

Rule 84. Suspension Calendar

(a) Suspension Calendar. A Suspension Calendar is established on which an action described in 28 U.S.C. §§ 1581(a) and (b) may be suspended, by order of the court, pending the final determination of a test case.

(b) Test Case Defined. A test case is an action, selected from a number of other pending actions all involving a significant issue of fact or question of law that is the same, and which is intended to proceed first to final determination to serve as a test of the right to recovery in the other actions. A test case may be so designated by order of the court upon a motion for test case designation after issue is joined.

(c) Motion for Test Case Designation. A party who intends that an action be designated a test case shall: (1) consult with all other parties to the action in accordance with Rule 7(b), and (2) serve upon the other parties, and file with the court a motion requesting such designation. The motion for test case designation shall include a statement that the party: (1) intends to actively prosecute the test case once designated, and (2) has other actions pending before the court that involve the same significant issue of fact or question of law as is involved in the test case and that it will promptly suspend under the test case. In any instance in which the consent of all other parties has not been obtained, a non-consenting party shall serve and file its response within 10 days after service of the motion for test case designation, setting forth its reasons for opposing.

(d) Suspension Criteria. An action may be suspended under a test case if the action involves a significant issue of fact or question of law which is the same as a significant issue of fact or question of law involved in the test case.

(e) Motion for Suspension. A motion for suspension shall include, in addition to the requirements of Rule 7, (1) the title and court number of the action for which suspension is requested, (2) the title and court number of the test case, and (3) a statement of the significant

issue of fact or question of law alleged to be the same in both actions.

(f) Time. A motion for suspension may be made at any time, and may be joined with a motion for designation of a test case as prescribed by subdivision (c) of this rule.

(g) Effect of Suspension. An order suspending an action shall stay all further proceedings and filing of papers in the suspended action unless the court otherwise directs.

(h) Removal From Suspension. A suspended action may be removed from the Suspension Calendar only upon a motion for removal. A motion for removal may be granted solely for the purpose of moving the action toward final disposition. An order granting a motion for removal shall specify the terms, conditions and period of time within which the action shall be finally disposed.

(As amended Sept. 25, 1992, eff. Jan. 1, 1993; Aug. 29, 2000, eff. Jan. 1, 2001.)