

JACKSON COUNTY CIRCUIT COURT

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Hon. John G. McBain
 Chief Circuit Judge

Hon. Thomas D. Wilson
 Hon. Susan Beebe
 Hon. Chad C. Schmucker

Diane M. Rappleye
 Chief Probate Judge

Administrative Order 2010-1J (Jackson Probate) Administrative Order 2010-11J (4th Circuit)

JUDICIAL AND CASE ASSIGNMENTS

Authority for this Order: MCR 8.111(B) and 8.111(D) Amended Family Court Plan

Effective Date of this Order: January 13, 2010

Previous Local Administrative Orders Related to this Order: 2008-2J (Rescinded by this Order),

Rationale and Purpose for this Order:

This Order sets forth how cases are assigned and reassigned among the five Circuit and Probate Judges in Jackson County. It also sets forth the Order of Judges who will back up the primary assigned judge when that judge is temporarily unavailable.

This January 2010 Amendment makes 2 changes. The first is a minor change in the backup judges, which is due to Judge Schmucker no longer being the Chief Judge, and Judge McBain being the new Chief Judge. The second change involves Judge McBain's and Judge Schmucker's dockets only, and is being made with the consent of both of them. Essentially, Judge Schmucker's criminal cases are being transferred to Judge McBain, and Judge McBain's civil cases, with a minor exception, and some of his divorce and PPO cases are being transferred to Judge Schmucker. The purpose of this change is to improve case flow and better serve the public by efficiently providing for the fair adjudication of cases.

JUDICIAL ASSIGNMENTS

Pursuant to the Amended Family Court Plan, Judicial Assignment will be as follows:

Case Type	1- Rappleye		2- Beebe		3- McBain		4- Wilson		5- Schmucker	
	Before	After	Before	After	Before	After	Before	After	Before	After
NA	1/2	1/2	1/2	1/2						
Adoption	1/2	1/2	1/2	1/2						
DL	1/2	1/2	1/2	1/2						
DM,DC,DP,PPO's w/children	25%	25%	45%	45%	10%	10%	10%	10%	10%	10%
DO, PPO w/o children					1/3	1/6	1/3	1/3	1/3	1/2
PROBATE	100%	100%								
CRIMINAL					3/8	5/8	3/8	3/8	1/4	
CIVIL (except AL)					1/3		1/3	1/3	1/3	2/3
AL Cases					1/3	1/3	1/3	1/3	1/3	1/3
Family Recov. Ct			100%	100%						
Felony Recov. Ct									100%	100%
PRIMARY BACKUP	Beebe McBain	Beebe Schmucker	Rappleye Wilson	Rappleye Wilson	Wilson Schmucker	Wilson Schmucker	Schmucker McBain	Schmucker McBain	McBain Wilson	McBain Wilson

*Changes are in **bold** type.

Civil Forfeiture Cases:

A civil forfeiture case and an underlying criminal case should be assigned to the same judge regardless of which case is filed first. The purpose of this reassignment is to allow for efficient case flow management since the civil case usually cannot be resolved until the criminal case is resolved and to promote judicial economy by having one judge handle both matters which arise out of the same incident.

Family Division Related Cases:

The County Clerk shall identify families that have more than one pending family court case. See the Family Division Plan for details on the assignment of different Family Court cases.

Closed Criminal Cases

PRESENT JUDGE	ORIGINAL JUDGE
Judges Fleming and Grant	Judge Wilson
Judges Britten and Nelson	Judge McBain
Judges Falahee, Noble and Perlos	Judge McBain

Closed Civil Cases

PRESENT JUDGE	ORIGINAL JUDGE
Judges Fleming and Grant	Judge Wilson
Judges Britten and Nelson	Judge Schmucker
Judges Falahee, Noble and Perlos	Judge Schmucker

Recovery Court

The Felony Recovery Court docket is assigned to Judge Schmucker and he will handle all pleas, sentencings, and probation violations for those cases. Any Defendant who graduates from Recovery Court and continues on probation will remain on Judge Schmucker’s docket. If a Recovery Court Defendant receives a new felony case, the new case will be randomly assigned to a Judge handling criminal cases. Judge Beebe is the primary backup judge in the event Judge Schmucker is unable to handle the Recovery Court matters.

The Family Recovery Court docket will be assigned to Judge Beebe. The Family Recovery Court Judge will NOT handle any continuing proceedings of the parties who are unsuccessfully terminated from the Family Recovery Court. Those cases will be returned to the original Family Division Judge for further proceedings, including but not limited to the filing of a termination petition. Judge Schmucker is the primary backup judge in the event that Judge Beebe is unable to handle Family Recovery Court matters.

Reassignment of Related Criminal Cases

If a new criminal case is filed and the Defendant has a pending case, the new case shall be assigned to the same Circuit Court Judge. A pending case includes an existing, unadjudicated case, or a case in which the Defendant is on Probation or Bench Warrant status.

January 2010 Reassignment of Cases between Judge Schmucker and Judge McBain

This Amendment transfers Judge Schmucker's criminal docket to Judge McBain, and transfers Judge McBain's civil docket, and part of his divorce and PPO docket without children to Judge Schmucker. This Order takes effect immediately, with the following exceptions:

1. Any matter that is presently under advisement will remain with the assigned judge until it is returned from Under Advisement.
2. Any case which is scheduled for trial within the next 28 days will remain with the current judge. But, if the case is adjourned, it will be transferred to the new judge for further handling.
3. Any case in which a Defendant has entered a plea or has been convicted will remain with Judge Schmucker until sentencing. If the person is sentenced to probation, the probation will be transferred to Judge McBain.
4. Any criminal case which has been assigned to Judge Schmucker because Judge McBain has disqualified himself, will remain with Judge Schmucker.
5. Any civil case which is assigned to Judge McBain because Judge Schmucker has been disqualified will remain with Judge McBain.
6. The only exception in civil cases is Drivers License matters(AL) which will continue to be divided equally in 1/3rd to Judges McBain, Schmucker and Wilson.

