

**AMENDMENTS PENDING - LOCAL RULES**

**DUCivR 72-2 MAGISTRATE JUDGE FUNCTIONS AND DUTIES IN CIVIL MATTERS**

Approved by Rules Committee on November 13, 2007

Published for comment on the Court's website on November 15, 2007

Reporter's Note: This rule change is proposed to clarify that magistrate judges may enter orders on preliminary, nondispositive motions filed in civil cases which have been assigned to them at case opening during the time period during which the consent or request for reassignment forms are being returned to the court. Examples of the types of motions which are filed in that period are motions for admission pro hac vice, motions for service of process by publication and motions relating to the initial pleadings such as motions to seal or to proceed with pseudonyms.

**1. (a) General Authority.**

Unless otherwise directed by the court, magistrate judges are authorized to:

- (1) grant applications to proceed without prepayment of fees;
- (2) authorize levy, entry, search, and seizure requested by authorized agents of the Internal Revenue Service under 26 U.S.C. § 331 upon a determination of probable cause;
- (3) conduct examinations of judgment debtors and other supplemental proceedings in accordance with Fed. R. Civ. P. 69;
- (4) authorize the issuance of postjudgment collection writs pursuant to the Federal Debt Collection Act; ~~and~~
- (5) conduct initial scheduling conferences under Fed. R. Civ. P. 16; ; **and**
- (6) **conduct all pretrial proceedings contemplated by 28 U.S.C. §636(b) and Fed. R. Civ. P. 72 in cases assigned to them under General Order 07-001.**

**(b) Authority Under Fed. R. Civ. P. 72(a).**

On order of reference and under Fed. R. Civ. P. 72(a), magistrate judges are authorized to hear and determine any procedural motion, discovery motion, or other non-dispositive motion.

**(c) Authority Under Fed. R. Civ. P. 72(b).**

On order of reference and under the provisions of Fed. R. Civ. P. 72(b), magistrate judges are authorized to prepare and submit to the district judge a report containing proposed findings of fact and recommendations for disposition of motions:

- (1) for injunctive relief including temporary restraining orders and preliminary and permanent injunctions, (2) for judgment on the pleadings;
- (3) for summary judgment;
- (4) to dismiss;
- (5) under Fed. R. Civ. P. 12(b);
- (6) for default judgments; and
- (7) for judicial review of administrative agency decisions, including benefits under the Social Security Act, and awards or denials of licenses or similar privileges.

Magistrate judges may determine any preliminary matter and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority under this section.

**(d) Authority Under 42 U.S.C. § 1983.**

On an order of reference in prisoner cases filed under 42 U.S.C. § 1983, magistrate judges are authorized to:

- (1) review prisoner suits for deprivation of civil rights arising out of conditions of confinement, issue preliminary orders as appropriate, conduct evidentiary hearings or other proceedings as appropriate, and prepare for submission to the court appropriate reports containing proposed findings of fact and recommendations for disposition of the matter;
- (2) take depositions, gather evidence, and conduct pretrial conferences;
- (3) conduct periodic reviews of proceedings to ensure compliance with prior orders of the court regarding conditions of confinement, and
- (4) review prisoner correspondence.

**(e) Authority Under 28 U.S.C. §§ 2254 and 2255.**

On an order of reference in a case filed under 28 U.S.C. §§ 2254 and 2255, magistrate judges are authorized to perform any or all of the duties set forth in the Rules Governing Proceedings in the United States District Courts under §§ 2254 and 2255 of Title 28, United States Code, including issuing of preliminary orders, conducting evidentiary hearings or other proceedings as appropriate, and preparing for submission to the court a report of proposed findings of fact and recommendations for disposition of the petition.

**(f) Authority to Function as Special Master.**

In accordance with the provisions of 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53, magistrate judges may be designated by the court to serve as special masters with consent of the parties.

**(g) Authority to Adjudicate Civil Cases.**

In accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, and on consent of the parties, magistrate judges may be authorized to adjudicate civil case proceedings, including the conduct of jury and non-jury trials and entry of a final judgment.