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Directive # 12-05
[Supersedes Directive #6-94]

TO: ASSIGNMENT JUDGES
CIVIL PRESIDING JUDGES

FROM: PHILIP S. CARCHMAN

SUBJ: PROCEDURE FOR RESOLVING ATTORNEYS' CIVIL TRIAL SCHEDULING CONFLICTS

DATE: JUNE 30, 2005

This Directive, as approved by the Supreme Court, supersedes and updates Directive #6-94, which was issued July 19, 1994. Pursuant to this Directive, the following procedures apply for resolving attorneys' civil trial scheduling conflicts. The procedures should be followed uniformly in all counties.

1. As a general principle, in the event of a conflict involving cases scheduled for trial at the same time in different counties, the older or oldest case will have priority over cases commenced at a later time. Exigent circumstances may, however, suggest a different priority, as, for example, when a party is terminally ill or a complex matter involving multiple attorneys has been scheduled peremptorily (see paragraph 4, below). In such instances, the vicinage with the younger case must follow the procedure set forth in paragraph 3, below.
2. Immediately upon recognizing that a conflict may exist between cases scheduled for trial at the same time in more than one county, an attorney shall notify the Civil Division Manager of each county in which a conflicting case is scheduled, as well as all counsel in all affected cases, in order that the Civil Division Manager with the newer case may know that the case is subject to the trial of an older case in another county.
3. In the event that an attorney or a Civil Division Manager is of the opinion that valid reasons exist for extending priority to the newer case, the conflict will be promptly resolved by a conference of the Civil Division Managers of the counties where the cases are pending. In the event that the Civil Division

Managers are unable to resolve the scheduling conflict among themselves, each shall immediately communicate the problem to their respective Civil Presiding Judges, who shall promptly confer and resolve the conflict.

4. Peremptory designation is defined as trial priority granted by a Presiding Judge or his or her designee, regardless of the age of the case, upon a showing of exceptional circumstances and only where that Presiding Judge or designee has secured the consent of any other Presiding Judge(s) or designee(s) whose trial calendar may be affected by such designation. Peremptory designations should be used sparingly and should only be made no sooner than four weeks before the trial date.
5. When an attorney is actually in trial at the time another case is called for trial, whether or not the case called for trial is older, it either shall be marked "ready-hold" or "subject to" pending completion of the case in trial, or adjourned and another date set.
6. An attorney awaiting assignment for trial in more than one case shall proceed to trial on the first case actually assigned out to a judge for immediate trial, regardless of the age of the other case or cases. The intent of this principle is that a county may not hold an attorney in a case that cannot be assigned to a judge for immediate trial, but must release the attorney to proceed to another county where adverse counsel and the judge are awaiting the arrival of the attorney to commence trial immediately.
7. As stated in *R. 4:35-4*, insofar as practicable, all civil trials should be continuous and uninterrupted, and should run for the full day as prescribed in *R. 1:30-3*.

NOTE: Nothing in this Directive is intended to alter the operation of the designated trial counsel rule (Rule 4:25-4).

P.S.C.

cc: Chief Justice Deborah T. Poritz
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