

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

ORDER FOR ASSIGNMENT OF CASES

IT IS ORDERED that upon the filing of a case with the Clerk of Court, it must be assigned to at least one judge of this Court in accordance with this Order:

1. Electronic Case Assignment System

a. Case Assignment Committee Duties

The Case Assignment Committee is responsible for the following:

- i.* Determining the number and categories of case assignment decks for civil and criminal cases.
- ii.* Determining how many cards in each deck an active district judge or magistrate judge will maintain and when the deck will refill.
- iii.* Addressing any case assignment questions or issues with the Clerk's Office.

b. Case Assignment In General

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. All cases will be randomly assigned one district judge and one magistrate judge, unless otherwise provided for in this order, by Local Rule, or by order of the Chief Judge.

Whenever a new case is filed, it must first be designated as a 3rd or 4th Division case; 5th Division Case; or 6th Division case in accordance with paragraph 3, below. The case must then be assigned to the most specific case assignment deck category that is applicable to that matter in accordance with this Order and Bench policy.

The Clerk must not use exclusion prompts during the case assignment process to ensure that the case assignment process remains as random as possible.

c. District Judge Case Assignment

To assign a district judge to a case, the Case Assignment System will utilize computer-generated decks of cards. The Clerk's Office must maintain a 3rd and 4th division deck, 5th division deck, and 6th division deck for each category of cases set forth in this Order and as established by the Case Assignment Committee. Each of the cards in the various decks will bear the name of a judge.

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 from the deck. When the deck reaches the threshold for refilling, a new deck must be created.

After an active or senior district judge receives a case assignment, that judge must preside over that case to its resolution, unless: (1) the judge recuses or is disqualified from handling the case under 28 U.S.C. § 455; or (2) another district judge agrees to handle a portion or remainder of the case.

i. Senior Judges

A senior judge may reduce the size of his or her caseload the following ways:

- A senior judge may elect to not draw any new cases from all case assignment decks or specific case assignment decks;
- A senior judge may elect to reduce the number of cards he or she has in any one case assignment deck; or
- A senior judge may ask the Case Assignment Committee to consider adding case assignment decks for certain categories of cases that senior judges may then elect to not draw cases from. The categories must be identified by the nature of suit code for civil cases and by statute for criminal cases.

The decks will 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 the number of cards or percentage the senior judge has agreed to accept for that particular case category.

ii. Chief Judge

Due to the administrative duties required of the Chief Judge, he or she may elect to reduce the number of cards in each deck in order to reduce their caseload by 1/5 in each category for which he or she is assigned.

iii. 5th and 6th Division Cases

All district judges will be randomly assigned cases from all divisions. Senior district judges may, however, elect to not take cases that are designated as 5th or 6th Division cases.

d. Magistrate Judge Case Assignment

The Case Assignment System will utilize computer-generated decks of cards for case assignment to magistrate judges – one deck for each of the categories of cases defined in paragraph 2, below and any other decks established by the Case Assignment Committee.

2. Case Assignment Decks

a. District Judge Case Assignment Decks.

The following instructions apply to specific case assignment decks:

i. Appeals from magistrate judge (MJ) and petty offense (PO) cases

If an appeal from an order entered in an MJ case is filed, a district judge must be randomly assigned to the case using the appropriate deck. The district judge assigned to the case at this time will be the judge for the duration of the case unless, for any reason, the case is subsequently re-assigned to a different judge.

If an appeal from a PO case is filed, a district judge must be randomly assigned to the case using the appropriate deck.

ii. Criminal Transfers

The Criminal Transfers deck is used to assign transfers of probation jurisdiction matters.

iii. § 2255 Motions to Vacate, Correct or Set Aside Sentence

Each new § 2255 Motion to Vacate, Correct, or Set Aside Sentence case must be assigned to the judge who sentenced the movant in the underlying criminal case. If that judge is no longer on the bench, the motion will be randomly assigned to a different judge who will be assigned successive filings from the same defendant.

iv. MDL - Direct Assignment

The initial MDL case and all subsequent related MDL cases must be directly assigned to the judge handling the litigation.

v. Miscellaneous Cases (MC)

The Miscellaneous case assignment deck is used to assign "MC" cases. Such assignment must be made on a random basis.

b. Magistrate Judge Case Assignment Decks.

The following instructions apply to specific case assignment decks:

i. *MJ Civil Master*

The MJ Civil Master deck includes all prisoner/habeas cases - including prisoner/habeas cases that are designated as 5th and 6th Division cases under paragraph 3 - and all 3rd and 4th Division civil cases.

