

**LOCAL RULES  
FOR THE  
UNITED STATES DISTRICT COURT  
WESTERN  
DISTRICT OF LOUISIANA**

Updated: 5/9/13

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## 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.

### **LR3.2 Suits Filed By Unrepresented Prisoners Regarding Civil Rights or Bivens or for Writs of Habeas Corpus**

#### Original Complaint

Every complaint filed by a prisoner who is not represented by an attorney (i.e., who is proceeding pro se) complaining of violation of their constitutional rights (including state prisoners and federal prisoners) or seeking a writ of habeas corpus 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 with the forms and complete the forms using only one side of the page. After completely filling out the court approved form, the prisoner may attach additional pages containing additional information. In cases asserting constitutional claims, however, no more than five typewritten or ten legible handwritten pages may be attached to the form. The pages shall be written or typed on one side of the page only and shall contain numbered paragraphs which correspond to the numbered paragraphs on the form. Complaints that do not comply with this rule and which are not corrected after notice may be stricken by the court.

#### Amendments

A prisoner may file an amendment to a complaint or habeas petition only one time without first obtaining leave of court. The amendment may be stated on the forms for original complaints supplied by the court if clearly labeled as an amendment. If the form is not used, the amendment shall not exceed five typewritten or ten legible handwritten pages. The pages shall be written or typed on one side of the page only and shall contain numbered paragraphs which correspond to the paragraph numbers on the original complaint form. A motion for leave to file a second or subsequent amendment must be accompanied by the proposed amendment.

#### Separate Complaints

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

#### In forma Pauperis



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 court, after notice, may strike all complaints that are not accompanied by either a filing fee or a proper *in forma pauperis* form.

Consent to Magistrate Judge Jurisdiction; Election Forms

The election regarding consent to magistrate judge jurisdiction required by LR 73.2 shall be attached to the petition at the time it is filed. *Amended December 3, 2004.*

**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.

**LR5.2 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.

**LR5.5 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.*

**LR5.6 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 13, 2001.***

**LR 5.7.01 Filing By Electronic Means**

The Clerk shall maintain an electronic record which will be the official record of this court. All documents filed by attorneys authorized to practice before this court on or after January 1, 2008, shall be in electronic form in accordance with the procedures established by this court. For good cause shown, an attorney may be granted an exemption from electronic filing and may file documents with the court in conventional form. All documents filed with the court in conventional form shall be converted to electronic form. NOTE: Please refer to the Administrative Procedures of the Court. **Amended July 24, 2008.**

**LR 5.7.02 Eligibility, Registration, Passwords**

Attorneys admitted to the bar of this court, including those admitted *pro hac vice*, Federal Public Defenders, and attorneys authorized to represent the United States, may register as Users of the Court's Electronic Filing System. Registration requires the User's name, address, telephone number, Internet e-mail address, and a declaration that the attorney is admitted to the bar of this Court and has received Court approved training in the use of the System.

Registration as a User constitutes consent to electronic service of all documents as provided in these rules and the Federal Rules.

Once registration is completed, the User will receive notification of his or her log-in and password. User agrees to protect the security of his or her password and immediately notify the clerk if he or she learns the password has been compromised. ***Adopted April 2005.***

**LR 5.7.03 Consequences of Electronic Filing**

Notice of Electronic Filing from the Court constitutes evidence of filing for all purposes, and entry of the document on the docket kept by the Clerk.

It shall be the User's responsibility to ensure all scanned documents are legible.

The official record shall be the electronic record. A document filed electronically is deemed filed on the date and time stated on the Notice of Electronic Filing sent from the Court. A document filed in paper form is deemed filed by the Court on the date the document is received by the clerk's office. ***Adopted April 2005.***

**LR 5.7.04 Entry of Court-Issued Documents**

Entry of an order or judgment electronically by the Court shall have the same force and effect as a conventional order or judgment signed by the Court.

When an order is issued as an entry on the docket without an attached document, such order shall

be served on the parties.

