

LOCAL RULES  
for the  
SOUTHERN DISTRICT  
Of  
GEORGIA

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## LR 1. LOCAL RULES FOR CIVIL ACTIONS

LR 1.1 Precedence of the Federal Rules of Civil Procedure. In cases of conflict between these Local Rules and the Federal Rules of Civil Procedure, except where the Federal Rules of Civil Procedure permit variations by local rule, or in matters not addressed by these Local Rules, the Federal Rules of Civil Procedure shall govern. Whenever possible, the Local Rules and Federal Rules of Civil Procedure shall be read consistently.

## LR 2. CIVIL ACTIONS

LR 2.1 Six Divisions. The Southern District of Georgia consists of six divisions as prescribed in Title 28, United States Code, Section 90. These are the Augusta, Brunswick, Dublin, Savannah, Statesboro, and Waycross divisions.

(a) Venue - Resident Defendant. All civil actions, not in rem, brought against a resident of one of the six divisions of this district shall be brought and tried in the division in which the defendant resides or in a division in which a substantial part of the events or omissions giving rise to the claim occurred.

(b) Venue - Multiple Defendants. Actions that are not in rem, brought against persons who are residents of more than one division in this district, shall be brought in the division in which a substantial part of the events or omissions giving rise to the claim occurred. If the events or omissions giving rise to the claim occurred outside of the district, the action may be brought in the division containing any county of which any defendant is a resident.

(c) Venue - Non-resident Defendant. If a substantial part of the events or omissions complained of occurred in this district and no defendant is a resident of this district, the action shall be brought in the division containing the county in which a substantial part of the events or omissions occurred.

(d) Venue - Corporations. For the purpose of this rule, a corporation shall be deemed to be a resident of any county in which it is doing or transacting business.

(e) Venue - United States as Defendant (Civil Actions). Actions brought against the United States shall be brought in the division containing the county of plaintiff's residence or in the division in which a substantial part of the events or omissions giving rise to the claim occurred.

(f) Venue - Actions of a Local Nature. Civil actions of an in rem nature may be brought in any division in which any part of the property in issue is located or seized.

**LR 2.2 Division Filings.** Although all paper filings in civil and criminal cases should ordinarily be filed in the divisional office for the division where the case is assigned, such papers may be filed in any staffed divisional Clerk's office within this district. In such event, the Clerk of the Court shall receive and mark the papers filed and promptly forward such pleadings and papers to the divisional office in which the case file is maintained.

**LR 2.3 Transfer of Civil Cases.** By Order of the Court, any civil action may be transferred for trial to any other place or division within the district.

**LR 2.4 Assignment.** The official duty stations of the three active Judges of this Court are as follows: One active District Judge in Augusta, one active District Judge in Savannah, and one active District Judge in Brunswick. The question of assignment of business between all judicial officers in the district will be addressed from time to time by separate order of this Court.

### LR 3. FILING ACTION

**LR 3.1 Refiled or Related Cases.** Whenever an action or proceeding terminated by entry of a notice or order of dismissal is refiled without a substantial change in issues or parties, it shall be assigned or transferred to the Judge to whom the original action or proceeding was assigned, unless otherwise ordered by the Chief Judge. Whenever an action is filed which relates to property included in, involves the same issues appearing in, or grows out of the same transaction appearing in a case already pending in any court, the Clerk of Court should be so informed. At the time of filing of the complaint, counsel shall file a certificate in which counsel certifies that the action or proceeding is one which has been refiled without a substantial change in issues or parties, or one that is related to a case already pending in any court. A specimen of the form to be used to comply with the provisions of this rule is in the Appendix of Forms to this section of these Local Rules.

## LR 4. COMPLAINT--SERVICE AND FILING

### LR 4.1 Filing.

1. The Clerk shall file a civil action only upon the presentation of: (a) the original complaint and the appropriate filing fee, or the original complaint and an In Forma Pauperis (IFP) petition (unless plaintiff has already been granted leave to proceed IFP under 28 U.S.C. ' 1915 or an IFP petition has already been filed and is still pending); (b) a completed summons where service is to be effected (no summons is required where waiver of service is to be utilized); (c) copies for each defendant and the assigned Judge; and (d) a completed civil action cover sheet (Form JS-44). If any of the requirements listed in (a)-(d) is lacking, but a complaint has been presented, the Clerk shall mark the complaint as to the date filed and promptly give notice of the omission to the filing party. Failure to comply within twenty-one (21) calendar days of the date that notice is served by the Clerk may result in dismissal by the Court.

2. If a party fails to file a complaint, the Clerk shall mark whatever has been presented as "received," and it is up to the party to comply with Fed. R. Civ. P. 3 ("A civil action is commenced by filing a complaint with the court."). A civil action is not timely filed, for statute of limitations purposes, until the filing of the original complaint and appropriate filing fee or the original complaint and an IFP petition. "IFP petition" means a petition for leave to proceed without payment of prescribed fees (i.e., in forma pauperis). Filing by facsimile or other electronic means is prohibited, except when authorized by a judge of this Court.

**LR 4.2 Effect of In Forma Pauperis Petition.** Where the plaintiff files a complaint and an In Forma Pauperis (IFP) petition:

1. The Clerk shall promptly forward the complaint, IFP petition and any other papers to the Judge to whom it is assigned.

2. If the assigned Judge denies the IFP petition, the plaintiff shall have twenty-one (21) calendar days from the date of service of the order denying the IFP petition to pay the appropriate filing fee. Failure to make timely payment will result in dismissal of the complaint.

**LR 4.3 Service of Process.** It shall be the responsibility of the plaintiff or plaintiff's attorney to effectuate prompt service of the summons and a copy of the complaint or to obtain and file a signed waiver of service in accordance with Rule 4 of the Federal Rules of Civil Procedure.

LR 4.4 Marshal Service. Personal service of process shall be made by the United States Marshal only in the following instances:

- (a) when ordered by the Court;
- (b) when expressly required by statute or treaty; and
- (c) in condemnation proceedings, proceedings seeking writs of possession, writs of execution, seizure, forfeiture, temporary restraining orders, judicial foreclosures, summons enforcement actions, and other writs in aid of injunctive relief.

Service of process in criminal matters shall be accomplished by the United States Marshal as provided by the Federal Rules of Criminal Procedure.

LR 4.5 Personal Service of In Forma Pauperis Proceedings and Proceedings Brought by a Seaman. In cases in which the plaintiff is authorized to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 or is authorized to proceed as a seaman under 28 U.S.C. § 1916, unless personal service by the Marshal is ordered by the Court, the Marshal may utilize any other form of service or waiver authorized by Federal Rule of Civil Procedure 4.

## LR 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

LR 5.1 Certification of Service. Each paper served other than by a United States Marshal shall include a certificate of the person or firm making service, his or its relationship to the parties, action, or proceeding, and the date, method, and address of service. The original of a certificate shall also be signed by the party or his attorney at whose instance service was made.

LR 5.2 Copies Prohibited. Where conventional (paper) filing is allowed or required, only the original document shall be submitted for filing. No copies of the filing shall be presented to the Clerk or to the presiding judge.

LR 5.3 Flat Filing. To facilitate computer scanning of papers submitted for filing and to insure that the Clerk's files may be kept under the system commonly known as "flat filing," the original of all papers presented to the Clerk or Judge for filing shall be flat and shall not be folded, backed, stapled, or bound (except using easily-removable clips). Omit all exhibit tabs, as they interfere with scanning (originals should

bear flat exhibit labels within the page margins). Any required copies of original papers may bear exhibits tabs and be stapled or otherwise bound using standard practices.

**LR 5.4 Paper Size.** All pleadings and papers presented to the Clerk or Judge for filing shall be on paper which is 8 1/2 inches in width and 11 inches in length.

**LR 5.5 Electronic Filing.** Documents should be filed, signed, and verified by electronic means to the extent and in the manner permitted or required by the Administrative Procedures for Filing, Signing and Verifying Pleadings and Papers by Electronic Means in Civil and Criminal Cases in the United States District Court for the Southern District of Georgia (available on the Court's website at "www.gasd.uscourts.gov").

## LR 6. TIME

**LR 6.1 Extension by Clerk.** In civil cases, the Clerk of the Court is authorized and directed to grant, sign, and enter orders on consent, where permitted by law, extending time within which to plead or otherwise defend or make any motions (except a motion for a new trial), for an aggregate time not to exceed fourteen (14) days, if the time originally prescribed or extended within which to plead, defend, or move has not expired. Any such extension may be granted only once with respect to a pleading, and any such order entered by the Clerk may be suspended, altered, or rescinded by the Court for good cause shown. Extensions of time may not be obtained by stipulation between counsel and must either be sought from the Clerk as set forth above, or be requested by motion to the Court.

## LR 7. MOTIONS

### LR 7.1 Filing.

(a) Absent prior permission of the Court, no brief shall exceed twenty-six (26) pages in length, inclusive of the certificate of service required by LR 5.1. Page numbering starts from the first page of a submission, regardless of its nature. See LR 10.1. Title pages, tables of contents, tables of cases, and other pages prefatory to the main body of a brief are not necessary but, if used, count toward the 26-page limit.

(b) Unless the assigned Judge prescribes otherwise, every motion filed in civil proceedings shall cite to supporting legal authorities. A motion and supporting memorandum (brief) may be filed as one document. Every factual assertion in a motion, response, or brief shall be supported by a citation to

the pertinent page in the existing record or in any affidavit, discovery material, or other evidence filed with the motion. This rule does not apply to motions for enlargement of time. Every ministerial motion (e.g., to extend time, exceed page limits, for a leave of absence) shall be accompanied by a proposed order. No proposed order is required for motions requesting non-ministerial relief (e.g., motions for summary judgment, to dismiss, judgment on the pleadings, to add or drop parties, to exclude evidence, to remand, for injunctive relief). Where practical, parties should indicate whether a motion is unopposed.

**LR 7.2 Hearings.** Motions shall generally be determined upon the motion and supporting documents filed as prescribed herein. However, the assigned Judge may allow oral argument sua sponte, or upon written request of either party. Requests for oral argument shall estimate the time required for argument.

**LR 7.3 Orders Made Orally In Court.** Unless the Court directs otherwise, all orders including findings of fact and conclusions of law orally announced in court shall be prepared in writing by the attorney for the prevailing party and taken to the Judge within two (2) days thereafter, with sufficient copies for all parties and the Court.

**LR 7.4 Time for Filing Civil Motions.** Except as otherwise provided in these Local Rules, including but not limited to LR 16.3, or as otherwise ordered by the Court, all motions in a civil action, with the exception of motions in limine, shall be filed and served upon the opposing party not later than thirty (30) days after the close of discovery pursuant to LR 26.1. Unless otherwise directed, motions in limine shall be filed no later than five (5) days prior to the pretrial conference, if practicable; otherwise, such motions may be filed up to the time of trial.

**LR 7.5 Response to Motion.** Unless these rules or the assigned Judge prescribes otherwise, each party opposing a motion shall serve and file a response within fourteen (14) days of service of the motion, except that in cases of motions for summary judgment the time shall be twenty-one (21) days after service of the motion. Failure to respond within the applicable time period shall indicate that there is no opposition to a motion. Where ministerial motions (e.g., to extend time, exceed page limits, for a leave of absence) have been filed, every response shall be accompanied by a proposed order. No proposed order need accompany responses to motions requesting non-ministerial relief (e.g., motions for summary judgment, to dismiss, for judgment on the pleadings, to add or drop parties, to exclude evidence, to remand, for injunctive relief).

**LR 7.6 Reply Briefs.** A party intending to file a reply brief shall immediately so notify the Clerk and shall serve and file the reply within fourteen (14) calendar days of service of the opposing party's last brief.

**LR 7.7 Emergency Motions.** Upon written motion and for good cause shown, the Court may waive the time requirements of this Rule and grant an immediate hearing on any matter requiring an expedited procedure. The motion shall set forth in detail the necessity for such expedited procedure.

#### **LR 7.1 Disclosure Statement**

**LR 7.1.1 Disclosure Statement.** The disclosure statement required by Federal Rule of Civil Procedure 7.1 shall be furnished by counsel for all private (non-government) parties, both plaintiffs and defendants, and shall be filed with the Complaint and Answer. It shall certify a full and complete list of all parties, all officers, directors, or trustees of parties, and all other persons, associations of persons, firms, partnerships, subsidiary or parent corporations, or organizations which have a financial interest in, or another interest which could be substantially affected by, the outcome of the particular case, including any parent or publicly-held corporation that holds ten percent (10%) or more of a party's stock. Should a merger or acquisition occur during the pendency of litigation, counsel shall so notify the Court thereof in writing. The form to be used to comply with the provisions of this rule is in Appendix of Forms to this section of these Local Rules.

**LR 8.** See Federal Rule of Civil Procedure 8.

#### **LR 9. SPECIAL PLEADINGS**

**LR 9.1 Special Pleadings.** All pleadings, including those in removed and transferred actions, which allege violations of the Truth-in-Lending Act, Regulation Z, RICO, and other similar statutes, whether federal or state, shall specifically state each alleged violation. If the pleading fails to comply with this Rule, upon motion duly made by any party to the proceeding, such pleading shall be dismissed without prejudice by the Court; provided, however, the party failing to comply with the Rule shall have fourteen (14) days from the date of the order in which to amend the pleading to conform with this Rule, or to inform the Court by written response to the motion why it should not be granted. For the purposes of this Rule, it shall not be necessary for the movant to file a brief supporting the motion, but it shall be sufficient if the moving party points out the non-compliance with this Rule. In all actions asserting a claim under RICO, the party asserting the

RICO claim must, upon filing, or within fourteen (14) days of removal or transfer, also file a RICO statement summarizing the basis of the claim. The RICO statement is included in the Appendix of Forms to this section of these Local Rules.

## LR 10. FORM OF PLEADINGS

**LR 10.1 Pleadings.** All pleadings, notices, orders, and other papers in all cases shall, when offered for filing, be plainly and fairly written or printed without erasures or interlineations materially defacing them, be double-spaced, be numbered on each page, and contain an appropriate appearance as provided in LR 83.6. Page numbering shall begin on the first page of a submission, including any title page, cover sheet, table of cases, or other page prefatory to the main body of the filing.

