UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PROCEDURES AND OTHER INFORMATION
FOR COMPLETING THE FORM FOR
CONSENT OR REFUSAL OF MAGISTRATE JUDGE JURISDICTION
(updated 07/16/2010)

I.   **AUTHORITY**

The Court has entered a General Order (10-1), dated February 2, 2010, amending the General Order (09-3) of March 3, 2009, authorizing the assignment of civil cases to the Magistrate Judges sitting in Boston. Those Orders may be found on the Court's web page at www.mad.uscourts.gov.

II.   **PROCESS**

For counsel and non-prisoner *pro se* litigants:

As the party initiating the civil action, you are responsible for serving the Court's General Orders of March 3, 2009 and February 2, 2010 and the consent/refusal form on all opposing parties. You are also responsible for contacting these attorneys or parties to inquire as to their consent or refusal to proceed before the Magistrate Judge.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing to consent, submission of the executed form, memorializing consent or refusal to consent to final assignment to the Magistrate Judge, is mandatory.

The document does not need to have a handwritten signature from each attorney or party.

If the consent is unanimous you may enter an electronic signature on the consent form for each attorney or party in this style: '/s/ John Smith' (see the Court's CM/ECF Administrative Procedures for further information on electronic signatures). You may use multiple sheets if additional space is needed. The consent form is also available on the Court's web page. An example of a completed form is attached to these procedures.

Should any party not consent, you should electronically file the form, after completing just the bottom part of the form.

> **NOTE: The Court is not to be made aware of which party or parties did not consent to the Magistrate Judge's jurisdiction.**

> **Only one consent/refusal form should be filed for the case by counsel and non-prisoner *pro se* litigants.**

The consent or refusal is to be filed electronically in the Court's CM/ECF system, using one of these selections, found under the 'Other Documents' menu: '**Consent to Jurisdiction by US Magistrate Judge**,' or '**Refusal of Consent to Proceed Before a US Magistrate Judge**.'

Non-prisoner *pro se* litigants who do not have access to the Court's electronic filing system are to file the completed consent or refusal with the Clerk's Office on paper.

For incarcerated *pro se* litigants and counsel in those cases:

The packet of materials regarding Consent or Refusal to Magistrate Judge jurisdiction will be issued by the Clerk's Office with the appropriate summons or service order. It will be the responsibility of the *pro se* litigant to serve this notice along with the Summons and Complaint or Notice of Removal.

The Clerk's Office will include this notice and accompanying documents with any Service Order entered in 28 U.S.C. § 2241 or 28 U.S.C. § 2254 actions filed by *pro se* petitioners.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing to consent, submission of the executed form, memorializing consent or refusal to consent to final assignment to the Magistrate Judge, is <u>mandatory</u>.

Prisoner *pro se* litigants and counsel for opposing parties do not need to confer, but shall file <u>separate</u> documents, <u>on paper and clearly marked</u> "**DO NOT SCAN**" directly with the Clerk's Office indicating their consent or refusal to the Magistrate Judge's jurisdiction. The Clerk's Office will gather the information, and make the appropriate docket entry, based on the documents filed. The original documents relating to consent or refusal filed by any party in a litigation involving an incarcerated *pro se* litigant will not be attached to the electronic (CM/ECF) docket, but stored in the paper case file.

III. CONSENT AND FURTHER PROCEEDINGS

Should all parties consent to the Magistrate Judge's jurisdiction, the case will continue before the Magistrate Judge as any other civil case, including bench or jury trial, and the entry of final judgment, with direct review by the First Circuit Court of Appeals if any appeal is filed. <u>See</u> 28 U.S.C. § 636(c).

IV. REFUSAL OF CONSENT AND FURTHER PROCEEDINGS

Should any party not consent to the Magistrate Judge's jurisdiction, or should the parties fail to submit the document at all, the courtroom deputy clerk will transmit the case file to the Clerk to have the case randomly assigned to a District Judge of this Court. If the District Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to the previously assigned Magistrate Judge.

V. ADDITIONAL PARTIES

Counsel or *pro se* parties filing a pleading that adds additional parties to the civil action are responsible for serving the General Order and the consent form with that pleading, and then filing the consent form, except for *pro se* prisoner litigants, who shall file the instructions above.

