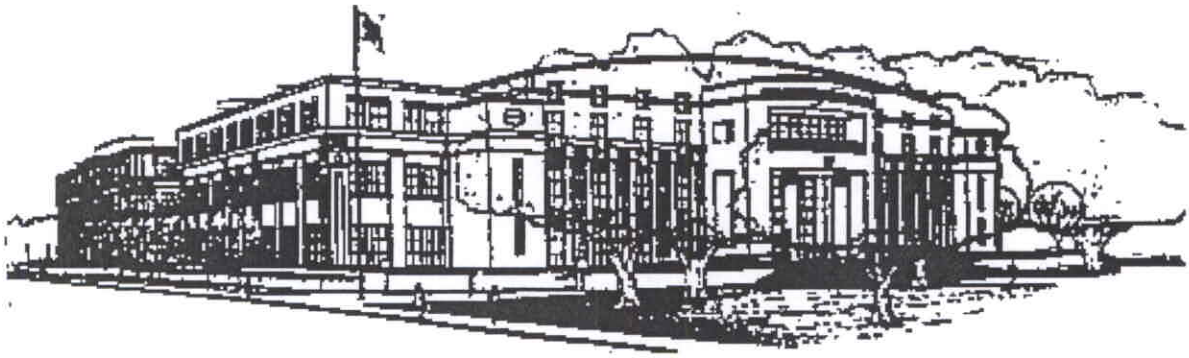
GENERAL

FILING

PROCEDURES



U.S. DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

LAWRENCE TALAMO
CLERK OF COURT

Revised August 2002

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FOREWORD

The General Filing Procedures Manual is a culmination of extensive research and interaction of the Clerk's Office staff with the public and Bar. It is our goal to ensure that those individuals who deal with the Middle District are provided with the highest level of service the court can provide.

I hope you will find this manual, as an informational packet, an invaluable resource tool for any and all questions that you may have. This manual, we believe when used in conjunction with the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and Uniform Local Rules of Louisiana, will not only be beneficial to those who are familiar with the Court, but also to attorneys, paralegals, secretaries, and pro se litigants who are not familiar with the federal court system.

Many of you have already noticed the changes the Court has initiated to accommodate the needs of the public and Bar. For those of you who have not been to federal court, I hope you find the resources available to you a valuable asset. Some of the Court's most recent technical advances are video-conferencing for hearings, the electronic courtroom, touch screens for the public viewing area computer terminals, 1-800 number for dial-up PACER connections, and the imaging project, which entails scanning every page of pleadings filed. This will make viewing of court records possible through PACER at "pacer.lamd.uscourts.gov" and/or PACER NET the public access terminals in the clerk's office. From this web site you will be able to copy documents up to 50 pages in civil cases only, excluding social security cases.

The court's mission is to serve the public and Bar in an efficient and courteous manner. We are here to answer any questions that you may have. Please feel free to contact the Court on any related matter.

Lawrence Talamo
Clerk of Court

GENERAL INFORMATION ABOUT THE COURT

HOURS

The Clerk's Office is open to the public from 8:00 a.m. until 5:00 p.m. The cashier is open from 8:00 a.m. until 4:30 p.m.

LOCATION

Mailing Address	Clerk of Court - Lawrence Talamo 777 Florida Street, Suite 139 Baton Rouge, LA 70801-1712
Physical Address	777 Florida St., Suite 139 Baton Rouge, LA 70801-1712
Telephone Number	(225) 389-3500
Fax Number	(225) 389-3501

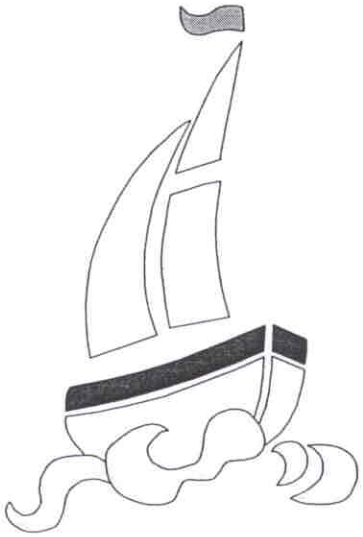
For a map with directions to the courthouse, refer to Attachment A.

JURISDICTION

Pursuant to 28 USC § 98, the Middle District of Louisiana includes nine parishes: Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, West Baton Rouge, West Feliciana. (Attachment B)

LEGAL HOLIDAYS

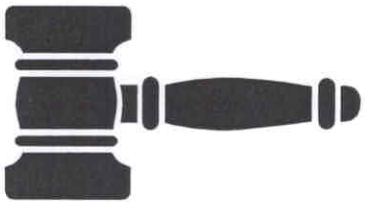
- New Year's Day
- Martin Luther King's Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veteran's Day
- Thanksgiving Day
- Christmas Day



COURT DIRECTORY

JUDGES

The Middle District of Louisiana has four Judges and three Magistrate Judges.



Section A

- Senior Judge John V. Parker
  Judicial Assistant - Melissa Prados
  777 Florida St., Suite 355
  Baton Rouge, LA 70801
  (225) 389-3568

  Courtroom Deputy - Pamela Harter
  (225) 389-3574

Section B

- Chief Judge Frank J. Polozola
  Judicial Assistant - Jackie Gaudin
  777 Florida St., Suite 313
  Baton Rouge, LA 70801
  (225) 389-3576

  Courtroom Deputy - Kristie Causey
  (225) 389-3582

Section C

- Judge Ralph E. Tyson
  Judicial Assistant - Saundra Landry
  777 Florida St., Suite 301
  Baton Rouge, LA 70801
  (225) 389-3634

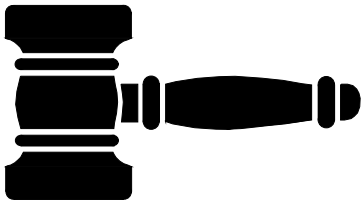
  Courtroom Deputy - Nick Lorio
  (225) 389-3636

Section D

- Judge James J. Brady
  Judicial Assistant Suzie Edwards
  777 Florida St., Suite 369
  Baton Rouge, LA 70801
  (225) 389-4030

  Courtroom Deputy - Suzie Edwards
  (225) 389-4032

COURT DIRECTORY



Magistrate Judge 1

- Magistrate Judge Stephen Riedlinger
  Judicial Assistant - Liz Daigle
  777 Florida St., Suite 260
  Baton Rouge, LA 70801
  (225) 389-3584

  Courtroom Deputy - Bridget Wolfe
  (225) 389-3588

Magistrate Judge 2

- Magistrate Judge Christine Noland
  Judicial Assistant - Elaine Wallace
  777 Florida St., Suite 278
  Baton Rouge, LA 70801
  (225) 389-3592

  Courtroom Deputy - James Purvis
  (225) 389-3596

Magistrate Judge 3

- Magistrate Judge Docia L. Dalby
  Administrative Law Clerk - L'Reece David
  777 Florida St., Suite 265
  Baton Rouge, LA 70801
  (225) 389-3602

  Courtroom Deputy - Joan Sheets
  (225) 389-3606

RELATED SECTIONS

- **U.S. Bankruptcy Court**
  Judge Douglas Dodd
  (225) 389-0371

  J. Lynn Burkett, Clerk
  707 Florida Street, First Floor
  Baton Rouge, LA 70801
  (225) 389-0211
  FAX: 389-0410

- **U.S. Attorney's Office**
  David R. Dugas,
  United States Attorney
  777 Florida St., Suite 208
  Baton Rouge, LA 70801
  (225) 389-0443
  FAX: 389-0561

- **Federal Public Defender's Office**
  Western and Middle Districts
  of Louisiana
  Rebecca L. Hudsmith, FPD
  Wayne Blanchard, Asst. FPD
  Joseph Streva, Asst. FPD
  Lafayette Headquarters
  102 Versailles Boulevard, Suite 320
  Lafayette, LA 70501
  (318) 262-6605 or 1-800-731-4012
  FAX: (318) 262-6605

- Jean Faria, Asst. FPD
  707 Florida, Suite 303
  Baton Rouge, La. 70801
  (225) 382-2118
  FAX: (225) 382-2119

- **Probation and Pretrial Services Office**
  Eddie Samson, Chief Probation and Pretrial
  Services Officer
  777 Florida St., Suite 161
  Baton Rouge, LA 70801
  (225) 389-3600
  FAX: 389-3601

- **U.S. Marshal's Office**
  Carey Jenkins
  777 Florida St., Suite G50
  Baton Rouge, LA 70821
  (225) 389-0364
  FAX: 389-0370

- **Fifth Circuit Satellite Librarian**
  Maralena "Tootie" Murphy
  777 Florida St., Suite G76
  Baton Rouge, LA 70801
  (225) 389-0595

COURT REPORTERS

- Barbara Phipps
  777 Florida St., Suite 370
  Baton Rouge, LA 70801
  (225) 389-3565

- Kay Raborn
  777 Florida St., Suite 370
  Baton Rouge, LA 70801
  (225) 389-3564

- Judy Francisco
  777 Florida St., Suite 370
  Baton Rouge, La. 70801
  (225) 389-3566

- Shannon Thompson
  777 Florida St., Suite 370
  Baton Rouge, La. 70801
  (225) 389-3567

CLERK'S OFFICE GENERAL PROCEDURES

LOCATION OF FILES AND DOCKETS

All cases have distinctive numbers in the following format:

- The notation CV (Civil) or CR (Criminal);
- A two-digit indicator of the year the case was filed;
- A hyphen and the individualized four-digit case number;
- Another hyphen and the letter showing the section to which it was assigned;
- Another hyphen followed by number 1,2 or 3 indicating the magistrate judge assigned to the case.

