

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

Jason Andujar

Plaintiff

v.

Detective French, et al.

Defendant

Civil Action No. 24-CV-1509

NOTICE OF A LAWSUIT AND REQUEST TO WAIVE SERVICE OF A SUMMONS

To: Detective French

(Name of the defendant or - if the defendant is a corporation, partnership, or association - an officer or agent authorized to receive service)

Why are you getting this?

A lawsuit has been filed against you, or the entity you represent, in this court under the number shown above. A copy of the complaint is attached.

This is not a summons, or an official notice from the court. It is a request that, to avoid expenses, you waive formal service of a summons by signing and returning the enclosed waiver. To avoid these expenses, you must return the signed waiver within 30 days *(give at least 30 days, or at least 60 days if the defendant is outside any judicial district of the United States)* from the date shown below, which is the date this notice was sent. Two copies of the waiver form are enclosed, along with a stamped, self-addressed envelope or other prepaid means for returning one copy. You may keep the other copy.

What happens next?

If you return the signed waiver, I will file it with the court. The action will then proceed as if you had been served on the date the waiver is filed, but no summons will be served on you and you will have 60 days from the date this notice is sent (see the date below) to answer the complaint (or 90 days if this notice is sent to you outside any judicial district of the United States).

If you do not return the signed waiver within the time indicated, I will arrange to have the summons and complaint served on you. And I will ask the court to require you, or the entity you represent, to pay the expenses of making service.

Please read the enclosed statement about the duty to avoid unnecessary expenses.

I certify that this request is being sent to you on the date below.

Date: September 16, 2025

Signature of the attorney or unrepresented party

Jason Andujar

Printed name

Address

E-mail address

Telephone number

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

Jason Andujar

Plaintiff

v.

Detective French, et al.

Defendant

Civil Action No. 24-CV-1509

WAIVER OF THE SERVICE OF SUMMONS

To: Jason Andujar
(Name of the plaintiff's attorney or unrepresented plaintiff)

I have received your request to waive service of a summons in this action along with a copy of the complaint, two copies of this waiver form, and a prepaid means of returning one signed copy of the form to you.

I, or the entity I represent, agree to save the expense of serving a summons and complaint in this case.

I understand that I, or the entity I represent, will keep all defenses or objections to the lawsuit, the court's jurisdiction, and the venue of the action, but that I waive any objections to the absence of a summons or of service.

I also understand that I, or the entity I represent, must file and serve an answer or a motion under Rule 12 within 60 days from September 16, 2025, the date when this request was sent (or 90 days if it was sent outside the United States). If I fail to do so, a default judgment will be entered against me or the entity I represent.

Date: _____

Signature of the attorney or unrepresented party

Detective French

Printed name of party waiving service of summons

Printed name

Address

E-mail address

Telephone number

Duty to Avoid Unnecessary Expenses of Serving a Summons

Rule 4 of the Federal Rules of Civil Procedure requires certain defendants to cooperate in saving unnecessary expenses of serving a summons and complaint. A defendant who is located in the United States and who fails to return a signed waiver of service requested by a plaintiff located in the United States will be required to pay the expenses of service, unless the defendant shows good cause for the failure.

"Good cause" does *not* include a belief that the lawsuit is groundless, or that it has been brought in an improper venue, or that the court has no jurisdiction over this matter or over the defendant or the defendant's property.

If the waiver is signed and returned, you can still make these and all other defenses and objections, but you cannot object to the absence of a summons or of service.

If you waive service, then you must, within the time specified on the waiver form, serve an answer or a motion under Rule 12 on the plaintiff and file a copy with the court. By signing and returning the waiver form, you are allowed more time to respond than if a summons had been served.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Jason Andujar

Plaintiff(s),

v.

Case No. 24-CV-1509

Detective French

Defendant(s).

CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE

This form must be filed with the Clerk of Court within 21 days of receipt. Although choosing to have your case decided by a magistrate judge is optional and refusal will not have adverse substantive consequences, the timely return of this completed form is mandatory.

