

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
CIVIL AND CRIMINAL LOCAL RULES**  
**Effective: May 7, 2024**

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## **LOCAL CIVIL RULE 3 - COMMENCEMENT OF ACTION**

### **LR3.1 Collateral Proceedings and Refiled Cases**

Parties represented by counsel who commence an action by filing a complaint or notice of removal must complete and file a Civil Cover Sheet (Form JS44). All parties must file written notice of any related civil, criminal, or administrative proceeding.

### **LR3.2 Suits Filed By Unrepresented Persons in State or Federal Custody Regarding Civil Rights or Writs of Habeas Corpus**

#### **Civil Rights Complaints**

##### **Original Complaint regarding Civil Rights**

Every complaint filed by a person in state or federal custody who is pro se (not represented by an attorney) complaining of violation of their constitutional rights by a state or federal official must be typed or legibly written on forms supplied by the court and signed by the detainee. The detainee must follow the instructions provided with the forms and complete the forms using only one side of the page.

The detainee may attach no more than five typewritten or ten legible handwritten additional pages, with typing or writing on only one side of the page. Complaints that do not comply with this rule and are not corrected after notice may be stricken by the Clerk of Court.

##### **Separate Complaints regarding Civil Rights**

Detainees may not file joint complaints. Each detainee must file an individual complaint. No detainee may represent another detainee.

##### **In Forma Pauperis Status**

A detainee who is unable to pay the filing fee may file a motion to proceed in forma pauperis. The motion must be filed on a form approved by the court. The Clerk of Court, after notice, may strike a complaint that is not accompanied by either the filing fee or a proper motion to proceed in forma pauperis.

#### **Writs of Habeas Corpus**

##### **Original Petition Writs of Habeas Corpus**

Every original Petition filed by a person in state or federal custody who is proceeding pro se (not represented by an attorney) seeking a writ of habeas corpus under 28 U.S.C. § 2241 or 28 U.S.C. § 2254 or § 2255 must be typed or legibly written on forms supplied by the court and signed by the detainee. The detainee must 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 detainee may attach additional pages containing additional information.

### **Separate Complaints regarding a Writ of Habeas Corpus**

Detainees may not file joint petitions. Each detainee must file an individual petition. No detainee may represent another detainee.

### **In Forma Pauperis Status**

A detainee who is unable to pay the filing fee may file a motion to proceed in forma pauperis. The motion must be filed on a form approved by the court. The Clerk of Court, after notice, may strike a petition that is not accompanied by either the filing fee or a proper motion to proceed in forma pauperis.

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

### **LR5.1 Place of Filing**

All filings must be filed electronically with the office of the clerk. For good cause shown, an attorney may be granted an exemption from electronic filing and may file documents with the court in conventional paper form. All documents filed with the court in conventional paper form will be converted to electronic form.

### **LR5.2 Advance Payment Required**

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

### **LR5.4 Deposit for Service**

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

### **LR 5.7.02 Eligibility and Registration**

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, must request electronic filing access to the Court through PACER. Registration is available through PACER at [www.pacer.gov](http://www.pacer.gov).

### **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 is the User's responsibility to ensure all scanned documents are legible.

The official record is 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.

**LR 5.7.04 Entry of Electronic Orders**

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

**LR 5.7.05 Attachments and Exhibits**

Exhibits and attachments must be electronically filed when possible. Objects that cannot be electronically filed should be filed as a manual exhibit with the clerk's office.

**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.

**LR 5.7.08 Signatures**

The user log-in and password required to submit documents to the Electronic Filing System is 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 must 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.

**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.

**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 must give notice to non-Users in accordance with the Federal Rules.

### **LR 5.7.12 Public Access**

Parties must ensure that all filings comply with the E-Government Act of 2002, FRCP 5.2, and other rules that govern the filing of personal data identifiers such as an individual's social-security number, taxpayer-identification number, birth date, the name of an individual known to be a minor, or a financial-account number. The responsibility for redacting personal identifiers rests solely with counsel and the parties. The Clerk will not review filing for compliance with this rule.

### **LR 5.7.13 Hyperlinks**

Material accessed by hyperlink are not 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.

## **LOCAL CIVIL RULE 7 - MOTIONS AND MEMORANDA**

### **LR 7.1 Memorandum; Requirement, Contents and Length**

Except as provided in these rules, a motion must be supported by a memorandum. A memorandum in support of or in opposition to a motion may not exceed 25 pages, exclusive of a table of contents or table of authorities. A reply memorandum may not exceed 10 pages. A judge may grant leave to exceed these limits in an extraordinary case.

Any memorandum that exceeds 10 pages must contain (1) a table of contents with page references and (2) a table of cases (arranged alphabetically), statutes, and other authorities cited, with page references.

