UNIFORM LOCAL RULES
OF THE
UNITED STATES DISTRICT COURTS
FOR THE
EASTERN, MIDDLE, AND WESTERN
DISTRICTS OF LOUISIANA

Updated: 8/7/02

PREAMBLE

The Uniform Local Rules of the United States District Courts for the State of Louisiana is the result of a cooperative effort of the three courts and the Louisiana State Bar Association. Those rules which only apply to a certain court are designated by a letter after the rule number: "E" for the Eastern District of Louisiana, "M" for the Middle District of Louisiana, and "W" for the Western District of Louisiana. Any rule which is not followed by a letter or letters applies to all three districts. Where a particular provision within a rule applying to all three districts is limited to a particular district or districts, such limitation is specifically set forth.

On March 12, 1996, the Judicial Conference of the United States approved the recommendation of the Committee on Rules of Practice and Procedure to "adopt a numbering system for local rules of court that corresponds with the relevant Federal Rules of Practice and Procedure." The United States District Courts for the State of Louisiana complied and adopted a uniform numbering system on April 15, 1997, the date set by the Judicial Conference for compliance. Only the numbering of the Local Rules has changed.

The various rules may be cited as follows: Local Civil Rules as "LR_____"; Local Admiralty Rules as "LAR_____"; and Local Criminal Rules as "LCrR_____."

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Notice Regarding Complaints of Judicial Misconduct or Disability

LOCAL CIVIL RULES

LOCAL CIVIL RULE 3 - COMMENCEMENT OF ACTION

LR3.1 Collateral Proceedings and Refiled Cases

Whenever a civil matter, commenced in or removed to the court, involves subject matter that either comprises all or a material part of the subject matter or operative facts of another action, whether civil or criminal, then pending before this or another court or an administrative agency, or previously dismissed or decided by this court, counsel shall append on a separate sheet of paper, to the front of the complaint, a list and description of all such actions then known to counsel and a brief summary of the relationship. If information concerning any such action or proceeding is obtained subsequent to the filing of the original pleading in the latter case, it shall be the duty of counsel obtaining such information to notify the court and opposing counsel in writing of the information so received in the same manner.

LR3.1.1E&M Assignment of Collateral Proceedings and Refiled Cases

In order to promote judicial economy and conserve judicial resources, and to avoid the potential for forum shopping and conflicting court rulings, all actions described in LR3.1 shall be transferred to the section to which the matter having the lowest docket number has been allotted, unless the two judges involved determine that some other procedure is in the interest of justice. If the transferee or transferor judges cannot agree upon whether a case should be transferred, the opinion of the transferee judge prevails.

If counsel fails to make the certification described in LR3.1, then the allotted judge shall take this action when he or she learns of the related nature of the proceedings. *Amended, June 28, 2002*

LR 3.2W Complaints and Petitions filed by Unrepresented Prisoners under the Civil Rights Act and for Writs of Habeas Corpus

Every complaint or petition filed by a prisoner who is not represented by an attorney (i.e. who is proceeding "*pro se*") under 42 U.S.C. §1983 and for a writ of *habeas corpus* filed under 28 U.S.C. §2241 and 28 U.S.C. §2254 shall be typed or legibly written on forms supplied by the Court and signed by the prisoner. The prisoner shall follow the instructions provided on the forms and complete the forms only on one side of the page. After completely filling out the Court-approved form, the prisoner may attach additional pages to the complaint or petition that shall be legibly written or typed on one side of the page and numbered. Complaints and petitions that do not comply with this Rule shall not be filed unless the Court orders otherwise.

Each *pro se* prisoner shall file a separate complaint or petition except where multiple prisoners are asserting the same claims arising out of the same facts.

A prisoner who is unable to pay the filing fee and service costs may petition the Court on forms supplied by the Court to proceed *in forma pauperis*. The Clerk of Court shall return all complaints or petitions that are not accompanied by either a filing fee or a proper *in forma pauperis* form.

Adopted May, 1999

LOCAL CIVIL RULE 5 - SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

LR5.1 Place of Filing

All filings shall be made with the office of the clerk.

LR5.1.1E&M Filing of Extraordinary Pleadings

All pleadings of an extraordinary nature (*e.g.*, temporary restraining orders, vessel seizures, writs of attachment, and other pleadings requiring immediate judicial action) shall be filed personally by an attorney signing the pleadings. The attorney shall remain available to the judge to whom the matter has been allotted until the judge has had the opportunity to review the pleadings and determine the course to be followed.

Amended, June 28, 2002

LR5.2 Advance Payment Required

The clerk shall not be required to file any paper or to render any service for which a fee is legally collectible unless the fee for the particular service is paid in advance.

LR5.3 Certificate of Service

Every pleading and every brief or memorandum filed in any proceeding in this court shall bear a certificate by the attorney or party who files it that, prior to filing, copies have been served on all parties or their attorneys, either in person or by mailing it postage prepaid, properly addressed. This certificate may be by rubber stamp or typing, or it may be contained in the text of the pleading.

LR5.4 Deposit for Service

Except as provided by law in cases involving indigent persons, the marshal shall not be compelled to perform any service until the deposit of a sum sufficient to cover the immediate costs shall have been made, and may demand security in a reasonable amount for further costs.

LR5.5W Filings by Facsimile Transmission in Emergency

In accordance with Fed.R.Civ.P. 5(e), papers may be filed, signed and verified by facsimile transmission with the prior written or oral approval of the district judge to whom the case is assigned or of the magistrate judge if the authority is delegated by the district judge assigned to the case. Permission for use of facsimile

transmission shall be at the discretion of the judicial officer based upon the need expressed by the party submitting the facsimile transmission.

Adopted May, 1999

LR5.6E&W Corporate Disclosure

Any non-governmental corporate party to an action in this court shall file in duplicate a statement identifying all its parent corporations and any publicly traded company that owns 10 percent or more of the party's stock, unless such filing is waived by the presiding judge. A party shall file the statement as soon as practicable and in no event later than the preliminary conference or the scheduled hearing date for any dispositive motion, whichever is earlier. A party shall supplement the statement within a reasonable time of any relevant change in the information. Nothing herein is intended to require the disclosure of confidential information except *in camera* to the judge. *Amended March 2001*

LOCAL CIVIL RULE 7 - PLEADINGS ALLOWED; FORM OF MOTIONS

LR7.1E&M Submission of Motions

All motions except those made during a hearing or trial which is being properly recorded into the court record shall be made in writing. Each motion and its accompanying documents shall be filed in duplicate; one copy is for the record and the other is for the use of the hearing judge. Papers filed with the motion are thereby made a part of the record.

Amended, June 28, 2002

LR7.1M Submission of Motions, *Repealed June 28, 2002*

LR7.1W Submission of Motions

A party filing a motion or response shall transmit a copy of the motion or response, including attachments and exhibits, to the chambers of the judge assigned to rule on the motion. *Adopted, September 27, 2000*

LR7.2E Setting Motions for Hearing

Counsel filing a motion shall, at the time of filing, notice it for hearing within a reasonable time thereafter. Unless otherwise ordered by a judge in a particular case, motions must be filed not later than the fifteenth day preceding the notice hearing date and at least fifteen days actual notice of hearing must be given to opposing counsel whether notice is served by mail or delivery under *FRCvP 5(b)*. Copies of the motion and memorandum in support thereof shall also be served with such notice of hearing.

LR7.3E Submission of Ex Parte or Consent Motions

An application for an order, allowed by these rules to be submitted ex parte or by consent, need not be noticed for hearing as described above, but shall instead be accompanied by a proposed order. Except as otherwise ordered in an individual case, every such application shall be submitted to the judges through the clerk.

LR7.3M Submission of Ex Parte or Consent Motions

An application for an order allowed by these rules to be submitted ex parte or by consent shall be accompanied by a proposed order on a separately captioned page. Except as otherwise ordered in an individual case, every such application shall be submitted to the judges through the clerk.

Adopted, June 28, 2002

LR7.4 Motions Must Be Accompanied by Memorandum

The moving party shall submit and serve opposing parties with a copy of the motion and memorandum. Except as noted in LR7.4.1M & LR7.4.1W, all motions shall be accompanied by a memorandum commonly referred to as a "Memorandum in Support", which shall contain (1) a concise statement of reasons in support of the motion, and (2) citations of the authorities on which he relies or copies of these authorities. If the motion requires the consideration of facts not appearing of record, the movant shall also file with the clerk and serve upon opposing counsel a copy of all documentary evidence he or she intends to submit in support of the motion. Memoranda may not be supplemented except with leave of court first obtained.

LR7.4.1M Motions Not Requiring Memorandum

All motions listed below, while not required to be accompanied by a memorandum, must state the grounds therefor and cite any applicable rule, statute, or other authority justifying the relief sought. No memorandum or hearing is required by either movant or respondent, unless otherwise directed by the court, with respect to the following motions: (1) For extension of time for the performance of an act

required or allowed to be done, provided request therefor is made before the expiration of the period originally prescribed or as extended by previous orders; (2) to continue a pretrial conference, hearing, motion, or the trial of an action; (3) to add additional parties; (4) to amend pleadings; (5) to file supplemental pleadings; (6) to appoint next friend or guardian ad litem; (7) to intervene; (8) for substitution of parties; (9) joint motions to dismiss or consolidate; and (10) to withdraw as counsel. Prior to filing any motion under this section, the moving party shall attempt to obtain consent for the filing and granting of such motion from all parties having an interest to oppose, and a certificate stating the position of the other parties shall be included in the motion. A proposed order on a separately captioned page shall accompany each motion filed under this paragraph.

Amended, June 28, 2002

LR7.4.1W Motions Not Requiring Memorandum

All motions listed below, while not required to be accompanied by a memorandum, must state the grounds therefor and cite any applicable rule, statute, or other authority justifying the relief sought. No memorandum or hearing is required by either movant or respondent, unless otherwise directed by the court, with respect to the following motions: (1) For extension of time for the performance of an act required or allowed to be done, provided request therefor is made before the expiration of the period originally prescribed or as extended by previous orders; (2) to continue a pretrial conference, hearing, motion, or the trial of an action; (3) to add additional

parties; (4) to amend pleadings; (5) to file supplemental pleadings; (6) to appoint next friend or guardian ad litem; (7) to intervene; (8) for substitution of parties; (9) joint motions to dismiss or consolidate; and (10) to withdraw as counsel.

Prior to filing any motion under this section, with the exception of #10, the moving party shall attempt to obtain consent for the filing and granting of such motion from all parties having an interest to oppose, and a certificate of this attempt shall be included in the motion. If the court finds that opposing counsel does not have a good faith reason for failing to so consent, the court may impose such sanctions as it deems proper.

A proposed order shall accompany each motion filed under this paragraph.

LR7.5E Response and Memorandum

Each party opposing a motion shall file, in duplicate, a memorandum of the reasons advanced in opposition to the motion and a list of citations of the authorities upon which the opponent relies or copies of these authorities no later than the eighth calendar day prior to the noticed hearing date and shall at the same time serve a copy thereof on the opposing parties. The opposition memorandum, in duplicate, must be in the hands of the judge who will hear the motion no later than the day such memorandum is due to be filed.

A copy of the memorandum will be delivered to opposing counsel in the same fashion in which delivery to the judge is made.

If the motion requires the consideration of facts not appearing of record, counsel shall also serve, and shall submit with each copy of his/her opposition, copies of all documentary evidence that he/she intends to submit in opposition to the motion.

No supplemental opposition memoranda may be filed except with leave of court first obtained.

LR7.5M Response and Memorandum

Each respondent opposing a motion shall file a response, including opposing affidavits, memorandum, and such supporting documents as are then available, within 20 days after service of the motion. Memoranda shall contain a concise statement of reasons in opposition to the motion, and a citation of authorities upon which the respondent relies. For good cause appearing therefor, a respondent may be required to file a response and supporting documents, including memoranda, within such shorter or longer period of time as the court may order, upon written ex parte motion served on all parties.

LR7.5W Response and Memorandum

If the respondent opposes a motion, he or she shall file a response, including opposing affidavits, memorandum, and such supporting documents as are then available, within 15 days after service of the motion. Memoranda shall contain a concise statement of reasons in opposition to the motion, and a citation of authorities upon which respondent relies. For good cause appearing therefor, a respondent

may be required to file a response and supporting documents, including memoranda, within such shorter or longer period of time as the court may order, upon written ex parte motion served on all parties.

LR7.6E Motions to Intervene, to Amend Pleadings and to File Third-Party Complaints

Prior to filing any motion for leave to intervene, to amend pleadings or to file a third-party complaint, the moving party shall attempt to obtain consent for the filing and granting of such motion from all parties having an interest to oppose. If such consent is obtained, the motion shall not be noticed for hearing but thereafter shall be filed, accompanied by a proposed order, with a statement of the consent of opposing counsel. No such motions, when required to be noticed for hearing, shall be accepted for filing unless accompanied by a certificate of counsel for the moving party to the effect that opposing counsel have refused to consent to the filing and granting of such motion. If the court finds that opposing counsel does not have a good faith reason for failing to so consent, the court may impose such sanctions as it deems proper.

LR7.6W Motions to Intervene, to Amend Pleadings and to File Third-Party Complaints

Prior to filing any motion for leave to intervene, to amend pleadings or to file a third-party complaint, the moving party shall attempt to obtain consent for the filing and granting of such motion from all parties having an interest to oppose. If such consent is obtained, the motion shall not be noticed for hearing but thereafter

shall be filed, accompanied by a proposed order, with a statement of the consent of opposing counsel. No such motions, when required to be noticed for hearing, shall be accepted for filing unless accompanied by a certificate of counsel for the moving party to the effect that opposing counsel have refused to consent to the filing and granting of such motion. If the court finds that opposing counsel does not have a good faith reason for failing to so consent, the court may impose such sanctions as it deems proper.

LR7.7W Motions for Joinder in Actions Removed From State Court

In any action removed from state court in accordance with *28 USC 1441 et seq.*, a motion filed for joinder of parties, which might destroy subject matter jurisdiction, shall include a notification to the court that a determination under *28 USC 1447(e)* will be required, and sufficient facts shall be pled to enable the court to make such determination.

LR7.8E Briefs

In cases not covered by the court's uniform pretrial order, but involving controverted questions of law, trial briefs shall be delivered to the court (but not filed with the clerk) at least two days before the commencement of the trial, unless some other time is designated by the trial judge. Service of same on opposing counsel must be made at the same time and in the same fashion in which delivery to the court is made, or so as to assure that the copy is actually received within the same time period.

LR7.8.1E Length of Memoranda and Briefs

Except with prior permission of the judge, no trial brief or memorandum supporting or opposing a motion shall exceed 30 pages in length, exclusive of exhibits. A reply brief or memorandum, if any, shall not exceed 15 pages, excluding exhibits.

All text in trial briefs and memoranda supporting or opposing motions shall be double- spaced except for quotations and footnotes.

Standard typeface shall be used. The court may refuse to consider text presented in less than standard typeface, such as small or fine typeface.

LR7.8M Memoranda

All initial memoranda filed by a party (including briefs, objections and appeals to the district judges) shall be limited to 30 pages excluding attachments. Subsequent memoranda, if any, shall not exceed 20 pages excluding attachments. The original memorandum and a copy for use by the judge shall be delivered to the clerk. The form of the memorandum shall comply with LR10.1M.

Amended, June 28, 2002

LR7.8W Briefs

Except with permission of the judge, no brief shall exceed 25 pages in length, exclusive of pages containing a table of authorities or a table of contents, and no reply brief shall exceed 10 pages. Any brief exceeding 10 pages shall contain

(1) a table of contents with page references and (2) a table of cases (arranged alphabetically), statutes and other authorities cited, with references to the pages of the brief where they are cited.

LR7.9E & M Extension of Time to Plead

Upon certification by a moving party that there has been no previous extension of time to plead and that the opposing party has not filed in the record an objection to an extension of time, then on an ex parte motion and order, the court will allow one extension for a period of 20 days from the time the pleading would otherwise be due. Further extensions will not be granted by stipulation, but only by application to the court and for good cause shown.

Amended June 28, 2002

LR7.9W Motion for Continuance or for Extension of Time

A motion for continuance or for extension of time shall be accompanied by a certificate by the applicant's attorney that (1) there is or is not opposition to the request; and, if there is opposition, the reasons therefor, or, (2) if neither is obtainable, a statement of the efforts made by the applicant to secure the same.

LOCAL CIVIL RULE 9 - PLEADING SPECIAL MATTERS

LR9.1 Three Judge Cases

Upon filing any suit or proceeding that is thought to require a three judge court for its disposition, the party instituting the action shall give notice to the

clerk and other parties in writing, stating under what provision he/she is proceeding and that a three judge court is requested. In the absence of such notice, the clerk may treat the matter as one not requiring three judges. In cases in which such notice is filed, all pleadings shall be filed in quadruplicate until it is determined that the matter is not for three judges.

LR9.2 Social Security Cases

Complaints filed in civil cases pursuant to Section 205(g) of the Social Security Act, *42 USC 405(o)*, for benefits under Titles II, XVI and XVIII of the Social Security Act shall contain, in addition to what is required under *FRCvP 8(a)*, the following information,

A. In cases involving claims for retirement, disability, health insurance and black lung benefits, the social security number of the worker on whose wage record the application for benefits was filed (who may or may not be the plaintiff).

B. In cases involving claims for supplemental security income benefits, the social security number of the plaintiff.

In the Eastern District, complaints submitted for filing shall be on forms furnished by the clerk or substantially in conformity therewith.

LOCAL CIVIL RULE 10 - FORM OF PLEADINGS

LR10.1E Form: Statement Regarding Filing of Papers.

All papers drafted for filing in this court shall be on 8-1/2 by 11 inch paper, plainly written or printed without defacing erasures or interlineations, and shall

be double spaced, except that quotations and footnotes may be single spaced. If a document consists of more than three (3) pages, each page of the document shall bear a sequential number, beginning with "1" for the first page.

On the first page of each document, the left and right margins will be one inch from the edge of the page, the top margin will be two and one-half inches, and the bottom margin will be one and one-half inches. On subsequent pages, all margins will be no less than one inch. No print or writing, except the page numbers, shall appear in the margins, and page numbers shall be not less than one-half inch from the bottom of the page.

In addition to the requirements of *FRCvP 10(a)*, the caption shall also indicate the Division and Section (as applicable and after allotment), and the judge and the magistrate judge to whom the case is assigned.

A completed and executed Civil Cover Sheet form shall accompany the initial pleading of each civil case to be filed, except that such requirement shall not apply to persons in the custody of civil, state or federal institutions or to persons filing cases pro se. *Amended effective October 2000*

LR10.1 M Form: Statement Regarding Filing of Papers

All papers drafted for filing in this court shall be on 8-1/2 by 11 inch paper, numbered sequentially, and plainly written or printed in no smaller than standard

12-point typeface without defacing erasures or interlineations, and shall be double spaced. Footnotes may be printed in no smaller than standard 10-point typeface. Quotations and footnotes may be single spaced.

In addition to the requirements of *FRCvP 10(a)*, after allotment the caption shall also indicate the Section Letter of the District Judge and the Section Number of the Magistrate Judge to whom the case is assigned.

A completed and executed Civil Cover Sheet form shall accompany the initial pleading of each civil case to be filed, except that such requirement shall not apply to persons in the custody of civil, state or federal institutions or to persons filing cases pro se. All memoranda shall comply with LR7.8M.

Amended June 28, 2002

LR10.1W Form: Statement Regarding Filing of Papers

All papers drafted for filing in this court shall be on 8-1/2 by 11 inch paper, plainly written or printed without defacing erasures or interlineations, and shall be double spaced, except that quotations and footnotes may be single spaced. If a document consists of more than three (3) pages, each page of the document shall bear a sequential number, beginning with "1" for the first page.

In addition to the requirements of *FRCvP 10(a)*, the caption shall also indicate the Division and Section (as applicable and after allotment), and the district judge and the magistrate judge to whom the case is assigned.

A completed and executed Civil Cover Sheet form shall accompany the initial pleading of each civil case to be filed, except that such requirement shall not apply to persons in the custody of civil, state or federal institutions or to persons filing cases pro se.

LR10.2E Consolidated Cases

Unless otherwise ordered by the court, where cases are consolidated, whether for trial only or otherwise, the caption of all papers filed after the consolidation shall list the name and docket number of the lowest numbered case in the group, with words indicative of the consolidation. This shall be followed by a listing of the docket numbers of only those cases to which the paper applies or if it pertains to all cases, with a notation "all cases."

The caption of the lowest numbered case will serve as the identifying caption during the pendency of the consolidation and will continue to be used even if that particular case is closed.

In the event that a case is separated from the consolidation, the attorneys of record shall be responsible to jointly designate the documents in the master record deemed necessary to the continued litigation of the separated case and to file such designation and copies of the documents with the clerk within five days of the deconsolidation order.

LR10.2M & W Consolidated Cases

Unless otherwise ordered by the court, where cases are consolidated, whether for trial only or otherwise, the caption of all papers filed after consolidation shall list first the name and docket number of the lowest numbered case in the group, with words indicative of the consolidation. This shall be followed by a listing of the names and docket numbers of only those cases to which the paper applies. Attorneys shall furnish copies of papers filed according to the number of cases to which the papers apply.

The caption of the lowest numbered case will serve as the identifying caption during the pendency of the consolidation and will continue to be used even if that particular case is closed.

LR10.3 Constitutional Questions

Whenever the constitutionality of any act of Congress is, or is intended to be, drawn into question in any suit or proceeding to which the United States, or any agency, officer or employee thereof as such officer or employee, is not a party, counsel for the party raising or intending to raise the constitutional issue shall notify the court, in writing, of the existence of that question (to enable the court to comply with *28 USC 2403*). A copy of such notice shall be served upon each of the other parties. The notice shall give the title of the cause, a reference to the questioned statute sufficient for its identification, and the respects in which the statute is claimed to be unconstitutional.

LOCAL CIVIL RULE 11 - SIGNING OF PLEADINGS, MOTIONS, AND OTHER PAPERS; REPRESENTATIONS TO COURT; SANCTIONS

LR11.1E Signing of Pleadings, Motions and Other Papers

Every pleading, motion or other paper presented for filing shall, in accordance with the Federal Rules of Civil Procedure, be signed personally by counsel in his or her individual name. In addition, counsel's name, post office *and* street addresses, telephone number and Attorney Identification Number shall be typed or printed under his or her signature. If the attorney is admitted to the bar by the Supreme Court of Louisiana, the Attorney Identification Number shall be the same as the number assigned by the Supreme Court of Louisiana. Otherwise, the Attorney Identification Number shall be the number assigned by this court.

Documents filed by a party not represented by counsel shall be signed by the party. The party's name, post office *and* street addresses and telephone number shall be typed or clearly printed.

Each attorney and pro se litigant has a continuing obligation to apprise the court of any address change.

LR11.1M Signing of Pleadings, Motions and Other Papers

Every pleading, motion, or other paper presented for filing shall, in accordance with the Federal Rules of Civil Procedure, be signed personally by counsel admitted to practice before this court or admitted *pro hac vice* for the case in his or her individual name. In addition, counsel's name, address, telephone and facsimile numbers, and Attorney Identification Number shall be typed or printed under his or her signature.

