

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
GENERAL ORDER 17 - 0016**

The full Court met in executive session on Thursday, October 19, 2017 and approved a technical amendment to Local Rule 40.1 Assignment of Cases: General. This technical amendment did not require publication for comment.

The Court's Rules Committee considered the rule at its meeting on October 12, 2017. It recommended that the full Court adopt the proposed technical amendment to Local Rule 40.1.

The full Court considered the recommendation of the Rules Committee at its meeting on October 19, 2017 and agreed to modify Local Rule 40.1. Therefore,

By direction of the full Court, which met in executive session on Thursday, October 19, 2017,

IT IS HEREBY ORDERED that Local Rule 40.1 Assignment of Cases: General, be technically amended as follows (additions shown thus, deletions shown ~~thus~~).

LR40.1. Assignment of Cases: General
Local Rule

(a) General. The rules of this Court and any procedures adopted by the Court that deal with the assignment and reassignment of cases shall be construed to secure an equitable distribution of cases, both in quantity and kind, among the judges. Except as specifically provided by the rules of this Court or by procedures adopted by the Court, the assignment of cases shall be by lot.

(b) Supervision of Assignment System. The assignment of cases to calendars and judges and the preparation of calendars and supplements thereto shall be done solely under the direction of the Executive Committee by the clerk or a deputy clerk who is designated by the clerk as an assignment clerk.

(c) Contempt. Any person who violates the case assignment procedures shall be punished for contempt of court.

(d) Condition of Reassignment. No case shall be transferred or reassigned from the calendar of a judge of this Court to the calendar of any other judge except as provided by the rules of this Court or as ordered by the Executive Committee.

(e) Calendars. In each Division of the Court there shall be criminal, civil and Executive Committee calendars. The cases on the criminal and civil calendars of the court shall be assigned among the judges in the manner prescribed by the rules of this Court. The

cases so assigned shall constitute the calendars of the judges. The calendar of the Executive Committee shall consist of the following classes and categories of cases:

(1) civil cases to be transferred to another judge or district for multidistrict litigation pursuant to procedures adopted by the Court;

(2) criminal cases to be held on the Committee's Fugitive Calendar pursuant to procedures adopted by the Court;

(3) such cases as are assigned to the Executive Committee for purposes of reassignment; and

(4) such other cases as the Executive Committee directs be assigned to its calendar.

(f) Calendar of Departing Judge. Cases on the calendar of a judge who dies, resigns, or retires ("departing judge") shall be reassigned as soon as possible under the direction of the Executive Committee, *pro rata* by lot among the remaining judges, provided that the Committee may direct that such calendar be transferred in its entirety or in part to form the calendar of a newly-appointed district judge where the departing judge was a district judge, or to form the calendar of a newly-appointed magistrate judge where the departing judge was a magistrate judge. Referrals pending before a departing magistrate judge shall be considered returned to the calendar of the district judge before whom the underlying case is pending, provided that the Executive Committee may direct that they be maintained as a calendar for a newly-appointed magistrate judge. Where a judge wishes to re-refer a case returned to that judge's calendar pursuant to this section, the procedure set forth in [LR72.1](#) shall be followed except that where the Executive Committee approves the referral, it shall direct the clerk to assign it by lot.

(g) Calendar for New Judge. A calendar shall be prepared for a newly-appointed judge ("new judge") to which cases shall be transferred by lot, under the direction of the Executive Committee in such number as it may determine. Where the new judge is a magistrate judge, the calendar shall include referrals made pursuant to [LR72.1](#) and [LCrR50.3\(d\)](#) and cases assigned pursuant to [LR73.1](#) which shall be transferred by lot, under the direction of the Executive Committee in such number as it may determine. The new magistrate judge will be the designated magistrate judge in all matters on that judge's calendar. Where a magistrate judge is appointed to succeed a leaving magistrate judge, the Executive Committee may direct that the new judge be the designated magistrate judge in all cases in which the former was the designated magistrate judge at the time of the former's death, retirement, or resignation. Once a referral has been transferred to a newly appointed judge, as part of the new calendar, it remains with the new judge "as the designated judge".

