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Acting Administrative Director of
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[Supplement to Directive #01-15]

MEMORANDUM

**TO: Assignment Judges
Civil Presiding Judges
Supervising Special Civil Part Judges**

FROM: Glenn A. Grant, J.A.D. 

RE: Special Civil Part Officers – Contingency Plan

DATE: November 26, 2018

Directive #01-15, dated January 8, 2015, promulgated updated policies and procedures that govern the Judiciary's relationship with the Special Civil Part Officers (Officers). Directive #01-15 defined more clearly the Judiciary's expectations regarding the duties performed by Officers and the services they provide to the public, while maintaining the Officers' independent contractor status.

An area not addressed in Directive #01-15 is the Judiciary's and Officers' respective responsibilities in situations in which an Officer's appointment is discontinued due to the Officer's death, incapacity or immediate retirement. The Judiciary has incurred significant time and expense managing and coordinating Officers' business and book accounts (winding down their business) in instances when their appointments are suddenly and unexpectedly discontinued in such circumstances. Vicinages have had to temporarily take over Officers' book accounts, necessitating that they expend funds for the procurement of temporary staff and overtime hours in order to address the variety of issues involved when winding down an Officer's business. In those instances where an Officer has passed away, there is also the additional complication of having to consult with the Officer's estate. Reassigning an Officer's work is complex and time consuming; judgment creditors and debtors' rights should not be prejudiced by the delay that is caused by this transition process.

Closing an Officer's book account typically requires analysis and unique approaches, depending on the Officer's factual circumstances. Among the areas that must be addressed are the preparation and expense associated with a close-out audit, potential bond coverage issues, determination as to when dollarage is no longer earned, reassignment of old/active execution work, 30-day notice requirement on all remaining active executions and their returns, standard

follow-up communication and/or notice with applicable parties/attorneys, ongoing monthly finance division manager reconciliations, expired and active writ register report closure, and obtaining access to the Officer's particular software programs, writ registers, and financial account information. Accordingly, for the mutual benefit of the Judiciary, the public, and the Officers, this new protocol was developed to require Officers, in consultation with the vicinage and with the consent of the Assignment Judge or his/her designee, to prepare an *Action Plan* (Plan) to be followed in the event that an Officer's appointment is discontinued as a result of the Officer's death, incapacity or immediate retirement.

This memorandum explains the factors considered in support of this Supplement, its mandatory requirements, and the applicable revised Appendix form attached hereto. The Supreme Court approved this Supplement to Directive #01-15 on recommendation of the Judicial Council subsequent to an extensive vetting, which included a representative sample of Officers from the southern, central, and northern regions of the State.

Effective Date

Other than as expressly set forth in this memorandum, the provisions of this Supplement to Directive #01-15 are effective immediately. Current Special Civil Part Officers must designate a Special Assistant Officer (SAO) and submit a Plan for approval by their respective Assignment Judge and the Administrative Director no later than July 1, 2019.

Implementation

Vicinages shall immediately distribute a hard copy of this Memorandum to each of their respective primary Officers. The AOC Civil Practice Division shall provide an electronic copy to those Officers required to maintain an email account. There is no additional court officer training required in this regard. However, each vicinage's Court Officer Advisory Committee should convene a meeting no later than February 28, 2019, to review this Directive Supplement with the Officers. Mathew Sapienza, Esq., Office of Counsel to the Administrative Director, and Lloyd Garner, Esq., Chief, Special Civil Part Services, will attend your respective meetings to respond to any questions from Officers pertaining to this Supplement or to Directive #01-15 in general.

