

<p align="center">STATE OF MICHIGAN 6TH JUDICIAL CIRCUIT</p>	<p align="center">METHOD FOR ASSIGNING GENERAL CIVIL AND CRIMINAL CASES IN THE CIRCUIT COURT</p>	<p align="center">ADMINISTRATIVE ORDER 2007-02</p>
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Scope

This administrative order is issued in accordance with Michigan Court Rule 8.112(B) which allows a trial court to issue administrative orders governing internal court management. This order sets forth a method for assigning general civil and criminal cases in the Sixth Judicial Circuit Court. The assignment of family division cases is addressed in Administrative Order 2003-02J.

Assignment of Cases

I. Judicial assignments shall be accomplished by blind draw.

A. Civil cases.

Assignment shall occur at the time the case is filed unless otherwise provided by court rule, administrative order or directive of the chief judge. The county clerk shall perform the blind draw for civil cases.

B. Criminal cases.

Unless otherwise provided by court rule, administrative order or directive of the chief judge, the circuit judge will be assigned as follows: the Prosecutor's Office or court administrator of the district court shall advise the court administrator of the circuit court of the case(s) to be assigned either upon the presentation of notice for a warrant by the Prosecutor's Office or the arraignment of a defendant in district court on an offense not cognizable by the district court; whereupon the court administrator of the circuit court shall immediately assign a circuit judge to the case by blind draw.

II. Blind Draw Procedure

A. Blind draw packs shall be prepared by Information Technology under the direction of the court administrator in the following categories:

1. General civil and appeals
2. Criminal
3. Homicide, defined as 1st or 2nd degree or open murder charges

B. Blind draw packs shall be assembled as follows:

1. Blind draw packs shall contain an equal number of cards per judge with his/her name printed thereon; however, the chief judge may designate that each pack contain fewer cards for himself/herself, and for the chief judge pro tempore.
2. The blind draw packs for homicide cases shall contain two cards for each judge handling homicides.
3. The following procedure will be used to secure blind draw cards when the blind draw is done manually. When a case is filed, the top card bearing a judge's name shall be stamped with a consecutive case number stamp. Once stamped, the card can be detached and the name of the judge disclosed. The card as stamped shall indicate the judge to whom the case is assigned, unless otherwise provided by this directive. The cards shall be preserved and filed in a locked depository. Requests to review blind draw cards must be made to the court administrator.
4. If the blind draw is computerized, the print-outs shall be maintained by the court administrator. Requests to review the print-out of the blind draw must be made to the court administrator.

III. Excess Cases – This section applies only to certain criminal assignments specified below. Such cases shall be designated as an “excess case.” The court administrator shall record the number of cases exceeding one for that judge.

A. A case in any of the following categories will be treated as an excess case:

1. Multiple cases arising from the same criminal transaction – Where two or more criminal cases arise out of the same criminal transaction or occurrence the court administrator shall perform only one blind draw. All cases then or subsequently started arising from that criminal transaction shall be assigned to the judge whose name was drawn.
2. Single defendant, previous case pending – If a criminal defendant in a case being started is the sole defendant, and he/she has a previous pending case (defined below), in which he/she is also the sole defendant, there shall be no blind draw. This case shall be assigned to the judge who has the previous pending case.
3. Multiple defendants, previous case(s) pending. Section III(A)(2) shall also apply to identical multiple defendants with previous case(s) pending.
4. Definition of a pending criminal case – A criminal case shall be considered pending before the Circuit Court from the time the case is filed in the County Clerk's office until the judge has sentenced the defendant, dismissed the charge against him or her, or ordered the case removed from the calendar.

- B. When drawn, a blind draw card shall not be used if the judge named thereon has any “excess cases” recorded after his or her name, but the number of excess cases recorded for that judge shall be reduced by one.
- C. Any blind draw card not utilized to assign a criminal case by reason of Section III(B) shall be clearly marked as to why it was not utilized and stored as if it were a used blind draw card.
- D. Homicide cases are to be commenced without regard to the status of the excess case list.

