

**RULES OF PRACTICE
OF THE
COURT OF COMMON PLEAS**

STATEMENT OF PURPOSE

Delay in criminal and civil cases in the Courts of Common Pleas throughout the state of Ohio is a serious problem in the administration of justice. Constitutional courts were created to serve the litigants and the interest of the public at large, not for the convenience or benefit of judges and lawyers. Unnecessary delay erodes the public's confidence in the judicial system.

It is the obligation of the judges of the Court of Common Pleas, Franklin County, Ohio, to operate the Court in a manner that is lawful, fair, just, and efficient for the benefit of the citizens of Franklin County and all other litigants that come before it. To that end, the following rules are designed (1) to expedite the disposition of both criminal and civil cases in this Court, while at the same time safeguarding the rights of litigants to the just processing of their cases; (2) to expedite and make consistent the disposition of cases in the general branch of the Court; and (3) to serve the public interest which mandates the prompt disposition of all cases before this Court.

LOCAL RULE 31. ASSIGNMENT OF CASES

31.01 (5-18-04) GENERAL

All cases shall be assigned on a single assignment basis. Each case shall be assigned to a specific trial judge when filed and shall remain with that trial judge until reassignment or final disposition. All decisions relating to the case shall be made by the assigned trial judge. However, a civil case may be referred to a visiting judge, by the assigned trial judge, for a trial on the merits.

A. PROCEDURE FOR RANDOM SELECTION. The Clerk of Court shall maintain a computer listing of the names of all of the General Division trial judges. The clerk shall cause the computer to randomly assign each case to a trial judge. Assignments shall continue until each trial judge has been assigned a case whereupon the process shall be repeated.

B. TRANSFER OR RE-ASSIGNMENT OF CASES. Nothing in this rule shall prevent the transfer of a either a civil or criminal case(s) from one trial judge to another. Such a transfer shall specify the reason(s) for the transfer and shall be approved by the Administrative Judge.

C. RECUSALS. If a trial judge determines that a family, social, political or other relationship might influence the trial judge's judicial conduct or judgment in an assigned case, the trial judge shall recuse. The trial judge shall submit a Recusal/Transfer entry to the Administrative Judge. If the Administrative Judge grants the recusal, the assignment office shall randomly assign the case to another trial judge. The trial judge receiving the recused case shall select a similar case from his or her docket and the same shall be transferred to the recusing trial judge as a replacement for the recused case.

31.02 CIVIL CASES

A. ASSIGNMENT OF CIVIL CASES. At the time of filing, a civil case shall be assigned randomly to a trial judge.

B. ASSIGNMENT OF COGNOVIT JUDGMENTS. Cases filed in which a cognovit judgment

is sought will be assigned to the duty judge.

C. ASSIGNMENT OF TEMPORARY RESTRAINING ORDERS. Names of all trial judges are listed on a temporary restraining order rotation list. When a case is filed and a temporary restraining order sought, the computer shall assign the case to the judge whose name next appears on the temporary restraining order rotation list.

D. REFILED CASES. (02-04-05) If a case has been dismissed and is refiled, the refiled complaint shall contain the following designation under the new case number: "THIS IS REFILED CASE #, PREVIOUSLY ASSIGNED TO" [See example] The trial judge to whom the case was previously assigned shall be reassigned to the refiled case. Failure to comply with this rule may subject the attorney or party to sanctions under Loc. R. 39.05© for:

1. Failing to disclose that the case is a refiled case; and
2. Attempting to proceed with a trial judge who was not assigned to the original case.

Example: "THIS IS REFILED CASE #02CVH-02-0000, PREVIOUSLY ASSIGNED TO JUDGE HOLMES."

E. CONSOLIDATION. When cases involving common questions of law or fact are pending before different trial judges, a party may file a motion to consolidate the cases. The motion shall be filed in each case which the movant seeks to consolidate. The motion to consolidate shall be ruled upon by the trial judge assigned to the case and approved by the trial judge having the lowest numbered case. If cases assigned to different judges are consolidated, both cases shall be assigned to the trial judge having the lowest numbered case.

1. CONSOLIDATION ENTRIES. Upon approval of consolidation, an entry shall be prepared in accordance with Loc. R. 25. The entry shall bear the complete case captions of all cases to be consolidated and signature spaces for all assigned trial judges. The entry shall be initially presented to the trial judge having the lowest numbered case. After signature by the trial judge having the lowest numbered case, the movant shall present the entry for signature by each trial judge whose cases are affected by the consolidation.

2. STYLE OF THE PLEADINGS AND SCHEDULE. Although cases have been consolidated, each case shall remain separate and distinct. All subsequent pleadings shall bear the complete captions of all consolidated cases and shall be filed in each case. The case schedule of the lowest numbered case shall control the proceedings in the consolidated cases, unless otherwise ordered by the trial judge.

31.03 CRIMINAL CASES

A. ASSIGNMENT. Criminal cases shall be assigned randomly to a trial judge immediately after arraignment. The name of the assigned trial judge shall be placed on the file. The only exception to this random assignment are aggravated murder cases with death penalty specifications. Aggravated murder cases with death penalty specifications shall be evenly distributed among the trial judges.