COURT OFFICER CONTINGENCY PLAN

Each Officer who serves post-judgment process shall designate an Officer or Assistant/Deputy Officer of their choice to serve as their *Special Assistant Officer* (SAO). The SAO will be responsible to wind down the Officer's business in the event of the Officer's death, incapacity, or abrupt retirement in the manner agreed upon in advance by the Officer and the SAO, with the SAO to be treated as the Officer once the plan is triggered. While no new vicinage work will be assigned once the Officer is deemed incapacitated, dies or abruptly retires, the Officer or his/her estate and the SAO will have the opportunity to continue to earn dollarage and/or other applicable fees for all work previously assigned. Please note, however, that this Supplement does not apply, and any existing Plan shall be deemed voided, when an Officer's appointment is terminated by the vicinage/Judiciary due to Officer malfeasance. The

Assignment Judge in those situations may nonetheless seek approval from the Administrative Director to reallocate the terminated officer's work to the SAO.

It is the responsibility of the Officer to share all pertinent information with the SAO to allow for a seamless transition, including passwords, computer programming technologies, record retention, Continuity of Operations Plan (COOP), trust and business account signatory authority, staff and business office/access information. The Judiciary will honor an agreement between the Officer and the SAO in connection with the transition of responsibilities between the Officer and the SAO to the extent that such agreement does not conflict with Directive #01-15, this Supplement, any statute, or any Court Rule.

If the designated SAO is an Assistant/Deputy Officer, the SAO may continue to derive income from other sources, in accordance with Directive #01-15, Section V.C, and may apply in the normal course for an independent appointment in response to a vicinage Officer recruitment. The SAO will be considered along with all other applicants for the appointment. SAO status does not guarantee that the applicant will be selected for the independent appointment.

The following mandatory requirements must be met and approved by the Assignment Judge or his/her designee and the Administrative Director or his/her designee:

1. The SAO must satisfy the qualification requirements under Directive #01-15, Section II. A. The SAO proposed may be an existing Officer or Assistant/Deputy Officer, or the Officer may request appointment of a new person to serve as the SAO, subject to recommendation of the Civil Presiding Judge or that of the Civil Presiding Judge's designee.
2. The SAO must fulfill the requirements of Directive #01-15 and this Supplement, and must enter into a Consent Order (See Consent Order at Appendix C to Directive #01-15) which provides his/her designation as an SAO.
3. The Officer and SAO must complete and sign the *Special Civil Part Officer Contingency Plan Agreement Form* (see new Appendix I to Directive #01-15, attached here) and attach the completed and signed form to the Consent Order.
4. Officers must provide the vicinage with a fully-executed *Special Civil Part Officer Contingency Plan Agreement Form* on or before July 1, 2019.
5. The Officer must certify in the Officer's *Special Civil Part Officer Business Information Disclosure Form*, submitted to the vicinage Civil Division Manager and Finance Division Manager on an annual basis, on or before each July 1, in accord with Directive #01-15, Section VI (Operational Requirements for Special Civil Part Officers), Paragraph C (Communication), amended Appendix E, that the previously-approved *Special Civil Part Officer Contingency Plan Agreement* between the Officer and the SAO remains in effect.
6. The Plan is triggered when the SAO is notified by the vicinage in writing of the discontinuation of the Officer's appointment. Within seven (7) days after receipt of such notice, in accordance with Directive #01-15, Section V.E, the SAO must procure his/her

own bond in the identical amount of the preceding Officer's bond at that time. An existing Officer can obtain a rider to an existing bond. The SAO must show proof of bond procurement and payment to the Trial Court Administrator and Finance Division Manager. The SAO may seek subsequent bond amount reductions upon submission of a detailed accounting in accord with Directive #01-15, Section V.E.

7. Upon the discontinuation of an Officer's appointment, all of that discontinued Officer's work shall cease, including but not limited to, disbursements, deposits, and earning of dollarage. The SAO shall assume responsibility for carrying on the Officer's business, provided that the SAO has procured the necessary bond or rider as set forth in the preceding paragraph. In the event that the SAO has failed to procure the necessary bond or rider, the vicinage may, in its discretion, void the Plan or permit the SAO to have no more than one additional week to procure the bond or rider. Any further extensions to this requirement require the specific approval of the Administrative Director.