If the attorney is admitted to the bar by the Supreme Court of Louisiana, the Attorney Identification Number shall be the same as the number assigned by the Supreme Court of Louisiana. Otherwise, the Attorney Identification Number shall be the number assigned by this court.

Documents filed by a party not represented by counsel shall be signed by the party and shall include name, address and telephone number.

Each attorney and *pro se* litigant has a continuing obligation to apprize court of any address change.

Amended June 28, 2002

LR11.1W Signing of Pleadings, Motions and Other Papers

A. Every pleading, written motion, or other paper shall, in accordance with the Federal Rules of Civil Procedure, be signed personally by counsel admitted to practice before the court or admitted pro hac vice for the case in the attorney's individual name. If the document is submitted by a pro hac vice attorney, the document must also be signed by local counsel associated with such pro hac vice attorney in accordance with LR83.2.6W. In addition, counsel's name, address, telephone number and Attorney Identification Number shall be typed or printed under the attorney's signature. If the attorney is admitted to the bar by the Supreme Court of Louisiana, the Attorney Identification Number shall be the same as the number assigned by the Supreme Court of Louisiana. Otherwise, the Attorney Identification Number shall be the number assigned by this court.

Documents filed by a party not represented by counsel shall be signed by the party and shall include name, address and telephone number.

Each attorney and pro se litigant has a continuing obligation to apprise the court of any address change.

B. In any action, civil or criminal, by presenting to the court (whether by signing, filing, submitting, or advocating) a pleading, oral or written motion, or other paper, an attorney or unrepresented party is certifying to the best of that person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;

(4) the denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief; and

(5) all pleadings and written motions have been personally read and approved by all persons whose signature appears on the document.

Sanctions may be imposed for violations of this rule in accordance with the procedures and provisions of Federal Rule of Civil Procedure 11(c).

Amended December 17, 2001

LR11.2 Trial Attorney

If a law firm or more than one attorney represents a party, one attorney will be designated in the first pleading filed on behalf of that party as "Trial Attorney" or "T.A.". This attorney may, but need not, be the attorney who personally signs pleadings.

The designated trial attorney will be responsible for the case and all notices and other communications with respect to it will be directed to the designated trial attorney, or to local counsel in the event a visiting attorney is designated as trial attorney. The designation of the trial attorney may be changed at any time by ex parte motion. If a party desires to change the trial attorney, the new trial attorney will be promptly designated.

LR11.3 Announcement of Representation

At all trials or hearings and upon first addressing the court or taking any part in such trials or hearings, counsel shall announce his or her name and the name of the party or parties he or she represents.

LOCAL CIVIL RULE 16 - PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

LR16.1E & M Scheduling Orders

(a) The scope and timing of the scheduling order under *FRCvP 16(b)* shall be as prescribed by the Civil Justice Expense and Delay Reduction Plan of this court.

(b) Unless otherwise ordered by a judge in a particular case, the following categories of cases are exempted from the requirements for a scheduling order:

Social Security Appeals
Bankruptcy Appeals
Habeas Corpus cases
Prisoner 1983 cases
Government Collection cases

(c) The magistrate judges of this court are authorized to enter and/or modify scheduling orders in matters referred to them or when directed by a district judge.

LR16.2E Call of the Docket

To insure compliance with Rule 16(b), *FRCvP*, the clerk of court shall in each section of court, once a month, or as often as the court deems proper, call all cases before the court that have been pending 120 days or longer after filing of the Complaint, and in which the issue has not been joined. The call shall be for the regular day and time assigned for hearing motions, and the clerk shall give 10 days notice of such call to all counsel of record.

LR16.3E Responsibility for Settlement Discussions

As officers of the court, counsel in civil cases have a responsibility to minimize the expense of the administration of justice, to refrain from burdening unnecessarily those members of the public called for jury duty, and to avoid inconveniencing witnesses unnecessarily. To these ends, they should conduct serious settlement discussions in time to avoid the expense to the public and to litigants, and the inconvenience to jurors and witnesses, occasioned by settlements made on the eve of, or at the outset, of trial.

LR16.3.1E Alternative Dispute Resolution

If the presiding judicial officer determines at any time that the case will benefit from alternative dispute resolution, the judicial officer shall:

a) have discretion to refer the case to private mediation, if the parties consent, even if such mediation efforts upset previously set trial or other dates;

b) have discretion to order nonbinding mini-trial or nonbinding summary jury trial before judicial officer with the parties' consent; or

c) employ other dispute resolution programs which may be designated for use in this District;

d) All alternative dispute resolution proceedings shall be confidential.

Adopted, June 2, 1999.

LR16.3.1M Alternative Dispute Resolution - See ADR Appendix "Rules for Alternative Dispute Resolution in the Middle District of Louisiana," Adopted Feb. 5, 2000

LR16.3.1W ALTERNATIVE DISPUTE RESOLUTION

When the trial judge in a civil matter determines that disposition of the case may be enhanced by the use of mediation, an alternative dispute resolution (ADR), the judge may, with the prior approval of the parties or their counsel, refer the matter to a mediator of the judge's selection or to a mediator of the parties' selection. With the consent of the parties or their counsel, the trial judge may order a nonbinding mini-trial or summary jury trial under such terms and circumstances as agreed to by the parties or their counsel.

The clerk of court shall notify plaintiff or counsel for plaintiff when plaintiff is represented, who in turn shall notify each attorney in the proceeding, and each unrepresented party, that the court expects the parties to consider the use of ADR no later than 200 days after initial filing in federal court. Should the parties avail themselves of an ADR procedure, the success or failure of that use shall be reported to the Chief Judge of the Western District of Louisiana. The Chief Judge, or delegate, shall be the administrator of the plan and shall perform such duties as are required by law.

Qualified mediators, also referred to as neutrals, include those individuals listed on the register of qualified civil mediators under La. R. S. 9:4106. A neutral may be disqualified for cause pursuant to 28 U.S.C. § 144 and shall be disqualified in any case in which a judge would be disqualified pursuant to 28 U.S.C. §455. Any party who believes that an assigned neutral has a conflict of interest shall file a motion for disqualification immediately. Failure to file will be deemed to be a waiver of the objection. Compensation of the neutral, if the appointment is accepted by the neutral, shall be subject to the agreement of the parties and the neutral. The court shall not provide funding for non-staff ADR neutrals.

All ADR proceedings shall be confidential.

New rule, adopted April 18, 2000

LR16.4 Notice of Settlement to Clerk

Whenever a civil case is settled or otherwise disposed of, counsel shall immediately inform the clerk's office, the judge to whom the case is allotted, and all persons subpoenaed as witnesses. If a civil case is settled as to fewer than all of the parties or all of the claims, counsel shall also set forth the remaining parties and unsettled claims.

LR16.5E Captious Settlement Tactics

When such notice is not given, or when a case is settled within the 24 hour period prior to trial, or after the trial has commenced, and the court is not aware of circumstances that indicate that this development was reasonable, it shall

afford counsel an opportunity to show that the failure to give notice of settlement, or the failure to agree on settlement at an earlier time, as the case may be, was not the result of captious tactics, did not constitute merely the acceptance of an offer earlier refused as part of a calculated tactic of delay in reaching a settlement in order to attempt to obtain further advantages in disregard to the interests of others, or did not result from some other cause amounting to interference with the orderly conduct of judicial business. If counsel fail to make this showing, the court may assess jury costs, including attendance fees, marshal's costs, mileage and per diem, against the party or counsel deemed responsible, or against the parties or counsel equally if the fault is mutual.

LR16.6E Reasonable Settlement Discussions

This rule shall be so applied as not to inhibit reasonable settlement discussion. The court recognizes that good cause may exist for a belated change in position – an important witness may fail to appear, counsel may learn that facts deemed provable are not provable, or a witness may change his testimony. But the rule shall also be applied so as to take into account the difference between good cause for delay in settlement and negotiating tactics that, heedless of the inconvenience to the court and the public, use the imminence of trial as a catalyst to attempt to reduce an already acceptable offer.

LR16.7 Cases to Be Tried on Date Assigned - Exceptions

All cases shall be tried on the date set unless the trial is continued by order of the court.

LR16.8E & W Absence of Material Witness

Every motion for a continuance upon the ground of the absence of a material witness shall be accompanied by the affidavit of the party applying therefor, or his or her attorney, setting forth the efforts made to procure attendance and, in a civil case, the facts he/she expects to prove by such witness. In a criminal case, the court may require, or in its discretion, dispense with, a statement of the facts to be proved. If the proposed testimony is set forth and it is admitted by the opposite party that the witness, if called, would testify as set forth in the affidavit, the court may, in its discretion, deny the motion. In a criminal case if the proposed testimony is not set forth, or in any other case, the court may hold a hearing on the matter and take such action with respect to the motion as justice requires.

LR16.8M Absence of Material Witness

Every motion for a continuance upon the ground of the absence of a material witness shall be accompanied by the affidavit of the party applying therefor, or his or her attorney, setting forth the efforts made to procure attendance and, in a civil case, the facts he/she expects to prove by such witness. If the proposed testimony is set forth and it is admitted by the opposite party that the witness, if called, would testify as set forth in the affidavit, the court may, in its discretion, deny the motion.

LR16.9E Retaining Position on Trial Calendar

Cases set for trial but not reached on that day, shall retain their relative position on the trial calendar and shall to the extent practicable be entitled to precedence over cases set for trial on a later date. If this is not practicable, the court will reassign the case or cases that cannot be reached.

LR16.9W Retaining Position on Trial Calendar

Generally among civil actions set for the same trial date, the action with the lowest docket number will be tried first. At the pre-trial conference, the court will assign a numerical priority for cases set for trial on the same date.

LOCAL CIVIL RULE 23 - CLASS ACTIONS

LR23.1 Class Action

In any case sought to be maintained as a class action:

A. The complaint shall bear next to its caption the designation, "Complaint- Class Action";

1. Refer to the portions of *FRCvP 23* under which it is claimed that the suit is properly maintainable as a class action;

2. Make allegations thought to justify the maintenance of the claim as a class action, including, but not necessarily limited to:

a. the size (or approximate size) and definition of the alleged class,

b. the basis upon which the plaintiff (or plaintiffs) claims,

(i) to be an adequate representative of the class, or

(ii) if the class is comprised of defendants, that those named as parties are adequate representatives of the class,

3. The alleged questions of law *or* fact claimed to be common to the class; and

4. In actions claimed to be maintainable as class actions under *FRCvP 23(b)(3)*, allegations thought to support the findings required by that subdivision.

B. Within 90 days after the filing of a complaint in a class action, unless this period is extended on motion for good cause appearing, the plaintiff shall move for a certification under *FRCvP 23(c)(1)*, as to whether the case is to be maintained as a class action.

C. The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross claim alleged to be brought for or against a class.

D. 1. Whenever a party or counsel desires to prohibit another party or counsel from communicating concerning such action with any potential or actual class member not a formal party to the action, he or she shall apply in writing to the court for such an order. In such application, the parties must set forth with particularity the abuses they fear will result from such communication, along with the form of remedy they believe would be appropriate to prevent frustration of the policies of Rule 23.

2. The court will not enter an order prohibiting communication with members of the class in the absence of a clear record (and when necessary, an evidentiary hearing) reflecting:

a. specific findings regarding the abuse the court seeks to prevent;

b. the need for such an order, weighing the abuse sought to be corrected and the effect it will have on the right of a party to proceed pursuant to Rule 23 without interference.

3. Any attorney who communicates with the class shall preserve and retain in his or her files, until the final conclusion of

the action, a copy of all communications which he or she has sent to any members of the class or potential class.

LOCAL CIVIL RULE 26 - GENERAL PROVISIONS GOVERNING DISCOVERY; DUTY OF DISCLOSURE

LR26.1W Civil Actions Subject to the December 1, 1993 Discovery Amendments

All cases filed on or after December 1, 2000 shall be subject to the amendments to Federal Rules of Civil Procedure 26 through 37.

Amended December 17, 2001

LR26.2M & W Format of Discovery Requests

All discovery requests shall be so arranged that following each question or request there shall be provided a sufficient blank space for inserting a typed response. If the space allotted is insufficient the responding party shall retype the pages, repeating each question in full, followed by the answer or objection thereto. When the discovery request has been completed by the responding party, the original shall be returned to the proponent, and copies served upon all other parties.

LR26.3E Disclosure Under *FRCvP 26(a)*

The scope and timing of disclosures under *FRCvP 26(a)(2)* and *FRCvP 26(a)(3)* shall be as directed by the court in the order issued after the preliminary conference held pursuant to Article One (1) of the Civil Justice Expense and Delay Reduction Plan of this court.

Amended March 23, 2001

LR26.3M Disclosure Under *FRCvP 26(a)* *Repealed June 28, 2002*

LR26.3W Initial Disclosure Under *FRCvP 26(a)(1)* Not Required -
Repealed December 17, 2001

LR26.4E Meeting of Parties Under *FRCvP 26(f)*

A. Except as otherwise ordered in a particular case, the conference between the parties required by *FRCvP 26(f)* shall be held no later than seven working days before the scheduled preliminary conference.

B. Except as otherwise ordered in a particular case or as indicated hereinafter, the parties are excused from submitting a written report outlining the proposed discovery plan and shall report orally on their proposed discovery plan at the Rule 16(b) conference. An oral report on the proposed discovery plan is not authorized when, during the Rule 26(f) conference, a party objects that the initial disclosures required by Rule 26(a)(1) are not appropriate in the circumstances of the action. In such a case, no later than three working days prior to the scheduled preliminary conference, the parties must file a written report outlining the proposed discovery plan, including the nature of the objection(s) to the initial disclosure and statements by the parties detailing their positions on the objection(s) to the initial disclosure.

Amended March 23, 2001

LR26.4M Meeting of Parties Under *FRCvP 26(f)*

Except as otherwise ordered by the Court, the provisions of *FRCvP 26(f)*, requiring a meeting of parties prior to the scheduling conference, shall apply to all civil actions in the court subject to the following modifications.

1. The requirements for a meeting of the parties does not apply in cases exempted from the requirements of a scheduling order under LR16.1E & M and in cases filed in, removed to or transferred to this court before December 1, 1993.

2. The parties may agree to hold the meeting by telephone.

3. Any meeting of the parties shall be held in time to permit the report of the meeting to be filed with the court no later than two

days prior to the date of the scheduling conference.

4. Formal discovery may begin in cases in which no meeting will be held without regard to the requirements of *FRCvP 26(d)* and *(f)*.

LR26.4W Exemptions From the Requirements of *FRCvP 26(d)* and *(f)* - Repealed December 17, 2001

LR26.5E Non-Filing of Disclosure, Discovery Requests and Responses: Retention by Requesting Party - *Repealed March, 2001*

LR26.5M Non-Filing of Disclosure, Discovery Requests and Responses: Retention by Requesting Party *Repealed June 28, 2002*

LR26.5W Non-Filing of Disclosure, Discovery Requests and Responses: Retention by Requesting Party

In accordance with Federal Rule of Civil Procedure 5(d), disclosure of discovery materials shall not be filed with this court unless authorized. The party preparing and responsible for service of the disclosure or discovery material shall retain the original and become the custodian of any such non-filed materials.

Amended December 17, 2001

LR26.5.1E Filing of Disclosure or Discovery Materials- *Repealed March, 2001*

LR26.5.2E Construction of the Rule- *Repealed March, 2001*

LR26.6E Disputed Disclosure and Discovery Materials to Be Filed With Request for Relief- *Repealed March 2001*

LR26.6M Disputed Disclosure and Discovery Materials to Be Filed With Request for Relief- *Repealed June 28, 2002*

LR26.6W Disputed Discovery Materials to Be Filed With Request for Relief

If relief is sought under *FRCvP 26(c)* or *37*, concerning any disclosure, interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the disclosure, interrogatories, requests, answers or responses in dispute shall be filed with the court contemporaneously with any such motion.

LR26.7E Pretrial Filing of Disclosure and Discovery Materials to Be Used at Trial- *Repealed March 2001*

LR26.7W Pretrial Filing of Disclosure and Discovery Materials to Be Used at Trial

If disclosure or pretrial discovery materials will be used at trial or are necessary to a pretrial motion which might result in a final order on any issue, the portions to be used shall be filed with the clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated. Nothing in this rule is intended to preclude use of disclosure or discovery materials for impeachment if the attorney could not reasonably anticipate that it would be used at trial.

Amended by MD, June 28, 2002

LR26.8E Filing of Disclosure or Discovery Materials for Appeal Purposes- *Repealed March 2001*

LR26.8M Filing of Disclosure or Discovery Materials for Appeal Purposes *Repealed June 28 2002*

LR26.8W Filing of Disclosure or Discovery Materials for Appeal Purposes

When documentation of disclosure or discovery not previously in the record is needed for appeal purposes, upon an application and order of the court or by stipulation of counsel, the necessary disclosure or discovery papers shall be filed with the clerk.

LOCAL CIVIL RULE 33 - INTERROGATORIES TO PARTIES

LR33.1E Number of Interrogatories

Any party desiring to serve more than 25 interrogatories permitted by FRCvP 33(a) shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use. Leave to serve additional interrogatories shall be granted to the extent consistent with the principles of FRCvP 26(b)(2).

Amended March 23, 2001

LR33.1W Number of Interrogatories

No party shall serve on any other party more than 25 interrogatories in the aggregate without leave of court. Each sub-part of an interrogatory shall count as an additional interrogatory. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

Amended by MD, June 28, 2002

LR33.2 Objections to Interrogatories

Objections to interrogatories, and objections to the answers to them, shall set forth in full, immediately preceding each answer or objection, the interrogatory or answer to which objection is being made.

LOCAL CIVIL RULE 36 - REQUESTS FOR ADMISSION

LR36.1 Objections to Requests for Admission

Objections to requests for admission, and objections to the answers to them, shall set forth in full, immediately preceding each answer or objection, the request or answer to which objection is being made.

LR36.2M Number of Requests for Admission

No party shall serve on any other party more than 25 requests for admission in the aggregate without leave of court. Each sub-part of a request for admission shall count as an additional request for admission. Any party desiring to serve additional requests for admission shall file a written motion setting forth the proposed additional requests for admission and the reasons establishing good cause for their use. *Adopted June 28, 2002*

LOCAL CIVIL RULE 37 - FAILURE TO MAKE DISCLOSURE OR COOPERATE IN DISCOVERY; SANCTIONS

LR37.1E Discovery Motions

No motion relative to discovery shall be accepted for filing unless accompanied by a certificate of counsel for the moving party stating that counsel have conferred in person or by telephone for purposes of amicably resolving the issues and stating why they are unable to agree or stating that opposing counsel has refused to so confer after reasonable notice. Counsel for the moving party shall arrange the conference. Any

motion filed under this paragraph shall be noticed for hearing. If the court finds that opposing counsel has willfully refused to meet and confer, or, having met, willfully refused or failed to confer in good faith, the court may impose such sanctions as it deems proper.

Amended by MD, June 28, 2002

LR37.1W Discovery Motions

No motion relative to discovery shall be accepted for filing unless accompanied by a certificate of counsel for the moving party stating that counsel have conferred in person or by telephone for purposes of amicably resolving the issues and stating why they are unable to agree or stating that opposing counsel has refused to so confer after reasonable notice. Counsel for the moving party shall arrange the conference. A proposed order shall accompany each motion filed under this paragraph. If the court finds that opposing counsel has willfully refused to meet and confer, or, having met, willfully refused or failed to confer in good faith, the court may impose such sanctions as it deems proper.

LOCAL CIVIL RULE 38 - JURY TRIAL OF RIGHT

LR38.1 Designation of Jury Demand

If a jury demand is made in the document, the caption shall contain words indicating that a demand for jury trial is being made therein.

LOCAL CIVIL RULE 41 - DISMISSAL OF ACTIONS

LR41.1 Dismissals

Except as provided in *FRCvP 41(a)(1)*, if an attorney proposes to dismiss a suit with the intention of refiling it he or she must bring this to the attention of the judge of the division and section (as applicable) to which the suit has been allotted and obtain express leave to refile, either in the dismissal order or in a separate order.

LR41.2E Conditional Dismissals

If the parties have agreed unconditionally to the settlement of a case, it shall be dismissed with leave to reinstate the matter if settlement is not concluded within the time set forth in the dismissal order. If the settlement is not consummated, either party may proceed by motion to request that the dismissal be set aside and a summary judgment enforcing the settlement be entered.

Amended and repealed by MD, June 28, 2002

LR41.3E Dismissal for Failure to Prosecute

Unless good cause is shown at the time of the call of the docket why issue has not been joined, the case may be dismissed without prejudice for failure to prosecute. If the case is not dismissed, the court may make such orders as may facilitate prompt and just disposition, including dismissal of any defendant or defendants as to whom issue is not joined.

When a suit in rem against a vessel has been filed, if service of process is not effected within one year from the date suit is filed, the clerk shall give notice to counsel

that the suit is subject to dismissal and thereafter the suit shall be dismissed without prejudice for failure to prosecute unless the plaintiff shows:

A. By affidavit, diligence and continuing efforts to effect service; and

B. By memorandum, the reasons why dismissal will occasion a hardship or injustice (such as the possibility of a successful defense of laches or statute of limitations).

LR41.3.1E Dismissal for Failure to Provide Notification of Change of Address

The failure of an attorney or pro se litigant to keep the court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to the court for the reason of an incorrect address and no correction is made to the address for a period of 30 days.

LR41.3M Dismissal for Failure to Prosecute

A civil action may be dismissed by the court for lack of prosecution as follows:

A. Where no service of process has been made within 120 days after filing of the complaint;

B. Where no responsive pleadings have been filed or no default has been entered within 60 days after service of process, except when FRCvP 12(a)(3) applies or a dispositive motion is pending; or

C. Where a cause has been pending six months without proceedings being taken within such period. This provision shall not apply if the cause is awaiting action by the court.

Prior to issuance of a dismissal, notice shall be sent to the plaintiff, and plaintiff shall be allowed 10 calendar days from mailing of the notice within which to file evidence of good cause for plaintiff's failure to act. If no response is received within the allotted time, the court may dismiss the civil action. If a timely response is filed, a district judge or a

magistrate judge may order additional time within which to take action, dismiss the civil action without prejudice, or issue any other appropriate order.

Dismissal under this Rule shall be without prejudice. The Order of Dismissal shall allow for reinstatement of the action within 30 days for good cause shown. The failure of an attorney or *pro se* litigant to keep the court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to a party or the court for the reason of an incorrect address and no correction is made to the address for a period of 30 days.

Amended June 28, 2002

LR41.3W Dismissal for Failure to Prosecute

A civil action may be dismissed by the clerk of court or any judge of this court for lack of prosecution as follows:

A. Where no service of process has been made within 120 days after filing of the complaint;

B. Where no responsive pleadings have been filed or default has been entered within 60 days after service of process; or

C. Where a cause has been pending six months without proceedings being taken within such period. This provision shall not apply if the cause is awaiting action by the court.

Prior to issuance of a dismissal, notice shall be sent to the plaintiff, and plaintiff shall be allowed 10 calendar days from mailing of the notice within which to file evidence of good cause for plaintiff's failure to act. If no response is received within the allotted time, the clerk may dismiss the civil action. If a timely response is filed,

a district judge or magistrate judge may order additional time within which to take action, dismiss the civil action without prejudice or make any other appropriate order.