For Example:
The first civil action number in 2002 would be CV 02-0001-A-1.
The first criminal action number in 2002 would be CR 02-0001-A-2.

All open cases are maintained in the clerk's office. Closed cases are kept for one year after the final disposition of the case. Cases closed longer than one year are maintained at the Federal Records Center in Fort Worth, Texas.

FEES OF THE U.S. DISTRICT COURT - 28 USC § 1914

Uniform Louisiana Local Rule 5.2 states, "The clerk shall not be required to file any paper or to render any service for which a fee is legally collectible unless the fee for the particular service is paid in advance.

Bond for Seizure of a Vessel (per vessel) LR 65.1.1	250.00
Naturalization Petition	70.00
Attorney Admission (Admission fee $50 plus annual fee LR83.2.3.1)	50.00
Certificate of Good Standing	15.00
Duplicate Certificate of Admission	15.00
Visiting Attorney Fee (LR83.2.6M)	25.00

Civil Filing Fee	150.00
Application for Writ of Habeas Corpus	5.00
Filing of Appeal	105.00

Note: A separate fee shall be paid by each party filing a notice of appeal in the district court, but parties filing a joint notice of appeal in the district court are required to pay only one fee.

Appeal to a district judge from a judgment of conviction by a magistrate judge in a misdemeanor case	25.00
Power of Attorney	20.00
Petition to Perpetuate Testimony (FRCP 27(a)(1)	30.00
Filing papers by receivers (28 USC § 754)	30.00
Filing of letter rogatory or request (28 USC § 1781 et seq)	30.00
Registration of Judgment from another district (28 USC § 1963)	30.00
Filing of any paper work not in a suit	30.00
Copywork (per page)	.50
Printing Fee From Public Access Terminal in Clerk's Office (per page)	.10
Microfiche/film of court record (where available)	4.00
Reproduction of magnetic tape recordings	20.00
Certification (per document)	7.00
Certificate of search	20.00
NSF check	35.00
Retrieval of record from FRC, National Archives or other storage location	35.00
Exemplification certificate	14.00

Acceptable forms of payment are cash, cashier's check, law firm check, money order, and the following credit cards -VISA, MasterCard, American Express or Diner's Club. No personal checks or third party checks are accepted. All checks are to be payable to "U.S. Courts." When a credit card is used, the person using the credit card must be the cardholder and present a picture ID. The credit card must be presented in person, the court cannot accept credit card numbers over the telephone, by fax, or written on paper.

An order from the court is necessary to withdraw any monies that have been deposited with the court.

Dial-in access to PACER is available at a charge of $0.60 per minute on-line.

SEARCHING FOR CASES WHEN CASE NUMBER IS UNKNOWN

All records in the clerk's office are filed and retrieved by case number. If the case number is unknown, a party index can be researched to identify the case number for a given plaintiff or defendant.

For research purposes, the clerk's office makes the party index available to the public on microfiche or PACER Monday through Friday from 8:00 a.m. to 5:00 p.m. If a certificate of search is requested, a $20.00 fee payable in advance is required for each name searched.

PUBLIC ACCESS TO COURT ELECTRONIC RECORDS (PACER)

On-line review of docket sheets, pleadings, and current case and party indexes is available through the Public Access to Court Electronic Records (PACER) System. Access is available to the public via terminals in the public viewing area of the clerk's office or through dial-in service. For information concerning PACER access via dial-in service, contact the Pacer Billing Center in San Antonio, Texas at 1-800-676-6856.

REQUEST FOR REPRODUCTION OF DOCUMENTS

A coin-operated copier is available in the public viewing area of the clerk's office. The copier accepts $1 and $5 bills and coins. The cost for copies is .25 per page. The fee for clerk's office staff making copies is .50 per page. You must paperclip and count the pages of the documents to be copied. Fees for copy work are paid in advance. Copy work requests are processed as soon as possible. You may be asked to return to pick up copy work, or it can be mailed to you. Copies may be printed via the public access terminals at a charge of .10 cents per page.

UNIFORM LOUISIANA LOCAL RULES (LR)

The uniform local rules are on the court's website: www.lamd.uscourts.gov. Additionally, copies of the uniform local rules may be obtained from the clerk's office in the Eastern, Middle or Western districts.

ATTORNEY ADMISSION TO PRACTICE (LR 83.2.3 M & W)

An original completed "Application and Motion for Admission to Practice" form, which may be obtained from the clerk of court's office or over the courts' web site, an original certificate of good standing from the Louisiana State Supreme Court dated within six months, and a check for $50.00 plus annual fee prescribed in LR 83.2.3.1 shall be filed with the clerk's office. If in proper form, the petition will be forwarded to the appropriate judge for the entry of an order of admission to the bar. No personal appearance is required.

CHANGE OF ADDRESS (LR 11.1 M)

When firms change addresses or attorneys change firms, the clerk's office should be notified in writing of the change so that address records remain accurate.

TRANSCRIPTS

Orders for transcripts should be directed to the court reporter who transcribed the proceeding. Orders for transcripts produced by electronic sound recording in the magistrate judge's court should be directed to the appropriate magistrate judge's courtroom deputy. (Attachment C)

EXHIBITS

Exhibits are not part of the case file and should be treated separately. All exhibits need to be filed on 8.5" x 11" paper, labeled and stapled or bound together. Over-sized exhibits are to be presented at the time of trial. The only exceptions to this are state court exhibits in inmate filings. Exhibits will be maintained until the appeal process has lapsed. As stated in LR 79.3, any exhibits left with the court will be destroyed 30 days after the appeal period has lapsed.

SEALED DOCUMENTS FOLLOWING CLOSURE OF A CASE

Pleadings and other papers filed under seal in civil and criminal actions (excluding grand jury proceedings) shall be maintained under seal for 30 days following final disposition of the action. After that time, all sealed pleadings and other papers shall be placed in the case record unless the district judge or magistrate judge, upon motion, orders that the pleading or other paper be maintained under seal. (General Order 93-1)

MOTION DAYS

Motions may be designated for hearing by order of the individual judge to whom the motion is allotted. Any party desiring oral argument must file either contemporaneously with the filing of the motion or opposition memorandum, or within three days after receipt of the opposition memorandum, a separate statement setting forth the reasons why oral argument should be heard. (LR 78.1M)

FACSIMILE TRANSMISSION OF PLEADINGS

Facsimile transmission of pleadings is not acceptable. Federal Rules of Civil Procedure (hereinafter referred to as FRCP 5(e)) allows for facsimile transmission of pleadings when permitted by the rules of the district court. The Middle District of Louisiana has not passed a rule permitting such a method of filing.

FAX NOTICING

By signing a consent form, notices can be faxed to you. Consent forms are available on the Court's website at www.lamd.uscourts.gov. On the home page click on the hyperlink for Faxback Project Application. Print form, complete and mail to address on form.

AFTER HOUR FILINGS

Please contact the clerk's office for emergency filings.

APPOINTMENT OF COUNSEL

If necessary, counsel may be appointed to represent indigent parties in court. The Federal Public Defender Organization will be responsible for the distribution of cases to a CJA panel. This panel will consist of attorneys who are eligible and willing to be appointed to provide representation under the CJA. Attorneys who serve on the panel must be members in good standing of the federal bar of this district and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Sentencing Guidelines. Interested attorneys will also have to demonstrate an interest in providing criminal defense services and have a reputation for competent and vigorous representation. Membership to this panel will be made by a Panel Selection Committee. Application forms for membership to the Panel can be obtained from the Federal Public Defender Organization. (See page 6 for address.)

The Court may also appoint counsel to represent indigent parties in civil cases as permitted by law.

For information concerning payment of appointed counsel in criminal or habeas corpus cases refer to Attachment D.

