

**STATE COURT
ADMINISTRATIVE OFFICE**

**JUDICIAL ASSIGNMENT
PROCEDURES**

Revised June 2009

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STATE COURT ADMINISTRATIVE OFFICE

JUDICIAL ASSIGNMENT PROCEDURES

INTRODUCTION

These procedures govern the judicial assignment process and are to be used by judges, court personnel, and the State Court Administrative Office (SCAO) staff. The procedures are subject to change or exception at the direction of the State Court Administrator. Regional Administrators are generally responsible for all judicial assignments within their respective regions (see Map, Appendix A).

Assignments of judges to courts other than the court to which they were elected and assignments of former elected judges fall into one of the following six categories:

1. Assist with Docket Assignments

The purpose of an assist with docket assignment is for a judge to assist a court having a heavy caseload or a backlog of cases or to cover when a judge is absent because of illness, vacation, attendance at conference, or for other reasons which require the assistance of an outside judge. The assignment may cover specific days or time periods or may be an assignment to handle a specific case.

2. Disqualification Case Assignments

When all judges of a court are disqualified from hearing a case, SCAO selects and assigns a judge from another jurisdiction to hear the case.

3. Disqualification Motion Assignments

In motions for disqualification, when the challenged judge is the chief judge or a judge of a single-judge court, and when the motion is denied, upon referral by the challenged judge, SCAO selects and assigns a judge to hear the disqualification motion de novo.

4. Blanket Disqualification Assignments

In rare instances, if a judge is disqualified from hearing all cases involving an attorney or party, SCAO will assign a judge or judges to hear these cases on a continuing basis.

5. Emergency Coverage and Backup Assignments

Judges may be assigned for a specific period of time to hear matters that cannot be heard because of the temporary absence of a judge.

6. Ceremonial Assignments

These assignments are for the purpose of performing a marriage ceremony or administering an oath.

I. **General Assignment Policy**

A. **Factors Considered by SCAO when Making Assignments**

1. Close Proximity

Judges who reside in the same county or in close proximity to the requesting court will be considered for assignment whenever possible and practical.

2. Other Factors: Caseload, Reports, and Expense

- a. In making an assignment, SCAO will consider the following factors in relationship to the prospective assigned judge and the judge of the court to which the assignment is to be made: the status of each judge's caseload, whether each judge has filed all required reports with SCAO, and any other factor(s) determined appropriate by the State Court Administrator.
- b. Though the expense involved shall not be the principal factor in making a decision to assign a judge, SCAO will consider the cost to the public when making its assignment decision.

B. Requests of Non-court Personnel

Assignments of judges are not issued at the request of attorneys, prosecutors, parties of interest, or any other noncourt personnel.

C. District Courts with the Same Numerical Designation

An assignment is required when a judge from a district court with a letter designation sits in a court with the same numerical designation, but a different letter designation (i.e., 45A to 45B or vice versa). No assignment is required for a judge to sit in a different division of the same court (i.e., 52-1 to 52-4).

D. Change of Venue

A judicial assignment does not constitute a change of venue of the matters assigned.

E. Assigned Judge Travels to the Assigned Court

The assigned judge shall travel to the assigned court, unless the parties agree to a written stipulation to have the matter heard at another location. A burden should not be placed on the litigants to travel to the geographical location of the assigned judge's court.

F. Exceptions to Assignments by Regional Administrators

1. Unless specifically authorized in writing by the State Court Administrator, only the State Court Administrator, Deputy State Court Administrator, and Regional Administrators are authorized to assign judges. Regional Administrators may act on behalf of each other in the event of the unavailability of a Regional Administrator normally responsible for making the assignment.
2. Regional offices shall refer the following types of requests for assignment to the State Court Administrator for selection of an assigned judge:
 - a. actions between a funding unit and a court;
 - b. actions in which a judge is a party;
 - c. actions in which a member of the regional office staff or immediate family is a party; or
 - d. any other actions or factors that the Regional Administrator believes would preclude him or her from making an assignment.

G. Denial of Request for Assignment

A request for assignment may be denied by the State Court Administrator or Regional Administrator:

1. if the assignment would violate any provision of the assignment procedures, or
2. for any reason deemed sufficient.

