

UNITED STATES DISTRICT COURT

Southern

District of

New York

Plaintiff
V.

NOTICE, CONSENT, AND ORDER OF REFERENCE —
EXERCISE OF JURISDICTION BY A UNITED STATES
MAGISTRATE JUDGE

Case Number:

Defendant

**NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION**

In accordance with the provisions of 28 U.S.C. §636(c), and Fed.R.Civ.P. 73, you are notified that a United States magistrate judge of this district court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of this district court.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with provisions of 28 U.S.C. §636(c) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings in this case, including the trial, order the entry of a final judgment, and conduct all post-judgment proceedings.

Party Represented

Signatures

Date

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

ORDER OF REFERENCE

IT IS ORDERED that this case be referred to _____
United States Magistrate Judge, to conduct all proceedings and order the entry of judgment in accordance with 28 U.S.C. §636(c) and Fed.R.Civ.P. 73.

Date

United States District Judge

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENTED
ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

PRO SE OFFICE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
DANIEL PATRICK MOYNIHAN UNITED STATES COURTHOUSE
500 PEARL STREET, ROOM 230
NEW YORK, NEW YORK 10007

J. MICHAEL McMAHON
CLERK OF COURT

**UNITED STATES MAGISTRATE JUDGES AND
NOTICE OF RIGHT TO CONSENT TO DISPOSITION OF A CIVIL CASE BY A
UNITED STATES MAGISTRATE JUDGE**

All cases in the Southern District of New York are assigned to two judges: a District Judge and a Magistrate Judge. United States District Judges are appointed for life terms by the President with the approval of the United States Senate pursuant to Article III of the Constitution. United States Magistrate Judges are appointed by the Board of District Judges of the Southern District of New York for terms of eight (8) years, and may be reappointed at the expiration of the term.

Magistrate Judges are authorized, pursuant to 28 U.S.C. § 636, to conduct any and all proceedings in civil cases, including a jury or non-jury trial, and to order the entry of a final judgment. The Magistrate Judge will not be involved in your case, however, unless the District Judge enters an order referring all or part of your case to the Magistrate Judge or unless all the parties consent to have the Magistrate Judge conduct all proceedings in your case, including trial and entry of a final judgment. A copy of appropriate consent form for this purpose is attached and is also available from the *Pro Se* Office.

Referring the Case to the Magistrate Judge by the District Judge

It is fairly common for a District Judge to refer the case to the Magistrate Judge for general pre-trial purposes (that is, for pre-trial conferences, settlement, and supervision of the discovery process) and for dispositive motions (that is, motions that, if granted, will end the case in favor of one of the parties). The consent of the parties is not needed for the District Judge to refer the case to the Magistrate Judge for these purposes. Rules 72 and 73 of the Federal Rules of Civil Procedure, along with 28 U.S.C. § 636, describe the Magistrate Judge's role in civil lawsuits.

If you disagree with any order (and/or Opinion) issued by the Magistrate Judge on any issue (such as a discovery dispute) that does not dispose of a claim or defense of a party, you may serve and file your Objections within ten (10) business days. If you do not object to the Magistrate Judge's order within ten (10) business days, you may not later object to the order. The District Judge will consider any objections filed and set aside or modify the Magistrate Judge's order only if it is clearly erroneous or contrary to law.

For matters that do dispose of a claim or defense – such as a motion to dismiss or a motion for summary judgment, the Magistrate Judge will issue a Report & Recommendation to the District Judge. If you disagree with the Report and Recommendation issued by the Magistrate Judge, you may serve and file your Objections within ten (10) business days. You must clearly connect your objections to specific recommendations and specifically state why you object to any particular recommendation. The other side may respond to your objections within ten (10) business days after being served.

The District Judge will make a final decision, relying on the Magistrate Judge's Report and Recommendation and the parties' objections. The District Judge may adopt the Magistrate Judge's findings in full or in part, or may decline to adopt the Report and Recommendation and issue an entirely new decision. You may appeal an unfavorable final decision by the District Judge to the United States Court of Appeals for the Second Circuit. Further information regarding the Report and Recommendation process may be found in Rule 72 of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1)©.

Referring the Case to the Magistrate Judge on the Consent of all of the Parties

If all parties in your case consent, your case may be heard for all purposes by the Magistrate Judge, pursuant to 28 U.S.C. § 636©. That means that the Magistrate Judge not only will set the schedule and resolve all discovery disputes, but also that the Magistrate Judge will decide all motions and conduct the trial of the case. The trial may be without a jury or with a jury if either party is entitled to and has requested a jury trial.

Your decision to consent, or not to consent, to the referral of your case to a United States Magistrate Judge for disposition is entirely voluntary and should be communicated solely to the *Pro Se* Office. Only if all parties to the case consent to the reference to a Magistrate Judge will the District Judge and Magistrate Judge to whom the case has been assigned be informed. The District Judge to whom your case is assigned must approve the reference to a Magistrate Judge for disposition of the case for all purposes.

There are a number of benefits to consenting to proceed before a Magistrate Judge for all purposes. Perhaps the greatest benefit is time. District Judges are required to give priority to felony criminal trials, which often are lengthy and complicated. If you consent to proceed before the Magistrate Judge, you will find that your lawsuit generally proceeds with greater speed than if the case were before the District Judge. In other words, your rights are the same before the District Judge or the Magistrate Judge, but generally your case will proceed to trial faster if you have consented to have your case heard before the Magistrate Judge.

In cases where the parties have consented to proceed before the Magistrate Judge, an appeal from the judgment may be taken directly to the United States Court of Court Appeals for the Second Circuit. 28 U.S.C. § 636(c)(3).