

Superseded by G.O. 224 Dated & Filed
10.22.93

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FILED

MAY 1 2 21 PM '81

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF

GENERAL ORDER NO. 224

(Supersedes General Orders
Nos. 83 and 84)

ASSIGNMENT OF)
)
CASES AND DUTIES)
)
TO JUDGES)

The assignment of cases and duties to the Judges of
this Court shall be governed as follows:

1.0 CIVIL CASES

All cases of a civil nature shall be assigned to
the individual calendars of the judges of this Court
pursuant to this General Order.

1.1 FILING AND NUMBERING

All cases of a civil nature shall be numbered
consecutively upon the filing of the first
document in each such case. Numbering shall
include the calendar year and consecutive
number within that year e.g. 80-0001 etc.,
81-0001 etc.

1.2 ASSIGNMENT CARDS

Assignment cards shall be prepared and sealed
in plain envelopes under the supervision of
the Chief Judge in such a manner that each judge
of the Court over a period of time shall be
assigned substantially an equal amount of
work. The envelopes containing the assignment

cards shall be shuffled to provide a completely random assignment of cases to the judges of the Court.

Neither the Clerk nor any Deputy Clerk shall have discretion in determining the judge to whom any civil case shall be assigned. The action of the Clerk in the assignment of cases is ministerial only.

1.3 RANDOM SELECTION

The method for assignment of cases chosen by the judges shall be such that the judge to whom any particular matter is to be assigned, shall not be known by or disclosed to the Clerk, any member of his staff or any other person until after such case has been filed and numbered.

1.4 ASSIGNMENT TO A PARTICULAR JUDGE

The Clerk shall, after filing and numbering the case, withdraw a sealed envelope containing the initials of the judge to whom the case is to be assigned.

1.5 DEBITS AND CREDITS IN CIVIL CASES

The Clerk shall make all case-assignment debits and credits resulting from transfer under this General Order at the time assignment cards are next prepared.

2.0 PRISONER PETITIONS [28 USC § 2255]

A petition filed by a prisoner pursuant to 28 USC § 2255 claiming error in the judgment and commitment under which the prisoner is committed or in the proceedings leading up to such judgment and commitment shall be assigned to the judge who has ordered the commitment of the prisoner.

If the committing judge has taken senior status and chooses not to receive the petition or has died, or is otherwise unavailable to receive the petition, then the petition shall be processed as a civil action. The judge receiving the prisoner petition shall receive a credit against the general obligation to receive civil cases.

3.0 WRITS OF HABEAS CORPUS [28 USC § 2241]

Whenever a prisoner files a petition for Writ of Habeas Corpus, such petition shall first be reviewed by such committing judge, or if the committing judge has taken senior status, is deceased or otherwise unavailable, by the Chief Judge to determine whether or not the petition is cognizable under 28 USC § 2255. If the petition is not one cognizable under 28 USC § 2255 it shall be returned to the Clerk to be assigned in the same manner as other civil cases. If the petition is one cognizable under 28 USC § 2255 it shall be assigned pursuant to Paragraph 2.0.

4.0 TRANSFER OF CIVIL CASES BETWEEN JUDGES

4.1 VOLUNTARY TRANSFERS

The judge to whom any particular action or proceeding is assigned will have full charge of such case until terminated except that

- (1) the matter may be transferred by order of the transferor and transferee judge, or
- (2) by order of the Chief Judge, with the consent of the transferor and transferee judge.

If such a transfer is made it shall be respectively debited and credited against the transferor and transferee judges' general obligation to receive civil cases.

4.2 VISITING AND SENIOR JUDGES - DEBITS AND

CREDITS - Matters transferred to a visiting judge or senior judge shall be debited against the general obligation to receive cases of the transferor judge. Credits and debits made pursuant to this rule shall be made when the visiting or senior judge commences trial of the case transferred.

