

**IN THE CIRCUIT COURTS OF THE  
TWENTY-THIRD JUDICIAL CIRCUIT OF ARKANSAS  
2011 ADMINISTRATIVE PLAN  
PURSUANT TO ADMINISTRATIVE ORDER  
NUMBER 14**

**I. PREAMBLE:**

Pursuant to Administrative Order Number 14 of the Arkansas Supreme Court, the Circuit Judges of the Twenty-third Judicial Circuit of Arkansas establish and promulgate the following Administrative Plan for the purpose of judicial administration, the designation of divisions, and the management of caseloads of the divisions. The Twenty-third Judicial Circuit consists of Lonoke County, Arkansas. There are currently three (3) judges serving this circuit. The current judges and the division they hold are as follows:

Judge Barbara Elmore, Division 1  
Judge Phillip T. Whiteaker, Division 2  
Judge Sandy Huckabee, Division 3

**II. DIVISIONS**

**A.** Each of the three (3) circuit judges in the Twenty-third Judicial Circuit of Arkansas will have, at all times, the authority to hear all matters within the jurisdiction of the circuit court and will have the affirmative duty to do so regardless of the designation of divisions. There is established in the Twenty-third Judicial Circuit the following five subject matter divisions: civil, criminal, domestic relations, juvenile, and probate. The designation of divisions and subdivisions is to promote judicial administration and caseload management and is not for the purpose of subject matter jurisdiction. The creation of divisions shall in no way limit the powers and duties of the judges as circuit judges. Judges shall not be assigned exclusively to a particular division so as to preclude them from hearing other cases which may come before them.

**B.** Intent of Administrative Plan: It is the intent of the circuit judges of the Twenty-third Judicial Circuit to hear all types of cases found in the five subject matter divisions. However, in determining the process for assignment and allocation of cases in the Twenty-third Judicial Circuit several factors were taken into consideration which include, but are not limited to, the following:

1. Limitations on court room space, parking facilities and accommodations available to the public;
2. Efficient utilization of jury panels;
3. Equal apportionment of cases based upon past case filing and time frames peculiar to different types of cases;
4. Limited resources in support staff for different forms of litigation including but not limited to, prosecutorial staff, public defenders, attorney ad litem, juvenile intake and probation officers, adult probation officers, O.C.S.E. staff, as well as social workers and specialized staff of the Arkansas Department of Human Services.

5. The cost and expense to the county in the implementation of the plan. Based upon these considerations, we have determined that the following administrative approach is appropriate and necessary to meet the unique and special needs within our circuit and allow for the appropriate random selection of cases.

**C.** For purposes of this order:

1. "Civil" means cases relating to all other matters not relating to Probate, Domestic Relations, Juvenile, or Criminal.
2. "Criminal" means cases relating to all matters involving the Arkansas Criminal Code except Juvenile delinquency matters.
3. "Domestic Relations" means cases relating to divorce, annulment, maintenance, custody, visitation, support, paternity, and domestic abuse.
4. "Drug Court" means a court dedicated exclusively to alternative adjudication and treatment of persons charged with criminal offenses found eligible for participation in the program.
5. "Veteran's Treatment Court" means a court dedicated exclusively to alternative adjudication and treatment of persons charged with criminal offenses found eligible for participation in the program.
6. "Juvenile" means cases relating to Families in Need of Supervision, dependency neglect, paternity, and delinquency.
7. "Probate" means cases relating to decedent estates, trust administration, adoptions, guardianship, conservatorship, commitment, and adult protective custody.

### **III. ADMINISTRATIVE PLAN:**

The circuit judges of Twenty-third Judicial Circuit submit this Administrative Plan for circuit court administration, signed by all the circuit judges, to the Supreme Court of Arkansas for approval. The plan includes the following:

**A.** Administrative Policy:

The Twenty-third Judicial Circuit has adopted this written policy which describes the process by which case management and administrative procedures, to be used within the judicial circuit, will be determined.

**B.** Case Assignment and Allocation:

1. Except for good cause to the contrary, the case assignment and allocation of cases, (a) shall be by random selection of **unrelated** cases, and (b) shall be a substantially equal appointment of cases among the circuit judges of the Twenty-third Judicial Circuit.
2. It is anticipated that the Administrative Office of the Courts will as soon as practical develop and make available to the Twenty-third Judicial Circuit a computerized program to assure, (a) a random assignment of cases where appropriate and (b) a substantially equal appointment of cases among the judges.

**C.** Criminal docket:

1. The judge of division One (Judge Barbara Elmore) will be assigned one-third

the (1/3) of criminal matters not specifically assigned to another judge pursuant to provisions of this Administrative Plan.