IV. General civil and criminal exceptions to blind draw.

- A. Assignment of civil cases arising out of the same transaction or occurrence is governed by MCR 8.111(D).
- B. A case shall not be assigned by blind draw if it falls within one of the exceptions listed below. These exceptions supplement those identified in MCR 8.111(D).
- C. Civil case exceptions.
 - 1. All remanded cases returned to circuit court shall be assigned to the judge to whom the case was assigned upon original filing in the circuit court. This includes criminal cases remanded for further proceedings in district court and civil cases transferred to district court pursuant to MCR 2.227 and later appealed.
 - 2. When a Driver’s License Restoration Petition is filed and court records indicate a previous driver’s license restoration case for the same party, the new case shall be assigned to the judge who heard the prior case or cases.
 - 3. When a Driver’s License Restoration Petition is filed and court records indicate that the petitioner’s license was taken away as a result of a previous criminal case, the driver’s license restoration petition shall be assigned to the judge who handled the previous criminal case.
 - 4. An appeal from a decision of the Parole Board shall be assigned to the same judge to whom the underlying criminal case was assigned.
 - 5. A declaratory action shall be assigned to the same judge to whom the underlying case in controversy was assigned. If a declaratory action is filed prior to the case in controversy, the case in controversy shall be assigned to the same judge to whom the declaratory action was assigned.
- D. Criminal case exceptions.
 - 1. Multiple cases arising from the same criminal transaction. Where two or more criminal cases arise out of the same criminal transaction or occurrence, the court

administrator shall perform only one blind draw. All cases then or subsequently started arising from that criminal transaction shall be assigned to the judge whose name was drawn.

2. Single defendant, previous case pending. If a criminal defendant in a case being started is the sole defendant, and he/she has a previous pending case as defined in section III(A)(4), in which he/she is also the sole defendant, there shall be no blind draw. This case shall be assigned to the judge who has the previous pending case.
3. Multiple defendants, previous case(s) pending. Section IV(D)(2) above shall also apply to identical multiple defendants with previous case(s) pending.
4. Dismissed case started again. Upon starting any criminal case or cases arising out of the same transaction or occurrence as a case or cases dismissed without prejudice, the later criminal case or cases shall be assigned to the judge to whom the dismissed criminal case was previously assigned.
5. Previous Civil Actions. That the defendant in a criminal case being filed is or was a party to any previous civil action(s) commenced in the circuit shall have no effect on this rule, except as follows:
 - a. If a writ of habeas corpus, superintending control, or appeal from district or probate court was previously filed, arises from the same transaction or occurrence as the criminal case now being started, and was assigned to one of the judges of this circuit, there shall be no blind draw.
 - b. The new criminal case being started shall be assigned to the judge previously drawn, as if the habeas corpus, superintending control, or appeal from district or probate court were a previous case pending.
 - c. However, this exception does not apply to a habeas corpus filed by the prosecutor.
6. Assignment for purposes of appointment of counsel. Cases being bound over from district court to circuit court for trial which have been previously assigned by blind draw or otherwise in accordance with this rule for purposes of appointing counsel for defendant shall be assigned to the judge previously assigned to appoint counsel.
7. A homicide resulting from a felony previously assigned shall be assigned to the judge handling the underlying felony.
8. Appeals from a criminal case in district court shall not be assigned by blind draw if that criminal case is pending as defined in III(A)(4), but shall be assigned to the judge who appointed counsel.

V. Mass Tort Cases.

- A. Identification of Mass Tort Cases – A series of five or more cases arising out of the same transaction or occurrence shall be deemed to be mass tort cases. An attorney or party, in accordance with MCR 2.113(C)(2) and MCR 8.111(D)(3), must notify the court of any previous actions arising out of the same transaction or occurrence. An attorney who fails to so notify the court is subject to disciplinary action.
- B. Reassignment – This order applies to all pending and future actions filed in the Oakland County Circuit Court, wherein there are five or more cases involving the same defendant. Each new action must indicate on the first page of the complaint that:

“A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in [this court]/[_____ Court], where it was given docket number _____ and was assigned to Judge _____. The action [remains]/[is no longer] pending.”. MCR 2.113(C)(2)(b).

