

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FILED
Jan 31, 2019
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

IN RE:)


ADOPTION OF AMENDED LOCAL)
RULES 138, 180, 230, 240, 270, 302,)
422, 460, APPENDIX A)
_____)

GENERAL ORDER NO. 596

IT IS HEREBY ORDERED that the Judges of the Eastern District of California, after the notice and comment period provided by 28 U.S.C. §2071(b), adopt the attached Amended Local Rules: Local Rule 138 (Fed. R. Civ. P. 39), Files and Records – Exhibits; Local Rule 180 (Fed. R. Civ. P. 83), Attorneys; Local Rule 230 (Fed. R. Civ. P. 78), Civil Motion Calendar and Procedure; Local Rule 240 (Fed. R. Civ. P. 16), Status Conference; Local Rule 270 (Fed. R. Civ. P. 16), Court Settlement Conferences; Local Rule 302 (Fed. R. Civ. P. 72), Duties to be Performed by Magistrate Judges; Local Rule 422 (F. R. Crim. P. 58), Appeal from Conviction by a Magistrate Judge; Local Rule 460 (Fed. R. Crim. P. 32, 18 U.S.C. § 3153(c)), Disclosure of Presentence Reports, Pretrial Services Reports and Related Records; and Local Rule Appendix A, Automated Case Assignment Plan. These amended Local Rules shall take effect February 1, 2019.

DATED: January 31, 2019

For the Court:



Lawrence J. O'Neill, Chief Judge
United States District Court

RULE 138 (Fed. R. Civ. P. 39)

FILES AND RECORDS – EXHIBITS

(a)(1) Official Court Record. Except as provided by these Rules, the official court record in all actions filed after January 3, 2005 is the electronic case file. For cases filed before January 3, 2005, all documents filed up to January 3, 2005 will be maintained in paper format; all documents filed after January 3, 2005 will be maintained in electronic format. The official court record in these actions is paper up to January 3, 2005 and electronic thereafter. After January 3, 2005, the official record shall include paper documents permitted by these Rules. When paper filings are authorized, the Court may order that the paper filings be maintained indefinitely by the Clerk until archival and may also order that the paper file created be the official record of the Court.

(a)(2) Custody and Withdrawal of the Official Case Record. All electronic and paper files and records of the Court shall remain in the custody of the Clerk. No file and no record, paper, or item belonging to the files of the Court shall be taken from the custody of the Clerk without a special order of the Court and a receipt given by the party obtaining it, describing it and the date of its receipt, except as otherwise provided by this Rule. Retention of sealed paper documents shall be governed by the sealed documents procedures. See L.R. 141.

(b) Administrative Records. Due to the usual size of administrative records, attorneys shall, if possible, submit the administrative record in electronic format with a mandatory courtesy copy in paper for the assigned Judge or Magistrate Judge. If there is no electronic record, the Clerk will accept for filing a certified paper copy accompanied by an electronic "Notice of Filing in Paper Format." The administrative record will be maintained in paper format and returned to the submitting attorney at the conclusion of the action, if no appeal is filed, and after appeal or further proceedings in the district court as appropriate. Administrative record or trial transcript procedures for Social Security or habeas corpus actions are set forth in L.R. 190(f), 191(i), and 206(c). Pro se parties shall submit the administrative records in paper if they have the obligation to file the administrative records.

(c)(1) Pretrial/Post-trial Exhibits and Affidavits; Size Guidelines for Electronic Format. Unless otherwise permitted or required to be filed in paper format by these Rules, all pretrial exhibits and affidavits must be submitted in electronic format. While there is no presumptive page limit on exhibits that may be submitted to the Court in electronic format, voluminous scanned attachments and exhibits may have to be divided into separate attachments. Current size limits for documents submitted through CM/ECF can be found through the Court Information link on the Court's CM/ECF Welcome Page: <https://ecf.caed.uscourts.gov/cgi-bin/CourtInfo.pl>.

(c)(2) Scanning Exhibits. Absent special circumstances, exhibits that are black and white documents should be scanned in black and white with a scanner configured at 300 dots per inch (dpi), if possible. (Higher resolutions take too much electronic file space and are slower to load/upload, while lower resolutions will provide a poor quality document). Documents in color in their original form, such as color photographs, may be scanned in color and submitted. The filing counsel shall verify the readability of scanned documents before filing them electronically. Parties who anticipate filing many exhibits in color should seek special procedures for filing at the time of a scheduling conference or from the Court at reasonable time before the due date of the filing. These procedures could include an exemption from the usual electronic size of a filed document or filing in paper.

(c)(3) Retention of Scanned Documents. Originals of documents requiring scanning that are filed electronically must be retained by the filing counsel and made available, upon request, to the Court and other parties, for at least one year after final judgment and completion of all appeals. If law, including state law concerning attorney practice, or the needs of the action require further retention, filing counsel shall retain the originals for the necessary period.

(d) Pretrial/Post-trial Exhibits; Conventional (Paper) Submission. Pro se parties may only file paper documents and need not seek permission to do so. If an attorney, for exceptional circumstances, believes submission of exhibits must be in paper format, the attorney must apply to the Court for an exemption from the requirement for electronic submission. Any such application must be filed no less than seven (7) days before the date the filing is due. When exhibits are submitted in paper format, the party shall file and serve the exhibits and also electronically file, a one page .pdf document entitled "Notice of Attachment" referencing the electronically-filed pleading, motion or other document pertinent to the Notice and stating that exhibits are being submitted in paper. The Notice shall specify the date of the order permitting filing in paper to enable the docket to reflect that documents are being held as ordered with the Clerk in paper format. The party shall also file a CD or other appropriate media containing the filed exhibits for the Clerk's use. Unless the Court orders otherwise, no court file containing the paper exhibits shall be maintained, and the exhibits shall be placed in the chronological paper file and discarded after a one year period.

(e) Trial Exhibits. Exhibits offered or admitted at trial will not be scanned or received electronically unless ordered by the Court.

(f) Custody of Exhibits. All exhibits, including models and diagrams marked for identification or introduced in evidence, upon the hearing of any action or motion, shall be delivered to the Clerk, who shall keep custody of the same, except as otherwise ordered by the Court. All exhibits received in evidence that are in the nature of narcotic drugs, legal or counterfeit money, firearms or contraband of any kind shall be entrusted to the custody of the arresting or investigative agency of the Government pending disposition of the action and for any appeal period thereafter.

(g) Withdrawal of Civil Exhibits. In a civil action, after judgment has become final or upon the filing of a stipulation of the parties waiving the right of appeal, rehearing and a new trial, any party may withdraw any evidentiary exhibit originally produced by that party unless some other person files and serves on all other parties prior notice of a claim or entitlement to the exhibit, in which case the Clerk shall not deliver the exhibit, except with the written consent of all claimants, until the Court has determined the identity of the person entitled thereto.