## LR 11. SIGNING OF PLEADINGS AND RELEASE OF INFORMATION

**LR 11.1 Counsel Identification.** Every pleading, motion, or other paper presented for filing shall, pursuant to Federal Rule of Civil Procedure 11, be signed by at least one attorney of record in the attorney's individual name, and shall contain counsel's name, complete address (including post office box or drawer number and street address), telephone number, and State Bar Number. Each attorney and pro se litigant has a continuing obligation to apprise the Court of any address change. Lead counsel shall be identified on the complaint and the responsive pleading of each party, and the Clerk shall be advised of any change in lead counsel. In the absence of such designation, the first name appearing on the pleading shall be deemed lead counsel.

**LR 11.2 Release of Information by Attorneys in Civil Cases.** It is the duty of every lawyer or law firm associated with the case not to release or authorize the release of information or an opinion, which a reasonable person would expect to be disseminated by means of public communication, in connection with pending or imminent civil litigation with which he or his firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(a) During a jury trial of any civil matter, including the period of selection of the jury, no lawyer or law firm associated with the plaintiff or defendant shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that the lawyer or law firm may quote from or refer without comment to public records of the Court in the case.

LR 11.3 Pro Se Filings. A party represented by counsel may not file any motion, brief, or other paper pro se absent prior leave of court. In a criminal case, a defendant represented by counsel may file pro se a motion for the appointment of new counsel or a motion to proceed pro se. See LCrR 44.2.

## LR 12. ANSWER

LR 12.1 Social Security Act. In all actions brought under section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), in which the defendant now has sixty (60) days in which to file an answer, an additional forty (40) days may be granted by the Clerk for filing such answer without the necessity of a motion so requesting.

LR 13 and 14. See Federal Rules of Civil Procedure 13 and 14.

LR 15. See Local Rule 16.3

## LR 16. SCHEDULING

### LR 16.1 Scheduling Orders.

(a) Magistrate Judges may enter and modify Scheduling Orders pursuant to Federal Rule of Civil Procedure 16(b).

(b) Except as otherwise ordered by a Judge of the Court in a particular case, a Scheduling Order need not be entered in the following cases:

- (i) An action for review on an administrative record;
- (ii) A petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence;
- (iii) An action to enforce or quash an administrative summons or subpoena;
- (iv) An action by the United States to recover benefit payments;
- (v) An action by the United States to collect on a student loan guaranteed by the United States;

(vi) A proceeding ancillary to proceedings in other courts; and

(vii) An action to enforce an arbitration award.

**LR 16.2 Status Conference.** The assigned Judge may at any time direct counsel to appear and confer regarding the status of any pending case. Joint status reports shall be submitted at the time and in the form required by the Judge.

**LR 16.3 Time for Filing Motions to Amend or to Join Other Parties.** All motions in civil cases wherein a party seeks to add or join another party under Federal Rules of Civil Procedure 19 through 22 or to amend the pleadings under Federal Rule of Civil Procedure 15 shall be filed within sixty (60) days after issue is joined in the case by the filing of an answer.

**LR 16.4.1 Pretrial Order.** Unless the assigned Judge prescribes otherwise, the parties shall submit a consolidated pretrial order at the time and in the form prescribed by the assigned Judge. When entered by or at the direction of the assigned Judge, the pretrial order shall supersede all prior pleadings, shall control the trial of the case, and shall be amended only by order of the Court and only upon showing of good cause.

**LR 16.4.2 Objections to Depositions.** The specific portions of depositions that are expected to be used by any party at trial shall be identified by page and line number in the proposed pretrial order. Any objections by any party to any deposition or portion thereof shall be submitted in writing at the time of the pretrial conference, stating the page and line number objected to and the reason for the objection.

**LR 16.5 Pretrial Conference.** A civil case may be scheduled for pretrial conference any time after the expiration of the discovery period. Counsel who will actually try the case, or other counsel of record with authority to define issues, make stipulations, and discuss settlement, shall attend the pretrial conference. The Court may require that a party or its representative with settlement authority be present or reasonably available by telephone in order to consider possible settlement of the dispute. Lead counsel must attend the pretrial conference.

**LR 16.6 Dismissal.** Failure of a party or counsel to comply with the requirements of the assigned Judge relating to pretrial orders, conferences, and status reports shall be cause for dismissal under Local Rule LR 41.1.

## LR 16.7 Alternative Dispute Resolution and Case Management Procedures.

**16.7.1 Notice:** Except in the categories of exempt cases identified in LR 16.1(b) and in cases where all plaintiffs are proceeding pro se, upon the filing of the complaint the Clerk shall furnish plaintiff's counsel with sufficient copies of the Notice of ADR and Case Management Procedures, also referred to as a Litigant's Bill of Rights, for distribution to all parties to the litigation. The purpose of this Notice is to apprise counsel and parties of alternative dispute resolution opportunities, the availability of the use of a Magistrate Judge, the period of time expected for completion of discovery, and to alert the parties that they may be required to appear at a pretrial conference.

**16.7.2 Response:** The Notice [Litigant's Bill of Rights] shall be served with the complaint and summons or included in the materials giving notice of the suit and requesting waiver of service. Counsel for each represented party shall ensure that the notice is filled out, signed by the party, and returned to the Clerk's office for filing. The plaintiff shall return the form within fourteen (14) days after filing the complaint. The defendant shall return the form along with the answer or other responsive pleading. The Clerk shall have the authority to grant extensions of time of up to fourteen (14) business days to return the completed form.

**16.7.3 Format:** A copy of the Notice is in the Appendix of Forms to this section of these Local Rules.

### 16.7.4 Appointment of Mediators and Arbitrators:

- (a) In any case where the parties seek the appointment of a mediator or arbitrator by the Court, any Judge of the Court may appoint such person as the Court deems qualified and appropriate for the case under consideration; or
- (b) If the parties to a case jointly request the appointment of a particular individual as a mediator or arbitrator, they shall petition the Court and state in the petition the qualifications of the person to be named. The Court may approve any person so recommended.
- (c) Each person appointed as a mediator or arbitrator for a case shall take the oath or affirmation prescribed by 28 U.S.C. § 543 before serving. Any person selected as a mediator or arbitrator may be disqualified for bias or prejudice as provided in 28 U.S.C. § 144, and shall disqualify himself in any action in which he would be required to do so if he were a judicial officer governed by 28 U.S.C. § 455.

- (d) Any person appointed pursuant to this rule may be relieved of responsibilities in a case at any time by order of the Court.
- (e) Any member of the bar who is appointed as a mediator or arbitrator pursuant to these rules shall not for that reason be disqualified from appearing or acting as counsel in any other case pending before the Court.

#### 16.7.5 Court Annexed Mediation

- (a) **Statement of Purpose.** The purpose of the following rules is to provide for an informal process conducted by a mediator with the objective of helping the parties reach a mutually acceptable settlement of their dispute. These rules are not intended to force settlement upon any party. The rules provide guidelines for parties who wish to follow a court approved mediation process, but they do not exclude any other alternative dispute resolution procedure that the parties may wish to adopt with court approval.
- (b) **Mediation is Not Automatic Under This Rule.** It shall only apply where the parties to a case elect to participate under these rules, or as they may otherwise stipulate.
- (c) **Time Period for Mediation.** Mediation may be held at any time which does not interfere with or delay status conferences, pre-trial conferences, or trial of a case.

#### 16.7.6 Procedures for Mediation

- (a) **Scheduling the Mediation.** The mediation conference shall ordinarily be held in the office of the mediator, but may be held at any other place agreed to by the parties and the mediator. Because of space limitations, the federal courthouses are not available for mediation conferences. After conferring with the attorneys for the parties regarding scheduling matters, the mediator shall determine the place and time of the conference (within the period established by these rules), and give notice to the parties.
- (b) **Submission of Position Papers to Mediator.** No later than seven (7) business days before the scheduled date of the mediation conference, any party may submit a confidential position paper to the mediator. The position paper shall be limited in length to five (5) pages, double-spaced, and may be accompanied by up to five (5) pages of exhibits. Position papers are confidential, shall be held so by the mediator, and need not be served on other parties. The purpose of these submissions is to help the

mediator become familiar with the assertions of the parties, and the parties may agree to the submission of additional information if they believe the information will facilitate the mediated settlement conference.

(c) Duties of Parties, Representatives, and Attorneys. The following persons shall be physically present at the entire mediation conference unless excused by the mediator:

- (i) Individual parties and an officer, manager, or director of a corporate or entity party, such representative to have full authority to negotiate on behalf of the entity and to approve or recommend a settlement;
- (ii) At least one attorney of record for each represented party; and
- (iii) A representative of the insurance carrier for any party against whom a claim is made. This representative must have full authority to settle the claim and must be a person other than the carrier's outside counsel.

Upon reaching a settlement agreement through mediation, the parties shall forthwith reduce the agreement to writing and prepare a stipulation of dismissal or consent judgment for presentation to the court.

(d) Authority of the Mediator. The mediator is authorized by these rules to exercise control over the mediation and to direct all proceedings therein. The mediator is specifically authorized to meet or consult privately with any party or their counsel during the conference. The mediator may report in writing to the court, with copies to the parties, any conduct of any party that may be in violation of these rules for mediation.

(e) Duties of the Mediator. At the beginning of the mediation conference, the mediator shall describe the following matters to the parties:

- (i) The process of mediation,
- (ii) The differences between mediation and other forms of conflict resolution,
- (iii) The costs of the mediation,
- (iv) The fact that the mediation is not a trial, the mediator is not a judge, and the parties retain their right to trial if they do not reach settlement,

- (v) The circumstances under which the mediator may meet alone with either of the parties or any other person,
- (vi) The conditions under which communications with the mediator will be held in confidence,
- (vii) The inadmissibility of negotiating statements and offers at trial,
- (viii) The fact that the Court will not permit parties in other litigations to conduct discovery regarding the mediation in this case,
- (ix) The duties and responsibilities of the mediator and the parties, and
- (x) The fact that any agreement reached will be reached by mutual consent of the parties.

The mediator may recess or suspend the conference at any time and set a schedule for reconvening. It is the duty of the mediator to determine if an impasse has been reached or mediation should for any reason be terminated. He shall then inform the parties that mediation is terminated.

(f) **Agreement to Modify Mediation Procedures.** By agreement filed with the Court, the parties, with the consent of the mediator, may modify the mediation procedures described in these rules, except that the parties may not alter time limitations set by these rules or order of the Court.

(g) **Sanctions for Failure to Appear.** If a person fails to attend a mediation conference without good cause, the Court may impose on that person (or any associated party) any lawful sanction, including, but not limited to, the imposing of the cost of attorney's fees, mediator's fees, and expenses of persons incurred in attending the conference.

#### 16.7.7 Completion of Mediation and Report to the Clerk

(a) The mediation program established by these rules is experimental in nature and will be periodically reviewed by the Court. In all cases in which mediation or any other alternative dispute mechanism is employed, litigants shall report the same to the clerk. Litigants may also be requested to complete confidential evaluation reports at the completion of such a proceeding.

(b) When the mediation is completed, the mediator shall immediately submit to the clerk a report on the status of the case. If the case is resolved, it is the duty of the parties to file a stipulation of

dismissal or consent judgment. If the case is not resolved, it proceeds without further order of the court in accordance with the Local Rules of Court.

#### 16.7.8 Confidentiality

Except upon the mutual consent of the parties, all communications in the mediation conference and the results thereof are confidential and shall not be discoverable or admissible in any proceeding, and shall not be communicated to a judicial officer exercising jurisdiction over the case while the case is pending.

### LR 17. INFANTS AND INCOMPETENTS

#### LR 17.1 Minors, Wards, and Incompetents.

(a) No action to which a party is a minor, an incompetent adult under guardianship of person and/or property or other person suffering under a mental disability shall be compromised, settled, discontinued, or dismissed except after approval by the Court pursuant to a petition presented by the guardian or personal representative of such party, such as the circumstances might require.

(b) In all such cases, such person's attorney shall file with the Clerk, as part of the record, a statement of the nature of the evidence relied upon to show liability, the elements of damage and a statement of the services rendered by counsel, the expenses incurred or to be incurred and the amount of fees requested. The petition shall contain written statements of attending physicians, setting forth the nature of the injuries and the extent of recovery, if any. If required by the Judge, such statements of attending physicians shall be in affidavit form. The petition shall be verified by the affidavit of such person's attorney. In claims for property damages, the extent of the damage shall be described and the statement shall be supported by the affidavit of the person who appraised the damage or made the repairs.

(c) When a compromise or settlement has been so approved by the Court or when a judgment has been entered upon a verdict or by agreement, the Court, upon petition by the guardian or any party to the action, shall make an order approving or disapproving any agreement entered into by the guardian for the payment of counsel fees and other expenses out of the fund created by the compromise, settlement, or judgment; or the Court may make such order as it deems proper fixing counsel fees and other proper expenses. The Court may then order the balance of the fund to be paid to the guardian of the person or estate of such person qualified to receive the fund. Such order may provide for the

investment of said fund, if appropriate, and the filing of periodic returns by such guardian or personal representative, accounting for the encroachment upon or expenditure of said fund.

LR 18. See Federal Rule of Civil Procedure 18.

LR 19 through 22. See Local Rule 16.3.

## LR 23. CLASS ACTIONS

**LR 23.1 The Complaint.** In any case sought to be maintained as a class action, the complaint shall include next to its caption the legend, "Complaint-Class Action," and in its body, a separate heading styled "Class Action Allegations."

(a) The "Class Action Allegations" shall include a reference to the portions of Rule 23 of the Federal Rules of Civil Procedure under which the suit is brought as a class action.

(b) The "Class Action Allegations" shall also include appropriate allegations supporting entitlement to class relief, including but not limited to:

(i) the approximate size and definition of the alleged class,

(ii) the basis upon which the plaintiff (or plaintiffs) claims to be an adequate representative of the class, or if the class is composed of defendants, that those named as parties are adequate representatives of the class,

(iii) the alleged questions of law and fact claimed to be common to the class,

(iv) in actions claimed to be maintainable as class actions under subdivision (b)(3) of Rule 23 of the Federal Rules of Civil Procedure, allegations thought to support the findings required by that subdivision, and

(v) in actions requiring a jurisdictional amount, the basis of determining that amount.

**LR 23.2 Certification.** Within ninety (90) days after the filing of a complaint in a class action, unless this period is extended on motion and for good cause shown, the plaintiff shall move for certification of the class action under subdivision (c)(1) of Rule 23 of the Federal Rules of Civil Procedure. In cases removed from

state court, the ninety-day period shall run from the date the removal noticed is filed. In cases transferred from another district, the ninety-day period shall run from the date the transferred case is docketed. The Court may disallow and strike the class action allegations, or may order postponement of the determination pending discovery or other preliminary procedures as appear to be appropriate and necessary under the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the Court for the renewal of the motion.

