IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
23-SO-2

IN RE:)
AMENDMENTS TO)
THE LOCAL CIVIL, CRIMINAL,) **STANDING ORDER**
AND ADMIRALTY RULES OF PRACTICE)
AND PROCEDURE)

Pursuant to 28 U.S.C. § 2017, Rule 83(a) of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure, the Court provided notice and an opportunity for comment on proposed amendments to the Local Civil, Criminal, and Admiralty Rules ("Local Rules"). The Court considered the public comments received and the recommendations of the Local Rules Committees.

With the concurrence of the Court, it is ORDERED that the Local Civil, Criminal, and Admiralty Rules are amended in accordance with Attachment A, B, and C.

It is further ordered that the amendments to the Local Rules shall take effect on May 31, 2023, and govern all proceedings commenced thereafter and all proceedings then pending unless otherwise ordered by the Court.

SO ORDERED this 25th day of May, 2023.

Richard E Myers II

RICHARD E. MYERS II
Chief United States District Judge

ATTACHMENT A

United States District Court

Eastern District of North Carolina

Local Civil Rules

of

Practice and Procedure

May 2023

TABLE OF CONTENTS

Rule 1.1 Scope and Citation of Local Civil Rules

These local civil rules shall govern civil actions and proceedings before the United States District Court for the Eastern District of North Carolina except when federal statutes and rules govern. In admiralty cases, where a local civil rule is inconsistent with a local admiralty rule, the local admiralty rule shall apply. In patent cases, where a local civil rule is inconsistent with a local patent rule, the local patent rule shall apply. These local rules should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding. A judge or magistrate judge, for good cause and in his or her discretion, may alter these rules in any particular case. These rules shall be cited as "Local Civil Rule ___." The Local Civil Rules posted on the district's website, http://www.nced.uscourts.gov/rules/Default.aspx, shall be the court's official record of such rules.

Rule 1.2 Definitions

As used in these local rules:

(a) The term "person" refers to any human being or entity.

(b) The term "party" refers to a person who asserts a claim or who has a claim asserted against him, her, or it. A represented party shall act through the party's attorney of record unless a particular rule specifically states otherwise.

(c) The term "nonparty" refers to any person other than a party, an attorney, a judge, or a court staff member who is acting in that capacity. A represented nonparty shall act through its attorney of record unless a particular rule specifically states otherwise.

(d) The term "attorney" refers to an attorney of record for a person, unless the context of a particular rule refers to attorneys more generally.

(e) The term "unrepresented person" refers to a person during any time when the person is proceeding without an attorney.

(f) The term "incarcerated unrepresented person" refers broadly to an unrepresented person who is currently imprisoned, jailed, civilly committed, or otherwise detained.

(g) The term "movant" refers to a person who makes a motion.

Rule 2.1 Reserved for Future Purposes

Rule 3.1 Subsequent Litigation by Parties Proceeding *In Forma Pauperis*

A party who has proceeded unsuccessfully *in forma pauperis* and had the costs of that litigation taxed against him or her must demonstrate that he or she has paid or made a reasonable effort to pay those costs prior to being authorized to proceed again *in forma pauperis*.

Rule 3.2 Denial of *In Forma Pauperis* Applications

In all civil actions in which the court denies the plaintiff's motion to proceed *in forma pauperis*, the plaintiff shall be allowed 30 days to pay the requisite filing fee. If the plaintiff fails to pay the filing fee, the clerk shall designate the action as a miscellaneous case and close the matter without further order from the court.

Rule 4.1 Reserved for Future Purposes

Rule 5.1 Filing and Service of Papers

(a) Electronic Filing.

(1) Documents Submitted for Filing. Unless otherwise permitted by the Electronic Case Filing Administrative Policies and Procedures Manual (Policy Manual) or otherwise authorized by the assigned judge, all documents submitted for filing shall be filed electronically in searchable text format using the Case Management/Electronic Case Filing system (CM/ECF) and in accordance with the Policy Manual. A system generated Notice of Electronic Filing (NEF) shall be the official confirmation of electronic filing. Any document electronically filed or converted by the clerk's office to electronic format shall be the official record of the court. As such, the clerk's office will not maintain a paper record of these documents. The clerk's office will not accept any e-mail or facsimile transmission for filing unless ordered by the court.

(2) Court-Generated Documents. All orders, decrees, judgments, and proceedings of the court will be filed in accordance with the Policy Manual. That filing shall constitute entry of that document on the docket kept by the clerk under Fed. R. Civ. P. 58 and 79. All signed orders will be filed electronically by the court or court personnel. Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order or other court-issued document and as if it had been entered on the docket in a conventional manner. Orders may be "text only" entries on the docket, without an attached document. Such orders are official and binding.

(b) Registered Users.

Registered users of CM/ECF include both filing users and receiving users as defined in subsection (b)(1) and (2) of this rule.

(1) Filing Users.

Only an attorney who is registered in CM/ECF may file documents electronically. Filing users are subject to service of documents under Fed. R. Civ. P. 5(b)(2)(E).

(2) Receiving Users.

An unrepresented party who is not incarcerated may register to be a receiving user of CM/ECF. A receiving user receives notices of filings by email instead of regular mail but may not file electronically. Receiving users are subject to service of documents under Fed. R. Civ. P. 5(b)(2)(E).

(c) Authorized User of CM/ECF Password.

No attorney shall knowingly permit or cause to permit the attorney's CM/ECF password to be used by anyone other than an authorized employee of the attorney's law firm. No person shall knowingly use or cause another person to use the password of a registered attorney unless such person is an authorized employee of the attorney's law firm.

(d) Entry on Docket.

The electronic filing of a document in accordance with the Policy Manual shall constitute entry of that document on the docket kept by the clerk under Fed. R. Civ. P. 79. Except in the case of documents first filed in paper form, a document filed electronically is deemed filed at the date and time stated on the NEF that is automatically generated by CM/ECF.

(e) Service of Document.

(1) Documents Submitted for Filing.

Except as provided in Section VI.F of the Policy Manual and subsection (f) of this rule, when a document is filed in CM/ECF, it is served electronically on registered users in compliance with Fed. R. Civ. P. 5(b)(2)(E) and 77(d). The time to respond shall be calculated from the NEF, regardless of whether other means of service are used. Non-registered persons must be served with a copy of any document filed electronically in accordance with the Federal Rules of Civil Procedure. Service on any attorney currently appearing on behalf of that person constitutes service on that person. CM/ECF may not be used to serve documents that are not permitted to be filed, including discovery as provided in Fed. R. Civ. P. 5(d) and Local Civil Rule 26.1(a).

(2) Court-Generated Documents

When more than one attorney appears on behalf of a person in a case, and not all of the attorneys for that person are registered filing users, service of any court-generated document (e.g., orders, notices, etc.) will only be made on the attorneys registered in CM/ECF. It is the responsibility of the non-registered attorney to make arrangements with the registered attorney users for that person to remain apprised of court-generated filings in the case. Non-registered attorneys will not receive paper copies from the court.

(f) Exceptions to Electronic Filing.

(1) Documents Excluded from Electronic Filing

Unless otherwise ordered by the court, documents filed by an unrepresented person and those documents listed in Section V.A of the Policy Manual, shall be filed in paper form and are excluded from electronic filing. Any document filed in paper form that is not exempt pursuant to this section must be accompanied by a motion for leave to file the document and a proposed order. When filed in paper form, the document must contain the original signature of the attorney or each unrepresented person. A document filed in paper form shall be deemed filed on the date it is received by the clerk except that for incarcerated unrepresented persons a document filed in paper form is deemed filed on the date that it is deposited in the institution's mailing system.

(2) Service of Documents Filed by an Unrepresented Person

Unless the document is listed in Section V.A. of the Policy Manual, the clerk shall scan and electronically file a document submitted for filing by an unrepresented person. Except as provided for in Section VI.F of the Policy Manual, the electronic filing of the document by the clerk constitutes service on registered users in compliance with Fed. R. Civ. P. 5(b)(2)(E) and 77(d), and the deadline to respond to the document shall be calculated from the date of NEF, regardless of whether other means of service are used. An unrepresented person must separately serve any non-registered person as provided in Fed. R. Civ. P. 5(b).

(3) Service of Documents Excluded from Electronic Filing

Any document filed in paper form pursuant to Section V.A. of the Policy Manual or with leave of court must be served on opposing parties and nonparties as provided in Fed. R. Civ. P. 5(b). Service on any attorney currently appearing on behalf of a person shall be service on that person.

(g) Personal Identifiers.

The responsibility for redacting personal identifiers rests solely with the filer. The clerk will not review each filed document and any attachments for compliance with Fed. R. Civ. P. 5.2.

Rule 5.2 Appearances in Civil Cases

(a) Notice of Appearance.

Each attorney shall file a notice of appearance with the clerk and serve all parties. The signature block in the notice of appearance shall be in compliance with the requirements of the signature block illustrated in Local Civil Rule 10.1. The attorney shall also contemporaneously file a disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3.

(b) Notice of Self-Representation.

(1) A non-incarcerated unrepresented person shall file a notice of self-representation on a form available from the clerk. This notice shall be filed when the unrepresented person initially appears in the action or as required by subsection (e) of this rule. The unrepresented person shall also contemporaneously file a disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3.

(2) A corporation, a limited liability company, a partnership, a trust, an association, or any other entity that is not a natural person cannot appear as an unrepresented person and must be represented by an attorney in accordance with Local Civil Rule 83.1(d). Except as otherwise permitted by law, no unrepresented person may appear on behalf of another unrepresented person.

(c) Substitution of an Attorney.

Whenever an attorney of record in a case will be replaced by another attorney who is an active member of the bar of this court, a notice of substitution of attorney must be filed. The notice must (i) be signed by and contain a signature block for both attorneys in compliance with Local Civil Rule 10.1; (ii) identify the persons represented; (iii) verify that the attorney entering the case is aware of and will comply with all pending deadlines in the case, including proceeding with any scheduled trial or hearings; and (iv) be served on all parties. Upon filing of the notice, the clerk's office shall terminate the withdrawing attorney from the case and add the new attorney as attorney of record without order of the court. If the notice does not comply with this rule, the clerk will issue a notice of deficiency and the withdrawing attorney shall remain attorney of record.

(d) Notice of Withdrawal of a Governmental Attorney.

When a local, state, or federal governmental attorney has filed a notice of appearance in a case but is no longer associated with it, and there is at least one other active governmental attorney who has filed a notice of appearance in the case, the active governmental attorney shall file a notice of withdrawal of governmental attorney to withdraw the appearance of the governmental attorney who is no longer associated with the case. The notice of withdrawal must be signed and filed by the active governmental attorney, certify that the withdrawing attorney is no longer associated with the case, and be served on all parties. Upon the filing of the notice of withdrawal, the clerk's office shall terminate the withdrawing governmental attorney from the case without order of the court. The attorneys to whom this subsection applies include attorneys employed by the Office of the Federal Public Defender.

(e) Motion to Withdraw.

In all other instances, any attorney shall by motion seek leave of court to withdraw his or her notice of appearance. Any motion to withdraw shall (i) contain the last known mailing, and if different, physical address of the moving attorney's client; (ii) contain a description of the procedural posture of the case; (iii) state whether the client consents to the motion; and if applicable (iv) include a certification by the moving attorney that the client cannot be located or, for any other reason, cannot be notified regarding the motion to withdraw. If withdrawal would leave a person without representation, the motion to withdraw shall be accompanied by a proposed

order granting the motion on a form available from the clerk stating that (i) within 21 days after entry of the order, or within the time otherwise required by the court, the unrepresented person shall file a notice of self-representation or cause a new attorney to file a notice of appearance; (ii) no corporation, limited liability company, partnership, trust, association, or other entity that is not a natural person may appear as an unrepresented person but must be represented by an attorney in accordance with Local Civil Rule 83.1(d); and (iii) a party who fails to file a notice of self-representation or cause a new attorney to file a notice of appearance may be subject to sanctions, including but not limited to dismissal or default judgment.

Rule 5.3 Removal and Post-Removal Procedure

(a) Filing of State-Court Documents and Other Documents.

(1) Any party who files a notice of removal shall file with the notice a civil cover sheet, a supplemental removal cover sheet (available from the clerk), and true and legible copies of all process, pleadings, orders, and other documents that have been served on the party in state court, excluding discovery. The removing party shall file each served state-court document as a separate and distinctly titled exhibit to the notice of removal.

(2) No later than 7 days after the filing of the notice of removal, the removing party shall file the notice that the party filed in state court to comply with 28 U.S.C. § 1446(d).

(3) Except for the filing of a supplemental removal cover sheet, subsection (a) of this rule shall not apply to removals pursuant to 28 U.S.C. § 1442(d)(1).

(b) Notices of Appearance in Removed Cases.

(1) The removal of a case to this court does not relieve attorneys who appeared in the other court of their obligations to their clients.

(2) Within 14 days after removal, attorneys for all parties in the state-court action shall file either a notice of appearance, a notice of substitution of attorney, or a motion to withdraw in accordance with Local Civil Rule 5.2. Any unrepresented person at the time of

removal shall file a notice of self-representation in accordance with Local Civil Rule 5.2(b)(1) within 14 days after removal.

(3) An attorney in a removed action who is eligible for admission to the bar of this court but is not yet admitted may file an application for admission to the bar of this court at or before the time of the attorney's notice of appearance. In that instance, the notice of appearance shall state expressly that it is contingent on the attorney's application for admission being granted.

(4) If an attorney is not an electronic filer in this district, the attorney may file the motion to withdraw or notice of appearance in paper form, as long as a motion for leave to file in paper form accompanies the motion to withdraw or notice of appearance.

(c) Pending Motions at the Time of Removal.

(1) A party filing a notice of removal shall list on the supplemental removal cover sheet any motion filed in the state court that is pending at the time of removal.

(2) If, at the time of removal, a motion is pending for which no supporting memorandum of law has been submitted to the state court, the movant on that motion shall file a supporting memorandum within 14 days of the date of removal, unless the motion is of a type covered by Local Civil Rule 77.2 or unless otherwise ordered by the court. The Local Civil Rule 7.1(f) deadline for a response to the motion runs from the date of the movant's filing of a supporting memorandum in this court.

(3) If, at the time of removal, a pending motion was supported by a memorandum of law, any response to that motion shall be filed 21 days after the removal, unless otherwise ordered by the court.

(4) Subsection (c) of this rule shall not apply to proceedings removed pursuant to 28 U.S.C. § 1442(d)(1) unless the pending motion relates to the proceeding being removed.

(d) Disclosure of Affiliations and Financial Interest.

Within 14 days after the filing of a notice of removal, all parties shall make the disclosures required by Local Civil Rule 7.3, regardless of the provisions of subsection (b) of this rule and Local Civil Rule 5.2(a).

(e) Cases Related to Bankruptcy Cases.

Removals under 28 U.S.C. § 1452 or 28 U.S.C. § 1441 in cases related to bankruptcy cases shall be filed with the bankruptcy court.

Rule 6.1 Motions for an Extension of Time to Perform Act

(a) Each motion for an extension of time to perform an act required or allowed to be done within a specified time must show good cause. The motion must also show that the movant has in good faith conferred or attempted to confer with all parties and nonparties whose interests are directly affected by the motion, including unrepresented parties and nonparties but excluding incarcerated unrepresented parties and nonparties. The motion must identify the views of each party or nonparty consulted, as well as the efforts to consult with any parties and nonparties who did not respond. The motion must be accompanied by a separate proposed order granting the motion.

(b) Except as ordered by the court, designated secured leave under Rule 26 of the General Rules of Practice for the Superior and District Courts of the State of North Carolina shall not be the sole basis for an extension of time or continuance.

Rule 7.1 Motion Practice

(a) Time for Filing.

