

United States District Court  
ND of NY  
Filed - December 9, 2016  
Lawrence K. Baerman, Clerk

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

General Order #12



**CASE ASSIGNMENT PLAN FOR THE NORTHERN DISTRICT OF NEW YORK**

Effective as of January 1st, 2017

- A. Purpose.** The purpose of the Assignment Plan is to implement the provisions of 28 U.S.C. §137 by providing an equitable system for randomly dividing the caseload among the Judges<sup>1</sup>, making necessary adjustments to caseload assignments and providing a basis for monitoring the operation of the case assignment system.

**No Vested Rights.** This Assignment Plan does not vest any rights in litigants or members of the bar. The Plan is adopted for the internal management of the case load of the Court and shall be subject to such amendments from time to time as shall be approved by the Court. This Plan shall not be deemed to prevent the reassignment of cases at the initiative of and by agreement of the Judges involved or by the Chief Judge to Visiting Judges or otherwise. Nothing in this Rule shall prevent the Court from assigning to one Judge cases that the Court finds are related.

**B. Administration.**

1. The Assignment Plan shall be administered by the Clerk under the supervision of the Chief Judge. Modifications to case assignment may be made by the Chief Judge, with the approval by a majority vote of the District Judges. Modifications to the case assignment system will be reported to the Board of Judges and voted upon by the Board of Judges on a quarterly basis.

**C. Case Numbers.**

1. Each case commenced in or transferred to this District shall be assigned a case number by the Clerk upon filing. A separate sequence of case numbers shall be maintained for criminal, civil, magistrate, and miscellaneous cases. Civil case numbers shall be preceded by the letters “CV”, criminal cases by the letters “CR” magistrate cases by the letters “MJ”, and miscellaneous cases by the letters “MC”. Each case number shall consist of the last two digits of the year in which the case is filed followed by a sequential number for each case. On the first business day of each calendar year, the sequential number will revert to “1.”

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<sup>1</sup> All Active, Senior and Magistrate Judges are designated to hold Court in all Divisions within the Northern District of New York.

**D. Assignment of Civil Cases.**

1. Civil cases for which venue lies in one of the counties listed shall be assigned to Active or Senior Judges and may be referred to a Magistrate Judge.
  - A. Albany Civil Filing Division (1) : Albany, Columbia, Fulton, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, and Washington counties.
  - B. Binghamton Civil Filing Division (3): Broome, Chenango, Delaware, Tioga and Tompkins counties.
  - C. Syracuse Civil Filing Division (5): Cayuga, Cortland, Jefferson, Madison, Onondaga, and Oswego counties.
  - D. Malone/Plattsburgh Civil Filing Division (8): Clinton, Essex, St. Lawrence and Franklin counties.
  - E. Utica Civil Filing Division (6): Hamilton, Herkimer, Lewis, Otsego and Oneida counties.
  - F. District-Wide Filing Division. Prisoner Civil Rights, Habeas Corpus, Bankruptcy Appeals and Social Security Cases<sup>2</sup> shall be assigned on a random basis to Active or Senior Judges and may be referred to Magistrate Judges from all divisions.
  - G. New Civil Actions Requesting Emergency Relief (Orders to Show Cause) and Forfeiture Actions. New civil actions which request the issuance of an order to show cause at the time of filing shall be assigned on rotation to Active or Senior Judge(s) and may be referred to a Magistrate Judge(s) from the appropriate civil filing division. Forfeiture actions which require a return date in the city where the action is filed shall also be assigned on rotation to the Active or Senior Judge(s) and may be referred to Magistrate Judge(s) from the appropriate civil filing division. Return dates before Judges may be scheduled *via* video conference for Judges that reside in a different division from where the case was filed or may be referred to a Magistrate Judge to call the calendar on the return date.

