



Filed

Supreme Court of Guam, Clerk of Court

SUPREME COURT OF GUAM

ADMINISTRATIVE RULE NO. 16-002

REGARDING AMENDED TRIAL COURT CASE ASSIGNMENT PROCEDURES

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 third amended Trial Court Case Assignment Procedures as set forth in its entirety in Exhibit A hereto and incorporated herein by this reference are hereby **ADOPTED**, and shall replace the case assignment procedures articulated in Administrative Rule No. 16-001.

The third amended Trial Court Case Assignment Procedures will be effective on January 1, 2017.

SO ORDERED this 30th day of December, 2016.

/s/

ROBERT J. TORRES

/s/

F. PHILIP CARBULLIDO

Associate Justice

/s/

KATHERINE A. MARAMAN

Associate Justice

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EXHIBIT “A”

TRIAL COURT CASE ASSIGNMENT PROCEDURES

[Administrative Rule 16-002; Effective January 1, 2017]

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 Superior Court 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

A. Creation of “Therapeutic Courts¹” and Driving While Under the Influence Docket; Assignment of Cases to The Therapeutic Courts and Docket

There shall be five Therapeutic Courts and a one-judge Driving While Under the Influence Docket created for specific types of cases with each Therapeutic Court and Docket slots to be occupied by one judge for a period of three years. The Therapeutic Courts shall be the Family Court I (“FCI”), Family Court II (“FCII”), Family Violence Court (“FVC”), Adult Drug Court (“ADC”), and the Veterans Treatment Court (“VTC”). In addition, the Driving While Under the Influence Court (“DWIC”) Docket will be assigned to one judge. The specific types of cases assigned to each of the Therapeutic Courts/Docket shall remain with that particular Therapeutic

¹ The previous Administrative Rules on case assignments referred to these courts as “Specialty Courts”. Upon recommendation by the Presiding Judge, the “Specialty Courts” are now referred to as “Therapeutic Courts.”

Court/Docket upon the completion of the Therapeutic Court/Docket judge's three-year term, except for cases assigned pursuant to section II(B)(1)(a) below, and become the responsibility of the next incoming Therapeutic Court/Docket judge. All other cases assigned outside the Therapeutic Courts/Docket shall remain the responsibility of the judge who was originally assigned those cases unless that judge is disqualified from the matter.

Each Therapeutic Court/Docket judge shall occupy the allocated Therapeutic Court/Docket for a period of three years after which time the Therapeutic Court/Docket shall be randomly reassigned to another judge. Such random reassignment to the Therapeutic 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 Therapeutic Court/Docket rotation to allow the next incoming Therapeutic Court/Docket judge to adequately prepare for their Therapeutic 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 to the Family

Court Referee² including truancy, beyond control, legal guardianship, status offenses, and Person in Need of Services (“PINS”).

b. Consistent with the One-Judge-One-Family concept, if a juvenile has an active prior or active related case³, any new case involving that juvenile shall be assigned to the same judge or referee, except that the case may be reassigned upon agreement with the Family Court Judges and Family Court Referee.

c. 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.

d. Family Court II shall have a component which will be referred to as the “Juvenile Drug Court (‘JDC’).” All Juvenile cases with a drug or alcohol charge shall be filed as a Juvenile Delinquency case and assigned equally between the two Family Court Judges. If the assigned judge determines that the juvenile, after being assessed is eligible for Juvenile Drug

² Prior to the adoption of this Administrative Rule, the Child Support Hearing Officer also served as a Family Court Referee. On December 1, 2016, the Chief Justice appointed an Administrative Hearing Officer to preside over child support cases and child support issues in domestic cases where the Office of the Attorney General has entered an appearance.

³ An active case includes a case that has not been closed by the court.

Court, the case shall be assigned to Family Court II. The assignment of a Juvenile Delinquency case to the Juvenile Drug Court shall count towards the Family Court II's one-half (1/2) share of Juvenile Delinquency cases.

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. 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. No credit will be given for reassigned general jurisdiction felony and misdemeanor cases since the Family Violence Court judge will not typically be assigned any general jurisdiction felonies and misdemeanors.