### **LR 7.2 Motions Not Requiring a Memorandum (Ex Parte Motions)**

A memorandum is not required for the following motions: (1) for extension of a deadline; (2) to continue a conference, hearing, or trial; (3) to amend or supplement a pleading; (4) a joint motion to dismiss or consolidate; and (5) to withdraw as counsel.

The motion must nonetheless explain the factual basis for the relief requested and cite any applicable legal authority.

### **LR 7.3 Proposed Orders**

A proposed order on a separate page must accompany an ex-parte motion, a discovery motion, and any other motion except a motion for summary judgment or any motion filed under Rule 12.

### **LR 7.4 Notice of Motion Setting; Briefing Deadlines**

If a motion is contested, the clerk of court will ordinarily issue a Notice of Motion Setting that provides briefing deadlines, chambers copy requirements, and related information. A judge may order other instructions with respect to a motion.

If no Notice of Motion Setting issues and the judge does not order briefing instructions, the default rule is that a memorandum in opposition may be filed within 14 days after a motion is filed, and a reply memorandum may be filed within seven days after the opposition is filed.

#### **LR7.4.1 Certificate of Conference**

Except for any case governed by LR3.2, prior to filing any non-dispositive motion, the moving party must confer with any interested party and try to resolve the relevant issues, in whole or in part, without court intervention. A certificate discussing the substance of the parties' conference must be included in the motion. If the interested party is non-responsive, the certificate of conference must state the efforts made by the movant to confer. The Court may impose sanctions for failing to timely communicate with opposing counsel.

#### **LR 7.5 Motions to Amend, Supplement, Intervene or file Third-Party Complaint; New Parties in Diversity Cases**

A motion for leave to file a complaint in intervention, third-party complaint, amended complaint, or other amended or supplemental pleading must be accompanied by the proposed pleading. If the case is based on diversity jurisdiction, the proposed pleading must allege the citizenship of any new party. In cases where a proposed intervenor is a Limited Liability Company, the citizenship and domicile of every LLC member must be provided.

If, in a case that was removed from state court based on diversity jurisdiction, a motion proposes to add a party that may destroy diversity of citizenship, 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). If the Rule 7.2 certificate notes opposition, 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.

#### **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).

**LR7.6.1 Amended Pleadings**

Except as permitted under Federal Rule of Civil Procedure 10(c), all amended pleadings must be restated in full and must not incorporate any prior pleading by reference.

**LR7.8 Briefs**

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

**LOCAL CIVIL RULE 10 - FORM OF PLEADINGS****LR10.1 Form: Statement Regarding Filing of Papers**

Papers offered for filing must be on 8 1/2" x 11" paper, paginated, and double spaced except that footnotes and quotations may be single spaced.

Papers must have a caption that includes the division, the district judge and the magistrate judge to whom the case is assigned, and the information required by Federal Rule of Civil Procedure 10.

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

**LR10.2 Consolidated Cases**

A motion to consolidate must be filed in the lowest numbered case. The clerk of court will file notice of the motion in the other cases to ensure notice to all affected parties. A judge assigned to the lowest numbered case will decide the motion. If consolidation is granted, the clerk of court will transfer higher number cases to the Article III Judge of the Division having the earliest number, unless the Court orders otherwise.

The caption of all papers filed after consolidation must bear the caption of the lowest numbered case in the group and the word consolidated. That caption will continue to identify the consolidated cases even if the lead case is closed.

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

### **LR11.1 Signing of Pleadings, Motions and Other Papers**

Every pleading, written motion, or other paper must, 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 must 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 must be the same as the number assigned by the Supreme Court of Louisiana. Otherwise, the Attorney Identification Number must be the number assigned by this court.

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

Each attorney and pro se litigant have a continuing obligation to promptly notify the court in writing of any address change.

### **LR11.2 Lead Attorney**

On first appearance through counsel, each party must designate a Lead Attorney. The Lead Attorney is responsible for the party and must attend all conferences and court proceedings or send a fully informed co-counsel who is enrolled in the case and has authority to bind the client.

## **LOCAL CIVIL RULE 16 - PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT**

### **LR16.3.1 Alternative Dispute Resolution**

Both before the initial Rule 26(f) conference and within 60 days after the deadline for close of discovery, counsel must discuss with their clients and opposing counsel the appropriateness and timing of alternative dispute resolution (ADR).

When the presiding judge in any civil matter determines that a settlement conference, mediation, or other method of ADR may assist in the resolution of a case, the presiding judge may refer the case to ADR either on motion of the parties, or *sua sponte*. If the parties agree upon an ADR method or provider, the court will respect the parties' agreement unless the presiding judge finds that another ADR method or provider is better suited to the case and parties.

The parties or party representatives with full settlement authority, as well as any other persons necessary to affect a settlement (such as insurance carriers), must attend all ADR proceedings. ADR proceedings shall remain confidential.

