

**UNITED STATES DISTRICT COURT**  
DISTRICT OF HAWAII  
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HONOLULU, HAWAII 96850

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CONSENT TO A MAGISTRATE JUDGE IN A CIVIL CASE  
*and*  
TRIAL PROCEDURES BEFORE MAGISTRATE JUDGES

A United States magistrate judge may, if all parties consent, preside over all proceedings in a civil action including a jury or nonjury trial. See 28 U.S.C. §636(c); Fed. R. Civ. Pro. 73. The Local Rules of Practice for the United States District Court for the District of Hawaii (Local Rules) allow parties in a civil case to consent to all proceedings, including a jury or non-jury trial, before a magistrate judge. See L.R. 73.1(a). Parties may consent to a magistrate judge for all proceedings using a [Form AO 85](#), or parties can designate a specific matter for consent such as a dispositive motion using Form [AO 85A](#). See L.R. 73.1(a). An appeal from any final order or judgment entered by a magistrate judge with consent jurisdiction is taken directly to the United States Court of Appeals for the Ninth Circuit. See 28 U.S.C. § 636(c)(3); Fed. R. Civ. P. 73(c).

If all parties to a civil case consent, the United States [magistrate judge](#) will have the same jurisdictional authority as a United States district judge and will preside over all aspects of the civil matter, including the authority to:

- Schedule, hear, and decide all dispositive and non-dispositive matters;
- Schedule, hear, and decide all interlocutory matters;
- Conduct jury or non-jury trials;
- Enter final orders and judgement; and
- Schedule, hear, and decide all post-trial motions.

In the District of Hawaii, parties to a civil case also may designate “a particular magistrate judge” by naming one of above judges on the [consent form](#). L.R.73.1(a). A consent to conduct a civil proceeding including trial by a magistrate judge “shall be filed as soon as practicable, preferably before any ruling on a dispositive motion.” L.R. 73.1(b). To inquire about a particular magistrate judge’s availability and trial calendar, contact that magistrate judge's courtroom manager from the [District of Hawaii website](#).

There are several compelling reasons to consider consenting to a magistrate judge in a federal civil case. See [Should You Consent to a Magistrate Judge? Absolutely, and Here’s Why](#), [Choosing to Consent to a Magistrate Judge](#), and [“Nothing Less Than Indispensable”: The Expansion of Federal Magistrate Judge Authority and Utilization in the Past Quarter Century](#), 16 NEV. L.J. 845 (2016).

One primary consideration is, district judges are assigned both civil and criminal cases and must give scheduling priority to criminal cases. Magistrate judges do not preside over felony criminal matters. Further, in the District of Hawaii, magistrate judges do not “double-book” their trial calendars and are generally more readily available to preside over civil trials.<sup>1</sup> Thus, magistrate judges may be able to provide a more certain and expedited trial date for parties in civil cases.

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<sup>1</sup> In the District of Hawaii, the three, full time magistrate judges rotate “criminal duty” by month. During their month on criminal duty, the magistrate judge will handle all requests for search and arrest warrants and all initial hearings in criminal cases in the district (including initial appearances, arraignments, detention hearings and change of plea hearings). Accordingly, the magistrate judges generally do not schedule civil consent trials during their assigned criminal duty months.

## TRIAL PROCEDURES BEFORE MAGISTRATE JUDGES

**Telephone numbers:** Prior to the commencement of trial, counsel shall provide the court and one another with telephone numbers at which they may be reached after court hours so that notice may be given, if necessary, of any changes in the schedule.

**Jury Questionnaires:** Jury questionnaires are available to counsel one (1) week prior to jury selection. Please contact the Jury Clerk in the Clerk's Office to order a set and to ascertain copy charges.

**Interpreters:** Counsel and the parties are responsible for hiring and arranging for any interpreters who may be necessary for witness testimony. These arrangements should be made well in advance of trial.

**Tardiness:** Arrive early for each court session. Check in with the courtroom manager upon arrival to the courtroom. Trial proceedings take precedence over any other business including other hearings. Sanctions may be imposed on any party, attorney, or witness for tardiness that delays the trial.

**Trial Schedule:** Except for the day(s) of jury selection, jury trial commences daily at 8:30 a.m. and runs until 1:30 p.m. unless otherwise announced. There is no lunch break taken during trial hours. Jurors and counsel are advised to bring a snack for consumption during a break. Short breaks are taken at various intervals throughout the day. Trial may extend beyond 1:30 p.m. on certain days if the judge deems it necessary. Jury selection day begins at 9:00 a.m. and concludes at 4:00 p.m., with a lunch break from noon to 1:30 p.m.

**Bench (non-jury) trials:** Many of the trial procedures outlined here may not apply to a bench (non-jury) trial. The presiding magistrate judge will set more particularized trial procedures in these proceedings. Trial hours may be longer for non-jury trials.

**Use of microphone:** Counsel shall use the microphone provided when addressing the court or the jury such as in any examination, objection, statement for the record, or argument.

**Bench Conferences:** Bench conferences or side bars are generally not permitted. Counsel should plan to meet daily with the judge prior to trial, during recess, or after the jury is dismissed for the day to discuss any disputes. If a problem arises during a witness examination, then counsel should defer the matter and move to another line of questioning so the dispute can be resolved during the next recess.

**Communications With Jurors:** Under no circumstances are counsel to attempt to communicate with any juror prior to or during trial. Counsel must instruct clients and witnesses accordingly.