All motions in civil cases except those relating to the admissibility of evidence at trial must be filed on or before 30 days following the conclusion of the period of discovery. If an extension of the original period of discovery is approved by the court, the time for filing motions is automatically extended to 30 days after the new date unless otherwise ordered by the court.

(b) General Requirements.

(1) All motions shall be concise and shall state precisely the relief requested. Motions shall conform to the general motions requirements, standards, and practices set forth in the applicable Federal Rules of Civil Procedure and in Local Civil Rule 10.1.

(2) If a movant is aware that an opposing party or nonparty consents or does not object to a motion, the motion shall so state. This subsection does not require a movant to confer with any opposing person before filing a motion, although other provisions of these rules may require a movant to do so.

(3) If a movant seeking nondispositive relief is aware at the time of filing the motion that it is consented to or not opposed, the movant shall file with the motion a proposed order allowing the relief sought. If the movant becomes aware after filing the motion that it is consented to or not opposed, the movant shall file a proposed order allowing the relief sought as soon as practicable after becoming aware.

(c) Discovery Motions.

(1) For purposes of these Local Civil Rules, a discovery motion is any motion or other request to the court that seeks to enforce, use, regulate, extend, modify, nullify, or limit any of the procedures described in any of Rules 26 through 37 of the Federal Rules of Civil Procedure or in any of Local Civil Rules 26.1, 30.1, 33.1, 34.1, or 36.1. A motion or other request to the court that seeks to enforce, use, regulate, extend, modify, quash, or limit any pretrial civil subpoena is likewise a discovery motion.

(2) No discovery motion will be considered by the court unless the motion sets forth or has attached thereto, by item, the specific question, interrogatory, etc., with respect to which the motion is filed and any objection made along with the grounds supporting or in opposition to the objection. The movant must also certify that there has been a good faith effort to resolve discovery disputes prior to the filing of any discovery motions.

(d) Motions for Attorney's Fees in Certain Social Security Cases.

Any motion for attorney's fees under 42 U.S.C. §§ 406(b) or 1383(d)(2) shall be filed within 65 days after the date of the last notice of award necessary to accurately calculate the total amount of retroactive benefits, unless extended by consent or order.

(e) Supporting Memoranda.

Except for motions the clerk may grant as specified in Local Civil Rule 77.2, all motions made, other than in a hearing or trial, shall be filed with an accompanying supporting memorandum in the manner prescribed by Local Civil Rule 7.2(a). Where appropriate, motions shall be accompanied by affidavits or other supporting documents.

(f) Responses to Motions.

Any party may file a written response to any motion. A response shall be in the form of a memorandum in the manner prescribed by Local Civil Rule 7.2(a) and may be accompanied by, without limitation, affidavits and other supporting documents.

(1) Nondiscovery Motions. Responses and accompanying documents shall be filed within 21 days after service of the motion in question unless otherwise ordered by the court or prescribed by the applicable Federal Rules of Civil Procedure.

(2) Discovery Motions. Responses and accompanying documents relating to discovery motions shall be filed within 14 days after service of the motion in question unless otherwise ordered by the court.

(g) Replies.

(1) Nondiscovery Motions. Replies to responses are discouraged. However, except as provided in in subsection (g)(2) of this rule, a party desiring to reply to matters initially raised in a response to a motion shall file the reply within 14 days after service of the response, unless otherwise ordered by the court.

(2) Discovery Motions.

Replies are not permitted in discovery disputes. See Local Civil Rule 26.1(d)(3).

(h) Subsequently Decided Controlling Authority.

A suggestion of subsequently decided controlling authority, without argument, may be filed and served at any time prior to the court's ruling and shall contain only the citation to the case relied upon, if the case is published, or a copy of the opinion if the case is unpublished.

(i) Affidavits.

Ordinarily, affidavits will be made by witnesses themselves and not by attorneys. However, affidavits may be made by an attorney for a person if the sworn facts are known to the attorney or the attorney can swear to them upon information and belief, and

(1) the facts relate solely to an uncontested matter; or

(2) the facts relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the facts; or

(3) the facts relate solely to the nature and value of the legal services rendered for the person by the attorney or the attorney's law firm; or

(4) the refusal to accept the affidavit would work a substantial hardship on the person and the court finds that its acceptance of the affidavit would not be such as to require that the attorney or the attorney's law firm be disqualified from continuing to appear for the person.

(j) Hearings on Motions.

Hearings on motions may be ordered by the court in its discretion. Unless so ordered, motions shall be determined without a hearing.

Rule 7.2 Memoranda

(a) Form and Content.

A memorandum in support of or in opposition to a motion shall comply with Local Civil Rule 10.1 and shall contain:

(1) a concise summary of the nature of the case;

(2) a concise statement of the facts that pertain to the matter before the court for ruling;

(3) the argument (brevity is expected) relating to the matter before the court for ruling with appropriate citations in accordance with subsections (b), (c), and (d) of this rule; and

(4) copies of any decisions in cases cited as required by subsections (c) and (d) of this rule.

(b) Citation of Published Decisions.

Published decisions cited should include parallel citations (except for United States Supreme Court cases), the year of the decision, and the court deciding the case. The following are illustrations:

(1) State Court Citation: *Rawls v. Smith*, 238 N.C. 162, 77 S.E.2d 701 (1953);

(2) District Court Citation: *Smith v. Jones*, 141 F. Supp. 248 (E.D.N.C. 1956);

(3) Court of Appeals Citation: *Smith v. Jones*, 237 F.2d 597 (4th Cir. 1956);

(4) United States Supreme Court Citation: *Smith v. Jones*, 325 U.S. 196 (1956). United States Supreme Court cases should be cited in accordance with current Bluebook form.

(c) Citation of Authorities Not Appearing in Certain Sources.

Any authority (e.g., court decision, administrative decision, regulation) that

is not available on LexisNexis or Westlaw may be cited if a copy of the authority is filed as an exhibit to the motion or memorandum in which it is cited.

(d) Citation of Unpublished Decisions.

A decision designated as "unpublished" by a United States District Court may be considered by this court. A decision designated as "unpublished" by a United States Court of Appeals will be given due consideration and weight but will not bind this court. In accordance with subsection (c) of this rule, if such an unpublished decision is not available on LexisNexis or Westlaw, a copy of it shall be filed as an exhibit to the motion or memorandum in which it is cited.

(e) Provision of Authorities.

If an authority is not reasonably available to an opposing party or nonparty, the person citing that authority shall furnish the authority to the opposing parties and nonparties upon request.

(f) Length of Memoranda.

Unless the court orders otherwise, memoranda must conform to either the page limits or word limits below.

(1) Headings, footnotes, citations, and quotations in a memorandum count toward the page and word limits. The case caption, the signature block, any required certificates, any table of contents, any table of authorities, and any attachments, exhibits, affidavits, and other addenda to a memorandum do not count toward the page and word limits.

(2) Page Limits.

(A) A memorandum in support of or in opposition to a motion (other than a discovery motion) shall not exceed 30 pages in length.

(B) A memorandum in support of or in opposition to a discovery motion shall not exceed 10 pages in length.

(C) A reply or surreply memorandum (where allowed) shall not exceed 10 pages in length.

(3) Word Limits.

(A) A memorandum in support of or in opposition to a motion (other than a discovery motion) shall not exceed 8400 words.

(B) A memorandum in support of or in opposition to a discovery motion shall not exceed 2800 words.

(C) A reply or surreply memorandum (where allowed) shall not exceed 2800 words.

A memorandum under this subsection (f)(3) must contain a certificate, signed by the attorney or unrepresented party, attesting that the memorandum complies with the applicable word limit. The signer of the certificate may rely on the word count generated by word processing software, as long as the software counts the elements required by subsection (f)(1) of this rule. The certificate must state the number of words in the memorandum.

Rule 7.3 Disclosure of Corporate Affiliations and Other Entities with a Direct Financial Interest in Litigation

(a) All parties to a civil or bankruptcy case, whether or not they are covered by the terms of Fed. R. Civ. P. 7.1, shall file a corporate affiliate/financial interest disclosure statement. This rule does not apply to the United States or to state and local governments in cases in which the opposing party is proceeding as an unrepresented person.

(b) The statement shall set forth the information required by Fed. R. Civ. P. 7.1 and the following:

(1) A trade association shall identify in the disclosure statement all members of the association, their parent corporations, and any publicly held companies that own ten percent or more of a member's stock;

(2) All parties shall identify any publicly held corporation, whether or not a party to the present litigation, that has a direct financial interest in the outcome of this litigation by reason of a franchise, lease, other profit-sharing agreement, insurance, or indemnity agreement;

(3) Whenever required by Fed. R. Civ. P. 7.1 or this rule to disclose

information about a corporation that has issued shares to the public, a party shall also disclose information about similarly situated master limited partnerships, real estate investment trusts, or other legal entities whose shares are publicly held or traded.

(c) The disclosure statement shall be on a form provided by the clerk. A negative statement is required if a party has no disclosures to make.

(d) The disclosure statement shall be filed when the party makes an initial appearance in the action. The parties are required to amend their disclosure statements when necessary to maintain their current accuracy.

Rule 7.4 ***Ex Parte* Motions**

Unless the related case is already under seal, an *ex parte* motion shall only be sealed upon specific order of the court. A motion requesting permission to file an *ex parte* motion under seal shall include the ex parte motion as an attachment. The clerk shall treat the motion to seal and attachment as sealed pending order of the court.

Rule 8.1 **Reserved for Future Purposes**

Rule 9.1 **Reserved for Future Purposes**

Rule 10.1 Forms of Pleadings, Motions, and Documents

All pleadings, motions, discovery procedures, memoranda, and other papers filed with the clerk of court shall:

(a) be double-spaced on single-sided, standard letter size (8½ x 11) paper, with all typed matter appearing in at least 11 point font size with a one inch margin on all sides;

(b) state the court and division in which the action is pending;

(c) except for the initial filing, bear the case number assigned by the clerk;

(d) contain the caption of the case;

(e) if applicable, state the title of the pleading, motion, discovery procedure, or document and the federal statute or rule number under which the party is proceeding;

(f) contain the individual name, firm name, address, telephone number, fax number, e-mail address, and state bar identification, where applicable, of all attorneys who appear for the filing person, including any attorney making a special appearance pursuant to Local Civil Rule 83.1(e);.

(g) bear the date when it was signed;

(h) be signed by an attorney or unrepresented person;

(i) include below the filer's signature, on the line immediately below, the typed or printed name in the same form as the signature. In preparation of documents for signature by a judge or magistrate judge, a blank space shall be provided below the signature line in which the name may be typed or printed;

(j) have each page numbered sequentially; and

(k) absent an order of the court upon a showing of good cause, be in the English language unless translations are furnished. Any English translation shall include a certification that the translation is accurate. Partial translations are acceptable if the person filing a document believes that the portion translated is sufficient to address the issues being litigated. Within 14 days of the filing

of the translated document, any opposing party or nonparty may file objections to the translation or to the partial nature of the translation or may file additional partial or complete translations of the document as it believes necessary.

The following forms are examples to be followed:

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. __:____-CV-___-__

JANE T. SMITH,	)	
	)	
Plaintiff,	)	
	)	OFFER OF JUDGMENT
v.	)	Fed. R. Civ. P. 68
	)	
AARON R. JONES et al.,	)	
	)	
Defendants.	)	

This___day of January 201_.

___/s/ John B. Attorney_____
John B. Attorney
Abbott, Ball and Attorney
200 Main Street
Post Office Box 50
Raleigh, North Carolina 27602
(919) 878-8787
Fax (919) 878-8000
John.B.Attorney@email.address.com
State Bar No. _____
Attorney for Defendant

Rule 10.2 Form of Exhibits to Motions

Exhibits containing double-sided documents are not permitted and will not be considered by the court. Condensed deposition transcripts are discouraged.

Rule 10.3 Reserved for Future Purposes

Rule 11.1 Sanctions

If an attorney or any party or nonparty fails to comply in good faith with any local rule of this court, the court in its discretion may impose sanctions**.**

Rule 11.2 Disclosure Statements

(a) As part of making an appearance in every case, an attorney shall include the attorney's name and the name of the attorney's law firm. The attorney also shall file contemporaneously a client disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3.

(b) As part of making an appearance in every case, all unrepresented persons (other than incarcerated unrepresented persons) shall file contemporaneously a disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3.

Rule 12.1 Reserved for Future Purposes

Rule 13.1 Reserved for Future Purposes

Rule 14.1 Reserved for Future Purposes

Rule 15.1 Amended Pleadings

(a) A party moving to amend a pleading shall attach to the motion:

(i) The proposed amended pleading, duly signed, and any exhibits thereto; and

(ii) A form of the amended pleading that indicates in what respect it differs from the pleading that it amends by bracketing or striking through text to be deleted and underlining or highlighting text to be added.

(b) If the motion to amend is granted, the clerk shall docket the amended pleading, unless otherwise ordered by the court. The amended pleading shall be deemed served on the date it is entered on the docket unless otherwise ordered by the court.

(c) An incarcerated unrepresented person is exempted from complying with subsection (a)(ii) of this rule.

Rule 16.1 Final Civil Pretrial Conference

(a) Scheduling and Notice.

A final pretrial conference shall be scheduled in every civil action after the time for discovery has expired. In most actions, the clerk shall give at least 45 days' notice of such conference. In the court's discretion and upon request of any party or on the court's own initiative, a preliminary or "working" pretrial conference may be scheduled.

(b) Preparation for Final Pretrial Conference.

(1) At least 28 days before the pretrial conference, all parties must provide to all other parties the pretrial disclosures required under Fed. R. Civ. P. 26(a)(3). Twenty-one days before the pretrial conference, a party may designate and serve any objections listed in Fed. R. Civ. P. 26(a)(3). The parties' Rule 26(a)(3) disclosures, and objections thereto, shall be incorporated into the final pretrial order, consistent with subsection (c) of this rule. The pretrial order must be submitted to the court 7 days prior to the pretrial conference.

(2) In preparing for the pretrial conference, the parties shall confer and prepare a proposed pretrial order. It shall be the duty of the plaintiff to arrange for the parties to confer for the purpose of preparing a

proposed pretrial order. Where video depositions are to be used, parties should endeavor to reach early agreement on editing; where agreement cannot be reached, required rulings by the court should be sought in sufficient time to allow for final edited versions of depositions to be used at trial.

(c) Form of Pretrial Order.

The pretrial order shall be prepared in one sequential document without reference to attached exhibits or schedules and shall contain the following in 5 separate sections, numbered by roman numerals as indicated:

(1) Stipulations. Stipulations covering jurisdiction, joinder, capacity of the parties, relevant and material facts, legal issues, and factual issues.

(2) Contentions. Contentions covering matters on which the parties have been unable to stipulate, including jurisdiction, misjoinder, capacity of the parties, relevant and material facts, legal issues, and factual issues. Claims and defenses as to which no contentions are listed in the pretrial order are deemed abandoned.

(3) Exhibits. A list of exhibits that each party may offer at trial, including any map or diagram, numbered sequentially; exhibit numbers shall remain the same throughout all further proceedings. Copies of all exhibits shall be provided to the opposing party not later than the conference provided for in subsection (b)(1) of this rule. The court may excuse the copying of large maps or other exhibits. Except as otherwise indicated in the pretrial order, it will be deemed that all parties stipulate that all exhibits are authentic and may be admitted into evidence without further identification or proof. Grounds for objection as to authenticity or admissibility must be set forth in the pretrial order. When practicable, trial exhibits should carry the same number as in the depositions and references to exhibits in depositions should be changed to refer to the trial exhibit number. It is not necessary to designate exhibits that are to be used solely for impeachment or cross-examination. Except as otherwise indicated in the pretrial order or ordered by the court, a party may use any exhibit in opening statements, provided that the exhibit has been listed in the pretrial order, and (a) the opposing party has not objected to it, or (b)

any such objection has been overruled prior to opening statement.

