

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

FILED-CLERK  
U.S. DISTRICT COURT

2009 APR -5 PM 4:47

TEXAS-EASTERN

REFERRAL ORDER RS-72 CIVIL ACTIONS ASSIGNED TO  
JUDGE RICHARD A. SCHELL

Pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to United States Magistrate Judges, it is ORDERED:

**MOTIONS REFERRED**

1. All discovery motions filed in patent cases in the Sherman Division of the Eastern District of Texas on or after the date of this order and assigned to United States District Judge Richard A. Schell are hereby referred to United States Magistrate Judge Don D. Bush for disposition.

**CASES REFERRED**

2. Thirty-three and one-third (33 $\frac{1}{3}$ %) percent of selected non-patent civil actions filed in the Sherman Division of the Eastern District of Texas on or after the date of this order and assigned to United States District Judge Richard A. Schell are hereby referred to United States Magistrate Judge Don D. Bush for all pretrial proceedings.

**PRETRIAL PROCEEDINGS**

3. Judge Bush shall handle all pretrial proceedings in cases referred under paragraph 2.

This shall include:

- a. hear and determine all matters within the magistrate judge's dispositive jurisdiction;
- b. proceed in accordance with 28 U.S.C. § 636(b)(1)(B) and (C) concerning

matters excepted from the magistrate judge's dispositive jurisdiction under 28 U.S.C. § 636(b)(1)(A); and

- c. after the proposed final pretrial order has been tendered to the court by the parties, in those cases in which the parties have not consented to the Magistrate Judge, the Magistrate Judge shall issue a report to the District Judge indicating that the case is ready for a final pretrial conference and trial.

Upon receipt of the report, the referral under paragraph 2 shall be withdrawn, and the case shall be returned to the undersigned for all further proceedings and entry of judgment.

#### CONSENT

4. Upon receipt of signed consent forms by all parties, the case shall be reassigned to Judge Bush, who shall conduct all proceedings, including jury and non-jury trials, and order the entry of judgment.

#### REFERRAL PROCEDURE

5. Cases assigned to Judge Schell and referred to Judge Bush under this order shall be selected randomly by the clerk.

6. In the event of recusal or other disqualification of the magistrate judge in a case referred and assigned under this order, the case shall return automatically to the docket of the undersigned, subject to further orders of the court.

7. Case referrals pursuant to paragraph 2, case reassignments under paragraph 4, and withdrawals of referrals under paragraphs 3 and 6 shall be effected automatically under this order. Absent special circumstances, case-specific orders of reference, reassignment and withdrawal shall not be entered.

8. This order does not affect General Orders 05-4, 05-6, 05-7 and 05-10, or other established procedures for referral to Magistrate Judges of special category cases (*e.g.*, preliminary

motions to proceed *in forma pauperis* and for appointment of counsel in Title VII cases, prisoner cases, matters on the miscellaneous docket, etc.).

9. Nothing herein shall preclude reference of additional matters to the Magistrate Judge or the withdrawal of references in cases subject to this order whenever appropriate.

This order shall become effective with cases filed on or after the date of this order.

SIGNED this 6<sup>th</sup> day of April, 2009.

A handwritten signature in black ink that reads "Richard A. Schell". The signature is written in a cursive style with a horizontal line underneath it.

RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE