

Jonathan O. Hafen (6096) (jhafen@parrbrown.com)
Jeffery A. Balls (12437) (jballs@parrbrown.com)
Michael S. Lehr (16496) (mlehr@parrbrown.com)
PARR BROWN GEE & LOVELESS, P.C.
101 South 200 East, Suite 700
Salt Lake City, Utah 84111
Telephone: (801) 532-7840

Attorneys for Court-Appointed Receiver Wayne Klein

**UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC; INTERNATIONAL
AUTOMATED SYSTEMS, INC.; LTB1,
LLC; R. GREGORY SHEPARD; NELDON
JOHNSON; and ROGER FREEBORN,

Defendants.

**RECEIVER'S REPLY IN SUPPORT
OF HIS SECOND MOTION TO
TRANSFER RELATED CASES
PURSUANT TO DUCivR 83-2(g)**

Civil No. 2:15-cv-00828-DN

District Judge David Nuffer

The Receiver¹ hereby replies in support of his Second Motion to Transfer Related Cases Pursuant to DUCivR 83-2(g).

ARGUMENT

In the Second Motion to Transfer Related Cases (“Second Transfer Motion”),² the Receiver asked the Court to transfer two cases *R. Wayne Klein v. Ina Marie Newman*, No. 2:19-cv-00623;

¹ Defined terms have the meaning given in the Motion.

² [Docket No. 763](#), filed on September 10, 2019.

and *R. Wayne Klein v. Glenda E. Johnson*, No. 2:19-cv-00625 to Judge Nuffer or, in the alternative, a single judge. Glenda Johnson filed an opposition to the Second Transfer Motion which incorporated by reference Randale Johnson, Matthew Shepard, and LaGrand Johnson's opposition to the Receiver's first motion to transfer related cases.³ Accordingly, the Receiver hereby incorporates by reference the arguments and reasons set forth in his Reply in Support of Motion to Transfer Related Cases Pursuant to DUCivR 83-2(g).⁴

In the time since Glenda Johnson filed her opposition to the Second Transfer Motion, the lawsuits filed by the Receiver against Randale Johnson, Matthew Shepard, and LaGrand Johnson have each been transfer to Judge Nuffer.⁵ In the order transferring *R. Wayne Klein v. LaGrand Johnson*, No. 2:19-cv-00534 to Judge Nuffer, Judge Tena Campbell found:

When a case arises from the same event and involves the same issues of law and fact as another case, the court may transfer the case before it so that the cases are heard by the same judge. *See* DUCivR 83-2(g). The court concludes transfer is necessary here, because this action is ancillary to the original suit in which Mr. Klein was appointed as Receiver.⁶

Moreover, as cited in the Second Transfer Motion, this Court has already recognized that “[i]t is necessary for the efficient administration of justice that any lawsuit filed by the Receiver in the U.S. District Court for the District of Utah under the Corrected Receivership Order be assigned to the same judge, to the extent possible.”⁷ Therefore, the Glenda Johnson and Ina Marie Newman cases should be assigned to Judge Nuffer.

³ [Docket No. 771](#), filed September 23, 2019.

⁴ [Docket No. 753](#), filing August 21, 2019.

⁵ *See R. Wayne Klein v. Randale Johnson*, No. 2:19-cv-00532, [Docket No. 16](#), filed October 2, 2019; *R. Wayne Klein v. LaGrand Johnson*, No. 2:19-cv-00534, [Docket No. 16](#), filed October 2, 2019; *R. Wayne Klein v. Matthew Shepard*, No. 2:19-cv-00533, Docket No. 18, filed October 3, 2019.

⁶ *R. Wayne Klein v. LaGrand Johnson*, No. 2:19-cv-00534, [Docket No. 16](#), filed October 2, 2019.

⁷ [Docket No. 673](#) at Order ¶ 3.

CONCLUSION

For the foregoing reasons, including the reasons set forth in the Second Transfer Motion and the Reply in Support of Motion to Transfer Related Cases Pursuant to DUCivR 83-2(g), the Court should grant the Second Transfer Motion and assign Judge Nuffer to the cases.

DATED this 7th day of October, 2019.

PARR BROWN GEE & LOVELESS, P.C.

/s/ Michael S. Lehr _____

Jonathan O. Hafen

Jeffery A. Balls

Michael Lehr

Attorneys for R. Wayne Klein, Receiver

CERTIFICATE OF SERVICE

I hereby certify that the above **RECEIVER'S REPLY IN SUPPORT OF HIS SECOND MOTION TO TRANSER RELATED CASES PURSUANT TO DUCivR 83-2(g)** was filed with the Court on this 7th day of October, 2019, and served via ECF on all parties who have requested notice in this case.

I also certify that, on the same date, by U.S. Mail, first-class, postage pre-paid, I caused to be served the same documents upon the following persons:

R. Gregory Shepard
858 Clover Meadow Dr.
Murray, Utah 84123

Pro se Defendant

/s/ Michael S. Lehr