

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

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IN RE: ASSIGNMENT OF
“REGULAR CIVIL CASES” TO
UNITED STATES MAGISTRATE
JUDGES

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GENERAL ORDER
NO. 2:03-mc-3156-ECM

2024 NOV -1 P 1:05

GENERAL ORDER

For good cause, it is ORDERED that the previous General Orders entered in this case regarding the assignment of “regular civil cases” to United States Magistrate Judges are VACATED.

I. Introduction

This General Order is adopted under 28 U.S.C. § 636(c) and United States District Court for the Middle District of Alabama’s Local Rules 72.2 and 73.1. The District Judges designate the Magistrate Judges of this District to exercise jurisdiction over civil matters and specially designate them to enter final judgments in civil cases, provided all parties to the case consent to proceed before the Magistrate Judge as established in this Order. The purpose of the procedures in this Order is to increase the percentage of consent cases to advance further the Federal Rules of Civil Procedure’s mandate “to secure the just, speedy, and inexpensive determination of every action and proceeding.” Fed. R. Civ. P. 1.

In most cases, a civil case is randomly assigned to a United States District Judge and a United States Magistrate Judge. Local Rule 72.2(a) gives the Magistrate Judges the authority to hear and finally determine pretrial and non-dispositive matters, and any appeal of the Magistrate Judge’s rulings are made to the District Judge. It is the intent of the Court to facilitate the direct assignment of civil cases under 28 U.S.C. § 636 to the Magistrate Judges

to make decisions affecting the final disposition of cases. The public, the parties to civil litigation, and the Court are well served by assignment to Magistrate Judges of all appropriate cases.

As set out below, the Court assigns a percentage of newly filed, regular civil cases to Magistrate Judges. Consent to a Magistrate Judge is voluntary. When a case is directly assigned to a Magistrate Judge, all parties will receive a Notice of Assignment to the U.S. Magistrate Judge and Form to Decline Consent to the U.S. Magistrate Judge (Form). Any party may decline consent by signing and returning the Form to the Clerk of Court.

Effective November 1, 2024, each party will be deemed to have knowingly and voluntarily consented to proceed before the assigned Magistrate Judge under 28 U.S.C. § 636(c) if the Form is not received by the Clerk of Court by the deadline designated in the Form originally sent to each party. This Order does not modify the random assignment of other civil cases to a District Judge. In those cases, a Magistrate Judge also will be assigned to handle pretrial and non-dispositive matters.

II. Procedure for Assignment and Consent

A. It is ORDERED that, beginning November 1, 2024, the Clerk of Court must maintain procedures that accomplish the following:

1. The identification of forty percent (40%) of the “regular civil cases” for primary assignment to a Magistrate Judge and the random assignment of those cases to one of the Court’s Magistrate Judges. The term “primary assignment” means presumptive assignment of a case to a Magistrate Judge for all purposes, including entry of judgment unless a party declines consent. For the purposes of this order,

“regular civil cases” do not include *pro se* cases, bankruptcy appeals, bankruptcy withdrawals, cases in which a plaintiff seeks review under [42 U.S.C. § 405\(g\)](#) of a decision of the Commissioner of Social Security, civil forfeiture cases, qui tam cases, putative-class actions, cases initiated with a motion for temporary restraining order or preliminary injunction, and, in the Court’s discretion, any other case deemed unsuitable for primary assignment.

2. The random assignment of all regular civil cases to a District Judge and, in those cases identified for primary assignment to a Magistrate Judge, a mechanism that identifies the assigned District Judge only for the Court and Court staff of the District Judge to whom the case is assigned.
3. Review by the assigned District Judge of those cases selected for primary assignment to a Magistrate Judge so that a District Judge may exercise the right to remove a case from primary assignment to a Magistrate Judge.

B. Upon primary assignment of a regular civil case to a Magistrate Judge, the Clerk of Court must:

1. Provide the parties at the time of their first appearance with a Notice of Assignment to the U.S. Magistrate Judge and Form to Decline Consent to the U.S. Magistrate Judge (Form); and
2. Docket a copy of this General Order and the Form.

C. The Form must advise the parties of the following:

1. That consent to the assigned Magistrate Judge is voluntary;

2. That any party may decline consent and request reassignment to a District Judge without any adverse consequences;
3. That the Form must be received by the Clerk of Court within twenty-one days from the party's first appearance should the party choose to decline consent; and
4. That, upon receipt of the Form, the case will be reassigned randomly to a District Judge.

D. Any party wishing to decline consent must sign and return the Form to the Clerk of Court within twenty-one days from their first appearance in the case. If the Form is not received by the Clerk of Court within twenty-one days of the party's first appearance, the party will be deemed to have knowingly and voluntarily consented to proceed before the assigned Magistrate Judge under 28 U.S.C. § 636(c).

E. If a party declines consent, the identity of that party will not be communicated to any judge. All matters that arise in a case before the deadline by which consent must be declined are deemed referred to the Magistrate Judge under 28 U.S.C. § 636(b).

F. The Magistrate Judge assigned to the consented case will handle all dispositive, non-dispositive, and pretrial matters, including discovery. Any appeal of an order or final judgment will be taken to the United States Court of Appeals for the Eleventh Circuit.

G. A Magistrate Judge may recuse from a case upon determination that there is a conflict of interest. In that event, another Magistrate Judge will be randomly assigned as the presiding judge, and no further declination of consent will be entertained beyond the deadline designated in the Form originally sent to each party.

H. If any party declines consent, the previously assigned Magistrate Judge will remain assigned to the case and will handle pretrial and non-dispositive matters. The identity of a declining party will not be disclosed to any judge.

I. If a party challenges the consent process or moves to withdraw consent, the case will be randomly assigned to a District Judge to resolve the issue of consent. The previously assigned Magistrate Judge will remain assigned to the case.

J. In all cases initially assigned to a District Judge, the parties also may consent to having the case heard by a Magistrate Judge assigned as the presiding judge. If the parties consent, the Clerk of Court may reassign the case to a Magistrate Judge as set forth under 28 U.S.C. § 636(c).

Done this the 1st day of November, 2024.



EMILY C. MARKS
CHIEF UNITED STATES DISTRICT JUDGE
FOR THE COURT