

FILED
April 10, 2008
CLERK, US DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
Y. Williams
DEPUTY CLERK

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

IN RE:)
)
ADOPTION OF AMENDMENT TO)
APPENDIX A (k)(1)(2)(3)(4) OF THE)
LOCAL RULES)
_____)

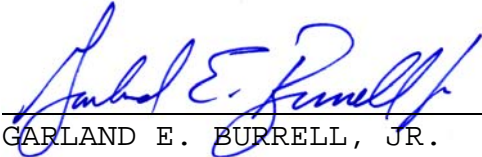
GENERAL ORDER NO. 467

Good cause appearing.

The attached amendment to Appendix A(k)(1)(2)(3)(4) of the Local Rules is adopted by the Judges of this court, IT IS HEREBY ORDERED that the amendment is **effective June 2 , 2008.**

FOR THE COURT:

Dated: April 10, 2008



GARLAND E. BURRELL, JR.
Chief United States District Judge

APPENDIX A

AUTOMATED CASE ASSIGNMENT PLAN

(a) Purpose. This Assignment Plan is adopted to set forth a method whereby actions are assigned in this District, in accordance with the provisions of 28 U.S.C. § 137. Civil and criminal cases shall be assigned at random by means of an Automated Case Assignment System. All proceedings hereunder shall be under the supervision of the Clerk.

(b) Assignment of Civil Actions. Upon the filing of the initial complaint or other document first filed in a civil action, the Clerk shall assign a case number which shall be consecutive and prefixed by a the number "1:" denoting Fresno or "2:" denoting Sacramento, a filing year (the last two digits of the year in which the action is filed), followed by a "-cv-" and the next available case number available. Example: 1:05-cv-00205.

(c) Assignment of Criminal Actions. Upon the filing of the indictment, information, or other first document in a criminal action, the Clerk shall mark as provided in paragraph (b) except that "-cr-" will be used instead of "-cv-."

(d) Assignment of Miscellaneous Actions. Upon the filing of the first document in any action other than a civil action or a criminal action, the Clerk shall mark it as provided in paragraphs (b)(1) and (2), except that "mc" will be used instead of "cv."

(e) Assignment Procedure. The Clerk shall assign actions to a Judge sitting in Sacramento or Fresno, where the action is filed, in the following manner:

(1) There shall be a separate category for each of the following types of cases:

A. Sacramento:

1. Appeals (Magistrate Judge Decision)
2. Bankruptcy
3. Civil Rights
4. Contract
5. Criminal 01 - 05 Defendants
6. Criminal 06 - 10 Defendants
7. Criminal 11 + Defendants
8. Criminal/Misdemeanor
9. Criminal/Petty Offense
10. Death Penalty/Capital Cases
11. Emergency/TRO
12. Federal Tax Suits
13. Forfeiture/Penalty

14. Labor
15. Magistrate Judge Civil
16. Magistrate Judge Death Penalty
17. Magistrate Judge HHS
18. Magistrate Judge Miscellaneous
19. Magistrate Judge Pris. Civil Rights
20. Magistrate Judge Pris. Habeas Corpus
21. Magistrate Judge Pro Se
22. Miscellaneous
23. Other Statutes
24. Personal Injury
25. Personal Property
26. Prisoner Petitions
27. Pro Se
28. Property Rights
29. Real Property
30. Settlement Conferences
31. Settlement Conferences (MAG)
32. Social Security

B. Fresno:

1. D.C. Civil Rights
2. D.C. Habeas Corpus
3. Death Penalty
4. Eight or More Defendants
5. Five - Seven Defendants
6. Fresno Criminal Misdemeanors
7. Fresno Judge Assignment - Civil
8. Fresno Mgst Assignment - Civil
9. Magistrate Pris. Civil Rights
10. Magistrate Pris. Habeas Corpus
11. Magistrate Social Security
12. Miscellaneous Civil
13. One Defendant Only
14. Two - Four Defendants
15. Bakersfield Magistrate Judge - all civil cases venued in Kern or Inyo counties.

(2) Each category or "deck" shall contain a number of "cards" signifying the name of each active Judge. The number of cards for each Judge shall be equal, except as may from time to time be determined by the Court.

(3) The "deck of cards" shall be automatically shuffled by the computer at the time the categories are filled and each time an assignment is made, so that the sequence of the Judge's names shall be random and secret.

(4) When the initial document is presented for filing and has been marked pursuant to paragraph (b), (c) or (d), the Clerk shall draw a Judge from the applicable category in the Automated Case Assignment System on the computer.

(5) Thereafter the Clerk shall proceed by assigning the initials of the assigned Judge and Magistrate Judge, immediately after the case number placed on the document pursuant to paragraph (b), (c), and (d). All subsequent papers filed in the action shall bear the designation "1:" or "2:" followed by the year, case type "-cv-," "-cr-," or "-mc-" and the case number, followed by the initials of the assigned Judge or Judge and Magistrate Judge, e.g., "1:05-cr-00200-ABC" or "2:05-cv-0700-ABC-DEF."

(6) The assignment of each action shall be completed as each initial document is presented for filing and before the processing of the next action is begun.

