

Rule 1.2

**FILING OF DISCOVERY AND DISCLOSURE NOTICES;
ASSIGNMENT OF CASES; RELATED CASES AND CONSOLIDATION;
~~CIVIL RICO CASES~~ BANKRUPTCY APPEAL CASES**

(c) **Assignment of Criminal Cases.** Within each division, the criminal cases, when filed, shall be assigned ~~equally~~ among the District Judges of the division by the Clerk (or by a deputy designated by the Clerk) by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys shall be able to make a deliberate choice of a particular Judge for a particular case. At the conclusion of the preliminary hearing and detention hearing in Tucson, or at the conclusion of the grand jury return in Phoenix, the Clerk shall randomly refer the criminal case to a Magistrate Judge. The cases so assigned or referred shall remain with the Judges to whom assigned or referred unless otherwise ordered by the Court. With the exception of defense counsel, any officer of the Court who determines that a new charge has been filed against a defendant who is under federal Court supervision shall immediately notify the presiding judge before whom the new case is pending.

Where a defendant is charged with a new crime and is currently on supervised release, the new case which is pending or subsequently filed shall be assigned to the District Judge presiding over the revocation proceeding. However, if the Judge assigned the revocation proceeding is a Senior District Judge, unless otherwise ordered by that Judge, both matters shall be assigned to a District Judge drawn by automated random selection.

(d) **Assignment of Juvenile Matters.** Within each division, the juvenile matters, when filed, shall be assigned ~~equally~~ among the District Judges of the division by the Clerk (or by a deputy designated by the Clerk) by automated random selection and in a

manner so that neither the Clerk nor any parties or their attorneys shall be able to make a deliberate choice of a particular Judge for a particular case. The cases so assigned shall remain with the Judge to whom assigned unless otherwise ordered by the Court. When an information is filed against a juvenile in the District Court, a District Court Judge shall be assigned to hear the matter. If the government moves to transfer the juvenile to adult status and the motion to transfer is granted, the case shall be assigned by automated random selection to a District Judge upon return of an indictment by the grand jury.

(e) **Assignment of Civil Cases.** Within each division, the civil cases, when filed, shall be assigned ~~equally~~ among the ~~District~~ Judges of the division by the Clerk (or by a deputy designated by the Clerk) by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys shall be able to make a deliberate choice of a particular Judge for a particular case. The cases so assigned shall remain with the Judge to whom assigned unless otherwise ordered by the Court. Unless otherwise ordered by the Court, the Clerk shall assign each civil case to a District Judge or a Magistrate Judge by automated random selection, except that when preliminary injunctive relief is requested by motion, the Clerk shall assign the case to a District Judge. In the event the action is assigned to a Magistrate Judge, each party shall execute and file within 20 days of its appearance either a written consent to the exercise of authority by the Magistrate Judge under 28 U.S.C. § 636(c), or a written election to have the action reassigned to a District Judge. Each party shall indicate his or her consent or election on the form provided by the ~~Court~~ Clerk. Prior to the completed consent or election forms being received by the Clerk of the Court, the assigned Magistrate Judge

shall act pursuant to 28 U.S.C. § 636(b)(1)(A). Any motion submitted by a party before that party has filed an election form may be stricken or deferred by the Court. In the event one or more parties elect to have a case heard by a District Judge, the case shall be reassigned to a District Judge. After one or more consents to a Magistrate Judge have been filed with the Clerk and until such time as an election is made by any party for assignment to a District Judge, the Magistrate Judge shall continue to act pursuant to 28 U.S.C. § 636(c)(1) even though all parties have not been served or have not filed their appearances. Consent to a Magistrate Judge's authority does not constitute a waiver of any jurisdictional defense unrelated to the grant of authority under 28 U.S.C. § 636(c).

(g) (1) **Related Cases.** Whenever two or more cases are pending before different ~~District~~ Judges and any party believes that such cases (A) arise from substantially the same transaction or event; (B) involve substantially the same parties or property; (C) involve the same patent, trademark, or copyright; (D) callg for determination of substantially the same questions of law; or (E) for any other reason would entail substantial duplication of labor if heard by different ~~District~~ Judges, any party may file a motion to transfer the case or cases involved to a single ~~District~~ Judge. ~~The motion shall be filed in each affected case, but shall contain the caption of the case with the lowest number and shall be heard by the District Judge to whom that case is assigned.~~ The motion shall be filed in the case with the lowest case number and shall be heard by the Judge assigned to that case. The caption of the motion to transfer shall list the case number of that case, followed by a complete listing of the case numbers of all the cases to be considered for reassignment. In addition, a notice of filing motion to transfer, with a copy of

the motion attached, shall be filed in each case to be considered for reassignment.

