

**Sixth Judicial Circuit  
Second Amended Case Assignment Plan  
Effective January 1, 2017, or Upon Approval by the Arkansas Supreme Court**

1. **Goal of the Plan:** Pursuant to Administrative Order Number 14, as amended, the judges of the Sixth Judicial Circuit have agreed to an Amended Case Assignment Plan that will maximize the resources of Pulaski and Perry Counties while equitably dividing the caseload among the seventeen (17) circuit judges. The Plan takes into consideration various factors, including, but not limited to the current caseload assignment, the location of the facilities, the number of courtrooms suitable for jury trials, and the desire of each individual judge regarding case assignment.

By presenting this Plan to the Arkansas Supreme Court, the judges of the Sixth Judicial Circuit recognize that the Plan is a compromise of many factors and that the ultimate goal is to serve best the citizens of Pulaski and Perry Counties. Changes in the Plan may be made depending on changed circumstances during the effective term of the Plan. Any change will be presented for approval of the Arkansas Supreme Court before implementation.

2. **Effective Dates:** This Plan shall be enacted for the period between January 1, 2017 (or the date the Plan is approved by the Arkansas Supreme Court) and December 31, 2017. The Plan shall remain in effect during that period unless otherwise modified, and shall continue until the Arkansas Supreme Court has approved another Plan.

3. **Voting:** Pursuant to the Per Curiam Opinion delivered January 30, 2003, a majority of the circuit judges in the judicial district shall be sufficient to adopt a plan. In the Sixth Judicial Circuit, there are seventeen (17) circuit judges; therefore, nine (9) votes are required to adopt a plan, and any modifications thereafter.

4. **Administrative Plan:** All cases are to be apportioned among the circuit judges as equally as possible by random selection, and cases may be reassigned as necessity requires. A circuit judge to whom a case is assigned shall accept that case unless he or she is disqualified or the interests of justice require that the case not be heard by that judge.

**Pulaski County Caseload Plan:**

- a. Pulaski County Average Caseload. Using 2014 case filing figures, the total number of cases filed in Pulaski County was 19,516, a slight decrease of cases from the 2012 figures used in the 2014 Plan. The caseload of each circuit judge, if divided equally between the seventeen (17) judges, would be approximately 1148. The circuit judges acknowledge that since the juvenile courtrooms are located separate from the Pulaski County Courthouse, the logistics require a deviation from the concept of equal case filings for each judge. In that

regard, the Plan proposes that the three (3) circuit judges currently hearing juvenile cases maintain caseloads less than the average caseload for the other circuit judges. Excluding the juvenile cases and the estimated number of cases assigned to the State District Judges, the average case load for the remaining fourteen (14) circuit judges is 1200.

- b. The Circuit Judges and the eight (8) State District Judges, as of January 1, 2017, have agreed that pursuant to Administrative Orders 14 and 18, the State District Judges will hear a category, or categories, of cases referred to them by the circuit court as will be described in more detail below. It is estimated that approximately 2400 to 3200 cases will be heard by the State District Judges during a year.

The judges of the 6<sup>th</sup> Judicial Circuit have noticed a trend since 2008 of the numbers of cases filed and the increase/decrease of filings in certain subject matters. As a result of these trends, it is necessary for the judges to monitor the filings periodically to ensure that each judge is receiving a fair and proportionate number of cases each year.

- c. Breakdown of Subject-Matter Divisions:

<b>Case Type:</b>	<b>Number of Cases:</b>
	<b>2014</b>
Criminal	4333
Civil	4899
Domestic	5460
Juvenile	1707
Probate	2342
Drug Court	650
Veterans Court	<u>125</u>
<b>TOTAL</b>	<b>19,516</b>

- d. In general terms, these judges will hear the following type cases in Pulaski County:
  1. Warren. Branton and James will share equally in the juvenile caseload.
  2. Johnson, Wright, Griffen, Piazza and Sims will share in the criminal caseload.
  3. Piazza, Griffen, Fox, Gray, Pierce, Welch and McGowan will share in the civil caseload.
  4. Compton, Reif, Smith, Moore, Welch and Pierce will share in the domestic relations caseload.
  5. Compton, Reif, Smith, Moore, Welch, and Pierce will share in the probate caseload including case distribution at Mental Health Court; in addition, Johnson, Piazza, James, Wright, and

McGowan will participate in the rotation of hearings at Mental Health Court.