The magistrate judge seated in the 5th Division will receive a specific percentage of the MJ Civil Master cases based on the

number of 5th and 6th Division cases assigned to the magistrate judge from the MJ 5th/6th Division Civil deck. The Court will periodically review and adjust the percentage of cases MJ Civil Master assigned to the magistrate judge seated in the 5th Division in order to equalize the caseload of all full-time magistrate judges.

ii. MJ Criminal Master

The MJ Criminal Master deck includes all 3rd and 4th Division criminal cases and are assigned on a random basis to all eight full-time magistrate judges.

iii. MJ Social Security

Social security cases are assigned to only a magistrate judge upon the initial case assignment in accordance with LR 7.2. Social security cases are randomly assigned to all magistrate judges, regardless of the division designation.

iv. MJ Duty

The MJ Duty case assignment deck is used to assign “MJ” case-types to magistrate judges who perform duty work. Only magistrate judges may be assigned “MJ” cases, unless an appeal from an order entered in that case is filed. Such matters are directly assigned to the appropriate magistrate judge performing the duty work.

v. MJ CVB

The MJ CVB case assignment deck is used to assign “PO” case-types to magistrate judges to perform petty offense/CVB work. Such matters are directly assigned to the appropriate magistrate judge performing the petty offense/CVB work.

vi. MJ 5th/6th Division Civil

The MJ 5th/6th Division Civil case assignment deck applies to all civil cases that are designated as 5th and 6th Division cases in accordance with paragraph 3, except for prisoner/habeas cases

and social security cases. All 5th and 6th Division civil cases must be directly assigned to the magistrate judge seated in the Fifth Division.

vii. MJ 5th/6th Division Criminal

The MJ 5th/6th Division Criminal case assignment deck applies to all criminal cases that are designated as 5th and 6th Division in accordance with paragraph 3. All 5th and 6th Division criminal cases must be directly assigned to the magistrate judge seated in the 5th Division.

3. Designation of Civil Cases By Division

a. Divisional Designations. When assigning a new civil case, the Clerk must first designate the case to one of three divisional designations based on where the parties are located and where the cause of action arose:

- i.* Third and Fourth Divisions;
- ii.* Fifth Division; or
- iii.* Sixth Division.

b. Designation of Fifth or Sixth Division Cases.

i. General Rule.

The case must be designated as a 5th or 6th Division case if any of the following apply:

- Any plaintiff that resides in or has its principal place of business in any county within the 5th or 6th Division;
- The cause of action arose in whole or in part in any county within the 5th or 6th Division.

ii. No Clear Designation. If, based on the criteria in paragraph 3.b.i., a case could be designated as a 5th Division case or a 6th Division case, the defendant's place of residence or business must determine the division designation. If the case concerns

multiple defendants, and a majority of the defendants reside or have their principal place of business in either the 5th or 6th Division, the case must be so assigned.

- c. **Designation of Other Cases.** Any case that is not categorized as a 5th or 6th Division case will be automatically categorized as a 3rd or 4th Division case.

4. Rules Governing Reassignment of Related Civil Cases

- a. For purposes of this Order, a new civil case may be deemed “related” to another open or closed civil case, if it appears that:
 - i. The two cases share common issues of law or fact, common parties or other common factors;
 - ii. A decision or opinion in one of the cases will effectively resolve substantially all of the issues in the other case; or
 - iii. 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 all of the issues in the other case.
- b. New civil cases that are related must 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 related to an open or closed case, the Clerk must call that matter to the attention of the judge to whom the new case is assigned and the judge to whom the related case is assigned. Whenever any judge learns, either from the Clerk or independently, that a related case has been assigned to another judge, the judge who first becomes aware of such related cases must call that matter to the attention of the other judge, and the two judges must then review the respective files and determine whether they are in fact related cases.
- c. If the judges agree that two or more cases are related, the judge to whom the newest case has been assigned may enter a written order directing the Clerk to reassign that new case to the judge to whom the earlier case was assigned. In addition, the order must direct the Clerk to reassign the

magistrate judge in the related case if the magistrate judge assignment must also change.