LR 23.3 Counterclaim. The provisions of this rule shall apply, with appropriate construction, to any counterclaim or cross-claim alleged to be brought for or against a class.

LR 24 and 25. See Federal Rules of Civil Procedure 24 and 25.

## LR 26. DISCOVERY

LR 26.1 Time Limitations. Discovery shall proceed as follows:

(a) The parties shall confer by the earlier of 60 days after any defendant has been served with the complaint or 45 days after any defendant has appeared.

(b) Within 14 days after the required conference pursuant to Fed. R. Civ. P. 26(f), the parties shall submit to the Court a written report outlining their proposed discovery plan. This report shall conform to the language and format of the standard form included in the Appendix of Forms to these rules (and furnished by the Clerk to the plaintiff upon the filing of the complaint).

(c) Upon receipt and review of the parties' written report, and within the time set by Fed. R. Civ. P. 16(b), the Court, through the Judge or Magistrate Judge, will promptly enter its Scheduling Order as provided in Fed. R. Civ. P. 16(b).

(d) Unless otherwise stated in the Scheduling Order issued pursuant to Fed. R. Civ. P. 16(b):

(i) the parties shall serve all written discovery on opposing parties and shall complete all depositions within 140 days of the filing of the last answer of the defendants named in the original complaint;

(ii) the plaintiff must furnish the expert witness reports required by Fed. R. Civ. P. 26(a)(2)(B) and provide the disclosures required by Fed. R. Civ. P. 26(a)(2)(C) within 60 days after the

Fed. R. Civ. P. 26(f) conference or, in cases exempt from the Fed. R. Civ. P. 26(f) conference, within 60 days after the filing of the last answer of the defendants named in the original complaint;

(iii) the defendant must furnish the expert witness reports required by Fed. R. Civ. P. 26(a)(2)(B) and provide the disclosures required by Fed. R. Civ. P. 26(a)(2)(C) within 90 days after the Fed. R. Civ. P. 26(f) conference or 60 days after filing his answer, whichever is later, or in cases exempt from the Fed. R. Civ. P. 26(f) conference, within 90 days after the answer.

(e) In removed cases, the Fed. R. Civ. P. 26(f) conference shall be held within 21 days of the date of filing of the notice of removal or within 21 days of filing of the last answer of the defendants, whichever is later but in no event later than 45 days after the first appearance by answer or motion under Fed. R. Civ. P. 12 of a defendant named in the original complaint.

(f) In cases transferred from another district, the Fed. R. Civ. P. 26(f) conference shall be held within 21 days of the docketing of the case in this district.

**LR 26.2 Extensions of Time.** Except for good cause shown, no extension of time for discovery shall be granted unless a motion for an extension of time is filed prior to the expiration of such discovery period. In the event an extension of time is requested, the moving party shall submit a proposed, modified Scheduling Order which shall include the requested time extension.

**LR 26.3 Discovery Motions.** Unless otherwise ordered by the assigned Judge, all discovery motions in civil cases shall be automatically referred to the appropriate United States Magistrate Judge. Upon referral, the Magistrate Judge shall promptly enter an order which shall be final unless a party seeks review of the order by the assigned Judge pursuant to Fed. R. Civ. P. 72.

**LR 26.4 Preservation and Filing of Discovery Materials in Civil Cases.**

(a) Counsel in possession of original discovery materials, including depositions and all written discovery requests and responses, shall act for the Court as custodian of such materials and shall preserve them for filing as provided in Fed. R. Civ. P. 5(d) and subsection (b) of this rule.

(b) A request to the custodian to file original discovery materials shall specify the particular materials or portions thereof which the requesting party desires to have filed, and the custodian shall file such materials promptly upon receiving the request.

(c) If a party determines that it shall be necessary to use a deposition or any portion thereof at trial, the entire deposition shall be filed with the Clerk prior to trial.

**LR 26.5 Discovery Motions and Objections.** Discovery motions in accordance with Rules 26, 33, 34, 36, and 37 of the Federal Rules of Civil Procedure and objections relating to discovery shall:

(a) quote verbatim each interrogatory, request for admission, or request for production to which a motion or objection is taken;

(b) include the specific ground for the motion or objection; and

(c) include the reasons assigned as supporting the motion, which shall be written in immediate succession to one another. Such objections and grounds shall be addressed to the specific interrogatory, request for admission, or request for production and may not be made generally.

Counsel are reminded that Fed. R. Civ. P. 26(c) and 37(a)(1) require a party seeking a protective order or moving to compel discovery to certify that a good faith effort has been made to resolve the dispute before coming to court.

LR 27 through 38 (excluding LR32 and LR36). See corresponding Federal Rules of Civil Procedure.

## LR 32. USING DEPOSITIONS IN COURT PROCEEDINGS

**LR 32.1 Minuscript Depositions.** Absent an objection for good cause, a party may file a "minuscript" deposition or portion thereof in connection with any motion or response to a motion. Should it be necessary to use a deposition at trial, the entire original deposition shall be filed with the Clerk prior to trial.

**LR 36. Requests for Admission.** Requests for admission shall not exceed 25 in number, including all discrete subparts, absent leave of the Court or consent of the responding party.

## LR 39. JURY TRIAL

**LR 39.1 Presence of Counsel During Trials.** In all jury cases, it shall be the duty of counsel to be present at all portions and phases of trial including the time during which the jury is considering its verdict, unless excused by the Court. It shall not be the duty of the Court or court officials to telephone or notify counsel after the jury has retired to consider the verdict.

## LR 40. TRIALS AND HEARINGS

LR 40.1 *Continuances*. A continuance of any trial, pretrial conference, or other hearing will be granted only on the basis of exceptional circumstances.

LR 40.2 *Absence of Witnesses*. Motions for continuance on account of the absence of any witness must show steps which have been taken to secure the attendance of the witness, the nature of his testimony, and when the witness will be available, and unless waived by the Court, must include a certificate of a doctor where illness is claimed. The stipulation of the adversary as to the witness' testimony shall be sufficient reason for denial of the motion for continuance.

LR 40.3 *Civil Calendars*. Cases shall be placed upon the civil trial calendars of this Court after the expiration of the discovery period as outlined in Local Rule LR 26.1.

## LR 41. DISMISSAL OF ACTION

LR 41.1 *For Want of Prosecution*. In the following instances and in other instances provided by law or court rules, the assigned Judge may, after notice to counsel of record, sua sponte, or on motion of any party, dismiss any action for want of prosecution, with or without prejudice:

- (a) Failure to permit or provide discovery within the time set forth in an order compelling discovery;
- (b) Willful disobedience or neglect of any order of the Court; or
- (c) Any other failure to prosecute a civil action with reasonable promptness.

LR 41.2 *By the Clerk*. In civil cases, the Clerk of Court is authorized and directed to grant, sign, and enter orders of dismissal under Rule 41(a)(1) of the Federal Rules of Civil Procedure.

LR 42 through 46. See Federal Rules of Civil Procedure 42 through 46.

## LR 47. JURORS -- SELECTION

LR 47.1 *Selection and Qualification*. Prospective jurors shall be selected and qualified and jury panels shall be drawn pursuant to the Jury Selection and Service Act of 1968 as amended, Title 28 U.S.C. §§ 1861 et seq., and the current Jury Plan of this Court, which plan is of record in each divisional office of the Clerk of this Court.

## LR 48. NUMBER OF JURORS

**LR 48.1 Juries--Jury Trials.** All civil actions shall be tried to a jury of six members and challenges shall be in accordance with Title 28 U.S.C. § 1870, unless all parties join in a written demand that the case be tried to a jury of twelve members. Such demand shall be filed on or before the time of the pretrial conference. All criminal cases shall be tried before a jury of twelve members unless waived, in accordance with Rule 23 of the Federal Rules of Criminal Procedure. Challenges shall be in accordance with Rule 24 of the Federal Rules of Criminal Procedure.

LR 49 through 50. See Federal Rules of Civil Procedure 49 through 50.

## LR 51. JURY INSTRUCTIONS

**LR 51.1 Requests to Charge.** Requests to charge upon all issues in the case shall be prepared by counsel. Each request shall be numbered. One copy of such requests shall be served upon opposing counsel. The original and one copy of requests to charge shall be filed with the Clerk of Court. Requests to charge shall cite appropriate legal authorities supporting them. All requests to charge shall be submitted as required herein at the opening of the trial or at such other time as the assigned Judge may direct. Requests to charge shall be prepared on letter size (8 1/2 x 11) white, unlined paper.

LR 52. See Federal Rule of Civil Procedure 52.

## LR 53. SPECIAL MASTER

### LR 53.1 Special Master References.

(a) A Magistrate Judge may serve as a special master subject to the procedures and limitations of 28 U.S.C. § 636(b)(2) and Rule 53 of the Federal Rules of Civil Procedure;

(b) Where the parties consent, a Magistrate Judge may serve as a special master in any civil case.

## LR 54. COSTS

**LR 54.1 Time Limit.** A bill of costs must be filed by the prevailing party within thirty (30) days after the entry of the judgment or other final order from which an appeal may be taken. A bill to recover costs on

appeal that are taxable in the district court under Federal Rule of Appellate Procedure 39(e) must be filed within fourteen (14) days of the filing of the appellate court's mandate in this Court.

**LR 54.2 Attorney's Fees.** If a final judgment, including a judgment made final under Federal Rule of Civil Procedure 54(b), does not determine (or establish other procedures for determining) the amount of attorney's fees which are authorized by statute to be awarded by the Court to or on behalf of a prevailing party or which may be sought under the equitable or inherent powers of the Court, the following procedures shall apply:

(a) The award of such fees (and expenses incident thereto not ordinarily allowable as taxable costs) shall be requested by special written motion addressed to the Court and shall not be included in a cost bill, in a motion for taxation or retaxation of costs, or in a motion under Federal Rules of Civil Procedure 50(b), 52(b) or 59.

(b) The motion shall be filed pursuant to Federal Rule of Civil Procedure 54(d)(2) with the Clerk of the Court and served under Federal Rule of Civil Procedure 5 upon the parties against whom the award is sought.

(c) Within 30 days (or such other period as the Court may prescribe) after entry of the final judgment, the movant shall file and serve a detailed specification and itemization of the requested award, with appropriate affidavits and other supporting documentation.

(d) Hearings on the motion shall be conducted by the Court in accordance with Federal Rules of Civil Procedure 43(e) and 78 and with applicable statutory and decisional standards and principles.

(e) Pendency of a motion filed under this rule does not extend the time for appealing from, or for filing a motion under, Federal Rules of Civil Procedure 50(b), 52(b), or 59 directed to the judgment giving rise to the claim for attorney's fees, but may be taken into consideration by the Court in ruling on a motion for extension of time for appealing filed under Federal Rule of Appellate Procedure 4(a)(5).

LR 55. See Federal Rule of Civil Procedure 55.

## LR 56. SUMMARY JUDGMENT

**LR 56.1 Motions for Summary Judgment.** Upon any motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, in addition to the brief, there shall be annexed to the motion a separate, short, and concise statement of the material facts as to which it is contended there exists no genuine dispute to be tried as well as any conclusions of law thereof. Each statement of material fact shall be supported by a citation to the record. All material facts set forth in the statement required to be served by the moving party will be deemed to be admitted unless controverted by a statement served by the opposing party. Response to a motion for summary judgment shall be made within twenty-one (21) days of service of the motion. See LR 7.5.

LR 57. See Federal Rule of Civil Procedure 57.

## LR 58. JUDGMENT -- REMITTITUR

**LR 58.1 Civil Cases.** Upon receipt of a remittitur from the appellate court in civil cases, when the judgment of this Court has been affirmed or the appeal dismissed, the Clerk shall immediately file the remittitur and so notify counsel of record and pro se parties.

**LR 58.2 Making Remittitur Judgment of this Court.** Upon receipt of a remittitur from the appellate court in a civil or criminal case, the Clerk shall immediately present a proposed order to the Court making the remittitur the judgment of this Court. The Clerk shall notify counsel or the parties of the entry of said order, and they shall promptly prepare and present to the Court such other orders as may be required in the premises .

LR 59 through 66. See Federal Rules of Civil Procedure 59 through 66.

**LR 67.1 Deposit and Disbursement Funds.** All orders concerning the deposit of money into this Court or the disbursement of such money shall be personally served on the Clerk of this Court by the prevailing party.

LR 67.2 Registry. All funds in excess of \$500.00 tendered to the Clerk of this Court for deposit into the Registry shall be deposited into an interest-bearing account previously negotiated and at a set interest rate previously approved by the Court.

LR 67.3 Orders for Deposit of Funds into the Registry. Any order obtained by a party or parties in a civil action that directs the Clerk to deposit said funds into the Registry or any other interest-bearing account or instrument pursuant to 28 U.S.C. § 2041 shall include the following:

(a) The amount to be invested;

(b) Wording which directs the Clerk to deduct a fee from the income earned on the deposit. This fee shall be on all funds invested at interest in the Registry of this Court, including criminal-bond money deposited at interest. The amount of the fee shall be ten (10%) percent of the income earned regardless of the nature of the case underlying the investment. The collection of said fee shall be at the time any distribution of funds is made by the Clerk of Court by a valid order of this Court, and without the necessity of any further order of this Court. This fee shall be effective beginning with the deposit of funds on or after December 1, 1990.

(c) Any deposit into the Registry or any other interest bearing account or instrument without an order for deposit as stated in (b) above will be so deposited as to comply with the deduction of a fee as set out in (b) above.

LR 68 through 71. See Federal Rules of Civil Procedure 68 through 71.

## LR 72. MAGISTRATE JUDGES

LR 72.1 Duties Under 28 U.S.C. § 636(a). Each full-time United States Magistrate Judge is authorized to perform the duties prescribed by 28 U.S.C. § 636(a), and may:

(a) Exercise all the powers and duties conferred or imposed upon the United States commissioners by law or the Federal Rules of Criminal Procedure;

(b) Administer oaths and affirmations, impose conditions of release or order detention under 18 U.S.C. § 3142, and take acknowledgments, affidavits, and depositions;

(c) Try persons accused of misdemeanor offenses committed within this district in accordance with 18 U.S.C. § 3401, order a presentence investigation report on any such person who is convicted or pleads guilty or nolo contendere, and sentence such persons.

(d) Conduct removal proceedings and issue warrants of removal in accordance with Rule 40, Federal Rules of Criminal Procedure;

(e) Supervise proceedings conducted pursuant to letters rogatory, in accordance with 28 U.S.C. § 7182.