A summons may be signed, sealed, and issued electronically. A summons may not be served electronically. *Adopted April 2005.*

**LR 5.7.05 Attachments and Exhibits**

Exhibits and attachments may be filed electronically when permissible under the Federal Rules and Local Rules. When an attachment is in support of a filing, such exhibits or attachments shall be limited to pertinent excerpts unless the Court orders otherwise. *Adopted April 2005.*

**LR 5.7.06 Sealed Documents**

Documents ordered to be placed under seal may be filed conventionally or electronically. If filed conventionally, a paper copy of the order must be attached to the documents under seal and delivered to the Clerk. *Adopted April 2005.*

**LR 5.7.07 Retention Requirements**

Documents electronically filed which require original signatures other than that of the User must be maintained in paper form by the User for 1 year from the expiration of all time periods for appeals. *Adopted April 2005.*

**LR 5.7.08 Signatures**

The user log-in and password required to submit documents to the Electronic Filing System shall be the User's signature for all purposes. Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) indicating the consent of the parties who did not electronically file the document. Consent may be indicated by the filer by including an "s/ and the name of the consenting attorney(s)" on the document to be filed electronically (e.g. "S/John Doe," "s/Jane Smith," etc.). By using "s/ and another attorney's name" the filing attorney certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filing attorney has their actual authority to submit the document electronically. The filing attorney shall retain any records evidencing this concurrence for future production, if necessary, until 1 year from the expiration of all time periods for appeals. A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures or the authenticity of the signatures themselves must file an objection to the filing of the document within 14 days from service of the document. *Adopted April 2005; Amended November 18, 2008 and December 1, 2009.*

**LR 5.7.09 Service of Documents by Electronic Means**

The "Notice of Electronic Filing" automatically generated by the Court's Electronic Filing System constitutes proof of service of the filed document on Users. Parties who are not Users must be served in accordance with the Federal Rules and the Local Rules.

Sealed filings do not produce a "Notice of Electronic Filing." Service of any sealed document must be in accordance with the Federal Rules and the Local Rules.

A certificate of service must accompany all electronic filings. The certificate of service must identify the method of service upon each party. *New rule added April 2005.*

**LR 5.7.10 Notice of Court Orders and Judgments**

The entry of an order or judgment into the Electronic Filing System by the Court will generate a “Notice of Electronic Filing” to all Users in that action. The “Notice of Electronic Filing” constitutes the notice required by the Federal Rules. The clerk shall give notice to non-Users in accordance with the Federal Rules. *Adopted April 2005*

**LR 5.7.11 Technical Failures**

A User whose electronic filing is made impossible as the result of a technical failure in the Court’s Web Site may seek appropriate relief. *Adopted April 2005.*

**LR 5.7.12 Public Access**

In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court.

- a. **Social Security numbers.** If an individual’s Social Security number must be included in a pleading, only the last four digits of that number should be used.
- b. **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- c. **Dates of birth.** If an individual’s date of birth must be included in a pleading, only the year should be used.
- d. **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.
- e. **Home Addresses.** If home addresses are relevant, only the city and state should be used.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may

- a. file an unredacted version of the document under seal, or
- b. file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the filing or the reference list shall be retained by the Court. The Court

may require the party to file a redacted copy for the public record.

The responsibility for redacting personal identifiers rests solely with counsel and the parties. The Clerk will not review filing for compliance with this rule. *Adopted April 2005.*

### **LR 5.7.13 Hyperlinks**

Material accessed by hyperlink will not be a part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filing. NOTE: See the Court's Administrative Procedures for further information on hyperlinks. *Adopted April 2005.*

## **LOCAL CIVIL RULE 7 - PLEADINGS ALLOWED; FORM OF MOTIONS**

### **LR7.1 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.*

### **LR7.4 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 LR7.4.1 and LR7.4.1, 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.

### **LR7.4.1 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.

**LR7.5 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 21 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 at the discretion of the judge, or upon written ex parte motion served on all parties. *Amended on December 1, 2009.*

**LR7.6 Motions to Intervene, to Amend Pleadings, to File Third-Party Complaints and for Joinder in Actions Removed from State Court**

Any motion for leave to amend a pleading, intervene, or file a third-party complaint must be accompanied by a proposed order and contain a statement by the moving party (1) that the party has presented the proposed amendment or pleading to all parties who have an interest to oppose and (2) whether any party opposes the granting of the motion. The court may impose proper sanctions on a party or counsel who oppose such a motion without a good faith reason.

