

COPY

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

John Doe,

Plaintiff,

vs.

Civil No. 09-05-C-543

Ed Falk,

Hon. Frank Racek

Defendant.

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF CASS

EAST CENTRAL JUDICIAL DISTRICT

Sierra Corporate Design, Inc.,

Plaintiff,

vs.

Civil No. 09-05-C-01660

David Ritz and Ed Falk,

Hon. John C. Irby

Defendants.

**BRIEF IN SUPPORT OF MOTION TO CONSOLIDATE BY ED FALK AND MOTION
TO CONTINUE SIERRA CORPORATE'S EVIDENTIARY HEARING FOR DEFAULT
JUDGMENT AGAINST DEFENDANT ED FALK**

For his Brief in Support of Motion to Consolidate to Continue Sierra Corporate's Evidentiary Hearing for Default Judgment Against Defendant Ed Falk, Defendant Ed Falk ("Falk") offers the following memorandum.

The Plaintiffs in the above cases are related – the Plaintiff John Doe owns Plaintiff Sierra Corporate. Both cases not only share common parties, they share common issues of fact and

law. The purpose of this Motion to request the Court to exercise its discretion to consolidate these cases. Consolidation will promote a more efficient disposition of the issues, and specifically as to Mr. Falk's Motion to Dismiss for lack of personal jurisdiction, without the duplication of effort. Consolidation is also appropriate as it prevents inconsistent results or rulings from different trial court judges and/or juries and the similar parties and facts.

The Plaintiff in the Sierra Corporate case has obtained default judgment against Defendant Falk. It is believed an evidentiary hearing is scheduled for November 16 at 10:15 a.m. It would be an unnecessary cost and waste of judicial time and effort to proceed with that evidentiary hearing, without first addressing whether the Court has personal jurisdiction over Defendant Ed Falk. Accordingly, Defendant Falk not only seeks these cases be consolidated for the purposes identified in the Motion and this Brief, pursuant to North Dakota Rule of Civil Procedure 42, Defendant Ed Falk also requests that the evidentiary hearing be continued until the decision of personal jurisdiction is addressed. The short delay requested will not result in prejudice to any party.

Respectfully submitted this 11th day of November, 2005.

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