

CIVIL COURT OF THE CITY OF NEW YORK

Civil Court Directive

Subject: Housing Court Initiative

Class: DRP-150

Category: LT-10

Eff. Date: Dec. 24, 1997

Amended Date: October 5, 2001

BACKGROUND:

The Housing Court Program, announced by the Hon. Judith Kaye, Chief Judge of the State of New York, came into effect on January 5, 1998. This Program changed the procedure in the Housing Part of the Civil Court in several ways. This Directive provides the schematic for these changes.

NOTE: This is the fourth modification to this directive. As the Initiative continues to develop, further changes may be needed. It is important that the latest version of this directive is used. This version incorporates all the changes up to October 5, 2001, and each page is numbered and dated.

DIRECTIVE

1. Housing Parts

The following Part structure shall be instituted in all counties except Richmond County and the Harlem Community Justice Center.

- a. Resolution Parts
 - (i) General
 - (ii) Specialty
- b. Trial Parts
- c. Night Part - **Citywide Part N**
- d. Rent Deposit Part
- e. Military Part

2. Assignment of Cases

The assignment of cases to specific parts is to be done at random by the HCIS computer at the time of:

- a) the filing of an Answer by the respondent in a non-payment case, or
- b) at the time of the issuance of the Notice of Petition or Order to Show Cause in Holdovers, 7-A actions, HP actions and Alleged Illegal Lockout proceedings.

3. Kinds of Cases

Actions or proceedings filed in the Housing Part are to be designated as follows:

- a. Narcotics: All cases brought by the District Attorney under RPAPL Sections 711 and 715 or any case in which the **only** allegation of the petitioner is drug related activity at the premises.
- b. New York City Housing Authority as petitioner or respondent.
- c. Co-op/Condo: All cases in which the **building** is a co-op or a condominium.

- i) The petitioner may be the Board or a shareholder.
 - ii) The respondent may be a shareholder, a rent stabilized tenant, a rent controlled tenant, etc.
- d. City of New York as petitioner or respondent.
 - e. Housing Part (HP)
 - f. Alleged Illegal Lockout (Out of Possession)
 - g. Any case in which the respondent is in the military service.
 - h. All other cases will be referred to as “General Cases”

4. Case Selection Criteria

The selection of parts is to be governed by the HCIS.

- a) The return date is to continue being assigned following our existing rules.
- b) The HCIS will make a choice as to time assignment: 9:30 a.m., 11:00 a.m., 2:00 p.m. or 6:00 p.m. Daytime cases are to be assigned to 2:00 p.m. first, then to 9:30 a.m., then to 11:00 a.m. Evening cases are to be assigned to 6:00 p.m. following § 7g.
- c) When any of the following cases is initiated, it is to be routed as follows:
 - 1) Narcotics/illegal activity
 - 2) NYCHA
 - 3) Co-op/Condo
 - 4) City of New York
 - 5) Night Cases
 - 6) Military Cases
- d) All Hp and Alleged Illegal Lockouts are returnable in the HP and AIL parts, respectively

NOTE: *HP cases, Alleged Illegal Lockout and General cases are to be routed following a different sort system.*

- e) The burden of identifying specialty cases rests on the party bringing the action.*
A petitioner may identify the specialty case by either using a specific color back, or by using a color marker on the caption of the Petition and Notice of Petition. The identifying colors are:

§ 711 and § 715 Drugs/Narcotics/Illegal Activity	Red
NYCHA	Pink
Co-op/Condo	Green
City of New York	Yellow
Military	Orange

HP cases, Alleged Illegal Lockouts, 7-A actions and General cases need not be color coded.

*Petitioners shall not be required to color-code military cases. However, to the extent a petitioner is aware that the case is a military case, it is requested that petitioners assist the court in identifying these cases. The orange coding is intended to be used primarily by the court.

5. Initial Assignment

a. A case is to be assigned initially to a Resolution Part. All Parts other than Trial Parts are Resolution Parts except the HP Part which shall operate as a Resolution and a Trial Part.

b. The initial assignment for Specialized cases will be the proper Resolution Part. The case is to remain in that Part until it is either settled or must be forwarded to a Trial Part.

***NOTE:** If any Specialized case is sent to a Resolution Part as a General Case and during the conference the nature of the case is discovered, the Specialized case should be transferred to the proper Resolution Part. In the event that a Judge must recuse him/herself or for some other reason must transfer the case, the case shall be referred to the Supervising Judge for reassignment.*

c. Alleged Illegal Lockouts are to be randomly assigned to a Trial Part by the HCIS computer system.

d. A case assigned to a Resolution Part is to be considered as assigned to that Part rather than to a Judge, and if the Judge moves the case is to remain in that Part except in extraordinary circumstances and with the approval of the Supervising Judge.

e. Rent Strike.

