

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.: **2:20-cv-00763-AB (ASx)** Date: March 17, 2020  
2:20-cv-01223-AB (ASx)

Title: ***Imani Whitfield, et al. v. Yes To, Inc.***  
*Josey Parsons Aughtman v. Yes To, Inc.*

Present: The Honorable **ANDRÉ BIROTTE JR., United States District Judge**

Carla Badirian  
Deputy Clerk

N/A  
Court Reporter

Attorney(s) Present for Plaintiff(s):  
None Appearing

Attorney(s) Present for Defendant(s):  
None Appearing

**Proceedings: [In Chambers] ORDER GRANTING MOTION TO CONSOLIDATE, DENYING MOTION TO APPOINT INTERIM CLASS COUNSEL [DKT. NO. 12].**

Before the Court is Plaintiff Imani Whitfield’s (“Plaintiff”) motion to consolidate and appoint interim class counsel. (Dkt. No. 12.) Josey Parsons Aughtman, the plaintiff in the related case, *Josey Parsons Aughtman v. Yes To, Inc.*, No. 2:20-cv-01223-AB-AS, does not oppose consolidation, but opposes Plaintiff’s motion to appoint interim class counsel. (Dkt. No. 14.). The Court finds this matter suitable for decision without oral argument, and accordingly **VACATES** the hearing on this motion set for March 20, 2020.

**1. Plaintiff’s unopposed motion to consolidate is GRANTED.**

Pursuant to Federal Rule of Civil Procedure 42(a), the Court hereby **GRANTS** Plaintiff’s unopposed motion to consolidate case number 2:20-cv-00763-AB-AS and case number 2:20-cv-01223-AB-AS for all purposes, including

trial. *See Inv'rs Research Co. v. U.S. Dist. Court for Cent. Dist. of Cal.*, 877 F.2d 777, 777 (9th Cir. 1989) (holding that under Federal Rule of Civil Procedure 42(a), a district court had broad discretion to consolidate two or more separate actions that involve a common question of law or fact). For ease of record keeping, the Court **ORDERS** that all further documents and proceedings occur under case number 2:20-cv-00763-AB-AS, and that all other cases are to be administratively closed. Counsel are directed to file all further documents under case number 2:20-cv-00763-AB-AS only.

**2. Plaintiff's motion to appoint interim class counsel is DENIED without prejudice.**

Plaintiff moves to appoint Bursor & Fisher, P.A. as interim class counsel pursuant to Federal Rule of Civil Procedure 23(g). (Dkt. No. 12.) Counsel for Plaintiff Josey Parsons Aughtman oppose Plaintiff's motion. (Dkt. No. 14.)

Rule 23(g)(3) states that the Court "may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action." Fed. R. Civ. P. 23(g)(3). In determining whether to appoint interim class counsel, the Court may consider: "(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class." *See Taylor v. Schneider Nat'l Carriers, Inc.*, No. CV 10-4565, 2010 WL 11515254, at \*2 (C.D. Cal. Oct. 27, 2010) (quoting Fed. R. Civ. P. 23(g)(1)(A)) (internal quotation marks omitted).

Counsel for Plaintiff Josey Parsons Aughtman oppose Plaintiff's motion to appoint interim class counsel on the ground that appointing interim class counsel at this stage would be premature. (Dkt. No. 14.) In particular, counsel for Plaintiff Josey Parsons Aughtman argue that Plaintiff failed to meet and confer with them regarding the appointment of interim class counsel, and that they have not yet had the opportunity to move to be appointed interim class counsel. (*Id.* at 6–8.) Local Civil Rule 7-3 provides that "counsel contemplating the filing of any motion shall first contact opposing counsel to discuss thoroughly, preferably in person, the substance of the contemplated motion and any potential resolution." *See* Local Civil Rule 7-3. Because counsel for Plaintiff did not meet and confer with opposing counsel, counsel for Plaintiff Josey Parsons Aughtman, prior to filing this motion, Plaintiff's motion to appoint interim class counsel is **DENIED**. The parties are advised to meet and confer on, and to discuss thoroughly, whether interim class

counsel should be appointed and, if so, who should serve as interim class counsel. This denial is without prejudice to any future motion to appoint interim class counsel.

**IT IS SO ORDERED.**