

SUPREME COURT OF GUAM

ADMINISTRATIVE RULE NO. 14-001

REGARDING AMENDED TRIAL COURT CASE ASSIGNMENT PROCEDURES

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SUPREME COURT
OF GUAM

Pursuant to this court’s authority to, “make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of the judicial branch of Guam,” 48 U.S.C. 1424-1(a)(6), the mandate of Title 7 GCA § 4101(e) that this court, “enact rules governing the efficient dispatch of the Superior Court’s business, including . . . (3) assignment, management, distribution, processing, scheduling and disposition of cases in the Superior Court,” and upon consultation with the trial court judges relative to suggested adjustments to the manner in which cases are assigned to the judges of the Superior Court of Guam to better maximize equity and efficiency in managing the trial court’s business, the amended Trial Court Case Assignment Procedures as set forth in their entirety in Exhibit A hereto and incorporated herein by this reference are hereby **ADOPTED**, and shall replace the case assignment procedures articulated in Promulgation Order 10-003-02.

The new Trial Court Case Assignment Procedures will be effective on March 1, 2014.

SO ORDERED this 21st day of February, 2014.



ROBERT J. TORRES
Chief Justice



F. PHILIP CARBULLIDO
Associate Justice



KATHERINE A. MARAMAN
Associate Justice

EXHIBIT "A"

TRIAL COURT CASE ASSIGNMENT PROCEDURES

[Administrative Rule 14-001; Effective March 1, 2014]

I. Introduction

This rule contemplates a full contingent of seven Superior 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 addressed herein shall be assigned in accordance with this rule.

II. Assignment of Cases Other Than Small Claims and Traffic Matters

A. Creation of "Specialty Courts" and Driving While Under the Influence Docket; Assignment of Cases to The Specialty Courts and Docket

There shall be four Specialty Courts and a two-judge Driving While Under the Influence Docket created for specific types of cases with each Specialty Court and each of two Docket slots to be occupied by one judge for a period of three years. The Specialty Courts shall be the Family Court I ("FCI"), Family Court II ("FCII"), Family Violence Court ("FVC"), and the Adult Drug Court ("ADC"). In addition, the Driving While Under the Influence Court ("DWIC") Docket will be assigned to two judges. The specific types of cases assigned to each of the Specialty Courts/Docket shall remain with that particular Specialty Court/Docket upon the completion of the Special Court/Docket judge's three-year term and become the responsibility of the next incoming Specialty Court/Docket judge. All other cases assigned outside the Specialty

Courts/Docket shall remain the responsibility of the judge who was originally assigned those cases unless that judge is disqualified from the matter.

Each Specialty Court/Docket judge shall occupy the allocated Specialty Court/Docket for a period of three years after which time the Specialty Court/Docket shall be randomly reassigned to another judge. Such random reassignment to the Specialty Court/Docket 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/Docket rotation to allow the next incoming Specialty Court/Docket judge to adequately prepare for their Specialty Court/Docket roles. 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 before being assigned any rotation a second time. After completing the random reassignment process, the seven judges shall have the discretion to exchange their assigned courts with each other on or before a date set by the Chief Justice.

1. Family Courts I & II

- a. All Juvenile cases shall be distributed in the following manner:

Juvenile Delinquency (JD) Cases. Such cases shall be assigned equally between the two Family Court Judges.

Juvenile Proceeding (JP) Cases. Such cases shall be assigned equally to the two Family Court Judges except in the instances of “beyond control” cases which shall be equally assigned (1/3 each) among the two Family Court judges and the Child Support Hearing Officer, and “truancy” cases, all of which shall be assigned to the Child Support Hearing Officer.

- b. Family Court I shall have a component which will be referred to as the “Mental Health Court.” The following cases shall be assigned to the Mental Health Court:

(i) All cases in which the defendant has been deemed unable to be proceeded against due to their mental state as determined by the assigned judge pursuant to Title 9 GCA § 7.22 or § 7.37 shall be reassigned to the Mental Health Court for all subsequent proceedings and will be credited towards the Mental Health Court judge's assigned criminal cases as stated in the "Assignment of Other Criminal Cases" section below; and

(ii) All Special Proceedings (SP) cases that involve competency hearings, civil commitment hearings or adult guardianship matters.

c. Family Court II shall have a component which will be referred to as the "Juvenile Drug Court ('JDC')." All Juvenile Drug Court (JDC) cases shall be assigned to that component of Family Court II.

2. Family Violence Court

a. All felony and misdemeanor cases involving any level of a family violence charge shall be assigned to the Family Violence Court ("FVC").

b. Cases involving both family violence and drug charges shall, in the first instance, be assigned to the Family Violence Court, but may be referred by the Family Violence Court judge to the Adult Drug Court to determine the eligibility of the defendant and the defendant's interest in participating in the program. Should the defendant qualify for and accept the terms of the program, the case will be reassigned to the Adult Drug Court program. Should the defendant not qualify for, or does not choose to participate in the program, the case will remain with the Family Violence Court judge.

c. Non-family violence criminal cases, which are existing priors of a newly-charged family violence criminal defendant, whether post-judgment or pre-trial, shall not be automatically reassigned to the Family Violence Court unless requested or accepted by the

Family Violence Court judge. Any pre-trial reassigned felony cases under this procedure will be credited towards the Family Violence Court judge's assigned felony cases as stated in the "Assignment of Other Criminal Cases" section below. No credit will be given for reassigned non-family violence misdemeanor cases since the Family Violence Court judge will not typically be assigned any non-family violence misdemeanors.