*(i) **Bankruptcy Appeal Cases.** Except with permission of the district court, the appellant's and appellee's opening briefs shall not exceed seventeen (17) pages, and reply briefs shall not exceed eleven (11) pages, exclusive of pages containing the table of contents, tables of citations, proof of service and any addendum containing statutes, rules, regulations or similar material.

~~(i) **All Civil RICO Actions.** The following rule shall apply to all claims filed in this District under the Racketeer Influenced & Corrupt Organizations Act ("Rico"), 18 U.S.C. § 1961, et seq.~~

~~Each party asserting a claim, cross-claim or counterclaims under RICO shall file a "Rico Case Statement" as described below. This statement shall be filed within 20 days of the filing of the claim, cross-claim, or counterclaim in the particular action, and shall include those facts upon which the plaintiff is relying and which were obtained as a result of the "reasonable inquiry" required by Fed.R.Civ.P. 11. In particular, this statement shall be in a form which uses the numbers and letters as set forth below, and shall state in detail and with specificity the following information.~~

~~1. State whether the alleged unlawful conduct is in violation of 18 U.S.C. § 1962(a), (b), (c), and/or (d).~~

~~2. List each defendant and state the alleged misconduct and basis of liability of each defendant.~~

~~3. List the alleged wrongdoers, other than the defendants listed above, and state the alleged misconduct of each wrongdoer.~~

~~4. List the alleged victims and state how each victim was allegedly injured.~~

~~5. Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim. A description of the pattern of racketeering shall include the following information:~~

~~a. List the alleged predicate acts and the specific statutes which were allegedly violated;~~

~~b. Provide the dates of predicate acts, the participants in the predicate acts, and a description of the facts surrounding the predicate acts;~~

~~c. If the RICO claim is based in the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the "circumstances constituting fraud or mistake shall be stated with particularity." Fed.R.Civ.P. 9(b). Identify the time, place and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;~~

~~d. State whether there has been a criminal conviction for violation of each predicate act;~~

~~e. State whether civil litigation has resulted in a judgment in regard to each predicate act;~~

~~f. Describe how the predicate acts form a "pattern of racketeering activity"; and~~

~~g. State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe in detail.~~

~~6. Describe in detail the alleged enterprise for each RICO claim. A description of the enterprise shall include the following information:~~

~~a. State the names of the individuals, partnerships, corporations, associations, or other legal entities, which allegedly constitute the enterprise;~~

~~b. Describe the structure, purpose, function and course of conduct of the enterprise;~~

~~_____ c. State whether any defendants are employees, officers or directors of the alleged enterprise;~~

~~_____ d. State whether any defendants are associated with the alleged enterprise;~~

~~_____ e. State whether the claimant is alleging that the defendants are individuals or entities separate from the alleged enterprise, or that the defendants are the enterprise itself, or members of the enterprise; and~~

~~_____ f. If any defendants are alleged to be the enterprise itself, or members of the enterprise, explain whether such defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.~~

~~_____ 7. State and describe in detail whether the claimant is alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity.~~

~~_____ 8. Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all.~~

~~_____ 9. Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.~~

~~_____ 10. Describe the effect of the activities of the enterprise on interstate or foreign commerce.~~

~~_____ 11. If the complaint alleges a violation of 18 U.S.C. §1962(a), provide the following information:~~

~~_____ a. State who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt; and~~

~~_____ b. Describe the use or investment of such income.~~

~~_____ 12. If the complaint alleges a violation of 18 U.S.C. §1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.~~

~~13. If the complaint alleges a violation of 18 U.S.C. §1962(c), provide the following information:~~

~~a. State who is employed by or associated with the enterprise; and~~

~~b. State whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).~~

~~14. If the complaint alleges a violation of 18 U.S.C. §1962(d), describe in detail the alleged conspiracy.~~

~~15. Describe the alleged injury to business or property.~~

~~16. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.~~

~~17. List the damages sustained for which each defendant is allegedly liable.~~

~~18. List all other federal causes of action, if any, and provide the relevant statute numbers.~~

~~19. List all supplemental state claims, if any.~~

~~20. Provide any additional information that you feel would be helpful to the Court in processing your RICO claim.~~

~~This subpart of the local rule 1.2(i) shall be deemed an order of the Court and subjects the parties to the provisions of Rule 37, Fed.R.Civ.P.~~

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