8. An agreement between the Officer and the SAO in connection with the transition of responsibilities between the Officer and the SAO shall be enforceable between them as provided by law and they shall agree to hold the Judiciary harmless in the event of any claimed breach thereof, e.g., disputes over the amount of dollarage to be earned by the SAO and/or the Officer or his/her estate, responsibility for cost of the mandatory close-out audit, operating expenses, staffing issues such as entitlement to severance pay and unemployment benefits. The Officer and the SAO shall acknowledge that the vicinage/Judiciary is not a party to any agreement between them.

9. The Assignment Judge and Administrative Director, or their designees, shall determine when a Plan has failed, including but not limited to when a SAO fails to obtain the necessary bond or rider in a timely manner. In the event a Plan is deemed to have failed and the vicinage is required to assume control of an Officer's business accounts and undertake the Officer's responsibilities with respect to work previously assigned, the vicinage/Judiciary shall be entitled to retain any dollarage earned thereafter. The Officer and/or his/her estate shall be liable for the cost of the close-out audit required by Directive #01-15. The Officer and/or his/her estate, the SAO, and their sureties, shall be liable for any other costs or expenses borne by the vicinage/Judiciary in excess of said dollarage.

10. The SAO must return all of the Officer's previously assigned executions that did not generate income or garnishment within four months, or as otherwise agreed to in the action plan, from the date that the SAO's bond or rider is satisfactorily procured. Within 30 days of the date that the SAO's bond or rider is satisfactorily procured, the SAO and Civil Division Manager shall develop and submit an agreed upon *Contingency Plan* that meets with the Civil Presiding Judge's approval. The SAO's action plan may include other terms agreed to by the SAO and the vicinage, but must minimally include the following:

- (a) SAO's schedule for the dissemination of the 30-day notices of intent to return executions to all applicable judgment creditors in accordance with Directive #01-15, Appendix F, Section II.A;

- (b) SAO's schedule as to when and how he/she intends to disseminate any applicable Omnibus Court Orders to all applicable banks, third party garnishees, attorneys and/or litigants which direct them to treat the SAO as if he/she were originally assigned these executions and/or other Orders that otherwise assist in the implementation of the Plan;
- (c) SAO's schedule for the return of the aforesaid executions to the court;
- (d) SAO's plan to address any issues pertaining to access to the Officer's software systems, trust and business accounts and unresolved or pending complaints, if any, against the preceding Officer; and
- (e) Name and address of the accounting firm that the SAO intends to rely on to perform the close-out audit.

11. The SAO must provide the vicinage with at least 60 days' notice of his/her intent to no longer serve as SAO. An SAO is not permitted to designate his/her own SAO.

12. With the approval of the Assignment Judge and the Administrative Director, or their designees, an Officer may retire in good standing but remain working, including performing new levies on previously assigned and active goods and chattel executions, for the purpose of winding down his/her own business in accordance with Directive #01-15. In that case, this Supplement would not apply.

Attachments

cc: Chief Justice Stuart Rabner
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Trial Court Administrators
Special Assistants to the Administrative Director
John Brodowski, Chief, Internal Audit
Lloyd Garner, Chief, Special Civil Part
Civil Division Managers
Finance Division Managers
Assistant Civil Division Managers
Special Civil Part Officers

APPENDIX E to ADMINISTRATIVE DIRECTIVE #01-15 (Revised)



NEW JERSEY JUDICIARY

SPECIAL CIVIL PART OFFICER BUSINESS INFORMATION CERTIFICATION FORM

This form is to be completed by all newly appointed Special Civil Part Officers within thirty (30) days of appointment. Thereafter, this form is to be completed by all existing Special Civil Part Officers, on an annual basis, on or before July 1, and submitted to the Civil Division Manager and the Finance Division Manager in the respective vicinage. Any change of information requires a new form to be completed immediately.

