

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**GENERAL ORDER 12-02**

**January 3, 2012**

**Amends General Order 11-03 Adopted August 2, 2011**

In September 2011, the Committee on Judicial Resources's Subcommittee on Judicial Statistics approved modifications to the Form JS 44 civil cover sheet to include seven new nature of suit codes and eliminate 13 nature of suit codes that are either obsolete or used so rarely that it is no longer necessary to have separate codes. To implement these changes the court has reviewed Local Rules 16.2 *Exemptions from Fed. R. Civ. P. 16(b)* and 40.1 *Assignment of Cases* and determined that amendments to the Local Rules (LR) are appropriate. In addition, the local civil category sheet has been modified to accommodate these same changes.

The court has determined that pursuant to 28 U.S.C. § 2071(e) there is an immediate need for the amendment of these Local Rules. The amended rules and local civil category sheet are attached with changes noted.

So Ordered.

*Mark L. Wolf*

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Mark L. Wolf  
Chief Judge

*Rya W. Zobel*

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Rya W. Zobel  
United States District Judge

*Douglas P. Woodlock*

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Douglas P. Woodlock  
United States District Judge

*Richard G. Stearns*

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Richard G. Stearns  
United States District Judge

*George A. O'Toole*

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George A. O'Toole  
United States District Judge

*Denise J. Casper*

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Denise J. Casper  
United States District Judge

*Michael A. Ponsor*

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Michael A Ponsor  
Senior United States District Judge

*Joseph L. Tauro*

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Joseph L. Tauro  
United States District Judge

*William G. Young*

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William G. Young  
United States District Judge

*Nathaniel M. Gorton*

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Nathaniel M. Gorton  
United States District Judge

*Patti B. Saris*

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Patti B. Saris  
United States District Judge

*F. Dennis Saylor IV*

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F. Dennis Saylor IV  
United States District Judge

*Edward F. Harrington*

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Edward F. Harrington  
Senior United States District Judge

## RULE 16.2 EXEMPTIONS FROM FED. R. CIV. P. 16(b)

Pursuant to Rule 16(b), Federal Rules of Civil Procedure, as amended, the following categories of actions (based upon the numbered "Nature of Suit" list on form JS 44) are exempted in this district from the scheduling and planning provisions of Rule 16(b), Federal Rules of Civil Procedure, as inappropriate actions for such scheduling and planning:

### CONTRACT

- 150 Recovery of Overpayment & Enforcement of Judgment
- 152 Recovery of Defaulted Student Loans
- 153 Recovery of Overpayment of Veterans Benefits

### REAL PROPERTY

- 210 Condemnation
- 220 Foreclosure
- 230 Rent Lease & Ejectment
- 245 Tort Product Liability - Asbestos Cases Only

### PRISONER PETITIONS

- 510 Vacate Sentence (2255)
- 530 Habeas Corpus
- 535 Death Penalty
- 540 Mandamus & Other
- ~~535 Death Penalty~~
- 550 ~~Other~~Civil Rights
- 555 Prison Condition Cases
- 560 Civil Detainee - Conditions of Confinement

### FORFEITURE/PENALTY

- ~~610 Agriculture~~
- ~~620 Food & Drug~~
- 625 Drug Related Seizure
- ~~630 Liquor Laws~~
- ~~640 R.R. & Truck~~
- ~~650 Airline Regs.~~

### BANKRUPTCY

- 422 Appeal (22 U.S.C. 158)
- 423 Withdrawal (28 U.S.C. 157)

### SOCIAL SECURITY

- 861 HIA (1395ff)
- 862 Black Lung (923)
- 863 ~~DIWC~~ (405(g))
- 863 ~~DIWW~~DIWC/DIWW (405(g))

864 SSID Title XVI  
865 RSI (405(g))

TAX SUITS

871 IRS--Third Party (26 U.S.C. 7609)

OTHER STATUTES

400 State Reapportionment

450 ~~Interstate Freight Damage Claims Only~~

~~875 Customer Challenge (12 U.S.C. 3410)~~

~~900 Appeal of Fee Determination Under Equal Access to Justice Act~~ Commerce

*Effective September 1, 1990; amended effective January 3, 2012*

## RULE 40.1 ASSIGNMENT OF CASES

### (A) Civil Cases.

(1) *Categories of Cases.* All civil cases shall be divided into the following three categories for purposes of assignment, based upon the numbered Nature of the Suit listed in the civil cover sheet used by the clerk in initiating the civil docket:

- I 410, 441, 470, 535, 830, 891, 893, ~~894~~, 895, R.23, regardless of nature of suit.
- II 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, ~~442-446~~442, 443, 445, 446, 448, 710, 720, ~~730~~, 740, 790, 820, 840, 850
- III 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, ~~610, 620~~560, 625, 6390, ~~640, 650, 660, 690~~751, 791, ~~810~~; 861-865, 875, 890, 8926, ~~900-950~~899, 950

A copy of the local civil category sheet form referred to is attached as an appendix to this rule.

(2) *Designation of Nature of Suit.* The party filing the initial pleading shall complete a civil cover sheet, Form JS 44, or any successor forms, and file it with the initial pleading. If the clerk should determine that the designation of Nature of Suit is in error, the clerk shall correctly classify the suit and notify the party filing the initial pleading. A designation shall not thereafter be changed except by order of the Chief Judge or the judge to whom the case is assigned.

(3) *Assignment.* The clerk shall place a case in one of the three categories described in subsection (A)(1) and, unless otherwise ordered by the Court, assign it by lot among the judges of the court in active service at their respective duty stations in accordance with this rule in such manner that each such judge shall be assigned as nearly as possible the same number of cases in each category. A senior judge may limit the category of case and nature of suit assigned to that judge and, within the categories of cases or suits that senior judge will accept, assignment shall be by lot in accordance with this rule.

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*Effective September 1, 1990; amended effective January 1, 2001; amended effective August 2, 2011; amended effective January 3, 2012.*

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) \_\_\_\_\_  
\_\_\_\_\_

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- \_\_\_ I. 410, 441, 470, 535, 830\*, 891, 893, ~~894~~, 895, R.23, REGARDLESS OF NATURE OF SUIT.
- \_\_\_ II. 110, 130, 140, 160, 190, 196, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, ~~442-446~~ 442, 443, 445, 446, 448, 710, 720, ~~730~~, 740, 790, 820\*, 840\*, 850, 870, 871.
- \_\_\_ III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, ~~610, 620, 625, 630, 640, 650, 660, 690, 791, 810, 861-865, 875, 890, 892, 900~~, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

\*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

\_\_\_\_\_

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES  NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES  NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES  NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES  NO

7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)). YES

NO

(a) If yes, in which division do all of the non-governmental parties reside?

Eastern Division  Central Division  Western Division

(b) If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division  Central Division  Western Division

(H) If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES  NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_