

### **Rule 40-I. Assignment of Cases**

(a) IN GENERAL. The clerk will randomly assign new civil actions to judges in the Civil Division.

(b) SPECIAL ASSIGNMENTS. The Chief Judge may specially assign a civil action for all purposes to a specific calendar or a single judge. The Chief Judge may delegate to the Presiding Judge of the Civil Division the authority to make special assignment of cases to a judge currently assigned to the Civil Division.

(c) PROCEEDINGS AFTER ASSIGNMENT. All proceedings in a case after its assignment, including trial, will be scheduled and conducted by the assigned judge.

(d) REASSIGNMENT. When a judge's assignment to the Civil Division is concluded, the Chief Judge or the Presiding Judge may designate the judge or judges to whom the cases on the calendar of the previous judge will be reassigned.

(e) ASSIGNMENT TO A MAGISTRATE JUDGE. Nothing in this rule precludes the assignment of civil actions to magistrate judges under Rule 73.

(f) RELATED CASES.

(1) "*Related Case*" Defined. Civil cases are deemed related when the earliest is still pending on the merits in the Superior Court and they:

(A) involve common property;

(B) involve common issues of fact;

(C) grow out of the same event or transaction; or

(D) involve common and unique issues of law, which appear to be of first impression in this jurisdiction.

(2) *Notification of Related Cases*. The parties must notify the clerk of the existence of related cases as follows:

(A) At the time of filing a civil case, the plaintiff or his attorney must indicate on a form provided by the clerk, the name, docket number and relationship of any related cases in the Superior Court or in the District of Columbia Court of Appeals. The plaintiff must serve a copy of this form on the defendant with the complaint. The defendant must serve a statement with the first responsive pleading either objecting or concurring with the related case designation.

(B) Whenever an attorney or party becomes aware of the existence of a related case, he or she must immediately notify, in writing, the judges on whose calendars the cases appear.

(g) REFILED CASES. If a case is refiled after it was dismissed, with or without prejudice, the clerk must reassign the case to the original judge unless the Presiding Judge orders otherwise. Additionally, cases are deemed refiled where a case is dismissed, with or without prejudice, and a second case is filed involving the same parties and relating to the same subject matter.

### **COMMENT TO 2017 AMENDMENTS**

Stylistic changes were made to this rule to conform with the 2007 amendments to the Federal Rules of Civil Procedure. The rule was also reorganized to clarify general assignment procedures. The provisions related to trial continuances were moved to Rule 16(k), which addresses other continuances; its location in Rule 40-I was a vestige of the original rule on assignment of trials by the assignment commissioner. Section (f),

“Related Cases,” has been moved from Rule 42(f). Section (g) is new, and it describes the procedure for assigning refiled cases.

#### COMMENT

*Federal Rule of Civil Procedure 40* which authorized the establishment of local systems for the assignment and calendaring of cases has been deleted. It has been replaced by SCR Civil 40-1 which describes the Superior Court's Assignment System. Note that the second and third sentences of paragraph (a) contain essentially the same provisions as appeared in former Rule 40-II(d) and that language of the last sentence of paragraph (a) is essentially the same as that which formerly appeared in paragraph (f) of Rule 40-1.

Paragraph (b), on random distribution of cases among the judges, is derived from former Rule 40-II(c). Its purpose is to insure equitable allocation of the caseload to all judges assigned to the Division and to preclude any potential for litigants to predetermine the judge to whom the case will be assigned.