The transfer of civil cases will include all new civil cases, all pending cases, and all closed cases. Judge Schmucker will handle any post-judgment matters that occur on Judge McBain's civil docket.

The transfer of criminal cases includes all new, pending and closed criminal cases, as well as any Defendants on probation and any 6.500 Motions.

The transfer of 1/2 of Judge McBain's DO and PPO (without children) docket also includes any closed cases. The Clerk's Office will flip a coin to determine whether odd or even cases will be transferred to Judge Schmucker, and Judge Schmucker will be responsible for all further proceedings on the pending and closed DO and PPO (without children) cases. All new cases will be randomly assigned by the Clerk's office among the 3 judges handling DO cases, but the percentages will now be 1/3 to Judge Wilson, 1/6 to Judge McBain, and 1/2 to Judge Schmucker.

Judge Schmucker may still be assigned new criminal cases if both Judge Wilson and Judge McBain are disqualified.

Judge McBain may still be assigned to new civil cases if both Judge Schmucker and Judge Wilson are disqualified.

Selection of Another Judge After Disqualification

Family Division Cases Involving Children **(for example: NA, DL, Adoption)**

When one of the two primary Family Division judges disqualifies from one of these cases, the case shall be assigned to the other Family Division Judge primarily handling children's cases. If both Family Division judges disqualify, the case shall be randomly assigned to one of the other three judges.

Family Division Cases Involving Children
(for example: DM, DP, DS, DC, DI)

When a judge disqualifies from a Family Division case, the case shall be randomly reassigned to one of the other four judges handling this type of case. The Clerk's Office shall use the same reassignment pads as used for initial assignments.

Family Division Cases not Involving Children
(for example: DO)

When a judge disqualifies from a Family Division case which does not involve children, the case shall be randomly assigned to one of the other two judges who handle family cases not involving children. If all three judges disqualify, the case shall be randomly assigned to one of the other two Family Division judges.

Non-Family Circuit Cases

When a judge disqualifies from a non-family circuit case, the case shall be randomly assigned first to one of the other two circuit judges who presently take assignments of new civil and criminal cases. If these judges all disqualify, the case shall then be assigned to the other circuit judge who normally does not handle new civil and criminal cases. If that judge disqualifies, the case shall be assigned to the probate judge, who has been cross-assigned to handle circuit cases.

Clerk's Office Assignment Pads

The Clerk's Office shall maintain assignment pads only for the use of reassigning cases for which judges have disqualified. One pad shall be for the criminal, civil, family (non-children) division, and the other pad shall be for the family/children division. If the judge drawn from these pads is the same judge who has disqualified, then that slip shall not be used and another assignment slip shall be drawn. A case shall not be eligible for reassignment if it is within 28 days of a scheduled trial date.

Order Preparation Procedure

The disqualifying judge shall prepare the appropriate order for reassignment and forward the case file to the reassigned judge. If the judge to whom the case is reassigned is disqualified from the case, the same blind draw procedure shall follow. (Use MC-264 for the Order of Disqualification.)

Entire Bench Disqualified

If all circuit judges and the probate judge disqualify themselves from a case, the case will be referred to SCAO for reassignment.

Reassignment of Comparable Case

In order to equitably balance the workload, the Clerk's Office will randomly select cases of a similar type and age to return from the receiving judge to the sending judge in all disqualifications. The Clerk's Office will select 5 cases of similar type and age and will randomly select one of the five cases for reassignment to the judge.

Criminal Case Assignment Issues

Co-Defendants

In criminal cases where there are co-defendants, all cases shall be assigned to the same judge. When a criminal case is reassigned because a co-defendant exists, the County Clerk shall not select a case to be returned.

Defendants with Pending Cases

When a criminal case is reassigned because the Defendant has a pending case before another Judge, the County Clerk shall **not** select a case to be returned to the other judge.

Recovery Court Cases

When a case is reassigned to the Recovery Court Judge, the County Clerk's Office shall not select a case to be returned because the allocation of criminal cases has taken this factor into account. The Recovery Court Judge will also continue to handle any cases in which the Defendant is terminated from Recovery Court or maintained on probation after graduation from Recovery Court. However, if a case is transferred to the Recovery Court Judge and that person is not accepted in Recovery Court, that case will be returned to the original judge.

The Family Recovery Court Judge will not handle any continuing proceedings of the parties who are unsuccessfully terminated from the Family Recovery Court. Those cases will be returned to the original Family Division Judge for further proceedings, including but not limited to the filing of a termination petition.

Consolidating Cases

A motion to consolidate two cases must be heard by the judge with the most recent case. If consolidation occurs, the cases shall be consolidated to the judge with the oldest case. When a case is consolidated, the County Clerk's Office shall select a case from the Judge receiving the case to the other judge.

Related Family Cases

When a new family case is re-assigned pursuant to the Family Division Plan because of a related case, the Clerk's Office shall not re-assign a case to balance the caseload. See the Family Division Plan for details of how a related family case is determined.

Dated: _____, 2010

John G. McBain P47476
Chief Circuit Judge

Diane M. Rappleye
Chief Probate Judge