

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

**CITIZENS FOR RESPONSIBILITY )  
AND ETHICS IN WASHINGTON, )**

Plaintiff, )

v. )

Civil Action No. 18-cv-02737 (KBJ)

**U.S. DEPARTMENT OF HOUSING )  
AND URBAN DEVELOPMENT, )**

Defendant. )

\_\_\_\_\_ )

**PLAINTIFF’S RESPONSE TO SHOW CAUSE ORDER**

By Order dated December 19, 2018, the Court in the above-captioned case ordered the plaintiff, Citizens for Responsibility and Ethics in Washington (“CREW”), to show cause why this case should not be consolidated with *CREW v. U.S. Dep’t of Housing & Urban Dev.*, 18-cv-0114 (“*CREW I*”). Plaintiff hereby responds.

Rule 42(a) of the Federal Rules of Civil Procedure confers on this Court broad discretion to consolidate pending cases involving a common question of law or fact. *See, e.g., Nat’l Ass’n of Mortg. Brokers v. Bd. of Governors of the Fed. Reserve Sys.*, 770 F. Supp. 283, 286 (D.D.C. 2011). In exercising that discretion, the court should weigh:

the risk of prejudice and confusion wrought by consolidation against  
the risk of inconsistent rulings on common factual and legal questions,  
the burden on the parties and the court, the length of time, and the  
relative expense of proceeding with separate lawsuits if they are not  
consolidated.

*Id.*

When filing the complaint here plaintiff designated this case as a “related case” to *CREW I* pursuant to LCvR 40.5(3) because both involve common issues of fact. Further, as this Court

noted in its Order, “CREW is a plaintiff in both cases, both complaints allege that [HUD] has an improper policy and practice of denying FOIA fee waiver requests, and many (though not all) of the factual allegations in the two complaints overlap.” Accordingly, CREW submits that consolidation is warranted.

CREW notes, however, that the two cases are in very different procedural postures, which is why CREW did not initially seek consolidation. In *CREW I*, defendant’s motion to dismiss is fully briefed and awaiting a decision from this Court. By contrast, the government has yet to file an answer in the second CREW case and has advised CREW it will seek a stay in light of the government shutdown. As a result, consolidation may delay resolution of the pending motion to dismiss.

Dated: January 7, 2019

Respectfully submitted,

/s/ Anne L. Weismann  
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