

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ORDER FOR ASSIGNMENT OF CASES

IT IS ORDERED that immediately upon the filing of a case with the Clerk of Court, it shall be assigned to one of the judges of this Court. To ensure an even distribution of the caseload among the active judges and those senior judges who accept assignment of cases, the assignment of cases shall be made in the following manner:

1. Electronic Case Assignment System Utilizing "Decks" and "Cards"

An electronic Case Assignment System will be maintained by the Clerk's Office for the purpose of assigning a judge, on a random basis, to each new case opened in this District. The Case Assignment System will utilize thirteen computer generated decks of cards -- one deck for each of the categories of cases defined at paragraph 2, below. Each of the cards in the various decks will bear the name of a judge. There will be five cards for each active judge in the decks for the "Master Civil" category and there will be two cards for each active judge in the "Master Criminal" category when each new deck is created. There will be two cards for each active judge in each of the decks for the other eleven categories, (the "special category decks"). The special category deck titled "MDL – Direct Assign" will only be utilized under special circumstances for subsequent MDL filings to the assigned judge. In decks that have five cards per judge, the decks will automatically refill when the deck reaches 75% used. In decks that have two cards per judge or less, the deck will refill when there are two cards remaining or 89% used.

The various decks will also include cards for those senior judges who have agreed to accept cases from the case category corresponding to that deck. Deck modifications may be necessary to accommodate senior judge case assignments. The number of cards in any given deck for each senior judge will be based on the percentage of an active judge's caseload that the senior judge has agreed to accept for that particular case category. Thus, if a senior judge has agreed to accept sixty percent of an active judge's caseload in the Master Civil category, then that senior judge will have three cards in the Master Civil deck. In addition, if a senior judge elects not to take a certain

type of case, this can be accommodated by adding a prompt to the affected deck. If, for example, a senior judge was randomly selected for a case assignment, the assignment clerk will answer the prompt and the senior judge will be excluded from this case assignment. The Chief Judge of the district may elect to designate the fifth case in each category as a "bye" and the case shall be reassigned.

2. Categories of Cases

a. Every new case opened in this District will be assigned by the Clerk to one of the following case categories:

- (1) Civil (Master)
- (2) Criminal (Master)
- (3) Criminal (Judge Rotation)
- (4) Civil (Social Security)
- (5) Civil (Patent)
- (6) Civil (Antitrust)
- (7) Civil (Securities)
- (8) Civil (Civil Rights - Individual Employment)
- (9) Civil (Civil Rights – All Others)
(except prisoner civil rights)
- (10) Civil (Prisoner)
Habeas Corpus, Prisoner Civil Rights, and all Other Prisoner
Petitions (except 2255 motions)
- (11) Civil (2255)
2255 Motions to Vacate, Correct or Set Aside Sentence
- (12) Civil (MDL – Direct Assignment)
- (13) Civil (Miscellaneous)

b. If the Clerk determines that a case clearly falls into one of the categories numbered (4) through (13), (referred to as "special categories"), the case will be assigned to that category; otherwise the case will be assigned to Category (1), "Master Civil", if it is a civil case, or Category (2), "Master Criminal" or (3) "Criminal-Judge Rotation", if it is a criminal case.

3. Assignment of Civil Cases By Division

- a. When assigning a judge to a new civil case, the Clerk shall first assign the case to one of three divisional categories -- (1) First, Second, Third and Fourth Division cases, (2) Fifth Division cases, and (3) Sixth Division cases. The appropriate division category will be determined by where the parties are located and where the cause of action arose.
- b. If any party resides in or has its principal place of business in any county within the Fifth Division or Sixth Division, or if all or any part of the cause of action arose in whole or in part in any county within the Fifth Division or Sixth Division, then the case will be assigned to that division category. If based on the foregoing criteria, a case could be categorized as either a Fifth Division case or a Sixth Division case, the location of the defendant, (or in cases involving multiple defendants, the location of the greatest number of defendants), will determine the proper division assignment. Any case that is not categorized as a Fifth or Sixth Division case will be automatically categorized as a First, Second, Third or Fourth Division case.