**LR16.4 Notice of Settlement to Clerk**

Whenever a civil case is settled or otherwise disposed of, counsel must 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 must also explicitly inform the foregoing of the remaining parties and unsettled claims.

**LR16.8 Absence of Material Witness**

Every motion for a continuance upon the ground of the absence of a material witness must be accompanied by the affidavit of the party applying therefor, or his or her attorney, setting forth the efforts made to procure attendance and the facts he/she expects to prove by such witness.

**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 26 - GENERAL PROVISIONS  
GOVERNING DISCOVERY; DUTY OF DISCLOSURE**

**LR26.2 Format of Discovery Responses**

Every response or objection to a written discovery request must be preceded by the full text of the request.

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

A motion concerning a discovery dispute must include as an exhibit the discovery requests and responses or objections that are at issue.

**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 must be filed with the clerk.

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

**LR37.1 Discovery Motions**

A motion relative to discovery will not 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 must

arrange the conference. A proposed order must 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 a filing, the caption must include "Jury Trial Demanded."

### **LOCAL CIVIL RULE 41 - DISMISSAL OF ACTIONS**

#### **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 90 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 will not apply if the cause is awaiting action by the court.
- D. Where an attorney or pro se litigant fails to notify the court in writing of an address change when 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.

Prior to issuance of a dismissal, notice will be sent to the plaintiff, and plaintiff will be allowed 30 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 is shall be without prejudice. The Order of Dismissal will allow for reinstatement of the civil action within 30 days for good cause shown.

### **LOCAL CIVIL RULE 43 - TAKING OF TESTIMONY**

#### **LR43.1 Oral Testimony on Hearing of Motion**

Oral testimony must not be offered at the hearing on a motion without prior authorization from the court, and counsel must 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 may 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**

**LR45.2 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.

**LOCAL CIVIL RULE 47 - JURORS**

**LR47.3 Argument of Law to Jury Prohibited**

In the argument of any case to a jury, counsel must 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 must 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 Contact with Jurors**

No party or their attorney will, 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. Further:

- 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 contact a juror after such juror has expressed a desire not to be contacted;
- C. No juror or alternate may agree to an interview conducted for the purpose of obtaining evidence of improprieties in the jury's deliberation.
- D. Jurors who consent to be interviewed may not disclose any information with respect to:
  - (i) the specific vote of any juror other than the juror being interviewed; or
  - (ii) the deliberations of the jury.

**LOCAL CIVIL RULE 51 - INSTRUCTIONS TO JURY; OBJECTION**

**LR51.1 Jury Instructions**

When a trial is to be held before a jury, unless the Court orders otherwise, counsel for all parties must 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 must be supported by a memorandum of authorities. The joint and separate proposed jury instructions must be filed with the clerk of court and a copy must 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 must not be interpreted or enforced to prevent a party from filing written requests pursuant to *FRCvP 51* at the close of evidence or at such earlier time during trial as the court may reasonably direct.

## **LOCAL CIVIL RULE 54 - JUDGMENTS; COSTS**

### **LR54.1 Costs**

Whenever any civil action scheduled for jury trial is settled or otherwise disposed of prior to trial, then, except for good cause shown, juror costs, including marshal's fees, mileage and per diem, will 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.

### **LR54.3 Bill of Costs with Memorandum**

Within 30 days after receiving notice of entry of judgment, unless otherwise ordered by the court, the prevailing party in whose favor judgment is rendered, must serve on the attorney for the adverse party and file with the clerk a Bill of Costs and memorandum in support of costs signed by the attorney of record stating that the items are correct and that the costs have been necessarily incurred in the case. The memorandum in support of costs must explain how costs were incurred and how they were used in the case. A party who fails to file a memorandum in support of costs may have their costs denied by the clerk.

### **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 will thereupon tax the costs.

### **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 *FRCP 54(d)*.

### **LR54.6 Security for Costs**

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

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

Whenever any party pays into the court an amount of money which fully satisfies any judgment or decree in principle, 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, will 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 must 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 will be filed or entered until all fees of the marshal and the clerk have been paid. It is 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 *FRCP 55*, the following rules apply to default judgments:

- A. All requests for entry of default must be made to the clerk in writing;
- B. The clerk will send notice of entry of default to each defendant or the defendant's attorney at their last known mailing or email address;
- C. A judgment of default will not be entered until 14 calendar days after entry of default.

**LOCAL CIVIL RULE 56 - SUMMARY JUDGMENT**

**LR56.1 Motions for Summary Judgment**

Motions for summary judgment must be accompanied by a memorandum. The memorandum must contain:

- (1) The legal basis on which the mover is entitled to judgment;
- (2) The material facts that the mover contends are not genuinely disputed; and
- (3) A pinpoint reference to the document or other exhibit that establishes each such fact.

**LR56.2 Opposition to Summary Judgment**

A memorandum in opposition to a motion for summary judgment must contain:

- (1) The material facts that the opponent contends are genuinely disputed; and
- (2) A pinpoint reference to the document or other exhibit establishing that each such fact is genuinely disputed.