B. RE-INDICTED CASES. If a case has been terminated by nolle prosequi or other form of dismissal, the re-indicted case shall contain the following designation under the case number: "THIS IS RE-INDICTED CASE.#, PREVIOUSLY ASSIGNED" [See example] Additionally, the original case number shall appear under the above designation. The trial judge to whom the case was previously

assigned shall be reassigned to the re-indicated case. If a re-indicted case is not assigned to the previously assigned trial judge, the Assignment Commissioner shall transfer the re-indicted case to the that trial judge.

"THIS IS RE-INDICTED CASE #01CR-0000, PREVIOUSLY ASSIGNED TO JUDGE HOLMES."

C. ASSIGNMENT OF CASES WITH MULTIPLE CO-DEFENDANTS. All co-defendants indicted in a multiple defendant case(s) shall be assigned to the same trial judge. Any subsequent arraignments of other co-defendants shall be assigned to the same trial judge. If a subsequently arraigned co-defendant is not assigned to the same trial judge, and the case(s) involving the co-defendant(s) are still pending, the Assignment Commissioner shall transfer the case to the originally assigned trial judge. At the time of the arraignment of the subsequent co-defendant, the County Prosecutor shall file a notice which provides:

1. the case numbers of all other co-defendants; and
2. the name of the trial judge to whom the first co-defendant was assigned.

D. ASSIGNMENT OF CASES OF DEFENDANTS WITH ACTIVE PROBATION CASES. If a probationer is indicted on a new case, the new case shall be assigned to the trial judge who placed the defendant on probation or community control.

If the defendant/probationer is not assigned to the trial judge who place the defendant on probation or community control, the Assignment Commissioner shall transfer the new case to the appropriate trial judge.

E. ASSIGNMENT OF CASES WHEN THE DEFENDANT HAS PENDING CASES. If a defendant is arraigned on a new case and the defendant has pending case(s) assigned to a trial judge, the new case shall be assigned to that trial judge. In the event that the defendant is a co-defendant in the new case, the new case shall be assigned to the trial judge previously assigned the case(s) of the other co-defendants.

F. TRANSFERS BY THE ASSIGNMENT COMMISSIONER. When required and without approval of the Administrative Judge, the Assignment Commissioner may transfer a criminal case, except for aggravated murder cases with death penalty specifications, from one trial judge to another. The Assignment Commissioner shall file a "Notice of Criminal Case Transfer" with the Clerk of Courts. The notification shall list the reason(s) for the transfer. The notification shall be signed by either the Assignment Commissioner or Deputy Assignment Commissioner. The Assignment Commissioner shall notify:

1. the trial judge to whom the case has been transferred;
2. the trial judge from whom the case is being transferred.

G. PRIORITY OF ASSIGNMENTS. In the event that a case is subject to more than one assignment category, the following assignment priority applies:

1. Re-indicted cases;
2. Co-Defendant cases;

3. Pending cases; and
4. Active probation cases.

H. REMOVAL OF A TRIAL JUDGE FROM THE RANDOM DRAW. If a transfer is made to a trial judge pursuant to Local Rule 31.02, that trial judge shall be removed from the random draw for new criminal cases for one assignment cycle.

I. ASSIGNMENT OF AGGRAVATED MURDER CASES WITH DEATH PENALTY SPECIFICATIONS.. All aggravated murder cases with death penalty specifications will be assigned as follows. Each judge is assigned a number from 1 through 17. Each number is inscribed on a die. To commence the assignment process, all seventeen dies are placed in a leather bottle; the bottle shaken; and a single number spilled out. The judge assigned to that number will be assigned the first aggravated murder case with death penalty specifications. Once a number has been spilled out, it will not be returned to the leather bottle until all of the remaining numbers have been exhausted. The remaining fifteen numbers will remain in the leather bottle.

With the filing of the next aggravated murder case with death penalty specifications, the remaining dies/numbers in the leather bottle are shaken and a single number spilled out. The judge assigned to that number will be assigned to the next death penalty case. This process repeats with the filing of each new aggravated murder case with death penalty specifications until the leather bottle is empty of numbers. When the last number is spilled out and the seventeenth aggravated murder case with death penalty specifications assigned, all of the numbers are placed back in the leather bottle to repeat the process. This process will be performed in public by the Executive Director, or his designee, in the presence of the Duty Judge and anyone wishing to witness it.

J. THREE JUDGE AGGRAVATED MURDER CASES WITH DEATH PENALTY SPECIFICATIONS. If a defendant in an aggravated murder case with death penalty specifications, seeks to enter a plea of guilty to one or more death penalty specifications (s) or, waives a jury trial in writing and on the record, the case shall be submitted to a three trial judge panel. The assigned trial judge shall serve as the presiding judge over the trial of the case. The two additional trial judges shall be designated, pursuant to R.C. 2945.06, by the Presiding Judge of the Court and selected at random by lot. Specifically, the Executive Director, or his designee, shall place numbered dies, one for each of the remaining General Division trial judges in a leather bottle; shake it; and spill out the name of the second and third judges to serve on the three judge panel with the assigned trial judge. This process shall be performed in the presence of the counsel for the state, counsel for the defendant, the assigned trial judge, and anyone wishing to witness it. An entry reflecting the selection of the second and third judges shall be signed by the Presiding Judge and filed with the clerk. The trial or plea shall proceed as specified in R.C. 2945.06 and/or Crim. R. 11 (C).
(6-17-05)