

FILED IN UNITED STATES DISTRICT COURT, DISTRICT OF UTAH

OCT 25 2010

D. MARK JONES, CLERK
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

IN THE MATTER OF ADOPTION OF
AMENDED LOCAL RULES OF COURT

:
:
:
:
:
:
:

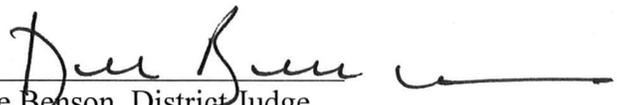
General Order 10- 005

Proposed amendments to the local rules of practice for the United States Bankruptcy Court for the District of Utah were published for comment and the comment period has expired. The court has reviewed the proposals and the comments.

IT IS HEREBY ORDERED Bankruptcy Court shall adopt the amended rules as reviewed by this court by general order, determine an effective date and publish the amended local rules to the Bar and to the public.

DATED this 19 day of Oct, 2010


Tena Campbell, Chief Judge


Dee Benson, District Judge

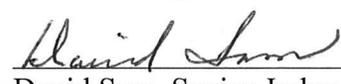

Dale Kimball, District Judge


Ted Stewart, District Judge


Clark Waddoups, District Judge



Bruce S. Jenkins, Senior Judge



David Sam, Senior Judge

DUCivR 83-2 ASSIGNMENT AND TRANSFER OF CIVIL CASES

Approved by the Rules Committee on May 11, 2010 and released for comment on the website on July 2010.

Reporter's Note: Two amendments have been made in this rule. The first provides for direct assignment of subsequently filed matters which are brought to the district court from a bankruptcy court proceeding. This will assure that related issues will be determined by the same district court judge to better utilize judicial resources. The second amendment adds a provision for transfer of cases to a single judge. The amendment sets forth the grounds and procedure for requesting such transfer. A transferred case will remain a separate case and not consolidated as provided in DUCiv R 42-1. Transfer, rather than consolidation, may be appropriate for matters with multiple parties and party roles or cases which are in different procedural stages.

Supervision of the random assignment of civil cases to the judges of the court is the responsibility of the chief judge.

(a) Random Selection Case Assignment System.

All case assignments are randomly assigned by an automated case assignment system approved by the judges of the court and managed by the clerk under the direction of the chief judge.

(b) Judicial Recusal.

In the event of a judicial recusal, another judge will be assigned to the case through the random selection case assignment system described in subsection (a) of this rule. If all judges recuse themselves, the chief judge of the court will request the chief judge of the Tenth Circuit Court of Appeals to assign a judge from another district within the circuit to hear the matter.

(c) Emergency Matters.

In the event an assigned judge is ill, out of town, or otherwise unavailable to consider an urgent matter, application for consideration may be made to any available judge of the court. For purposes of efficiency and coordination, requests for emergency judicial action should be directed to and coordinated through the clerk.

(d) Post-Conviction Relief.

Whenever a second or subsequent case seeking post-conviction or other relief by petition for writ of habeas corpus is filed by the same petitioner involving the same conviction as in the first case, it will be assigned to the same judge to whom the original case was assigned.

(e) Section 2255 Motions.

Under Rule 4 of the Rules Governing Section 2255 Proceedings, all motions under 28 U.S.C. §

2255 will be assigned to the judge to whom the original criminal proceeding was assigned.

f) Multiple Matters Arising Out of a Single Bankruptcy Case

In the event multiple matters arising out of a single bankruptcy case are filed in this court (whether appeals under DUCivR 83-7.9; referrals of indirect criminal contempt of court under DUCivR 83-7.7; withdrawals of the reference of cases, proceedings or contested matters under DUCivR 83-7.4; or otherwise), the first matter will be randomly assigned to a judge of this court, as set forth in subsection (a) above. Thereafter, any and all subsequent matters arising out of the same bankruptcy case will be assigned to the judge of this court to whom the first matter was assigned.

(g) Transfer of Related Case¹

Whenever two or more related cases are pending before different judges of this court, any party to the later-filed case may file a motion and proposed order to transfer the case to the judge with the lower-numbered case. To determine whether the case should be transferred, the court may consider the following factors:

- (i) Whether the cases arise from the same or a closely related transaction or event;
- (ii) Whether the cases involve substantially the same parties or property;
- (iii) Whether the cases involve the same patent, trademark, or copyright;
- (iv) Whether the cases call for a determination of the same or substantially related questions of law and fact;
- (v) Whether the cases would entail substantial duplication of labor or unnecessary court costs or delay if heard by different judges; and
- (vi) Whether there is risk of inconsistent verdicts or outcomes;
- (vii) Whether the motion has been brought for an improper purpose.

The motion to transfer shall be filed in the lower-numbered related case, and a notice of the motion shall be filed in case in which transfer is sought. While the motion shall be decided by the judge assigned to the lower-numbered case, judges assigned to the cases will confer about the appropriateness of the requested transfer. The transfer of cases may also be addressed sua sponte by the court.

¹ If a case is transferred to another judge with a similar case, the transferred case will remain a separate case with its own docket and scheduling order. If consolidation—rather than transfer—is sought, please see DUCivR 42-1.