

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ELIZABETH DE COSTER, NEMANJA
KRSTIC, JOHN MARIANE, OSAHON
OJEAGA, and EMMA ZABALLOS, on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

AMAZON.COM, INC., a Delaware
corporation,

Defendant.

Case No. 2:21-cv-00693-RSM

STIPULATED MOTION AND
[PROPOSED] ORDER FOR
CONSOLIDATION, FILING OF
CONSOLIDATED AMENDED
COMPLAINT, AND SCHEDULE FOR
ANSWER OR MOTION TO DISMISS

Note on Motion Calendar: June 18, 2021

KENNETH DAVID WEST and ROBERT
TAYLOR, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

AMAZON.COM, INC., a Delaware
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1 The parties, by and through their counsel, stipulate and agree as follows:

2 1. Currently pending before this Court are two concurrently filed cases alleging
3 antitrust claims against Amazon.com, Inc., on behalf of a proposed class: (1) *De Coster v.*
4 *Amazon.com, Inc.*, Case No. 2:21-cv-693 (W.D. Wash., filed May 26, 2021) (the “*De Coster*”
5 Action) and (2) *West v. Amazon.com, Inc.*, Case No. 2:21-cv-694 (W.D. Wash., filed May 26,
6 2021) (the “*West*” Action). Plaintiffs in both the *De Coster* and the *West* Actions (“Plaintiffs”)
7 identified their cases as related to a third proposed class action pending before The Honorable
8 Richard A. Jones: *Frame-Wilson v. Amazon.com, Inc.*, Case No. 2:20-cv-424-RAJ (W.D. Wash.,
9 filed March 19, 2020) (the “*Frame-Wilson*” Action).

10 2. Plaintiffs, along with Defendant Amazon.com, Inc. (together, the “parties”), agree
11 that consolidation of the *De Coster* and *West* Actions is appropriate. Both Actions involve
12 materially similar allegations that, *inter alia*, Defendant required third-party sellers on
13 “Amazon’s platform,” as Plaintiffs define that term, to agree to restrain competition with “online
14 retail platforms” that compete with Amazon, as a result of which prices on all “platforms” were
15 supracompetitive and Plaintiffs were overcharged for purchases on “Amazon’s platform.”
16 Amazon denies the material allegations in the *De Coster* and *West* Actions and contests the
17 characterizations in the complaints in those Actions, but acknowledges the overlapping
18 allegations make consolidation appropriate.

19 3. The First Amended Complaint in the *Frame-Wilson* Action also alleges antitrust
20 claims, that Amazon likewise denies, on behalf of a proposed class of consumers who made
21 purchases on “online retail platforms” that compete with Amazon. Because that action is subject
22 to a pending motion to dismiss, the parties agree that consideration of possible consolidation of
23 the *De Coster* and *West* Actions with *Frame-Wilson* would be premature at this stage. *Benson v.*
24 *Fischer*, 2019 U.S. Dist. LEXIS 12351, at *7 (D. Minn. Jan. 25, 2019).

25 4. Plaintiffs in the *De Coster* and *West* Actions have notified the Court of a further
26 related case pending outside the federal court system: *District of Columbia v. Amazon.com, Inc.*,
27 No. 2021 CA 001775 B (Superior Court of the District of Columbia, Civil Division, filed May
28 25, 2020) (“*District of Columbia*” Action). *See West*, ECF No. 8; *De Coster*, ECF No. 3; *see also*

1 *Frame-Wilson*, ECF No. 30. Although the factual allegations in the *District of Columbia* Action
2 overlap with the allegations in *De Coster, West*, and *Frame-Wilson*, the *District of Columbia*
3 Action is not pending in a federal trial court and is therefore not subject to transfer to this District
4 and consolidation.

5 5. Based on the foregoing, the parties hereby stipulate and agree as follows:

- 6 a. Plaintiffs shall file a consolidated amended class action complaint within
7 30 days of entry of this order;
- 8 b. Amazon shall file an answer or otherwise respond within 60 days after
9 Plaintiffs file their consolidated amended class action complaint;
- 10 c. If Amazon moves to dismiss and Plaintiffs do not amend a second time,
11 Plaintiffs' opposition to any motion to dismiss shall be due 60 days after
12 the deadline for Amazon's motion to dismiss; and
- 13 d. Amazon shall have 45 days to file its reply brief.
- 14 e. Alternatively, if Plaintiffs obtain leave to amend further in response to
15 Amazon's motion to dismiss, the parties shall meet and confer and submit
16 a proposed schedule for any answer or response to Plaintiffs' second
17 amended consolidated class action complaint.
- 18 f. The parties further agree that their Fed. R. Civ. P. 26(f) discovery
19 conference shall occur within thirty days after the earlier of: (a) the filing
20 of Amazon's answer to the consolidated amended complaint in these
21 actions or (b) the Court's disposition of any motion to dismiss filed by
22 Amazon in response to the consolidated amended complaint (or to a
23 second amended complaint) in these actions, provided, however, that if the
24 court in the *District of Columbia* Action permits discovery to go forward
25 in that action before the Fed. R. Civ. P. 26(f) discovery conference in
26 these actions, or the Court in the *Frame-Wilson* action permits discovery
27 to go forward in that action before the Fed. R. Civ. P. 26(f) discovery
28 conference in these actions, the parties will meet and confer to consider

1 whether and to what extent Plaintiffs may concurrently pursue discovery
2 here.

3 DATED this 18th day of June, 2021

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ORDER

Pursuant to stipulation, IT IS SO ORDERED.

DATED this ____ day of _____, 2021.

Hon. Ricardo S. Martinez
United States District Judge

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