(4) Designation of Pleadings and Discovery Materials. The designation of all portions of pleadings and discovery materials, including depositions, interrogatories, and requests for admission that each party may offer at trial, shall be noted by reference, where applicable, to document volume, page number, and line. Objection by the opposing party shall be noted by reference, where applicable, to document volume, page number, and line, and the reasons for such objection shall be stated. It is not necessary to designate any portion of a pleading, deposition, or any other discovery material that is to be used solely for impeachment or cross-examination.

(5) Witnesses. A list of the names and addresses of all witnesses each party may offer at trial, together with a brief statement of what the party proposes to establish by their testimony.

(d) Conduct of the Final Pretrial Conference.

(1) Purpose. To resolve any disputes concerning the contents of the pretrial order.

(2) Preparation. The parties shall be fully prepared to present to the court all information and documentation necessary for completion of the final pretrial order. Failure to do so shall result in the sanctions provided by this local rule.

(3) Pretrial Order. All parties shall be responsible for presenting the final proposed pretrial order, properly signed by all parties, at a time designated by the court.

(e) Penalty for Noncompliance.

A person's failure to comply with the provisions of this local rule may result in the imposition against that person of a monetary fine not to exceed $250.00, any other sanction allowable by the Federal Rules of Civil Procedure, or both.

(f) Sample Pretrial Order.

A pretrial order in the following form shall be sufficient to comply with

subsection (c) of this rule:. [The case caption should be in the form provided as an example in Local Civil Rule 10.1.]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:94-CV-125-F

JOHN DOE, by his guardian ad litem, and JANE DOE,	)	
Plaintiffs,	)	
v.	)	PRETRIAL ORDER
XYZ CORPORATION,	)	
Defendant.	)	

Date of Conference: August 12, 1998

Appearances: Jane Y. Lawyer, Raleigh, North Carolina for plaintiff;
Sam X. Attorney, Fayetteville, North Carolina for defendant.

I. STIPULATIONS.

A. all parties are properly before the court;

B. the court has jurisdiction of the parties and of the subject matter;

C. all parties have been correctly designated;

D. there is no question as to misjoinder or nonjoinder of parties;

E. plaintiff, a minor, appears through his or her guardian;

F. Facts:

1. Plaintiff is a citizen of Wake County, North Carolina.

2. Defendant is a New York corporation, licensed to do business and doing business in the State of North Carolina.

G. Legal Issues:

May a nine-year old minor be guilty of contributory negligence?

H. Factual Issues:

1. Was plaintiff injured and damaged by the negligence of defendant?

2. What amount, if any, is plaintiff entitled to receive of defendant as compensatory damages?

II. CONTENTIONS.

A. Plaintiff

1. Facts:

(a) That Richard Roe was driving defendant's truck as defendant's agent.

(b) That Richard Roe was negligent in that he drove at an excessive speed and while under the influence of intoxicating liquor.

2. Factual Issues:

What amount, if any, is plaintiff entitled to recover of defendant as punitive damages?

B. Defendant

1. Facts:

That Richard Roe, a former employee, took defendant's truck without authorization and, at the time of the accident, was not the agent or employee of defendant.

2. Factual Issues:

Did plaintiff, by his or her own negligence, contribute to his or her injury and

damage?

III. EXHIBITS.

A. Plaintiff

Number	Title	Objection
l	Patrol Report	Hearsay
2	Photo of Plaintiff	

B. Defendant

Number	Title	Objection
l	Photo of Scene	
2	Scale Model	

IV. DESIGNATION OF PLEADINGS AND DISCOVERY MATERIALS.

A. Plaintiff

Document	Portion	Objection	Reason
Plaintiff's first set of interrogatories	Nos. 1, 8 and 9	No. 8	Privilege
Deposition of Richard Roe	Vol. 1, line 6, p. 1 thru line 5, p. 6	Line 6, p. 1 thru line 2, p. 7	Hearsay

B. Defendant

None

V. WITNESSES.

A. Plaintiff

Name	Address	Proposed Testimony
John Jones	615 Rains Street	Facts surrounding

	Raleigh, NC	accident
Frank Flake	Selma, NC	Speed of defendant's vehicle, intoxication of driver

B. Defendant

All witnesses listed by plaintiff.

Name	Address	Proposed Testimony
Sam Smith	4 Appian Way Rome, Italy	Facts surrounding the theft by driver of the vehicle

TRIAL TIME ESTIMATE: ___ days

/s/ Jane Y. Lawyer
JANE Y. LAWYER
Attorney for Plaintiff

/s/ Sam. S. Attorney
SAM X. ATTORNEY
Attorney for Defendant

APPROVED BY:

_____
BILL SMITH
U.S. MAGISTRATE JUDGE
_____, 201___.

Rule 17.1 Minors or Incompetent Parties

(a) Representation.

Representation of a minor or incompetent person in a civil action shall be in accordance with Fed. R. Civ. P. 17(c). Appointments of guardians *ad litem* by any state court shall satisfy the requirements of the Federal Rules of Civil Procedure unless the court finds that the interests of the person so represented are not being adequately protected.

(b) Settlement or Dismissal of Actions.

No civil action to which a minor or incompetent person is a party shall be compromised, settled, discontinued, or dismissed without an Order of Approval entered by the court. It shall be the responsibility of the attorney for the minor or incompetent person to prepare a proposed Order of Approval for submission to the court. The Order of Approval shall bear the written consent of (1) the attorneys for all the parties to the action, (2) the legal representative of the minor or incompetent person, and (3) in the case of a minor, at least one of the natural parents or persons standing *in loco parentis*. Unless otherwise ordered by the court, the Order of Approval shall contain statements as to the following:

(1) statement that all parties are properly represented and are properly before the court, that no questions exist as to misjoinder or nonjoinder of parties, and that the court has jurisdiction over the subject matter and the parties;

(2) if the minor or incompetent person is the plaintiff, a summary of contentions sufficient to show that the complaint states a claim upon which relief can be granted; if the minor or incompetent person is the defendant, a statement of contentions sufficient to show that no affirmative defenses could clearly be raised in bar of recovery;

(3) a summary of services rendered by the attorney for the minor or incompetent person, along with an opinion as to the fairness and reasonableness of any settlement at issue; and

(4) in cases involving claims for personal injuries asserted by a minor or incompetent person, an estimate of actual and foreseeable medical, hospital, and related expenses and a statement by an examining physician setting forth the nature and extent of the plaintiff's injuries, extent of recovery, and prognosis.

(c) Approval of Attorney's Fees and Payment of Judgments – Minors.

In its Order of Approval, the court shall approve or fix the amount of the fee to be paid to the attorneys for the minor or incompetent person and make appropriate provision for the payment thereof. The Order of Approval shall also provide the manner in which judgments, if any, are to be paid and may make specific provisions for the payment of medical, hospital, and similar expenses when allowed by applicable law.

In compliance with Fed. R. Civ. P. 5.2, and to promote electronic access to case files while also protecting personal privacy and other legitimate interests, all parties to any litigation in which a minor is a party, with the exception of the paper administrative records in Social Security cases filed with the court, shall redact the minor child's name from all documents filed with the court. If the name of the minor must be included in a document, including the caption, only the initials of the child should be used.

Rule 18.1 Reserved for Future Purposes

Rule 19.1 Reserved for Future Purposes

Rule 20.1 Reserved for Future Purposes

Rule 21.1 Reserved for Future Purposes

Rule 22.1 Reserved for Future Purposes

Rule 23.1 Reserved for Future Purposes

Rule 24.1 Reserved for Future Purposes

Rule 25.1 Reserved for Future Purposes

Rule 26.1 Discovery

(a) Discovery Materials Not to Be Filed Unless Ordered or Needed.

Discovery materials, including but not limited to disclosures and objections required under Fed. R. Civ. P. 26, depositions upon oral examination and interrogatories, requests for documents, notices to take a deposition, expert witness designations, expert witness reports, requests for admissions, and answers and responses thereto, are not to be filed unless by order of the court or for use in the proceedings. All such papers must be served on the other parties entitled to service of papers filed with the clerk. The party taking a deposition or obtaining any material through discovery is responsible for its preservation and delivery to the court if needed or so ordered.

(1) Medical Records. When filed in accordance with subsection (a), copies of medical records shall not be open to inspection or copying by any persons except the parties and their attorneys. Thus, any medical records must be accompanied by a motion to seal as provided in Local Civil Rule 79.2.

(2) Final Pretrial Disclosures. A party shall satisfy the requirement to file disclosures and objections thereto under Fed. R. Civ. P. 26(a)(3) solely by including the information required by Local Civil Rule 16.1(b)(1) in the proposed final pretrial order.

(b) Conducting Discovery.

In all civil actions, the parties shall schedule and conduct discovery in accordance with the order entered pursuant to Fed. R. Civ. P. 16. All discovery shall be served so as to allow the respondent sufficient time to answer prior to the time when discovery is scheduled to be completed. To shorten discovery time, it is expected that discovery procedures will proceed concurrently. After the time for completing discovery has expired, further discovery may proceed only by order of the court and shall not interfere with

the conduct of either the final pretrial conference or the trial.

(c) Numbering Discovery Procedures.

Each time a particular discovery procedure is used, it shall be sequentially numbered (e.g., "First Set," "Second Set," "First Request," "Second Request," etc.) so that it will be distinguishable from any prior procedures.

(d) Discovery Disputes – Expedited Briefing Schedule.

Any motion relating to a discovery dispute shall be handled on an expedited basis:

(1) Memoranda in support of or in opposition to a discovery motion shall not exceed the length limit stated in Local Civil Rules 7.2(f)(2)(B) and 7.2(f)(3)(B) and shall otherwise comply with Local Civil Rules 7.1(c) and 7.2.

(2) Responses and accompanying documents relating to discovery motions shall be filed within 14 days after service of the motion in question, unless otherwise ordered by the court.

(3) Replies are not permitted in discovery disputes. See also Local Civil Rule 7.1(g)(2).

(4) In any instance in which oral argument is scheduled, the parties may be given the option of oral presentation by telephone in lieu of a live appearance.

(e) Other Discovery Matters.

(1) Through appropriate written discovery, a party may obtain discovery of the existence and contents of any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment that may be entered in an action or to indemnify or reimburse any party for payments made to satisfy the judgment. The discovery permitted shall include inspection and copying of any such agreements pursuant to Fed. R. Civ. P. 34. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial. For purposes of this subparagraph, an application for insurance shall not be treated as part of an insurance agreement.

(2) In accordance with Fed. R. Civ. P. 16(b), this court will routinely issue an order for a discovery plan and will thereafter enter a scheduling order. The planning meeting required by Fed. R. Civ. P. 26(f) and the report contemplated by said rule are a mandatory part of the process of formulating a scheduling order. A report in accordance with the following form shall be sufficient to comply with Fed. R. Civ. P. 26(f), although the parties may include greater detail or additional topics. If the parties cannot agree on a joint report, each party shall file a separate Rule 26(f) report setting forth its position on disputed matters. In cases in which mediation is not mandatory pursuant to Local Civil Rule 101.1a, the parties may include in their report an agreement to mediate and a proposed timetable for conducting that mediation.

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
_____ DIVISION
No. __:_____-CV-___-__

JANE T. SMITH,	)	
	)	
Plaintiff,	)	
	)	REPORT OF THE PARTIES'
v.	)	PLANNING MEETING
	)	Fed. R. Civ. P. 26(f)
AARON R. JONES et al.,	)	
	)	

Defendants.)
)

1. The following persons participated in a Rule 26(f) conference on <Date> by <State the method of conferring>:

<Name>, representing the <plaintiff>
<Name>, representing the <defendant>

2. Initial Disclosures. The parties [have completed] [will complete by <Date>] the initial disclosures required by Rule 26(a)(1).

3. Discovery Plan. The parties propose this discovery plan:

<Use separate paragraphs or subparagraphs if the parties disagree.>

(a) Discovery will be needed on these subjects: <Describe>.
(b) <Dates for commencing and completing discovery, including discovery to be commenced or completed before other discovery.>
(c) <Maximum number of interrogatories by each party to another party, along with the dates the answers are due.>
(d) <Maximum number of requests for admission, along with the dates responses are due.>
(e) <Maximum number of depositions by each party.>
(f) <Limits on the length of depositions, in hours.>
(g) <Dates for exchanging reports of expert witnesses.>
(h) <Dates for supplementations under Rule 26(e).>
(i) <Any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced.>
(j) <Any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502.>

4. Other Items:

(a) <A date if the parties ask to meet with the court before a scheduling order.>
(b) <Requested dates for pretrial conferences.>
(c) <Final dates for the plaintiff to amend pleadings or to join parties.>
(d) <Final dates for the defendant to amend pleadings or to join parties.>
(e) <Final dates to file dispositive motions.>

(f) <State the prospects for settlement.>
(g) <Identify any alternative dispute resolution procedure that may enhance settlement prospects and the timing of such procedure.>
(h) <Final dates for submitting Rule 26(a)(3) witness lists, designations of witnesses whose testimony will be presented by deposition, and exhibit lists.>
(i) <Final dates to file objections under Rule 26(a)(3).>
(j) <Suggested trial date and estimate of trial length.>
(k) <Other matters.>

Date: <Date>

<Signature of the attorney or unrepresented party>

_____

<Printed name>
<Address>
<E-mail address>
<Telephone number>

Date: <Date>

<Signature of the attorney or unrepresented party>

_____

<Printed name>
<Address>
<E-mail address>
<Telephone number>

Rule 27.1 Reserved for Future Purposes

Rule 28.1 Reserved for Future Purposes

Rule 29.1 Reserved for Future Purposes

Rule 30.1 Deposition Exhibits

Persons participating in a deposition are encouraged to mark all deposition exhibits consecutively during discovery without reference to the deposition taken or the person using the exhibit.

Rule 31.1 Reserved for Future Purposes

Rule 32.1 Depositions for Use at Trial

Depositions *de bene esse* may be taken outside of the period of discovery.

Rule 33.1 Form of Interrogatories, Responses, and Objections

All interrogatories shall be served on all parties. Parties are encouraged to provide interrogatories in electronic form to facilitate responses.

Rule 34.1 Requests for Production

All requests under Fed. R. Civ. P. 34 shall be served on all parties. Parties are encouraged to provide such requests in electronic form to facilitate responses.

Rule 35.1 Reserved for Future Purposes

Rule 36.1 Requests for Admission

All requests for admission shall be served on all parties. Parties are encouraged to provide such requests in electronic form to facilitate responses.

Rule 37.1 Reserved for Future Purposes

Rule 38.1 Reserved for Future Purposes

Rule 39.1 Preparations for Trial

(a) In General.

Seven days preceding the first day of the session during which a civil action is set for trial, all parties shall file with the clerk:

(1) A concise memorandum of authorities on all anticipated evidentiary questions and on all contested issues of law, and

(2) Motions relating to the admissibility of evidence; however, no party shall be required to file a written response to a motion relating to the admissibility of evidence that is filed after the final pretrial conference has taken place.

(b) Exhibits.

(1) All exhibits shall be pre-marked with stickers with the sequential numbers listed in the pretrial order. Each exhibit at trial shall include the case number of the action on the exhibit sticker and a party designation where there are different plaintiffs and defendants introducing exhibits.

(2) Copies of all exhibits, properly bound, shall be provided to the court at the beginning of the trial.

(3) The original of each exhibit shall bear a sticker. After receipt into evidence, each original exhibit shall remain in the custody of the courtroom deputy, except when being used by a witness or viewed by the jury.

(4) Each copy of any exhibit shall bear the photostatic image of the sticker or a typed or printed reproduction thereof.

(5) The parties are encouraged to provide one or more copies of exhibits for use by the jury.

(6) Upon presentation of an exhibit to a witness, the party shall announce to the court the exhibit number. The exhibit shall not be handed to the opposing party. Should the opposing party contend that a copy has not been provided or that the exhibit has been lost or misplaced, the opposing party shall bring the issue to the attention of the court.