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ABC TRUCKING COMPANY
_____
                    Plaintiff

             v.   Civil Action No. _____ 08-10356 _____

MARY ALICE JONES
_____
                    Defendant

NOTICE

This case has been assigned to Magistrate Judge _____ for all purposes. Please read the attached General Order for further information regarding this assignment. Plaintiff, or defendant if the case is initiated by a Notice of Removal, is responsible for submitting this form to the Court advising that all parties consent to the Magistrate Judge's jurisdiction, or indicating that the consent is not unanimous. One document is to be filed.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing consent, submission of this executed form, memorializing consent or refusal to the final assignment to the Magistrate Judge is mandatory. This document is to be electronically filed with the Court within thirty days after the date of service on the last party.

CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed Only If All Parties Consent)

In accordance with 28 U.S.C. § 636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the undersigned *pro se* party or counsel of record consent to have the above named Magistrate Judge conduct all further proceedings in this case, including bench or jury trial, and order the entry of final judgment, with direct review by the First Circuit Court of Appeals if any appeal is filed.

Party Represented	Signature	Date
ABC Trucking Company	/s/ Phyllis Q. Harrison	1/15/08
Mary Alice Jones	/s/ George S. Britt	1/16/08

(If additional space is needed, additional forms may be attached)

- - OR - -

REFUSAL TO CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed If Any Party Declines to Consent - Please DO NOT Identify the Party)

In accordance with General Order 07-4 , dated December 4, 2007, and as modified by General Order 09-3 (dated March 3, 2009) and General Order 10-1 (dated February 2, 2010) the parties advise the Court that at least one party does not consent to the Magistrate Judge's jurisdiction.

The case will be randomly assigned to a U.S. District Judge for further proceedings. If you elect to have the case proceed before a U.S. District Judge, the above named Magistrate Judge shall continue to be assigned to this case to hear matters referred by the District Judge, in accordance with 28 U.S.C. § 636(b) and Rule 72 of the Federal Rules of Civil Procedure.

Dated: _____   _____

                                                Plaintiff or Removing Party
                                                (through counsel, if appropriate)

             BBO #   _____
             Address: _____
                             _____
                             _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ABC TRUCKING COMPANY
                              Plaintiff

                    v.   Civil Action No. _____ 08-10356 _____

MARY ALICE JONES
                              Defendant

NOTICE

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Dated: _____ 1/15/08 _____   /s/ Phyllis Q. Harrison
                                                  Plaintiff or Removing Party
                                                  (through counsel, if appropriate)

                    BBO #   123456
                    Address: 9004 Main Street
                                     Cambridge, MA 02138

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____
                    Plaintiff

        v.   Civil Action No. _____

_____
                    Defendant

NOTICE TO PARTIES IN *PRO SE* PRISONER LITIGATION CASES
DO NOT SCAN

This case has been assigned to Magistrate Judge _____ for all purposes. Please read the attached General Order for further information regarding this assignment. Each party is responsible for submitting this form to the Court advising that all parties consent to (or refuse) the Magistrate Judge's jurisdiction. Each party is to file their consent or refusal on paper, with the Clerk's Office clearly marked as **DO NOT SCAN**.

While consent to the assignment of the case to the Magistrate Judge is entirely voluntary, and no adverse substantive consequences of any kind will redound to an attorney or party refusing consent, submission of this executed form, memorializing consent or refusal to the final assignment to the Magistrate Judge is mandatory. This document is to be filed on paper with the Clerk's Office within thirty days after the date of service on the last party.

CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE

In accordance with 28 U.S.C. § 636(c) and Rule 73(b) of the Federal Rules of Civil Procedure, the undersigned *pro se* party or counsel of record consents to have the above named Magistrate Judge conduct all further proceedings in this case, including bench or jury trial, and order the entry of final judgment, with direct review by the First Circuit Court of Appeals if any appeal is filed.

Party Represented	Signature	Date

(If additional space is needed, additional forms may be attached)

- - OR - -

REFUSAL TO CONSENT TO PROCEED BEFORE A U.S. MAGISTRATE JUDGE
(To Be Completed If the Party Declines to Consent)

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Dated: _____   _____
                                                Signature

                                                _____
                                                Printed Name

                        BBO #   _____
                        Address: _____
                                                _____