

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

IN RE: ASSIGNMENT OF CIVIL CASES

General Order No. 2023-17

GENERAL ORDER

This general order is being entered pursuant to 28 U.S.C. § 137 and Local Rule 40-1, providing for distribution of the court's business and caseload among the Judges in such manner as may be prescribed by order of the court.

IT IS HEREBY ORDERED that all civil cases filed in the Northern District of Indiana shall be randomly assigned to a United States District Judge then resident in the division in which the case is filed except as hereinafter provided. As there is no resident judge currently in Lafayette, all civil cases filed in the Lafayette courthouse shall be randomly assigned to a district judge located in Hammond except as hereinafter provided.

This Order supersedes General Order 2023-01 entered January 6, 2023 and shall not affect the assignment of criminal cases. The separate assignment wheel for Social Security Appeals created by General Order 2018-14 entered on September 4, 2018 and since supplemented by General Order 2020-27 entered on August 28, 2020 is not affected by this General Order.

1. Assignment of a Presiding Judge

Except as hereinafter provided, civil cases filed in Fort Wayne will be assigned to Chief Judge Holly A. Brady or Judge Damon R. Leichty, with Chief Judge Brady taking a full share and Judge Leichty taking 10% of a full share. Civil cases filed in Hammond and Lafayette will be assigned to Judge Philip P. Simon, Judge James T. Moody, Judge Theresa L. Springmann,

Judge Joseph S. Van Bokkelen, or Judge Jon E. DeGuilio, with Judge Simon taking a full share. Civil cases filed in South Bend will be assigned to Judge Leichty or Judge Robert L. Miller, Jr., with Judge Leichty taking a full share.

Each senior judge shall receive a percentage of the total number of cases assigned to an active judge. The percentage of any senior judge's caseload is subject to change and shall be based upon the judge's annual request for certification under the Ethics Reform Act of 1989, 28 U.S.C. § 371, the Judicial Conference rules implementing § 371, *see* Guide to Judiciary Policies and Procedures, Vol. 12, § 620.45, and the Seventh Circuit Guidelines to Determine the Staffing Requirements of Senior and Recalled Judges (Rev. December 15, 2014).

2. Assignment of a Magistrate Judge

Except as hereinafter provided or unless otherwise directed by the presiding judge, every civil case filed in the Northern District of Indiana shall be assigned to a magistrate judge located in the division of the court in which the case is filed for the purpose of conducting all non-dispositive pretrial proceedings, pursuant to 28 U.S.C. § 636(b)(1)(A); FED. R. CIV. P. 72(a) and General Orders 2003-21, 2004-6, and 2022-31. Cases filed in the Lafayette courthouse shall be assigned to a magistrate judge located in Hammond.

For every civil case assigned to a magistrate judge, the Clerk shall notify the parties of the option to consent to jurisdiction by a United States Magistrate Judge pursuant to Local Rule 72-1, and, with that notification, provide both a Notice of Availability of a United States Magistrate Judge to Exercise Jurisdiction and a Consent to or Declination of the Exercise of Jurisdiction by a United States Magistrate Judge to each party. Each party shall have twenty-one (21) days following the date the Preliminary Pretrial Conference is held or within twenty-one (21) days of receipt of the form in cases where no Preliminary Pretrial Conference is held to

complete and return the Consent form to the Clerk of the Court in the manner outlined in the Consent form.

While consent to the exercise of jurisdiction by the assigned magistrate judge is entirely voluntary, submission of the Consent form, indicating whether the party consents or declines to consent, is mandatory. If each party consents, the Clerk shall automatically reassign the presiding judge in the case to the assigned magistrate judge and that magistrate judge shall then conduct all proceedings, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment (See 28 U.S.C. § 636(c); Fed. R. Civ. P. 73; N.D. Ind. L.R. 40-1; N.D. Ind. L.R. 72-1). Once all parties to a case consent to the jurisdiction of a United States Magistrate Judge, the United States District Judge previously assigned to the action shall exercise no further jurisdiction over the case unless it becomes no longer fully consented because of the addition of a party who fails to consent. The addition of parties necessarily requires the Clerk to notify them of the option to consent. If any party declines to consent, the case will remain with the assigned district judge, and the magistrate judge will remain assigned for the purpose of conducting all non-dispositive pretrial proceedings.

To protect the voluntariness of the parties' decision to consent or decline to consent, parties are advised that they are free to withhold consent without adverse substantive consequences, pursuant to 28 U.S.C. § 636(c)(2).

Nothing in this order shall be construed as a limitation of the assigned district judge to refer, in his or her discretion, the case to a magistrate judge upon consent of all parties even though untimely filed.

3. Exceptions

The following exceptions shall be made in implementing this order:

(a) All petitions under 28 U.S.C. § 2254 filed by persons under sentence of death shall be assigned on a rotating basis among the district judges except as noted in 3(d), (e), (f), (h), and (i) below.

(b) All petitions under 28 U.S.C. § 2255 shall be assigned to the presiding judge in the related criminal case or shall be randomly assigned to another judge in the district if the presiding judge is unavailable. However, any 28 U.S.C. § 2255 petitions arising from cases formerly assigned to Judge Allen Sharp will be assigned to Judge Leichty.