H. **Termination of Assignments**

1. Reasons for Termination of an Assignment:

Assignments terminate when an assigned judge leaves office.

An assignment *may* be terminated by the State Court Administrator or the Regional Administrator who issued the assignment in the following circumstances:

- a. upon written request of the chief judge of the court to which the judge is assigned, which clearly states the reason for the requested termination;
 - b. upon written request of the assigned judge, which clearly states the reason for the requested termination;
 - c. when an assignment was issued in error because facts were not known at the time the assignment was made; or
 - d. any reason that the State Court Administrator or Regional Administrator who issued the assignment determines justifies the termination.
2. Assignments will not be terminated at the request of a party or parties or their counsel.

3. Method of Terminating Assignments
 - a. Assignments may be terminated by the State Court Administrator or the appropriate Regional Administrator, on completion of a termination of assignment (see Appendix B).
 - b. The termination of assignment will be distributed to all parties who received copies of the assignment.

I. Court of Appeals Assignments

1. Unless specifically authorized by the Supreme Court, only current or former justices of the Supreme Court, former judges of the Court of Appeals, current or former judges of the Circuit and former judges of the Recorder's Court will be assigned to the Court of Appeals.
2. A judge assigned to the Court of Appeals shall not hear or decide a case on appeal in which the judge had previously heard or decided it in another court, nor shall an assigned judge hear a case from the court on which the judge currently sits.

J. Multicounty Grand Jury Assignments

1989 PA 204 [MCL 767.7b *et seq.*] provides for multicounty grand juries. The act provides that the Michigan Court of Appeals appoint a circuit court judge to preside over a multicounty grand jury. Under direction of the Michigan Supreme Court, if the Court of Appeals convenes a grand jury with jurisdiction over two or more counties, the Court of Appeals shall notify the State Court Administrator and request the assignment of a circuit court judge to preside over the proceedings.

The State Court Administrator shall act promptly in selecting and assigning a judge and notifying the Court of Appeals of the assignment.

K. Judicial Tenure Commission

A judge against whom a complaint with the Judicial Tenure Commission is pending may be assigned to another court, unless the complaint originated from the State Court Administrator or a formal complaint has been filed by the Judicial Tenure Commission.

L. Appointed Judges

1. SCAO will assign sitting judges who have been appointed, but not yet elected.
2. SCAO will not assign former judges who were appointed but never elected to judicial office.

M. Former Judges

1. "Former judge" means a judge no longer holding office, who was *elected* and served as a judge.
2. To be eligible for assignment, a former judge must be an active member of the State Bar of Michigan and a resident of the State of Michigan.
3. Former judges may be assigned judicial duties in any trial court in the state. A former judge who was defeated in a judicial election will not be assigned to any court that is in or is part of the jurisdiction in which the judge was defeated. Jurisdiction

means any court in the county or counties of a judicial circuit or probate court *and* any court in the judicial district, including all election divisions of a district court.

4. Former judges who engage in the practice of law shall not be assigned, except as authorized under Section I.M.7.
5. A former judge who has been removed from office shall not be assigned.
6. A former judge serving in another branch of government shall not be assigned.
7. Practice of Law

Except as outlined below, no former judge who engages in the practice of law, including “Of Counsel” will be assigned to act as a judge by the State Court Administrative Office, unless a written waiver is granted by the State Court Administrator. Any former judge who wishes to be considered for assignment must certify, on a form provided by the State Court Administrative Office, that the former judge is not practicing law.

- a. Former judges engaged in the practice of law may be assigned to act as a judge for the purpose of performing a marriage or conducting a swearing-in ceremony.
- b. Former judges engaged solely in the practice of acting as mediators or arbitrators, and not otherwise engaged in the practice of law, may be assigned to act as a judge, provided that the former judge discontinues any

mediation and arbitration activities during the period of an assignment, and subject to other limitations provided by law and the Code of Judicial Conduct.

8. **Guardians Ad Litem**

Former judges who are serving as guardians ad litem in court proceedings will not be eligible to be assigned.

9. **Compensation and Expense Considerations**

Whenever possible, a sitting full-time judge will be assigned. The assignments of former judges are limited because of the costs involved.

A former judge will not be assigned without SCAO consulting the local court to determine if funding is available to pay for the costs and per diem expenses of the assigned former judge.