4. Assignment of First, Second, Third and Fourth Division Civil Cases

Subject to the special rules governing Category (10) cases, (see paragraph 8, below), whenever a new civil case is designated as a First, Second, Third or Fourth Division case, that case will first be assigned to an appropriate case category, (the Master Civil Category or one of the special categories listed above), and the case will then be assigned to a judge by selecting a card at random from the deck corresponding to that case category. After a card has been drawn from a deck, (for purposes of assigning a judge to a new case), that card will not be returned to the deck, unless the case is subsequently re-assigned to a different judge. The remaining cards in a deck will be reshuffled before each new draw, (i.e., before each new judge assignment is made). When the deck reaches the threshold for refilling (75% used if deck composition is five cards per judge or two cards left in deck if two cards per judge or 89% used), the deck will then be recreated.

In addition, magistrate judge assignments are made in accordance with the Magistrate Judge Assignment Plan.

5. Assignment of Fifth and Sixth Division Civil Cases

- a. Subject to the special rules governing Category (10) cases, (see paragraph 8, below), whenever a new civil case is designated as a Fifth or Sixth Division Case, it will be assigned to a judge by selecting a card at random from a set of decks created solely for the Division to which the case has been designated. The decks for Fifth Division and Sixth Division cases will correspond to the following case categories --"Master Civil," "Civil Rights - All", "Patent", and all other special category cases.
- b. There will be five cards for each active judge who elects to be included in the Master Civil decks for the Fifth and/or Sixth Divisions, and there will be two cards for each active judge who elects to be included in any of the other decks for the Fifth and/or Sixth Division. Senior judges may elect to have any number of cards in any of the Fifth or Sixth Division decks. The decks for Fifth and Sixth Division cases shall be drawn from, reshuffled, and replaced with new decks when necessary, in the manner described above for the decks used for First, Second, Third and Fourth Division cases.
- c. After a judge has been assigned to a Fifth or Sixth Division case from one of the decks for those divisions, the Clerk will then withdraw one of that judge's cards from the deck for the same case category that is then being used for First, Second, Third or Fourth Division cases. If that judge no longer has any cards left in that deck, the Clerk will withdraw one of the judge's cards from next new deck for that category (forced assignment).
- d. In addition, Magistrate Judge assignments in the Fifth or Sixth Division are made in accordance with the Magistrate Judge Assignment Plan.

6. Rules Governing Reassignment of Related or Companion Civil Cases

- a. For purposes of this Order, a new civil case will be deemed to be a "companion case" to another open civil case, if it appears that a decision or opinion in one of the cases will effectively resolve substantially all of the

issues in the other case because the two cases involve common questions of law or fact.

- b. For purposes of this Order, a new civil case will be deemed to be "related" to another open civil case, if it appears (a) that the two cases share common issues of law or fact, common parties or other common factors, and (b) that the interests of justice or judicial economy would be best served if the two actions were handled by a single judge, even though the resolution of one case might not effectively resolve substantially all of the issues in the other case.
- c. New civil cases that are related or companion cases shall be originally assigned to a judge in the same manner as all other new cases. If it appears to the Clerk that a new case may be a related or companion case, the Clerk shall call that matter to the attention of the judge to whom the new case is assigned. Whenever any judge learns, either from the Clerk or independently, that a related or companion case has been assigned to another judge, the judge who first becomes aware of such related or companion cases will call that matter to the attention of the other judge, and the two judges will then review the respective files and determine whether they are in fact related or companion cases.
- d. If the judges agree that two or more cases are companion cases or related cases, the judge to whom the newest case has been assigned will enter a written order directing the Clerk to reassign that new case to the judge to whom the earlier case has been assigned. The card that was originally used to assign the new case will be placed back into the deck from which it was drawn, and a card for the judge to whom the new case has been reassigned will be pulled out of the same deck. In addition, the order shall direct the Clerk to reassign the Magistrate Judge in the companion or related case if the Magistrate Judge assignment must also change.
- e. If the judge to whom a related case, (but not a companion case), is reassigned determines at any time prior to the commencement of trial that the reassigned case requires a separate trial, that judge may sign an order directing the Clerk to reassign the case back to the judge to whom the case had been originally assigned. Whenever any such reassignment occurs, the appropriate deck will be adjusted accordingly; i.e., a card for the judge who is giving up the case will be placed back in the deck, and a card for

the judge who is taking on the case will be removed from the deck, (or the next new deck, if necessary).