4.3 DISQUALIFICATION OR RECUSAL

If a judge is disqualified or recuses himself from a case for any reason it will be returned to the Clerk for assignment in the same manner as other civil cases. The disqualified or recused judge shall receive a debit against the

general obligation to receive civil cases.

4.4 PROLONGED ILLNESS OR UNAVOIDABLE ABSENCE

In the event of prolonged illness, disability, or other unavoidable absence of the judge to whom a civil case has been assigned, the Court may transfer from the calendar of such absent judge any case or cases deemed necessary to expedite the business of the Court and obtain justice for the litigants. Such case or cases shall be returned to the Clerk for assignment in the same manner as an original case assignment as provided in this General Order.

4.5 UNAVOIDABLE DELAY

The Court by concurrence of two-thirds of all the active and sitting judges (excluding the judge whose case is being transferred) may transfer any case assigned to a judge of this Court if delay in the processing of the case will be detrimental to the interest of justice, to the litigants, and if the calendar of the assigned judge cannot accommodate a reasonably early processing of the case. The judge from whose calendar the case is transferred shall receive a debit against the general obligation to receive civil cases. The case or cases shall be returned to the Clerk for assignment in the same manner as an original

case assignment as provided in this General Order.

5.0 MOTION TO DISQUALIFY A JUDGE

If a motion is made to disqualify a judge pursuant to 28 USC §§ 144 or 455 in any civil case assigned to the judge pursuant to this General Order, the motion shall be referred to the Clerk for assignment to another judge in the same manner as cases are assigned pursuant to this General Order. The judge to whom the motion is assigned shall promptly determine whether the motion is timely filed and is legally sufficient to require a hearing on the disqualification.

If the judge determines that the motion is not timely filed or that the motion is legally insufficient the motion will be denied and the case shall proceed as originally assigned. If the judge determines that the motion is timely and legally sufficient the matter will be set down for hearing at the earliest time practicable. The judge against whom the motion has been filed shall not proceed with the case until the motion has been heard and determined.

If the judge denies the motion the case shall proceed as originally assigned. If the motion is granted the case shall be returned to the clerk for assignment in the same manner as an original case assignment as provided in this General Order.

5.1 MOTION TO DISQUALIFY - CREDIT FOR HEARING

MOTION - If the motion to disqualify requires a hearing pursuant to Rule 5.0 the judge hearing the

motion shall receive a credit against the general obligation to receive civil cases of the hearing judge.

6.0 RELATED CASE TRANSFERS

6.1 PRELIMINARY SCREENING

The Clerk shall promptly examine the original complaint or petition in each civil case and ascertain whether any one or more civil cases previously filed and any one or more currently filed appear

- a. to arise from the same or a substantially identical transaction, happening or event; or
- b. involve the same patent, trademark or copyright, except where in one or both actions the same patent, trademark or copyright is joined with other patents, trademarks or copyrights which do not cover the same or substantially identical subject matter; or
- c. call for determination of the same or substantially identical questions of law and fact; or
- d. for other reasons would entail substantial duplication of labor if heard by different judges.

6.2 DETERMINATION OF RELATED CASE STATUS

Whenever it shall appear to the clerk that

any one or more of the above circumstances set forth in 6.1 exists it shall be the duty of the Clerk to report the cases in question to the judges concerned at the earliest date practicable.

6.3 TRANSFER ORDER

The Clerk's report pursuant to 6.2 shall be accompanied by a transfer order to be signed by the judges concerned with the proposed transfer. The transfer order shall be presented to the transferee judge in the first instance.

6.4 ASSIGNMENT TO JUDGE WITH LOW NUMBER CASE

All pending civil cases which fall within the related case transfer criteria of 6.1 a - d, shall be assigned to the judge to whom the case with the low number has been previously assigned (i.e. the case first filed bearing the lowest case number). An order for transfer of a case subject to this provision shall be made and entered at the earliest practicable date following commencement of the case.

