

OCT 01 2009

IN THE UNITED STATES DISTRICT COURT

at 2 o'clock and 02 min. P.M. SUE BEITIA, CLERK

FOR THE DISTRICT OF HAWAII

IN THE MATTER OF)
ESTABLISHING PROCEDURES)
FOR THE DIRECT ASSIGNMENT)
OF CIVIL CASES TO U.S.)
MAGISTRATE JUDGES,)
_____)

**ORDER AUTHORIZING DIRECT ASSIGNMENT
OF CIVIL CASES TO U.S. MAGISTRATE JUDGES**

In order to facilitate the reference of civil cases in the District of Hawaii to magistrate judges pursuant to 28 U.S.C. § 636(c), and pursuant to a vote of the Judges, IT IS HEREBY ORDERED that as of January 1, 2010, all full-time magistrate judges in the District of Hawaii shall be included in the civil case assignment process as follows:

1. The Clerk of Court shall randomly assign a percentage of filed civil actions, subject to the exclusions listed below, to a magistrate judge. The exact percentage of civil cases assigned to the magistrate judges shall be determined periodically by the district judges, giving due consideration to the existing caseload. For the period beginning January 1, 2010, the percentage shall be thirty (30) percent unless changed by the Court.

2. Magistrate judges shall not be assigned the following classification of civil cases at case opening:

a. Bankruptcy matters, including appeals and motions to withdraw the reference;

b. Cases in which a request for a temporary restraining order is presented when the action is initiated; and

c. Cases filed pursuant to 28 U.S.C. § 2255.

3. The party initiating a case in federal court - whether by filing a complaint or removal - is responsible for serving on all parties the Court's Notice of Assignment to United States Magistrate Judge, attached hereto as Exhibit 1, and the Court's form to consent to jurisdiction by a magistrate judge or elect to proceed before a district judge ("Election Form"), attached hereto as Exhibit 2.

4. When a case is randomly assigned to a magistrate judge, each party shall execute and transmit to the Clerk of Court within twenty-one (21) days of its appearance either a written consent to the exercise of jurisdiction by the magistrate judge under 28 U.S.C. § 636(c) or a written election to have the case reassigned to a district judge. Each party shall indicate its consent or election on the Election Form.

5. If parties are later added to the case, those parties shall transmit to the Clerk within twenty-one (21) days of appearance a completed Election Form noting their consent to proceeding before the magistrate judge or election to proceed before a district judge. Should a later added party elect to proceed before a district judge, the case shall be randomly assigned to a district judge.

6. Consent to assignment of a case to the magistrate judge is strictly voluntary and no adverse consequences of any kind will attach to any attorney or party who elects reassignment to a district judge. However, return of the executed Election Form to the Clerk of Court is mandatory, whether the election is to consent to jurisdiction by the magistrate judge or to elect reassignment to a district judge.

7. After all Election Forms have been received, the Clerk of Court shall docket the Election Forms if all parties have consented to the jurisdiction of the magistrate judge. If any party has elected to have the case reassigned, the case shall be randomly assigned to a district judge, the parties' Election Forms will not be made a part of the record, and no district or magistrate judge will know which party or parties elected to have the case reassigned.

8. If a motion that cannot be heard by the magistrate judge without consent of the parties is filed prior to the date on which submission of the Election

forms is required, the parties must return the Election Forms, indicating consent to the jurisdiction of the magistrate judge or a request for reassignment to a district judge, within seven (7) calendar days after the motion is filed.

9. If, prior to the submission of the Election Form, a magistrate judge has issued an order to show cause why the case should not be dismissed or why a default judgment should not be entered, the determination of whether the case should be dismissed or a default judgment should be entered shall be made by the Chief District Judge or the matter shall be randomly assigned to a district judge for resolution. If the district judge does not dismiss the case or enter judgment by default, the case shall remain with the magistrate judge for further proceedings consistent with this Order.

10. Consent to a magistrate judge's jurisdiction does not constitute a waiver of any jurisdictional defense unrelated to the grant of authority under 28 U.S.C. § 636(c).

11. In a case that is assigned to a district judge, the parties may consent at any time to the reassignment of the case to a magistrate judge for all purposes, subject to the approval of the assigned district judge.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, October 1, 2009.



SUSAN OKI MOLLWAY
CHIEF UNITED STATES DISTRICT JUDGE

ORDER AUTHORIZING DIRECT ASSIGNMENT OF CIVIL CASES TO U.S. MAGISTRATE JUDGES

**UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
NOTICE OF ASSIGNMENT
TO UNITED STATES MAGISTRATE JUDGE**

In accordance with the Order Authorizing Direct Assignment of Civil Cases to U.S. Magistrate judges, dated _____, this case has been assigned to Magistrate Judge _____ for all purposes including trial and final entry of judgment. Any appeal from a judgment entered by the magistrate judge may be taken to the United States Court of Appeals for the Ninth Circuit in the same manner as an appeal from any other judgment of a district court.

Exercise of this jurisdiction by a magistrate judge is permitted only if all parties voluntarily consent. You may, without adverse consequences, withhold your consent. If any party elects reassignment, the case will be randomly assigned to a district judge. The identity of any party withholding consent will not be communicated to any judge.

Magistrate judges do not preside over trials in felony criminal cases. Because of this, major criminal cases will not interfere with scheduling and trials before the magistrate judge. In all likelihood, therefore, a consent will mean that this case will be resolved sooner for the parties.

While the decision to consent or not to consent to the exercise of jurisdiction by the magistrate judge is entirely voluntarily, the duty to respond to this notice is **mandatory**. Each party **must** indicate consent or decline to consent by completing the attached Election Form and returning it to the Clerk's Office no later than twenty-one (21) days after entry of appearance. In the event a dispositive motion is filed prior to the date on which the submission of the Election Form is required, the parties must return the completed Election Form within seven (7) calendar days after the motion is filed.

Do not e-file the Election Form. After completing the form, parties may e-mail the form in pdf format directly from the Court's website, www.hid.uscourts.gov, or e-mail it to consent@hid.uscourts.gov, or may mail it to U.S. District Court, 300 Ala Moana Blvd., Room C-338, Honolulu, HI 96850, Attention: Consent Clerk.

The party filing the case or removal is responsible for serving all parties with this Notice and the attached Election Form.

**UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII**

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Plaintiff (s),) Case No. _____
))
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vs.))
))
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Defendant(s).))
_____))

**CONSENT TO JURISDICTION BY
UNITED STATES MAGISTRATE JUDGE**

Pursuant to 28 U.S.C. § 636(c)(1), the undersigned party voluntarily consents to have the assigned United States Magistrate Judge conduct any and all further proceedings in the case, including trial and entry of a final judgment, with direct review by the Ninth Circuit Court of Appeals if an appeal is filed.

Name of Party(s)

Signature of Attorney or Pro Se Party Date

REASSIGNMENT TO UNITED STATES DISTRICT JUDGE

Pursuant to 28 U.S.C. § 636(c)(2), the undersigned acknowledges the availability of a United States Magistrate Judge but elects to have this case randomly assigned to a United States District Judge.

Name of Party(s)

Signature of Attorney or Pro Se Party Date

Return this form within 21 days of appearance. After completing this form, parties may e-mail this form in pdf format by **clicking the button below**, or may send it to consent@hid.uscourts.gov, or may mail it to U. S. District Court, 300 Ala Moana Blvd., Room C-338, Honolulu, HI, 96850, Attention: Consent Clerk. **Do not e-file this document.**

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