I, _____, being of full age, do hereby certify as to the following information:

My office/business address (including any P.O. Boxes) is:

The address where my business records are located (if different than above) is:

My work telephone number is: _____

My business cell phone number is: _____

My fax number is: _____

My work email address is: _____

A copy of all applicable insurance policies, if any, for my staff and my place of business (excluding bonds) are attached hereto. The branch address, phone number, and bank account number for all existing Special Civil Part Officer business and trust accounts and any specific branch contact information is as follows:

The name, phone number (home/work/cell), mailing address and e-mail contact information for my Special Assistant Officer (SAO) is as follows:

Name: _____ **Contact Information:** _____

The names, phone numbers and work addresses of all staff (18 years of age or older), if any, I employ in a part time, full time or temporary basis are as follows:

Name: _____ **Contact Information:** _____

I UNDERSTAND THAT THIS FORM MUST BE UPDATED BY ME UPON ANY CHANGE IN INFORMATION AND IMMEDIATELY SUBMITTED TO THE CIVIL DIVISION MANAGER AND FINANCE DIVISION MANAGER

I do hereby certify that the foregoing statements made by me are true and accurate. I understand that if any of the foregoing statements are willfully false, I am subject to punishment under law.

Signature

Date

Print Name

APPENDIX I to ADMINISTRATIVE DIRECTIVE #01-15
SPECIAL CIVIL PART OFFICER CONTINGENCY PLAN AGREEMENT

This form is to be completed and signed by the Special Civil Part Officer (Officer) and his/her selected Special Assistant Officer (SAO) who will be responsible to assume control and wind down the Officer's business upon the Officer's termination of appointment caused by death, immediate retirement, or incapacity. By doing so, the Officer and SAO agree to abide by Directive #01-15 and any subsequent supplements thereto. The Officer and SAO have read and fully understood the contents of the Supplement to Directive #01-15, attached to this Agreement, and by signing hereunder acknowledge and agree to the following:

1. The SAO, if newly appointed, must satisfy within 30 days hereof the qualification requirements set forth under Directive #01-15, Section II.A, submitting and signing the authorization forms contained within Directive #01-15.
2. The SAO must immediately procure his/her own bond or rider to an existing bond, as the case may be, for the identical amount of the Officer's bond at the time the Officer's appointment is discontinued due to his/her death, immediate retirement, or incapacity.
3. Upon the aforesaid Officer's discontinuation of appointment, no new vicinage work will be assigned. All deposits, disbursements, earning of dollarage shall be suspended pending the SAO's procurement of a Bond or rider in satisfaction hereof and Directive #01-15, Section V.E.
4. The Contingency Plan and Agreement(s) entered into between the Officer and his/her selected SAO shall be enforceable between the Officer and SAO; the Judiciary and Vicinage are not party to any aforesaid agreement(s); and the undersigned hereby hold the Judiciary and Vicinage harmless from any breach thereof.
5. The Officer and SAO agree to be jointly and severally liable for any costs, if any, incurred by the Judiciary and Vicinage that are not otherwise covered by any dollarage earned by the Vicinage if the Vicinage determines in its discretion that it must take over the administration and closure of the Officer's business caused by the failure of the SAO to satisfactorily perform and/or otherwise comply with Directive #01-15 and any supplements thereto. The Judiciary shall first seek compensation from the Officer's and/or SAO's bond, as the case may be.
6. The SAO agrees to provide no less than 60 days' notice to the Vicinage of his or her

intent to no longer serve as SAO, and any dollarage earned thereafter, if any, shall be forfeited by the Officer and SAO.

7. The SAO shall have his/her "Action Plan" in place in accord with the November 26, 2018 Supplement to Directive #01-15 that meets with the Civil Presiding Judge's satisfaction within 30 days of the date upon which the SAO's bond is satisfactorily procured.
8. While the Officer remains appointed, the Officer is permitted to subsequently change his/her selection of SAO as he/she deems appropriate in accord with the requirements of the November 26, 2018 Supplement to Directive #01-15.
9. The Contingency Plan and Agreement(s) entered into by the Officer and his/her selected SAO shall be deemed voided when an Officer's appointment is terminated by the vicinage/Judiciary due to Officer malfeasance.

Dated: _____

, Special Civil Part Officer

Dated: _____

, Special Assistant Officer