**LOCAL CIVIL RULE 58 - ENTRY OF JUDGMENT**

**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 affect 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 must attach to the petition a copy of each state court opinion and judgment involving the matter to be presented. The petition must 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 must also be attached. If reasons for the ruling were not given in a written opinion, a copy of the relevant portions of the transcript must be supplied.
- B. If any issue is raised that was not raised, or has not been fully exhausted, in state court, the petition must state the reasons why such action has not been taken.
- C. This court's opinion in any such action will 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 will be allotted to the judge who considered the prior matter.

### **LR62.2 Supersedeas Bond**

A supersedeas bond staying execution of a money judgment will 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.

## **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 must be made in a document separate from the complaint. An application for a temporary restraining order must 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.

## **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. 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.

### **LR67.2 Form of Order**

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

### **LR67.3 Disbursement of Registry Funds**

Funds will be disbursed from the registry of the court only upon order of a judge of this court. It is 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 will 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 will 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 must be accompanied by a proposed order which must 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. For non-interpleader funds, counsel must also provide the Social Security number or Tax I.D. number 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 or emailed to [lawd\\_financial@lawd.uscourts.gov](mailto:lawd_financial@lawd.uscourts.gov).

On all checks drawn by the clerk on registry funds, the name of the payee must 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. It is the responsibility of the moving party to verify that the funds have been paid within a reasonable time.

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

### **LR72.1 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 will 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 will refer cases to the magistrate judges in accordance with standing orders issued by the judge to whom the case is assigned.

### **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 will order the entry of a final judgment. In the course of conducting such proceeding, a magistrate judge will 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 cases;
- B. Conduct voir dire and select petit juries for the court;
- C. 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;
- D. Order the exoneration or forfeiture of bonds;
- E. Conduct examinations of judgment debtors in accordance with *FRCP 69*;
- F. Conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act;
- G. Issue attachment or order to enforce obedience to an Internal Revenue Summons to produce books and give testimony under 26 USC 6704(b);
- H. Review appeals of Social Security and Employee Retirement Income Security Act (E.R.I.S.A.) cases and submit a report and recommendation to the district court;
- I. Enter a scheduling order and modify a scheduling order upon a showing of good cause under *FRCP 16(b)*;
- J. Issue Order for Service by Publication under 28 USC 1655;
- K. Issue appropriate Orders for Execution of Judgment;
- L. Issue Orders confirming sales by the U.S. Marshal under 28 USC 2001 and 2004.

## **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 will 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 must 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 must satisfy the judge that this has been done.

### **LR77.3 Administrative Divisions**

Pursuant to 28 U.S.C. § 98(c), the parishes comprised of the Western District of Louisiana are assigned to the divisions as follows:

*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, DeSoto, Red River, Sabine, and Webster.

## **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 will 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 will be removed within 30 days of the final disposition of the case. The party offering exhibits will be responsible for their removal and must 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 must first ensure that it is marked for identification.

## **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.

### **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 practice before this Court. Should any member's status of being in Good

Standing with the Bar of the Supreme Court of Louisiana lapse at any date for any reason, then his/her right to practice in this Court will be deemed lapsed as of the same date.

### **LR83.2.3 Procedure for Admission**

- A. In General. Each applicant for admission to the bar of this court must file an online application at [www.pacer.gov](http://www.pacer.gov) using his or her upgraded individual PACER account and endorsed by one member of the bar of this court listing the applicant's domicile 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. Oath, fees, time to complete application. 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. Petitioner will , 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.
- C. Payment of triennial fee. In addition to the fee paid upon admission to the bar of this Court, every attorney admitted must pay a fee of \$45.00 every three years to the Clerk of Court. The triennial fee will be due in the month the attorney was first admitted to this court. As the fee comes due, an attorney will receive an email giving them notice that the payment is due within 30 days. If not paid, an attorney will be moved to inactive status after a final payment notice has been sent to the attorney's last known email address for noticing. Attorneys admitted in the second or third year of any triennial period, will not be required to make payment until the next triennial period.
- 1) Any attorney moved to inactive status under the provisions above will be automatically reinstated without further notice upon payment of fees.
  - 2) An attorney who has retired or is not engaged in the practice of law before this Court may advise the Clerk of Court in writing that the attorney desires to assume inactive status and discontinue the practice of law before this Court. Upon the filing of such a notice, the attorney will be moved to inactive status. An attorney in inactive status will no longer be eligible to electronically file in this court and will not be obligated for further payment of the fee prescribed herein. Reinstatement to active status will be granted (unless the attorney is subject to an outstanding order of suspension or disbarment) upon the payment of any fees due as prescribed by this Rule.
  - 3) The fees and costs paid pursuant to these Rules will be maintained by the Clerk of Court as trustee thereof in separate interest bearing, federally insured accounts with

such depositories as the court may from time to time approve or invest in obligations of the United States. Funds so held will be disbursed only pursuant to the orders of the court and at no time will they be deposited into the Treasury of the United States.

