

IN THE IOWA DISTRICT COURT IN AND FOR JOHNSON COUNTY

BROOKE STALEY,	)	
Plaintiff(s),	)	No. LACV073821
	)	
vs.	)	
	)	
TRACY BARKALOW, et al.,	)	
Defendant(s).	)	
*****	)	
BIG TEN PROPERTY MANAGEMENT, LLC	)	
Plaintiff(s),	)	No. SCSC080568
	)	
vs.	)	
	)	
LISA LAMMER, et al.,	)	
Defendant(s).	)	

**ORDER**

Hearing was held on Plaintiffs’ Motion to Consolidate (filed 10/18/11) in case LACV 73821 and Defendants’ Motion to Transfer (filed 10/18/11) in case SCSC 80568. Attorneys Christine Boyer and Christopher Warnock appeared on behalf of the Plaintiffs in the law case and the Defendants in the small claims case. Attorney Charles A. Meardon appeared on behalf of the Defendants in the law case and the Plaintiff in the small claims case. The Court reviewed the two case files and heard the statements of counsel on the record.

The Petition in the law case was filed September 23, 2011, and amended October 3, 2011. The Plaintiffs are tenants of Defendant Barkalow. The other Defendants are limited liability corporations related to Mr. Barkalow and apparently involved in property management matters. The law case seeks a declaratory judgment plus monetary damages concerning the lease agreement between the parties. Plaintiffs claim certain of the provisions of the lease are violative of Section 562A, The Code, and certain sections of the Iowa City Housing Code. They allege that the Defendants have breached the lease agreement.

In the small claims case, the Plaintiff claims money damages for damage to a leased apartment in which Tyler Lammer was a tenant and Lisa Lammer guaranteed payment of his financial obligations.

In the small claims case, Defendants filed a Counterclaim October 18, 2011, claiming monetary damages of \$10,000 and a declaratory judgment. The damage claim exceeds the jurisdictional amount of small claims court. The allegations contained in the Counterclaim closely track those of the tenants’ Petition in the law case.

The Court concludes that the small claims case should be transferred to district court because the Counterclaim in it exceeds the jurisdictional limit for small claims court and the claim and Counterclaim arise from the same lease which is the subject of the law case. The Court has the authority to order such a transfer. Section 631.8(4), The Code. Wilson v. Iowa District Court, 297 N.W.2d 223 (Iowa 1980).

The Court further concludes the two cases, now both in the district court, should be consolidated because they involve common facts and claims and because there is some overlap of parties as Tyler Lammer is a party in both cases. The Court concludes there is some benefit to judicial economy in consolidating the two cases for a single trial. The Court need not and does not reach the *res judicata* issue raised in the tenants' pleadings.

IT IS, THEREFORE, ORDERED that Plaintiffs' Motion to Consolidate is granted.

IT IS FURTHER ORDERED that Johnson County case number SCSC080568 is consolidated with Johnson County case number LACV073821 and the two cases together shall proceed in the Iowa District Court.

Clerk to notify (pdf to clerk-wp).

Dated: December 16, 2011.

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**DOUGLAS S. RUSSELL, JUDGE**  
**SIXTH JUDICIAL DISTRICT OF IOWA**