

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

BRADLEY GRANT KITCHEN, et al.,
Defendants.

ORDER

Case No. 2:07-CR-895 TS

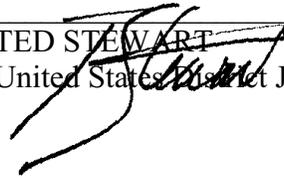
In order to provide potential jurors information about this case, the Court orders the parties provide a stipulated statement summarizing the Superseding Indictment. This summary is to be read at the outset of jury selection. That statement shall be provided to the Court by 5:00 p.m. on August 11, 2008.

SO ORDERED.

DATED August 7, 2008.

BY THE COURT:

TED STEWART
United States District Judge



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*Attorneys for Defendants Andrew Chiang, Jun Yang, Lonny Bowers, WideBand Solutions, Inc.
and Versatile DSP*

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

CLEARONE COMMUNICATIONS, INC., a
Utah Corporation

Plaintiff,

v.

ANDREW CHIANG, an individual,
JUN YANG, an individual,
LONNY BOWERS, an individual,
WIDEBAND SOLUTIONS, INC., a
Massachusetts corporation, VERSATILE
DSP, a Massachusetts corporation, and
BIAMP SYSTEMS, CORPORATION, INC.,
an Oregon corporation.

Defendants.

ORDER GRANTING IN PART
EXPEDITED MOTION FOR EXTENSION
OF TIME TO RESPOND TO PLAINTIFF'S
JULY 17, 2008 FILINGS

Case No. 2:07-cv-0037 TC

(Consolidated with Civil No. 2:07-cv-832)

Honorable Tena Campbell

Magistrate Judge David Nuffer

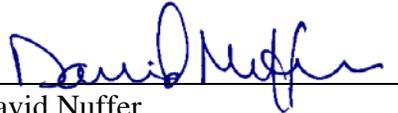
For the reasons set forth in Defendants' Expedited Motion for Extension of Time to Respond to Plaintiff's July 17, 2008 Filings ([docket no. 952](#)) and the supporting memorandum filed therewith, and good cause appearing, the Court hereby ORDERS that Defendants' requested extension of time is hereby GRANTED IN PART.

Defendants shall have an extension of time through and including August 29, 2008, in which to file the following pleadings:

1. Reply Memorandum in Support of Andrew Chiang's Motion for Summary Judgment;
2. Reply Memorandum in Support of Defendants' Motion for Partial Summary Judgment;
3. Reply Memorandum in Support of Defendants' Motion for Protective Order and for Return of Property;
4. Memorandum in Opposition to ClearOne's Motion for Dispositive Sanctions.

DATED this 7th day of August, 2008.

BY THE COURT:



David Nuffer
United States Magistrate Judge

FILED
U.S. DISTRICT COURT
CENTRAL DIVISION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

2008 AUG -7 A 10:37

JAMES LARSEN,)	
)	
	DISTRICT OF UTAH	
Plaintiff, By:)	Case No. 2:07-CV-218 TC
)	
v.	DEPUTY CLERK	District Judge Tena Campbell
)	
STATE OF UTAH et al.,)	O R D E R
)	
Defendants.)	Magistrate Judge Brooke Wells

Plaintiff, James Larsen, filed a prisoner civil rights complaint and was granted *in forma pauperis* (IFP) status. See 42 U.S.C.S. § 1983 (2008). He was later released from imprisonment. In an order dated June 4, 2008, the Court required Plaintiff to renew his IFP application, reflecting his new non-prisoner status. The Court Clerk's office attached a blank Application to Proceed IFP to the copy of the order sent to Plaintiff. More than sixty days later, Plaintiff has not submitted the new application.

IT IS THEREFORE ORDERED that Plaintiff's complaint is dismissed without prejudice.

DATED this 7th day of August, 2008.

BY THE COURT:



TENA CAMPBELL, CHIEF JUDGE
United States District Court

Nature of claims and any affirmative defenses:

a.	Was Rule 26(f)(1) Conference held?	06/12/07
b.	Has Attorney Planning Meeting Form been submitted?	06/18/07
c.	Was 26(a)(1) initial disclosure completed?	07/29/07
2.	DISCOVERY LIMITATIONS	NUMBER
a.	Maximum Number of Depositions by Plaintiff(s)	30
b.	Maximum Number of Depositions by Defendant(s)	Unlimited
c.	Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	7
d.	Maximum Interrogatories by any Party to any Party	25
e.	Maximum requests for admissions by any Party to any Party	Unlimited
f.	Maximum requests for production by any Party to any Party	Unlimited
3.	AMENDMENT OF PLEADINGS/ADDING PARTIES	DATE
a.	Last Day to File Motion to Amend Pleadings	09/14/07
b.	Last Day to File Motion to Add Parties	09/14/07
4.	RULE 26(a)(2) REPORTS FROM EXPERTS	DATE
a.	Plaintiff	12/31/08
b.	Defendant	01/30/09
c.	Counter reports	02/27/09
5.	OTHER DEADLINES	DATE

a.	Discovery to be completed by:		
	Fact discovery		11/28/08
	Expert discovery		03/31/09
c.	Deadline for filing dispositive or potentially dispositive motions		04/30/09
6.	SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION		DATE
a.	Referral to Court-Annexed Mediation:	No	
b.	Referral to Court-Annexed Arbitration	No	
c.	Evaluate case for Settlement/ADR on		<u>05/30/09</u>
d.	Settlement probability:	Fair to Good	
7.	TRIAL AND PREPARATION FOR TRIAL	TIME	DATE
a.	Rule 26(a)(3) Pretrial Disclosures		
	Plaintiff		<u>08/06/09</u>
	Defendant		<u>08/20/09</u>
b.	Objections to Rule 26(a)(3) Disclosures		<u>00/00/00</u>
	(if different than 14 days provided in Rule)		
c.	Special Attorney Conference on or before		<u>08/27/09</u>
d.	Settlement Conference on or before		<u>08/27/09</u>
e.	Final Pretrial Conference	3:00 p.m.	<u>09/10/09</u>
f.	Trial	<u>Length</u>	

i. Bench Trial

__:___.m. 00/00/00

ii. Jury Trial

30 days

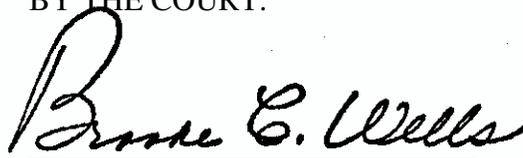
8:30 a.m. 10/05/09

8. OTHER MATTERS

Counsel should contact chambers staff of the District Judge regarding Daubert and Markman motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions in Limine should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under Daubert must be raised by written motion before the final pre-trial conference.

Dated this 7th day of August, 2008.

BY THE COURT:



U.S. Magistrate Judge

FILED
U.S. DISTRICT COURT

2008 AUG -7 P 3:08

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

ANDERSON & KARRENBERG

Thomas R. Karrenberg, #3726

Stephen P. Horvat, #6249

Jess M. Hofberger, #11451

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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF UTAH

LOBO WELL SERVICE, LLC, a Utah
Limited Liability Company,

Plaintiff,

vs.

MARION ENERGY, INC., a Texas
Corporation,

Defendant.

