

**PROPOSED AMENDMENTS TO THE RULES OF SUPERINTENDENCE
FOR THE COURTS OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until October 12, 2016, on the following proposed amendments to the Rules of Superintendence for the Courts of Ohio.

Comments on the proposed amendments should be submitted in writing to: Tasha Ruth, Manager of Case Management Section, Supreme Court of Ohio, 65 South Front Street, 6th Floor, Columbus, Ohio 43215-3431, or tasha.ruth@sc.ohio.gov not later than October 12, 2016. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

48 requests for continuances, shall be submitted for disposition to the judge to whom the case
49 has been assigned or, if the assigned judge is unavailable, to the administrative judge. The
50 individual assignment system ensures all of the following:

- 51
- 52 (a) ~~Judicial accountability for the processing of individual cases;~~
 - 53
 - 54 (b) ~~Timely processing of cases through prompt judicial control over cases and~~
55 ~~the pace of litigation;~~
 - 56
 - 57 (c) ~~Random assignment of cases to judges of the division through an objective~~
58 ~~and impartial system that ensures the equitable distribution of cases between or~~
59 ~~among the judges of the division. Each~~
 - 60

61 **(C) Particular session of court**

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63 “Particular session of court” means the system in which cases are assigned by subject
64 category rather than by the individual assignment system.

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66

67 **RULE 36.011. Individual Assignment System.**

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69 **(A) Adoption of system**

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71 Except as provided in Sup.R. 36.012 through 36.014, each multi-judge general, domestic
72 relations, probate, and juvenile division of the a court of common pleas and multi-judge
73 municipal and county court shall adopt the individual assignment system for the
74 assignment of all cases to judges of the court or division, as applicable. Each multi-judge
75 municipal or county court shall adopt the individual assignment system for the assignment
76 of all cases to the judges of that court, except as otherwise provided in division (C) of this
77 rule. Modifications

78

79 **(B) Time of assignment**

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81 Cases shall be assigned pursuant to the individual assignment system as follows:

- 82
- 83 (1) In a civil case in a municipal or county court, when an answer is filed or
84 when a motion, other than a motion for default judgment, is filed;
 - 85
 - 86 (2) In a traffic or criminal case in a municipal or county court, when a plea of
87 not guilty is entered;
 - 88
 - 89 (3) In a civil case in a court of common pleas, when a complaint is filed with
90 the clerk of court;
 - 91
 - 92 (4) In a criminal case in a court of common pleas, no sooner than indictment or
93 the presentation of a bill of information and no later than upon arraignment;

143 or by court personnel at the administrative judge's direction. All assignments of cases to individual judges
144 must be made by lot.

145
146 The purpose of the random assignment, by lot, of cases is to avoid judge-shopping on the part of
147 counsel and to distribute the cases equitably among the judges. ~~"Lot" mandates an assignment arbitrated~~
148 ~~by chance; the determination must be fortuitous, wholly uncontrolled.~~

149
150 ~~Assignment to the judges of the division in an established order of rotation does not comply with~~
151 ~~the rule, even if the order of rotation is altered periodically.~~

152
153 ~~An acceptable method of assignment is a form of drawing from a pool of the names of the judges,~~
154 ~~using paper, balls, or other objects as lots or counter. The pea pool system or the bingo cage are examples.~~
155 ~~To be an assignment by lot, the entire base of the number of judges in the division must be utilized in each~~
156 ~~assignment.~~

157
158 A computer may be used for lot selection as long as random assignment is maintained.

159
160 Assignment by lot can be systematized. Judges can be identified by number. Those numbers can
161 then be arranged in random order by chance over any given range of numbers. The greater the range, the
162 greater the validity of the arrangement. The range of numbers might well represent the total of three years
163 or so of filings. Slips of paper are then printed with serial control numbers on the front and a line for writing
164 in a case number upon assignment. The judges' numbers are printed in the order of their lot determination
165 on the back of the serially arranged slips. The slips are then padded so that the judges' numbers may not
166 be seen. The evidence of the selection or printing list shall not be revealed. When a case is to be assigned,
167 a slip is removed, the case number written on it, the code number of an individual judge is revealed, and a
168 control sheet maintained.

169
170 The practice of making no assignment until "X" number of cases have accumulated when there are
171 "X" number of judges, merely provides for assignment by lot within a very small control and the operation
172 of chance is minimized. That method is only a modified form of rotation and is not assignment by lot.

173
174 Once a case is assigned to an individual judge, by lot, it may be reassigned or transferred to another
175 judge by order of the administrative judge. See the Instructions for Preparation concerning the proper use
176 and reporting of transfers.

177
178 Although many ancillary matters, and in fact the entire case, frequently may be handled by a
179 magistrate, the assignment system mandates responsibility for every case be affixed to a judge. The
180 assigned judge's report form will reflect action taken by the magistrate.