If no opposition is noted, the motion will be referred to the appropriate judge for consideration. If opposition is noted, the opposing party will be allowed an opportunity to file a memorandum in opposition or otherwise be heard before the motion is considered by the court. The proposed pleading for which leave to file is sought must be attached to the motion for leave, and if leave is granted, the proposed pleading is deemed filed without the necessity of any further order of the court.

If a motion for leave to amend proposes to add a party that may destroy diversity of citizenship in a case that was removed from state court based on diversity jurisdiction, the movant must notify the court of the issue and file a memorandum that sets forth facts relevant to the determination that will have to be made under 28 U.S.C. § 1447(e). *Amended, July 16, 2012. Combined LR7.6 and LR7.7.*

**LR7.8 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.

**LR7.9 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(g)*, 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.

*Amended number on June 26, 2004.*

## **LOCAL CIVIL RULE 10 - FORM OF PLEADINGS**

### **LR10.1 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.

### **LR10.2 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**

### **LR11.1 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 LR83.2.6. 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



- (2) 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**

### **LR16.3.1 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. *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.

**LR16.7 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.

**LR16.8 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.

**LR16.9 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.

*Amended as to title only on December 1, 2009.*

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

**LR26.1 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*

**LR26.2 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.

**LR26.5 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.*

**LR26.6 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.

**LR26.7 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 June 28, 2002.*

**LR26.8 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**

**LR33.1 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 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.

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

**LR37.1 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 refileing 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. *Amended June 26, 2004.*

### LR41.3 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 14 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 2001 and on December 1, 2009.*

## 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.

**LR45.3 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 seven 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. *Amended on December 1, 2009.*

## **LOCAL CIVIL RULE 47 - JURORS**

### **LR47.1 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.

### **LR47.5 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**

#### **LR51.1 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 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. *Amended on December 1, 2009.*

### **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.

#### **LR54.4 Objections**

Specific objections may be made within seven days to any item of costs supported by affidavit or other evidence, which may be rebutted. The clerk shall thereupon tax the costs. **Amended December 1, 2009.**

**LR54.5 Review of Taxation of Costs**

A dissatisfied party may request within seven days that the court review the action of the clerk, in accordance with *FRCvP 54(d)*. **Amended December 1, 2009.**

**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.

**LR54.10 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**

**LR55.1 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 14 calendar days after entry of default.

***Amended June 28, 2002 and on December 1, 2009.***

**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.

### **LR56.2 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. 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. **Amended June 28, 2002.**

## LOCAL CIVIL RULE 65 - INJUNCTIONS

### **LR65.1 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 26, 2004 and 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

### **LR67.1 Receipt and Deposit of Registry Funds**

All funds received in the registry of the court in civil cases whose principal sum is more than \$1,000 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 \$1,000 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. **Amended November 2010.**

### **LR67.2 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.

### **LR67.3 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 Western District, 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. However, due to privacy issues, the Social Security number or Tax I.D. number should not be put in the "Order for Disbursement." Such numbers should be put in a separate letter addressed to the Clerk's Office.

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 Western District, it shall be the responsibility of the moving party to verify that the funds have been paid within a reasonable time.  
**Adopted February 6, 2006.**

## **LOCAL CIVIL RULE 72 - MAGISTRATE JUDGES; PRETRIAL ORDERS**

### **LR72.1 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)(1)(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**

### **LR73.1 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.

### **LR73.2 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.

#### **LR73.2.1 Consent and Referral to Magistrate Judge in Prisoner, Detainee and Habeas Cases**

The special procedures set forth hereinafter apply to: (1) applications made pursuant to 28 U.S.C. § 2254 for post-trial relief by an individual convicted of state criminal offenses; (2) prisoner and detainee cases brought pursuant to 42 U.S.C. § 1983; (3) prisoner and detainee cases brought pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 91 S.Ct. 1999 (1971); (4) applications for relief under 28 U.S.C. § 2241; and (5) claims by a prisoner or a detainee brought pursuant to the Federal Tort Claims Act, 28 U.S.C. 2671, *et. seq.*