Before a former judge will be assigned, the court requesting the assignment must agree to pay all compensation and expenses of the assigned former judge.

N. **Part-Time Judges**

No part-time judge who engages in the practice of law will be assigned to act as a judge in any court before which the part-time judge practices. The compensation and expense considerations for part-time judges are the same as that for former judges (see Section I. M. 9.).

O. **Magistrates, Referees, and Friends of the Court**

The SCAO does not assign magistrates, referees, or friends of the court.

II. **Assist with Docket Assignments**

- A. Assist with docket assignments are assignments for specific days or periods of time. Under normal circumstances, the court needing the assistance should find a judge willing to be assigned.
- B. In certain situations, such as vacancies in the office of a judge, an extended illness of a judge, or circumstances where the help needed is extensive, SCAO may select judges and require them to serve on assignment.

III. **Emergency Coverage and Backup Assignments**

- A. Courts desiring emergency coverage and backup assignments should follow the procedures for requesting an assignment under Section VI.
- B. Judges within the same county or in nearby counties may be cross-assigned, so that when there is a temporary absence or unavailability of a judge, the assigned judge can hear matters and sign orders.

IV. **Disqualification Assignments**

- A. **Court Rules Regarding Disqualification of a Judge**
 - 1. MCR 2.003 - Disqualification of a Judge

2. MCR 8.111 - Assignment of Cases

B. SCAO Selects Judges in Disqualification Cases

Courts are prohibited from recommending to the State Court Administrative Office the name of a judge for assignment to a disqualification case. If a court suggests a judge to be assigned to a disqualification case, that judge will be eliminated from consideration by SCAO.

C. Orders of Disqualification and Requests for Assignment

1. In cases where *all* judges of a court are disqualified, the chief judge, or his/her authorized user, must electronically submit the request for assignment through the Michigan Court Application Portal (MCAP), which can be found at www.courts.mi.gov/mcap/, and forward a copy of the request for assignment to the appropriate SCAO regional office with a copy of the Order of Disqualification (see Appendix C) signed by each judge in the court, and his or her respective reason for disqualification.
2. The original Order of Disqualification shall be placed in the court file.
3. As much information as possible about the case should be provided to SCAO, so that SCAO can advise the judges contacted for prospective assignments regarding the nature and status of the case and an estimate of the amount of time the assigned judge will be away from their own court.

D. Exchange of Benches

In certain situations, such as cases that involve lengthy trials or when the judge or judges of a court have numerous requests for assignment because of disqualifications, the judge who requested the assignment of another judge may be required to exchange benches with the assigned judge.

E. Motions for Disqualification

1. Procedure

The procedure for motions for disqualification is outlined in MCR 2.003(C). If a motion for disqualification is denied, at the request of a party, the motion is referred to the chief judge who shall decide the motion de novo. In single-judge courts or if the challenged judge is the chief judge, the motion shall be referred to SCAO for the assignment of a judge to hear the motion de novo.

If the motion for disqualification is referred to SCAO for the assignment, the chief judge, or his/her authorized user, must electronically submit the request for assignment through the Michigan Court Application Portal (MCAP), which can be found at www.courts.mi.gov/mcap/, and forward a copy of the request for assignment to the appropriate SCAO regional office, with a copy of the judge's order denying the original motion for disqualification.

2. Assignment of the Motion for Disqualification Only

Judges assigned to hear motions for disqualification are authorized to hear the *motion only*. If the assigned judge grants the motion for disqualification, a new judge will be assigned to hear the case, pursuant to MCR 2.003(C)(4).

V. Ceremonial Assignments

A. Procedure for Marriage Assignment

1. Judges who do not have statutory authority to perform a marriage ceremony (circuit, court of appeals, supreme court, and former judges - MCL 551.7) and judges who do have statutory authority to perform a marriage ceremony (probate, district or municipal), but wish to perform a marriage ceremony outside their jurisdictions, may be assigned by SCAO to perform a marriage ceremony.
2. A request for a marriage assignment must be made before the date the marriage is to be performed. Contact your regional office to submit a request for a marriage assignment.
3. Requests must include the names of the parties to be married, the date of the marriage, and the county where the ceremony will be performed.
4. To avoid jurisdictional questions, most marriage assignments will be made to probate courts.

