

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GENERAL ORDER 08-7
June 3, 2008

In order to update the Rules Governing the Internal Administration of the Court, the court has approved the attached Rules Governing the Internal Administration of the Court, as amended through June 3, 2008.

So Ordered.

Mark L. Wolf

Mark L. Wolf
Chief Judge

Rya W. Zobel

Rya W. Zobel
United States District Judge

Douglas P. Woodlock

Douglas P. Woodlock
United States District Judge

Richard G. Stearns

Richard G. Stearns
United States District Judge

Patti B. Saris

Patti B. Saris
United States District Judge

Michael A Ponsor

Michael A Ponsor
United States District Judge

F. Dennis Saylor IV

F. Dennis Saylor IV
United States District Judge

Morris E. Lasker

Morris E. Lasker
Senior United States District Judge

Joseph L. Tauro

Joseph L. Tauro
United States District Judge

William G. Young

William G. Young
United States District Judge

Nathaniel M. Gorton

Nathaniel M. Gorton
United States District Judge

Reginald C. Lindsay

Reginald C. Lindsay
United States District Judge

Nancy Gertner

Nancy Gertner
United States District Judge

George A. O'Toole

George A. O'Toole
United States District Judge

Edward F. Harrington

Edward F. Harrington
Senior United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RULES GOVERNING
THE INTERNAL ADMINISTRATION
OF
THE COURT

[As amended through June 3, 2008]

I.

Court and Judges of the Court Defined

The United States District Court for the District of Massachusetts (the "Court") includes the district judges for the district in regular active service and the senior district judges maintaining a duty station within the district.

II.

Policies of the Court

The policies of the Court shall be established by vote of a majority of its regular active judges and its senior judges providing Substantial Judicial Work as defined by the Guidelines Regarding Senior Status in the District of Massachusetts.

III.

Chief Judge

A. The Chief Judge shall be responsible for carrying out the established policies of the Court and for the day-to-day administration of its business. The Chief Judge shall be the spokesperson for the Court and carry out such other duties as the Court may assign. It shall be the obligation of the Chief Judge to keep the judges of the Court informed as to all matters which may affect the Court.

B. The Chief Judge shall preside at all meetings of the Court. If the Chief Judge is not in attendance, the provisions of 28 U.S.C. §136(e) shall apply.

C. The Chief Judge shall appoint Liaison Judges, as provided in Section V, and members of all standing and special committees of the Court, as provided in Section VI.

D. The Chief Judge shall direct preparation of orders memorializing policies adopted by the Court.

IV.

Meetings of the Court

A. Regular and Special Meetings of the Court

1. Regular meetings of the Court shall be convened by the Chief Judge at 1:30 p.m. on the first Tuesday of each month in Boston or at such other time and place as the Court may designate.

2. Special meetings of the Court may be convened by the Chief Judge, or initiated by the request of any three or more judges.

3. Absent exigent circumstances, the Chief Judge shall provide five days' written notice to the judges of the Court of a special meeting, specifying the time, place and agenda for such meeting.

4. Attendance at meetings of the Court is to be considered a primary obligation of regular active judges.

5. The persons eligible to vote at any regular or special meeting are those judges for the district in regular

active service who are present and those senior judges providing Substantial Judicial Work as defined by the Guidelines Regarding Senior Status in the District of Massachusetts.

6. Any senior judge designated to the District Court for the District of Massachusetts may attend any meeting of the Court and speak on any matter under discussion.

7. The Clerk of Court shall regularly attend meetings of the Court except executive sessions or as otherwise determined by the Court.

8. A portion of every regular or special meeting of the Court shall be conducted in executive session.

B. Quorum

Two-thirds of the regular active judges shall constitute the necessary quorum for conducting any regular or special meeting of the Court.