Dismissal under this rule shall be without prejudice unless delay has resulted in prejudice to an opposing party. The Order of Dismissal shall allow for reinstatement of the civil action within 30 days for good cause shown.

The failure of an attorney or pro se litigant to keep the court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to the court for the reason of an incorrect address and no correction is made to the address for a period of 30 days.

Amended December 17, 2001

LOCAL CIVIL RULE 43 - TAKING OF TESTIMONY

LR43.1 Oral Testimony on Hearing of Motion

Oral testimony shall not be offered at the hearing on a motion without prior authorization from the court, and counsel shall not cause service of any subpoenas or subpoenas duces tecum in connection with any such hearing until such authorization has been obtained and reasonable notice has been given to all parties.

LR43.2 One Counsel to Examine Witness and Present Objections

Only one counsel for each separate interest shall conduct the examination of any one witness, or present argument or urge objections with respect to the testimony of that witness, except with leave of court.

LOCAL CIVIL RULE 45 - SUBPOENA

LR45.1 Witness Fees and Mileage

It shall be the duty of the person provoking the issuance of any subpoena for a witness to cause to be tendered to the witness, at the time of service of the subpoena upon him or her, one day's attendance fee and the legal amount for mileage to and from the place of trial or hearing, as set forth in *28 USC 1821*, and further to cause to be paid concurrently to any such witness the daily attendance fee for each day he or she is required to attend said trial or hearing. No witness shall be liable to attachment for not obeying the subpoena if this rule has not been complied with. This rule does not apply to witnesses for the United States.

LR45.2 Notification of Witnesses

It is the duty of counsel who has provoked the issuance of a subpoena to notify the person subpoenaed if his or her attendance will not be required in time to prevent the witness from making a needless trip. Counsel failing to comply with this rule may be subject to appropriate sanctions.

LR45.3E&W Subpoena Duces Tecum to Hospitals

A. When a subpoena duces tecum is served upon the custodian of records or other qualified witness from a hospital or other health care facility in an action in which the hospital or facility is not a party and such subpoena requires the production for trial of all or any part of the records of the hospital or facility relating to the care and treatment of a patient in such hospital or facility, it shall be sufficient compliance

therewith if the custodian or other officer of the hospital or facility delivers by registered mail or by hand a true and correct copy of all records described in such subpoena to the clerk of court or other tribunal, or if there is no clerk, then the court or other tribunal, together with the affidavit described in Subsection B. Production of the record shall occur prior to the time fixed for the trial, but no earlier than two working days before the trial date unless otherwise directed in the pretrial order. This section is limited to procedures for complying with a subpoena duces tecum for purposes of trial and shall not affect the rights of parties to production of documents pursuant to laws governing discovery or other laws pertaining thereto.

B. The records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

1. That the affiant is the duly authorized custodian of the records and has authority to certify the records.

2. That the copy is a true copy of all records described in the subpoena.

3. That the records were prepared by the personnel of the hospital or facility, staff physicians, or persons acting under the control of either in the ordinary course of the business of the hospital or facility at or near the time of the act, condition, or event.

C. If the hospital or facility has none of the records described, or only part thereof, the custodian shall so state in the affidavit, and deliver the affidavit and such records as are available in the manner provided in Subsection A.

LR45.3M Subpoena Duces Tecum to Hospitals

A. When a subpoena duces tecum is served upon the custodian of records or other qualified witness from a hospital or other health care facility in an action in which the hospital or facility is not a party and such subpoena requires the production for trial of all or any part of the records of the hospital or facility relating to the care and treatment of a patient in such hospital or facility, it shall be sufficient compliance therewith if the custodian or other officer of the hospital or facility delivers by registered mail or by hand a true and correct copy of all records described in such subpoena to the clerk of court or other tribunal, or if there is no clerk, then the court or other tribunal, together with the affidavit described in Subsection B. Production of the record shall occur prior to the time fixed for the trial, but no earlier than two working days before the trial date unless otherwise directed in the pretrial order. This section is limited to procedures for complying with a subpoena duces tecum for purposes of trial and shall not affect the rights of parties to production of documents pursuant to laws governing discovery or other laws pertaining thereto, including Rule 902 (11) of the Federal Rules of Evidence.

B. The records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

1. That the affiant is the duly authorized custodian of the records and has authority to certify the records.

2. That the copy is a true copy of all records described in the subpoena.

3. That the records were prepared by the personnel of the hospital or facility, staff physicians, or persons acting under the control of either in the ordinary course of the business of the hospital or facility at or near the time of the act, condition, or event.

C. If the hospital or facility has none of the records described, or only part thereof, the custodian shall so state in the affidavit, and deliver the affidavit and such records as are available in the manner provided in Subsection A.

MD Adopted own rule, June 28, 2002

LOCAL CIVIL RULE 47 - JURORS

LR47.1E & W Grand and Petit Juries

Grand and petit juries for the district shall be drawn and be in session as directed by the court.

LR47.2 Voir Dire Examination

All voir dire examinations of prospective jurors will be conducted by the judge alone unless an exception to this rule is made by special leave of court. Counsel may submit in advance, in writing, questions to be asked upon such examination and may supplement this by oral request at side bar when necessary.

LR47.3 Argument of Law to Jury Prohibited

In the argument of any case to a jury, counsel shall not read to the jury from any legal textbook or reported case, instruct the jury on any matter of law, or argue law to the jury.

LR47.4 Contacting Prospective Jurors

Prospective jurors shall not be contacted, either directly or through any member of their immediate family, in an effort to secure information concerning the background of any member of the jury panel.

LR47.5E Interviewing Jurors

A. No juror has any obligation to speak to any person about any case and may refuse all interviews or comments;

B. No person may make repeated requests for interviews or questions after a juror has expressed his/her desire not to be interviewed;

C. Under no circumstances except by leave of court granted upon good cause shown shall any attorney or party to an action or anyone acting on their behalf examine or interview any juror. No juror who may consent to be interviewed shall disclose any information with respect to the following:

1. The specific vote of any juror other than the juror being interviewed;
2. The deliberation of the jury; or
3. For the purposes of obtaining evidence of improprieties in the jury's deliberations.

Amended March 26, 2001

LR47.5M & W Interviewing Jurors

A. No juror has any obligation to speak to any person about any case and may refuse all interviews or comments;

B. No person may make repeated requests for interviews or questions after a juror has expressed his/her desire not to be interviewed;

C. No juror or alternate who consents to be interviewed may disclose any information with respect to the following:

1. The specific vote of any juror other than the juror being interviewed;

2. The deliberations of the jury; or

3. For the purposes of obtaining evidence of improprieties in the jury's deliberation.

D. No party or their attorney shall, personally or through another person, contact, interview, examine or question any juror or alternate or any relative, friend or associate thereof, except on leave of court granted upon good cause shown.

LOCAL CIVIL RULE 48 - NUMBER OF JURORS - PARTICIPATION IN VERDICT

LR48.1 Jury Cases

In all civil jury cases the jury shall consist of not less than six members, except by agreement of counsel with court approval.

LOCAL CIVIL RULE 51 - INSTRUCTIONS TO JURY; OBJECTION

LR51.1W Jury Instructions

When a trial is to be held before a jury, counsel for all parties shall confer and prepare proposed joint jury instructions. If counsel are unable to agree as to any specific jury instruction, a separate proposal for such instruction may be submitted. If a separate proposal is submitted, it shall be supported by a memorandum of authorities. The joint and separate proposed jury instructions shall be filed with the clerk of court and a copy shall be provided to the judge before whom the trial is to be held at least seven calendar days in advance of the date on which the jury trial is scheduled. This Rule shall not be interpreted or enforced to prevent a party from filing written requests pursuant to *FRCvP 51* at the close of evidence or at such earlier time during trial as the court may reasonably direct.

LOCAL CIVIL RULE 54 - JUDGMENTS; COSTS

LR54.1 Costs

Whenever any civil action scheduled for jury trial is settled or otherwise disposed of prior to trial, then, except for good cause shown, juror costs, including marshal's fees, mileage and per diem, shall be assessed as directed by the court, unless the clerk's office is notified in time to advise the jurors that it will not be necessary for them to attend.

LR54.2 Award of Attorney's Fees

In all cases where attorney's fees are sought, the party desiring to be awarded such fees shall submit to the court a contemporaneous time report reflecting the date, time involved, and nature of the services performed. The report shall be in both narrative and statistical form and provide hours spent and justification thereof.

Any judge of the court may, for good cause shown, relieve counsel of the obligation of filing such a report with the court.

LR54.3 Memorandum of Costs

Within 30 days after receiving notice of entry of judgment, unless otherwise ordered by the court, the party in whose favor judgment is rendered and who claims and is allowed costs, shall serve on the attorney for the adverse party and file with the clerk a notice of application to have the costs taxed, together with a memorandum signed by the attorney of record stating that the items are correct and that the costs have been necessarily incurred.

LR54.3.1E Hearings

The party applying for taxation of costs shall notice the matter for hearing before the clerk.

LR54.4M & W Objections

Specific objections may be made within five days to any item of costs supported by affidavit or other evidence, which may be rebutted. The clerk shall thereupon tax the costs.

LR54.5 Review of Taxation of Costs

A dissatisfied party may request within five days that the court review the action of the clerk, in accordance with *FRCvP 54(d)*.

LR54.6 Security for Costs

In any civil matter, the court, on motion or its own initiative, may order any party to file bond for costs or additional security for costs in such an amount and so conditioned as it may designate.

LR54.7E Settlement Judgments

When a case is disposed of by settlement involving the payment of a monetary amount, the party to whom the settlement requires the payment of money may present to the court and opposing counsel a proposed executory judgment, casting the parties obligated to make payment in accordance with the settlement agreed upon. The judgment shall set forth the agreement with respect to costs. It shall provide for the payment of interest on all amounts due under the judgment at the current legal rate, commencing at the date agreed upon by counsel, to be not less than 15 days from the date of the judgment. If counsel cannot agree upon a date, it shall be 45 days from the date of judgment.

LR54.8E Concurrence in Settlement Judgments

It shall be the duty of counsel for the party or parties who are to pay the funds under a settlement judgment to signify concurrence in the entry of judgment if it is otherwise in accordance with the agreed settlement.

LR54.9E Satisfaction of Settlement Judgment

Within five days of the consummation of the settlement embodied in any settlement judgment, it shall be the duty of counsel who presented the original judgment to file with the clerk, and to serve upon all other parties to the action, a Satisfaction of Judgment setting forth that the judgment has been paid in full and that all claims therein are fully satisfied.

LR54.10 Payment and Application for Order of Satisfaction of Judgment

Whenever any party shall pay into court an amount of money which fully satisfies any judgment or decree in principal, interest, and costs, he or she may apply to the court for an order of satisfaction and, after notice to opposing counsel, or party (if no counsel), upon proof to the court of such complete satisfaction, shall be entitled to an order declaring same.

LR54.11 Filing Acknowledgment of Satisfaction Notice in Docket

Upon filing of acknowledgment of satisfaction made by the judgment creditor or his/her attorney, the clerk shall note upon the docket sheet "Judgment Satisfied," together with the date of any judgment.

LR54.12 Seaman and Pauper Cases

In all actions in which the fees of the marshal and the clerk are not required by law to be paid in advance and in which a poor suitor or a seaman prevails, either by

judgment or by settlement, no dismissal or satisfaction of judgment shall be filed or entered until all fees of the marshal and the clerk have been paid. It shall be the responsibility of counsel handling the payment of any settlement to see to it that all fees are paid whether or not any dismissal or satisfaction of judgment entry is applied for.

LOCAL CIVIL RULE 55 - DEFAULT

LR55.1M & W Default Judgment

In addition to the provisions of *FRCvP 55*, the following rules apply to default judgments:

A. All requests for entry of default shall be made to the clerk in writing;

B. The clerk shall mail by regular mail notice of entry of default to each defendant or his or her attorney at his or her last known address;

C. A judgment of default shall not be entered until 10 calendar days after entry of default.

Amended, June 28, 2002

LOCAL CIVIL RULE 56 - SUMMARY JUDGMENT

LR56.1 Motions for Summary Judgment

Every motion for summary judgment shall be accompanied by a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried.

LR56.2M Opposition to Summary Judgment, *Repealed, June 28, 2002*

LR56.2 Opposition to Summary Judgment

Each copy of the papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts as to which there exists a genuine issue to be tried. All material facts set forth in the statement required to be served by the moving party will be deemed admitted, for purposes of the motion, unless controverted as required by this rule. *Amended June 28, 2002*

LOCAL CIVIL RULE 58 - ENTRY OF JUDGMENT

LR58.1 Judgments/Orders

Judgments must be on a separate sheet of paper and shall bear the caption of the action. In the Middle and Western Districts, orders must also be on a separate sheet of paper and shall bear the caption of the action.

LR58.2 Clerk May Require Draft of Judgment to Be Furnished

The clerk may require the prevailing party to furnish to the clerk a draft of any judgment or order that does not require signature or approval as to form by the judge.

LR58.3 Seaman Settlements

A. The court will not enter a judgment based upon a joint stipulation and compromise which has been agreed upon by parties prior to the filing of a complaint.

B. As to those cases which constitute legitimate and bona fide cases at the time of filing and in which parties have agreed to a compromise at some stage prior to trial and the court, if requested, but *only* if requested, will consider the matter upon filing with the court a joint motion for approval of the compromise.

The motion papers shall include the following:

1. Statements of the facts claimed by the respective parties;

2. Copies of all known and available medical reports together with certification that the attached medical reports are all those available;

3. A copy of proposed disbursements except for attorney's fees. In the event an individual judge may so request, the parties must be prepared to show net disbursements, including attorneys' fees;

4. A copy of the proposed release to be executed by claimant;

5. In addition, the parties shall make arrangements for the presence of and payment of a court reporter who shall record the judge's interview with the plaintiff, transcribe same, and file it into the record of the case.

Thereafter, the court, in the event that it approves the compromise, will enter an order in *substantially* the following form:

"**ORDER**

"Considering the joint motion of the parties, the statement of facts attached, annexed medical report, the proposed release, and the court having independently interviewed the plaintiff and being satisfied therefrom that the plaintiff understands his (her) legal rights and the consequences of the contemplated settlement that the court determines to be fair,

"IT IS ORDERED that said compromise by defendant with plaintiff in the amount of $_____ as submitted this date, is hereby approved on the terms set forth in the aforesaid release."

The court will not make any determination whatsoever as to status.

C. In the event a case is compromised during the trial, the judge will, if requested, follow a similar procedure in approving the compromise with variations to adjust to the particular factual situation. In particular, the court in such instances may not need a statement of the facts as it might have become familiar with them during the course of trial. In addition, the proposed order approving the compromise might be

redrafted to fit the particular factual situation and could include provisions for entering a judgment on the compromise and for making it executory on a particular date, and with interest and costs.

D. Although the court's intervention is not necessary in order for parties to effect a compromise and settlement of their claim, if it is their desire to obtain this court's approval of such, they must follow the above procedure.

E. In the event that the matter is compromised after a bona fide complaint has been filed, pursuant to an out-of-court interview with the plaintiff, a copy of the transcript of such proceedings shall be filed in the record.

LOCAL CIVIL RULE 62 - STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT

LR62.1 Petitions to Stay Execution of State Court Judgments

A. A plaintiff who seeks a stay of enforcement of a state court judgment or order shall attach to the petition a copy of each state court opinion and judgment involving the matter to be presented. The petition shall also state whether or not the same plaintiff has previously sought relief arising out of the same matter from this court or from any other federal court. The reasons for denying relief given by any court that has considered the matter shall also be attached. If reasons for the ruling were not given in a written opinion, a copy of the relevant portions of the transcript shall be supplied.

B. If any issue is raised that was not raised, or has not been fully exhausted, in state court, the petition shall state the reasons why such action has not been taken.

C. This court's opinion in any such action shall separately state each issue raised by the petition and rule expressly on each issue stating the reasons for each ruling made.

D. If the same petitioner has previously filed in this court an application to stay enforcement of a state court judgment or for habeas corpus relief, the case shall be allotted to the judge who considered the prior matter.

LR62.2 Supersedeas Bond

A supersedeas bond staying execution of a money judgment shall be in the amount of the judgment plus 20% of the amount to cover interest, costs and any award of damages for delay, unless the court directs otherwise.

LR62.2M Supersedeas Bond - *Repealed, June 28, 2002*

LOCAL CIVIL RULE 65 - INJUNCTIONS

LR65.1M&W Temporary Restraining Orders and Preliminary Injunctions

An application for a temporary restraining order or for a preliminary injunction shall be made in a document separate from the complaint. An application for a temporary restraining order shall be accompanied by a certificate of the applicant's attorney, or by an affidavit, or by other proof satisfactory to the court, stating (1) that actual notice of the time of making the application, and copies of all pleadings and other papers filed in the action to date or to be presented to the court at the hearing, have been furnished to the adverse party's attorney, if known, otherwise to the adverse party; or (2) the efforts made by the applicant to give such notice and furnish such copies. Except in an emergency, the court will not consider an ex parte application for a temporary restraining order.

Amended, June 28, 2002

LOCAL CIVIL RULE 65.1 - SECURITY: PROCEEDINGS AGAINST SURETIES

LR65.1.1 Qualifications of Sureties

Every bond furnished in connection with a civil proceeding in this court must have as surety either (1) a cash deposit equal to the amount of the bond, (2) an obligation of the United States Government, or (3) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds, pursuant to *31 USC 9303-9309*, except that a bond for costs may instead have as surety an individual resident of the district who satisfies the clerk that he/she owns real or personal property within the district sufficient to justify the full amount of the suretyship.

Only by stipulation of the parties or by order of the court may some other form of surety be permitted.

LR65.1.2 Court Officers Not to Be Sureties

No clerk, marshal, member of the bar, or other officer of this court will be accepted as surety on any bond or undertaking in any action or proceeding in this court.

LOCAL CIVIL RULE 67 - DEPOSIT IN COURT

LR67.1E Receipt and Deposit of Registry Funds

Funds received in the registry of the court will be deposited by the clerk with this court's designated depository in an interest-bearing account at ordinary passbook rates.

If the principal sum deposited is not less than $10,000.00, a judge of this court may, upon motion of an interested party, instruct the clerk to withdraw all or a portion

of the fund deposited and to reinvest the same in some form of interest-bearing account for a higher return of interest.

LR67.1M Receipt and Deposit of Registry Funds

All funds received in the registry of the court in civil cases whose principal sum is more than $500 will be deposited by the clerk with the court's designated depository, or, if otherwise ordered by the court, in an interest bearing account at a rate no lower than ordinary passbook rates. Funds whose principal sum is $500 or less will be deposited in the court's U.S. Treasury registry and will bear no interest. In criminal cases, funds received by the court for a bail bond will be deposited in the U. S. Treasury and will bear no interest.

LR67.1W Receipt and Deposit of Registry Funds

Funds received in the registry of the court will be deposited by the clerk with this court's designated depository in an interest bearing account at a rate negotiated with the depositary, which rate shall be no lower than ordinary passbook rates. If funds are to be invested in any manner other than this, a special order under Rule 67.2 must be executed.

LR67.2E & W Form of Order

A proposed order to invest registry funds shall specify the amount to be invested, the type of investment and that it shall be made at the prevailing rate of interest; it shall name the institution, if other than the court's designated depository; it shall state the length of time the fund is to be invested and whether it is to be automatically rolled over at maturity. The order shall be consented to by all parties who

might ultimately be determined to be entitled to the fund and who might be adversely affected by any provision such as a possible penalty for early withdrawal of the fund.

All proposed orders pertaining to the investment of registry funds must be first presented to the clerk to assure that the proposed order complies with the U.S. Treasury Regulations governing deposit of registry funds. No such order shall be presented to a judge of this court without the clerk's certificate of compliance. In the Western District of Louisiana the clerk's certificate of compliance may be issued by the clerk, chief deputy, financial administrator, or the deputy-in-charge of a divisional office, after consultation with the financial administrator.

All orders signed by a judge directing that registry funds be invested other than in the court's savings account must be delivered by counsel to the clerk of court personally or the chief deputy, or in the absence of both, to the administrative manager, deputy-in-charge of a divisional office, or financial administrator. Delivery to another deputy is not sufficient. Failure to effect such personal delivery shall relieve the clerk of any personal liability relative to compliance with the order. It shall further be the responsibility of the moving party to verify that the provisions of the order are accurate and have been carried out.

Unless otherwise specifically provided by order of a judge of this court, the ultimate beneficiary or beneficiaries of any appreciation resulting from investing in interest-bearing accounts shall be that person or those persons ultimately found to be entitled to receive the principal thereof.

LR67.2M Form of Order

A proposed order to deposit funds in the court's registry shall specify the amount to be deposited. If the moving party desires to have the funds placed in a special investment, a proposed order shall be filed with the court which shall state the type of investment to be made, the prevailing rate of interest, the length of time the funds are to be invested, and, whether the investment is to be automatically renewed at maturity.

Unless otherwise specifically provided by order of the court, any interest earned on registry accounts will accrue to the person or persons ultimately found to be entitled to receive the original principal amount deposited in the court's registry.

LR67.3 Disbursement of Registry Funds

Funds shall be disbursed from the registry of the court only upon order of a judge of this court. It shall be the responsibility of counsel filing a motion for disbursement to satisfy the court of the recipient's entitlement to the funds sought to be disbursed.

In the Eastern and Western Districts, a motion for disbursement of registry funds shall be submitted to the financial deputy clerk for certification of the principal amount of the fund held in the registry in a particular case, before the motion is presented to the judge.

A motion for disbursement of registry funds shall set forth the principal sum initially deposited, the amount of principal funds to be disbursed, to whom the disbursement is to be made, complete mailing instructions and specific instructions regarding distribution of accrued interest.

Each motion shall be accompanied by a proposed order which shall contain substantially the following language: "The clerk is authorized and directed to draw a

check (or checks) on the funds on deposit in the registry of this court in the principal amount of _____ plus all interest earned less the assessment fee for the administration of funds, (*or state other instruction regarding interest*), payable to (*Name and address of payee*), and mail or deliver the check (or checks) to (*payee or attorney*) at (*full address with zip code*)."

If more than one check is to be issued on a single order, the portion of principal due each payee must be stated separately. Counsel must also provide the Social Security number or Tax I.D. number for each payee and complete mailing or delivery instructions for each payee.

On all checks drawn by the clerk on registry funds, the name of the payee shall be written as that name appears in the court's order providing for disbursement.

The clerk will issue disbursements as soon after receipt of the order for disbursement as the business of the clerk's office allows, except when it is necessary to allow time for a check or draft to clear or when otherwise directed by the court. In the Eastern and Western Districts, it shall be the responsibility of the moving party to verify that the funds have been paid within a reasonable time.

