

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

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U.S. DISTRICT COURT
N.D. OF ALABAMA

IN RE:)
)
)
GENERAL ORDER FOR)
REFERRAL OF CIVIL MATTERS)
TO THE UNITED STATES)
MAGISTRATE JUDGES)

ORDER

The increasing caseload being experienced by the Court, coupled with the loss of a temporary judgeship, has caused the Court to consider ways in which civil matters may be assigned to provided more efficient and expedient handling. Additional utilization of the judicial skills of the magistrate judges of the Court is one of the ways identified. The Court has and continues to encourage litigants to consent to the exercise of full, case-dispositive jurisdiction by magistrate judges. With this in mind, it is, therefor, ORDERED as follows:

1. Beginning immediately, the Clerk shall assign every sixth civil case filed after the entry of this Order, subject to the exclusions identified below, to a magistrate judge randomly selected, who shall be responsible for all pretrial management of the cases assigned to him or her in this manner, including determination of all non-dispositive motions in the case. The assignment shall be to the magistrate judge and neither the court

file, the docket sheet, nor any other court record shall reflect an assignment to a district judge, except as provided below.

2. Excluded from the civil cases assigned to magistrate judges pursuant to this Order are Social Security appeals, administrative agency appeals, bankruptcy matters including motions to withdraw the reference), and any case in which a temporary restraining order or other emergency relief is sought. Consistent with the present practice, magistrate judges shall continue to be referred all prisoner cases assigned to district judges.

3. The Clerk shall continue in all cases to forward to the parties, in the manner provided in Northern District LR 73.2(a), notice of their option to consent to jurisdiction by a magistrate judge under 28 U.S.C. § 636(c). If consent is given by all parties in a case already assigned to a magistrate judge pursuant to this Order, the case will be assigned to the magistrate judge for all matters and he or she will exercise full dispositive jurisdiction. If consent is given by all parties in a case assigned to a district judge, the district judge may exercise the discretion to reassign it to a magistrate judge or may decline to do so. In such a case reassigned to a magistrate judge by the district judge, the magistrate judge shall exercise full dispositive jurisdiction under § 636(c) and Northern District LR 73.2.

4. In cases assigned pursuant to this Order to a magistrate

judge for management of pretrial matters but for which § 636(c) consent has not been given, parties retain the right to seek review of a magistrate judge's rulings and orders on non-dispositive matters in the manner provided by 28 U.S.C. § 636(b)(1)(A) and Rule 72(a) of the Federal Rules of Civil Procedure. In the event a party seeks review of such a matter, the Clerk shall randomly select a district judge for that purpose and that purpose only; the case will not be reassigned for any other purpose to the district judge to whom a review of a magistrate judge's order is referred. Each such order or ruling by a magistrate judge on which a review is sought shall be randomly referred to a district judge, who shall be responsible only for reviewing the specific order or ruling in question. The selection of the district judge shall be from a special draw without regard to the Court's divisions. During and upon completion of the review by the district judge, the magistrate judge shall retain management of all other pretrial matters.

5. In cases assigned pursuant to this Order to a magistrate judge for management of pretrial matters but for which § 636(c) consent has not been given by all parties, the magistrate judge may deny motions to dismiss and motions to remand except when based upon a finding that a non-diverse defendant has been fraudulently joined and the claims against the defendant are due to be dismissed. In such an instance, the magistrate judge shall prepare

and file a report and recommendation concerning the disposition of the claims against the fraudulently-joined defendant and the motion to remand, and a district judge shall be randomly selected to determine the motion. The magistrate judge may grant a motion to remand on any appropriate ground. If the magistrate judge finds that a removed case is due to be remanded to the court from which it was removed, he shall enter an order remanding the case effective fifteen (15) days after the date of entry of the order of remand. Any party may seek a review of the order of remand pursuant to Rule 72(a), F.R.C.P., provided, however, that the order of remand remains in effect unless stayed by the district judge. The selection of the district judge will be from a special draw without regard to the court's divisions and it shall be for the purpose only of reviewing the particular order or report and recommendation entered by the magistrate judge on the motion to remand. In the event the remand is denied, the magistrate judge shall resume management of all other pretrial matters.

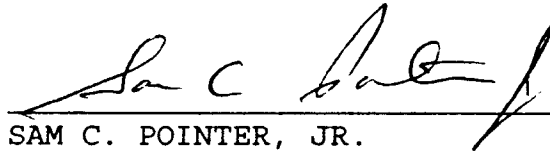
6. In cases assigned pursuant to this Order to a magistrate judge for management of pretrial matters but for which § 636(c) consent has not been given by all parties, the magistrate judge shall prepare a report and recommendation on all case-dispositive motions and other motions specified in § 636(b)(1)(A). Upon the filing of a case-dispositive motion, except those specified in the

preceding paragraph, the magistrate judge shall conduct such proceedings and enter such orders as are necessary to bring the motion under submission. When the motion is taken under submission, the magistrate judge shall enter an order notifying the parties that the motion has been taken under submission and that they must notify the Clerk of Court within fifteen (15) days whether they wish for the magistrate judge to exercise § 636(c) jurisdiction for all purposes including determination of the motion, or whether they decline to consent to § 636(c) jurisdiction and wish for the motion to be determined by a district judge. In the event all parties consent to § 636(c) jurisdiction, the case will be assigned to the magistrate judge pursuant to Northern District LR 73.2 and he or she shall proceed to determine the motion and exercise jurisdiction for all purposes, including trial and final judgment. In the event one or more parties declines to consent, the magistrate judge will prepare a report and recommendation with regard to the motion and the Clerk will randomly select a district judge to whom the case will be reassigned for all further purposes. The selection of the district judge will be from a special draw without regard to the Court's divisions. Neither the magistrate judge nor the district judge will be informed of the ~~identity of any party~~ declining to consent to § 636(c) jurisdiction. Notwithstanding the reassignment of a

case to a district judge, he or she remains free to make specific references of any motion or matter to the magistrate judge pursuant to § 636(b)(1)(A) and (B) and Northern District LR 72.1.

7. This Order supersedes the Order entered July 26, 1996. Except as provided herein, all other local rules and standing orders dealing with the assignment of cases remain unchanged.

DONE and ORDERED this the 8th day of May, 1998.



SAM C. POINTER, JR.
CHIEF JUDGE