

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

FILED
APR 26 2019
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY

In the matter of)
)
COURT GOVERNANCE PLAN)
FOR THE SOUTHERN DISTRICT)
OF CALIFORNIA)
_____)

General Order No. 710

I. PURPOSE

The purpose of this Order is to guide the District Judges of this Court in matters of court governance and to establish uniform decision-making policies on matters affecting the Court as a whole. This Order has been approved by the District Judges, but nothing in this Order limits the traditional power of District Judges to enact rules and adopt necessary policies or the specific authority of the Chief Judge as set forth by statute or rule. In the event a provision of this Order conflicts with a statute or rule, the statute or rule will govern. This Order does not create any rights at law enforceable by any party.

For purposes of this Order, the term “Judges of this Court” refers to both the active and Senior United States District Judges of this District, excluding visiting District Judges. The term “Magistrate Judges” refers to Magistrate Judges who have been appointed to serve in this District, excluding recall Magistrate Judges from other districts who are serving on temporary assignment in this District.

II. AUTHORITY OF THE CHIEF JUDGE

A. Term of Chief Judge

The Court recognizes that the maximum term for a Chief Judge of the District Court is governed by a statute, which presently authorizes a maximum term of seven years. However, it is the consensus opinion of the Judges of this Court that no judge should serve as Chief Judge for more than four years so that others may assume the burdens and responsibilities and receive the benefits and honor of serving. Future Chief Judges are strongly encouraged to observe a four-year limit on their terms.

B. Acting Chief Judge

In the absence or incapacity of the Chief Judge, the powers and duties of the Chief Judge will be performed by the Acting Chief Judge. The Acting Chief Judge is the active District Judge of this Court who is: (1) next in seniority; (2) statutorily qualified to be the Chief Judge; and (3) present in the District.

C. “General Orders” Versus “Orders of the Chief Judge”

(i) General Orders:

Determinations of Court policy, enactment of Court Local Rules, orders dealing with non-routine administrative matters, orders implementing Court policy, orders authorizing the expenditure of more than \$5,000.00 in authorized funds, Library funds, or Pro Bono funds, and any order that changes or proposes to change the Court’s Local Rules or a previous General Order of the Court, will require a General Order bearing the signatures of a majority of the Judges of this Court.

(ii) Orders of the Chief Judge:

Orders relating to routine administrative matters that do not encompass Court policy decisions may be made by the Chief Judge alone. Examples of routine administrative matters that may be authorized by an Order of the Chief Judge include, but are not limited to, ministerial matters such as granting waivers of fees and appointing members to certain ad hoc Court committees. The Chief Judge may also delegate by Order certain duties to another District Judge, such as overseeing the empanelment of trial and grand juries, and supervising and acting as liaison to Criminal Justice Act panel attorneys, the Chief U.S. Probation Officer, and the Chief Pretrial Service Officer.

(iii) Appointment of Members to Court Committees

The selection and appointment of members to the Merit Selection Committee, the Magistrate Judge Retention Committee, and the Standing Committee on Discipline will be made by a majority vote of the Judges of this Court and will be reflected in a General Order. The selection and appointment of members to other ad hoc committees will be made by the Chief Judge and will be reflected in an Order of the Chief Judge. However, any Judge of this Court may suggest candidates for appointment to any Court committee.

(iv) Appointment of Lawyer Representatives

The selection and appointment of Lawyer Representatives will be made by a majority vote of the Judges of this Court and will be reflected in a General Order.

(v) Effective Date

The effective date of General Orders and Orders of the Chief Judge will be reflected in the Order.

D. Assignment of Chambers and Courtrooms for Judges

The authority to determine the assignment of chambers and courtrooms will be solely within the discretion of the Chief Judge, who will take into account the following factors:

(i) Seniority in office. In general, priority will be given to active Judges, except that ordinarily Senior Judges will not be required to move to new chambers based solely on their decision to take Senior Status. District Judges will be given priority in courtroom and chambers assignments over Magistrate Judges, and active Magistrate Judges will have priority over recall Magistrate Judges.

(ii) The Judicial Conference's current policy on allocation of courtrooms and chambers, as set forth in the Guide to Judiciary Policy. (Relevant sections of the Guide are attached to this order.)

