

## Civil Motion Referral and Unreferral

District Judge refer cases (and sometimes individual motions) to magistrate judges. Then, CM/ECF computer logic takes over and, based on the type of motion filed, indicates whether a motion is referred or not. CM/ECF logic is not always consistent with the actual needs of a case because CM/ECF does not understand all court operations and cannot correctly categorize every motion.

Attorneys will sometimes see that a motion is referred, and then the referral is withdrawn. This paper describes the CM/ECF process of motion referral and unreferral, and the reasons for unreferral. It is intended to provide a guide for attorneys to understand the allocation of responsibilities between district judges and magistrate judges and the interplay of those responsibilities with CM/ECF. Direct communication with judges' chambers can always help clarify what CM/ECF might confuse. Judges chambers attempt to communicate with each other as well.

### Glossary:

**CM/ECF** – Case Management – Electronic Case Files – the current case filing system in the District of Utah

**Referral** – the process by which the presiding district judge directs a magistrate judge to handle a portion of a case.

**“A” Referral** – referral of all pretrial, non dispositive matters. “A” refers to the statute, [28 U.S.C. §636\(b\)\(1\)\(A\)](#). A magistrate judge resolves these matters by a direct order. *See also* [Fed R. Civ. P. 72\(a\)](#).

**“B” Referral** – referral of all matters in a case, including dispositive matters. “B” refers to the statute, [28 U.S.C. §636 \(b\)\(1\)\(B\)](#). A magistrate judge resolves these matters by Report and Recommendation. *See also* [Fed R. Civ. P. 72\(b\)](#).

**Dispositive** – referring to case dispositive matters. This term is not used in the statute, but it is used in Rule 72. The statute contains an illustrative list of matters<sup>1</sup> for which a referred magistrate judge can only issue a report and recommendation, not a direct order.

### CM/ECF Motion Referral Tracking:

An important feature of CM/ECF is its ability to designate (in referred cases) which motions are to be decided by magistrate judges and which motions are to be decided by district judges.

**CM/ECF internal logic** automates designations of motions as referred or not referred. This logic is different for cases referred under 28 U.S.C. §636(b)(1)(A) and cases referred under 28 U.S.C. §636(b)(1)(B). For example, dispositive motions such as motions to dismiss and motions for summary judgment would be referred in cases under a “B” referral but not in cases under an “A” referral. Motions related to discovery, such as motions to compel, or motions for scheduling would be referred in a case under an “A” referral as well as under a “B” referral.

**CM/ECF referral logic can be customized by the court.** For example, when CM/ECF was first installed in this court, CM/ECF automatically referred Motions in Limine to magistrate

---

<sup>1</sup> The statute lists “motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action.” [28 U.S.C. §636 \(b\)\(1\)\(A\)](#).

judges in “A” referral cases. Because these are trial-related motions, the logic was changed to no longer automatically show referral for Motions in Limine in “A” referral cases.

**CM/ECF logic is not accurate for all motions in all cases.** Because CM/ECF does not understand all court operations and cannot correctly categorize every motion, CM/ECF has Utility Events which permit modification of referrals which are made by the CM/ECF logic.

**Summary of CM/ECF Logic and Local Practices.** The following is a list of the motions CM/ECF in the District of Utah will refer in “A” referral cases and in “B” referral cases. The list of the motions commonly referred in “A” referral cases also denotes those that may be *automatically unreferral* by the magistrate judge and those which are *often unreferral* after consultation between the magistrate judge and the district judge. Generally matters which are “trial-related” are decided by the district judge in “A” referral cases.

## Motions Referred by CM ECF Logic

“A” Referral Cases	“B” Referral Cases
<b>Properly Referred</b>	
<p>Motion for Scheduling Conference            Motion to Add Parties**            Motion to Unseal            Motion to Substitute Party            Motion for Service of Process            Motion for More Definite Statement            Motion to Compel            Motion for Sanctions (discovery)            Motion to Enforce Discovery Order            Motion to Appoint Counsel</p> <p><i>If not pertaining to trial or dispositive motion:</i>            Motion for Extension of Time            Motion to Continue            Motion to Strike            Motion to Amend Complaint**</p> <p>** these motions can potentially be dispositive and consultation may be needed</p>	<p><i>All “A” Referral Case Motion Types plus these and related motions:</i>            Motion to Dismiss            Motion for Judgment on the Pleadings            Motion for Summary Judgment</p>
<b>Automatically unrefereed by Mag. J.</b>	
<p>Motion to Consolidate            Motion under Rule 56(f)            Motion to Amend Judgment            Motion for Markman Hearing            Motion to Enforce Settlement            Motion to Certify Class            Motion to Change Venue            Motion to Bifurcate Trial            Motion in Limine</p> <p><i>If pertaining to trial or dispositive motion close to trial or motion hearing:</i>            Motion for Extension of Time            Motion to Continue            Motion to Strike            Motion to Amend Complaint</p>	
<b>District Judge and Mag. J. consultation needed</b>	
<p>Motion to Remand to State Court, Agency            Motion for Joinder            Motion to Sever            Motion to Stay            Motion for ADR            Motion to Compel Arbitration            Motion to Strike expert or expert report            Motion for Daubert hearing            Motion to Withdraw*            Motion to Disqualify Counsel*            *(if close to trial or while dispositive motion is pending on “A” Referral case)</p>	