**LR 72.2 Nondispositive Pretrial Matters.** In accordance with 28 U.S.C. § 636(b)(1)(A), a Magistrate Judge may hear and determine any pretrial matter, other than those motions specified in Local Rule 72.3(a)(3). Any party may serve and file objections to a Magistrate Judge's determination made under this rule as provided by Fed. R. Civ. P. 72(a). Any objection shall specifically designate the order or portion thereof to which objection is made and the basis for such objection. The District Judge to whom the case is assigned shall consider the objection and set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. Such Judge may also reconsider any matter sua sponte.

**LR 72.3 Dispositive Pretrial Matters and Prisoner Cases.**

(a) In accordance with 28 U.S.C. § 636(b)(1)(B) and (c), a full-time Magistrate Judge may hear and conduct such evidentiary hearings as are necessary or appropriate, and submit to a District Judge proposed findings of fact and recommendations, for the disposition of: (1) applications for post-trial relief made by individuals convicted of criminal offenses; (2) prisoner petitions challenging conditions of confinement; and (3) motions for injunctive relief (including temporary restraining orders and preliminary injunctions), for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by a defendant, to suppress evidence in a criminal case, to dismiss or permit the maintenance of a class action, to dismiss for failure to state a claim upon which relief may be granted, to involuntarily dismiss an action, for judicial review of administrative determinations, and for review of default judgments.

(b) Any party may serve and file written objections to the Magistrate Judge's proposed findings and recommendations issued under this Rule as provided by Fed. R. Civ. P. 72(b). Any objections shall specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for such objection.

(c) A Magistrate Judge may exercise the powers enumerated in the Rules Governing Section 2254 and 2255 Proceedings in the United States District Courts, in accordance with the standards and criteria established in 28 U.S.C. § 636(b)(1).

LR 72.4 Other Duties of Magistrate Judges. A Magistrate Judge is also authorized to:

(a) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings;

(b) Conduct arraignments in cases not triable by the Magistrate Judge to the extent of taking a not guilty plea or noting a defendant's intention to plead guilty or nolo contendere and ordering a presentence report in appropriate cases;

(c) Receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure;

(d) Conduct voir dire and select petit juries for Court, and accept petit jury verdicts in civil cases in the absence of the District Judge;

(e) Conduct necessary proceedings leading to the potential revocation of probation or supervised release;

(f) Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings;

(g) Order the exoneration or forfeiture of bonds;

(h) Conduct proceedings for the collection of civil penalties of not more than \$200.00 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. § 1484(d);

(i) Conduct examinations of judgment debtors in accordance with Rule 69 of the Federal Rules of Civil Procedure;

(j) When authorized by the District Judge, a full-time Magistrate Judge may:

(1) accept waivers of indictment, pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure;

(2) conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act; and

(3) perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109 regarding proceedings for verification of consent by offenders to transfer to or from the United States and for the appointment of counsel.

(k) Exercise the contempt powers conferred by 28 U.S.C. § 636(c).

#### LR 72.5 Assignment of Duties to Magistrate Judges.

(a) Criminal Cases. Upon the return of an indictment or the filing of an information, all criminal cases shall be assigned by the Clerk of the Court to a Magistrate Judge for the conduct of an initial appearance and arraignment and the appointment of counsel to the extent authorized by law. The Magistrate Judge shall conduct such pretrial conferences as are necessary and shall hear and determine all pretrial procedural and discovery motions, in accordance with Rule 72.2, supra. A full-time Magistrate Judge may hear motions to suppress evidence and motions to dismiss or quash an indictment or information made by the defendant and shall submit a report and recommended disposition of such motions to the District Judge in accordance with Rule 72.3, supra. In conducting such proceedings, the Magistrate Judge shall conform to the general procedural rules of this Court and the instructions of the assigned District Judge.

(b) Civil Cases. A Magistrate Judge may issue scheduling orders, and, where requested by the presiding District Judge, conduct initial and additional pretrial conferences and settlement conferences in civil cases. In conducting such proceedings, the Magistrate Judge shall conform to the general procedural rules of this Court and the instructions of the assigned District Judge.

(c) Misdemeanor Cases. All misdemeanor cases shall be assigned, upon the filing of an information, complaint or violation notice, or the return of an indictment, to a full-time Magistrate Judge, who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Rule 58 of the Federal Rules of Criminal Procedure.

(d) The full-time Magistrate Judges are hereby granted jurisdiction to authorize the installation and use of pen registers, and execute orders directing telephone company assistance to the Government for such installations, upon the request of the United States Attorney.

## LR 73. TRIAL OF CIVIL CASES BY MAGISTRATE JUDGES

LR 73.1 *Consent of parties.* Pursuant to 28 U.S.C. § 636(c)(1), all full-time Magistrate Judges now or hereafter appointed in this district are hereby specially designated to conduct, upon the consent of the parties, any or all proceedings in any jury or nonjury civil matter and order the entry of judgment in the case.

LR 73.2 *Clerk to Advise Parties.* Using the Notice of Alternative Dispute Resolution and Case Management Procedures required by LR 16.7, the Clerk shall give written notice of the right of the parties to consent to disposition of the case by a United States Magistrate Judge. A form by which the parties may signify their consent to such jurisdiction shall be maintained by the Clerk and furnished to any party upon request. The consent form shall be in the form approved by the Court.

LR 73.3 *Time for and Scope of Consent.*

(a) Each party who consents to exercise of the court's jurisdiction by a Magistrate Judge shall indicate that consent by filing with the Clerk the appropriate form. Parties shall not communicate their consent, or withholding of consent, directly to a District Judge or a Magistrate Judge. Consent to the exercise of the Court's jurisdiction by a Magistrate Judge does not waive a party's objection to any jurisdiction being exercised by the Court over it.

(b) Consent to disposition of the case by a Magistrate Judge pursuant to 28 U.S.C. § 636(c) must be communicated to the Clerk on the appropriate form within six months after commencement of the action or at least sixty (60) days prior to any scheduled trial date, whichever first occurs.

LR 73.4 *Appeal from Judgment.* Appeals from a judgment entered by a Magistrate Judge shall be to the court of appeals unless the parties have agreed, pursuant to 28 U.S.C. § 636(c)(4) and Federal Rule of Civil Procedure 73(d), that appeals are to be made to a District Judge, in which event the provisions of Federal Rules of Civil Procedure 74 and 75 shall govern such appeals.

LR 73.5 *Withholding Consent.* If any party withholds its consent to the exercise of jurisdiction by a Magistrate Judge, the identity of the parties who consented or of those who withheld their consent shall not be disclosed to the District Judge or to a Magistrate Judge. A District Judge or Magistrate Judge may thereafter remind the parties of the availability of a Magistrate Judge but, in so doing, shall also advise the parties that they are free to withhold their consent without adverse substantive consequences.

### LR 73.6 Order of Reference.

(a) In the event the parties file a unanimous consent pursuant to this local rule, the Clerk shall immediately notify the presiding District Judge who will promptly (1) enter an order of reference to a Magistrate Judge, or (2) enter an order declining so to do; provided, however, the District Judges of the Court shall not decline to make an order of reference for the purpose of limiting the types of cases to be tried by the Magistrate Judge pursuant to this rule. In making or in declining to make an order of reference, the presiding Judge may consider among other things, the current allocation of pending judicial business between the District Judges and the Magistrate Judges; the judicial economy, if any, to be gained by the reference as measured in part by the extent of prior judicial labor expended and familiarity accumulated in the case by the assigned Judge; the extent to which the Magistrate Judge may have time available to devote to the case giving due regard to the necessity of diligent performance of other judicial duties regularly assigned to the Magistrate Judges; and any other features peculiar to the individual case which suggest, in the interest of justice or judicial economy, that a reference should or should not be made.

(b) In any case in which an order of reference has been made, the Court may, for good cause shown on its own motion, or under extraordinary circumstances shown by any party, vacate the order of reference and restore the case to the calendar of the presiding District Judge.

**LR 73.7 Additional Parties.** If, after an order of reference has been made pursuant to subsection LR 73.6 of this rule, new or additional parties enter or join in the case pursuant to the operation of any statute, rule, or order of the Court, it shall be necessary for all parties to file with the Clerk within sixty (60) days after such joinder or at least sixty (60) days prior to any scheduled trial date, whichever first occurs, a new consent agreement pursuant to section LR 73.2 of this rule, failing which the order of reference shall be dissolved and the case returned to the calendar of the presiding District Judge; provided, however, any such dissolution of an order of reference shall not affect the validity of any order entered or other action taken by the Magistrate Judge prior to such dissolution.

**LR 73.8 Forms for Consent.** Specimens of the forms to be used to comply with the provisions of this rule are set forth in an appendix to the Federal Rules of Civil Procedure as Forms 33, 34, and 34A.

## LR 74. APPEAL TO DISTRICT JUDGE

LR 74.1 *Records on Appeal*. The record on appeal (from a decision of the Bankruptcy Court or the Magistrate Judge) submitted to any District Judge shall be numbered sequentially by page. Such record on appeal shall also have a contents page which may coincide with the order transmitting the record on appeal and directing the docketing of the appeal. In cases of appeals from orders of the Bankruptcy Judge, the record on appeal shall be prepared and pages numbered by the Bankruptcy Clerk. In cases on appeal from an order of a United States Magistrate Judge, the record on appeal shall be prepared and pages numbered at the direction of the Magistrate Judge.

LR 75 and 76. See Federal Rules of Civil Procedure 75 and 76.

## LR 77. OBTAINING ORDERS

LR 77.1 *Proper Notice to Adversary*. Except in emergency situations where it is impossible to contact opposing counsel, and in those situations where it is contemplated by the Federal Rules of Civil Procedure that an ex parte motion or application (other than motions to proceed in forma pauperis) may be made to the Court, attorneys desiring to confer with a District Judge or Magistrate Judge of this Court in chambers relative to a case then pending shall first give proper notice to opposing counsel in the case disclosing the date, hour, and nature of the conference sought and shall satisfy the Judge, or Magistrate Judge, that such notice has been given.

LR 77.2 *Judge to Whom Request Submitted*. An attorney seeking a court order in a case already pending shall submit his request or motion for the order to the Judge to whom the case has been assigned, if the Judge is present in the district. If the Judge is not present, the attorney shall contact the Clerk for instructions as to whom the request or motion shall be submitted.

LR 77.3 *Filing of Orders*. Attorneys obtaining any order in chambers from a District Judge or Magistrate Judge of this Court shall forthwith deliver it to the Clerk for filing.

LR 77.4 *Notice*. In civil cases, the Clerk shall prepare and file a certificate reflecting the mailing of all notices, orders, and judgments to pro se parties.

LR 78. See Federal Rule of Civil Procedure 78.

## LR 79. RECORDS AND DOCUMENTS

**LR 79.1 Removal of Original Papers.** Original papers in custody of the Clerk shall not be removed by anyone except the Judges, Magistrate Judges, official court reporters, special masters, or law clerks of the Judges who may remove original papers as may be necessary to expedite the business of the Court. Duplicate files of pleadings, if available, may be removed by counsel with the consent of the Clerk.

**LR 79.2 Conditions of Removal.** When papers are removed, they will not be permitted to be taken from the jurisdiction of the Court except when the original records are forwarded to the Court of Appeals in accordance with the Federal Rules of Appellate Procedure.

**LR 79.3 Original Transcripts.** The original transcript of testimony and any record of proceedings filed with the Clerk of this Court by an official court reporter, or commissioner, shall not be removed from the office of the Clerk by counsel or the parties.

**LR 79.4 Exhibits and Documents.** All exhibits received or offered into evidence at any trial or hearing shall be retained by the Clerk, who shall keep them in custody, except that documents of unusual bulk or weight and physical exhibits other than documents shall be retained by counsel for safekeeping. All models, diagrams, books, or other exhibits other than contraband received in evidence or marked for identification in an action or proceeding shall be removed by the filing party at the expiration of the time for the filing of a Notice of Appeal, or if an appeal is filed, after the final adjudication of the action or proceeding and disposition of the appeal. Said exhibits if not so removed may be destroyed or otherwise disposed of as the Clerk may deem proper after ten days notice to counsel.

**LR 79.5 Closed Files.** All closed files of the Court may be forwarded to the federal records center serving this district. Thereafter, persons desiring use of any such files may, upon good cause shown, on an appropriate form furnished by the Clerk, request that such files be returned for examination in the Clerk's office.

**LR 79.6 Civil Case Reports.** On the first day of each month, the Clerk shall make a written report to the Court, listing each pending motion in all civil cases for each division by giving the name and civil action number, and indicating the date of filing and nature of each such motion. These civil case reports will be available for review in the Clerk's Office.

## LR 79.7 Sealed Documents.

(a) Except as required or allowed by statute or rule, no matter may be placed under seal without permission of the Court.

(b) Any person desiring to have any matter placed under seal shall present a motion setting forth the grounds why the matter presented should not be available for public inspection. The Clerk shall: (i) docket the motion as a Motion to Seal; (ii) refrain from labeling the filing as "sealed" or identifying the person seeking the sealing order unless the person consents; (iii) designate any accompanying materials as "sealed matter"; and (iv) maintain the motion and accompanying materials in a secure file pending a ruling on the Motion to Seal.

(c) If the Motion to Seal is denied, any materials which the person sought to have sealed, and which were submitted to the Clerk with the motion, shall be returned to the person, who shall then have the option of filing the materials in the normal course.

(d) Motions to Seal may extend to three layers of information: (1) the name of the movant; (2) the title of the filing sought to be sealed; and (3) the contents of the filing itself. In most cases, only the contents of the filing itself (e.g., proprietary data embodied within an in limine motion) will warrant sealing, not the title of the filing (e.g., Motion in Limine) or the identity of the movant (e.g., XYZ Tire Company). Therefore, unless the Court specifies otherwise, the Clerk shall construe all sealing orders to extend only to the contents of the underlying filing. The burden rests upon the moving party to justify all three sealing levels. The party seeking to have any matter placed under seal must rebut the presumption of the openness derived from the First Amendment by showing that closure is essential to preserve some higher interest and is narrowly tailored to serve that interest.

(e) A party who moves to seal any matter submitted to the Court shall indicate whether the matter should be sealed permanently or until: (1) the conclusion of the trial, (2) the entry of final judgment, (3) the conclusion of the direct appeal, or (4) some other specified time. The permanent sealing of a Court record is not preferred and should be sought only where temporary sealing is not adequate to protect the interest at stake. Upon the expiration of any temporary sealing period, the matter shall be unsealed and made a part of the public record.