LOCAL CIVIL RULE 72 - MAGISTRATE JUDGES; PRETRIAL ORDERS

LR72.1E Automatic Referral of Pre-trial Proceedings in Civil Matters

A. The following pre-trial motions shall be automatically referred to the magistrate judge to whom the action is allotted: all civil discovery motions, contested motions for leave to intervene, to amend, to file a third-party complaint, for extension of time to plead, for a more definite statement and motions relative to attorney representation. These motions shall be noticed for hearing before the magistrate judge

to whom the case was allotted. Uncontested motions for leave to intervene, to amend, to file a third-party complaint, for extension of time to plead, and for a more definite statement are not automatically referred under this subsection.

Any other motion which is specifically referred for hearing by a judge to a magistrate judge will be heard at the same time and date as it would have been heard before the judge, or at such other time as the magistrate judge may designate.

A motion for continuance of a hearing before the magistrate judge shall indicate that the matter is pending on the magistrate judge's docket.

B. The following pre-trial and post-trial matters shall also be automatically referred to the magistrate judge:

1. Determination of pauper status pursuant to *28 USC 1915*;

2. Examination of judgment debtors pursuant to Rule 69 of the *FRCvP*.

LR72.1M & W Referral of Pre-trial Proceedings in Civil Matters

Pre-trial proceedings in civil matters may be referred to a magistrate judge for decision or for report and recommendation in accordance with *28 USC 636(b)(l)(A)* and *(B)*, and any standing orders issued by the judge to whom the case is assigned.

LOCAL CIVIL RULE 73 - MAGISTRATE JUDGES; TRIAL BY CONSENT AND APPEAL OPTIONS

LR73.1E Jurisdiction

A. All U.S. Magistrate Judges are designated and empowered to exercise the powers and perform the duties prescribed by *28 USC 636(a)*, *(b)* and *(c)*, when assigned to them by a judge of this court or by these rules.

B. Each U.S. Magistrate Judge is specifically designated to try persons accused of and sentence persons convicted of misdemeanors as defined in *18 USC 3401*, when such matter is assigned to them by a judge in this district or by these rules.

LR73.1M & W Jurisdiction

A. All U.S. Magistrate Judges are designated fully to exercise all powers and jurisdiction, and perform to the fullest extent the duties prescribed in *28 USC 636(a)*, *(b)* and *(c)*.

B. Nothing in these rules shall preclude the court, or a judge of this court, from conducting any proceeding itself rather than by a magistrate judge.

LR73.2E Automatic Referral of Cases

The clerk shall automatically refer the following categories of civil cases to the magistrate judges pursuant to *28 USC 636(b)* and/or *636(c)*, as applicable, conditioned upon consent of the parties, if required by statute:

A. Applications for post-trial relief, except in capital cases, made by individuals convicted of criminal offenses, of prisoner petitions challenging the conditions of confinement, and of prisoner cases brought pursuant to *42 USC 1983*;

B. Appeals brought pursuant to *42 USC 405(g)*, *i.e.*, judicial review of Social Security decisions;

C. Employment discrimination cases brought pursuant to *42 USC 2000(e)*;

D. Petitions to enforce an Internal Revenue Service summons;

E. Applications for an order authorizing entry upon and search of premises in order to effect levy and seize pursuant to *26 USC 6331*;

F. Applications by appropriate representative of the United States Government for the issuance of administrative inspection orders or warrants.

LR73.2M Referral of Cases

The clerk shall refer cases to the magistrate judges in accordance with the court's general orders and standing orders issued by the judge to whom the case is assigned.

Amended on June 28, 2002

LR73.2W Referral of Cases

The clerk shall refer cases to the magistrate judges in accordance with standing orders issued by the judge to whom the case is assigned.

LR73.3E Referral of Other Cases

A judge of the district court may refer to a magistrate judge by random allotment any other cases or matters permitted by law. If the magistrate judge to whom the case is allotted is not available, the case will be temporarily reallotted.

Amended May 28, 1998

LR73.3M & W Cases Referred for Trial Under *28 USC 636(c)*

Upon the written consent of all parties and referral by the district judge to whom the case is assigned, a full-time magistrate judge may conduct any and all proceedings in a civil case which is filed in this court, including the conduct of a jury or non-jury trial and post-judgment proceedings, and shall order the entry of a final judgment. In the course of conducting such proceeding a magistrate judge shall hear and determine any and all pre-trial and post-trial motions which are filed by the parties, including dispositive motions.

LR73.4E Additional Duties

The magistrate judges shall perform such additional duties as may be assigned to them by the court or by any of its judges on cases randomly allotted to that magistrate judge as follows:

A. Administer oaths and affirmations and take acknowledgments, affidavits and depositions;

B. Conduct extradition proceedings pursuant to *17 USC 3184*;

C. Issue attachments or orders to enforce obedience to an Internal Revenue summons to produce books and give testimony under *26 USC 7604(b)*;

D. Settle or certify the non-payment of seamen's wages under *46 USC 603-604*; enforce awards of foreign consuls in differences between captains and crews of vessels of the consul's nation under *22 USC 528(a)*; conduct proceedings for disposition of deceased seamen's effects under *46 USC 627-628*; conduct hearings of offenses arising under *46 USC 701*; and submit records and recommendations to the district court;

E. Conduct pre-trial conferences and scheduling conferences in civil and criminal cases and enter scheduling orders pursuant to Rule 16(b) of the *FRCvP*;

F. Conduct voir dire and select petit juries for the court;

G. Perform any additional duty which is not inconsistent with the Constitution and laws of the United States;

H. Hear motions, enter orders, conduct hearings, and make findings of fact and recommendations to the court on matters related to mental competency as provided in *18 USC 4244*.

Amended May 28, 1999

LR73.4M & W Other Duties

A magistrate judge may be assigned additional duties under *28 USC 636(b)(3)*, including the following matters, which are set forth for illustrative purposes only.

A. Conduct pre-trial conferences, settlement conferences, omnibus hearings, and related pre-trial proceedings in civil and criminal cases;

B. Accept waivers of indictment, pursuant to *FRCvP 7(b)*;

C. Conduct voir dire and select grand and petit juries for the court;

D. Conduct necessary proceedings in a probation revocation action;

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

F. Order the exoneration or forfeiture of bonds;

G. Conduct proceedings for the collection of civil penalties of not more than $200 assessed under the Federal Boat Safety Act of 1971, in accordance with *46 USC 484(d)*;

H. Conduct examinations of judgment debtors in accordance with *FRCvP 69*;

I. Conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act;

J. Perform the functions specified in *18 USC 4107*, *4108*, and *4109*, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;

K. Conduct extradition proceedings pursuant to *18 USC 3184*;

L. Discharge indigent prisoners or persons imprisoned for debt under process or provisions of *18 USC 3569* and *28 USC 2207*;

M. Issue attachment or order to enforce obedience to an Internal Revenue Summons to produce books and give testimony under *26 USC 6704(b)*;

N. Settle or certify the non-payment of seamen's wages under *46 USC 303-304*; enforce awards of foreign consuls in differences between captains and crews of vessels of the consul's nation, *22 USC 258(a)*; conduct proceedings for disposition of deceased

seamen's effects under *46 USC 627*, *628*; conduct hearings of offenses arising under *46 USC 701*, and submit reports and recommendations to the district court;

O. Review appeals of Social Security cases and submit a report and recommendation to the district court;

P. Enter a scheduling order and modify a scheduling order upon a showing of good cause under *FRCvP 16(b)*;

Q. Issue Order for Service by Publication under *28 USC 1655*;

R. Issue appropriate Orders for Execution of Judgment;

S. Issue Orders confirming sales by the U.S. Marshal under *28 USC 2001* and *2004*.

LR73.5E Assignment of Matters to the Magistrate Judge

Unless the court orders otherwise in a particular case, civil and criminal cases will be allotted to the magistrate judges in the same manner as cases are allotted to the judges.

LOCAL CIVIL RULE 74 - METHOD OF APPEAL FROM MAGISTRATE JUDGE TO DISTRICT JUDGE

LR74.1E Review of Magistrate Judges' Orders

A motion to review a magistrate judge's order, or an Objection to the Proposed Findings and Recommendation of a Magistrate Judge acting as Special Master shall be made in the following manner:

> The moving party shall file the original and one copy of his/her motion or objection along with a memorandum of law in support thereof, and shall notice it for hearing in the manner provided in these rules for motions requiring a hearing. To expedite the preparation of written findings from the magistrate judge, the motion or objection shall contain a certificate verifying that a copy of the motion or objection has also been served upon the judge and magistrate judge at the time of filing.

LR74.1M Review and Appeal

A. *Appeal of Non-dispositive Matters*. A party may appeal from a magistrate judge's order by filing with the clerk of court, within 10 days of receipt of a copy of the order, a written statement of appeal specifically designating the order or part thereof appealed from, the basis for the objection, and a written memorandum in support thereof. A copy of the appeal shall be served on the magistrate judge and all parties. The time period allowed for appeal may be modified by the magistrate judge or district judge. The district judge shall consider the appeal and set aside any portion of the order found to be clearly erroneous or contrary to law. The district judge may also reconsider sua sponte any matter determined by a magistrate judge under this rule.

B. *Reports and Recommendations*. A party may object to a magistrate judge's proposed findings, recommendations or report by filing with the clerk within 10 days of receipt of a copy thereof, a written objection which specifically identifies the portion or portions of the proposed findings, recommendations or report to which objection is made, the basis for such objection and a written memorandum in support thereof. The magistrate judge or district judge may modify the time period allowed for the filing of such objections. Any party may respond to another party's objections within 10 days after being served with a copy thereof.

A district judge 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 or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

LR74.1W Method of Appeal

A. **Appeal of Non-dispositive Matters**. A party may appeal from a magistrate judge's order by filing with the clerk of court, within 10 days of receipt of a copy of the order, a written statement of appeal specifically designating the order or part thereof appealed from, the basis for the objection, and a written memorandum in support thereof. A copy of the appeal shall be served on the magistrate judge and all parties. The time period allowed for appeal may be modified by the magistrate judge or district judge. A motion to modify or extend the time to file an appeal of a magistrate's order shall be accompanied either by a certificate by the movant that there is or is not opposition to the request or a statement of the efforts made by the movant to determine whether or not there is opposition in compliance with LR7.9W. The district judge shall consider the appeal and set aside any portion of the order found to be clearly erroneous or contrary to law. The district judge may also reconsider sua sponte any matter determined by a magistrate judge under this rule.

B. **Reports and Recommendations**. A party may object to a magistrate judge's proposed findings, recommendations or report by filing with the clerk within 10 days of receipt of a copy thereof, a written objection which specifically identifies the portion or portions of the proposed findings, recommendations or report to which objection is made, the basis for such objection and a written memorandum in support thereof. The magistrate judge or district judge may modify the time period allowed for the filing of such objections. Any party may respond to another party's objections within 10 days after being served with a copy thereof.

A district judge 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 or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

Amended May, 1999

LOCAL CIVIL RULE 77 - DISTRICT COURTS AND CLERKS

LR77.1 Conference In Chambers - Notice

Except as to applications normally considered and acted upon ex parte, before any attorney or party shall confer, or arrange to confer, with a judge of this court in chambers relative to a matter then pending before the judge, he or she shall first give notice of the date and hour of the proposed conference to opposing counsel, or if counsel is unknown, to the opposing party, and shall satisfy the judge that this has been done.

LR77.2 Sessions of Court

The court shall be in continuous session on all business days through the year for transacting judicial business.

Amended, June 28, 2002

LR77.3W Administrative Divisions

For the purpose of administration of the business of the court, the following divisions shall be established in the Western District of Louisiana:

> *ALEXANDRIA DIVISION* consisting of the parishes of Avoyelles, Catahoula, Concordia, Grant, LaSalle, Natchitoches, Rapides, and Winn.
>
> *LAKE CHARLES DIVISION* consisting of the parishes of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon.

MONROE DIVISION consisting of the parishes of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

LAFAYETTE-OPELOUSAS DIVISION consisting of the parishes of Acadia, Evangeline, Iberia, Lafayette, Saint Landry, Saint Martin, Saint Mary, and Vermilion.

SHREVEPORT DIVISION consisting of the parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Red River, Sabine, and Webster.

LOCAL CIVIL RULE 78 - MOTION DAY

LR78.1E Motion Days

Wednesday of each week, or such other day as the court may designate from time to time by order, is motion day. On this day priority will be given to the presentation of motions. Unless or until amendment of this rule by the court to provide otherwise, motions will be heard in the various sections of court on alternate Wednesdays. Motion days will be arranged so that approximately half of the sections will hear motions on any given Wednesday. Motions may also be designated for hearing at some other time by order of the individual judge to whom the action is allotted. On motion day, the court also considers reviews from magistrate judges' rulings, contradictory motions requiring action by the court after hearing and other matters required by law or court order to be heard and determined summarily.

Any party desiring oral argument must either file contemporaneously with the filing of the motion or opposition memorandum or within three days after receipt of the opposition memorandum a separate statement setting forth the reasons why oral argument should be heard. Notwithstanding the filing of a statement regarding oral argument, oral argument on motions will be allowed only when a judge of a section of

this court, on or before the Monday the motion is set to be heard or decided, notifies the parties involved that he or she desires oral argument. Except as set out heretofore, all other motions will be decided by the court on the basis of the record, including timely filed briefs and any supporting or opposing documents filed therewith.

Amended April 1997

LR78.1M Motion Days

Motions may be designated for hearing by order of the individual judge to whom the motion is allotted. Any party desiring oral argument must file either contemporaneously with the filing of the motion or opposition memorandum, or within three days after receipt of the opposition memorandum, a separate statement setting forth the reasons why oral argument should be heard. Notwithstanding the filing of a statement regarding oral argument, oral argument on motions will be allowed only where the judge hearing the motion notified the parties involved that he or she desires oral argument. Except as set out heretofore, all other motions will be decided by the court on the basis of the record, including timely filed briefs and any supporting or opposing documents filed therewith.

Amended on June 28, 2002

LR78.1W Motion Days

Each judge shall designate a particular day or days as motion day. On this day priority shall be given to the presentation of motions. Motions may also be designated for hearing at some other time by order of the judge to whom the action is allotted. On motion day, the court may also consider reviews from magistrate judges' rulings,

contradictory motions requiring action by the court after hearing and other matters required by law or court order to be heard and determined summarily.

Oral argument will be allowed only when ordered by the court. All other motions will be decided by the court on the basis of the record, including timely filed briefs and any supporting or opposing documents filed therewith.

LR78.2E Calendar

The clerk shall prepare a calendar for each section of the court listing the matters to be presented on each motion day in the order in which they have been filed. The court may elect to hear motions in some other order and may defer hearing motions in which either party has not timely filed a memorandum to the end of the docket, or in the discretion of the court may deny oral argument.

LOCAL CIVIL RULE 79 - BOOKS AND RECORDS KEPT BY THE CLERK AND ENTRIES THEREIN

LR79.1E & W Withdrawal of Files

Files in the office of the clerk may be removed from it only:

A. for the use of the court;

B. pursuant to a subpoena from any federal or state court directing their production; or

C. with leave of court or permission of the clerk first obtained.

LR79.1M Withdrawal of Files

Files in the office of the clerk may be removed from it only for the use of the court or with leave of court or permission of the clerk first obtained.

LR79.2 Custody of Exhibits

After being received in evidence, all exhibits shall be placed in the custody of the clerk, unless otherwise ordered by the court.

LR79.3 Disposition of Exhibits

All exhibits in the custody of the clerk shall be removed within 30 days of the final disposition of the case. The party offering exhibits shall be responsible for their removal and shall give a detailed receipt for the clerk's records. If the parties or their attorneys fail or refuse to remove exhibits within 30 days, the exhibits may be destroyed or otherwise disposed of by the clerk.

LR79.4 Offer and Marking of Exhibits

Before referring to or using or offering in evidence any exhibit, (whether book, paper, document, model, diagram or any other type of exhibit), counsel shall first ensure that it is marked for identification.

LR79.5 Obtaining Record From Appellate Court for Hearing on Motions

It shall be the duty of counsel for the moving parties in cases in which an appeal has been taken and the record filed with the clerk of the Court of Appeals to obtain the record and return it to the clerk of the District Court pending argument and determination of the motion.

LOCAL CIVIL RULE 83 - RULES BY DISTRICT COURTS; JUDGES' DIRECTIVES

LOCAL CIVIL RULE 83.1 - NATURALIZATION

LR83.1 Naturalization

All petitions for naturalization and matters pertaining to them shall be heard and tried as directed by the court.

LOCAL CIVIL RULE 83.2 - ATTORNEYS

LR83.2.1E & W Roll of Attorneys

The bar of the court consists of those lawyers admitted to practice before the court who have taken the prescribed oath and signed the roll of attorneys for the district.

LR83.2.1M Roll of Attorneys

The bar of this court consists of those lawyers admitted to practice before this court who have taken the prescribed oath.

LR83.2.2E Eligibility

Any member in good standing of the bar of the Supreme Court of Louisiana who is of good moral character is eligible for admission to the bar of the Eastern District of Louisiana. *Amended July 17, 2000*

LR83.2.2M&W Eligibility

Any member in good standing of the bar of the Supreme Court of Louisiana is eligible for admission to the bar of these court.

LR83.2.3E Procedure for Admission

A. Each applicant for admission to the bar of this court shall file with the clerk a written petition signed by him or her and endorsed by two members of the bar of this court listing the applicant's residence and office address, his or her general and legal education, the courts that have admitted him or her to practice, and stating that the applicant is qualified to practice before this court, is of good moral character, and is not

subject to any pending disbarment or professional discipline procedure in any other court. If the applicant has been convicted of a felony or has previously been subject to any disciplinary proceedings, full information about the conviction or about the disciplinary proceedings, including the charges and the result will be given.

B. The petitioner may then be admitted in open court or in chambers, and upon taking an oath to conduct himself or herself as an attorney or counselor of this court uprightly and according to law and to support the Constitution of the United States. He or she shall then, under the direction of the clerk, sign the roll of attorneys and pay the fee required by law and any other fee required by the court. Unless such a motion for admission is made within six months of the filing of the petition, the clerk may destroy the petition and a new petition will be necessary before the applicant can be admitted.

Amended October, 2000

LR83.2.3M Procedure for Admission

A. Each applicant for admission to the bar of this court shall file with the clerk a written petition signed by him or her and endorsed by two members of the bar of this court listing the applicant's residence and office address, his or her general and legal education, the courts that have admitted him or her to practice, and stating that the applicant is qualified to practice before this court, is of good moral character, and is not subject to any pending disbarment or professional discipline procedure in any other court. If the applicant has previously been subject to any disciplinary proceedings, full information about the proceedings, the charges and the result will be given.

B. The petitioner may then be admitted in open court, or in chambers or by mail, and upon taking an oath to conduct himself or herself as an attorney or counselor of this court uprightly and according to law and to support the Constitution of the United States. He or she shall then, under the direction of the clerk, pay the fee required by law and any other fee required by the court. Unless such a motion for admission is made within six months of the filing of the petition, the clerk may destroy the petition and a new petition will be necessary before the applicant can be admitted.

LR83.2.3.1M Payment of Annual Fees

A. In addition to the fee paid upon admission to the bar of this court, every attorney so admitted shall pay to the clerk of this court an annual fee in an amount to be determined by the court. Such fee shall be due and payable triennially commencing January 31, 2003, along with a registration statement on a form provided by the clerk.

B. Any attorney who fails to pay the annual fee shall be summarily suspended, provided a notice of delinquency has been sent to the attorney's last address known to this court at least 30 days prior to such suspension.

C. Any attorney suspended under the provisions above shall be automatically reinstated without further order upon payment of all arrears, unless such suspension has been for a period of five years or more.

D. An attorney who has retired or is not engaged in the practice of law before this court may advise the clerk in writing that he/she desires to assume inactive status and discontinue the practice of law before this court. Upon the filing of such notice, the attorney shall no longer be eligible to practice law in this court and shall not be obligated for further payment of the fee prescribed herein.

E. Upon a filing of a notice to assume inactive status, the attorney shall be removed from the roll of those classified as active until and unless the attorney requests and is granted reinstatement to the active rolls. Reinstatement shall be granted (unless the attorney is then subject to an outstanding order of suspension or disbarment or has been on inactive status for five years or more) upon the payment of any fees due as prescribed by this Rule.

Adopted June 28, 2002.

LR83.2.3W Procedure for Admission

A. Each applicant for admission to the bar of this court shall file with the clerk a written petition signed by him or her and endorsed by two members of the bar of this court listing the applicant's residence and office address, his or her general and legal education, the courts that have admitted him or her to practice, and stating that the applicant is qualified to practice before this court, is of good moral character, and is not subject to any pending disbarment or professional discipline procedure in any other court. If the applicant has previously been subject to any disciplinary proceedings, full information about the proceedings, the charges and the result will be given.

B. The petitioner may then be admitted in open court, in chambers or by mail, and upon taking an oath to conduct himself or herself as an attorney or counselor of this court uprightly and according to law and to support the Constitution of the United States. He or she shall then, under the direction of the clerk, pay the fee required by law and any other fee required by the court. Unless such a motion for admission is made within six months of the filing of the petition, the clerk may destroy the petition and a new petition will be necessary before the applicant can be admitted.

LR83.2.4E & M Rules of Conduct

This court hereby adopts the Rules of Professional Conduct of the Louisiana State Bar Association, as hereafter may be amended from time to time by the Louisiana Supreme Court, except as otherwise provided by a specific rule or general order of a court.

Amended June 28, 2002

LR83.2.4M Rules of Conduct *Repealed, June 28, 2002*

LR83.2.4W Rules of Conduct

This court hereby adopts the Rules of Professional Conduct of the Louisiana State Bar Association, as hereafter may be amended from time to time by the Louisiana Supreme Court, except as otherwise provided by a specific rule of the courts.

LR83.2.5 Attorney Representation

In all cases before this court, any party who does not appear in proper person must be represented by a member of the bar of this court, except as set forth below.

LR83.2.6E Visiting Attorneys

Any member in good standing of the bar of any court of the United States or of the highest court of any state and who is ineligible to become a member of the bar of this court, may, upon written motion of counsel of record who is a member of the bar of this court, by ex parte order, be permitted to appear and participate as co-counsel in a particular case.

The motion must have attached to it a certificate by the presiding judge or clerk of the highest court of the state, or court of the United States, where he or she has been so admitted to practice, showing that the applicant attorney has been so admitted in such court, and that he or she is in good standing therein.

The applicant attorney shall state under oath whether any disciplinary proceedings or criminal charges have been instituted against him or her, and if so, shall disclose full information about the proceeding or charges and the results thereof.

An attorney thus permitted to appear may participate in a particular action or proceeding in all respects, except that all documents requiring signature of counsel for a party may not be signed solely by such attorney, but must bear the signature also of local counsel with whom he is associated.

Local counsel shall be responsible to the court at all stages of the proceedings.

Designation of the visiting attorney as "Trial Attorney" pursuant to LR11.2 herein shall not relieve the local counsel of the responsibilities imposed by this rule.

Amended, June 28, 2002

LR83.2.6M Visiting Attorneys

Any member in good standing of the bar of any court of the United States or of the highest court of any state and who is not a member of the bar of this court, may, upon written motion of counsel of record who is a member of the bar of this court, by ex parte order, be permitted to appear and participate as co-counsel in a particular case.

The motion must have attached to it a certificate of recent date from the presiding judge or clerk of the highest court of the state, or court of the United States, where the attorney has been so admitted to practice, showing that the applicant attorney has been so admitted in such court, and that the applicant is in good standing.