If you do not consent to a magistrate judge hearing your case, a district judge will hear your case. Aside from cases subject to the Prison Litigation Reform Act, magistrate judges in this district generally play no further role in civil cases pending before district judges and do not issue reports and recommendations.

Magistrate judges do not conduct felony trials, and therefore felony trials do not interfere with scheduling and processing of cases before magistrate judges.

Check one:

☐ The undersigned attorney of record or pro se litigant **consents** to have Magistrate Judge Nancy Joseph conduct all proceedings in this case, including a bench or jury trial, and enter final judgment in accordance with 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73(b).

☐ The undersigned attorney of record or pro se litigant **refuses** to have a magistrate judge enter final judgment in this matter.

Signed this ____ day of _____, _____.
(date) (month) (year)

Signature of counsel of record or pro se litigant

- ☐ Plaintiff / petitioner (attorney or pro se litigant)
- ☐ Defendant / respondent (attorney or pro se litigant)
- ☐ Other party

ASSIGNMENT OF CIVIL CASES
EASTERN DISTRICT OF WISCONSIN

At the time a new civil action is filed, it is assigned by random selection to either a district judge or a magistrate judge in accordance with the local rules. Pursuant to the provisions of 28 U.S.C. §636(c) and Rule 73 of the Federal Rules of Civil Procedure, a United States Magistrate Judge may, with the consent of the parties, conduct all proceedings in this civil action, including a bench or jury trial and order the entry of judgment. The statute provides for direct appeal to the U.S. Court of Appeals for the Seventh Circuit.

Once the assigned district or magistrate judge has been selected, the local rules of this district require that each party to the action receive a copy of the "consent form." Each party shall complete the form and file it with the Clerk of Court **within 21 days** after its receipt.

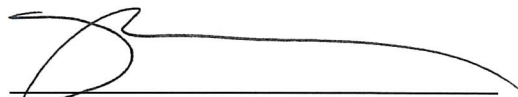
If this case has been randomly assigned to a **district judge** and all parties consent to have the magistrate judge conduct all proceedings in the case, the district judge may enter an order transferring the case to the magistrate judge.

If this case has been randomly assigned to a **magistrate judge** and not all parties consent, then the case will be reassigned by random selection to a district judge. If all parties consent, the magistrate judge will conduct all proceedings in the action.

While the decision to consent or not to consent to the exercise of jurisdiction by the magistrate judge is entirely voluntary, the duty to respond to this order is **mandatory**. Your response shall be made to the Clerk of Court only on the form on the reverse side of this notice.

IT IS THEREFORE ORDERED, that you complete this form and file it with the Clerk of Court within **twenty-one (21) days** from receipt.

UNITED STATES DISTRICT COURT

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

Honorable Pamela Pepper,
Chief Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JASON ANDUJAR,

Plaintiff,

v.

SGT. PETER BORREE and CITY OF
WEST ALLIS POLICE DEPARTMENT,

Defendants.

Case No. 24-CV-1509-JPS

ORDER

Plaintiff Jason Andujar, a prisoner confined at New Lisbon Correctional Institution, filed a pro se complaint under 42 U.S.C. § 1983 alleging that his constitutional rights were violated. ECF No. 1. On July 25, 2025, Magistrate Judge Nancy Joseph screened the amended complaint pursuant to 28 U.S.C. § 1915A(a) and issued a report and recommendation to allow certain claims to proceed and to dismiss other defendants. ECF No. 13. Specifically, the report made the following three recommendations: (1) the City of West Allis Police Department and Sgt. Peter Borree be dismissed as defendants; (2) the Clerk of Court add John and Jane Doe Stopping Officers; John or Jane Doe Vehicle Officer; and John and Jane Doe Interrogating Officers to the caption as placeholders for the unidentified defendants; and (3) the case be returned to Magistrate Judge Nancy Joseph for further proceedings. The time for objecting to the recommendation has passed and no objection has been received. *See* Fed. R. Civ. P. 72; Gen. L.R. 72(c).

