UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

Bitco General Insurance Corporation v. BJ’s Oilfield Construction Inc. et al.; Axis Specialty Europe SE v. Bitco General Insurance Corporation et al.

Bitco; Axis · No. CIV-25-405-G; CIV-25-819-G · Decided February 9, 2026

SUMMARY

The United States District Court for the Western District of Oklahoma grants Axis Specialty Europe SE’s unopposed motion to consolidate two insurance coverage actions under Federal Rule of Civil Procedure 42(a). The court finds substantial overlap in the factual and legal issues, consolidates the cases for all purposes under Case No. CIV-25-405-G, strikes pending deadlines, and administratively closes Case No. CIV-25-819-G.

CASE DETAILS

COURT	United States District Court for the Western District of Oklahoma
WRITING FOR THE COURT	Barbs B. Kadota
JURISDICTION	United States District Court for the Western District of Oklahoma
DECIDED	February 9, 2026
DOCKET	CIV-25-405-G; CIV-25-819-G
DISPOSITION	other
PROCEDURAL POSTURE	The court considered an unopposed motion by Axis Specialty Europe SE to consolidate the Axis action with the earlier-filed BITCO action under Federal Rule of Civil Procedure 42(a).
STANDARD OF REVIEW	The court determined under Federal Rule of Civil Procedure 42(a) whether the actions involved common questions of law or fact and whether consolidation would cause delay, confusion, or prejudice.
PRECEDENTIAL VALUE	Unknown

TOPICS

joinder · civil procedure · insurance · commercial litigation

PRACTICE AREAS

civil procedure | insurance litigation | commercial litigation

QUESTIONS PRESENTED

1. Whether the two actions should be consolidated for all purposes under Federal Rule of Civil Procedure 42(a) because they involve common questions of law or fact.
2. Whether consolidation would cause delay, confusion, or prejudice to the parties.

HOLDINGS

1. Actions involving common questions of law or fact may be consolidated for convenience and economy, and these two actions were appropriately consolidated for all purposes because they share substantial factual and legal overlap.

KEY QUOTATIONS

> *"Consolidation of cases is permitted as a matter of convenience and economy, even though consolidation does not merge separate suits into one cause of action."* (at 2)

> *"Both actions turn on the same principal legal issue: which insurer(s) had a duty to defend and indemnify SunPower and OG&E."* (at 2)

FACTUAL BACKGROUND

The two insurance actions concern overlapping factual and legal issues, including which insurer or insurers had a duty to defend and indemnify SunPower and OG&E. Axis represented that all parties to the Axis action agreed to consolidation. No party to the BITCO action filed a response opposing consolidation.

PROCEDURAL HISTORY

Axis Specialty Europe SE moved to consolidate Case No. CIV-25-819-G with the earlier-filed BITCO action, Case No. CIV-25-405-G, based on substantial factual and legal overlap. The court provided the parties in the BITCO action an opportunity to respond, but no response was filed. The court granted consolidation for all purposes, ordered the cases to proceed under the BITCO docket, struck pending deadlines in Case No. CIV-405-G as stated in the order, and directed the Clerk to administratively close the Axis action.

DISPOSITION

other

CASES CITED

- Harris v. Ill.-Cal. Exp., Inc., 687 F.2d 1361, 1368 (10th Cir. 1982)

OPINION

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA BITCO GENERAL INSURANCE) CORPORATION,)) Plaintiff,)) v.) Case No. CIV-25-405-G

) BJ’S OILFIELD CONSTRUCTION) INC. et al.,)) Defendants.) AXIS SPECIALTY EUROPE SE,)) Plaintiff,)) v.) Case No. CIV-25-819-G) BITCO GENERAL INSURANCE) CORPORATION et al.,)) Defendants.) ORDER Now before the Court is a Motion to Consolidate (Doc.

No. 21) filed by Plaintiff Axis Specialty Europe SE in Case No. CIV-25-819-G (the “Axis action”) on October 24, 2025. The Motion seeks consolidation for all purposes of the Axis action with Case No. CIV-25-405-G (the “BITCO action”) pursuant to Federal Rule of Civil Procedure 42(a). See Mot. to Consolidate at 4-5.

The Motion argues that consolidation is warranted due to the substantial factual and legal overlap between the two cases. See id. at 4 (“Both actions turn on the same principal legal issue: which insurer(s) had a duty to defend and indemnify SunPower and OG&E.”).

The Motion requests that the Axis action be administratively dismissed and that the earlier-filed BITCO action serve as the continued lawsuit for this matter. See id. at 5. The Motion to Consolidate represents that all parties to the Axis action agree to consolidation. See id. at 4-5.

On November 25, 2025, the Court directed the Clerk to file a copy of the Motion in the BITCO action and advised that “[a]ny party to the BITCO action who wishes to file a written response must do so within twenty-one (21) days.” Order (Doc. No. 38) at 2; see Notice of Mot. (Doc. No. 39). No party filed a response. Rule 42(a) of the Federal Rules of Civil Procedure prescribes that “[i]f actions before the court involve a common question of law or fact, the court may... consolidate the actions.” Fed.

R. Civ. P. 42(a)(2). “Consolidation of cases is permitted as a matter of convenience and economy, even though consolidation does not merge separate suits into one cause of action.” Harris v. Ill.-Cal. Exp., Inc., 687 F.2d 1361, 1368 (10th Cir. 1982) (noting that consolidation has been ordered “[w]here the subject matter of the claims made in separate actions arise[s] out of the same transaction and involve common issues of law and fact”).

Having considered the unopposed Motion and having found that the actions involve “common question[s] of law” and “fact,” the Court concludes that consolidation is appropriate and will not cause delay, confusion, or prejudice to the parties. Fed. R. Civ. P. 42(a). IT IS THEREFORE ORDERED that the Motion to Consolidate (Doc. No. 21, No. CIV-25-819-G) is GRANTED as follows: 1) Case Nos. CIV-25-405-G and CIV-25-819-G are consolidated in their entirety for all purposes.

2) Both actions shall proceed together under Case No. CIV-25-405-G. All future filings shall be made only in Case No. CIV-25-405-G, unless otherwise ordered. 3) All pending deadlines in Case No. CIV-405-G are hereby STRICKEN. 4) The Clerk of Court is directed to enter this Order in

Case Nos. CIV-25-405-G and CIV-25-819-G and is further directed to administratively close Case No. CIV-25-819-G.

5) The Court shall set this consolidated action for a status and scheduling conference on its next available conference docket. IT IS SO ORDERED this 9th day of February, 2026. (Barbs B. Kadota United States District Judge

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