)
)
) **ORDER GRANTING**
) **MOTION FOR LEAVE TO FILE**
) **OVERLENGTH MEMORANDUM**
)
)
)

) Civil No. 2:07CV00273 TC-PMW
)
)

) Magistrate Judge Paul M. Warner
)

Based on the Motion for Leave to File an Overlength Memorandum and good cause appearing therefor,

IT IS HEREBY ORDERED:

that Plaintiff Lobo Well Service, LLC may file a memorandum of twenty-two (22) pages, exclusive of face sheet, table of contents, statement of issues and fact and exhibits, in reply to

Defendant's Opposition to Lobo's Motion for Partial Summary Judgment RE: (1) Undisputed Amounts Owning on the ASD 6-17 Well; (2) Marion's Counterclaim for Breach of Contract; and (3) Marion's Counterclaim for Breach of the Implied Covenant of Good Faith and Fair Dealing;

DATED this 7th day of August, 2008

BY THE COURT

Jena Campbell

Honorable Paul M. Warner

FILED
U.S. DISTRICT COURT

2008 AUG -6 P 2:17

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

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Attorneys for Defendant Chrysler LLC

IN THE UNITED STATES JUDICIAL DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

KYLE SORENSEN, a minor; and LISA L.
SORENSEN, parent of minor,

Plaintiffs,

vs.

DAIMLERCHRYSLER CORPORATION,
AND JOHN DOES 1-10,

Defendants.

**ORDER GRANTING PRO HAC VICE
ADMISSION OF JESSICA PERRILL**

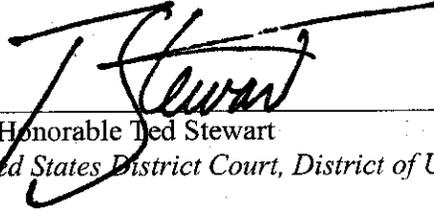
Judge Ted Stewart

Case No. 2:07-cv-527

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of D.U. Civ. Rule 83-1.1(d), the motion for the admission pro hac vice of JESSICA PERRILL in the United States District Court of Utah in the subject case is GRANTED.

DATED this 6th day of August, 2008.

By the Court:

A handwritten signature in black ink, appearing to read "T. Stewart", written over a horizontal line.

The Honorable Ted Stewart
United States District Court, District of Utah

FILED
U.S. DISTRICT COURT

2008 AUG -7 A 9:41

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Michael A. Stout, Utah Bar No. 8278
John W. Mann, Utah Bar No. 11712
PETERSON REED WARLAUMONT & STOUT
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Telephone: 801.364.4040
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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

ELLEN ROBINSON, on behalf of the
ESTATE OF PAUL ROBINSON,

Plaintiff,

vs.

ALBERT NEUTEL,

Defendant.

SCHEDULING ORDER

Civil No. 2:07cv608 JTG

Judge J. Thomas Greene

Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge¹ received the Attorneys' Planning Report filed by counsel. The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

****ALL TIMES 4:30 PM UNLESS INDICATED****

1.	PRELIMINARY MATTERS		DATE
	Nature of claims and any affirmative defenses: Plaintiff claims Defendant's negligence caused the death of her husband due to a motorcycle/automobile accident; Defendant's defenses relate to those claims, liability, and damages.		
a.	Was Rule 26(f)(1) Conference held?	Yes	<u>05/02/08</u>
b.	Has Attorney Planning Meeting Form been submitted?	Yes Yes	<u>05/02/08</u>

c.	Was 26(a)(1) initial disclosure completed?	<u>05/22/08</u>
2.	DISCOVERY LIMITATIONS	NUMBER
a.	Maximum Number of Depositions by Plaintiff(s)	<u>5</u>
b.	Maximum Number of Depositions by Defendant(s)	<u>5</u>
c.	Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)	<u>7</u>
d.	Maximum Interrogatories by any Party to any Party	<u>10</u>
e.	Maximum requests for admissions by any Party to any Party	<u>0</u>
f.	Maximum requests for production by any Party to any Party	<u>3</u>
3.	AMENDMENT OF PLEADINGS/ADDING PARTIESⁱⁱ	DATE
a.	Last Day to File Motion to Amend Pleadings Plaintiff	<u>10/01/08</u>
	Defendant	<u>10/01/08</u>
b.	Last Day to File Motion to Add Parties Plaintiff	<u>10/01/08</u>
	Defendant	<u>10/01/08</u>
4.	RULE 26(a)(2) REPORTS FROM EXPERTSⁱⁱⁱ	DATE
a.	Plaintiff	<u>12/02/08</u>
b.	Defendant	<u>01/20/09</u>
c.	Counter reports	<u>02/03/09</u>
5.	OTHER DEADLINES	DATE
a.	Discovery to be completed by:	
	Fact discovery	<u>11/01/08</u>
	Expert discovery	<u>03/09/09</u>
b.	<i>(optional)</i> Final date for supplementation of disclosures and discovery under Rule 26 (e)	
c.	Deadline for filing dispositive or potentially dispositive motions	<u>12/01/08</u>

- | 6. | SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION | DATE |
|----|--|-------------|
| a. | Referral to Court-Annexed Mediation: | <u>No</u> |
| b. | Referral to Court-Annexed Arbitration | <u>No</u> |
| c. | Evaluate case for Settlement/ADR on | 12/31/08 |
| d. | Settlement probability: | Fair |
7. **STATUS & SCHEDULING CONFERENCE**- December 3, 2008 at 11:00am.
(Pre-trial date, schedule hearing on motions filed, if any, and other matters).

Dated this 6th day of August, 2008

BY THE COURT:


 Judge, U.S. District Court

ⁱCounsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

ⁱⁱ A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JAMES EDWARD ALLUMS,
Defendant.

MEMORANDUM DECISION AND
ORDER DENYING DEFENDANT'S
MOTION TO SEVER

Case No. 2:08-CR-30 TS

This matter comes before the Court on Defendant's Motion to Sever Counts.¹ For the reasons discussed below, this motion will be denied.

I. Background

James Allums ("Defendant") is charged in a three-count Superseding Indictment with 1) Hobbs Act robbery, in violation of 18 U.S.C. § 1951(a); 2) armed bank robbery, in violation of 18 U.S.C. § 2113(a) and (d); and 3) attempted armed bank robbery, in violation of 18 U.S.C. § 2113(a) and (d). He allegedly robbed a KMart and a credit union, and attempted to rob a bank. He is identified by eyewitness in all three incidents and by voice identification in two of the incidents.

¹Docket No. 25.

Defendant filed the instant motion, arguing that the three counts should be severed because they were improperly joined in the first place and because joinder would be highly prejudicial. The government argues that joinder is proper under Rule 8 of the Federal Rules of Criminal Procedure and that Defendant has failed to carry his burden demonstrating that joinder of the counts would be prejudicial.