The applicant attorney shall state under oath whether any disciplinary proceedings or criminal charges have been instituted against the applicant, and if so, shall disclose full information about the proceeding or charges and the ultimate determination, if any.

The applicant attorney shall pay a $25.00 fee to the clerk of court and shall submit the following oath: I DO SOLEMNLY SWEAR (OR AFFIRM OR PROMISE) that I will support the Constitution of the United States and that I will demean myself uprightly and according to law and the recognized standards of ethics of the legal profession. I do further solemnly swear (or affirm or promise) that I have read the Federal Rules of Civil Procedure, 28 USC; the Federal Rules of Criminal Procedure, 18 USC; the Federal Rules of Evidence, 28 USC; and the Uniform Local Rules of the United States District Court for the Middle District of Louisiana, and that I am fully prepared to use and abide by them in my practice before this Court.

An attorney permitted to appear may participate in a particular action or proceeding in all respects, except that all documents requiring signature of counsel for a party may not be signed solely by such attorney, but must bear the signature also of local counsel with whom the visiting attorney is associated.

Local counsel shall be responsible to the court at all stages of the proceedings.

Designation of the visiting attorney as "Trial Attorney" pursuant to LR11.2 herein shall not relieve the local counsel of the responsibilities imposed by this rule.

The fee described in this rule is applicable in each case in which the visiting attorney seeks recognition as qualified counsel.

Adopted June 28, 2002

LR83.2.6W Visiting Attorneys

Any member in good standing of the bar of any court of the United States or of the highest court of any state and who is not a member of the bar of this court, may, upon written motion of counsel of record who is a member of the bar of this court, by ex parte order, be permitted to appear and participate as co-counsel in a particular case.

The motion must have attached to it a certificate of recent date from the presiding judge or clerk of the highest court of the state, or court of the United States, where the attorney has been so admitted to practice, showing that the applicant attorney has been so admitted in such court, and that the applicant is in good standing.

The applicant attorney shall state under oath whether any disciplinary proceedings or criminal charges have been instituted against the applicant, and if so, shall disclose full information about the proceeding or charges and the ultimate determination, if any.

The applicant attorney shall pay a $25.00 fee to the clerk of court and shall take the same oath as members of the bar of this court.

An attorney permitted to appear may participate in a particular action or proceeding in all respects, except that all documents requiring signature of counsel for a party may not be signed solely by such attorney, but must bear the signature also of local counsel with whom the visiting attorney is associated.

Local counsel shall be responsible to the court at all stages of the proceedings.

Designation of the visiting attorney as "Trial Attorney" pursuant to LR11.2 herein shall not relieve the local counsel of the responsibilities imposed by this rule.

The fee described in this rule is applicable in each case in which the visiting attorney seeks recognition as qualified counsel.

Amended December 17, 2001.

LR83.2.7 Waiver by Court Order of Requirements for Local Counsel

In any civil action, a counsel who is ineligible to become a member of the bar of this court under LR83.2.2, may be authorized by court order to appear and act for any party without joinder of local co-counsel when it is shown that:

A. The party would suffer hardship by joinder of local counsel; and

B. The obligations and duties of counsel in the particular litigation will be fulfilled.

LR83.2.8 Familiarity With and Compliance With Rules

Everyone who appears in court in proper person and every attorney permitted to practice in this court shall be familiar with these rules. Willful failure to comply with any of them, or a false certificate of compliance, shall be cause for such disciplinary action as the court may see fit, after notice and hearing.

LR83.2.8.1E Familiarity With the Record

Counsel for a party in any civil matter in this court shall be familiar with the substance of all documents filed in the case and if the case is consolidated with one or more other cases, shall be familiar with the record of the consolidated cases. It is the responsibility of counsel representing a party joined in a case after its inception whether by third party complaint or otherwise, or whose case is consolidated with one or more pending cases, to become familiar with court orders and with other documents previously filed in the record.

LR83.2.9E Counsel's Failure to Appear

Counsel's failure to appear, or appearing only extremely late, for conferences with the court or its magistrate judges, or for the argument of motions, trial, or any

other proceeding, causes great inconvenience to the court, opposing counsel, and, in some instances, to witnesses and jurors. Accordingly, it will be the court's policy to impose costs or sanctions as follows:

A. For failure to appear, or appearing extremely late, at any proceeding before any of the judges or magistrate judges when the lawyer has been given timely notice of the conference or hearing, has failed in advance to seek a continuance, and has no adequate excuse:

1. If this is the first time counsel has been delinquent, or if the last time he/she failed to appear promptly was more than two years ago, he/she shall be ordered to pay a fee in a reasonable amount to each opposing counsel who has appeared.

2. If this is the second time, and it is within two years of the first, the lawyer will be required to pay a fee in a reasonable amount to each opposing counsel who has appeared, and will, in addition, be cited to show cause before a judge of this court why he or she should not be suspended from practice for a period of time or subjected to some other form of disciplinary action.

3. The fee is not to be waived, nor is it to be returned or taken into account on settlement. It is not to be billed or charged to a client in any way.

B. For failure without adequate excuse to appear for a trial or a hearing for which witnesses have been summoned, or for unreasonable delay in appearing at such times, the lawyer will be required to show cause why he or she should not be subject to disciplinary action by the court.

LR83.2.10E *See* "APPENDIX - RULES OF DISCIPLINARY ENFORCEMENT OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF LOUISIANA"

LR83.2.10.1E Practicing Before Admission or During Suspension

Any person who exercises in any proceeding in this court any of the privileges of a member of the bar or who pretends to be entitled to do so before his or her

admission to the bar of this court, or during his or her disbarment or suspension, is in contempt of court and subjects himself or herself to disciplinary action.

LR83.2.10M Suspension and Disbarment

Any person admitted to practice before the court shall give written notice to the clerk of:

1. His/her disbarment or suspension by any court or bar association; and

2. His/her conviction of any felony.

Pending any appeal of the conviction, suspension or disbarment, a member of the bar may be suspended from further practice before this court.

Any member of the bar of this court may be disbarred or otherwise disciplined after such hearing as the court may in each particular instance direct, but any member of this bar who has been disbarred or dropped, or hereafter may be disbarred or dropped, from the Bar of the State of Louisiana shall be dropped from the bar of this court and his/her name stricken from the roll.

Amended, June 28, 2002

LR83.2.11 Continuing Representation, Withdrawals, Substitution of Counsel

The original counsel of record shall be held to represent the party for whom he or she appears unless the court permits him or her to withdraw from the case. He or she may obtain permission only upon joint motion to substitute counsel or upon a written motion served on opposing counsel and the client before the court acts. If other counsel is not thereby substituted, the motion to withdraw shall contain the present address of the client and the client's telephone number if the client can be

reached by telephone. The motion shall be accompanied by a certificate of service, including a statement that the client has been notified of all deadlines and pending court appearances, on both the client by certified mail and opposing counsel, or an affidavit stating why service has not been made.

LR83.2.12 Additional Counsel

Where counsel has appeared for any party, other counsel may appear for the same party only:

A. Upon motion of counsel of record for that party, or motion consented to by him/her; or

B. Upon motion, after counsel for the party has been permitted to withdraw or has died, or is incapacitated, or cannot be found; or

C. Upon motion of a party after notice to counsel of record and a hearing thereon.

LR83.2.13 Appearances by Law Students

Limited appearances by law students, if the person on whose behalf he or she is appearing has consented to that appearance in writing and the supervising lawyer has also approved the appearance in writing, are allowed in any civil matter in which a fee is not provided for or could not reasonably be anticipated; and in a criminal matter on behalf of an indigent defendant.

An eligible law student may also appear in any criminal matter on behalf of the United States with the written approval of both the prosecuting attorney or his or her authorized representative and the supervising lawyer. Insofar as practicable, the legal services of law students in criminal practice shall be divided equally between prosecution and defense.

The written consent and approval referred to above shall be filed in the record of the case and shall be brought to the attention of the judge.

The supervising lawyer or the prosecuting attorney must personally be present throughout the proceedings and shall be responsible for the manner in which they are conducted.

A. *Prerequisites to Law Student Appearances*

In order to make an appearance pursuant to this rule, the law student must:

1. Be duly enrolled in a law school in this state approved by the American Bar Association;

2. Have completed four (4) full-time semesters of legal studies or the equivalent if the school is on some basis other than a semester basis;

3. Be certified by the dean of his or her law school as being of good moral character, competent legal ability, and adequately trained to perform as a legal intern;

4. Be introduced to the court by an attorney admitted to practice in this court;

5. Neither ask for nor receive remuneration of any kind for services;

6. Take the following oath:

"I, _____, do solemnly swear that I will support the Constitution of the United States and of the State of Louisiana and have read and am familiar with the Code of Professional Responsibility of the Louisiana State Bar Association, and I understand that I am bound by the precepts therein contained as fully as if I were admitted to the practice of law in Louisiana; and that I further accept the privileges granted to me as well as the responsibilities which will devolve upon me, so that I may be more useful

through my clinical education in the service of justice."

B. *Certification of Students*

The certification of a student by the law school dean:

1. Shall be filed with the clerk and, unless sooner withdrawn, it shall remain in effect for twelve (12) months after it is filed, or until the announcement of the results of the first bar examination following the student's graduation, whichever comes earlier. For any student who passes that examination or who is admitted to the bar without taking an examination, the certification shall continue in effect until the date he or she is admitted to the bar;

2. May be withdrawn by the dean at any time by mailing a notice to that effect to the clerk. The notice need not state the cause for withdrawal;

3. May be terminated by this court at any time without notice or hearing and without any showing of cause. Notice of the termination may be filed with the clerk.

C. *Supervision of Students*

The member of the bar under whose supervision an eligible law student works shall:

1. Be admitted to practice before this court, and be approved by the dean of the law school in which the law student is enrolled for service as a supervising lawyer for this program;

2. Assume personal professional responsibility and liability for the student's guidance in any work undertaken and for supervising the quality of the student's work;

3. Assist the student in his or her preparation.

LR83.2.14M Courtroom Decorum, *Repealed, June 28, 2002*

LR83.2.14M& W Courtroom Decorum

The purpose of this rule is to emphasize, not to supplant, certain portions of those ethical principles applicable to the lawyer's conduct in the courtroom. In addition to the other requirements, therefore, lawyers appearing in this court shall:

1. Stand as court is opened, recessed or adjourned.

2. Stand when the jury enters or retires from the courtroom.

3. Stand when addressing, or being addressed by, the court.

4. Stand at the lectern while examining any witness; except that counsel may approach the clerk's desk or the witness for purposes of handling or tendering exhibits.

5. Stand at the lectern while making opening statements or closing arguments.

6. Address all remarks to the court, not to opposing counsel.

7. Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.

8. Refer to all persons, including witnesses, other counsel and the parties by their surnames and not by their first or given names.

9. Only one attorney for each party shall examine, or cross examine, each witness.

10. Counsel should request permission before approaching the bench; and any documents counsel wish to have the court examine should be handed to the clerk.

11. Any paper or exhibit not previously marked for identification should first be handed to the clerk to be marked before it is tendered to a witness for his examination; and any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.

12. In making objections counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the court.

13. In examining a witness counsel shall not repeat or echo the answer given by the witness.

14. Offers of, or requests for, a stipulation should be made privately, not within hearing of the jury.

15. In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue, and shall not suggest to the jury, directly or indirectly, that it may or should request transcripts or the reading of any testimony by the reporter.

16. Counsel shall admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time, are absolutely prohibited.

Amended, June 28, 2002

LR83.2.15W Courtroom Appearance

All attorneys shall dress appropriately when appearing in court. Male attorneys shall wear coats and ties; Female attorneys shall wear business attire, a dress or a business suit consisting of either pants or a skirt. Litigants, witnesses, jurors and spectators shall be neatly, cleanly and appropriately attired.

Adopted May, 1999

LOCAL CIVIL RULE 83.3 - BUILDING SECURITY

LR83.3.1 Reasons for Building Security

The purpose of these rules is to minimize interference with and disruptions of the court's business, to preserve decorum in conducting the court's business and to provide effective security in the buildings wherein proceedings governed by these rules are held. These buildings are hereinafter collectively referred to as "the premises".

LR83.3.2 Security Personnel

The term "Security Personnel" means the U.S. Marshal or deputy marshal or a deputized court security officer.

LR83.3.3 Carrying of Parcels, Bags, and Other Objects

Security personnel shall inspect all objects carried by persons entering the premises. No one shall enter or remain in the premises without submitting to such an inspection.

LR83.3.4 Search of Persons

Security personnel may search the person of anyone entering the premises or any space in it. Anyone who refuses to permit such a search shall be denied entry. Should any defendant in a criminal case whose appearance is required refuse to permit such a search, security personnel shall deny the person entry and shall immediately notify the judge before whom the appearance is required. The judge may take the appropriate action, including, but not limited to, detention and search, and ordering revocation of bond, if the defendant is on bond.

LR83.3.5 Unseemly Conduct

No person shall:

A. Loiter, sleep or conduct himself/herself in an unseemly or disorderly manner in the premises;

B. Interfere with or disturb the conduct of the court's business in any manner;

C. Eat or drink in the halls of the premises or in the courtrooms;

D. Block any entrance to or exit from the premises or interfere in any person's entry into or exit from the premises.

LR83.3.6 Entering and Leaving

All persons shall enter and leave courtrooms only through such doorways and at such times as shall be designated by the security personnel.

LR83.3.7 Spectators

Spectators shall enter or depart courtrooms only at such times as the presiding judge may direct. No spectator shall enter or remain in any courtroom unless spectator seating is available. Spectators shall sit in that portion of the courtroom designated by the U.S. Marshal. Spectators excluded because of lack of seating and spectators leaving the courtroom while court is in session or at any recess shall not loiter or remain in the area adjacent to the courtroom.

LR83.3.8 Cameras and Electronic Equipment

Unless authorized by the court, no camera, recording equipment, or other type of electrical or electronic device shall be brought into the premises. No person shall introduce or attempt to introduce any type of camera, recording equipment or other type of electrical or electronic device into the premises without court permission. No person shall introduce any type of camera, recording equipment or other type of electric or electronic device into the premises while, or immediately before or after, the grand jury is in session.

LR83.3.9 Photographs, Radio or Television Broadcasting

A. The taking of photographs in the courtroom or its environs or 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, whether or not court is actually in session, is prohibited.

B. As used in these rules the term "environs" means any place within any United States Courthouse wherein these Rules apply, and any place wherein a United States Magistrate Judge may conduct judicial proceedings and any public place immediately adjacent thereto.

LR83.3.10 Unauthorized Presence When Grand Jury Is in Session

No person, except grand jurors, witnesses, government attorneys, agents or employees, court personnel concerned with any grand jury proceeding, private attorneys whose clients have been called to appear as witness at a session of the grand jury then in progress or about to commence, and others specifically authorized, shall be allowed to remain in the hall adjacent to the grand jury space beyond the entrance door.

LR83.3.11 Interviewing Witnesses Before Grand Jury

No person shall attempt to question, interview or interfere with any person who may testify or who has testified before any grand jury within the premises.

LR83.3.12E & W Weapons

No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless he or she has been authorized in writing by a judge or magistrate judge to do so, or unless he or she is a federal law

enforcement agent, a U.S. Marshal, a Federal Protective Service Police Officer, a publicly employed law enforcement officer or a person designated by the court to assist U.S. Marshals or Federal Protective Service Police. No person, except U.S. Marshals and others specifically authorized by the court, shall have any such object in his or her possession while in any courtrooms, judges' chambers or magistrate judges' chambers. Federal law enforcement officers having prisoners in their custody in the courtroom of any magistrate judge or district judge may retain their sidearms.

LR83.3.12M Weapons

No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless he has been authorized in writing by a judge or magistrate judge to do so, or unless he is a federal law enforcement agent, a U.S. Marshal, a Federal Protective Service Police Officer, a publicly employed law enforcement officer or a person designated by the court to assist U.S. Marshals or Federal Protective Service Police. No person, except U.S. Marshals and others specifically authorized by the court, shall have any such object in his possession while in any courtrooms, judges' chambers or magistrate judges' chambers.

LR83.3.13 Enforcement

Security personnel shall enforce the whole of this Rule 83.3. In addition to such other penalties as may be prescribed by law, violators of this rule may be held in contempt of court and subject to the imposition of sanctions.

LOCAL CIVIL RULE 83.4 - BANKRUPTCY

LR83.4.1 Reference to Bankruptcy Judge

Under the authority of *28 USC 157* the district court refers to the bankruptcy judges of this district all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11. As set forth in *28 USC 157(b)(5)*, personal injury tort and wrongful death claims shall be tried in the district court.

LR83.4.2 Appeal to the District Court

Appeals from judgments, orders or decrees of a bankruptcy judge shall be governed by *Part VIII of the Bankruptcy Rules* (Section 8001, *et seq.*) and the applicable local rules of the district and bankruptcy courts.

LR83.4.3 Motion Seeking Relief From a District Judge

Motions filed seeking relief from a district judge, including motions under *28 USC 157(d)* (for withdrawal of reference), *28 USC 157(c)(1)* (objections to proposed findings of fact and conclusions of law) and *Bankruptcy Rule 8005* (for stay pending appeal), shall be governed by the rules set out below.

A. *Original Motion*

1. *Applicable Rules*. The Local Rules for the district court shall be applicable to all motions filed in bankruptcy cases or proceedings seeking relief from a district judge. In those instances where the Bankruptcy Rules require a report from the bankruptcy judge, *e.g.*, *Bankruptcy Rules 5011(b)* and *9027(e)*, the local Bankruptcy Rules shall apply until such report is issued.

2. *Place of Filing*. All motions described in this section above shall be filed with the clerk of the bankruptcy court.

3. *Contents of Motion*. In addition to the normal requirements of papers filed in the bankruptcy court, motions described in this section above shall include:

a. A clear and conspicuous statement opposite the title of the action that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."

b. A designation of the portions of the record of the proceedings in the bankruptcy court that will reasonably be necessary or pertinent for consideration of the motion by the district court.

c. A list showing each party with an interest in the motion and for each party shown, their attorney along with such attorney's mailing address.

4. *Subsequent Filings*. Any filing in a matter under this section subsequent to the "Original Motion" set forth above shall be filed with the clerk of the district court and shall comply with all rules of such court.

5. *Duties of the Clerk of the Bankruptcy Court*. Upon filing of an original motion, as set forth above, the clerk of the bankruptcy court shall promptly transmit to the clerk of the district court:

a. The original motion and all attachments to the motion, and

b. The portion of the bankruptcy court record designated in accordance with (3)(b) above.

B. *No Automatic Stay*. There shall be no automatic stay of bankruptcy court proceedings as a result of the filing of any motion under the above. Any stay of proceedings will result only from an order of the bankruptcy court or the district court.

C. *Obligation of the Parties*. It shall be the obligation of each and every party and their attorney to apprise the bankruptcy court and the United States District Court of orders entered in either forum which significantly affect matters pending in either forum.

LR83.4.4 Record Transmitted to the District Court

The authority to retain any portion of the record on appeal or in connection with a motion seeking relief from a district judge is delegated to the clerk of the bankruptcy court. If any portion of a record is retained in the bankruptcy court, a certified copy of such record shall be transmitted to the district court. If the district court requests the retained papers, the bankruptcy clerk shall transmit them forthwith.

In the event that papers are retained in the bankruptcy court and certified copies are transmitted to the district court, the bankruptcy court may order the party upon whose instance the papers were required to reimburse the clerk of the bankruptcy court for the cost of making the copies.

LOCAL ADMIRALTY RULES

LOCAL ADMIRALTY RULE 4 - SUMMONS AND PROCESS

LAR4.1 Process

A. In addition to the requirements set forth in Admiralty Rule B, the clerk of these courts shall not issue a summons and process of attachment and garnishment until such time as the verified complaint and affidavit filed pursuant to Admiralty Rule B be reviewed by the court and it determines if the conditions set forth in Rule B appear to exist and enters an order so stating, and authorizing process of attachment and garnishment. Supplemental process enforcing the court's order may be issued by the clerk upon application without further order of the court. If the plaintiff or his or her attorney certifies that exigent circumstances make review by the court impracticable, the clerk shall issue a summons and process of attachment and garnishment and the plaintiff shall have the burden on a post-attachment hearing under LAR4.1(C) to show that exigent circumstances existed.

B. In connection with actions in rem pursuant to Admiralty Rule C, the verified complaint and supporting affidavit filed in connection therewith shall be reviewed by the court and no warrant for the arrest of a vessel shall issue unless the court determines that the conditions for an action in rem appear to exist, and enters an order so stating, and authorizing a warrant. Supplemental process enforcing the court's order may be issued by the clerk upon application without further order of the court. If the plaintiff or his or her attorney certifies that exigent circumstances make review by the court impracticable, the clerk shall issue a summons and warrant for the arrest and the plaintiff shall have the burden on a post-arrest hearing under LAR4.1(C) to show that exigent circumstances existed.

C. The procedure for release from arrest or attachment either pursuant to Supplemental Rule B or C shall be as follows: Whenever property is arrested or attached, any person claiming an interest in it shall be entitled to a prompt hearing at which the plaintiff shall be required to show why the arrest or attachment should not be vacated or other relief granted consistent with these rules. This rule shall have no application to suits for seamen's wages when process is issued upon a certification of sufficient cause signed pursuant to *46 USC 603* and *604*.

D. If the judge to whom the particular case is allotted is not available, matters referred to in this LAR4.1 may be presented to any other judge without the necessity of reallotment of the case.

LAR4.1.1W Vessel Seizure

Counsel who intend to file a complaint for vessel seizure shall alert the United States Marshal's Office in the division where the vessel is located no later than six

hours prior to the intended filing. In exigent circumstances, the court may grant leave to file the seizure pleadings without the notice described in this rule. Counsel filing the complaint shall notify the court, through the clerk's office, of the intended filing. In the absence of any district judges in the division, a magistrate judge is authorized to order the summons and warrant of arrest if exigent circumstances exist.

Adopted May, 1999

LAR4.2 Summons to Show Cause Why Funds Should Not Be Paid to Court

A summons issued pursuant to Admiralty Rule C(3) dealing with freight or the proceeds of property sold or intangible property shall direct the person having control of the funds to show cause why the funds should not be paid into court to abide the judgment in accordance with the procedure described in the Civil Rules to notice matters for hearing.

LOCAL ADMIRALTY RULE 64 - SEIZURE OF PROPERTY

LAR64.1Publication and Time to Claim and Answer Where Publication Necessary and Under Supplemental Rule C(4)

In all cases where publication is necessary under Admiralty Rule C(4), the time for filing a claim is hereby extended for a period of 15 days from the date of the publication.

The published notice shall contain the title and the number of the suit, the date of the arrest and identity of the property arrested, the name of the marshal, and the name and address of the attorney for the plaintiff. It shall also state that claimants must file their claims pursuant to Rule C(6) with the clerk and serve them on the attorney for plaintiff within 15 days after the date of first publication, or within such

further time as may be allowed by the court, and must serve their answers within 20 days after the filing of their claims; that, if they do not, default may be entered and condemnation ordered; and that application for intervention under *FRCvP 24*, by persons claiming maritime liens or other interests may be untimely if not filed within the time allowed for claims to possession.