2. The judge of division Two (Judge Phillip T. Whiteaker) will be assigned one-third (1/3) of criminal matters not specifically assigned to another judge pursuant to the provisions of this Administrative Plan. The judge of division Two (Judge Phillip T. Whiteaker) will preside over all cases transferred to drug court and veteran's treatment court.

3. The judge of division Three (Judge Sandy Huckabee) will be assigned one-third (1/3) of criminal matters not specifically assigned to another judge pursuant to the provisions of this Administrative Plan.

4. Petitions to Revoke a Probated or Suspended Sentence are treated as a new case filing and assigned pursuant to the provisions of this plan.

5. Except as otherwise provided, criminal cases which remain open and pending in a division of the court on December 31, 2010, will be and remain assigned to that division effective January 1, 2011.

6. All judges will when needed and as time allows assist with processing criminal matters such as but not limited to probable cause affidavits and search warrants.

**D. Civil docket:**

1. The judge of division One (Judge Barbara Elmore) will be assigned one-third (1/3) of civil matters not specifically assigned to another judge pursuant to the provisions of this Administrative Plan.

2. The judge of division Two (Judge Phillip Whiteaker) will be assigned one-third (1/3) of civil matters not specifically assigned to another judge pursuant to the provisions of this Administrative Plan.

3. The judge of division Three (Judge Sandy Huckabee) will be assigned one-third (1/3) of civil matters not specifically assigned to another judge pursuant to the provisions of this Administrative Plan.

4. Except as otherwise provided, civil cases which remain open and pending in a division of the court on December 31, 2010, will be and remain assigned to that division effective January 1, 2011. All matters connected with a pending or supplemental proceeding will be heard by the division of original assignment.

5. All judges will when needed and as time allows assist with processing civil matters such as but not limited to preliminary injunctions or temporary restraining orders.

**E. Juvenile docket:**

1. The judge of division One (Judge Barbara Elmore) will be assigned all "Dependency/Neglect" and "Other" type of cases contained on the Juvenile Cover Sheet Form.

2. The judge of division Two (Judge Phillip T. Whiteaker) will be assigned all "Delinquency" and "Revocation" type of cases contained on the Juvenile Cover Sheet Form. It will be his responsibility to be the primary administrator of the

juvenile court system. These duties include, but are not limited to: the hiring and supervision of juvenile staff, the administration of juvenile programs, the oversight of budgets of the juvenile support systems and any other duties previously delegated to juvenile judges under the laws of the State of Arkansas.

3. The judge of division Three (Judge Sandy Huckabee) will be assigned all "FINS" type of cases contained on the Juvenile Cover Sheet Form.

4. All judges will when needed and as time allows assist with processing juvenile matters such as but not limited to D.H.S. emergency petitions and detention issues.

**F. Domestic docket:**

1. The judge of division One (Judge Barbara Elmore) will be assigned one-half (½) of domestic matters not specifically assigned to another judge pursuant to the provisions of the Administrative Plan.

2. The judge of division Two (Judge Phillip Whiteaker) will be assigned all "**IV-D Case**" initiated by O.C.S.E. as a new filing or a reopening. This will include "**Child Support**" and "**Paternity/Support**" type of cases contained on the Domestic Relations Cover Sheet Form.

3. The judge of division Three (Judge Sandy Huckabee) will be assigned one-half (½) of domestic matters not specifically assigned to another judge pursuant to the provisions of the Administrative Plan.

4. Except as otherwise provided, domestic cases which remain open and pending in a division of the court on December 31, 2010, will be and remain assigned to that division effective January 1, 2011.

5. With the exception of O.C.S.E. matters as outlined in paragraph two (2) above, any domestic matter administratively reopened will be assigned to the division of disposition.

6. All judges will when needed and as time allows assist with processing domestic matters such as but not limited to petitions for order of protection and mutual orders of restraint.

**G. Probate docket:**

1. The judge of division One (Judge Barbara Elmore) will be assigned all commitment proceedings (civil/alcohol/narcotic) and all adult protective custody proceedings. The judge of division One (Judge Barbara Elmore) will also be assigned twenty-five percent (25%) of probate matters not specifically assigned to another judge pursuant to the provisions of this Administrative Plan.

2. The judge of division Two (Judge Phillip T. Whiteaker) will be assigned fifty percent (50%) of probate matters not specifically assigned to another judge pursuant to the provisions of this Administrative Plan.

3. The judge of division Three (Judge Sandy Huckabee) will be assigned twenty-five percent (25%) of probate matters not specifically assigned to another judge pursuant to the provisions of this Administrative Plan.