- D. Appearance on Behalf of the United States. Any attorney representing the United States or any agency thereof, having the authority of the government to appear as its counsel, may appear specially and be heard in any case in which the government or such agency is a party, without formal or general admission. Attorneys covered under this section are exempt from payment of any fees for admission, membership renewal or pro hac vice appearance while so employed.

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

The applicant attorney must pay a \$105.00 fee to the clerk of court and must 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 are responsible to the court at all stages of the proceedings.

Designation of the visiting attorney as "Lead 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.

#### **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 must be familiar with these rules. Willful failure to comply with any of them, or a false certificate of compliance, will 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 Article III, Magistrate, or Bankruptcy judge of this District may take action to initiate attorney disciplinary proceedings in accordance with this rule.
2. A complaint of attorney misconduct initiated by one other than a judge of this Court must be filed in writing under oath with the Clerk of the Court, who will immediately refer the matter to the Chief Judge or the Chief Judge's Article III or Magistrate Judge designee for review and the imposition of disciplinary action if appropriate.
3. An attorney admitted to practice before this court must 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 providing copies of the documents from 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 will refer all notices of adverse action to the Chief Judge or Article III designee of the Chief Judge.

##### *B. Disciplinary Action*

1. Suspension or disbarment imposed by other courts:  
If another federal court or the Louisiana Supreme Court 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 the attorney by signature of the Chief Judge. Nothing in this provision will prevent this Court, by majority vote, from taking a different action.
2. Fines or suspensions of 90 days or less imposed by this District;

An Article III, Magistrate, or Bankruptcy judge may impose on a member of the bar of this court fines or suspension of 90 days or less without having to seek the approval of the Article III judges of the court or the Chief Judge.

3. Suspensions of greater than 90 days or disbarments imposed by this District:  
An Article III, Magistrate, or Bankruptcy judge of this District must refer proposed suspensions of greater than 90 days or disbarments of attorneys to the Chief Judge or the Chief Judge's Article III designee to investigate and determine a recommended action to take against the attorney. After notice to the attorney and an opportunity to be heard, the Chief Judge or his or her designee must present any recommended action against the attorney to the Article III judges of this Court. A majority vote of the Article III judges must then be taken on the recommended action at a general or special meeting or by email vote.

#### *C. Reinstatement and Readmission*

1. Reinstatement after a suspension of one year or less:
  - (a) Once an attorney has served an active suspension of one year or less pursuant to disciplinary proceedings, the attorney may file a petition for reinstatement with this Court setting forth that the attorney has fully complied with the requirements of the suspension order and the reasons why reinstatement should be granted. The attorney must provide copies of the documents from the Louisiana Supreme Court, or any other acting body, showing why the attorney was suspended, and when reinstated.
  - (b) A decision on reinstatement will be made by a majority vote of the Article III Judges after consultation at a general or special meeting or by email vote.
2. Reinstatement after a suspension of more than one year and readmission after disbarment:
  - (a) In the event that a member of the bar of this Court has been suspended more than one year or disbarred, the attorney may file a petition for reinstatement or readmission with this Court setting forth the reasons why reinstatement or readmission should be granted and providing documentation of the original suspension of more than one year or disbarment and copies of any action by the Louisiana Supreme Court, or any other acting body, declaring the attorney reinstated or readmitted.
  - (b) The petition for reinstatement or readmission will be submitted to the Article III judges of this Court who will either grant or deny the petition or refer the same to a Special Master or Magistrate Judge for a report and recommendation. Final action will be by majority vote of all the Article III judges of the Court after consultation, either at a general or special meeting or by email vote.
3. Expedited Review  
An attorney may, in the event of exigent circumstances and with documentation showing good cause, request the Court review a petition for reinstatement or readmission in an expedited fashion. The request will be forwarded to the Chief Judge or his or her designee for review and consideration.

#### *D. Judicial Control*

Nothing in this rule will 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.

### **LR83.2.11 Continuing Representation, Withdrawals, Substitution of Counsel**

Enrolled counsel of record will be held to represent the party for whom he or she appears unless the court permits counsel to withdraw from the case. If a motion to withdraw does not provide for substitution of counsel or would otherwise result in a *pro se* party, the motion to withdraw must contain the client's present address, telephone number and email as well as the client's signature approving counsel's requested withdrawal. If counsel seeking to withdraw is unable to obtain a client's signature, such counsel must provide the court with a signed certificate stating specifically why, after due diligence, the attorney was unable to obtain the client's signature. The motion must also 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. The Court may, in its discretion, hold a hearing with the attorney and client present before authorizing an attorney to withdraw.

