

STATE OF MICHIGAN

IN THE SIXTEENTH JUDICIAL CIRCUIT COURT FOR THE COUNTY OF MACOMB
IN THE PROBATE COURT FOR THE COUNTY OF MACOMB

In re: Assignment of Probate Court Cases

Circuit Court Joint Local Admin Order #2014-03J
Probate Court Joint Local Admin Order #2014-02J

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(Rescinds Probate Court Local Administrative Order #2011-01)

IT IS ORDERED:

This administrative order is issued in accordance with Michigan Court Rule 8.112(B)(1), which allows a trial court to issue administrative orders governing internal court management. This order provides a method for assigning probate cases in the Macomb County Probate Court.

I. Assignment of Cases

- A. The Wills and Estates Division and Mental Health Division cases shall be assigned to one designated Probate Judge.
- B. One Probate Judge shall be assigned to the Family Division of the Sixteenth Judicial Circuit Court.
- C. Assignment shall occur at the time the case is filed unless otherwise provided by court rule, administrative order or written directive of the Chief Judge.

II. Disqualification of the designated Probate Judge

A. Voluntary

When the designated Probate Judge disqualifies himself/herself, Probate Court staff will contact the Caseload Manager in Circuit Court Administration to randomly reassign the case(s) to a Circuit Court Judge in the Family Division. Probate Court staff will prepare the Order of Disqualification/Reassignment, obtain the disqualified judge's signature, and forward the order and the file to the Caseload Manager who will obtain the newly assigned judge's and Chief Judge's signature.

B. By Chief Judge Pursuant to MCR 2.003

If the Chief Judge determines that the designated Probate Judge should be disqualified pursuant to MCR 2.003, the Caseload Manager will be contacted to prepare the Order of

Disqualification/Reassignment and randomly reassign the case(s) to a Circuit Court Judge in the Family Division. The reason for the disqualification will be provided and stated on the Order of Disqualification/Reassignment. The Order of Disqualification/Reassignment is submitted to the disqualified judge, newly assigned judge and Chief Judge for signature.

C. By Motion

1. When a motion for disqualification is filed by one of the parties and the assigned Judge denies their request, the challenged judge shall refer the motion to the Chief Judge, who shall decide the motion de novo. MCR 2.003(D)(3)(a)(i).
2. When a motion for disqualification is filed by one of the parties and the assigned Judge grants their request, the Probate Court Staff shall contact the Caseload Manager to randomly reassign the case(s) to a Circuit Court Judge in the Family Division and prepare the Order of Disqualification/Reassignment. The reason for the disqualification will be provided and stated in the Order of Disqualification/Reassignment. The Order of Disqualification/ Reassignment is submitted to the disqualified judge, assigned judge, and Chief Judge for signature.

D. Out-of-County Assignment - Upon the disqualification of the designated Probate Judge, the case or cases shall be randomly reassigned to a Circuit Court Judge in the Family Division. If all judges in the Family Division disqualify themselves, the case or cases may be reassigned randomly to judges in the Civil/Criminal Division. If all Circuit and Probate Judges are disqualified, the Chief Judge shall request assignment of a visiting judge from another court from the Region 1 State Court Administrative Office pursuant to State Court Administrative Office guidelines.

III. Reassignment of Cases

- A.** The Chief Judge may direct assignment of cases involving similar actions to one judge to achieve efficient use of court resources provided that the Chief Judge notify each Circuit and/or Probate Judge in writing at least 14 days in advance of such assignment.
- B.** If it appears to any two judges that the interest of justice would better be served by reassignment of any case, that case may be reassigned to another judge of this Circuit and/or Probate Court for good cause and by written order of the Chief Judge.
- C.** If a previously filed case has been closed, and the judge who handled the previously filed case is no longer handling that case type, specifically due to a Family Court Plan or Concurrent Jurisdiction Plan, any new or subsequent case arising out of the same transaction or occurrence will be assigned to the successor judge. MCR 8.111(C)(2). If the successor judge cannot be determined, the case will be assigned by blind draw.
- D.** If it comes to the attention of the Court Administrator that for any reason proper procedures were not followed in the assignment of any case, he/she shall notify the

judges involved, and may initiate an Order of Reassignment in accordance with this Local Administrative Order or authorize a new blind draw.

- E. Any dispute as to the proper reassignment of any case shall be resolved by the Chief Judge.

VII. Consolidation

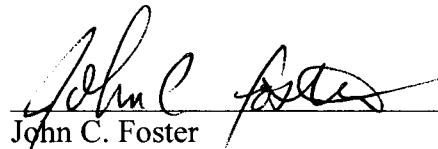
Motions to consolidate are brought before the judge who would receive the case. If the motion is granted and the files are assigned to different judges, an Acceptance and Order of Reassignment will be prepared assigning the consolidated files to the judge with the lowest case number or the judge that granted the motion and will submit it to the judge receiving the file and the Chief Judge. These files are not equalized and the new judge is not incremented. The clerk will conform to The State Court Administrator's standards as set forth in the Michigan Trial Court Case File Management Standards, Component 13 of Area 1.1.1: Establishing and Maintaining Case Files.

VIII. Procedure for Order of Reassignment

- A. All Orders of Reassignment shall be on forms prepared by the Case Management Division and approved by the Chief Judge. The order shall contain the reason for reassignment. If the reason for reassignment is based upon an Order for Consolidation or Disqualification of a Judge, such order shall be attached to the Order of Reassignment.
- B. All Orders of Reassignment shall be initiated by the Case Management Division and noted prior to circulation for signature.
- C. All Orders of Reassignment shall first be presented to the judge transferring the case, second to the judge to whom the case will be reassigned, and finally to the Chief Judge for signature.
- D. After approval by the Chief Judge, the Order of Reassignment shall be returned to the County Clerk's Office for filing.

This Order shall be effective immediately upon approval of the State Court Administrator's Office.

Dated: 2/30/14



John C. Foster
Chief Judge
16th Judicial Circuit Court and
Macomb County Probate Court