(iii) A Judge's announced intention to take senior status or retire. If a District Judge will be eligible for senior status in less than two years, the Chief Judge may inquire about and consider that Judge's intention to take senior status.

(iv) The preference of Senior Judges to move to the senior suite, or to be assigned chambers without a courtroom.

(v) The needs of disabled Judges for accessible chambers and courtrooms.

(vi) The feasibility of Judges sharing courtrooms.

(vii) The Court's present and future needs and resources.

(viii) The availability of chambers and courtrooms.

- (ix) The case load or weighted case load of a Judge.
- (x) The recorded monthly bench hours logged by a Judge.
- (xi) Cost, including the cost of relocating Judges to new chambers and courtrooms.
- (xii) The need to maintain chambers and courtrooms for future or visiting Judges.

E. Meetings and Voting Rights

(i) Meetings

The Judges of this Court will meet regularly, and Judges should make their best efforts to attend all Judges' meetings. Meetings will generally be held on Mondays or on Tuesday following a Monday holiday. Special meetings may be scheduled as necessary.

(ii) Agenda

Any District Judge may ask the Chief Judge to include an item on the agenda for an upcoming meeting. By noon on the Friday preceding a Judges' meeting, the Chief Judge will circulate a meeting agenda. If the agenda is updated or corrected, the Chief Judge will endeavor to circulate an amended agenda by the end of the workday on Friday, but in all events before the Judges' meeting. Documentation pertaining to agenda items will be attached to the agenda.

(iii) Voting Procedure at Judges' Meetings

Any new General Order or any revision to an existing General Order will require an affirmative vote by a majority of Judges of this Court. Any Judge expecting to be absent from a meeting in which such a vote is scheduled should email his or her vote preferences to the Chief Judge at least 24 hours in advance of the meeting. The Chief Judge will count any vote he or she receives before the start of the meeting. Proxy voting will not be allowed.

(iv) Voting Rights of Senior Judges

Senior Judges of this District are entitled to vote on all matters to the same extent and effect as active Judges, unless prohibited by statute.

III. MAGISTRATE JUDGES

A. Voting Procedure for Selection of Magistrate Judges

Votes by the Judges of this Court on the selection of Magistrate Judges will be by individual written ballot. The candidate receiving a majority of votes cast in the first ballot will be selected as Magistrate Judge. In the event no candidate receives a majority of the votes cast, or of a tie on the first ballot, a run-off vote between only the top two candidates will be taken. Absent a run-off vote or other irregularities, there will be no re-voting. If the Judges of this Court are voting to select more than one Magistrate Judge, the votes will be taken successively, such that the new Magistrate Judges are selected one at a time.

B. Voting Procedure for Retention of Magistrate Judges

Votes by the Judges of this Court on the retention of Magistrate Judges will be conducted in the same manner as voting for the selection of Magistrate Judges.

C. Seniority Among Magistrate Judges

Seniority among Magistrate Judges will be governed by the date and order in which the Magistrate Judge is selected. Among Magistrate Judges whose selection occurs on the same date, seniority is determined by the order of selection, not the date the Magistrate Judge is sworn in.

D. Periodic Review of Magistrate Judges

Periodic review of Magistrate Judges will be conducted by a committee of two District Judges to be appointed by the Chief Judge. The committee will solicit feedback from the District Judges of this Court, other Magistrate Judges, and members of the bar. The committee will compile the feedback, discuss their findings with the Magistrate Judge being reviewed, and share their review with the District Judges of this Court. This periodic review is intended to be informal and will be conducted every other year beginning two years after a Magistrate Judge's initial selection. Nothing precludes the Chief Judge or any other Judge of the Court from addressing at any time issues that might arise concerning a Magistrate Judge's performance.

IV. MISCELLANEOUS MATTERS

A. Seniority Among Active Judges and Senior Judges

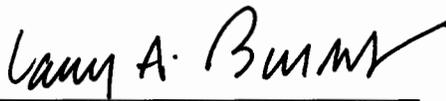
Seniority among active Judges and Senior Judges is governed by the date of each Judge's commission. Among Judges whose commissions bear the same date, the older or the oldest Judge is deemed the senior among them.

B. Revision of Governance Policies

This Order is subject to revision. It may be amended by another General Order, stating the revised plan in full.

IT IS SO ORDERED.

