



Anyone who practices regularly in federal court will eventually appear before a Magistrate Judge. But the determination of when and how the experience arises is often a function of where, what, and sometimes, who. The duties assigned to Magistrate Judges vary from district to district throughout the country and, in some instances, from District Judge to District Judge within a district, as surging or declining caseloads and court culture within a district drive how Magistrate Judges are utilized.

By Hon. Michelle H. Burns

U.S. Magistrate Judges: The Breadth and Depth of Their Service

The Federal Magistrates Act of 1968 required that each district court “establish rules pursuant to which the magistrates shall discharge their duties.”¹ Local rules adopted by district courts vary in how those duties are defined: some closely track the duties as specified explicitly in the act and others identify “additional duties ... not inconsistent with the Constitution and laws of the United States,” as also contemplated by the act.²

For example, in the Eastern District of Michigan, the local rules provide that a Magistrate Judge may “exercise general supervision of civil and criminal calendars, conduct calendar and status calls, determine motions to expedite or postpone the trial of cases for the District Judges.”³ In the Southern District of Florida, separate rules provide that Magistrate Judges may “hear and determine any procedural or discovery motion or other pretrial matter in a civil or criminal case, other than [specified dispositive matters].”⁴ The Western District of Washington also has local rules specific to Magistrate Judges, and includes a rule allowing reference to a Magistrate Judge to serve as a special master “to try the issues in any civil case upon consent of the parties, without regard to the provisions of Rule 53(b).”⁵

Utilization of Magistrate Judges: An Overview

The Administrative Office of the U.S. Courts compiles statistics on the use of Magistrate Judges. The tables of these statistics⁶ set forth the number of matters handled by the 531 full-time and 40 part-time Magistrate Judges throughout the 94 judicial districts over a 12-month period ending Sept. 30, 2013,

broken down by the type of case or proceeding. These statistics provide a comprehensive overview of the balance of duties assigned to Magistrate Judges around the country.

Class A Misdemeanors

A total of 8,385 Class A misdemeanor cases (offenses carrying a maximum prison term of one year or less, but more than six months) were disposed of by Magistrate Judges during the relevant time period. Although districts vary considerably in size, it is noteworthy that two districts—the District of Arizona and the Eastern District of Virginia—together terminated more than 3,500 such cases. That accounts for more than one-third of the total number terminated in the 94 judicial districts. Of the Class A misdemeanors, 610 are classified as fraud cases. The Western District of Texas accounted for more than one-third, or 298 of those dispositions. In all, Magistrate Judges took a total of 6,089 Class A misdemeanor guilty pleas and conducted 101 Class A misdemeanor trials.

Petty Offenses

A total of 114,771 petty offense cases (Class B misdemeanors carrying a maximum prison term of 6 months and more than 30 days, Class C misdemeanors carrying a maximum term of 30 days and more than 5 days, and infractions carrying a maximum term of 5 days) were disposed of by Magistrate Judges during the relevant time period. The bulk of those cases, 72,278, were immigration cases, approximately 68,000 of which were filed in the District of Arizona and the Southern and Western Districts of Texas. A total of 26,749 of the listed petty offenses are classified as “other traffic.” Of the 2,168 DUI/DWI dispositions, 271 cases were filed in the District of Maryland. The Eastern District of Virginia had the second highest number, at 253 cases. Of the total number of petty offenses, 1,860 were tried to the court.

Felony Preliminary Proceedings

Magistrate Judges presided over a total of 377,176 pre-

liminary proceedings during the relevant time period. The bulk of those proceedings, 101,373, were initial appearances. A total of 62,054 search warrants and 49,956 detention hearings accounted for approximately one-third of the total preliminary proceedings. Magistrate Judges also conducted a total of 64,252 arraignments, 23,554 preliminary hearings, and 9,444 bail review and *Nebbia* hearings (bail legitimacy hearings to ensure that bail funding comes from legal sources).

Pennsylvania, the District of Maryland, the Northern District of Ohio, the Eastern and Western Districts of Arkansas and Missouri, the Northern District of Illinois, and districts in California and Florida. In every district court, however, Magistrate Judges were assigned a significant number of consent cases.

