

District of Delaware Implements New Procedures on the Eve of Judge Stark's Departure

Client Alert

03.03.2022

The District of Delaware announced various measures today to address the Court's caseload due to the elevation of Judge Stark to the Federal Court.

To assist with newly filed cases, the Court is creating a Vacant Judgeship docket (VAC) to which some newly filed civil matters will be assigned. For those cases assigned to the Vacant Judgeship, parties will have 60 days from the date of service on at least one defendant to notify the Court that they have either (1) reached an agreement to consent to the handling of the case by a Magistrate Judge selected by the Court, (2) have reached an agreement to the handling of the case by a Magistrate Judge selected by the parties, or (3) have been unable to reach an agreement on the handling of a case by a Magistrate Judge. In those cases where the parties do not consent to a Magistrate Judge, the Court will endeavor to assign the case to a Visiting Judge, whether or not that judge has previously served or been announced as a Visiting Judge. Until the case has been assigned to a Visiting Judge (or until the vacancy is filled), cases will be assigned to a Magistrate Judge to handle discovery and protective order disputes, issue a scheduling order, and review stipulated orders and pro hac vice motions. Additional details are contained in the Court's announcement.

For those cases currently assigned to Judge Stark, they will either be (a) reassigned, in rare instances, to Chief Judge Connolly, Judge Andrews, or Judge Noreika, (b) reassigned to a Visiting Judge, or (c) reassigned to the Vacant Judgeship. Within 14 days following the reassignment of Judge Stark cases to the Vacant Judgeship the procedures outlined above for newly filed cases assigned to the Vacant Judgeship shall be followed. Scheduling orders already in place will remain effective, except that dates for motions and claim construction hearings and referrals to Magistrate Judges for ADR will be vacated.

Given the burdens placed on the Court's Magistrate Judges as a result of these new procedures, during the vacancy, new cases will no longer be automatically referred to a Magistrate Judge for ADR. Current referrals to Magistrate Judges for ADR will be vacated and all currently scheduled

District of Delaware Implements New Procedures on the Eve of Judge Stark's Departure

mediations will be canceled.

The Court will issue standing orders to implement the procedures above no later than March 11, with case-specific orders to follow.

Copyright © Morris, Nichols, Arsht & Tunnell LLP. These materials have been prepared solely for informational and educational purposes, do not create an attorney-client relationship with the author(s) or Morris, Nichols, Arsht & Tunnell LLP, and should not be used as a substitute for legal counseling in specific situations. These materials reflect only the personal views of the author(s) and are not necessarily the views of Morris, Nichols, Arsht & Tunnell LLP or its clients.

PRACTICE AREAS

Intellectual Property Litigation