C. Agenda for Regular Meetings

The Chief Judge shall prepare and distribute a written agenda to the judges of the Court, at least five days prior to each regular meeting. The Chief Judge shall include in the agenda any item requested by a member of the Court in writing at least seven days prior to a regular meeting. Every agenda for a regular meeting shall include consideration of reports by Liaison Judges.

D. Procedure

Any procedural issue arising at a regular or special meeting not resolved by agreement shall be resolved by reference to

Robert's Rules of Order (Robert's). Should Robert's be silent as to a procedural issue, or in conflict with these rules, disposition of the matter shall be determined by a majority vote.

E. Minutes of Meetings

Minutes of all regular and special meetings shall be kept by the attending judge in regular active service least senior in precedence and copies thereof distributed to all the judges of the Court. The minutes shall be maintained in permanent form by the judge least senior in precedence, until another appointment, at which time they will be transferred to the judge then least senior in precedence. (28 U.S.C. § 136(b)). Copies of the minutes shall also be kept by the Clerk of Court.

V.

Liaison Judges

A. The Chief Judge shall be assisted in the day-to-day administration of the Court by Liaison Judges. The Chief Judge shall make the assignments of Liaison Judges, and may assign senior judges as Liaison Judges with their consent, for terms of two years. So far as is practicable and consistent with orderly administration, assignments shall be rotated among the judges, and ordinarily no judge shall have the same appointment for more than six consecutive years.

B. Administrative Areas

Liaison Judges shall be appointed to various administrative areas, among the areas for which Liaison Judges may be appropriate are:

1. The Bankruptcy Court;
2. The Magistrate Judges;
3. The Office of the Clerk of Court;
4. The Jury Pool;
5. The Pretrial Services Agency;
6. The United States Probation Department;
7. The Bureau of Prisons;
8. Court Security;
9. The Office of the United States Marshal
10. The Federal Protective Service;
11. The Office of the United States Attorney;
12. The Office of the Federal Defender and the Criminal Justice Act Program;
13. The General Services Administration - Space and Facilities;
14. Civil Pro-Se Matters;
15. Automation and Information Systems;
16. The Central Division (Worcester);
17. The Western Division (Springfield);
18. Education Programs;
19. The Media;
20. The Sentencing Guidelines;
21. The Court Reporters;
22. Senior Judges;
23. The Court Interpreters;
24. Alternative Dispute Resolution Programs;
25. Citizenship and Immigration;

- 26. Judicial Benefits;
- 27. International Relations;
- 28. Court Statistics.

C. Duties of Liaison Judges

Liaison Judges shall be primarily responsible for maintaining effective liaison with the services or agencies assigned to them, including contact with the responsible representatives of such subject matter, agency or service at least once a month, and shall report to the regular monthly meeting of the Court any matters which ought to concern it, including recommendations for action by the Court. Liaison Judges may resolve any routine administrative problems arising within their areas of responsibility, subject to ratification at the next meeting of the Court.

VI.

Committees

A. Standing Committees

- 1. Committee on Rules and Practice

The Chief Judge shall appoint a Committee on Rules and Practice to consist of at least three judges of the Court. The Chief Judge may also appoint other qualified persons as advisory members. The Chief Judge shall designate one judge to serve as the Committee Chair. The Committee on Rules and Practice shall have the following duties:

- a. To monitor the operation of the Local Rules and of these rules and recommend such amendments as shall

be appropriate from time to time.

- b. To consider and recommend steps to make the practice before the several judges of this Court more uniform by adoption of standard forms and procedures.
- c. To advise the Court at least annually with respect to the appropriate form of proposed rules and general orders to insure clarity and to avoid conflict with existing rules and orders.

2. Committee on the Budget

The Chief Judge shall appoint a Committee on the Budget to consist of at least three judges of the Court. The Chief Judge may also appoint other qualified persons as advisers to the Committee. The Chief Judge shall designate one judge to serve as the Committee Chair. The Committee on the Budget shall have the following duties:

- a. To exercise general oversight as to all matters relative to the Court's budget and the allocation of its resources.
- b. To make recommendations to the Court concerning any reallocation of resources between spending units.