LAR64.1W Publication and Time to Claim and Answer Where Publication Necessary and Under Supplemental Rule C(4)

In all cases where publication is necessary under Admiralty Rule C(4), the time for filing a statement fo interest in or right against the property is hereby extended for a period of 15 days from the date of the publication.

The published notice shall contain the title and the number of the suit, the date of the arrest and identity of the property arrested, the name of the marshal, and the name and address of the attorney for the plaintiff. It shall also state that claimants must file their statement of interest in or right against the property pursuant to Rule C(6) with the clerk and serve them on the attorney for plaintiff within 15 days after the date of first publication, or within such further time as may be allowed by the court, and must serve their answers within 20 days after the filing of their statements of interest or right; that, if they do not, default may be entered and condemnation ordered; and that application for intervention under *FRCvP 24*, by persons claiming maritime liens or other interests may be untimely if not filed within the time allowed for claims to possession.

Amended December 17, 2001

LAR64.2 Release of Vessel or Property Under Admiralty Rule E(5)(c)

The marshal is further authorized to release a vessel or property if the party at whose instance the vessel or property is detained or his/her attorney, expressly authorizes the marshal in writing to release the vessel or property, and agrees in writing to hold the marshal and his deputies forever harmless of and from any and all liability as a result of the release of the vessel or other property pursuant to such authorization. At the same time the party or his or her attorney must certify that all costs and charges of the court and its officers have either been paid or that none are due.

LAR64.3 Movement of Vessels Under Seizure

Without a separate order in each individual case, the marshal is authorized to move the vessels under seizure by him within the district in such a manner and at such times as he, acting as a prudent administrator, finds to be necessary to their proper safeguarding and preservation while under seizure. Further, and without an order of court, he is authorized to permit the moving of vessels anywhere within the area of the district when the party at whose instance the vessel is detained and its owner, or the owner's attorney, expressly authorizes in writing such a movement and agrees in writing to hold the marshal and all his deputies harmless from any and all liability as a result of any such move.

LAR64.4 Consent Guardian

The marshal is authorized, without special order of court, to appoint the master of the vessel or another competent person as keeper or custodian of any vessel under seizure with their consent, provided that all parties to the action or their attorneys shall have expressly consented in writing to the appointment and shall have agreed in writing

to hold the marshal and all of his deputies harmless from any and all liability as a result of the appointment.

LAR64.5 Notices

Unless otherwise ordered by the court, or otherwise provided by law, all notices required to be published by statute, rule, or order of court shall be published in the following newspapers, depending on the district and division of the court in which filed:

Eastern District	*Times-Picayune*
Middle District	*The Advocate*
Shreveport Division	*Shreveport Times*
Monroe Division	*Monroe Morning World*
Alexandria Division	*The Alexandria Daily Town Talk*
Lake Charles Division	*Lake Charles American Press*
Lafayette/Opelousas Division	*The Daily Advertiser*

LAR64.6 Sales

A. *Notice*. Unless otherwise ordered by the court or otherwise provided by law, notices of sale of arrested or attached vessels or property shall be published on three different days, the first of which shall be published at least 10 days and the last at least three days before the day of the sale.

B. *Confirmation*. In all public auction sales of admiralty by the marshal of this court, the marshal shall require the last and highest bidder to whom the property is adjudicated to deposit a minimum of $500.00 or 10% of the bid, whichever is greater, in cash or certified check, or cashier's check on a local bank. In the event that the last and highest bid should be for an amount not in excess of $500.00, its full amount shall be paid at the time of adjudication. The balance, if any, of the purchase price shall be paid in cash or by certified or cashier's check on a local bank on or before confirmation

of the sale by the court and within 10 days of the adjudication or dismissal of any opposition which may have been filed.

At the conclusion of the auction, the marshal shall forthwith report to the court the fact of the sale, the price brought, and the name of the buyer, and the clerk shall endorse upon such report the time and date of filing. This report shall lie over for three days, exclusive of Saturdays, Sundays, and legal holidays. If within these three days no written objection is filed, the sale shall be confirmed as of course, provided that no sale shall be confirmed until the buyer shall have performed the terms of his purchase. In the event no opposition to the sale shall have been made, the cost of keeping the property pending confirmation shall be paid out of the proceeds of the sale; except that if the confirmation is delayed by the purchaser's failure to pay any balance which is due on the price, the cost of keeping the property shall be borne by the purchaser after the three-day period shall have lapsed. In the event an opposition to the sale is filed, the opponent shall be required to deposit with the marshal, in advance, cost of keeping the property pending the determination of the opposition by the court; in default of his making the advance, his opposition shall fail without affirmative action by the court. If the opposition fails, the cost of keeping the property during its pendency shall be borne by the opponent.

At the auction, the marshal shall take, record, and report the cost, the name and address of the second highest bidder, and the amount of that second highest bid. In the event that the highest bidder fails to meet his or her financial obligation pertaining to his or her bid, the court may, with the approval of the party or parties at whose

instance the sale has been ordered, and of the second highest bidder, confirm the sale to him or her.

LOCAL ADMIRALTY RULE 65.1 - SECURITY

LAR65.1.1 Security for Costs

Except in suits in forma pauperis, or in suits where by statute a party is relieved of prepaying fees and costs or of giving security therefor, or unless otherwise ordered by the court, no process in rem or of attachment shall issue unless the party requesting issuance files a stipulation in the sum of $250.00 with good and solvent surety, conditioned as provided in Admiralty Rule E(2)(b).

Whenever in these rules the filing of a bond or stipulation required or permitted, the party required or permitted to file such bond or stipulation may, in lieu thereof, deposit the requisite amount of money in the registry of the court as security.

LAR65.1.2 Sureties

In all cases where the surety on a bond or stipulation for the release of a vessel or other property under seizure is not a corporate surety holding a certificate of authority from the Secretary of the Treasury, and the bond or stipulation is not approved as to amount and nature by the party at whose instance the vessel or other property is detained, or by his or her attorney, the vessel or property shall not be released without an order of a judge, on reasonable notice and contradictorily, approving the surety. In the absence of the judges, the approval of the clerk, on like notice and contradictorily, shall suffice.

Such approval shall not limit the right of a party to move, under Rule E(6) of the Supplemental Rules, *FRCvP*, to reduce the amount of surety given or to require new or additional sureties.

LOCAL CRIMINAL RULES

LOCAL CRIMINAL RULE 5 - INITIAL APPEARANCE BEFORE THE MAGISTRATE JUDGE

LCrR5.1E Automatic Referral of Proceedings in Criminal Cases

All criminal matters of the following nature shall be heard and conducted by the magistrate judges:

A. All proceedings including trial and imposition of sentence in petty offense and other misdemeanor cases, subject to the limitations of *18 USC 3401*;

B. Arraignments and all other non-dispositive proceedings in other criminal cases that may under these rules be conducted by the magistrate judges, including without limitation, simplified motion hearings, motions related to deposition, discovery, inspection, subpoenas, bills of particular and mental or other examinations, but excluding motions to suppress, motions for trial continuances and motions for withdrawal or substitution of counsel;

C. All proceedings a magistrate judge is authorized to conduct by Rules 3, 4, 5, 5.l, 40(b), and 41, Federal Rules of Criminal Procedure;

D. Proceedings to order release or detention of arrested persons pursuant to *18 USC 3141 et seq.*;

E. Receiving return of indictments by the grand jury and issuance of bench warrants for defendants named in the indictment, when necessary.

Nothing in these rules shall preclude a judge from withdrawing the reference of any matter.

LCrR5.1M Referral of Pre-trial Proceedings in Criminal Cases

Pre-trial proceedings in criminal matters shall be referred to a magistrate judge for decision or for report and recommendation in accordance with *28 USC 636(b)(1)(A)*

and *(B)*, by specific referral of the presiding district judge or by any general or standing orders.

Adopted, June 28, 2002

LCrR5.1W Referral of Pre-trial Proceedings in Criminal Cases

Pre-trial proceedings in criminal matters shall be referred to a magistrate judge for decision or for report and recommendation in accordance with *28 USC 636(b)(1)(A)* and *(B)*, and any standing orders issued by the judge to whom the case is assigned.

Amended, June 28, 2002

LCrR5.2E Assignment of Matters to the Magistrate Judge

A magistrate judge will be designated as the criminal magistrate judge. All magistrate judges shall perform criminal duty responsibilities on a rotating basis after regular business hours, on weekends, and as the court specifies. The criminal magistrate judge shall:

1. Conduct preliminary proceedings in criminal cases, pursuant to Rules 3, 4, 5, 5.1, 40 and 41 of the Federal Rules of Criminal Procedure;

2. Receive returns of the Grand Jury;

3. Set conditions of bail and order release or detention of arrested persons in accordance with *18 USC 3141*, except that the magistrate judge who initially sets the conditions of release shall also conduct all subsequent proceedings related to detention or release of the defendant;

4. Conduct the arraignment in criminal cases;

5. Conduct proceedings in petty offense cases brought pursuant to the Migratory Bird Treaty Act and under the Central Violations Bureau.

LOCAL CRIMINAL RULE 12

LCrR12.E Pretrial Motions

Pretrial motions relative to discovery shall be filed within the time set by the magistrate judge, and shall be notice for hearing on the motion day following the expiration of 15 days. The government shall file its response no later than 8 calendar days before the scheduled hearing date.

These discovery motions shall be accompanied by a certificate of counsel for the moving party stating that the counsel have conferred in person or by telephone for the purpose of amicably resolving the issues and stating that they are unable to agree or stating that opposing counsel has refused to so confer after a reasonable notice. Counsel for the moving party shall arrange the conference.

LCrR12.1M Criminal Motion Practice

All criminal motions shall comply with the provisions of Local Civil Rules 7, 10, and 11. *Adopted June 28, 2002*

LOCAL CRIMINAL RULE 23 - TRIAL BY JURY OR BY THE COURT

LCrR23.1E & W Trial by Jury

Trial by jury in criminal cases shall be limited to those cases in which a crime is charged for which the maximum possible penalty exceeds imprisonment for a period of six months or a fine of $500, or both.

LOCAL CRIMINAL RULE 32 - SENTENCE AND JUDGMENT

LCrR32.1E&M Sentencing

A. In accordance with the provisions of Federal Rule of Criminal Procedure 32, when a presentence investigation is ordered, defendant's counsel, upon request,

is entitled to notice and a reasonable opportunity to attend any interview of the defendant by a probation officer in the course of a presentence investigation.

B. Not less than 35 days prior to the date set for sentencing, unless the defendant waives this minimum period, the probation officer shall disclose the presentence investigation report to the defendant, counsel for the defendant and the Government. Within 14 days thereafter, counsel shall communicate in writing to the probation officer and each other any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report.

C. After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revision to the presentence report that may be necessary. The officer may require counsel for both parties to meet with the officer to discuss unresolved factual and legal issues.

D. Not later than seven days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, together with the officer's comments thereon. At the same time, the probation officer must furnish the revisions of the presentence report and the addendum to the defendant, the defendant's counsel, and the attorney for the Government.

E. Except with regard to any objection made under subdivision B that has not been resolved, the report of the presentence investigation may be accepted by the court as accurate. The court, however, for good cause shown, may allow a new objection

to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the court may consider any reliable information presented by the probation officer, the defendant, or the Government.

F. The times set forth in this rule may be modified by the court for good cause shown, except that the 14 day period set forth in subdivision B may be diminished only with the consent of the defendant.

G. Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under Rule 32 of the Federal Rules of Criminal Procedure. As permitted by Rule 32, the probation officer's recommendation on the sentence shall not be disclosed.

H. The presentence report shall be deemed to have been disclosed:

1. when a copy of the report is physically delivered,

2. one day after the report's availability for inspection is orally communicated, or

3. three days after a copy of the report or notice of its availability is mailed.

Amended, June 28, 2002

LCrR32.1.1E Submission of Motions or Letters Requesting Departure from Sentencing Guidelines

Any motion or letter requesting a departure from the Sentencing Guidelines must be delivered to the sentencing judge's chambers by no later than 4:30 p.m. on the third working day prior to the date of the sentencing hearing (*i.e.*, if the sentencing hearing is set for Wednesday, the request must be delivered by 4:30 p.m. on Friday; if the sentencing hearing is set for Thursday, it must be delivered by 4:30 p.m. on Monday).

Any motions or letters requesting a departure from the Sentencing Guidelines not timely submitted shall be deemed waived unless good cause is shown.

LCrR32.1.2E Submission of Other Motions or Documents Connected with Sentencing

All submissions, other than those referred to in **LCrR32.1.1E**, must be filed no later than five working days before sentencing and all responses must be filed no later than three working days before sentencing.

Amended March 26, 2001

LCrR32.1M Sentencing, *Repealed June 28, 2002*

LCrR32.1W Sentencing

A. Not less that 35 days prior to the date set for sentencing, the probation officer shall disclose the presentence investigation report, excluding any sentencing recommendation, to the defendant and to counsel for the defendant and the Government. Within 14 days thereafter, counsel shall communicate to the probation officer any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report. Such communication must be written, but the probation officer may allow oral objection which must be promptly confirmed in writing.

B. After receiving counsel's objections, the probation officer shall conduct any further investigation and make any revision to the presentence report that may be necessary. The officer may require counsel for both parties to meet with the officer to discuss unresolved factual and legal issues.

C. No later than seven (7) days prior to the date of the sentencing hearing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by an addendum setting forth any objections counsel may have made that have not been resolved, together with the officer's comments thereon. The probation officer shall certify that the contents of the report, including any revisions thereof, but excluding any sentencing recommendations, have been disclosed to the defendant and to counsel for the defendant and the Government, that the content of the addendum has been communicated to counsel, and that the addendum fairly states any remaining objections.

D. Except with regard to any objection made under subdivision A that has not been resolved, the report of the presentence investigation may be accepted by the court as accurate. The court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the court may consider any reliable information presented by the probation officer, the defendant, or the Government.

E. The times set forth in this rule may be modified by the court for good cause shown, except that any period may be diminished only with the consent of the defendant.

F. As authorized by Federal Rules of Criminal Procedure 32, this court directs that the probation officer not disclose the probation officer's recommendation of sentence to the defendant, the defendant's counsel, or the attorney for the Government.

G. The presentence report shall be deemed to have been disclosed

1. when a copy of the report is physically delivered,

2. one day after the report's availability for inspection is orally communicated, or

3. three days after a copy of the report or notice of its availability is mailed.

H. This rule shall only apply in instances where "Guideline Sentencing" is applicable.

LCrR32.2W Presentencing Memoranda

All presentencing memoranda shall be filed under seal at least ten (10) days prior to the date of sentence.

LCrR32.2M Presentencing Memoranda

A party may submit a sentencing memorandum addressing any factor taken into account for sentencing purposes. The memorandum may contain, but is not limited to, sentencing factors for upward or downward departure including those considered pursuant to *USSG §5K1.1*; argument on unresolved objections to the presentence report; and any information concerning the background, character, and conduct of the defendant, in accordance with 18 U.S.C. § 3661. All such sentencing memoranda shall be submitted directly to the sentencing judge at least seven calendar days prior to the date of sentencing with simultaneous, confidential copies to all parties, including the Probation Office. Where an appeal is taken, the Probation Office shall forward the sentencing memoranda, presentence report, and addendum to the Clerk of Court for confidential submission to the Court of Appeals. The submission of a sentencing memorandum does not relieve the parties from the obligation of providing the probation

officer with written objections to the presentence report within 14 days from the day of disclosure in accordance with Fed. R. Cr. P. 32(b)(6)(A). *Adopted June 28, 2002*

LOCAL CRIMINAL RULE 46 - RELEASE FROM CUSTODY

LCrR46.1E Appearance Bonds in Criminal Cases

A person charged with a criminal offense in which a secured bond has been required may, at the discretion of the court, be permitted to furnish in lieu of cash a government obligation or a corporation as described in LR65.1.1, or a secured interest in real estate which shall be referred to as a "property bond."

A. To qualify as adequate security, the real property must have an equity value, after deducting the outstanding balance of any existing lien or encumbrance, of an amount not less than the principal amount of the bail set.

B. The title owner of the property shall furnish a collateral mortgage on the property in favor of the United States of America and shall deliver to the court a collateral mortgage note in pledge as security for the bond.

1. Prior to release of the person charged, the mortgage shall be recorded in the official records of the place wherein the property is situated and a certificate shall be furnished by the official authorized to enter the mortgage upon the public records showing the date, time and place of inscription and any prior recorded lien or encumbrance.
2. The property owner shall be required to give proof of ownership and furnish a certificate from any prior lien-holder

stating the balance then due on any such liens and whether payment is current.

3. The equity value may be determined by the testimony of an expert appraiser or by such other proof as the court may require.

LOCAL CRIMINAL RULE 53 - REGULATION OF CONDUCT IN THE COURTROOM

LCrR53.1 Dissemination of Information Concerning Pending or Imminent Criminal Litigation by Lawyer Prohibited

It is the duty of the lawyer not to release or authorize the release of information or opinion for dissemination by any means of public communication, in connection with pending or imminent criminal litigation with which he or she 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.

LCrR53.2 Pending Investigations

When there is a grand jury or other pending investigation of any criminal matter, a lawyer participating in the investigation shall refrain from making any extrajudicial statement, for dissemination 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, or to warn the public of any dangers, or otherwise to aid in the investigation.

LCrR53.3 Extrajudicial Statements Concerning Specific Matters

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 associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement for dissemination by means of public communication relating to that matter and concerning:

A. The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer 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 information necessary to aid in the accused's apprehension or to warn the public of any dangers he or she may present;

B. 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;

C. The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

D. The identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;

E. The possibility of a plea of guilty to the offense charged or a lesser offense;

F. Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

Upon the showing of good cause by any party, the application of this Rule may be changed or modified to any extent by the court.

LCrR53.4 Disclosures Authorized

The foregoing shall not be construed to preclude the lawyer during this period, in the proper discharge of his/her official or professional obligations, from announcing the fact and circumstances of arrest (including the time and place of arrest, resistance, pursuit, and use of weapons), and 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 or her.

LCrR53.5 Extrajudicial Statements During Trial

During the trial of any criminal matter, including the period of selection of the jury, no lawyer 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, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public records of the court in the case.

LCrR53.6 Extrajudicial Statements After Trial and Prior to Sentence

After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dis-

semination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

LCrR53.7 Matters Not Precluded

Nothing in these rules 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 or her.

LCrR53.8E&W Disclosure of Information by Courthouse Personnel

All courthouse personnel, including marshals, deputy marshals, guards, court clerks, deputy clerks, law clerks, secretaries, bailiffs and court reporters, shall under no circumstances disclose to any person, without express authorization by the court, information relating to a pending criminal case or grand jury matter that is not part of the public records of the court. This rule specifically forbids the divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

Amended, June 28, 2002

LCrR53.8M Disclosure of Information by Courthouse Personnel

All courthouse personnel, including marshals, deputy marshals, guards, court clerks, deputy clerks, law clerks, secretaries, bailiffs, court reporters, and probation and pretrial services officers shall under no circumstances disclose to any person, without express authorization by the court, information relating to a pending criminal case or grand jury matter that is not part of the public records of the court. This rule specifically forbids the

divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public. *Adopted, June 28, 2002*

LCrR53.9 Special Orders

In a widely publicized or sensational 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 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 the sequestration of jurors and witnesses and any other matters that the court may deem appropriate for inclusion in such an order.

LCrR53.10 Subjects of Special Order

Such a special order may be addressed to some or all of the following subjects:

A. A proscription of extrajudicial statements by participants in the trial, including lawyers, parties, witnesses, jurors, and court officials, that might divulge prejudicial matter not of public record in the case;

B. Specific directives regarding the clearing of entrances to the hallways in the courthouse and respecting the management of the jury and witnesses during the course of the trial to avoid their mingling with or being in the proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom and courthouse, and during recesses in the trial;

C. A specific direction that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone, or with one another, during the trial and from communicating with others in any manner during their deliberations;

D. Sequestration of the jury on motion of either party or of the court without disclosure of the identity of the movant;

E. Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the court;

F. Insulation of witnesses from news interviews during the trial period;

G. Specific provisions regarding the seating of spectators and representatives of news-media, including:

1. An order that no member of the public or news-media representative be at any time permitted within the bar railing;

2. The allocation of seats to news-media representatives in cases where there is an excess of requests over the number of seats available, taking into account any pooling arrangement that may have been agreed to among the news-media representatives.

LOCAL CRIMINAL RULE 58 - PROCEDURE FOR MISDEMEANORS AND OTHER PETTY OFFENSES

LCrR58.1E Trial of Misdemeanors

As provided in Rule 58 of the Federal Rules of Criminal Procedure, a trial of a misdemeanor may proceed on an indictment, information, or complaint or, if it be a petty offense, on a citation or violation notice.

LCrR58.2E Procedures for Misdemeanors and Other Petty Offenses

A. As authorized by subsection (d) of Rule 58 of the Federal Rules of Criminal Procedure, the offenses named in the schedule of offenses designated by the court and posted in the office of the clerk may be disposed of by payment of the fixed sum provided in the schedule in lieu of personal appearance before a magistrate judge. The proceeding shall be terminated on receipt by the clerk of payment.

B. In all other proceedings, unless otherwise authorized in a specific case by the magistrate judge to whom the case has been assigned, or pursuant to Rule 43(c), Federal Rules of Criminal Procedure, the defendant must personally appear before the magistrate judge for disposition of the charge or for other proceedings directed by law.

C. Where the magistrate judge deems it desirable, the magistrate judge may direct the probation service of the court to conduct a pre-sentence investigation and report in accordance with *18 USC 3401(c)*.

LCrR58.2M & W Petty Offenses

A. As authorized by Rule 4 of the Rules of Procedure for Trial of Misdemeanors Before United States Magistrate Judges, the petty offenses named in the Schedule of Offenses designated by the court may be disposed of by payment of the fixed sum provided in the schedule in lieu of a personal appearance before a magistrate judge. The proceeding shall be terminated on receipt of payment by the Central Violations Bureau or clerk.

B. In all other petty offense proceedings, unless otherwise authorized in a specific case by the magistrate judge to whom the case has been assigned, or pursuant to *FRCvP 43(c)*, the defendant must personally appear before the magistrate judge for disposition of the charges or for other proceedings directed by law.

C. The magistrate judge may direct the Probation Office of the court to conduct a pre-sentence investigation and report in accordance with *18 USC 3401(c)*.

LCrR58.3E Central Violations Bureau

The clerk shall maintain a Central Violations Bureau. The bureau shall keep a record of violation notices transmitted by enforcement agencies, a record of all

payments made pursuant to LCrR58.2E and shall give appearance notices to those violators whose offenses are not disposed of as provided in LCrR58.2E. The bureau shall transmit to the magistrate judges notices for personal appearance and shall maintain other records needed to effect the prompt disposition of petty offenses.

LCrR58.3M & W Central Violations Bureau

There shall be maintained a Central Violations Bureau. The Bureau shall keep a record of violation notices transmitted by enforcement agencies, a record of all payments made and shall give appearance notices to those violators whose offenses are not disposed of under a Schedule of Offenses. The Bureau shall transmit to the magistrate judges notices for personal appearance and shall maintain other records needed to effect the prompt disposition of petty offenses.

