

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED
February 8, 2008
LAWRENCE K. BAERMAN, CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK



GENERAL ORDER #32

Amendment to Local Rules of Civil Procedure
5.4(a), 16.1 (b), 40.1 and 72.3
regarding **CASE ASSIGNMENT.**

The Court reserves the right to rescind at any time the referral to the assigned Magistrate Judge in any pending case, or assign any newly filed action to a District Judge only, without referral to a Magistrate Judge.

NDNY Local Rule 5.4(a), shall now read as follows:

LRCvP 5.4 Civil Actions Filed *In Forma Pauperis*; Applications for Leave to Proceed *In Forma Pauperis*.

(a) On receipt of a complaint or petition and an application to proceed *in forma pauperis*, and supporting documentation as required for prisoner litigants, the Clerk shall promptly file the complaint or petition without the payment of fees and assign the action in accordance with L.R. 40.1. The Clerk shall then forward the complaint or petition, application and supporting documentation to the assigned judicial officer for a determination of the *in forma pauperis* application and the sufficiency of the complaint or petition and, if appropriate, to direct service. The granting of an *in forma pauperis* application shall not relieve a party of the obligation to pay all other fees for which that party is responsible regarding the action, including but not limited to copying and/or witness fees.

NDNY Local Rule 16.1(b), shall now read as follows:

(b) Assignment of District Judge/Magistrate Judge. Immediately upon the filing of a civil action, the Clerk shall assign the action to a District Judge and may also assign the action to a Magistrate Judge pursuant to the Court's assignment plan. When a civil action is assigned to a Magistrate Judge, the Magistrate Judge shall conduct proceedings in accordance with these Rules and 28 U.S.C. §636 as directed by the District Judge. Once assigned, either judicial officer shall have authority to design and issue a case management order.

NDNY Local Rule of Civil Procedure 40.1. shall now read as follows:

LRCvP 40.1 Case Assignment System.

Immediately upon the filing of a civil action or proceeding, the Clerk shall assign the action or proceeding to a District Judge and may also assign the action or proceeding to a Magistrate Judge pursuant to the Court's Assignment Plan. When a civil action or proceeding is assigned to a Magistrate Judge, the Magistrate Judge shall conduct proceedings in accordance with these Rules and 28 U.S.C. §636 as directed by the District Judge. (See General Order #12)

L.R. 72.3 - **Sections (c) and (d) have been removed due to the modification to section (a) below - section (e) Federal Debt Collection Act Cases is now the new section (c).**

NDNY Local Rule of Civil Procedure 72.3 shall now read as follows:

LRCvP 72.3 Assignment of Duties to Magistrate Judges

- (a) Immediately upon the filing of a civil action or proceeding, the Clerk shall assign the action or proceeding to a District Judge and may also assign the action or proceeding to a Magistrate Judge pursuant to the Court's Assignment Plan. When a civil action or proceeding is assigned to a Magistrate Judge, the Magistrate Judge shall conduct proceedings in accordance with these Rules and 28 U.S.C. §636 as directed by the District Judge. (See L.R. 40.1)
- (b) All civil cases in which the parties have executed and filed consent forms pursuant to 28 U.S.C. § 636(c) and L.R. 72.2(b) shall be transmitted to the assigned District Judge for approval and referral of the case to a Magistrate Judge, who shall then have the authority to conduct all proceedings and to direct the Clerk to enter final a judgment. (See L.R. 72.2(b)(3))

(c) **Federal Debt Collection Act Cases.**

1. Any action brought pursuant to the Federal Debt Collection Act, 28 U.S.C. § 3001 *et seq.*, shall be handled on an expedited basis and brought before a Magistrate Judge in Syracuse, New York, or to a District Judge if no Magistrate Judge is available, for an initial determination.
2. If appropriate, an order shall be issued directing the clerk to issue the writ being sought, except that an application under 28 U.S.C. § 3203 for a writ of execution in a post-judgment proceeding shall not require an order of the Court.
3. Thereafter, the Clerk is directed to assign geographically a Magistrate Judge if none was previously assigned in accordance with General Order #12.
4. The assigned Magistrate Judge shall conduct any hearing that may be requested, decide all non-dispositive issues, and issue a report-recommendation on any and all dispositive issues.
5. The parties shall file written objections to the report-recommendation within twenty (20) days of the filing of same. Without oral argument, the assigned judge shall review the report-recommendation along with any objections that the parties have filed.
6. On the request for a hearing, the clerk shall make a good faith effort to schedule the hearing within five (5) days of the receipt of the request or "as soon after that as possible," pursuant to 28 U.S.C. § 3101(d)(1).

This Order applies retroactively to all previously filed cases.

This General Order shall remain in effect until these modifications are incorporated into the Local Rules of the Northern District of New York.

SO ORDERED

This 7th day of February, 2008
Syracuse, New York


Norman A. Mordue
Chief United States District Court Judge