RULE 16.3 - MANAGEMENT TRACK PROCEDURES

(As amended ~~January 1, 2015~~)

(a) Administrative Track

(1) Habeas Corpus Petitions. Proceedings on applications for habeas corpus under 28 U.S.C. § 2254 and proceedings on motions to vacate sentence under 28 U.S.C. § 2255 shall be referred to a magistrate judge in accordance with 28 U.S.C. § 636(b)(1)(B) and processed in accordance with the Rules Governing Section 2254 Cases, 28 U.S.C. §2254, and the Rules Governing Section 2255 Proceedings, 28 U.S.C. § 2255 respectively.

(2) Social Security Disability Cases. These matters are referred upon filing to a magistrate judge for further proceedings as follows:

(A) Within thirty (30) days of the filing of the transcript and answer, counsel for the plaintiff shall file with the Court an itemized statement of the specific errors upon which the plaintiff seeks reversal of the Commissioner's decision, and complete and file a Fact Sheet available in the Clerk's Office. Plaintiff's itemized statement of the specific errors shall not exceed twenty (20) pages in length. On a showing of good cause, the plaintiff may move to extend the 30-day deadline by an additional fifteen (15) days.

(B) The Commissioner shall file an opposition to the Plaintiff's itemized statement of specific errors no later than thirty (30) days after the Plaintiff files his/her statement of errors. The Commissioner's opposition shall not exceed twenty (20) pages in length. No further briefing will be permitted. On a showing of good cause, the Commissioner may move to extend the 30-day deadline by an additional fifteen (15) days.

(C) The case, then being ready for the entry of judgment upon the pleadings and transcript of the record, will be scheduled for oral argument.

(D) At oral argument, each party will be given 15 minutes to present its position to the Court. Counsel for the plaintiff shall set forth the

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specific errors about which the plaintiff complains. Counsel for the Commissioner shall then set forth reasons why the Commissioner's decision should be affirmed. Counsel are required to cite statute, regulation, and case authority to support their respective positions. Any factual assertions must be supported by transcript references. Additional time for oral argument or the presentation of briefs following argument will be permitted only for good cause shown and on such terms as the Court may direct.

(E) If the oral argument is conducted before a magistrate judge and the parties have not consented to the magistrate judge's jurisdiction pursuant to 28 U.S.C. 636(c), the magistrate judge will issue a recommended decision. Any party desiring to object to the recommended decision shall do so in accordance with Fed. R. Civ. P. 72(b) and must provide a transcript of the oral argument.

(F) The Court has the discretion to waive oral argument, either on its own, or at the request of one of the parties.

(3) Bankruptcy Appeals. Upon the filing of a bankruptcy appeal the Clerk shall issue a notice setting forth the briefing schedule as required by Bankruptcy Rule 8009 and the appeal shall be processed as follows:

(A) An appeal from a final judgment, order or decree of the bankruptcy court shall be assigned for hearing as soon after briefs have been filed as the Court's calendar permits. The provisions of Bankruptcy Rule 8012 shall govern whether an appeal is decided on the written submissions or following oral argument. Any party requesting oral argument shall file with its brief a separate statement setting forth the reason why oral argument should be allowed.

(B) Local Rule 7 shall govern any motion practice arising from the filing of a bankruptcy appeal.

(C) All briefs shall be filed in accordance with Bankruptcy Rules 8009(a), 8010(a) and 8010(b). Except by leave of Court, principal briefs shall not exceed 30 pages, and reply briefs shall not exceed 10 pages, exclusive of pages containing the table of contents, table of citations and any addendum containing photocopies of any statutes, rules or regulations.

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(4) Other Cases. The case management of all other cases on the administrative track shall be governed by the scheduling order.

Standard Track

(1) The case management of all cases on the standard track shall be governed by the scheduling order.

(2) When a scheduling conference is requested, it may be conducted by telephone at the discretion of the judicial officer. In those instances, the Clerk will inform the lawyers or unrepresented parties of the date and time of the conference. It shall be the responsibility of the party who requested the conference to initiate the telephone conference call to chambers.

(3) Prior to the requested scheduling conference, the lawyers must confer and discuss the following topics: voluntary exchange of information and discovery; a discovery plan; the various alternative dispute resolution options; consenting to trial before the magistrate judge; the legal issues in the case; a plan for raising and disposing of serious and legitimate dispositive motions; settlement; and stipulations.

(4) The Court may require counsel to file a joint proposed discovery and motion plan prior to the scheduling conference.

(5) The agenda for the scheduling conference shall include the following topics: narrowing the case to its essential issues; sequencing and limiting discovery and motion practice; settlement; ADR options; and consent to trial before a magistrate judge.

(6) During the conference the judicial officer shall ~~be aggressive in~~ explor~~e~~ing the advisability and utility of ADR, ascertaining actual discovery needs and costs and imposing discovery limits and deadlines.