II. Discussion

Rule 8 of the Federal Rules of Criminal Procedure allows for joinder of offenses “if the offenses charged are of the same or similar character, or are based on the same act or transaction, or are connected with or constitute parts of a common scheme or plan.” Rule 14 of the Federal Rules of Criminal Procedure allows for severance of offenses if joinder is prejudicial to the defendant. “[T]he decision whether to sever counts of an indictment for separate trial is a matter committed to the sound discretion of the trial court Moreover, this is an area in which the trial judge’s discretion is very broad.”²

A. Joinder under Rule 8

“According to Rule 8(a), joinder is proper if the offenses are of the same character.”³ In *United States v. Taylor*,⁴ the Tenth Circuit permitted joinder of two counts of armed robbery, finding that there was nothing in the record to support a finding “that the jury was incapable of

²*United States v. Wiseman*, 172 F.3d 1196, 1211 (10th Cir. 1999).

³*United States v. Holland*, 10 F.3d 696, 699 (10th Cir. 1993).

⁴800 F.2d 1012 (10th Cir. 1986).

properly separating the evidence of each robbery as instructed.”⁵ In *United States v. Nafkha*,⁶ the Tenth Circuit upheld a trial’s court determination that joinder was proper in a case involving joinder of five counts of bank robbery.⁷ The Court found that even though some similarities existed between each robbery, they were not so similar as to cause confusion.⁸

The Court finds that joinder is appropriate. There are several similarities between each robbery, but not enough that confusion is likely. Each robbery took place at a different place and time, and eyewitness testimony helps differentiate each robbery from the others.

B. Prejudice

When offenses of the same character are joined, “prejudice to the defendant is more likely since proof of one crime may tend to corroborate the commission of the other crime.”⁹ A trial court must “weigh the prejudice resulting from a single trial of counts against the expense and inconvenience of separate trials.”¹⁰

In *United States v. Utley*,¹¹ the defendant was charged with four separate counts of assault.¹² In finding that joinder did not prejudice the defendant, the court stated that “the

⁵*Id.* at 1017.

⁶139 F.3d 913 (10th Cir. 1998) (unpublished case).

⁷*Id.* at *4.

⁸*Id.* at *5.

⁹*Id.* (quoting *United States v. Muniz*, 1 F.3d 1018, 1023 (10th Cir. 1994)).

¹⁰*United States v. Janus Industries*, 48 F.3d 1548, 1557 (10th Cir. 1995) (quoting *United States v. Hollis*, 971 F.2d 1441, 1456 (10th Cir. 1992)).

¹¹62 Fed. Appx. 833 (10th Cir. 2003).

¹²*Id.* at 835.

offenses took place on different dates at different locations, and different witnesses and evidence were presented on each count,” and there was no indication that the evidence presented was confusing or overlapping, such that joinder was unduly prejudicial.¹³

In this case, the Court finds that Defendant has not met his heavy burden of showing prejudice. The evidence presented, including the eyewitness testimony, the voice identification and the clothing recovered at Defendant’s home, is not so confusing and overlapping that a jury would use evidence of one crime to infer guilt for another.¹⁴ The Court also finds that separate trials would result in unnecessary expense and inconvenience to all parties and to the Court.

IV. Conclusion

For the reasons discussed above, the Court finds that joinder is proper and that Defendant has failed to meet his burden showing that severance is appropriate. It is therefore

ORDERED that Defendant’s Motion to Sever Counts (Docket No. 25) is DENIED.

DATED August 7, 2008.

BY THE COURT:



TED STEWART
United States District Judge

¹³*Id.* at 836 (quoting *Muniz*, 1 F.3d at 1023).

¹⁴*See Muniz*, 1 F.3d at 1023 (finding that prejudice does not exist unless the evidence is too confusing or unfairly overlapping).

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IN THE UNITED STATES DISTRICT COURT,
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	ORDER FOR FURLOUGH
Plaintiff,	:	
	:	
vs.	:	Case No. 2:08-cr-00148 TS
	:	
	:	
TYSON ALLRED,	:	Judge TED STEWART
	:	Magistrate Judge Alba
Defendant.	:	

TO THE UNITED STATES MARSHALL:

This matter came before the Court pursuant to defendant's motion for a 24-hour furlough for purposes of having scheduled dental work done, and with no objection from the U.S. Attorney, and for good cause appearing:

IT IS HEREBY ORDERED

That the defendant be released from the Marshall's custody at the Weber County Jail in Ogden, Utah, at 10a.m. on Wednesday, August 13th, 2008. Defendant is to return to the jail by 10a.m. on Thursday, August 14th, 2008.

Defendant will be released into the custody of his sister, Melissa Allred, for purposes of her transporting the defendant to his dental appointment, and returning him to the jail as scheduled.

Dated this 6th day of August, 2008.


DISTRICT COURT JUDGE

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DEVIN JAMES DUMBRILL, BENJAMIN
D. ANDREWS, et al.,

Defendants.

**ORDER GRANTING DEFENDANTS'
MOTION TO CONTINUE JURY TRIAL
AND EXCLUDING TIME**

Case No. 2:08-CR-264 TS

Judge Ted Stewart

Upon the Motion of the Defendant Dumbrill and the joinder of Defendant Andrews, and the stipulation of the United States of America, the Court finds as follows: The parties are engaged in on-going negotiations. As a result, additional time is necessary for effective preparation for trial. Under these circumstances, to deny the requested continuance would deny counsel for the defense and for the government effective time necessary for effective trial preparation, taking into account due diligence. The ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendants in a speedy trial pursuant to 18 U.S.C. § 3161(h)(8). It is therefore

ORDERED that the Motion to Continue and the Joinder therein (Docket No. 37) is GRANTED and the trial set for August 11, 2008 at 8:30 is VACATED. It is further

ORDERED that a **three-day jury trial is set for October 20, 2008 at 8:30 a.m.** It is further

ORDERED that the time the time between the date of this order, and the date of the new trial date is excluded from the calculation under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(8).

DATED this 7th day of August, 2008.

BY THE COURT:



HON. TED STEWART
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT

FILED U.S. DISTRICT COURT

Central

District of

2008 AUG -7 P 1:40

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

V.

Mauricio Rodriguez-Pena

BY:

Case Number: DUTX 2:08-cr-000305-001

USM Number: 15449-081

Robert Hunt

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) I-Indictment

pleaded nolo contendere to count(s) which was accepted by the court.

was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8USC§1326	Re-Entry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s)

Count(s) is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/6/2008

Date of Imposition of Judgment

Dee Benson

Signature of Judge

Dee Benson

Name of Judge

U.S. District Judge

Title of Judge

8/6/2008

Date

DEFENDANT: Mauricio Rodriguez-Pena
CASE NUMBER: DUTX 2:08-cr-000305-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

24 months.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____

DEPUTY UNITED STATES MARSHAL

DEFENDANT: Mauricio Rodriguez-Pena
CASE NUMBER: DUTX 2:08-cr-000305-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Mauricio Rodriguez-Pena
CASE NUMBER: DUTX 2:08-cr-000305-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not reenter the United States illegally. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of his arrival in the United States.

DEFENDANT: Mauricio Rodriguez-Pena
CASE NUMBER: DUTX 2:08-cr-000305-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A Lump sum payment of \$ 100.00 due immediately, balance due
- not later than _____, or
 in accordance C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages ____ - ____

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

UNITED STATES DISTRICT COURT U.S. DISTRICT COURT

Central

District of

Utah

2008 AUG -7 P 1:40

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

DISTRICT OF UTAH

V.