Dated: 4-26-19



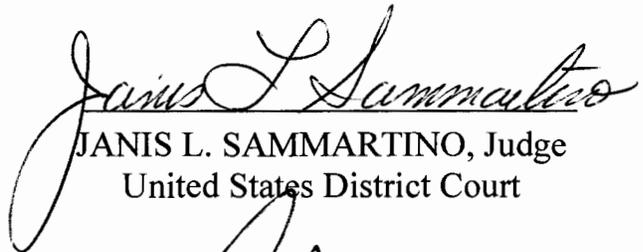
LARRY ALAN BURNS,
Chief Judge
United States District Court



DANA M. SABRAW, Judge
United States District Court



WILLIAM Q. HAYES, Judge
United States District Court



JANIS L. SAMMARTINO, Judge
United States District Court



ANTHONY J. BATTAGLIA, Judge
United States District Court



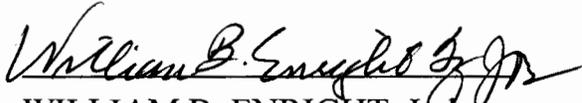
CATHY ANN BENCIVENGO,
Judge
United States District Court



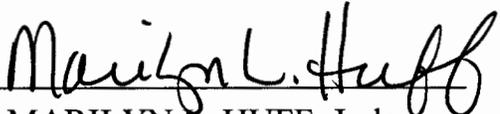
GONZALO P. CURIEL, Judge
United States District Court



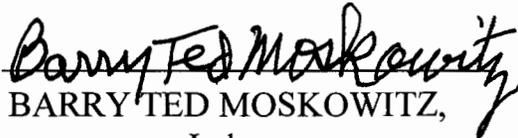
CYNTHIA A. BASHANT, Judge
United States District Court



WILLIAM B. ENRIGHT, Judge
United States District Court



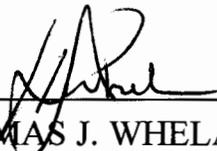
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United States District Court



BARRY TED MOSKOWITZ,
Judge
United States District Court



JEFFREY T. MILLER, Judge
United States District Court



THOMAS J. WHELAN, Judge
United States District Court

see attached

M. JAMES LORENZ, Judge
United States District Court

see attached

JOHN A. HOUSTON, Judge
United States District Court

see attached

ROGER T. BENITEZ, Judge
United States District Court



MICHAEL M. ANELLO, Judge
United States District Court

GONZALO P. CURIEL, Judge
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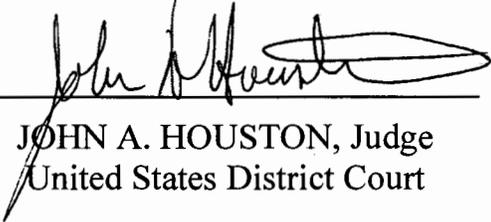
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United States District Court

§ 220 Courtrooms

- (a) Courtrooms are used for oral arguments, civil and criminal proceedings, hearings, trials, and special judicial proceedings such as naturalization ceremonies.
 - (1) One courtroom is provided for each active district judge. JCUS-MAR 97, p. 17.
 - (2) Senior judges, magistrate judges, and bankruptcy judges are required to share courtrooms. **See:** § 230.
- (b) Under the Circuit Rent Budget (CRB) program, guidelines and business rules are provided for planning for courtrooms. For an overview of the program, **see:** Circuit Rent Budget Manual.

§ 220.40 Courtrooms for Part-Time Magistrate Judges

- (a) Part-time magistrate judges are not provided assigned courtrooms but are often given access to a courtroom at a federal courthouse, post office, or a military installation.
 - (1) State, county, and local court facilities are also used, sometimes with an incurred expense.
 - (2) Many part-time magistrate judges with large caseloads do not have access to any facilities other than their law offices.
 - (3) The use of private law offices for court business, in certain circumstances, is an unfair burden on part-time magistrate judges and their law firms, and may create an appearance not suited to the dignity of the federal district court. Therefore, courtroom space for part-time magistrate judges may be provided where an exceptional need exists, in accordance with the following:
 - (A) commercial leased space will not be procured if appropriate federally owned space is available;
 - (B) only those part-time magistrate judges who handle a substantial caseload or perform duties that are appropriate only in courtrooms, may be provided with courtroom space;
 - (C) there is no practical alternative; and
 - (D) the chief judge of the district, the appropriate circuit council, and the AO approve the arrangement.
- (b) The size of the courtroom leased for a part-time magistrate judge should not exceed 800 NSF, absent special circumstances.