6. McGowan will continue to hear all Drug Court cases. In addition, McGowan will hear all Veterans' Treatment Court cases assigned to her. Veterans' Court was introduced to the Sixth Judicial Circuit by the Administrative Office of the Courts and the Veterans Administration to hear cases specifically involving veterans having a drug and/or alcohol problem or mental illness and having been charged with a non-violent crime. This Court acts in much the same way as does Drug Court by providing supervision of the veteran and treatment of the drug or alcohol problem or mental illness. A full description of the Drug Court and Veterans' Treatment Court will be discussed below.

e. The division of cases is listed below. The numbers of cases listed are approximations because the filings will vary from year to year. However, using the 2014 case filings figures, each judge would be assigned cases approximately as listed:

<b>Div.</b>	<b>Judge</b>	<b>Percentage (No. of cases)</b>	<b>Total</b>
1 <sup>st</sup>	Johnson	27.5% criminal (1191)	1191
2 <sup>nd</sup>	Piazza	9% criminal (390); 15.5% civil (760)	1150
3 <sup>rd</sup>	Compton	19% domestic (847); 1/6 probate (390)	1237
4 <sup>th</sup>	Wright	27.5% criminal (1191)	1191
5 <sup>th</sup>	Griffen	9% criminal (390); 15.5% civil (760)	1150
6 <sup>th</sup>	Fox	24.5% civil (1200)	1200
7 <sup>th</sup>	Sims	27.5% criminal (1191)	1191
8 <sup>th</sup>	Branton	33.3% juvenile (569)	569
9 <sup>th</sup>	McGowan	100% drug court (650); 8.5% civil (416); 100% Veterans Ct (125)	1167
10 <sup>th</sup>	Warren	33.3% juvenile (569)	569
11 <sup>th</sup>	James	33.3% juvenile (569)	569
12 <sup>th</sup>	Grav	24.5% civil (1200)	1200
13 <sup>th</sup>	Reif	19% domestic (847); 1/6 probate (390)	1237
14 <sup>th</sup>	Smith	19% domestic (847); 1/6 probate (390)	1237
15 <sup>th</sup>	Moore	19% domestic (847); 1/6 probate (390)	1237
16 <sup>th</sup>	Welch	4% civil (196); 15% domestic (624); 1/6 probate (390)	1210
17 <sup>th</sup>	Pierce	7.5% civil (367); 10% domestic (446); 1/6 probate (390)	1203

This Plan is made with the specific understanding that pursuant to Administrative Order No. 14, a new plan will have to be submitted to the Arkansas Supreme Court after each election. The judges agree that this Plan will not create a precedent as to how cases are assigned in the future. The judges also recognize that it is likely that the number of cases in each

subject matter may increase or decrease over the next year or two and that modifications may be required.

f. Use of Courtrooms and Jury Pools. Since not all judges have courtrooms that are suitable for jury trials, those judges lacking such a courtroom shall contact a circuit judge who does have a courtroom suitable for a jury trial. The judges shall coordinate the setting of jury trials, the sharing of jury pools, and resolve any other issues that arise that will facilitate the setting of jury trials. A request for a jury trial by one of the judges will take precedence over any non-jury matter for that particular day. Any judge hearing juvenile cases and in need of courtroom facilities for a jury trial shall contact any of the judges at the Pulaski County Courthouse to arrange for the use of their courtroom and jury pool. The courtrooms of Judge Chip Welch, Judge Mackie Pierce and Judge Alice Gray on the 3<sup>rd</sup> floor of the Pulaski County Courthouse are available for jury trials.