The Court has considered the recommendation and, in light of its agreement with Magistrate Judge Joseph's analysis and without objection from Plaintiff, will adopt it with the minor alteration to have the Clerk of Court add Defendant Detective French to the caption. Plaintiff's initial complaint named Defendant Detective French; however, his amended complaint does not. *Compare* ECF No. 1 at 1 *with* ECF No. 11 at 1. This omission appears to one of inadvertence as opposed to intentional; Plaintiff specifically mentions allegations that Detective French denied him the ability to speak to a lawyer and further seeks relief from Detective French. The Court therefore liberally construes the amended complaint to include Detective French as a defendant. The Court will therefore order service on Defendant French and Plaintiff may seek discovery from Detective French in order to identify the remaining Doe defendants.

Accordingly,

IT IS ORDERED that Magistrate Judge Nancy Joseph's report and recommendation, ECF No. 13, be and the same is hereby **ADOPTED** with the alteration described above;

IT IS FURTHER ORDERED that the City of West Allis Police Department and Sgt. Peter Borree be dismissed as defendants;

IT IS FURTHER ORDERED that the Clerk of Court add John and Jane Doe Stopping Officers; John or Jane Doe Vehicle Officer; and John and Jane Doe Interrogating Officers to the caption as placeholders for the unidentified defendants;

IT IS FURTHER ORDERED that the Clerk of Court add Detective French as a defendant;

IT IS FURTHER ORDERED that the U.S. Marshals Service shall serve a copy of the amended complaint, ECF No. 11, the Report and

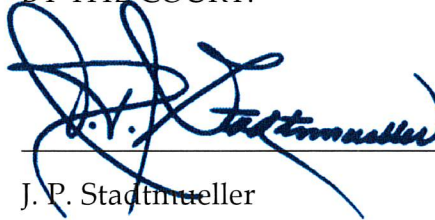
Recommendation, EF No. 13, and this Order upon Defendant **Detective French** pursuant to Federal Rule of Civil Procedure 4. Plaintiff is advised that Congress requires the U.S. Marshals Service to charge for making or attempting such service. 28 U.S.C. § 1921(a). Although Congress requires the Court to order service by the U.S. Marshals Service, it has not made any provision for these fees to be waived either by the Court or by the U.S. Marshals Service. The current fee for waiver-of-service packages is \$8.00 per item mailed. The full fee schedule is provided at 28 C.F.R. §§ 0.114(a)(2), (a)(3). The U.S. Marshals Service will give Plaintiff information on how to remit payment. The Court is not involved in collection of the fee;

IT IS FURTHER ORDERED that Defendant **French** shall file a responsive pleading to the amended complaint; and

IT IS FURTHER ORDERED that the case be returned to Magistrate Judge Nancy Joseph for further proceedings.

Dated at Milwaukee, Wisconsin, this 15th day of September, 2025.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "J. P. Stadtmueller", is written over a horizontal line.

J. P. Stadtmueller
U.S. District Judge

NO

AMENDED COMPLAINT
(for filers who are prisoners without lawyers)

CLERK USDC EDWI
FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

2025 APR 25 P 1:47

(Full name of plaintiff)

Jason Andujar

v.

Case Number:

24-CV-1509

(Full name of defendant(s))

(to be supplied by Clerk of Court)

City of West Allis

Police Dept.

Sgt. Peter Borrae

A. PARTIES

1. Plaintiff is a citizen of Wisconsin, and is located at
(State)

8885 S 68th St Franklin, WI 53132
(Address of prison or jail)

2. Defendant Sgt. Peter Borrae
(Name)

is (if a person or private corporation) a citizen of Wisconsin
(State, if known)

Amended Complaint - 1

and (if a person) resides at _____
(Address, if known)

and (if the defendant harmed you while doing the defendant's job)

worked for West allis police Dept.
(Employer's name and address, if known)

(If you need to list more defendants, use another piece of paper.)

B. STATEMENT OF CLAIM

On the space provided on the following pages, tell:

1. Who violated your rights;
2. What each defendant did;
3. When they did it;
4. Where it happened; and
5. Why they did it, if you know.