1) If a Rent Strike is identified at the answering stage, the L&T Supervisor will override the computer and assign all related cases to one Resolution Part. Rent Strikes should be assigned to Resolution Parts in alphabetical order.

2) If a Rent Strike is identified after the cases have been assigned to multiple Resolution Parts, the cases shall be consolidated in one Resolution Part. The Supervising Judge shall determine which Resolution Part should receive the Rent Strike.

6. Orders to Show Cause, Motions and Restorations

a. Any Motion or Order to Show Cause on a case that appears on the calendar for the first time after January 5, 1998, is to be viewed as assigned to a Part rather than to a Judge. For example, a case is settled in Part D, in front of Judge Doe. At some later point in time, when Judge Roe is sitting in Part D, a Motion/OSC regarding that case will still go to Part D, regardless of the Judge sitting there. Only Motions required to be referred by CPLR § 2221 and any rules established by the Chief Administrative Judge may be referred to the prior Judge.

b. Procedure

1) All motions and orders to show cause are to be assigned to Resolution Parts.

a) Pre-answer motions and orders to show cause, where the case has not been assigned to a Resolution Part are to be assigned following the HCIS random assignment system.

b) Any motion or order to show cause on a case which has already been assigned to a Resolution Part is to be made returnable in that Part.

c) All motions and orders to show cause are to be made returnable at 9:30 a.m. unless otherwise directed by the judge presiding over the Part.

****NOTE:** Until the HCIS can assign motions and orders to show cause in instances where the case has not been assigned all pre-answer motions and orders to show cause will be assigned to Resolution Parts at random.*

7. Resolution Parts (Description and Procedures)

a. Resolution Parts are being designated for the purpose of settling cases and disposing of pre-answer

motions. All Specialty Parts are Resolution Parts.

After a case is assigned to a Resolution Part, all the pre-trial transactions are to occur there. This includes attempts to settle the case, arranging for inspections, any motion practice, orders to show cause to vacate judgments entered upon respondent's failure to answer, to appear, to comply with a stipulation, to restore, etc., and conferencing cases in order to narrow issues for trial, if possible, etc.

Inquests on Holdovers may be conducted in the Resolution Parts or referred to Part X at the discretion of the Resolution Part Judge. Inquests, if conducted in the Resolution Part, shall be conducted on the day the court determines that the Petitioner is ready to conduct the inquest. An inquest shall not be referred to Part X, the Expediter, unless the Petitioner is prepared to conduct an inquest on that day. If an inquest is referred to Part X, the inquest shall be sent to a Trial Part on the day the Petitioner is sent from the Resolution Part. The Trial Part shall attempt to conduct the inquest on that day.

Resolution Parts shall also conduct hearings on contempt and motions resulting from non-compliance of stipulations so ordered in the Part. Resolution Parts shall, conduct hearings on compliance issues relating to stipulations.

In the event that any pre-answer motion requires a hearing, the Resolution Part may refer said motion to Part X for assignment to a Trial Part after disposing of all other issues in the motion. Any decision setting a motion down for a hearing shall clearly indicate what issues are to be heard by the Trial Part. If a default is vacated or a Motion to Dismiss is denied, the Clerk in the Resolution Part shall take an answer from the respondent.

NOTE: Resolution Parts are encouraged to refer pre-answer motion hearings to Part X for assignment to a Trial Part.

b. Resolution Parts (Procedures)

A case should be retained by a Resolution Part until the Resolution Judge determines that the parties are trial-ready or have no reasonable basis for not being trial-ready. A Resolution Judge in his/her discretion may deem a case trial-ready over party's objection, as long as the party or parties are afforded an opportunity, on the record, to establish why a case should not be sent to a trial-ready Part. Trial-ready shall include, but not be limited to, having witnesses available or on call, inspection report in the file if the apartment has been inspected, attorneys available, completed motion practice, evidence available, or guardian ad litem appointed, if necessary. Resolution Judges shall insure that all applications to obtain an attorney are entertained in the Resolution Part prior to sending a matter to Part X.

When a Judge in a Resolution Part determines that a case is trial-ready, the parties and the file shall be sent that day to Part X. The file shall remain with the Expediter in Part X until the case is sent to a Trial Part.

The Resolution Part shall complete a Transfer Order which shall be sent with the file to Part X. The Transfer Order shall be signed by the Resolution Judge and shall list the dates the parties are unavailable for trial in the event an immediate trial can not be provided in Part X.