(c) Related Rules.

The parties shall comply, as provided therein, with Local Civil Rules 16.1, 47.1(b), and 51.1 (or Local Civil Rule 52.1 in non-jury cases).

Rule 39.2 Late Developments in the Case

Parties shall immediately inform the court, the opposing party, and parties in the succeeding two calendared cases of any settlement or any other developments that may necessitate a motion for continuance.

Rule 39.3 Opening Statements

At the beginning of the trial, each party (beginning with the party having the burden of proof on the first issue) shall, without argument and in such reasonable time as the court allows, state to the court and the jury the following:

(a) the substance of the claim, counterclaim, crossclaim, or defense; and

(b) what the party contends the evidence will show. Parties not having the burden of proof on the first issue may elect to make an opening statement immediately prior to presenting evidence rather than at the beginning of the trial.

Rule 39.4 Closing Arguments

The court will set the times for closing arguments after consultation with the parties. Unless otherwise ordered by the court, the party with the burden of proof shall open and close the arguments.

Rule 40.1 Court Schedule and Conduct of Business

(a) Headquarters of the Clerk.

The headquarters of the clerk of court shall be in Raleigh.

(b) Divisions of the District.

There shall be four divisions of the court. The headquarters of each division and the counties comprising each division are as follows:

Name of Division	Headquarters	Counties	
Northern Division	Elizabeth City	Bertie	Hertford
		Camden	Northampton
		Chowan	Pasquotank
		Currituck	Perquimans
		Dare	Tyrrell
		Gates	Washington
Eastern Division	Greenville	Beaufort	Hyde
		Carteret	Jones
		Craven	Lenoir
		Edgecombe	Martin
		Greene	Pamlico
		Halifax	Pitt
Western Division	Raleigh	Cumberland	Vance
		Franklin	Wake
		Granville	Warren
		Harnett	Wayne
		Johnston	Wilson
		Nash	
Southern Division	Wilmington	Bladen	Onslow
		Brunswick	Pender
		Columbus	Robeson
		Duplin	Sampson
		New Hanover	

(c) Assignment of Cases to a Division.

(1) Civil Actions. The clerk shall assign all civil actions to a division when the action is filed or removed. If one or more plaintiffs are residents of this District, the clerk shall assign the case to the division in which the first named such plaintiff resides. If no plaintiff resides in the District and one or more defendants reside in the District, the clerk shall assign the action to the division in which the first named such defendant resides. In the event no party resides in the District but the claim is alleged to have arisen in the District or to involve real property in the District, the clerk shall assign the action to the division in which such claim is alleged to have arisen or in which the real property is situated. In all other instances, a case shall be assigned to a division in the discretion of the clerk. In removed actions, the matter will be assigned to the division that geographically encompasses the state court from which the action was removed.

(2) Residence of Corporation. For the purposes of this local rule, a corporate plaintiff shall be deemed to reside in the state in which it was incorporated and in the district and division in which it has its principal office, and a corporate defendant shall be deemed to reside in the division in which the corporation is alleged (a) to be incorporated and have its principal office, or (b) to be licensed to do business, or (c) to be doing business.

(3) United States as Plaintiff. For the purposes of this local rule, in cases where the United States or its agencies or officers acting in an official capacity is the plaintiff, it shall be deemed that such plaintiff does not reside in this district.

(d) Scheduling Trials.

Each judicial officer shall maintain an individual trial calendar with due regard for the priorities and requirements of law. Selected cases may be expedited by the judicial officer on his or her own motion or on the motion of any party.

Rule 40.2 Electronic Designation of Judges

An electronically generated designation of a district judge or magistrate judge does not mean that the judge so designated is assigned to the case.

Rule 40.3 Related Cases

(a) Definition of Related Cases.

Cases may be related when:

(1) the cases concern substantially the same parties, transactions, or events;

(2) the cases call for a determination of the same or substantially related or similar questions of law and fact; or

(3) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different judges.

(b) Notice.

Whenever a party knows or learns that a case filed in or removed to this district is (or the party believes that the case may be) related to a case that is or was pending in this district as defined in subsection (a) of this rule, the party must promptly file in the earliest-filed open case a notice identifying all cases pending in this district that are related to the case. The notice must contain (1) the title and case number of each case and (2) a brief statement of the relationship of cases according to the criteria set forth in subsection (a) of this rule.

(c) Filing of Notice Does Not Constitute a General Appearance.

A notice filed pursuant to this rule shall not constitute a general appearance in the action.

Rule 41.1 Reserved for Future Purposes

Rule 42.1 Reserved for Future Purposes

Rule 43.1 Reserved for Future Purposes

Rule 44.1 Reserved for Future Purposes

Rule 45.1 Witnesses

A party may not release a person from a subpoena without the consent of the other parties or notice to the other parties and leave of court. A party objecting to the release of a person shall bear all costs, incident to such person, that arise subsequent to the request for release. The court may, in its discretion and in the interest of justice, permit a party to call and examine a witness not listed in the final pretrial order.

Rule 46.1 Reserved for Future Purposes

Rule 47.1 Jurors

(a) Jury Lists.

When the jury for a session of the court is drawn, the clerk shall furnish a copy of the list of prospective jurors to the attorneys for the parties and to any unrepresented party on a relevant trial roster, upon their request, unless otherwise directed by the court. The clerk shall notify the presiding judge and the opposing party of any such request by an unrepresented party prior to providing the requested list. The list shall set out the name and county of residence of each prospective juror. The jurors and their families shall not be contacted, either directly or indirectly, in an effort to secure information concerning the background of any member of the jury panel. When the jurors are seated in the jury box, a chart or list showing the name and seating assignment of each juror shall be furnished to the parties by the clerk.

(b) Examination of Jurors.

The court shall conduct the examination of prospective jurors. Seven days

preceding the first day of the session during which a civil action is set for trial, each party shall file a list of any *voir dire* questions the party desires the court to ask the jury other than routine questions such as (1) the occupations and addresses of jurors and their spouses; (2) the identity and relation of jurors, the parties, attorneys, and witnesses; and (3) the knowledge of the jurors concerning the case.

(c) Contact with Trial Jurors.

Following the discharge of a jury from further consideration of a case, no attorney or party shall individually or through an investigator or any person acting for such attorney or party ask questions of or make comments to a member of that jury or members of the family of such a juror that are calculated merely to harass or embarrass such a juror or member of such juror's family or to influence the actions of such a juror or a member of such juror's family in future jury service.

Rule 48.1 Taking Verdicts and Polling the Jury

The court may take the verdict of the jury in open court in the absence of any party or attorney. Unless the contrary affirmatively appears on the record, it will be presumed that the parties were present or by their voluntary absence waived their presence. The jury will not be polled unless a party requests a poll at the time the verdict is taken or a poll is ordered by the court.

Rule 49.1 Reserved for Future Purposes

Rule 50.1 Reserved for Future Purposes

Rule 51.1 Requests for Jury Instructions

Seven business days preceding the first day of the session during which a civil action is set for trial, each party shall file requests for jury instructions. Requests using *Federal Jury Practice and Instructions* (6th Ed.) by O'Malley, Grenig, and Lee, *Fifth Circuit Pattern Jury Instructions*, and *North Carolina Pattern Jury Instructions* shall include both the text of the proposed instruction and a citation reference to the proposed instruction. All other requests shall include citations to

supporting authorities.

Rule 52.1 Proposed Findings of Fact and Conclusions of Law

In non-jury cases, each party shall file proposed findings of fact and conclusions of law 5 business days preceding the session during which a civil action is set for trial.

Rule 53.1 Reserved for Future Purposes

Rule 54.1 Application for Costs

(a) Filing Bill of Costs.

(1) A prevailing party may request that the clerk tax allowable costs, other than attorney's fees, in a civil action as part of a judgment or decree by filing a bill of costs on AO Form 133(available on the court's internet website) within 30 days after:

(A) the expiration of time allowed for appeal of a final judgment or decree; or
(B) receipt by the clerk of the mandate or other order terminating the action on appeal.

(2) The original bill of costs shall be filed with the clerk, with copies served on adverse parties.

(3) The failure of a prevailing party to timely file a bill of costs shall constitute a waiver of any claim for costs.

(4) Guidelines for filing applications for costs may be found on the court's website.

(b) Objections to Bill of Costs.

(1) If an opposing party objects to the bill of costs or any item claimed by a prevailing party, that party must file a response in opposition within 14 days after the filing of the bill of costs. Within 7 days thereafter, the prevailing party may file a reply. Unless a hearing is

ordered by the clerk, a ruling will be made by the clerk on the record.

(c) Objections to the Ruling of the Clerk

A party may request review of the clerk's ruling by filing a motion within 7days after the action of the clerk. The court's review of the clerk's action will be made on the existing record unless otherwise ordered.

(d) Taxable Costs.

(1) Items normally taxed include, without limitation:

(a) those items specifically listed on the bill of costs form. The costs incident to the taking of depositions (when allowable as necessarily obtained for use in the litigation) normally include only the reporter's fee and charge for one transcript of the deposition;

(b) premiums on required bonds;

(c) actual mileage, subsistence, and attendance allowances for necessary witnesses at actual costs, not to exceed the applicable statutory rates, whether the witnesses reside in or out of the district;

(d) one copy of the trial transcript for each unrepresented person and one copy for each party represented by a separate attorney.

(2) Items normally not taxed include, without limitation:

(a) witness fees, subsistence, and mileage for individual parties, real parties in interest, parties suing in representative capacities, and the officers and directors of corporate parties;

(b) multiple copies of depositions;

(c) daily copies of trial transcripts, unless prior court approval has been obtained.

(e) Costs in Settlements.

The court will not tax costs in any action terminated by compromise or settlement. Settlement agreements must resolve any issue relating to costs. In the absence of specific agreement, each party will bear its own costs.

(f) Payment of Costs.

Costs are to be paid directly to the party entitled to reimbursement.

Rule 54.2 Taxation of Juror Costs

(a) Settlement before Trial.

If notice of settlement or other disposition of a civil action scheduled for jury trial is not given to the court within one full business day prior to the scheduled trial date, then, except for good cause shown, juror costs for one day may be assessed against the parties, their attorneys, or both the parties and their attorneys, as directed by the court after giving an opportunity to be heard. Juror costs include attendance fees, per diem, mileage, and parking. No juror costs will be assessed if circumstances make an award of expenses unjust.

(b) Settlement before Verdict.

Except upon a showing of good cause and after providing an opportunity to be heard, the court may assess the juror costs against the parties, their attorneys, or both the parties and their attorneys, when a civil action proceeding as a jury trial is settled at trial in advance of the verdict unless circumstances make an award of expenses unjust.

Rule 55.1 Entry of Default and Default Judgment

(a) Entry of Default by Clerk.

To obtain an entry of default pursuant to Fed. R. Civ. P. 55(a), a party must file a motion for entry of default and a proposed order. The movant shall serve, in the manner provided in Fed. R. Civ. P. 5, any party who has failed to appear and all other parties with the motion for entry of default and

proposed order. Such service shall also be made on any attorney the movant knows, or reasonably should know, represents the party against which default is sought. The motion shall be supported by an affidavit that describes with specificity how each allegedly defaulting party was served with process in a manner authorized by Fed. R. Civ. P. 4 and provides the date of such service. Following the 21-day response time provided under Local Civil Rule 7.1(f)(1), the motion shall be submitted to the presiding judge if it is opposed or if the allegedly defaulting party has filed a responsive pleading. Otherwise, the motion shall be referred to the clerk and if the clerk is satisfied that the movant has effected service of process, the clerk shall enter a default.

(b) Default Judgment.

(1) General Requirements. Any motion for default judgment shall be served on every party who has appeared in the action and be supported by an affidavit stating that each party against which judgment is sought is not an infant, an incompetent person, or in the military service of the United States as defined in the Servicemembers Civil Relief Act of 2003, as amended.

(2) By the Clerk. A motion seeking default judgment pursuant to Fed. R. Civ. P. 55(b)(1) shall be accompanied by a proposed order and the supporting affidavit. If a party files a motion for default judgment prior to entry of default, the movant must also serve the party against which default is sought pursuant to subsection (a) of this rule. The supporting affidavit shall show:

(A) the facts that establish a failure to answer or otherwise defend by the party against which judgment is sought;

(B) the principal amount due, giving credit for any payments and showing the amounts and dates of payment;

(C) the information enabling the principal amount due to be calculated as a sum certain, if it is not already a sum certain;

(D) the information needed for the computation of the interest to the date of judgment;

(E) the proposed post-judgment interest rate and the reasons for using it if the movant claims that a post-judgment interest rate other than that provided by 28 U.S.C. § 1961 applies; and

(F) the amount of any costs claimed.

Additionally, if the claim is based on a contract, the movant shall cite the relevant contract provisions in the motion for default judgment or supporting memorandum, if any, and file a copy of the contract as an attachment to the motion for default judgment. The clerk may submit any motion for default judgment to the presiding judge for review.

(3) By the Court. A motion seeking default judgment pursuant to Fed. R. Civ. P. 55(b)(2) shall include the docket entry number of the clerk's entry of default.

Rule 56.1 Motions for Summary Judgment

(a) Statement of Material Facts on Motion for Summary Judgment.

(1) Movant's Statement. Any motion for summary judgment pursuant to Federal Rule of Civil Procedure 56 shall be supported by a separate statement, in numbered paragraphs, of the material facts as to which the movant contends there is no genuine dispute.

(2) Opposing Statement. The memorandum opposing a motion for summary judgment shall be supported by a separate statement that includes a response to each numbered paragraph in the movant's statement in correspondingly numbered paragraphs and, if necessary, additional paragraphs containing a statement of additional material facts as to which the opposing party contends there is a genuine dispute. Each numbered paragraph in the movant's statement of material facts will be deemed admitted for purposes of the motion unless it is specifically controverted by a correspondingly numbered paragraph in the opposing statement.

(3) Reply Statement. When a party opposing summary

judgment submits a statement of additional material facts as to which it contends there is a genuine dispute, the movant may submit a reply statement of additional facts limited to the additional facts referenced in the statement submitted by the party opposing summary judgment.

(4) **Citations.** Each statement by the movant or opponent pursuant to this Local Civil Rule must be followed by citation to evidence that would be admissible, as required by Federal Rule of Civil Procedure 56(c). Citations shall identify with specificity the relevant page and paragraph or line number of the evidence cited.

(5) **Appendix.** All evidence cited in moving or opposing statements, such as affidavits, relevant deposition testimony, responses to discovery requests, or other documents, shall be filed as an appendix to the statement of facts prescribed by subsections (a)(1) or (2) of this rule and denominated "Plaintiff's/Defendant's Appendix to Local Civil Rule 56.1 Statement of Material Facts."

(b) **Exceptional Cases.**

Where a party believes that compliance with this Local Civil Rule will be exceptionally burdensome or is otherwise inappropriate, the party may include a request for modification of or exemption from its requirements as part of the Rule 26(f) report to the court or by separate motion.

(c) **Cross-referencing.**

Memoranda in support of or in opposition to a motion for summary judgment as required by Local Civil Rule 7.1 or 7.2 may cross-reference or cite to the statement and appendix prescribed by this Local Civil Rule without repeating the contents thereof.

Rule 57.1 **Reserved for Future Purposes**

Rule 58.1 **Reserved for Future Purposes**

Rule 59.1 **Reserved for Future Purposes**

Rule 60.1 Reserved for Future Purposes

Rule 61.1 Reserved for Future Purposes

Rule 62.1 Reserved for Future Purposes

Rule 63.1 Reserved for Future Purposes

Rule 64.1 Seizure of Person or Property

All acts and duties pertaining to the seizure of person or property that are authorized by North Carolina law to be done by a judge or the clerk of the state court may be done in like cases by a judge of this court or the clerk of this court, respectively.

Rule 65.1 Sureties

(a) Approval of Security.

