

#347

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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IN THE MATTER OF GENERAL RULES  
FOR THE ASSIGNMENT OF CASES TO JUDGES  
BY THE CLERK'S OFFICE

ORDER

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The clerk of court is hereby directed to implement a case assignment system for the court pursuant to the guidelines in this order.

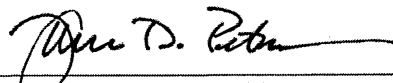
1. Except as otherwise provided in this order, random selection will control the assignment of cases. The clerk of court will establish separate random assignment decks for the following case types: criminal, pro se civil, patent, social security, counseled civil rights, non-magistrate judge, and other civil. For purposes of case assignment, pro se cases include any case in which one or more plaintiffs are not represented by counsel. Non-magistrate judge cases include bankruptcy appeals, federal collection and foreclosure actions, and petitions for writ of habeas corpus pursuant to 28 U.S.C. § 2241 or 2254. The percentage of cases assigned to each judge within each category will be set by the chief judge and may be changed by the chief judge at any time.
2. Any new case that is related to an earlier filed case should be assigned in non-random fashion to the judge who received the earlier case. The civil case information sheet or criminal cover sheet should be of assistance to the clerk of court in identifying related cases. In addition, the personnel in the clerk's office are expected to attempt to identify related cases based on their own understanding of pending litigation.

3. All cases filed by the same individual within five years of a prior filing should be assigned to the judge who received the first such case. All criminal cases against an individual defendant should be assigned to the same judge who received the first such case. All motions brought pursuant to 28 U.S.C. § 2255 should be assigned to the sentencing judge.
4. All cases, whether appeals or otherwise, arising out of the same or related bankruptcy matters should be assigned to the judge who received the first such case. The clerk of court may seek assistance from the bankruptcy court in identifying matters arising out of the same or related bankruptcy cases.
5. In the event of a recusal, the clerk of court will reassign the case in accordance with assignment percentages set by the chief judge. Cases that are assigned in a fifty-fifty split will be automatically reassigned to the non-recusing judge. In some circumstances the clerk of court will know at the time of case filing that recusal will be necessary if a particular judge should receive that case, as for example, when a judge owns stock in a company involved in the case. In such circumstances the clerk of court shall reassign the case without express recusal by that judge.
6. Whenever a case is assigned to a magistrate judge and written consent of all parties is not obtained per 28 U.S.C. § 636, the clerk of court will assign the case in accordance with assignment percentages set by the chief judge.
7. Whenever the clerk of court assigns a case to a judge other than as a result of the random selection process, a notation should be placed on the docket sheet that the assignment was made in non-random fashion.

8. If a deputy clerk is uncertain about the application of this order to an assignment, the deputy clerk should seek the advice of the clerk of court or chief deputy clerk. If the clerk of court or chief deputy clerk thinks that this order is ambiguous as applied to the assignment of a case, the chief judge should be consulted.
9. Any party who questions the assignment of a case should first inquire of the clerk of court or chief deputy clerk concerning the method that was used in assigning that case. Thereafter a motion may be filed with the judge to whom the case is assigned challenging the case assignment as having been made in a manner inconsistent with this order. The court may at any time direct that any case or cases be reassigned to a different judge.
10. This order vacates the order of October 19, 2015 on the subject of general rules for the assignment of cases to judges.

Entered this 1<sup>st</sup> day of May, 2018.

BY THE COURT:



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JAMES D. PETERSON  
Chief Judge