APPENDIX

LOCAL CIVIL RULE 83.2.10E

RULES OF DISCIPLINARY ENFORCEMENT

OF THE

UNITED STATES DISTRICT COURT

FOR THE

EASTERN DISTRICT OF LOUISIANA

RULE I

JURISDICTION AND GOVERNING RULES

A. Admission of an attorney to the bar of this court or other authorizations to practice before this court confer disciplinary jurisdiction upon the court.

B. Unless otherwise provided by these or other applicable local rules or otherwise determined by the court, all procedures in disciplinary actions, including discovery, shall be governed by the Federal Rules of Civil Procedure.

C. Nothing contained in these Rules shall be construed to deny to this court such powers as are necessary for the court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure.

D. The court hereby adopts the Rules of Professional Conduct adopted by the Supreme Court of the State of Louisiana, as amended from time to time by said Supreme Court, except as otherwise provided by specific rule of this court.

RULE II

GROUNDS FOR DISCIPLINARY ACTION

A. Any attorney authorized to practice before this court may be disbarred or suspended from further practice before this court or subjected to such other disciplinary action as the court finds the circumstances warrant if such attorney:

1. Has been convicted of a serious crime, as same is hereinafter defined, in any court of the United States or any of its territories, commonwealths, or possessions; the District of Columbia; or any state of the United States; or

2. Has been convicted of an offense not constituting a "serious crime" or has committed acts or omissions individually or in concert with any other person or persons, whether or not said acts or omissions occur in the course of an attorney-client relationship, which violate (1) the laws of the United States or any territory, commonwealth, or possession thereof; the District of Columbia; or any state of the United States or (2) the rules of this court or the Louisiana Rules of

Professional Conduct which specifically are adopted by this court; or

3. Has been disbarred or suspended from the practice of law by any court of the United States or any of its territories, commonwealths, or possessions; the District of Columbia; or any state of the United States.

B. The term "serious crime" shall include not only any felony, but also any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime."

RULE III

PROCEDURES

A. COMMENCEMENT OF PROCEEDINGS

1. Disciplinary proceedings under these Rules shall be commenced by (1) the filing of a complaint which sets forth a factual statement of the alleged misconduct; (2) a judgment of conviction; or (3) an order of disbarment, suspension, or other discipline imposed by another court on which the proceedings are based.

2. A certified copy of a judgment of conviction of an attorney for a "serious" crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

3. Complaints involving conviction of an attorney for an offense not constituting a "serious crime" as defined above or allegations or instances of other misconduct by an attorney shall be referred by the judge to whose attention any such complaint has come to the court *en banc* for determination by a majority of the active judges of the action to be taken, if any, with respect to such complaint.

4. In any case in which the court *en banc* determines that a complaint or allegations of misconduct, other than the conviction of a "serious crime," even if substantiated, would not warrant disciplining the attorney involved or should be handled by another forum such as the Office of the Disciplinary Counsel for the Louisiana State Bar Association, such complaint may be disposed of by the court without investigation or other action in such manner and with such formality as it deems appropriate.

5. If the complaint is to be pursued, it shall be docketed for random allotment among the active judges of the court. If a matter is predicated upon a complaint by the allotted judge, it shall be reallotted.

6. The allotted judge will conduct all necessary proceedings in such matters.

B. INVESTIGATION

1. In disciplinary proceedings based on allegations or instances of misconduct by an attorney other than a criminal conviction for a "serious crime," the allotted judge shall appoint counsel to investigate the matter and to make a report thereon in accordance with the provisions of paragraph (6) hereinafter. The order of appointment shall set forth the alleged misconduct to be investigated.

2. A copy of the order of appointment for investigation, together with a copy of the complaint or judgment of conviction involved, shall be mailed to the respondent-attorney via registered or certified mail, return receipt requested.

3. The term "counsel" as used in these Rules shall refer to the United States Attorney, his/her assistants, and any other member or members of the bar of this court who are appointed to conduct investigations in and/or to institute and prosecute any disciplinary proceedings provided for in these Rules. Counsel appointed pursuant to these Rules shall serve until relieved by the court.

4. Substitute counsel may be appointed when deemed proper by the court. Whenever it appears that any investigatory or prosecuting counsel is then engaged as an adversary of the respondent-attorney in any other matter, the court shall make a substitute appointment.

5. Upon application by appointed counsel, or counsel for the respondent-attorney, the allotted judge may direct the clerk to issue subpoenas and subpoenas duces tecum as may be required in any investigation or proceeding.

6. Counsel shall expedite the investigation and shall deliver a report thereon in writing to the allotted judge. Counsel may include in the report a recommendation for or against institution of disciplinary action and shall give reasons therefor. The court shall not be required to act in accordance with any such recommendation.

C. IMPOSITION OF DISCIPLINE

1. If after reviewing counsel's report, the court concludes that disciplinary action may be warranted, the respondent-attorney shall be ordered to show cause within 30 days after service of the order to show cause, or at such other designated time, why he/she should not be disbarred or suspended or other discipline imposed. The order to show cause shall be served upon the respondent-attorney by personal service or by registered or certified mail, return receipt requested, along with a copy of the document(s) upon which the disciplinary proceedings are based, *i.e.*, the complaint, the judgment of conviction, or the disciplinary order or judgment of another court, as the case may be.

2. The respondent-attorney shall file a written response within the prescribed time, either admitting or denying the alleged misconduct, conviction, order of disbarment, or suspension or other discipline imposed by another court, together with whatever matters he/she wishes to assert in defense.

3. If any issue of fact is raised by the respondent-attorney's response or if he/she wishes to be heard in mitigation, the matter shall be set for hearing before the allotted judge.

4. For respondent-attorney's failure to file a timely response, the allotted judge may enter an order disbarring or suspending him/her from practice for such failure.

D. FINAL DETERMINATION

1. The allotted judge shall conduct the hearings and all other necessary proceedings in disciplinary actions and shall make written findings and recommendations to be submitted to the court *en banc* for its consideration and determination of the final discipline, if any, to be taken.

2. The court's decision shall be evidenced by an order signed for the court by the allotted judge or other such judge of the court as may be designated by the Chief Judge.

3. Whenever suspension from practice is ordered as final discipline, the order shall fix the time when an application for reinstatement may be filed.

E. DISCIPLINARY PROCEEDINGS AGAINST ATTORNEYS CONVICTED OF "SERIOUS" CRIMES

1. Upon the filing with this court of a certified copy of the judgment of conviction of an attorney convicted of a "serious crime," as defined above, the court shall enter an order suspending the convicted attorney, whether such conviction resulted from a plea of guilty or *nolo contendere* or from a verdict after trial or otherwise, regardless of any pending appeals.

2. Once all appeals from the conviction are concluded, a majority of the active judges will determine, *en banc*, the final discipline to be imposed in the disciplinary proceeding based on the conviction.

F. REINSTATEMENT UPON REVERSAL OF CONVICTION

An attorney suspended under these Rules shall be reinstated immediately upon the filing of evidence that the underlying conviction has been reversed. However, lifting of the suspension will not terminate any disciplinary proceedings then pending against the attorney, the disposition of which shall be determined on the basis of all available evidence pertaining to the conduct which was the basis of the criminal prosecution, all in accordance with these Rules. In the event of such reversal, the court may appoint counsel to assimilate and report to the court the evidence pertaining to the conduct which was the basis of the criminal prosecution. The investigation and disposition of the alleged misconduct will proceed in accordance with Sections (B), (C), and (D) of this Rule.

G. DISCIPLINARY ACTION BY OTHER COURTS

1. Any attorney admitted to practice before this court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth, or possession of the United States, promptly inform the clerk of this court of such action.

2. Upon the filing of a certified or exemplified copy of a judgment or order evidencing the fact that the said attorney has been disciplined by another court, a disciplinary proceeding shall be commenced and shall proceed to finality as provided in Sections (A) through (E) of this Rule.

3. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this court shall be deferred until such stay expires.

4. After due proceedings had, this court shall impose such discipline as the circumstances warrant, unless the respondent-attorney demonstrates, and this court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears that:

a. The attorney was deprived of due process by the lack of proper notice or the opportunity to be heard; or

b. There was such an infirmity of truth establishing the misconduct as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject.

5. In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this court.

H. PAYMENT OF FEES AND COSTS

1. On completion of his/her services in any disciplinary or other matter under these Rules, court-appointed counsel may make application to this court for an order awarding reasonable fees and reimbursing reasonable and necessary costs and expenses. The court, in fixing the compensation to be awarded, shall apply the in-court and out-of-court hourly rates prescribed in 18 U.S.C. § 3006A(d)(1) for determining the compensation of counsel appointed pursuant to the Criminal Justice Act (18 U.S.C. § 3006A) to represent indigent defendants.

2. The cost and expense of any disciplinary proceeding, including counsel's fees as determined by the court, may be assessed to and shall be paid by the respondent-attorney.

I. NOTIFICATION TO CLIENTS AND CLERK

1. Within 21 days from the date on which an order or judgment of suspension or disbarment has become final and within a like period from the date of a notice given to assume inactive status pursuant to the provisions of Rule VII(G), the attorney so suspended or disbarred or assuming inactive status shall notify by registered or certified mail, return receipt requested, all clients to whom he/she is responsible for pending matters before this court of the fact that he/she cannot continue to represent them.

2. Within 45 days from the date on which any such order or judgment of suspension or disbarment has become final and within a like period from the date of a notice given to assume inactive status, the attorney shall file with the clerk of this court an affidavit stating that he/she has fully complied with the provisions of Rule III(I)(1) above. The affidavit shall also indicate his/her residence or other address to which subsequent communications may be addressed. It shall further be the responsibility of the attorney to keep and maintain records evidencing his/her compliance with this Rule so that proof of compliance will be available if needed for any subsequent proceeding instituted by or against him/her.

J. SERVICE BY MAIL

1. Whenever service of any pleading, order, notice, or other paper upon any respondent-attorney is directed or authorized by these Rules to be made by registered or certified mail, return receipt requested, such service shall be deemed to have been made if the mail is addressed to the respondent-attorney at his/her most recent address appearing in the Roll of Attorneys.

2. Service of any pleading, order, notice, or other paper not required to be served by registered or certified mail may be deemed to have been made when same is addressed and mailed, via ordinary mail, to the respondent-attorney at his/her most recent address appearing in the Roll of Attorneys or in the most recent pleading or other document filed in the disciplinary proceedings by a respondent-attorney appearing pro se.

3. Service of any pleading, order, notice, or other paper may be made upon counsel or respondent's attorney by mailing same to him/her at his/her address appearing in the most recent pleading or other document filed by either in the disciplinary proceedings.

4. Whenever used in these Rules, "Roll of Attorneys" refers to the Roll of Attorneys admitted or otherwise authorized to practice in this court.

K. CONFIDENTIALITY

1. Complaints of misconduct, disciplinary proceedings, and the records therein, except orders of disbarment, suspension, reprimand, or other disciplinary sanctions, shall not be made public except on order of the court.

2. To preserve confidentiality, all proceedings shall be heard in chambers, unless respondent-attorney requests a hearing in open court.

RULE IV

DUTIES OF THE CLERK

A. Upon being informed that an attorney admitted to practice before this court has been convicted of any crime, the clerk of this court shall promptly obtain and file with this court a certified copy of the judgment of such conviction.

B. Upon being informed that an attorney admitted to practice before this court has been subjected to discipline by another court, the clerk of this court shall promptly obtain and file with this court a certified copy of such disciplinary judgment or order.

C. Whenever it appears that any person convicted of any crime, disbarred, suspended, censured, or disbarred on consent by this court is also admitted to practice law in any other jurisdiction or before any other court, the clerk of this court shall, within 10 days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certified copy of the judgment of such conviction or order of disbarment, suspension, censure, or disbarment on consent, as well as the last office and residence addresses of the defendant or respondent-attorney shown on the Roll of Attorneys.

D. The clerk of court shall, likewise, promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this court.

RULE V

DISBARMENT ON CONSENT

A. DISBARMENT ON CONSENT WHILE UNDER DISCIPLINARY INVESTIGATION OR PROSECUTION IN THIS COURT

1. Any attorney admitted to practice before this court who is the subject of a disciplinary investigation pursuant to these Rules or a disciplinary proceeding pending in this court may consent to disbarment, but only by delivering to this court an affidavit stating that the attorney desires to consent to disbarment and that:

a. The attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; and the attorney is fully aware of the implications of so consenting;

b. The attorney is aware that there is presently pending an investigation or proceeding involving allegations that there exist grounds for the attorney's discipline, the nature of which the attorney shall specifically set forth;

c. The attorney acknowledges that the material facts so alleged are true; and

d. The attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if a disciplinary proceeding so based was prosecuted, the attorney could not successfully defend himself/herself.

2. Upon receipt of the required affidavit, this court shall enter an order disbarring the attorney. The affidavit required under the provisions of this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon court order.

B. DISBARMENT ON CONSENT OR RESIGNATION IN OTHER COURTS

Any attorney admitted to practice before this court who has been disbarred on consent or resigned from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth, or possession of the United States while an investigation into allegations of misconduct is pending shall promptly inform the clerk of this court of such disbarment, and the clerk shall obtain a certified copy of the judgment or order of disbarment on consent or resignation to be filed in this court. Upon filing, such attorney shall cease to be permitted to practice before this court and shall be stricken from the Roll of Attorneys.

RULE VI

REINSTATEMENT

A. REINSTATEMENT REQUIRED BEFORE RESUMING PRACTICE

No attorney who, by reason of final discipline imposed by the court, has been suspended or disbarred, or who has been disbarred by consent pursuant to the provisions of Rule V, may resume practice before the court until he/she has made written application for reinstatement and has been ordered reinstated by the court.

B. TIME FOR FILING APPLICATION FOR REINSTATEMENT

After expiration of the period of suspension fixed in the order of suspension, the suspended attorney may file his/her application for reinstatement. An attorney who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment, unless the disbarment was based upon a disbarment by the Louisiana Supreme Court or a court of another jurisdiction, in which event, an application for reinstatement may be filed at any time after readmission of the applicant by the Louisiana Supreme Court or such other court.

C. HEARING ON APPLICATION

1. An application for reinstatement shall be filed with the clerk of this court, who shall refer same to the judge to whom the disciplinary proceeding or consent to disbarment had been allotted. In the event such judge is unavailable or unable to act, the application shall be randomly reallotted. A hearing on the application shall be held promptly.

2. The applicant shall have the burden of demonstrating by clear and convincing evidence that he/she has the moral qualifications, competency, and learning in the law required for readmission to practice law before this court and that his/her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice or subversive of the public interest. Final determination of the application for reinstatement shall be

made by a majority of the active judges *en banc* after receipt of the written findings and recommendation of the hearing judge.

D. APPOINTMENT OF COUNSEL

The court, in its discretion, may appoint counsel to oppose or otherwise respond to any application for reinstatement.

E. ASSESSMENT OF COSTS

A non-refundable advance deposit in an amount to be set from time to time by the court shall accompany the filing of any petition for reinstatement, said advance to be applied to the final costs, including any counsel fees, of the reinstatement proceeding as may be determined by the court. Said costs shall be assessed to and paid by the applicant upon conclusion of such proceeding, whether favorable or unfavorable to him/her.

F. CONDITIONS OF REINSTATEMENT

If the applicant is found unfit to resume the practice of law, the application shall be dismissed at the applicant's cost. If the applicant is found fit to resume the practice of law, the judgment shall reinstate the applicant and may make reinstatement conditional upon the payment of all or part of the costs of the proceedings and upon the making of partial or complete restitution to parties harmed by the applicant whose conduct led to the suspension or disbarment, as well as such other conditions deemed proper by the court, provided that if the applicant has been suspended or disbarred or has voluntarily assumed inactive status for five years or more, in the discretion of a majority of the active judges, reinstatement may be further conditioned upon the furnishing of proof of competency and learning in the law, which proof may include certification by the Bar Examiners of the State or other admitting jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment. The judgment shall require appropriate evidence of satisfaction of any conditions of reinstatement imposed and shall fix the time at which the reinstatement shall be effective.

G. SUCCESSIVE APPLICATIONS

No application for reinstatement under this Rule shall be filed within one year following an adverse judgment upon an application for reinstatement filed by or on behalf of the same person.

RULE VII

REGISTRATION STATEMENTS AND FEES

A. For the year 1987 and for every calendar year thereafter, every attorney admitted to practice before this court shall pay to the clerk of this court an annual fee of $5.00 to be made part of a fund to be used to defray the expense of administration and enforcement under these Rules and for such other uses and purposes which the court may determine to be in furtherance and in aid of the court's functions and operations and the practice of law before the court. Such fee shall be due and payable triennially in the amount of $15.00 not later than March 1 of the calendar year in which such payment is required to be made, the first of such payments to be made not later than March 1, 1987.

1. All persons first becoming subject to these Rules by admission to practice before this court after December 31, 1986, shall make the aforesaid $15.00 triennial payment at the time of admission. Such fee shall not be prorated within any calendar year, but an attorney first admitted in the second or third year of any triennial period shall be required to make proportionate payment only for those years of such period in which the attorney's membership in the bar is effective.

2. Payment of a fee of $5.00 shall be a condition precedent to each admission *pro hac vice* by any attorney not otherwise admitted to the bar of this court, unless a similar fee has been paid to another court of the United States and satisfactory evidence thereof has been submitted to the clerk.

B. Any attorney who fails to timely pay the fee required under (A) above shall be summarily suspended, provided a notice of delinquency has been sent to the attorney by first class mail to his/her last address appearing in the Roll of Attorneys of the bar of this court at least 30 days prior to such suspension.

C. Any attorney suspended under the provisions of (B) above shall be reinstated without further order upon payment of all arrears.

D. To facilitate the keeping of an accurate Roll of Attorneys, every attorney subject to these Rules shall, on or before March 1, 1987, and triennially thereafter on or before the first day of March, file with the clerk of this court a registration statement on a form prescribed and supplied by the clerk setting forth the attorney's current residence and office addresses; his/her Bar Roll number; and the bars of all states, territories, districts, commonwealths, or possessions or other courts of the United States to which the attorney is admitted and the dates of such admissions. In addition, every attorney subject to these Rules shall file a supplemental statement of any change in the aforesaid information previously submitted within 30 days of such change. All persons first becoming subject to these Rules by admission to practice before this court after December 31, 1986, shall file the registration statement required by this Rule at the time of such admission. Upon request, the clerk will provide a certificate of compliance.

E. Within 30 days of receipt of a statement or supplemental statement and of payment of the aforesaid fee in accordance with the provisions of (A) and (D) above, the clerk shall acknowledge receipt thereof in appropriate form so as to enable the attorney, on request, to demonstrate compliance with the requirements of (A) and (D) above.

F. Any attorney who fails to file the attorney registration statement or supplemental statement as required above shall be summarily suspended, provided a notice of delinquency has been sent to the attorney by first class mail addressed to the attorney's current address as appearing in the Roll of Attorneys of the bar of this court at least 30 days prior to such suspension. The attorney shall remain suspended until he/she has complied with these Rules, whereupon the attorney shall be reinstated without further order.

G. An attorney who has retired or is not engaged in the practice of law before this court may advise the clerk in writing that he/she desires to assume inactive status and discontinue the practice of law before this court. Upon the filing of such a notice, the attorney shall no longer be eligible to practice law in this court and shall not be obligated for further payment of the fee

prescribed herein or for filing the attorney registration statement every three years as required by this Rule for active practitioners.

H. Upon the filing of a notice to assume inactive status, the attorney shall be removed from the roll of those classified as active until and unless he/she requests and is granted reinstatement to the active rolls. Reinstatement shall be granted (unless the attorney is then subject to an outstanding order of suspension or disbarment or has been on inactive status for five years or more) upon the payment of any fees due as prescribed by this Rule and the submission of a current registration statement. Reinstatement to active status of an attorney who has been on voluntary inactive status for five years or more shall be governed by the provisions of Rule VI relating to reinstatement to practice before the court.

I. The fees and costs paid pursuant to these Rules shall be received and maintained by the clerk as trustee thereof in separate interest bearing, federally insured accounts with such depositories as the court may from time to time approve or said fees and costs may be invested in obligations of the United States. Funds so held shall be disbursed only pursuant to the orders of the court and at no time shall they be deposited into the Treasury of the United States.

APPENDIX

NOTICE REGARDING COMPLAINTS OF JUDICIAL MISCONDUCT OR DISABILITY

To improve the administration of justice in the federal courts, Congress passed the Judicial Conduct and Disability Act of 1980, codified at 28 U.S.C. § 372(c). The law authorizes complaints against United States Circuit, District, Bankruptcy, and Magistrate Judges who have "engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or who are "unable to discharge all the duties of office by reason of mental or physical disability." The conduct to which the law is addressed does not include making wrong judicial decisions, for the law provides that a complaint may be dismissed if it is "directly related to the merits of a decision or procedural ruling."

The Judicial Council of the Fifth Circuit has adopted *Rules Governing Complaints of Judicial Misconduct or Disability*. These rules apply to judges of the United States Court of Appeals for the Fifth Circuit and to the district, bankruptcy, and magistrate judges of federal courts within the Fifth Circuit. The Fifth Circuit includes the states of Texas, Louisiana, and Mississippi.

These Rules may be obtained from, and written complaints filed at, the following office:

Clerk
United States Court of Appeals
for the Fifth Circuit
600 Camp Street, Room 102
New Orleans, LA 70130

December 1, 1993

ADR APPENDIX

TO

UNIFORM LOCAL RULES 16.3.1 M

RULES FOR ALTERNATIVE DISPUTE RESOLUTION

IN THE

MIDDLE DISTRICT OF LOUISIANA

With amendments through March 2001

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Exhibit A - Hold Harmless and Confidentiality Agreement

RULES FOR ALTERNATIVE DISPUTE RESOLUTION

A. PURPOSE AND SCOPE OF RULES

A-1. Title.

These are the Rules for Alternative Dispute Resolution (ADR) in the United States District Court for the Middle District of Louisiana. These Rules should be referred to as "ADR Rule A-1 through F-9, Local Rule 16.3.1M, ADR Appendix."

A-2. Purpose and Scope.

(a) Purpose. The Court recognizes that full, formal litigation of claims can impose large economic burdens on parties and can delay resolution of disputes for considerable periods. The Court also recognizes that alternative dispute resolution procedures have the potential to provide a variety of benefits, including greater satisfaction of the parties, innovative methods of resolving disputes and greater efficiency in achieving settlements, and will facilitate settlement and help narrow issues in certain civil actions. The Court adopts these ADR Rules to make available to litigants a range of Court-sponsored ADR processes and neutrals to provide quicker, less expensive and potentially more satisfying alternatives to continuing litigation without impairing the quality of justice or the right to trial. The neutrals provided through this program meet the minimum qualifications set forth in these Rules and the Court does not warrant the quality or competence of the neutrals selected.

(b) Scope. These ADR Rules supplement the Uniform Local Rules of the Court and, except as otherwise indicated, apply to all civil actions filed in this Court. Cases subject to these ADR Rules also remain subject to the Uniform Local Rules of the Court. These ADR Rules do not apply to ADR procedures outside the Court-Annexed Program.