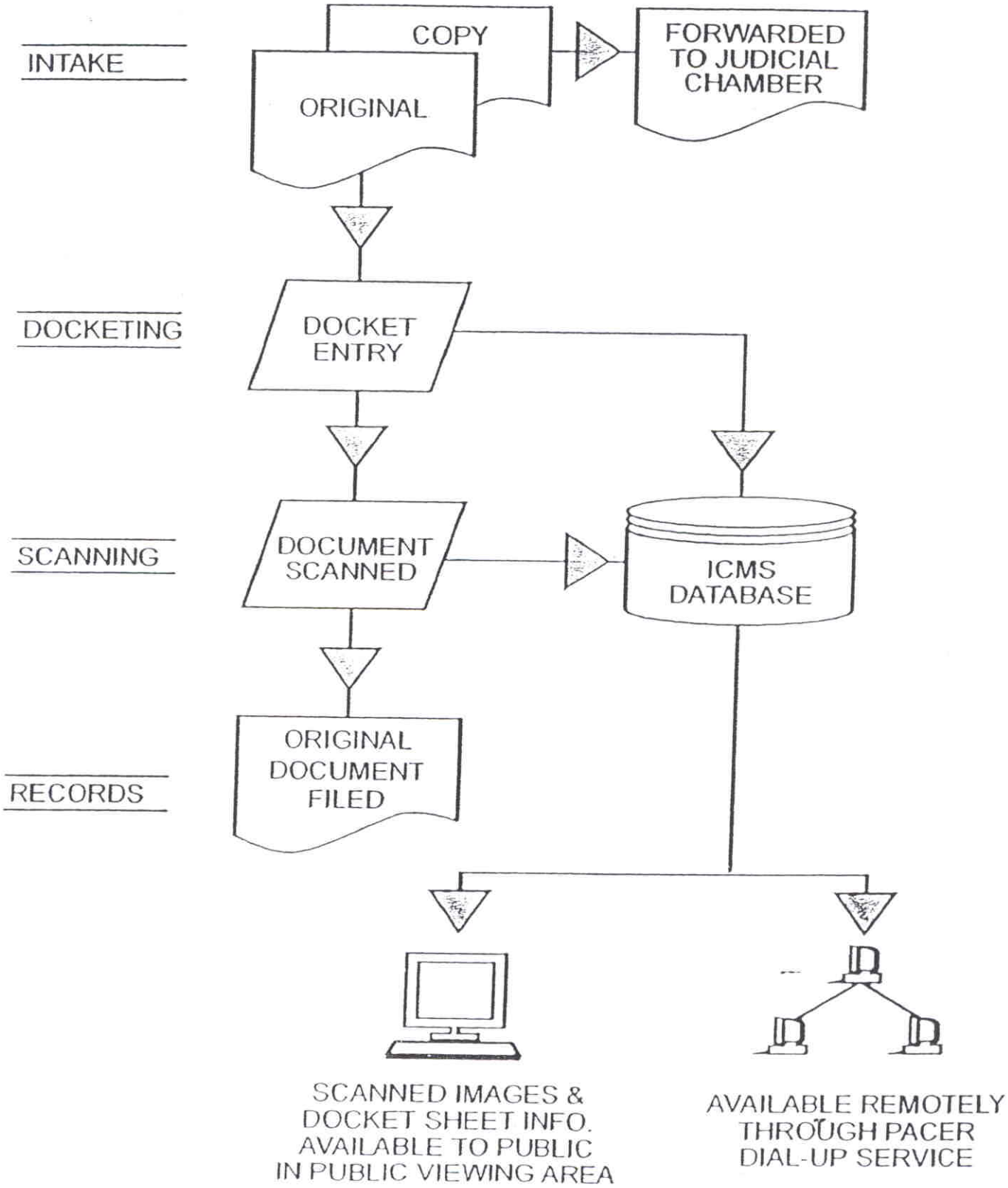
FEDERAL PUBLIC DEFENDER

Pursuant to provisions of the Criminal Justice Act (CJA), the Federal Public Defender Organization was established for the Middle and Western Districts of Louisiana. The headquarters for the Public Defender is in Lafayette, Louisiana with a branch office located in Baton Rouge. Except as otherwise ordered by the court, the determination of whether a person entitled to representation will be represented by the Federal Public Defender Organization or by a private attorney shall be made by the Federal Public Defender, based on established guidelines.

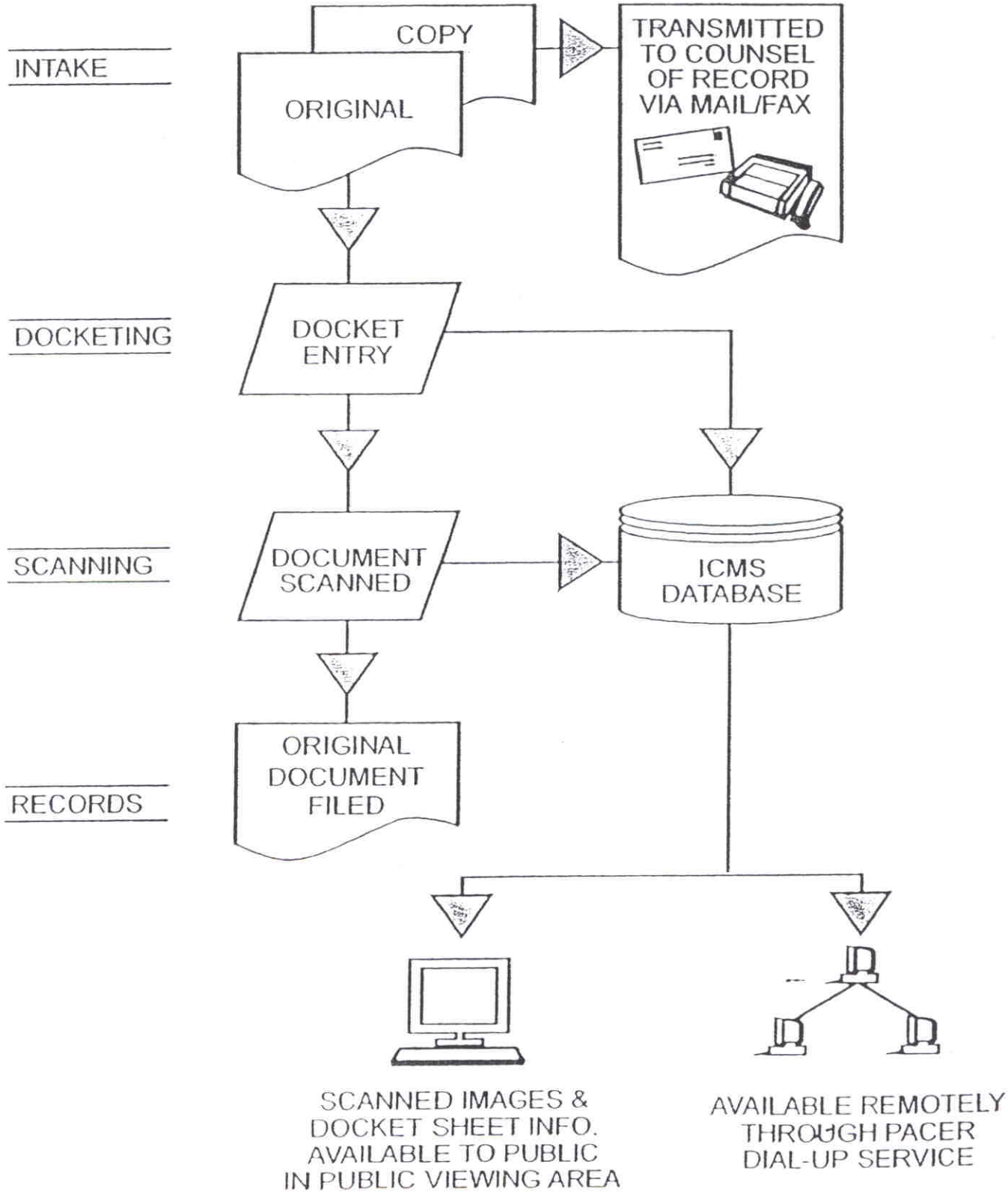
TAXATION OF COSTS

FRCP 54(d) authorizes the clerk to tax costs and provides that "costs other than attorneys' fees shall be allowed as a matter of course to the prevailing party unless the court otherwise directs". For complete information concerning taxation of costs, see Attachment N.

INCOMING PLEADINGS, MOTIONS, ETC.
PAPER FLOW CHART
MIDDLE DISTRICT OF LOUISIANA



DISTRIBUTION OF SIGNED ORDERS
PAPER FLOW CHART
MIDDLE DISTRICT OF LOUISIANA



GENERAL FILING PROCEDURES

FORMAT FOR FILINGS

Paper Size: All pleadings must be on 8-1/2" X 11" paper. (LR 10.1M)

Form: Pleadings must be double-spaced. (LR 10.1M) Pleadings should have a 1" margin. It is requested that pleadings be submitted with a standard two-hole punch in the top. All original pleadings should be signed in blue ink to help staff distinguish between the original and the copy.

Copies Required: All pleadings must be filed in duplicate: an original for the court file and a copy for the judge. (LR 7.1M)

Style of Complaint:

- Please note that "et al" is not acceptable in the case caption of the original complaint or petition for removal. (FRCP 10(a).)
- The address of the plaintiff must be listed in the complaint.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

PLAINTIFF(S)
(List all)

v. CV No. 02-0001-A-1

DEFENDANT(S) JURY DEMAND
(List all)

Signature Block:

- Each attorney or pro se litigant must sign the last page of the complaint and list address, telephone and fax number, and Louisiana Bar Roll Number of attorney. LR 11.1M states, "Every pleading, motion, or other paper presented for filing shall, in accordance with the Federal Rules of Civil Procedure, be signed personally by counsel admitted to practice before the court. Attorneys admitted pro hac vice for the case must have local counsel sign pleadings.