On March 11th 2024 at around 3:00pm
I had arun in with another civilian, which
caused the police to become involved. When
headed to the police station to give my
complaint in regards to the situation
I was blocked 50 feet from the entrance
due to the fact the other civilian had
already submitted a complaint about
our encounter. Where my right were
violated was the officer behind me
and the othe two who blocked me never

turned on the Emergency lights or sirens as
in an initial traffic stop, Although I already
was at a complete stop in the turning lane
toward the main entrance to the PD station
this was about 4 or 5 pm 03/11/24 should all
be on the PD building cameras when another
squad car comes from behind the parking lot
over the meridian and crashes my SUV
causing damages to my vehicle and neck and
back injuries which I have been being treated
for at the CRC facility I'm held at.
Also no crash report was made for this
accident at all as if it never happened
I wasn't offered medical assistance either.
it was a head on collision without
regards for my life. Not sure of officer's
names it was so many of them trying
to cover it all up please request
building's front cameras. Detective
French interrogated me After I asked to

→

Contact my insurance for a lawyer which I was denied to do so. I asked many times multiple different officers this also on camera and they kept giving me the run around, Also a violation of my civil rights. Not only that I was held at gun point and almost killed even though a Lieutenant was telling the officers they had too many guns out this also on body cam's please help me with this situation and see that my civil rights have been violated and police misconduct and Abuse of power was taking place on this day 03/11/24

C. JURISDICTION

☐ I am suing for a violation of federal law under 28 U.S.C. § 1331.

OR

☒ I am suing under state law. The state citizenship of the plaintiff is different from the state citizenship of every defendant, and the amount of money at stake in this case (not counting interest and costs) is \$600,000.

D. RELIEF WANTED

Describe what you want the Court to do if you win your lawsuit. Examples may include an award of money or an order telling defendants to do something or to stop doing something.

I would like the officers involved terminated for putting my life at stake and Detective French terminated for violating my civil rights not letting me call my insurance for a lawyer and payment of 600,000 for total loss of vehicle and injury

E. JURY DEMAND

I want a jury to hear my case.

☒ - YES

☐ - NO

I declare under penalty of perjury that the foregoing is true and correct.

Complaint signed this 20 day of April 2025.

Respectfully Submitted,

Jason Andujia
Signature of Plaintiff

2024 004423
Plaintiff's Prisoner ID Number

8885 S 68th St

Franklin, WA 98132
(Mailing Address of Plaintiff)

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JASON ANDUJAR,

Plaintiff,

v.

Case No. 24-CV-1509

**SGT. PETER BORREE, and
CITY OF WEST ALLIS POLICE DEPT.,**

Defendants.

REPORT AND RECOMMENDATION

Plaintiff Jason Andujar, who is incarcerated at Dodge Correctional Institution and representing himself, filed a complaint under 42 U.S.C. § 1983 alleging that the defendants violated his constitutional rights. (Docket # 1.) On April 4, 2025, the court screened Andujar's complaint and found it failed to state a claim upon which relief may be granted. (Docket # 10.) However, the court afforded Andujar an opportunity to amend his complaint. On April 25, 2025, Andujar filed an amended complaint. (Docket # 11.)

Because not all parties have had the opportunity to consent to magistrate judge jurisdiction, this court cannot "resolve the case finally." *See Coleman v. Labor & Indus. Review Comm'n*, 860 F.3d 461, 475 (7th Cir. 2017). The clerk of court shall therefore randomly refer this matter to a district judge for consideration of the recommendations outlined below.

1. Federal Screening Standard

Under the PLRA, the court must screen complaints brought by prisoners seeking relief from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint if the prisoner raises claims that are legally

“frivolous or malicious,” that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

In determining whether the complaint states a claim, the court applies the same standard that applies to dismissals under Fed. R. Civ. P. 12(b)(6). *See Cesal v. Moats*, 851 F.3d 714, 720 (7th Cir. 2017) (citing *Booker-El v. Superintendent, Ind. State Prison*, 668 F.3d 896, 899 (7th Cir. 2012)). To state a claim, a complaint must include “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). The complaint must contain enough facts, accepted as true, to “state a claim for relief that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows a court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (citing *Twombly*, 550 U.S. at 556).

