

RULE 72

DUTIES OF UNITED STATES MAGISTRATE JUDGES

(a) Authority and Duties of United States Magistrate Judges

Any United States Magistrate Judge appointed by this Court is authorized to exercise all the powers and perform all the duties conferred upon magistrate judges by Section 636 of Title 28, United States Code, Rules 72 and 73 of the Federal Rule of Civil Procedure, and to exercise the powers enumerated in and the Rules Governing Section 2254 and 2255 Proceedings.

Any United States Magistrate Judge is designated to hear and determine all pretrial matters authorized by 28 U.S.C. § 636. In addition, a United States District Judge may require a Magistrate Judge to submit proposed findings of fact and recommendations for disposition by the judge regarding:

- (1) motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;
- (2) motions to strike affirmative defenses;
- (3) motions for judgment on the pleadings;
- (4) motions for summary judgment;
- (5) motions to dismiss or quash an indictment or information;
- (6) motions to suppress evidence in a criminal case;
- (7) motions to dismiss or permit maintenance of a class action;
- (8) motions to dismiss for failure to state a claim upon which relief can be granted;
- (9) motions to involuntarily dismiss an action or to remand an action to the state courts; and,
- (10) motions for review of default judgments.

Upon designation, written or oral, by a judge of this court to fulfill the duties and authority enumerated herein, a Magistrate Judge shall exercise all powers to determine any preliminary matters and conduct evidentiary hearings or other proceedings, as prescribed herein.

(b) Other Duties

United States Magistrate Judges are also authorized to:

- (1) exercise general supervision of civil calendars, conduct calendar calls, some-disposition hearings, status conferences, pretrial conferences, settlement conferences, mediation proceedings, and other related pretrial proceedings;

- (2) upon consultation with the presiding judge, decide motions to expedite a trial setting or continue the trial;
- (3) conduct voir dire and select petit juries for the court in civil cases;
- (4) accept petit jury verdicts in civil cases in the absence of a district judge;
- (5) issue subpoenas, writs or *habeas corpus ad testificandum* or *ad prosequendam*, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;
- (6) approve surety bonds in civil cases, and order the termination, exoneration, or forfeiture of said bonds;
- (7) conduct examination of judgment debtors, in accordant with Fed. R. Civ. P. 69;
- (8) approve attorneys' expense vouchers pursuant to 18 U.S.C. § 3006(a), in appropriate cases;
- (9) enter orders in admiralty cases:
 - (A) authorizing the arrest of a vessel;
 - (B) appointing substitute custodians of vessels or property seized *in rem*;
 - (C) fixing the amount of security which must be posted by the claimant of a vessel or property seized *in rem*;
 - (D) upon stipulation between the parties or a showing that the legal controversy has been terminated or adjudicated, enter orders releasing any arrested or seized vessel;
 - (E) in limitation of liability proceedings -- monition and restraining orders, orders approving the *ad interim* stipulation filed with the complaint, orders establishing the means of notice to potential claimants and a deadline for the filing of claims and, orders restraining further proceedings against the plaintiff except by means of the filing of a claim.
- (10) consider and determine motions for service of process, to quash service of process or to impose non-resident bonds;
- (11) issue administrative inspection warrants;
- (12) supervise proceedings of letters rogatory or requests pursuant to 28 U.S.C. §§ 1781, *et seq.*;
- (13) enter orders to withdraw Registry Fund in civil cases disposed of by a Magistrate Judge and in pretrial matters referred to a Magistrate Judge for disposition;
- (14) make recommendations concerning the Court's efforts in the promulgation of local rules and procedures, and in the promulgation of procedures for the administration of the forfeiture of collateral system;
- (15) serve, upon designation by the Court or consent of the parties, as special master in any civil action pending, subject to the procedures and limitations of 28 U.S.C. § 636(b)(2), and Rule 53 of the Federal Rules of Civil Procedure;

- (16) preside over the qualification and selection of petit and grand jurors;
- (17) preside and administer oaths of allegiance to new citizens at naturalization hearings;
- (18) administer oaths of admission to attorneys.

The enumeration of specific duties in this rule is not to be construed as limiting the referral of any other matter otherwise not inconsistent with the Constitution and laws of the United States.

(c) Reviews and Appeals of Non-dispositive Pre-Trial Matters

Any party may appeal from a magistrate judge's determination as to any non-dispositive pre-trial motion or other pre-trial matter in accordance with 28 U.S.C. § 636(b)(1)(A), within ten (10) days after being served with the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a district judge. Such party shall file with the Clerk of Court and serve on all parties a written notice of appeal specifically designating the order or part thereof appealed from and the basis of the objection thereto. The district judge shall consider the appeal and set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.

(d) Objections to Report of Proposed Findings and Recommendations as to Dispositive Motions and Prisoner Cases

Any party may object to the magistrate judge's report of proposed findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(B) and (c) within ten (10) days after being served a copy thereof. Such party shall file with the Clerk of Court and serve on all parties, written objections which shall specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for such objection. A district judge shall make a *de novo* determination of those portions to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.

The district judge need not normally conduct a new hearing and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The district judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.