3. Adult Drug Court: All felony and misdemeanor cases involving any drug charge shall be assigned to the Adult Drug Court unless they are assigned to the Family Violence Court.

4. DWI Court Docket: All felony and misdemeanor cases involving any DWI charge shall be assigned to the DWI Court Docket.

5. Veterans Treatment Court: All felony and misdemeanor cases in which the defendant has been identified as a veteran shall be reassigned to the Veterans Treatment Court when: (1) the defendant is legally and clinically eligible, as determined by the assigned judge; (2) the defendant executes a participation agreement; and (3) the case is accepted by the VTC judge.

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 § 25A203

shall be equally assigned, one-seventh (1/7) each, to the seven judges. Any of these felonies assigned to a Therapeutic 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. Upon the completion of the Therapeutic Court judge’s three-year term, an active case⁴ assigned to a therapeutic court pursuant to subsection (a), may remain assigned to the original assigned therapeutic judge upon agreement with the next incoming therapeutic court judge.

⁴ An active case includes cases where a judgment or final disposition is pending. All post-judgment or post-disposition cases will remain assigned to the therapeutic court.

b. All felony cases not assigned pursuant to subsection (a) shall be assigned equally, one-third (1/3) each, to the two (2) General Jurisdiction judges, and the DWI court judge. Any of these felonies assigned to the DWI Court Docket pursuant to sections II(A)(1)-(4) above shall count toward that judge's one-third (1/3) share of these felonies.

2. Misdemeanor Cases: All general jurisdiction misdemeanor cases shall be assigned as follows: one-third (1/3) each to the two General Jurisdiction judges and one-sixth (1/6) each to the Family Court I and Family Court II judges.

C. Assignment of Non-Criminal Cases

All non-criminal cases not assigned to the Therapeutic Court or Docket judges shall be divided equally among the seven Superior Court judges, one-seventh (1/7) to each judge, except for Domestic Cases involving a custody dispute brought by unmarried persons. Domestic cases involving a custody dispute brought by unmarried persons shall be equally assigned one-eighth (1/8) to the seven judges and family court referee. Provided, however, that the Family Violence 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 that judge's 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 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 PO case or cases shall be assigned, or

reassigned, to the Family Violence Court as provided under Miscellaneous Rule 2.1.2.

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 Order to Show Cause (“OSC”) hearings, on these types of cases shall be scheduled by the Family Violence Court judge. If the FVC judge is not available to promptly hear the application for a PO, the matter shall remain assigned to the FVC judge but shall be temporarily referred to the on-duty *ex parte* judge for immediate action, as necessary.

4. *Ex parte* applications for civil or non-family 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 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. If the Presiding Judge is disqualified from any of the cases to be consolidated, the next senior judge may meet with the judges involved to attempt to reach consensus on how the litigation should be assigned. The next senior judge shall thereafter make the assignment of the cases to be consolidated. 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 July 1st of each year, and with the approval of the Presiding Judge, 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, Therapeutic 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 Family Court Referee

The Family Court Referee shall be assigned cases pursuant to sections II(A)(1) and (C) above. In addition, the Family Court Referee will hear all juvenile preliminary hearing matters, all child support issues in domestic cases where the Office of the Attorney General has not entered an appearance, and shall also hear traffic cases when the Magistrate Judge, judge *pro tempore* or referee is not available to hear them.

H. Assignment of Cases to Magistrates

The Magistrates will hear all magistrate and arraignment proceedings in criminal cases and juvenile preliminary hearings, when the Family Court Referee is not available to hear them. All civil collection cases, special proceedings cases involving a change of name petition, uncontested divorces where there is a notarized consent on file, unlawful detainer, and restitution cases shall be assigned to the Magistrates. All traffic and small claims cases shall be assigned to the Magistrates. The Magistrates may also be assigned cases and preside over matters as provided under 7 GCA § 4401(c).

I. Assignment of Cases to Administrative Hearing Officer

The Administrative Hearing Officer will hear all child support cases filed by the Office of the Attorney General and child support issues in domestic cases where the Office of the Attorney General entered its appearance.

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.