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<sup>2</sup> Social Security Cases will be assigned to Judges in accordance with General Order #18

2. Civil cases shall be assigned blindly and at random by the Clerk by means of a manual, automated or combination system approved by the Judges of the Court. Such system will be designed to accomplish the following:
  - A. Random and blind assignment of cases.
  - B. An approximately equal distribution of newly filed cases to each of the Active Judges of the Court and a percentage to the Senior Judges as directed by the Chief Judge according to the standards adopted by the Second Circuit Judicial Council, or as otherwise approved by the Board of Judges. Such actions may also be referred to a Magistrate Judge.
  - C. A high level of security so as to reasonably avoid prediction of the results of any case assignment.
  - D. A system of credits and debits to adjust for reassignments of cases among and between Judges.

**E. Assignment of Criminal Cases (Including Magistrate (MJ) Cases).**

1. Criminal cases for which venue lies in one of the counties listed shall be assigned to those Judges designated to hold court in that location.
  - A. Albany Filing Division (1): Albany, Columbia, Fulton, Greene, Hamilton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, and Washington counties.
  - B. Binghamton Filing Division (3): Broome, Chenango, Delaware, Otsego, Tioga, and Tompkins counties.
  - C. Syracuse Filing Division (5): Cayuga, Cortland, Herkimer, Madison, Oneida, Onondaga, Oswego, Jefferson and Lewis counties.
  - D. Watertown/Ft. Drum Division (7): Misdemeanor and Petty Offense cases that arise on Fort Drum will be assigned to the presiding Magistrate at Fort Drum.
  - E. Malone/Plattsburgh Filing Division (8): Clinton, Essex, St. Lawrence and Franklin counties.

2. Criminal cases shall be assigned blindly and at random by the Clerk by means of a manual, automated or combination system approved by the Judges of the Court. Such system will be designed to accomplish the following:
  - A. Random and blind assignment of cases.
  - B. An approximately equal distribution of newly filed cases to the Active Judges of the Court and a percentage to the Senior Judges as directed by the Chief Judge and approved by a majority vote by the Board of Judges.
  - C. A high level of security so as to reasonably avoid prediction of the results of any case assignment.
  - D. A system of credits and debits to adjust for reassignments of cases among and between Judges.
  - E. Misdemeanor Cases shall be assigned to a Magistrate Judge only in the first instance. If the parties do not consent to proceed before the assigned Magistrate Judge, the Clerk shall assign a District Court Judge on rotation.
  - F. **Assignment of Related Criminal Cases**

The United States Attorney shall notify the Clerk of a related case when filing a new information or indictment. The Clerk will then notify the Judge of the related filing and assign the case to that Judge. If after reviewing the information or indictment, the Judge determines that the case is not related, he/she will notify the Clerk and the case will be placed back on the wheel for random assignment.
  - G. **Pre-Indictment Matters**

Pre-indictment matters will be assigned on a rotation basis to the Active and Senior Judges of the Court that are available at the time of the assignment. Judges that are not otherwise available will then be placed back in rotation at the top of the list for the next assignment. Criminal cases resulting from a pre-indictment matter will be directly assigned to the Judge that handled the pre-indictment matter, unless that Judge elects not to accept the assignment, at which point the case will be randomly assigned.