To state a claim for relief under 42 U.S.C. § 1983, a plaintiff must allege that someone deprived him of a right secured by the Constitution or the laws of the United States, and that whoever deprived him of this right was acting under color of state law. *D.S. v. E. Morris Cty. Sch. Corp.*, 799 F.3d 793, 798 (7th Cir. 2015) (citing *Buchanan–Moore v. Cty. of Milwaukee*, 570 F.3d 824, 827 (7th Cir. 2009)). The court construes *pro se* complaints liberally and holds them to a less stringent standard than pleadings drafted by lawyers. *Cesal*, 851 F.3d at 720 (citing *Perez v. Fenoglio*, 792 F.3d 768, 776 (7th Cir. 2015)).

2. Andujar’s Allegations

Andujar alleges that on March 11, 2024, he “had a run in with another civilian, which caused the police to become involved.” (Docket # 11 at 2.) He went to the West Allis Police Department to file a complaint, but when he got there, he “was blocked 50 feet from the

entrance due to the fact the other civilian had already submitted a complaint about our encounter.” (*Id.*) He states he does not know the identity of the officers who stopped him, but he alleges that they did not turn on their sirens or emergency lights to indicate that it was a traffic stop. (*Id.* at 2–3.) Then, “another squad car comes from behind the parking lot over the median and crashes [into] my SUV” causing damages to his SUV and a back injury. (*Id.* at 3.) He was detained and interrogated by Detective French, who denied his requests for a lawyer. (Docket # 11 at 3–4.) He also asked “multiple different officers” for a lawyer, but they ignored his request. (*Id.* at 4.)

3. *Analysis*

At the outset, while Andujar lists the City of West Allis Police Department as a defendant, he cannot proceed on a claim against it. Section 1983 allows a plaintiff to sue a “person” who, acting under color of law, violates his constitutional rights. The West Allis Police Department is not a person. There are some circumstances where a municipality can be sued under § 1983. *See Monell v. Dep’t. of Social Servs. of City of New York*, 436 U.S. 658 (1978). For the West Allis Police Department, Fed. R. Civ. P. 17(b) states that defendants in a federal lawsuit must have the legal capacity to be sued. State law determines an entity’s capacity to be sued. *Webb v. Franklin County Jail*, Case No. 160cv01284, 2017 WL 914736, at *2 (S.D. Ill. Mar. 8, 2017). Under Wisconsin law, the West Allis Police Department “is not a legal entity separable from the county government which it serves,” and is therefore not subject to suit under § 1983. *Whiting v. Marathon County Sheriff’s Dept.*, 382 F.3d 700, 704 (7th Cir. 2004). Andujar additionally lists Sgt. Peter Borree as a defendant, but he does not include any allegations against him. As such, he should be dismissed as well.

Andujar claims that he was illegally stopped, was subject to excessive force, and denied his right to an attorney. Regarding the stop, a police officer cannot stop individuals without “reasonable articulable suspicion” that a crime has happened, is about to happen, or is happening. *Huff v. Reichert*, 744 F.3d 999, 1004 (7th Cir. 2014). Andujar does not provide much detail about the cause for the stop other than stating that the person he had an altercation with gave their statement and complaint before him. Because I do not know the nature of the statement or complaint given to the police, I will allow Andujar to proceed on a Fourth Amendment unlawful stop claim against the defendant police officers who stopped him, who I will label as John and Jane Doe Stopping Officers.

