Local Rule 9005.1-1 Claim of Unconstitutionality (2014)

If a party files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute pursuant to Fed. R. Bankr. P. 9005.1 [1], the court must, under 28 U.S.C. § 2403 [2], certify to the appropriate attorney general that a statute has been questioned.

(1) If a federal statute is questioned, upon receipt of the notice, the clerk, on behalf of the court, must file a certificate in substantially the following form:

The United States Bankruptcy Court for the District of Utah hereby certifies to the Attorney General of the United States that the constitutionality of an Act of Congress, title ___, § ___, United States Code (or other description), is drawn in question in the case of _____ vs. _____, Case No. _____, Adversary Proceeding No. _____, to which neither the United States, nor any of its agencies, officers, or employees, is a party. Under title 28, § 2403(a) of the United States Code [2]**, the United States is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.**

The clerk must send a copy of the certificate to the United States Attorney for the District of Utah and provide a copy to the judge to whom the case or proceeding is assigned, or to the Chief Judge of the court, if no assignment has been made.

(2) If a state statute is questioned, upon receipt of the notice, the clerk on behalf of the court, must file a certificate in substantially the following form:

The United States Bankruptcy Court for the District of Utah hereby certifies to the Attorney General of the State of _____, that the constitutionality of an Act of the legislature of the State of _____, title ___, Chapter ___, § ___, (or other description), is drawn in question in the case of _____ vs. _____, Case No. _____, Adversary Proceeding No. _____, to which neither the State of _____, nor any of its agencies, officers, or employees, is a party. Under title 28, § 2403(b) [2] **of the United States Code, the State of _____ is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality**.

The clerk must send a copy of the certificate to the Attorney General of the state and provide a copy to the judge to whom the case or proceeding is assigned, or to the Chief Judge of the court, if no assignment has been made.

Source URL: https://www.utb.uscourts.gov/local-rules/2014/9005/1?page=2

Links
[1] https://www.law.cornell.edu/rules/frbp/rule_9005
[2] https://www.law.cornell.edu/uscode/text/28/2403