

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

DEC 1 - 2002

IN THE MATTER OF:
LOCAL CIVIL RULE 73.1

MISC. NO. 1426

R. Sturman
CLERK

ORDER

Under the authority of 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure,

IT IS ORDERED that the attached Local Civil Rule governing practice in the United States District Court for the District of New Mexico is adopted and will become effective,

DECEMBER 1, 2002.

James A. Parker

JAMES A. PARKER, Chief Judge

C. Leroy Hansen

C. LEROY HANSEN, Judge

Martha Vazquez

MARTHA VAZQUEZ, Judge

Bruce D. Black

BRUCE D. BLACK, Judge

M. Christina Armijo

M. CHRISTINA ARMIJO, Judge

William P. Johnson

WILLIAM P. JOHNSON, Judge

RULE 73. United States Magistrate Judges.

73.1 Direct Assignment of Civil Cases.

- (a) Every other civil case (or 50%)--excluding prisoner cases and bankruptcy appeals--and every social security appeal will be randomly assigned to a Magistrate Judge pool. For each case in that pool, a presiding Magistrate Judge will be assigned to conduct all dispositive proceedings, including trial, upon consent of the parties. For each case, excluding social security appeals, a discovery Magistrate Judge will also be assigned to hear and decide all non-dispositive pretrial and discovery matters in accordance with FED. R. CIV. P. 72(a). Each Magistrate Judge will be assigned cases on an equal and random rotation.
- (b) In a case assigned to a presiding Magistrate Judge, the Clerk will provide each party and/or attorney a "Consent to Proceed Before a U. S. Magistrate Judge" form, which will be used by the Clerk of Court to determine the consent of the parties. The form appears on the Court's web site at www.nmcourt.fed.us and is also available at the Clerk's Office. Each party is to return the completed consent form to the Clerk within twenty (20) days after service.
- (c) A party's failure to return the completed consent form timely will be considered that party's refusal of consent to proceed before the assigned presiding Magistrate Judge. If a party explicitly or implicitly refuses consent:
 - (1) in a civil case, the presiding Magistrate Judge will be replaced by a randomly assigned District Judge. The assigned discovery Magistrate Judge will remain the same.
 - (2) in a social security appeal, the presiding Magistrate Judge will be replaced by a randomly assigned District Judge and a randomly assigned Magistrate Judge.
- (d) If the parties consent to proceed before the assigned presiding Magistrate Judge, the assigned presiding Magistrate Judge will conduct all dispositive proceedings in the action, including trial, and order the entry of final judgment. The appeal of a judgment or final order entered by the presiding Magistrate Judge will be to the United States Court of Appeals for the Tenth Circuit.
- (e) An assigned Magistrate Judge may decline to hear the case if it is determined that the case would interfere with the efficient and effective processing of cases within the Magistrate Judge's jurisdiction. The assigned Magistrate Judge may then transfer the case to the Clerk to be randomly reassigned to another Judge.

73.2 Consent to Trial or to Rule on Dispositive Matters.

- (a) **Designation of Magistrate Judge on Cases Not Assigned to the Magistrate Judge Pool.** Full-time Magistrate Judges are designated to exercise civil trial jurisdiction and, by consent of all parties, may handle any dispositive matter including trial.
 - (1) **Consent to Trial.** Consent is to trial by the assigned Magistrate Judge only.
 - (2) **Consent to Rule on a Dispositive Matter.** Parties may consent to refer any dispositive matter to the assigned Magistrate Judge.

- (b) **Form of Consent.** Parties wishing to consent must complete and submit a form, available from the Clerk, entitled "Consent to Proceed Before a United States Magistrate Judge and Order of Reference."

73.3 Consent to Settlement Conference.

Designation of Particular Magistrate Judge to Conduct Settlement Conference. The parties, by unanimous agreement, may choose a particular Magistrate Judge, who may exercise the authority provided by 28 U.S.C. § 636, to conduct a settlement conference.