

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

EFFECTIVE APRIL 2, 2015

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LOCAL CIVIL RULES

LOCAL CIVIL RULE 3 - COMMENCEMENT OF ACTION

- (a) **Collateral Proceedings and Refiled Cases.** Whenever a civil matter, commenced in or removed to the Court, involves subject matter that comprises all or a material part of the subject matter or operative facts of another action, whether civil or criminal, then or previously pending in any court or administrative agency, counsel must file a list and description of all such actions then known to counsel and a brief summary of the relationship between the cases. Counsel shall file the list and description as a separate document at the time of filing the complaint. If information concerning any such action or proceeding is obtained after the filing of the original pleading in the latter case, counsel must notify the Court and opposing counsel in writing of the relationship between the cases.
- (b) **Assignment of Collateral Proceedings and Refiled Cases.** To promote judicial economy, conserve judicial resources, and avoid potential forum-shopping and conflicting court rulings, all actions described in LR 3(a) shall be transferred to the section with the lowest docket number, unless the two Judges involved determine that some other procedure is in the interest of justice. If the Judges cannot agree upon whether a case should be transferred, the opinion of the transferee Judge shall prevail.

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

- (a) **Place of Filing.** All documents must be filed with the Clerk of Court in the manner provided in the Court's Administrative Procedures for Filing Electronic Documents, available at www.lamd.uscourts.gov.
- (b) **Filing By Electronic Means.**
- (1) The Court will accept for filing only those documents submitted and signed or verified by electronic means and only those electronic documents that comply with procedures established by the Court, as authorized by Rule 5(d)(3) of the Federal

Rules of Civil Procedure. The electronic record shall be the official record of the Court.

(2) Notwithstanding the foregoing, an attorney may, for good cause shown, request by written motion a temporary exemption from mandatory electronic case filing.

(c) Filing of Extraordinary Pleadings. The attorneys filing any pleading of an extraordinary nature (*e.g.*, temporary restraining orders, vessel seizures, writs of attachment, and other pleadings requiring immediate judicial action) shall make themselves available by telephone to the Judge to whom the matter is assigned and shall provide a current cellular telephone number on the pleading.

(d) Advance Payment Required. The Clerk of Court shall not be required to file any paper or to render any service for which a fee is legally collectible unless the fee for the particular service is paid in advance.

(e) Filing by Unrepresented Prisoners, Subject to Electronic Filing, Regarding Civil Rights and Habeas Corpus Cases.

(1) Original Documents - Prisoners subject to electronic filing must place all documents in an envelope and place the envelope in a designated box for documents to be filed in Louisiana Federal District Courts only. No postage is required. All envelopes placed in the designated box shall be opened by authorized prison personnel in order to scan the documents. Once scanned, prison personnel shall return all original documents to the prisoner, unless otherwise directed by the Court. Any envelope placed in the designated box containing postage shall not be opened for purposes of scanning. Prison officials shall either return the envelope to the prisoner or mail it to the Court. Documents submitted by a prisoner to the Court for

filing which have not been scanned and emailed by authorized prison personnel, may, at the direction of the Court, be returned to the prisoner.

- (2) Scanning - Authorized prison personnel will scan prisoner documents into a pre-programmed Document Capture Workstation which converts the document to PDF. Authorized prison personnel will affix the "scanned" stamp on the document, prior to scanning, which indicates the date the document was scanned, total number of pages scanned, and the initials of the person who scanned it. Once the document has been scanned, authorized prison personnel will verify the legibility of the image on the computer screen and email the document directly to the Court's dedicated email address.
- (3) Filing into Court's Electronic Case Management System - The Court will receive and review all documents received via email from the prison and electronically file submissions into the case management system. After review, if it is determined by the Court that a document does not constitute a proper filing in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Court, the document may be returned to the prisoner via the U. S. Postal Service, upon direction of the Court.

(f) Certificate of Service.

- (1) Every pleading and every brief or memorandum filed in any proceeding in this Court shall bear a certificate by the attorney or party who files it that, prior to filing or contemporaneously if filing by electronic means, copies have been served on counsel for the parties or unrepresented parties, either, electronically, in person or by mailing it postage prepaid, properly addressed. This certificate may be by rubber stamp or typing, or it may be contained in the text of the pleading.

(2) Parties who have not consented to electronic service must be served with a copy of any pleading or other document filed electronically in accordance with the Federal Rules of Civil Procedure, the Local Rules, and the administrative procedures.

(3) The certificate of service must identify the method of service upon each party.

(g) Service of Documents by Electronic Means.

(1) The “Notice of Electronic Filing” automatically generated by the Court’s Electronic Filing System, except as provided below, constitutes service of the filed documents on all parties who have consented to electronic service.

(2) Most sealed filings do not produce a Notice of Electronic Filing, and therefore service by the filer of any sealed document must be in accordance with the Federal Rules of Civil Procedure and the Local Rules.

(h) Deposit for Service. Except as provided by law in cases involving indigent persons, the United States Marshal shall 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.

LOCAL CIVIL RULE 5.2 - Protection of Personal and Sensitive Information; Public Access to Court files; Redacted Information; Sealed Information.

(a) In General. Counsel should advise clients of the provisions of this Rule and Federal Rule of Civil Procedure 5.2 so that an informed decision may be made about the inclusion of protected information.

(b) Remote Access. Counsel and parties must consider that the *E-Government Act of 2002* (as amended) and the policies of the Judicial Conference of the United States require federal courts eventually to make *all* pleadings, orders, judgments, and other filed documents available in electronic format accessible over the Internet and the Courts’

PACER [Public Access to Court Electronic Records] systems. Consequently, personal and sensitive information and data that formerly were available only by review of the Court's physical case files will be available openly and publicly.

- (c) **Redacted Filings.** If a redacted document is filed, it is the sole responsibility of counsel and the parties to ensure that all pleadings conform to Federal Rule of Civil Procedure 5.2, and the General Orders of this Court. Neither the Court nor the Clerk of Court will review pleadings or other documents for compliance with this Rule.

LOCAL CIVIL RULE 7 - PLEADINGS ALLOWED; FORM OF MOTIONS

- (a) **Extension of Time to Plead.** Upon certification by a moving party that there has been no previous extension of time to plead and that the opposing party has not filed in the record an objection to an extension of time, then on an *ex parte* motion and order, the Court will allow one extension for a period of twenty-one days from the time the pleading would otherwise be due. Further extensions will not be granted by stipulation, but only by motion to the Court and for good cause shown. This rule shall apply to pleadings listed in Fed. R. Civ. P. 7(a).
- (b) **Submission of Motions.** All motions, except those made during a hearing or trial which is being properly recorded into the Court record, shall be made in writing. Documents filed with the motion are thereby made a part of the record.
- (c) **Submission of *Ex Parte* or Consent Motions.** An application for an order allowed by these Rules to be submitted *ex parte* or by consent shall be accompanied by a proposed order on a separately captioned page. Except as otherwise ordered in an individual case, every such application shall be filed pursuant to LR5(a).
- (d) **Motions Must Be Accompanied by Memorandum.** All contested motions must be accompanied by separate memoranda which must contain a concise statement of reasons

supporting the motion and citations of authorities. If the motion requires consideration of facts not in the record, the movant must also file and serve upon opposing counsel a copy of all evidence supporting the motion. Memoranda may not be supplemented, except with leave of court.

- (e) **Motions Not Requiring Memorandum.** All motions listed below, while not required to be accompanied by a memorandum, must state the grounds therefor and cite any applicable rule, statute, or other authority justifying the relief sought. No memorandum is required by either movant or respondent, unless otherwise directed by the Court, with respect to the following motions: (1) For extension of time for the performance of an act required or allowed to be done, provided request therefor is made before the expiration of the period originally prescribed or as extended by previous orders; (2) to continue a pretrial conference, hearing, motion, or the trial of an action; (3) to add additional parties; (4) to amend pleadings; (5) to file supplemental pleadings; (6) to appoint next friend or guardian ad litem; (7) to intervene; (8) for substitution of parties; (9) joint motions to dismiss or consolidate; and (10) to withdraw as counsel. Prior to filing any motion under this section, the moving party shall attempt to obtain consent for the filing and granting of such motion from all parties having an interest to oppose, and a certificate stating the position of the other parties shall be included in the motion. A proposed order on a separately captioned page shall accompany each motion filed under this paragraph.
- (f) **Response and Memorandum.** Each respondent opposing a motion shall file a response, including opposing affidavits, memorandum, and such supporting documents as are then available, within twenty-one days after service of the motion. Memoranda shall contain a concise statement of reasons in opposition to the motion, and a citation of authorities upon which the respondent relies. For good cause appearing therefor, a respondent may be

required to file a response and supporting documents, including memoranda, within such shorter or longer period of time as the Court may order. Reply memoranda and surreply memoranda may only be filed by leave of Court.

- (g) Memoranda.** All initial memoranda filed by a party (including briefs, memoranda in support of a motion, and appeals to District Judges) shall be limited to twenty pages excluding attachments. Subsequent memoranda (including memoranda in response or in opposition), if any, shall not exceed ten pages excluding attachments. The form of the memorandum shall comply with LR10(a). Reply and surreply memoranda, if permitted, shall be limited to five pages. Leave of Court must be obtained to file memoranda in excess of the limit above.

LOCAL CIVIL RULE 9 - PLEADING SPECIAL MATTERS

- (a) Three-Judge Cases.** Upon filing any suit or proceeding that may require a three-judge court for disposition, the party instituting the action shall state in writing, to the Clerk of Court and other parties the provision under which said party is proceeding. Failure to comply with this rule may result in the matter being treated as one not requiring three judges.
- (b) Social Security Cases.** Complaints filed in civil cases pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for benefits under Titles II, XVI, and XVIII of the Social Security Act shall be submitted for filing on forms furnished by the Clerk of Court or substantially in conformity therewith.

