

RULES FOR THE DIVISION OF BUSINESS FOR THE
EASTERN DISTRICT OF NEW YORK

ADOPTED PURSUANT TO 28 U.S.C. § 137

Effective June 1, 2022

These Division of Business Rules are adopted for the internal management of the caseload 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.

Rule 1 Categories and Classification of Cases

(a) Categories of Cases. Cases shall be divided into the following main categories:

- (1) Civil;
- (2) Criminal; and
- (3) Miscellaneous.

(b) Civil Cover Sheet. The party initiating a civil action must file a Civil Cover Sheet, the form of which is determined by the Clerk.

(c) Courthouse Designation

(1) A criminal case shall be designated a Central Islip case if the alleged crime was committed wholly or in substantial part in Nassau or Suffolk County. Otherwise, the case shall be designated a Brooklyn case.

(2) A civil case shall be designated a Central Islip case if:

(A) the case has been removed from a New York State Court located in Nassau or Suffolk County; or

(B) in any other case, a substantial part of the events or omissions giving rise to the claim or claims occurred in Nassau or Suffolk County, or a substantial part of the events or omissions giving rise to the claim or claims did not occur in the Eastern District of New York and the defendant (or a majority of the defendants if there is more than one) resides

in Nassau or Suffolk County or, in an interpleader action, the claimant (or a majority of the claimants if there is more than one) resides in Nassau or Suffolk County. For purposes of this Rule, a corporation shall be considered a resident of the county that is either its principal place of business or headquarters.

(C) in any Fair Debt Collection Practice Act case, if the allegedly offending communication was received in either Nassau or Suffolk County.

Otherwise, the case shall be designated a Brooklyn case.

(3) As provided in Rule 2 a party may move to designate a case as a Central Islip or Brooklyn case or to cancel such designation on the grounds that such action will serve the convenience of the parties and witnesses or is otherwise in the interests of justice.

(d) Miscellaneous Cases. The Clerk of Court shall determine which matters shall be given a Miscellaneous Case designation. Such matters shall be assigned as provided in Rule 6. (formerly Rule 50.1)

Rule 2 Assignment of Cases

(a) Time of Assignment. The Clerk shall assign a civil case upon the filing of the initial pleading to a district and magistrate judge, except that the Board of Judges may at its discretion, consistent with Local Rule 72.2, determine that certain categories of civil cases shall not be assigned to a magistrate judge. The Clerk shall assign a criminal case to a district and/or magistrate judge, depending on the nature of the application or charging instrument filed.

(b) Random Selection Procedure. All criminal, civil and miscellaneous cases shall be randomly assigned by the Clerk as provided in these Rules. Wiretap applications shall be randomly assigned upon filing to a District Judge.

(c) Assignment of Civil Cases. There shall be separate Brooklyn and Central Islip civil assignment wheels. The Board of Judges shall fix the proportion of cases to be assigned between the Brooklyn and Central Islip Courthouses as necessary.

(d) Assignment of Criminal Cases. There shall be separate Brooklyn and Central

Islip criminal assignment wheels. There shall be separate Brooklyn and Central Islip criminal misdemeanor assignment wheels for the random assignment of these matters to a magistrate judge.

(e) Place of Trial. A case shall be tried at the Courthouse to which the case has been designated, except that where the judge presiding over the trial is normally resident at the other Courthouse, the location of the trial shall be determined by presiding judge. The Courthouse at which a trial takes place may be changed upon the consent of all the parties and the presiding judge.

(f) Motion to Change Courthouse Assignment. Any request by a party to change a courthouse assignment shall be made by motion:

(1) in a criminal case, within fourteen (14) days from a defendant's initial appearance or

(2) in a civil case, within the time allowed to respond to the complaint.

Any motion under this subsection (f) may be denied by a judge upon the grounds that the case assignment has been determined pursuant to Rule 5.

(g) Subject to 28 U.S.C. § 1915, pro se applications or claims by persons in custody shall be filed without prepayment of fees upon receipt, prior to decision on any in forma pauperis petitions.

(h) Chief Judge; Senior Judges; Temporarily Overloaded Judges; Notice of Removal from Wheel.

(1) The Chief Judge and each Senior Judge shall indicate to the Clerk the percentage of a full caseload and type of case that he or she elects to have assigned.

(2) The Chief Judge, with the consent of a judge, may remove that judge from any wheel temporarily, for one month or less, to reduce the number of newly assigned cases. Such temporary removal may be renewed by the Chief Judge, who shall inform the Board of Judges of any removal that cumulatively exceeds two months. The Clerk shall return that judge

to the wheel upon the expiration of the period of temporary removal. The Clerk shall upon request inform any attorney or party of the identity of judges whose names have been removed from a wheel.

(i) Visiting Judge. The Chief Judge shall approve the assignment or transfer of cases to a visiting district judge.

(j) Proceedings After Assignment. All proceedings in a case after assignment shall be conducted by the assigned judges, except as provided by these Rules.

(k) Recusal. A district judge or magistrate judge may recuse himself or herself at any time in accordance with 28 U.S.C. § 455.

(l) Appeals-Assignment on Reversal or Remand

(1) In a criminal case, upon reversal of a judgment and a direction for retrial or resentencing, the case shall remain assigned to the original district judge, except that when directed otherwise by the Court of Appeals, following receipt of the mandate, the Clerk shall randomly select a different district judge to preside over the case.

(2) In a civil case upon reversal the case shall remain assigned to the district and magistrate judges who were previously assigned.

(formerly Rule 50.2)

Rule 3 Related Civil Cases

(a) “Related” Civil Case Defined. A civil case is “related” to another civil case for purposes of this Rule when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same district and magistrate judge. A civil case shall not be deemed “related” to another civil case merely because the civil case involves identical legal issues, or involves the same parties. Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (b), civil cases shall not be deemed to be “related” unless each case is still pending before the Court.