LR 80 through 82. See Federal Rules of Civil Procedure 80 through 82.

## LR 83. ATTORNEYS, COURT FACILITIES, AND BUSINESS

### ATTORNEYS -- GENERAL

LR 83.1 *Roll of Attorneys.* The bar of this Court shall consist of those persons heretofore admitted to practice in this Court and those who may hereafter be admitted in accordance with this rule.

LR 83.2 *Eligibility.* Any attorney who is a member in good standing of the State Bar of Georgia is eligible for admission to the bar of this Court.

### LR 83.3 *Procedure for Admission.*

(a) Each applicant for admission to the bar of this Court shall file with the Clerk a written petition, on the form provided by the Clerk, setting forth his residence and office address, and the other courts to which he has been admitted to practice. The petition shall be signed by two members in good standing of the bar of this Court who recommend his admission.

(b) The Clerk shall furnish each petitioner with a set of instructions on the procedure for admission in the particular division of the Court where the petition is filed. A petition in the proper form will be presented to a judge of this Court. The petitioner will make suitable arrangements thereafter with the Clerk for his appearance and admission in open court or in chambers in accordance with the Court's instructions.

(c) When a petition is called, one of the members of the bar of this Court shall move the admission of the petitioner. When admitted, the petitioner shall take an oath in the following form:

I do solemnly swear or affirm that I will support the Constitution of the United States; that I will bear true faith and allegiance to the government of the United States; that I will maintain the respect due to the courts of justice and judicial offices; that I will well and faithfully discharge my duties as an attorney and officer of this Court; and that I will demean myself uprightly and according to the law and the recognized standards of ethics of the legal profession. So help me God.

(d) The petitioner, after taking the foregoing oath, will then sign the roll of attorneys in the division where admitted and will pay to the Clerk the prescribed enrollment fee.

#### LR 83.4 Permission to Practice in a Particular Case.

(a) Georgia bar members who reside in this district or maintain their principal place of business in this district shall not appear before this Court via pro hac vice admission, but instead must join this Court's bar, even to represent someone in one (or an occasional) case.

(b) Any attorney not subject to LR 83.4(a), but who is in good standing with the bar of another federal district court, may be permitted to appear and participate in a particular case before this Court, whether civil or criminal, with the prior approval of this Court, subject to the following conditions:

(1) pro hac vice counsel must designate, by a writing filed in the case in which appearance is sought, some willing member of this Court's bar upon whom motions and papers may be served and who shall be responsible for and have full authority to act for and on behalf of the client in all proceedings related to the case including hearings, pretrial conferences, and trials, should the petitioner fail to respond to any court order for appearance or otherwise. For that designation to be effective, such local counsel must enter a written appearance in the case.

(2) pro hac vice counsel also must: (i) certify, in a writing filed with this Court, membership in good standing of a federal district court; (ii) file with the Clerk of this Court a certificate of good standing from that court; and (iii) provide a list of all cases filed in this Court in which petitioner has appeared as counsel.

(c) Any attorneys representing the United States Government, or any agency thereof, may appear and participate in particular actions or proceedings in an official capacity without a petition for admission, provided the attorney is a member of a federal district court's bar. Any such attorney so appearing shall certify to the Court in writing that he or she has read and is familiar with the local rules. Further, unless excused from doing so by the presiding judge, any such attorney shall be accompanied at hearings and trials by an Assistant United States Attorney of this district who shall also review and sign pleadings.

#### LR 83.5 Disbarment and Discipline.

(a) Any attorney who appears in a case or proceeding, or who represents a party in interest in a case or proceeding, may for good cause shown, and after notice and hearing, be disbarred, suspended from practice for a definite time, reprimanded, or subjected to such other discipline as the Court may deem proper.

(b) If any attorney appearing in a case or proceeding, or representing a party in interest in a case or proceeding, has been disbarred or suspended from the practice of law by the State Bar of Georgia or the courts of the State of Georgia or any other state, or has been convicted of a felony or any crime involving moral turpitude, such attorneys may be provisionally suspended forthwith from practice before this Court; and, unless good cause to the contrary is shown within thirty (30) days from the date of such suspension or conviction, an order of disbarment shall be entered.

(c) Any person who is not admitted to the bar of this Court or who has been disbarred or suspended, and who exercises in this Court any of the privileges as a member of its bar, or pretends to be entitled to do so, shall be in contempt of this Court and subjected to appropriate punishment.

(d) The standards of professional conduct of attorneys appearing in a case or proceeding, or representing a party in interest in such a case or proceeding, are governed by the Georgia Bar Rules of Professional Conduct and the American Bar Association's Model Rules of Professional Conduct. When a conflict arises, the Georgia Bar Rules of Professional Conduct shall control. A violation of any of these rules in connection with any matter pending before this Court may subject the attorney to appropriate disciplinary action.

(e) The notice of hearing for any proceeding to be conducted under subparagraph (a) of this Rule shall include the specifications of charges and complaints against any member of the bar considered by the Court for disciplinary action, the time by which a response thereto shall be made, and the time, date and place of any hearing therein.

(f) Any disciplinary proceedings under this Rule shall be closed except that the Court may, in its discretion, open to the public any such proceeding when justice so requires or when the subject of any disciplinary action so requests.

(g) Where in a matter pending before an Article I Judge it appears that any attorney appearing in case or proceeding, or representing a party in interest in such case or proceeding, has violated any of the rules referred to in subparagraph (d), the Article I Judge may initiate a proceeding in conformity with subparagraphs (a) and (d) through (f) of this Rule, may terminate the proceeding at any stage when the question raised is unsupported or unsubstantiated, and, if the proceeding is not terminated, shall at the conclusion of the proceeding submit to the Chief Judge of this Court proposed findings of fact and, where appropriate, a recommendation for the discipline of the offending member.

The Article I Judge shall file his proposed findings and recommendations with the Court under seal and a copy thereof shall forthwith be mailed by the Clerk to the subject of the disciplinary action, who shall have fourteen days after service to file written objections to the proposed findings and recommendations.

The Chief Judge of the District Court, or a District Judge designated by him, shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings and recommendations made by the Article I Judge. The Chief Judge or his designee may also receive further evidence or recommit the matter to the Article I Judge with instructions.

This local rule is not intended to limit the power of the Article I Judge to exercise such criminal and civil contempt authority as conferred by Statute or Rule.

(h) Any disbarred or suspended attorney who wishes to be readmitted to practice before this Court shall submit any readmission petition to the Chief Judge of this Court and include: (a) a detailed explanation of why he believes he is fit to practice before this Court; (b) an express reference to the Order disbaring or suspending the attorney and file and a copy of that Order; (c) an acknowledgment that the attorney has engaged in the conduct which led to the Order of disbarment or suspension; (d) affidavits from five current members of this Court's bar who attest that the attorney is an ethical person of good moral character, good conduct, and professional responsibility; and (e) a request that a hearing be held before all the judges of this Court to consider the petition.

#### LR 83.6 Appearance by an Attorney.

(a) The filing of any pleadings shall, unless otherwise specified, constitute an appearance by the person who signs such pleading.

(b) An attorney representing a witness in any civil action or criminal proceeding, including a grand jury proceeding, or representing a defendant or prospective defendant in a grand jury proceeding, shall file a notice of appearance with the consent of the client endorsed thereon, with the Clerk on a form to be prescribed and furnished by the Court, except that the notice need not be filed when such appearance has previously been evidenced by the filing of pleadings in the action or proceeding. The notice shall be filed by the attorney promptly upon undertaking the representation and prior to the attorney's appearance on behalf of his client at any hearing or grand jury proceedings. When the

appearance is in connection with a grand jury session, the notice of appearance shall be filed with the Clerk in such a manner as to maintain the secrecy requirements of grand jury proceedings. For the purpose of this rule, an attorney shall be deemed to be appearing for and representing a witness or party if he is present within the courthouse and advising such witness prior to entering the chambers of the grand jury or is interviewing witnesses of the grand jury before or after their appearance.

(c) Each attorney retained by defendants in criminal cases shall, within three (3) days after being retained, notify the Clerk in writing of his appearance as attorney of record and shall furnish a copy of said notice to the United States Attorney. Counsel becoming associated with counsel already of record in a criminal case or being substituted for counsel then of record in the case, upon being associated with or replacing counsel or upon being retained by a party or parties to the case, shall notify the Clerk in writing of his appearance in the case. Counsel so registered as counsel of record will not be relieved of such responsibility except upon order of the Court as hereinafter prescribed.

(d) Whenever a party has appeared by attorney, he may not thereafter appear or act in his own behalf in the action or proceeding, or take any step therein, unless an order of substitution shall first have been made by the Court, after notice to the attorney by such party and to the opposite party, provided, that the Court may hear a party in open court, notwithstanding the fact that he has appeared or is represented by an attorney.

(e) No attorney shall withdraw his appearance in any action or proceeding, either civil or criminal, except by leave of the Court as hereinafter prescribed.

(f) When an attorney dies, or is removed or suspended or ceases to act as such as hereinafter prescribed, a party to an action or proceeding for whom he was acting as attorney must, before any further proceedings are had in the action on his behalf, appoint another attorney or appear in person, unless such party is already represented by another attorney. Failure to so act or to so appear in person and to furnish his address to the Clerk shall constitute a default on his part.

(g) If an attorney for any party is examined as a witness in an action or proceedings, and gives testimony on the merits, he shall not argue the merits of the case or proceeding, either to the Court or jury, except with the permission of the Court.

(h) Only one attorney on each side shall examine or cross examine a witness, and not more than two (2) attorneys on each side shall argue the merits of an action or proceeding unless the Court shall otherwise prescribe.

**LR 83.7 Withdrawal as Attorney of Record.** Attorneys representing parties in any case, desiring to have their names stricken of record, shall so request one of the District Judges of this Court, in writing and in duplicate, through the Clerk of this Court, and shall disclose that such attorney has given due notice to his client of his intention to withdraw from the case, and shall specify the manner of such notice to the client, attaching copy of the notice. Such notice to the client shall be given at least fourteen (14) days prior to the request to the Court. Upon the filing of the request with the Clerk, a copy thereof shall forthwith be mailed to the client and within fourteen (14) days thereafter, such request shall be presented by the Clerk to the District Judge for his action thereon. Ordinarily, counsel will not be allowed to withdraw after pretrial if such withdrawal will delay the trial of the case, in which event the attorney shall continue as responsible for the handling of the case.

**LR 83.8 Relations with Jury.** All attempts to curry favor with juries by fawning, flattery, or pretending solicitude for their personal comfort are unprofessional. Suggestions of counsel, looking to the comfort or convenience of jurors and propositions to dispense with argument or peremptory challenges, should be made to the Court out of the presence of the jury or its hearing. Before and during the trial, a lawyer shall avoid conversing or otherwise communicating with a juror on any subject, whether pertaining to the case or not. No party, attorney, or other person shall, without Court approval, make or attempt any communication relating to any feature of the trial of any case with any regular or alternate juror who has served in such case, whether or not the case was concluded by verdict.

**LR 83.9 Leaves of Absence.** An application by an attorney for a leave of absence shall be in writing, listing all cases by name and number for which protection is desired by the attorney. Said application shall show that notice thereof has been given to opposing counsel in each of said cases. In the absence of prompt objection thereto, in writing, such leave may be granted as a matter of course.

**LR 83.10 Disciplinary Actions.** In any disbarment or disciplinary action brought against any member of the bar of this Court, the United States Attorney shall prosecute such action representing the bar of this Court.

**LR 83.11 Indigent Representation -- Statement of Policy.** The historic and present obligation of the bar to provide legal counsel and representation to those who cannot afford to pay is recognized and established as

the policy of this Court. In years past, before the organization and funding of legal services corporations and the enactment of legislation providing payment for services in appointive criminal cases, many lawyers fairly and dutifully responded to the call for indigent representation. Increasingly, it is perceived that lawyers who regularly and frequently practice in this Court have no contact whatsoever with the indigent client in civil or criminal cases. This Court will not participate in or permit an abdication of the lawyer's fundamental responsibility to provide legal services to indigents. It is observed that such services are more effective and produce greater professional fulfillment when provided voluntarily rather than compulsorily. All members of the bar of this Court who possess the mental and physical ability, regardless of age, are expected to provide legal services, on occasion, to indigents. See also, LCrR 44.1.

The roll of attorneys as provided to the judicial officers by the Clerk's Office shall constitute the "panel of attorneys" as that term is used in the Plan for the Implementation of the Criminal Justice Act of 1964, As Amended, which plan is a public record available at each divisional office of the Clerk of this Court.

In making appointments for attorneys to represent indigent in criminal or civil cases, the Magistrates Judges, the Clerk, and the District Judges shall consider the frequency of the appearances of lawyers in civil or criminal cases in this Court without regard to the residency or principal office maintained by the lawyer. Those lawyers whose appearances predominate in a particular division shall be given preference for appointments in such division, but shall be subject to appointment to a case in any division of this Court.

#### ATTORNEYS -- GUIDELINES FOR COURTROOM CONDUCT

These instructions are designed to promote uniformity and proper decorum in the courtroom practice of this district. Members of the bar should adhere to these instructions to the maximum practical extent.

#### LR 83.12 Examination of Witnesses and Argument.

- (a) Counsel should conduct examination of witnesses from the lectern or the counsel table.
- (b) Do not approach a witness without asking permission of the Court. When permission is granted for the purpose of working with an exhibit, resume the examination from the table or lectern when finished with the exhibit.
- (c) Rise when addressing the Court or jury and when making objections.
- (d) During opening statement and argument, counsel should stand at the lectern or table unless the Court grants permission to approach another area for a proper purpose.

### LR 83.13 Objections to Questions.

(a) When objecting, state only that you are objecting and specify the ground or grounds of objection. Do not use objections for the purpose of making a speech, recapitulating testimony, or attempting to guide the witness.

(b) Argument upon the objection will not be heard until permission is given or argument is requested by the Court.

### LR 83.14 Decorum.

(a) Colloquy or argument between attorneys is not permitted. Address all remarks to the Court.

(b) In a jury case, if there is an offer of stipulation, first confer with opposing counsel about it.

(c) Do not ask the reporter to mark testimony. All requests for re-reading of questions or answers shall be addressed to the Court.

(d) Counsel during trial shall not exhibit familiarity with witnesses, jurors, or opposing counsel. The use of first names is to be avoided. During arguments, no juror should be addressed individually or by name.

(e) During the argument of opposing counsel, remain seated at the counsel table and be respectful. Never divert the attention of the Court or the jury.

