

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

In re:)
)
Vacant Judgeship)
)
)

STANDING ORDER No. 2022-VAC-1

In anticipation of the upcoming judicial vacancy, NOW THEREFORE, at
Wilmington on this Ninth day of March in 2022, it is HEREBY ORDERED that:

1. The Clerk of the Court shall create a new docket that shall be referred to as the “Vacant Judgeship” or “VAC.”
2. Docketing in all VAC matters shall be handled by Neil Looby, (302) 573-6003, and Elizabeth Ghione, (302) 573-4538.
3. For new cases assigned to VAC, within 60 days of service of the Complaint on at least one defendant, the parties shall notify the Court that they either (1) have reached an agreement to consent to the handling of the case by a Magistrate Judge to be selected by the Court, (2) have reached an agreement to consent to the handling of the case by a Magistrate Judge of the parties’ choosing, or (3) have been unable to agree to consent to the handling of the case by a Magistrate Judge. Until such notification is filed, pro hac motions and proposed stipulated orders filed in the case shall be handled by the duty District

Judge. In no instance should any party attempt to inform the Court which party or parties declined to consent; the Court needs to know only whether the parties have unanimously agreed to option (1) or (2) above or not (option (3) above).

4. If the parties have not consented to having a Magistrate Judge handle the case (option (3) above), the Court will endeavor to assign the case to a Visiting Judge. Such assignment may occur at any time between the inception of the case and trial and may be made to any Article III judge, whether or not that judge has previously served or been announced as a Visiting Judge.

5. Until the case is assigned to an Article III Judge, the following procedures shall govern the case:

- a. The case will be referred to a Magistrate Judge **solely** to (1) adjudicate discovery (including fact and expert discovery) and protective order disputes; (2) issue or modify a scheduling order; (3) review stipulated orders and pro hac vice motions; and (4) review requests for mediation by a Magistrate Judge in cases other than patent and securities cases.
- b. The parties shall cooperate in good faith to move the case forward. To that end, within seven days of filing the notice that

the parties would not consent to a Magistrate Judge, the parties shall hold a Rule 26(f) conference and commence discovery.


- c. The parties shall file a proposed scheduling order within 30 days of the Rule 26(f) conference.
- d. Disputes arising from the Rule 26(f) conference and disputes concerning the scheduling order shall not prevent the case, including discovery, from progressing. Resolution of such disputes is within the scope of the referral to the assigned Magistrate Judge.
- e. Disputes regarding the terms of a protective order shall not prevent the case, including discovery, from progressing. (See Local Rule 26.1.) Resolution of such disputes is within the scope of the referral to the assigned Magistrate Judge.
- f. The filing of a motion shall not be grounds to prevent the case, including discovery, from progressing. Absent any specific provision in the case's scheduling order, briefing shall proceed according to the Local Rules.
- g. The Magistrate Judge who conducts the Rule 16 conference will set and the parties will comply with deadlines for the completion

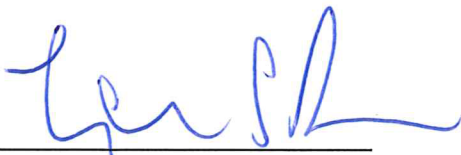
of discovery and the filing and briefing of motions and, in patent cases, claim construction. Dates for motion and claim construction hearings and argument, the pretrial conference, and trial will **not** be set until an Article III judge is assigned to the case. The scheduling of (i) any motions hearing at which argument would be heard on a motion other than a motion relating to discovery or to a protective order, (ii) a claim construction hearing, (iii) a pretrial conference, or (iv) trial is not within the scope of the referral to the assigned Magistrate Judge. Thus, the scheduling order shall include dates for filing briefing for such proceedings but shall not include dates for such proceedings.


- h. Emergency motions in VAC cases will be reviewed by the District Judge who is acting as the Court's duty judge on the date the motion is filed or the date a party contends the motion has become an emergency. The duty judge has discretion to treat the motion as an emergency and assign the case to an Article III judge or to treat the motion as a nonemergency and allow the

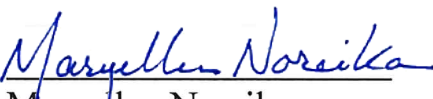
case to remain pending in the VAC docket.

FOR THE COURT:


Colm F. Connolly
Chief Judge


Leonard P. Stark
Judge


Richard G. Andrews
Judge


Maryellen Noreika
Judge