In any case where LR3.2 requires that a complaint or petition be filed on a court approved form each

petitioner shall, at the time the petition or complaint is filed, indicate on the appropriate page of the form whether or not petitioner consents to the exercise by a magistrate judge of civil jurisdiction over the case, as authorized by 28 U.S.C. § 636(c). The election shall be filed with the petition or complaint. In all other cases governed by this rule the Clerk shall, immediately upon the filing of the petition or complaint, provide each petitioner with a court approved form notifying each petitioner of their opportunity to consent to the exercise of civil jurisdiction pursuant to 28 U.S.C. § 636(c). In a case not governed by LR3.2 the petitioner must make an election and return the form to the Clerk within 21 days of the Clerk's depositing of the form in the U.S. mail.

Any petitioner is free to elect to not consent to the exercise of jurisdiction by the magistrate judge without adverse substantive consequences. However, each petitioner must make a timely election. If a petitioner fails to make an election and deliver it to the Clerk in a timely manner, that petitioner will be considered as having consented in fact to the magistrate's exercise of case-dispositive jurisdiction.

Upon the initial appearance by a defendant the Clerk shall provide that defendant with a court approved form notifying each defendant of their opportunity to consent to the exercise of civil jurisdiction pursuant to 28 U.S.C. § 636(c), and requiring the defendant to elect whether or not the defendant consents to the exercise by a magistrate judge of such jurisdiction. The defendant is free to elect to not consent to the exercise of such jurisdiction by the magistrate judge without adverse substantive consequences. However, the defendant must make the election and deliver it to the Clerk within 21 days of the Clerk's depositing of the form in the U.S. mail. If a defendant fails to make an election and return it to the Clerk in a timely manner, that defendant will be considered as having consented in fact to the magistrate's exercise of case-dispositive jurisdiction.

A district judge or magistrate judge shall not be informed of a party's election unless all parties have consented, either in writing or in fact, to the referral of the matter to the magistrate judge.

If all parties have consented to a magistrate judge's exercise of jurisdiction pursuant to 28 U.S.C. § 636(c), either in writing or in fact, the district judge to whom the case has been assigned may refer the case to the magistrate judges for the exercise of such jurisdiction. Subsequent to the order of reference any party that has not consented in writing may, prior to making a post-referral appearance, file a written objection to the referral, and, in that case the district judge will vacate the order of reference. However, any party that makes an appearance subsequent to the order of reference without written objection to the reference shall be conclusively presumed to have consented to the magistrate judge's exercise of jurisdiction pursuant to 28 U.S.C. § 636(c). Unless and until all parties who have not expressly consented to the magistrate judge's exercise of jurisdiction have made such a post-reference appearance conclusively establishing their implied consent to the magistrate judge's exercise of jurisdiction, the magistrate judge shall not exercise jurisdiction or powers under 28 U.S.C. § 636(c). *Adopted May 2005. Amended December 1, 2009.*



### **LR73.3 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.

### **LR73.4 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)* [**Repealed**];
- 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* [**Repealed**] and *28 USC 2207* [*sic*] (*Correct site: 28 USC 2007*);
- 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* [**Repealed**]; 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* [**Repealed**]; conduct hearings of offenses arising under *46 USC 701* [**Repealed**], 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*.

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

### **LR74.1 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 14 days after being served with 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 LR7.9. 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 14 days after being served with 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 14 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 and on December 1, 2009.*

## **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.*

**LR77.3 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 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**

**LR78.1 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. *Amended August 29, 2002.*

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

**LR79.1 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.

**LR79.2 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 civil cases 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. *Amended May 18, 2004 and June 26, 2004.*