Only cases in which both parties are represented by attorneys may be adjourned in a Resolution Part on the first time the case appears on the Resolution Part calendar. Said adjournment may be made either in person or by written stipulation or by any additional procedures set forth by the Resolution Judge. All subsequent adjournments are to be determined at the discretion of the Resolution Judge.

c. Part X, The Expediter Part (Description and Procedures)

1. The Expediter Part shall be referred to as Part X.

2. Expeditors shall attempt to locate a Trial Part able to commence a trial or hearing on the day the case is first sent to the Expediter. If a Trial Part is not available on the first day the case is sent to the Expediter, then the Expediter shall give the parties the earliest trial date available, except for dates listed as unacceptable on the Transfer Order. If both parties agree on a later date and the Expediter determines that such a date is available, the Expediter may

give the parties the later date.

3. Any applications to adjourn the trial or hearing from the assigned trial date shall be determined by the assigned Trial Judge on the assigned trial date. If an adjournment of the commencement of a trial is necessary, the Trial Judge shall send the case back to the Expediter for a new trial date. If the Trial Judge believes that a case should be sent back to a Resolution Part, the Trial Judge shall confer with the Resolution Judge and obtain consensus or, in the event the Judges can not agree, consult with the Supervising Judge.

4. Any disputes in Part X regarding an assignment to a Trial Part or an adjourned date for a trial shall be referred to a Judge designated by the Supervising Judge of each County.

5. Hearings on after eviction cases, illegal lockouts and other emergencies as defined by the Supervising Judge in each County may be given priority when assigned to a Trial Part.

d. Trial Parts

The Trial Parts are being designated for the purpose of trying cases and conducting hearings. A case which cannot be settled in a Resolution Part will be sent to an Expediter who will assign the case to a Trial Part.

1) If a motion is made after it is referred to Part X or in the Trial Part, the Trial Part Judge shall dispose of it.

We envision very limited Motion practice in the Trial Part except for post-trial motions and motions in limine.

2) Legal Fee Hearings are to remain in the Trial Part.

3) Post-Answer Traverses are to be conducted in the Trial Part.

4) Pre-Answer motion hearings.

5) Cases shall be tried from day-to-day unless good cause is shown to adjourn the matter to non-consecutive dates.

e. The HP Part

The HP Part is to continue to be a self-contained Part. By this we mean that it will carry its own calendar, have designated days for self-represented litigants as well as for cases brought by the Department of Housing Preservation and Development (DHPD), carry out any necessary negotiations, supervise settlements, hold hearings, accept Motion practice and conduct trials.

f. Rent Deposit Part

The Rent Deposit Part is not, strictly, a Part identified by the Initiative, but has been instituted to facilitate the implementation of RPAPL § 745. A Part will be denominated the Rent Deposit Part.

All cases in which a rent deposit following RPAPL § 745 is requested and is in dispute are to be transferred to this Part. If a rent deposit is ordered, the case file is to remain in the Part until the return date.

1) If the Order has been complied with, the case file is to be returned to the originating Part for further proceedings.

2) If the Order has not been complied with, a Judgment, following RPAPL § 745, is to be entered by the Judge in the Rent Deposit Part. (See DRP-148.)

g. The Night Part

- 1) Kings, Queens and Richmond Counties shall have a Night Part
- 2) The calendar for this Part will be at 6:00 P.M.
- 3) There will be no Resolution Part or Trial Part in the evening, and the Night Part will be self-contained.

4) The criteria for selecting Night Part cases is as follows:

a) Both parties are self-represented.

NOTE: If either party subsequently retains an attorney, the case is to be transferred back to the original Resolution Part unless good cause is shown for keeping it in the Night Part or the parties consent to remain in the Night Part.

b) In Non-Payment cases the Court may assign or the Petitioner may request the Night Part.

i) Senior Citizens, disabled persons and members of the workforce whose normal work schedule requires them to work during the evening hours may request day court. The request may be made at the time of answering or to the night Judge on the scheduled court night.

c) For Holdover cases, either side may make an application in the Resolution Part and the case may be assigned to the Night Part on consent, by the Resolution Part Judge.

d) If both parties are not self-represented, Trial-ready cases may be referred to the Night Part from Part X if both parties consent.

h. The Military Part

Cases in which a named party is either in the military or is in the reserves and has been activated or is dependent on an individual who is in the military or is in the reserves and has been activated, shall be assigned to the Military Part. Assignment to the Military Part shall override assignment to any other specialty part. Any military case which has already been assigned to a Resolution Part or assigned by mistake to a wrong specialty part shall be transferred to the Military Part by the Resolution Judge.

8. Movement of Cases within the system

a. The HCIS program (and, of course, any manual system) allows for the movement of cases between Parts. For example:

A case assigned to a Resolution Part may go to a Trial Part.