(b) **Judicial Determination That Civil Cases Are “Related.”** Other than the cases described in paragraph (d), civil cases shall not be deemed “related” for purposes of this Rule unless and until there has been a determination by a judge of this court that the standard of paragraph (a) is met, *i.e.*, that because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same district judge and/or magistrate judge. Any party may apply for such a determination by filing a motion in the lowest-numbered case among the applicable cases, and a notice of the filing of such motion in all affected cases. The motion shall be made by letter not to exceed three pages in length, and submitted no later than 30 days after at least a majority of the defendants have been served with the complaint, unless the judge passing on the application permits a later filing for good cause shown. Before making such a motion, the applicant must confer in good faith with all other parties in an effort to reach an agreement on whether or not the case is “related,” and provide a certification that such efforts were made. After such a motion is made, any other party may serve and file within seven (7) days a letter of no more than three single-spaced pages supporting or opposing the application. Where the judges presiding over the cases at issue agree on whether cases should be reassigned, the district or magistrate judge presiding over the lowest-numbered case may grant or deny the motion. In other cases, the motion shall be decided the Chief Judge.

(c) **Assignment of Related Cases.** Cases which have been judicially determined to be related shall be assigned by the Clerk to the judge(s) assigned to the case with the lowest docket number in the series of related cases.

(d) In the interest of judicial economy, the following categories of civil cases shall be deemed to be “related” without further order of the court: (1) all habeas corpus petitions filed by the same petitioner; and (2) all pro se civil actions filed by the same individual.
(formerly Rule 50.3)

Rule 4 Related Criminal Cases

(a) In General. For purposes of this Rule, a “case” refers to a criminal proceeding commenced by indictment or information. A “case” does not include wiretap applications, motions in connection with grand jury proceedings, or ex parte criminal motions or applications.

(b) Relevant Considerations in Relating Cases

(1) There shall be a presumption that one criminal 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, or when the same criminal conduct is charged in an indictment and a violation of probation or supervised release.

(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 alleged criminal enterprise.

(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 related to another pursuant to Rule 4(b) above. Such notice shall be provided by letter at the time of the filing of any indictment, information or Federal Criminal Rule 7(b) motion, complaint, or report alleging a violation of probation or supervised release, or if the relevant facts first become known subsequent thereto, promptly thereafter. The letter shall set forth the facts relevant to deciding whether the cases are related. Unless it otherwise states, the letter will be interpreted having been submitted only to provide notice to the Court, and not as an application from the USAO seeking reassignment of the cases. Any request for reassignment must be made pursuant

to Rule 4(d) below.

(2) The USAO may move for leave to file a notice required by the 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) Applications for Reassignment

(1) Either the USAO or any defendant may file an application seeking reassignment of a case to a judge whom the defendant contends has a case that is related pursuant to Rule 4(b)(1). Either the USAO or any defendant may likewise 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.

(2) The USAO and all defendants in a criminal case may jointly seek reassignment of a criminal case to another judge in the interests of justice or on the grounds that a significant savings of judicial resources would be achieved.

(3) Any application for reassignment shall be made by letter motion filed in the affected cases. Where the judges presiding over the cases at issue agree on whether cases should be reassigned, the judge presiding over the lowest-numbered case grant or deny the motion. In other cases, the application shall be decided by the Chief Judge.

(formerly Rule 50.3.2)

Rule 5 Reassignment of Cases at the Court's Discretion; No Vested Rights

These Rules are adopted for the internal management of the caseload 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. Nothing in these Rules shall be deemed to prevent the reassignment of cases at the initiative of the Chief Judge by agreement of the judges involved. The Chief Judge may, at any time with the consent of the judges involved, reassign individual cases between judges or from one Courthouse to another at any point, including for trial. The Chief Judge may also change the percentage allocation of cases between the Central Islip and Brooklyn Courthouses, or otherwise change the distribution of cases between courthouses and/or among judges, to accommodate changes in the complement of judges, to further more efficient resolution of cases, or for any other reason in the interests of justice.

(formerly Rule 50.4)

Rule 6 Miscellaneous Duty Judge and Duty Magistrate Judge

(a) Duties and Functions of the Miscellaneous Duty Judge

(1) The miscellaneous duty judge shall hear and determine matters requiring immediate action in cases already assigned to judges of the Court, if those judges are unavailable or otherwise unable to hear the matter, only for such immediate emergency action. The matter or case will remain assigned to the judges originally selected at random. Matters that cannot be immediately assigned shall be handled by the miscellaneous duty judge until random assignment is made by the Clerk.

(2) The miscellaneous duty judge shall preside over admissions to the bar and naturalization proceedings.

(b) Duties and Functions of Duty Magistrate Judges. The Chief Magistrate Judge shall maintain a calendar of judges assigned to serve as Duty Magistrate Judge(s). Duty Magistrate Judges shall:

(1) Preside over arraignments and conduct other duties consistent with 28 U.S.C. § 636, Local Civil Rule 72.1 and Local Criminal Rule 59.1;

(2) Receive indictments and enter presentment orders, and discharge grand

juries;

- (3) Decide requests to be excused from service on the grand and petit juries;

and

- (4) Preside over admissions to the bar and naturalization proceedings when requested.

(formerly Rule 50.5).

Rule 7 Jury Selection by Magistrate Judges

The Chief Magistrate Judge shall maintain a schedule of magistrate judges to conduct jury selection upon the consent of the parties in either a criminal or civil case and upon referral from the assigned District Judge.

(former Rules 50.6 and 50.7 deleted effective June 1, 2022).