**F. Assignment of Miscellaneous Cases.**

1. Miscellaneous cases for which venue lies in one of the counties listed shall be assigned to Active and Senior Judges and may be referred to a Magistrate Judge.
  - A. Albany Miscellaneous Filing Division (1): Albany, Columbia, Fulton, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie, Ulster, Warren, and Washington counties.
  - B. Binghamton Miscellaneous Filing Division (3): Broome, Chenango, Delaware, Tioga and Tompkins counties.
  - C. Syracuse Miscellaneous Filing Division (5): Cayuga, Cortland, Jefferson, Madison, Onondaga and Oswego counties.
  - D. Malone/Plattsburgh Miscellaneous Filing Division (8): Clinton, Essex, St. Lawrence and Franklin counties.
  - E. Utica Miscellaneous Filing Division (6): Hamilton, Herkimer, Lewis, Otsego, and Oneida counties.
2. Miscellaneous cases shall be assigned blindly and at random by the Clerk by means of a manual, automated or combination system approved by the Judges of the Court. Such system will be designed to accomplish the following:
  - A. Random and blind assignment of cases.
  - B. An approximately equal distribution of newly filed cases to each of the Active Judges of the Court and a percentage to the Senior Judges as directed by the Chief Judge. Such actions may also be referred to a Magistrate Judge.
  - C. A high level of security so as to reasonably avoid prediction of the results of any case assignment.
  - D. A system of credits and debits to adjust for reassignments of cases among and between Judges.

**G. Reassignment of Cases and Related Cases.**

1. All new filings will be assigned on a rotational basis. If an attorney or filing party indicates on the Civil Cover Sheet that a case is related to an earlier filed case, the Clerk shall instruct the filing party to file a Notice of Related Cases<sup>3</sup>. The allegedly related cases will be submitted by the Clerk to the Judge to whom the earliest filed case is assigned, who shall advise the Clerk whether such cases are related. (See Appendix I - Notice of Related Cases.)
2. **Related cases defined** - A civil case is “related” to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning the cases to the same Judge and Magistrate Judge.
3. **Civil cases not deemed related** - A civil case shall not be deemed related to another civil case merely because the civil case: (a) involves similar legal issues, or (b) involves the same parties.
4. **Civil cases presumptively not “related” unless both cases are still pending.** Presumptively, and subject to the power of a Judge to determine otherwise pursuant to paragraph (5), civil cases shall not be deemed to be “related” unless both cases are still pending before the Court.
5. **Judicial determination that civil cases are “related”.** Except for the cases described in the final sentence of paragraph (6), all civil cases shall be randomly assigned when they are filed. Other than the cases described in the final sentence of paragraph (6), civil cases shall not be deemed to be “related” for purposes of this guideline at the instance of any litigant or attorney unless and until there has been a determination by a Judge of this Court that the standard of paragraph (2) is met. Any party may apply for such a determination by filing with the Clerk a notice of related filing, which should include an explanation as to why the standard of paragraph (2) is met. A form for this purpose is available on the Court’s website. A copy of the notice shall be served on all other parties who have appeared. Such an application must be made after the date when at least a majority of the defendants have been served with the complaint. Before making such an application, the applicant must confer in good faith with all other parties in an effort to reach an agreement on whether or not the case is “related”. After such an application is made, any other party may serve and file within seven (7) calendar days a letter of no more than two pages

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<sup>3</sup> The Notice of Related Cases form shall be available on the Court’s website. The Notice will contain the required information to assist the Court when determining if the case is in fact related to an earlier filed action and if it should be reassigned.

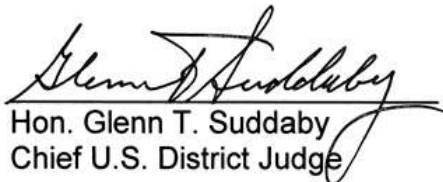
supporting or opposing the application. The application to have the case assigned to another Judge shall be presented to the Judge with the earliest filed case for decision on whether the action(s) should be reassigned as related cases. The Judge with the earliest filed case may then enter an order in the case at bar, either deeming the case to be related and directing the Clerk to reassign the action, or denying the application for reassignment. Any disputes concerning the assignment of related cases will be referred to the Chief Judge for resolution.

