



The Role of the Magistrate Judge and Consent Jurisdiction

Two types of judges comprise the U.S. District Courts: U.S. district judges (confirmed by the Senate with life tenure), and U.S. magistrate judges (appointed through a merit-selection process for renewable, eight-year terms).

Magistrate judges have had a role in the judiciary dating back to the Judiciary Act of 1789. Since that time, Congress has expanded the role of magistrate judges with the goal of maximizing judicial efficiency.¹ In the District of Nevada, magistrate judges handle a wide variety of matters and decide a range of motions, including discovery disputes, and issue Reports and Recommendations on dispositive matters.

This district sees an array of civil cases, ranging from employment and contract disputes to property, real estate and personal injury cases. Civil rights litigation, commonly referred to as “1983 litigation²,” is also prominent. Given the large volume of civil litigation, magistrate judges devote a significant portion of their time to these disputes. In addition, magistrate judges engage in alternative dispute resolution through Early Neutral Evaluations and settlement conferences. Typically, magistrate judges hold two to three conferences each week.

In addition, each magistrate judge is assigned a “criminal duty week” on a rotational basis. During that week, the assigned magistrate judge conducts initial appearances, as well as arraignments and pleas, and determines whether criminal defendants will be detained or released on bond. Magistrate judges also review and issue search and arrest warrants, hold evidentiary hearings on motions to suppress (based on constitutional issues), and, in misdemeanor cases, hold trials and sentence defendants.

Magistrate judges also act in a quasi-appellate capacity in Social Security cases by reviewing administrative decisions. Lastly, when both sides to a civil case consent to a magistrate judge’s jurisdiction, magistrate judges hear the entire dispute, rule on all motions and preside at trial.

There are several reasons why parties may want to consent to the jurisdiction of magistrate judges. Magistrate judges typically have more trial availability than district judges, and they are highly qualified and familiar with the federal court system. Magistrate judges have more availability in part because they, unlike district judges, do not have a felony criminal trial docket.

Moreover, consenting to the jurisdiction of magistrate judges avoids other delays. For example, it eliminates the delay that can result when a district judge refers a motion to a magistrate judge for a Report and

CONTINUED ON PAGE 23

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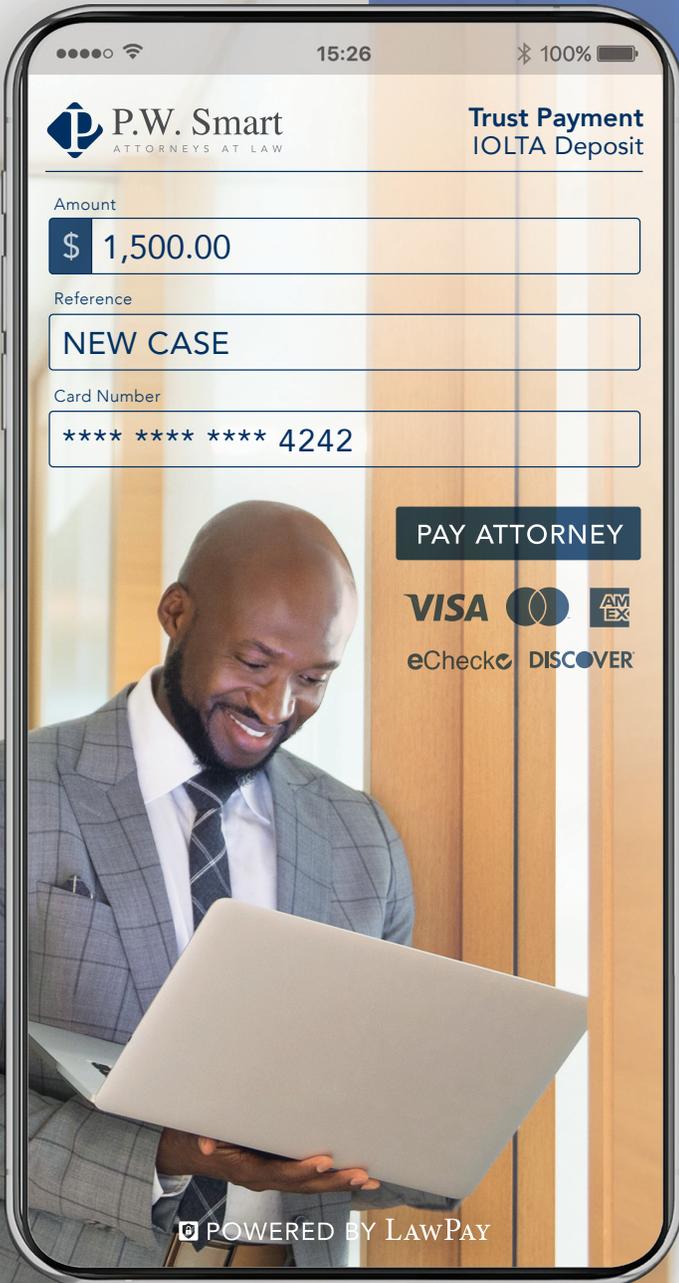
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Recommendation, which can, in turn, be sent back to the district judge with a party's objection. Consent to a magistrate judge's jurisdiction also allows the parties to appeal directly to the Ninth Circuit. Finally, magistrate judges are likely already familiar with the facts of the case (given the judge's role in managing discovery), which means that less time is needed for them to become familiar with the nuances of that particular case.

