

# abt REPORT

NORTHERN CALIFORNIA

Volume 26 No. 3  
Summer 2019

## *The Advantages of Choosing a Magistrate Judge*



**Hon. Sallie Kim**

**W**e believe that, particularly in the Northern District of California, consenting to a magistrate judge for all purposes to handle all aspects of your case is a classic “win/win” scenario, but one that might seem risky to your clients. In the Northern District of California, cases are automatically and randomly assigned to magistrate judges and Article III “District Judges” alike. Parties then receive a notice and must make a decision to “consent” to or “decline” the magistrate judge. A “consent” means that the magistrate judge will handle the case for all purposes, including through trial. A declination leads to re-assignment to a District Judge. While this practice is not the national norm, as most districts in the U.S. do not follow this process, it forces lawyers and clients to make an early decision if their case is assigned to a magistrate judge. Do you consent or decline? Here are a few reasons to consent.

First, parties can get to trial faster if a magistrate judge handles the case. Magistrate judges can set cases for trial more quickly because they do not

have criminal cases that take priority in scheduling. Most District Judges set two or even three cases for each trial date. If the criminal case does not resolve, the criminal case takes priority over the civil cases scheduled for the same date. Even if there is no criminal case pending, the other civil case scheduled for the same trial date might take precedence over another civil trial. Indeed, District Judges who set only one case for a trial date can provide a trial date years from the initial Case Management Conference. Magistrate judges do not have as many trials to schedule, so they can usually set only one trial for a particular date, as soon as 18 months away, and honor that trial date because there are no criminal cases taking precedence. As one local litigator commented for this article: “If you choose a magistrate judge, things go quicker.”

And even if parties do not want cases to go to trial faster because they think they can prevail on summary judgment, the date for briefing and hearing on summary judgment will also be faster than with a District Judge. District Judges close their calendars for law and motion hearing dates when there are too many hearings scheduled for that date, but magistrate judges rarely have that problem.

This decision, which occurs early in the Northern District of California, can also take place later. Even if a party declines to consent to a magistrate judge or even if the case is initially assigned to a District Judge, the parties can stipulate to a magistrate judge for all purposes at any stage in the litigation.



**Hon. Richard Seeborg**

Contrary to some lawyers' fears, lawyers who make this choice do not offend District Judges, and in fact District Judges are usually happy to send the case for all purposes to a magistrate judge.

The advantages extend to settlement, as well. Magistrate judges routinely handle settlement conferences for civil cases that are pending before District Judges. As a result, magistrate judges know how to structure cases for settlement. Magistrate judges are always thinking about settlement and may be open to creative ways to structure a case for settlement. For example, if the parties think that resolution of one key issue will help resolve the case, the parties can suggest a schedule to the magistrate judge that focuses and narrows the discovery and briefing on that one issue. The magistrate judge, with more time to handle the matter, might agree to that schedule. Some District Judges have rules that parties can only file one summary judgment motion, simply because of the burden of work, but magistrate judges are generally more flexible. As one local, sports-loving magistrate judge said: "When it comes to case management, Magistrate Judges have something in common with Bruce Bochy, manager for the San Francisco Giants. He was a long-time catcher before he became a coach, so had experience seeing the details of the game from the perspective behind the plate. From our many settlement conferences, Magistrate Judges have first-hand knowledge about how, when, and why cases settle. This gives us insight in case management to help the parties with the best timing and approach to settlement, and to understand how case management events and settlement might interact."

The knowledge that a magistrate judge has about settlement is also helpful in identifying a colleague to handle the settlement conference. Magistrate judges usually know which colleague is best suited to handle the settlement conference. Certain magistrate judges are ideally suited for certain types of cases, and the magistrate judges are most attuned to that issue of "fit." As another magistrate judge said: "I spend part of every day with these people so I know where to send cases for settlement."

There are also efficiencies for a case if one judge hears discovery and substantive motions. In the San Jose division of the Northern District of California, all discovery matters are automatically referred to a magistrate judge, and in the San

Francisco/Oakland division, several District Judges refer all discovery matters to a magistrate judge and others do on a case-by-case basis. A magistrate judge who oversees a civil case for all purposes decides discovery matters with knowledge of your case. Parties spend a significant amount of time and effort explaining the basic issues of the case in briefing a discovery motion, and they can save that time and effort if the magistrate judge handles the entire matter. Another local litigator commented for this article: "Most magistrate judges have been in practice recently, and because they deal with discovery so much, they are good at understanding the burdens" of litigation.

If clients are worried about partisanship and political influence in cases, a magistrate judge might seem like a less political choice to the client because magistrate judges are not appointed by the President or the Senate, but rather by the District Judges.

Even if parties choose not to consent to a magistrate judge and decline, they worry that the magistrate judge will find out about it and take offense. In most cases, the magistrate judge never learns about a declination. Magistrate judges have so many cases that they have no time to look at those filings, or to concern themselves with a decision to decline in any case.

Finally, magistrate judges enjoy handling civil cases for all purposes. It may seem counterintuitive that magistrate judges are happy to have more work, but there are a few reasons why that is the case. Magistrate judges like having a change of pace from the criminal calendar, settlement conferences, and discovery matters. As one local magistrate judge said: "I enjoy getting to know the lawyers and digging into the facts." One of the reasons that magistrate judges like civil consent cases is that they gain insights that are helpful in settling cases. Often, magistrate judges can tell lawyers and their clients during settlement conferences how they might handle a motion or what the judge handling their case is thinking. Often, even the most experienced lawyer are surprised to hear the judicial perspective. The only way that magistrate judges can gain that knowledge is by handling the same types of cases. It may not be obvious that a happy judge is an attentive and enthusiastic judge who can and will devote time and effort to the case, which leads to the next point. One local litigator said that

magistrate judges “take a real interest in your case.”

In summary, when faced with a decision to consent to a magistrate judge, the answer is yes.

*Hon. Sallie Kim is a U.S. Magistrate Judge for the Northern District of California, with chambers in San Francisco.*

*Hon. Richard Seeborg maintains his chambers and courtroom in San Francisco, California. Judge Seeborg served as a Magistrate Judge for the Northern District of California, San Jose Division from February 2001 until his appointment as a District Judge.*