

FILED

2009 FEB 21 AM 3:25

SUPREME COURT
OF GUAM

SUPREME COURT OF GUAM

ADMINISTRATIVE RULE 08-003

REGARDING SUPERIOR COURT OF GUAM CASE ASSIGNMENTS

A. Introduction

Pursuant to 48 USC §§ 1424-1(a)(4) and (6), the Supreme Court of Guam hereby promulgates an administrative rule for the procedures to be followed regarding case assignments for the Superior Court of Guam effective January 1, 2009.

Administrative Rule 05-001 was promulgated effective February 1, 2005 to provide a process of case distribution that is random, fair and equitable, among the seven Superior Court judges considering the efficiencies of having certain types of cases heard by the same judge to the extent feasible over an extended period of time. After reviewing the process, it has been determined that changes should be made to the assignment of cases to allow each judge the opportunity to rotate into a specific assignment and allow the flexibility for judges to exchange specific rotation assignments. Moreover a rotation of three year terms appears more appropriate for judicial efficiency and ease of administration with the terms to commence on January 1st instead of February 1st.

This rule contemplates a full contingent of seven Superior Court trial court judges occupying the bench. If a full contingent of judges does not occupy the bench during an extended period of time, other than regularly scheduled training or holidays, the Clerk of Court shall confer with the Chief Justice, Presiding Judge, and the Administrator of the Courts regarding consideration of interim measures, if necessary, to assure the continued efficient and equitable administration of case distribution until such time as a full contingent of seven Superior Court judges is again in place.

All cases shall be assigned in accordance with this Rule.

B. Assignment of Cases Other Than Small Claims, Traffic and Child Support Matters

1. Creation of "Specialty Courts" and Assignment of Specialty Court Cases

There shall be four Specialty Courts created for specific types of cases with each specialty court to be occupied by one judge for a period of three years. The Specialty Courts shall be the Family Court I, Family Court II, Family Violence, and Adult Drug Court. The specific types of cases assigned to each of the Specialty Courts shall remain with that particular Specialty Court upon the completion of the Specialty Court judge's three year term and become the

0082223

ORIGINAL

responsibility of the next-incoming Specialty Court judge. All other cases assigned outside the Specialty Courts shall remain the responsibility of the judge who was originally assigned those cases.

Each Specialty Court judge shall occupy the allocated specialty court for a period of three years after which time the Specialty Court shall be randomly reassigned to another judge. Such random reassignment to the four Specialty Courts shall occur at a meeting noticed to the full contingent of seven judges and held no later than 18 months prior to the expiration of the then-current three year Specialty Court rotation to allow the next incoming Specialty Court judge to adequately prepare for their Specialty Court role. Such random reassignment shall be fair and equitable and provide each of the seven judges with the opportunity to occupy each of the seven rotations established hereunder.

(a) Family Court Specialty Courts I & II:

(i) All Juvenile Delinquency (JD), Juvenile Proceeding (JP) and one-half (1/2) of all beyond control cases shall be assigned to the two Family Court Specialty Courts. The two Family Court specialty judges shall cooperate to determine a fair and equitable distribution of these cases assigned to the two Family Court Specialty Courts.

(ii) All cases regarding the mental state of criminal defendants (referred to as "Mental Health Court" pursuant to Administrative Order 07-001) and Special Proceedings (SP) cases which involve competency hearings, civil commitment hearings or adult guardianships matters shall be assigned to Family Court I.

(iii) All Juvenile Drug Court (JDC) cases shall be assigned to Family Court II.

(b) Family Violence Specialty Court:

(i) All criminal felony and misdemeanor Family Violence (FV) cases, all civil Ex Parte Applications for Temporary Orders of Protection ("TPO") and Orders to Show Cause, and all Protective Order cases ("PO") as defined under the Guam Local Rules of Court Miscellaneous Rule 2.1 shall be assigned to the Family Violence Specialty Court. In addition, under the concept of One-Judge-One-Family, any domestic case (DM) with the same parties involved in either the criminal FV and/or PO cases should be assigned, or reassigned, to the Family Violence Specialty Court as provided for under Miscellaneous Rule 2.1.2(B), with appropriate credit given to the Family Violence Specialty Court Judge.

(ii) Ex Parte Applications for a PO shall be referred to the Family Violence Specialty Court Judge and, not the on duty ex-parte judge, for hearing and any OSC hearings on these types of cases shall be scheduled by the Family Violence Specialty Court judge. Ex Parte Applications for civil or non-domestic violence restraining orders shall not be referred to the Family Violence Specialty Court, but shall be referred to the regular on-duty ex-parte judge.