### LR 83.15 The Witness.

(a) Witnesses shall be treated with fairness and consideration; they shall not be shouted at, ridiculed, or otherwise abused.

(b) No person shall ever by facial expression or other conduct exhibit any opinion concerning any testimony which is being given by a witness. Counsel should admonish their clients and witnesses about this common occurrence.

### LR 83.16 Court Hours and Promptness.

(a) The Court makes every effort to commence proceedings at the time set. Promptness is expected from counsel and witnesses.

(b) If a witness was on the stand at a recess or adjournment, have the witness on the stand ready to proceed when Court is resumed.

(c) Arrange the schedule of your case so that you will not run out of witnesses and cause unnecessary delay.

**LR 83.17 Doctors and other Professional Witnesses -- Out of Sequence.** The Court attempts to cooperate with physicians, engineers, and other professional witnesses and will, except in extraordinary circumstances, accommodate them by permitting them to be put on out of sequence. Anticipate any such possibility and discuss it with opposing counsel. If there is objection, confer with the Court in advance.

**LR 83.18 Exhibits.**

(a) Each counsel shall keep a list of all exhibits.

(b) Whenever possible, have photocopies of an exhibit for the Court, opposing counsel, and the witness.

(c) Each counsel is responsible for any exhibits which he secures from the Clerk. At each noon-time or end-of-the-day adjournment, return all exhibits to the Clerk.

(d) Documents and other exhibits, where practical, should be tagged as exhibits and shown to opposing counsel before their use in court.

(e) Exhibits should be pre-marked and tagged before identification in open court. When referring to the exhibit, counsel should briefly describe its nature for the record.

(f) Ordinarily, exhibits should be offered in evidence when they become admissible rather than at the end of counsel's case.

(g) When counsel or witnesses refer to an exhibit, mention should also be made of the exhibit number so that the record will be clear.

(h) Where maps, diagrams, pictures, etc. are being used as exhibits, and locations or features on such documents are being pointed out by witnesses or counsel, such locations should be indicated by appropriate markings on the documents if not readily apparent from the documents themselves. Unnecessary markings should be avoided. Markings on exhibits should only be made after receiving the Court's permission to do so.

(i) Where several exhibits are contained within an envelope, package or box, mark the container as exhibit 1, for example, and the others as exhibit 1-A, 1-B, etc.

(j) At pretrial conference, attorneys are given a form for a list of exhibits and exhibit tags. These forms are to be copied to provide as many copies as needed. On the day of trial, deliver three copies of the exhibit list to the Clerk. (For unusual exhibits, contact the Courtroom Deputy Clerk for instructions).

**LR 83.19 Difficult Questions -- Advance Notice.** If you have reason to anticipate that any question of law or evidence is difficult or will provoke an argument, give the Court advance notice.

**LR 83.20 Depositions -- Filing and Use during Trial.**

(a) All depositions which are used in the trial, either as evidence or for impeachment, must be signed and filed before the trial commences.

(b) Portions of depositions used for impeachment may be read to the jury during the cross-examination, with pages and lines indicated for the record before reading. However, prior to reading, the witness should be shown the pages and lines and permitted to read them to himself.

**LR 83.21 Use of Answers to Interrogatories and Requests for Admission.** Where there has been extensive discovery and counsel expects to offer answers to interrogatories or requests for admissions extracted from several separate documents, a document showing such question and answer or admission shall be prepared with copies for the Court and opposing counsel. This eliminates the time-consuming process of thumbing through extensive files to locate the particular items.

**LR 83.22 Opening Statements.** Confine your opening statements to what you expect the evidence to show. It is not proper to use the opening statement to argue the case or instruct as to the law.

## COURT FACILITIES AND BUSINESS

**LR 83.23 Prohibited and Permitted Conduct.** The taking of photographs and operating of tape recorders in the courtroom or its environs and radio or television broadcasting from the courtroom or its environs during the progress of or in connection with judicial proceedings, including proceedings before a United States Magistrate Judge, Bankruptcy Judge, or Administrative Law Judge, whether or not court is actually in session, are prohibited. A Judge may, however, permit (1) the use of electronic or photographic means for

the presentation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings.

**LR 83.24 Environs.** The courtroom and its environs, as such terms are used in Local Rule LR 83.23, shall include any portion of any United States courthouse building and the exterior steps to such buildings, and parking areas adjacent to such buildings if such areas are owned by the United States Government. Where the interest of justice or public safety may so require, the Court may direct the Marshal to extend the environs of the courtroom, as such term is contemplated in Local Rule LR 83.23, to the curb or edge of the public streets or thoroughfares adjacent to any United States courthouse building.

**LR 83.25 Exceptional Situations.** At the request of the United States Marshal or the United States Attorney, the Court may direct other limitations on photography and broadcasting to maintain the secrecy of grand jury proceedings, to protect jurors and witnesses, and to further the interest of justice in unusual, hazardous, or inflammatory circumstances.

**LR 83.26 Purpose and Excluded Areas.** It is the purpose of Local Rule LR 83.23 to preserve and protect the dignity and solemnity of court proceedings, to promote public safety, and to facilitate access to court functions by the public and court officers. Nothing herein contained shall be construed unreasonably so as to restrict the constitutional rights of any individual. The environs of the courtroom as defined in Local Rule LR 83.24 shall not include the office area of any elected official within any United States courthouse, nor shall it include the office area of any other agency within such buildings where photography, broadcasting, and recording has been invited or authorized by the person in charge thereof with respect to a matter which is unrelated to court proceedings.

**LR 83.27 Security.** When magnetometers are deemed necessary by a Judge of this district and placed into operation by the United States Marshal Service, it will be required that all persons entering a facility so protected be cleared through the magnetometer prior to being granted access.

Federal employees and agents may be granted access upon production of valid government identification or personal recognition by the Court Security Officer (CSO) or Marshal. All briefcases, packages, and purses will be inspected if they fail to clear the magnetometer.

**LR 83.28 Release of Information by Courthouse Personnel.** All courthouse supporting personnel, including but not limited to the United States Marshal and his deputies, the Clerk and his deputies, the Probation Officer and probation clerks, bailiffs, court reporters, and any employees or subcontractors retained by the

official court reporters, are prohibited from disclosing to any person, without authorization from the Court, any information relating to a pending grand jury proceeding, criminal case, or civil case that is not part of the public record of the Court. The public record of each case shall be those materials which are contained in the court's official file as maintained by the Clerk except such parts thereto as may be sealed, secret, impounded or specially set aside for in camera inspection. This prohibition specifically applies to grand jury proceedings, and to in camera arguments and hearings held in chambers or otherwise outside the presence of the public. Pleadings received by the Clerk relating to plea bargains shall not be made a part of the public record until trial has commenced. Courthouse personnel contact with media representatives regarding official court business shall be limited to providing them access and copies of the public record to which the general public is entitled, and to no other commentary, opinion, or assistance.

**LR 83.29 Judicial Proceedings--Special Cases.** In a widely publicized or sensational criminal case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses which are likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such order.

**LR 83.30 Only For Court Business.** The various courtrooms of the United States District Court are solely for trials, hearings and transaction of other court business. The courtrooms will not be utilized for any other purpose unless approved by a Judge of this Court.

**LR 83.31 No Weapons Allowed.** No persons including law enforcement officers, except the United States Marshal and his duly assigned deputy Marshals, and federal protective officers on assignment or upon call, shall wear or bring any firearm or other weapon into the courtroom of any United States Courthouse or federal building in the Southern District of Georgia unless specifically authorized to do so by a Judge of this Court. Any firearm or weapon shall be checked with the Marshal. A willful failure to comply with this rule shall subject the offender to a rule for contempt and such offender may be subjected to appropriate disciplinary action by the Court.

**LR 83.32 Transcripts.** All orders to an official court reporter for the transcription of the record or any portion thereof in all cases, including depositions, shall be in writing, signed by lead counsel for the party ordering such transcription, and filed with the record. The party ordering such transcript, except in CJA cases, cases proceeding in forma pauperis, or cases in which the government is the party ordering such transcription, shall

pay to the reporter, in advance, the reasonable estimate of the cost of such transcription as made by the court reporter.

**LR 83.33 Compensation.** The compensation of an official court reporter shall be as established by order from time to time, pursuant to the authority of the Judicial Conference of the United States.

## End of Civil Rules

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### LOCAL RULES FOR THE ADMINISTRATION OF CRIMINAL CASES

(Matters of a civil, general, or administrative nature are addressed in LR 1, et seq. These Local Rules for the Administration of Criminal Cases are supplemental in nature, and are to be construed consistently with the generally applicable Local Rules, supra.)

### CRIMINAL CASES

#### LCrR 1. SCOPE

**LCrR 1.1 Applicability of Local Civil Rules.** These Local Rules for the Administration of Criminal cases are supplemental to the Local Rules for Civil Cases and the Administration of the Court. Those rules must be consulted as to matters of procedure and administration not addressed by these supplemental rules. See, e.g., LR 2.2 (division filings); LR 7.6 (reply briefs); LR 51 (jury instructions); LR 72 (Magistrate Judges); LR 79 (records and sealed documents); LR 83 (attorney admission, discipline, and relations with the jury).

**LCrR 1.2 Precedence of the Federal Rules of Criminal Procedure.** In cases of conflict between these Local Rules and the Federal Rules of Criminal Procedure, except where the Federal Rules of Criminal Procedure permit variations by Local Rule, or in matters not addressed by these Local Rules, the Federal Rules of Criminal Procedure shall govern. Whenever possible, the Local Rules and Federal Rules of Criminal Procedure shall be read consistently.

LCrR 2 through 11. See Federal Rules of Criminal Procedure 2 through 11.

## LCrR 12. MOTIONS

**LCrR 12.1 Form and Time for Filing Criminal Motions.** Unless otherwise ordered by the Court, every motion filed in a criminal proceeding shall be accompanied by a memorandum of law citing supporting authorities. Every factual assertion in a motion, response, or brief shall be supported by a citation to the pertinent page in the existing record or in any affidavit, discovery material, or other evidence filed with the motion. Where allegations of fact are relied upon that are not supported by the existing record, supporting affidavits shall be submitted.

Unless otherwise ordered by the Court, all pretrial motions in criminal cases, pursuant to Rule 12 of the Federal Rules of Criminal Procedure shall be filed within ten (10) days of arraignment. Unless otherwise ordered responses to motions shall be filed within fourteen (14) days after service of the motion.

**LCrR 12.2 Notice of Entrapment Defense.** Upon written demand of the attorney for the government stating the time, date, and place at which the alleged offense was committed, the defendant shall serve within fourteen (14) days, or at such different time as the Court may order in writing, upon the attorney for the government a written notice of his intention to offer a defense of entrapment. Such notice by the defendant shall state the specific acts upon which the prosecution is based that the defendant admits and shall further state the specific time, place, and circumstances under which the defendant claims to have been entrapped, together with the names and addresses of witnesses upon whom he intends to rely to establish such defense.

**LCrR 12.3 Disclosure of Information and Witnesses.** As soon as practicable after the defendant's notice, and in no event less than fourteen (14) days before trial (unless the Court directs otherwise), the attorney for the government shall serve upon the defendant, or his attorney, a written notice stating the names and addresses of the witnesses and the substance of any direct or circumstantial evidence of prior acts of the defendant, specific instances of conduct, or criminal convictions of the defendant upon which the government intends to rely to establish the defendant's predisposition to commit the crime alleged.

**LCrR 12.4 Continuing Duty to Disclose.** If prior to or during trial a party learns of an additional witness whose identity, if known, should have been included in the information furnished under the preceding rules,

the party shall promptly notify the other party or his attorney of the existence and identity of such additional witness.

**LCrR 12.5 Failure to Comply.** Upon the failure of either party to comply with the requirements of this rule, the Court may exclude the testimony of any undisclosed witness offered by such party as to the defendant's defense of entrapment. This rule shall not limit the right of the defendant to testify in his own behalf.

**LCrR 12.6 Exceptions.** For good cause shown, the Court may grant an exception to any of the requirements of this rule.

**LCrR 12.7 Inadmissibility of Withdrawn Defense.** Evidence of an intention to rely upon a defense of entrapment, or the admission of any act upon which the prosecution may be based, if later withdrawn, or of any statement made in connection with a notice under this rule, is not admissible in any civil or criminal proceeding against the person who gave notice of the intention.

**LCrR 13 through 15.** See Federal Rules of Criminal Procedure 13 through 15.

## **LCrR 16. DISCOVERY**

**LCrR 16.1 Pretrial Discovery and Inspection in Criminal Cases.** Within seven (7) days after arraignment, the United States Attorney and the defendant's attorney shall confer and, upon request, the government shall:

- (a) Permit defendant's attorney to inspect and copy or photograph any relevant written or recorded statements or confessions made by the defendant, or copies thereof, within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known to the attorney for the government.
- (b) Permit defendant's attorney to inspect and copy or photograph any relevant results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the case, or copies thereof, within the possession or control of the government, the existence of which is known, or by the exercise of due diligence may become known to the attorney for the government.
- (c) Permit defendant's attorney to inspect and copy or photograph any relevant recorded testimony of the defendant before a grand jury.

(d) Permit defendant's attorney to inspect and copy or photograph books, papers, documents, tangible objects, buildings, or places which are the property of the defendant and which are within the possession, custody, or control of the government.

(e) Permit defendant's attorney to inspect and copy or photograph the Federal Bureau of Investigation Identification Sheet indicating defendant's prior criminal record.

(f) Permit defendant's attorney to inspect and copy or photograph any evidence favorable to the defendant.

(g) There shall be no duplication required of a party making discovery under this rule or under Rule 16 of the Federal Rules of Criminal Procedure. In the event the United States Attorney declines to furnish any such information described in this rule, he shall file such declination in writing specifying the types of disclosure that are declined and the grounds therefor. If defendant's attorney objects to such refusal, he shall move the Court for a hearing thereon. Any duty of disclosure and discovery set forth in the rule is a continuing one and the United States Attorney shall produce any additional information gained by the government.

Any disclosure granted by the government pursuant to this local rule of material within the purview of Rules 6(e), 16(a)(2) and 16(b) of the Federal Rules of Criminal Procedure, and 18 U.S.C. § 3500, shall be considered as relief sought by the defendant and granted by the Court. Defense counsel is prohibited from disseminating this information beyond that necessary to the preparation of his client's defense.