6.5 LIMITATION OF RELATED CASE TRANSFER

Low number transfers shall be limited to 10 cases for which credit shall be given to the transferee judge on the general obligation to receive civil cases except as hereinafter provided.

6.6 RELATED CASE TRANSFERS IN EXCESS OF TEN

If there are more than 10 cases subject to this related case transfer provision the low number judge shall be required to accept all such cases in excess of 10 and shall receive credit on the general obligation to receive civil cases as determined by the Executive Committee taking into account the total number of cases, the difficulty in processing the cases so transferred and fundamental fairness to the litigants and the Court. All transferor judges transferring low number cases shall be debited with the case transferred against the general obligation to receive civil cases.

6.7 RELATED CASE TRANSFERS - CLOSED CASE - If a case is closed before the filing of a new pleading which would qualify as a related case pursuant to Rule 6.1 the case shall be assigned and transferred pursuant to Rule 6.4.

7.0 MULTIDISTRICT CASES

Cases subject to the provisions of 28 USC § 1407 and transferred pursuant to an order of the Panel on MultiDistrict Litigation shall be subject to this related case transfer provision as follows:

7.1 CASES TRANSFERRED TO THIS DISTRICT

Cases transferred to this District by the Panel on MultiDistrict Litigation shall be assigned to the judge designated by the Panel. The judge of this District receiving the assignment of those cases will be credited in the same mannerr as though the cases had originated in this District and transferred pursuant to the low number transfer policy of this Court. Credit shall be given to the transferee judge as provided in paragraphs 6.5 and 6.6 of this General Order.

7.2 CASES TRANSFERRED OUT OF THIS DISTRICT
Cases transferred from the calendar of any judge of this District by the Panel on MultiDistrict Litigation shall be debited in the same manner as though transferred as a related case to another judge of this Court.

7.3 CASES RETURNED TO THIS COURT FOR TRIAL
Cases returned to this Court for trial after processing by a MultiDistrict transferee judge in another district shall be re-assigned to the calendar of the judge from whom the transfer was originally made. At the time of such assignment the judge shall receive credit for the case against the general obligation to receive civil cases.

7.4 CASES RETURNED BY THE TRANSFEREE JUDGE

TO THE ORIGINATING DISTRICT - Cases returned by the transferee judge to the originating Court shall be subject to being debited to the obligation to receive civil cases as determined by the Executive Committee taking into account the total number of cases and the difficulty of the work performed on the cases so transferred.

8.0 CRIMINAL CASES

All cases of a criminal nature shall be assigned to the individual calendars of the judges of this Court pursuant to this General Order.

8.1 ASSIGNMENT

Assignment of criminal cases to a judge of the the Court shall be by random selection by the Magistrate at the time of arraignment drawing a sealed envelope containing the initials of the judge to whom the case is to be assigned.

8.2 ASSIGNMENT CARDS

Assignment cards shall be prepared and sealed in plain envelopes under the supervision of the Chief Judge in the same manner as provided for civil case under paragraph 1.2 of this General Order.

Neither the Magistrate, Magistrate's Clerk nor any Deputy Clerk shall have discretion in determining the judge to whom a criminal case shall be assigned. The action of the Magistrate in the assignment of criminal cases is ministerial only.

8.3 DEBITS AND CREDITS IN CRIMINAL CASES

The Clerk shall make all criminal case assignment debits and credits resulting from transfer under this General Order at the time assignment cards are next prepared.

