

Title XII. COURT CALENDARS; GENERAL PROVISIONS

Rule 83. Customs Case Management

(a) Customs Case Management Calendar. An action commenced under 28 U.S.C. § 1581(a) or (b) will be placed on the Customs Case Management Calendar at the time of the filing of the summons.

(b) Removal from the Customs Case Management Calendar. An action may be removed from the Customs Case Management Calendar on: (1) assignment; (2) filing of a complaint; (3) granting of a motion for consolidation pursuant to Rule 42; (4) granting of a motion for suspension under a test case; (5) filing of a stipulation for judgment on agreed statement of facts pursuant to Rule 58.1; (6) filing of a settlement agreement; or (7) voluntary dismissal under Rule 41(a).

(c) Motion to Remain on the Customs Case Management Calendar. After 24 months on the Customs Case Management Calendar, the plaintiff must demonstrate by motion why the action should remain on the calendar. The applicable 24-month period will run from the last day of the month in which the action is commenced until the last day of the 24th month thereafter. An action not removed from the Customs Case Management Calendar within the 24-month period must be dismissed for lack of prosecution, unless a motion to remain on the Customs Case Management Calendar is pending. If a pending motion is denied and less than 14 days remain in which the action may remain on the Customs Case Management Calendar or the Calendar has expired, it will remain on that Calendar for 14 days from the date of entry of the order denying the motion.

For actions pending on the effective date of this rule, the 24 month period begins on the effective date.

(d) Expiration of the Customs Case Management Calendar. An action shall not remain on the Customs Case Management Calendar for more than 48 months. The 48-month period will run from the last day of the month in which the action is commenced until the last day of the 48th month thereafter. An action remaining on Customs Case Management Calendar at the end of the 48-month period must be dismissed for lack of prosecution. The effective date of dismissal is the day after the last day of the 48-month period notwithstanding the date the dismissal is entered on the docket.

(e) Test Case Defined. A test case is an action, selected from a number of other pending actions involving the same significant question of law or fact that is intended to proceed first to final determination and 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 on a motion for test case designation after issue is joined.

(f) Motion for Test Case Designation. A party who intends that an action be designated a test case must: (1) consult with all other parties to the action in accordance with Rule 7(b); and (2) file with the court a motion requesting such designation. The motion for test case designation must include a statement that the party: (1) intends to actively prosecute such case once designated; and (2) has other actions pending before the court that involve the same significant question of law or fact as is involved in the test case and that it will promptly suspend under that case. In any instance in which the consent of all other parties has not been obtained, a non-

consenting party must serve and file its response within 14 days after service of the motion for test case designation, setting forth its reasons for opposing.

(g) Suspension Criteria. An action may be suspended under a test case if both involve the same significant question of law or fact.

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

(i) Motion for Suspension. A motion for suspension must 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 question of law or fact alleged to be the same in both actions.

(j) 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 (f) of this rule.

(k) Effect of Suspension. An order suspending an action stays all further proceedings and filing of papers in that action unless the court otherwise directs. However, the suspension of an action will not stay the requirements of Rule 73.1.

(l) Removal from Suspension. A suspended action may be removed from the Suspension Calendar on: (1) a motion for removal; (2) transferal of it to a Suspension Disposition Calendar as provided in Rule 85; (3) filing of a complaint; (4) filing of a stipulation for judgment on agreed statement of facts pursuant to Rule 58.1; (5) filing of a settlement agreement; or (6) voluntary dismissal under Rule 41(a).

PRACTICE COMMENT: While on the Customs Case Management Calendar, the parties should consider whether the action should be (1) activated by the filing of a complaint; (2) consolidated with an action not on the Customs Case Management Calendar; (3) suspended under a test case pursuant to subsections (f) through (i) of this Rule; or (4) resolved by the filing of a stipulation for judgment on agreed statement of facts pursuant to Rule 58.1.

PRACTICE COMMENT: All cases pending on the Reserve Calendar on the effective date of this rule will be moved to the Customs Case Management Calendar. Notwithstanding any court order setting different deadlines for the Reserve Calendar or the length of time on the prior Reserve Calendar, the cases that are so moved will be subject to the 24 month limit of Rule 83(c).

(As amended Oct. 3, 1984; eff. Jan. 1, 1985; Sept. 25, 1992, eff. Jan. 1, 1993; Nov. 25, 2009, eff. Jan. 1, 2010; Dec. 7, 2010, eff. Jan. 1, 2011; Dec. 22, 2014, eff. Jan. 28, 2015; Sept. 19, 2017, eff. Oct. 23, 2017.)