Magistrate judge positions in federal court attract experienced, high-caliber attorneys who come from diverse practice backgrounds, as well as experienced state court and administrative law judges. These applicants have a wide variety of experience in civil and criminal litigation, and they are evaluated by a merit-selection panel composed of lawyers and other residents of the judicial district. The panel evaluates the applicants' education, experience, knowledge of the court system, personal attributes and other criteria in making its recommendations. Political party affiliation plays no part in the selection process; rather, magistrate judges are selected on merit alone. The successful magistrate judge candidate is then appointed by the life-tenured district judges.

This district has appointed four new magistrate judges in the last 18 months: Judge Carla Baldwin, Judge Brenda Weksler, Judge Dan Albregts and Judge Elayna Youchah. Together with Judge William Cobb, Judge Cam Ferenbach and Judge Nancy Koppe, magistrate judges in this district come from a wide array of backgrounds and bring thousands of hours of combined federal judicial experience to their work in our court.



Magistrate Judge Daniel J. Albregts was appointed to the bench effective August 5, 2019. Prior to his appointment, Judge Albregts was in private practice for 26 years, handling civil and criminal matters in state and federal court. Judge Albregts handled all types of criminal cases, including death penalty cases, large complex, multi-defendant criminal cases, and was lead counsel in some of the largest white-collar criminal cases

ever prosecuted in Southern Nevada. Judge Albregts was lead attorney in more than 125 jury trials in state and federal court and argued cases before the Nevada Supreme Court and the Ninth Circuit Court of Appeals.

Judge Albregts received his undergraduate degree in history/political science in 1984 and his J.D. in 1987, both from the University of Wisconsin-Madison.



Magistrate Judge Carla Baldwin is a U.S. Magistrate Judge in Reno, where she presides over a variety of criminal and civil matters. Prior to her elevation to the bench, Judge Baldwin gained extensive and varied trial experience in both federal criminal and complex civil law. From 2010 until to her appointment to the bench, Judge Baldwin served as an assistant U.S. Attorney in the criminal division of the U.S. Attorney's

Office in Nevada.

Some PRACTICE TIPS from the Magistrate Judges

Although some of the things on the list may seem obvious, we suggest you review the below and follow the recommendations.

The Dos

- Do discuss with your client the possibility of consenting to a magistrate judge for full disposition of your case. See <https://www.nvd.uscourts.gov/consenting-to-the-jurisdiction-of-a-magistrate-judge> for more details.
- Do read the orders issued by the court.
- Do submit documents on time in accordance with the Rules of Civil Procedure and Court Orders.
- Do proofread your work.
- Do cite check your submissions.
- Do follow page limit requirements.
- Do appear on time for hearings.
- Do bring a person with actual settlement authority to Early Neutral Evaluations (ENE) and settlement conferences.
- Do find a quiet place to call in to court when appearing by telephone.
- Do provide a list of all discovery completed to date, discovery left to be completed, and the reason the extension is needed when seeking an extension of discovery deadlines.
- Do provide reasons for every extension request.
- Do document your meet and confer in compliance with Local Rules IA 1-3 and LR 26-7. Provide this documentation with your discovery motion.
- Do make your request for relief clear when submitting a motion.
- Do meaningfully develop your arguments in written motion practice.
- Do make sure your Motion to Seal complies with LR IA 10-5 and the classification requirements in accordance with *Center for Auto Safety v Chrysler*, 809 F.3d 1092 (9th Cir 2016). Service must comply with LR IC 4-1(c).

CONTINUED ON PAGE 27

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Judge Baldwin received her Bachelor of Arts Degree in Speech Communications with a minor in Business Administration from the University of Nevada, Reno in 1997. In 2007, Judge Baldwin was awarded the Outstanding Young Alumni award for UNR. In 2003, Judge Baldwin received her J.D., with great distinction, from the University of the Pacific, McGeorge School of Law.



Magistrate Judge William Cobb was appointed a U.S. Magistrate Judge for the District of Nevada on September 4, 2011, and was reappointed to a second eight-year term in 2019. A native of Nevada, he attended the University of Nevada, Reno, and Lewis & Clark Law School. He served in the U.S. Army Reserves (captain, Air Defense Artillery). He was previously elected to the Board of Regents of the Nevada System of Higher Education. In his capacity as the District of Nevada's senior magistrate judge, he serves as the district's representative to the Ninth Circuit Magistrate Judges Executive Board. He is chair of the State and Federal Judicial Council of Nevada. Judge Cobb maintains his chambers in Reno at the Bruce R. Thompson Federal Courthouse.



