

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED LOCAL RULE CHANGE AND  
OPPORTUNITY TO COMMENT

The United States District Court for the District of Columbia at its September Executive Session approved the publication of the following for notice and comment.

PROPOSED LOCAL RULE CHANGES

**LCrR 6.1**

**GRAND JURY MATTERS**

A motion or application filed in connection with a grand jury subpoena or other matter occurring before a grand jury, all other papers filed in support of or in opposition to such a motion or application, and all orders entered by the Court in connection therewith, shall be filed under seal. ~~Such a motion or application shall be assigned a Miscellaneous case number.~~ Such a motion or application shall be assigned a Grand Jury (GJ) case number and be assigned to the Chief Judge. All hearings on matters affecting a grand jury proceeding shall be closed, except for contempt proceedings in which the alleged contemnor requests a public hearing. Papers, orders and transcripts of hearings subject to this Rule, or portions thereof, may be made public by the Court on its own motion or on motion of any person upon a finding that continued secrecy is not necessary to prevent disclosure of matters occurring before the grand jury.

*COMMENT TO LCrR 6.1 (2018): Effective January 1, 2018, this Court initiated use of 11 new case types for docketing certain types of matters and applications relating to criminal investigations and forfeiture. These new case types are specific to particular types of matters and thus provide greater transparency as to the nature and number of such matters filed in this district. The types of matters now docketed using these new case types previously were docketed using the general MC (Miscellaneous) or MJ (Magistrate Judge) case types. Motions and applications relating to grand jury matters, which previously were filed on the MC docket, are now assigned GJ numbers.*

**LCvR 40.3**

**MANNER OF ASSIGNMENT**

- (a) **RANDOM ASSIGNMENT.**

Except as otherwise provided by these Rules, civil, criminal and miscellaneous cases shall be assigned to judges of this Court selected at random in the following manner:

- (1) The Clerk shall create a separate assignment deck in the automated system for each subclassification of civil and criminal cases established by the Court pursuant to LCvR 40.2 of these Rules and a separate deck for miscellaneous cases<sup>1</sup>. The decks will be created by the Liaison to the Calendar and Case Management Committee or the Liaison's backup and access to this function shall be restricted to these individuals to protect the integrity and confidentiality of the random assignment of cases. The Calendar and Case Management Committee will, from time to time determine and indicate by order the frequency with which each judge's name shall appear in each designated deck, to effectuate an even distribution of cases among the active judges.
- (2) At the time a civil complaint is filed or an indictment or information is returned in a criminal case, the case shall be assigned to the judge whose name appears on the screen when the appropriate deck is selected. The Clerk shall also stamp on the indictment, information, complaint or other initial pleading of each case, and on the file jacket, the number of the case and the name of the judge to whom it is assigned. The numbering and assignment of each case shall be completed before processing of the next case is begun. Notwithstanding the foregoing, a civil case, requiring an emergency hearing, which is filed after normal business hours, shall not be assigned to a judge until the next business day.

**(b) THREE-JUDGE COURT CASES.**

Civil, including miscellaneous, cases requested or required to be heard by a Three-Judge Court shall be randomly assigned to a District Court judge, excluding the Chief Judge.

**(c) BANKRUPTCY MATTERS.**

Bankruptcy matters requiring the attention of a District Judge shall be submitted to the Motions Judge, except as otherwise provided in D.C. LBR 5011-1(f)' and except that appeals from a bankruptcy judge's decisions and cases requiring a jury trial shall be randomly assigned.

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For the purpose of this Rule, miscellaneous cases that will be randomly assigned will include, but not be limited to, these proceedings: (a) actions to perpetuate testimony as in Rule 27, Federal Rules of Civil Procedure; (b) actions to enforce administrative subpoenas and summonses; (c) proceedings ancillary to an action pending in another district; (d) supplementary proceedings brought in aid of execution; (e) motions for return of property in criminal proceedings; and (f) requests for judicial assistance. ~~Grand Jury Miscellaneous cases will continue to be assigned to the Chief Judge and Pen Register Applications will continue to be assigned to magistrate judges.~~

**(d) PRISONER PETITIONS.**

Petitions for a writ of habeas corpus and complaints filed pursuant to 42 U.S.C. § 1983 filed by a petitioner incarcerated in the District of Columbia shall be randomly assigned, except that related petitions from the same petitioner may be assigned to the judge who received the initial petition after consultation with that judge. Motions filed under 28 U.S.C. § 2255 shall, if possible be assigned to the sentencing judge.

**(e) ASSIGNMENT TO VISITING AND SENIOR JUDGES.**

Cases may be assigned to visiting and senior judges in accordance with procedures adopted from time to time by the Calendar and Case Management Committee.

**(f) PROCEEDINGS AFTER ASSIGNMENT.**

All proceedings in a case after its assignment shall be conducted by the judge to whom the case is assigned, except as otherwise provided in these Rules. A judge who declares a mistrial shall retain the case for subsequent proceedings including, where appropriate, retrial.

