UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

PLAN FOR DIRECT ASSIGNMENT OF CIVIL CASES TO A MAGISTRATE JUDGE

I.   Direct Assignment
The clerk of court shall assign the full-time magistrate judges of the district a percentage of the district's civil docket in an effort to enhance the opportunity for litigants to more fully utilize the service of the magistrate judges.

A.   Percentage of Cases
The specific percentage of cases directly assigned to magistrate judges shall be set by the district judges and may be changed from time to time as circumstances require.

B.   Direct Assignment by Case Type
In addition to a percentage of the civil docket, the following types of cases will be directly assigned to a magistrate judge, unless an exclusion set forth in section (C) applies:

1.   All pro se cases will be assigned to a magistrate judge at the time of filing.
2.   All cases with plaintiffs who are in the custody of a correctional facility will be assigned to a magistrate judge at the time of filing.
3.   All cases filed pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 406(g), for benefits under Titles II, XVI, and XVII of the Act will be assigned to a magistrate judge at the time of filing.

C.   Excluded Cases
The following cases are excluded from direct assignment to a magistrate judge:

1.   foreclosure and *in rem* cases;
2.   cases seeking an immediate temporary restraining order;
3.   cases filed pursuant to 28 U.S.C. § 2255;
4.   Bankruptcy Appeals; and
5.   *Qui Tam* cases.

II.   General Provisions of Direct Assignment
A.   Magistrate Judge Authority
In a case directly assigned to a magistrate judge, the magistrate judge is responsible for all case management and scheduling activities and will decide all non-dispositive pretrial and discovery matters. If all parties consent in writing to the magistrate judge's exercise of civil trial jurisdiction, the case will remain assigned to the magistrate judge for all purposes, including trial and entry of final judgment. See

28 U.S.C. § 636(c); Fed. R. Civ. P. 73; D. N.D. Civ. L.R. 72.1(C).

B. **Alternate Dispute Resolution**
In a case directly assigned to a magistrate judge, the magistrate judge will not ordinarily serve as the settlement judge, unless the parties jointly agree otherwise in an appropriate jury case. <u>See</u> D. N.D. Civ. L.R. 16.2(C)(1).

C. **Appeal**
Appeal from a final judgment entered at a magistrate judge's direction may be taken to the court of appeals as would any other appeal from a district court judgment. <u>See</u> 29 U.S.C. § 636(c)(3); Fed. R. Civ. P 73(c); D. N.D. Civ. L.R. 72.1(D)(1).

D. **Supplement to Existing Consent Option**
The direct assignment of cases to magistrate judges supplements, and does not replace, the parties' ability to consent to the exercise of jurisdiction by a magistrate judge, either initially or later, in a case assigned to a district judge.

III. <u>**Notification, Consent, and Reassignment**</u>
A. **Notice**
In all cases directly assigned to a magistrate judge, the clerk of court shall send to each party at the time of the party's first appearance a Notice of Direct Assignment and a Consent/Reassignment Form. An entry shall be made on the docket that the Notice of Direct Assignment and a Consent/Reassignment Form were sent. Each party will have fourteen (14) days from the date the Notice of Direct Assignment was sent to return the Consent/Reassignment Form to the clerk of court.

B. **Consent Voluntary**
All parties are free to request a reassignment to a district judge without the imposition of any adverse substantive consequences.

C. **Response Mandatory**
While consent to the assignment of the case to a magistrate judge is entirely voluntary, submission of the Consent/Reassignment Form, memorializing consent or requesting reassignment to a district judge, is <u>mandatory</u>. Failure to submit the Consent/Reassignment Form in a timely manner may result in a delay in processing the case.

D. **Reassignment of Cases**
A case directly assigned to a magistrate judge shall be reassigned to a district judge if all of the parties have not consented to the exercise of jurisdiction by the magistrate judge. The clerk of court shall enter an order of reassignment on behalf of the chief district judge. The magistrate judge shall remain the referral judge on the case.

E.   Filing of Consent/Reassignment Forms
The Consent/Reassignment Forms shall be sent to and filed by the clerk.

IV.   Process while Consent is Pending

A.   Appeals of Magistrate Judge's Orders
In cases in which consent is pending, the parties retain the right to seek review of a magistrate judge's rulings and orders on non-dispositive matters by a district judge. See 28 U.S.C. § 626(b)(1)(A); Fed. R. Civ. P. (a); D. N.D. Civ. L.R. 72.1(D)(2). In the event a party seeks review of such a matter, a district judge will review the magistrate judge's ruling or order. During and upon completion of the review by the district judge, the magistrate judge shall retain management of all other pretrial matters.

B.   Dispositive Motions
In cases in which consent is pending, the magistrate judge shall prepare and file a report and recommendation on all dispositive motions. See 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b); D. N.D. Civ. L. R. 72.1(D)(3). Upon the filing of a dispositive motion, the magistrate judge shall conduct such proceedings and enter such orders as are necessary to bring the motion under submission. In the event a party files such a motion, a district judge will rule on the report and recommendation. During and upon completion of the review of the report and recommendation by the district judge, the magistrate judge shall retain management of all other pretrial matters.

V.   Addition of Parties after Consent is Given
If a party is added to the case after all previous parties have elected to proceed before a magistrate judge, the newly-added party must file a Consent/Reassignment Form within the required time. If the newly-added party requests reassignment to a district judge, the case will be reassigned to a district judge for further proceedings.