3. Members of standing committees shall be appointed for terms of three years. The Chief Judge shall be a member of each committee ex officio.

B. Special Committees

1. Screening Committees

The Chief Judge shall appoint special screening committees from time to time to screen candidates for appointment which must be made by the Court. Any special screening committee shall include as chair the Liaison Judge who has responsibility for the position to be filled.

2. Other Committees

The Chief Judge may appoint other special committees from time to time for any other purpose.

VII.

Reassignment of Cases

A. In the event of prolonged illness, disability or unavoidable absence of an active or senior judge, or if the interests of justice and the efficient operation of the Court require it, the Chief Judge may transfer any case or cases pending on the docket of a judge, upon such judge's request, by distributing such case or cases to another active judge or judges and to such senior judges as are willing and able to under take them. The cases shall be distributed in such a way as to promote both their prompt and efficient disposition and the fair sharing of the work of the Court. The Chief Judge shall, as far as practicable, transfer cases that are in order for trial and shall, as far as practicable, employ the blind random draw utilized pursuant to Local Rule 40.1 for the initial assignment of cases.

B. An active Judge shall not be taken off the draw except in an extraordinary circumstance.

C. In the case of the death, resignation or retirement of a judge, the designated cases of that judge shall be redistributed among the remaining active and senior judges in a manner consistent with the terms of this section.

D. All reassignment decisions are subject to ratification at the next meeting of the Court, at which time the Chief Judge shall make a report of any reassignment decisions made since the last meeting. (28 U.S.C. §137).

VIII.

Senior Judges

Senior judges certified pursuant to 28 U.S.C. §371(f) and designated and assigned pursuant to 28 U.S.C. §294 may retain so much of their active calendar as they choose, and may go on the draw in such proportion and duration and with respect to such categories as they specify in writing to the Clerk of Court. Senior judges may take reassignment of cases from active judges by consent, subject to determination by the Chief Judge that such reassignment preserves an equitable distribution of cases. Senior judges shall, pursuant to Rule XII of these Internal Rules and subject to the regulations established by the Judicial Conference of the United States, the Judicial Council of the First Circuit, and the Guidelines Regarding Senior Status in the District of Massachusetts, be provided suitable chambers, courtroom and parking facilities and such chambers and session staff as necessary and appropriate.

IX.

Emergencies

All matters of policy and administration requiring immediate resolution before a meeting of the Court can practicably be convened shall be resolved by the Chief Judge, subject to ratification at the next meeting of the Court. In any matter of importance, the Chief Judge shall make reasonable efforts to secure the opinions of the members of the Court by telephone.

X.

Chief Judge of the Bankruptcy Court¹

Pursuant to the provisions of 28 U.S.C., Section 154(b), as enacted by the Bankruptcy Amendments and Federal Judgeship Act of 1984 (the "Act"), the following principles shall apply with respect to the selection of Chief Judge of the Bankruptcy Court of the United States District Court for the District of Massachusetts.

A. The Bankruptcy Judge in regular active service who is then sixty-five years of age or younger, has not served

¹ The following have served as Chief Bankruptcy Judge pursuant to this provision:

James N. Gabriel, December 10, 1986 - December 9, 1990
James F. Queenan, Jr., December 10, 1990 - December 9, 1994
Carol J. Kenner, December 10, 1994 - December 9, 1998
William C. Hillman, December 10, 1998 - December 9, 2002
Joan N. Feeney, December 10, 2002 - December 9, 2006
Henry J. Boroff, December 10, 2006 -

previously as Chief Bankruptcy Judge by appointment pursuant to the Act, and is senior in date of initial appointment pursuant to the Act shall be the Chief Judge of the Bankruptcy Court for a term of four years. Judges whose appointments bear the same date shall have precedence according to seniority in age. If all the Bankruptcy Judges in regular active service are then sixty-six years of age or older, or all those otherwise qualified have previously served as Chief Bankruptcy Judge by appointment pursuant to the Act, the youngest shall act as Chief Bankruptcy Judge until a judge has qualified who is sixty-five years of age or younger and has not served as Chief Bankruptcy Judge, but a Judge may not qualify to act as Chief Bankruptcy Judge until that Judge has served as a Bankruptcy Judge for one year unless no other Bankruptcy Judge has served for one year.