The clerk or deputy clerk is authorized to approve all recognizances, stipulations, bonds, guaranties, or undertakings in the penal sum prescribed by statute or order of the court, whether the security be property or personal or corporate surety**.**

(b) Security.

Except as otherwise provided by law, every recognizance, stipulation, bond, guaranty, or undertaking shall be with security that consists of either (1) cash or negotiable government bonds or (2) one or more sureties, as provided by law or the applicable Federal Rule of Civil Procedure. A judge may enter pertinent orders restricting any bonding company or surety company from being accepted as surety upon any bond in any case or matter in this district.

(c) Use of Real Property as Security.

Whenever a surety seeks to justify assets by demonstrating ownership of real

property, a judge or magistrate judge shall determine by satisfactory evidence that the property is of sufficient unencumbered value to protect the interests of the adverse party.

(d) Prohibited Sureties.

Members of the bar, administrative officers and employees of this court, and the marshal and deputies and assistants thereto shall not act as surety in any matter pending in this court.

Rule 66.1 Reserved for Future Purposes

[Rule 67.1] [Deposit of Registry Funds in Interest Bearing Accounts]

(Abrogated eff. March 16, 2017)
See 17-SO-1.

Rule 68.1 Reserved for Future Purposes

Rule 69.1 Reserved for Future Purposes

Rule 70.1 Reserved for Future Purposes

Rule 71.1 Reserved for Future Purposes

Rule 72.1 Magistrate Judges: Standards of Performance

In performing duties for the court, a magistrate judge shall conform to all applicable provisions of federal statutes and rules, to the Local Civil Rules and procedures of this court, and to the requirements specified in any order of reference from a judge.

Rule 72.2 Magistrate Judges: Assignments of Matters

(a) General.

Upon filing, all civil cases shall be assigned by the clerk to a magistrate judge for the conduct of such discovery and pretrial conferences as are necessary and for the hearing and determination of all pretrial procedural and discovery motions, in accordance with Local Civil Rule 72.3(b). Where designated by a judge, the magistrate judge may conduct additional pretrial conferences, hear motions, and perform the duties set forth in Local Civil Rules 72.3(c), 72.3(d), 72.3(e), and 72.3(f).

(b) Consent to Civil Trial Jurisdiction of Magistrate Judges.

(1) Where the parties consent to trial and disposition of a civil case by a magistrate judge, such case shall, with the approval of the assigned judge, be reassigned to a specially designated magistrate judge for the conduct of further proceedings and the entry of judgment pursuant to 28 U.S.C. § 636(c). Except as provided in subsection (2) of this rule, the magistrate judges of this court are specially designated to exercise consent jurisdiction under 28 U.S.C. § 636 (c).

(2) A part-time magistrate judge not serving as a full-time judicial officer may exercise jurisdiction under 28 U.S.C. § 636(c) only if the parties consent to trial and disposition of the case by such magistrate judge, pursuant to the parties' specific written request; the magistrate judge meets the bar membership requirements set forth in 28 U.S.C. § 631(b)(1); the chief district judge certifies that a full-time magistrate judge is not reasonably available in accordance with guidelines established by the Judicial Council of the Fourth Circuit; and the judge assigned to the case approves of its reassignment to the magistrate judge.

(c) Reserving and Changing Assignments.

Nothing in these local rules shall preclude a judge from reserving any proceeding for conduct by a judge, rather than a magistrate judge. The judge, moreover, may by order modify the method of assigning proceedings to a magistrate judge as circumstances may warrant.

Rule 72.3 Authority of Magistrate Judge

(a) Duties Under 28 U.S.C. § 636(a).

A magistrate judge is authorized to perform the duties prescribed by 28 U.S.C. § 636(a).

(b) Determination of Non-Dispositive Pretrial Matters – 28 U.S.C. § 636(b)(1)(A).

A magistrate judge may hear and determine any procedural or discovery motion or other pretrial matter in a civil case, other than the motions specified in subsection (c)(1) of this rule.

(c) Recommendations Regarding Case-Dispositive Motions – 28 U.S.C. § 636(b)(1)(B).

(1) A magistrate judge may submit to a district judge a report containing proposed findings of fact and recommendations for disposition by the district judge of the following pretrial motions:

a. Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

b. Motions for judgment on the pleadings;

c. Motions for summary judgment;

d. Motions to dismiss or permit the maintenance of a class action;

e. Motions to dismiss for failure to state a claim upon which relief may be granted;

f. Motions to involuntarily dismiss an action;

g. Motions for review of default judgments.

(2) A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding

arising in the exercise of the authority conferred by this rule.

(d) Prisoner Cases Under 28 U.S.C. § 2254 and § 2255.

A magistrate judge may perform any or all of the duties imposed upon a district judge by the rules governing proceedings in the United States district courts under 28 U.S.C. § 2254 and § 2255. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition by the district judge. Any order disposing of the petition shall be made only by a district judge.

(e) Prisoner Civil Rights Actions.

A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a district judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners challenging the conditions of their confinement.

(f) Special Master References.

A magistrate judge may be designated by a district judge to serve as special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53. Upon the consent of the parties, a magistrate judge may be designated by a district judge to serve as special master in any civil case, notwithstanding the limitations of Fed. R. Civ. P. 53(b).

(g) Conduct of Trial and Disposition of Civil Cases upon Consent of the Parties – 28 U.S.C. § 636(c).

Subject to the provisions of Local Civil Rule 72.2(c), a specially designated magistrate judge may conduct any or all proceedings in any civil case that is filed in this court and assigned to the magistrate judge, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings, the magistrate judge may hear and determine any and all pretrial and post-trial motions, including case-dispositive motions.

(h) Other Duties.

A magistrate judge is also authorized to:

(1) exercise general supervision of calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases;

(2) conduct discovery conferences, pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings;

(3) conduct *voir dire* and select petit juries for the court;

(4) accept petit jury verdicts in civil cases in the absence of a judge;

(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 $200.00 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. §§ 4311(e) and 12309(c);

(8) perform the duties specified by the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. § 3001 et seq.;

(9) exercise contempt authority in accordance with 28 U.S.C. § 636(e); and

(10) perform any additional duty consistent with the Constitution and laws of the United States.

Rule 72.4 Review and Appeal

(a) Appeal of Non-Dispositive Matters – 28 U.S.C. § 636(b)(1)(A).

(1) Any aggrieved party or nonparty may appeal from a magistrate judge's order determining a motion or matter under Local Civil Rule 72.3(b) within 14 days after service of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. The appealing person shall file with the clerk, and serve on the magistrate judge and all parties, a written statement of appeal that shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. Any opposing party or nonparty may respond to another person's statement of appeal within 14 days after being served with a copy thereof, unless otherwise ordered by the court.

(2) The statement of appeal must comply with the length limits in Local Civil Rules 7.2(f)(2)(B) and 7.2(f)(3)(B). Any response to a statement of appeal must comply with the same length limits.

(3) Replies are not permitted without leave of court.

(4) A judge shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. The judge may also reconsider *sua sponte* any matters determined by a magistrate judge under this local rule.

(b) Review of Case-Dispositive Motions and Prisoner Litigation – 28 U.S.C. § 636(b)(1)(B).

(1) Any party may object to a magistrate judge's proposed findings, recommendations, or report under 28 U.S.C. § 636(b)(1)(B) within 14 days after being served with a copy thereof. Such party shall file with the clerk, and serve all parties, written objections that shall specifically identify the portions of the proposed findings, recommendations, or report to which objection is made and the basis for such objection. Any party may respond to another party's objections within 14 days after being served with a copy thereof, unless otherwise ordered by the court.

(2) Objections must comply with the length limits in Local Civil Rules 7.2(f)(2)(B) and 7.2(f)(3)(B). Any response to objections must comply with the same length limits.

(3) Replies to responses are not permitted without leave of court.

(4) A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, needs to conduct a new hearing only in his or her discretion or where required by law and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions.

(c) Special Master Reports – 28 U.S.C. § 636(b)(2).

Any party may seek review of or action on a special master report filed by a magistrate judge in accordance with the provisions of Fed. R. Civ. P. 53(e).

(d) Appeal from Judgments in Civil Cases Disposed of on Consent of the Parties – 28 U.S.C. § 636(c).

Upon the entry of judgment in any civil case disposed of by a magistrate judge on consent of the parties under authority of 28 U.S.C. § 636(c), an aggrieved party may appeal directly to the United States Court of Appeals for this circuit in the same manner as an appeal from any other judgment of this court.

(e) Appeals from Other Orders of a Magistrate Judge.

Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by governing statute, rule, or decisional law.

[Rule 73.1] [Consent of Parties to Civil Trial Jurisdiction of Magistrate Judges]

(Vacated eff. December 1, 2015)

Rule 74.1 Reserved for Future Purposes

Rule 75.1 Reserved for Future Purposes

Rule 76.1 Reserved for Future Purposes

Rule 77.1 Court in Continuous Session

This court shall be in continuous session in all divisions of the district on all business days throughout the year. All matters not reached at the regular sessions of court are deemed to be in an open status and subject to being called for disposition before the next regular session of court upon reasonable notice to the interested parties.

Rule 77.2 Orders and Judgments

The clerk or deputy clerk is authorized to enter the orders and judgments listed below without further direction of the court. However, such action may be suspended, altered, or rescinded by the court for cause shown.

(a) Consent orders for substitution of attorneys.

(b) Orders enlarging time periods in civil actions authorized to be entered by the court by Fed. R. Civ. P. 6(b).

(c) Orders extending for a reasonable amount of time the period within which an act must be performed under the local rules of this court.

(d) Consent order dismissing an action, except in bankruptcy proceedings and in cases to which Fed. R. Civ. P. 23(c) and Fed. R. Civ. P. 66 apply.

(e) Orders canceling liability on bonds.

(f) Orders changing the time of opening and adjourning court in the absence of the judge.

(g) Entries of default and judgments by default as provided for in Fed. R. Civ. P. 55(a) and 55(b)(1).

(h) Orders authorizing service of process by a person other than a United States Marshal pursuant to Fed. R. Civ. P. 4(c).

(i) Certification of law students and supervising attorneys pursuant to Local Civil Rule 83.2

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(j) Any other motion, rule, or order that may be granted of course or without notice.

(k) Pursuant to the provisions of 28 U.S.C. § 956, when there is need to serve a complaint and attachment upon a vessel or any other process incident to admiralty and maritime claims, either *in rem* or *in personam*, the clerk or a deputy clerk is empowered to grant and enter an order authorizing any sheriff or any deputy sheriff or other suitable person to serve all such process.

Rule 78.1 Reserved for Future Purposes

Rule 79.1 Exhibits

The clerk shall be the custodian of all exhibits admitted into evidence. Upon 14 days' notice to all parties, the clerk may, within 30 days after the entry of final judgment, destroy or otherwise dispose of the exhibits.

Rule 79.2 Sealed Documents

(a) Filing Sealed Documents.

No cases or documents may be sealed without an order from the court. A person desiring to file a document under seal must first file a motion seeking leave in accordance with Section V.G of the CM/ECF Policy Manual. All sealed and proposed documents shall be maintained electronically in CM/ECF unless otherwise ordered by the court. First-time filers are strongly encouraged to call the CM/ECF Help Desk at 866-855-8894.

(b) Proposed Sealed Documents.

(1) Unless otherwise permitted by Section V.G of the CM/ECF Policy Manual or order of the court, all proposed sealed documents must be accompanied by a motion to seal. The motion to seal shall be a public document and noted with a docket entry that gives the public notice of the request to seal. The docket entry for the proposed sealed document shall identify it as a "proposed" sealed document and describe the type of document it is (e.g., affidavit, record) and the substantive motion or other specific proceedings in the case to which it relates (e.g., in support of defendant's motion to compel at D.E. ____). The proposed sealed document is deemed to be provisionally sealed until the court rules on the motion to seal.

(2) If the motion to seal is granted, the clerk will remove the word "proposed" from the docket entry.

(3) If the motion to seal is denied, the document will remain sealed and the word "proposed" will remain in the docket entry for the document in order to preserve the record. The document will not be considered by the court, except as provided herein or as otherwise ordered by the court. A person desiring to remove a proposed sealed document or docket entry therefor from the docket sheet must file a motion to strike in accordance with Local Civil Rule 7.1. A person whose motion to seal is denied but that desires the court to consider a proposed sealed document as a publicly filed document shall file the document as a public document within 3 days after entry of the order denying the motion to seal or within such other period as the court directs.

(c) Return of Sealed Documents.

(1) For those sealed documents not scanned into CM/ECF, upon 14 days' notice to all parties, the clerk may destroy or dispose of the sealed documents, unless the person who filed them retrieves them from the clerk. This notice may occur no earlier than 30 days after final disposition.

(2) If, during the 14-day period after the clerk has given notice of intent to dispose of the sealed documents, any person files an objection to such disposition, the presiding judge in the case shall resolve the

dispute over the proposed disposition.

(d) Procedures for Manual Filers.

For those persons who are required to manually file all court documents (i.e., unrepresented persons), proposed sealed documents shall be delivered to the clerk's office in paper form in a sealed envelope. The proposed sealed documents must be accompanied by a motion to seal in accordance with Section V.G of the CM/ECF Policy Manual. Both the documents and the envelope shall be prominently labeled "UNDER SEAL." The envelope must also have written on it the case caption; the case number; the title of the document or, if the title contains proposed sealed information, the title omitting the proposed sealed information; and the following notice, in all capital letters and prominently displayed:

PROPOSED SEALED DOCUMENTS: SUBMITTED PURSUANT TO MOTION TO SEAL.

Rule 80.1 Reserved for Future Purposes

Rule 81.1 Civil Rights Actions by Prisoners

All complaints on behalf of state prisoners or pretrial detainees seeking relief under 42 U.S.C. § 1983 and federal prisoners challenging conditions of confinement shall be filed with the clerk in compliance with the instructions of the clerk and on the appropriate form available without charge.

Rule 81.2 Habeas Corpus Actions

All petitions on behalf of prisoners seeking relief under 28 U.S.C. § 2241, 28 U.S.C. § 2254, or 28 U.S.C. § 2255 shall be filed with the clerk in compliance with the instructions of the clerk and on the appropriate form available without charge. Such proceedings shall be governed by the rules promulgated by the United States Supreme Court. A respondent is not required to answer or otherwise respond to a petition under §§ 2241, 2254, or 2255 or any other post-conviction motion for relief in a criminal case, unless and until directed by the court. Local Civil Rules 7.1 and 7.2 shall govern motion practice in a proceeding seeking relief under §§ 2241, 2254,

2255, or other similar post-conviction motion for relief. Where a respondent files an answer or other pleading in response to a petition under §§ 2241, 2254, 2255, or other similar post-conviction motion for relief, a petitioner may file a reply to the same within 21 days after service of the answer or other pleading unless otherwise ordered by the court.

Rule 81.3 Naturalization

Petitions for naturalization will be considered and acted upon, and appropriate ceremonies conducted in connection therewith, on Friday of the first week of any regular session of court at which naturalization hearings are set, beginning at 11:00 A.M., unless otherwise ordered by the court. The court may at other times, in its discretion, for good cause shown and upon reasonable prior notice by the applicant to the United States Citizenship and Immigration Services, consider and act upon petitions for naturalization by members of the armed services, seamen on merchant vessels registered under the laws of the United States, and members of the immediate families and dependents of such personnel, and other exceptional cases.

Rule 82.3 Reserved for Future Purposes

Rule 83.1 Attorneys

(a) Roll of Attorneys.

The bar of this court consists of those previously admitted and those hereafter admitted as prescribed by this Local Civil Rule 83.1.

(b) Eligibility.

A member in good standing of the bar of the Supreme Court of North Carolina is eligible for admission to the bar of this court.

(c) Procedure for Admission.