8.4 TEMPORARY ABSENCE OR UNAVAILABILITY IN THE DISTRICT

When a Judge may be either absent from the District, ill, or on vacation for more than two successive Mondays, he may instruct the Arraignment Calendar Magistrate that no cases are to be assigned to him for trial during the period of his absence, or that defendants in cases assigned to him are to be instructed to appear before him on a certain date for entering a plea and setting for trial, or that only cases in which the defendants are on bond shall be assigned to him, and other appropriate instructions. The Arraignment Calendar Magistrate shall follow the instructions as closely as reasonably possible. When an

assignment card of a Judge pursuant to this paragraph is drawn and the absent Judge has instructed that no case be assigned to him in the circumstances, the card will be put aside and held until the return of the absent Judge. An appropriate notation shall be made on the card, including the date upon which it was drawn, the number on the calendar and the case number. When the judge returns, or indicates that cases should be assigned for trial, a notation shall be made on the card that it has been returned to the wheel on a certain date, and the card shall again be placed in the wheel in a sealed envelope as before.

8.5 TRANSFER OR CRIMINAL CASES BETWEEN JUDGES

8.5.1 VOLUNTARY TRANSFER

Judges may voluntarily transfer case among themselves in the same manner as provided for in civil cases in paragraph 4.1.

8.5.2 VISITING AND SENIOR JUDGES

Criminal cases transferred to a visiting or senior judge shall be treated in the same manner as civil cases in paragraph 4.2.

8.5.3 DISQUALIFICATION OR RECUSAL

Criminal cases shall be handled in the same manner as provided for civil cases in paragraph 4.3.

8.5.4 PROLONGED ILLNESS OR UNAVOIDABLE
ABSENCE

In the event of prolonged illness, disability or other unavoidable absence of a judge to whom a criminal case has been assigned the Court may transfer from the calendar of such absent judge any case or cases which shall be in jeopardy of violating the provision of the Speedy Trial Act of 1974 and its amendments 18 USC § 3161 et seq.

8.5.5 MOTION TO DISQUALIFY A JUDGE

If a motion is made to disqualify a judge pursuant to 28 USC § 144 or 455 in any criminal case it shall be handled in the same manner as provided for civil cases in paragraph 5.0.

8.6 RELATED CASE TRANSFERS - CRIMINAL CASES

8.6.1 RELATED INDICTMENTS

Where an information or indictment is filed concerning a defendant (1) arising out of the same transaction or series of transactions (2) involving the same defendant or (3) for other reasons would entail substantial duplication of labor if heard by a different judge, the matter shall be assigned to the calendar of the judge having the low-numbered indictment or information subject to the reservation provided in Paragraph 8.6.2.

8.6.1.1 REFERENCE TO CRIMINAL DUTY

JUDGE - If the judge to whom the case is assigned pursuant to paragraph 8.6.1 feels the case is not a re-related indictment or information the matter shall be referred to the Criminal Duty Judge for final determination of the nature of the questionable assignment.

8.6.2 MULTIPLE DEFENDANTS

Where the original information or indictment and the later filed information or indictment does not have a majority of common defendants this rule shall not apply.

8.6.3 RULE 20

Where an information or indictment originating in another district is transferred to this Court pursuant to Rule 20 F.R.Cr.P. involving a defendant proceeded against by indictment or information in this District the Clerk shall place the Rule 20 transferred matter on the calendar of the judge to whom the matter arising in this District is assigned for disposition. No card credit shall be given to the judge to whom such Rule 20 matter has been assigned for disposition.

If an indictment is returned in this dis-

trict against a defendant who has a Rule 20 plea pending the indictment shall be referred to the judge to whom the Rule 20 plea has been assigned. No assignment credit shall be given for the subsequently assigned indictment.

8.6.4 INDICTMENTS PREVIOUSLY DISMISSED

Whenever an indictment has been dismissed before trial any new indictment involving the same transaction or series of transactions and at least a majority of the same defendants shall be assigned to the judge to whom the first indictment was assigned. No assignment credit shall be received for the succeeding indictment assigned pursuant to this sub-paragraph.

8.6.4.1 REFERENCE TO CRIMINAL DUTY JUDGE -

If the Judge to whom the case is assigned pursuant to Paragraph 8.6.4 feels the case has been assigned improperly the matter shall be handled in the same manner as related indictments in Paragraph 8.6.1.1.