B. The Chief Bankruptcy Judge shall preside at any session which that Judge attends, and perform such duties and responsibilities as may from time to time be delegated to the Chief Bankruptcy Judge to ensure the rules of the Bankruptcy Court and of the District Court are observed and the business of the Bankruptcy Court is handled effectively and expeditiously.

C. If the Chief Bankruptcy Judge desires to be relieved of the duties of Chief Judge while retaining active status as a Bankruptcy Judge, that Judge may so certify to the Chief Judge of the District Court, and thereafter the Bankruptcy Judge in active service who is qualified, next in precedence and willing to serve shall become Chief Judge of the Bankruptcy Court.

D. If a Chief Bankruptcy Judge is temporarily unable to perform the duties of Chief Bankruptcy Judge, such duties shall be performed by the Bankruptcy Judge in active service, present in the district and able and qualified to act, who is next in precedence.

E. Other Bankruptcy Judges shall have precedence and preside according to the seniority of their appointments. Judges whose appointments bear the same date shall have precedence according to seniority in age.

XI.

Magistrates

A. Chief Magistrate Judge²

The following principles shall apply with respect to the selection of Chief Magistrate Judge of the United States District Court for the District of Massachusetts.

1. The Magistrate Judge in regular active service who is then sixty-six years of age or younger, has served for one year or more as a Magistrate Judge, has not served previously as Chief Magistrate Judge by appointment pursuant to this Rule, and is senior in date of initial appointment shall be the Chief Magistrate Judge for a term of three years. Magistrate Judges

² The following have served as Chief Magistrate Judge pursuant to this provision:

Lawrence P. Cohen, January 1, 1993 - December 31, 1995
Joyce London Alexander, January 1, 1996 - December 31, 1998
Robert B. Collings, January 1, 1999 - December 31, 2001
Marianne Bowler, January 1, 2002 - December 31, 2004
Charles B. Swartwood, January 1, 2005 - January 31, 2006
Kenneth P. Neiman, February 1, 2006 -

whose appointments bear the same date shall have precedence according to seniority in age. If all the Magistrate Judges in regular active service are then sixty-seven years of age or older, or all those otherwise qualified have previously served as Chief Magistrate Judge, the youngest shall act as Chief Magistrate Judge until a Magistrate Judge has qualified who is sixty-six years of age or younger and has not served as Chief Magistrate Judge, but a Magistrate Judge may not qualify to act as Chief Magistrate Judge until that Magistrate Judge has served as a Magistrate Judge for one year unless no other Magistrate Judge has served for one year.

2. The Chief Magistrate Judge shall preside at any session of the Magistrate Judges which that Judge attends, and perform such duties and responsibilities as may from time to time be delegated to the Chief Magistrate Judge to ensure the Rules of the Magistrate Judges and of the District Court are observed and the business of the Magistrate Judges is handled effectively and expeditiously.

3. If the Chief Magistrate Judge desires to be relieved of the duties of Chief Magistrate Judge while retaining active status as a Magistrate Judge, that Judge may so certify to the Chief Judge of the District Court, and thereafter the Magistrate Judge in active service who is qualified, next in precedence and willing to serve shall become Chief Magistrate Judge.

4. If a Chief Magistrate Judge is temporarily unable to perform the duties of Chief Magistrate Judge, such duties shall be performed by the Magistrate Judge in active service, present in the district and able and qualified to act, who is next in precedence.

5. Other Magistrate Judges shall have precedence and preside according to the seniority of their appointments. Magistrate Judges whose appointments bear the same date shall have precedence according to seniority in age.