Civil Case Assignments

District courts vary around the country by the way in which

Mediation can constitute a significant percentage of a Magistrate Judge's time. The mediations themselves vary in length, but taking into account the preparation involved and the occasional follow-up discussions and continued mediation, each one can take from hours to many days of a Magistrate Judge's time.

Miscellaneous Matters

A total of 54,670 miscellaneous matters were assigned to Magistrate Judges, including 4,123 seizure/inspection warrants and orders of entry, 193 Internal Revenue Service enforcement matters, 472 judgment debtor exams, 106 extradition hearings, 351 jury *voir dire*, 13,209 grand/other jury proceedings, and 923 naturalization proceedings. In the majority of districts, however, Magistrate Judges did not conduct any referred jury *voir dire* proceedings.

Criminal Pretrial Matters

Magistrate Judges handled a total of 196,968 criminal pretrial matters during the 12-month time period. Approximately 107,700 of those matters were criminal, nondispositive matters referred by District Judges. The highest number of those types of motions, 22,517, were referred in the Fifth Circuit, and nearly 19,000 in the four Texas districts. Magistrate Judges took a total of 30,745 guilty pleas. In 24 judicial districts, Magistrate Judges took no felony guilty pleas. They also conducted 38,074 pretrial conferences, 2,489 supervised release hearings, and 455 mental competency hearings.

Civil Pretrial Matters

Magistrate Judges dealt with a total of 346,237 civil pretrial matters. Included in that number are 22,710 settlement conferences, 56,811 pretrial conferences, 252,415 nondispositive matters, and 12,412 motion hearings. Magistrate Judges in every district handled a substantial number of settlement conferences. Dividing the total number of settlement conferences for the year by the total number of full- and part-time Magistrate Judges arrives at an average of 40 settlement conferences per Magistrate Judge, confirming that mediation is part of the regular duties of most Magistrate Judges.

Reports and Recommendations

Magistrate Judges issued 56,382 reports and recommendations in prisoner petitions, Social Security cases, special master references, and other referred civil and criminal motions during the relevant time period. Magistrate Judges also conducted 3,593 evidentiary hearings in criminal, civil, prisoner, and special master proceedings.

Consent Cases

In a total of 15,804 civil cases in which the parties consented to Magistrate Judge jurisdiction, 455 went to trial. Districts reporting high numbers of consent cases include the Western District of

civil cases are assigned to Magistrate Judges. In the District of Arizona, 25 percent of general (nonprisoner) civil cases, except for those in which preliminary injunctive relief is requested, are directly assigned to Magistrate Judges. The parties are provided a consent form after assignment, which they must return by a certain deadline.

Sometimes the assignment process in a district is dictated by geography: for instance, in the Northern District of California, all civil cases filed in the Eureka Division are assigned to the full-time Magistrate Judge presiding in that division.⁷ No District Judge sits at that location. In that district, a general order establishes an "assignment plan," and provides that full-time Magistrate Judges be included in the civil case assignment system in the same manner as active District Judges, except for *habeas corpus* petitions, securities class actions, and bankruptcy appeal and bankruptcy withdrawal of reference cases.⁸ The assignment plan also provides that Magistrate Judges conduct all pretrial proceedings in actions filed by the United States to recover on a claim for a debt and prejudgment or postjudgment applications under the Federal Debt Collection Procedures Act.⁹

In the District of Nevada, according to Clerk of Court Lance Wilson, cases are initially assigned to both a District Judge and a Magistrate Judge, and the assigned Magistrate Judge handles pretrial duties in civil cases and most nondispositive motions. Also, the clerk of court for that district notifies the parties in all civil cases that they may consent to have a Magistrate Judge conduct any or all proceedings in the case.¹⁰ If all parties consent, the District Judge may assign the entire case to the Magistrate Judge.¹¹

In the Northern District of Ohio, civil cases are assigned to a District Judge, and immediately thereafter a Magistrate Judge is also drawn and assigned to the case.¹² In the Southern District of Ohio, Western Division at Dayton, all civil cases are assigned to both a District and a Magistrate Judge. That court's plan of referral of civil cases provides that the "Court plans to continue referring all civil and miscellaneous cases to the assigned Magistrate Judge in the preliminary pretrial conference order."¹³

In the District of Idaho, all *pro se* cases are automatically assigned to Magistrate Judges in random order, and Magistrate Judges are on the wheel assignment with District Judges for other civil cases, as well as on a proportionate basis as determined by the District Judges.¹⁴ The general order also provides that after a case is filed, whether assigned to a District or Magistrate Judge, the clerk of

court sends a notice of availability of a U.S. Magistrate and consent form to the parties.

