

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

GENERAL ORDER - 09-3

March 3, 2009

Amends General Order 07-4 adopted December 4, 2007
Pilot Program for Random Assignment of Civil Cases to Magistrate Judges

In order to increase the utilization of the Magistrate Judges and increase the availability of civil trials the Court, on December 4, 2007 by General Order 07-4, approved a pilot program to randomly assign, at the time of filing, a limited number of civil cases directly to the Magistrate Judges sitting in Boston. This new process is modeled after a successful program implemented in Springfield. After further review of the program, the Court has adopted this amended General Order. This pilot project will continue for two years from January 1, 2008, absent further Order of the Court.

It is hereby ORDERED that, effective January 1, 2008 and as amended effective March 3, 2009, the automated case assignment system for civil cases will be modified so that one out of twelve civil cases will be randomly assigned to one of the Magistrate Judges sitting in Boston. Exceptions to this program will be bankruptcy appeals, cases seeking an immediate Temporary Restraining Order and cases filed pursuant to 28 U.S.C. § 2255.

The Clerk shall provide this Order and a form for designating the parties' consent or refusal to the Magistrate Judge's jurisdiction to counsel, or to a party appearing *pro se*, upon the filing of a new civil action. Except in the case of incarcerated *pro se* plaintiffs, it will be the responsibility of that attorney or *pro se* litigant to serve this notice along with the Summons and Complaint or Notice of Removal. That person will also be responsible for obtaining the other parties' decisions concerning proceeding before the Magistrate Judge and for filing the document as soon as practicable, but in all cases within thirty days after the date of service on the last party. The document shall indicate either unanimous consent to final referral of the case to the Magistrate Judge for all purposes including jury or non-jury trial, or that consent to the referral to the Magistrate Judge has been declined. In the case of incarcerated *pro se* plaintiffs, the Order and form shall be included with the other documents sent to the parties by the Clerk's Office, and shall provide that each party shall individually return their form evidencing consent or declination directly to the Clerk's Office. In all cases, in the absence of unanimous consent to the referral to the Magistrate Judge, the case will be randomly re-drawn to a District Judge. The previously assigned Magistrate Judge shall continue to be assigned to the case to hear matters referred by the District Judge, in accordance with 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing to consent, submission of the executed form, memorializing consent or refusal to consent to final assignment to the Magistrate Judge, is mandatory.

Until the Court receives for filing either a consent to the Magistrate Judge's jurisdiction or the reassignment of the case to a District Judge, the initial assignment of a civil case to the Magistrate Judge is a referral to the Magistrate Judge under 28 U.S.C. § 636(b) for all pretrial non-dispositive matters other than the Rule 16(b) scheduling conference.

Mark L. Wolf

Mark L. Wolf
Chief Judge

Rya W. Zobel

Rya W. Zobel
United States District Judge

Douglas P. Woodlock

Douglas P. Woodlock
United States District Judge

Richard G. Stearns

Richard G. Stearns
United States District Judge

Patti B. Saris

Patti B. Saris
United States District Judge

Michael A Ponsor

Michael A Ponsor
United States District Judge

F. Dennis Saylor IV

F. Dennis Saylor IV
United States District Judge

Morris E. Lasker

Morris E. Lasker
Senior United States District Judge

Joseph L. Tauro

Joseph L. Tauro
United States District Judge

William G. Young

William G. Young
United States District Judge

Nathaniel M. Gorton

Nathaniel M. Gorton
United States District Judge

Reginald C. Lindsay

Reginald C. Lindsay
United States District Judge

Nancy Gertner

Nancy Gertner
United States District Judge

George A. O'Toole

George A. O'Toole
United States District Judge

Edward F. Harrington

Edward F. Harrington
Senior United States District Judge