

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 17-cv-02753-CMA

IN RE:

TERRY KENNETH VICKERY,

Debtor.

TERRY KENNETH VICKERY,

Appellant,

v.

RICHARD K. DIAMOND,

Appellee.

**ORDER GRANTING APPELLEE'S MOTION TO TRANSFER TO OR JOIN REAL
PARTY IN INTEREST**

This matter is before the Court on Appellee Richard K. Diamond's Notice of Transfer of Interest and Motion to Transfer to or Join Real Party in Interest. (Doc. # 22.)

Appellee Diamond is the Chapter 7 Trustee for IVDS Interactive Acquisition Partners ("IIAP"), which holds a judgment against Appellant Terry Kenneth Vickery. Appellee Diamond has notified the Court that in early January 2019, he, in his capacity as the Chapter 7 Trustee, has "transferred all interests in the judgment and in the collections proceedings thereunder to the law firm which has been general counsel to

the Chapter 7 Trustee in the California bankruptcy proceedings, Danning, Gill, Diamond & Kollitz, LLP ('Danning Gill')." (*Id.* at 1.) Appellee Diamond moves the Court to "order that Danning Gill be substituted or joined as Appellee in these appellate proceedings" pursuant to Federal Rule of Civil Procedure 25(c) and Federal Rule of Appellate Procedure 43(b). (*Id.* at 2.) Appellee Diamond also requests that all filings previously made by [Appellee] Diamond in this matter should be deemed to have been filed by Danning Gill for purposes of proceeding hereafter." (*Id.*) Appellant Vickery has not timely filed any response to Appellee Diamond's Motion. The Court therefore treats the Motion as unopposed. See *Walter v. HSM Receivables*, No. 13-cv-00564-RM-KLM, 2014 WL 5395197, at *1 (D. Colo. Oct. 23, 2014) ("The Motion is essentially unopposed as no response has been filed by Defendants.") The Court also determines that a hearing is not necessary to resolve the Motion, as Appellant Vickery does not dispute anything in the Motion. See 7C Charles Alan Wright & Arthur R. Miller, Federal Practice & Procedure § 1958 (2018) ("The Court may also decide the [Rule 25] motion without an evidentiary hearing if it determines it is not necessary."); *Sullivan v. Running Waters Irrigation, Inc.*, 739 F.3d 354, 259 (7th Cir. 2014).

The Court, having reviewed the Motion and its exhibits and relevant legal authority, and being otherwise fully advised in the premises, GRANTS Appellee Diamond's Motion to Transfer or to Join Real Party in Interest, Danning Gill, pursuant to Rule of Civil Procedure 25(c) and Rule of Appellate Procedure 43(b). (Doc. # 22.) It is

FURTHER ORDERED that Transferee Danning Gill is hereby substituted as the Appellee in these proceedings as the real party in interest and will participate in lieu of

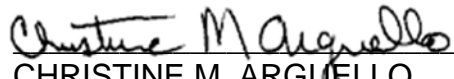
Diamond. All filings previously made by Diamond shall be deemed to have been filed by Danning Gill for purposes of proceeding hereafter. It is

FURTHER ORDERED that the caption in this matter shall be amended in all future filings to reflect the substitution of Danning Gill for Diamond. It is

FURTHER ORDERED that the Clerk of the Court is directed to remove Appellee Diamond from the electronic docket and to add Danning, Gill, Diamond & Kollitz, LLP in his place.

DATED: March 19, 2019

BY THE COURT:


CHRISTINE M. ARGUELLO
United States District Judge