Respectfully submitted:

_____

John Smith (Bar # 12097)
Smith & Smith
1234 Florida St., Suite 100
Anytown, LA 70801
(504) 732-1111
Fax Number

Attorney for Acme

STYLE OF SUBSEQUENT FILINGS

- The papers of each pleading must be stapled or bound together in the upper left-hand corner and have a standard two-hole punch on top.

○ ○

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

First Plaintiff
et al,

versus CV No. 02-0001-A-1

First Defendant
et al

CERTIFICATE OF SERVICE (LR 5.3)

- Every pleading, brief, or memorandum filed must include a certificate of service stating that copies have been served on all parties or their attorneys.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion was this date served upon all counsel of record by placing a copy of the same in the United States Mail, postage prepaid, and sent to their last known address as follows:

Mr. Tim Smith	Ms. Ann Jones
Attorney At Law	Attorney At Law
456 Main St.	789 Main St.
Anywhere, LA 70001	Anywhere, LA 70001
Phone and Fax Numbers	Phone and Fax Numbers

Baton Rouge, Louisiana this ___ day of _____, 02__.

_____
Attorney, Bar Roll Number
Firm and Address
Party Represented

SIGNATURE LINE OF PROPOSED ORDER

- Signature line must be on a page with a portion of document's text.

Granting motion for extension of time to file answer.

Baton Rouge, Louisiana this _____ day of _____, 02__.

_____
Judge, John V. Parker
Middle District of Louisiana

ADDITIONAL FILING INFORMATION

Where to File: All pleadings including copies for the judge must be filed with the clerk's office. (LR 5.1) In an emergency, chambers will be contacted and if necessary, the pleading will be hand-carried to the judge by the clerk's office staff.

Filings requiring immediate attention: When filing a pleading requiring immediate attention by the court, please advise the deputy clerk of this fact and the reason for the immediate action in order for the pleading to be properly processed and brought to the court's attention.

Discovery: No disclosure or discovery materials will be accepted for filing with the court unless the judge has so ordered. (FRCvP 5(d) By order of court, FRCvP 5(d) is waived in pro se and inmate cases.)

Louisiana State Bar Roll Number: Louisiana State Bar Roll Number of the filing attorney shall be included in the signature block. (LR 11.1M)

Notice of Return of Pleadings: Pursuant to FRAP 5(e), effective December 1, 1991, the Clerk of Court shall "...not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices." The clerk's office, however, does inspect papers for such deficiencies which are then brought to the attention of the judge. The presiding judge in the case may then direct the clerk of court to strike any deficient pleading or have the attorney correct any deficiency.

ASSIGNMENT OF JUDGES

The clerk's office has no discretion in the assignment of cases. Judges are assigned by random draw unless otherwise directed by the court. (General Order No. 2000-2)

FILING REQUIREMENTS IN SPECIFIC CIVIL MATTERS

COMPLAINT AGAINST A PRIVATE PERSON OR CORPORATION FRCP 4

Complaint: Original and one copy for the court.

Civil Cover Sheet: A Civil Cover Sheet Form JS44 (Attachment E) must accompany the complaint or petition for removal. Only one civil cover sheet is required by the court. This requirement is not applicable to pro se litigants or persons held in custody by civil, state or federal institutions. (LR 10.1 M)

Waiver of Service: Waiver of Service may be used in lieu of issuing summons. Two official forms have been devised to implement the procedure for waiver of service. These forms are provided in Attachment F. The plaintiff will send to the defendant the notice of commencement of action and a request for waiver of service. The defendant signs the waiver of service and returns it. The plaintiff will file the waiver with the clerk's office. When the waiver is filed, the action proceeds.

Summons: Preparation and service of the summons is the responsibility of the plaintiff. Original plus two copies are needed for each defendant to be served. One copy is for the defendant, one comes back to the court with the service information, and one is for docketing within the court file. (Attachment G)

Service: Service of the summons is the responsibility of the plaintiff. Upon order of the court, service may be made by the U.S. Marshal.

Service on Foreign Countries: When service is to be effected outside a judicial district of the United States, the methods of service appropriate under an applicable treaty or international agreement shall be employed, if available. Counsel shall investigate methods of service.

Filing Fee: The filing fee is $150.00 payable to U.S. Courts, or an executed Motion to Proceed in Forma Pauperis, with a completed financial affidavit and a proposed order.

SUITS INVOLVING THE USA FRCP 4(i)

Complaint: Court needs original and one copy.

Civil Cover Sheet: Original.

Filing Fee: $150.00/Motion to proceed in Forma Pauperis.

SERVICE ON USA FRCP 4(i)

U.S. Attorney General requires: Copy of the complaint and original plus two copies of the summons.

U.S. Attorney needs: Copy of the complaint and original plus two copies of the summons.

Agency being served needs: Copy of the complaint and original plus two copies of the summons.

REMOVAL OF CASE FROM STATE COURT: 28 USC § 1446

Notice of Removal: Court needs original and one copy, with letter-sized copy of **complete state court record** attached. Pursuant to 28 USC § 1446, notice of removal will be filed together with a copy of all process, pleadings, and orders served upon such defendant(s) in such action.

Civil Cover Sheet: Original.

Answer: Original and one copy, if available.

Notice of Filing: Not required, although it will be accepted for filing, if available.

Filing Fee: $150.00.

SEIZURES: 28 USC § 1356

Complaint: Original and one copy for each defendant to be served.

Civil Cover Sheet: Original.

Affidavit: Original and one copy.

Bond: Original and one copy of a $250.00 cash or surety bond for stipulation for costs.

Writ: Signed by the Clerk.

Notice of Seizure: Signed by the marshal's office.

Keeper Order: An order signed by the judge designating a keeper of the property. A hold harmless clause must be included in the order.

Summons: Original and two copies for each defendant to be served.

Warrant of Arrest: A warrant of arrest for each vessel to be seized and a certified copy for the marshal's office.

Marshal's Form: An original of the U.S. Marshal's Form 285 is required for each service.

Filing Fee: $150.00

Contact the marshal's office for any additional fees that its office may have in connection with a seizure.

REGISTRATION OF FOREIGN JUDGMENT IN OUR COURT: 28 USC § 1963

Judgment: A certified copy of the judgment from the other district court.

Form AO 145 or Order of Court: Form AO 145 Certification of Judgment for Registration in Another District (Attachment H) from the other district or order of court where judgment entered.

Filing Fee: $30.00.

APPEALS: FEDERAL RULES OF APPELLATE PROCEDURE 4 (hereinafter referred to as FRAP)

Notice of Appeal: Filed with the district court. The clerk of court will forward a copy to the notice of appeal to the court of appeals and to all opposing counsel.

Filing Fee: $105.00 paid to the district court.

For records over four volumes in length, we request that counsel designate the portions to be sent to the appellate court. If a hearing was held in the case and a transcript is needed, a transcript order form may be obtained from the district clerk's office.

INMATE FILINGS

42 USC § 1983, 28 USC § 2254, and 28 USC § 2255 forms may be obtained from the clerk's office or from the prison law library. Financial affidavits may be obtained from the clerk's office or the inmate banking office at the prison.

SUBSEQUENT FILINGS

AMENDED COMPLAINT FRCP 15

Complaint: Original and one copy of the amended complaint is needed for the court.

Summons: Original and two copies for each defendant to be served are required.

Filing Fee: None.

Note: An amended complaint can be accepted only if no answer to the original complaint has been filed. If an answer has been filed, the party must motion the court for an order allowing the amended complaint to be filed or must secure the written consent of the adverse party.

DISCOVERY FRCP 5, 37

Interrogatories, and the answers thereto, Requests for Production or Inspection of Documents, and Requests for Admissions shall be served upon opposing counsel and/or unrepresented parties, **but shall not be filed with the Court**, unless the court orders they be filed or the discovery is the subject of the motion.

LR 26.4M asserts that unless otherwise ordered by the Court, the provisions of FRCP 26(f), which require a meeting of parties prior to the scheduling conference, shall apply to all civil actions.

DEPOSITION FRCP 45

Subpoena: An original plus one copy which may be signed by the attorney per the federal rules. (FRCP 45(a)(3)) (Attachment I) See Attachment J for additional information.

Notice of Taking Deposition: Not required, but will be accepted for filing, if available.

Service: Service may be made by any person who is not a party and is not less than 18 years of age.

Witness Fees: Witness fees are $40.00 per day plus 36.5 cents per mile.

Filing Fee: None.

MOTION LR 7.4.1M

All motions listed in LR 7.4.1M may be submitted as ex parte motions. All motions, except as noted in LR7.4.1M, must be accompanied by a Memorandum in Support. (LR 7.4)

MOTIONS NOT REQUIRING MEMORANDUM LR 7.4.1 M

Ex parte motions will be filed with a separately captioned proposed order.

MOTION FOR SANCTIONS FRCP 11

FRCP 11(c)(1)(A) requires filing of separate motion for sanctions. Requests for sanctions cannot be incorporated into another document.

DEFAULT JUDGMENT FRCP 55

The procedure for filing a default judgment is to first file a request for entry of default, proof of service, and a proposed order for the clerk of court or deputy clerk to sign. After the entry of default has been signed, a motion for default judgment and a proposed judgment should be filed with the clerk's office to be submitted to the judge.

