

**SUPERIOR COURT  
OF THE  
STATE OF DELAWARE**

**JAMES T. VAUGHN, JR.**  
PRESIDENT JUDGE

**KENT COUNTY COURT HOUSE  
38 THE GREEN  
DOVER, DELAWARE 19901**

**ADMINISTRATIVE DIRECTIVE  
OF THE  
PRESIDENT JUDGE OF THE SUPERIOR COURT  
OF THE STATE OF DELAWARE**

**NO. 2007-5**

**COMMISSIONERS**

This 6th day of December 2007,

IT APPEARING that 10 *Del. C.* § 512 provides that Commissioners shall have all powers conferred upon them by the Rules of Civil and Criminal Procedure of the Superior Court; and

IT FURTHER APPEARING that Superior Court Civil Rule 132 and Criminal Rule 62 provide that Commissioners shall have all powers conferred upon them by Administrative Directive of the President Judge, not limited to the powers otherwise set forth in said rules,

NOW, THEREFORE, IT IS DIRECTED THAT:

1. In addition to powers otherwise conferred upon Commissioners by statute and Court rules, Commissioners shall have power to hear and enter final judgment in the following civil matters:

- a. Voluntary commitments of the mentally ill.
- b. Expungements.
- c. Civil contempts.
- d. Inquisitions under Civil Rule 55(b)(2).
- e. Non-jury replevin actions.
- f. Non-jury petitions for forfeiture under 16 *Del. C.* § 4784 and Civil Rule 71.3(b).
- g. Non-jury petitions for return of property under 16 *Del. C.*

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§ 4784 and Civil Rule 71.3(c).

- h. Appeals from tax intercepts.

Any of the matters set forth in a. through h. may be assigned to a Commissioner. Final judgments of a Commissioner in such civil proceedings may be appealed to a Judge of the Court for *de novo* review. The procedure for appealing findings of fact and recommendations under Civil Rule 132(a)(4)(ii)-(iv) shall apply to appeals of such final judgments; provided that the written objections referred to in Rule 132(a)(4)(ii) shall be entitled "Appeal from Commissioner's Final Judgment."

2. The following case-dispositive civil matters may be assigned to a Commissioner for findings of fact and recommendations:

- a. Case-dispositive evidentiary hearings.
- b. Motions for judgment on the pleadings.
- c. Motions for summary judgment.
- d. Motions to dismiss for failure to state a claim upon which relief can be granted.
- e. Motions to involuntarily dismiss an action.

A Commissioner's findings of fact and recommendations in such matters are subject to *de novo* review by a Judge pursuant to Civil Rule 132(a)(4)(i)-(iv).

3. Any non case-dispositive civil matter may be assigned to a Commissioner, including but not limited to the following:

- a. Case scheduling conferences.
- b. Pretrial conferences.
- c. Mediation of cases.
- d. Settlement conferences.
- e. Status conferences.
- g. Non case-dispositive motions, including discovery motions.
- h. In forma pauperis motions.
- i. Non-case dispositive evidentiary hearings.

Non case-dispositive orders of a Commissioner are subject to reconsideration by a

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Judge under Civil Rule 132(a)(3)(i)-(v).

4. In addition to powers otherwise conferred upon Commissioners by statute and Court rules, Commissioners shall have the power to hear, enter final judgment, and impose or modify sentence in the criminal matters set forth in a.-e., subject to the limitation set forth in f.:

- a. Violations of probation.
- b. Criminal contempts.
- c. Contempts for failure to pay pursuant to 11 *Del. C.* § 4105.
- d. Drug Court Diversion proceedings, including but not limited to entries, status conferences, sanctions, modifications or terms and conditions of bail, terminations, stipulated trials and sentences.
- e. TASC status conferences, including but not limited to sanctions, modifications of terms and conditions of sentence, and violations of probation.
- f. Notwithstanding the foregoing a - e, a Commissioner shall not have the authority to impose a sentence in any felony charge or matter; or modify a Level V portion of a sentence in any felony charge or matter, or a special condition relating thereto. Further, a Commissioner shall not have the authority to modify a Level IV portion of a sentence in any felony charge or matter, or a special condition relating thereto, under a - e, but may recommend a modification of a Level IV portion of such a sentence, or a special condition relating thereto, under paragraph 5.

Any of the matters set forth in a. through e. may be assigned to a Commissioner. Final judgments of a Commissioner in such criminal proceedings may be appealed to a Judge of the Court for *de novo* review. An appeal of a judgment of conviction or sentence may be appealed pursuant to Rule 62(e). The procedure for appealing findings of fact and recommendations under Criminal Rule 62(a)(5)(ii)-(iv) shall apply to other appeals of such final judgments; provided that the written objections referred to in Rule 62(a)(5)(ii) shall be entitled "Appeal from Commissioner's Final Judgment."

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5. The following are deemed case-dispositive criminal matters and may be assigned to a Commissioner for findings of fact and recommendations:

- a. Case-dispositive evidentiary hearings.
- b. Motions to suppress evidence.
- c. Motions to dismiss or quash an indictment or information.
- d. Motions for post-conviction relief.
- e. Modification of the Level IV portion of a felony sentence, or a special condition relating thereto.

A Commissioner's findings of fact and conclusions of law in such matters are subject to *de novo* review by a Judge under Criminal Rule 62(a)(5)(i)-(iv).

6. Any non case-dispositive criminal matter may be assigned to a Commissioner, including but not limited to the following:

- a. Return of capiases, including setting bail; provided, however, that where a Judge has recommended bail in a certain amount or subject to certain conditions, a Commissioner shall not set bail in a lesser amount or not impose such conditions unless the Commissioner sets forth the reasons for doing so on the record.
- b. Case review calendars.
- c. Bail motions, including motions for forfeiture of bail.
- d. Control for representation.
- e. Pre-trial conferences.
- e. Arraignments.
- d. Grand jury returns.
- e. Restitution hearings.
- f. Non-case dispositive evidentiary hearings.

Non case-dispositive orders of a Commissioner are subject to reconsideration by a Judge under Criminal Rule 62(a)(4)(i)-(v).

7. The duties to be performed by the Commissioners in each county shall be determined by the judges assigned to that county. The Resident Judge shall supervise the daily work of the Commissioners.

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8. All matters referred to a Commissioner for decision shall be decided within 30 days of being submitted for decision, unless a written extension is granted for good cause shown by the referring Judge or the Resident Judge. The Commissioners shall report to the President Judge on the first of each month each matter held under advisement for more than 30 days.

9. This Administrative Directive supercedes Administrative Directive No. 2000-3.

/s/ James T. Vaughn, Jr.  
President Judge

oc: Prothonotaries  
cc: Superior Court Judges  
Superior Court Commissioners  
Court Administrator  
Case Scheduling Offices  
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