(c) All cases filed by incarcerated litigants who are proceeding pro se will be assigned on a district-wide basis to a United States District Court Judge without regard to the courthouse or division in which the case is filed and shall be assigned to a magistrate judge located in the division of the assigned presiding judge for the purpose of conducting all non-dispositive pretrial proceedings, pursuant to 28 U.S.C. § 636(b)(1)(A); FED. R. CIV. P. 72(a) and General Orders 2003-21, 2004-6, and 2022-31.

(d) Judge Moody will share in a combined civil and criminal caseload equal to 40% of the total number of cases assigned to an active judge, but will not be assigned actions of the following types: Contract: Recovery Medicare (nature of suit code 151); truth-in-lending (nature of suit code 371); bankruptcy (nature of suit codes 422-423); Individuals with Disabilities Education Act (whether coded as nature of suit 440 or 448); labor (nature of suit codes 710-791); copyrights, patent and trademark (nature of suit codes 820, 830 and 840); Social Security (nature of suit codes 861-865); environmental (nature of suit code 893); §2254 petitions filed by persons under sentence of death (nature of suit code 535); class actions; complaints requesting replevin; or complaints which are titled as requesting a permanent injunction or are filed with an initial request for a temporary restraining order or preliminary injunction.

(e) Judge Van Bokkelen will share in a civil caseload equal to 25% of the total number of cases assigned to an active judge, but will not be assigned civil actions of the following types: truth-in-lending (nature of suit code 371); bankruptcy (nature of suit codes 422-423); Individuals with Disabilities Education Act (whether coded as nature of suit 440 or 448); labor (nature of suit codes 710-791); copyrights, patent and trademark (nature of suit codes 820, 830 and 840); environmental (nature of suit code 893); § 2254 petitions filed by persons under sentence of death (nature of suit code 535); class actions; complaints requesting replevin; or complaints which are titled as requesting a permanent injunction or are filed with an initial request for a temporary restraining order or preliminary injunction.

(f) Judge William C. Lee will share in a civil caseload equal to 25% of the total number of cases assigned an active judge but will not be assigned any actions other than social security appeals.

(g) Judge Miller will share in a civil caseload equal to 50% of the total number of cases assigned an active judge but will not be assigned Contract: Recovery Medicare (nature of suit code 151); environmental actions (nature of suit code 893), or complaints which are filed with an initial request for a temporary restraining order or preliminary injunction.

(h) Judge Springmann will share in a civil caseload equal to 50% of the total number of cases assigned to an active judge, but will not be assigned actions of the following types: Contract: Recovery Medicare (nature of suit code 151); truth-in-lending (nature of suit code 371); bankruptcy (nature of suit codes 422-423); Individuals with Disabilities Education Act (whether coded as nature of suit 440 or 448); labor (nature of suit codes 710-791); copyrights, patent and trademark (nature of suit codes 820, 830 and 840); environmental (nature of suit code 893); §2254 petitions filed by persons under sentence of death (nature of suit code 535);

Racketeer Influenced and Corrupt Organizations (nature of suit code 470); class actions; complaints requesting replevin; or complaints which are titled as requesting a permanent injunction or are filed with an initial request for a temporary restraining order or preliminary injunction.

(i) Judge DeGuilio will share in a combined civil and criminal caseload equal to 50% of the total number of cases assigned to an active judge, but will not be assigned actions of the following types: Contract: Recovery Medicare (nature of suit code 151); truth-in-lending (nature of suit code 371); bankruptcy (nature of suit code 422-423); Individuals with Disabilities Education Act (whether coded as nature of suit 440 or 448); labor (nature of suit codes 710-791); copyrights, patent and trademark (nature of suit codes 820, 830 and 840); environmental (nature of suit code 893); §2254 petitions (nature of suit codes 535 and 530; Racketeer Influenced and Corrupt Organization (nature of suit code 470); class actions; complaints requesting replevin; or complaints which are titled as requesting a permanent injunction or are filed with an initial request for a temporary restraining order or preliminary injunction.

(j) No magistrate judge shall be assigned in cases in which the nature of suit involves a bankruptcy appeal or petition under 28 U.S.C. §§ 2241, 2254 filed by persons under sentence of death, or 2255.

SO ORDERED.

Dated: July 17, 2023

/s/ Holly A. Brady
Holly A. Brady, Chief Judge

/s/ William C. Lee
William C. Lee, Judge

/s/ James T. Moody
James T. Moody, Judge

/s/ Robert L. Miller, Jr.
Robert L. Miller, Jr., Judge

/s/ Philip P. Simon
Philip P. Simon, Judge

/s/ Theresa L. Springmann
Theresa L. Springmann, Judge

/s/ Joseph S. Van Bokkelen
Joseph S. Van Bokkelen, Judge

/s/ Jon E. DeGuilio
Jon E. DeGuilio, Judge

/s/ Damon R. Leichty
Damon R. Leichty, Judge