**Perry County Caseload Plan:**

a. In 2014, there were a total of 328 cases filed in Perry County:

Criminal	41
Civil	63
Domestic	126
Juvenile	35
Probate	63

- b. The Circuit Clerk of Perry County will assign each new case to one of the seventeen (17) circuit judges so as to assure that each judge will have substantially the same number of cases as other judges hearing the same case type to which they are assigned. The assigned judge is responsible for the case file; however, by agreement of the circuit judges, nothing shall preclude any other circuit judge from hearing any and all routine and uncontested matters irrespective to which judge the case is assigned.
- c. The circuit judges hearing criminal cases in Perry County will each have a pre-trial day and then a trial day approximately two (2) weeks later, if necessary. Judges Johnson, Griffen, Piazza, Wright, Sims and McGowan will hear criminal cases in Perry County on a rotating basis.
- d. Those circuit judges hearing civil, domestic and probate cases in Perry County will be Judges Gray, Griffen, Fox, Pierce, Compton, Welch, McGowan, Reif, Moore and Smith.

- e. Those circuit judges hearing juvenile cases in Perry County will be Judges Warren, Branton and James.

**5. Drug Court and Veterans' Treatment Court:** The Sixth Judicial Circuit's Drug Court program has been in operation since 1994. Court sessions are conducted in Pulaski County. The program is a post adjudication process and has been since early 1998. Prior to that time, it was a pre-adjudication process. The defendant must elect to enter the Drug Court program as he/she gives up his/her right to a jury trial as he/she must plead guilty. The prosecutor then has the ability to object. However, the program is wide open as to the offenses charged. The program operates in conformity with all criminal statutes and the rules of criminal procedure. No fees are paid to the Court. The Department of Community Corrections (DCC) provides counselors and seven probation officers. All probation fees are paid to the DCC. All court costs and fines are paid to the Pulaski County Clerk's office in conformity with the statutes regarding all criminal fines and court costs.

The Sixth Judicial Circuit's Prosecuting Attorney has assigned a full time deputy prosecuting attorney to staff only Drug Court and Veterans' Treatment Court (VTC). The Public Defender of the Sixth Judicial Circuit has assigned two deputy public defenders to staff these respective courts. They also do not appear in any other division of Circuit Court. These attorneys as well as the private defense bar appear in Drug Court and Veterans' Treatment Court. DCC employs both counselors and probation officers. The Court has an employee who serves as the case coordinator for both Drug Court and VTC.

The Veteran's Treatment Court is patterned after the Drug Court. It has been in operation in the Sixth Judicial Circuit since December 2011. It is a post adjudication court. There are two differences between VTC and Drug Court: (1) VTC is only available to qualified veterans who have criminal charges, and (2) the veterans can suffer from mental illness issues and/or substance abuse. The defendant is eligible with either diagnosis or both. The Veterans Administration employs a VTC liaison who determines if the defendant is an eligible veteran. Then the same process takes place with the defendant initiating the movement to VTC and the prosecuting attorney agreeing to it. VTC adheres to all criminal statutes and the rules of criminal procedure. DCC provides probation officers. The probation fees go directly to DCC. All court costs and fines are paid to the Pulaski County Clerk's office. The VA provides counseling for substance abuse and/or mental illness, residential treatment, housing assistance and eligible benefits assistance. The same deputy public defenders that staff Drug Court also staff VTC. Private defense counsel also represent defendants in VTC. The Court's case coordinator for Drug Court is also the case coordinator for VTC.

There is no funding for either of these two courts. Each respective entity—the Court, its staff, the VA, the DCC, the prosecuting attorney and the public defender are not paid any additional money for operating either Court.

