

LOCAL RULE 72.1
UNITED STATES MAGISTRATE JUDGES

The duties and jurisdiction of United States Magistrate Judges shall be as provided for in 28 U.S.C. Sec. 636 and in Rules 5 and 5.1 of the Federal Rules of Criminal Procedure.

I. MISDEMEANOR JURISDICTION

Under the conditions required by law, the full-time Magistrate Judges are designated to try persons accused of, and to sentence persons convicted of, misdemeanors as defined by U.S.C. Sec. 3401. They are authorized to direct the United States Probation Office to conduct presentence investigations, render reports, and provide other necessary services. The Clerk shall automatically refer all misdemeanor cases that are initiated by information or indictment or are transferred to this district under Rule 20 of the Federal Rules of Criminal Procedure to a Magistrate Judge for plea and arraignment. If the defendant in such cases consents to the Magistrate Judge's jurisdiction, further proceedings shall be conducted before the Magistrate Judge. All part-time Magistrate Judges in both districts are also designated to try misdemeanor cases. In the Eastern District, the part-time Magistrate Judges shall exercise this jurisdiction when specifically referred a case by a District Judge or a full-time Magistrate Judge.

II. FORFEITURE OF COLLATERAL

The full-time Magistrate Judge shall oversee the Forfeiture of Collateral system. (Also, see a general order of the Court of each district for more details.)

III. COMMITMENT TO ANOTHER DISTRICT

The Magistrate Judge shall conduct proceedings pursuant to Federal Rules of Criminal Procedure 40.

IV. CRIMINAL PRETRIAL

A Magistrate Judge may conduct post-indictment arraignments. In felony cases, he shall accept not guilty pleas and refer pleas of guilty to a District Judge, or if no District Judge is immediately available, the Magistrate Judge shall enter a not guilty plea for the defendant and schedule a time for the defendant to appear before a District Judge and enter a change of plea.

V. SUBPOENAS AND WRITS

A Magistrate Judge may issue subpoenas, writs of habeas corpus ad testificandum or ad prosequendum or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings, either civil or criminal.

VI. MOTIONS TO DISMISS

A Magistrate Judge may hear and decide motions by the government to dismiss an indictment, information or complaint without prejudice to further proceedings.

VII. REFERENCE OF NON-DISPOSITIVE MATTERS

A. Reference

When designated by a District Judge, and as limited by 28 U.S.C. Sec. 636(b)(1)(A), a Magistrate Judge may hear and determine any pretrial matters pending before the Court, including, but not limited to, procedural and discovery motions, pretrial conferences, omnibus hearings, docket calls, settlement conferences, and related proceedings.

B. Appeal

In all matters delegated under authority of 28 U.S.C. Sec. 636(b)(1)(A), a Magistrate Judge's decision is final and binding and is subject only to a right of appeal to the District Judge to whom the case has been assigned. A party may appeal the Magistrate Judge's ruling by filing a motion within fourteen (14) days of the Magistrate Judge's decision unless a shorter period is set by the District Judge or Magistrate Judge. Copies shall be served on all other parties and the Magistrate Judge from whom the appeal is taken. The motion shall specifically state the rulings excepted to and the basis for the exceptions. The Court may reconsider any matter sua sponte. The District Judge shall affirm the Magistrate Judge's findings unless he finds them to be clearly erroneous or contrary to law. In all matters referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(c) (consent jurisdiction), an aggrieved party may appeal only to the Court of Appeals in the same manner as on appeal from any other judgment of a district court.

VIII. DISPOSITIVE MATTERS

A. Reference - General

A District Judge may designate a Magistrate Judge to conduct hearings, including evidentiary hearings, and to submit proposed findings of fact and recommendations for the resolution of any dispositive matters, including, but not limited to, the following:

1. Motions by the defendant to dismiss or quash an indictment or information;
2. Motions to suppress evidence;
3. Applications to revoke probation, including the conduct of the "final" probation revocation hearing;

Local Rules of the United States District Court for the Eastern and Western Districts of Arkansas

4. Motions for temporary restraining orders and preliminary injunctions;
5. Motions to dismiss for failure to state a claim upon which relief may be granted;
6. Motions to dismiss an action and to review default judgment;
7. Motions to dismiss or to permit the maintenance of a class-action;
8. Motions for judgment on the pleadings or for summary judgment;
9. Cases involving the granting of benefits to claimants under the Social Security Act and the "black lung" benefit laws;
10. Cases involving the adjudication by the Civil Service Commission of adverse employee actions, retirement eligibility and benefits questions; and the rights of employees in situations such as reductions in force.

