

SO 3.621 Magistrate Judge Referrals

JUDGE REBECCA F. DOHERTY

This order shall govern all actions filed in this court assigned to Judge Rebecca F. Doherty, unless otherwise ordered by the Court.

Civil Cases

All civil actions, except habeas corpus petitions filed under **28 U.S.C. 2241 & 2254**, and and prisoner petitions involving conditions of confinement, and petitions for review of a denial of a claim for benefits under the Social Security Act, **42 U.S.C. 405(g)**, shall be referred to the assigned magistrate judge for disposition of all pretrial matters, except for matters which are potentially dispositive of a claim or defense of a party, arising through the date of the final pretrial conference, or such other date as the court may direct in any particular case. This reference shall include:

- (1) Any conferences held in furtherance of **Rule 16 of the Federal Rules of Civil Procedure**,
- (2) Any discovery motions or other non-dispositive proceedings in accordance with **28 U.S.C. 636(b)(1)(A)**,
- (3) Referral of motions shall be accordance with the attached motion chart.
- (4) All other matters authorized by law.

Examination of judgement debtors pursuant to **Fed.R.Civ.P 69** shall be referred to the assigned magistrate judge.

All applications for attorney's fees in social security cases shall be referred to the assigned magistrate judge

Habeas corpus petitions filed under **28 U.S.C. 2241 & 2254** and prisoner petitions involving conditions of confinement shall be referred to the assigned magistrate judge for Report and Recommendation, including any evidentiary hearings if needed.

All petitions for review of a denial of a claim for benefits under the Social Security Act, **42 U.S.C. 405(g)** shall be referred to the assigned magistrate judge for Report and Recommendation.

The assigned magistrate judge is authorized to enter any orders necessary to facilitate review of referred matters, including, but not limited to, orders for the filing of pleadings, motions, and memoranda. The assigned magistrate judge is further authorized to conduct evidentiary hearings.

Criminal Cases

All criminal actions shall be referred to the assigned magistrate judge for disposition of all pretrial matters arising through the date of the final pretrial conference or such other date as the court may direct in any particular case. This reference shall include:

- (1) Arraignments and all other pre-trial proceedings in criminal cases that are authorized by law to be conducted by magistrate judges;
- (2) All proceedings under **Fed.R.Cr.P. 3, 4, 5, 5.1, 40(b), and 41** that are authorized by law to be conducted by magistrate judges;
- (3) Proceedings to order release or detention of arrested persons pursuant to **18 U.S.C. 3141, et seq.**;
- (4) Receiving return of indictments by the grand jury and issuance of arrest warrants for defendants named in the indictment, when necessary;
- (5) All dispositive motions and motions to suppress evidence, for evidentiary hearing, when necessary, for submission of a Report and Recommendation to the District Judge;
- (6) All other matters authorized by law.

Voir dire and selection of grand juries; shall be referred to the assigned magistrate judge

All proceedings including trial and imposition in petty offense and other misdemeanor cases, subject to the limitations of **18 U.S.C. 3401**, (4) shall be referred to the assigned magistrate judge.

All IRS petitions for enforcement of summons pursuant to **26 U.S.C. 7604**, except those cases which involve contempt, shall be referred to the assigned magistrate judge for disposition. IRS cases involving a potential finding of contempt shall be referred to the assigned magistrate judge for Report and Recommendation.

The assigned magistrate judge is authorized to enter any orders necessary to facilitate review of referred matters, including, but not limited to, orders for the filing of pleadings, motions, and memoranda. The assigned magistrate judge is further authorized to conduct evidentiary hearings.

Nothing in this order shall preclude Judge Rebecca F. Doherty from withdrawing the reference of any matter.

Civil Motions Chart

I. General Rules

Rule 1

All motions filed from commencement of suit to the date of the pretrial conference shall be referred to the magistrate judge, with the exception of:

- (a) dispositive motions (except dispositive motions in cases filed under **42 U.S.C. 1983** which shall be referred to the magistrate judge for report and recommendation pursuant to the Standing Order)
- (b) motions for continuance of trial or pretrial conference;
- (c) motions for continuance or expedited hearing of any motion or matter pending before the district judge;
- (d) motions related to matters pending before the district judge, for example: motions for extension of dispositive motion deadlines, motions for extensions to file briefs re motions pending before district judges, motions to file briefs in excess of 25 pages re motions pending before district judge, motions related to jury instructions, jury interrogatories or voir dire, etc....
- (e) Motions described in list of Motions Referred to district judges, attached as Section II.