§ 230 Courtroom Sharing

§ 230.10 Courtroom Sharing for Senior Judges

The Judicial Conference adopted a courtroom sharing policy for senior judges in new courtroom construction projects as follows (JCUS-MAR 09, pp. 14-15):

- (a) One courtroom will be provided for every two senior district judges.
- (b) In courthouses where the application of this formula will result in a fraction (i.e., those with an odd number of senior judges), the number of courtrooms allocated will remain at the next higher whole number.
- (c) In the event this sharing arrangement would cause substantial difficulty in the effective and efficient disposition of cases, a court, as a whole, with the approval of its circuit judicial council, may seek an individual exemption to this courtroom sharing policy from the Committee on Space and Facilities.
 - (1) Such exemptions should be considered the exception and not the rule.
 - (2) To be considered for an exemption, a court must first show a per-active-judge caseload that, absent special circumstances, meets, if not exceeds, the standard established by the Judicial Conference for the consideration of the creation of a new judgeship.

Note: As of March 2009, this standard is 430 weighted filings per authorized district judgeship, assuming the addition of a judgeship. In courts with fewer than five authorized judgeships, the standard is 500 weighted filings per existing authorized district judgeship.

- (3) Next, a court should demonstrate that deviation from the basic sharing policy of one courtroom for two senior judges is necessary, based on the following:
 - (A) an assessment of the number and type of courtroom events anticipated to be handled by the senior judge that would indicate that sharing a courtroom would pose a significant burden on the effective and efficient management of a judge's docket;
 - (B) the estimated number of years the senior judge for whom an exemption is sought would need a courtroom after taking senior status, along with a description of how the district has historically utilized senior judges;
 - (C) an assessment of the current complement of courtrooms and their projected use in the facility and throughout the district, to reaffirm the necessity of constructing an additional courtroom; and

- (D) whether a special proceedings, visiting judge, or other courtroom is available for senior judge's use in the new or existing facility.

§ 230.20 Courtroom Sharing for Magistrate Judges

The Judicial Conference adopted a courtroom sharing policy for magistrate judges in new courtroom construction projects as follows (JCUS-SEP 09, pp. 9-11):

- (a) The following describe the courtroom/judge ratios:
 - (1) In courthouses with one or two magistrate judges, one courtroom will be provided for each magistrate judge.
 - (2) In courthouses with three or more magistrate judges, one courtroom will be provided for every two magistrate judges.
 - (3) In courthouses where the application of this formula will result in a fraction (i.e., those with an odd number of magistrate judges), the number of courtrooms allocated will remain at the next lower whole number.
- (b) In addition, one courtroom will be provided for magistrate judge criminal duty proceedings.
- (c) In the event the required sharing arrangement would cause substantial difficulty in the effective and efficient disposition of cases, a court, as a whole, with the approval of its circuit judicial council, may seek an individual exemption to this courtroom sharing policy from the Committee on Space and Facilities.
 - (1) Such exemptions should be considered the exception and not the rule.
 - (2) To be considered for an exemption, a court must first show that the magistrate judge's courtroom is in use over 75% of the work day for case-related purposes.
 - (3) In addition, a court should demonstrate that deviation from the basic sharing policy is necessary, based on the following:
 - (A) an assessment of the number and type of courtroom events anticipated to be handled by the magistrate judge that would indicate that sharing a courtroom would pose a significant burden on the secure, effective and efficient management of that judge's docket;
 - (B) an assessment of how the district has historically utilized its magistrate judges;

- (C) an assessment of the current complement of courtrooms and their projected use in the facility and throughout the district, to reaffirm the necessity of constructing an additional courtroom; and
- (D) whether a special proceedings, visiting judge, or other courtroom is available for the magistrate judge's use in the new or existing facility.

§ 240 Chambers

A chambers suite (chambers) includes the judge's private office with adjoining private toilet and vestibule, a reference/conference room, work areas, offices, and other associated spaces used by the judge and support staff. Under the Circuit Rent Budget (CRB) program, guidelines and business rules are provided for planning new chambers.