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Massachusetts Federal Court Proposes Change to What Constitutes a Related Case

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The US District Court for the District of Massachusetts is weighing a rule change that would limit the cases that are deemed related and thus assigned to the same judge. Such a change, if implemented, would reduce plaintiffs' ability to "shop" for judges because more cases would be assigned independently from those cases already on a judge's docket.

On June 9, the district published for public comment proposed changes to sections (g)-(j) of Local Rule 40.1, which governs the assignment of related civil cases. The new rule departs from the current rule by:

- Clarifying that common questions of law are not sufficient to deem cases related
- Requiring plaintiffs to designate cases as related at the time of filing
- Establishing specific procedures for defendants to contest or advocate for relatedness

With respect to the first change, the proposed rule will likely narrow the number of cases the court ultimately designates as related because common questions of law would not be sufficient to make two cases related, even if they involve the same parties. Under the proposed rule, cases would be deemed related only if they involve the same parties *and* one of the following: (i) the same or substantially similar issues of fact; (ii) the same occurrence, transaction or property; or (iii) insurance coverage for the same property, transaction or occurrence. This change is likely the most impactful, as the rule makes clear that, even if the parties are the same, cases "shall not be deemed related to each other solely on the ground that they . . . involve the same or substantially similar challenges to a law, regulation or government policy or practice."

Second, the proposed rule requires plaintiffs to consider relatedness *before* filing their complaint. The proposed rule would require plaintiffs to "file a written certification in the later-filed case *specifically stating the basis for designating* the two cases as related," in addition to notifying the clerk of the earlier-filed related case as is currently required. Plaintiffs could later attempt to designate cases as related, but only upon a showing of good cause.

Third, the proposed rule establishes a time-bounded process for defendants to object to designations of relatedness, or a lack of a designation, by requiring defendants to file a motion for transfer or reassignment within 30 days of filing their responsive pleading. Defendants could later attempt to contest relatedness or lack of a designation, but only upon a showing of good cause.

As these procedural changes require issues of relatedness to be addressed and decided early in the case, they are likely to provide increased certainty for litigants and the court.

Any comments on the proposed revisions must be submitted to the clerk of court by July 7.

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