Before being presented to the court to take the required oath, an applicant for admission shall certify in a written application that such applicant:

(1) Is a member in good standing of the bar of the Supreme Court of

North Carolina; and

(2) Has studied the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, and the local rules of this court.

In addition to these certifications, the written application shall contain the certification of two attorneys who are members in good standing of the bar of this court that the applicant is of good moral character and professional reputation and meets the requirements for admission. An applicant may be admitted to practice in this court by a district judge, bankruptcy judge, or magistrate judge of this court or of the United States District Court for the Middle District or Western District of North Carolina upon oral motion by a member of the bar of this court. If the motion for admission is granted, the applicant shall take the following oath or affirmation:

> *I do solemnly swear [affirm] that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will conduct myself as an attorney of this court, uprightly and according to law. So help me God. [This is my solemn affirmation.]*

Following the administration of the oath or affirmation, the application shall be signed by the district judge, bankruptcy judge, or magistrate judge and the applicant shall file with the clerk the application, accompanied by the filing fee required by the Administrative Office of the United States Courts and this court for admission to practice in this district. The clerk shall then issue the applicant a certificate of admission to the bar of this court.

(3) Current law clerks to district judges, bankruptcy judges, and magistrate judges within this District shall be admitted to the bar of this court without payment of an admission fee.

(d) Representation by Local Attorneys Who Must Sign All Pleadings.

Persons appearing in civil actions in this court, except governmental agencies and unrepresented parties, must be represented by at least one member of the bar of this court who shall sign all documents filed in this

court, including his or her state bar number and fax number in the signature block on all pleadings. If an attorney appears solely to bring a person in compliance with this local rule, he or she shall in each instance designate himself or herself "Local Civil Rule 83.1(d) Attorney." In signing the pleading, motion, discovery request, or other document, the attorney certifies that he or she is an authorized representative for communication with the court about the litigation and that the document conforms to the practice and procedure of this court. However, the attorney does not make the certification required by Rule 11 of the Federal Rules of Civil Procedure. Nevertheless, the requirements of Rule 11 must be complied with by any out-of-state attorney. For failure to comply with the requirements of this rule, the court may on motion or its own initiative disqualify individuals from serving as local attorneys. Signatures in the following form shall be sufficient to comply with this local rule. Local Civil Rule 83.1(d) Local Attorneys must include the state bar number and fax number in the signature block on all pleadings:

Jane M. Jones
Jones, Jones and Jones
P.O. Box 500
New York, NY 10050
(212) 555-1212
Jane.jones@email.address.com
State Bar No.
Attorney for Defendant

John B. Attorney
Abbott, Ball and Attorney
P.O. Box 50
Raleigh, NC 27602
John.B.Attorney@email.address.com
(919) 878-8787
Fax (919) 878-8000
State Bar No.
Local Civil Rule 83.1(d) Attorney for Defendant

(e) Appearances by Attorneys Not Admitted in the District – Special Appearance.

(1) Attorneys who are members in good standing of the bar of a United States Court and the bar of the highest court of any state or the District of Columbia may practice in this court for a particular case in association with a member of the bar of this court. By filing a Notice of Special Appearance (available on the district's website), completing an Electronic Filing Attorney Registration Form, and complying with Section IV.D of the Policy Manual, an attorney agrees that:

a. the special appearance attorney will be responsible for ensuring the presence of an attorney who is familiar with the case and has authority to control the litigation at all conferences, hearings, trials, and other proceedings;

b. the attorney submits to the disciplinary jurisdiction of the court for any misconduct in connection with the litigation in which the attorney is specially appearing;

c. for purposes of Fed. R. Civ. P. 11, the Federal Rules of Civil Procedure, and the Local Civil Rules of this court, the special appearance attorney's electronic signature shall carry the same force and effect as an original signature; and

d. the special appearance attorney shall submit any document to Local Civil Rule 83.1(d) counsel for review prior to filing the document with this court.

(2) An attorney who is not a member of the bar of this court will not receive electronic notification until the attorney becomes a registered CM/ECF filer with this court and files a Notice of Special Appearance.

(3) A member of the bar of this court who accepts employment in association with a special appearance attorney is responsible to this court for the conduct of the litigation of the proceeding, must be a CM/ECF registrant, and shall review for submission by the special appearance attorney all pleadings and papers electronically filed. The responsibility of the member of the bar who accepts employment

in association with a special appearance attorney and designates him or herself as Local Civil Rule 83.1(d) local counsel shall be governed by Local Civil Rule 83.1(d).

(4) Any document filed by a special appearance attorney that does not comport with associated Local Civil Rule 83.1(d) attorney's standards may be objected to. Any such objection must be filed within 7 days of the issuance of the NEF for the document.

(5) A special appearance is not a substitute for admission to the bar of this court; it is intended only to facilitate occasional appearances. Unless otherwise ordered for good cause shown, no attorney may be admitted pursuant to Local Civil Rule 83.1 in more than three unrelated cases in any twelve-month period, nor may any attorney be admitted pursuant to Local Civil Rule 83.1 in more than three active unrelated cases at any one time.

(f) Pleadings Service and Attendance by Local Counsel in Cases Where Out-of-State Attorneys Appear by Special Appearance.

Pleadings and other documents filed in a case where an attorney appears who is not admitted to the bar of this court shall contain the individual name, firm name, address, and phone number of both the attorney making a special appearance under this local rule and the associated local counsel. As part of making an appearance in every case, an attorney also shall file contemporaneously a client disclosure statement in accordance with Fed. R. Civ. P. 7.1 and Local Civil Rule 7.3. The service of all pleadings and notices as required shall be sufficient if served only upon the associated local counsel. Local counsel shall attend all court proceedings unless excused by the court.

(g) Courtroom Decorum.

Attorneys shall conduct themselves with dignity and propriety. Attorneys shall rise when addressing the court, and all statements to the court shall be made from a counsel table or from behind the lectern facing the court. Attorneys shall not approach the bench unless requested to do so by the court or unless permission is granted upon the request of the attorney.

(h) Questioning of Witnesses.

Only one attorney for each party may question a particular witness unless the court allows otherwise. Attorneys shall remain seated while questioning witnesses.

(i) Professional Standards.

The ethical standard governing the practice of law in this court is the Revised Rules of Professional Conduct, now in force and as hereafter modified by the Supreme Court of North Carolina, except as may be otherwise provided by specific rule of this court. Attorneys are directed to advise the clerk within 14 days of disciplinary action, taken against them, resulting in suspension or disbarment. The disciplinary procedures of this court shall be on file with the clerk and furnished to the attorney upon request.

(j) Admission of Attorneys Previously Admitted to the United States District Courts for the Middle or Western Districts of North Carolina.

Attorneys already admitted to the bar of either the United States District Court for the Middle District of North Carolina or the United States District Court for the Western District of North Carolina may be admitted to the bar of this court upon tendering the application and fees required by subsection (c) of this rule, together with a copy of the order admitting the attorney to practice in one of the other districts, without the necessity of taking the oath that is otherwise required and without obtaining the character certification by two members of the bar of this court.

(k) Electronic Devices in Courtroom Facilities.

(1) Attorneys are subject to the Standing Order on Prohibition of Wireless Communication Devices in Courtroom Facilities dated August 15, 2005, 05-PLR-7. To be exempted from the Order, attorneys will be required to present a bar card to the court security officer to retain a cellular phone, smartphone, laptop, tablet, or other electronic device. If an attorney fails to present a bar card, the attorney will be prohibited from bringing any such item into the courthouse.

(2) By bringing an electronic device into the courthouse, an attorney agrees to the following:

(A) The electronic device will not be used to record, broadcast, or transmit any video images or audio sounds.

(B) While in the courtroom, the attorney will ensure that no sounds are emitted from the device.

(C) Upon entering the United States District Courthouse in the Eastern District of North Carolina, the electronic device will be screened by the court security officers using visual observation, x-ray scanning, chemical detection devices, or other screening methods.

(D) The attorney will maintain custody over the electronic device and will not allow it to be used by anyone else unless the attorney has been given Court permission.

(E) Failure to comply with these provisions may result in loss of the attorney's right to use an electronic device in the United States District Courthouses in the Eastern District of North Carolina, confiscation of the device, or other court sanctions, including but not limited to contempt of court.

(3) Persons using wireless communication devices for evidence presentation or for other similar purposes must notify the court prior to the commencement of any proceeding that such a device is in their possession.

(4) Judges may permit additional exceptions to or impose additional limitations on the use of wireless electronic devices within courtroom facilities at their discretion.

Rule 83.2 Student Practice Rule

(a) Compliance with Rule.

Students may participate as attorneys in civil and criminal cases in this court subject to their compliance with all of the requirements of this rule.

(b) Eligibility.

An eligible student must:

(1) be duly enrolled in a law school accredited or provisionally accredited by the American Bar Association;

(2) have completed at least three semesters of legal studies;

(3) have knowledge of the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, the Code of Professional Responsibility, and the local rules of this court;

(4) be supervised by a supervising attorney as defined in subsection (c) of this rule;

(5) be certified by the Dean of the law school where the student is enrolled, or the Dean's designee, as being of good character and sufficient legal ability and adequately trained to fulfill the responsibilities of a legal intern to both the client and the court;

(6) be certified by the court to practice pursuant to subsection (d) of this rule; and

(7) decline personal compensation for his or her legal services from a client or any other source.

(c) Supervising Attorney.

A supervisor must:

(1) either (i) have faculty or adjunct faculty status at a law school at which a portion of the supervisor's duties includes supervision of students in a clinical program; or (ii) be a member of the bar of this court for at least two years, who in the determination of the court, is competent to carry out the role of supervising attorney;

(2) be admitted to practice in this court;

(3) be certified by the court as a student supervisor;

(4) be present with the student at all times in court, and at other proceedings in which testimony is taken;

(5) co-sign all pleadings or other documents filed with the court;

(6) assume full personal and professional responsibility for a student's guidance and any work undertaken and for the quality of the student's work and be available for consultation with represented clients;

(7) assist and counsel the student in activities mentioned in subsection (e) of this rule, and review such activities with the student, to the extent required for proper practical training of the student and the protection of the client; and

(8) supplement oral or written work of the student as necessary to ensure proper representation of the client.

(d) Certification of Student and Supervisor.

(1) Student. The court's certification of a student to practice under this rule shall be filed with the clerk and shall remain in effect for 18 months or until the student graduates from law school, whichever is earlier. Certification to appear generally or in a particular case may be withdrawn by the court at any time, in the discretion of the court and without any showing of cause.

(2) Supervising Attorney. Certification of the supervising attorney shall be filed with the clerk, and shall remain in effect indefinitely unless withdrawn by the court, in its discretion and without any showing of cause.

(e) Activities.

A certified student may under the personal supervision of his or her supervisor:

(1) represent any client, including federal, state, or local governmental bodies, if the client on whose behalf the certified student is appearing has consented in writing to that appearance and the supervising attorney has given written approval of that appearance;

(2) represent a client in any criminal, civil, or administrative matter;

however, the court retains the authority to limit a student's participation in any individual case;

(3) in connection with matters in this court, engage in other activities on behalf of the client in all ways that a licensed attorney may, under the general supervision of the supervising attorney; however, a student shall make no binding commitments on behalf of a client absent prior client and supervisor approval, and in any matters in which testimony is taken, including depositions, the student must be accompanied by the supervising attorney. Documents or papers filed by the student shall be read, approved, and co-signed by the supervising attorney. The court retains the authority to establish exceptions to such activities; and

(4) prior to oral participation by a certified student in a hearing or trial, the supervising attorney shall provide the court with a written statement of the anticipated scope of the student's participation.

Rule 83.3 Change of Address

All attorneys and unrepresented persons in a lawsuit must notify the court in writing within 14 days of any change of address. Within the same time period, attorneys must also maintain their user account in CM/ECF. Failure to notify the court in a timely manner of an address change may result in dismissal of the action or the imposition of such other relief that the court deems just and proper.

Rule 83.4 Release of Information to News Media

(a) Court Personnel.

All court personnel, including but not limited to the marshal and deputy marshals and office personnel, the clerk and deputy clerks and office personnel, probation officers and office personnel, bailiffs, court reporters, and the judges' and magistrate judges' office personnel, are prohibited from disclosing to any person, without authorization of the court, information relating to any pending matter that has not been filed as a part of the public records of the court. This proscription applies to the divulgence of any information concerning arguments and hearings held in chambers or otherwise outside the presence of the jury or the public.

(b) Copies of Public Records.

Members of the news media and others may obtain copies of all public records from the clerk upon payment of copying fees as prescribed by the Judicial Conference of the United States.

Rule 83.5 Correspondence

Correspondence addressed to the court shall indicate that copies have been transmitted to all other parties; failure to transmit the same to all other parties may result in sanctions by the court. Such correspondence shall not become a part of the record in the case.

Rule 83.6 Photographing and Reproducing Court Proceedings

The taking of photographs or broadcasting or recording (in any form) of proceedings in the courtroom, court offices, or corridors immediately adjacent thereto during judicial proceedings or during any recess of the court is prohibited except as set forth below. The taking of photographs or broadcasting or recording of ceremonial proceedings, such as naturalization proceedings, the administration of oaths of office to officers of the court, presentation of portraits, and other ceremonial occasions, may be allowed with the permission of the presiding judge and under the supervision and control of the court.

Rule 83.7 Purpose of Disciplinary Rules

The court, in furtherance of its inherent power and responsibility to supervise attorneys who practice or appear before it, adopts these rules of disciplinary enforcement.

Rule 83.7a Attorneys Convicted of Crimes

(a) Filing of Judgment of Conviction.

Upon the filing with the clerk of a certified copy of a judgment of conviction stating that an attorney admitted to practice before the court has been

convicted in any court in the United States or the District of Columbia, or of any state, territory, commonwealth, or possession of the United States, of a serious crime as hereinafter defined, this court may enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty or *nolo contendere* or from a verdict after trial or otherwise and regardless of the pendency of any appeal, until final disposition of the disciplinary proceeding to be commenced in accordance with the provisions of Local Civil Rule 83.7e. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice to do so.

(b) Definition of Serious Crime.

The term *serious crime* shall include any felony or other lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or conspiracy or solicitation of another to commit a serious crime.

(c) Certified Copy of Judgment Conclusive Evidence.

A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime.

(d) Suspension and Referral.

Upon the filing with the clerk of a certified copy of a judgment of conviction of an attorney for a serious crime, the court may in addition to suspending that attorney in accordance with the provisions of Local Civil Rule 83.7d, also refer the matter to a referee attorney in accordance with Local Civil Rule 83.7b(f) for the institution of a disciplinary proceeding before the court. The sole issue to be determined in that proceeding shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all direct appeals from the conviction are concluded.

(e) Conviction of Non-Serious Crime.

Upon the filing with the clerk of a certified copy of a judgment of conviction of an attorney for a crime not constituting a serious crime, the court may

refer the matter to a referee attorney for whatever action the referee attorney may deem warranted, including the institution of a disciplinary proceeding before the court, provided that the court may in its discretion make no referral with respect to convictions for minor offenses.

(f) Reinstatement.

An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing with the clerk of a certificate demonstrating that the underlying conviction has been reversed. The reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the court on the basis of all available evidence pertaining to both guilt and the extent of the discipline to be imposed.

Rule 83.7b Discipline Imposed by Other Courts

(a) Duty to Inform This Court.

Any attorney admitted to practice before this court shall, upon being subjected to public discipline by any other court or administrative body of the United States or the District of Columbia, or by a court or administrative body (or state agency clothed with disciplinary authority) or any state, territory, commonwealth, or possession of the United States, promptly inform the clerk of this court of such action.

(b) Notice to Attorney.

Upon the filing with the clerk of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this court has been disciplined by another court or administrative body (or state agency clothed with disciplinary authority), this court shall forthwith issue a notice directed to the attorney containing:

(i) a copy of the judgment or order from the other court or administrative body (or state agency clothed with disciplinary authority); and,

(ii) an order to show cause directing that the attorney inform this court

within 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in subsection (d) of this rule that the imposition of the identical discipline by the other court would be unwarranted and the reasons therefor.

