

Rule 40. Assignment of Cases for Trial

(a) Contested and uncontested calendars.

(1) Contested trial calendar. Contested cases shall be evenly and randomly assigned to a specific contested trial calendar at the earliest of any of the following events: (1) an answer is filed; (2) a default is entered in a case involving issues of child custody, spousal support or property distribution; or (3) any motion is filed. When one of these events occurs, the Clerk shall immediately schedule a status hearing on the earliest available date on the assigned calendar, which date shall be no sooner than 30 days, and notify the parties in writing. All further proceedings in a case shall be scheduled and conducted by the judicial officer to whom the case is assigned in accordance with this Rule.

If the judicial officer determines that all matters in an assigned case appear to be uncontested, the judicial officer shall make a jacket entry so stating, and return the case to the Clerk's office for reassignment to the uncontested calendar. If the case becomes uncontested on the date of a contested trial, the judicial officer shall make a reasonable effort to conduct the uncontested trial on that date.

(2) Uncontested calendar. Upon the filing of a written stipulation by the plaintiff and defendant or attorneys of record that a case at issue or on the contested calendar is in fact uncontested as to all issues, the Clerk shall assign the case to the uncontested calendar for prompt trial. No order shall be entered on any issue which is not in fact uncontested.

If the judicial officer determines that a case on the uncontested calendar is in fact contested, the judicial officer shall certify the case to the Clerk's office for reassignment on the contested calendar. Unless the case can be heard on the date it becomes contested, the Clerk shall notify the parties by mail of the reassignment and status hearing date.

(b) Request for child custody and support. If a complaint or motion requests both child custody and support, the case shall be assigned to a Domestic II calendar for resolution by a judge. After resolution of the custody issue, the assigned judge may, if unable to conduct the hearing on support that day, certify the case to a hearing commissioner to determine the support issue. Nothing in this Rule shall preclude the judge from issuing an interim order for child support pending resolution of the custody issue.

(c) Assignment of cases to Domestic I Calendar.

(1) Domestic I Calendar. One or more judges assigned to the Family Division may be designated to maintain an individual (Domestic I) calendar. Unless otherwise provided in these Rules, the Domestic I judge will conduct all proceedings in cases on the Domestic I calendar to which that judge has been assigned.

(2) Designation of Domestic Relations I Calendar. It shall be the responsibility of the Presiding Judge of the Family Division to certify cases to the Domestic I Calendar. The Presiding Judge may certify cases to the Domestic I Calendar on the Presiding Judge's own initiative or his or her designee's or upon:

(A) The recommendation of any judge assigned to the Family Division; or

(B) The written motion filed by or on behalf of either party.

(3) Factors considered. In certifying a case to the Domestic I Calendar the Presiding Judge may consider the estimated length of trial, the number of witnesses who may appear or exhibits that may be introduced, the nature of the factual and legal issues involved, the extent to which discovery may require supervision by the Court, the number of motions that may be filed, and any other relevant factor appropriate for the orderly administration of justice.

(4) Procedure. Parties who have been notified that a case has been assigned to a Domestic I judge shall place the assigned judge's name below the civil action number on all papers filed. All pleadings and papers shall be filed in the Domestic Relations Clerk's Office. On the day of filing, a chambers copy of the pleading or paper filed shall be delivered by the parties to a depository designated by the Clerk of the Court for receipt of such papers by the assigned Domestic Relations I judge. If the original document was mailed, the chambers copy may be mailed to chambers.