5. Judges must file the marriage certificate with the appropriate county clerk and keep a record of each marriage ceremony performed (see MCL 551.104).

B. Marriage Fees

1. *Before* performing a marriage, judges are to make certain that the parties to be married have paid the statutory marriage fee to the court having jurisdiction. Judges are not permitted to accept gratuities for performing marriages (see MCL 600.2513 and MCL 600.2519).
2. For marriages performed by a judge assigned to the probate court, the fee should be paid to, and the receipt obtained from, the probate register (see MCL 600.874).
3. For marriages performed by a judge assigned to the district court, the fee should be paid to, and the receipt obtained from, the clerk of the district court (see MCL 600.8316).

C. Administering the Oath for Admission to the State Bar

1. Judges who do not have statutory authority to administer the oath for admission of an attorney to the State Bar of Michigan (court of appeals, probate, district, municipal and former judges - MCL 600.910) and judges who do have statutory authority to administer the oath for admission of an attorney to the State Bar of Michigan (circuit judges), but wish to administer the oath outside their jurisdiction, may be assigned by SCAO to administer the oath.

2. A request for an assignment to a circuit court to administer the attorney oath must be made before the date the oath is to be administered. Contact your regional office to submit a request for an assignment to administer an oath.
3. Requests must include the name of the attorney who is to take the oath, the date of the ceremony, and the county where the ceremony will be performed.
4. Judges administering the oaths are responsible for making certain that all the procedures are followed to ensure that the prospective attorney is admitted to the State Bar of Michigan and included in the Roll of Attorneys maintained by the Clerk of the Supreme Court (see Appendix D).

VI. Assignment Procedures

Each chief judge may establish an authorized user(s) for electronically submitting requests for assignment through the Michigan Court Application Portal (MCAP) by submitting a completed Authorized User Request for Judicial Assignments Web-Based Reporting System form (see Appendix E) to the appropriate regional office. SCAO will automatically authorize all chief judges.

A. Procedure for Obtaining Judicial Assistance

1. After locating a judge to assist in any nondisqualification matter, the chief judge, or an authorized user, must electronically submit the request for assignment (see Appendix F) through the

Michigan Court Application Portal (MCAP), which can be found at www.courts.mi.gov/mcap/,

2. In disqualification cases, SCAO will select the judge to be assigned (see Section IV. B.).

B. Issuance of Assignment

Upon receiving a request for assignment, the appropriate SCAO Regional Administrator may issue the assignment (see Appendix G), and e-mail an electronic copy of the assignment to the following:

- a) visiting judge clerk of the requesting court
- b) visiting judge clerk of the assigned judge's court
- c) assigned judge
- d) Regional Administrator for the judge assigned

C. Emergency Assignments

1. All assignment requests *must* be made in advance of an assignment date. In emergencies, SCAO will accept a telephone request, with the understanding that the request for assignment will be electronically submitted as soon as possible. *SCAO will not backdate assignments.*

Telephone requests for an emergency assignment should be made as soon as the need for assignment is known. If an emergency need for assignment arises after business hours or on a weekend, telephone your Regional Administrator at the number your Regional Administrator has provided for after-business hours emergencies.

2. In nonemergency assignments, if a written assignment has not been received by the court from the SCAO regional office by the business day before the assigned judge is to be in your court, call the SCAO regional office to confirm that the request for assignment has been received and that the assignment has been issued.

D. Filing of Assignment Forms

1. Individually Named Cases

When a specific case is assigned, a copy of the assignment should be placed in the appropriate case file.

2. Disqualification Cases

In disqualification cases, in situations when a specific case is assigned, the assignment (see Appendix H) should be placed in the appropriate case file. When a case is assigned because of a blanket disqualification, a copy of the assignment should be placed in each court file assigned under the blanket assignment.

3. Assist with Docket for Specific Days or Time Periods

When a judge is assigned for specific days or time periods, the assignment should be kept on file by the appropriate clerk or administrator of the assigned court.

VII. Reimbursement of Expenses and Compensation of Assigned Judge

1. Reimbursement and Compensation Statutes

- a. MCL 600.225 - Judges of any court
- b. MCL 600.225a - Municipal judges
- c. MCL 600.226 - Retired judges

2. Billings for Expenses and Per Diem

- a. Reasonable expenses and per diem billings should be submitted by the assigned judge to the chief judge of the assigned court.
- b. Reasonable expenses are governed by the rates established and paid by the State of Michigan to judges serving more than one county. The per diem rate is to be paid for days the assigned judge actively serves as judge of another court.