7. Assignment of Civil Cases Involving Sealed Complaint

- a. When a litigant asks to file a civil complaint under seal, the litigant shall file a motion to file the complaint under seal which shall be randomly assigned to a judge from the miscellaneous deck.
- b. If the assigned judge approves the motion to file the complaint under seal, the judge will enter a written order in the miscellaneous case directing the litigant to file the complaint under seal with a copy of the order. The Clerk shall directly assign the new civil case from the appropriate deck to the judge who entered the order to seal.

8. Assignment of Category (10) Cases (Prisoner Cases, Except 2255 Motions)

Each new Category (10) case, (Habeas Corpus, Prisoner Civil Rights, and All Other Prisoner Petitions, except 2255 motions), shall be assigned at random by drawing a card from the deck corresponding to that category, unless the plaintiff or petitioner has filed a previous complaint or petition in this District, in which event the case shall be automatically assigned to the judge to whom the plaintiff's or petitioner's most recent previous case was assigned. If the judge to whom such previous case was assigned is no longer on the bench, or is no longer taking Category (10) cases, then the new case will be randomly assigned from the Category (10) deck.

9. Assignment of Multi-District Litigation (MDL) Cases After Initial Filing

The initial MDL case shall be directly assigned on the appropriate deck to the judge handling this litigation by use of a card. Subsequent MDL cases related to this litigation shall be directly assigned to the judges without use of a card and this is accomplished by direct assignment on the MDL-Subsequent Case filing deck.

10. Assignment of Criminal Cases

Subject to the special rules governing "related" criminal cases and Category (11) cases (i.e., section 2255 cases), (see paragraphs 11 and 12, below), whenever a criminal case is opened, it will be assigned to a judge by selecting a card at random from one of three decks – either "Criminal (Master – Drugs/Weapons)," "Criminal (Master – All Other)," or the "Criminal (Judge Rotation)" deck – without regard to the division in which the case arose. After a card has been drawn from that deck it will not be returned to the deck, unless, for any reason, the case is subsequently re-assigned to a different judge. The remaining cards in the deck will be reshuffled before each new draw, (i.e., before each new judge assignment is made). When the deck reaches the threshold for refilling, which is two cards left in deck or 89% used, the deck will then be recreated.

In order to effectively balance caseloads and to accommodate senior judge case assignments in the criminal "master" category, two separate assignment decks are used. The "Criminal (Master – Drugs/Weapons)" deck is used to assign criminal cases in which the defendants are charged with counts related to controlled substances and/or firearms (e.g., citations under USC 21, §§ 841, 843, 844 and 846; or under USC 18, §§ 922, 924 and 2113). All other criminal cases are assigned using the "Criminal (Master – All Other)" deck.

The "Criminal (Judge Rotation)" deck is used to assign Transfer of Probation Jurisdiction (TPJ) cases, appeals from a Magistrate Judge's order or criminal cases that require a judge assignment but cannot be assigned by use of the "Criminal (Master)" decks. In addition, other decks are necessary for the assignment of Magistrate Judge case numbers for Magistrate of the Month, Central Violations Bureau (CVB) court and Misdemeanor cases.

In addition, Magistrate Judge assignments are made in accordance with the Magistrate Judge Assignment Plan.

11. Assignment of Related Criminal Cases

- a. All criminal cases will be randomly assigned on the wheel.
- b. If the U.S. Attorney's Office indicates on the Indictment list or Information sheet that a new case is related to another case, that case will be assigned

at random on the wheel. The judge assigned to the second case will confer with the judge assigned to the first case and determine if the cases are related.

