

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

PATRICIA RICHARDSON, mother of  
DONALD SCOTT MACRAE, deceased;  
LISA TRIPLETT, individually and as  
Special Administrator for the Estate of  
DONALD SCOTT MACRAE;  
AMANDA KEECH, JESSICA  
WEAVER, JEREMY  
MACRAE, NICHOLAS BONOMO,  
VINCENT BONOMO, and JUSTIN  
MACRAE,

Plaintiffs,

v.

BRYAN GREY, individually; MELVIN  
WAGONER, individually, TETON  
LEASING, LLC., an Idaho limited  
liability company; MCCALL  
AVIATION VENTURES, LLC., an  
Idaho limited company; and MCCALL  
AVIATION, INC., an Idaho corporation,  
and/or dba MCCALL AIR, and/or  
SALMON AIR,

Defendants.

Case No. 1:23-cv-00375-DCN  
1:23-cv-00417-DCN

**MEMORANDUM DECISION AND  
ORDER**

**I. INTRODUCTION**

Pending before the Court is Defendants' Motion to Consolidate Cases. Case No. 23-375, Dkt. 9. Plaintiffs in that case have notified the Court of their non-opposition. Case No. 23-375, Dkt. 15. Plaintiffs in the companion case have, likewise, indicated they do not oppose consolidation. Case No. 23-417, Dkt. 8.

In the instant Motion, Defendants ask the Court to combine these two cases as the

matters are substantially related. For the reasons set forth below, the Court GRANTS the Motion.

## **II. BACKGROUND**

On August 18, 2023, Plaintiff Patricia Richardson, on behalf of her deceased son, Donald MacRae, filed a wrongful death suit in federal court. Case No. 23-375, Dkt. 1.

One week later, MacRae's wife, Lisa Triplett, along with his children and stepchildren, filed a negligence suit in state court. Case No. 23-417, Dkt. 1-1. On September 22, 2023, Defendants removed that action to federal court. Case no. 23-417, Dkt. 1. The case was originally assigned to District Judge Amanda K. Brasilford. However, because of the related nature of the two cases, Judge Brailsford transferred the removed case to the undersigned on September 25, 2023. Case No. 23-417, Dkt. 5.

Defendants then moved to consolidate the two cases. Case No. 23-375, Dkt. 9. Plaintiffs in that case timely filed a Notice of Non-Opposition. Case No. 23-375, Dkt. 15. Because the Motion was only filed in one case (23-375), the Court then inquired of Plaintiffs in the other case (23-417) as to their position on consolidation. Case No. 23-417, Dkt. 7. Plaintiffs there indicated they did not oppose the request. Case No. 23-417, Dkt. 8.

## **III. LEGAL STANDARD**

Rule 42(a) authorizes a district court to consolidate cases that share "a common question of law or fact." Fed. R. Civ. P. 42(a). The Court has broad discretion to order consolidation, and in exercising that discretion should "weigh[] the saving of time and effort consolidation would produce against any inconvenience, delay, or expenses that it would cause." *Huene v. United States*, 743 F.2d 703, 704 (9th Cir. 1984).

#### IV. ANALYSIS

Because Defendants' Motion is unopposed, the Court will not undertake an in-depth analysis of the relevant consolidation factors, but simply notes that these cases clearly share common questions of law and fact, and consolidation will not cause any prejudice, inconvenience, or undue delay. To the contrary, consolidation will avoid duplicative litigation and be an efficient use of judicial resources.

First, both causes of action stem from the fatal collision of a Cessna TU206F aircraft in the Frank Church–River of No Return Wilderness area east of McCall, Idaho, on August 28, 2021. The Cessna was operated by Defendant Bryan Grey and included two passengers, James Robert Atkins and Donald Scott MacRae. The Cessna collided with terrain while attempting to exit a canyon, resulting in the deaths of both passengers and severe injuries to Grey.

Second, the two complaints assert similar claims. Plaintiffs in Case No. 23-375 assert causes of action for negligence against Grey; negligence against Wagoner, Teton Leasing, McCall Aviation, and McCall Aviation Ventures; and respondeat superior/vicarious liability against Wagoner, Teton Leasing, McCall Aviation, and McCall Aviation Ventures. Similarly, Plaintiffs in Case No. 23-417 asserts causes of action for negligence and recklessness against Grey, respondeat superior against McCall Aviation, and vicarious liability against Teton Leasing, LLC.

In sum, because these cases share common questions of law and fact, consolidation will be economical and efficient for the Court and all parties. Defendants' Motion is GRANTED.

## V. ORDER

### IT IS ORDERED:

1. Defendants' Motion to Consolidate Cases (Case No. 23-375, Dkt. 9) is **GRANTED**.
2. Case No. 1:23-cv-00375-DCN and Case No. 1:23-cv-00417-DCN are hereby CONSOLIDATED.
3. The parties will submit any and all future filings only in Case No. 1:23-cv-00375-DCN which is now the LEAD CASE.<sup>1</sup> The Clerk of the Court shall place a signed copy of this order in the file of Case No. 1:23-cv-00417-DCN.



DATED: October 26, 2023

  
David C. Nye  
Chief U.S. District Court Judge

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<sup>1</sup> The Court listed all Plaintiffs and all Defendants in the case caption above for clarity and completeness. That said, the parties are welcome to use a shorter case caption (utilizing "et al.") moving forward.