**Juror note taking:** Jurors will be permitted to take notes during trial. The court will provide notebooks and pens. These notebooks will be left face-down on the jurors' chairs when they leave the courtroom. The jurors may take their notes into the jury deliberation room. After trial, these notes will be destroyed.

**Voir Dire:** The court conducts the general voir dire and will incorporate special voir dire based on questions that the parties may have submitted. Each side will then have a maximum of fifteen (15) minutes for voir dire which must include both general and individual questioning of the jurors.

**Motions (in limine):** All motions should be in writing and conform to the Local Rules. These matters may be raised at sidebar or by request, at the first recess without waiving any rights by such delayed motion. Except for good cause, motions in limine must be filed in accordance with the deadlines set forth in the Rule 16 Scheduling Order and these motions generally will be heard at the Final Pretrial Conference. Do not make substantive motions (such as motions for a mistrial or judgment notwithstanding the law) in the presence of the jury.

**Addressing the Court & Objections:** Stand when you address the Court including making and responding to objections. When you object in the presence of the jury, make your objection concise and cite the basis or the applicable Rule of Evidence for your objection. Speaking objections are not allowed.

**Use of demonstrative aids during trial:** The parties should meet and confer about the use of demonstrative aids during trial (including exhibits not yet admitted into evidence, summary charts or other materials created to assist the jury). If the parties are unable to reach an agreement, the sponsoring party may seek leave of court. Agreement of the parties or leave of court must be obtained prior to when the proponent intends to use it and without delaying proceedings before the jury.

**Witnesses:** Each party will be responsible for securing the appearance of witnesses the party proposes to call. Counsel should arrange for a sufficient number of witnesses each day and there should not be any delay in trial proceedings caused by witness unavailability. The next day's witnesses must be disclosed by the proffering counsel to other counsel by no later than the close of each day's trial proceedings.

**Deposition testimony to be used at trial:** Deadlines for the deposition testimony designations and objections are as set forth in the Rule 16 Scheduling Conference Order. If deposition testimony is to be published to the jury, then the party offering this testimony should notify the court and the other parties in a timely manner so that the written or videotaped testimony can be edited in accordance with the court's rulings on any objections without delaying trial proceedings.

**Procedure:** The party offering the testimony must give a list of the precise designations that are in dispute to the court and the other parties no later than noon on the day before the testimony will be published to the jury. The offering party must provide the court with two (2) working copies of the complete, condensed-version deposition highlighting the precise designations in dispute.

Redacted deposition filing and declaration: After the court rules on the objections and before the testimony is published to the jury, the offering party must file with the court and serve all parties a declaration by the party or counsel and attach a redacted copy of the deposition transcript reflecting the testimony permitted into evidence. If the deposition testimony is published to the jury by reading testimony aloud, then the offering party must provide a person to read the testimony.

Final redacted transcript: A final redacted deposition transcript may be filed as an exhibit after the deposition testimony is published to the jury.

**Exhibits:** Parties are required to meet and confer about a common set of exhibits, as well as the stipulated authenticity and admissibility of exhibits. Before the final pretrial conference or any hearing on motions in limine, counsel must inform the that counsel have met and conferred, stipulated that some exhibits are admissible or authentic, and otherwise identified which exhibits remain in dispute.

Marking Exhibits: Exhibits must be marked as follows: plaintiff's by numbers (i.e., 1, 2, 3, ...), defendant's by letters (i.e., A, B, C, ... AA, AB, AC, ...) and, to be used by either party, demonstrative exhibits by roman numerals following the word "Demo" (i.e., Demo. I, Demo. II, ...). A party objecting to exhibits listed by the opposing party must inform the court of the exhibits in dispute by exhibit number. Court time may not be used for marking exhibits, which must be done in advance of the court session.

Adding Exhibits: A party may seek, during trial or an evidentiary hearing, to add exhibits not previously listed by requesting leave of court. The party seeking to add exhibits must provide the court and all parties with copies of the additional exhibits, mark the additional exhibits with exhibit numbers next in order, and submit supplemental exhibit lists.

Publishing Exhibits: Counsel may not approach the jury with exhibits. Exhibits should be handed directly to the courtroom manager or law clerk for all purposes.

Retrieving Exhibits: At the conclusion of the trial and jury deliberations, counsel must remain in the courtroom to receive their exhibits. All exhibits must be returned to counsel.

**Jury Instructions:** Parties are required to meet and confer about a common set of jury instructions. Hard copies of proposed jury instructions and proposed special verdict forms must be submitted, along with electronic copies in Microsoft Word. Electronic copies may be submitted to the respective magistrate judge's email orders address: [Mansfield\\_orders@hid.uscourts.gov](mailto:Mansfield_orders@hid.uscourts.gov)  
[Trader\\_orders@hid.uscourts.gov](mailto:Trader_orders@hid.uscourts.gov)  
[Porter\\_orders@hid.uscourts.gov](mailto:Porter_orders@hid.uscourts.gov)

**Special equipment:** Permission to use special equipment (such as television monitors, laptops, iPads, and other demonstrative aides) must be obtained in advance from the court. Following approval, the parties are responsible for coordinating set up and removal of the equipment. If the parties wish to use court equipment, then they must make all necessary arrangements with the IT department and are subject to any applicable limitations with respect to the usage of the equipment.