8.6.5 ASSIGNMENT CREDIT

Any assignments made pursuant to this General Order shall give the receiving judge assignment credit for the subsequently assigned case except as provided in paragraph 8.6.3 and 8.6.4.

8.6.6 RELATED CASE TRANSFER - DUTY OF U. S.

ATTORNEY - It shall be the continuing duty of the United States Attorney to advise the Court through the Clerk of any matter which would be subject to the provisions of Rule 8.6.1, 8.6.2, 8.6.3, or 8.6.4.

8.7 PRESERVATION OF ASSIGNMENT CARDS DRAWN

All assignment cards drawn for case assignment shall be preserved as a record for two years after the end of the calendar year in which the card was drawn.

8.8 PREPARATION OF ASSIGNMENT CARDS AND
PLACEMENT IN WHEEL

Criminal assignment cards shall be prepared under the direction of the Clerk and supervision and direction of the Chief Judge. After the close of business at the end of each calendar month, a sufficient number of cards shall be prepared for each judge receiving criminal case assignments to satisfy the requirements of one month's business and still leave approximately 60 cards in the assignment wheel at the end of the month.

8.9 CRIMINAL CASE - RETURN TO PENDING CASE FILE -

8.9.1 UNAVAILABILITY OF DEFENDANT - Whenever

a defendant because of physical disability or mental incompetency or fugitive status, becomes unavailable for trial, during or after trial, or after plea of guilty and it is anticipated the defendant cannot be available for more than 30 days, the judge to whom the case is assigned shall return the case to the Clerk's pending criminal case file. If the defendant shall thereafter become available the case shall be reassigned to the judge to whom the case was first assigned. No credit against the general obligation to receive criminal cases shall be given upon re-assignment of the case.

9.0 CRIMINAL DUTY JUDGE

9.1 CRIMINAL DUTY JUDGE - ESTABLISHMENT - There shall be provided in this Court a criminal duty judge who shall perform the duties in criminal cases assigned from time to time by general order.

9.2 CRIMINAL DUTY JUDGE - DUTIES - The criminal duty judge shall perform on behalf of the Court the the following duties:

- . hear and determine all contempt matters arising from grand jury proceedings

. hear applications for and authorize or deny a request for grant of immunity brought on behalf of the United States.

. hear and grant or deny applications for wire-tapping and electronics surveillance brought on behalf on the United States.

. receive and examine jail lists and take appropriate action thereon when necessary to expedite the administration of justice.

9.3 CRIMINAL DUTY JUDGE - TERM - The judges, except the Chief Judge, in order of seniority shall rotate the criminal duty judge functions for a period of three months as provided by the order of the Chief Judge, general order or resolution of the Court.

10.0 NATURALIZATION DUTY JUDGE

10.1 NATURALIZATION DUTY JUDGE - ESTABLISHMENT -

There shall be provided in this Court a naturalization duty judge who shall perform the duties in naturalization and citizenship matters assigned from time to time by general order.

10.2 NATURALIZATION DUTY JUDGE - DUTIES - The naturalization duty judge shall perform on behalf of the Court the following duties:

. preside over proceedings admitting applicants to United States Citizenship

. hear and determine contested naturalization or denaturalization proceedings commenced during the term.

10.3 NATURALIZATION DUTY JUDGE - TERM - The judges except the Chief Judge, in order of seniority shall rotate the naturalization duty judge functions for a period of three months as provided by order of the Chief Judge, general order or resolution of the Court. No judge shall be required to perform naturalization duty judge functions within six (6) months of the performance of duties as criminal duty judge.

11.0 CRIMINAL DUTY AND NATURALIZATION DUTY ROSTER - The Executive Committee shall periodically review the roster of criminal and naturalization duty to provide for integration of newly appointed judges into the duty rosters as soon as practicable after appointment.

This General Order shall be effective May 1, 1981.