

#### IV. MAGISTRATE JUDGES

##### **General L.R. 72.1 Duties Under 28 U.S.C. § 636(a) and (b)**

The magistrate judge is authorized to exercise all of the powers and duties set forth in 28 U.S.C. § 636(a) and (b), and is authorized to perform any and all additional duties, as may be assigned from time to time which are not inconsistent with the Constitution and laws of the United States.

##### **General L.R. 72.2 Assignment of Duties**

- (a) The assignment of duties to the magistrate judges by the district judges of the Court should be made by standing order entered jointly, or by any individual district judge, in any case assigned to the judge, through written order or oral directive made or given with respect to such case or cases.
- (b) The duties authorized to be performed by magistrate judges, when assigned to them pursuant to Paragraph (a) of this local rule, include, but are not limited to:
  - (1) Issuance of search warrants pursuant to Fed.R.Crim.P. 41, issuance of seizure warrants pursuant to applicable law, issuance of orders for a pen register or a trap and trace device (18 U.S.C. §§ 3122, 3123) and issuance of administrative inspection warrants upon proper application meeting the requirements of applicable law.
  - (2) Issuance of complaints and appropriate summonses or arrest warrants for the named defendants. (Fed.R.Crim.P. 4.)
  - (3) Conducting initial appearance proceedings. (Fed.R.Crim.P. 5.)
  - (4) Appointment of counsel for indigent persons, approval of attorneys compensation and expense vouchers, and all other duties in conformance with the Court's Criminal Justice Act Plan.
  - (5) Conducting preliminary examinations. (Fed.R.Crim.P. 5.1; 18 U.S.C. § 3060.)
  - (6) Conducting removal hearings for defendants charged in other districts, including the issuance of warrants of removal. (Fed.R.Crim.P. 40.)
  - (7) Issuance of writs of habeas corpus ad testificandum and habeas corpus ad pre-sequendum. (28 U.S.C. § 2241(c)(5).)
  - (8) Release or detention of material witnesses. (18 U.S.C. § 3144.)
  - (9) Issuance of warrants and conduct of extradition proceedings pursuant to 18 U.S.C. § 3184.
  - (10) Conducting proceedings for the discharge of indigent prisoners or persons imprisoned for debt under process or execution issued by a federal court. (28 U.S.C. § 2007.)

- (11) Issuance of an attachment or other orders to enforce obedience to an Internal Revenue Service summons to produce records or given testimony. (26 U.S.C. § 2007.)
- (12) Conducting post-indictment arraignments, acceptance of not guilty pleas, acceptance of guilty pleas in misdemeanor and other petty offense cases with the consent of the defendant, when required, and the ordering of a presentence investigation report concerning any defendant who signifies the desire to plead guilty. (Fed.R.Crim.P. 10, 11(a), 32(c), and 58.)
- (13) Acceptance of the return of an indictment by the grand jury, issuance of process thereon and, on motion of the United States, ordering dismissal of a complaint. (Fed.R.Crim.P. 6(f) and 48(a).)
- (14) Supervision and determination of all pretrial proceedings and motions made in criminal cases including, without limitation, motions and orders made pursuant to Fed.R.Crim.P. 12, 12.2(c), 14, 15, 16, 17, 17.1, and 28, 18 U.S.C. § 4244 orders determining excludable time under 18 U.S.C. § 3161, and orders dismissing a complaint without prejudice for failure to return a timely indictment under 18 U.S.C. § 3162; except that a magistrate judge must not grant a motion to dismiss or quash an indictment or information, or a motion to suppress evidence, or any other case dispositive motion, but should make recommendations to the district judge concerning them.
- (15) Conducting hearings and issuing orders upon motions arising out of grand jury proceedings including orders entered pursuant to 28 U.S.C. § 6003, and orders involving enforcement or modification of subpoenas, directing or regulating lineups, photographs, handwriting exemplars, fingerprinting, palm printing, voice identification, medical examinations, and the taking of blood, urine, fingernail, hair and bodily secretion samples (with appropriate safeguards).
- (16) Conducting hearings and issuing orders arising out of motion for return of property pursuant to Fed.R.Crim.P. 41(e), except to the extent that the motion is treated as a motion to suppress under Fed.R.Crim.P. 12, and then it must be handled in accordance with Subparagraph (b)(14) of this rule.
- (17) Conducting preliminary hearings in all probation or supervised release revocation proceedings, and conducting final hearing for misdemeanors when the defendant has previously consented to the exercise of jurisdiction by the magistrate judge. (Fed.R.Crim.P. 32.1.)
- (18) Processing and reviewing habeas corpus petitions filed pursuant to 28 U.S.C. § 2241 et seq., those filed by state prisoners pursuant to 28 U.S.C. § 2254, or by federal prisoners pursuant to 28 U.S.C. § 2255, and civil suits filed by state prisoners under 42 U.S.C. § 1983, with authority to require responses, issue orders to show cause and such other orders as are necessary to develop a complete record, including the conduct of evidentiary hearings, and the preparation of a report and recommendation to the district judge as to appropriate disposition of the petition or claim.