**LOCAL CIVIL RULE 83.2 - ATTORNEYS**

**LR83.2.1 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.

**LR83.2.2 Eligibility**

Any member of the Bar of the Supreme Court of Louisiana who is in Good Standing with that Court is eligible for admission to and practice before this Court. Should any member's status as being in Good Standing in Louisiana lapse at any date for any reason, then his/her right to practice in this Court shall be deemed lapsed as of the same date. However, any member whose status in Good Standing lapses for reasons other than disciplinary may, nonetheless, still apply for admission *pro hac vice*. *Amended May 2013*

### **LR83.2.3 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.

### **LR83.2.4 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.

### **LR83.2.6 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 a court of the United States or the highest court or bar of the state where the attorney has been admitted showing 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 \$105.00 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 also bear the signature of local counsel admitted to practice in the Western District of Louisiana and 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, April 2011 and August 2012.*

#### **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;
- 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.

#### **LR83.2.10 Attorney Discipline**

##### *A. Initiation of Disciplinary Proceedings*

1. Any judge of this Court may initiate disciplinary proceedings, including fine, suspension or disbarment, pursuant to this section. The judge may take action directly under subsection B 2. of this rule or, when appropriate, by submitting the matter to a Special Master, a United States Magistrate Judge or the Chief Judge of this court for a hearing prior to action under subsection B.2.
2. A complaint of attorney misconduct initiated by one other than a judge of this Court shall be filed in writing under oath with the Clerk of the Court, who shall immediately refer the matter to the Chief Judge or the Chief Judge's Article III designee, who shall make such inquiry as is appropriate. The Chief Judge or his designee shall then report to the active judges of this Court his recommended findings of fact and proposed action pursuant to subsection B 2.
3. Any person admitted to practice before this court shall give written notice to the Clerk of Court of any adverse action affecting his or her practice of law within thirty (30) days of such adverse action, including copies of the documents of the Louisiana Supreme Court, or any other acting body, declaring the adverse action. In this context "adverse action" is defined as (a) the filing of formal public charges against him or her by any bar association or committee thereof; (b) issuance of a public reprimand, fine, suspension or disbarment by any court or bar association or any committee thereof; or (c) the conviction of any felony or of any misdemeanor involving such person's practice of law. The Clerk of Court shall refer all notices of adverse action to the Chief Judge or Article III designee of the Chief Judge.

### *B. Disciplinary Action*

1. If another federal court or the Supreme Court of the State of Louisiana takes adverse action against an attorney in the form of a suspension or disbarment of such attorney, this Court may take the same action against such attorney in this court. Nothing in this provision shall prevent this Court, by majority vote, from taking different action as a result of such adverse action by such other court.
2. All other disciplinary proceedings initiated under Section A above shall be submitted to the active judges of this Court. Action on the proceedings shall be by a majority vote of the active Article III judges of this Court in a regular or special meeting or in conference call.

### *C. Temporary Suspension*

Any judge of this Court may, pursuant to the inherent powers of the Court, the **Federal Rules** or the **United States Code**, fine or suspend for a period not to exceed ninety (90) days, for good cause shown, any member of the bar of this Court without regard to any of the formalities set forth above in this rule, in addition to the right of the Court to exercise judicial control as set forth in Section E of this rule.

### *D. Re-Admission*

1. In the event of disbarment.
  - (a) In the event that any member of the bar of this Court has been disbarred, he or she may petition the active judges of this Court for re-admission by filing a petition for re-admission with the Clerk of Court setting forth the reasons for the original disbarment, including copies of the documents of the Louisiana Supreme Court, or any other acting body, declaring the attorney disbarred, and the reasons why re-admission should be granted, and
  - (b) The petition for re-admission shall be submitted to the active judges of this Court who shall either grant or deny the petition or refer the same to a Special Master of Magistrate Judge for a report and recommendation. Final action shall be by majority vote of the active judges of the Court as provided in (d)(1)(D) and (E).
  - (c) No petition for re-admission shall be filed sooner than two (2) years from the date of the disbarment or from the date of a denial of a petition for re-admission, unless the order denying the petition for re-admission specifies another time period.
  - (d) A decision on re-admission shall be made by a majority vote of all active Article III judges after consultation at a regular or special meeting or by telephone conference.
  - (e) An attorney may, in the event of exigent circumstances, and documentation with good cause shown, petition the Court for review in an expedited fashion. Such request shall include full written reasons for the stated request. Failure to comply fully with all filing requirements will result in the filing being denied as insufficient by the Clerk of Court and returned without review. Upon receipt of properly filed documents for request for expedited review, the Clerk of Court shall forward the petition and all accompanying and all relevant documentation, including copies of the documents of the Louisiana Supreme Court, or any other acting body, declaring the attorney disbarred, in normal course, to the Chief Judge who will, within his or her discretion, determine if expedited review is warranted. Request for expedited review in no way entitles the filer to expedited review.