POST-JUDGMENT INSTRUMENTS

RELEASE OF VESSEL: 28 USC § 2464

A seized vessel can be released only with a signed order from the court or by stipulation of the parties.

If a party wishes to have its bond returned at this time, a separate motion and order are needed.

CERTIFICATION OF JUDGMENT FOR REGISTRATION IN ANOTHER DISTRICT: 28 USC § 1963

AO Form 451: There is no fee for the preparation of AO Form 451 which will accompany the certified copy of the judgment from our court to be registered in another district. (Attachment K)

Copy Fee: Fee of .50 per page for the reproduction of the judgment.

Certification Fee: Fee of $7.00 for the certification of the judgment.

Filing Fee: None.

WRIT OF EXECUTION: FRCP 69

Fieri Facias: Original and three copies.

Marshal's Form: Service is governed by the FRCP Rules 4 and 69. If the U.S. Marshal effectuates service, the Form 285 must accompany the Writ of Execution. If service is effectuated by the sheriff pursuant to state law, the sheriff's procedures should be followed.

Filing Fee: None.

Note: The writ can be issued 10 days after entry of judgment unless otherwise ordered by the court. If a notice of appeal has been filed and a supersedeas bond posted, the writ may not be issued.

Attachments

From I-10 West or I-10 East: (See Wide View Map Below)

Exit I-10 to I-110 North. Take Exit 1C at Florida Street. (This is a left exit.) At the bottom of the exit ramp, turn left onto N. Tenth Street. Free parking is available under the Interstate. Limited visitor parking is available in the courthouse lot. To park in the courthouse parking lot, take a left onto Laurel Street, cross N. Ninth Street and turn left into the second driveway in front of the courthouse.

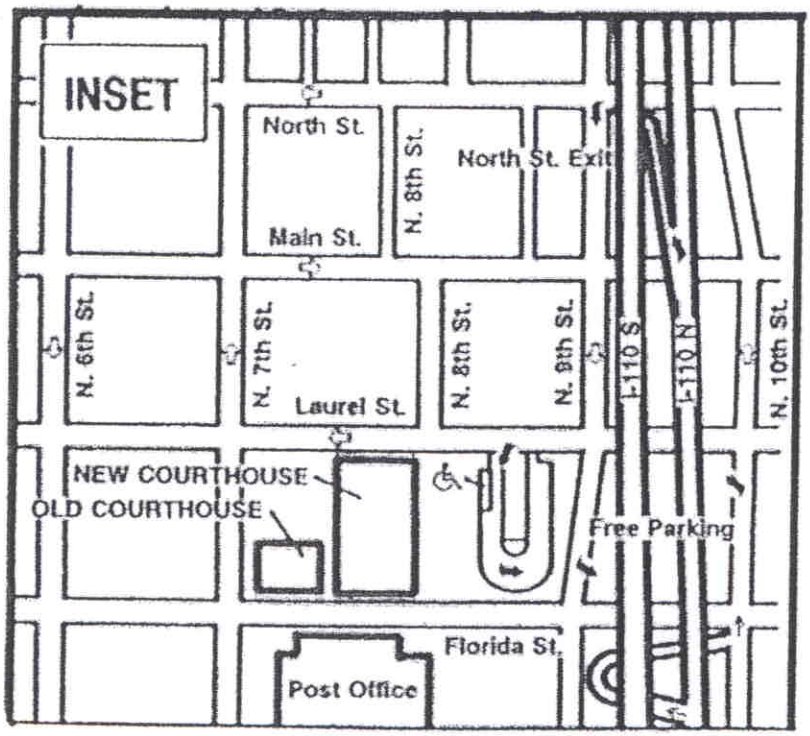
In heavy traffic or if you miss the Florida Street exit, take the North Street ~~exit, Ex~~it 1D. At the bottom of the exit ramp, turn left onto N. Ninth Street. Free parking is available under the Interstate and accessible from N. Ninth Street. Limited visitor parking is available in the courthouse lot. To park in the courthouse lot, turn right onto Laurel and left at the second driveway in front of the courthouse.

Coming from Baton Rouge Metropolitan Airport or traveling south on I-110:

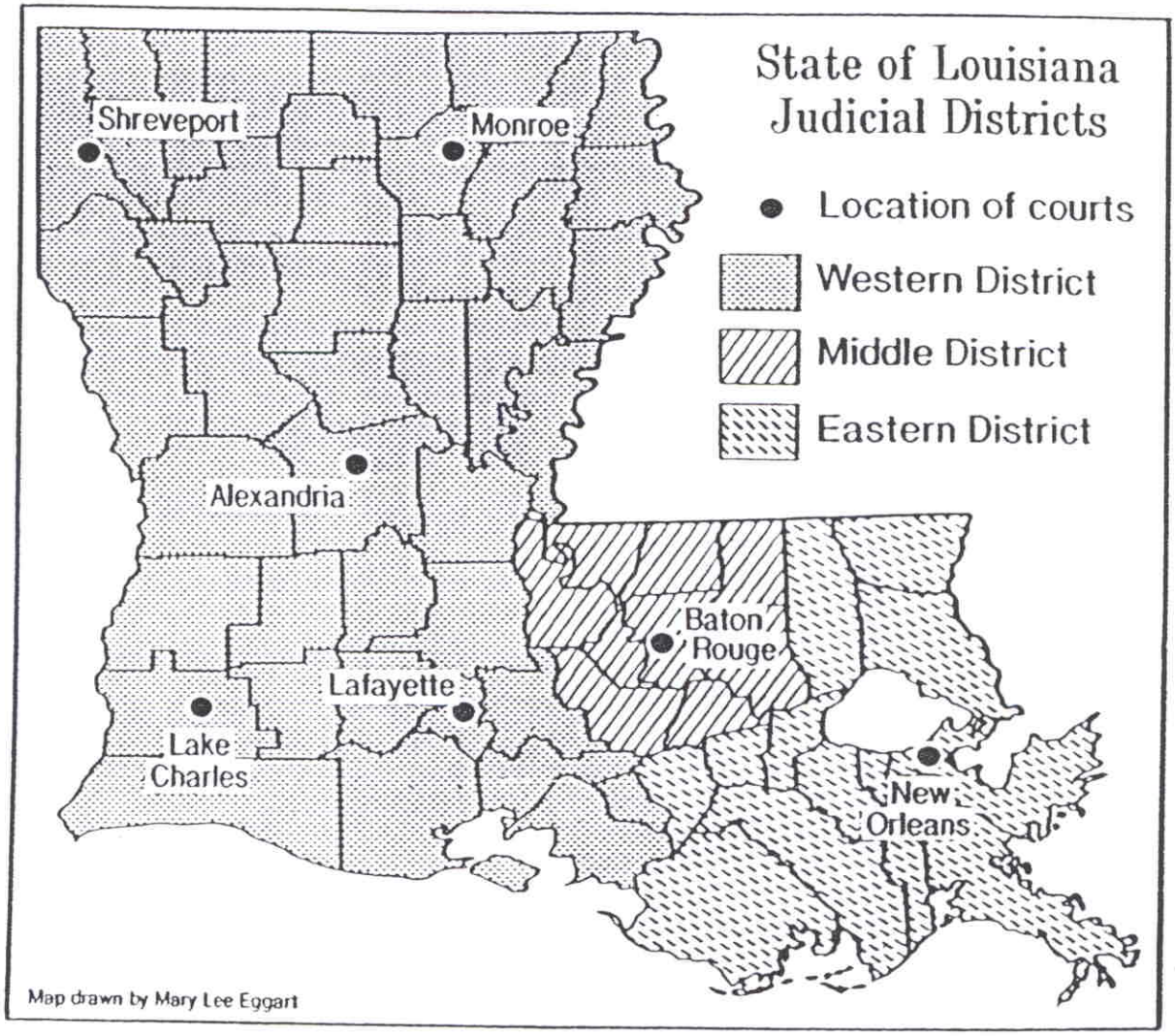
Exit at N. Ninth Street and proceed to Laurel Street. Turn right on Laurel and take the second driveway into the courthouse parking lot. Limited visitor parking is available in the courthouse lot. Additional free parking is available under the interstate and accessible from N. Ninth Street.

Parking:

A limited number of visitor spaces are provided in the front parking lot of the courthouse. These are marked "visitor." Handicapped parking is provided directly in front of the courthouse. All other spaces are reserved



Attachment A



Attachment B

READ INSTRUCTIONS ON BACK OF LAST PAGE BEFORE COMPLETING

TRANSCRIPT ORDER

District Court	District Court Docket Number

Short Case Title _____ Court Reporter _____

Date Notice of Appeal Filed by Clerk of District Court _____ Court of Appeals # _____ *(If Available)*

PART I. *(To be completed by party ordering transcript. Do not complete this form unless financial arrangements have been made.)*

A. Complete one of the following:

- ☐ No hearings
- ☐ Transcript is unnecessary for appeal purposes
- ☐ Transcript is already on file in Clerk's office
- ☐ This is to order a transcript of the following proceedings: *(check appropriate box)*

  Voir dire ☐; Opening statement of plaintiff ☐ defendant ☐;
  Closing argument of plaintiff ☐ defendant ☐; Opinion of court ☐;
  Jury instructions ☐; Sentencing ☐; Bail hearing ☐;

HEARING DATE(S)	PROCEEDING	JUDGE/MAGISTRATE

FAILURE TO SPECIFY IN ADEQUATE DETAIL THOSE PROCEEDINGS TO BE TRANSCRIBED, OR FAILURE TO MAKE PROMPT SATISFACTORY FINANCIAL ARRANGEMENTS FOR TRANSCRIPT, ARE GROUNDS FOR DISMISSAL OF THE APPEAL.