- (19) Supervision and determination of all pretrial proceedings and motions made in civil cases including, without limitation, rulings upon all procedural and discovery motions, and conducting pretrial conferences; except that a magistrate judge (absent the consent of all affected parties) must not appoint a receiver, issue an injunctive order pursuant to Fed.R.Civ.P. 65, enter an order dismissing or permitting maintenance of a class action pursuant to Fed.R.Civ.P. 23, enter any order granting judgment on the pleadings or summary judgment in whole or in part pursuant to Fed.R.Civ.P. 12(c) or 56, enter an order of involuntary dismissal pursuant to Fed.R.Civ.P. 41(b) or (c) or enter any other final order or judgment that would be appealable if entered by a district judge, but should make recommendations to the district judge concerning them.
- (20) Conducting mediation conferences, or other ADR procedures, pursuant to the district's ADR program.
- (21) Conducting all proceedings in civil suits after judgment incident to the issuance of writs of replevin, garnishment, attachment or execution pursuant to governing state or federal law, and conducting all proceedings and entering all necessary orders in aid of execution pursuant to Fed.R.Civ.P. 69.
- (22) With the consent of the parties, conducting or presiding over the voir dire examination and empanelment of trial juries in civil and criminal cases and accepting jury verdicts in the absence of the judge.
- (23) Processing and reviewing all suits instituted under any law of the United States providing for judicial review of final decisions of administrative officers or agencies on the basis of the record of administrative proceedings, and the preparation of a report and recommendation to the district judge concerning the disposition of the case.
- (24) Serving as a special master in accordance with Fed.R.Civ.P. 53.
- (25) In admiralty cases, entering orders (i) appointing substitute custodians of vessels or property seized in rem; (ii) fixing the amount of security pursuant to Rule C(5), Supplemental Rules for Certain Admiralty and Maritime Claims, which must be posted by the claimant of a vessel or property seized in rem; (iii) in limitation of liability proceedings, for monition and restraining order including approval of the ad interim stipulation filed with the complaint, establishment of the means of notice to potential claimants and a deadline for the filing of claims; and (iv) to restrain further proceedings against the plaintiff in limitation except by means of the filing of a claim in the limitation proceedings.
- (26) Appointing persons to serve process pursuant to Fed.R.Civ.P. 4(c).
- (27) Processing and reviewing petitions in civil commitment proceedings under the Narcotic Addict Rehabilitation Act, and the preparation of a report and recommendation concerning the disposition of the petition.

- (28) Supervising proceedings conducted pursuant to letters rogatory in accordance with 28 U.S.C. § 17.

**General L.R. 72.3 Appeals From or Objections to Magistrate Judge's Determination**

- (a) Within 10 days after a timely objection to a magistrate judge's determination concerning a non dispositive matter (see Fed.R.Civ.P. 72(a)), any other party may serve and file a response to the objection or objections. The objecting party may serve and file a reply within 5 days after service of any such response.
- (b) If a timely objection to a magistrate's proposed findings, recommendations, or report on a dispositive pretrial matter is made (Fed.R.Civ.P. 72(b)) and another party files a timely response, then the objecting party may serve and file a reply within 5 days after service of any such response.

**General L.R. 72.4 Record of Proceedings Before Magistrate Judge**

- (a) The magistrate judge must determine, after taking into account the complexity of the particular matter, whether the record must be taken down by a reporter or recorded by suitable sound equipment.
- (b) Notwithstanding the magistrate judge's determination:
- (1) The proceeding must be taken down by a reporter if any party so requests;
  - (2) The proceeding must be recorded by suitable sound equipment if all parties agree;
  - (3) No record need be made of the proceeding if all parties agree.

**General L.R. 73.1 Duties Under 28 U.S.C. § 636(c)**

The magistrate judges in this district are designated to exercise the jurisdiction and authority provided by 28 U.S.C. § 636(c), when all parties consent thereto, and may conduct any or all proceedings, including a jury or nonjury trial, in a civil case.