Silvino De La Rosa-Mora

Case Number: DUTX 2:08-cr-00319-001

DEPUTY CLERK

USM Number: 74599-198

Spencer Rice

Defendant's Attorney

THE DEFENDANT:

[x] pleaded guilty to count(s) I-Indictment

[] pleaded nolo contendere to count(s) which was accepted by the court.

[] was found guilty on count(s) after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
8USC§1326	Re-Entry of a Previously Removed Alien		1

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

[] The defendant has been found not guilty on count(s)

[] Count(s) [] is [] are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

8/6/2008

Date of Imposition of Judgment

Dee Benson (Signature)

Signature of Judge

Dee Benson

Name of Judge

U.S. District Judge

Title of Judge

8/6/2008

Date

DEFENDANT: Silvino De La Rosa-Mora
CASE NUMBER: DUTX 2:08-cr-000319-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

6 months.

The court makes the following recommendations to the Bureau of Prisons:

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Silvino De La Rosa-Mora
CASE NUMBER: DUTX 2:08-cr-000319-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :
36 months.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Silvino De La Rosa-Mora
CASE NUMBER: DUTX 2:08-cr-000319-001

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall not reenter the United States illegally. In the event that the defendant should be released from confinement without being deported, he shall contact the United States Probation Office in the district of release within 72 hours of release. If the defendant returns to the United States during the period of supervision after being deported, he is instructed to contact the United States Probation Office in the District of Utah within 72 hours of his arrival in the United States.

DEFENDANT: Silvino De La Rosa-Mora
CASE NUMBER: DUTX 2:08-cr-000319-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A Lump sum payment of \$ 100.00 due immediately, balance due
- not later than _____, or
 in accordance C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Pages ____ - ____

are the

Statement of Reasons,
which will be docketed
separately as a sealed
document

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FILED

U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT AUG 05 2008

2008 AUG -6 A 10:10

DISTRICT OF UTAH, CENTRAL DIVISION OFFICE OF JUDGE TENA CAMPBELL

DISTRICT OF UTAH

**BY: UNITED STATES OF AMERICA,
DEPUTY CLERK**

Plaintiff,

v.

COREY LEE PETERSON,

Defendant.

**ORDER TO PREPARE A PRE-PLEA
PRESENTENCE REPORT**

Case No. 2:08 CR 373 TC

Based on the joint motion filed by counsel and good cause appearing;

IT IS HEREBY ORDERED that the United States Probation Department prepare a Pre-Plea Presentence Report in the above entitled case. Further, it is ordered that the United States Probation officer not inquire into the conduct surrounding this offense, for purposes of acceptance of responsibility, and simply calculate the Defendant's guidelines based on both scenarios (plea versus trial). Finally, it is ordered that probation allow defense counsel for Defendant be present at the interview.

DATED this 6 day of August, 2008.

BY THE COURT:



TENA CAMPBELL, Chief
United States District Court Judge

FILED
U.S. DISTRICT COURT

RECEIVED

2008 AUG -6 P 3:10

AUG 04 2008

KEITH C. BARNES (7136)
BARNES LAW OFFICES, P.C.
415 North Main, Suite 303
Cedar City, UT 84721
Telephone: (435) 586-6999
Fax: (435) 586-1315

DISTRICT OF UTAH
BY: _____ OFFICE OF
DEPUTY CLERK JUDGE TENA CAMPBELL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

THE UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
GREGG STEPHEN BUSSEY,)
)
Defendant.)

ORDER

Case No. 2:08-CR-00404 TC
Honorable Judge Tena Campbell

Based upon the motion of the Defendant and for good cause appearing,

IT IS HEREBY ORDERED:

1. The jury trial currently set for August 18-22, 2008, is stricken;
2. The jury trial will be continued for ninety (90) days; and
3. The time from the stricken trial date to the new trial date be excluded from the computation of time required under the Speedy Trial Act, pursuant to 18. U.S.C. §§ 3161 (h) (8) (A) and (B).

A five day jury trial set for 12/8/2008 at 8³⁰ a.m.

DATED this 5th day of August, 2008.

BY THE COURT:

Tena Campbell

TENA CAMPBELL
United States District Court Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Jorge Armando Santana-Trujillo,

Defendant.

: Case No. 2:08-cr-517 TS
:
: ORDER SETTING DISPOSITION
: DATE AND EXCLUDING TIME
: FROM SPEEDY TRIAL
: COMPUTATION
:

This matter came before this Court on 8/7/08 for the purpose of an initial appearance and arraignment. The defendant, who was present, was represented by Ben Hamilton . The United States was represented by Assistant United States Attorney Stan Olson. This defendant has been charged with Illegal Reentry of a Previously Removed Alien in violation of 8 U.S.C. § 1326.

The United States Attorney's Office for the District of Utah has indicated that this defendant meets the eligibility requirements for the "fast-track" benefit, namely, an additional reduction in his or her sentence. However, in order to derive the benefit of this reduction, the defendant must agree to certain conditions as set forth in the fast-track program.

This defendant did not, and is not required at this hearing, to enter a plea of guilty, nor is he/she required at this hearing to commit to enter a plea of guilty. However, the defendant, through counsel, has indicated that he/she wishes to preserve his/her opportunity to participate in the program, and has consented, in writing, to the initiation and disclosure to the Court and the parties of a pre-plea disposition report.

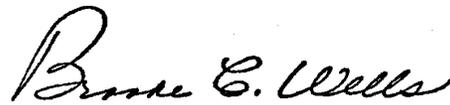
The defendant has requested that this Court set this matter for a status/change of plea hearing date approximately 55 days from the date of this initial appearance and arraignment. Counsel for the defendant has indicated that such will afford counsel the time necessary to meaningfully explain to the defendant the details of the fast-track program and its potential application to this case. Additionally, this time will provide the defendant an adequate opportunity to make an informed decision whether to participate in the program. Therefore, based upon the reasons set forth above, this Court ORDERS that this matter be scheduled for **9/29/08** at **2:30** before **Judge Stewart**.

This Court finds, pursuant to 18 U.S.C. § 3161(h)(1)(I), that this period of delay is a result of the necessary consideration by the Court and parties of this proposed plea agreement. Additionally, this Court finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the ends of justice outweigh the best interest of the public and defendant in a speedy trial and that, pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), that the failure to grant such a continuance would deny counsel

for the defendant and the defendant the reasonable time necessary for effective preparation and for discussion and deliberation of the proposed plea agreement, taking into account the exercise of due diligence, and would therefore result in a miscarriage of justice. Based on the foregoing, IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 3161(h), all time between **8/7/08** (the date of this appearance), and **9/29/08** (the date of the scheduled status hearing) is excluded from computing the time within which the trial of this matter must commence.

DATED this 7th day of August, 2008.

BY THE COURT:

A handwritten signature in cursive script, reading "Brooke C. Wells". The signature is written in black ink and is positioned above a horizontal line.

Brooke C. Wells
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Pedro Hernandez-Ibarra,

Defendant.

: Case No. 2:08-cr-521 DAK
:
: ORDER SETTING DISPOSITION
: DATE AND EXCLUDING TIME
: FROM SPEEDY TRIAL
: COMPUTATION
:

This matter came before this Court on 8/7/08 for the purpose of an initial appearance and arraignment. The defendant, who was present, was represented by Carlos Garcia . The United States was represented by Assistant United States Attorney Stan Olson. This defendant has been charged with Illegal Reentry of a Previously Removed Alien in violation of 8 U.S.C. § 1326.

