

## **Rule 42. Consolidation; Separate Trials**

### **(a) CONSOLIDATION.**

(1) *In General.* If actions before the court involve a common question of law or fact, the court may:

(A) join for hearing or trial any or all matters at issue in the actions;

(B) consolidate the actions; or

(C) issue any other orders to avoid unnecessary costs or delay.

(2) *Motion Judge.* Any motion to consolidate 2 or more civil actions must be decided by the judge on whose calendar appears the oldest assigned case covered by the motion. If the motion is granted, all the consolidated cases must be placed on the calendar of the judge who granted the motion.

(b) **SEPARATE TRIALS.** For convenience, to avoid prejudice, or to expedite and economize, the court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims. When ordering a separate trial, the court must preserve any right to a jury trial.

### **COMMENT TO 2017 AMENDMENTS**

This rule is substantially similar to *Federal Rule of Civil Procedure 42*, as amended in 2007, but maintains the following local distinctions: 1) subsection (a)(2) has been added to address responsibility for ruling on a motion to consolidate; and 2) the word "federal" has been omitted from section (b). Section (c), "Related Cases," has been moved to Rule 40-I so that Rule 42 more closely aligns with its federal counterpart. This placement also conforms with the placement of similar provisions in United States District Court for the District of Columbia Local Civil Rule 40.5.

### **COMMENT**

Rule 42 differs from *Federal Rule of Civil Procedure 42* in several respects. Added to paragraph (a) is a provision that the judge on whose calendar appears the oldest assigned case will make the determination as to whether or not other related actions will be consolidated with the case on that judge's calendar. In paragraph (b) the phrase "an applicable statute" is substituted for "a statute of the United States." Also added is paragraph (c) which defines what is meant by "related cases." This substantially tracks the definition used by the United States District Court for the District of Columbia.