B. Reference - Prisoner Petitions

A Magistrate Judge shall have the following responsibilities with regard to prisoner petitions:

1. Review of prisoner correspondence and petitions concerning 28 U.S.C. Sec. 2241, 28 U.S.C. Sec. 2254 and 42 U.S.C. Sec. 1983 matters;
2. Review of prisoner correspondence and petitions concerning conditions of confinement which are submitted by federal prisoners;
3. Preparation and distribution of forms required by the Rules Governing Sec. 2254 Cases (28 U.S.C. Sec. 2254);
4. Entry of orders authorizing the petitioner to proceed in forma pauperis without the prepayment of costs or fees;
5. Issuance of all necessary orders to answer or to show cause or any other necessary orders or writs to obtain a complete record;
6. Taking of depositions, conducting pretrial conferences, and conducting evidentiary hearings or other necessary proceedings in order to obtain a complete record.

C. Objection

When a Magistrate Judge files proposed findings or recommendations with the Court, he shall mail a copy to all parties. Within fourteen (14) days after being served with a copy, any party may serve and file written objections to such proposed findings, recommendations or

order. The District Judge must make a de novo determination of any matters which have been specifically objected to by the litigants, but this does not necessarily require the Judge to conduct a hearing on contested issues. In some instances, it may be necessary for the District Judge to modify or reject the findings of the Magistrate Judge, to take additional evidence, recall witnesses, or recommit the matter to the Magistrate Judge for further proceedings.

D. Statement of Necessity

A party objecting to the Magistrate Judge's proposed findings and recommendations who desires to submit new, different, or additional evidence and to have a hearing for this purpose before the District Judge will file a "statement of necessity" at the time he files his written objections, and which shall state:

1. why the record made before the Magistrate Judge is inadequate;
2. why the evidence to be proffered (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge; and
3. the details of any testimony desired to be introduced in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial evidence desired to be introduced.

From this submission, the District Judge shall determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

IX. MASTER REFERENCES

When designated by a District Judge, a Magistrate Judge may:

A. serve as a special master in accordance with the provisions of Rule 53 of the Federal Rules of Civil Procedure, or, upon consent of the parties, without regard to the provisions of Rule 53. He may also hear testimony and submit a report and findings on complicated issues in jury and non-jury cases;

B. conduct evidentiary hearings and prepare findings in employment discrimination cases as a master under 42 U.S.C. Sec. 2000(e)(5); and

C. conduct hearings and resolve specific issues in patent, antitrust and other complex cases where there are a great many issues, claims and documents, or in multiple disaster and class-action cases where there are numerous claimants and diverse claims.

X. CIVIL CONSENT JURISDICTION

Local Rules of the United States District Court for the Eastern and Western Districts of Arkansas

A. Special Designation

The full-time Magistrate Judges of both districts are specially designated by the District Court to conduct any or all proceedings in jury or non-jury civil matters upon the consent of the parties.

B. Reference

(1) Notice. The clerk shall give the plaintiff notice of the Magistrate Judge's consent jurisdiction, in a form approved by the Court, when a civil suit is filed. The Clerk shall also attach the same notice to the summons for service on the defendant.

(2) Consent. Any party may obtain a "Consent to Magistrate Judge's Jurisdiction" form from the Clerk's office.

The Clerk shall furnish the party with Consent Form A, which shall provide that any appeal in the case shall be taken directly to the Circuit Court of Appeals.

(3) Transfer. Once the completed forms have been returned to the Clerk, he shall then draw by lot the name of the Magistrate Judge and forward the Consent forms for final approval to the District Judge to whom the case is assigned. When the District Judge has approved the transfer and returned the Consent forms to the Clerk's office for filing, the Clerk shall forward a copy of the Consent forms to the Magistrate Judge to whom the case is assigned. The Clerk shall also indicate on the file that the case has been assigned to the Magistrate Judge.

C. Appeal

Appeal to the Court of Appeals. The final judgment, although ordered by the Magistrate Judge, is deemed a final judgment of the District Court and will be entered by the Clerk under Rule 58 Fed.R.Civ.P. Any appeal shall be taken to the Court of Appeals in the same manner as an appeal from any other judgment of the District Court.