(h) Withdrawal of Criminal Exhibits. Absent a stipulation of all parties, see L.R. 143, the Clerk shall maintain all exhibits during the pendency of the criminal trial and all appeals unless otherwise provided in these Rules. Following the spreading of mandate, the Clerk shall notify all parties of the availability of the exhibit for repossession by the party offering the exhibit in the absence of objection by another party. If no objection is lodged within twenty-eight (28) days, the Clerk may return the exhibit to the party offering it on request.

(i) Disposition of Unclaimed Exhibits. If exhibits are not re-claimed within sixty (60) days after notice to the parties to claim the same, the Clerk may dispose of them as the Clerk may deem fit.

(j) Substitution of Copies. Unless there is a specific reason why original exhibits should be retained, the assigned Judge or Magistrate Judge may, upon stipulation or motion, order them returned to the party to whom they belong upon the filing of a copy certified by the Clerk or approved by counsel for all parties concerned.

(k) Electronic and Mailed Correspondence. Non-case related correspondence is not governed by these Rules. Appropriate case-related correspondence shall be transmitted to the email address or conventional mail address of the pertinent courtroom deputy clerk. The assigned Judge or Magistrate Judge to whom the correspondence is addressed will determine whether such correspondence should be filed.

(l) Submission of Audio and Video Files on Portable Media. All audio and video files are required to be submitted electronically in one of the formats listed on the Electronic Evidence Submission page on the Court's Website www.caed.uscourts.gov. Submissions must be made on either a Compact Disk (CD), Digital Video Disk (DVD), or USB (Universal Serial Bus) Flash Drive. All other formats requiring proprietary programs to view electronic files will not be accepted. Media submitted to the Court must be labelled, contain files for submission only and be free of damage.

RULE 180 (Fed. R. Civ. P.83)

ATTORNEYS

(a) **Admission to the Bar of this Court.** Admission to and continuing membership in the Bar of this Court are limited to attorneys who are active members in good standing of the State Bar of California.

(1) **Petition for Admission.** Each applicant for admission shall present to the Clerk an affidavit petitioning for admission, stating both residence and office addresses, the courts in which the applicant has been admitted to practice, the respective dates of admissions to those courts, whether the applicant is active and in good standing in each, and whether the applicant has been or is being subjected to any disciplinary proceedings. Forms will be furnished by the Clerk and shall be available on the Court's website.

(2) **Proof of Bar Membership.** The petition shall be accompanied by a certificate of standing from the State Bar of California or a printout from the State Bar of California website that provides that the applicant is an active member of the State Bar of California and shall include the State Bar number.

(3) **Oath and Prescribed Fee.** Upon qualification the applicant may be admitted, upon oral motion or without appearing, by signing the prescribed oath and paying the prescribed fee, together with any required assessment, which the Clerk shall place as directed by law with any excess credited to the Court's Nonappropriated Fund.

(b) **Practice in this Court.** Except as otherwise provided herein, only members of the Bar of this Court shall practice in this Court.

(1) **Attorneys for the United States.** An attorney who is not eligible for admission under (a), but who is a member in good standing of and eligible to practice before, the Bar of any United States Court or of the highest Court of any State, or of any Territory or Insular Possession of the United States, may practice in this Court in any matter in which the attorney is employed or retained by the United States or its agencies. Attorneys so permitted to practice in this Court are subject to the jurisdiction of this Court with respect to their conduct to the same extent as members of the Bar of this Court.

(2) **Attorneys Pro Hac Vice.** An attorney who is a member in good standing of, and eligible to practice before, the Bar of any United States Court or of the highest Court of any State, or of any Territory or Insular Possession of the United States, and who has been retained to appear in this Court may, upon application and in the discretion of the Court, be permitted to appear and participate in a particular case. Unless authorized by the Constitution of the United States or an Act of Congress, an attorney is not eligible to practice pursuant to (b)(2) if any one or more of the following apply: (i)

the attorney resides in California, (ii) the attorney is regularly employed in California, or (iii) the attorney is regularly engaged in professional activities in California.

(i) Application. The pro hac vice application shall be electronically presented to the Clerk and shall state under penalty of perjury (i) the attorney's residence and office addresses, (ii) by what courts the attorney has been admitted to practice and the dates of admissions, (iii) a certificate of good standing from the court in the attorney's state of primary practice, (iv) that the attorney is not currently suspended or disbarred in any court, and (v) if the attorney has concurrently or within the year preceding the current application made any other pro hac vice applications to this Court, the title and number of each action in which such application was made, the date of each application, and whether each application was granted.

(ii) Designee. The attorney shall also designate in the application a member of the Bar of this Court with whom the Court and opposing counsel may readily communicate regarding that attorney's conduct of the action and upon whom service shall be made. The attorney shall submit with such application the name, address, telephone number, and consent of such designee.

(iii) Prescribed Fee. The pro hac vice application shall also be accompanied by payment to the Clerk of any prescribed fee, together with any required assessment which the Clerk shall place as directed by law with any excess credited to the Court's Nonappropriated Fund. If the pro hac vice application is denied, the Court may refund any or all of the fee or assessment paid by the attorney.

(iv) Subject to Jurisdiction. If the application is granted, the attorney is subject to the jurisdiction of the Court with respect to conduct to the same extent as a member of the Bar of this Court.

(3) Certified Students. See L.R. 181.

(4) Designated Officers, Agents or Employees.

(A) An officer, agent or employee of a federal agency or department may practice before the Magistrate Judges on criminal matters in this Court, whether or not that officer, agent, or employee is an attorney, if that officer, agent or employee:

(i) has been assigned by the employing federal agency or department to appear as a prosecutor on its behalf;

(ii) has received four or more hours training from the United States Attorney's Office in the preceding twenty-four (24) months;

(iii) has filed a designation in accordance with (B); and

(iv) is supervised by the United States Attorney's Office.

Supervision by the United States Attorney's Office means that employees of that Office are available to answer questions of any such officer, agent, or employee.

(B) Designations shall be filed on a form provided by the Clerk that shall include a verification that the officer, agent, or employee has satisfied the requirements of this Rule. A designation is effective for twenty-four (24) months. The officer, agent, or employee shall file the designation either in Fresno, if the officer, agent, or employee anticipates appearing only before Magistrate Judges at locations in the counties specifically enumerated in L.R. 120(b), or in Sacramento in all other circumstances. After filing the designation in any calendar year, the officer, agent, or employee shall not appear before any particular Magistrate Judge without providing a copy of the designation to that Magistrate Judge.