(c) Deferral of Action.

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

(d) Imposition of Discipline.

Upon the expiration of 30 days from service of the notice issued pursuant to subsection (b) of this rule, this court shall impose the identical discipline imposed by the other court or administrative body, unless the respondent-attorney demonstrates, or this court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears:

(i) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(ii) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject; or

(iii) that the imposition of the same discipline by this court would result in grave injustice; or

(iv) that the misconduct established is deemed by this court to warrant substantially different discipline.

Where this court determines that any of these elements exists, it shall enter such order as it deems appropriate.

(e) Effect of Final Adjudication.

In all other respects, a final adjudication in another court or administrative

body (or state agency clothed with disciplinary authority) that an attorney has been guilty of misconduct shall establish conclusively the misconduct for the purposes of a disciplinary proceeding in this court.

(f) Appointment of an Attorney.

This court may at any time appoint an attorney to prosecute the disciplinary proceedings.

Rule 83.7c Disbarment on Consent or Resignation in Another Court or Before a State Bar

Any attorney practicing before this court who shall be disbarred on consent or resign from the bar of any court or state while an investigation into allegations of misconduct is pending shall promptly inform the clerk and, upon the filing with this court of a certified copy of the judgment or order accepting such disbarment on consent or resignation, shall cease to be permitted to practice before this court.

Rule 83.7d Standards for Professional Conduct

(a) Form of Discipline.

For misconduct defined in these local rules and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this court may be disbarred, suspended from practice before this court, reprimanded, or subjected to such other disciplinary action as the circumstances may warrant.

(b) Grounds for Discipline.

Acts or omissions by an attorney admitted to practice before this court, individually or in concert with any other person or persons, that violate the Rules of Professional Conduct adopted by this court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Rules of Professional Conduct adopted by this court are the North Carolina State Bar Revised Rules of Professional Conduct adopted by the Supreme Court of North Carolina, except as may be otherwise provided by specific rule of

this court.

Rule 83.7e Disciplinary Proceeding

(a) Referral by the Court.

When misconduct or allegations of misconduct in any case or proceeding in this court on the part of an attorney admitted to practice before this court that, if substantiated, would warrant discipline of such attorney shall come to the attention of a judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these local rules, the judge shall refer the matter to a referee attorney in accordance with Local Civil Rule 83.7b(f) for investigation and, if warranted, the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

(b) Recommendation for Disposition.

Should the referee attorney conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present or because another proceeding is pending against the respondent-attorney, the disposition of which in the judgment of the referee attorney should be awaited before further action by this court is considered, or for any other valid reason, the referee attorney shall file with the court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise, setting forth the reasons therefor.

(c) Initiation of Disciplinary Proceedings.

To initiate formal disciplinary proceedings, the referee attorney shall obtain an order of this court upon a showing of probable cause requiring the respondent-attorney to show cause within 30 days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined.

(d) Procedure for Hearing.

Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in

mitigation, this court shall set the matter for prompt hearing before one or more judges of this court, provided that, if the disciplinary proceeding is predicated upon the complaint of a judge of this court, the hearing shall be conducted before another judge of this court appointed by the Chief Judge, or if the Chief Judge is the complainant, by the next senior judge of this court.

Rule 83.7f Disbarment on Consent While Under Disciplinary Investigation or Prosecution

(a) Consent to Disbarment.

Any attorney practicing before this court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment by delivering to this court an affidavit stating that the attorney desires to consent to disbarment and that:

(i) the attorney's consent is freely given,

(ii) the attorney is aware of the pending investigation or proceeding,

(iii) the attorney acknowledges the material facts of misconduct, and

(iv) the attorney consents because the attorney knows that he or she could not defend successfully against charges of misconduct.

(b) Order of Disbarment.

Upon receipt of the required affidavit, this court shall enter an order disbarring the attorney.

(c) Record.

The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this court.

Rule 83.7g Reinstatement

(a) Automatic Reinstatement; Reinstatement by Order.

An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon filing with the court an affidavit of compliance with the provisions of the suspension order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this court.

(b) Time for Petition.

An attorney who has been disbarred after hearing or by consent may not petition for reinstatement until the expiration of at least three years from the effective date of disbarment.

(c) Procedure.

Petitions for reinstatement by a disbarred or suspended attorney under this rule shall be filed with the court. Upon receipt of the petition, the Chief Judge may assign the matter for a prompt hearing before a judge (or judges) of the court and may, in the Chief Judge's discretion, refer the petition to counsel for investigation in accordance with Local Civil Rule 83.7b(f). The judge assigned to the matter shall schedule a hearing at which petitioner shall have the burden of demonstrating by clear and convincing evidence that the attorney has the moral qualifications, competency, and learning of the law required for admission to practice law before this court, and that the attorney's resumption of the practice of law will not be detrimental to the integrity and standing of the Bar or the administration of justice or subversive of the public interest. In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by the referee attorney if the matter has been referred to that attorney by the court in accordance with Local Civil Rule 83.7b(f).

(d) Costs.

Petitions for reinstatement under this rule shall be accompanied by an advanced cost deposit made payable to the Clerk, United States District Court, in the amount of the current attorney admission fee. The court may later impose costs related to the reinstatement proceeding.

(e) Order of Reinstatement.

If the petitioner is found to be unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found to be fit to resume the practice of law, the judgment shall reinstate the petitioner, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings and partial or complete restitution to parties harmed by the petitioner conduct that led to the suspension or disbarment.

(f) Successive Petitions.

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

Rule 83.7h Service of Papers and Other Notices

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address shown in the most recent registration filed pursuant to N.C.G.S. § 84-34, or, in the case of an attorney admitted to this court pursuant to Local Civil Rule 83.1, at the address shown in papers filed with the court. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address determined as aforesaid, or to counsel or the attorney for the respondent-attorney at the address indicated in the most recent pleading or other document filed by the respondent.

Rule 83.7i Appointment of Counsel

Whenever counsel is to be appointed in accordance with Local Civil Rule 83.7b(f) to investigate allegations of misconduct or to prosecute disciplinary proceedings or in conjunction with a reinstatement petition, the court may appoint as counsel the disciplinary agency of the Supreme Court of North Carolina or any other disciplinary agency having jurisdiction. Alternatively, the court may appoint as counsel one or more members of the Bar, provided, however, that the respondent-attorney may move to disqualify this counsel for good cause shown. This counsel, once appointed, may not resign unless permission to do so is given by the court. Nothing in this rule

limits the court's authority to refer any matter to the appropriate state bar for investigation, prosecution of disciplinary proceedings, or reinstatement.

Rule 83.7j Duties of the Clerk

(a) To Secure Certificate of Conviction.

Upon being informed that an attorney admitted to practice before this court has been convicted of any serious crime, the clerk shall determine whether the clerk of the court (or the state agency clothed with disciplinary authority) in which such conviction occurred has forwarded a certificate of such conviction to the court. If a certificate has not been so forwarded, the clerk shall promptly obtain a certificate and cause it to be filed in this court.

(b) To Secure Disciplinary Judgment or Order.

Upon being informed that an attorney admitted to practice before this court has been subjected to discipline by another court, an administrative body, or a state agency clothed with disciplinary authority, the clerk shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this court and, if not, the clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and cause it to be filed in this court.

(c) Transmittal to Other Jurisdictions.

Whenever it appears that any person convicted of any serious crime, disbarred, suspended, censured, or disbarred on consent by this court is admitted to practice law in any other jurisdiction or before any other court, the clerk shall, within 14 days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the respondent-attorney.

(d) National Discipline Data Bank.

The clerk shall notify the National Discipline Data Bank operated by the American Bar Association of any order of this court imposing public

discipline upon any attorney admitted to practice before this court.

Rule 83.7k Publicity

All parties in a disciplinary proceeding shall conduct themselves in accord with the provisions of Local Civil Rule 83.4.

Rule 83.8 Bankruptcy Appeals

(a) General Provisions.

The following Local Civil Rules apply to appeals from the bankruptcy courts in this district:

1.1 (Scope and Citation of Local Civil Rules)

5.1 (Filing and Service of Papers)

5.2 (Appearance of Attorneys in Civil Cases)

6.1 (Motions for an Extension of Time to Perform Act)

7.1(h) (Subsequently Decided Controlling Authority)

7.2(b), (c), (d) (Provisions relating to citation of authorities in memoranda)

7.3 (Disclosure of Corporate Affiliations and Other Entities with a Direct Financial Interest in Litigation)

10.1(b), (c), (d), (e), (f), (g), (h), (i), (j) (Forms of Pleadings, Motions, and Documents)

11.1 (Sanctions)

11.2 (Disclosure Statements)

83.1 (Attorneys)

83.2 (Student Practice Rule)

83.3 (Change of Address)

83.4 (Release of Information to News Media)

83.5 (Correspondence)

83.6 (Photographing and Reproducing Court Proceedings)

83.7-83.7k (Provisions relating to attorney discipline)

To the extent any Local Civil Rule or judicial practice preference conflicts with the Federal Rules of Bankruptcy Procedure, the Federal Bankruptcy Rule shall govern.

(b) Courtesy Copies.

Attorneys shall provide the assigned judge a courtesy copy of all documents in conformance with his or her practice preferences. Any required courtesy copies shall be mailed or delivered to the civil case manager for the assigned judge as specified on the court's website. See Fed. R. Bankr. P. 8013(f)(4).

(c) Appendices.

Unless ordered otherwise, appeals may proceed on the original record without the need to file an appendix. See Fed. R. Bankr. P. 8018(e).

(d) Statement Regarding Oral Argument.

Parties must include in their briefs at the conclusion of the argument a statement setting forth the reasons why, in their opinion, oral argument should or need not be permitted. See Fed. R. Bankr. P. 8019(a).

Rule 83.9 Jurisdiction

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

Rule 83.10 Courtroom Technology

(a) Video Teleconferencing.

If a party or nonparty needs to use video teleconference ("VTC") technology for a hearing or trial, the party or nonparty shall file a motion seeking leave of court for use of the technology no later than 14 days prior to the scheduled proceeding. If the court allows the motion, the party or nonparty shall submit a VTC Request Form (available from the clerk) to the court no later than 7 days before the scheduled proceeding.

(b) Training.

If a party or nonparty needs any type of courtroom technology other than VTC for a hearing or trial, including but not limited to any audio equipment, video equipment, document presentation system, and jury evidentiary recording system, the party or nonparty must notify the case manager and request training from the court's information technology staff for the person or persons who will be operating the courtroom technology. Unless excepted by the clerk, no later than 7 days before the scheduled proceeding, the party or nonparty must file a certification provided by the court's technology staff that the required training has been completed.

Rule 100.1 Court Libraries

The clerk shall maintain the court libraries in the District. Use of the facilities is limited to judicial officers, court staff, and members of the bar of this court. Books shall not be removed from the library without the consent of the person responsible for the maintenance of the particular library and shall not be removed from the courthouse under any circumstances. A violation of this local rule shall be punishable as contempt of court.

Rule 100.2 Jurisdictional Agreements with Other Courts

The clerk shall maintain all jurisdictional agreements entered into by the Chief Judge of this court and the Chief Judge of any other United States District Court, and a copy of such agreements shall be furnished to any person upon request.

Rule 100.3 Civil Contempt

(a) Rights of Contemnor.

In all cases of civil contempt, the contemnor shall have due notice of the contempt charges, opportunity to reply to the charges, and notice of the date and place of hearing in open court from which the public shall not be excluded.

(b) Summary Contempt Proceedings.

In contempt proceedings where the court may act summarily, the contemnor shall have the right to defend against the charges and to offer evidence in the form of affidavits. The movant shall have the right to offer similar evidence.

(c) Plenary Contempt Proceedings.

In contempt proceedings where the court may not act summarily, the presentation of evidence is governed by Rule 1101 of the Federal Rules of Evidence. In no case of civil contempt, however, shall the parties be entitled to trial by jury; rather, the district judge before whom the matter is tried shall find the facts and enter a judgment or order in accordance with the provisions of the Federal Rules of Civil Procedure applicable to non-jury cases.

Rule 100.4 Standing Orders

(a) Issuance.

Standing orders shall be issued by the Chief Judge.

(b) Subject Matter.

Standing orders are used to address matters of court business, including court policies and administrative matters, not adequately addressed by orders in individual cases but not appropriate for inclusion in the local rules because of improbability of recurrence, level of importance, or degree of interest to the Bar or public, or for other reasons.

(c) Form.

Each standing order shall bear a heading identifying it as such and specifying the subject matter to which it relates. Standing orders shall be given such additional identifiers, including docket numbers, as the clerk determines are appropriate to facilitate orderly storage of and access to such orders.

(d) Posting and Retention.

Standing orders shall be posted for review by the public and court personnel and, when appropriate, archived in such manner as the Chief Judge directs in consultation with the clerk.

(e) Annual Review.

The Local Rules committee shall review the court's standing orders each year to determine whether any should be converted into Local Rules, amended, or vacated. The committee shall report the results of its review, including any recommendations, to the Chief Judge.

ATTACHMENT B

United States District Court

Eastern District of North Carolina

Local Criminal Rules

of

Practice and Procedure

May 2023

TABLE OF CONTENTS

Rule 1.1 Scope and Citation of Local Criminal Rules

These local rules of criminal practice shall govern the conduct of the United States District Court for the Eastern District of North Carolina except when the conduct of this court is governed by federal statutes and rules. A district judge or magistrate judge, for good cause and in his or her discretion, may alter these rules in any particular case. These rules shall be cited as "Local Criminal Rule ____." The Local Criminal Rules posted on the district's website, http://www.nced.uscourts.gov/rules/Default.aspx, shall be the official record of the court.

Rule 1.2 Definitions

As used in these local rules:

(a) The term "person" refers to any human being or entity.
(b) The term "party" refers to the United States or a defendant. A represented party shall act through the party's attorney of record unless a particular rule specifically states otherwise.
(c) The term "nonparty" refers to any person other than a party, an attorney, a judge, or a court staff member who is acting in that capacity. A represented nonparty shall act through the nonparty's attorney of record unless a particular rule specifically states otherwise.
(d) The term "attorney" refers to an attorney of record for a person, unless the context of a particular rule refers to attorneys more generally.
(e) The term "unrepresented person" refers to a person during any time when the person is proceeding without an attorney.
(f) The term "incarcerated unrepresented person" broadly refers to an unrepresented person who is currently imprisoned, jailed, civilly committed, or otherwise detained.
(g) The term "movant" refers to a person who makes a motion.

Rule 2.1 Reserved for Future Purposes

Rule 3.1 Reserved for Future Purposes

Rule 4.1 Reserved for Future Purposes

Rule 5.1 Magistrate Judges: Standards of Performance

In performing duties for the court, a magistrate judge shall conform to all applicable provisions of federal statutes and rules, to the Local Criminal Rules and procedures of this court, and to the requirements specified in any order of reference from a district judge.

Rule 5.2 Magistrate Judges: Assignment of Matters

(a) Misdemeanor Cases.

Upon the filing of an information, complaint, or violation notice, or the return of an indictment, all misdemeanor cases not assigned to a district judge shall be assigned by the clerk to a magistrate judge, who shall proceed in accordance with the provisions of 18 U.S.C. § 3401 and Fed. R. Crim. P. 58.

(b) Felony Cases.

Upon the return of an indictment or the filing of an information, all felony cases shall be assigned by the clerk to a magistrate judge for the conduct of an arraignment and such pretrial conferences as are necessary and for the hearing and determination of all pretrial procedural and discovery motions, in accordance with Local Criminal Rule 5.3.

Rule 5.3 Authority of Magistrate Judges

(a) Duties Under 28 U.S.C. § 636(a).

