

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

IN THE MATTER OF)
LOCAL RULES OF PRACTICE)

General Order 2004-01

ORDER ADOPTING AMENDED LOCAL RULES
D.C.COLO.LCivR 40.1 and D.C.COLO.LCrR 50.1

Pursuant to Federal Rules of Civil Procedure 83, and Federal Rules of Criminal Procedure 57, and after publication and an opportunity for comment, it is now

ORDERED that the following amended local rules designated D.C.COLO.LCivR 40.1 and D.C.COLO.LCrR 50.1, will become effective November 1, 2004.

D.C.COLO.LCivR 40.1
ASSIGNMENT OF CASES

- A. Assignment in General.** Except as provided in this rule and in D.C.COLO.LCivR 8.1 and 8.2, civil cases shall be assigned to judicial officers by random draw. Work parity shall be maintained among active district judges, provided that a majority of active district judges may adjust the assignment of cases to the Chief Judge as may be necessary for the performance of the duties of that office, and may, for good cause, approve special assignment or reassignment of cases among the judicial officers of the court. All other transfers of cases from one judicial officer to another shall be subject to the Chief Judge's approval.
- B. Random Draw By Computer.** The clerk shall maintain a computerized program to assure random and public assignment of new cases on an equal basis among the judicial officers. A senior judge may decline assignment of cases and, on written notice to the Chief Judge, limit participation in the random draw by a stated percentage.
- C. Special Assignment.**
1. If the pro se plaintiff filing a new case already has a case pending or had a case terminated within 12 months of the new filing, the new case shall be assigned to the district judge who was assigned the earlier case.

2. Once a bankruptcy appeal or motion to withdraw the reference has been assigned to a district judge by random draw, any case subsequently filed concerning the same debtor in bankruptcy shall be assigned to the same district judge. The party filing the subsequent case shall notify the clerk in writing of the pending bankruptcy matter.
3. On filing a civil forfeiture proceeding, the United States Attorney shall notify the clerk in writing when a potential claimant is a defendant in a pending criminal case. The civil case shall be assigned to the judge to whom the criminal case was assigned.
4. A new case claimed to be related to a pending case shall be assigned to the same judicial officers only if the district judge assigned to the pending case grants a motion to consolidate pursuant to Fed. R. Civ. P 42(a) and D.C.COLO.LCivR 42.1.

D. “AP” Cases. Upon the filing of any administrative agency or bankruptcy appeal, the clerk will assign a case number without random selection to a district judge designated by the Chief Judge. The case number shall bear the initials “AP” to identify it as an appeal. A separate listing of “AP” cases shall be maintained. The clerk shall confirm that the notice of appeal was timely filed or, in the case of administrative agency appeals, that final agency action is alleged. Judicial staff shall then set the case for a prebriefing conference before a judicial officer. Conference dates will be on a fixed schedule and judicial staff shall schedule each appeal. Notice advising counsel and any *pro se* party of the conference date shall describe the action to be taken at the prebriefing conference. During the pendency of the action, the clerk will docket all pleadings, briefs and orders, and will prepare the judgment in accordance with the court’s decision on appeal.

1. At the prebriefing conference, the judicial officer will determine whether the appeal can be resolved by stipulation, confession, or settlement. If not, the judicial officer will narrow the issues on appeal, refine the designation of record on appeal, and set the briefing schedule. Reference to Bankruptcy Rule 8009 shall be made in appropriate cases. The clerk shall attend each conference and prepare a minute order setting forth the schedule of further proceedings including the briefing schedule. If, in the opinion of the judicial officer, the appeal is filed for purposes of delay or other just cause appears, the judicial officer shall include in the minute order a notation that the appeal should be expedited, and the clerk shall stamp the word “EXPEDITE” on the face of both court file jackets.

2. The clerk shall monitor the "AP" docket and shall provide such reports and information as requested by the district judge assigned to administer cases filed pursuant to this rule.
 3. The clerk shall refer any motions for extensions of time, for permission to exceed briefing limits, to supplement the record, to strike or impose sanctions, etc., to the district judge assigned to administer cases filed pursuant to this rule. When all briefs are filed and the appeal is at issue, the clerk will draw, using the automated random assignment procedure, a district judge to whom the case will be reassigned. The case will be renumbered, changing the "AP" designation to the assigned district judge's identification initial(s), and the copy file will be delivered to that district judge. The clerk will advise counsel of record and any *pro se* party of this reassignment.
 4. No scheduling order shall be prepared in cases governed by this subsection.
- E. Recusal.** Recusal of an active judicial officer shall be only by written order setting forth the reasons.
- F. Adjustments.** Upon recusal or special assignment of a case to a judge pursuant to this rule or D.C.COLO.LCivR 42.1, the clerk shall adjust the computerized drawing program to maintain the equal assignment of cases among active district judges.

**D.C.COLO.LCrR 50.1
ASSIGNMENT OF CASES**

- A. Assignment in General.** Except as provided in this rule, criminal cases shall be assigned to judicial officers by random draw. Work parity shall be maintained among active district judges, provided that a majority of active district judges may adjust the assignment of cases to the Chief Judge as may be necessary for the performance of the duties of that office, and may, for good cause, approve special assignment or reassignment of cases among the judicial officers of the court. All other transfers of cases from one judicial officer to another shall be subject to the Chief Judge's approval.
- B. Random Draw by Computer.** The clerk shall maintain a computerized program to assure random and public assignment of new cases on an equal basis among the judicial officers. A senior judge may decline assignment of cases and, on

written notice to the Chief Judge, limit participation in the random draw by a stated percentage.

C. Special Assignments.

A. On filing a new criminal case, the United States Attorney shall notify the clerk in writing when that defendant is involved in a pending civil forfeiture proceeding. The criminal case shall be assigned to the judicial officer to whom the civil case was assigned.

B. On filing a new criminal case, the United States Attorney shall notify the clerk in writing when that defendant is serving a sentence of probation or supervised release imposed by a district judge currently serving on this court and the case shall be assigned to that judge.

D. Recusal. Recusal of a judicial officer shall be only by written order setting forth the reasons.

E. Adjustments. Upon recusal or special assignment of a case to a judge pursuant to this rule, the clerk shall adjust the computerized drawing program to maintain the equal assignment of cases among active district judges.

DATED this 6th day of October, 2004

BY THE COURT:

Lewis T. Babcock, Chief Judge

Marcia S. Krieger, Judge

Edward W. Nottingham, Judge

Robert E. Blackburn, Judge

Wiley Y. Daniel, Judge

Phillip S. Figa, Judge

Walker D. Miller, Judge