(C) Officers, agents and employees so permitted to practice in this Court are subject to the jurisdiction of this Court with respect to their conduct to the same extent as members of the Bar of this Court.

(5) RIHC and RLSA Attorneys. An attorney who is currently designated by the State Bar of California as Registered In-House Counsel (RIHC) or as a Registered Legal Services Attorney (RLSA) may petition the Court to practice by completing the petition for admission, supplying the proof of bar membership, and providing the oath and prescribed fee under (a). Any attorney allowed to practice in the Eastern District of California under this section may only practice as long as the attorney is designated as an RIHC or RLSA by the State Bar of California.

(c) Notice of Change in Status. An attorney who is a member of the Bar of this Court or who has been permitted to practice in this Court under (b) shall promptly notify the Court of any change in status in any other jurisdiction that would make the attorney ineligible for membership in the Bar of this Court or ineligible to practice in this Court. In the event an attorney appearing in this Court under (b) is no longer eligible to practice in any other jurisdiction by reason of suspension for nonpayment of fees or enrollment as an inactive member, the attorney shall forthwith be suspended from practice before this Court without any order of Court until becoming eligible to practice in another jurisdiction.

(d) Penalty for Unauthorized Practice. The Court may order any person who practices before it in violation of this Rule to pay an appropriate penalty that the Clerk shall credit to the Court's Nonappropriated Fund. Payment of such sum shall be an additional condition of admission or reinstatement to the Bar of this Court or to practice in this Court

(e) Standards of Professional Conduct. Every member of the Bar of this Court, and any attorney permitted to practice in this Court under (b), shall become familiar with and comply with the standards of professional conduct required of members of the State Bar of California and contained in the State Bar Act, the Rules of Professional Conduct of the State Bar of California, and court decisions applicable thereto, which

are hereby adopted as standards of professional conduct in this Court. In the absence of an applicable standard therein, the ~~Model Code of Professional Responsibility~~ **Model Rules of Professional Conduct** of the American Bar Association may be considered guidance. No attorney admitted to practice before this Court shall engage in any conduct that degrades or impugns the integrity of the Court or in any manner interferes with the administration of justice.

(f) Attorney Registration for Electronic Filing. All attorneys who wish to file documents in the Eastern District of California must be admitted to practice or admitted to appear pro hac vice. They must also complete an e-filing registration as prescribed in

L.R. 135.

RULE 230 (Fed. R. Civ. P. 78)

CIVIL MOTION CALENDAR AND PROCEDURE

(a) Motion Calendar. Each Judge or Magistrate Judge maintains an individual motion calendar. Information as to the times and dates for each motion calendar may be obtained from the Clerk or the courtroom deputy clerk for the assigned Judge or Magistrate Judge.

(b) Notice, Motion, Brief and Evidence. Except as otherwise provided in these Rules or as ordered or allowed by the Court, all motions shall be noticed on the motion calendar of the assigned Judge or Magistrate Judge. The moving party shall file a notice of motion, motion, accompanying briefs, affidavits, if appropriate, and copies of all documentary evidence that the moving party intends to submit in support of the motion. The matter shall be set for hearing on the motion calendar of the Judge or Magistrate Judge to whom the action has been assigned or before whom the motion is to be heard not less than twenty-eight (28) days after service and filing of the motion. Motions defectively noticed shall be filed, but not set for hearing; the Clerk shall immediately notify the moving party of the defective notice and of the next available dates and times for proper notice, and the moving party shall file and serve a new notice of motion setting forth a proper time and date. See L.R. 135.

(c) Opposition and Non-Opposition. Opposition, if any, to the granting of the motion shall be in writing and shall be filed and served not less than fourteen (14) days preceding the noticed (or continued) hearing date. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. No party will be entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has not been timely filed by that party. See L.R. 135. **A failure to file a timely opposition may also be construed by the Court as a non-opposition to the motion.**

(d) Reply. Not less than seven (7) days preceding the date of hearing, the moving party may serve and file a reply to any opposition filed by a responding party.

(e) Related or Counter-Motions. Any counter-motion or other motion that a party may desire to make that is related to the general subject matter of the original motion shall be served and filed in the manner and on the date prescribed for the filing of opposition. If a counter-motion or other related motion is filed, the Court may continue the hearing on the original and all related motions so as to give all parties reasonable opportunity to serve and file oppositions and replies to all pending motions.

(f) Continuances. Requests for continuances of hearings on the motion calendar, upon stipulation or otherwise, shall be made to the Judge or Magistrate Judge on whose calendar the matter is set, at least seven (7) days before the scheduled hearing date. All stipulations for continuance shall be submitted for approval to the Court. See L.R. 143, 144.

(g) Hearing and Oral Argument. Upon the call of the motion, the Court will hear appropriate and reasonable oral argument. Alternatively, the motion may be submitted upon the record and briefs on file if the parties stipulate thereto, or if the Court so orders, subject to the power of the Court to reopen the matter for further briefs or oral arguments or both. Any party that believes that extended oral argument, more than 10 minutes per side or 20 minutes in the aggregate, will be required shall notify the courtroom deputy clerk so that the hearing may be rescheduled if deemed appropriate by the Court.

(h) Use of Affidavits. Factual contentions involved in pretrial motions shall be initially presented and heard upon affidavits, except that the Court may in its discretion require or allow oral examination of witnesses. See L.R. 142.

(i) Failure to Appear. Absent notice of intent to submit the matter on the briefs, failure to appear may be deemed withdrawal of the motion or of opposition to the motion, in the discretion of the Court, or may result in the imposition of sanctions.

(j) Applications for Reconsideration. Whenever any motion has been granted or denied in whole or in part, and a subsequent motion for reconsideration is made upon the same or any alleged different set of facts, counsel shall present to the Judge or Magistrate Judge to whom such subsequent motion is made an affidavit or brief, as appropriate, setting forth the material facts and circumstances surrounding each motion for which reconsideration is sought, including:

- (1) when and to what Judge or Magistrate Judge the prior motion was made;
- (2) what ruling, decision, or order was made thereon;
- (3) what new or different facts or circumstances are claimed to exist which did not exist or were not shown upon such prior motion, or what other grounds exist for the motion; and
- (4) why the facts or circumstances were not shown at the time of the prior motion.

(k) Motions Before a Magistrate Judge. Only those motions in matters specified in L.R. 302 and 303 shall be noticed, briefed, and argued before a Magistrate Judge. All other motions shall be noticed, briefed and argued before a Judge.