### **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**

- (a) Limited appearances by law students, if the person on whose behalf the student 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.
- (b) The written consent and approval referred to above must be filed in the record of the case and shall be brought to the attention of the Judge.
- (c) The supervising lawyer must personally be present throughout the proceedings and will be responsible for the manner in which they are conducted.
- (d) *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 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 or chancellor of the student's 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.”

- (7) *Certification of Students.* The certification of a student by the law school dean or chancellor:
- a. Must be filed with the Clerk of Court and, unless sooner withdrawn, it will remain in effect for twelve 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, the certification will continue in effect until the date one is admitted to the bar.
  - b. May be withdrawn by the dean or chancellor at any time by mailing a notice to that effect to the Clerk of Court. The notice need not state the cause for withdrawal.
  - c. 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 of Court.
- (8) *Supervision of Students.* The member of the bar under whose supervision an eligible law student works must:
- a. Be admitted to practice before this Court, and be approved by the dean or chancellor of the law school in which the law student is enrolled for service as a supervising lawyer for this program;
  - b. 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;
  - c. Assist the student in the student’s 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 must:

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 may 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 must 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 must not express personal knowledge or opinion concerning any matter in issue, and must 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 must 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.

### **LR83.2.15 Courtroom Appearance**

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

## **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 must inspect all objects carried by persons entering the premises. No one must 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 will be denied entry. Should any defendant in a criminal case whose appearance is required refuse to permit such a search, security personnel will not deny the person entry and will 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 may:

- 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 must enter and leave courtrooms only through such doorways and at such times as will be designated by the security personnel.

#### **LR83.3.7 Spectators**

Spectators must enter or depart courtrooms only at such times as the presiding judge may direct. No spectator may enter or remain in any courtroom unless spectator seating is available. Spectators must sit in that portion of the courtroom designated by Security Personnel. Spectators excluded because of lack of seating and spectators leaving the courtroom while court is in session or at any recess may 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 may be brought into the premises. No person may 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 may introduce any type of camera, recording equipment or other type of electric or electronic device into the premises while, or immediately before or after, the grand jury is in session.

#### **LR83.3.9 Photographs, Radio or Television Broadcasting**

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, whether or not court is actually in session, is prohibited. However, photographs are allowed to be taken during naturalization and other ceremonial events as well as with the approval of a judge of this court.

### **LR83.3.12 Weapons**

No person will 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, may have any such object in his or her possession while in any courtrooms, judges' chambers or magistrate judges' chambers. Federal law enforcement officers having persons in state or federal custody in their care in the courtroom of any magistrate judge or district judge may retain their sidearms.

### **LR83.3.13 Enforcement**

Security personnel must 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 will be tried in the district court.

### **LR83.4.2 Appeal to the District Court**

Appeals from judgments, orders or decrees of a bankruptcy judge will 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 8007* (for stay pending appeal), will be governed by the rules set out below.

#### **A. Original Motion**

1. *Applicable Rules.* The Local Rules for the district court are 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 will apply until such report is issued.
2. *Place of Filing.* All motions described in this section above must 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 must 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 must be filed with the clerk of the district court and must 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 must 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 will 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 must 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 must be transmitted to the district court. If the district court requests the retained papers, the bankruptcy clerk must 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 must 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 must issue a summons and process of attachment and garnishment and the plaintiff will 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 must be reviewed by the court and no warrant for the arrest of a vessel must 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 must shall issue a summons and warrant for the arrest and the plaintiff will 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 will be as follows: Whenever property is arrested or attached, any person claiming an interest in it will be entitled to a prompt hearing at which the plaintiff will be required to show why the arrest or attachment should not be vacated or other relief granted consistent with these rules. This rule will 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 intends to file a complaint for vessel seizure must 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 must 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.

#### **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 must 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 must 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 must 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 *FRCP 24*, by persons claiming maritime liens or other interests may be untimely if not filed within the time allowed for claims to possession.

### **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 must have expressly consented in writing to the appointment and must 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 must be published in the following newspapers, depending on the district and division of the court in which filed:

Eastern District	<i>The Times-Picayune/The New Orleans Advocate (NOLA.com)</i>
Middle District	<i>The Advocate</i>
Shreveport Division	<i>Shreveport Times/The Times</i>
Monroe Division	<i>The News-Star</i>
Alexandria Division	<i>The Town Talk</i>
Lake Charles Division	<i>American Press</i>
Lafayette 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 must be published on three different days, the first of which must 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 must 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 must be paid at the time of adjudication. The balance, if any, of the purchase price must 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 must forthwith report to the court the fact of the sale, the price brought, and the name of the buyer, and the clerk must endorse upon such report the time and date of filing. This report must lie over for three days, exclusive of Saturdays, Sundays, and legal holidays. If within these three days no written objection is filed, the sale will be confirmed as of course, provided that no sale will be confirmed until the buyer has performed the terms of his purchase. In the event no opposition to the sale has been made, the cost of keeping the property pending confirmation must 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 must be borne by the purchaser after the three-day period has lapsed. In the event an opposition to the sale is filed, the opponent must 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 must fail without affirmative action by the court. If the opposition fails, the cost of keeping the property during its pendency must be borne by the opponent.