6. **Assignment of Related Cases.** Cases which have been judicially determined to be related shall be assigned by the Clerk to the Judge to whom was assigned the case with the lowest docket number in the series of related cases. The Clerk shall advise the Judge of such assignment of a related case. In the interest of judicial economy, the following categories of civil cases shall be deemed to be “related” without further order of the Court: (a) all habeas corpus petitions filed by the same petitioner; and (b) any other subject-matter category of cases where the Chief Judge finds that the standard of paragraph (2) is met.
  7. **Consolidation of Civil Cases.** When it is determined that in the interest of judicial economy that civil cases should be consolidated, the cases shall be consolidated under the original lead case (typically the first of the series of cases filed) and shall be assigned to the presiding Judge and referred Magistrate Judge from the lead case, unless the Judges assigned to the member cases agree otherwise.
  8. **Disqualification.** If a Judge is disqualified to hear a case assigned to him/ her, the Judge will provide the Clerk with a disqualification order and the Clerk shall reassign the case at random.
  9. Cases may be reassigned between Judges when both Judges consent to the reassignment on written order signed by the transferring Judge. Cases may also be placed on a Trial Ready Docket maintained by the Clerk for assignment to any Active, Senior or Visiting Judge willing to take such assignment.
  10. With the approval of the Chief Judge, the Clerk may make such other assignments, reassignments or related orders as are conducive to the equitable division and just, efficient and economical determination of the business of the Court.
- H. Senior Judges.** A Senior Judge of this Court may participate in the regular assignment of cases to the extent that he/she is willing and able to do so. The Chief Judge shall issue appropriate instructions to the Clerk to effectuate such participation. The Chief Judge may, from time to time, after consultation with the Judge to whom a case is assigned, reassign a case to a Senior Judge who is willing and able to accept such reassignment.



- I. Visiting Judges.** Whenever a Judge is assigned to serve as a Visiting Judge in this Court, the Chief Judge shall, prior to the arrival of such Judge, issue an order forming his/her calendar by reassignment from other Judges' cases designated by them as available for transfer. Selection of cases for this purpose shall be made upon a basis equitable among all the Judges of this Court at the direction of the Chief Judge.
- J. Newly Appointed Judges.** When a Judge is appointed to serve on this Court, the Clerk shall, under the direction of the Chief Judge, prepare a pending caseload for him or her, representing as nearly as possible the average pending caseload of an Active Judge at the time. Cases may be transferred to the newly appointed Judge in equal allotments over a period of time to be decided by the Chief Judge. Upon approval of such caseload by the Chief Judge, such cases will be reassigned to the newly appointed Judge.
- K. Unavailability or Illness of a Judge.** When a Judge becomes unavailable for the assignment of cases due to retirement, resignation, illness or death, the Chief Judge shall order the reassignment of such Judge's pending cases to the other Judges of this Court on an equitable basis.
- L. Case Assignment Register and Reports.**
1. The Clerk shall maintain an assignment register in a form approved by the Court containing a record of all cases assigned to each of the Judges of the Court or to any Visiting Judge.
  2. At any time when requested by the Court, the Clerk shall prepare and distribute to the Judges of the Court a report showing the number of cases assigned to and pending before each Judge and such other information as the Chief Judge may direct. The case assignment report will also be provided to the Board of Judges on a quarterly basis.

SO ORDERED this 9<sup>th</sup> day of December, 2016.

  
Hon. Glenn T. Suddaby  
Chief U.S. District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF NEW YORK

**NOTICE OF RELATED CASES**

**Related cases defined** - A civil case is “related” to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning the cases to the same judge and magistrate judge.

Application is made to the District Court requesting that the case of :

which was randomly assigned to the Honorable \_\_\_\_\_, be reassigned

to the Honorable \_\_\_\_\_ based on the following reasons. Please note that General Order 12, Section G(5) discusses related cases and should be referenced prior to filing this notice.

Pursuant to Section G(5) of General Order 12, I have conferred in good faith with all other parties in an effort to reach an agreement on whether or not the case is related.

All parties are in agreement

Parties do not agree and opposition will be filed. After such application is made, any other party may serve and file within seven (7) calendar days a letter of no more than two pages supporting or opposing the application.

Submitted by:

Attorney for:

Date: