

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

In Re:

CONSENT REFERENCES TO U.S.
MAGISTRATE JUDGES,
PURSUANT TO 28 U.S.C. §636(c)

A M E N D E D
GENERAL ORDER

Pursuant to the agreement of all U.S. District Judges of this court, the General Order In Re: Consent References to U.S. Magistrate Judges, pursuant to 28 U.S.C. §636(c) dated April 30, 2004 is ordered amended as follows:

1. **General Objectives.** It is the intent of the court to facilitate the reference of civil cases, pursuant to 28 U.S.C. §636(c), to the court's U.S. Magistrate Judges. The public, the parties to civil litigation, and the court are well served by the reference to magistrate judges of all appropriate cases. The court is mindful, however, that such a reference should only be made in a case if all parties knowingly and voluntarily consent to the reference. All procedures adopted pursuant to this order, therefore, shall be interpreted and applied in a manner consistent with this limitation.

2. **Social Security Cases.** This section applies to all cases in which plaintiff seeks review, pursuant to 42 U.S.C. §405(g), of a decision by the Commissioner of Social Security.

The Clerk shall assign all such cases, upon filing, to a U.S. Magistrate Judge, and not to a U.S. District Judge. Cases properly filed in Seattle shall be randomly assigned to a magistrate judge in Seattle. Cases properly filed in Tacoma shall be randomly assigned to a magistrate judge in Tacoma.

The United States has already indicated its "general" consent to magistrate judge jurisdiction in cases of this nature, subject to reserved rights to withdraw the consent in a given case and to withdraw the general consent. Promptly after the filing of all such cases, the Clerk shall direct a communication to all parties: (a) identifying the magistrate judge to whom the case has been assigned; (b) providing a basic fact sheet, in a form approved by the court, concerning consent references to magistrate judges; (c) confirming that any withdrawal of consent by the United States must be filed no later than the date the United States files its answer to the complaint; (d) notifying plaintiff's counsel (or plaintiff, if pro se) of plaintiff's right to consent to magistrate judge jurisdiction, pursuant to 28 U.S.C. §636(c); (e) providing a consent form for plaintiff to consider, and advising plaintiff that if plaintiff wishes to consent, the executed form must be received by the Clerk by the date designated on the consent form; and (f) advising the parties as to the court's procedure in the absence of consent, as set forth in the next paragraph of this section.

If plaintiff timely consents, and if the United States does not timely withdraw consent, the case shall be deemed assigned to the magistrate judge, without the necessity of an Order of Reference. If the plaintiff does not timely consent or if the United States timely withdraws its consent, the Clerk shall re-assign the case to a U.S. District Judge. That assignment shall be made in accordance with the General order on Division of Court Business. Even in that event, however, the case shall be deemed referred, without further order, to the same magistrate judge for preliminary proceedings, and for the preparation of a Report & Recommendation.

All Social Security cases initially assigned to a Magistrate Judge pursuant to this General Order are deemed referred pursuant to 28 U.S.C. §636(b) unless or until such time as the parties have filed a consent pursuant to 28 U.S.C. §636(c).

3. Prisoner Cases. This section applies to cases filed by persons in state or federal custody, or on their behalf, either challenging a conviction or sentence, or challenging conditions of confinement or asserting other claims pursuant to 42 U.S.C. §1983.

The Clerk shall assign all such cases, upon filing, both to a U.S. District Judge and to a U.S. Magistrate Judge. Both judges shall be randomly selected from the judges in the city where the case is properly filed. The Clerk shall promptly: (a) advise the parties of the identities of the designated district judge and magistrate judge; (b) advise the parties of their right to consent to referral of the case, pursuant to 28 U.S.C. §636(c), to the designated magistrate judge; (c) provide a basic fact sheet, in a form approved by the court, concerning consent references to magistrate judges; (d) provide the parties appropriate consent forms for their consideration, and advise them that any executed consent form must be received by the Clerk by the date designated on the consent form; and (e) advise the parties that, even in the absence of timely consent, the designated magistrate judge will handle non-dispositive matters, and submit a Report & Recommendation on dispositive matters.