(7) In emergency situations (in Sacramento) when counsel deems prompt action necessary and if the assigned Judge is absent or otherwise unable to hear the matter in time, the Clerk shall draw the name of another Judge in the manner hereinabove described from the category "Emergency Applications." The matter shall be returned to the calendar of the unavailable assigned Judge upon completion of the hearing on the emergency application unless the matter is transferred pursuant to these Rules.

(f) Reassignments.

No action, once assigned, shall be reassigned to any other Judge except as hereinafter provided:

(1) Actions may be reassigned between Judges on order signed by the transferring and accepting Judges as approved by the Court.

(2) Actions may be assigned and reassigned by order of the Court to effectuate the related case rule. See L.R. 83-123.

(3) In the event the Judge to whom an action has been assigned files therein a statement of disqualification or is disqualified, the Court may make an order directing the Clerk to draw again for reassignment of the action to another Judge and to replace the name of the disqualified Judge in the Automated Case Assignment System.

(4) With the approval of the Court en banc, the Chief Judge may make such other assignments, reassignments or related orders as are conducive to the equitable division and just, efficient and economical determination of the business of the Court.

(5) At the time of each reassignment the Clerk shall make such appropriate adjustment in the Automated Case Assignment System as is necessary to balance the equal number of "cards" in each assignment category.

(g) Visiting Judges. Whenever a Judge has been assigned to serve as a visiting Judge in this Court, the Chief Judge shall, prior to the arrival of such Judge, make an order transferring to the visiting Judge from the other Judges those actions designated by them as available for transfer. Selection of actions for this purpose shall be made upon a basis equitable among all the Judges and after consultation with them.

(h) Review of Assignments. A Judge may request the Chief Judge to review an assignment or reassignment. If the Chief Judge requests such review, the Chief Judge shall designate another Judge to serve on the hearing of such request. A Judge affected by a ruling may have the ruling reviewed by the Court en banc.

(i) Assignment Reports.

(1) The Clerk shall maintain assignments in the Automated Case Assignment System which shall contain an account of all actions assigned to each of the Judges or to any visiting Judge and all reassignments among Judges.

(2) At the end of each month, the Clerk will prepare from the foregoing records for the Chief Judge (copy to each Judge) a report showing the number of actions assigned to and pending before each Judge and such other information as the Chief Judge may direct.

(j) Social Security Actions. Notwithstanding any other provision in Appendix A, Social Security individual benefits review cases brought in Sacramento under 42 U.S.C. §§ 405(g), 1383(c)(3) and 1395ff, shall be assigned as follows:

(1) When initially assigned, the case shall be randomly assigned to a Magistrate Judge only. The parties shall forthwith be informed of their right to consent to proceed before a Magistrate Judge pursuant to 28 U.S.C. § 636(c). Such notice shall be handed or transmitted by the Clerk to the plaintiff at the time the action is filed, and the plaintiff shall transmit the notice to all other parties as an attachment to copies of the complaint and summons, when served. The form entitled Consent to Assignment or Request for Reassignment shall be returned to the Clerk within ninety (90) days from the date the action was filed.

(2) If all executed Consent to Assignment or Request for Reassignment forms have not been returned within ninety (90) days, parties will be ordered to show cause why the forms have not been returned to the Clerk.

(3) If any party requests reassignment to a United States District Judge, the Clerk will randomly assign a District Judge to hear the action. In the absence of a future consent by all parties, the case shall be adjudicated pursuant to 28 U.S.C. § 636(b)(1)(A) and (b)(3); Eastern District Local Rule 72-302(c)(15).

(k) Prisoner Civil Right and Habeas Corpus Actions. Notwithstanding any other provision in Appendix A, cases encompassed by Eastern District Local Rule 72-302 (c)(17) (generally cases brought by a person in state custody for habeas corpus relief or

whether in state or federal custody pursuant to 42 U.S.C. §1981 et seq. or its federal Bivens equivalent) shall be assigned as follows:

(1) When initially assigned, the case shall be randomly assigned to a Magistrate Judge only. The parties shall be given notice of their right to proceed before a Magistrate Judge pursuant to 28 U.S.C. §636(c). Such notice shall be transmitted by the Clerk to the plaintiff/petitioner as soon as practicable after the filing of the complaint. Respondents in habeas corpus actions shall be given notice at the time the petition is transmitted to the appropriate government attorney. Defendants in civil rights actions shall be given notice when an order to serve defendants is issued. Notice shall include a form entitled "Consent to Assignment or Request for Reassignment," and the form shall be returned no later than 30 days after receipt of the consent notice referenced above.

(2) If executed Consent to Assignment or Request for Reassignment forms have not been returned as required by paragraph (1) above, the parties may be ordered to show cause why the forms have not been returned to the Clerk.

(3) If any party requests reassignment to a United States District Judge, the Clerk shall randomly assign a District Judge as presiding judge. In the absence of a future consent by all parties, the case shall be adjudicated pursuant to 28 U.S.C. § 636(b)(1)(A) and (b)(3); Eastern District Local Rule 72-302(c) (17). Cases in which all parties have consented pursuant to 28 U.S.C. §636(c) shall remain assigned to the Magistrate Judge only.

(4) In the event not all named parties have appeared but all who have appeared have consented, the Magistrate Judge shall act in the action pursuant to 28 U.S.C. §636(c), and shall so continue to act until the case is reassigned to a District Judge as required by this subsection or otherwise applicable law.