Turning to Andujar’s claim for excessive force, the court examines an excessive force claim under the Fourth Amendment’s objective reasonableness standard. *Dawson v. Brown*, 803 F.3d 829, 833 (7th Cir. 2015). “Whether a police officer used excessive force is analyzed from the perspective of a reasonable officer under the circumstances, rather than examining the officer’s actions in hindsight.” *Id.* The court considers several relevant factors “including the severity of the crime; whether the suspect posed an immediate threat to the officers or others; whether the suspect was resisting or evading arrest; whether the individual was under arrest or suspected of committing a crime; whether the individual was armed; and whether the person was interfering or attempting to interfere with the officer’s duties.” *Id.* Ultimately, the court should “determine ‘whether the force used to seize the suspect was excessive in relation to the danger he posed . . . if left unattended.’” *Id.* (quoting *Padula v. Leimbach*, 656 F.3d 595, 602 (7th Cir. 2011)). Andujar alleges that a police officer in a vehicle slammed into his SUV for no apparent reason after he was already stopped outside the police station. At

this point, he may proceed on a Fourth Amendment excessive force claim against this police officer, who I will label as John or Jane Doe Vehicle Officer.

As to Andujar's claim he was denied the ability to speak to an attorney by defendant French when he was interrogating Andujar, the Seventh Circuit has held that "[r]estrictions on a detainee's telephone privileges that prevented him from contacting his attorney violate the Sixth Amendment right to counsel." *Murphy v. Walker*, 51 F.3d 714, 718 (7th Cir. 1995) (citing *Tucker v. Randall*, 948 F.2d 388, 390–91 (7th Cir. 1991)). Here, Andujar alleges that defendant French and other John and Jane Doe Interrogating Officers did not allow him to call his lawyer. For the purposes of screening, this is sufficient to state a Sixth Amendment claim.

Andujar states claims against three sets of John and Jane Doe Defendants: the Stopping Officers, the Vehicle Officer, and the Interrogating Officers. If the district court accepts this court's recommendation and allows Andujar to proceed on the above-mentioned claims against the Doe defendants, Andujar will have to send the named defendant discovery requests to identify the real names of the Doe defendants. Once the named defendant answers the complaint, the court will issue a scheduling order providing more information about identifying the Doe defendant.

IT IS THEREFORE RECOMMENDED that:

- The City of West Allis Police Department and Sgt. Peter Borree be dismissed as defendants.
- The Clerk of Court add John and Jane Doe Stopping Officers; John or Jane Doe Vehicle Officer; and John and Jane Doe Interrogating Officers to the caption as placeholders for the unidentified defendants.
- The case be returned to Magistrate Judge Nancy Joseph for further proceedings.

IT IS FURTHER ORDERED that E-Filing Program institutions¹ must submit all correspondence and case filings to institution staff, who will scan and e-mail documents to the court. Plaintiffs who are inmates at all other prison facilities must submit the original document for each filing to the court to the following address:

Office of the Clerk
517 E. Wisconsin Avenue, Room 362
Milwaukee, Wisconsin 53202

PLEASE DO NOT MAIL ANYTHING DIRECTLY TO THE JUDGE'S CHAMBERS. It will only delay the processing of the matter.

Andujar is further advised that failure to make a timely submission may result in the dismissal of this case for failure to diligently pursue it. In addition, the parties must notify the Clerk of Court of any change of address. Andujar is reminded that it is his responsibility to promptly notify the court if he is released from custody or transferred to a different institution. Andujar's failure to keep the court advised of his whereabouts may result in the dismissal of this case without further notice.

Your attention is directed to 28 U.S.C. § 636(b)(1)(B) and (C), Fed. R. Civ. P. 72(b)(2), and E.D. Wis. Gen. L. R. 72(c), whereby written objections to any recommendation herein, or part thereof, may be filed within fourteen days of entry of this recommendation. Failure to file a timely objection with the district judge shall result in a waiver of your right to appeal.

¹ The Prisoner E-Filing Program is mandatory for all inmates of Green Bay Correctional Institution, Waupun Correctional Institution, Dodge Correctional Institution, Wisconsin Secure Program Facility, Columbia Correctional Institution, and Oshkosh Correctional Institution.

Dated at Milwaukee, Wisconsin this 25th day of July, 2025.

BY THE COURT:

A handwritten signature in black ink, reading "Nancy Joseph". The signature is written in a cursive style with a large initial "N" and a long horizontal stroke at the end.

NANCY JOSEPH

United States Magistrate Judge