LOCAL CIVIL RULE 10 - FORM OF PLEADINGS

- (a) Form: Statement Regarding Filing of Documents.**
- (1) All documents drafted for filing in this Court shall be on 8-1/2 by 11 inch paper, numbered sequentially, plainly written in ink or printed in no smaller than standard

12-point typeface without defacing erasures or interlineations, shall be double spaced and if filed in paper format, not printed on the reverse side of the paper. Footnotes may be printed in no smaller than standard 10-point typeface. Quotations and footnotes may be single spaced. All margins must be no less than one inch. No print or writing, except page numbers, must appear in the margins, and page numbers must not be less than one-half inch from the bottom of the page.

- (2) In addition to the requirement of Fed. R. Civ. P. 10(a), after allotment the caption shall also indicate the initials of the United States District Judge and United States Magistrate Judge (“Magistrate Judge”) to whom the case is assigned.(e.g. 10-CV-292-JVP-SCR).
- (3) A completed and executed Civil Cover Sheet form shall accompany the initial pleading of each civil case to be filed, except that such requirement shall not apply to persons in the custody of civil, state, or federal institutions or to persons filing cases *pro se*.

(b) Consolidated Cases.

- (1) Unless otherwise ordered by the Court, where cases are consolidated, whether for trial only or otherwise, the caption of all documents filed after consolidation shall list first the name and docket number of the lowest numbered case in the group, with words “consolidated with” or abbreviation “c/w”. This shall be followed by a listing of the names and docket numbers of only those cases to which the document applies.
- (2) The caption of the lowest numbered case will serve as the identifying caption during the pendency of the consolidation and will continue to be used even if that particular case is closed.

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

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

(a) **Signing of Pleadings, Motions and Other Papers.**

- (1) Every pleading, motion, or other document presented for filing shall, in accordance with the Federal Rules of Civil Procedure, be signed by counsel admitted to practice before this Court. 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(b)(8).
- (2) Electronic signatures must comply with the administrative procedures.
- (3) In addition, counsel's name, address, telephone and facsimile numbers, email address and Attorney Identification Number shall be typed or printed under the attorney's signature. If the attorney is admitted to practice before the Supreme Court of Louisiana, the Attorney Identification Number shall be the same as the number assigned by the Supreme Court of Louisiana.
- (4) Documents filed by a party not represented by counsel shall be signed by the party and shall include name, address and telephone number.

(5) Each attorney and *pro se* litigant has a continuing obligation to apprise the Court of any address change.

(b) Lead Attorney.

(1) If a law firm or more than one attorney represents a party, one attorney will be designated in the first pleading filed on behalf of that party as lead attorney. This attorney may, but need not, be the attorney who personally signs pleadings.

(2) The designated lead attorney will be responsible for the case and all notices and other communications with respect to it will be directed to the designated lead attorney, or to local counsel in the event a visiting attorney is designated as lead attorney. The designation of the lead attorney may be changed at any time by written notice filed with the Court. If a party desires to change the lead attorney, the new lead attorney will be promptly designated.

LOCAL CIVIL RULE 16 - PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

(a) Scheduling Orders.

(1) The scope and timing of the scheduling order under Fed. R. Civ. P. 16(b) shall be as prescribed by the Civil Justice Expense and Delay Reduction Plan of this Court (see General Order 2002-08).

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

Social Security Appeals

Bankruptcy Appeals

Habeas Corpus cases

Prisoner 1983 cases

Government Collection and Foreclosure cases

(3) The Magistrate Judges of this Court are authorized to enter and/or modify scheduling orders in matters referred to them or when directed by a District Judge.

(b) Alternative Dispute Resolution. If the District Judge or Magistrate Judge determines at any time that the case will benefit from alternative dispute resolution, the Judge may:

- (1) refer the case to private mediation, if the parties consent, even if such mediation efforts upset previously set trial or other dates;
- (2) order non-binding mini-trial or non-binding summary jury trial before a judge with the parties' consent; or
- (3) employ other dispute resolution programs which may be designated for use in this District.

All alternative dispute resolution proceedings shall be confidential.

(c) Notice of Settlement. Whenever a civil case is settled or otherwise disposed of, counsel shall immediately file a Joint Notice of Settlement, signed by counsel for Plaintiff, into the record. Additionally, counsel shall immediately inform the Clerk's office, the Judge to whom the case is assigned, and shall comply with LR45(b) relative to all persons subpoenaed as witnesses. If a civil case is settled as to fewer than all of the parties or all of the claims, the Joint Notice shall also set forth the remaining parties and unsettled claims. The Joint Notice may also include a request for a conditional order of dismissal, allowing for reinstatement of the matter if the settlement is not consummated within the time stated in the order of dismissal.

LOCAL CIVIL RULE 23 - CLASS ACTIONS

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

- (a) The complaint shall bear next to its caption the designation, "Complaint-Class Action";

- (1) Refer to the portions of Fed. R. Civ. P. 23 under which it is claimed that the suit is properly maintainable as a class action;
 - (2) Make allegations thought to justify the maintenance of the claim as a class action, including, but not necessarily limited to:
 - (A) the size (or approximate size) and definition of the alleged class,
 - (B) the basis upon which the plaintiff (or plaintiffs) claims,
 - (i) to be an adequate representative of the class, or
 - (ii) if the class is comprised of defendants, that those named as parties are adequate representatives of the class,
 - (3) The alleged questions of law *or* fact claimed to be common to the class; and
 - (4) In actions claimed to be maintainable as class actions under Fed. R. Civ. P. 23(b)(3), allegations thought to support the findings required by that subdivision.
- (b) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross claim alleged to be brought for or against a class.
- c) Whenever a party or counsel desires to prohibit another party or counsel from communicating concerning such action with any potential or actual class member not a formal party to the action, the party or counsel shall apply in writing to the Court for such an order. In such application, the parties must set forth with particularity the abuses they fear will result from such communication, along with the form of remedy they believe would be appropriate to prevent frustration of the policies of LR23.
- (1) The Court will not enter an order prohibiting communication with members of the class in the absence of a clear record (and when necessary, an evidentiary hearing) reflecting:

- (A) specific findings regarding the abuse the Court seeks to prevent;
 - (B) the need for such an order, weighing the abuse sought to be corrected and the effect it will have on the right of a party to proceed pursuant to LR23 without interference.
- (2) Any attorney who communicates with the class shall preserve and retain in one's files, until the final conclusion of the action, a copy of all communications which the attorney has sent to any members of the class or potential class.

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

- (a) Meeting of Parties Under Fed. R. Civ. P. 26(f).** Except as otherwise ordered by the Court, the provisions of Fed. R. Civ. P. 26(f), requiring a meeting of parties prior to the scheduling conference, shall apply to all civil actions in the Court subject to the following modifications:
- (1) The requirements for a meeting of the parties does not apply in cases exempted from the requirements of a scheduling order under LR16(a)(2).
 - (2) The parties may agree to hold the meeting by telephone.
 - (3) Any meeting of the parties shall be held in time to permit the report of the meeting to be filed with the Court no later than two weeks prior to the date of the scheduling conference.
 - (4) Formal discovery may begin in cases in which no meeting is required without regard to the requirements of Fed. R. Civ. P. 26(d) and (f).
- (b) Initial Disclosure.** Within the time designated in the Court's initial order setting the Fed. R. Civ. P. 16 conference, the parties must make the disclosures required by Fed. R. Civ. P. 26(a)(1). Disclosures must be made no later than seven days before the Case Management

Conference, unless a different time is set by court order or unless a party objects during the attorney conference and states the objection in the proposed case management order.

(c) **Withholding Privileged or Protected Information.** A party withholding information claimed privileged or otherwise protected must submit a privilege log that contains at least the following information: name of the document, electronically stored information, or tangible things; description of the document, electronically stored information, or tangible thing, which description must include each requisite element of the privilege or protection asserted; date; author(s); recipient(s); and nature of the privilege.

(d) **Discovery Deadlines.**

(1) Unopposed discovery may continue after the applicable deadline for discovery contained in the scheduling order, provided that discovery does not delay other pretrial preparations or the trial setting. Absent exceptional circumstances, no motions relating to discovery, including motions under Fed. R. Civ. P. 26(c), 29, and 37, shall be filed after the expiration of the discovery deadline, unless they are filed within seven days after the discovery deadline and pertain to conduct occurring during the final seven days of discovery.

(2) Written discovery is not timely unless the response to that discovery would be due before the discovery deadline. The responding party has no obligation to respond and object to written discovery if the response and objection would not be due until after the discovery deadline. Discovery depositions must be completed before the discovery deadline. Notices served before the discovery deadline which purport to schedule depositions after the discovery deadline will not be enforced.

LOCAL CIVIL RULE 33 - INTERROGATORIES TO PARTIES

Answers and/or objections to interrogatories must state in full the interrogatory, preceding each answer or objection.

LOCAL CIVIL RULE 34 - REQUEST FOR PRODUCTION

Answers and/or objections to requests for production must state in full the request for production immediately preceding each answer or objection.

LOCAL CIVIL RULE 35 - MOTIONS FOR PHYSICAL OR MENTAL EXAMINATION

Motions for physical and/or mental examination of a party shall include, in addition to the requirement of Fed. R. Civ. P. 35(a)(2):

- Whether a personal and/or medical history will be obtained;
- Whether a physical examination will be undertaken;
- A description of the written, verbal-administered and/or physical tests to be performed, both invasive and non-invasive;
- The identities of any persons administering and/or interpreting the test results, if different from the person identified in the motion; and
- The anticipated duration of the examination.

LOCAL CIVIL RULE 36 - REQUESTS FOR ADMISSION

(a) Responses to Requests for Admission. Answers and/or objections to requests for admission must state in full the request for admission immediately preceding each answer or objection.

(b) Number of Requests for Admission. No party shall serve on any other party more than 25 requests for admission in the aggregate without leave of Court. Each sub-part of a request for admission shall count as an additional request for admission. Any party desiring to serve additional requests for admission shall file a written motion setting forth the

proposed additional requests for admission and the reasons establishing good cause for their use.

