

Assignment of Motions to Judges in CM/ECF

This paper describes how Orders of Referral (sometimes called Orders of Reference) are handled in CM/ECF. District Judges may enter an order referring cases or individual motions to a magistrate judge. After an Order of Referral is entered in CM/ECF, the CM/ECF logic dictates the content of the docket text that will appear in conjunction with motions that it thinks are covered by the Order of Reference. The docket text will state that the motion is referred to the magistrate judge, but sometimes the CM/ECF logic is incorrect. When such a software mistake occurs, a judge will “unrefer” any motions that are not covered by the Order of Reference, as explained below. This paper is intended to provide a guide to the CM/ECF allocation of motions between district judges and magistrate judges. Direct communication with judges’ chambers can always help clarify what CM/ECF might confuse.

Glossary:

- CM/ECF:** Case Management/Electronic Case Files – the current case filing system in federal courts.
- Referral:** The process by which the presiding district judge directs a magistrate judge to handle certain motions in 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\(a\)](#). Objections are reviewed under a “clearly erroneous” standard.
- “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\(b\)](#). Objections are reviewed under a “de novo” standard.
- Dispositive:** Refers to case- or claim-dispositive matters. This term is not used in the statute, but it is used in Rule 72. The statute contains an illustrative list of matters¹ for which a referred magistrate judge can issue only 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. This division is apparent in the court’s internal Motions Report which lists *all* motions for a case under the presiding judge’s name but lists only *referred* motions under the referral judge’s name.

¹ 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 \(b\)\(1\)\(A\)](#).

Motions Report		
Electronic Case Filing System - District of Utah		
Motions Filed between 2/23/1973 - 2/20/2010		
Magistrate Judge David Nuffer		
Case number/ Document number	Case and Motion Information	Notes
2:08-cv-00712-CW-DN	Mediaport Entertainment v. Power Station Case filed: 09/19/2008	Cause: 28:1441 Notice of Removal- Other Contract
36	Stipulated MOTION for Scheduling Order Motion filed: 02/19/2010 Filed by: Mediaport Entertainment Referred from: Clark Waddoups	
	Stipulated MOTION for Scheduling Order filed by Plaintiff Mediaport Entertainment, Counter Defendant Mediaport Entertainment. (Attachments: # 1 Exhibit A) Motions referred to David Nuffer.(Preston, R.)	
Judge Clark Waddoups		
Case number/ Document number	Case and Motion Information	Notes
2:08-cv-00712-CW-DN	Mediaport Entertainment v. Power Station Case filed: 09/19/2008	Cause: 28:1441 Notice of Removal- Other Contract
36	Stipulated MOTION for Scheduling Order Motion filed: 02/19/2010 Filed by: Mediaport Entertainment Referred to: David Nuffer	
	Stipulated MOTION for Scheduling Order filed by Plaintiff Mediaport Entertainment, Counter Defendant Mediaport	

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 in which there is a “B” referral but not in cases in which there is 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 judges in “A” referral cases. Because these are trial-related motions, the logic was changed so that the docket text would no longer show that Motions in Limine were referred to the magistrate judge in cases with an “A” referral.

CM/ECF logic is not accurate for all motions in all cases. Because CM/ECF does not understand all court operations and motions can be filed under different CM/ECF events, CMECF cannot correctly categorize every motion. CM/ECF has Utility Events which permit modification of referrals that 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 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 motions that may be *automatically unreferred* by the magistrate judge and those which are *often unreferred* after consultation between the magistrate judge and the district judge. In this District, non-dispositive matters that are trial-related or related to a dispositive motion are generally decided by the district judge in “A” referral cases.

Motions Referred by CM/ECF Logic

Motions in “A” Referral Cases	Motions in “B” Referral Cases
Properly Referred by CM/ECF Logic	
<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 (<i>these motions can potentially be dispositive and consultation may be needed</i>)</p>	<p>All “A” referral motions plus these and related motions: Motion to Dismiss Motion for Judgment on the Pleadings Motion for Summary Judgment Motion to Exclude Expert or Strike Expert Report Motion for Daubert Hearing Motion for Markman Hearing/Claim Construction Motion for James Hearing Motion to Suppress</p>
Referred by CM/ECF Logic but Will Be Unreferred by MJ	
<p>Motion to Consolidate Motion Under Rule 56(d) Motion to Amend Judgment Motion for Markman Hearing Motion for Daubert hearing Motion to Enforce Settlement Motion to Certify Class Motion to Change Venue Motion to Bifurcate Trial Motion in Limine Motion to Sever</p> <p><i>If pertaining to trial or dispositive motion or if close to trial or motion hearing:</i> Motion for Extension of Time Motion to Continue Motion to Strike Motion to Amend Complaint</p>	
Referred by CM/ECF Logic but DJ and MJ Consultation Needed	
<p>Motion to Remand to State Court, Agency Motion for Joinder Motion to Stay Motion for ADR Motion to Compel Arbitration Motion to Withdraw* Motion to Disqualify Counsel* <i>*if close to trial or while dispositive motion is pending)</i></p>	