(l) Motions in Prisoner Actions. All motions, except motions to dismiss for lack of prosecution, filed in actions wherein one party is incarcerated and proceeding in propria persona, shall be submitted upon the record without oral argument unless otherwise ordered by the Court. Such motions need not be noticed on the motion calendar. Opposition, if any, to the granting of the motion shall be served and filed by the responding party not more than twenty-one (21) days after the date of service of the motion. A responding party who has no opposition to the granting of the motion shall

serve and file a statement to that effect, specifically designating the motion in question. Failure of the responding party to file an opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions. The moving party may, not more than seven (7) days after the opposition has been filed in CM/ECF, serve and file a reply to the opposition. All such motions will be deemed submitted when the time to reply has expired.

RULE 240 (Fed. R. Civ. P. 16)

STATUS CONFERENCE

(a) Conference. After an action has been filed, the assigned Judge or Magistrate Judge shall order the holding of one or more status conferences for the purpose of entering a pretrial scheduling order, and further status conferences may be held at any time thereafter, with or without the request of any party. See Fed. R. Civ. P. 16. All parties receiving notice of any status conference shall appear in person or by attorney, shall be prepared to discuss such subjects as may be specified in the order noticing the conference, and shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed. Such subjects may include:

- (1) service of process on parties not yet served;
- (2) jurisdiction and venue;
- (3) whether the action is required to be heard by a District Court composed of three Judges, see L.R. 203, or whether the action draws in issue the constitutionality of a statute or regulation under circumstances requiring notice as set forth in 28 U.S.C. § 2403, Fed. R. Civ. P. 5.1 or L.R. 132;
- (4) joinder of additional parties and amendment of pleadings;
- (5) the formulation and simplification of the issues, including elimination of frivolous claims and defenses;
- (6) the appropriateness of any variance from the usual filing and service requirements applicable to the action;
- (7) the disposition of pending motions, the timing of a motion for class certification, see L.R. 205, the appropriateness and timing of summary adjudication under Fed. R. Civ. P. 56, and other anticipated motions;
- (8) propriety of initial disclosures as contemplated by Fed. R. Civ. P. 26(a)(1); results of the initial discovery conference; anticipated or outstanding discovery, including the necessity for relief from discovery limits; and the control and scheduling of discovery, including deferral of discovery whether to hold further discovery conferences, and other orders affecting discovery pursuant to Fed. R. Civ. P. 26 and 29 through 37;
- (9) the avoidance of unnecessary proof and of cumulative evidence, and limitations or restrictions on the use of testimony under Fed. R. Evid. 702;
- (10) the possibility of obtaining admissions of fact and of documents that

will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the Court on the admissibility of evidence;

(11) further proceedings, including setting dates for further conferences, for the completion of motions and discovery and for pretrial and trial; the appropriateness of an order adopting a plan for disclosure of experts under Fed. R. Civ. P. 26(a)(2), Cal. Civ. Proc. Code § 2034.210 et seq., or an alternative plan; and the appropriateness of an order establishing a reasonable limit on the time allowed for presenting evidence;

(12) modification of the standard pretrial procedures specified by these Rules because of the relative simplicity or complexity of the action;

(13) the appropriateness of an order for a separate trial pursuant to Fed. R. Civ. P. 42(b) with respect to a claim, counterclaim, cross-claim, or third-party claim, or affirmative defense, or with respect to any particular issue in the action;

(14) the appropriateness of an order directing a party or parties to present evidence early in the trial with respect to a manageable issue that could, on the evidence, be the basis for a judgment as a matter of law under Fed. R. Civ. P. 50(a) or a judgment on partial findings under Fed. R. Civ. P. 52(c);

(15) appropriateness of special procedures such as reference to a special master or Magistrate Judge or the Judicial Panel on Multidistrict Litigation, or application of the Manual for Complex Litigation;

(16) the prospects for settlement and the use of special procedures to assist in resolving the dispute when authorized by statute or these Rules, provided, however, that counsel shall not, in the absence of a written stipulation, reveal any offers made or rejected during settlement negotiations, and counsel shall specify whether they will stipulate to the trial Judge ~~or Magistrate Judge~~ acting as settlement judge and waive any disqualification by virtue thereof;

(17) the appropriateness of alternate dispute resolution, such as this District's Voluntary Dispute Resolution Program (VDRP), or any other alternative dispute resolution procedure; and

(18) any other matters that may facilitate the just, speedy and inexpensive determination of the action.

(b) Reports. Except in those types of actions specifically exempted from initial disclosure by Fed. R. Civ. P. 26(a)(1)(B), the parties must submit reports to the Court concerning their proposed discovery plan within fourteen (14) days after their discovery conference. The Court may require the submission of preconference reports on some or all of the foregoing subjects. See also L.R. 271(d)(2).

(c) Exceptions to Mandatory Scheduling Order Requirement. The following categories of civil actions are excepted from the mandatory scheduling order requirement set forth in Fed. R. Civ. P. 16(b):

(1) actions brought under Title 42 of the United States Code to review a final decision of the Commissioner of Social Security;

(2) actions brought to enforce Internal Revenue Service summonses filed pursuant to 26 U.S.C. §§ 7402(b) and 7604(a), and actions to quash administrative summonses filed pursuant to 26 U.S.C. § 7609(b)(2);

(3) actions for writs of entry in connection with the enforcement of Internal Revenue Service tax liens;

(4) actions to enforce collection on promissory notes involving federally insured loans and direct federal loans in which the prayer for relief is less than \$25,000;

(5) actions to enforce cease and desist orders issued by the National Labor Relations Board;

(6) actions to enforce arbitration awards;

(7) actions under 46 U.S.C. §§ 2302, 4311(d) and 12309(c);

(8) prisoner actions as defined in L.R. 101;

(9) petitions for writs of habeas corpus by incarcerated persons;

(10) extradition proceedings;

(11) discovery disputes originating from out-of-district actions;

(12) civil commitment proceedings; and

(13) Federal Debt Collection proceedings.

RULE 270 (Fed. R. Civ. P. 16)

COURT SETTLEMENT CONFERENCES

(a) Setting of Settlement Conferences. A settlement conference shall be held in all actions unless otherwise ordered by the Court on objection of a party or for other good cause. Counsel shall notify the Court when the settlement conference is set if the litigation is unusual or complex and if there is a need to provide for additional time or special arrangements to ensure that the settlement conference will be meaningful.

