

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 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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[PROPOSED] ORDER FOR  
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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 21<sup>st</sup> day of June, 2021.



**RICARDO S. MARTINEZ**  
**CHIEF UNITED STATES DISTRICT JUDGE**

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