

LOCAL MAGISTRATE JUDGE RULES

LMJR 1 SCOPE AND PURPOSE

These rules set forth the general powers and duties conferred by this Court, statute, and rule to the United States Magistrate Judges for the Eastern District of Washington.

The term “United States Magistrate Judge” means any full or part time Magistrate Judge appointed by this court, any Magistrate Judge recalled from retirement, and any Magistrate Judge temporarily assigned from another District.

LMJR 2 AUTHORITY IN CIVIL PROCEEDINGS

(a) Delegated Authority.

Each United States Magistrate Judge is authorized to perform the following powers and duties:

- (1) Issue process to enforce subpoenas issued pursuant to the Federal Energy Administration Act, 15 U.S.C. § 772(e);
- (2) Conduct extradition proceedings, in accordance with 18 U.S.C. § 3184;
- (3) Conduct proceedings for the transfer of offenders under 18 U.S.C. §§ 4107-4109;
- (4) Enforce awards of foreign consuls in accordance with 22 U.S.C. § 258a;
- (5) Issue process to effectuate IRS levies pursuant to 26 U.S.C. § 6331;
- (6) Conduct letters rogatory proceedings in accordance with 28 U.S.C. § 1782;
- (7) Rule upon applications to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915;
- (8) Conduct examinations of judgment debtors, in accordance with Fed. R. Civ. P. 69;
- (9) Conduct proceedings under the Federal Debt Collection Act, 28 U.S.C. Ch. 176, pursuant to 28 U.S.C. § 3008;
- (10) Conduct collection proceedings of civil penalties not exceeding \$200 under the Federal Boat Safety Act, 46 U.S.C. §§ 4311(d) and 12309(c);
- (11) Preside during depositions instituted by the Secretary of Transportation pursuant to 49 U.S.C. § 502(e)(2); and
- (12) Issue administrative inspection warrants;

(b) Authority with Consent of the Parties and Reference by the Court.

(1) Notice to Parties.

At an appropriate time after a civil action is filed, the Clerk of the Court shall notify the parties of the availability of a Magistrate Judge to exercise jurisdiction. The notice will include a consent form and a request that the Clerk be advised of the party's intention. When a case is set for a scheduling conference, the Clerk shall again

furnish a consent form to all counsel except where a consent has been filed or the Clerk is advised that a consent will not be filed.

(2) Obtaining Consent.

Thereafter, either the District Judge or the Magistrate Judge may again advise the parties of the availability of a Magistrate Judge, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences.

(3) Reference.

Upon the consent of the parties and upon the entry of an order of reference by a District Judge or the Chief District Judge, a Magistrate Judge may: conduct any or all proceedings in any civil case, including all pretrial and post-trial motions and conduct a jury or bench trial, and may order the entry of final judgment, in accordance with 28 U.S.C. § 636(c); and may serve as a special master without regard to Fed. R. Civ. P. 53(b), in accordance with 28 U.S.C. § 636(b)(3). When a Magistrate Judge serves as a special master, entry of final judgment shall be made by or at the direction of the District Judge. An order of reference can be vacated upon a proper showing, pursuant to 28 U.S.C. § 636(c)(4).

(4) Appeal.

After reference, except when serving as a special master, an appeal from any judgment or order entered by a Magistrate Judge will lie to the United States Court of Appeals for the Ninth Circuit as it would from any other judgment or order of this court.

(c) Authority Conferred by Reference Only.

(1) Limited Order of Reference.

Upon the entry of an order of reference by a District Judge or the Chief District Judge, a Magistrate Judge may hear and determine any pretrial matter pending before the court, *except* a motion for injunctive relief, for judgment on the pleadings, for summary judgment, 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.

A District Judge may reconsider any pretrial matter under this subparagraph where it has been shown that the Magistrate Judge's order is clearly erroneous or contrary to law.

(2) Reference for Proposed Findings and Recommendation.

Upon the entry of an order of reference by a District Judge or the Chief District Judge, a Magistrate Judge may conduct hearings, including evidentiary hearings, and to submit to a District Judge proposed findings of fact and recommendations for the disposition of:

- (A) any motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, to involuntarily dismiss an action, for relief from default, for relief from judgment, for the award of attorney fees and costs, and objections to the taxing of costs;
- (B) prisoner petitions challenging conditions of confinement;
- (C) petitions, applications and complaints for judicial review of administrative determinations;
- (D) petitions to enforce or quash summons issued by the Internal Revenue Service pursuant to 26 U.S.C. §§ 7402(b), 7604(a), and 7609; and
- (E) proceedings to enforce or quash civil investigative demands, pursuant to, e.g., 31 U.S.C. § 3733(j).

The Magistrate Judge's proposed findings of fact and recommendations shall be filed and served on all parties.

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations. A District Judge shall make a *de novo* determination of those specified portions of the proposed findings or recommendations to which objection is made. A District Judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The District Judge may also receive further evidence or recommit the matter to the Magistrate Judge with instructions.

(3) Reference as Special Master.

Upon the entry of an order of reference by a District Judge or the Chief District Judge, a Magistrate Judge may serve as a special master pursuant to Fed. R. Civ. P. 53.

**LMJR 3
AUTHORITY IN CRIMINAL PROCEEDINGS**

(a) Conferred Authority.