**6. Meetings for Judges:** The Administrative Judge shall establish regular meetings for all circuit judges of at least quarterly, or more or less often, as is necessary. If at least three (3) circuit judges request a special meeting, the Administrative Judge shall promptly call a meeting for all circuit judges.

**7. Election of Administrative Judge:** An election for Administrative Judge was held in February, 2015. Judge Vann Smith was elected Administrative Judge by secret ballot by a vote of 14-0 vote. Judge Smith will serve as the Administrative Judge until such time as the next election is required to be conducted in accordance with Administrative Order No. 14.

**8. Reassignment of subject matter:** The issue of burn-out was first raised by the Arkansas Supreme Court in a per curiam opinion several years ago. The Court recognized that a judge assigned to a particular subject matter may, in time, request an assignment to hear other type subject matters of cases other than those currently assigned to that judge.

As is true in the current Case Assignment Plan for 2016, several judges have requested a different mix of cases such as an increase in civil cases, a decrease in domestic relations cases and a request to not hear criminal cases. Amendment 80 gives the judicial circuits the luxury of modifying its case assignment plans to accommodate these requests.

Because of the configuration of having a main courthouse housing fourteen (14) judges in the downtown Little Rock area and a juvenile courthouse housing three (3) judges on Roosevelt Road in Little Rock hearing exclusively juvenile matters, it is impossible to conveniently modify the case assignment plan to accommodate a desire of one or more of the judges hearing juvenile matters to hear other type cases.

To remedy the situation and to address the issue of burn-out of all judges, as a vacancy occurs in one or more of the seventeen (17) divisions of circuit court, the use of seniority will be utilized to allow a sitting circuit judge to relocate his/her division of court into the facilities of the vacant judicial division and to assume all or part of the case type currently assigned that division as long as it is consistent with the current Case Assignment Plan. The most senior judge would have the first option to elect to fill the vacancy. The next senior judge would then have the option to relocate, and so on. All subsequent vacancies created by this relocation would then be filled in a like manner using seniority. No sitting judge could be removed from his/her existing caseload or chambers using this process. No judge would change division designation or vacate the sub-district designation assigned to that particular division of court because they elected to relocate to another courtroom and chambers space.

A “vacancy” occurs when a sitting circuit judge leaves the bench because of retirement, removal, death or loss of re-election and the vacancy is filled by election. A “vacancy” does not occur when the Governor appoints a person to fill the vacant judicial position.

[By way of example only, if 14<sup>th</sup> Division Circuit Court becomes vacant because of resignation, removal or death of the sitting judge and if the Governor appoints a person to fill 14<sup>th</sup> Division, there would not be a vacancy which would allow a sitting judge to move to the courtroom and chambers of 14<sup>th</sup> Division at that time because the vacancy would be filled by appointment. If, however, an election occurs to fill 14<sup>th</sup> Division, a sitting judge could decide to move his/her division of court to 14<sup>th</sup> Division using seniority. If the 7<sup>th</sup> Division Circuit Judge elects to relocate to the 14<sup>th</sup> Division courtroom and chambers, then the 7<sup>th</sup> Division Circuit Judge will remain 7<sup>th</sup> Division as that is the division of court to which he/she was elected. The 7<sup>th</sup> Division Circuit Judge would simply move to the new courtroom facilities. The 14<sup>th</sup> Division would then relocate to another courtroom and chambers in the Pulaski County Courthouse or to the Juvenile Court Building on Roosevelt Road, Little Rock, Arkansas based on seniority.]

If more than one judge wants to relocate after an election has occurred, the use of seniority will dictate the order in which the relocation process shall take place.

The relocating judge must make the decision to relocate to the vacancy by notifying the administrative judge and the newly elected judge at least thirty (30) days after the general election for judges in either the spring election, special election or in November, depending on whether there is a run-off or not for that judgeship.