LOCAL CIVIL RULE 37 - DISCOVERY VIOLATIONS

Motions addressed to issues concerning discovery propounded under Fed. R. Civ. P. 33, 34, 36 and 37 must quote verbatim each interrogatory, request for production, or request for admission to which the motion is addressed, followed immediately by the verbatim response or objection which provided thereto.

LOCAL CIVIL RULE 38 - JURY TRIAL OF RIGHT

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

LOCAL CIVIL RULE 39 - TRIAL BY JURY OR BY THE COURT

All counsel of record and parties to the litigation must be present in court at all stages of trial, unless leave of Court is granted by the presiding Judge.

LOCAL CIVIL RULE 41 - DISMISSAL OF ACTIONS

(a) Dismissals. Except as provided in Fed. R. Civ. P. 41(a)(1), if an attorney proposes to dismiss a suit with the intention of refiling it, the attorney must bring this to the attention of the Judge to whom the suit has been assigned.

(b) Dismissal for Failure to Prosecute.

(1) A civil action may be dismissed by the Court for lack of prosecution as follows:

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

(B) Where no responsive pleadings have been filed or no default has been entered within sixty days after service of process, except when

Fed. R. Civ. P. 12(a)(3) applies or a dispositive motion is pending;
or

- (C) Where a cause has been pending six months without proceedings being taken within such period. This provision shall not apply if the cause is awaiting action by the Court.
- (2) Prior to issuance of a dismissal, notice shall be sent to the plaintiff, and plaintiff shall be allowed fourteen calendar days from mailing of the notice within which to file evidence of good cause for plaintiff's failure to act. If no response is received within the allotted time, the Court may dismiss the civil action. If a timely response is filed, a District Judge or a Magistrate Judge may order additional time within which to take action, dismiss the civil action without prejudice, or issue any other appropriate order.
- (3) Dismissal under this Rule shall be without prejudice. The Order of Dismissal shall allow for reinstatement of the action within thirty days for good cause shown.
- (4) The failure of an attorney or *pro se* litigant to keep the Court apprised of an address change may be considered cause for dismissal for failure to prosecute, when a notice is returned to a party or the Court for the reason of an incorrect address and no correction is made to the address for a period of thirty days.

LOCAL CIVIL RULE 43 - TAKING OF TESTIMONY

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

- (b) **One Counsel to Examine Witness and Present Objections.** Only one counsel for each separate interest shall conduct the examination of any one witness, or present argument or urge objections with respect to the testimony of that witness, except with leave of Court.

LOCAL CIVIL RULE 45 - SUBPOENA

- (a) **Witness Fees and Mileage.** It shall be the duty of the person provoking the issuance of any subpoena for a witness to cause to be tendered to the witness, at the time of service of the subpoena, one day's attendance fee and the legal amount for mileage to and from the place of trial or hearing, as set forth in 28 U.S.C. § 1821, and further to cause to be paid concurrently to any such witness the daily attendance fee for each day the witness is required to attend said trial or hearing. No witness shall be liable to attachment for not obeying the subpoena if this Rule has not been complied with. This Rule does not apply to witnesses for the United States.
- (b) **Notification of Witnesses.** Any person who has provoked the issuance of a subpoena shall notify the person subpoenaed if the witness's attendance will not be required in time to prevent the witness from making a needless trip. Any person failing to comply with this Rule may be subject to appropriate sanctions.
- (c) **Subpoena *Duces Tecum* to Hospitals.**
- (1) When a subpoena *duces tecum* is served upon the custodian of records or other qualified witness from a hospital or other health care facility in an action in which the hospital or facility is not a party and such subpoena requires the production for trial of all or any part of the records of the hospital or facility relating to the care and treatment of a patient in such hospital or facility, it shall be sufficient compliance therewith if the custodian or other officer of the hospital or facility delivers by registered mail or by hand a true and correct copy of all records described in such

subpoena to the Clerk of Court or other tribunal, or if there is no Clerk of Court, then the Court or other tribunal, together with the affidavit described in Subsection (2). Production of the record shall occur prior to the time fixed for the trial, but no earlier than ten working days before the trial date unless otherwise directed in the pretrial order. This section is limited to procedures for complying with a subpoena *duces tecum* for purposes of trial and shall not affect the rights of parties to production of documents pursuant to laws governing discovery or other laws pertaining thereto, including Fed. R. Evid. 902(11).

- (2) The records shall be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:
 - (A) That the affiant is the duly authorized custodian of the records and has authority to certify the records.
 - (B) That the copy is a true copy of all records described in the subpoena.
 - (C) That the records were prepared by the personnel of the hospital or facility, staff physicians, or persons acting under the control of either in the ordinary course of the business of the hospital or facility at or near the time of the act, condition, or event.
- (3) If the hospital or facility has none of the records described, or only part thereof, the custodian shall so state in the affidavit, and deliver the affidavit and such records as are available in the manner provided in Subsection (1)

LOCAL CIVIL RULE 47 - JURORS

- (a) **Juries.** All juries for the District are drawn and convene as directed by the Court.
- (b) **Voir Dire Examination.** All voir dire examinations of prospective jurors will be conducted by the Judge alone, unless an exception to this rule is made by the presiding Judge.

Counsel may submit in advance, in writing, questions to be asked upon such examination and may supplement this by oral request at side bar when necessary.

- (c) **Argument of Law to Jury Prohibited.** In the argument of any case to a jury, counsel shall not read to the jury from any legal textbook or reported case, instruct the jury on any matter of law, or argue law to the jury.
- (d) **Contacting Prospective Jurors.** Prospective jurors shall not be contacted, either directly or through any member of their immediate family, in an effort to secure information concerning the background of any member of the jury panel.
- (e) **Interviewing Jurors.**
 - (1) No party or their attorney shall, personally or through another person, contact, interview, examine, or question any juror or alternate or any relative, friend or associate thereof, except on leave of court granted upon good cause shown.
 - (2) No juror has any obligation to speak to any person about any case and may refuse all interviews or comments;
 - (3) No person may make repeated requests for interviews or questions after a juror has expressed the desire not to be interviewed;
 - (4) No juror or alternate who consents to be interviewed may disclose any information with respect to the following:
 - (A) The specific vote of any juror other than the juror being interviewed;
 - (B) The deliberations of the jury; or
 - (C) Evidence of improprieties in the jury's deliberation.

LOCAL CIVIL RULE 54 - JUDGMENTS; COSTS

- (a) **Costs.** Whenever any civil action scheduled for jury trial is settled or otherwise disposed of prior to trial, then, except for good cause shown, juror costs, including marshal's fees,

mileage and *per diem*, shall be assessed as directed by the Court, unless the clerk's office is notified in time to advise the jurors that it will not be necessary for them to attend.

(b) Award of Attorney's Fees.

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

(2) Any Judge of the Court may, for good cause shown, relieve counsel of the obligation of filing such a report with the Court.

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

(d) Objections. Specific objections may be made within fourteen days to any item of costs supported by affidavit or other evidence, which may be rebutted. The Clerk of Court shall thereupon tax the costs.

(e) Review of Taxation of Costs. A dissatisfied party may request within seven days that the Court review the action of the Clerk of Court, in accordance with Fed. R. Civ. P. 54(d).

(f) 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.

- (g) **Payment and Application for Order of Satisfaction of Judgment.** Whenever any party shall pay into court an amount of money which fully satisfies any judgment or decree in principal, interest, and costs, the attorney may apply to the Court for an order of satisfaction and, after notice to opposing counsel, or party (if no counsel), upon proof to the Court of such complete satisfaction, shall be entitled to an order declaring same.
- (h) **Filing Acknowledgment of Satisfaction Notice in Docket.** Upon filing of acknowledgment of satisfaction made by the judgment creditor or creditor attorney, the Clerk of Court shall note upon the docket sheet "Judgment Satisfied," together with the date of any judgment.
- (i) **Seaman and Pauper Cases.** In all actions in which the fees of the U.S. Marshal and the Clerk of Court are not required by law to be paid in advance and in which a seaman or a party proceeding *in forma pauperis* prevails, either by judgment or by settlement, no dismissal or satisfaction of judgment shall be filed or entered until all fees of the U.S. Marshal and the Clerk of Court have been paid, unless otherwise ordered by the Court. It shall be the responsibility of counsel handling the payment of any settlement to see to it that all fees are paid whether or not any dismissal or satisfaction of judgment entry is applied for.

LOCAL CIVIL RULE 55 - DEFAULT

In addition to the provisions of Fed. R. Civ. P. 55, the following rules apply to default judgments:

- All requests for entry of default shall be made to the Clerk of Court in writing;
- The clerk shall provide notice of entry of default to each defendant or the defendant's attorney at the last known address;
- A judgment of default shall not be entered until fourteen days after entry of default.

LOCAL CIVIL RULE 56 - SUMMARY JUDGMENT

- (a) **Motions for Summary Judgment.** Every motion for summary judgment shall be accompanied by a separate, short, and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried.
- (b) **Opposition to Summary Judgment.** Each copy of the papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts as to which the opponent contends there exists a genuine issue to be tried. All material facts set forth in the statement required to be served by the moving party will be deemed admitted, for purposes of the motion, unless controverted as required by this Rule.

LOCAL CIVIL RULE 58 - ENTRY OF JUDGMENT

- (a) **Judgments/Orders.** Judgments and orders must be on a separate document and shall bear the caption of the action.
- (b) **Seaman Settlements.**

 - (1) To obtain a judgment based upon a joint stipulation and compromise, a complaint and a joint motion for approval of the compromise must be filed.
 - (2) The filing must include:

 - (A) Statements of the facts claimed by the respective parties;
 - (B) Copies of all relevant and available medical reports, together with certification that the attached medical reports are all relevant reports that are available;
 - (C) A copy of proposed disbursements. Attorney's fees need not be set forth unless requested by the Judge;
 - (D) A copy of the proposed release.
 - (3) The Judge must conduct an interview with the plaintiff in open court and on the record.