The United States Attorney's Office for the District of Utah has indicated that this defendant meets the eligibility requirements for the "fast-track" benefit, namely, an additional reduction in his or her sentence. However, in order to derive the benefit of this reduction, the defendant must agree to certain conditions as set forth in the fast-track program.

This defendant did not, and is not required at this hearing, to enter a plea of guilty, nor is he/she required at this hearing to commit to enter a plea of guilty. However, the defendant, through counsel, has indicated that he/she wishes to preserve his/her opportunity to participate in the program, and has consented, in writing, to the initiation and disclosure to the Court and the parties of a pre-plea disposition report.

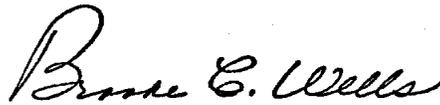
The defendant has requested that this Court set this matter for a status/change of plea hearing date approximately 55 days from the date of this initial appearance and arraignment. Counsel for the defendant has indicated that such will afford counsel the time necessary to meaningfully explain to the defendant the details of the fast-track program and its potential application to this case. Additionally, this time will provide the defendant an adequate opportunity to make an informed decision whether to participate in the program. Therefore, based upon the reasons set forth above, this Court ORDERS that this matter be scheduled for **October 2, 2008 at 3:00** before **Judge Kimball**.

This Court finds, pursuant to 18 U.S.C. § 3161(h)(1)(I), that this period of delay is a result of the necessary consideration by the Court and parties of this proposed plea agreement. Additionally, this Court finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the ends of justice outweigh the best interest of the public and defendant in a speedy trial and that, pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), that the failure to grant such a continuance would deny counsel

for the defendant and the defendant the reasonable time necessary for effective preparation and for discussion and deliberation of the proposed plea agreement, taking into account the exercise of due diligence, and would therefore result in a miscarriage of justice. Based on the foregoing, IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 3161(h), all time between **8/7/08** (the date of this appearance), and **October 2, 2008** (the date of the scheduled status hearing) is excluded from computing the time within which the trial of this matter must commence.

DATED this 7th day of August, 2008.

BY THE COURT:

A handwritten signature in cursive script that reads "Brooke C. Wells". The signature is written in black ink and is positioned above a horizontal line.

Brooke C. Wells
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Jesus Valenzuela-Rabago,

Defendant.

: Case No. 2:08-cr-522 DB
:
: ORDER SETTING DISPOSITION
: DATE AND EXCLUDING TIME
: FROM SPEEDY TRIAL
: COMPUTATION
:

This matter came before this Court on 8/7/08 for the purpose of an initial appearance and arraignment. The defendant, who was present, was represented by Ben Hamilton . The United States was represented by Assistant United States Attorney Stan Olson. This defendant has been charged with Illegal Reentry of a Previously Removed Alien in violation of 8 U.S.C. § 1326.

The United States Attorney's Office for the District of Utah has indicated that this defendant meets the eligibility requirements for the "fast-track" benefit, namely, an additional reduction in his or her sentence. However, in order to derive the benefit of this reduction, the defendant must agree to certain conditions as set forth in the fast-track program.

This defendant did not, and is not required at this hearing, to enter a plea of guilty, nor is he/she required at this hearing to commit to enter a plea of guilty. However, the defendant, through counsel, has indicated that he/she wishes to preserve his/her opportunity to participate in the program, and has consented, in writing, to the initiation and disclosure to the Court and the parties of a pre-plea disposition report.

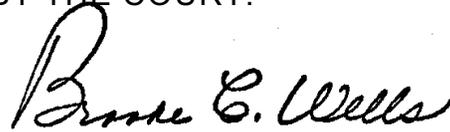
The defendant has requested that this Court set this matter for a status/change of plea hearing date approximately 55 days from the date of this initial appearance and arraignment. Counsel for the defendant has indicated that such will afford counsel the time necessary to meaningfully explain to the defendant the details of the fast-track program and its potential application to this case. Additionally, this time will provide the defendant an adequate opportunity to make an informed decision whether to participate in the program. Therefore, based upon the reasons set forth above, this Court ORDERS that this matter be scheduled for **10/1/08** at **2:00** before **Judge Benson**.

This Court finds, pursuant to 18 U.S.C. § 3161(h)(1)(I), that this period of delay is a result of the necessary consideration by the Court and parties of this proposed plea agreement. Additionally, this Court finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the ends of justice outweigh the best interest of the public and defendant in a speedy trial and that, pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), that the failure to grant such a continuance would deny counsel

for the defendant and the defendant the reasonable time necessary for effective preparation and for discussion and deliberation of the proposed plea agreement, taking into account the exercise of due diligence, and would therefore result in a miscarriage of justice. Based on the foregoing, IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 3161(h), all time between **8/7/08** (the date of this appearance), and **10/1/08** (the date of the scheduled status hearing) is excluded from computing the time within which the trial of this matter must commence.

DATED this 7th day of August, 2008.

BY THE COURT:

A handwritten signature in black ink that reads "Brooke C. Wells". The signature is written in a cursive style with a large initial 'B'.

Brooke C. Wells
United States Magistrate Judge

FILED
CLERK, U.S. DISTRICT COURT
August 7, 2008 (3:59pm)
DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Rubisel Labra-Posada,

Defendant.

: Case No. 2:08-cr-523 TS
:
: ORDER SETTING DISPOSITION
: DATE AND EXCLUDING TIME
: FROM SPEEDY TRIAL
: COMPUTATION
:

This matter came before this Court on 8/7/08 for the purpose of an initial appearance and arraignment. The defendant, who was present, was represented by Carlos Garcia . The United States was represented by Assistant United States Attorney Stan Olson. This defendant has been charged with Illegal Reentry of a Previously Removed Alien in violation of 8 U.S.C. § 1326.

The United States Attorney's Office for the District of Utah has indicated that this defendant meets the eligibility requirements for the "fast-track" benefit, namely, an additional reduction in his or her sentence. However, in order to derive the benefit of this reduction, the defendant must agree to certain conditions as set forth in the fast-track program.

This defendant did not, and is not required at this hearing, to enter a plea of guilty, nor is he/she required at this hearing to commit to enter a plea of guilty. However, the defendant, through counsel, has indicated that he/she wishes to preserve his/her opportunity to participate in the program, and has consented, in writing, to the initiation and disclosure to the Court and the parties of a pre-plea disposition report.

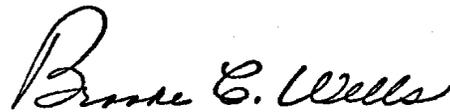
The defendant has requested that this Court set this matter for a status/change of plea hearing date approximately 55 days from the date of this initial appearance and arraignment. Counsel for the defendant has indicated that such will afford counsel the time necessary to meaningfully explain to the defendant the details of the fast-track program and its potential application to this case. Additionally, this time will provide the defendant an adequate opportunity to make an informed decision whether to participate in the program. Therefore, based upon the reasons set forth above, this Court ORDERS that this matter be scheduled for **September 30, 2008** at **3:30** before **Judge Stewart**.

