

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

Comments Requested: The Supreme Court of Ohio will accept public comments until July 21, 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: John VanNorman, Senior Policy and Research Counsel, Supreme Court of Ohio, 65 South Front Street, 7th Floor, Columbus, Ohio 43215-3431, or John.VanNorman@sc.ohio.gov not later than July 21, 2016. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendments:

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

1 **RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**
2
3

4 **RULE 36. Designation of Trial Attorney; Assignment System.**
5

6 **[Existing language unaffected by the amendments is omitted to conserve space]**
7

8 (B)(1) Individual assignment system. As used in these rules, “individual assignment
9 system” means the system in which, upon the filing in or transfer to ~~the~~ a court or a division of the
10 court, a case immediately is assigned by lot to a judge of the court or division, as applicable, who
11 becomes primarily responsible for the determination of every issue and proceeding in the case until
12 its termination. All preliminary matters, including requests for continuances, shall be submitted
13 for disposition to the judge to whom the case has been assigned or, if the assigned judge is
14 unavailable, to the administrative judge. The individual assignment system ensures all of the
15 following:

- 16
- 17 (a) Judicial accountability for the processing of individual cases;
 - 18
 - 19 (b) Timely processing of cases through prompt judicial control over cases and the pace
20 of litigation;
 - 21
 - 22 (c) Random assignment of cases to judges of the court or division, as applicable,
23 through an objective and impartial system that ensures the equitable distribution of cases
24 between or among the judges of ~~the~~ that court or division.
25

26 (2) Each multi-judge general, domestic relations, and juvenile division of ~~the~~ a court
27 of common pleas; multi-judge municipal court; and multi-judge county court shall adopt the
28 individual assignment system for the assignment of all cases to judges of the court or division, as
29 applicable. ~~Each multi-judge municipal or county court shall adopt the individual assignment~~
30 ~~system for the assignment of all cases to the judges of that court, except as otherwise~~ As provided
31 in division (C) of this rule. ~~Modifications, modifications~~ to the individual assignment system may
32 be adopted to provide for the redistribution of cases involving the same criminal defendant, parties,
33 family members, or subject-matter. Any modifications shall satisfy divisions (B)(1)(a) ~~to~~ through
34 (c) of this rule and be adopted by local rule of court.
35

36 (C) **Assignment system.** ~~In~~ Except as provided in division (C)(4) of this rule, in each
37 multi-judge ~~municipal or county~~ court or division, cases may be assigned to an individual judge
38 or to a particular session of court pursuant to the following system:
39

40 **[Existing language unaffected by the amendments is omitted to conserve space]**
41

42 **(4) Assignment of commercial docket eligible cases.** A case eligible for assignment
43 into a commercial docket of a court of common pleas pursuant to Sup.R. 49.05 shall be assigned
44 as follows:
45

46 (a) If the court has established a commercial docket pursuant to Sup.R. 49.01, the case
47 shall be assigned to the commercial docket pursuant to Sup.R. 49.07;
48

49 (b) If the court has not established a commercial docket pursuant to Sup.R. 49.01, the
50 case shall be assigned by lot to a judge of the court or division pursuant to the individual
51 assignment system.
52
53

54 **RULE 49.02. Designation or Assignment of Commercial Docket Judges.**

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56 **(A) Designation or assignment by ~~Chief Justice~~**

57
58 Each court of common pleas that has established a commercial docket pursuant to Sup.R.
59 49.01 shall select either of the following methods for designating or assigning commercial
60 docket judges:
61

62 (1) ~~Request the Chief Justice of the Supreme Court to~~ By majority vote of the
63 judges of the general division of the court, designate two or more sitting judges of
64 the general division of the court. The Chief Justice A judge shall not designate be
65 designated a commercial docket judge unless the judge agrees to participate and,
66 within the previous six years, has served on the general division of the court for at
67 least three consecutive years.
68

69 (2) Request the Chief Justice to assign one or more retired judges to active duty
70 on the court pursuant to Article IV, Section 6(C) of the Ohio Constitution.
71

72 **(B) Candidate ~~recommendations~~ considerations**

73
74 ~~The court of common pleas shall submit a written request for either designation or~~
75 ~~assignment of commercial docket judges to the commercial docket subcommittee of the~~
76 ~~Advisory Committee on Case Management. The request shall include the names of any~~
77 ~~candidates for designation or assignment, as applicable, as commercial docket judges. The~~
78 ~~subcommittee shall submit a written report to the Chief Justice recommending the number~~
79 ~~of commercial docket judges for the court and candidates for designation or assignment, as~~
80 ~~applicable, as commercial docket judges. In reviewing a candidate, the subcommittee~~
81 ~~shall~~ When designating or assigning a commercial docket judge pursuant to division (A)
82 of this rule, the judges of the general division of the court or the Chief Justice, as applicable,
83 should consider each of the following:
84

