

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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In re DIRECT ASSIGNMENT OF CIVIL CASES TO  
MAGISTRATE JUDGES

**ADMINISTRATIVE ORDER  
NO. 2023-23**

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This Administrative Order governs a two-year pilot program, approved by the Eastern District of New York Board of Judges concerning the assignment of civil cases to Magistrate Judges.

The program will commence on September 25, 2023, and terminate on September 25, 2025, unless extended by the Board of Judges. During the pendency of the program, the terms of this Administrative Order supersede any conflicting Division of Business Rule. Pursuant to the program, in a percentage of civil cases determined by the Board of Judges, a Magistrate Judge will be assigned as the sole judge on the matter at the time of case initiation, except that a Magistrate Judge will not be assigned to any bankruptcy appeals, or any case where the case-initiating document is a motion for preliminary injunction or temporary restraining order.

In those cases where an assignment solely to a Magistrate Judge has been made:

- (1) For the Magistrate Judge to remain the presiding judge — including for the purposes of deciding all dispositive motions, holding trial, and entering judgment — all parties must file a written consent form consenting to the jurisdiction of the Magistrate Judge no later than thirty (30) days following the Rule 16 initial case management conference.
- (2) In cases exempt from Rule 16 scheduling orders — pursuant to Local Rule 16.1 — all parties must file a consent form no later than thirty (30) days following the appearance of all defendants, except that in an action:
  - a. Under 42 U.S.C. § 405(g), the deadline will be 30 days following the notification to the Commissioner, as provided in Social Security Supplemental Rule 3; and
  - b. Involving a petition under 28 U.S.C. § 2254, the deadline will be 30 days following the deadline to file an answer to the petition.
- (3) If a consent form, signed by all parties, is not filed by the relevant date provided in (1) or (2), the Clerk will randomly assign a District Judge to serve as the presiding judge. The Magistrate Judge initially assigned will remain on the case, to handle all pretrial case management duties, consistent with Local Rule 72.1, Federal Rule of Civil Procedure 72(a) and 28 U.S.C. § 636(b)(1)(A), except that in those matters governed by subsections (2)(a) and (2)(b) above, the Magistrate Judge assignment will be removed. Any Rule 16 scheduling order initially set by the Magistrate Judge will remain in place, and the

Magistrate Judge so assigned is empowered to act with respect to all non-dispositive pretrial matters unless the assigned District Judge orders otherwise.

- (4) If a party intends to file a motion for judgment on the pleadings, summary judgment, to dismiss for failure to state a claim or any relief under Rule 12(b), to involuntarily dismiss the case, or for injunctive relief (other than a motion for preliminary injunctive relief or a temporary restraining order) and all parties have not yet consented to the jurisdiction of the Magistrate Judge, the party seeking such relief must file, no later than any date specified by any Federal or Local Rule governing the timing of such a motion, a letter no longer than one (1) page expressing such intent. The Clerk will then randomly assign a District Judge to serve as the presiding judge in the case. The party will, no later than seven (7) days after such assignment, file either a pre-motion letter or a motion as provided for in the District Judge's Individual Practices, or pursuant to any order issued by the District Judge.<sup>1</sup>
- (5) In any case where a party files a motion for a preliminary injunction or temporary restraining order, unless a consent form signed by all parties (including all defendants) has been filed, the Clerk will assign the case to a District Judge upon filing of such motion.
- (6) Notwithstanding the assignment of a District Judge, the parties may still consent at any time to the Court reassigning the case to a Magistrate Judge for final decision on any motion, or for all purposes, including entry of final judgment, pursuant to 28 U.S.C. § 636(c). A party may also withhold its consent without any adverse consequences. For social security or habeas corpus matters where the initial assignment of a Magistrate Judge has been removed following assignment to a District Judge, and there has been a subsequent consent form filed, the Clerk will randomly reassign a Magistrate Judge to preside over the case.

In any case where (1) denial of an *in forma pauperis* application; (2) dismissal pursuant to 28 U.S.C. § 1915(e)(2) or § 1915A; (3) dismissal for failure to pay the filing fee or other deficiency identified by the Clerk; (4) dismissal of a 28 U.S.C. § 2254 petition pursuant to Habeas Rule 4, without requiring an answer from the respondent; or (5) entry of default against a non-appearing defendant is appropriate, a District Judge may be assigned at any time to serve as the presiding judge.

During the pendency of this pilot program, the Clerk is empowered to issue orders pursuant to Federal Rule 73(b) informing the parties of their rights to consent to a Magistrate Judge, and their ability to withhold consent. For cases where there is no District Judge assigned,

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<sup>1</sup> For motions implicating Fed. R. App. P. 4(a)(4)(A) or similar time-limiting rules, if any party concludes in good faith that delaying the filing of a motion, in order to comply with any aspect of this Administrative Order, will deprive the party of a substantive right, the party may file the motion within the time required by the Federal Rules of Civil and/or Appellate Procedure, together with an explanation of the basis for the conclusion.

the procedures for executing a consent form contained in Local Rule 73.1(b) will continue to apply, except that upon filing of a consent form signed by all parties, the Clerk will forward the form to the Chief Judge, or to a District Judge designated by the Chief Judge, for signature.

Dated: August 25, 2023  
Brooklyn, New York

SO ORDERED:

s/ MKB

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MARGO K. BRODIE  
Chief United States District Judge