181
182 See Rule Sup.R. 43(E) and its commentary concerning how the numbering system is geared to the
183 record keeping requirements of the individual assignment system.

184
185
186 **(C) RULE 36.012. Assignment of Commercial Docket Eligible Cases.**

187
188 Cases eligible for assignment into a commercial docket of a court of common pleas pursuant to
189 Sup.R. 49.05 shall be assigned as follows:

190
191 (A) If the court has established a commercial docket pursuant to Sup.R. 49.01, the cases
192 shall be assigned to the commercial docket pursuant to Sup.R. 49.07;
193

194 (B) If the court has not established a commercial docket pursuant to Sup.R. 49.01, the
195 cases shall be assigned by lot to a judge of the court or division pursuant to the individual
196 assignment system.

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198
199 **RULE 36.013. Assignment of Capital Cases.**

200
201 Criminal cases in which an indictment or a count in an indictment charges the defendant with
202 aggravated murder and contains one or more specifications of aggravating circumstances listed in
203 R.C. 2929.04(A) shall be assigned to a judge of the court or division who is qualified to hear the
204 cases pursuant to either of the following methods:

205
206 (A) Randomly assigned by lot among all judges who are qualified;

207
208 (B) By a method that meets each of the following requirements:

209
210 (1) Assignments are made by lot from a pool consisting of the names of each
211 judge of the court or division who is eligible to hear the criminal cases;

212
213 (2) Upon receipt of such criminal case, the name of the assigned judge is
214 removed from the pool;

215
216 (3) Upon the assignment of such criminal case to the second-to-last judge in the
217 pool, the names of each judge of the court or division who is eligible to hear capital
218 cases are added back into the pool.

219
220
221 **RULE 36.014. Assignment system to Individual Judge or Particular session. In**

222
223 **(A) Cases eligible for assignment**

224
225 In each multi-judge municipal or county court, cases may be assigned to an individual
226 judge or to a particular session of court pursuant to the following system:

227
228 ~~(1) Particular session. A particular session of court is one in which cases are assigned~~
229 ~~by subject category rather than by the individual assignment system. The following subject~~
230 ~~categories shall be disposed of by particular session:~~

231
232 ~~(a)(1) Civil cases in which a motion for default judgment is made;~~

233
234 ~~(b)(2) Criminal cases in which a plea of guilty or no contest is entered;~~

235
236 ~~(c)(3) Initial appearance in criminal cases;~~

237
238 ~~(d)(4) Preliminary hearings in criminal cases;~~

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240 ~~(e)(5)~~ Criminal cases in which an immediate trial is conducted upon initial
241 appearance;

242
243 ~~(f)(6)~~ Small claims cases;

244
245 ~~(g)(7)~~ Forcible entry and detainer cases in which the right to trial by jury is waived
246 or not demanded.

247
248 ~~(h)~~ Cases where a party has made application to, or has been accepted into, a
249 specialized court or docket.

250
251 To guarantee a fair and equal distribution of cases, a judge who is assigned a case by subject matter
252 pursuant to Sup. R. 36(B)(2), or by virtue of a specialized court or docket pursuant to Sup. R.
253 36(C)(1)(h), may request the administrative judge to reassign a similar case by lot to another judge
254 in that multi-judge common pleas, municipal, or county court.

255
256 ~~(2) Assignment. Cases not subject to assignment in a particular session shall be~~
257 ~~assigned using the individual assignment system. Civil cases shall be assigned under division~~
258 ~~(C)(2) of this rule when an answer is filed or when a motion, other than one for default judgment,~~
259 ~~is filed. Criminal cases shall be assigned under division (C)(2) of this rule when a plea of not~~
260 ~~guilty is entered.~~

261
262 ~~(3) Duration of assignment to particular session. The~~

263
264 **(B) Apportionment of assignments**

265
266 (1) Except as provided in division (B)(2) of this rule, the administrative judge shall
267 equally apportion particular session assignments among all judges. A judge shall not be
268 assigned to a particular session of court for more than two consecutive weeks.

269
270 (2) Division (B)(1) of this rule shall not apply to cases involving an allegation that a
271 judge or staff member of a court, a staff member of the office of the clerk of a court, or any
272 relative of such individuals has committed a traffic or misdemeanor violation within the
273 court's jurisdiction. Such cases shall be initially assigned to the administrative judge to
274 determine if the case shall be reassigned to one of the judges of the court by random lot,
275 assigned to a visiting judge for disposition, or, with the agreement of the parties, retained
276 and disposed of by the administrative judge.

277
278 **Commentary**

279
280 **Rule ~~36(C)~~ Assignment system**

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282 In multi-judge municipal and county courts, ~~Rule 36(C) establishes~~ Sup.R. 36.011 and 36.012
283 establish a dual system for the assignment of cases. Under this system, certain types of cases are
284 processed in a court session, designated particular session, presided over by a judge or magistrate for a
285 specified period of time. Other types of cases are assigned to an individual judge pursuant to the individual
286 assignment system.