(b) Settlement Conferences Before the Assigned Trial Judge or Assigned Magistrate Judge. Unless all the parties affirmatively request that the assigned trial Judge ~~or Magistrate Judge~~ participate in the conference and waive in writing any claim of disqualification on that basis to act as ~~the trial Judge or Magistrate Judge~~ in the action thereafter, the ~~assigned trial Judge or Magistrate Judge~~ shall not conduct the settlement conference. See L.R. 240(a)(16). ~~If the assigned Magistrate Judge is not the trial Judge, this Rule does not prohibit the assigned Magistrate Judge from conducting the conference, in his or her discretion, except that, at the time the settlement conference is scheduled or as otherwise ordered by the Court, any party may request that the conference not be conducted by the assigned Magistrate Judge.~~

(c) Settlement Conference Statements. Unless otherwise ordered by the Court, the submission of settlement conference statements before the conference is optional. Statements submitted before the conference are reviewed in preparation for the conference and may assist in achieving the goals of the conference; they should be drafted with that purpose in mind.

(d) Confidentiality of Settlement Conference Statements. Settlement conference statements shall not be disclosed to the Judge or Magistrate Judge assigned to try the action unless the parties have agreed, and the Judge or Magistrate Judge has approved, that such Judge or Magistrate Judge will preside at the settlement conference. Settlement conference statements may be e-mailed in .pdf format directly to the courtroom deputy clerk of the Judge or Magistrate Judge before whom the settlement conference is to be held or may be submitted in paper directly to chambers. If the statement is confidential, it must be clearly captioned to reveal its confidential character. If a party is submitting a confidential settlement conference statement, the party must file a one page document entitled "Notice of Submission of Confidential Settlement Conference Statement." That filing, if done electronically, will thereby effect service of this notice on all other parties. If the notice is filed conventionally, the filing party must serve all other parties. The parties may agree, or not, to serve each other with the settlement statements.

(e) Return of Settlement Conference Statements. At the completion of the settlement conference, the Judge or Magistrate Judge before whom the settlement conference is held shall return the statements to the respective parties who submitted

them or otherwise dispose of them. Settlement conference statements shall not be filed or made a part of the Court's records.

(f) Participation of a Principal.

(1) United States Not a Party. In actions in which the United States is not a party, and unless specifically permitted otherwise by the Judge or Magistrate Judge conducting the settlement conference, counsel shall be accompanied in person—by a person capable of disposition, or shall be fully authorized to settle the matter at the settlement conference on any terms. When settlement must be approved by a vote of a party's governing body, unless specifically permitted otherwise by the Judge or Magistrate Judge conducting the settlement conference, counsel shall be designated or shall be accompanied in person by a representative designated by the body who shall have learned the body's preconference disposition relative to settlement.

(2) United States a Party. In actions in which the United States is a party, the attorney for the United States shall obtain the approval of the United States Attorney to compromise any matter within the authority delegated to the United States Attorney by rule or regulation of the Attorney General. If such delegated authority to approve a compromise settlement is limited by the opposition of another federal agency, a responsible and knowledgeable representative of such agency shall attend the conference. In other actions in which the approval of officials of the Department of Justice in Washington, D.C. is required for a compromise settlement, the attorney for the United States shall, before the settlement conference, attempt to confer with such officials, or their appropriate representatives, to determine the terms and conditions upon which a compromise settlement would be approved. If a tentative compromise settlement that is within such terms and conditions is agreed to at the conference, the attorney for the United States shall promptly recommend it to and seek the required approval of the appropriate official.

RULE 302 (Fed. R. Civ. P. 72)

DUTIES TO BE PERFORMED BY MAGISTRATE JUDGES

(a) General. It is the intent of this Rule that Magistrate Judges perform all duties permitted by 28 U.S.C. § 636(a), (b)(1)(A), or other law where the standard of review of the Magistrate Judge's decision is clearly erroneous or contrary to law. Specific duties are enumerated in (b) and (c); however, those described duties are not to be considered a limitation of this general grant.

Magistrate Judges will perform the duties described in 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 53 upon specific designation of a District Judge or by designation in (b) and (c).

(b) Duties to Be Performed in Criminal Matters by a Magistrate Judge Pursuant to 28 U.S.C. § 636(a), (b)(1)(A), (b)(1)(B), (b)(3), or Other Law.

(1) All pretrial matters in felony criminal actions except motions to suppress evidence, motions to quash or dismiss an indictment or information, motions to discover the identity of an informant, motions for severance, and entry of pleas of guilty;

(2) Preliminary proceedings in felony probation or supervised release revocation actions;

(3) All pretrial, trial, and post-trial matters in any misdemeanor action (including petty offenses and infractions), see Fed. R. Crim. P. 58; L.R. 421;

(4) Supervision of proceedings conducted pursuant to letters rogatory or letters of request;

(5) Receipt of indictments returned by the grand jury in accordance with Fed. R. Crim. P. 6(e)(4), 6(f);

(6) Conduct of all proceedings contemplated by Fed. R. Crim. P. 1, 3, 4, 5, 5.1, 9, 40, 41, except Rule 41(e) post-indictment/information motions and Rule 41(f) motions in felony actions made at any time; included within this grant are applications for mobile tracking devices (18 U.S.C. § 3117), pen registers or trap and trace devices (18 U.S.C. § 3121 et seq.), applications for retrieval of electronic communications records (18 U.S.C. § 2701 et seq.), and applications for disclosure of tax return information (26 U.S.C. § 6103);

(7) Motions to exonerate bail;

(8) Extradition proceedings, 18 U.S.C. § 3181 et seq.;

(9) Upon specific designation of a Judge and consent of the parties, jury voir dire in criminal actions.

(c) Duties to Be Performed in Civil Matters by a Magistrate Judge Pursuant to 28 U.S.C. § 636(a), (b)(1)(A), (b)(1)(B), (b)(3), or Other Law.

(1) All discovery motions, including Fed. R. Civ. P. 37 motions, and supervision of proceedings conducted pursuant to letters rogatory or letters of request; all stipulations and motions relating to protective orders and sealing documents submitted or filed for hearing before discovery cutoff;

(2) Supervision of proceedings conducted pursuant to letters rogatory or letters of request;

(3) All pretrial motions pursuant to the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss for failure to state a claim upon which relief can be granted, and to dismiss an action involuntarily;

(4) Review of petitions in civil commitment proceedings under Title III of the Narcotic Addict Rehabilitation Act;

(5) Proceedings under 46 U.S.C. §§ 2302, 4311(d), and 12309(c);

(6) All motions for specific leave of court for the making of deposits into the registry of the Court, and all motions for orders providing for special placement of deposits, see L.R. 150;

(7) All motions brought pursuant to the Federal Debt Collections Procedures Act of 1990, 28 U.S.C. § 3001 et seq.;

(8) Applications for writs of entry in connection with the enforcement of Internal Revenue Service tax liens;

(9) Petitions to enforce Internal Revenue Service summonses filed pursuant to 26 U.S.C. §§ 7402(b) and 7604(a);

