

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

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**“One Case / One Judge” --**  
**Proposal for the Southern District of New York**  
**Regarding Direct Assignment to Magistrate Judges**

**Federal Courts Committee**  
**The Association of the Bar of the City of New York**

**June 2010**

We have reviewed a number of methods by which districts courts around the country handle case assignments to Magistrate Judges. Based on our review, we endorse the Direct Assignment Proposal (the “Proposal”) that we have also reviewed and that we understand the Magistrate Judges in the Southern District of New York have submitted to the Magistrate Judges Committee. The Proposal recommends that the names of magistrate judges be included in the civil case assignment wheel and drawn at the time and in the same manner as a district court judge. Other districts that have implemented similar programs and have experienced a number of benefits, including better case disposition times, greater efficiency, reduced workloads for district judges and improved case management at no increased cost to the taxpayers. The Proposal further recommends that the proportion of cases directly assigned to magistrate judges be adjusted from time to time to balance the workload of all judicial officers.

## MECHANICS

### **1. Consent or opt-in**

As the Proposal indicates, some 17 judicial districts throughout the country use some form of direct magistrate judge assignment system. The Proposal recommends that the Southern District similarly add magistrate judges to the civil assignment wheel together with district judges. Parties with a case assigned to a Magistrate Judge would be required to consent or opt-in within a specified period of time to having the Magistrate Judge preside over the case for all purposes. In the Eastern District of Missouri the opt-in period is twenty days; in the District of Massachusetts it is thirty days. The Proposal recommends thirty days.

The Southern District may wish to select a method of securing responses to the initial assignment of magistrate judges in other districts similar to one adopted by other districts. In a case assigned to a magistrate judge in the Eastern District of Missouri, the plaintiff must serve the consent form on all defendants. Each party must then file the consent form, indicating whether they wish to consent to the assignment of the magistrate judge, within twenty days after each appears in the case, whether the appearance is by filing the complaint, motion or answer. In the District of Massachusetts, the plaintiff is responsible for filing the consent form within thirty days after the date of service on the last party. We recommend that, rather than having each party file the consent form, there be a single joint filing that says either “all parties consent” or “not all parties consent,” so that the particular parties’ choices are not disclosed.

If less than all parties consent, the case would be reassigned to a district judge shortly after the opt-in period expires. The Magistrate Judge will continue to hear matters referred to them under 28 USC § 636(b).

### **2. Cases outside the system**

The Proposal reflects that certain classes of cases are not normally amenable to disposition by a Magistrate Judge because of the opt-in requirement. In other cases an opt-in requirement is not feasible. In *in rem* proceedings such as forfeiture or admiralty, for example, the cast of parties is fluid, so assignment to a Magistrate Judge is usually not practicable. Similarly, where a defendant defaults, there is no party to provide consent. Where a case is commenced with a request for a temporary restraining order, it is likely not possible to obtain consent on a timely basis.

In other cases it may be inappropriate for a Magistrate Judge to be assigned on the same basis as a district judge, irrespective of the mechanics of opting in. Motions under 28 USC § 2255, which challenge the legality of a district judge's actions, and appeals from bankruptcy judges are in this category.

### **3. Implementation issues**

Different districts have different caseload profiles and different populations. We cannot therefore predict whether parties will opt-in in the Southern District of New York at the same rates as elsewhere. It is not possible to know whether the rate of consent will be higher or lower other than by trial and error. In other districts, the rate of consent has increased as the bar has gained familiarity and comfort with the full-dispositional authority of Magistrate Judges and with the one case/one judge system; and we believe it is unlikely that the experience here would be significantly different.

Because Magistrate Judges have other duties, their names should be placed into the wheel at a rate lower than that of district judges. The precise rate would need to be adjusted and fine-tuned over time as the district gains experience with the program.

Adding Magistrate Judges to the wheel may have the effect of reducing their availability for accepting referrals under 28 USC § 636(b). Conversely, however, the reduced caseloads and increased capacity of the Court may act to reduce the occasion for such referrals. The Eastern District of Missouri actively discourages such referrals, with no ill effects.

### **ADVANTAGES OF THE PROGRAM**

The one case/one judge system has worked well elsewhere. A systematic quantitative study of the that system in the Eastern District of Missouri concluded that the benefits of the program were several: (a) significant redistribution of the court's civil caseload, resulting in more manageable workloads for all judges; (b) consistency in rulings, from the initial scheduling order, through discovery, dispositive motions and trial; and (c) reduction in discovery disputes because the same judge who will preside at trial will also monitor attorneys' pre-trial conduct.

In addition, an expanded judicial pool will enhance the dispositional capacity of the court, thereby increasing the attention and oversight all judges are able to provide to all aspects of the case. This will hopefully lead to strong and consistent judicial management which is a goal of this recommendation.

In sum, we believe it makes sense to increase the dispositional ability of magistrate judges. The beneficiaries will be all participants in the civil justice system. District judges would benefit by reduced case loads. Magistrate judges would benefit by being better able to focus on case-dispositive work as primary judicial officers. Litigants would also benefit by the enhanced judicial management that will result. Further, the public would benefit from the optimization of scarce judicial resources.

## Federal Courts Committee

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*\*Asterisk identifies the members of the subcommittee that principally drafted this proposal*