B. This is to certify that satisfactory financial arrangements have been completed with the court reporter for payment of the cost of the transcript. The method of payment will be:

☐ Private funds; ☐ Criminal Justice Act Funds *(Attach copy of CJA Form 24 to court reporter's copy)*; ☐ Other IFP Funds;
☐ Advance Payment waived by reporter; ☐ U.S. Government Funds;
☐ Other _____

Signature _____ Date Transcript Ordered _____

Print Name _____ Counsel for _____

Address _____ Telephone _____

ALLOWANCE BY THE COURT FOR LEAVE TO PROCEED IN FORMA PAUPERIS IN A CIVIL APPEAL DOES NOT ENTITLE THE LITIGANT TO HAVE TRANSCRIPT AT GOVERNMENT EXPENSE.

PART II. COURT REPORTER ACKNOWLEDGEMENT *(To be completed by the Court Reporter and forwarded to the Court of Appeals within 7 days after receipt. Read instructions on reverse side of copy 4 before completing).*

Date transcript order received	If arrangements are not yet made, date contact made with ordering party re: financial arrangements	Estimated completion date *	Estimated number of pages

☐ Satisfactory Arrangements for payment were made on _____
☐ Arrangements for payment have not been made. Reason: ☐ Deposit not received ☐ Unable to contact ordering party ☐ Other *(Specify)* _____

Date _____ Signature of Court Reporter _____ Telephone _____

Address of Court Reporter: _____

**** Do not include an estimated completion date unless satisfactory financial arrangements have been made or waived.***

PART III. NOTIFICATION THAT TRANSCRIPT HAS BEEN FILED IN THE DISTRICT COURT *(To be completed by court reporter on date of filing transcript in District Court and notification must be forwarded to Court of Appeals on the same date).*

This is to certify that the transcript has been completed and filed with the District Court today.

_____ Actual Number of Pages _____ Actual Number of Volumes

Date _____ Signature of Court Reporter _____

DKT-13 (5/96)

Copy 1 - Court Reporter's Copy

Attachment C

PRINTED ON RECYCLED PAPER

Payment of Appointed Counsel

in Criminal and Habeas Corpus Cases

Requests for payment are submitted by the counsel on Criminal Justice Act vouchers. The initial voucher is prepared by the Federal Public Defender's Office upon appointment of the attorney. Subsequent vouchers are prepared by the Federal Public Defender's Office upon court order or request of the appointed attorney depending on the nature of the service rendered. Then, the voucher is mailed to the attorney for completion. The coversheet of each voucher contains detailed instructions of how each portion of the voucher is to be completed. The completed voucher is returned to the Federal Public Defender's Office to be checked for completeness and accuracy. The Federal Public Defender's Office will forward the voucher to the Clerk's Office to be processed for payment.

To ensure prompt payment, counsel should verify the following information:

1. Have statutory limits for the type of claim been exceeded? If yes, counsel shall submit with the voucher a detailed memorandum supporting counsel's claim that the representation given was in an extended or complex case and that the excess payment is necessary to provide fair compensation.

2. Line 18 out-of-pocket expenses must be itemized and reasonably documented.

3. Is Line 19 and 22 answered entirely? Dates covered by the voucher must be listed. Final or interim payment also must be indicated. Voucher must be signed and dated by attorney.

4. Are the mathematical calculations correct?

5. Is time calculated in tenths of an hour?

Attachment D

JS 44
(Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as re by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for tl of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

DEFENDANTS

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR P AND ONE BOX FOR DEFENDANT
(For Diversity Cases Only)

	PTF	DEF		PTF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business In This State	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business In Another State	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury — Med. Malpractice
- ☐ 365 Personal Injury — Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

HABEAS CORPUS:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS — Third Party 26 USC 7609

OTHER STATUTE
- ☐ 400 State Reapportionme
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced Corrupt Organization
- ☐ 810 Selective Service
- ☐ 850 Securities/Commoditi Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilizatic
- ☐ 893 Environmental Matter
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determ Under Equal Access
- ☐ 950 Constitutionality of State Statutes
- ☐ 890 Other Statutory Actio

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to Judge fro Magistrate Judgment

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION ☐ UNDER F.R.C.P. 23

DEMAND $

CHECK YES only if demanded in com

JURY DEMAND: ☐ YES ☐

VIII. RELATED CASE(S) IF ANY (See instructions)

JUDGE _____ DOCKET NUMBER _____

DATE _____ SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

Attachment E

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

AO 398 (Rev. 12/93)

NOTICE OF LAWSUIT AND REQUEST FOR WAIVER OF SERVICE OF SUMMONS

TO: (A) _____

as (B) _____ of (C) _____

A lawsuit has been commenced against you (or the entity on whose behalf you are addressed.) A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the (D) _____ District of _____

and has been assigned docket number (E) _____.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within (F) _____ days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope (or other means of cost-free return) for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this notice is sent (or before 90 days from that date if your address is not in any judicial district of the United States.)

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive the service of the summons, which is set forth at the foot of the waiver form.

I affirm that this request is being sent to you on behalf of the plaintiff, this _____ day of

_____ . _____ .

_____

Signature of Plaintiff's Attorney
or Unrepresented Plaintiff

A — Name of individual defendant (or name of officer or agent of corporate defendant)
B — Title, or other relationship of individual to corporate defendant
C — Name of corporate defendant, if any
D — District
E — Docket number of action

Attachment F

AO 440 (Rev. 10/93) Summons in a Civil Action

United States District Court

DISTRICT OF

SUMMONS IN A CIVIL CASE

V.

CASE NUMBER:

TO: (Name and address of defendant)

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

an answer to the complaint which is herewith served upon you, within _____ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK

DATE

(BY) DEPUTY CLERK

Attachment G

United States District Court

DISTRICT OF

CERTIFICATION OF JUDGMENT FOR REGISTRATION IN ANOTHER DISTRICT

V.

Case Number:

I, _____, Clerk of the United States district court certify that the attached judgment is a true and correct copy of the original judgment entered in this action on _____ (Date), as it appears in the records of this court, and that

* _____

_____

_____

IN TESTIMONY WHEREOF, I sign my name and affix the seal of this Court.

_____ Date

_____ Clerk

_____ (By) Deputy Clerk

*Insert the appropriate language: . . . "no notice of appeal from this judgment has been filed, and no motion of any kind listed in Rule 4(a) of the Federal Rules of Appellate Procedure has been filed." . . . "no notice of appeal from this judgment has been filed, and any motions of the kinds listed in Rule 4(a) of the Federal Rules of Appellate Procedure (†) have been disposed of, the latest order disposing of such a motion having been entered on (date)." . . . "an appeal was taken from this judgment and the judgment was affirmed by mandate of the Court of Appeals issued on (date)." . . . "an appeal was taken from this judgment and the appeal was dismissed by order entered on (date)."

(†Note: The motions listed in Rule 4(a), Fed. R. App. P., are motions: for judgment notwithstanding the verdict; to amend or make additional findings of fact; to alter or amend the judgment; for a new trial; and for an extension of time for filing a notice of appeal.)

Attachment H

Issued by the
UNITED STATES DISTRICT COURT

DISTRICT OF

V.

SUBPOENA IN A CIVIL CASE

CASE NUMBER:[1]

TO:

☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

PLACE	DATE AND TIME

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	

Attachment I

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on Reverse)

[1] If action is pending in district other than district of issuance, state district under case number.

Issuing Civil Subpoenas

Pursuant to FRCP 45(a)(3), attorneys have been given the power to issue subpoenas in a civil action. It is important that attorneys familiarize themselves with the new provisions since FRCP 45(c)(1) allows for sanctions if the subpoena power is abused. Listed below is general information regarding subpoenas taken from "Civil Subpoenas in Federal Court," by Honorable Robert Shemwell, Court Administration Bulletin, November 1992. This article is a thorough review of FRCP 45 and is available upon request from the Middle District Clerk's Office.

Court Issuing Subpoena

The first consideration in preparing a subpoena is to select the court that should issue it. The court may only issue subpoenas for events that will take place in the court's jurisdiction. For example, the subpoena should come from the district where the witness is to appear for trial or deposition or where the production or inspection of documents is to take place.

Form of a Subpoena

FRCP 45(a)(1) explains the proper form for a civil subpoena. Forms are available at the clerk's office in each district.

Service of Subpoena

Service can be made "by any person who is not a party and is not less than 18 years of age." FRCP 45(b)(1).

Proof of Service

Proof of service does not need to be filed with the court. FRCP 45(b)(3).

Out-of-District Subpoenas

Under the current version of FRCP 45, an attorney may directly issue a subpoena for a deposition to be taken in another district, request for production of documents or inspection of premises in other districts. The attorney simply prepares the subpoena in the name of the court where the deposition is to be taken. No fee or interaction with the clerk is involved.