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STATE COURT ADMINISTRATIVE OFFICE
Lansing, Michigan

TERMINATION OF ASSIGNMENT

Assignment No:
(Assignment No.)

TO: (Judge's Name and Address)

In accordance with the Assignment Procedures produced by SCAO,
this terminates the above-numbered assignment that authorized you to
serve as judge of the:

(Court's Name)

Region: (Region No.)

Region: (Region No.)

(County's Name)

Your assignment is terminated on (Date).

The case of (case name); File No. (file no.)

CC:

APPROVED: _____

(Regional Administrator's name)

Regional Administrator

Authorized: (Date)

STATE OF MICHIGAN JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	ORDER OF DISQUALIFICATION/REASSIGNMENT	CASE NO.
---	--	-----------------

Court address

Court telephone no.

Plaintiff name(s) and address(es)
Plaintiff's attorney, bar no., address, and telephone no.

v

Defendant name(s) and address(es)
Defendant's attorney, bar no., address, and telephone no.

In the matter of _____

IT IS ORDERED:

I, Judge _____, on motion of _____,
 Bar no. _____ on my own motion,
 am disqualified under MCR 2.003 from hearing this case and I am requesting assignment of another judge for the following reason:

- a. The judge is biased or prejudiced for or against a party or attorney.
- b. The judge, based on objective and reasonable perceptions, has either (i) a serious risk of actual bias impacting the due process rights of a party as enunciated in *Caperton v Massey*, ___ US ___; 129 S Ct 2252; 173 L Ed 2d 1208 (2009), or (ii) has failed to adhere to the appearance of impropriety standard set forth in Canon 2 of the Michigan Code of Judicial Conduct.
- c. The judge has personal knowledge of disputed evidentiary facts concerning the proceeding.
- d. The judge has been consulted or employed as an attorney in the matter in controversy.
- e. The judge was a partner of a party, attorney for a party, or a member of a law firm representing a party within the preceding two years.
- f. The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent, or child wherever residing, or any other member of the judge's family residing in the judge's household, has more than a de minimis economic interest in the subject matter in controversy that could be substantially impacted by the proceeding.
- g. The judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person: (i) is a party to the proceeding, or an officer, director, or trustee of a party; (ii) is acting as a lawyer in the proceeding; (iii) is known by the judge to have a more than de minimis interest that could be substantially affected by the proceeding; or (iv) is to the judge's knowledge likely to be a material witness in the proceeding.
- h. Other: (specify)

Date

Judge

Bar no.

ADDITIONAL DISQUALIFICATIONS

NOTE: If there are not enough signature slots, attach additional sheets.

The undersigned judge(s) is/are also disqualified and refer by letter to the reason printed on the front of this form.

NOTE: IF REASON (h) IS ENTERED, THE COMMENT SECTION MUST BE COMPLETED.

REASON a-h	DATE	SIGNATURE	COMMENT

**CHIEF JUDGE DISQUALIFICATION AND
REQUEST FOR REFERRAL TO SCAO**

All of the judges of this court have disqualified themselves and have signed this order, indicating their reason for disqualification pursuant to MCR 2.003.

The designated Visiting Judge Clerk shall submit a copy of this order, **ALONG WITH THE REQUEST FOR ASSIGNMENT**, to the appropriate State Court Administrative Office to have another judge assigned to hear this case pursuant to MCR 2.003(D)(4).

Date

Chief Judge Bar no.

INTERNAL REASSIGNMENT REQUEST

Judge _____ has been chosen by lot or local administrative order from the judges not
Bar no.
disqualified in this case. I request that this case be reassigned to this judge.

Date

Court Administrator or Clerk of the Court

Reassignment approved as requested.

Date

Chief Judge Bar no.

**PROCEDURES TO ADMINISTER THE OATH FOR ADMISSION TO THE
STATE BAR OF MICHIGAN**

The judge should do the following to assure an appropriate record is made and transmitted to the Supreme Court Clerk for entry in the official Roll of Attorneys.