(iii) All felony or misdemeanor criminal cases which include any level of a family violence charge shall be assigned to the Family Violence Specialty Court, (except cases where the defendant has pled NGI). In cases with both family violence and drug charges, the Family Violence Specialty Court judge may refer the case to the Adult Drug Court Specialty Court upon a determination that the defendant is eligible for the adult drug court program.

(iv) Non-family violence criminal cases, whether post-judgment or pre-trial, shall not be automatically reassigned to the Family Violence Specialty Court unless requested or accepted by the Family Violence Specialty Court judge. Any pre-trial reassigned case under this procedure will be credited to the Family Violence Court Specialty Court judge.

(c) Adult Drug Court Specialty Court:

All Adult Drug Court cases as well as all felony drug cases that are not Adult Drug Court cases and all misdemeanor drug cases (not including DUI cases) that are not Adult Drug Court cases shall be assigned to the Adult Drug Court Specialty Court.

2. Assignment of Other Criminal Cases

(a) Felony Cases:

The two Family Court Specialty Court judges and the Family Violence Specialty Court judge shall each be assigned six-percent (6%) of the criminal felony cases that are not already assigned to the Family Violence Specialty Court judge or the Adult Drug Court Specialty Court judge. The Adult Drug Court Specialty Court judge shall not be assigned any additional felony cases other than those felony cases specifically assigned to the Adult Drug Court Specialty Court. Considering a full contingent of seven judges, the remaining three judges will each be assigned 27.3% of the felony cases that are not already assigned to the

Family Violence Specialty Court judge or the Adult Drug Court Specialty Court judge.

(b) Misdemeanor Cases:

The two Family Court Specialty Court judges shall each be assigned six percent (6%) of all criminal misdemeanor cases that are not already assigned to the Family Violence Specialty Court judge or the Adult Drug Court Specialty Court judge. The Family Violence Specialty Court judge shall not be assigned any additional cases. Considering a full contingent of seven judges, the remaining four judges shall each be assigned twenty-two percent (22%) of the criminal misdemeanor cases that are not already assigned to the Family Violence Specialty Court judge; provided, however, that the Adult Drug Court Specialty Court judge shall be credited towards his/her twenty-two percent (22%) share with all misdemeanor drug cases assigned to him or her as the Adult Drug Court Specialty Court position.

3. Assignment of Civil Cases

All non-criminal cases not assigned to the Specialty Court judges shall be divided equally among the seven Superior Court judges, one-seventh (1/7) to each judge. These cases shall include civil (CV), domestic (DM) (other than Family Violence-related DM cases that are assigned to the Family Violence Specialty Court judge), probate, land registration, adoption and Special Proceedings (including name changes, writs, and special process server applications) which do not involve competency hearings, civil commitment hearings or adult guardianship; provided, however, that the Family Violence Specialty Court judge shall be credited towards his/her one-seventh share for all the Family Violence-related DM and civil Restraining Order cases assigned to the Family Violence Specialty Court.

4. Disqualification and Re-Assignment

When disqualification or recusal prevents the assigned judge from taking a case, the Presiding Judge, working with the Clerk of Court, shall make the alternative assignment, considering the promotion of equitable distribution of cases and judicial economy.

5. Complex Litigation

When motions to consolidate cases which have been assigned to different judges are filed, the Presiding Judge shall meet with the judges involved to attempt to reach consensus on how the litigation should be assigned. The Presiding Judge shall thereafter make the assignment of cases in order to promote equitable distribution of cases and judicial economy. In order to have a fair and

equitable case distribution, the Presiding Judge may adjust total case assignments when complex litigation requires the assigned judge to devote a greater proportion of his or her time to the complex case or cases.

6. Miscellaneous Matters

(a) All judges, will rotate every two weeks as the *ex parte* judge with a schedule to be established by the Presiding Judge.

(b) Until a Magistrate takes office, the Master Calendar Cases will continue to rotate every two weeks, similar to the *ex parte* calendar.

7. Assignment of Small Claims, Traffic Matters and Child Support

(a) Until a Magistrate takes office, all Small Claims and Traffic matters will be heard by a judge *pro tem* or referee appointed for the purpose of hearing small claims and traffic matters.

(b) The Child Support Hearing Officer will continue to hear all of the Child Support cases as well as all Truancy matters and one-half of all Beyond Control matters, and traffic cases when the assigned Magistrate, judge *pro tem* or referee is not available to hear them.

C. Random Case Assignment

The Administrative Officer of the Courts shall take reasonable steps as may be necessary to cause to be computerized the random assignment of cases as described above.

D. Prior Rule Rescinded

The procedures established under Administrative Rule 05-001 are superceded by the promulgation of this Rule.

Adopted this 31st day of December, 2008.



ROBERT J. TORRES, JR.
Chief Justice



F. PHILIP CARBULLIDO
Associate Justice



KATHERINE A. MARAMAN
Associate Justice