Quashing or Modifying Subpoenas

If a subpoena does not allow reasonable time for compliance or causes undue burden, the issuing court may by timely motion quash or modify the subpoena. FRCP 45(c)(3)(A) details the conditions by which the subpoena may be quashed or modified.

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF LOUISIANA

CIVIL ACTION

versus

NO.

CONSENT TO PROCEED BEFORE A UNITED STATES MAGISTRATE JUDGE

In accordance with the provisions of 28 U.S.C. 636(c), the parties to the above captioned civil proceeding hereby waive their right to proceed before a United States District Judge and consent to have a United States Magistrate Judge conduct any and all further proceedings in the case, including but not limited to the trial of the case, and order the entry of judgment in the case.

The parties are aware that in accordance with 28 U.S.C. 636(c)(3), any aggrieved party may appeal from the judgment directly to the United States Court of Appeals for the Fifth Circuit in the same manner as an appeal from any other judgment of the district court.

DATE: _____ _____
Plaintiff/Attorney for Plaintiff

DATE: _____ _____
Attorney for

DATE: _____ _____
Attorney for

DATE: _____ _____
Attorney for

Attachment K

TYPICAL CIVIL CASE FLOW

Actor	Action	Time Period	Rule
Plaintiff	File complaint and summons		LR10 M FRCP 3
Intake	File stamp complaint, assign case number, return summons to plaintiff along with 90 day scheduling order for service. Forward to Magistrate Judge's CRD	Immediately	FRCP 3, 4(a), 4(b)
Magistrate Judge Courtroom Deputy	Prepare preliminary report order setting scheduling conference before magistrate judge	Immediately	
Process Server unless Waiver of Service is filed	Serve complaint, summons and scheduling order on defendant(s) in person or by mail and files return of service		FRCP 4(c) et seq.
Defendant	Responds to complaint	Within 20 days; 60 days if USA	FRCP 12
Parties	It is the responsibility of the counsel for plaintiff to prepare, sign and file the status report.	File10 days prior to scheduling conference	FRCP 16
Magistrate Judge, Parties	Scheduling conference; Magistrate Judge sets discovery deadlines/motion deadlines		FRCP 16
Docket Clerk	Dockets scheduling order	Upon receipt from Magistrate Judge	
Judge	Sets pre-trial conference and issues pre-trial notice		FRCP 16
Docket Clerk	Dockets pre-trial notice upon receipt from judge		
Parties	Meet to prepare pre-trial order and file with clerk if ordered		FRCP 16

Judge, Parties	Pre-trial Conference		FRCP 16
Judge	Sets trial date		
Parties	Mark exhibits and give exhibit list and bench book to courtroom deputy or if ordered, files list with clerk's office	Prior to commencement of trial	
Judge, Courtroom Deputy, Parties, Court Reporter	Trial held		
Courtroom Deputy	Prepares judgment and minutes of trial		
Docket Clerk	Dockets minute entry and judgment		
Courtroom Deputy	Gives exhibits to records clerk	Maintained for 30 days upon final disposition	LR 79.3
Record Clerk	Unseals documents after 30 days following final disposition unless ordered to retain		General Order 93-1

CRIMINAL CASE FLOW

Actor	Action	Time Period	Rule
AUSA and Agent	Bring complaint and affidavit to magistrate (signed & sworn to by agent.)		FRCrP 3
Magistrate Judge	Signs complaint and authorizes issuance of arrest warrant or summons		FRCrP 3 & 4
Intake Clerk	Assigns magistrate case number for complaint		
US Attorney or Pre-trial Sentence Officer	Notifies the magistrate judge for initial appearance	ASAP following arrest of deft.	FRCrP 5(a)
Magistrate Judge	Advises defendant of rights and charges pending against him; determines eligibility of defendant to receive court-approved counsel (if applicable) or gives defendant 5 days to obtain private counsel; determines conditions of release or temporary detention	At initial appearance	FRCrP 5; 18 USC § 3142
Courtroom Deputy	Contacts public defenders office; prepares bond papers	Upon appointment	
Docket Clerk	Dockets minute entry from 5(a) hearing; states date, time and place for preliminary examination and temporary hearing or detention hearing held if necessary		18 USC § 3142
Courtroom Deputy	Notices defendant, counsel, probation office and U.S. Marshal of date of the preliminary hearing	5 days after initial appearance	
Magistrate Judge	Holds preliminary examination, if necessary	Within 10 days following initial appearance	FRCrP 5.1
Grand Jury	Returns indictment	Within 30 days from initial appearance	18 USC § 3161; FRCrP 6f

U.S. Attorney	Files bill of information	Within 30 days from initial appearance	18 USC § 3161 and 3163; FRCrP 7
Court	Orders arrest warrant or summons issued	Upon request of U.S. Attorney	FRCrP 9(a)
Intake Clerk, Docket Clerk	Intake clerk assigns district court case number; U. S. Attorney prepares warrant of arrest or summons; Docket clerk opens case file issues warrant of arrest or summons and and sends out summons	Same day as grand jury return or waiver of indictment filed	FRCrP 9(a)
U.S. Marshal	Executes the warrant of arrest and summons		FRCrP 9(c)
U.S. Attorney	Prepares notice for arraignment and distributes	Usually is set for regular motion day	
Docket Clerk	Dockets notice	Day received	
Magistrate Judge	Accepts not guilty plea; sets status conference		FRCrP 11
Courtroom Deputy	Prepares minutes of arraignment		
Docket Clerk	Dockets minute entry		
Magistrate Judge	Prepares scheduling order setting discovery and motion deadlines	Prior to trial	
Docket Clerk	Sends scheduling order to parties		
Attorneys	File pre-trial motions, discovery, etc.	Prior to trial as ordered by court	FRCrP 12, 15, 16
Judge or Magistrate Judge	Rules on motions	Prior to trial or referred to trial	
Judge	Accepts guilty plea or sets trial date		18 USC § 3161; FRCrP 10, 11
Attorneys	Mark exhibits and prepare list	Prior to trial	
Judge	Select jury (if applicable)	Day of trial	FRCrP 23,
Judge, Attorneys, and Jury	Try case; verdict returned		

Defendant	If convicted, meets with probation office to begin preparation of pre-sentence investigation report	At conclusion of trial	
Probation Office	Prepares pre-sentence investigation report (PSI)	Within 45 days of conclusion	FRCrP 32(b)
Attorneys	Review completed PSI; specific time to file objections	Prior to date of sentencing	FRCrP 32(b)(6)
Probation Office	Prepares notice of sentencing and sends to clerk's office		
Docket Clerk	Dockets the notice and routes copy to the proper CRD	Day received	
Judge	Sentences defendant; advises defendant of right to appeal and time appeal must be filed		FRCrP 32
Attorney	Files notice of appeal in open court or in clerk's office; request the clerk to enter the appeal on behalf of the defendant; orders transcript from court reporter	Within 10 days from entry of judgment	FRCrP 32 (c)(5); FRAP 10(b)
Appeal Clerk	Forwards record to court of appeal		FRAP 11

Taxation of Costs

I. TAXATION OF COSTS BY THE CLERK

RULE 54 (d) AUTHORIZES THE CLERK TO TAX COSTS. THE CLERK'S ACTION MAY BE REVIEWED BY THE COURT. THE CLERK'S DISCRETION IN TAXING COSTS IS LIMITED.

INTRODUCTION

Rule 54(d) of the Federal Rules of Civil Procedure provides that "costs other than attorneys' fees shall be allowed as of course to the prevailing party unless the court otherwise directs".

28 U.S.C. 1924 states "Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

An AO 133, Bill of Costs, may be obtained from the Office of the Clerk. (Attachment 1-A) The form contains the necessary affidavit. Counsel must attach to the bill of costs a separate itemization and the documentation to support the claims made. The documentation may consist of receipts, order and stipulations of the parties. All receipts must be self-explanatory (i.e. receipts for service shall contain the names of the individuals, why they were served, where they were served, and the cost for service). Claims for docket fees under 28 U.S.C. 1923 shall be broken down by fee. ANY CLAIM THAT IS NOT PROPERLY DOCUMENTED WILL BE DISALLOWED BY THE CLERK.

Counsel has 30 days after receiving notice of entry of judgment to file his application for costs with the Office of the Clerk. An original and one copy of the bill of costs shall be filed. Counsel shall be responsible for serving a copy on opposing counsel. Objections may be made within five days to any item of costs supported by affidavit or other evidence, which may be rebutted. Costs shall be taxed by the clerk without a hearing.

Rule 54(d) provides that counsel may request a review of the action by the clerk within five days. Once the matter of costs has been determined, those costs are to be paid directly to the prevailing party. Payment of costs are not processed through the Office of the Clerk.

The taxation clerk will withhold taxing costs until the conclusion of all appeals.

II. AUTHORITY FOR CLERK TO TAX COSTS

A. 28 U.S.C. 1920

A judge or clerk of any court of the United States may tax as costs the following:

1. Fees of the clerk and marshal;
2. Fees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case;
3. Fees and disbursements for printing and witnesses;
4. Fees for exemplification and copies of papers necessarily obtained for use in the case;
5. Docket fees under section 1923 of this title;
6. Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expense, and costs of special interpretation services under section 1828 of this title.