In the District of Hawaii, Magistrate Judges are directly assigned a percentage of filed civil actions, subject to certain exclusions, and cases that are not directly assigned to Magistrate Judges off the wheel are assigned to both a district and Magistrate Judge. The Magistrate Judge is then, in most cases, automatically referred on all pretrial, nondispositive matters.¹⁵

Mediation

As noted above, most Magistrate Judges serve as mediators in civil cases on referral from a District Judge. Mediation can constitute a significant percentage of a Magistrate Judge's time. In my practice in the District of Arizona, for instance, I conducted 23 settlement conferences in 2012, and 15 in 2013. In the Northern District of Ohio, Magistrate Judge James Knepp was referred 46 cases for settlement conferences in 2013. The mediations themselves vary in length, but taking into account the preparation involved and the occasional follow-up discussions and continued mediation, each one can take from hours to many days of a Magistrate Judge's time.

Job Satisfaction: The Best Part of the Job

When Magistrate Judges are asked the question, "What is the most rewarding part of your job?" their answers vary. According to District of Rhode Island Magistrate Judge Patricia Sullivan, she enjoys "dealing with lawyers and litigants, especially in mediations, but also at hearings, and loves the challenging and constantly changing legal issues." Magistrate Judge Mark Clarke, from the District of Oregon, enjoys conducting settlement conferences, finding it "rewarding to assist the parties and lawyers to resolve a case," as it helps him "keep in touch with the real world of private practice." Eastern District of Kentucky Magistrate Judge Candace Smith likes most "the opportunity to take her legal education and training and experience and use it to be of service to both the public/court of justice as well as the judicial branch more particularly via my support role to the District Judges." As to what Judge Smith dislikes about her job, she answered, "Virtually nothing!"

A Valuable Part of the Federal Court Team

It is clear by the variety of duties they are assigned around the country, that Magistrate Judges both ease and complement the workload of the District Judges, and provide tremendous value to the public they serve. As District Judge and Federal Bar Association (FBA) President Gustavo Gelpí makes clear in his president's message, Magistrate Judges are "the face of the federal courts across the nation, as they are oftentimes the first federal judge a party sees when first coming to federal court." President Gelpí also asserts that, without the substantial utilization of Magistrate Judges, "in a congested district like mine, it would be extremely difficult to hold the fort and keep my criminal and civil dockets up to date."

The numbers tell the story. The Administrative Office statistics show that, in the 12-month reported time period, Magistrate Judges around the country were assigned or presided over 1,357,217 matters. There's a statistic validating President Gelpí's sentiment! ☺

Hon. Michelle H. Burns was appointed as a Magistrate Judge in the District of Arizona, Phoenix Division, in 2007. Prior to that, she primarily practiced criminal law while serving for



four years as an assistant U.S. attorney and for 12 years as a partner in Carpenter and Hamilton, P.A. Judge Burns has been a member of the FBA for approximately 15 years and is currently on the national Board of Directors in her capacity as chair of the Sections and Divisions Council.

Endnotes

¹28 U.S.C. § 636(b)(4).

²28 U.S.C. § 636(b)(3).

³E.D. Mich. LR 72.1(a)(2)(D).

⁴S.D. Fla. L.R. (Magistrate Judge Rule 1(c)).

⁵Local Magistrate Judges' Rules MJR 5.

⁶Numbers adapted from Table S-17, Matters Disposed of by U.S. Magistrate Judges for the One-year Period Ended Sept. 30, 2013, Administrative Office of the U.S. Courts.

⁷Civil L.R. 3-2(g).

⁸General Order 44.E.1.

⁹General Order 44.E.2.

¹⁰D. Nev. LR IB 2-2.

¹¹D. Nev. LR IB 2-1.

¹²N.D. Ohio Civ. R. 3.1 (a).

¹³Dayton General Order Day. 12-01 (effective June 1, 2013).

¹⁴D. Idaho General Order No. 237 (effective July, 2009).

¹⁵Local Rules LR40.1; LR72.7.

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