287

288 **Rule 36(C)(1) and (2) Particular session; assignment**
289

290 The types of cases designated in ~~division (C)(1)~~ Sup.R. 36.012 for disposition in particular sessions
291 of court are high volume cases that may be processed by a judge or magistrate at a single session. The
292 rule does not preclude the processing of types of cases, other than those listed, that are susceptible to
293 disposition in particular sessions.
294

295 Cases that may not be processed by particular session are civil cases where an answer is filed or
296 a motion, other than one for default judgment, is filed and criminal cases in which a plea of not guilty is
297 entered. These cases are to be assigned pursuant to the individual assignment system at the time the
298 answer, motion, or plea is filed or made.
299

300 **Rule 36(C)(3) Duration of assignment to particular session**
301

302 Assignments to particular session are to be equally divided among the judges of the court and are
303 to be limited to two-week periods. The two week limitation accommodates the individual assignment
304 system, and allows each judge adequate time to work on the cases individually assigned to the judge.
305 Judges should not be assigned to a particular session or a series of particular sessions for more than two
306 consecutive weeks.
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308

309 **RULE 36.015. Case Management of Individual Judge Docket.**
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311 **(A) Authority**
312

313 Pursuant to Sup.R. 4.01 and 39.06 and for good cause, the administrative judge may take
314 necessary action to assist with the case management of an assigned judge's individual
315 docket.
316

317 **(B) Request**
318

319 Upon the request of a judge in a multi-judge court of common pleas, municipal court, or
320 county court, or the Case Management Section of the Supreme Court, the administrative
321 judge of the court or division may, for good cause, take necessary action to assist with the
322 case management of the assigned judge's docket.
323

324 **(C) Reassignment**
325

326 Any cases transferred from the assigned judge's docket shall be reassigned by lot among
327 the remaining judges of the court.
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329

330 **RULE 36.016. Assignment of ~~refiled cases~~ Refiled Cases.** ~~In~~
331

332 In any instance where a previously filed and dismissed case is refiled, that case shall be reassigned
333 to the judge originally assigned by lot to hear it unless, for good cause shown, that judge is
334 precluded from hearing the case.
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338 **Commentary**

339
340 To promote judicial economy and discourage judge-shopping, this division mandates that all
341 dismissed and subsequently refiled cases be reassigned to the originally assigned judge. An exception
342 exists for circumstances in which the original judge is barred from hearing the refiled case.

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345 **(E) RULE 36.017. Assignment ~~new judicial positions~~ of Cases to New Judicial Positions.**

346 After

347
348 After the date of election, but prior to the first day of the term of a new judicial position, the
349 administrative judge of a court or division through a random selection of pending cases shall
350 equitably reassign cases pending in the court or division between or among the judges of the court
351 or division and shall create a docket similar to a representative docket. Reassignment shall be
352 completed in a manner consistent with this rule and may exclude criminal cases and cases
353 scheduled for trial. Any matters arising in cases assigned to the docket for the new judicial position
354 prior to the date on which the judge elected to that position takes office shall be resolved by the
355 administrative judge or assigned to another judge.

356 **Commentary**

357
358 This provision governs the reassignment of pending cases where a new judicial position is added to the
359 court or division. Reassignment of cases must be random, equitable, and accomplished in a manner
360 consistent with the principles set forth in ~~division (B)(1) of the rule Sup.R. 36.011(C).~~ In effect, a random
361 selection system must be used, rather than culling cases from pending dockets. Certain dockets or
362 portions of dockets may be created through the individual assignment system. This method may be
363 particularly useful in assigning criminal cases. The process set forth in ~~division (E) this rule~~ should
364 facilitate the creation of a balanced docket with a minimum disruption of the pending caseload of the court
365 or division.

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368 **RULE 36.018. Assignment of Cases Following a Recusal.**

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371 **(A) General**

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373 Following the recusal of a judge in a multi-judge court or division, the administrative judge
374 shall randomly assign the case among the remaining judges of the court or division who
375 are able to hear the case.

376
377 **(B) Request for visiting judge**

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379 In any case in which the administrative judge reasonably believes based on all
380 circumstances that no judge of the court should hear the case, the administrative judge may
381 request a visiting judge be assigned.

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Commentary (November 1, 2006)

Rule 36 (C)(1)(h)

This amendment specifies that if a judge is assigned cases as a result of a specialized docket, that judge may request that the administrative judge of the court assign similar cases to another judge in order to ensure the fair and equitable distribution of cases within a court.

Commentary (July 1, 1997)

This rule merges the provisions of former C.P. Sup. R. 4 and M.C. Sup. R. 3 into a single rule governing the assignment of cases pursuant to the individual assignment system.