This Court finds, pursuant to 18 U.S.C. § 3161(h)(1)(I), that this period of delay is a result of the necessary consideration by the Court and parties of this proposed plea agreement. Additionally, this Court finds, pursuant to 18 U.S.C. § 3161(h)(8)(A), that the ends of justice outweigh the best interest of the public and defendant in a speedy trial and that, pursuant to 18 U.S.C. § 3161(h)(8)(B)(iv), that the failure to grant such a continuance would deny counsel

for the defendant and the defendant the reasonable time necessary for effective preparation and for discussion and deliberation of the proposed plea agreement, taking into account the exercise of due diligence, and would therefore result in a miscarriage of justice. Based on the foregoing, IT IS HEREBY ORDERED that, pursuant to 18 U.S.C. § 3161(h), all time between **8/7/08** (the date of this appearance), and **September 30, 2008** (the date of the scheduled status hearing) is excluded from computing the time within which the trial of this matter must commence.

DATED this 7th day of August, 2008.

BY THE COURT:

A handwritten signature in cursive script that reads "Brooke C. Wells". The signature is written in black ink and is positioned above a horizontal line.

Brooke C. Wells
United States Magistrate Judge

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JUL 28 2008

FILED
U.S. DISTRICT COURT

OFFICE OF U.S. DISTRICT JUDGE
BRUCE S. JENKINS

2008 AUG -6 P 2:48

DOUGLAS G. MORTENSEN - 2329
RICHARD F. MORTENSEN - 10964
MATHESON, MORTENSEN, OLSEN & JEPPESON
Attorneys for Plaintiff
648 E 100 South
Salt Lake City, UT 84102
Telephone (801) 363-2244

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

MARK FITZGERALD BELL - 4536
MARSDEN & BELL, L.L.C.
Attorneys for Plaintiff
68 South Main Street, Fifth Floor
Salt Lake City, UT 84101
telephone: (801) 521-3800

**IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
CENTRAL DIVISION**

SCOTT D. EVANS,

Plaintiff

vs.

STEVEN TURLEY, CLINT FRIEL, DAVID
WORTHINGTON, DR. RICHARD
GARDNER, CHRIS ABBOTT, TRAVIS
HUNTER, COLLEEN GUYMON, AMMIE N.
SIMPSON, MONTY STRAND, JAMIE
TROYER, BRYAN DUVALL, JOSEPH
COOMBS and John Does 1-25,

Defendants.

**ORDER DISMISSING CLAIMS
WITHOUT PREJUDICE**

Case no.: 2:08cv00046

Judge: Bruce S. Jenkins

Based upon the Stipulation to Dismiss Without Prejudice entered into between Plaintiff
Scott D. Evans, by and through his attorneys of record, and Defendants Steven Turley, Richard
Garden, M.D., Clint Friel and David Worthington, by and through their attorney of record, Joni J.

Robert H. Scott (10981)
VAN COTT, BAGLEY, CORNWALL & McCARTHY
36 South State Street, #1900
Salt Lake City, Utah 84111
Telephone: (801) 532-3333
Attorneys for Plaintiff

FILED
U.S. DISTRICT COURT

2008 AUG -6 A 10:10

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

JOSHUA W. WATKINS, an individual,

Plaintiff,

vs.

RICHARD ANDERSON, an individual,
WYNN L. WESTMORELAND, an
individual, NOXSO CORPORATION, a
Virginia corporation, and NOXSO-ACMT
LATINO HOLDINGS GROUP, L.C., a
Utah limited liability company,

Defendants.

**ORDER ALLOWING
WITHDRAWAL OF COUNSEL**

Case No. 2:08CV00106

Judge Tena Campbell

Robert H. Scott of the law firm of Van Cott, Bagley, Cornwall & McCarthy has filed notice of his intent to withdraw as counsel for Joshua W. Watkins. It appearing that Joshua W. Watkins will continue to be represented by Robert E. Mansfield, it is hereby:

ORDERED that Robert H. Scott be allowed to withdraw his representation of Joshua W. Watkins in this matter.

ENTERED this 7th day of August, 2008.

By:



Honorable Tena Campbell
United States District Court Judge

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

<p>BRIDGEPORT RETAIL, LLC, et al., Plaintiffs,</p> <p>vs.</p> <p>COMMERCE CRG UTAH, LLC, et al., Defendants.</p>	<p>MEMORANDUM DECISION AND ORDER GRANTING DEFENDANTS' MOTIONS TO DISMISS</p> <p>Case No. 2:08-CV-162 TS</p>
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This matter comes before the Court on Defendants' two Motions to Dismiss.¹ Defendants have filed one motion with respect to Cushman & Wakefield and another with respect to several individual defendants. For the reasons set forth below, these motions will be granted.

I. Factual Background

Plaintiffs are several limited liability companies, each with its principal place of business located in Lake Oswego, Oregon, and registered to do business in Utah ("Plaintiffs").

Defendants are Commerce CRG Utah, LLC ("Commerce"), Cushman & Wakefield ("Cushman"), William K. Martin ("Martin"), William L. D'Evelyn ("D'Evelyn"), Mike Lawson ("Lawson"), Dana Baird ("Baird"), Erik Harper ("Harper"), Scott Bennion ("Bennion"), Ellen

¹Docket Nos. 12 and 18.

Long (“Long”) and John Does 1 through 10.

Martin, D’Evelyn, Baird, Harper, and Bennion are managers of Commerce. Lawson is a member of Commerce and Does 1 through 10 are “agents, associates, principles, directors, officers, employees, subordinates, or affiliates of Commerce[.]”²

Plaintiffs sought to retain the services of a large national company with an established reputation to manage several properties owned by Plaintiffs. In 2005 and 2006, Plaintiff retained the services of Commerce, based largely on its affiliation with Cushman, to manage the properties. The Management Agreement lists a Plaintiff company and Commerce as the only parties; there are no references to Cushman in the Agreement. The contract required Commerce to perform several functions for Plaintiffs, including preparing and submittin an operating budget, collecting rents and other payments from tenants leasing the properties, and other responsibilities “customarily performed by managing agents” of the buildings.³ On each property, Commerce was required to use diligent efforts to collect the rents and various fees, including monthly estimated common area maintenance fees (“CAM” fees). Commerce received and accepted compensation for the services described in the contracts and the schedules referenced therein.

II. Procedural History

Plaintiffs filed this suit against all Defendants, asserting three causes of action: 1) breach of contract; 2) negligence; and 3) breach of fiduciary duty. Plaintiffs allege that Commerce failed to properly reconcile the fees collected with the actual amounts due and failed to properly

²Cmplt. at ¶ 16 (Docket No. 4).

³*Id.* at ¶ 30.

adjust CAM payments as required by the leases and according to industry standards.

A. Cushman's Motion to Dismiss

In its Motion to Dismiss, Cushman seeks dismissal of all claims based on four grounds. First, Cushman asserts that it is not responsible for the obligations and liabilities of Commerce solely because it is the parent company of Commerce. Second, Commerce alone entered into the contracts with Plaintiffs, thus the breach of contract claim as against Cushman should be dismissed. Third, Cushman argues that the breach of fiduciary duty claim must fail because the contracts were negotiated at arm's length and, therefore, did not give rise to any fiduciary duty. Fourth, Cushman argues that Plaintiffs did not properly plead negligence in accordance with Rule 8 of the Federal Rules of Civil Procedure.