If the Court approves the compromise, an order will be entered in *substantially* the following form:

"ORDER

"Considering the joint motion of the parties, the statement of facts attached, annexed medical report, the proposed release, the Court having independently interviewed the plaintiff and being satisfied that the plaintiff understands all legal rights and the consequences of the contemplated settlement that the Court determines to be fair and without making any determination as to seaman status,

"IT IS ORDERED that the compromise between plaintiff and defendant with plaintiff in the amount of \$_____ submitted this date, is hereby approved on the terms set forth in the proposed release."

- (4) A similar procedure may be followed if a seaman's case is compromised during trial.
- (5) If a 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

(a) Petitions to Stay Execution of State Court Judgments.

- (1) A petitioner who seeks a stay of enforcement of a state court judgment or order shall attach to the petition a copy of each pertinent state court opinion and judgment. The petition shall also state whether or not the same petitioner has previously sought relief arising out of the same matter from this Court or from any other federal court. The reasons for denying relief given by any court that has considered the matter shall also be attached. If reasons for the ruling were not given in a written opinion, a copy of the relevant portions of the transcript shall be supplied.
- (2) If any issue is raised that was not raised, or has not been fully exhausted, in state court, the petition shall state the reasons why such action has not been taken.

- (b) Supersedeas Bond.** A supersedeas bond staying execution of a money judgment shall be in the amount of the judgment plus 20% of the amount to cover interest, costs, and any award of damages for delay, unless the Court directs otherwise.

LOCAL CIVIL RULE 65 - INJUNCTIONS AND RESTRAINING ORDERS

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

LOCAL CIVIL RULE 65.1 - SECURITY: PROCEEDINGS AGAINST SURETIES

(a) Qualifications of Sureties.

- (1) 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 U. S. Treasury to act as surety on official bonds, pursuant to *31 U.S.C. § 9303-9309*, except that a bond for costs may instead have as surety an individual resident of the District who satisfies the Court that the individual owns real or personal property within the District sufficient to justify the full amount of the suretyship.
- (2) Only by stipulation of the parties or by order of the Court may some other form of surety be permitted.

- (b) **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

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

(b) **Form of Order.**

- (1) A proposed order to deposit funds in the Court's Registry shall specify the amount to be deposited. If the moving party desires to have the funds placed in a special investment, a proposed order shall be filed with the Court which shall state the type of investment to be made, the prevailing rate of interest, the length of time the funds are to be invested, and whether the investment is to be automatically renewed at maturity.
- (2) 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.

(c) **Disbursement of Registry Funds.**

- (1) Funds shall be disbursed from the registry of the Court only upon order of a Judge of this Court. It shall be the responsibility of counsel filing a motion for disbursement to satisfy the Court of the recipient's entitlement to the funds sought to be disbursed.

- (2) A motion for disbursement of registry funds shall set forth the principal sum initially deposited, the amount of principal funds to be disbursed, to whom the disbursement is to be made, complete mailing instructions, and specific instructions regarding distribution of accrued interest.
- (3) Each motion shall be accompanied by a proposed order which shall contain substantially the following language: "The Clerk of Court 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*)."
- (4) If more than one check is to be issued on a single order, the portion of principal due each payee must be stated separately.
- (5) Counsel must also provide the Social Security number or Tax I.D. number for each payee and complete mailing or delivery instructions for each payee. This information shall be submitted to the Clerk of Court's Finance Department and shall not be filed into the case record.
- (6) On all checks drawn by the Clerk of Court on registry funds, the name of the payee shall be written as that name appears in the Court's order providing for disbursement.
- (7) The Clerk of Court 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.

LOCAL CIVIL RULE 72 - MAGISTRATE JUDGES; PRETRIAL ORDERS

- (a) **Method of Review of Magistrate Judge Determination by a District Judge.** A motion to review a Magistrate Judge's order or an objection to the proposed findings and recommendation of a Magistrate Judge must be made by filing a motion for review of the order or an objection to the proposed findings and recommendation, along with a supporting memorandum.
- (b) **Referral of Proceedings in Civil Matters.** Proceedings in civil matters may be referred to a Magistrate Judge for decision or for report and recommendation, in accordance with 28 U.S.C. § 636(b)(1)(A) and (B), and any standing orders issued by the District Judge to whom the case is assigned.

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

- (a) **Jurisdiction.**
- (1) All Magistrate Judges are designated fully to exercise all powers and jurisdiction, and perform to the fullest extent the duties prescribed in 28 U.S.C. § 636(a), (b) and (c).
 - (2) Nothing in these rules shall preclude the Court, or a Judge of this Court, from conducting any proceeding itself rather than by a Magistrate Judge.
- (b) **Referral of Cases.** The Clerk of Court shall refer cases to the Magistrate Judges in accordance with the Court's general orders and standing orders issued by the Judge to whom the case is assigned.
- (c) **Cases Referred for Trial Under 28 U.S.C. § 636(c).** Upon the written consent of all parties and referral by the District Judge to whom the case is assigned, a Magistrate Judge may conduct any and all proceedings in a civil case which is filed in this Court, including the conduct of a jury or non-jury trial and post-judgment proceedings, and shall order the entry of a final judgment. In the course of conducting such proceeding a Magistrate Judge shall

hear and determine any and all pre-trial and post-trial motions which are filed by the parties, including dispositive motions.

(d) Other Duties. A Magistrate Judge may be assigned additional duties under 28 U.S.C. § 636(b)(3), including the following matters, which are set forth for illustrative purposes only:

- (1) Conduct pre-trial conferences, settlement conferences, omnibus hearings, and related pre-trial proceedings in civil and criminal cases;
- (2) Accept waivers of indictment, pursuant to Fed. R. Civ. P. 7(b);
- (3) Conduct voir dire and select grand and petit juries for the Court;
- (4) Conduct necessary proceedings in a probation revocation action;
- (5) 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;
- (6) Order the exoneration or forfeiture of bonds;
- (7) Conduct proceedings for the collection of civil penalties of not more than \$200 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. § 4311(d);
- (8) Conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;
- (9) Conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act;
- (10) Perform the functions specified in 18 U.S.C. § 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;
- (11) Conduct extradition proceedings pursuant to 18 U.S.C. § 3184;
- (12) Discharge indigent prisoners or persons imprisoned for debt under process or provisions of 28 U.S.C. § 2007;

- (13) Issue attachment or order to enforce obedience to an Internal Revenue Summons to produce books and give testimony under 26 U.S.C. § 6704(b);
- (14) Upon application, cause the arrest and detention of seaman in accordance with 22 U.S.C. § 256 - 258; conduct proceedings for disposition of deceased seaman's effects under 46 U.S.C. § 10706, et seq. conduct hearings of offenses arising under 46 U.S.C. § 11501, and submit reports and recommendations to the District Judge;
- (15) Review appeals of Social Security cases and submit a report and recommendation to the District Court;
- (16) Enter a scheduling order and modify a scheduling order upon a showing of good cause under Fed. R. Civ. P. 16(b);
- (17) Issue Order for Service by Publication under 28 U.S.C. § 1655;
- (18) Issue appropriate Orders for Execution of Judgment;
- (19) Issue Orders confirming sales by the U. S. Marshal under 28 U.S.C. § 2001 and 2004.
- (20) Perform any additional duty that is consistent with the Constitution and laws of the United States.

LOCAL CIVIL RULE 77 - DISTRICT COURTS AND CLERKS

Conference in Chambers - Notice.

Except as to applications normally considered and acted upon *ex parte*, no *ex parte* communication with a Judge in chambers is allowed, except upon notice of the date and hour of the proposed conference to opposing counsel, or if counsel is unknown, to the opposing party.

LOCAL CIVIL RULE 78 - MOTION DAY

(a) Motion Day. Each Judge may designate a particular day or days as Motion Day. On this day priority may be given to the presentation of motions. Motions may also be designated for hearing at some other time by order of the Judge to whom the action is assigned. On Motion Day, the Court may also consider reviews from Magistrate Judges' rulings,

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

- (b) **Oral Argument.** Oral argument shall be allowed only when ordered by the Court. All other motions shall be decided by the Court on the basis of the record, including timely filed briefs and any supporting or opposing documents filed therewith.

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

- (a) **Withdrawal of Files.** Files in the office of the Clerk of Court may be removed from it only for the use of the court or with leave of court or permission of the Clerk of Court first obtained.
- (b) **Electronic Evidence for Trials.** Evidence offered during trial shall be provided by each party in electronic format as described in the Court's Administrative Procedures, court orders, and notices.
- (c) **Electronic Evidence for All Other Proceedings.** Evidence offered during proceedings other than trial shall be provided by each party in electronic format as described in the Court's Administrative Procedures, court orders and notices.
- (d) **Custody of Exhibits With the Clerk of Court.**
 - (1) These rules provide for all exhibits offered and received in evidence to be submitted in electronic format; therefore, the electronic evidence becomes the official record.
 - (2) After being received in evidence, all exhibits shall be placed in the custody of the Clerk of Court, in electronic format, as outlined in the Court's Administrative Procedures, court orders and notices, unless otherwise ordered by the Court.
- (e) **Custody of Exhibits With the Offering Party.**
 - (1) Offering parties are required to submit digital photographs of all oversized or physical exhibits, received into evidence (e.g., models, enlarged diagrams), properly showing significant features of those exhibits.

(2) At the conclusion of a trial or proceeding, the party offering such exhibits shall retain custody of the physical exhibits and be responsible to the Court for preserving them in their condition as of the time admitted until any appeal is resolved or the time for appeal has expired.

(3) The party retaining custody shall make such exhibits available to opposing counsel for use in preparation of an appeal and be responsible for their safe transmission to the appellate court, if required.

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

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

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

(a) Naturalization. The District Court administers the Oath of Allegiance to applicants for naturalization.

(b) Attorneys.

(1) Roll of Attorneys. The bar of this Court consists of those lawyers admitted to practice before this Court who have taken the prescribed oath.

(2) Eligibility. Any member in good standing of the bar of the Supreme Court of Louisiana is eligible for admission to the bar of this Court.

(3) Procedure for Admission.

(A) Each applicant for admission to the bar of this Court shall file with the Clerk of Court a written petition signed by the applicant and endorsed by two

members of the bar of this Court listing the applicant's office address, general and legal education, the courts that have admitted the applicant 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 must be given.

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

(4) Attorneys Representing the United States. Attorneys representing the United States or any of its departments, agencies, or employees are permitted to appear on behalf of the United States government and to represent its interests in any matter in which the United States government is interested, upon written request to the Clerk of Court and proper introduction to the Court by the United States Attorney for the District or one of the Assistant United States Attorneys.

(5) Payment of Annual Fees.

(A) In addition to the fee paid upon admission to the bar of this Court, every attorney so admitted shall pay to the Clerk of Court an annual fee in an

amount to be determined by the Court. The fee shall be paid triennially not later than January 31 of the calendar year in which such payment is due.

- (B) At the time of admission, the attorney must make the initial triennial payment. Such fee will not be prorated within any calendar year, but an attorney first admitted in the second or third year of any triennial period will be required to make proportionate payment only for those years of such period in which the attorney's membership in the bar is effective.
- (C) Any attorney who fails to pay the annual fee shall be summarily suspended, provided a notice of delinquency has been sent to the attorney's last address known to this Court at least thirty days prior to such suspension.
- (D) Any attorney suspended under the provisions above shall be automatically reinstated without further order upon payment of all arrears.
- (E) 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 of the desire to assume inactive status and discontinue the practice of law before this Court. Upon the filing of such notice, the attorney shall no longer be eligible to practice law in this Court and shall not be obligated for further payment of the fee prescribed herein.
- (F) Upon a filing of a notice to assume inactive status, the attorney shall be removed from the roll of those classified as active until and unless the attorney requests and is granted reinstatement to the active rolls. Reinstatement shall be granted (unless the attorney is then subject to an outstanding order of suspension or disbarment) upon the payment of any fees due as prescribed by this Rule.

(6) Rules of Conduct. This Court hereby adopts the Rules of Professional Conduct of the Louisiana State Bar Association, as hereafter may be amended from time to

time by the Louisiana Supreme Court, except as otherwise provided by a specific rule or general order of a court.

(7) 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.

(8) Visiting Attorneys.

(A) 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. Those attorneys authorized to appear pursuant to Fed. R. Civ. P. 45(f) are excluded from this Rule.

(B) The motion must have attached to it a certificate from the presiding Judge or Clerk of the highest court of the state, or court of the United States, issued within six months of filing of the motion, where the attorney has been so admitted to practice, showing that the applicant attorney has been so admitted in such court, and that the applicant is in good standing.

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

(D) The applicant attorney shall pay a fee to the Clerk of Court in an amount to be determined by the Court and shall submit the following oath:

I DO SOLEMNLY SWEAR (OR AFFIRM OR PROMISE) that I will conduct myself as an attorney and counselor of this Court, uprightly and according to law; and that I will support the Constitution of the United States.

- (E) An attorney permitted to appear may participate in a particular action or proceeding in all respects, except that all documents requiring signature of counsel for a party may not be signed solely by such attorney, but must bear the signature also of local counsel with whom the visiting attorney is associated.
 - (F) Local counsel shall be responsible to the Court at all stages of the proceedings.
 - (G) Designation of the visiting attorney as “Lead Attorney” pursuant to LR11(b)(1) herein shall not relieve the local counsel of the responsibilities imposed by this Rule.
 - (H) The fee described in this Rule is applicable in each case in which the visiting attorney seeks recognition as qualified counsel.
- (9) 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(b)(2), may be authorized by court order to appear and act for any party without joinder of local co-counsel when it is shown that:
- (A) The party would suffer hardship by joinder of local counsel; and
 - (B) The obligations and duties of counsel in the particular litigation will be fulfilled.
- (10) Familiarity With and Compliance With Rules.** Everyone who appears in Court in proper person and every attorney permitted to practice in this Court shall be familiar with these Rules. Willful failure to comply with any of them, or a false certificate of compliance, shall be cause for such disciplinary action as the Court may see fit, after notice and hearing.

(11) Revocation of Admission.

- (A) Any person admitted to practice before the Court shall give written notice to the Clerk of Court of:
 - (i) Disbarment or suspension by any court or bar association; and
 - (ii) Conviction of any felony violation of any laws, misdemeanors, or municipal ordinances, other than traffic violations.
- (B) Pending any appeal of the conviction, suspension, or disbarment, a member of the bar of this Court may be suspended from further practice before this Court.
- (C) Any member of the bar of this Court may be disbarred or otherwise disciplined after such hearing as the Court may in each particular instance direct, but any member of the bar of this Court who has been disbarred or removed, or hereafter may be disbarred or removed, from the Bar of the State of Louisiana, shall be removed from the bar of this Court and the member's name stricken from the roll. Upon notification from the Eastern or Western District of Louisiana or the Fifth Circuit Court of Appeals of an attorney's suspension in that court, that attorney being a member of the bar of this Court may be suspended from further practice before this Court.

(12) Attorney Discipline.

- (A) After notice and an opportunity to show cause to the contrary, any Judge including active Judges, Senior Judges, Bankruptcy Court Judges, and Magistrate Judges may sanction any attorney for failure to comply with these rules, the Louisiana Rules of Professional Conduct, or any other rule of court.
- (B) A Judge initiating disciplinary proceedings against an attorney shall provide written notice in the form of an Order to Show Cause. The Order to Show

Cause shall (1) state the alleged grounds for discipline, (2) state the range of possible sanctions to be imposed, and (3) inform the attorney of the right to counsel throughout the disciplinary proceedings. The Clerk of Court shall assign the Order to Show Cause a miscellaneous action number, and shall forward a copy of the Order to Show Cause to the attorney named in the Order, and to the Chief Judge.

- (C) Unless otherwise indicated in the Order to Show Cause, the attorney named in the Order to Show Cause shall have fourteen days to file a response, if any. After the period for filing a response has elapsed, the Court shall conduct a hearing on the disciplinary action. The hearing shall be public and on the record.
- (D) If, after a hearing, it is shown by clear and convincing evidence that the attorney committed the violations that are the basis of the Order to Show Cause, the initiating Judge shall have discretion to impose such disciplinary action as the Judge may see fit. Possible sanctions include, but are not limited to, reprimand, ethics training, suspension from practice in the Middle District, and/or civil fines. However, before an attorney may be suspended from practice in the Middle District for a period *exceeding* sixty days, the approval of the Chief Judge *or* the approval of the active Judges of the Middle District must be obtained.
- (E) Upon imposition of any sanction which includes suspension from practice in the Middle District, the Clerk of Court shall report the attorney and the sanction(s) imposed to the Clerks of Court for the U.S. Fifth Circuit Court of Appeals, the Eastern District of Louisiana, the Western District of Louisiana, and the Bar of the State of Louisiana.

- (13) **Continuing Representation, Withdrawals, Substitution of Counsel.** The original counsel of record shall be held to represent the party for whom counsel appears unless the Court permits said counsel to withdraw from the case. Counsel may obtain permission only upon joint motion to substitute counsel or upon a written motion served on opposing counsel and the client before the Court acts. If other counsel is not thereby substituted, the motion to withdraw shall contain the present address of the client and the client's telephone number if the client can be reached by telephone. The motion shall contain a certification by counsel that the client has been notified of all deadlines and pending court appearances. The certificate of service accompanying the motion shall indicate that it was served on the client by certified mail or an affidavit shall be included stating why such service has not been made.
- (14) **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 additional counsel; 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.
- (15) **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 shall 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 shall 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:

- (i) Be duly enrolled in a law school in this state approved by the American Bar Association;
- (ii) Have completed four full-time semesters of legal studies or the equivalent if the school is on some basis other than a semester basis;
- (iii) 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;
- (iv) Be introduced to the Court by an attorney admitted to practice in this Court;
- (v) Neither ask for nor receive remuneration of any kind for services;
- (vi) 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."

(E) *Certification of Students*

The certification of a student by the law school dean or chancellor:

- (i) Shall be filed with the Clerk of Court and, unless sooner withdrawn, it shall 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 shall continue in effect until the date one is admitted to the bar;
- (ii) 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;
- (iii) 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.

(F) *Supervision of Students*

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

- (i) 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;

- (ii) 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;
- (iii) Assist the student in the student's preparation.

(16) 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, unless otherwise directed by the presiding Judge, shall:

- (A) Stand as court is opened, recessed, or adjourned.
- (B) Stand when the jury enters or retires from the courtroom.
- (C) Stand when addressing, or being addressed by, the Court.
- (D) 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.
- (E) Stand at the lectern while making opening statements or closing arguments.
- (F) Address all remarks to the Court, not to opposing counsel.
- (G) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.
- (H) Refer to all persons, including witnesses, other counsel, and the parties by their surnames and not by their first or given names.
- (I) Only one attorney for each party shall examine, or cross examine, each witness.
- (J) Counsel should request permission before approaching the bench; and any documents counsel wish to have the Court examine should be handed to the clerk.

- (K) Any paper or exhibit not previously marked for identification should first be handed to the clerk before it is tendered to a witness for the person's examination; and any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.
- (L) 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.
- (M) In examining a witness, counsel shall not repeat or echo the answer given by the witness.
- (N) Offers of, or requests for, a stipulation should be made privately, not within hearing of the jury.
- (O) In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue, and shall not suggest to the jury, directly or indirectly, that it may or should request transcripts or the reading of any testimony by the reporter.
- (P) Counsel shall admonish all persons at counsel table, including the client, as well as others present in court, including but not limited to the client's representatives, witnesses, friends and family of parties 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.
- (Q) At all times Judicial Officers shall be addressed as Judge (Surname), or Your Honor.
- (R) All attorneys shall dress appropriately when appearing or observing in court or chambers. Male attorneys shall wear coats and ties; female attorneys shall wear business attire. This attire is required regardless of whether the

attorney is appearing as attorney of record. Litigants, witnesses, jurors, and spectators shall be neatly, cleanly, and appropriately attired.

(c) Building Security

- (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".
- (2) Security Personnel.** The term "Security Personnel" means the U.S. Marshal or Deputy Marshal, Federal Protective Service Inspectors or a deputized Court Security Officer.
- (3) Entering the Building.** All persons entering the courthouse shall be required to present valid government issued identification.
- (4) Carrying of Parcels, Bags, and Other Objects.** Security personnel shall inspect all objects carried by persons entering the premises. No one shall enter or remain in the premises without submitting to such an inspection.
- (5) Search of Persons.** Security personnel may search the person of anyone entering the premises or any space in it. Anyone who refuses to permit such a search shall be denied entry. Should any defendant in a criminal case whose appearance is required refuse to permit such a search, security personnel shall deny the person entry and shall immediately notify the Judge before whom the appearance is required. The Judge may take the appropriate action, including, but not limited to, detention and search, and order of revocation of bond, if the defendant is on bond.
- (6) Unseemly Conduct.**
No person shall:

- (A) Loiter, sleep, or conduct oneself in an unseemly or disorderly manner in the premises or on court grounds;
 - (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, unless authorized by the Court;
 - (D) Block any entrance to or exit from the premises or interfere in any person's entry into or exit from the premises.
- (7) **Entering and Leaving.** All persons shall enter and leave courtrooms only through such doorways and at such times as shall be designated by the security personnel.
- (8) **Spectators.** Spectators shall enter or depart courtrooms only at such times as the presiding Judge may direct. No spectator shall enter or remain in any courtroom unless spectator seating is available. Spectators shall sit in that portion of the courtroom designated by the U.S. Marshal. Spectators excluded because of lack of seating and spectators leaving the courtroom while court is in session or at any recess shall not loiter or remain in the area adjacent to the courtroom. All persons present in a courtroom shall conduct themselves in a manner demonstrating respect for the Court and all persons must dress with dignity.
- (9) **Cameras and Electronic Equipment.**
- (A) Unless authorized by the Court, no camera, recording equipment, cellular telephone, tablet, pager, laptop computer or other type of electrical or electronic device shall be brought into the premises. No person shall introduce or attempt to introduce any type of camera, recording equipment, or other type of electrical or electronic device into the premises without court permission. No person shall introduce any type of camera, recording equipment or other type of electric or electronic device into the premises while, or immediately before or after, the grand jury is in session.

- (B) Attorneys appearing before the Court and serving as counsel of record and law enforcement officers are allowed to enter the courthouse with a cell phone, pager, smart phone, laptop, or tablet without seeking permission from the Chief Judge or any other judicial officer. While in the courtroom or chambers the use of the cell phone is limited to accessing the calendar feature, provided the Judge has so directed. Attorneys and law enforcement officers seated in the courtroom may not use cell phones, pagers, smart phones, laptops or tablets, unless otherwise permitted by the presiding Judge.
- (C) The permission to bring a cell phone, pager, smart phone, laptop or tablet into the building is subject to the following sanction: Any cell phone, pager, smart phone, laptop or tablet which rings or makes any other noise in the courtroom, chambers or in the hallways outside of a courtroom shall be subject to seizure and may not be returned to the owner.

(10) Photographs, Radio, or Television Broadcasting.

- (A) The taking of photographs in the courtroom or its environs, or radio or television broadcasting from the courtroom or its environs, during the progress of or in connection with judicial proceedings, including proceedings before a judicial officer, whether or not court is actually in session, is prohibited.
- (B) As used in these rules the term "environs" means any place within any United States Courthouse wherein these Rules apply, and any place wherein a Judicial Officer may conduct judicial proceedings and any public place immediately adjacent thereto.
- (C) Use of audio, video and photographic recording equipment is banned from all areas of the courthouse grounds other than the areas expressly

permitted in this paragraph. Permitted areas consists of the area located east and directly adjacent to the south half of the front courthouse steps, referred to as the “media bullpen,” and the public sidewalks and flagpoles area located on the perimeter of the courthouse block (see diagram posted on the Court’s website).

- (D) No area within the bullpen may be reserved for exclusive use of any one or more entities.
- (E) Media interviews on the courthouse grounds shall be conducted only in the media bullpen, the flagpoles area, and the portion of the public sidewalks. Media interviews shall occur solely at the discretion and convenience of the parties, witnesses, attorneys, and others.
- (F) No member of the media may be present at any time in the restricted area located on the west side of the rear of the courthouse property (located on 7th Street between Florida and Laurel Streets).
- (G) The media are prohibited from interfering with the orderly entrance or exit of any person to or from the courthouse.
- (H) Members of the media should visibly display their Louisiana State Police media identification card or its equivalent on the outside of the holder’s clothing at all times.

(11) 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 witnesses at a session of the grand jury then in progress or about to commence, and others specifically authorized, shall be allowed to remain in the hall adjacent to the grand jury space beyond the entrance door.

- (12) **Interviewing Witnesses Before Grand Jury.** No person shall attempt to question, interview, or interfere with any person who may testify or who has testified before any grand jury within the premises.
- (13) **Weapons.** No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless the person has been authorized in writing by the Chief Judge to do so, or unless the person is a U.S. Marshal, Federal Protective Service Inspector, Court Security Officer, U. S. Probation Officer, or person designated by the Court to assist U.S. Marshals or Federal Protective Service Inspectors.
- (14) **Enforcement.** Security personnel shall enforce the whole of 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.

(d) **Bankruptcy**

- (1) **Reference to Bankruptcy Judge.** Under the authority of 28 U.S.C. § 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 U.S.C. § 157(b)(5), personal injury tort and wrongful death claims shall be tried in the District Court.
- (2) **Appeal to the District Court.** Appeals from judgments, orders, or decrees of a Bankruptcy Judge shall be governed by *Part VIII of the Bankruptcy Rules* (Section 8001, *et seq.*) and the applicable local rules of the District and Bankruptcy Courts.
- (3) **Motion Seeking Relief From a District Judge.** Motions filed seeking relief from a District Judge, including motions under 28 U.S.C. § 157(d) (for withdrawal of reference), 28 U.S.C. § 157(c)(1) (objections to proposed findings of fact and conclusions of law), and Bankruptcy Rule 8005 (for stay pending appeal), shall be governed by the Rules set out below.

(A) *Original Motion*

- (i) *Applicable Rules.* The Local Rules for the District Court shall be applicable to all motions filed in bankruptcy cases or proceedings seeking relief from a District Judge. In those instances where the Bankruptcy Rules require a report from the Bankruptcy Judge, (*e.g.*, *Bankruptcy Rules 5011(b)* and *9027(e)*), the local Bankruptcy Rules shall apply until such report is issued.
- (ii) *Place of Filing.* All motions described in this section above shall be filed with the Clerk of the Bankruptcy Court.
- (iii) *Contents of Motion.* In addition to the normal requirements of papers filed in the Bankruptcy Court, motions described in this section above shall include:
 - (a) A clear and conspicuous statement opposite the title of the action that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."
 - (b) A designation of the portions of the record of the proceedings in the Bankruptcy Court that will reasonably be necessary or pertinent for consideration of the motion by the District Court.
 - (c) A list showing each party with an interest in the motion and for each party shown, their attorney along with such attorney's mailing address.
- (iv) *Subsequent Filings.* Any filing in a matter under this section subsequent to the "Original Motion" set forth above shall be filed with the Clerk of the District Court and shall comply with all rules of such court.

(v) *Duties of the Clerk of the Bankruptcy Court.* Upon filing of an original motion, as set forth above, the Clerk of the Bankruptcy Court shall promptly transmit to the Clerk of the District Court:

(a) The original motion and all attachments to the motion, and

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

(B) *No Automatic Stay.* There shall be no automatic stay of Bankruptcy Court proceedings as a result of the filing of any motion under the above. Any stay of proceedings will result only from an order of the Bankruptcy Court or the District Court.

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

(4) Record Transmitted to the District Court.

(A) 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. The Clerk of the Bankruptcy Court will transmit an email to the District Court listing the documents pertaining to the appeal or motion. The District Clerk will obtain those documents via the PACER [Public Access to Court Electronic Records] system.

(B) 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

(a) **Process.**

- (1) In addition to the requirements set forth in Rule B of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the Clerk of this Court shall not issue a summons and process of attachment and garnishment until such time as the verified complaint and affidavit filed pursuant to Supplemental Rule B is 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 of Court upon application without further order of the Court. If the plaintiff or plaintiff's attorney certifies that exigent circumstances make review by the Court impracticable, the Clerk of Court shall issue a summons and process of attachment and garnishment and the plaintiff shall have the burden on a post-attachment hearing under LAR 4.1(C) to show that exigent circumstances existed.
- (2) In connection with actions *in rem* pursuant to Supplemental Rule C, the verified complaint and supporting affidavit filed in connection therewith shall be reviewed by the Court and no warrant for the arrest of a vessel shall issue unless the Court determines that the conditions for an action *in rem* appear to exist, and enters an order so stating, and authorizing a warrant. Supplemental process enforcing the Court's order may be issued by the Clerk of Court upon application without further order of the Court. If the plaintiff or plaintiff's attorney certifies that exigent circumstances make review by the Court impracticable, the Clerk of Court shall issue a summons and warrant for the arrest and the plaintiff shall have the burden

on a post-arrest hearing under LAR 4.1(C) to show that exigent circumstances existed.

- (3) The procedure for release from arrest or attachment either pursuant to Supplemental Rule B or C shall be as follows: Whenever property is arrested or attached, any person claiming an interest in it shall be entitled to a prompt hearing at which the plaintiff shall be required to show why the arrest or attachment should not be vacated or other relief granted consistent with these rules. This rule shall have no application to suits for seamen's wages when process is issued upon a certification of sufficient cause signed pursuant to 46 U.S.C. § 603 and 604.
- (4) If the Judge to whom the particular case is assigned is not available, matters referred to in this LAR 4 (a) may be presented to any other Judge without the necessity of reassignment of the case.
- (5) To ensure timely service, Plaintiffs are required to contact the United States Marshal's Service before proceeding for a complete list of instructions.
- (6) Absent specific instructions from the Court as stated in the Court's orders, the United States Marshal's Service will not arrest a vessel that is sinking or sunk, on fire, leaking oil, or emitting hazardous cargo.
- (7) Staffing limitations, the priority of criminal matters, and the coordination necessary to effect the arrest of a vessel make it advisable to deliver all documents and fees to the United States Marshal's Service at least two business days in advance of the requested date of arrest. Due to the dangers associated with the seizure of a vessel in waters after dark, seizures will not be executed after sundown unless specifically ordered by the presiding Judge. All properly completed and signed documents, and all fees must be delivered to the United States Marshal's Service no later than 2:00 p.m. Monday through Friday to effect a seizure on the same day, or no later than 2:00 p.m. on Friday to effect a seizure on the weekend.

- (8) Any party seeking the arrest of a vessel or attachment of property must deposit a sum with the United States Marshal sufficient to cover the United States Marshal's or substituted custodian's estimated fees and expenses of arresting and keeping the property for at least ten days. The United States Marshal is not required to execute process until the deposit is made.

LOCAL ADMIRALTY RULE 64 - SEIZURE OF PROPERTY

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

- (1) In all cases where publication is necessary under Supplemental Rule C(4), the time for filing a claim is hereby extended for a period of twenty-one days from the date of the publication.
- (2) The published notice shall contain the title and the number of the suit, the date of the arrest and identity of the property arrested, the name of the United States Marshal, and the name and address of the attorney for the plaintiff. It shall also state that claimants must file their claims pursuant to Supplemental Rule C(6) with the Clerk of Court and serve them on the attorney for plaintiff within twenty-one 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 twenty-one days after the filing of their claim; that, if they do not, default may be entered and condemnation ordered; and that application for intervention under Fed. R. Civ. P. 24, by persons claiming maritime liens or other interests may be untimely if not filed within the time allowed for claims to possession.

(b) Release of Vessel or Property Under Supplemental Rule E(5)(c). The United States Marshal is further authorized to release a vessel or property if the party at whose instance the vessel or property is detained or the party's attorney, expressly authorizes the United States 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 the party's attorney must certify that all costs and charges of the Court and its officers have either been paid or that none are due.

- (c) **Movement of Vessels Under Seizure.** Without a separate order in each individual case, the United States 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 United States Marshal and all his deputies harmless from any and all liability as a result of any such move.
- (d) **Consent Guardian.** The United States Marshal is authorized, without special order of Court, to appoint the master of the vessel or another competent person as keeper or custodian of any vessel under seizure with their consent, provided that all parties to the action or their attorneys shall have expressly consented in writing to the appointment and shall have agreed in writing to hold the United States Marshal and all of his deputies harmless from any and all liability as a result of the appointment. However, plaintiffs are admonished to make every reasonable advance effort to secure a substitute custodian and to coordinate issues concerning the appointment of a substitute custodian with the United States Marshal, and to arrange for advance compliance whenever practical, before filing any complaint which seeks the issuance of warrant for arrest or execution by the United States Marshal.
- (e) **Notices.** Unless otherwise ordered by the Court, or otherwise provided by law, all notices required to be published by statute, rule, or order of court shall be published in the following newspaper:

(f) Sales.

- (1) *Notice.* Unless otherwise ordered by the Court or otherwise provided by law, notices of sale of arrested or attached vessels or property shall be published on three different days, the first of which shall be published at least ten days and the last at least three days before the day of the sale.
- (2) *Confirmation.* In all public auction sales of admiralty by the United States Marshal of this Court, the United States Marshal shall require the last and highest bidder to whom the property is adjudicated to deposit a minimum of \$500.00 or 10% of the bid, whichever is greater, in cash or certified check, or cashier's check on a local bank. In the event that the last and highest bid should be for an amount not in excess of \$500.00, its full amount shall be paid at the time of adjudication. The balance, if any, of the purchase price shall be paid in cash or by certified or cashier's check on a local bank on or before confirmation of the sale by the Court and within ten days of the adjudication or dismissal of any opposition which may have been filed.
- (3) At the conclusion of the auction, the United States Marshal shall forthwith report to the Court the fact of the sale, the price brought, and the name of the buyer, and the Clerk of Court shall endorse upon such report, the time and date of filing. This report shall lie over for three days, exclusive of Saturdays, Sundays, and legal holidays. If within these three days no written objection is filed, the sale shall be confirmed as of course, provided that no sale shall be confirmed until the buyer shall have performed the terms of the purchase. In the event no opposition to the sale shall have been made, the cost of keeping the property pending confirmation shall be paid out of the proceeds of the sale; except that if the confirmation is delayed by the purchaser's failure to pay any balance which is due on the price, the

cost of keeping the property shall be borne by the purchaser after the three day period shall have lapsed. In the event an opposition to the sale is filed, the opponent shall be required to deposit with the United States Marshal, in advance, cost of keeping the property pending the determination of the opposition by the Court; in default of the opponent making the advance, the opponent's opposition shall fail without affirmative action by the Court. If the opposition fails, the cost of keeping the property during its pendency shall be borne by the opponent.

- (4) At the auction, the United States Marshal shall take, record, and report the cost, the name and address of the second highest bidder, and the amount of that second highest bid. In the event that the highest bidder fails to meet the financial obligation pertaining to the 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 said party.

LOCAL ADMIRALTY RULE 65.1 - SECURITY

(a) Security for Costs.

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

(b) Sureties.

- (1) 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 party's attorney, the vessel or property shall not be released without an order of a Judge, on reasonable notice and contradictorily, approving the surety. In the absence of the Judge's approval, the approval of the Clerk of Court, on like notice and contradictorily, shall suffice.

- (2) Such approval shall not limit the right of a party to move, under Rule E(6) of the Supplemental Rules, Fed. R. Civ. P., to reduce the amount of surety given or to require new or additional sureties.

LOCAL CRIMINAL RULES

LOCAL CRIMINAL RULE 5 - INITIAL APPEARANCE BEFORE THE MAGISTRATE JUDGE

Pre-trial proceedings in criminal matters may be referred to a Magistrate Judge for decision or for report and recommendation, in accordance with 28 U.S.C. § 636(b)(1)(A) and (B), by specific referral of the presiding District Judge or by any general or standing orders.

LOCAL CRIMINAL RULE 12 - PRETRIAL MOTIONS

All criminal motions shall comply with the provisions of Local Civil Rules 7, 10, and 11.

LOCAL CRIMINAL RULE 23 - JURY OR NON-JURY TRIAL

All counsel of record and parties to the litigation must be present in court at all stages of trial, unless leave of Court is granted by the presiding Judge.

LOCAL CRIMINAL RULE 24 - INTERVIEWING JURORS

- (a) No party or their attorney shall, personally or through another person, contact, interview, examine, or question any juror or alternate or any relative, friend or associate thereof, except on leave of Court granted upon good cause shown.
- (b) No juror has any obligation to speak to any person about any case and may refuse all interviews or comments;

- (c) No person may make repeated requests for interviews or questions after a juror has expressed the desire not to be interviewed;
- (d) No juror or alternate who consents to be interviewed may disclose any information with respect to the following:
 - (1) The specific vote of any juror other than the juror being interviewed;
 - (2) The deliberations of the jury; or
 - (3) Evidence of improprieties in the jury's deliberation.

LOCAL CRIMINAL RULE 32 - SENTENCE AND JUDGMENT

(a) Sentencing.

- (1) In accordance with the provisions of Fed. R. Crim. P. 32, when a presentence investigation is ordered, defendant's counsel, upon request, is entitled to notice and a reasonable opportunity to attend any interview of the defendant by a Probation Officer in the course of a presentence investigation.
- (2) Not less than thirty-five days prior to the date set for sentencing, unless the defendant waives this minimum period, the Probation Officer shall disclose the presentence investigation report to the defendant, counsel for the defendant and the Government. The presentence report is considered a confidential document and will be filed in the record under seal by the Probation Office at the time of the report's disclosure. Within fourteen days thereafter, counsel shall communicate in writing to the Probation Officer and each other any objections they may have as to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report.
- (3) After receiving counsel's objections, the Probation Officer shall conduct any further investigation and make any revision to the presentence report that may be necessary. The Officer may require counsel for both parties to meet with the Officer to discuss unresolved factual and legal issues.

- (4) Not later than seven days prior to the date of the sentencing hearing, the Probation Officer shall file the presentence report in the Court record, if the report is revised. The Probation Officer shall then file any addendum to the presentence report.
- (5) Except with regard to any objection made under Fed .R. Crim. P. 32(f) that has not been resolved, the report of the presentence investigation may be accepted by the Court as accurate. The Court, however, for good cause shown, may allow a new objection to be raised at any time before the imposition of sentence. In resolving disputed issues of fact, the Court may consider any reliable information presented by the Probation Officer, the defendant, or the Government.
- (6) The times set forth in this Rule may be modified by the Court for good cause shown, except that the thirty-five day period set forth in Fed. R. Crim. P. 32(e) may be diminished only with the consent of the defendant.
- (7) Nothing in this Rule requires the disclosure of any portions of the presentence report that are not disclosable under Rule 32 of the Federal Rules of Criminal Procedure. As permitted by Rule 32, the Probation Officer's recommendation on the sentence shall not be disclosed to anyone, other than the Court.
- (8) The presentence report shall be deemed to have been disclosed one day after a copy of the report is filed electronically.