**LCrR 16.2 Disclosure of Evidence of Other Crimes, Wrongs, or Acts.** As soon as practicable after the defendant's arraignment, and in any event no more than twenty (20) days after the arraignment (unless the Court directs otherwise), the United States Attorney shall serve upon counsel for the defendant a written notice of any direct or circumstantial evidence of other crimes, wrongs, or acts of the defendant, or specific instances of conduct or criminal convictions of the defendant, which the Government intends to offer into evidence through either Fed. R. Evid. 404(b) or under the theory that the evidence is so inextricably intertwined with defendant's charged offense that it should be admissible.

LCrR 17 through 29. See Federal Rules of Criminal Procedure 17 through 29.

## LCrR 30. INSTRUCTIONS

LCrR 30.1 Jury Instructions. In criminal cases, all requests to charge and proposed voir dire questions must be filed at least seven (7) days before jury selection.

LCrR 31. See Federal Rule of Criminal Procedure 31.

## LCrR 32. SENTENCE AND JUDGMENT

LCrR 32.1 Conditions of Probation and/or Supervised Release. All persons placed on probation or supervised release will abide by the following general conditions:

- (1) You shall not leave the judicial district without permission of the Court or probation officer.
- (2) You shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month.
- (3) You shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- (4) You shall support your dependents and meet other family responsibilities.
- (5) You shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reason.
- (6) You shall notify the probation officer within seventy-two hours of any change in residence or employment.
- (7) You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substance, except as prescribed by a physician.
- (8) You shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.

- (9) You shall not associate with any person engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- (10) You shall permit a probation officer to visit at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- (11) You shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement official.
- (12) You shall not enter into any agreement to act as an informer or special agent of a law enforcement agency without the permission of the Court.
- (13) As directed by the probation officer, you shall notify third parties of risks that may be occasioned by your criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm your compliance with such notification requirement.

**LCrR 32.2 Disclosure of Presentence or Probation Records.** To comply with Federal Rule of Criminal Procedure 32 and 18 U.S.C. § 3552, the probation officer shall, as soon as practical, but no later than twenty-five (25) days after the entry of a plea of guilty or verdict of guilty after trial, provide a copy of the preliminary draft of the presentence report to counsel for the defense and counsel for the government. Counsel for the defense shall disclose the presentence report to the defendant. Neither the preliminary draft nor the final presentence report provided to counsel for the defense and government shall be reproduced, except that, pursuant to 18 U.S.C. § 3552(d), the attorney for the government shall provide a copy of the presentence report to an attorney in the Financial Litigation Unit of the United States Attorney's Office for use in collecting any assessment, criminal fine, forfeiture and/or restitution imposed. The preliminary draft of the presentence report shall be returned to the probation officer immediately upon receipt of the revised presentence report. Counsel for the defense and counsel for the government shall have fourteen (14) days from the date of the receipt of the preliminary draft of the presentence report to file objections with the probation officer. Thereafter, the probation officer shall have fourteen (14) days from the date of the receipt of counsel's objections to provide a copy of the final presentence report to the Court and counsel for the defense and the government. The final presentence report shall include an addendum advising the Court of any unresolved issues. The sentencing hearing shall be held as provided by law.

Otherwise, no confidential records of this Court maintained by the probation office, including presentence and probation supervision records, shall be sought by any applicant except by written petition to this Court, establishing with particularity the need for specific information in the records.

(a) When a demand for disclosure of presentence and probation records is made, by way of subpoena or other judicial process, to a probation officer of this Court, the probation officer may file a petition seeking instruction from the Court with respect to responding to the subpoena.

(b) Whenever a probation officer is subpoenaed for such records, he shall petition the Court, in writing, for authority to release documentary records or produce testimony with respect to such confidential Court information.

(c) In either event, no disclosure shall be made except upon an order issued by this Court.

**LCrR 32.3 Continuing Control of Court.** Any copy of a presentence report which the Court makes available, or has made available, to the United States Parole Commission or the Bureau of Prisons constitutes a confidential Court document and shall be presumed to remain under the continuing control of the Court during the time it is in the temporary custody of these agencies. Such copy shall be lent to the Parole Commission and the Bureau of Prisons only for the purpose of enabling those agencies to carry out their official functions, including parole release and supervision, and shall be returned to the Court upon request. Disclosure of a report is authorized only so far as necessary to comply with 18 U.S.C. § 4208(b)(2) and established case law.

**LCrR 32.4 Notice of Confidential Nature.** Any copy of any presentence report which the Court makes available to the United States Parole Commission or the Bureau of Prisons shall be marked prominently and distinctly on the cover sheet and the first and last pages of such report as follows: Confidential. Property of U.S. Court submitted for official use of U. S. Parole Commission and Federal Bureau of Prisons, to be returned upon request. Disclosure only to comply with 18 U.S.C. § 4208(b)(2) and established case law.

**LCrR 32.5 Remittitur.** Upon receipt of a remittitur from the appellate court in a criminal case, when the judgment of this Court has been affirmed or the appeal dismissed, the Clerk shall immediately file said remittitur, and so notify counsel and the defendant. At the same time, the Clerk shall provide to the United States Marshal for this District, copies of the judgment and commitment and remittitur.

**LCrR 32.6 Notice to Defendants.** Where a defendant, after a judgment of conviction in a criminal case, has been released on an appeal bond, and the judgment of conviction has been affirmed by the appellate court, or the appeal has been dismissed, upon filing in this Court of the remittitur from the appellate court, or upon the filing of the notice of the dismissal of the appeal:

(a) The Clerk of this Court shall immediately notify the defendant, counsel for the defendant, and the sureties of his bond of such affirmance or dismissal by registered or certified mail, to their last known address, mailing a copy of such notice to the United States Attorney and the United States Marshal; and

(b) Within fourteen (14) days after such notice by the Clerk, the United States Marshal shall notify the defendant when and where to report to the institution designated by the Bureau of Prisons to abide the sentence. Upon failure of the defendant to surrender as directed, the Marshal shall report such fact to the United States Attorney, and the bond of such defendant shall be subject to forfeiture without further notice.

LCrR 33 through 42. See Federal Rules of Criminal Procedure 33 through 42.

#### LCrR 43. PRESENCE OF THE DEFENDANT

**LCrR 43.1 Presumption of Presence.** Unless the contrary appears affirmatively in the record, it will be presumed that the parties and their counsel were present at all stages of the trial, or if absent, that their absence was voluntary and constituted a waiver of their presence.

#### LCrR 44. RIGHT TO COUNSEL

**LCrR 44.1 Indigent Defendants.** The appointment of counsel and counsel's obligations to the representation of indigent defendants in criminal proceedings pursuant to Rule 44 of the Federal Rules of Criminal Procedure shall be in accordance with the "Plan of United States District Court for the Southern District of Georgia Pursuant to the Criminal Justice Act of 1964 as Amended," which plan is of record in each of the divisional offices of the Clerk of this Court. See also, LR 83.11.

**LCrR 44.2 Pro Se Filings.** Absent prior leave of Court, a defendant represented by counsel may not file a motion, brief, or other paper pro se, except for a motion for the appointment of new counsel or a motion to proceed pro se.

LCrR 45. See Federal Rules of Criminal Procedure 45.

## LCrR 46. PRETRIAL RELEASE

### LCrR 46.1 Pretrial Services

(a) Investigation. At the request of the judicial officer a prebail investigation report will be completed by the probation officer prior to the release hearing on each individual arrested in this district on a federal warrant unless the defendant waives the investigation. The report of this investigation with recommendation shall be considered by the judicial officer at the release hearing. Consideration shall be given for the time needed to conduct the investigation when establishing the time of the hearing.

(b) Supervision. The probation officer shall provide supervision and/or services for each defendant upon whom special conditions are imposed by the judicial officer.

(c) Pretrial Diversion. The probation officer shall investigate referrals from the United States Attorney's office for the Pretrial Diversion Program and supervise individuals placed on pretrial diversion by the United States Attorney.

LCrR 47 and 48. See Federal Rules of Criminal Procedure 47 and 48.

## LCrR 49. SERVICE OF PAPERS

LCrR 49.1 Mailing of Notices. In all criminal cases, the Clerk shall mail written notices of all conferences, hearings, and trial assignments to the defendant and the defendant's surety by certified mail or certificate of mailing, and to the defendant's attorney and the United States Attorney by regular mail. When there is insufficient time for giving notice by certified mail or a certificate of mailing, the Clerk shall notify the parties by telephone and document the date and time of the call or provide such other notice as the Court may direct.

## LCrR 50. CALENDARS

LCrR 50.1 Criminal Calendars. The criminal calendars of this Court shall be processed in accordance with the provisions of the "Speedy Trial Act of 1974" (Pub. L. No. 93-61, 88 Stat. 2076, 18 U.S.C. §§ 3161-3174), as amended, and the "Plan of the United States District Court for the Southern District of Georgia for

Achieving the Prompt Disposition of Criminal Cases," as amended, which plan is of record in each of the divisional offices of the Clerk of this Court, insofar as said plan does not conflict with the statute.

**LCrR 50.2 Criminal Case Reports.** The Clerk shall make a written report to the Court and each Judge thereof on the first day of each month, listing each criminal case pending in each division by case number and name of defendant. Such report shall also indicate the date the defendant was indicted, the date of his plea or conviction, and the date by which the next action in the case is required to be taken in accordance with the time requirements and limitations set forth in the Criminal Justice Act Plan for this District and the Speedy Trial Act of 1974.

**LCrR 51 and 52.** See Federal Rules of Criminal Procedure 51 and 52.

**LCrR 53. RELEASE OF INFORMATION**

**LCrR 53.1 Release of Information by Attorneys in Criminal Cases.**

(a) It is the duty of the lawyer or law firm not to release or authorize the release of information or opinion which a reasonable person would expect to be disseminated by any means of public communication, in connection with pending or imminent criminal litigation with which a lawyer or law firm is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(b) With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated, by any means of public communication, that goes beyond the public record or that is not necessary to inform the public that the investigation is under way, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

(c) From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer or law firm associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication, relating to that matter and concerning:

- (1) The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status and, if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his apprehension or to warn the public of any dangers he may present;
- (2) the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;
- (3) The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
- (4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law;
- (5) The possibility of a plea of guilty to the offense charged or a lesser offense; and
- (6) Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

The foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of his or its official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission, or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the Court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him.

(d) During a jury trial of any criminal matter, including the period of selection of the jury, no lawyer

or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial, which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that the lawyer or law firm may quote from or refer without comment to public records of the Court in the case.

(e) Nothing in this Rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him.

**LCrR 53.2 Communications Between Attorney and Client.** This Rule does not forbid communications between the attorney and his client or a prospective client, who has on the initiative of the client or prospective client consulted with, employed, or proposed to employ the attorney, or communications occurring in the regular course of business or in the performance of the duties of a public office or agency which do not have the effect of soliciting representation by counsel, or misrepresenting the status, purposes, or effect of the action and orders therein.

LCrR 54 through 57. See Federal Rules of Criminal Procedure 54 through 57.

## **LCrR 58. FORFEITURE OF COLLATERAL**

**LCrR 58.1 Forfeiture of Collateral in Lieu of Appearance.** For certain scheduled offenses, in accordance with the Forfeiture of Collateral Schedule maintained as a public record by the Clerk of this Court, committed within the territorial and subject matter jurisdiction of a United States Magistrate Judge for the Southern District of Georgia, collateral may be posted in the scheduled amount in lieu of an accused's appearance before the Magistrate Judge.

**LCrR 58.2 Forfeiture of Collateral Schedule.** The Forfeiture of Collateral Schedule will be in full force and effect on any location within the Southern District where the United States has concurrent or exclusive jurisdiction, including but not limited to the following lands regulated and controlled by the United States of America and its agencies: Blackbeard National Wildlife Refuge, Savannah National Wildlife Refuge, Okefenokee National Refuge, Cumberland Island National Park, Fort Pulaski National Refuge, Clark Hill Dam Reservoir, Fort Gordon, Georgia, Fort Stewart, Georgia, Hunter Army Air Field, Georgia, Veterans

Administration Hospitals, Dublin and Augusta, Georgia, Corps of Engineers, and throughout the District on Migratory Bird Treaty Act Violations.

LCrR 59 and 60. See Federal Rules of Criminal Procedure 59 and 60.

End of Criminal Rules

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## LOCAL RULES - ADMIRALTY and MARITIME CLAIMS

### LAdR 1. Title and Scope.

(a) The Title of these Rules is "Local Rules for Admiralty and Maritime Claims in the United States District Court, Southern District of Georgia."

(b) These Rules apply to admiralty and maritime claims within the meaning and contemplation of Rule 9(h) of the Federal Rules of Civil Procedure and remedies within Supplemental Rule A of the Supplemental Rules For Certain Admiralty and Maritime Claims, Federal Rules of Civil Procedure, unless inconsistent therewith. The general local rules are also applicable unless inconsistent herewith.

### LAdR 2. Process: Return Thereof.

(a) All process shall be issued by the Clerk without order, except suits prosecuted in forma pauperis sought to be filed without pre-payment of fees or costs or without security.

(b) Unless otherwise ordered by the Court, all process from this Court within the scope of Supplemental Rules C and D shall be returnable by Verified Claim within fourteen (14) days after execution of the process and by motion or answer within twenty-one (21) days following the filing of the claim pursuant to Supplemental Rule C(6).

(c) Unless otherwise ordered by the Court, Federal Rule of Civil Procedure Rule 9(h) process from this Court in personam shall be by civil summons returnable twenty-one (21) days after service of the

process except process within the contemplation of Supplemental Rule B which shall be in conformity therewith.

(d) Whenever a vessel is to be served, the party seeking service shall inform the Marshal of the registry of the vessel to be served, provided, however, that failure to so inform the Marshal shall not be cause for the Marshal to refuse to serve the said vessel or in any way invalidate service of said vessel.

### LAdR 3. Publication.

(a) Publication required by Supplemental Rule C(4) shall be made once, without further Court order, in a newspaper of general circulation in the county where the property is seized.

(b) If the property arrested is not released within fourteen (14) days after execution of process, publication hereunder shall, unless otherwise ordered, be caused by the plaintiff or intervenor to be made within twenty-one (21) days after execution of process.

