

STAFFING GUIDELINES FOR SENIOR JUDGES

IN THE SECOND CIRCUIT

Senior circuit and district-judges (“senior judges”) already have served the federal judiciary and this country honorably for many years before taking senior status. It is the policy of the Second Circuit Judicial Council that senior judges should be treated for all purposes exactly like active judges, except for those differences incident to statute or required by the judge’s reduction in workload. Senior judges are entitled to the same level of respect and deference as their active colleagues and are to suffer no diminution in status because of their election of senior service, recognizing that they continue to hold their judicial offices.

It is the intent of the Second Circuit Judicial Council to allow senior judges to aggregate the broad array of services they render to the courts of this Circuit and this country toward the statutory and regulatory requirements for staff, chambers, pay and benefits. These guidelines are intended to assist the Second Circuit Judicial Council in ensuring that senior judges are recognized for their continued service to the federal judiciary and are provided with facilities and staffing appropriate to that service. They take into account the totality of the circumstances bearing upon the work of the courts and the individual senior judge.

A. Senior judges who perform substantial judicial service are entitled to staff, appropriate chambers and use of a courtroom, as applicable.

B. Senior judges designated and assigned to perform judicial duties under 28 U.S.C. § 294 (circuit and district judges) shall be entitled to chambers (including furnishings), and if applicable, access to courtroom facilities. Decision as to the assignment of chambers and (where applicable) courtroom facilities shall be made by the senior judge’s court, as in the past.

C. For the purpose of approving staff,¹ the Council will meet annually to survey the judicial work performed by each senior judge in the prior full fiscal year and in the fiscal year then current, as well as the work expected to be performed in the fiscal year to come. The Council may consider all of the following:

- i. A senior judge will be presumed to have performed substantial judicial service upon recommendation to that effect by the chief judge of the senior judge's court.
- ii. Statistics, of relevant judicial service of the senior judge; and
- iii. Any other relevant information including information submitted by the senior judge.

D. As circumstances warrant, the Council may depart from these guidelines, suspend their effect or modify them.

E. In accordance with Judicial Conference policy, senior judges may hire staff in any combination up to the number of staff positions approved annually by the Second Circuit Judicial Council, except that senior circuit judges approved for five staff positions may not hire more than four law clerks.

¹ Staff refers to chambers staff positions—law clerks and judicial assistants/secretaries—as provided by the Judicial Conference of the United States in the Guide to Judiciary Policy, vol. 3, ch. 8, § 860.10. Court reporters, *id.* at § 860.20, and courtroom deputies, *id.* at § 860.30, are provided to the senior judge by the senior judge's court and are not considered chambers staff positions.

F. If staff assigned to a senior judge is not used by that judge, the chief judge of the court may reassign staff, full-time or part-time, to other judges.

G. In determining whether a senior judge performs substantial judicial service, the Council may consider the factors referred to in paragraph H, as well as additional service including but not limited to:

- i. Acceptance of assignment of trial-ready cases from other judges in the senior judge's court;
- ii. Handling motions and pre-trial matters;
- iii. Accepting emergency or additional assignments by the chief judge of the circuit or of the senior judge's court;
- iv. Serving as a visiting judge pursuant to intra- or inter-circuit assignments;
- v. For circuit judges: accepting assignment on the non-argument calendar;
- vi. Service on committees of the Judicial Conference of the United States, the Second Circuit Judicial Council, and the senior judge's court;
- vii. Service on the Foreign Intelligence Surveillance Court or the Judicial Panel on Multi-District Litigation; and
- viii. Service to the Federal Judicial Center, the Administrative Office of the United States Courts, or the U.S. Sentencing Commission.

H. Presumptions

I. Senior Circuit Judges

A senior circuit judge will be presumed to have performed substantial judicial service warranting the following personal staff positions if he or she has carried a workload, measured by sitting days, in the most recently completed fiscal year, as follows:

1. At least 80% of that of an active circuit judge - 5 staff positions
2. At least 50% of that of an active circuit judge - 4 staff positions.
3. At least 25% of that of an active circuit judge - 3 staff positions.

II. Senior District Judges

1. A senior district judge will be presumed to warrant three (3) personal staff positions if he or she has satisfied the criterion in subparagraph (a) or at least two of the four remaining criteria below:

- a. Accepted weighted filings, including cases transferred to the senior judge, equal to at least 50 percent of the total weighted filings per active judgeship² in the circuit or in the senior judge's district, whichever is lower,
- b. Held in the aggregate five or more trials or contested evidentiary hearings,
- c. Had 50 or more trial or contested evidentiary hearing hours,
- d. Had 50 or more civil terminations,

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As reported by the Administrative Office in *Federal Court Management Statistics*.

e. Had 24 or more criminal terminations.³

2. A senior district judge will be presumed to warrant two (2) personal staff positions if he or she has satisfied at least one of the following criteria:

a. Accepted weighted filings equal to at least 25 percent of the total weighted filings per judgeship in the circuit or in the senior judge's district, whichever is lower,⁴

b. Held two or more trials,

c. Had 25 or more trial hours,

d. Had 25 or more civil terminations,

e. Had 12 or more criminal terminations.

3. For reasons discussed above, the failure to satisfy any presumption set forth above shall not be conclusive with respect to the authorization of staffing levels for senior judges. In such instances, the Judicial Council shall make independent determinations, giving substantial deference to the assessment of the Chief Judge of the senior judge's court and considering the factors described in paragraph G, H1 and H2.

4. No reduction in requested staffing levels shall be made without affording the affected judge of notice of the proposed action and an opportunity to make a written submission to the Council with respect thereto prior to action being taken. No such reduction shall be effective

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According to the Administrative Office, criminal felony filings in this Circuit in fiscal 2011 were 51 per judgeship.

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If the national or circuit-wide weighted filings per judgeship were used, the 25% criterion would be satisfied in a senior judge accepted 113 or 125 weighted filings, respectively.

earlier than October 1 of the second year following the year in which Judicial Council action is taken. Any such reduction is subject to reconsideration prior to its effective date on the application of the senior judge affected.

Dated: June 6, 2012

New Paltz, New York

Approved by the Second Circuit Judicial Council:

For the Council:



Dennis Jacobs, Chief Judge

JUDICIAL COUNCIL
APPROVED
JUN 06 2012
C/E