

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
NATIONSRENT, INC., a Delaware corporation, et al.,)	Case No. 01-11628(PJW)
)	Jointly Administered
)	
Debtors.)	
_____)	
)	
NATIONSRENT, INC., a Delaware corporation,)	
)	
Plaintiff,)	
)	
v.)	Adv. Proc. No. 02-02234
)	
JOHN I. SHEFFIELD,)	
)	
Defendant.)	
_____)	
)	
NATIONSRENT, INC., a Delaware corporation,)	
)	
Plaintiff,)	
)	
v.)	Adv. Proc. No. 02-02235
)	
CLIFTON E. SHEFFIELD,)	
)	
Defendant.)	
_____)	
)	
NATIONSRENT, INC., a Delaware corporation,)	
)	
Plaintiff,)	
)	
v.)	Adv. Proc. No. 02-04671
)	
VOLVO CONSTRUCTION EQUIPMENT RENTS, INC.,)	
)	
Defendant.)	
)	

MEMORANDUM OPINION

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Dated: June 18, 2003

WALSH, J.

Before the Court in the above-captioned three adversary proceedings are motions to consolidate the adversary proceedings (the "Motions") filed by defendants John I. Sheffield (Adv. Proc. # 02-2234, Doc. # 6), Clifton E. Sheffield (Adv. Proc. # 02-2235, Doc. # 14)(collectively with John I. Sheffield, the "Sheffields"), and Volvo Construction Equipment Rents, Inc., (Adv. Proc. # 02-4671, Doc. # 16) ("Volvo"). For the reasons set forth below, the Motions will be granted.

BACKGROUND

Clifton Sheffield is the former owner of Sheffield Equipment Co., Inc. ("Sheffield Equipment"), which was engaged in the business of renting construction equipment. In September 1998, debtor NationsRent, Inc. ("NationsRent") purchased Sheffield Equipment and Clifton Sheffield became a NationsRent employee. His brother John Sheffield also became a NationsRent employee. The Sheffields and NationsRent entered into employment agreements ("EA") that made them NationsRent employees for three years and also contained two-year post-

employment non-compete and non-solicitation provisions.¹ In March 2000, Clifton Sheffield terminated his employment with NationsRent and opened Florida Contractor Rentals, Inc. ("Florida Rentals"), a competing business. John Sheffield also terminated his employment with NationsRent and followed his brother to Florida Rentals. Volvo is the franchisor of Florida Rentals.

DISCUSSION

Rule 42(a) of the Federal Rules of Civil Procedure gives a court "broad powers to consolidate actions involving common questions of law or fact if, in its discretion, such consolidation would facilitate the administration of justice."² United States v. Dentsply Int'l., Inc., 190 F.R.D. 140, 142-3 (D.Del. 1999) (citation omitted). In determining whether to consolidate actions, courts balance "the savings of time and effort gained through consolidation against the inconvenience, delay, or expense that it might cause." Id. at 143. After accounting for the relevant factors, a motion to consolidate

¹The parties dispute whether the non-compete/non-solicitation provisions were intended to be effective for two years from the termination of the Sheffield's' employment with NationsRent or whether they were to be in effect for five years from the signing of the Employment Agreements.

²Rule 42(a) of the Federal Rules of Civil Procedure is made applicable to adversary proceedings by Rule 7042 of the Federal Rules of Bankruptcy Procedure.

"should be granted if there are common questions of fact or law in the case[s]." Nigro v. Pittsburgh Post-Gazette (In re Appliance Store), 171 B.R. 525, 528 (Bankr.W.D.Pa. 1994).

Here, NationsRent's claim against John Sheffield sounds in contract for breach of certain covenants contained in the EA between himself and NationsRent. NationsRent's claim against Clifton Sheffield likewise sounds in contract, alleging the breach of certain covenants contained in the EA and an asset purchase agreement between himself and NationsRent. NationsRent's claim against Volvo sounds in tort and alleges that Volvo aided and abetted the Sheffields' breaches of their agreements with NationsRent. It further alleges tortious interference with contractual relations and tortious interference with current and prospective business relations.

There are common questions of fact at issue in the three actions pending before this Court. The resolution of NationsRent's claims will require the discovery, development, and presentation of roughly the same facts. Resolution of the claims will necessarily involve the same documents and witnesses. NationsRent's claims against Volvo are directly dependent on how its claims against the Sheffields are resolved: if the Sheffields are deemed not to have violated any provisions of their agreements with NationsRent, NationsRent's claims

against Volvo must fail. Additionally, the agreements between NationsRent and each of the Sheffields are virtually identical, as are the allegedly breaching actions of each brother, rendering the terms and enforceability of the EAs at issue in all three cases.

The degree of commonality of facts in each of the cases makes consolidation appropriate. There is therefore no need to inconvenience the parties and witnesses, waste the resources of the parties, and burden this Court with duplicate briefing and repetitive arguments on the same legal issues arising out of the same set of facts. All three cases remain in the earliest stages of litigation; consolidation will not prejudice any party.

CONCLUSION

For the reasons set forth above, the Motions filed by John Sheffield, Clifton Sheffield, and Volvo against NationsRent are granted.

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)	
VOLVO CONSTRUCTION EQUIPMENT RENTS, INC.,)	
)	
Defendant.)	
)	

ORDER

For the reasons set forth in the Court's Memorandum Opinion of this date, with respect to each of the above-captioned adversary proceedings, the motions filed by defendants John I. Sheffield (Adv. Proc. # 02-2234, Doc. # 6), Clifton E. Sheffield (Adv. Proc. # 02-2235, Doc. # 14) and Volvo Construction Equipment Rents, Inc., (Adv. Proc. # 02-4671, Doc. # 16) to consolidate the adversary proceedings are GRANTED.

Peter J. Walsh
United States Bankruptcy Judge

Dated: June 18, 2003