B. Magistrate Judge Usage

It is the policy of the court that the Magistrate Judges serving in the District of Massachusetts have a prominent role in the administration of justice in our court. Although minor variations in Magistrate Judge usage may exist among the sessions of individual District Judges, the district court as a body supports full utilization of Magistrate Judges in performing all duties enumerated in 28 U.S.C. Section 636. Consequently, Magistrate Judges shall have an important role in most aspects of criminal and civil pre-trial proceedings and parties in civil litigation will be encouraged to consent to full trial before Magistrate Judges.

C. Magistrate Judge Appointments

1. The court will appoint attorneys from the highest levels of the Bar to fill open Magistrate positions, and will scrutinize carefully all applications for reappointment. All Magistrate Judges seeking reappointment will be appointed to new

terms after opportunity for public review and painstaking evaluation by the court.

2. In considering a Magistrate Judge for reappointment, the court will have in mind, in addition to other factors, the following:

- a. Demonstrated ability to stay current with work;
- b. Quality of performance;
- c. Appropriate judicial temperament;
- d. Maintenance of good, professional relations with court staff, Magistrate Judge colleagues, and District Court Judges;
- e. Absence of bias or favoritism of any kind;
- f. Consistency in maintaining hours of duty without excessive absenteeism;
- g. Avoidance of any conduct that threatens to undermine the administration of justice;
- h. General contributions to the good order and functioning of the court.

It is the policy of the Court that appointments and reappointments will be made on the assumption that, taken as a whole, the Magistrate Judge's performance in most areas will be outstanding.

D. Magistrate Judge Performance Review

1. Primary responsibility for monitoring Magistrate Judge performance falls on the District Judge appointed by the Chief Judge as Magistrate Judge Liaison for the District Court.

2. In addition, three confidential procedures have been designed to insure close communication between District Judges and Magistrate Judges, and full airing of any concerns before application for reappointment.

- a. The Magistrate Judge Liaison will organize a mid-term meeting with each Magistrate Judge to discuss issues of mutual concern. The mid-term meeting will be with at least three District Judges, including the Chief Judge and the Magistrate Judge Liaison.
- b. The Magistrate Judge Liaison and/or another designee of the Chief Judge will meet with any Magistrate Judge, as necessary, whenever any concerns arise about the performance of that Magistrate Judge.
- c. Every Magistrate Judge will appear before the district court as a body to discuss issues, if any, emerging during the Merit Selection Panel review, before a vote on reappointment.

XII.

Courthouse Facilities

The allocation of Courthouse Facilities to Article III Judges shall be as follows:

A. Chambers

1. **Categories** - Judges are recognized for chambers assignment by seniority in point of judicial service within each

of the following categories at the duty stations last established for that Judge while that Judge functioned in regular active service:

- a. Active District Judges;
- b. Senior District Judges certified and engaged in Qualifying Added Judicial Work as defined in paragraph 4.1(b) of the District Guidelines Regarding Senior Status in the District of Massachusetts;
- c. Senior District Judges certified and engaged in providing Substantial Judicial Work as defined in paragraph 4.1(a) of the District Guidelines Regarding Senior Status in the District of Massachusetts; and
- d. In addition, to the degree available in the Boston courthouse, after accommodation of Judges in categories 1.a. - 1.c., chambers may be provided to:
 - (i) Non-resident Active District Judges
 - (ii) Non-resident Senior District Judges

2. **Types of Chambers** - The following types of chambers will be available to judges in the four categories set forth in paragraph 1.

- a. District Judge's Chambers for judges in categories 1.a. and 1.b.; and

- b. Senior District Judge's Chambers for judges in categories 1.c., 1.d, i.e. and 1.f.

