

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**JOHN ZAPATA, an individual JOHN
ZAPATA as Assignee,**)
)
)
Plaintiff,)
)
v.)
)
RICK ROBERTS, et al.,)
)
Defendants.)

CASE NO. 4:10CV3240

**MEMORANDUM
AND ORDER**

This matter is before the court on Richard P. Garden’s (“Garden”) “Motion to Separately Docket Case Transferred from the United States Bankruptcy Court for the District of Nebraska.” (Filing No. [61](#).) For the reasons set forth below, Garden’s Motion will be granted.

On July 19, 2011, the United States Bankruptcy Court for the District of Nebraska dismissed an interpleader complaint filed in the bankruptcy court, finding that it lacked subject matter jurisdiction over the action. The bankruptcy court transferred the matter to the district court for all further proceedings. Thereafter, the clerk’s office filed the bankruptcy matter in the above-captioned case. (See Filing No. [56](#).) Garden now moves the court to direct the clerk’s office to separately docket the bankruptcy matter under a new federal district court case number because the bankruptcy matter involves “a different cause of action entirely.” (Filing No. [61](#) at CM/ECF pp. 1-2.) The court agrees. As such,

IT IS THEREFORE ORDERED that:

1. Garden’s “Motion to Separately Docket Case Transferred from the United States Bankruptcy Court for the District of Nebraska” (Filing No. [61](#)) is granted;

2. The court directs the clerk's office to docket Bankruptcy Proceedings No. 10-40159-TLS, Adversary Proceedings No. 10-04097-TLS, as a new civil case. (See Transmittal Notice filed by the bankruptcy court at Filing No. [56-2](#), Attach. 2.) In addition, the court directs the clerk's office to directly assign the undersigned judge to the new civil case, as the matter is at least arguably related to the above-captioned case. See [NEGenR 1.4\(a\)\(4\)\(C\)\(iii\)](#) ("Open or closed civil cases are related when they involve some or all of the same issues of fact, arise out of the same transaction, or involve the validity or infringement of the same patent."); and
3. The court directs the clerk's office to strike Filing No. [56](#) from this case.

DATED this 24th day of August, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge

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