(b) Sentencing Memoranda. A party may submit a sentencing memorandum addressing any factor taken into account for sentencing purposes. The memorandum may contain, but is not limited to, sentencing factors enumerated in 18 U.S.C. § 3553(a); factors for upward or downward departure including those considered pursuant to U.S.S.G. § 5K1.1; argument on unresolved objections to the presentence report; and any information concerning the background, character, and conduct of the defendant, in accordance with 18 U.S.C. § 3661.

Sentencing memoranda shall be filed **UNDER SEAL** by counsel through the Court's electronic filing system using the applicable event "Sealed Sentencing Memorandum by the

Government” or “Sealed Sentencing Memorandum by the Defense.” The filing attorney is responsible for providing conventional service to the U. S. Probation Office and to opposing counsel, indicating on the Certificate of Service how the document was served. All such sentencing memoranda shall be filed at least fourteen days prior to the date of sentencing.

- (c) **USSG § 5K1.1 Motions.** Government motions, pursuant to USSG § 5K1.1 (Substantial Assistance to Authorities) and accompanying memorandum, should be filed **UNDER SEAL** by counsel through the Court’s electronic filing system. The filing attorney is responsible for providing conventional service to the U. S. Probation Office and to opposing counsel, indicating on the Certificate of Service how the document was served. All such USSG § 5K1.1 motions shall be filed at least fourteen days prior to the date of sentencing and must be accompanied by a proposed order.

LOCAL CRIMINAL RULE 44 - CONTINUING REPRESENTATION, WITHDRAWALS, SUBSTITUTION OF COUNSEL

The original counsel of record shall be held to represent the party for whom counsel appears unless the Court permits said counsel to withdraw from the case. Counsel may obtain permission only upon joint motion to substitute counsel or upon a written motion served on opposing counsel and the client before the Court acts. If other counsel is not thereby substituted, the motion to withdraw shall contain the present address of the client and the client's telephone number, if the client can be reached by telephone. The motion shall contain a certification by counsel that the client has been notified of all deadlines and pending court appearances. The certificate of service accompanying the motion shall indicate that it was served on the client by certified mail or an affidavit shall be included stating why such service has not been made.

LOCAL CRIMINAL RULE 49 - SERVICE AND FILING OF PAPERS

- (a) **Filing by Electronic Means.**

- (1) The Court will accept for filing only those documents submitted and signed or verified by electronic means and only those electronic documents that comply with

procedures established by the Court, as authorized by Rule 49(d) of the Federal Rules of Criminal Procedure. The electronic record shall be the official record of the Court.

- (2) Notwithstanding the foregoing, an attorney may, for good cause shown, request by written motion a temporary exemption from mandatory electronic case filing. If the exemption pertains to a specific case, the motion should be filed in that case. If the exemption pertains to all cases before the Court, current and future, said motion should be filed and will be submitted to the Chief Judge.
- (3) The filing of charging documents, including the complaint, information, indictment and superseding information or indictment, shall be accomplished as set forth in the administrative procedures guide for the U. S. District Court, Middle District of Louisiana, which is authorized by General Order 2005-06. A copy of the administrative procedures may be obtained from the Clerk's Office or downloaded from the Court's website at www.lamd.uscourts.gov.

(b) Service of Documents By Electronic Means.

- (1) The "Notice of Electronic Filing" that is automatically generated by the Court's Electronic Filing System, except as provided below, constitutes service of the filed document on all parties who have consented to electronic service. Parties who have not consented to electronic service must be served with a copy of any pleading or other document filed electronically in accordance with the Federal Rules of Criminal Procedure and the Local Rules.
- (2) Most sealed filings do not produce a Notice of Electronic Filing, and therefore, service by the party of any sealed document must be in accordance with the Federal Rules and the Local Rules.
- (3) A certificate of service must be included with all electronic filings. The certificate of service must identify the method of service upon each party.

LOCAL CRIMINAL RULE 53 - REGULATION OF CONDUCT PERTAINING TO CRIMINAL MATTERS

- (a) **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, including social media, in connection with pending or imminent criminal litigation with which the lawyer 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. It is the duty of the lawyer to abide by Rule 1.6 of the Louisiana Rules of Professional Conduct.
- (b) **Pending Investigations.** When there is a grand jury or other pending investigation of any criminal matter, a lawyer participating in the investigation shall refrain from making any extrajudicial statement, for dissemination by any means of public communication, including social media, 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.
- (c) **Extrajudicial Statements Concerning Specific Matters.**
- (1) From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement for dissemination by means of public communication, including social media relating to that matter and concerning:
- (A) The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence,

occupation, and family status; and, if the accused has not been apprehended, a lawyer associated with the prosecution may release information necessary to aid in the accused's apprehension or to warn the public of any dangers the accused 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.

(2) 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.

(d) Disclosures Authorized. The foregoing shall not be construed to preclude the lawyer during this period, in the proper discharge of the lawyer's 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), 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 the accused.

- (e) **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 and the lawyer's assistants, paralegals, and investigators shall give or authorize any extrajudicial statement or interview, relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public records of the Court in the case.
- (f) **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 and their assistants, paralegals and investigators associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.
- (g) **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 oneself.
- (h) **Disclosure of Information by Courthouse Personnel.** All courthouse personnel, including the United States Marshal, Deputy Marshals, Court Security Officers, Clerk of Court, Deputy Clerks, Law Clerks, Judicial Assistants, Court Reporters, and Probation and Pretrial Services Officers shall under no circumstances disclose to any person, without express authorization by the Court, information relating to a pending criminal case or grand jury matter that is not part of the public records of the Court. This Rule specifically forbids

the divulgence of information concerning matters held in chambers or otherwise outside the presence of the public.

- (i) **Special Orders.** To promote fairness and impartiality in the trial process and to protect the rights of the parties, 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 matter that the Court may deem appropriate for inclusion in such an order.
- (j) **Subjects of Special Order.** Such a special order may be addressed to the following subjects, including, but not limited to:
 - (1) A proscription of extrajudicial statements by participants in the trial, including lawyers and their assistants, paralegals, and investigators; parties, witnesses, jurors, and court officials, who might divulge prejudicial matter not of public record in the case;
 - (2) 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 other witnesses, both in entering and leaving the courtroom and courthouse, and during recesses in the trial;
 - (3) 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, including social media, in any manner during their deliberations;
 - (4) Sequestration of the jury on motion of either party or of the Court without disclosure of the identity of the movant;

- (5) Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the Court;
- (6) Insulation of witnesses from news interviews during the trial period;
- (7) Specific provisions regarding the seating of spectators and representatives of news-media, including:
 - (A) An order that no member of the public or news-media representative be at any time permitted within the bar railing;
 - (B) 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.

(k) Building Security. Building Security shall be governed by Rule 83 (c) of the Local Civil Rules for the Middle District of Louisiana.

LOCAL CRIMINAL RULE 55 - RECORDS

- (a) Withdrawal of Files.** Files in the office of the Clerk of Court may be removed from it only for the use of the Court or with leave of Court or permission of the Clerk of Court first obtained.
- (b) Electronic Evidence for Trials.** Evidence offered during trial shall be provided by each party in electronic format as described in the Court's Administrative Procedures, court orders, and notices.
- (c) Electronic Evidence for All Other Proceedings.** Evidence offered during proceedings other than trial shall be provided by each party in electronic format as described in the Court's Administrative Procedures, court orders, and notices.

(d) Custody of Exhibits With the Clerk of Court.

- (1) These rules provide for all exhibits offered and received in evidence to be submitted in electronic format; therefore, the electronic evidence becomes the official record.
- (2) After being received in evidence, all exhibits shall be placed in the custody of the Clerk of Court, in electronic format, as outlined in the Court's Administrative Procedures, court orders, and notices, unless otherwise ordered by the Court.

(e) Custody of Exhibits With the Offering Party.

- (1) Offering parties are required to submit digital photographs of all oversized or physical exhibits, received into evidence (e.g. models, enlarged diagrams), properly showing significant features of those exhibits.
- (2) At the conclusion of a trial or proceeding, the party offering such exhibits shall retain custody of the physical exhibits and be responsible to the Court for preserving them in their condition as of the time admitted until any appeal is resolved or the time for appeal has expired.
- (3) The party retaining custody shall make such exhibits available to opposing counsel for use in preparation of an appeal and be responsible for their safe transmission to the Appellate Court, if required.

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

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

(a) Petty Offenses and Misdemeanors.

- (1) As authorized by subsection (d) of Fed. R. Crim. P. 58, the offenses named in the Schedule of Offenses designated by the Court may be disposed of by payment of the fixed sum provided in the schedule in lieu of a personal appearance before a Magistrate Judge. The proceeding shall be terminated on receipt of payment by the Central Violations Bureau.
- (2) In all other 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. Crim. P. 43(c), the defendant must personally appear before the Magistrate Judge for disposition of the charges or for other proceedings directed by law.
- (3) 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).
- (4) Each Magistrate Judge is specifically designated to conduct trial and sentencing in misdemeanor cases as defined in 18 U.S.C. § 3401.

(b) Central Violations Bureau. The Clerk of Court shall maintain a Central Violations Bureau. The Bureau shall keep a record of violation notices transmitted by enforcement agencies, a record of all payments made pursuant to Local Criminal Rule 58(a) and shall give appearance notices to those violators whose offenses are not disposed of under a Schedule of Offenses as provided in Local Criminal Rule 58(a). The Bureau shall transmit to the Magistrate Judges notices for personal appearance and shall maintain other records needed to effect the prompt disposition of petty offenses.

APPENDIX

NOTICE REGARDING COMPLAINTS OF JUDICIAL MISCONDUCT OR DISABILITY

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

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

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

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