XI. OTHER REVIEWABLE MATTERS

Rulings, orders, or other actions by a Magistrate Judge in the District, review of which is not otherwise specifically provided for by law or these rules, shall, nevertheless, be subject to review by the District Court as follows:

A. Any party may file and serve, not later than fourteen (14) days thereafter an application for review of the Magistrate Judge's action by the District Judge having jurisdiction. Copies of such application shall be served promptly upon the parties, the District Judge, and the Magistrate Judge.

B. After conducting whatever further proceedings he or she deems appropriate, the District Judge may adopt or reject, in whole or in part, the action taken by the Magistrate Judge, or take such other action he or she deems appropriate.

XII. REFERRALS

Notwithstanding any provision in this Local Rule, the District Court may by General Order authorize referral to Magistrate Judges of any matters consistent with 28 U.S.C. § 636.

Note: Attorneys practicing in the Western District of Arkansas should consult General Order 40 (attached) for instructions for the acceptance of guilty pleas by magistrate judges.

I through X Adopted and effective May 1, 1980
XI Adopted and effective June 26, 1981
VIII (B)(6) Adopted and effective October 1, 1982
X Revised and effective January 1-2, 1988
Amended January 2, 1990
VIII (B)(1) Revised and approved April 1, 1999
Amended effective November 10, 2009
Amended effective August 5, 2010
Amended effective January 10, 2013

(Form A)

**IN THE UNITED STATES DISTRICT COURT
_____ DISTRICT OF ARKANSAS
_____ DIVISION**

**CONSENT TO PROCEED BEFORE A
UNITED STATES MAGISTRATE JUDGE
(Appeal to the Court of Appeals)**

In the Matter of

V. CASE NO. _____

The undersigned parties (or counsel, if so authorized) to the above-captioned proceeding are fully aware of the right to proceed before a judge of the district court and do hereby consent to the reference of the matter to a United States Magistrate Judge, in accordance with Section 636(c) of Title 28, United States Code, and the Rules of this Court.

The Magistrate Judge shall be empowered to conduct any or all further proceedings and to order the disposition of the matter and the entry of an appropriate judgment. An appeal from the judgment shall be taken to the United States Court of Appeals for this judicial circuit.

PLAINTIFFS	DATE	DEFENDANTS	DATE
_____	_____	_____	_____
_____	_____	_____	_____

ORDER OF REFERENCE

IT IS HEREBY ORDERED that the above-captioned matter be referred to _____, United States Magistrate Judge, for the conduct of further proceedings and the entry of judgment in accordance with the foregoing consent.

(Date)

(United States District Judge)

**NOTICE OF RIGHT TO CONSENT TO DISPOSITION
OF A CIVIL CASE BY A UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. Sec. 636(c) you are hereby notified that upon the consent of all the parties in a civil case, a United States Magistrate Judge of this District Court may be authorized to conduct any or all proceedings, including trial of the case and entry of a final judgment. Copies of appropriate consent forms are available from the Clerk of the Court. Consent Form A shall provide for any appeal of the case to be taken directly to the Circuit Court of Appeals.

You should be aware that your decision to consent, or not to consent, to the disposition of your case before a United States Magistrate Judge is entirely voluntary and should be communicated to the Clerk of the District Court.

In the event all parties consent to disposition by a Magistrate Judge, Magistrate Judge _____ will handle this case.

CONSENT BY THE PARTIES DOES NOT AFFECT YOUR RIGHT TO A JURY TRIAL.

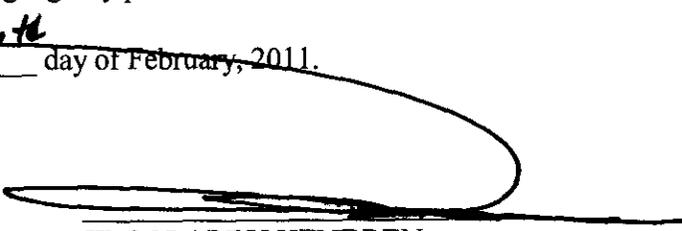
IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS

IN RE: PLEAS IN FELONY CASES

GENERAL ORDER NO. 40

A Magistrate Judge may conduct guilty plea proceedings on referral from the presiding District Judge in criminal felony cases with the signed consent of the defendant. The Magistrate Judge will submit a Report and Recommendation to the referring District Judge within three business days of the Defendant entering a guilty plea.

~~IT IS SO ORDERED~~ this 7th day of February, 2011.


JIMM LARRY HENDREN
CHIEF UNITED STATES DISTRICT JUDGE

US DISTRICT COURT
WESTERN DIST ARKANSAS
FILED

FEB 07 2011

CHRIS R. JOHNSON, Clerk
By

Deputy Clerk