B. Individual Defendants' Motion to Dismiss

In the motion filed by several individual defendants, Defendants Martin, D'Evelyn, Lawson, and Bennion ("Individual Defendants") argue dismissal on four grounds, which are largely similar to those asserted by Cushman. First, the Individual Defendants seek dismissal of the entire Complaint with respect to them because Commerce is properly registered to do business in Utah. Second, the Individual Defendants assert that because Commerce alone entered into the contracts with Plaintiffs, the breach of contract claim against all other defendants must be dismissed. Third, the Individual Defendants argue that no fiduciary duty arose between any of the parties. Fourth, the Individual Defendants argue that only Commerce owed a duty to Plaintiffs that would give rise to a claim for negligence and that there have been no allegations that any of the defendants, other than Commerce, participated in or were aware of any negligent activities.

Due to the similarity of the arguments made by the respective defendants in the two

motions, both motions will be discussed together where possible.

III. Discussion

In considering a motion to dismiss under Rule 12(b)(6), all well-pleaded factual allegations, as distinguished from conclusory allegations, are accepted as true and viewed in the light most favorable to the nonmoving party.⁴ Plaintiff must provide “enough facts to state a claim to relief that is plausible on its face.”⁵ All well-pleaded factual allegations in the amended complaint are accepted as true and viewed in the light most favorable to the nonmoving party.⁶ But, the court “need not accept conclusory allegations without supporting factual averments.”⁷ “The court’s function on a Rule 12(b)(6) motion is not to weigh potential evidence that the parties might present at trial, but to assess whether the plaintiff’s complaint alone is legally sufficient to state a claim for which relief may be granted.”⁸

The parties submitted additional materials in conjunction with these motions that the Court did not consider in deciding these motions. The Court considered only the Complaint and the materials attached to the Complaint, and will not convert these motions to motions for

⁴*Ruiz v. McDonnell*, 299 F.3d 1173, 1181 (10th Cir. 2002).

⁵*Bell Atlantic Corp. v. Twombly*, ___ U.S. ___, 127 S.Ct. 1955, 1974 (2007) (dismissing complaint where Plaintiffs “have not nudged their claims across the line from conceivable to plausible”).

⁶*GFF Corp. v. Associated Wholesale Grocers, Inc.*, 130 F.3d 1381, 1384 (10th Cir. 1997).

⁷*Southern Disposal, Inc., v. Texas Waste*, 161 F.3d 1259, 1262 (10th Cir. 1998); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991).

⁸*Miller v. Glanz*, 948 F.2d 1562, 1565 (10th Cir. 1991).

summary judgment.⁹

A. Breach of Contract

“The elements of a breach of contract claim are ‘(1) a contract, (2) performance by the party seeking recovery, (3) breach of the contract by the other party, and (4) damages.’ Thus, to have stated a claim for breach of contract, [Plaintiff] must have alleged sufficient facts, which we view as true, to satisfy each element.”¹⁰

1. Cushman

In their Complaint, Plaintiffs assert that Commerce breached the contracts by failing to properly collect and calculate fees. Plaintiffs never assert that Cushman was in breach. Further, Cushman is not a party to the Agreements, which are attached as exhibits to the Complaint. Therefore, the Court finds that Plaintiffs have not alleged sufficient facts to satisfy that a contract existed between Cushman and Plaintiffs. The breach of contract claims as against Cushman will be dismissed.

2. Individual Defendants

Plaintiffs concede that Defendants Martin, D’Evelyn and Lawson should be dismissed. Plaintiffs do not specifically discuss the breach of contract claims with respect to the Individual Defendants. For these reasons, as well as those outlined above, the Court finds that Plaintiffs have not alleged sufficient facts to satisfy that a contract existed between the Individual

⁹See *David v. City & County of Denver*, 101 F.3d 1344, 1352 (10th Cir.1996) (upon submission of additional materials, the court may convert a motion to summary judgment under Rule 56, with proper notice and an opportunity for parties to present relevant evidence) (citations omitted).

¹⁰*MBNA America Bank, N.A. v. Goodman*, 140 P.3d 589, 591 (Utah Ct. App. 2006) (quoting *Bair v. Axiom Design, L.L.C.*, 20 P.3d 388, 392 (Utah 2001)).

Defendants and Plaintiffs. The breach of contract claims as against the Individual Defendants will likewise be dismissed.

B. Breach of Fiduciary Duty

A fiduciary relationship exists “only when one party, having gained the trust and confidence of another, exercises extraordinary influence over the other party.”¹¹ “Moreover, when the parties deal ‘at arm’s length’ or in an adversarial relationship, no fiduciary relationship can be said to exist.”¹²

Plaintiffs do not refute Defendants’ contention that these transactions were conducted at arm’s length. Further, Plaintiffs cite no law in support of their position that a fiduciary relationship arose between Plaintiffs and Cushman or Plaintiffs and the Individual Defendants. Therefore, the Court finds that no fiduciary duty arose with respect to Cushman or the Individual Defendants. Therefore, this cause of action is dismissed with respect to those Defendants.

C. Negligence

“To prevail on a negligence claim in Utah, a plaintiff must establish, among other things, that the defendant owed the plaintiff a duty of care. Absent a showing of duty, the claim of negligence has no merit.”¹³

Plaintiffs assert that Defendants negligently contracted with two rubbish removal companies, when only one company could have completed the work. Plaintiffs further assert that Defendants were negligent in their supervision of the digging and refilling of a trench around one

¹¹*Gold Standard, Inc. v. Getty Oil Co.*, 915 P.2d 1060, 1064 (Utah 1996) (quoting *Von Hake v. Thomas*, 705 P.2d 766, 769 (Utah 1985) (internal quotations omitted)).

¹²*Id.*

¹³*Boyer v. Boyer*, 183 P.3d 1068, 1071 (Utah Ct. App. 2008).

of the properties. Defendants argue that Plaintiffs have not established that any party other than Commerce owed a duty to Defendants and that the negligence claim is not properly pleaded under Rule 8 of the Federal Rules of Civil Procedure.

The Court finds that, based on the reasoning outlined above with respect to both Cushman and the Individual Defendants, Plaintiffs have failed to establish that a duty existed. As noted by Defendants, the only duty that the Individual Defendants may have had was to Commerce, not Plaintiffs. Therefore, the negligence claim is also dismissed with respect to Cushman and the Individual Defendants.

IV. Conclusion

For the reasons discussed above, the Court finds that dismissal of all claims against Cushman and the Individual Defendants is proper. It is therefore

ORDERED that Defendants' Motions to Dismiss (Docket Nos. 12 and 18) are GRANTED. These claims are dismissed with prejudice and the only remaining defendant in this case is Commerce CRG Utah, LLC.

DATED August 7, 2008.

BY THE COURT:



TED STEWART
United States District Judge

FILED
U.S. DISTRICT COURT

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

2008 AUG -7 A 10:37

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

JOE MARIO VELARDE,
Plaintiff,

vs.