A case originally assigned to a Resolution Part as a General Case may be found to be a Specialty case and require a transfer to another Resolution Part.

The parties in a case sent to a Trial Part may decide to settle, etc.

b. Settlements after a case is determined to be trial-ready:

1. If a case settles in the Trial Part prior to trial, it is recommended that the case be sent back to the assigned Resolution Part to have the stipulation "so ordered" and for all post-stipulation activity. This procedure is recommended in order to prohibit forum shopping and to keep Trial Parts from becoming clogged with non-trial related matters.

2. If a case settles in the Trial Part after the trial has commenced, it shall stay in that Trial Part.

3. In the event that a Judge must recuse him/herself or for some reason must transfer the case, it is to be

returned to Part X. The expediter is to assign the case to the next available Trial Part.

9. Calendar Calls, Roll Calls and Sign-in Procedures

Each Resolution Part shall play the informational video* at 9:30 a.m., 11:00 a.m., and 2:00 p.m. It is recommended that each Resolution Part have a roll call.

a. Calendar Calls

All calendar calls shall be staggered at times designated by the Supervising Judge. No defaults or dismissals shall be taken earlier than 10:00 a.m. For 9:30 cases, 11:30 a.m. for 11:00 cases, 2:30 p.m. for 2:00 cases and 6:30 p.m. for 6:00 p.m. cases. The parties shall be allowed to request adjournments, inspections and mediation, where available, at the call of the calendar.

b. Roll Calls

If a Part has a roll call, the Part shall allow either an attorney, representative of the attorney, service or a party to answer the roll call. The purpose of a roll call is to determine if the parties are ready to proceed, if an inspection or mediation is requested, etc.

c. Sign-in

If a Part has only a sign-in procedure, a mechanism for determining if the parties are ready to proceed, if an inspection or request mediation, etc., must be devised.

10. Jury Demand

a. Jury Demands are to be made in compliance with DRP-103.

b. When a Jury Demand is filed, the case is to be removed from whatever Part it has been assigned to and forwarded to the Jury Part.

11. Optional Staffing

Staff of the Parts

a. Resolution Parts. Each Resolution Part is to have a Judge, the Judge's Court Attorney, a Resolution Part Court Attorney, a Part Clerk, a Court Officer and access to a Resource Assistant.

b. Trial Parts. Each Trial Part is to have a Judge, the Judge's Court Attorney, a Part Clerk, a Court Officer and access to a Resource Assistant.

***NOTE:** At this time we expect that the Court Attorney assigned to a Judge in a Trial Part will have some free time. We expect that Court Attorney to help a Resolution Part by helping to conference cases, by writing Motion decisions, etc.*

c. HP Part. The HP Part is to have a Judge, the Judge's Court Attorney, a Part Clerk and a Court Officer.

***NOTE:** When available, an extra Court Attorney will be assigned to the HP Part.*

12. Specific Title Responsibilities

1. Judges and their Court Attorneys. The Judge and Court Attorney will function in the traditional way.

2. Court Clerks. Each Part will have a Court Clerk assigned for the traditional purposes.

***NOTE:** We expect that the Court Clerk assigned to a Trial Part will have some free time. Each Court Clerk assigned to a Trial Part will be associated with at least one Resolution Part. The Court Clerk will help in the associated Resolution Part(s) on a regular basis.*

3. Court Offices. Each Part will have a Court Officer assigned to it.

NOTE: As is now done, no Judge may sit without a Court Officer being substantially present. However, at present, when a Part remains open in the absence of a Judge, that is, when the Court Attorney is the only person there, the Court Officer is usually removed. The concept of a Resolution Part requires that it always be open. As such, except in times of emergency, the Resolution Part is to remain open and a Court Officer is to be assigned to provide security to the Resolution Court Attorneys working in the Part.

4. Resource Assistants. Resource Assistants operate at the direction of the Judge or the Part Clerk. Resource Assistants will be shared by the Resolution Parts. At present we envision the duties to be substantially as follows:

- a. Prepares a building profile for every case on the calendar of his/her Part(s) using building information provided on HCIS or the DHPD systems.
- b. Serves as a liaison between the Part and other agencies, including, but not limited to DSS, Marshals, etc.
- c. Visits premises at the direction of the Judge for the purpose of resolving disputes over alleged conditions in the premises which do not require expert knowledge or testimony.
- d. Aids the Resolution Part by tracking and posting upcoming cases to be conferenced, seeking out parties, searching for missing papers, and bringing files from the Clerk's office as required.
- e. Acts as liaison between the Resolution Part and the Mediation Coordinator and the Expediter.

Fern A. Fisher
Administrative Judge, Civil Court
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