(10) Petitions to quash administrative summonses filed pursuant to
26
U.S.C. § 7609(b)(2);

(11) Examinations of judgment debtors in accordance with Fed. R. Civ. P.69;

- (12) Settlement conferences as may be calendared;
- (13) In Fresno, all pretrial scheduling conferences and the final pretrial conference;
- (14) All applications for interim disbursement under L.R. 202(f);
- (15) Actions brought under Title 42 of the United States Code to review a final decision of the Commissioner of Social Security, including dispositive and non- dispositive motions and matters;
- (16) Actions involving federally insured student loans, 20 U.S.C. § 1071 et seq., including dispositive and non-dispositive motions and matters;
- (17) Actions brought by a person in custody who is seeking habeas corpus relief (28 U.S.C. § 2241 et seq.), or any relief authorized by 42 U.S.C. § 1981 et seq.), *Bivens* or the Federal Tort Claims Act including dispositive and non-dispositive motions and matters;
- (18) Upon specific designation of a Judge, jury verdicts in civil actions;
- (19) Motions for entry of default judgment under Fed. R. Civ. P. 55(b)(2);
- (20) Enforcement of L.R. 271 as provided in L.R. 271(i);
- (21) In Sacramento, all actions in which all the plaintiffs or defendants are proceeding in propria persona, including dispositive and non-dispositive motions and matters. Actions initially assigned to a Magistrate Judge under this paragraph shall be referred back to the assigned Judge if a party appearing in propria persona is later represented by an attorney appearing in accordance with L.R. 180.

(d) Retention by a District Judge. Notwithstanding any other provision of this Rule, a Judge may retain any matter otherwise routinely referred to a Magistrate Judge. Applications for retention of such matters, however, are looked upon with disfavor and in unusual and compelling circumstances.

RULE 422 (Fed. R. Crim. P. 58)

APPEAL FROM CONVICTION BY A MAGISTRATE JUDGE

(a) Notice of Appeal. A defendant who has been convicted in a trial by a Magistrate Judge may appeal to a **District** Judge by proceeding in accordance with Fed. R. Crim. P. 58(g)(2).

(b) Record. Within fourteen (14) days after filing the notice of appeal the appellant shall order ~~A the official transcript, if desired, shall be ordered from the official court reporter or the electronic court recorder operator (E.C.R.O.)~~ as prescribed by Fed. R. App. P. 10(b), or file a certificate stating that no transcript will be ordered. ~~Arrangements for payment shall also be made (as approved by the Judicial Conference). Parties shall have fourteen (14) days to object to any specific matter contained therein by filing and serving a written statement of grounds for the objection. If no party objects, the parties will be referred to the assigned Magistrate Judge who shall, within fourteen (14) days after the referral, correct if necessary and certify the accuracy of the transcript.~~

~~Within twenty-eight (28) days after a transcript has been ordered, the Clerk shall file the transcript, as stipulated to by the parties or as corrected and certified by the assigned Magistrate Judge. Upon such filing of the transcript, the record on appeal shall be deemed complete.~~

~~If no transcript is ordered within fourteen (14) days after the notice of appeal is filed and served, the record on appeal shall be deemed complete without a transcript~~

(c) Assignment to a District Judge. The Clerk shall assign the appeal to a Judge in the same manner as any indictment or felony information. See L.R. 120, Appendix A.

(d) Notice of Hearing. After assignment, the Clerk shall promptly notify the parties of the date and time set for oral argument which shall not be less than sixty-three (63) nor more than ninety-one (91) days after the date of the notice. An earlier date may be set upon joint application of the parties to the assigned Judge.

(e) Time for Serving and Filing Briefs. Appellant's brief shall be served and filed within twenty-one (21) days after ~~service of the notice of hearing the filing of the transcript or certificate stating that no transcript will be ordered.~~ Appellee's brief shall be served and filed within twenty-one (21) days after the filing and service of the appellant's brief. See L.R. 135. Appellant may serve and file a reply brief within seven (7) days after service of the appellee's brief. These periods may be altered by the assigned Judge upon application of the parties or sua sponte. See L.R. 144.

RULE 460 (Fed. R. Crim.P. 32, 18 U.S.C. § 3153(c))

**DISCLOSURE OF PRESENTENCE REPORTS, PRETRIAL SERVICES REPORTS
AND RELATED RECORDS**

(a) Confidential Character of Presentence Reports, Pretrial Services Reports, and Related Records. The presentence reports, pretrial services reports, violation reports, and related documents are confidential records of the United States District Court. Unless further disclosure is expressly authorized by order of the Court or this rule, such records shall be disclosed only to the Court, court personnel, the defendant, the defendant's counsel, the defense investigator, if any, and the United States Attorney's Office in connection with the sentencing, detention/release, or violation hearing.

(b) Requests for Disclosure. Any applicant seeking an order authorizing further disclosure of a presentence report or pretrial services report maintained by the probation or pretrial services offices shall file a written petition to the Court establishing with particularity the need for specific information in the records. Requests for disclosure made to probation or pretrial services officers are improper. Except as provided in (c) below, no further disclosure shall be made except upon an order issued by the Court.

(c) Exceptions. Nothing in this rule is intended to prohibit probation or pretrial services from disclosing records without court order as is authorized by statute, regulation, or formalized national policy.

(d) Availability of Proposed Presentence Report. A copy of the probation officer's proposed presentence report, including the probation officer's recommendations, shall be made available to the United States Attorney's Office and to defense counsel not less than thirty-five (35) days before the date set for sentencing hearing.

(e) Objections to the Report. Defense counsel shall discuss the presentence report with the defendant. Not less than ~~twenty-one (21)~~ **twenty-eight (28)** days before the date set for the sentencing hearing, counsel for defendant and the Government shall each deliver to the probation officer and exchange with each other a written statement of all objections they have to statements of material fact, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the presentence report. After receipt of the objections, the probation officer shall conduct any further investigation and make any necessary revisions to the presentence report.

(f) Submission to the Court. Not less than ~~fourteen (14)~~ **twenty-one (21)** days before the date set for the sentencing hearing, the probation officer shall submit the presentence report, including recommendations, to the sentencing Judge and make it available to counsel for the defendant and the Government. If the presentence report has not been revised, counsel may be so notified and not given a new report.

(g) Formal Objections to Report. Not less than ~~seven (7)~~ **fourteen (14)** days

before the sentencing hearing, counsel for the defendant and the Government shall each file and serve on each other and the probation officer, a concise memorandum of all objections and facts in dispute to be resolved by the Court. This memorandum must specifically identify each item in the report which is challenged as inaccurate or untrue, must set forth the remedy sought (i.e., specified findings or the Court's agreement to disregard the disputed information), and must set forth the reason that the contested information will affect the sentencing guideline, departure or adjustment in the particular action. This requirement is not satisfied by submission of the written objections to the probation officer as set forth in (d).