- i.* The card for the district judge and the magistrate judge, if such a reassignment must be made, that was originally used to assign the new case must be placed back into the deck from which it was drawn, and a card for the district judge and magistrate to whom the new case has been reassigned must be pulled out of the same deck.
- d. If the judge to whom a related 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.
 - i.* Whenever any such reassignment occurs, the judge cards in the appropriate deck will be adjusted accordingly.
 - ii.* The magistrate judge will not be reassigned if the above occurs.
- e. If a judge is identified as the recipient of several related cases, the judge may petition the Chief Judge for a direct assignment of such cases. It may be determined that each case is counted as one card or at a reduced number of cards (three to one or five to one) in order to balance the amount of work with the number of cases received. The exact ratio will be determined by the Chief Judge with the approval of the Bench. This may be done by either a reduction in the number of cards in a category for the judge or the judge may be designated as inactive within a category for a limited amount of time in order to preserve an overall balance of the case load.

5. Assignment of Related Criminal Cases

- a. For purposes of this Order, a new criminal case may be deemed “related” to another criminal case – including a closed criminal case – if it appears that the case:
 - i.* Concerns the same act or transaction connected with or constituting a part of a common conspiracy, scheme or plan;
 - ii.* Involves the same defendant or co-defendants;

- iii.* Arises out of the same operative set of facts, behavioral episode or course of conduct;
 - iv.* Arises out of the same investigation and has temporal proximity to the original case;
 - v.* Results from cooperation rendered by a defendant;
 - vi.* Stems from an investigation of a common organization: e.g., a particular gang, corporation, financial institution and the case involves personnel or similar factual scenarios; or
 - vii.* Involves other common issues of law or fact, common parties, or other common factors, such that the interests of justice or judicial economy would be best served if the two actions were handled by a single judge.
- b. New criminal cases that are related must be randomly assigned to a judge in the same manner as all other new cases. The U.S. Attorney's Office must indicate on the Indictment List or Information Sheet that a new case is related to another case. In addition, the attorneys of record must file a "Notice to the Court of Possible Related Case in CM/ECF" if the case is related to a different criminal case. Whenever a judge independently learns that a related case has been assigned to another judge, the judge who first becomes aware of such related case must call that matter to the attention of the other judge and the two judges must then review the respective files and determine whether they are in fact related cases.
- c. If the judges agree that two or more cases are related cases, the judge to whom the newest case has been assigned must enter a written order directing the Clerk to reassign the new case to the judge to whom the earlier case has been assigned. In addition, the order must direct the Clerk to reassign the magistrate judge to the related case if the magistrate judge assignment must also change.
 - i.* The card for the district judge and the magistrate judge, if such a reassignment must be made, that was originally used to assign the new case must be placed back into the deck from which it was drawn, and a card for the district judge and

magistrate to whom the new case has been reassigned must be pulled out of the same deck.

- d. An exception to the random assignments as described in part (b) are probation and supervised release transfer cases. These cases will be directly assigned to the same judge when there are multiple offenses by the same defendant.

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

Whenever a judge disqualifies or recuses himself or herself in a particular case under 28 U.S.C. § 455, the Clerk must 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 must then be placed back into that deck.

7. Random Assignment of Cases without a Current Judge

a. District Judges

If a closed case becomes active and the originally assigned district judge is no longer accepting new cases, the case must be randomly assigned from the applicable case assignment deck category.

b. Magistrate Judges

If a closed case becomes active and the originally assigned magistrate judge is no longer serving as a judge in the district and the district judge asks for a magistrate judge assignment, the case must be randomly assigned from the applicable case assignment deck category.

8. Attorney Discipline Matters

Attorney discipline matters, arising under LR 83.6 are filed as Miscellaneous Cases in accordance with that rule.

9. Reassignment of Cases in Event of a Judge's Departure or Disability

a. District Judges

The caseload of a departed or permanently disabled district judge will be randomly reassigned from the applicable case assignment deck category.

In the event a district judge is temporarily disabled, that district judge, along with the Case Assignment Committee under the direction of the Chief Judge, will tailor a plan to meet the needs of that specific situation, which may include the temporary random reassignment of cases.

b. Magistrate Judges

In the event a magistrate judge departs or becomes permanently disabled, the Case Assignment Committee under the direction of the Chief Judge will develop a plan for the random case reassignment of a magistrate judge's caseload.

If a magistrate judge is temporarily disabled, the Case Assignment Committee Chair will work under the direction of the Chief Judge to tailor a plan to meet the needs of that specific situation, which may include the temporary random reassignment of cases.

10. Case Assignment Not Addressed by this Order

Any case assignment issue not addressed by this order must be determined by the Chief Judge.

DATED:

July 5, 2017

FOR THE COURT:

John R. Tunheim

John R. Tunheim, Chief U.S. District Judge