FILED

MAY 2 8 2003

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

PLAN A (AMENDED)

AMENDED PLAN FOR RANDOM AND DIRECT ASSIGNMENT
OF CASES IN MULTI-JUDGE DIVISIONS

I. SCOPE OF PLAN

This plan provides for the distribution of civil and criminal cases among the judges of this Court in multi-judge divisions by random draw or, in the situations outlined below, by direct assignment.

II. SUPERVISION OF THE ASSIGNMENT OF CASES

The assignment of cases to the calendars of judges in multi-judge divisions, and the preparation of calendars, shall be done solely under the direction of the Court by the U. S. District Clerk, Chief Deputy, or, after obtaining the approval of the presiding judge in the division, a designated deputy clerk.

III. RANDOM ASSIGNMENT OF CIVIL AND CRIMINAL CASES

Except as noted in subsequent paragraphs of this Plan, all civil and criminal cases filed in multi-judge divisions of this Court shall be randomly assigned to the judges in those divisions by a computer-generated program providing a proportionate distribution of case assignments in the percentages reflected in the most recent Order Assigning the Business of the Court.

IV. DIRECT ASSIGNMENT OF CIVIL CASES TO THE CALENDAR OF A JUDGE

A. Related Cases

If at the time of filing, the civil cover sheet (Form JS-44), indicates that the case is related to an earlier numbered pending case, the Clerk shall assign the case to that judge.

B. Petitions for Writ of Habeas Corpus

A petition for writ of habeas corpus filed by a person in custody shall be assigned in the same manner as other civil cases except that subsequent petitions filed by the

same individual shall be assigned to the judge to whom the most recently filed petition was assigned.

C. Civil Rights Act Complaints

A Civil Rights Act complaint filed by a person in custody shall be assigned in the same manner as other civil cases except that subsequent complaints filed by the same individual shall be assigned to the judge to whom the most recently filed complaint was assigned.

D. Motions Under 28 USC § 2255

Motions filed under 28 USC § 2255 shall be assigned to the sentencing judge. If the sentencing judge is no longer sitting, then in such instance the motion shall be assigned in the same manner as a civil case.

E. Bankruptcy Appeals

If a bankruptcy appeal has been assigned a judge, all subsequent appeals in the same case shall be assigned to that judge, otherwise the appeal shall be assigned in the same manner as a civil case.

V. REASSIGNMENTS

A. Reassignment of Cases

Cases may be reassigned from the calendar of a judge to the calendar of any other judge with the consent of the judge from whom and to whom the case is to be reassigned, unless such reassignment is disapproved by the Chief Judge.

B. Reassignment of Cases Directly Assigned

Where a case is assigned directly to a judge at the time of filing in accordance with the provisions of this plan, and the judge to whom the case had been originally assigned subsequently determines that the case should not have been so assigned, the Clerk shall randomly reassign the case.

C. Reassignment of Cases That Should Have Been Directly Assigned

Subsequent to the assignment of a case to a judge, where counsel discovers that the case should have been assigned at filing to another judge pursuant to this Plan, counsel shall forthwith inform the Clerk in writing. Upon receipt of such

information from any source, the Clerk shall communicate the fact in writing to the judges involved, who will then resolve the matter among themselves. Any resulting reassignment shall be effective unless such reassignment is disapproved by the Chief Judge. Any request for reassignment shall be forwarded to the Clerk for random assignment in accordance with the provisions of this Plan.

D. Other Reassignment of Cases

If a case is to be reassigned for any reason not provided for in this Plan, and the assigning judge and receiving judge agree, the case shall be reassigned as directed unless such reassignment is disapproved by the Chief Judge.

VI. ASSIGNMENT OF CRIMINAL CASES

All criminal cases shall be filed randomly. In the event either U. S. Attorney, or defense counsel, or both, deem that case should be transferred to another judge because the case is related to a prior criminal case they may file an appropriate motion to transfer.

VII. CONDITIONS UNDER WHICH CRIMINAL CASES ARE DEEMED RELATED

A criminal case is deemed related to an earlier pending criminal case when the indictment or information in the later case:

1. is filed against each of the defendants in the earlier case and only those defendants; or

2. involves the same transaction(s) or occurrence(s) which gave rise to a pending case, even though some of the defendants named may differ in the cases.

VIII. CONDITIONS UNDER WHICH CIVIL CASES ARE DEEMED RELATED

A civil case is deemed related to an earlier numbered pending civil case when:

1. it relates to property included in that case; or

2. it involves substantially the same issue(s) of fact or grows out of the same transaction(s) as that case; or

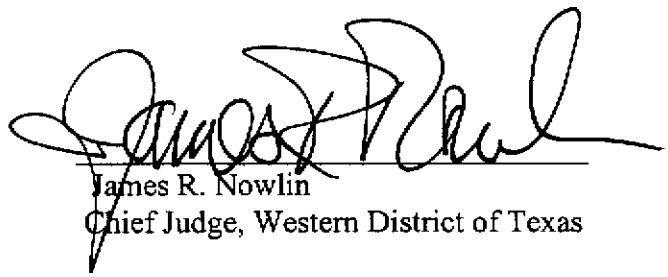
3. it involves the validity or infringement of a patent already in suit in that case; or

4. both were brought as class actions and involve substantially the same issues of law and one or more of the classes in the later numbered suit is the same as those in the earlier numbered suit.

IX. EMERGENCY MATTERS

If an emergency matter requiring an immediate hearing is filed and assigned to a judge who is not readily available to hear the matter, the judge to whom the matter is assigned or the Chief Judge or the presiding judge of the division will be responsible for arranging a timely hearing by another judge.

EFFECTIVE, this 28th day of MAY, 2003.



James R. Nowlin
Chief Judge, Western District of Texas