Committee Comment. [28 U.S.C. §137](#) provides in part as follows:

The business of the court having more than one judge shall be divided among the judges as provided by the rules and orders of the court. The chief judge of the district shall be responsible for the observance of such rules and orders, and shall divide the

business and assign the cases so far as such rules and orders do not otherwise prescribe.

This Court has used a random assignment system for more than 50 years. As stated in section (a), an important goal of the system is to achieve "an equitable distribution of cases, both in quantity and kind, among the judges." Over the years the system grew in complexity. In part, this was a result of increases in the size of the Court, the complexity of its organization and the size of its caseload. It was also a result of a more sophisticated understanding of how the "equitable distribution" should be achieved.

An equally important goal is implicit in the sanctions found in section (c). This is that no one should be able to manipulate the assignment system in order to determine in advance which judge will get a case where the assignment is by lot.

As part of the process of renumbering the rules to comply with the uniform system adopted by the Judicial Conference of the United States in March 1996, the Court significantly revised its assignment rules. Much of the detail formerly included in local General Rules 2.00 and 2.44, the former assignment rules, has been moved from the rules to procedures adopted by general order. Because of the importance of the assignment system, the Court included this summary to provide parties and counsel with a basic overview of the way in which cases are assigned in this Court.

The Court is divided into two divisions: the Eastern at Chicago and the Western at Rockford. Eastern and Western Division cases can be distinguished by their case numbers. Case numbers in the Eastern Division start with the number 1 each year. In the Western Division they start with 50,001.

~~There are 22 district judgeships and 10 magistrate judgeships authorized for the Court. One district judgeship and one magistrate judgeship are authorized for the Western Division, the remainder are all authorized for the Eastern Division. Cases filed in the Western Division are generally assigned to the Western Division judge. The magistrate judge of that division usually supervises pretrial matters in civil cases.~~

Most of the provisions of the random assignment system apply only to the Eastern Division. For assignment purposes civil cases are grouped into categories, usually by the type of case. The case types chosen for each category are expected over the long run to generate about the same amount of judicial work. Criminal cases are grouped in a similar fashion.

The current assignment system is computer based. A separate assignment deck is kept for each category. (Prior to the introduction of the computerized assignment system, physical decks of assignment cards were used. The terms "assignment deck" and even "assignment card" continue in use as metaphors to describe the manner in which the computer operates.) In the deck the name of each regular active judge on full assignment appears an equal number of times. The name of the chief judge appears half as often as a regular active judge. The ratios for senior judges depend on the caseloads they are carrying, varying from being no different from that of a regular active judge, to a one-half share less than all of the categories.

As part of filing a new case, the assignment clerk enters the case category information into the assignment system. The system keeps track of cases processed and automatically shows the next available case number.

Once the case number and category are verified, the computer uses a shuffle procedure to pick a name from one of the unused names remaining in the assignment deck for the category selected. For obvious security reasons, the deputies assigning the cases do not have access to the software that sets up the assignment decks. The deputies responsible for setting up the decks do not assign cases. This system together with the changes in the make up of the deck due to equalization and the shuffling of the names prior to the actual assignment assures that staff cannot determine in advance the name of the judge to whom a case will be assigned.

The assignment system also handles the reassignment of cases. Cases are reassigned for a variety of reasons. The most frequent is the need to reassign a case because it is related to one pending on another judge's calendar. Recusals result in reassignments or equalization. When a new judge takes office, cases are reassigned from the calendars of sitting judges. When a judge leaves, the cases on the judge's calendar are reassigned among sitting judges. There are even provisions in the procedures for reassignments due to errors made at assignment.

When a judge is appointed to the Court an initial calendar is prepared. It consists of civil cases equal in number to the average number of civil and criminal cases pending on the calendars of sitting judges. The new judge gets only civil cases in the initial calendar. A civil case that was twice previously reassigned to form a new calendar cannot be reassigned a third time for that reason. Any civil case in which the trial is in process or has been held and the case is awaiting final ruling also cannot be reassigned. The remaining cases are arranged in case number order and a random selection is made. In this way the age distribution of the cases on the new judge's initial calendar reflects the average age distribution of all civil cases pending. Such a distribution serves to provide the new judge with a calendar that is reasonably close to the average in terms of workload.

ENTER:

FOR THE COURT



Chief Judge

Dated at Chicago, Illinois this 23rd day of October, 2017