(h) Limitation on Objections. Except for good cause shown, no objections may be made to the presentence report other than those previously submitted to the probation officer pursuant to (d) and those relating to information contained in the presentence report that was not contained in the proposed presentence report.

(i) Resolution of Disputes. Except with regard to objections not yet resolved, the Court may accept the presentence report as accurate. In resolving any disputes concerning the report, the Court may consider any relevant information having sufficient indicia of reliability.

(j) Sentencing Proceedings. At the time set for imposition of sentence, if there are no material items in dispute, the Court may proceed with the imposition of sentence. If any material dispute remains with respect to the presentence report, the Court shall afford the parties adequate opportunity to present arguments and information on the matter. If the Court determines that the matter cannot be resolved without an evidentiary hearing, the action may be continued for a reasonable period if necessary to enable the parties to secure the attendance of witnesses and the production of documents at the hearing.

APPENDIX A

AUTOMATED CASE ASSIGNMENT PLAN

(a) Purpose. This Assignment Plan is adopted to set forth a method whereby actions are assigned in this District, in accordance with the provisions of 28 U.S.C. § 137. Civil and criminal actions shall be assigned at random by means of an Automated Case Assignment System. All proceedings hereunder shall be under the supervision of the Clerk.

(b) Assignment of Civil Actions. Upon the filing of the initial complaint or other document first filed in a civil action, the Clerk shall assign a case number which shall be consecutive and prefixed by a the number "1:" denoting Fresno or "2:" denoting Sacramento, a filing year (the last two digits of the year in which the action is filed), followed by a "-cv-" and the next available case number available. Example: 1:05-cv-00205.

(c) Assignment of Criminal Actions. Upon the filing of the indictment, information, or other first document in a criminal action, the Clerk shall mark as provided in (b) except that "-cr-" will be used instead of "-cv-."

(d) Assignment of Miscellaneous Actions. Upon the filing of the first document in any action other than a civil action or a criminal action, the Clerk shall mark it as provided in (b)(1) and (2), except that "mc" will be used instead of "cv."

(e) Assignment Procedure. The Clerk shall assign actions to a Judge sitting in Sacramento or Fresno, where the action is filed, in the following manner:

(1) There shall be a separate category for each of the following types of actions:

A. Fresno Civil:

1. Frs DJ Civ (Civil)
2. Frs DJ Civ (Death Penalty)
3. Frs DJ Civ (Prisoner Civil Rights)
4. Frs DJ Civ (Prisoner Habeas Corpus)
5. Frs MJ Civ (Civil)
6. Frs MJ Civ (Prisoner Civil Rights)
7. Frs MJ Civ (Prisoner Habeas Corpus)
8. Frs MJ Civ (Social Security)
9. Frs MJ FP (In Forma Pauperis)
10. Frs MJ MC (Miscellaneous)

B. Fresno Criminal:

1. Frs DJ Cr (01 Defendant)

2. Frs DJ Cr (02-04 Defendants)
3. Frs DJ Cr (05-07 Defendants)
4. Frs DJ Cr (8+ Defendants)
5. Frs DJ Mc (Pre-Indictment Criminal)
5. Frs MJ (Mag Case/Petty Offense)
6. Frs MJ Cr (Misdemeanor)
7. Frs MJ SW (Search Warrant)

C. Sacramento Civil:

1. Sac All St (Settlement Conf)
2. Sac DJ (Emergency / TRO)
3. Sac DJ Civ (Bankruptcy)
4. Sac DJ Civ (Civil Rights)
5. Sac DJ Civ (Contract)
6. Sac DJ Civ (Death Penalty)
7. Sac DJ Civ (Federal Tax Suits)
8. Sac DJ Civ (Forfeiture/Penalty)
9. Sac DJ Civ (Labor)
10. Sac DJ Civ (Other Statutes)
11. Sac DJ Civ (Personal Injury)
12. Sac DJ Civ (Personal Property)
13. Sac DJ Civ (Prisoner Petitions)
14. Sac DJ Civ (Pro Se)
15. Sac DJ Civ (Property Rights)
16. Sac DJ Civ (Real Property)
17. Sac DJ Civ (Social Security)
18. Sac DJ Civ (Unassigned Presider)
19. Sac DJ Mc (Miscellaneous)
20. Sac MJ Civ (Civil)
21. Sac MJ Civ (Death Penalty)
22. Sac MJ Civ (Prisoner Civil Rights)
23. Sac MJ Civ (Prisoner Habeas Corpus)
24. Sac MJ Civ (Pro Se)
25. Sac MJ Civ (Social Security)
26. Sac MJ Mc (Miscellaneous)
27. Sac MJ St (Settlement Conference)

D. Sacramento Criminal:

1. Sac DJ Cr (01-05 Defendants)
2. Sac DJ Cr (06-10 Defendants)
3. Sac DJ Cr (11+ Defendants)
4. Sac DJ Cr (Appeals from MJ)
5. Sac DJ SW (Wire Tap)
6. Sac MJ (Mag Case/Petty Offense)
7. Sac MJ Cr (Misdemeanor)
8. Sac MJ SW (Search Warrant)

E. Bakersfield Criminal:

1. Bak MJ (Mag Case/Petty Offense)
2. Bak MJ Cr (Misdemeanor)

F. Redding Criminal:

1. Red MJ (Mag Case/Petty Offense)
2. Red MJ Cr (Misdemeanor)
3. Red MJ SW (Search Warrant)

G. Yosemite Criminal:

1. Yos MJ (Mag Case/Petty Offense)
2. Yos MJ Cr (Misdemeanor)

(2) Each category or "deck" shall contain a number of "cards" signifying the name of each active Judge. The number of cards for each Judge shall be equal, except as may from time to time be determined by the Court.

(3) The "deck of cards" shall be automatically shuffled by the computer at the time the categories are filled and each time an assignment is made, so that the sequence of the Judge's names shall be random and secret.

(4) When the initial document is presented for filing and has been marked pursuant to (b), (c), or (d), the Clerk shall draw a Judge from the applicable category in the Automated Case Assignment System on the computer.

(5) Thereafter the Clerk shall proceed by assigning the initials of the assigned Judge and Magistrate Judge, immediately after the case number placed on the document pursuant to (b), (c), and (d). All subsequent papers filed in the action shall bear the designation "1:" or "2:" followed by the year, case type "-cv-," "-cr-," or "-mc-" and the case number, followed by the initials of the assigned Judge or Judge and Magistrate Judge, e.g., "**1:05-cr-00200-ABC**" or "**2:05-cv-0700-ABC-DEF.**"

(6) The assignment of each action shall be completed as each initial document is presented for filing and before the processing of the next action is begun.