**9. Recusal Policy:** The Arkansas Supreme Court has directed the circuit courts to develop a recusal policy and place it in the Case Assignment Plan. The recusal policy for Pulaski and Perry Counties shall be as follows:

- a. If a judge decides to recuse on a case assigned to that judge, the judge shall enter an order to that effect and shall direct the circuit clerk to randomly reassign the case to another judge who hears that subject matter. If all the judges hearing that particular subject matter recuse, then the clerk shall randomly assign the case to the remaining judges until a judge decides to hear the case, or all judges recuse, in which case the clerk shall notify the administrative judge who will then contact the Chief Justice of the Arkansas Supreme Court for assignment to another judge.
- b. The recusing judge is to immediately notify the new judge of the assignment and also the attorneys or litigants, if pro se, of the recusal and reassignment.
- c. No reason for the recusal is required if the Order of Recusal is filed within six (6) months from the date the recusing judge is assigned the case. If the Order of Recusal is filed after six (6) months, the recusing judge is to state a reason for the recusal in the Order. This will provide the necessary transparency to this process so that litigants and attorneys will understand why the recusal was necessary. No subsequent court may refuse to accept the reassignment of the case from the clerk because of the sufficiency of

the reason for recusal nor shall any litigant have the authority to question the court's decision to recuse.

**10. State District Court Judges:** Pursuant to Supreme Court Administrative Order No. 18, section 6, and legislation passed in the 2011 legislative session, eight (8) District Judges in Pulaski County were made State District Judges as of January 1, 2017. The Judges, as of January 1, 2017, will be: Judge Wayne Gruber, Judge Rita Bailey, Judge Randy Morley, Judge Milas H. "Butch" Hale, III, Judge Paula Juels Jones, Judge Alice Lightle, Judge Mark Leverett and Judge Vic Fleming.

The State District Judges are authorized to hear certain cases that have been referred to them by the Circuit Judges of Pulaski County, Arkansas or cases which have been transferred to them by consent, pursuant to Administrative Order No. 18.

The State District Judges have signed an exchange agreement, a copy of which is attached to this Amended Case Assignment Plan, permitting the respective judges to sit in the respective courts other than their own pursuant to and under the authority of Ark. Const. Amend. 80, Sec. 7; Ark. Code Ann. Sec. 16-17-102 and Supreme Court Administrative Order No. 18, section 6. By signing this exchange agreement, the District Judges will have the authority to hear circuit court cases with jurisdiction and venue in Pulaski and Perry Counties that have either been referred to them or which have been transferred to them by consent.

The Circuit Judges of the Sixth Judicial Circuit, as indicated by their approval to this Plan, intend to utilize the full-time District Judges to the fullest extent possible and are working on an implementation plan to satisfy the requirements of Administrative Order No. 18, section 6.

**Implementation Plan.** The State District Judges shall hear cases originating from the Office of Child Support and Enforcement, final Petitions for Orders of Protection, and unlawful detainer actions. The State District Judges have agreed to and have been assigned specific days to hear these cases. A calendar of the schedules of the judges will be maintained by the Administrative Judge and is open for inspection. The State District Court will hear cases Monday through Thursday of each week. A courtroom in the Pulaski County Courthouse has been created and used by the State District Judges. The Circuit Court has arranged for staffing including a case coordinator and bailiff. Recording equipment has been installed and is in use.

The cases are assigned to one of the circuit judges, but the category of cases are heard by referral by the State District Judges pursuant to Admin. Order No. 18. In addition to the category of cases described above, other matters may be submitted to the State District Judges such as authorized by Admin. Order No. 18 (6)(b) upon agreement of the Circuit Judges and the State District Judges. If there are any substantive changes to this Implementation Plan, the Supreme Court will be asked to approve the change.



**11. Copies of District Court Administrative Plans:** A copy of the Administrative Plans for the District Courts in Little Rock, North Little Rock, Pulaski County, Sherwood, Maumelle, Jacksonville, Wrightsville/Cammack Village and Perry County are attached. Paragraph 10, above, is incorporated into each of the District Court Administrative Plans as if set out word for word therein.


