

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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In re: Amendment to Local Rules 50.1, Categories and  
Classification of Cases, 50.2 Assignment of Cases,  
and 50.3.2, Related Criminal Cases

Administrative  
Order  
2012-01

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WHEREAS amendments to Local Civil Rule 50.1(a)(1)(C) and 50.2(c)(2) implementing procedures for allocation and assignment of patent cases under the Patent Pilot Program pursuant to Pub. L. No. 111-349 §1 have been reviewed by a Court Committee; and

WHEREAS the Board of Judges has approved and adopted the Patent Pilot Program rule changes; and

WHEREAS the Circuit Judicial Council has reviewed and approved the Patent Pilot Program rule changes pursuant to 28 U.S.C. § 332; and

WHEREAS the Chief District Court Judge has designated judges as participating in the Patent Pilot Program pursuant to Pub L. No 111-349 § (a)(1)(A); and

WHEREAS the Board of Judges has approved and adopted an amendment to Local Rule 50.3.2 implementing a Related Criminal Case rule; and

WHEREAS the Circuit Judicial Council has reviewed and approved the Related Criminal Case rule pursuant to 28 U.S.C. § 332;

NOW, therefore, IT IS HEREBY ORDERED, that the amendments to Local Civil Rule 50.1, Categories and Classification of Cases, Local Civil Rule 50.2, Assignment of Cases, and Local Criminal Rule 50.3.2, Related Criminal Cases, attached to this Administrative Order, are hereby adopted by the Eastern District of New York, and that the amendment is effective immediately.

SO ORDERED.

Dated: Brooklyn, New York

January 10, 2012

  
Carol Bagley Amon  
Chief Judge

-ATTACHMENT

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**50.1 Categories and Classification of Cases; Information on Cases and Parties**

(a) Categories of Cases.

Cases shall be divided into the following main categories:

(1) Civil.

(A) Regular.

(B) Multidistrict Litigation.

(C) Patent.

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**50.2 Assignment of Cases**

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(c)

(1) There shall be separate Brooklyn and Long Island civil assignment wheels. At least quarterly the Chief Judge shall fix the proportion of cases to be assigned to the Long Island courthouses so as to distribute the civil cases relatively equally among all the active judges.

(2) There shall be separate patent assignment wheels for district judges and magistrate judges. A district judge or magistrate judge not in the patent assignment wheel who receives a new patent case by random selection from the civil assignment wheel may elect, within thirty (30) days of assignment for district judges and seven (7) days of assignment for magistrate judges, to direct reassignment of the case. A new district or magistrate judge, or both, will then be assigned by random selection from the appropriate patent assignment wheel(s).

## **Local Rule 50.3.2 Related Criminal Cases**

### **(A) In General**

1. For purposes of this rule, a "case" refers to a criminal proceeding commenced by indictment or information. It does not include wiretap applications, motions in connection with grand jury proceedings, or ex parte motions made outside of a proceeding commenced by indictment or information.

2. All criminal cases shall be randomly assigned upon filing.

3. This rule shall not be deemed to prevent the reassignment of cases at the initiative of and by agreement of the judges involved.

4. As stated in the Introduction to these Division of Business Rules, this rule is adopted for the internal management of the case load of the court and shall not be deemed to vest any rights in litigants or their attorneys and shall be subject to such amendments from time to time as shall be approved by the court.

### **(B) Relevant Considerations in Relating Cases**

1. There shall be a presumption that one case is "related" to another when the facts of each arise out of the same charged criminal scheme(s), transaction(s), or event(s), even if different defendants are involved in each case.

2. The presumption shall be overcome upon a determination by the relevant judges that reassignment would not achieve a significant savings of judicial resources or serve the interests of justice.

3. In a case involving racketeering charges, the determination of whether that case should be related to another shall be made on the basis of the predicate acts charged, not the criminal enterprise.

4. If a defendant has been convicted in more than one case and the sentences are pending before different judges, each of the pending sentences shall be imposed by a single judge determined by all of the relevant judges to be best suited to do so.

**(C) Obligation of the United States Attorney's Office**

1. It is the affirmative obligation of the United States Attorney's Office ("USAO") to give notice to all relevant judges whenever it appears that one case may be presumptively related to another pursuant to Section B.1. Such notice shall be by letter filed together with the indictment, information or Federal Criminal Rule 7(b) motion and addressed to each of the judges concerned. The letter shall set forth the facts relevant to deciding whether the indictment or information should be related to another case. The letter shall in addition state clearly whether its purpose is solely to provide notice to the Court under this rule, or whether the USAO seeks reassignment.

2. The USAO may move for leave to file a notice required by this rule ex parte and under seal for good cause shown. The USAO shall promptly move to unseal the notice once the need for ex parte and sealed filing no longer exists. Absent leave of court, the USAO shall publicly file a notice indicating that an ex parte sealed filing pursuant to this rule is being submitted.

3. These obligations are continuing. The USAO should endeavor to provide notice that could avoid having two or more judges sentence different defendants or the same defendant in related cases.

**(D) Input from Defendants.** Any defendant may request reassignment to a judge whom the defendant contends has a case that is presumptively related pursuant to Section B.1. In addition, any defendant may request that a case previously assigned to a judge as related be reassigned to the original judge on the ground that it was not properly related. Such requests shall be made by filed letter in both cases, addressed to both judges.

**(E) Joint Applications for Reassignment.** Nothing in this rule shall preclude the USAO and defendant from jointly seeking reassignment to another judge in the interests of justice or on the grounds that a significant savings of judicial resources would be achieved.