3. Adult Drug Court Specialty Court: All felony and misdemeanor cases involving any drug charge shall be assigned to the Adult Drug Court unless they are first assigned to the Family Violence Court and remain in that court as addressed in section II(A)(2)(b) above.

4. DWI Court Docket

a. All felony and misdemeanor cases involving any DWI charge shall be assigned equally to the two DWI Court Docket judges.

b. The judges assigned to the DWI Court Docket shall not be assigned any non-DWI misdemeanor cases.

B. Assignment of Other Criminal Cases

1. Felony Cases

a. Cases that include any of the following felony charges:

(i) Aggravated Murder – 9 GCA § 16.30

(ii) Murder – 9 GCA § 16.40

(iii) Attempted Murder, Solicitation, and Conspiracy to commit murder
– 9 GCA §§ 13.60 and 16.40

(iv) Manslaughter – 9 GCA § 16.50

(v) Kidnapping – 9 GCA § 22.20

(vi) First Degree Robbery – 9 GCA § 40.10

- (vii) First Degree Criminal Sexual Conduct – 9 GCA § 25.15
- (viii) Second Degree Criminal Sexual Conduct – 9 GCA § 25.20
- (ix) Prostitution – 9 GCA § 28.10
- (x) Compelling Prostitution – 9 GCA § 28.30
- (xi) Use of Child in Obscene Acts – 9 GCA § 28.52
- (xii) Photographs of Minor's Sexual Acts – 9 GCA § 28.80
- (xiii) Electronic Enticement of Child in Sexual Acts – 9 GCA § 25.01.40
- (xiv) Child Pornography – 9 GCA § 25.01.70

shall be equally assigned, one-seventh (1/7) each, to the seven judges. Any of these felonies assigned to a Specialty Court or Docket pursuant to sections II(A)(1)-(4) above shall count towards that judge's one-seventh (1/7) share of these felonies.

b. All felony cases not assigned pursuant to subsection (a) shall be assigned equally, one-seventh (1/7) each, to the seven judges. Any of these felonies assigned to a Specialty Court or DWI Court Docket pursuant to sections II(A)(1)-(4) above shall count toward that judge's one-seventh (1/7) share of these felonies.

2. Misdemeanor Cases: All criminal misdemeanor cases that are not assigned to the Family Violence Court or DWI Court Docket shall be assigned equally, one-half (1/2) each, to the Adult Drug Court judge and the non-DWI General Jurisdiction judge. Any of the above misdemeanor cases assigned to the Adult Drug Court judge pursuant to sections II(A)(2) or (3) above, shall count towards that judge's one-half (1/2) share of these misdemeanor cases.

C. Assignment of Non-Criminal Cases

All non-criminal cases not assigned to the Specialty Court or Docket judges shall be divided equally among the seven Superior Court judges, one-seventh (1/7) to each judge. Provided,

however, that the Family Violence Specialty Court judge shall be assigned all Family Violence-related DM cases and all Civil Restraining Order cases that involve family violence-like allegations which shall be credited towards his/her one-seventh (1/7) share of non-criminal cases.

D. Ex Parte Applications

1. 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 Court.

2. Consistent with the concept of One-Judge-One-Family, any domestic case (DM) involving a party or parties who are also involved in a related family violence and/or PO case or cases shall be assigned, or reassigned, to the Family Violence Court as provided for under Miscellaneous Rule 2.1.2(B), with appropriate credit given to the Family Violence Court judge for reassigned felony cases.

3. All ex parte applications for POs shall be referred to the Family Violence Court judge and not the on-duty ex-parte judge and any hearings, including OSC hearings, on these types of cases shall be scheduled by the Family Violence Court judge.

4. Ex Parte applications for civil or non-domestic violence restraining orders shall be promptly randomly assigned just as newly filed standard non-criminal cases are randomly assigned and the assigned judge shall hear the application. If the randomly assigned judge is not available to promptly hear the application, the matter shall remain assigned to that judge but shall be temporarily referred to the on-duty ex- parte judge for immediate action, as necessary.

E. Complex Litigation

When motions to consolidate cases which have been assigned to different judges are filed, the Presiding Judge may 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.

F. Miscellaneous Matters

1. The Clerk of Court shall review the actual case assignment numbers on or about October 1st of each year, and shall make appropriate adjustments to the assignment of cases during the final quarter of each calendar year to ensure equal and balanced case assignments to the extent reasonably possible. However, Specialty Court and Docket case assignments must always be made pursuant to this rule.

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

G. Assignment of Cases to Child Support Hearing Officer

The Child Support Hearing Officer will hear all child support cases, all truancy matters and one-third (1/3) of JP beyond control matters. The Child Support Hearing Officer shall also hear any Person in Need of Services ("PINS") case that may arise from such truancy cases and may also hear other PINS cases upon agreement with the Family Court judges. The Child Support Hearing Officer shall also hear traffic cases when the assigned Magistrate, judge *pro tempore* or referee is not available to hear them.

III. 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 herein.