. 213.1, Explanatory Comment -1990.

⁵ *Washington v. FedEx Ground Package System Inc.*, 995 A.2d 1271, 1279 (Pa. Super 2010).

⁶ Pa. R. Civ. P. 213.1(c).

⁷ *Pennsylvania Manufacturers' Ass'n Ins. Co. v. Pennsylvania State University*, 63 A.3d 796 (Pa. Super. 2013).

⁸ *Washington v. FedEx Ground Package System Inc.*, supra, quoting Pa. R. Civ.P.213.1 Explanatory Comment 1990.

The following factors are specifically discussed here.

1. Common Questions of Law and Fact Predominate the litigation.

The first factor is whether a significant common question of fact or law predominates the litigation. We find the restrictive covenant provisions at issue in the 2014 Shareholder Agreement are central to both cases. In the Bucks County Action, All Reliable Services, Inc. seeks to enforce the restrictive covenants whereas in the Philadelphia County Action, Bray seeks the opposite.

2. Convenience of the Parties, Witnesses and Counsel.

Next is convenience of the parties, witnesses, and counsel. Clearly, convenience is favored by coordination, though either forum would serve equally well. Counsel and parties have already appeared in Philadelphia so coordination here would not be particularly burdensome for Bucks County residents and counsel.⁹

3-4. Unreasonable Delay or Expense/ Efficient Use of Judicial Resources

The third factor considers “whether coordination will result in unreasonable delay or expense to a party or otherwise prejudice a party in an action which would be subject to coordination.” The fourth factor analyzes “the efficient utilization of judicial facilities and personnel” and whether the “just and efficient conduct” of the cases would be compromised by coordination.

This court has already given significant time to the Philadelphia Country Action including written opinions addressing preliminary objection venue issues and the instant coordination litigation. Also, along the way, the court has heard discovery motions and a preliminary injunction in a new related case captioned *Berry v. All Railroad Services Corp, et al*,

⁹ See *Catagnus v. Allstate Ins. Co.*, 864 A.2d 1259, 1266 (Pa. Super.Ct.2004) (on a motion to transfer venue, travel between Philadelphia and Bucks County is not particularly burdensome).

Court of Common Pleas, Philadelphia County, Docket No. 2112-1009, (“Philadelphia Berry Action”), a case involving a challenge by nine current and past employees of All Railroad Services seeking to void the same restrictive covenants. All Railroad Services Corp has responded to the Philadelphia Berry Action by filing its own lawsuit in Bucks County against one of these nine employees asking for a declaration to enforce the same restrictive covenants. See *All Reliable Services Inc. a/k/a/All Reliable Services Corp v. Luis Hernandez*, Court of Common Pleas, Bucks County, Docket Number 2922-00577. (“Bucks County Luis Hernandez Action”).

Luis Hernandez recently testified on behalf of the plaintiffs’ injunction petition before this court in the Philadelphia Berry Action. The preliminary injunction was denied but we confirm that the subject matter in the Philadelphia Berry Action relates predominantly to the same restrictive covenants.

Under all these circumstances, we find the third and fourth factors favor coordination in Philadelphia in the cases involving Bray.

5. Disadvantages of Duplicative and Inconsistent rulings.

The fifth factor considers “the disadvantages of duplicative and inconsistent rulings, orders or judgments” and favors coordination. The potential for duplicative testimony and inconsistent outcomes by concurrent county courts, and associated waste of judicial resources is evident.

6. Likelihood of settlement of the actions.

The sixth and final factor asks the court to consider “the likelihood of settlement of the actions without further litigation should coordination be denied.” Having heard counsel’s

positions in court, any possibility of settlement is improved if rulings are consistent. The Bucks County Action is essentially the flip-side to the Philadelphia Country Action.

And having now heard related evidence and argument on the restrictive covenants during preliminary injunction litigation in the Philadelphia Berry Action, we believe coordination in Philadelphia of the Bray cases, which include substantial money issues in addition to the restrictive covenant dispute, could favor a global settlement.¹⁰

CONCLUSION

For the foregoing reasons, Plaintiff's Motion to Coordinate and Consolidate is Granted because the disputes will be fairly and efficiently handled here.

Accordingly:

All Reliable Services, Inc. a/k/a All Reliable Services Corp., v. Bray, Court of Common Pleas of Bucks County, Docket Number 2022-00289 and *Bray v. All Railroad Services Corp. et al.*, Court of Common Pleas, Philadelphia County, Docket Number 2102-2454 shall be COORDINATED in the Court of Common Pleas, Philadelphia County;

All Reliable Services, Inc. a/k/a All Reliable Services Corp., v. Bray, Court of Common Pleas, Bucks County, Docket Number 2022-00289 shall be TRANSFERRED to the Court of Common Pleas, Philadelphia County and CONSOLIDATED with *Bray v. All Railroad Services Corp. et al.*, Court of Common Pleas, Philadelphia County, Docket Number 2102-2454.

Bray v. All Railroad Services Corp. et al., Court of Common Pleas, Philadelphia County, Docket Number 2102-2454 shall be the lead case and the deadlines set forth in its Case Management Order shall govern, but may be extended upon motion and court order.

¹⁰*Pennsylvania Manufacturers' Ass'n, v. Pennsylvania State University*, *supra*, at 796 (Strassburger, J., concurring) (noting likelihood of settlement is enhanced when all parties "can sit around the same table and negotiate, with or without input from a judge").

Plaintiff shall bear the costs of coordination in the event there are court administrative costs associated with carrying out this coordination order.

Since counsel for the parties in *All Reliable Services, Inc. a/k/a All Reliable Services Corp., v. Bray*, Court of Common Pleas, Bucks County, Docket Number 2022-00289 and *Bray v. All Railroad Services Corp. et. al.*, 2102-2454, Court of Common Pleas, Philadelphia County are the same, notice of coordination under Pa.R.C.P. 213.1(e) is herewith provided to counsel for all parties in all actions subject to this order of coordination and consolidation.

The Office of Judicial Records in Philadelphia County shall provide the Court of Common Pleas, Bucks County Office of the Prothonotary with a certified copy of this Order and Opinion and the court administrators of both courts shall take all actions necessary to carry out coordination and transfer pursuant to Pa. R.C.P. 213.1.

BY THE COURT



RAMY I. DJERASSI, J.