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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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IN THE MATTER OF ASSIGNING ALL NON-PRISONER PRO SE CASES TO MAGISTRATE JUDGES (PENDING CONSENT)	GENERAL ORDER 20-034
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To maximize the timely, uniform, and efficient disposition of non-prisoner pro se cases in this District, all such cases will be directly and randomly assigned to a full-time magistrate judge, except the few categories of cases noted below. Under 28 U.S.C. § 636(c), upon the consent of the parties, a magistrate judge may preside over a case until completion of the matter and entry of a judgment. The court currently assigns all appeals from the Commissioner of the Social Security Administration to the magistrate judges, pending consent of the parties, and the court now implements a similar procedure for the assignment of non-prisoner pro se cases.

If any party requests reassignment to a district judge or fails to timely return the consent form, the case will be reassigned to a district judge, and the Clerk's Office will enter a referral under 28 U.S.C. § 636(b)(1)(B) to the magistrate judge who was initially assigned to the case.

The following types of pro se cases, however, should not be directly assigned to magistrate judges:

- a. Pro se prisoner cases, including civil rights complaints and petitions filed under 28 U.S.C. § 2241, 28 U.S.C. § 2254, or 28 U.S.C. § 2255;
- b. Bankruptcy appeals;
- c. Patent cases; and
- d. Qui Tam cases.

Therefore, it is HEREBY ORDERED that beginning on January 1, 2021, the Clerk's Office is directed to implement the following procedure for case assignment of

non-prisoner pro se cases:

1. At case opening, the Clerk's Office will randomly assign all non-prisoner pro se cases to a full-time magistrate judge. Except for the types of cases noted above, this procedure will apply to all non-prisoner pro se cases, including cases in which the plaintiff seeks to proceed in forma pauperis ("IFP").
2. When the Clerk's Office opens a pro se case, the consent clerk will send the consent paperwork to the plaintiff (and, in a removed action, to any other parties who have been served) in an effort to obtain written consent to permit the magistrate judge to preside over the case under 28 U.S.C. § 636(c).
3. The plaintiff will have 28 days from the date the Clerk's Office mails the form to return it to the court. Until the plaintiff's consent is obtained or refused—or until the deadline to consent has passed—the magistrate judge's authority is limited to the authority granted under 28 U.S.C. § 636(b)(1)(B). Therefore, if the assigned magistrate judge intends to deny a *Motion to Proceed In Forma Pauperis*, and the plaintiff's consent has not yet been obtained, the denial must be in the form of a report and recommendation for the Chief Judge (or designee) to review.
4. If the pro se plaintiff fails to return the consent paperwork by the deadline or declines to consent, the Clerk's Office will randomly assign the case to a district judge and automatically enter a referral under 28 U.S.C. § 636(b)(1)(B) to the same magistrate judge who was initially assigned.
5. If the pro se litigant consents to the magistrate judge presiding over the case, the magistrate judge may exercise full authority under 28 U.S.C. § 636(c) for the purpose of screening the complaint under 28 U.S.C. § 1915 and DUCivR 3-2 (in an IFP case) or to conduct a jurisdictional review (in a non-IFP case).
6. In an IFP case, if the case survives screening under 28 U.S.C. § 1915 and DUCivR 3-2, the consent clerk will send consent paperwork when the court orders that the United States Marshals Service serve the complaint and summons.
7. In a non-IFP case, if the case survives the initial jurisdictional review, the consent clerk will include the consent paperwork for each defendant when

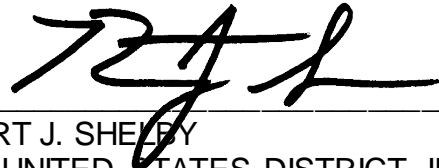
issuing a summons. The plaintiff will be required to include the consent paperwork when serving the summons and complaint.

8. Unless and until all served defendants consent, the magistrate judge's assignment will again be deemed to be a referral from the Chief Judge under 28 U.S.C. § 636(b)(1)(B).
9. If, at any time, a defendant does not consent to the magistrate judge presiding over the case, including when a later-joined defendant is added, the Clerk's Office will randomly assign the case to a district judge and automatically enter a referral under 28 U.S.C. § 636(b)(1)(B) to the same magistrate judge who was initially assigned.
10. When a non-prisoner pro se case is assigned to a magistrate judge and time is of the essence (e.g., a motion for a temporary restraining order is filed), the magistrate judge may (but is not required to) enter a docket text order directing the Clerk's Office to randomly reassign the case to a district judge so that the matter may be promptly addressed. At the same time, the Clerk's Office will also enter an automatic referral under 28 U.S.C. § 636(b)(1)(B) to the same magistrate judge who was initially assigned.
11. All consent forms or requests for reassignment must be confidentially returned to the Clerk of Court, either by emailing the form as a pdf file to [consents@utd.uscourts.gov](mailto:consents@utd.uscourts.gov) or by mailing them to the court, directed to the attention of the consent clerk.
12. Defendants will have 7 days from the date of filing the Answer or other responsive pleading to return the consent form or request for reassignment.
13. If the plaintiff consents, and the case is still in the initial review phase or screening process under 28 U.S.C. § 1915 and DUCivR 3-2, the consent clerk will docket the consent form. Otherwise, no consent paperwork will be docketed, unless all served defendants consent to the jurisdiction of the magistrate judge. If the case is reassigned, the parties' forms will not be made part of the court record, and no judge in the case will know which defendants requested reassignment or failed to return the consent paperwork.
14. If a later-added defendant in a case that had previously been assigned to a

magistrate judge declines to consent (or fails to timely return the consent form), the magistrate judge may be aware—because of the timing of the consent process—that the defendant failed to consent or to return the form, but there will be no negative consequence when a party does not consent.

SO ORDERED this 30<sup>th</sup> day of December, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'RJS', is written over a horizontal line.

ROBERT J. SHELBY  
CHIEF UNITED STATES DISTRICT JUDGE