If all parties timely file executed consent forms, the case shall be assigned to the designated magistrate judge for all purposes, pursuant to 28 U.S.C. §636(c), when and if the designated district judge enters an Order of Reference on Consent.

All Prisoner cases initially assigned to a Magistrate Judge pursuant to this General Order are deemed referred pursuant to 28 U.S.C. §636(b) unless or until such time as the parties have filed a consent pursuant to 28 U.S.C. §636(c).

4. Other Civil Cases. This section relates to all civil cases filed in this court, with the following exceptions: Social Security cases and Prisoner cases as described above, cases seeking immediate injunctive relief, and bankruptcy cases involving appeals from orders by Bankruptcy Judges or Petitions for Withdrawal of Reference.

The Clerk shall randomly assign approximately five cases per month, upon filing, to each magistrate judge. The cases assigned to magistrate judges shall, insofar as possible, involve levels of complexity similar to the court's overall caseload. These cases are not to be assigned initially to a district judge and shall be assigned among the magistrate judges in the city where the cases are properly filed.

Continued assignment of such a case to a magistrate judge is contingent upon the timely filing by all parties of written consent. Promptly upon filing of a case which is assigned to a magistrate judge, the clerk shall: (a) advise the parties of the identity of the designated magistrate judge; (b) advise the parties of their right to consent to referral of the case, pursuant to 28 U.S.C. §636(c), to the designated magistrate judge; (c) provide a basic fact sheet, in a form approved by the court, concerning consent references to magistrate judges; (d) provide the parties appropriate consent forms for their consideration, and advise them that any executed consent form must be received by the Clerk by the date designated on the consent form; and (e) advise the parties that, in the absence of timely consent, the case will be assigned to a district judge, randomly selected from the district judges in the city where the case is properly filed.

If all parties timely provide executed consent forms to the clerk, the case shall be deemed assigned to the designated magistrate judge, pursuant to 28 U.S.C. §636(c), without the necessity of any Order of Reference.

In all cases initially assigned to a district judge (i.e., not to a magistrate judge), the parties shall nevertheless be afforded an opportunity to consent to reference to the magistrate judge specifically identified in the request for a Joint Status Report. In such cases, the court may direct the parties to indicate, in a Joint Status Report, whether they consent to magistrate judge jurisdiction. If it is a case where no Joint Status Report is required, the Clerk shall otherwise notify the parties as to the opportunity to consent to a designated magistrate judge and provide the parties appropriate consent forms. If the parties consent, the district judge may refer the case to the specifically designated magistrate judge. This same procedure shall also be utilized in those cases initially assigned to a magistrate judge and subsequently reassigned to a district judge. If the parties later consent in such a case, the district judge may refer the case to the magistrate judge to whom the case was initially assigned.

5. District Judge May Waive Time Limits. Notwithstanding the time limits for the filing of executed consent forms, as set forth in this order, a district judge may, in his or her discretion, refer a case at any time to a magistrate judge pursuant to the consent of all parties.

6. Adjustment of Other Workload. To assure equitable distribution of workload, the Chief Magistrate Judge is authorized and directed to redistribute other duties from time to time among all magistrate judges, to balance any differing civil consent caseloads.

7. Future Modification of Procedures. The court reserves the right to modify the provisions of this order from time to time, or to rescind the order entirely, as the court determines necessary in the light of experience. Such modifications might include, but are not limited to, the number of "Other Civil Cases" initially assigned to each magistrate judge upon filing. One factor the court will consider is any impact of the civil consent caseload upon the magistrate judges' ability to discharge their other duties on a timely basis.

8. **Effective Date and Dissemination of Order.** This order shall apply to cases filed on and after May 1, 2004, and until further notice. The Clerk shall post a copy on the court's website, and shall distribute copies whenever and to whomever the Clerk deems it appropriate.

Entered this 3rd day of November, 2004.



ROBERT S. LASNIK
Chief United States District Judge
Western District of Washington