4. Except as otherwise provided, probate cases which remain open and pending in a division of the court on December 31, 2010, will be and remain assigned to that division effective January 1, 2011. All matters connected with a pending or supplemental proceeding will be heard by the division of original

assignment.

5. All judges will when needed and as time allows assist with processing probate matters such as but not limited to petitions for involuntary commitment and Adult Protective Services emergency petitions.

**H. Caseload estimate:**

1. It is estimated, based upon a two year average of the 2008 and 2009 statistical information provided by the Administrative Office of the Courts, that an equally apportioned caseload for the forthcoming year would be 1,515 cases per division.

2. It is recognized in the implementation of this plan that the above numbers do not include the hundreds of contempt filings, case review hearings, probation reviews, first appearances and other judicial matters not considered by the Administrative Office of the Courts in statistical reports.

3. It is recognized in the implementation of this plan that certain judicial matters require more time in the court room on the record than other judicial matters.

4. It is recognized in the implementation of this plan that certain judicial matters require more administration than other judicial matters.

5. It is recognized in the implementation of this plan that an equally apportioned caseload per division may not be achieved. It is believed that based upon the factors set forth, this plan will meet the unique and special needs within the 23<sup>rd</sup> Judicial Circuit.

**I. Plan implementation:**

1. Administrative Judge: An election for Administrative Judge was held. Judge Phillip T. Whiteaker was elected Administrative Judge for the circuit. Judge Whiteaker will serve as Administrative Judge until such time as the next election is required in accordance with Administrative Order No. 14. The Administrative Judge will exercise the powers granted under Administrative Order No. 14 to effectuate the provisions and goals of this administrative plan.

2. Meetings: All judges will meet at the direction of the Administrative Judge, at least on a quarterly basis, to discuss and insure that the business of the court is apportioned among the circuit judges as equally as possible, that case assignments are made in accordance with the administrative plan and other matters that affect the efficient administration of justice within the 23<sup>rd</sup> Judicial Circuit.

3. Modification: Modification of the administrative plan's apportionment of cases will be majority vote of the judges and approval by the Arkansas Supreme Court.

If a vacancy occurs in one of the three (3) divisions, this could necessitate a need for modification of the plan. In the event of vacancy, seniority will be given consideration in plan modification. The most senior judge will have first option in plan modification resulting from any vacancy. The use of seniority may not be used to circumvent equal apportionment of caseload, the intent of the administrative plan, or the fair administration of justice.

4. Recusal/Disqualification: It is the duty of each judge to adjudicate matters

administratively assigned pursuant to this Administrative Plan as set forth in Rule 2.7 of the Arkansas Code of Judicial Conduct. It is the duty of each judge to ensure the right to be heard pursuant to Rule 2.6 of the Arkansas Code of Judicial Conduct. Upon occasion, a judge may consider the issue of recusal or disqualification of a particularly assigned case.

The Judges of the 23<sup>rd</sup> Judicial Circuit adopt the following guidelines in the area of judicial recusal or disqualification:

- a. A decision to recuse is within the discretion of each individual court.
- b. A judge has a duty to preside over cases assigned unless there is a valid reason to disqualify. A judge has a duty not to recuse when no prejudice exists.
- c. A judge must give consideration to and abide by Rule 2.11 of the Arkansas Code of Judicial Conduct in considering the issue of disqualification.
- d. A judge is required to fulfill the duties of judicial office. A judge must conduct personal and extrajudicial activities to minimize the risk of conflict that would result in frequent disqualification.
- e. A judge has a duty to preside over cases assigned regardless of external influences as outlined in Rule 2.4 of the Arkansas Code of

Judicial

Conduct and its Comment.

- f. There is a presumption of impartiality on the part of judges. The fact that a judge has ruled against a party is not sufficient to demonstrate a need for recusal.

If a judge recuses in any matter assigned under the terms of this plan, the recusal will be brought to the attention of the Administrative Judge. The recusing judge shall state the reason for disqualification. After consideration of Administrative Orders #1, #14 and #16, the Administrative Judge will be responsible for distribution of cases upon recusal based upon caseload apportionment and other factors as outlined within the plan.

5. Effective Date: This plan is submitted for approval effective January 1, 2011.

#### IV. Approval.

By the signatures attached hereto the Circuit Judges of the 23<sup>rd</sup> Judicial Circuit approve the submission and request approval of the case plan.

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HONORABLE PHILLIP T. WHITEAKER

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DATE

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HONORABLE BARBARA ELMORE

DATE

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HONORABLE SANDY HUCKABEE

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DATE