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**TO:** Civil Rules Committee  
**FROM:** Bradley A. Levin  
**DATE:** June 16, 2020  
**RE:** Notice of Related Cases

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At the January 31, 2020 meeting, the Committee considered the subcommittee's<sup>1</sup> recommendation concerning adoption of a related case doctrine as part of the statewide rules. The Committee provided input as to various aspects of the recommendation, and the subcommittee was asked to make a further recommendation based on that input. The subcommittee subsequently met and after further consideration, submits the following revised recommendation:

A. The subcommittee recommends that Rule 121, Section 1-8 be amended by adding to the end of the section the sentence that presently appears in Section 1-9, as follows:

### SECTION 1-8 CONSOLIDATION

A party seeking consolidation shall file a motion to consolidate in each case sought to be consolidated. The motion shall be determined by the court in the case first filed in accordance with Practice Standard § 1-15. If consolidation is ordered, all subsequent filings shall be in the case first filed and all previous filings related to the consolidated cases placed together under that case number, unless otherwise ordered by the court. *Consolidation of matters pending in other districts shall be determined in accordance with C.R.C.P. 42.1*

B. The subcommittee further recommends that Section 1-9 be changed to read:

### SECTION 1-9. ~~MULTI-DISTRICT LITIGATION~~ RELATED CASES

~~Consolidation of matters pending in other districts shall be determined in accordance with C.R.C.P. 42.1.~~

1. A party to a civil case shall file a notice identifying all related cases of which the party is aware.

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<sup>1</sup> The subcommittee includes, in addition to myself, David DeMuro, Lisa Hamilton-Feldman, and John Lebsack. Also, Stephanie Scoville attended the most recent subcommittee meeting.

2. Related cases are civil, criminal, or other proceedings that: a) involve one or more of the same parties and common questions of fact; and b) are pending in any state or federal court or were terminated within the previous 12 months.
3. A party shall file the required notice at the time of its first pleading under Rule 7(a) or its first motion under Rule 12(b).
4. A party shall promptly file a supplemental notice of any change in the information required under this rule.

C. The subcommittee also recommends that language regarding a notice of related cases be included in the proposed Case Management Order, and referenced in Rule 16. One possibility is to amend subsection (b)(5) as follows:

**(5) Pending Motions and Notices.** The proposed order shall list all pending motions that have been filed and are unresolved. The court may decide any unresolved motion at the case management conference. *The proposed order shall also state whether any notices of related cases, pursuant to Rule 121, Section 1-9, have been filed.*

Alternatively, a new subsection could be added following subsection (b)(17):

**(18) Notices of Related Cases.** *The proposed order shall state whether any notices of related cases, pursuant to Rule 121, Section 1-9, have been filed.*

The subcommittee believes that these rule changes and additions are for notice purposes only, and that any actions to be taken following such notice should be left to the parties and the court.