

**RULES OF PRACTICE
OF THE
FRANKLIN COUNTY
COURT OF COMMON PLEAS
GENERAL DIVISION**

LOCAL RULE 31. ASSIGNMENT OF CASES

31.01 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 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 is sought, the computer shall assign the case to the judge whose name next appears on the temporary restraining order rotation list.

D. Refiled Cases.

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(C) 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. Criminal Case Assignment Generally. (7-1-17)

1. Assignment of criminal cases shall be random to all active judges of this division of the court, and shall occur no sooner than indictment or the presentation of a bill of information and no later than upon arraignment. Pursuant to Sup. R. 36, the assignment process followed in

this court is intended to ensure judicial accountability for the processing of individual cases; timely completion of cases through prompt judicial control over the pace of the litigation; and equitable distribution of cases between and among all judges.

2. The name of the assigned trial judge shall be publicly identified on the case management system promptly following assignment or transfer of every case.

3. The only exceptions to the random assignment system are for:

a. Aggravated murder cases indicted with death penalty specification(s), which shall be evenly distributed among all trial judges of this division of the court by special draw done in accordance with Local Rule and Sup. R. 36.013; and

b. Any other individual cases in which the Administrative Judge deems it essential to order a reassignment by lot among all remaining judges of the court pursuant to Sup. R. 36.015 (case management) or Sup. R. 36.018 (following recusal).

4. In the event a case is subject to more than one criterion for assignment, the following priority applies:

a. Re-Indicted cases;

b. Active Community Control cases;

c. Co-Defendant cases;

d. Already pending trial cases.

5. Except in cases specially assigned or reassigned under Section (A) (3) or Section (F) of this Local Rule, the Assignment Commissioner shall originally assign all cases and, as appropriate, transfer cases without explicit prior approval of the Administrative Judge. When cases are transferred after initial assignment to a judge, the Assignment Commissioner shall publicly file a “Notice of Criminal Case Transfer” with the Clerk, listing each case transferred, and the reason(s)

for each transfer. Such a Notice shall be signed electronically by an authorized representative of the Assignment Commissioner. Electronic copies will promptly notify both the trial judge to whom the case has been transferred, and the judge from whose docket the case was transferred.

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 that trial judge.

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

C. Assignment of Cases with Active Community Control. (7-1-17)

1. When a single defendant is indicted in a new case, and he or she is already subject to active community control sanctions in this court, that defendant's newly filed case shall be assigned to the same judge already exercising jurisdiction over defendant's community control case(s).

2. If multiple defendants are indicted in a new case or related cases and one or more of them also have active community control cases with judges of this court, all such co-defendants' new trial cases shall be assigned to the judge having the lowest case number with an active community control case. That judge shall also be assigned all additional co-defendants' cases indicted thereafter. Absconding defendants are *not* deemed to be on "active" community control for the purpose of this Local Rule, and such cases shall be disregarded.

D. Assignment of Cases with Co-Defendants. (7-1-17)

1. Absent active community control cases as addressed under Section C above, co-defendants indicted in a multi-defendant case or cases arising from substantially the same alleged crime(s) shall all be assigned to the trial judge randomly drawing the lowest numbered case.

2. Upon arraignment of additional co-defendants, all new cases shall also be assigned to the trial judge who received the lowest numbered original case. At the time of filing new indictments of additional co-defendant(s), the Prosecutor's Office shall include the name and case numbers of all other co-defendants on each indictment for case assignment purposes.

E. Assignment When Defendant Has Pending Cases. (7-1-17)

1. If a defendant already has a case open on the active trial docket when he or she is arraigned on a new case, and there is neither active community control nor co-defendants as addressed above, the new case shall be assigned to the same trial judge assigned to the already-pending trial case.

2. In the event that a defendant is newly arraigned after related cases with co-defendants have begun, that defendant's new case(s) shall be assigned to the trial judge previously assigned to hear all related cases. For assignment purposes, active community control and active co-defendant cases have priority in assignment over active individual trial cases.

F. Administrative Judge Determinations. (7-1-17)

The Administrative Judge shall adjust case assignments in the event unusual situations arise, and is the final arbiter of any questions arising under this Local Rule or Sup. R. 36.

G. Removal of a Trial Judge from the Random Draw.

If a criminal case other than an aggravated murder case with death penalty specifications is transferred from the docket of another judge, the receiving judge shall be removed from the

random draw for new criminal cases for one assignment cycle. When an aggravated murder case with death penalty specifications is transferred, Section (H)(4) shall apply.

H. Assignment of Murder Cases with Death Penalty Specifications. (7-1-17)

1. All aggravated murder cases with death penalty specifications will be assigned pursuant to this Local Rule.

2. Each sitting Judge will be assigned a number from 1 through 17. To commence the assignment process 17 dies, separately numbered from 1 to 17, will be placed in a leather bottle. Promptly after shaking, a single numbered die will be dropped out. The Judge assigned that number will be assigned the first murder case with a death penalty specification, and their number will be retired and not returned to the bottle until all but one of the remaining numbers have been randomly drawn in this fashion. With the filing of the next murder case with death penalty specifications the remaining numbered dies will remain in the bottle and, after being shaken, another single number will be dropped out indicating the individual assignment of that murder case. The process repeats with each newly filed murder case carrying death penalty specifications until only one number remains in the bottle; at that point all 17 numbers are replaced in the bottle, and the process begins anew.

3. Random drawing of the assigned judge will be performed in public by the Executive Director of the court or his or her designee, in the presence of the Duty Judge, any member of the bar, and any member of the news media who affirmatively requests to witness the process.

4. If, after assignment in this manner, an individual judge recuses from a murder case with death penalty specifications to which they have been assigned that case shall be re-drawn randomly to all remaining judges using the original assignment procedure; following which, the

numbered die for the judge who recused shall be returned to the bottle and be included among those available when the next murder case with death penalty specifications is assigned.

I. Three-Judge Murder Cases with Death Penalty Specifications. (7-1-17)

1. If a defendant in an aggravated murder case with death penalty specifications either seeks to enter a plea of guilty to one or more counts carrying death penalty specifications, or to waive a jury trial in writing and on the record, the case shall then be submitted to a three-judge panel. The originally assigned trial judge shall serve as the presiding judge of the panel.

2. Two additional trial judges for a panel shall be selected by lot by the Executive Director of the court or his or her designee, using a random drawing of two numbered dies from a leather bottle containing dies for each of the other 16 judges. The process shall be observed by counsel for the state, counsel for the defendant, the assigned trial judge, the Presiding Judge (or if unavailable the Administrative Judge), any other member of the bar, and any member of the news media who affirmatively requests to witness the process. Following the draw, the two additional judges shall be formally designated in an Entry signed by the Presiding Judge and filed with the Clerk, pursuant to R.C. 2945.06. If, following assignment in this manner, an individual judge recuses from a murder case with death penalty specifications to which they have been randomly assigned, a replacement judge shall be re-drawn randomly from all remaining judges using the original assignment procedure.

31.03 Effective date

Amendments to this Local Rule Section 31.03 are effective July 1, 2017, for all assignments made on and after that date.