A bill of costs shall be filed in the case and, upon allowance, included in the judgment of decree.

B. FEDERAL RULE OF CIVIL PROCEDURE 54 (d): COSTS

Except when express provision therefor is made either in a statute of the United States or in these rules, costs other than attorneys' fees shall be allowed as of course to the prevailing party unless the court otherwise directs; but costs against the United States, its offices, and agencies shall be imposed only to the extent permitted by law. Such costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court.

III. DISCUSSION OF TAXABLE COSTS

A. FEES OF THE CLERK

1. Taxable

(a) Filing fee of complaint, removal and habeas corpus petition.

(b) Filing fee of notice of appeal ($105).

(c) Filing fee in state court in a removal case.

(d) Fee charged by out-of-district court for filing notice of deposition.

(e) Filing fee in an action brought by the United States and a judgment of costs was awarded in favor of the United States.

B. FEES OF THE MARSHAL/PRIVATE PROCESS (28 U.S.C. 1921, 1920(1))

1. Taxable

   (a) Service fees for summons, attachment and other initial process.
   (b) Service fees for trial subpoenas for witnesses who have testified at trial.
   (c) Service fees for deposition subpoenas as to depositions taxed as costs.
   (d) Expenses for caring for property attached, etc. (actual amount incurred, not necessarily the amount of the required deposit).
   (e) Sales commission.
   (f) Insurance premium for indemnity of marshal required for maritime attachments.

NOTE: SERVICE FEES MUST BE DOCUMENTED BY EITHER BEING REFLECTED ON THE RETURNED SUMMONS OR SUBPOENA OR PROVIDED AS AN ATTACHMENT TO THE BILL OF COSTS.

2. Not taxable

   (a) Service fees for discovery subpoenas.
   (b) Service fees for trial subpoenas if the witness <u>did not</u> testify.

C. FEES OF THE COURT REPORTER FOR ALL OR ANY PART OF THE TRANSCRIPT NECESSARILY OBTAINED FOR USE IN THE CASE

The costs of the original transcripts of trials or matters prior or subsequent to trial, is taxable at the rate authorized by the judicial conference when either requested by the Court or prepared pursuant to stipulation.

1. Taxable

   (a) When the transcript is requested by the court. Mere acceptance does not constitute a request.
   (b) Transcript ordered for appeals purposes.
   (c) At trial stage when, **<u>prior to incurring expense</u>**, the court determines that the transcript is necessary.
   (d) Transcript prepared pursuant to stipulation of parties with agreement to tax costs.
   (e) When the transcript is used to impeach a witness.
   (f) Daily transcripts (when taxable) is taxed at ordinary rate unless (1) advanced determination by court that it is to be taxed or (2) agreement of parties to tax.

(g) If a forma pauperis party prevails, and the U.S. paid for the transcript, it is taxed in favor of the U.S. and paid to Administrative Office of the U.S. Courts.

2. Not Taxable

(a) Cost of copies of transcripts.
(b) Cost of daily or expedited copy produced solely for the convenience of counsel.

D. FEES AND DISBURSEMENTS FOR PRINTING (28 U.S.C. 1920(3); RULE 39(c), FEDERAL RULES OF APPELLATE PROCEDURE)

These fees are not usually involved in trial court proceedings. The court of appeals taxes these fees and includes them in the mandate.

E. FEES OF WITNESSES (ITEMIZED ON REVERSE OF AO 133, BILL OF COSTS) (28 U.S.C. 1821, 1920(3))

The clerk will not tax the fees and disbursements as to a witness subpoenaed, but does not testify at the trial. The court is in the best position to make a determination if the witness was necessarily present and if the fees are just.

The rates for witness fees, mileage, and subsistence are fixed by statute (see 28 U.S.C. 1821).

1. Taxable

(a) Attendance fees for witnesses who testified at trial or at a deposition if the deposition has been taxed as costs.
(b) Travel and subsistence, if applicable, for witnesses who testified at trial.

(1) By car round trip mileage of 31 cents per mile, or
(2) Common carrier. Actual expenses of travel by the shortest practical route.
(3) Subsistence allowance shall be paid in an amount not to exceed the maximum per diem allowance prescribed by the Administrator of General Services.

(c) Miscellaneous allowances. Toll charges for toll roads, bridges, tunnels and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt).

2. Not taxable

(a) The expenses of witnesses who are parties to the case.
(b) Expert witness fees in excess of the statutory fees.
(c) The expense of witnesses who are subpoenaed, but do not testify. (Leave of court is required in order for this expense to be allowed.)
(d) Discovery witness fee, nor the subpoena service fees, except when the deposition is allowed. (Leave of court is required in order for this expense to be allowed.)
(e) Expenses for witnesses beyond the subpoena jurisdiction of the court without prior approval of the court. THE CLAIMS FOR MILEAGE WILL BE REDUCED TO A TWO HUNDRED MILE ROUND TRIP.

F. FEES FOR EXEMPLIFICATION AND COPIES OF PAPERS NECESSARILY OBTAINED FOR USE IN CASE (28 U.S.C. 1920(4)).

1. Taxable

(a) Costs of one copy of a document is taxable when admitted into evidence in lieu of an original which is either not available for introduction in evidence or is not introduced at the request of opposing counsel.
(b) The fee of an official for certification or proof concerning the nonexistence of a document is taxable.
(c) The reasonable fee of competent translator is taxable if the document translated is taxable.
(d) The costs of maps and charts are taxable if they are admitted into evidence.
(e) The cost of patent file wrappers and prior art patents is taxable at the rate charged by the patent office. (Expenses for services of persons checking patent office records to determine what should be ordered are not taxable).
(f) The cost of photographs, 8" x 10" in size or less if admitted into evidence.

2. Not Taxable

(a) The cost of models, compiling summaries, computations, and statistical comparisons.
(b) The salaries and time of persons who prepare copies and exhibits.
(c) Enlargements greater than 8" x 10" except by order of the Court.
(d) Routine copy expenses, those made for service, filing or for the convenience of counsel are not taxable within the discretion of the taxation clerk.

(e) Duplication of photos for trial without leave of court.
(f) Simulations without prior leave of court.

G. DOCKET FEES UNDER 18 U.S.C. 1923

1. Docket fees and costs of briefs are taxable pursuant to 28 U.S.C. 1923.

H. COSTS INCIDENT TO TAKING OF DEPOSITIONS

1. Taxable

(a) Cost of the original of the deposition actually used at trial for any purpose.
(b) Cost of the original of the deposition used in support of a motion.
(c) Cost of video deposition used at trial. (Only the cost of the either the deposition copy or the video deposition will be taxed as costs, not both.)
(d) Postage, delivery fees, notary fees, etc., incurred with the deposition.

2. Not Taxable

(a) Discovery depositions without leave of Court.
(b) Copy of depositions without leave of Court.
(c) Expenses of counsel in attending depositions.

NOTE: DO NOT COMBINE THE COSTS OF DEPOSITIONS, LIST THE COSTS OF EACH DEPOSITION SEPARATELY.

I. OTHER COSTS

1. Taxable

(a) Bond Premiums.
(b) By written approval of the court, interpreter fees will be allowed.
(c) Appraiser's fee.
(d) Private process server fees.

2. Not Taxable

(a) Attorney fees incurred in attending depositions, conferences, trial, as well as expenses incurred by investigations.
(b) Computerized legal research charges.
(c) Paralegal expenses.

United States District Court

DISTRICT OF _____

BILL OF COSTS

V.

Case Number:

_____

Judgment having been entered in the above entitled action on _____ against _____,
Date

the Clerk is requested to tax the following as costs:

Fees of the Clerk ..... $ _____

Fees for service of summons and subpoena ..... _____

Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case ..... _____

Fees and disbursements for printing ..... _____

Fees for witnesses (itemize on reverse side) ..... _____

Fees for exemplification and copies of papers necessarily obtained for use in the case ..... _____

Docket fees under 28 U.S.C. 1923 ..... _____

Costs as shown on Mandate of Court of Appeals ..... _____

Compensation of court-appointed experts ..... _____

Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828 ..... _____

Other costs (please itemize) ..... _____

TOTAL $ _____

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill was mailed today with postage prepaid to:

_____.

Signature of Attorney: _____

Name of Attorney: _____

For: _____ Date: _____
Name of Claiming Party

Costs are taxed in the amount of _____ and included in the judgement.

_____ By: _____ _____
Clerk of Court Deputy Clerk Date

WITNESS FEES (computation, cf. 28 U.S.C. 1821 for statutory fees)							
NAME AND RESIDENCE	ATTENDANCE		SUBSISTENCE		MILEAGE		Total Cost Each Witness
	Days	Total Cost	Days	Total Cost	Days	Total Cost	
					TOTAL		

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

See also Section 1920 of Title 28, which reads in part as follows:

"A bill of costs shall be filed in the case and upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

"Except where express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day's notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court."

Rule 6 (e)

"Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period."

Rule 58 (In Part)

"Entry of the judgment shall not be delayed for the taxing of costs."