

LMJR 2

AUTHORITY IN CIVIL PROCEEDINGS

(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 and assigned to a Magistrate Judge, the Clerk of the Court shall provide the parties with a *Notice of Assignment to a U.S. Magistrate Judge and Declination of Consent Form*, and through this form advise the parties that consent is voluntary, consent may be declined, a request for reassignment to a District Judge may be made and that the form must be received by the Clerk of Court by the date designated in the form, should they choose to decline consent and request reassignment. Through this form, the Clerk of Court shall further advise the parties that, upon receipt of a request for reassignment, the case will be assigned to a District Judge, randomly selected from the District Judges in the division where the case is properly filed, and that all matters that arise prior to the deadline by which consent must be declined, are deemed referred to the Magistrate Judge under 28 U.S.C. § 636(b), 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.

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(2) Obtaining Consent.

If the *Notice of Assignment to a U.S. Magistrate Judge and Declination of Consent Form* is not returned by the date designated in the form, each party is deemed to have knowingly and voluntarily consented to proceed before the assigned Magistrate Judge under 28 U.S.C. § 636(c).

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If the *Notice of Assignment to a U.S. Magistrate Judge and Declination of Consent Form* is returned by the date designated in the form, the Clerk of Court shall reassign the case to a District Judge, randomly selected from the District Judges in the division where the case is properly filed. 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.

Absent a timely filed *Notice of Assignment to a U.S. Magistrate Judge and Declination of Consent Form* from 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: 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~~ Except for when the Magistrate Judge is 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.