At the auction, the marshal must 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 whereby 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 must 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 must 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, will suffice.

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

## **LOCAL CRIMINAL RULES LOCAL CRIMINAL RULE 6 - GRAND JURY**

### **LCrR6.1 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, may be allowed to remain in the hall adjacent to the grand jury space beyond the entrance door.

### **LCrR6.2 Interviewing Witnesses Before Grand Jury**

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

## **LOCAL CRIMINAL RULE 11 - GUILTY PLEAS**

### **LCrR11.1 Guilty Pleas**

Defense attorneys must thoroughly review the plea package and the Fed. R. Cr. P. 11 colloquy with their clients and be prepared to proceed at the time set for the change of plea hearing.

## **LOCAL CRIMINAL RULE 12 - MOTIONS**

### **LCrR12.1 Motions Under Seal**

Unless otherwise authorized by these Local Rules or the Federal Rules of Criminal Procedure (including, without limitation, documents pertaining to pre-sentencing investigation reports, sentencing memoranda, or motions filed under USSG 5k1.1 or Fed. R. Cr. P. 35(b)), any party seeking to file a document under seal must file a "Motion to Seal Attached Document," stating, in general terms, the reason for sealing the document and attaching under seal for the Court's *in camera* review, the relevant document. The Motion must also include a proposed order.

## **LOCAL CRIMINAL RULE 17 - SUBPOENAS**

### **LCrR17.1 Subpoenas**

Fed. R. Cr. P. 17(c) subpoenas are not a discovery device and are not intended to provide an additional means of obtaining pre-trial discovery. Any motion for issuance of Fed. R. Cr. P. 17(c) subpoenas, except for good cause shown, must be filed with the Court only after conferring with opposing counsel and must set forth: (i) the specific documents sought, (ii) their relevance, and (iii) their admissibility at trial or a pre-trial hearing.

## **LOCAL CRIMINAL RULE 32 - SENTENCE AND JUDGMENT**

### **LCrR32.1 Sentencing**

- A. As authorized by Fed. R. Cr. P. 32(e)(3), 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.
- B. 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), must be filed in the record under seal.

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

All presentencing memoranda must be filed by counsel within the time frame designated by the sentencing judge. Sentencing memoranda may be filed under seal but in all cases must be served on opposing counsel. 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 investigation report in accordance with Fed. R. Cr. P. 32(f)(1).

## LOCAL CRIMINAL RULE 47 - MOTIONS

### LCrR47.1 Motions

- (a) **Motions and Supporting Affidavits.** Unless otherwise directed by the court, motions must comply with the form requirements set forth in Local Civil Rules 7.1, 7.4, 7.5, 7.9, 10.1, and 11.1. Any response to a motion, including opposing affidavits, memoranda, and supporting documents as are then available, must be filed within the delay set by the court.
- (b) **Motions to Suppress.** Motions to suppress pursuant to Fed. R. Crim. P. 41(b) must be filed within the delay set by the court. The motion must be supported by a memorandum citing the most relevant Supreme Court and Fifth Circuit authority. Evidentiary hearings will not be granted on bare-bones motions to suppress.
- (c) **Format of Caption in Multi-Defendant Criminal Cases.** For multi-defendant criminal cases, the number of the defendant(s) to whom any filing applies, must be included to the right of the case numbers contained in the caption. The caption on the left must include only the names of the defendant(s) to whom the filing pertains.

## 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 must 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 must 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, domicile, 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 must 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 may 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 must 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, must 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.

### **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 photographs be taken or sketch made of any juror within the environs of the court;
- F. Insulation of witnesses from news interviews during the trial period;

- G. Specific provisions regarding the seating of spectators and representatives of news-media, including:
1. An order that no member of the public or news-media representative be at any time permitted within the bar railing;
  2. The allocation of seats to news-media representatives in cases where there is an excess of requests over the number of seats available, taking into account any pooling arrangement that may have been agreed to among the news-media representatives.

## **LOCAL CRIMINAL RULE 55 - RECORDS**

### **LCrR55.1 Records**

All exhibits in criminal cases in the custody of the Clerk must be maintained for purposes of appeal and post-conviction relief until any sentence imposed has been fully satisfied. At the discretion of the presiding judge, any physical exhibits may be released to the custody of the government pending satisfaction of the sentence. In such case, a photograph of each exhibit must be retained by the Clerk as a substitution for the physical item in the record.

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

### **LCrR58.2 Petty Offenses**

- A. As authorized by Fed. R. Cr. P. 58(d), 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 will 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 Fed. R. Cr. P. 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 U.S.C. § 3401(c).

