

**EASTERN DISTRICT OF CALIFORNIA (FRESNO DIVISION)
CRIMINAL CASE MANAGEMENT PLAN**

These procedures apply to all felonies filed in the Eastern District of California, Fresno Division only **and are effective beginning Monday, January 23, 2012:**

The intent of this criminal management plan is to ensure greater efficiency to the court and all parties involved in the criminal cases in light of the fact that the court maintains only two district judges for the entire Fresno Division, despite the present criminal caseload. As a result, it is essential that the parties exchange discovery promptly in accordance with the United States Constitution, federal statutory and case law, Local Rule 440, Fed.R.Crim.P. 16, and that the parties communicate about case disposition in sufficient time prior to the hearing in order to provide accomplishments at any court hearing.

a. Assignment of New Cases:

Upon the filing of an indictment, the clerk of the court will assign all cases consistent with Local Rule 120(e) and Appendix A to the Eastern District of California Local Rules. Once a district judge is assigned, a magistrate judge will also be assigned to the case based upon the district judge assignment. The following magistrate judge assignment will be made, absent a judicial conflict, based upon the following assigned district judge:

District Judge:

Anthony W. Ishii

Lawrence J. O'Neill

Magistrate Judge

Dennis L. Beck

Sheila K. Oberto

b. Judicial Conflicts:

If any judicial officer conflict exists, then a new judge will be assigned. If a magistrate judge has a conflict in the case, then the magistrate judge will be changed, not the district judge. If a district judge has a conflict then a new district judge will be assigned and the magistrate judge consistent with assigned district judge will be assigned. The clerk of the court, in conjunction with other interested parties, will establish procedures/forms need as to identify any conflicts prior to actual assignment of all the judicial officers.

c. Setting Matters Before Magistrate Judge and District Judges:

After arraignment, unless for the purposes of immediate trial setting, change of plea or a hearing on a dispositive motion or other good cause, the case will first be set before the assigned magistrate judge for hearing. Magistrate judges will hear criminal matters consistent with duties delegated to them under Local Rule 302(b), including those pretrial matters consistent with subsection (b)(1). Matters heard under this procedure will be in accordance with those procedures for resolving general pretrial matters under Local Rules 303 and 304. Status conferences and stipulated continuances will be limited and must include sufficient facts upon which a judge can make a informed judgment as to whether or not to grant a further continuance based on the required "good cause" standard. Magistrate judges may *sua sponte* set the next

matter before the district court for trial setting or other reasons. However, the number of continued hearings will be limited so the parties must ensure that any requested continuances will result in some accomplishment and progression to the final disposition of the case, whether through plea or trial setting. Parties should gauge their continuances, whether in court or through stipulations, with accomplishments in mind. In this vein, the parties should exchange discovery in a timely manner, and, to the extent appropriate, plea offers should be extended in a timely fashion and due consideration should be given to those pleas by defense, and discussion regarding plea offers should occur prior to the actual day for the status. It is expected that prior to setting a matter on the district judge's calendar, all pre-trial matters delegated to the magistrate judge under this plan will be accomplished in a timely and efficient manner.

Once a matter is placed on the assigned district judge's calendar, those hearings will be limited to dispositive hearings (such as motions to suppress, severance and/or dismiss) and final dispositions of the criminal case, such as change of plea and trial setting. It is intended that once a case is calendared before a district judge that the case will not be referred back the magistrate judge's calendar, absent good cause. ~~Prior to~~ ~~Before~~ a case ~~being actually~~ ~~is called by the court,~~ ~~the~~ all parties must ~~confer and~~ be prepared to inform the district court of a reasonable trial date; ~~after conferring with all parties involved.~~

d. Calendar Times and Days:

i. District Judges:

Judge O'Neill will hold his criminal calendar every Monday at 8:30 a.m., Courtroom 4 ~~and Judge Ishii, Courtroom 2, will be Mondays at 10:00 a.m.~~ Judge Ishii will also hold his criminal calendar every Monday, but at 10:00 a.m., Courtroom 2. The assigned magistrate judges will hold their criminal calendar on Mondays at 1:00 pm, as described below.

ii. Magistrate Judges:

Judge ~~Beck~~ ~~Oberto~~ will ~~be holding his~~ hold criminal calendar ~~at 1 pm on the 2nd and 4th Mondays, in Courtroom 9.~~ Judge ~~Oberto~~ will also ~~be~~ be at 1:00 ~~pp.~~ p.m., but on the 1st and 3rd Monday in Courtroom 7. Judge Beck will also hold his criminal calendar at 1 p.m. on the 2nd and 4th Monday of the month, in Courtroom 9. To the extent that the magistrate judge is also the duty magistrate judge, the magistrate judge will ~~maintain his or her respective~~ hold the duty calendar in conjunction with their regular criminal calendar.

~~Any recognized federal holidays falling on a Monday will change the respective calendars dates, as described above, to Tuesday.~~

e. Stipulated Continuances:

All stipulated continuances **must be filed through ECF by Thursday at noon prior to the Monday hearing.** The stipulation and order must also be simultaneously sent to the assigned judge's order box ([judge's initials]orders@caed.uscourts.gov). In pre-trial matters, sufficient facts must be set forth in the stipulation informing the court why a continuance is necessary and what is expected to be accomplished by the next hearing. Failure to provide this

information may result in denial of the stipulated continuance.

f. Notice of Related Cases:

Nothing in this criminal case management plan shall affect the Notice of Related case procedures set forth in Local Rule 123. To the extent a district judge is changed as a result of a notice of related case, the magistrate judge shall be assigned in accordance with the procedures set forth in subsection (a) as if the district judge were first assigned to the case, absent a conflict.

g. Existing Cases:

As to existing cases, the clerk of the court will make judicial assignment to the magistrate judge based upon the new assignment procedure described above in subsection (a). Prior to the magistrate assignment on existing criminal cases, the clerk of the court will work with the United States Attorney's office and other interested parties to ensure that no conflict exists with the magistrate judge to be assigned. If a judicial conflict exists, then the district judge will not change but a new magistrate judge will be assigned.

Those criminal cases that are in their early stages of litigation (generally two or fewer status conferences) should be referred to the assigned magistrate judge for further status conferences and/or other pre-trial matters. District judges may order a case to magistrate court in order to handle any matter consistent with this plan.

h. Duty Magistrate Judges:

Absent good cause, nothing set forth in this criminal management plan shall affect the duties traditionally handled by a duty magistrate judge, such as bail and detention reviews.

i. Inconsistency of Plan with Other Law:

Nothing set forth in this plan is intended to be inconsistent with the United States Constitution, federal statutory and case law (including the rules), and the local rules of this district. To the extent that this plan is inconsistent with those authorities, those authorities shall prevail.

j. Retention by District Judge

Notwithstanding any provision of this plan, a district judge may retain any matter referred to a magistrate judge.