Rule 2

The motions described in exceptions (a) - (e) of Rule 1 shall be referred to the district judge.

Rule 3

All motions filed on the date of the pretrial conference through conclusion of proceedings shall be referred to the district judge. If a trial date is continued, then Rule 1 governs again.

Rule 4

Where one document contains multiple motions, some referable to the magistrate judge and some to the district judge, the document should be referred to the district judge.

Rule 5

In cases where all parties have filed written consent to proceed to trial before the magistrate judge, all motions should be referred to the magistrate judge.

Rule 6

All habeas petitions are ultimately referred to the magistrate judge for report and recommendation. Note that all petitions for habeas under **28 U.S.C. 2255** and **2241** shall be referred directly to the magistrate judge. Also, all habeas petitions under **28 U.S.C. 2254** where the petitioner is represented by counsel shall be referred directly to the magistrate judge. Only pro se habeas petitions under **28 U.S.C. 2254** should be referred directly to the pro se clerk.

II. Motions Referred to district judge¹

(A) Judges Doherty request the following motions be referred to her:

Motion for continuance of trial, pretrial or of any matter or deadline in a matter pending before the district judge
Motion to Dismiss (by any party)
Motion for expedited hearing of any matter referred to district judge
Motion for temporary restraining order or injunctive relief
Motion to bifurcate or sever
Motion for default judgment
Motion to reinstate
Motion to enter or amend judgment
Motion in limine
Motion to strike evidence
Motion for summary judgment or for judgment on pleadings
Motion to remand
Rule 11 motions
Motion for judgment as a matter of law/for new trial
Post-trial motions including post-trial discovery motions
Motions related to judgment, i.e. to set aside, stay or enforce judgment
Motions for status or settlement conferences
Motions to stay discovery
Motions re leave to file third party claims
Motions to withdraw counsel
Motions for leave to file pleadings

III. Motions referred to magistrate judge²

(A) The following motions shall be referred to the magistrate judge in all cases:

All Motions in cases filed under **42 U.S.C. 1983** to date of pretrial conference; all motions in cases where parties have consented to trial by magistrate judge; all motions in social security appeal cases, habeas corpus and pro se prisoner cases
Motion for more definite statement
Motion for appointment of counsel
Motion to appear pro hac vice
Motion to compel (discovery)
Motion for protective order

¹(This list is not comprehensive. Referral of any motion which is not listed here should be guided by reference to the General Rules)

²(This list is not comprehensive. Referral of any motion which is not listed here should be guided by reference to the General Rules)

Motion to quash
Motion to extend deadlines to file briefs as to issues pending before magistrate judge only
Motion for expedited hearing on any matter referred to magistrate judge
Motion for inspection and/or testing
Motion for production of documents
Motion for attorney fees, costs or sanctions under **Fed.R.Civ.P. 37** (related to discovery)
Motions for discovery conferences
Motions for video or telephone depositions
Motions to proceed in forma pauperis (all cases)
Motions to extend discovery deadlines
Motions to extend time to respond to discovery
Motions to propound in excess of 25 interrogatories
Motion to transfer
Motion to consolidate
Motions to enforce or approve settlement
Motions re leave to file counterclaims, cross-claims, or interventions
Motions to amend pleadings
Motions to enroll, or substitute counsel

Rule 1 All motions filed from commencement of suit to date of pretrial conference shall be referred to the magistrate judge, with the exception of motions related to **404(b)** evidence and motions related to payment of CJA counsel in felony cases, which shall always be referred to the district judge regardless of when they are filed

Rule 2 All motions filed within fourteen days prior to trial shall be referred to the district judge

Rule 3 Note that post-trial motions under **Rule 35** to correct or reduce a sentence shall be referred to the district judge, whereas habeas petitions, i.e. petitions under **28 U.S.C. 2255** (challenging validity of conviction) shall be referred to the magistrate judge. If the clerk cannot determine the nature of the motion, it shall be referred to the magistrate judge for review and proper referral.

Rule 4 All motions for continuance of trial and all motions related to voir dire or jury instructions/interrogatories, shall be referred to the district judge, regardless of the date filed

Rule 5 All motions related to continuance of pretrial conference or of any deadline pertaining to a matter pending before the magistrate judge shall be referred to the Magistrate Judge