(c) Such notice shall be substantially as follows, except and unless otherwise provided in actions for the enforcement of forfeitures for violation of any statute of the United States:

#### UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF GEORGIA

#### Caption of Case

NOTICE: The United States Marshal, Southern District of Georgia, has arrested the [(Vessel and appurtenances) (property)] in the above causes, civil and maritime for [nature of claim, i.e., contract, salvage, damage, collision, foreclosure of preferred mortgage, etc.] amounting to [\$ (and nature of unliquidated items.)]. Process returnable on [month, day and year, i.e., 30 days following execution of process as measured by Rule 6(a), Federal Rules of Civil Procedure] at the (name of Courthouse), (city), (state), and any person claiming any interest therein must appear no later than that date and file written claims, answer or other defense, in person, or by attorney, or default and condemnation will be ordered.

DATED at [city of publication], [State], [month, day and year of publication].

[Name]  
[Address]  
Attorney(s) for [(Plaintiff) (Intervenor)]

(d) Plaintiff or intervenor will cause to be furnished to the Marshal of this Court, at the time process issues in Supplemental Rule B, C, and D actions, a prepared statement of attachment and garnishment or arrest with blanks for completion of date thereof and for signature below the name and title of such Marshal, together with a self addressed envelope to plaintiff or plaintiff's attorney with sufficient postage affixed. The Marshal of this Court will promptly cause same to be completed and mailed after execution of process.

(e) Plaintiff shall effect publication, required by Supplemental Rule F(4), without further Court order, in a newspaper of general circulation in the Division where the case is pending.

(f) Whenever publication is required by Supplemental Rules C(4) and F(4), plaintiff or intervenor will cause to be filed with the Clerk, not later than the return date, sworn proof of publication by or on behalf of the publisher or the editor in charge of legal notices of the newspaper in which published, together with a copy of the proof of publication, or publication or reproduction thereof.

**LAdR 4. Notice of Sale, Publication of.** Notice of sale of property in suits in rem and quasi in rem, except in suits on behalf of the United States where other notice is prescribed by statute, shall be caused by the Marshal to be published in any one of the newspapers set forth in Rule 303(a) of these Local Rules and published at least twice, the first publication to be at least one week prior to the date of sale and the second publication to be at least three days prior to the date of sale, unless otherwise ordered by the Court.

**LAdR 5. Costs and Security, Stipulations for.**

(a) In actions where there is sought, in whole or in part, a remedy listed in Supplemental Rule A of the Supplemental Rules For Certain Admiralty and Maritime Claims, Federal Rules of Civil Procedure, no initial pleading seeking such remedy, or claim pursuant to Supplemental Rule F(5), shall be filed unless the party offering the same shall first file a stipulation for costs in the sum of \$250.00, or in case two or more vessels are jointly or severally proceeded against, a sum equal to \$250.00 per vessel, conditioned that the principal shall pay all costs and expenses awarded against him by any interlocutory order or final judgment, or on appeal. All stipulations shall be with at least one surety in the Southern District of Georgia. Any incorporated surety company duly authorized to

do business in the Southern District of Georgia may be accepted as such surety. In the place of the stipulation for costs with surety, a party may deposit the necessary amount in the registry of the Court accompanied by a statement conditioned as above, referring to such deposited amount. In lieu of a surety upon a stipulation for costs, any attorney at law admitted to the bar of this Court may make a certificate that he agrees to become personally liable for costs and expenses stipulated, in which case said attorney shall be personally liable for costs and expenses up to \$250.00 per vessel.

(b) Seamen suing as provided in 28 U.S.C. § 1916 shall not be required to file a stipulation for costs in the first instance. The Court may, however, order a stipulation to be given at any time.

(c) At any time, any party having an interest in the subject matter of the action may move the Court, on due notice and for cause, for greater, better, or lesser security; and any such order may be enforced by attachment or otherwise. The Court may enter such order on its own motion, with or without notice.

**LAdR 6. Stipulations, Form of.** Except in cases instituted by the United States by information, or complaint of information upon seizures for any breach of the revenue, navigation, or other laws of the United States, stipulations or bonds in admiralty and maritime actions need not be under seal and may be executed by the agent or attorney of the stipulator or obligor. Stipulations for costs with corporate surety need not be signed or executed by the party, but may be signed by its agent or attorney, and shall be sufficient in any event if executed only by the surety approved by the Court.

**LAdR 7. Pleadings and parties.**

(a) Every complaint filed as a Federal Rule of Civil Procedure 9(h) action shall set forth "In Admiralty" following the designation of the Court, in addition to the statement, if any, contained in the body of the complaint pursuant to such rule.

(b) In actions under Supplemental Rules B, C, or D, the plaintiff's attorney or the plaintiff, if he has no attorney, shall include his business telephone number in addition to his address.

(c) Every complaint in Supplemental Rules B and C actions shall state the amount of the debt, damages, or salvage for which the action is brought, and shall include in addition thereto the amount of any claim for unliquidated items claimed, including attorney's fees.

(d) In cases of salvage, the complaint shall also state to the extent known or estimate the value of the hull, cargo, freight and other property salvaged, the amount claimed, the names of the principal salvors, and that the suit is instituted in their behalf and in behalf of all other persons interested or associated with them. There shall also be attached to the complaint a list of all known salvors and all persons believed entitled to share in the salvage, and also any agreement of consortium available and known to exist among them or any of them, including a copy of any such agreement.

(e) With respect to any admiralty or maritime claim in personam, a verified complaint may contain a prayer for process to attach the defendant's goods and chattels, or credits and effects in the hands of garnishees named in the complaint to the amount sued for, if the defendant shall not be found within the district. Such a complaint shall be accompanied by an affidavit signed by the plaintiff or his attorney that, to the affiant's knowledge, or to the best of his information and belief, the defendant cannot be found within the district, and such affidavit shall set forth the steps taken to ascertain that the defendant could not be found within the district.

When a verified complaint supported by such affidavit also states that the defendant's property expected to be found in the district and sought to be attached or garnished is such as may be removed from the jurisdiction, concealed, or destroyed so as to frustrate jurisdiction, the Clerk shall forthwith issue a summons and process of maritime attachment and garnishment.

In all other instances, process of maritime attachment and garnishment shall issue only upon order of the Court after an ex parte hearing before any United States District Court Judge or Magistrate Judge for this district.

**LAdR 8. Verification of Pleadings and Answers to Interrogatories.** Every complaint and claim in Supplemental Rules B, C, and D actions shall be verified on oath or solemn affirmation by a party, or an officer of a corporate party. If no party or corporate officer is within the district, verification of a complaint, claim, or answers to interrogatories may be made by an agent, attorney-in-fact, or attorney of record, who shall state briefly the sources of his knowledge, information and belief, declare that the document affirmed is true to the best of his knowledge, information, and belief, state the reason why verification is not made by the party or a corporate officer, and that he is authorized so to act. Any such verification will be deemed to have been made by the party to whom a document might apply as if verified personally. Any interested party may move the Court, with or without a request for stay, for the personal oath of a party or all parties, or that

of a corporate officer. If required by the Court, such verification shall be procured by commission or as otherwise ordered.

#### LAdR 9. Intervention.

(a) Whenever a vessel or other property is seized, attached or arrested in a proceeding and said property is in the hands of the Marshal, anyone having a claim against the vessel or property is required to present the same by intervening complaint filed in the case and not by way of original complaint, unless otherwise ordered by the Court. Upon the filing of each such intervening complaint, the Clerk (or, counsel who files same) shall forthwith deliver a conformed copy thereof to the Marshal who shall thereupon post such copy on the vessel property, but the Marshal need not re-arrest or re-attach the vessel or property. Counsel for intervening parties are required to ascertain the names and addresses of other counsel of record in the proceedings at the time of the filing of an intervening complaint and forthwith to serve a copy of the intervening complaint, including any exhibits attached to the original thereof, upon such other counsel and shall thereafter file a certificate with the Clerk setting forth the names and addresses of counsel served, method of service, and the date thereof.

(b) Subject to other rules of this Court, any party is permitted to intervene without the filing of a motion or petition to intervene in any proceeding filed pursuant to Rule 9(h) of the Federal Rules of Civil Procedure where a vessel or other property has been arrested or attached and is in the hands of the Marshal, except that no party is permitted to intervene in any such proceedings without first obtaining leave of Court if intervention is sought within fifteen days prior to the date for which a sale of the vessel or property has been set by the Court.

If intervention is sought within said fifteen-day period by any party, that party is required to file a motion or petition to intervene and to serve copies thereof along with any exhibits or documents relied upon in support of such intervenors' claims and request for intervention, upon all counsel of record. In such circumstances the Court may allow intervention upon such terms and conditions which is considered equitable to the interests of all parties involved.

(c) Following an initial attachment, arrest, or seizure, all parties except seamen, intervening in a proceeding alleging a claim against the property are required to deposit funds for the safekeeping of the property with the Marshal upon the filing of such intervening claim or complaint. Unless the

Court otherwise orders for good cause shown the deposit is to be in an amount determined by the Marshal.

(d) Whenever there is an arrest in rem, or whenever property is attached, the party arrested or any person having a right to intervene in respect of the thing attached, may, upon evidence showing any improper practice or a manifest want of equity on the part of the libellant, be entitled to an order requiring the libellant to show cause instanter why the arrest or attachment should not be vacated. This rule shall have no application to suits for seamen's wages when process is issued upon a certificate of sufficient cause filed pursuant to Sections 4546 and 4547 of the Revised Statutes (Title 46 U.S.C. §§ 603 and 604).

#### LAdR 10. Appraisement, Appraisers, and Other Matters.

(a) Order for appraisement of property under arrest or attachment, or of plaintiff's interest in the vessel and pending freight under Supplemental Rule F(7), shall issue only upon motion and notice pursuant to Federal Rule of Civil Procedure 7(b) or upon consent of the attorneys for the respective parties.

Before executing their trust, appraisers shall be sworn or affirmed to faithful discharge thereof before the Clerk or his deputy. The appraisement shall be returned to the Clerk's office and the Clerk's office shall give notice of the return to the parties or their attorneys. Any party, on notice, may appeal the appraisement instanter to the Court. After return of the appraisement the Court, on notice and hearing, shall determine the value of the property under arrest or attachment or the value of plaintiff's interest in the vessel and pending freight.

For their services appraisers shall be paid fees, as ordered by the Court, by the party at whose instance the appraisal was ordered. An appraiser's fee shall thereafter be taxed as the Court orders.

(b) All other maritime procedures and remedies such as motions for appointment of substitute custodians and like matters are left to be handled by an originating motion pursuant to Rule 7(b), Federal Rules of Civil Procedure, on such notice as the exigencies of the circumstances may require.

#### LAdR 11. Release of Seizures -- Custodial, Cost -- General Bonds.

(a) Property seized by the Marshal may be released as follows:

- (1) By the Marshal upon his receipt of security, accompanied by the endorsed express authorization for release signed by the party or his attorney as provided by Supplemental Rule E(5)(c) if all costs and charges of the Court and its officers shall have first been paid. Monies received as part of any cash stipulation shall be delivered to the Clerk by the Marshal for deposit in the registry of the Court.
- (2) In an action entirely for a sum certain, by paying into the Court the amount alleged in the complaint to be due, with interest at six percent per annum thereon from the date claimed to be due to a date twenty-four months after the date the claim was filed, or by filing an approved stipulation for such alleged amount and interest. In either event, claim of the property shall be filed.
- (3) In actions other than possessory, petitory, and partition, by filing, in addition to a claim of the property, an approved stipulation for the amount of the appraised or agreed value of the property seized, with interest (unless otherwise ordered by the Court), conditioned to abide by all orders of the Court, interlocutory or final, and to pay the amount awarded by the final decree rendered by this Court or by any appellate Court, with interest.
- (4) In possessory, petitory, and partition actions, only upon the order of the Court, and on such security and terms as ordered.
- (5) Upon the dismissal or discontinuance of the action or upon the written consent of the attorney for the party on whose behalf the property is detained, if all costs and charges of the Court and its officers shall have first have been paid.

(b) The Marshal shall not deliver any property so released until his costs and charges shall first have been paid.

(c) Before releasing any property under arrest, the Marshal shall use his best efforts to notify all intervening claimants or their attorneys.

(d) In any general bond as provided for by Supplemental Rule E(5)(B), the vessel will be identified by name, nationality, dimensions, official number or registration number, hailing port and port of documentation, to the extent applicable.

The owner of such vessel shall also file complete designated United States address for communications to the owner or designated agent, which shall be by mail.

Execution of process against the vessel or stayed under Supplemental Rule E(5)(B) shall be endorsed to the Marshal as stayed pursuant to that Rule. Such process shall be served together with a copy of the complaint by the Marshal on the master or other person in whose charge or custody the vessel is found and the Marshal shall make his return thereof. If no master or other person in charge of custody is found aboard the vessel, the Marshal shall so make his return accordingly, and the Clerk shall advise by mail the owner or designated agent, at the address furnished pursuant to this Rule, of the nature of the actions, any amount claimed, the plaintiff, the name and address of plaintiff's attorney, the case number, and the return day thirty days from the date of the Marshal's attempt.

The Clerk will maintain a current list of vessels subject to a General Bond and file said bonds alphabetically by name of vessel and endorsed as provided by Supplemental Rule E(5)(b)

**LAdR 12. Taxation as Costs.** If costs shall be awarded to either or any party, then the reasonable premium or expenses paid on all bonds or stipulations or other security by the party in whose favor such costs are allowed shall be taxed as a part of the costs of the case.

In addition thereto, if costs shall be awarded to either or any party, then the reasonable expenses paid by a party incidental to or arising out of the attachment or arrest of any property in the proceedings or while said property is "in custodia legis" shall be taxed as a part of the costs of the case.

**LAdR 13. Stay of Execution or of Release of Property after Judgment or Dismissal.** Except as provided in Rule LAdR 11, no execution of judgment shall issue nor shall seized property be released pursuant to judgment or order of dismissal, until fourteen days after its entry. Upon filing of a motion for new trial or notice of appeal or motion to set aside default within said fourteen-day period, a further stay shall exist for a period not to exceed thirty days from the entry of judgment or dismissal to permit the entry of an order fixing the amount of a supersedeas bond and the filing of same.

**LAdR 14. Possessory Actions -- Short Day Return.** In all possessory actions upon special order of the Court, process may be made returnable upon a short day. The answer shall be filed within such time as may be specifically ordered by the Court, and a day of hearing then fixed, unless otherwise ordered. The hearing of possessory suits shall be given preference.

**LAdR 15. Claims after Sale, How Limited.** Claims upon the proceeds of sale of property under a final decree, except for seamen's wages, will not be admitted in behalf of lienors who filed their claims after the sale, to the prejudice of lienors who filed their claims before the sale, but shall be limited to remnants and surplus, unless for cause shown it shall be otherwise ordered.

End of Admiralty and Maritime Claims