



# HOW TO...

## Consent to a Magistrate Judge in a Civil Case

U.S. District Court, District of Hawaii



With approval of the District Judge, all parties in a civil case may consent to all proceedings, including a jury or non-jury trial, before a United States Magistrate Judge. To consent to all proceedings, the parties shall electronically file the completed [AO Form 85](#). [LR 73.1(a)]

With approval of the District Judge, all parties in a civil case may also consent for a specific matter to be handled by a United States Magistrate Judge. To consent for a specific matter, the parties shall electronically file the completed [AO Form 85A](#). [LR 73.1(a)]

There are two ways in which an entire matter, through consent, may be assigned to a Magistrate Judge:

- **First**, after a civil case is initially assigned to a District Judge, all parties may consent to have the entire case, or a specific matter, assigned to a Magistrate Judge.
- **Second**, a limited number of initially filed civil cases are randomly assigned to a Magistrate Judge. For these cases, if all parties do not consent to the Magistrate Judge within 21 days of assignment, the matter will be reassigned to a District Judge.

### **Scheduling Considerations:**

District Judges are assigned both civil and criminal cases, and criminal cases are given a calendar priority. Magistrate Judges are not assigned felony criminal trials and do not “double book” their trial calendars; thus, Magistrate Judges may be more readily available. In other words, a Magistrate Judge can offer a firm trial date while a District Judge cannot.

### **Choose a Magistrate Judge:**

After a case is initially assigned, the parties may consent to a particular Magistrate Judge. That is, the parties need not consent to the Magistrate Judge assigned to the case. LR 73.1(a)

### **Magistrate Judge Authority:**

If all parties consent to a Magistrate Judge, the Magistrate Judge then has the same jurisdiction over a civil case or matter as the District Judge.

Any matter ruled on by a Magistrate Judge by consent must be appealed directly to the Ninth Circuit Court of Appeals. 28 U.S.C. § 636(c)(3); Fed. R. Civ. P. 73(c).

### **Attorney’s Fees Applications:**

Parties should give serious consideration to consenting to a Magistrate Judge in attorney fee applications. LR 54.2(i). By consenting to a Magistrate Judge, parties avoid the possible expense of an additional review by District Judge and then the Ninth Circuit. Instead, any appeal would be directly to the Ninth Circuit.