Each United States Magistrate Judge is authorized to perform the following powers and duties:

- (1) Conduct the functions conferred by the Federal Rules of Criminal Procedure and the Local Rules for the Eastern District of Washington;

- (2) Conduct the functions conferred by 18 U.S.C. Ch. 121, § 2701 et seq., Stored Wire and Electronic Communications and Transactional Records Access;
- (3) Appoint counsel pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A;
- (4) Authorize and approve Criminal Justice Act fees and expenses for proceedings entirely disposed of before the Magistrate Judge and for grand jury proceedings;
- (5) Conduct detention, release and bail proceedings under 18 U.S.C. Ch. 207, § 3141 et seq.;
- (6) Try persons accused of misdemeanors; order presentence investigation reports; sentence; and modify, revoke or terminate probation and supervised release; in accordance with 18 U.S.C. § 3401; provided however, when a person charged with a misdemeanor other than a petty offense does not consent to proceeding before a Magistrate Judge, a District Judge shall preside;
- (7) Issue or authorize the issuance of a warrant for the arrest of a probationer or a person on supervised release for violation of a condition of release, pursuant to 18 U.S.C. § 3606;
- (8) In cases tried or to be tried by a Magistrate Judge, order examinations and conduct proceedings concerning mental competency pursuant to 18 U.S.C. § 4241 et seq.;
- (9) Order the payment of transportation and subsistence expenses in accordance with 18 U.S.C. §§ 4282 and 4285;
- (10) Conduct initial proceedings for a person accused of juvenile delinquency, pursuant to 18 U.S.C. § 5034;
- (11) Conduct juvenile delinquency proceedings in the case of a misdemeanor and exercise all powers granted to the district court under 18 U.S.C. Ch. 403, § 5031 et seq.; provided however, when a juvenile charged with a misdemeanor other than a petty offense does not consent to proceeding before a Magistrate Judge, a District Judge shall preside;
- (12) Authorize the disclosure of taxpayer return information by the Internal Revenue Service, pursuant to 26 U.S.C. § 6103(i);
- (13) Issue writs of habeas corpus *ad testificandum* and *ad prosequendum*, pursuant to 28 U.S.C. § 2241(c)(5);
- (14) Issue orders, subpoenas, warrants and other process for the collection of evidence, including for line-ups, show-ups, fingerprints, DNA samples, blood samples, handwriting exemplars, voice exemplars, etc.; and
- (15) Perform the judicial functions provided for in the STEP Re-entry Program, including, but not limited to imposing consequences and sanctions, ordering placement in a residential re-entry facility, incarceration, and reducing the participant's term of supervised release upon successful completion of the program.

(b) Authority with Consent of the Parties.

Upon the consent of the parties and upon the entry of an order of reference by a District Judge or the Chief District Judge, a Magistrate Judge may: preside over jury selection, closing argument, acceptance of a verdict and jury polling.

(c) Authority Conferred by Reference Only.

(1) Limited Order of Reference.

Upon the entry of an order of reference by a District Judge or the Chief District Judge, a Magistrate Judge may hear and determine any pretrial matter pending before the court, *except* a motion to dismiss or quash an indictment or information made by the defendant and to suppress evidence.

A District Judge may reconsider any pretrial matter under this subparagraph where it has been shown that the Magistrate Judge's order is clearly erroneous or contrary to law.

(2) Reference for Proposed Findings and Recommendation.

Upon the entry of an order of reference by a District Judge or the Chief District Judge, a Magistrate Judge may conduct hearings, including evidentiary hearings, and to submit to a District Judge proposed findings of fact and recommendations for the disposition of:

- (A) to dismiss or quash an indictment or information made by the defendant;
- (B) to suppress evidence;
- (C) hearings to determine mental competency pursuant to 18 U.S.C. § 4241 et seq.;
- (D) applications for post-trial relief made by individuals convicted of criminal offenses;

The Magistrate Judge's proposed findings of fact and recommendations shall be filed and served on all parties.

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations. A District Judge shall make a *de novo* determination of those specified portions of the proposed findings or recommendations to which objection is made. A District Judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The District Judge may also receive further evidence or recommit the matter to the Magistrate Judge with instructions.

**LMJR 4
AUTHORITY IN OTHER MATTERS**

Each United States Magistrate Judge is authorized to perform the following powers and duties:

- (1)** Administer oaths and affirmations, take acknowledgments, affidavits, depositions, certifications and verifications;

- (2) Appoint interpreters in cases initiated by the United States, pursuant to 28 U.S.C. §§ 1827, 1828;
- (3) Impose sanctions in matters in which they preside, upon parties and counsel according to statute or rule and exercise contempt authority pursuant to 28 U.S.C. § 636(e); and
- (4) Preside at naturalization hearings, including administering the oath of citizenship and granting motions for name change;

LMJR 5
TITLE

These rules shall be known as the Local Magistrate Judge Rules for the Eastern District of Washington, with the abbreviated citation LMJR. These Local Magistrate Judge Rules for the United States District Court for the Eastern District of Washington have been adopted by the Court pursuant to Fed. R. Crim. P. 57, Fed. R. Civ. P. 83, and 28 U.S.C. §§ 636 and 2071.

LMR 6
EFFECTIVE DATES

These rules are effective XXXXXXXX and apply to all pending and future cases, except where an injustice would occur and relief is obtained from the Court.