The Second Amended Case Assignment Plan for the Sixth Judicial Circuit is submitted to the Arkansas Supreme Court for approval on the 18 day of November, 2016.


Approved:

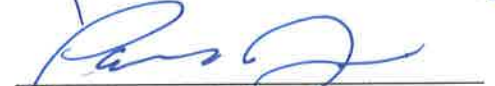
  
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Judge Leon Johnson


  
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Judge Cathi Compton


  
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Judge Wendell Griffen

  
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Judge Barry A. Sims

  
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Judge Mary Spencer McGowan

  
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Judge Patricia A. James

  
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Judge Mike Reif

  
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Judge Richard N. Moore

  
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Judge Mackie Pierce


  
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Judge Chris Piazza


  
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Judge Herb Wright


  
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Judge Tim Fox

  
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Judge Wiley Branton

  
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Judge Joyce Williams Warren

  
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Judge Alice Gray

  
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Judge Vann Smith

  
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Judge Morgan "Chip" Welch

**EXCHANGE AGREEMENT—STATE DISTRICT JUDGES**

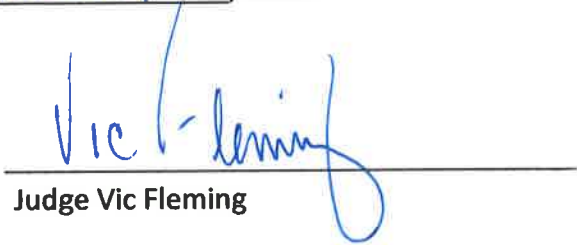
The undersigned State District Judges, pursuant to and under the authority of Ark. Const. Amend. 80, Sec. 7; Ark. Code Ann. Sec. 16-17-102 and Supreme Court Administrative Order No. 18, section 6, agree that they permit the respective judges to sit in the respective courts other than their own. Further, by signing this Exchange Agreement, the District Judges will have the authority to hear circuit court cases with jurisdiction and venue in Pulaski County and Perry County that have either been referred to them or which have been transferred to them by consent.

In addition, the undersigned District Judges agree to the proposed Second Amended Case Assignment Plan for the 6<sup>th</sup> Judicial Circuit and agree to hear child support cases originating with the Office of Child Support Enforcement, and other related issues thereto, final Petitions for Orders of Protection and unlawful detainer cases referred by the Circuit Court. The District Judges further agree to hear this cases at the Pulaski County Courthouse effective January 1, 2017.

Dated this 18 day of November, 2016.



Judge Rita Bailey



Judge Vic Fleming



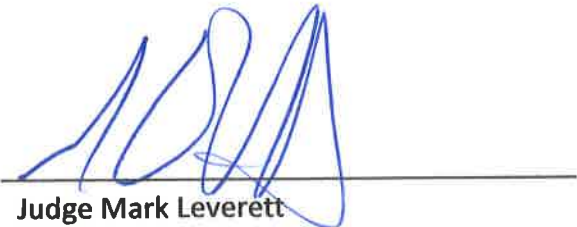
Judge Wayne Gruber



Judge Milas H. "Butch" Hale



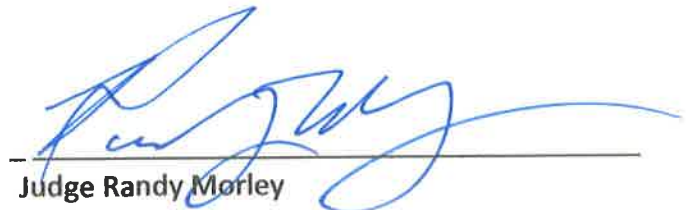
Judge Paula Juels Jones



Judge Mark Leverett



Judge Alice Lightle



Judge Randy Morley