(7) In emergency situations (in Sacramento) when counsel deems prompt action necessary and if the assigned Judge is absent or otherwise unable to hear the matter in time, the Clerk shall draw the name of another Judge in the manner hereinabove described from the category "Emergency Applications." The matter shall be returned to the calendar of the unavailable assigned Judge upon completion of the hearing on the emergency application unless the matter is transferred pursuant to these Rules.

(f) Reassignments.

No action, once assigned, shall be reassigned to any other Judge except as hereinafter provided:

(1) Actions may be reassigned between Judges on order signed by the transferring and accepting Judges as approved by the Court.

(2) Actions may be assigned and reassigned by order of the Court to effectuate the related case rule. See L.R. 123.

(3) In the event the Judge to whom an action has been assigned files therein a statement of disqualification or is disqualified, the Court may make an order directing the Clerk to draw again for reassignment of the action to another Judge and to replace the name of the disqualified Judge in the Automated Case Assignment System.

(4) With the approval of the Court en banc, the Chief Judge may make such other assignments, reassignments or related orders as are conducive to the equitable division and just, efficient and economical determination of the business of the Court.

(5) At the time of each reassignment the Clerk shall make such appropriate adjustment in the Automated Case Assignment System as is necessary to balance the equal number of "cards" in each assignment category.

(g) Visiting Judges. Whenever a Judge has been assigned to serve as a visiting Judge in this Court, the Chief Judge shall, before the arrival of such Judge, make an order transferring to the visiting Judge from the other Judges those actions designated by them as available for transfer. Selection of actions for this purpose shall be made upon a basis equitable among all the Judges and after consultation with them.

(h) Review of Assignments. A Judge may request the Chief Judge to review an assignment or reassignment. If the Chief Judge requests such review, the Chief Judge shall designate another Judge to serve on the hearing of such request. A Judge affected by a ruling may have the ruling reviewed by the Court en banc.

(i) Assignment Reports.

(1) The Clerk shall maintain assignments in the Automated Case Assignment System which shall contain an account of all actions assigned to each of the Judges or to any visiting Judge and all reassignments among Judges.

(2) At the end of each month, the Clerk will prepare from the foregoing records for the Chief Judge (copy to each Judge) a report showing the number of actions assigned to and pending before each Judge and such other information as the Chief Judge may direct.

(j) Social Security Actions. Notwithstanding any other provision in Appendix A, Social Security individual benefits review actions brought in Sacramento under 42 U.S.C. §§ 405(g), 1383(c)(3), and/or 1395ff, shall be assigned as follows:

(1) When initially assigned, the action shall be randomly assigned to a Magistrate Judge only. The parties shall forthwith be informed of their right to consent to proceed before a Magistrate Judge pursuant to 28 U.S.C. § 636(c). Such notice shall be handed or transmitted by the Clerk to the plaintiff at the time the action is filed, and the plaintiff shall transmit the notice to all other parties as an attachment to copies of the complaint and summons, when served. The form entitled Consent to Assignment or Request for Reassignment shall be returned to the Clerk within ninety (90) days from the date the action was filed.

(2) If all executed Consent to Assignment or Request for Reassignment forms have not been returned within ninety (90) days, parties will be ordered to show cause why the forms have not been returned to the Clerk.

(3) If any party requests reassignment to a United States District Judge, the Clerk will randomly assign a District Judge to hear the action. In the absence of a future consent by all parties, the action shall be adjudicated pursuant to 28 U.S.C. § 636(b)(1)(A) and (b)(3); L.R. 302(c)(15).

(k) Prisoner Civil Rights and Habeas Corpus Actions. Notwithstanding any other provision in Appendix A, actions encompassed by L.R. 302(c)(17) (generally actions brought by a person in state custody for habeas corpus relief or whether in state or federal custody pursuant to 42 U.S.C. § 1981 *et seq.* or its federal *Bivens* equivalent) shall be assigned as follows:

(1) When initially assigned, the action shall be randomly assigned to a Magistrate Judge only. The parties shall be given notice of their right to proceed before a Magistrate Judge pursuant to 28 U.S.C. § 636(c). Such notice shall be transmitted by the Clerk to the plaintiff/petitioner as soon as practicable after the filing of the complaint. Respondents in habeas corpus actions shall be given notice at the time the petition is transmitted to the appropriate government attorney. Defendants in civil rights actions shall be given notice when an order to serve defendants is issued. Notice shall include a form entitled "Consent to Assignment or Request for Reassignment," and the form shall be returned no later than thirty (30) days after receipt of the consent notice referenced above.

(2) If executed Consent to Assignment or Request for Reassignment forms have not been returned as required by (1) above, the parties may be ordered to show cause why the forms have not been returned to the Clerk.

(3) If any party requests reassignment to a United States District Judge, the Clerk shall randomly assign a District Judge as presiding judge. In the absence of a

future consent by all parties, the action shall be adjudicated pursuant to 28 U.S.C. § 636(b)(1)(A) and (b)(3); L.R. 302(c)(17). Actions in which all parties have consented pursuant to 28 U.S.C. § 636(c) shall remain assigned to the Magistrate Judge only.

~~(4) In the event not all named parties have appeared but all who have appeared have consented, the Magistrate Judge shall act in the action pursuant to 28 U.S.C. § 636(c), and shall so continue to act until the action is reassigned to a District Judge as required by this subsection or otherwise applicable law.~~

(I) Direct Assignments. Notwithstanding any other provision in Appendix A, the Judges of this Court have agreed that the following actions shall be directly assigned as follows.

(1) Criminal actions arising from a wire tap search warrant shall be directly assigned to the Judge who was assigned the wire tap search warrant.

(2) Civil forfeiture actions arising from a criminal action shall be directly assigned to the Judge who was assigned to the criminal action. If the civil forfeiture action is filed prior to the criminal action, the Judge initially assigned the civil forfeiture action shall be directly assigned to the criminal action.

(3) All civil actions initiated by non-prisoner plaintiffs from Butte, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, and Trinity counties shall be directly assigned to the Magistrate Judge sitting in Redding. The direct assignment of these cases would be for those purposes anticipated by these Rules, including resolution of discovery disputes, conducting of settlement conferences, and holding jury trials with consent of the parties.

(4) All civil actions where defendants reside in Inyo and Kern counties shall be directly assigned to the Magistrate Judge sitting in Bakersfield. The direct assignment of these cases would be for those purposes anticipated by these Rules including resolution of discovery disputes, conducting of settlement conferences, and holding jury trials with consent of the parties.