(f) If the Chief Judge determines expedited review is warranted, he or she shall proceed as in subsection B 2.

2. In the event of suspension.

(a) If a member of this bar is suspended, the member of the bar so suspended must file a petition for reinstatement setting forth the reasons for the original suspension, including copies of the documents of the Louisiana Supreme Court, or any other acting body, declaring the attorney suspended, and the reasons why reinstatement should be granted.

(b) If a definite time is set in the order of suspension, a petition for reinstatement may be filed after the passing of such time.

(c) If no time is set in the order of suspension, a petition for reinstatement by a suspended bar member may not be filed sooner than two (2) years after the order of suspension or two (2) years from the date of denial of a previous petition for reinstatement, unless the previous order denying reinstatement sets forth a different time period.

(d) A decision on reinstatement shall be made by a majority vote of the judges after consultation, either at a regular or special meeting or by telephone conference.

(e) An attorney may, in the event of exigent circumstances, and documentation with good cause shown, petition the Court for review in an expedited fashion. Such request shall include full written reasons for the stated request. Failure to comply fully with all filing requirements will result in the filing being denied as insufficient by the Clerk of Court and returned without review. Upon receipt of properly filed documents for request for expedited review, the Clerk of Court shall forward the petition and all accompanying and all relevant documentation, including copies of the documents of the Louisiana Supreme Court, or any other acting body, declaring the attorney suspended, in normal course, to the Chief Judge who will, within his or her discretion, determine if expedited review is warranted. Request for expedited review in no way entitles the filer to expedited review.

(f) If the Chief Judge determines expedited review is warranted, he or she shall proceed as in subsection B 2.

#### *E. Judicial Control*

Nothing in this rule shall be read to limit the inherent powers of a judge to control litigation, nor to limit the powers to impose fines, penalties and sanctions granted under the **Federal Rules, United States Code** or as otherwise authorized by law. Imposition of fines, penalties and sanctions otherwise so authorized may occur, without the imposing judge being required to “initiate disciplinary proceedings” within the meaning of Section A of this rule. *Adopted December 3, 2004.*

#### **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

**LR83.2.14 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.*

#### **LR83.2.15 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 November 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, record-

ing 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.

**LR83.3.12 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.

**LR83.3.13 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 reallocation of the case.

#### **LAR4.1.1 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**

#### **LAR64.1 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 of interest in or right against the property is hereby extended for a period of 21 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 21 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 21 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 and on December 1, 2009.*



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

**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**

#### **LCrR5.1 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.*

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

#### **LCrR23.1 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**

#### **LCrR32.1 Sentencing**

- A. Not less than 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. The presentence report and addendum, along with the written statement of reasons of the district court for imposition of sentence as required by 18 U.S.C. §3553(c), shall be filed in the record under seal by the Court immediately after sentencing. *Amended December 2010.*

### **LCrR32.2 Presentencing Memoranda**

All presentencing memoranda shall be filed by counsel under seal within the time frame designated by the sentencing judge, with a confidential copy submitted directly to the Probation Office. The submission of a presentencing 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(f)(1). *Amended November 18, 2008 and December 2010.*

## **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 dissemination 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.

**LCrR53.8 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.*

**LCrR53.9 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.

### **LCrR 55 Records**

All exhibits in criminal cases in the custody of the Clerk shall be maintained for purposes of appeal and post conviction relief, until the sentence and any probation conditions imposed have been satisfied. *Enacted October 12, 2012.*

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

### **LCrR58.2 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)*.

**LCrR58.3 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.

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