- c. The two exceptions to random assignments as described in part (a) are probation and supervised release transfer cases, which will be directly assigned to the same judge when there are multiple offenses by the same defendant.

12. Assignment of Category (11) Cases (2255 Motions)

Each new Category (11) case, (2255 Motions to Vacate, Correct or Set Aside Sentence), will be assigned to the judge who sentenced the movant in the underlying criminal case. If that judge is no longer on the bench, that motion will be randomly assigned to a new judge who will receive successive filings from the same defendant.

13. Re-Assignment of Cases in the Event of Recusal or Disqualification

Whenever a judge disqualifies or recuses himself or herself in a particular case, that judge will, by written order, direct the Clerk to reassign that case by drawing a new card from the same deck from which the disqualified or recused judge's card was drawn. The card originally used to assign the case to the disqualified or recused judge will then be placed back into that deck.

14. Assignment of Civil Cases Involving Injunction Requests and Bankruptcy Court Decisions

- a. When a litigant in a new civil case requests a temporary restraining order, preliminary injunction or other immediate relief, the file shall be opened and assigned to a judge from the appropriate deck in the same manner as any other case.
- b. Appeals from the decisions of the Bankruptcy Court will be treated as Master Civil cases for purposes of determining the deck from which a judge should be selected.

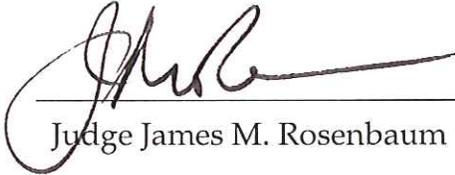
15. Assignment of Criminal Cases Involving Petty Offense Appeals

Appeals from decisions of U.S. Magistrate Judges in petty or minor offense cases shall be treated as Master Criminal cases for purposes of determining the deck from which a judge should be selected.

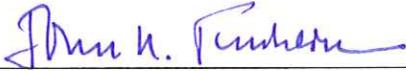
DATED: December 1, 2008



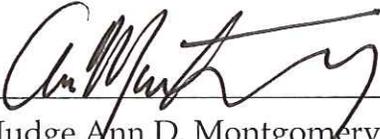
Chief Judge Michael J. Davis



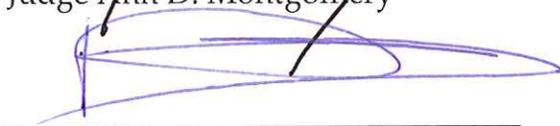
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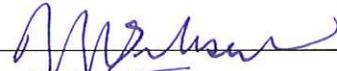
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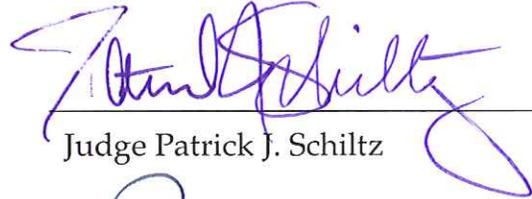
Judge Ann D. Montgomery



Judge Donovan W. Frank



Judge Joan N. Ericksen



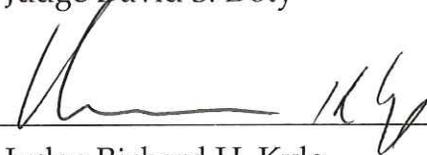
Judge Patrick J. Schiltz



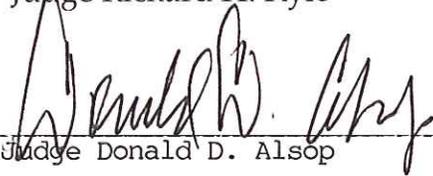
Judge Paul A. Magnuson



Judge David S. Doty



Judge Richard H. Kyle



Judge Donald D. Alsop

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RICHARD D. SLETTEN
JUDGMENT ENTD
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