UNITED STATES OF AMERICA,
Defendant.

ORDER

Case No. 2:08 CV 292 CV

On April 17, 2008, Mr. Joe Mario Velarde filed a voluminous petition under 28 U. S. C. § 2255. Despite a careful review of the Petition, the court could not understand what grounds Mr. Velarde was raising in his Petition. Accordingly, the court, in an order dated May 23, 2008, forwarded proper forms to Mr. Velarde and instructed him to complete the forms and file them with the court no later than August 1, 2008. Mr. Velarde was cautioned that failure to file the completed forms by August 1, 2008, would result in the dismissal of the petition on file. As of the date of this Order, Mr. Velarde has not returned the completed forms. The petition is therefore dismissed.

DATED this 7th day of August, 2008.

BY THE COURT:

Tena Campbell

TENA CAMPBELL
Chief Judge

FILED
U.S. DISTRICT COURT

2008 AUG -7 A 11: 19

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

Prepared and Submitted by:

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*Receiver of RCH2, LLC et al., and
Attorneys for Receiver*

**UNITED STATES DISTRICT COURT DISTRICT OF UTAH
CENTRAL DIVISION**

RCH2, LLC, a Utah Limited Liability Company, and the interests of RCH2, LLC and Robert Casey Hall, an individual, in various entities, including Springridge, LLC, a Utah Limited Liability Company, W.W. LLC, a Utah Limited Liability Company, and USV R.E., LLC, a Utah Limited Liability Company, by and through their Court-Appointed Receiver LON A. JENKINS,

Plaintiffs,

v.

EVANDER HOLYFIELD, an individual, and
DOES Nos. 1-20

Defendants.

DEFAULT CERTIFICATE

Civil No. 2:08-cv-408

Honorable Dee Benson

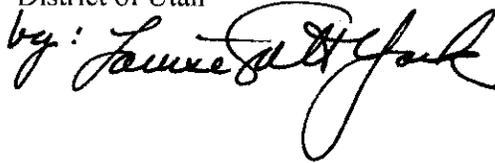
Pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, it appears to the Clerk of the Court that Defendant Evander Holyfield has been duly served with the Summons and

Complaint in this matter, and that Evander Holyfield has failed to plead or respond within the time allowed by the applicable rules. The Clerk of the Court also has reviewed the *Declaration of Troy J. Aramburu in Support of Receiver's Motion for Entry of Default Judgment against Evander Holyfield and for Determination of Reasonable Pre-Judgment Interest*, and accordingly, the Default of Evander Holyfield is hereby entered.

DATED this 7th day of August, 2008.

D. MARK JONES

Clerk, United States District Court for the
District of Utah

by: 

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BRAD CARROLL and PETER SHAM,

Plaintiffs,

vs.

KEN LUDWIG,

Defendant.

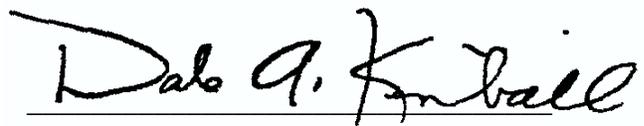
Case No.: 2:08-CV-00491-DAK

Judge: Dale A. Kimball

ORDER FOR PRO HAC VICE
ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv-R 83-1.1(d), the motion for the admission pro hac vice of Martin D. Schneiderman in the United States District Court, District of Utah in the subject case is GRANTED.

DATED: this 7th day of August, 2008.



Dale A. Kimball,
United States District Judge

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

BRAD CARROLL and PETER SHAM,

Plaintiffs,

vs.

KEN LUDWIG,

Defendant.

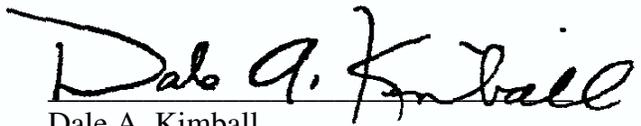
Case No.: 2:08-CV-00491-DAK

Judge: Dale A. Kimball

ORDER FOR PRO HAC VICE
ADMISSION

It appearing to the Court that Petitioner meets the pro hac vice admission requirements of DUCiv-R 83-1.1(d), the motion for the admission pro hac vice of Karl M. Tilleman in the United States District Court, District of Utah in the subject case is GRANTED.

DATED: this 7th day of August, 2008.



Dale A. Kimball,
United States District Judge

FILED
U.S. DISTRICT COURT

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DISTRICT OF UTAH

BY: DEPUTY CLERK

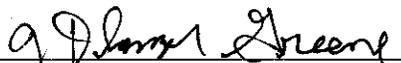
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

<p>EDGAR TIEDEMANN, Plaintiff, vs. LANGDON FISHER, et. al., Defendants.</p>	<p>ORDER OF REFERENCE Civil No. 2:08-CV-546</p>
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IT IS ORDERED that, as authorized by 28 U.S.C. § 636(b)(1)(B) and the rules of this Court, the above entitled case is referred to Magistrate Judge Warner. The magistrate judge is directed to manage the case, receive all motions, hear oral arguments, conduct evidentiary hearings as deemed appropriate, and to submit to the undersigned judge a report and recommendation for the proper resolution of dispositive matters presented.

DATED this 6th day of August, 2008.

BY THE COURT:



J. THOMAS GREENE
United States District Judge

FILED
U.S. DISTRICT COURT

2008 AUG -7 A 9:48

**In the United States District Court
for the District of Utah, Central Division**

DISTRICT OF UTAH

BY: _____
DEPUTY CLERK

DAVID M. TUTTLE and BILLIE G.
TUTTLE,

Plaintiffs,

vs.

CHASE HOME FINANCE, LLC, et. al.

Defendant.

ORDER OF RECUSAL

Case No. 2:08-cv-574

I recuse myself in this case, and ask that the appropriate assignment card
equalization be drawn by the clerk's office.

DATED this 6th day of August, 2008

BY THE COURT:


J. THOMAS GREENE
UNITED STATES DISTRICT JUDGE

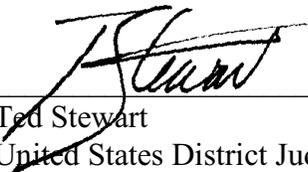
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

JOSEPH L. WILLIAMS, :
Plaintiff, : ORDER OF RECUSAL
vs. :
ELIZABETH R. LOVERIDGE, Trustee, : Case No. 2:08-CV-578 TS
Defendant. :

I recuse myself in this case, and ask that the appropriate assignment card equalization be drawn by the clerk's office.

DATED this 7th day of August, 2008.

BY THE COURT:



Ted Stewart
United States District Judge

United States District Court

United States Courthouse
Salt Lake City, Utah 84101

Dee Benson
United States District

FILED
U.S. DISTRICT COURT
2008 AUG -7 P 3:22
801-524-6160
DISTRICT OF UTAH
BY: _____
DEPUTY CLERK

MEMORANDUM

TO: Mark Jones
Clerk of Court

FROM: Dee Benson
U.S. District Judge

DATE: 08/07/2008

SUBJECT: 2:08cv592 Rose v Utah State Bar

I find that I must recuse myself from this case.

Would you please see that this case is reassigned to another judge pursuant to our computer program.

Dee Benson



District Judge