*COMMENT TO LCvR 40.3: To ensure an even distribution of cases filed on the miscellaneous docket these cases will now be randomly assigned to a judge of this Court at the time of filing. The assigned judge will maintain jurisdiction of the miscellaneous case for all purposes. The assignment of miscellaneous cases does not affect the duties of the Motions Judge as specified in LCvR 40.8*

## **LCrR 57.6**

### **APPLICATIONS FOR RELIEF IN A CRIMINAL CASE OR MATTER BY PERSONS NOT PARTIES ~~TO THE CASE~~**

Any news organization or other interested person, other than a party or a subpoenaed witness, who seeks relief relating to any aspect of ~~the~~ proceedings in a criminal case, or relief relating to a criminal investigative or grand jury matter, shall file an application for such relief ~~in the Miscellaneous Docket of~~ with the Court. The application shall include a statement of the applicant's interest in the matter as to which relief is sought, a statement of facts, and a specific prayer for relief. An application that pertains to a criminal case or matter to which a judge has been assigned ~~The application~~ shall be served on the parties ~~to the criminal case~~ and shall be referred by the Clerk to the ~~trial-assigned judge assigned to the criminal case~~ for determination. An application that pertains to a criminal investigative or grand jury matter to which no judge has been assigned shall be referred by the Clerk to the Chief Judge for determination.

## **LCrR 57.10**

### **MANNER OF ASSIGNMENT**

**(a) RANDOM ASSIGNMENT.**

Except as otherwise provided by these Rules, civil, criminal and miscellaneous cases shall be assigned to judges of this Court selected at random in the following manner:

- (1) The Clerk shall create a separate assignment deck in the automated system for each subclassification of civil and criminal cases established by the Court pursuant to LCrR 57.9 of these Rules and a separate deck for miscellaneous cases<sup>2</sup>. The decks will be created by the Liaison to the Calendar and Case Management Committee or the Liaison's backup and access to this function shall be restricted to these individuals to protect the integrity and confidentiality of the random assignment of cases. The Calendar and Case Management Committee will, from time to time, determine and indicate by order the frequency with which each judge's name shall appear in each designated deck to effectuate an even distribution of cases among the active judges.
- (2) At the time a civil complaint is filed or an indictment or information is returned in a criminal case, the case shall be assigned to the judge whose name appears on the screen when the appropriate deck is selected. The Clerk shall also stamp on the indictment, information, complaint or other initial pleading of each case, and on the file jacket, the number of the case and the name of the judge to whom it is assigned. The numbering and assignment of each case shall be completed before processing of the next case is begun. Notwithstanding the foregoing, a civil case, requiring an emergency hearing, which is filed after normal business hours, shall not be assigned to a judge until the next business day.

**(b) ASSIGNMENT TO VISITING AND SENIOR JUDGES.**

Cases may be assigned to visiting and senior judges in accordance with procedures adopted from time to time by the Calendar and Case Management Committee.

**(c) PROCEEDINGS AFTER ASSIGNMENT.**

All proceedings in a case after its assignment shall be conducted by the judge to whom the case is assigned, except as otherwise provided in these Rules. A judge who declares a

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For the purpose of this Rule, miscellaneous cases that will be randomly assigned will include, but not be limited to, these proceedings: (a) actions to perpetuate testimony as in Rule 27, Federal Rules of Civil Procedure; (b) actions to enforce administrative subpoenas and summonses; (c) proceeding ancillary to an action pending in another district; (d) supplementary proceedings brought in aid of execution; (e) motions for return of property in criminal proceedings; and (f) requests for judicial assistance. ~~Grand Jury Miscellaneous cases will continue to be assigned to the Chief Judge and Pen Register Applications will continue to be assigned to magistrate judges.~~

mistrial shall retain the case for subsequent proceedings including, where appropriate, retrial.

**(d) WIRETAP ORDER APPLICATIONS.**

Applications by the United States Attorney for orders authorizing interception of wire or oral communications shall be assigned in rotation by seniority among the active judges, excluding the Chief Judge.

***COMMENT TO LCrR 57.10:** To ensure an even distribution of cases filed on the miscellaneous docket these cases will now be randomly assigned to a judge of this Court at the time of filing. The assigned judge will maintain jurisdiction of the miscellaneous case for all purposes. The assignment of miscellaneous cases does not affect the duties of the Motions Judge as specified in LCvR 40.8 (a)(b)(c).*

**LCrR 57.14 (and LCvR 40.7)**

**DUTIES OF THE CHIEF JUDGE**

In addition to the trial of such cases as he or she may undertake and other duties provided by these Rules, the Chief Judge shall:

- (a) hear and determine requests for excuse from service on grand and petit juries;
- (b) empanel the grand jury and hear and determine all matters relating to proceedings before the grand jury, [including those referenced in LCrR 6.1](#);
- (c) consider applications for allowance under the Criminal Justice Act in a case not already assigned
- (d) dispose of matters requiring immediate action in criminal cases already assigned to any district judge if that judge is unavailable or otherwise unable to hear the matters;
- (e) hear and determine requests for review of rulings by magistrate judges in criminal matters not already assigned to a district judge; and
- (f) take such other administrative actions, after consultation with appropriate committees of the Court, as in his or her judgment are necessary to assure the just, speedy and inexpensive determination of cases, and are not inconsistent with these Rules.

The Chief Judge may, from time to time, reassign any of the foregoing duties to an active judge for a reasonable period.

***COMMENT TO LCrR 57.14:** Paragraph (f) has been added to affirm the power of the Chief Judge to take other appropriate administrative actions not inconsistent with the Rules.*

**Pursuant to Local Civil Rule 1.1 (b), the Court is required to advise that the proposed rule will be adopted unless modified or withdrawn by the Court after receiving comments from organized bar associations, members of the bar, and the public. Such comments must be made in writing by November 5, 2018 and should be addressed to Kevin M. Hodges, Esq., Chairman, Advisory Committee on Local Rules, Williams & Connolly LLP, 725 Twelfth St., N.W; Washington, DC 20005.**

**ANGELA D. CAESAR, CLERK**