## **LOCAL CRIMINAL RULE 59 - MAGISTRATE JUDGES**

### **LCrR59.1 United States Magistrate Judges**

- (a) All Magistrate Judges in the Western District of Louisiana will perform the duties prescribed by 28 U.S.C. § 636.
- (b) Subject to the Constitution and laws of the United States, all Magistrate Judges may perform the following duties:
  1. Assist the District Judges in the conduct of pretrial discovery proceedings in criminal actions. A Magistrate Judge may hear and determine a procedural or discovery motion or other pretrial matter in a criminal case other than the motions which are specified in 28 U.S.C. § 636(b)(1)(A). As to such specified motions so assigned, a Magistrate Judge will, upon referral by a District Judge, submit to that District Judge

- a report containing proposed findings of fact and recommendations for disposition by the District Judge.
2. Conduct voir dire examinations and select juries in criminal cases upon referral by a District Judge.
  3. Conduct all detention hearings, including juvenile hearings pursuant to 18 U.S.C. § 5034, and hearings to amend, modify or revoke conditions of release under the Bail Reform Act of 1984, as amended. All Magistrate Judges are specifically authorized to conduct detention hearings on alleged probation and supervised release violations unless the assigned District Judge directs otherwise.
  4. Conduct arraignments, accept not guilty pleas, and set deadlines for filing of motions and responses thereto in criminal cases.
  5. Review the return of indictments by the Grand Jury and issue warrants and summonses when necessary for defendants named in the indictments.
  6. Enter orders for examination to determine mental competency; hold hearings and conduct examinations to determine mental competency; and enter orders determining mental competency except any motion to involuntarily medicate a defendant in an effort to restore competency.
  7. Conduct preliminary proceedings incident to transfer of cases pursuant to Fed. R. Cr. P. 20.
  8. Issue subpoenas and writs of habeas corpus ad prosequendum and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings.
  9. Enter orders forfeiting bail where a defendant's bail conditions are breached in petty offense cases or Class A misdemeanor cases wherein all parties have consented to a Magistrate Judge pursuant to Fed. R. Cr. P. 58.
  10. Issue orders upon appropriate application for disclosure of Grand Jury information pursuant to Fed. R. Cr. P. 6(e)(3)(E).
  11. Make determinations of indigency based upon a signed and completed financial affidavit or upon or affirmation of a defendant pursuant to 18 U.S.C. § 3006A(b).
  12. Conduct extradition proceedings in accordance with 18 U.S.C. § 3184 and 18 U.S.C. § 4108 regarding fugitives of offenders from a foreign country to the United States.
  13. Direct the Probation Office to conduct presentence investigation in any misdemeanor or felony case referred to the Magistrate Judge for taking of a guilty plea.
  14. Conduct a jury trial in a Class A misdemeanor case upon the express consent of the parties and any petty offense where the parties request a jury trial and are entitled to trial by jury under the Constitution and laws of the United States.
  15. In cases assigned to a Magistrate Judge, make determinations and enter appropriate orders pursuant to the Speedy Trial Act, unless otherwise indicated by the Act.
  16. Conduct pretrial conferences and related pretrial proceedings in criminal cases upon the referral of a District Judge.
  17. Accept waivers of indictment pursuant to Fed. R. Cr. P. 7(b).
  18. Perform the functions specified in 18 U.S.C. § 4107 and 4109 regarding the transfer of an offender from the United States to a foreign country, conduct recorded

- proceedings for verification of the offender's voluntary consent to transfer from the United States and appoint counsel therein pursuant to 18 U.S.C. § 3006A.
19. Issue orders authorizing the installation and use of a pen register or a trap and trace device pursuant to 18 U.S.C. §§ 3122-23, and related orders directing the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register or trap and trace device as well as orders and search warrants pursuant to 18 U.S.C. §§ 2701 through 2710 for subscriber or customer information and for contents of electronic communications as provided by law.
  20. Issue orders and search warrants authorizing civil administrative and other examinations, inspections, searches and seizures as permitted by law.
  21. Conduct felony guilty plea proceedings pursuant to Fed. R. Cr. P. 11 upon referral of such proceedings by a District Judge with the consent of the parties, or upon the filing of an information prior to assignment of a District Judge after waiver of indictment in open court before a Magistrate Judge in compliance to Fed. R. Cr. P. 7(b), with the express written consent of the parties. The Magistrate Judge will make findings with respect to the voluntariness of the plea and the defendant's understanding of other matters as required by Fed. R. Cr. P. 11(b), the presence of a factual basis for the plea, and must make a recommendation whether the guilty plea should be accepted by the District Judge.
  22. Perform such additional duties as are not inconsistent with the Constitution and laws of the United States as may be designated by the Court pursuant to 28 U.S.C. § 636(b).