- 1. With the exception of the judge with the lowest case number, subsequently called the original judge, each judge with a pending mass tort case shall prepare a reassignment order assigning the case to the original judge. The Case Management Office shall process the reassignment of all affected cases. The chief judge shall direct the Case Management Office to reassign all mass tort cases to the original trial judge.
- 2. A party or attorney who objects to the transfer may raise the objection by filing a motion before the chief judge. Such motions must be filed within 14 days after the reassignment order is mailed to the party or counsel, as determined by the proof of service.
- 3. The original judge to whom the mass tort cases are reassigned shall receive a docket adjustment equal to the number of mass tort cases reassigned to his/her docket.
- 4. The judge from whom the mass tort cases were reassigned shall receive an equal number of cases, of like age and case type, as may reasonably be expected, from the original judge to whom the mass tort cases were reassigned.

VI. Reassignment of cases.

- A. Cases shall be reassigned according to the provisions of MCR 8.111.
- B. If it appears to any two judges that the interests of justice would better be served by reassignment of any case, that case may be reassigned to another judge of this circuit for good cause and by written order of the chief judge.

- C. If a civil case arising out of the same transaction or occurrence as a case previously filed in this circuit is inadvertently assigned by blind draw to a judge other than the judge handling the previously filed case, the new case shall be reassigned to the judge handling the previously filed case.
- D. If a previously filed civil case has been closed, and the judge who handled the previously filed case is no longer handling that case type, any new or subsequent case arising out of the same transaction or occurrence will be assigned according to the Alternate Judge Table in use at the time the prior case was filed.
- E. Administrative Error. If it comes to the attention of the court administrator that for any reason proper procedures were not followed in the assignment of any case, he/she shall notify the judges involved, and may initiate an Order of Reassignment in accordance with this Administrative Order.
- F. Any dispute as to the proper reassignment of any case shall be resolved by the chief circuit judge.

VII. Disqualification of a Judge.

- A. If a judge is disqualified or for other good cause cannot undertake an assigned case, the chief judge may direct reassignment to another judge according to the appropriate Alternate Judge Table.
- B. When a case is reassigned as a result of a judge being disqualified, and later the basis for disqualification is removed, the case shall be returned to the original judge. If the original judge is no longer handling that case type, the case will not be reassigned.
- C. Following disqualification and reassignment of a case, the judge receiving the reassigned case shall have 14 days to give back to the reassigning judge a case of similar type and age. If a case has not been assigned back within 14 days, the caseload/ADR supervisor shall propose a case for reassignment from the docket of the receiving judge within 7 days thereafter. The chief judge shall approve the reassignment of cases under this provision in accord with MCR 8.111(D)(4).

VIII. Procedure for Orders of Reassignment.

- A. All orders for reassignment shall be on forms prepared by the court administrator and approved by the chief judge. The order shall contain the reason for reassignment. If the reason for reassignment is based upon an Order for Consolidation or Disqualification of a Judge, such order shall be attached to the Order for Reassignment.
- B. All orders for reassignment shall first be presented to the judge to whom the case will be reassigned, second to the judge transferring the case, and finally to the chief judge for signature.

- C. All orders for reassignment shall be initiated by the court administrator and recorded prior to circulation for signature. In criminal cases, after approval by the chief judge, the Order for Reassignment shall be returned to the court administrator for processing prior to filing in the County Clerk's Office. In civil cases, after approval by the chief judge, the Order for Reassignment shall be returned to the caseflow/ADR supervisor for processing prior to filing in the County Clerk's Office.

Effective: 4-16-07

Dated: 3-21-07



WENDY POTTS
Chief Judge

NOTES:

1. This Administrative Order replaces Administrative Order 2006-01. Administrative Order 2006-01 combined Chief Judge Directive 1985-3 and Administrative Order 2001-06. Upon approval Administrative Order 2006-01, Chief Judge Directive 1985-3 and Administrative Order 2001-06 were rescinded.
2. Sections II (Blind Draw Procedure), III (Excess Cases), VI. C-E (Reassignment of Cases, VII (Disqualification of a Judge), and VIII (Procedure for Orders of Reassignment) originate from Chief Judge Directive 1985-3. These sections were combined with Administrative Order 2001-06 for the purpose of establishing a single document in which the method for assigning general civil and criminal cases in the circuit court is described.