3. **Change of Assigned Chambers** - There shall be no change of assigned chambers unless:

- a. a judge who has previously been functioning in category 1.a. or 1.b. begins functioning in category 1.c., 1.d., 1.e. or 1.f., in which event the active District Judges with a regular duty station in a courthouse will in order of seniority be offered the opportunity to be assigned the District Judge's Chambers no longer assigned to the judge who has changed the category in which that judge has been functioning;
- b. a newly appointed active District Judge cannot otherwise be assigned District Judge's Chambers, in which event any judge functioning in category 1.c., 1.d., 1.e. or 1.f who is then occupying District Judge's Chambers may be assigned Senior District Judge's Chambers thereby making the District Judge's Chambers then occupied by that District Judge available for assignment to the newly-appointed active District Judge;
- c. a new Chief Judge of the district court with a duty station in the Boston courthouse is appointed in which case the Judge assigned the Senior Judge's Chambers adjacent to the Chief Judge's

Chambers may be assigned alternative Senior Judge's Chambers to permit that judge's former chambers to be modified, to permit those chambers to function as conference facilities for the entire court and space for any additional personnel to which the Chief District Judge is entitled. The Senior Judge's Chambers so modified will be returned to their previous configuration at the conclusion of the newly-appointed Chief Judge's tenure as Chief Judge.

B. Courtrooms

1. Categories - Judges are recognized for customary courtroom assignments by seniority in point of judicial service within each of the following categories at the duty station last established by a Judge while that judge functioned in regular active service:

- a. Active District Judges;
- b. Senior District Judges certified and engaged in Qualifying Added Judicial Work as defined in paragraph 4.1(b) of the District Guidelines Regarding Senior Status in the District of Massachusetts;
- c. Senior judges certified and engaged in providing Substantial Judicial Work as defined in paragraph 4.1(a) of the District Guidelines Regarding Senior Status in the District of Massachusetts;

- d. To the degree available in the Boston courthouse, after accommodation of categories 1.a. - 1.c., courtrooms may be provided to:
 - (i) Non-resident Active District Judges;
 - (ii) Non-Resident Senior District Judges.

2. **Customary Courtrooms** - Judges shall be assigned customary courtrooms for their courtroom work. In the Boston courthouse the customary courtroom for a judge in either category 1.a. or 1.b. shall be on the floor of the building wing at which the public entrance to that judge's chambers is located. Customary or assigned courtrooms for judges in categories 1.c., 1.d., 1.e and 1.f. may be located without limitation in available courtrooms throughout the Boston courthouse buildings at the direction of the Chief Judge or the Chief Judge's designee.

3. **Change of Customary Courtroom Assignments** - There shall be no change of assigned customary courtrooms unless:

- a. a judge who has previously been functioning in category 1.a. or 1.b. begins functioning in category 1.c., 1.d., 1.e., or 1.f. in which event the Active District Judges with regular duty stations in the building in order of seniority in point of service will be offered the opportunity customarily to be assigned the courtroom which no longer needs to be assigned to the judge who has changed the category in which that judge was functioning;

- b. In the Boston Courthouse, a newly appointed Active District Judge cannot otherwise be assigned a customary courtroom on the floor of the building wing on which that judge's chambers are located, in which event any senior judge functioning in category 1.c., 1.d., 1.e. or 1.f., who is then occupying such a courtroom may be reassigned to another courtroom thereby making the courtroom previously occupied by that judge available for assignment to the newly-appointed active district judge;
- c. In the Boston Courthouse, the judges who share a public entrance to their chambers may choose among themselves to modify the customary courtroom assignments on that floor on a temporary basis to accommodate unusual litigation circumstances or, on a permanent basis, in their discretion, in which case any courtroom on that floor shall be offered for change in customary assignment to the eligible judges by order of seniority in point of judicial service within each of the categories.

C. Parking

A dedicated parking space shall be provided for every Article III Judge within that courthouse where the duty station was last established for that judge. Non-resident Article III

Judges will be provided parking within a courthouse to the degree such parking is available.

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January 3, 1995
July 8, 2003
June 3, 2008