85 (1) ~~The candidate's length of judicial experience;~~

86
87 (2) Any commercial or business-related education or experience the candidate
88 may possess;

89
90 (3)(2) ~~Any commercial or business-related litigation experience the candidate may~~
91 ~~possess, including any specific commercial or business-related litigation in which~~

92 the candidate participated as an attorney ~~or over which the candidate presided as a~~
93 ~~judge~~;

94
95 ~~(4)~~(3) The candidate's case management expertise and experience, including case
96 management of complex litigation;

97
98 ~~(5)~~(4) ~~If applicable~~ For a sitting judge, the candidate's current caseload, including
99 the number of pending cases the candidate may have that are beyond the time limits
100 for disposition pursuant to Sup.R. 39;

101
102 ~~(6)~~(5) Whether the candidate has demonstrated a continuous commitment to the
103 commercial docket concept;

104
105 ~~(7)~~(6) ~~Whether~~ For a sitting judge, whether the candidate demonstrates a
106 willingness to assume any additional duties and responsibilities required by the
107 commercial docket;

108
109 ~~(8)~~(7) Whether the candidate demonstrates a willingness to participate in
110 commercial and business law-related training and education;

111
112 ~~(9)~~(8) The candidate's judicial temperament;

113
114 ~~(10)~~(9) The input and opinion of the regional or local bar associations;

115
116 ~~(11)~~(10) Any other relevant factors or qualifications ~~the subcommittee determines~~
117 ~~to be relevant~~.

118
119 **(C) Term length**

120
121 A court of common pleas that has established a commercial docket with sitting judges of
122 the general division of the court serving as the commercial docket judges pursuant to
123 Sup.R. 49.01 and division (A)(1) of this rule shall adopt a local rule establishing a length
124 of term of no less than three years for the judges.

125
126
127 **RULE 49.03. Termination of Commercial Docket.**

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129 **(A) Sitting judges serving as commercial docket judge**

130
131 If a vacancy in the position of a commercial docket judge occurs in a court of common
132 pleas that has established a commercial docket with sitting judges of the general division
133 of the court serving as the commercial docket judges pursuant to Sup.R. 49.01 and
134 49.02(A)(1), resulting in the court having only one commercial docket judge, and no other
135 judge of the court ~~volunteers to serve and is appointed by the Chief Justice to the~~ designated
136 as a commercial docket judge pursuant to Sup.R. 49.02(A)(1), the court shall terminate the
137 commercial docket as follows:

- 138 (1) The court shall cease assigning cases to the commercial docket;
139
140 (2) Commercial docket cases assigned to the remaining commercial docket
141 judge shall remain with the judge until final disposition;
142
143 (3) Following final disposition of all commercial docket cases assigned to the
144 remaining commercial docket judge, the commercial docket shall cease to exist.
145

146 **[Existing language unaffected by the amendments is omitted to conserve space]**
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148
149 **RULE 49.04. Commercial Docket Judge Education.**
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151 **(A) Initial orientation and education ~~seminar~~ program**
152

153 ~~Each~~ Within the period of time commencing two years prior to appointment to the
154 commercial docket and ending one year following the appointment, each commercial
155 docket judge shall complete an orientation and education seminar program on Ohio
156 business law and the administration of commercial dockets to be offered or approved by
157 the Supreme Court of Ohio Judicial College or the National Judicial College. ~~The~~
158 ~~orientation and education seminar shall be open to non-commercial docket judges.~~
159

160 **(B) Biennial education**
161

162 As part of the forty hours of continuing legal education instruction required by Gov.Jud.R.
163 IV, Section 2(A), each commercial docket judge ~~should~~ shall complete at least twelve hours
164 of commercial docket education offered or approved by the Supreme Court of Ohio Judicial
165 College or the National Judicial College.
166

167 **(C) Non-commercial docket judges**
168

169 Non-commercial docket judges shall be encouraged to attend commercial docket education
170 opportunities offered pursuant to divisions (A) and (B) of this rule. A non-commercial
171 docket judge who complies with the requirements of divisions (A) and (B) of this rule shall
172 be eligible for assignment by the Chief Justice pursuant to Article IV, Section 5(A)(3) of
173 the Ohio Constitution to hear cases assigned to the commercial docket.