Complex Track

(1) Promptly after ~~issue is joined~~the pleadings are complete an initial scheduling conference will be held before a judicial officer. If the conference is to be conducted by telephone, the Clerk will inform the lawyers or unrepresented parties of the time and date of the conference

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and it shall be the responsibility of the plaintiff to initiate the telephone conference call to chambers.

(2) Prior to the conference the lawyers must meet face-to-face unless they are more than 30 miles apart and in that event by telephone and discuss the following issues: voluntary exchange of information and discovery; a discovery plan; the various kinds of alternative dispute resolution; consenting to trial by the magistrate judge; the legal issues in the case; a plan for raising and disposing of serious and legitimate dispositive motions; settlement; and stipulations.

(3) Not less than two (2) business days before the conference the lawyers shall file a joint proposed discovery and motion plan and any proposal for ADR.

(4) The agenda for the initial conference shall include the following topics: narrowing the case to its essential issues; sequencing and limiting discovery and motion practice; a trial date; all legal issues; settlement; ADR options; consenting to trial before a magistrate judge; and the date of the next conference.

(5) During the conference the judicial officer shall ~~be aggressive in~~ explor~~e~~ing the advisability and utility of ADR, ascertaining the actual discovery needs and costs and imposing discovery limits and deadlines.

(6) During the initial conference the judicial officer will ordinarily schedule further settlement discussions as part of the next conference and will determine whether clients or client representatives should be required to attend the next conference. The attendance of the clients (in person or by being available by telephone) will usually be required.

(7) Unless the parties otherwise agree, the settlement conference in a nonjury case will be conducted by a judicial officer other than the one who will preside at trial.

(8) Additional case management and settlement conferences will be scheduled at the discretion of the judicial officer. The judicial officer will regularly hold case management conferences (either in person or by telephone) in those cases in which there is substantial discovery. At each such conference, the lawyers shall be prepared to discuss in a detailed

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manner the settlement status of the case, ongoing and projected litigation costs, ADR options, and avoidance of unnecessary motion practice.

Toxic Tort Track

(1) Asbestos. (Not in effect so long as cases are transferred to another district by the MDP.)

(A) A plaintiff who has only minimal symptoms of an asbestos-related disease may elect to have the case placed on the suspense docket. Those cases will remain inactive and are administratively closed by the Clerk. A case may be placed on the suspense docket at the time of filing and up until ~~3 weeks~~21 days before trial. Any case removed from the suspense docket shall be placed at the end of any trial list and not in any event proceed to trial earlier than 9 months from the date the plaintiff elected the suspense docket.

(B) All remaining asbestos cases shall be set for trial in groups of as many as 15 to 25. In each group, consecutive and separate damages trials for each plaintiff are conducted before a single jury. Thereafter, the same jury will determine the issue of liability in a consolidated trial of all the cases remaining in the group.

(C) Discovery and pretrial preparation are to be completed in accordance with the standing discovery order governing asbestos cases.

(D) Other. Similar procedures may be devised for other toxic torts or mass torts if circumstances suggest the need for them.

Prisoner Civil Rights Track

(1) All prisoner civil rights cases are referred upon filing or removal from the state courts to a magistrate judge.

(2) The case management of the cases shall be governed by a scheduling order entered by the magistrate judge.

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Individuals With Disabilities Education Act (IDEA) Track

~~(1) The case management of all cases on the IDEA track shall be governed by the scheduling order.~~

(1) Promptly after the pleadings are complete an initial scheduling conference will be held before a judicial officer. If the conference is to be conducted by telephone, the Clerk will inform the lawyers or unrepresented parties of the time and date of the conference and it shall be the responsibility of the plaintiff to initiate the telephone conference call to chambers.

(2) The agenda for the initial conference shall include the following topics: identifying the essential factual and legal issues of the case; the organization of the administrative record; the mode and sequence for the presentation of additional evidence, if any; and the briefing schedule.

~~(2)~~(3) Counsel shall ~~refrain from using~~not use the name of the ~~student~~ child ~~plaintiff~~ with a disability in ~~all pleadings~~court filings, ~~but~~ and shall refer to the ~~plaintiff~~ child with a disability by initials only.

~~(3)~~(4) The administrative record, transcript, and any additional evidence of the administrative proceedings shall be filed under seal.

Employee Retirement Income Security Act (ERISA) Track

(1) All cases brought pursuant to §502(a)(1)(B) of The Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1132(a)(1)(B) (ERISA), are referred upon filing to a magistrate judge.

(2) The case management of all cases on the ERISA track shall be governed by the scheduling order.

(3) Scheduling conferences, at the discretion of the magistrate judge, may be conducted by telephone. In those instances, the Clerk will inform the lawyers and any unrepresented parties of the date and time of the conference. It shall be the responsibility of the party requesting the conference to initiate the telephone conference call to chambers.

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