B. AUTHORIZATION AND DEFINITIONS

B-1. Authorization.

The Court authorizes the use of mediation, settlement conferences, early neutral evaluations, summary bench trials and summary jury trials as alternative dispute resolution processes in all civil actions, including adversary proceedings in bankruptcy.

B-2. Definitions.

(a) Mediation. Mediation is a non-binding settlement process involving a neutral mediator who helps the parties overcome obstacles to effective negotiation. The mediator may offer suggestions or point out certain issues which the parties may have overlooked, but ultimate resolution of the dispute rests with the parties themselves. Mediation proceedings are confidential and private.

(b) Early Neutral Evaluation (ENE). Early neutral evaluation commences early in the case at which time the litigants present summaries of their case to an outside neutral who has expertise in the subject matter of the case. The neutral evaluator helps parties identify issues in the case. The process enhances communication and provides litigants with a more realistic understanding of the likely outcome of the case.

(c) Summary Jury and Summary Bench Trials. These techniques are designed for trial-ready cases headed for protracted trials. In cases referred to either of these processes, the Court conducts an abbreviated trial, either before a regularly empaneled jury or before a District or Magistrate Judge. The jury or Judge offers a non-binding verdict, which is used for settlement negotiations immediately following the trial. In summary jury trials, the lawyers are generally permitted to question the jurors about their decision.

(d) Settlement Conference. Settlement conferences are conducted by a judicial officer. The judicial officer usually hears presentations from the parties in a joint session, then meets individually with the parties to explore their underlying interests and to help them reach an agreement on the outcome of the case. Each presiding judicial officer, however, sets the specific format of his/her settlement conference.

(e) Neutrals. Neutrals are usually often lawyers or other professional individuals trained in various alternative dispute resolution techniques. Neutrals are facilitators of the various alternative dispute resolution sessions who attempt to help the parties settle their dispute. A neutral does not represent any side to the conflict, and an individual who has an interest in or conflict with the case or parties involved cannot serve as a neutral.

C. ADMINISTRATION OF PROGRAM

C-1. Consideration of ADR.

(a) Timing. Before the initial conference in all civil cases, counsel shall discuss the appropriateness of ADR in the litigation with their clients and with opposing counsel.

(b) Decision. At the initial pretrial conference, the parties shall advise the Court of the results of their discussions concerning ADR. At that time, and at subsequent conferences, if necessary, the Court may explore with the parties the possibility of using ADR.

C-2. Referral and Opposition.

(a) Referral. The Court may refer a case to ADR at its discretion, or on the request of any party, or on the agreement of the parties. Only mediation and early neutral evaluation may be mandated. If the parties agree upon an ADR method or neutral, the Court will respect the parties' agreement unless the Court believes another ADR method, or neutral, is better suited to the case and parties. The authority to refer a case to ADR does not preclude the Court from suggesting or requiring other settlement initiatives.

(b) Opposition. A party opposing the ADR referral must file written objections with the assigned Judge making the referral within seven (7) days of the date of the Order of Referral and explain the reasons for any opposition.

C-3. ADR Unit.

(a) Members. The ADR Unit shall consist of the Chief District Judge, the ADR Magistrate Judge, the Standing Panel for ADR neutrals, the Chief Deputy Clerk of Court, the ADR Clerk and such deputy clerks as the Court may authorize. The ADR Unit shall be responsible for the design, implementation, administration and evaluation of the Court's ADR program. It also shall be responsible for recruiting, screening and training attorneys, and others, to serve as neutrals in the Court's ADR program.

(b) Contacting the ADR Unit. The address and phone number of the ADR Unit are:

ADR Deputy Clerk of Court
Russell B. Long Federal Building
and Courthouse
777 Florida Street
Suite 139
Baton Rouge, LA 70801
Telephone: (225) 389-3500
Fax: (225) 389-3501

C-4. ADR Magistrate Judge.

The ADR Magistrate Judge shall implement, administer, oversee, and evaluate the Court's alternative dispute resolution program and is responsible for supervising the ADR Unit, consulting with same on the issues of policy, assisting with the training program for neutrals, the determination of complaints alleging violations of these ADR Local Rules, and the disqualification of neutrals. The ADR Magistrate Judge will annually certify and/or re-certify the neutrals in accordance with the criteria contained in these rules, administer the oath to the neutrals, and submit their names to the ADR Clerk for inclusion in the Register of Neutrals.

C-5. Standing Panel.

(a) Panel Members. The Chief District Judge shall appoint a Standing Panel for ADR neutrals. The Court will appoint three members and designate one member as chairperson. The Panel will be responsible for recruiting and screening neutrals and will review the applications for recommendation to the ADR Magistrate Judge. The Panel will also assist with and recommend appropriate training for the neutrals.

(b) Terms. Each Panel member shall serve a two-year term but may be re-appointed upon application to the Chief District Judge.

C-6. ADR Clerk.

(a) Defined. The ADR Clerk shall be the Chief Deputy Clerk of Court or a deputy clerk assigned for that function by the Clerk of Court or the Chief Deputy Clerk of Court.

(b) Duties. The duties of the ADR Clerk shall be as follows:

1. Coordinating, managing, and tracking cases assigned to an ADR process.

2. Scheduling and noticing hearings or proceedings before neutrals.

3. Monitoring the selection of neutrals and assigning neutrals.

4. Providing for the training of neutrals.

5. Collecting and accounting for the certification and re-certification fees.

6. Collecting and maintaining records for the continuing educational credits for the neutrals.

7. Maintaining a current Register of Neutrals (The Register of Neutrals). This list will contain, at a minimum, each neutral's name, address and telephone number, his/her areas of expertise, his/her Court approved rate/fee and the term expiration date.

8. Maintaining a current list of pro bono or reduced fee arrangements for the neutrals.

9. Gathering, compiling, and analyzing evaluation data.

C-7. Violation of the ADR Rules.

(a) Reporting Violation.

1. Report Against a Party or Counsel of Record. Any counsel of record, party, neutral, or ADR Unit member who perceives a material violation of these ADR Rules by a party or counsel of record may submit a written report to the ADR Clerk who will notify all other parties and the assigned Magistrate Judge for further disposition. Such reports shall not be filed in the record of the case.

2. Report Against a Neutral. Any counsel of record, party, ADR Unit member or other neutral who perceives a material violation of these ADR Rules or The Standards of Conduct for Mediators, as incorporated herein, by a neutral, may submit a written report to the ADR Clerk who will notify all other parties and the assigned Magistrate Judge for further disposition. Such reports shall not be filed in the record of the case.

(b) Sanctions for Violation of these Rules. If, upon receiving a written allegation that a party, lawyer or neutral has materially violated one of these ADR Rules or The Standards of Conduct for Mediators as incorporated herein, and the Magistrate Judge determines that the matter warrants further proceedings, the Magistrate Judge shall issue an order to show cause why sanctions should not be imposed, or other appropriate action taken. The Magistrate Judge will afford all interested parties an opportunity to be heard before deciding whether to impose monetary sanctions or to recommend that the Court impose other sanctions. Any objections to such sanctions shall be made by motion under Civil Uniform L.R. 74.1M.

C-8. Evaluation of the Program.

(a) Questionnaire. In an effort to gather information and evaluate the programs, the ADR Clerk shall send a copy of the appropriate questionnaire to all participants in the ADR session after the Certificate of Compliance has been filed. Responses will be kept confidential and not divulged to the Court, the attorneys or the parties. Only aggregate information about the program will be reported.

(b) Evaluation. Once a year, the ADR Clerk shall summarize the information from the questionnaires and submit this summary to the ADR Unit for consideration and incorporation of any suggestions into the ADR program, if found beneficial.

D. NEUTRALS

D-1. Qualifications and Other Requirements of Neutrals.

(a) Qualifications. To be eligible for listing, neutrals must meet these minimum qualifications:

1. Membership in the Bar of any United States District Court or a Bachelors degree in any profession the Panel determines would be of benefit to the program.

2. A license to practice law, or five or more years of active practice in your professional area.

3. Completion of at least forty (40) hours training in dispute resolution techniques in an alternative dispute resolution course approved by the Louisiana State Bar Association Mandatory Continuing Legal Education (MCLE) Committee or the Louisiana State Bar Association ADR Section.

(b) Submissions. To be eligible for listing, a neutral must submit:

1. A completed application form with two (2) copies approved by the Court, which can be obtained from the Clerk of Court's Office.

2. A Statement of Commitment to accept gratis, or at a reduced fee, at least one case or litigant a year and to accept all other appointments at the neutral's approved rate or for a fixed fee which has been approved by the Court.

(c) Duties. Once selected, a neutral must:

1. Take the Oath, sign the Oath and ADR Agreement for Court-Annexed Neutrals before being assigned any cases for ADR.

2. Participate annually in at least five (5) hours of ADR training.

3. Repealed (March 2001)

D-2. Re-Certification.

By January 31ST of each year, the neutrals shall submit proof of their continuing education courses taken during the previous year to the ADR Clerk for final submission to the ADR Magistrate Judge for re-certification.

D-3. Terms.

Each neutral will remain on the list for four (4) years, if re-certified annually. After a four-year term, the neutral may apply for re-listing.

D-4. Disqualification of Neutrals.

(a) All neutrals may be disqualified for bias or prejudice as provided in 28 U.S. C. §144, and shall be disqualified in any case in which such action would be required by a Justice, Judge, or Magistrate Judge pursuant to 28 U.S.C. §455, or for material violation of The Standards of Conduct for Mediators adopted by the American Arbitration Association, the American Bar Association, the Society of Professionals in Dispute Resolution, and the State of Louisiana (La. R.S. 9:4107, as amended from time to time).

(b) Any party who believes an assigned neutral has a conflict of interest shall bring this to the attention of the ADR Clerk within seven (7) days of learning the source of conflict or shall be deemed to have waived objection. Anyone may obtain a copy of the Conflicts of Interest Explanation from the ADR Clerk.

(c) Any assigned neutral who discovers a possible conflict of interest shall immediately notify the parties of the source of the conflict and shall not proceed further until the conflict is resolved. In the event the conflict cannot be resolved, the neutral shall notify the ADR Clerk that he/she is disqualified. The ADR Clerk shall then follow the procedure set forth in Section E-2 (d).

E. MEDIATION PROGRAM

E-1. List of Mediators.

The ADR Clerk shall maintain the current list of certified mediators . To be certified, mediators have to meet the minimum qualifications listed above, be approved for listing.

E-2. Selection of Mediator.

(a) Once an Order (Order of Referral to Mediation), referring a case to mediation has been signed, the parties are encouraged to agree on a person to be appointed as the mediator from The Register of Neutrals kept by the ADR Clerk. Counsel for the plaintiff shall then notify the ADR Clerk of their selection in writing.

(b) If the parties do not agree on a mediator within fifteen (15) days after the Order of Referral is signed, if no objection, or, within fifteen (15) days of the ruling on the objection if an objection is filed, each party shall, within five (5) days thereafter, submit to the opposing party or parties a list of four (4) mediators from The Register of Neutrals. The opposing party or parties may strike any or all of the names on this list. The opposing party or parties shall then submit the lists to the ADR Clerk within five (5) days thereafter. The ADR Clerk shall select a mediator from the names remaining after the parties have exercised their strikes. If the parties have stricken

all names on their list, the ADR Clerk shall select a mediator from the Register of Neutrals, excluding any person whose name previously was stricken by any party.

(c) Once (a) or (b) above has been completed, the ADR Clerk shall notify the mediator(s) of his or her selection, send the mediator a copy of the complaint, Status Report, and a current docket sheet and request a preliminary check for potential conflicts of interest and request that the mediator contact the parties to discuss the fee arrangement and any limitations that should apply.

(d) If a conflict of interest is found to exist, the mediator(s) shall, within seven (7) days of receipt of the notice, notify the ADR Clerk who will request that the parties make a new selection, or, if the parties are unable to do so, shall assign another neutral.

(e) If a conflict is not found to exist and the selection is final, the mediator(s) shall, within seven (7) days of receipt of the notice, notify the ADR Clerk whether the Court approved rate or a fixed fee will apply and will disclose all fee and expense arrangements and any limitations in the ADR process. The ADR Clerk shall then notify the ADR Magistrate Judge who will issue the Mediation/ENE Order.

E-3. Mandatory Guidelines for Mediation.

(a) Attendance. In addition to counsel who will try the case, a person with full settlement authority must be present for each party at the conference. This requirement contemplates the presence of the party, or, if a corporate entity, an authorized representative of the party, who has full and final settlement authority. The purpose of this requirement is to have representatives present who can settle the case during the course of the conference without consulting a superior. Upon proper application to the mediator, a governmental entity, insurance company or corporate board may be granted permission to proceed with a representative with limited, or no authority, provided he/she has direct communication with a representative with full authority throughout the mediation process, even if the mediation continues through lunch or after working hours. In an extreme case, the mediator may grant permission to proceed without any representative. Any other persons deemed necessary to negotiate a settlement may also attend, at the discretion of the mediator, upon proper application to the mediator. Counsel of record will be responsible for timely advising any involved non-party allowed to attend the mediation session of these requirements.

(b) Contacts. The mediator may, in his/her discretion, communicate with the lawyers, the parties, the insurance representatives, or any one of them outside the presence, or hearing, of the other, but may not communicate with the trial judge or Magistrate Judge regarding any matter on the merits of the case during or after the mediation.

(c) Timing. The mediation session shall be held within sixty (60) days after the date of the Mediation/ENE Order. The ADR Clerk, or as otherwise agreed upon by the parties, shall be responsible for arranging the mediation session. Mediation may take place at the courthouse, the mediator's office or at any other location to which the parties consent. Counsel shall respond to the ADR Clerk and arrange the mediation session within a short period of time after receipt of the Mediation/ENE Order. The mediator may request an extension of this time from the ADR Magistrate Judge if the mediator feels it would be beneficial to settlement of the case.

(d) Submissions. The mediator shall communicate with all counsel of record and unrepresented parties, within a reasonable time prior to the mediation conference, in order to discuss what documentation, if any, will be needed to conduct the mediation. The mediator shall set appropriate deadlines for the submission of this material and the participants shall be responsible for the timely submission of this material to the mediator. None of the material submitted to the mediator shall be filed in the record, but shall either be destroyed or returned to the participants after completion of the mediation, at the discretion of the participants. The mediator may accept documents or memoranda on a confidential basis, and not served on the other parties, indicating strengths and weaknesses in that party's case and the range in which that party proposes settlement. Memoranda so submitted shall be treated with confidentiality by the mediator.

(e) Hold Harmless and Confidentiality Agreement. All participants shall be required to execute a Hold Harmless and Confidentiality Agreement with the mediator immediately prior to the mediation conference. That document is published herein as Exhibit A to these rules. This rule does not preclude a report to or any inquiry by the ADR Clerk or Magistrate Judge pursuant to ADR LR C-7 regarding a possible violation of the ADR Local Rules.

E-4. Compensation of the Mediator.

(a) Payment. The mediator(s) shall be paid a reasonable fee for his/her services, unless the assigned Judge has approved the case or litigant as pro bono or at a reduced fee. The mediator's hourly rate of pay will be approved by the Court when the mediator is approved for listing and will remain in effect for one year. The mediator may request a change in the rate at the time the re-certification papers are submitted to the ADR Clerk. A reasonable fee may include payment for travel, preparation time, administrative costs and other expenses, but only at a rate below the approved hourly rate. Final terms and conditions will be approved by the Court and entered in the Mediation/ENE Order. The mediator is responsible for billing the parties and collecting the fee.

(b) Parties' Responsibility. Plaintiff(s) shall be responsible for 50% of the mediator's total fee and defendant(s) shall be responsible for the remaining 50%, unless the parties agree otherwise in writing, or by order of the Court. Parties represented by the same counsel shall be considered to be one party for purposes of compensating the mediator, unless otherwise agreed to by the parties or by order of the Court.

(c) Pro Bono or Reduced Fee. The assigned Judge may require a pro bono litigant to pay the litigant's share of the mediator's fee out of all or part of any settlement proceeds or money judgment. Counsel of record, or the pro se litigant, shall be responsible for paying the fee when the case settles or the money judgment is satisfied.

(d) Non-payment. In the event of non-payment by one or more of the parties, the mediator may file a motion or letter with the assigned Judge for an order directing payment of his or her fees.

E-5. Stay of Proceedings.

All scheduling order deadlines, discovery and pending motions shall be stayed for sixty (60) days from date of the Mediation/ENE Order unless the parties agree otherwise. In the event the parties cannot agree, any party may move the assigned Magistrate Judge to have the stay lifted, in whole or in part, for good cause shown.

E-6. Certificate of Compliance.

Within five (5) days of the mediation session, the mediator shall file the Neutral's Certificate of Compliance in the record, with a copy to the ADR Clerk, informing the Court of the outcome of the mediation session. In the event the matter is settled, counsel for the parties shall file a motion to dismiss, stipulation of dismissal and/or consent judgment with the Court as soon as possible. The ADR Clerk shall inform the assigned Magistrate Judge in the event the matter is not settled.

F. EARLY NEUTRAL EVALUATION

F-1. Authorization.

Early Neutral Evaluation (ENE) may be mandated by the assigned Judge, or any party may request early neutral evaluation.

F-2. Timing and Submissions.

Timing of the ENE session and the submissions to be presented to the evaluator shall be in accordance with sections E-3 (c) and (d).

F-3. Selection.

An evaluator may be selected in accordance with Section E-2 of these Rules.

F-4. Compensation of the Evaluator.

Evaluators shall be paid in accordance with section E-4 of these Rules.

F-5. Components of ENE Session.

(a) Duties. The evaluator shall:

1. Permit each party (through counsel or otherwise), orally and through documents or other media, to present its claims or defenses and to describe the principal evidence on which they are based;

2. Assist the parties in identifying areas of agreement and, where feasible, enter stipulations;

3. Assess the relative strengths and weaknesses of the parties' contentions and evidence, and explain carefully the reasoning that supports these assessments;

4. If the parties are interested, help them, through private caucusing or otherwise, explore the possibility of settling the case;

5. Estimate, where feasible, the likelihood of liability and the dollar range of damages;

6. Help the parties devise a plan for sharing the important information and/or conducting key discovery that will equip them as expeditiously as possible to enter meaningful settlement discussions or to position the case for disposition by other means;

7. Help the parties assess litigation costs realistically; and

8. Determine whether some form of follow-up to the session would contribute to the case development process or to settlement.

(b) Process Rules. The session shall be informal. Rules of evidence shall not apply and there shall be no formal examination of witnesses.

F-6. Confidentiality.

(a) Confidential Treatment. This Court, the evaluator, all counsel and parties, and any other persons attending the ENE session shall treat as confidential all written and oral communications made in connection with or during any ENE session. The Court hereby extends to all such communications all the protection afforded by FREvid. 408 and by FRCivP 68.

(b) Hold Harmless and Confidentiality Agreement. All participants shall be required to execute a Hold Harmless and Confidentiality Agreement with the evaluator immediately prior to the ENE session. That document is published herein as Exhibit A to these rules. This rule does not preclude a report to or any inquiry by the ADR Clerk or Magistrate Judge pursuant to ADR LR C-7 regarding a possible violation of the ADR Rules.

(c) Stipulation. Communications made in connection with or during an ENE session may be disclosed only if all parties attending the ENE session so agree. Nothing in this section shall be construed to prohibit parties from entering written agreements resolving some or all of the case or entering and filing procedural or factual stipulations based on suggestions or agreements made in connection with an ENE session.

F-7. Follow-Up.

(a) Discussion at Close of ENE. At the close of the ENE session, the evaluator and the parties shall discuss whether it would be beneficial to schedule any follow-up to the session.

(b) Follow-Up. The evaluator may order the following types of follow-up without stipulation:

(1) Responses to settlement offers or demands;

(2) A focused telephone conference;

(3) Exchanges of letters between counsel addressing specified legal or factual issues; or

(4) Written or telephonic reports to the evaluator, *e.g.,* describing how discovery or other events occurring after the ENE session have affected a party's analysis of the case or position with respect to settlement.

(c) Stipulation to Follow-Up Session. With the consent of all parties, the evaluator may schedule one or more follow-up ENE sessions that may include additional evaluation, settlement discussions, or case development planning.

(d) Limitations on Authority of Evaluator. Evaluators have no authority to compel parties to conduct or respond to discovery or to file motions nor do they have the authority to limit issues to curtail pretrial activities, or to impose sanctions.

F-8. Stay of Proceedings.

All scheduling order deadlines, discovery and pending motions shall be stayed for sixty (60) days from date of the Mediation/ENE Order unless the parties agree otherwise. In the event the parties cannot agree, any party may move the assigned Magistrate Judge to have the stay lifted, in whole or in part, for good cause shown.

F-9. Certificate of Compliance.

Within five (5) days of the ENE session, the evaluator shall file the Certificate of Compliance in the record, with a copy to the ADR Clerk, stating: the date of the session, whether any follow-up is scheduled, whether the case settled in whole or in part, and any stipulations the parties agree may be disclosed. In the event the matter is settled, counsel for the parties shall file a motion to dismiss, stipulation of dismissal, and/or consent judgment with the Court within twenty (20) days of the ENE session. The ADR Clerk shall inform the assigned Magistrate Judge in the event the matter is not settled.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

EXHIBIT A

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CIVIL ACTION

VERSUS

NO. ??

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HOLD HARMLESS AND
CONFIDENTIALITY AGREEMENT

We, the undersigned, do hereby agree that all proceedings at any mediation or early neutral evaluation (ENE) session authorized by the Mediation/ENE Order issued in this matter shall not be reported, recorded, placed in evidence, made known to the trial court or jury, or construed for any purpose as an admission. All communications/disclosures made during the ADR process – including but not limited to oral communications, documents, exhibits, or demonstrations – shall be deemed confidential and protected from further disclosure, except as is required by law to be disclosed, and such disclosures do not in any way constitute a waiver of any existing privileges or immunities.

Any disclosures made during private caucuses with the neutral may be freely used by the neutral during the ADR process unless the party making the disclosure designates specific, disclosed information as that which is confidential and not to be shared with any other party absent express consent from the disclosing party.

Notwithstanding this confidentiality agreement, we understand that the same facts which are revealed during the ADR session may be the subject of discovery inquiries made through normal discovery channels. However, statements made during the ADR session may not be used to impeach a participant, and the fact that these statements were made or revealed during the ADR session are not discoverable.

The undersigned parties and attorneys agree that we will not subpoena the neutral or request that the neutral testify about any matter discussed in the ADR session and that we shall indemnify,

hold harmless and forever defend the neutral as to any matter regarding the session, except as is provided in ADR Rule C-7, Local Rule 16.3.1M, ADR Appendix.

We further acknowledge that although the Court requires minimum qualifications in order for a neutral to be listed in the Register of Neutrals, the Court does not warrant the quality or competence of the neutrals selected and we agree to hold harmless the Standing Panel for Neutrals and the Court and its agents and assigns.

PARTIES:

Date _____ _____ Date _____

Date _____ Date _____

COUNSEL OF RECORD:

Date _____ Date _____

___ Date _____ Date _____

_____ **NEUTRAL(S):**

Date _____ Date _____

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