

73.1 Magistrate Judge; Trial by Consent.

- (a) **Random Assignment.** Unless ordered otherwise, the clerk assigns each civil action to a district or magistrate judge by automated random selection. However, when a motion requests preliminary injunctive relief, the clerk assigns the action to a district judge. When the clerk assigns an action to a magistrate judge, each party must file either (1) a consent to the referral to the magistrate judge under 28 U.S.C. § 636(c) or (2) an election for reassignment to a district judge. The parties may indicate on Form 35 (the Rule 26(f) report) or other consent form provided by the court whether they consent to trial before a magistrate judge. Failure to timely return the election form will result in case reassignment to a district judge. Consent to a magistrate judge's authority does not constitute a waiver of any jurisdictional defense unrelated to the grant of authority under 28 U.S.C. § 636(c).
- (b) **Reassignment of Case to Magistrate Judge.** The clerk notifies the parties in a case assigned to a district judge that under 28 U.S.C. § 636(c) they may consent to have a magistrate judge (1) conduct any proceedings in the case, including a jury or nonjury trial, and (2) enter final judgment. This notice is provided as soon as practicable after the case is filed and before the case is first scheduled for trial. If all parties consent on the required form to proceed before the magistrate judge, the clerk notifies the district judge of the consent. The district judge considers the consent and reassigns the case to the magistrate judge if appropriate.