1. Contact the county clerk in the county to which you are assigned to determine local admission practices. Confirm that the applicant has complied with local requirements.
2. Determine that the required \$25 statutory fee (MCL 600.913) has been paid to the county.
3. Confirm that the motion for admission has been made by an active member of the State Bar, the movant is a duly-licensed attorney, and the applicant for admission has been certified by the State Board of Law Examiners as possessing the requisite good character and learning in the law.
4. Upon granting the motion, the oath prescribed by State Bar Rule 15, section 3, must be administered to and subscribed by the applicant.
5. The order of admission must be signed and filed with the county clerk, who is responsible for sending a certified copy of the order to the Supreme Court.

Print Form

AUTHORIZED USER REQUEST FOR
JUDICIAL ASSIGNMENTS
WEB-BASED REPORTING SYSTEM

The following person is authorized to submit Judicial Assignment requests through the Michigan Court Application Portal (MCAP).
NOTE: Authorized users must be either judges or court employees and must have an e-mail address.

Name		Title
Court name and address		
Telephone number (area code and extension)	FAX number (area code)	E-mail address

Chief judge signature (required)

Chief judge name (type or print)

Court

Telephone number

Date

Please return by FAX to

Region I:	313-972-3309
Region II:	517-373-8760
Region III:	989-773-0457
Region IV:	989-732-4237

Regional Approval: _____

Date: _____

Request for Assignment

Return to Main Menu

The fields marked with an asterisk are required.

Assignment Information

Reason * Assign Judge * To Preside in * Location(s) * Add Location Remove Location

You must designate at least one location for the assignment. To designate a location, select it from the drop-down list and click the Add Location button. The location will be added to the listbox below. You may add multiple locations. To remove a location from the listbox, select it and click the Remove Location button. You may remove multiple locations by holding the Control key down while selecting.

Start Date * End Date *

OR Specific, Non-contiguous Dates Use Calendar

If the assignment is urgent, please contact your Regional Office at (517) 373-9353.

Case Information

Case Number(s) Case Title(s) Attorney Name(s) for Plaintiff Attorney Name(s) for Defendant Time Estimate Previous Assignment(s) and Judge(s) Case Summary and Status

Description of Action (Criminal Charges, Civil Complaint, Petition, Etc.)

Additional Comments

Supporting Documentation

If you have any supporting documentation, please print out the request for assignment and fax it and the supporting documentation to your Regional Office at (517) 373-8760.

Submission

By submitting this request, you are certifying that the Chief Judge of your court has authorized this request for assignment.

STATE COURT ADMINISTRATIVE OFFICE
Lansing, Michigan

ASSIGNMENT

Assignment No:
(Assignment No.)

TO: (Judge's Name and Address)

Under the provisions of the Michigan Constitution, 1963, Art. 6, Sec. 4, as amended, you are assigned to serve as Judge of the:

(Court's Name)

Region: (Region No.)

Region: (Region No.)

(County's Name)

THIS ASSIGNMENT DOES NOT COVER DISQUALIFICATIONS.

Assigned matters cannot be transferred to another judge without SCAO assignment. Assignments terminate by an assignment end date, or if none, by an SCAO termination of assignment, or when the judge leaves office.

This assignment commences (Date) and ends (Date).

Reason for Assignment: ASSIST WITH DOCKET

ASSIGNMENT – SAMPLE 1

CC:

APPROVED: _____

(Regional Administrator's Name)

Regional Administrator

Authorized: (Date)

ASSIGNMENT

Assignment No: (Assignment No.)

TO: (Judge's Name and Address)

Under the provisions of the Michigan Constitution, 1963, Art. 6, Sec. 4, as amended, you are assigned to serve as Judge of the:

(Court's Name)

Region: (Region No.)

Region: (Region No.)

(County's Name)

Assigned matters cannot be transferred to another judge without SCAO assignment. Assignments terminate by an assignment end date, or if none, by an SCAO termination of assignment, or when the judge leaves office.

Commencing (Date).

Reason for Assignment: DISQUALIFICATION

To hear and adjudicate the case of (Case Name); File No. (File No.)

ASSIGNMENT – SAMPLE 2

CC:

APPROVED: _____

(Regional Administrator's Name)

Regional Administrator

Authorized: (Date)