Magistrate Judge Cam Ferenbach has presided as a trial and settlement judge over hundreds of civil cases, including employment, personal injury, intellectual property, real property, contract, civil rights, construction and business disputes.

Judge Ferenbach graduated from Princeton University in 1969 and served in the U.S. Navy as a line officer from 1969-1973. After the Navy, Ferenbach settled in Arizona where he managed a community-owned water utility before beginning law school in 1977. He graduated from Arizona State University's Sandra Day O'Connor College of Law in December 1979, and began working as an associate at Lionel Sawyer & Collins in Las Vegas in March 1980. He was an associate and then a litigation partner at Lionel Sawyer & Collins until his appointment to the bench.



Magistrate Judge Nancy J. Koppe has been on the bench since 2013. Judge Koppe has acted as a settlement judge in hundreds of civil cases, including intellectual property, civil rights, employment, personal injury and business disputes.

Judge Koppe is the chair of this court's Criminal Local Rules Committee and Attorney Admission Fund Committee. She also serves on other committees within this court. Judge Koppe served as chair of the Ninth Circuit's Magistrate Judges Education Committee from 2016-17, and as a member of that committee from 2014-16.

CONTINUED ON PAGE 29

Some **PRACTICE TIPS** from the Magistrate Judges

The Don'ts

- Do not assume you are excused from appearing at a hearing, settlement conference or ENE. Court approval is required.
- Do not assume your insurance carrier is excused from appearing at an ENE or settlement conference.
- Do not submit courtesy copies of anything under 50 pages (including exhibits). Before submitting anything, check with chambers to ensure you submit copies in the proper format. Also, always submit courtesy copies that include the CM/ECF stamp and page numbers.
- Do not call our law clerks except as allowed by the rules for seeking emergency relief.
- Do not file discovery motions before engaging in a telephonic or in-person meet and confer.
- Do not comment about your opposing counsel in motion practice unless the issue is egregious and you are seeking sanctions against the lawyer. Think carefully before doing so.
- Do not refer to the magistrate judges as "magistrate." Magistrate judges are judges of the district court.
- Do not use the term "magistrate court." There is no such thing.
- Do not seek emergency relief without very good reason for doing so.

The local rules will be amended in the near future. Please remain current and pay attention to the rules.

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Prior to taking the bench, Judge Koppe was an assistant U.S. Attorney for the District of Nevada for more than 12 years.

Judge Koppe received her undergraduate degree from the University of Pennsylvania and her J.D. from Cornell Law School.



Magistrate Judge Brenda Weksler joined the court in 2019 following 16 years as a trial attorney at the Federal Public Defender Office. Prior to that, she served as a judicial law clerk to Chief J. Kathy Hardcastle in the Eighth Judicial District Court. She has a wide array of litigation experience in federal court representing indigent clients charged with various federal crimes. In addition to her substantial experience with evidentiary hearings, she has tried numerous bench and jury trials. She has also represented her clients in the Ninth Circuit. She taught seminars on several topics across the country, including evidentiary and procedural issues, and was the Trial Training Director for the Federal Public Defender’s Office from 2012-19. Judge Weksler graduated from Boyd School of Law, University of Las Vegas, Nevada in 2002.



Magistrate Judge Elayna Youchah was a private civil litigator for approximately 25 years after completing a clerkship with the Honorable Lawrence R. Leavitt (Ret.) in the U.S. District Court for the District of Nevada. Immediately prior to joining the bench, Judge Youchah was an equity partner with Jackson Lewis, where her practice focused on labor and employment law. During and before Judge Youchah spent many years in the civil practice of law, she has been a dedicated advocate for children through Guardian ad Litem, Court Appointed Special Advocates Office, and through the Children’s Aid Program sponsored by the Legal Aid Center of Southern Nevada. Judge Youchah graduated Order of the Coif from the University of Southern California School of Law in 1993.

Endnotes:

1. The following articles provide a thorough historical review of the creation and development of the role of magistrate judges and different perspectives for consenting to their jurisdiction: Morton Denlow, *Should You Consent to the Magistrate Judge? Absolutely, and Here’s Why*, 37 LITIG., no. 2, 2011, at 3; Douglas A. Lee & Thomas E. Davis, *“Nothing Less Than Indispensable”: The Expansion of Federal Magistrate Judge Authority and Utilization in the Past Quarter Century*, 16 NEV. L.J. 845 (2016); Ira Cohen, *The Case of the Majestic Rabbi: Consent Trials Before US Magistrate Judges*, THE FEDERAL LAWYER, November/December 2019.
2. 42 U.S.C. § 1983.



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