A magistrate judge is authorized to perform the duties prescribed by 28 U.S.C. § 636(a), and may conduct extradition proceedings, in accordance with 18 U.S.C. § 3184.

(b) Determination of Non-Dispositive Pretrial Matters –28 U.S.C. § 636(b)(1)(A).

A magistrate judge may hear and determine any procedural or discovery motion or other pretrial matter in a criminal case, other than the motions specified in subsection (c)(1) of this rule.

(c) Recommendations Regarding Case-Dispositive Motions –28 U.S.C. § 636(b)(1)(B).

(1) A magistrate judge may submit to a district judge a report containing proposed findings of fact and recommendations for disposition by the district judge of the following pretrial motions:

a. Motions to dismiss or quash an indictment or information made by a defendant; and

b. Motions to suppress evidence in a criminal case.

(2) A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this rule.

(d) Prisoner Cases Under 28 U.S.C. § 2254 and § 2255.

A magistrate judge may perform any or all of the duties imposed upon a district judge by the rules governing proceedings in the United States district courts under 28 U.S.C. § 2254 and § 2255. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition by the district judge. Any order disposing of the petition shall be made only by a district judge.

(e) Other Duties.

A magistrate judge is also authorized to:

(1) exercise general supervision of calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of misdemeanor and felony cases;

(2) conduct discovery conferences, pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings;

(3) conduct arraignments and accept pleas pursuant to Fed. R. Crim. P. 11 in cases not triable by the magistrate judge;

(4) receive grand jury returns in accordance with Fed. R. Crim. P. 6(f);

(5) accept waivers of indictment, pursuant to Fed. R. Crim. P. 7(b);

(6) conduct *voir dire* and select petit juries for the court;

(7) conduct necessary proceedings leading to the potential revocation of probation;

(8) issue subpoenas, writs of habeas corpus *ad testificandum* or habeas corpus *ad prosequendum*, or other orders necessary to obtain the presence of persons or evidence needed for court proceedings;

(9) order the exoneration or forfeiture of bonds;

(10) conduct examinations of judgment debtors in accordance with Fed. R. Crim. P. 69;

(11) conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act;

(12) 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 attorneys therein;

(13) exercise contempt authority in accordance with 28 U.S.C. § 636(e); and

(14) perform any additional duty consistent with the Constitution and laws of the United States.

Rule 5.4 Electronic Designation of Judges

An electronically generated designation of a district judge or magistrate judge does not mean that the judge so designated is assigned to the case.

Rule 6.1 Reserved for Future Purposes

Rule 7.1 Reserved for Future Purposes

Rule 8.1 Reserved for Future Purposes

Rule 9.1 Reserved for Future Purposes

Rule 10.1 Reserved for Future Purposes

Rule 10.2 Appearance Bonds

In the event a deed of trust is used to secure an appearance bond for a defendant, the grantor of the deed of trust is responsible for preparing and supplying the clerk with documentation necessary to cancel the deed of trust within 21 days of the date that the conditions of the appearance bond and deed of trust are satisfied. The grantor shall also be responsible for recording any documentation necessary to cancel the deed of trust and for payment of any costs associated with such cancellation. Failure of the grantor to comply with these requirements shall relieve the clerk of any responsibility to cancel the deed of trust.

Rule 11.1 Disclosure of Pretrial Services Reports

Pursuant to 18 U.S.C. § 3153(c)(1), which governs the availability of the pretrial services report to the attorney for the accused and for the government prior to any detention hearing, the United States Probation Office for the Eastern District of North Carolina is authorized to disclose pretrial services reports to the attorneys for the accused and for the government. This disclosure shall be accomplished by filing the pretrial services report for each case under seal in the CM/ECF filing system. The attorneys for the accused and for the government may retain these reports, but must not re-disclose the reports to other persons. When a copy of the report is filed under seal, it will have a header on the first page advising the attorneys that (a) the report is not to be copied, (b) the report is not a public record, and (c) the content may not be disclosed to other persons. Other than the disclosures laid out herein, the reports shall remain confidential, as provided in 18 U.S.C. § 3153(c)(1).

Rule 12.1 Time Period for Filing Pretrial Motions

All pretrial motions, including but not limited to motions to suppress and motions under Rules 12, 14, 16, and 41 of the Federal Rules of Criminal Procedure shall be filed no later than 30 days after indictment or initial appearance (whichever comes

later) or within such other time as ordered by the court. Responses shall be filed within 14 days after the service of such motions unless otherwise ordered by the court. Untimely motions may be considered by the court if the party shows good cause.

Rule 12.2 Further Discovery and Inspection

In the event that either party moves to compel compliance with Local Criminal Rule 16.1(a) or for additional discovery or inspection, such motion shall be filed within the time period set by Local Criminal Rule 12.1. The motion shall contain:

(a) the statement that the prescribed conference was held;

(b) the date of said conference;

(c) the names of all parties and attorneys participating in the conference; and

(d) the statement that agreement could not be reached concerning the discovery or inspection that is the subject of the motion and the reasons given for the same.

Rule 12.3 Disclosure of Corporate Affiliations and Other Entities with a Direct Financial Interest in Litigation

(a) All corporate defendants in a criminal case, whether or not they are covered by the terms of Fed. R. Crim. P. 12.4, shall file a corporate affiliate/financial interest disclosure statement.

(b) The statement shall set forth the information required by Fed. R. Crim. P. 12.4 and the following:

(1) A trade association shall identify in the disclosure statement all members of the association, their parent corporations, and any publicly held companies that own ten percent or more of a member's stock.

(2) All parties shall identify any publicly held corporation, whether or not a party to the present litigation, that has a direct financial interest in the outcome of the litigation by reason of a franchise, lease, other profit sharing agreement, insurance, or indemnity agreement.

(3) Whenever required by Fed. R. Crim. P. 12.4 or this rule to disclose information about a corporation that has issued shares to the public, a party shall also disclose information about similarly situated master limited partnerships, real estate investment trusts, or other legal entities whose shares are publicly held or traded.

(c) The disclosure statement shall be on a form provided by the clerk. A negative statement is required if a party has no disclosures to make.

(d) The disclosure statement shall be filed within 28 days after the defendant makes an initial appearance. The parties are required to amend their disclosure statements when necessary to maintain their current accuracy.

Rule 13.1 Reserved for Future Purposes

Rule 14.1 Reserved for Future Purposes

Rule 15.1 Reserved for Future Purposes

Rule 16.1 Motions Relating to Discovery and Inspection

(a) In General.

A discovery motion in a criminal action (Fed. R. Crim. P. 16) shall state that a request for discovery and inspection was made and denied. Parties must also certify that they have conferred and made a good faith effort to resolve discovery disputes prior to the filing of any discovery motions.

(b) Criminal Pretrial Conference.

The attorney for the government shall arrange and conduct a pretrial conference with the defendant's attorney within 21 days after indictment or initial appearance (whichever comes later) or within such other time as ordered by the court. At the pretrial conference and upon the request of the defendant's attorney, the government shall permit the defendant's attorney:

(1) to inspect and copy all discoverable evidence under Rule 16 of the Federal Rules of Criminal Procedure;

(2) to inspect, copy or photograph any relevant written or recorded statements or confessions made by the defendant, or copies thereof, within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government;

(3) to inspect and copy or photograph any relevant results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the case, or copies thereof, within the possession, custody or control of the government, the existence of which is known, or by the exercise of due diligence may become known to the attorney for the government;

(4) to inspect and copy or photograph any relevant recorded testimony of the defendant before a grand jury;

(5) to inspect and copy or photograph books, papers, documents, tangible objects, buildings or places which are the property of the defendant and which are within the possession, custody or control of the government;

(6) to inspect and copy or photograph the Federal Bureau of Investigation Identification Sheet indicating defendant's prior criminal record; and

(7) to inspect, copy or photograph any exculpatory evidence.

(c) Discovery from Defendant.

After discovery has been provided by the government, and upon request of the government, the defendant shall permit the government to inspect any copy of all discoverable evidence under Rule 16(b) of the Federal Rules of Criminal Procedure.

(d) Exchange of Discovery by Mail.

The government and the defendant , in lieu of the conference, may agree to exchange discovery material by mail without the conference referenced in Local Criminal Rule 16.1(b).

(e) Duty of Disclosure.

Any duty of disclosure and discovery set forth in Local Criminal Rule 16.1

is a continuing one, and the government and the defendant shall produce voluntarily any additional relevant information gained by either of them.

Rule 17.1 Time of Issuance of Subpoenas in Criminal Cases

Subpoenas for witnesses in criminal cases shall be delivered to the United States Marshal or other person qualified to make service at least 7 days prior to the Monday of the week in which the case is set for trial. The failure of the Marshal or other qualified person to serve a subpoena not delivered within this time period shall not constitute sufficient cause for a continuance.

Rule 17.2 Reserved for Future Purposes

Rule 18.1 Reserved for Future Purposes

Rule 19.1 Reserved for Future Purposes

Rule 20.1 Reserved for Future Purposes

Rule 21.1 Reserved for Future Purposes

Rule 22.1 Reserved for Future Purposes

Rule 23.1 Reserved for Future Purposes

Rule 24.1 Preparations for Criminal Trial

(a) Unless the parties have previously entered into and executed a written plea agreement, each party shall file with the clerk and the assigned judge, 7 days preceding the first day of the session during which the criminal action is set for trial:

(l) *voir dire* questions as required by Local Criminal Rule 24.2; and

(2) requests for jury instructions.

(b) Before jury selection begins, each party shall file with the court a list of all witnesses the party, in good faith, reasonably anticipates will be called in its evidence-in-chief.

Rule 24.2 Jurors

(a) Jury Lists.

When the jury for a session of the court is drawn, the clerk shall furnish a copy of the list of prospective jurors to the attorneys for the parties or to any unrepresented defendant on a relevant trial roster, upon their request, unless otherwise directed by the court. The clerk shall notify the presiding judge and the government of any such request by an unrepresented defendant prior to providing the requested list. The list shall set out the name and county of residence of each prospective juror. The jurors and their families shall not be contacted, either directly or indirectly, in an effort to secure information concerning the background of any member of the jury panel. When the jurors are seated in the jury box, a chart or list showing the name and seating assignment of each juror unless otherwise directed by the court shall be furnished to the parties by the clerk.

(b) Examination of Jurors.

The court shall conduct the examination of prospective jurors. Seven days preceding the first day of the session at which an action is set for trial, each party shall file a list of *voir dire* questions the party desires the court to ask the jury other than routine questions such as (1) the occupations and addresses of jurors and their spouses; (2) the identity and relation of jurors, the parties, counsel and witnesses; and (3) the knowledge of the jurors concerning the case.

(c) Contact with Trial Jurors.

Following the discharge of a jury from further consideration of a case, no attorney or party shall individually or through an investigator or any person acting for such attorney or party ask questions of or make comments to a member of that jury or members of the family of such a juror that are calculated merely to harass or embarrass such a juror or member of such juror's family or to influence the actions of such a juror or a member of such juror's family in future jury service.

Rule 25.1 Reserved for Future Purposes

Rule 26.1 Reserved for Future Purposes

Rule 27.1 Reserved for Future Purposes

Rule 28.1 Reserved for Future Purposes

Rule 29.1 Reserved for Future Purposes

Rule 30.1 Requests for Jury Instructions

Requests for jury instructions using *Federal Jury Practice and Instructions* (6th Ed.) by O'Malley, Grenig, and Lee, *Fifth Circuit Pattern Jury Instructions*, and *North Carolina Pattern Jury Instructions* shall include both the text of the proposed instruction and a citation reference to the proposed instruction. All other requests shall include citations to supporting authorities.

Rule 31.1 Taking Verdicts and Polling the Jury

The court may take the verdict of the jury in open court. Unless a defendant has fled or has been removed from the courtroom for misconduct, he or she must be in the courtroom when the verdict is announced. Unless the contrary affirmatively appears on the record, it will be presumed that the parties were present or by their voluntary absence waived their presence. The jury will not be polled unless a party requests a poll at the time the verdict is taken or a poll is ordered by the court.

Rule 32.1 Petition for Disclosure of Presentence or Probation Records

No confidential records of this court maintained by the probation office, including presentence and probation supervision records, shall be sought by any applicant except by written petition to this court establishing with particularity the need for specific information in the records. Whenever a probation officer is served with a

subpoena or other judicial process seeking the production or disclosure of presentence and probation records and reports, the probation officer shall petition the Chief Judge of this court in writing for instructions with respect to responding to such process. In no event shall production or disclosure be made except pursuant to an order by a district judge or a magistrate judge unless specifically authorized by procedures outlined in Local Criminal Rule 32.2(l).

Rule 32.2 Procedures Implementing Sentencing Guidelines

(a) Scheduling of Sentencing.

Sentencing proceedings shall be scheduled by the court at the time of adjudication of guilt, to be heard not earlier than 60 days following the adjudication of guilt.

(b) Time for Completion of Presentence Report.

No later than 35 days prior to sentencing, the probation officer shall complete and disclose the presentence investigation report to the defendant, the defendant's attorney, and the attorney for the government.

(c) Time for Filing Objections to Presentence Report.

Within 14 days after disclosure of the presentence investigation report, the parties shall file, in CM/ECF (access restricted to the court, the probation office, attorneys of record for the government and for the relevant defendant), objection(s) to the presentence report including material information, sentencing classifications, guideline ranges, and policy statements contained in or omitted from the report. Alternatively, absent objections, the filed response shall affirmatively state there no objections to the report. The court may conduct a show cause hearing and/or disallow objections in any case where such objections are not timely filed.

(d) Procedure for Resolving Objections to Presentence Report.

After receiving objections from the parties, the probation officer shall conduct such further investigation as may be necessary. The probation officer shall confer with the parties to discuss and attempt to resolve contested issues. Thereafter, the probation officer shall make such revisions to the presentence investigation report as the probation officer deems appropriate. Unresolved contested issues, including a summary

of the grounds for the objections, and the probation officer's comments on them, shall be contained in an addendum to the presentence investigation report. The defendant and the government may each file a memorandum with the court explaining their respective positions on the unresolved objections. Any such memorandum must be served on the opposing party and the probation office.

(e) Time for Filing Revised Presentence Report.

The revised presentence investigation report and addendum shall be disclosed to the judge, the defendant, the defendant's attorney, and the attorney for the government not later than 7 days prior to the sentencing hearing. The probation officer's sentencing recommendation shall be disclosed only to the judge. In the case of a juvenile, a disposition hearing must be held no later than 21 court days after the juvenile delinquency hearing subject to enumerated exceptions (18 U.S.C. § 5037(a)); therefore, the Local Criminal Rules with respect to time periods for disclosure of the presentence report do not apply.

(f) Expedited Procedures where Defendant Detained.

If it appears that a defendant may be detained pending trial and sentencing for a period of time exceeding the sentence likely to be imposed under the guidelines, the court, upon motion by the defendant at the time of adjudication of guilt, may direct the probation office to expedite the sentencing timetable.

(g) Court Acceptance of Presentence Report.

The revised presentence investigation report may be accepted by the court as accurate except as to matters set forth in the addendum which shall be resolved as provided in Section 6Al.3 of the *United States Sentencing Commission Guidelines Manual.*

(h) Service of Presentence Report.

The presentence investigation report shall be deemed to have been disclosed upon filing the report in CM/ECF, or service, personally or via United States mail, on an unrepresented defendant. Disclosure of the presentence investigation report (and any subsequent revisions and addenda thereto) to the defendant's attorney is deemed to be disclosed to the defendant. The defendant's attorney must review the report with the defendant forthwith.

(i) Procedure at Sentencing.

Before final judgment is entered in a case, the court shall disclose to the defendant, the defendant's attorney, and the attorney for the government, the court's tentative findings of fact and interpretation of applicable guidelines and shall afford the parties an opportunity to object to said tentative findings of fact and interpretation of the guidelines.

(j) Receipt of Presentence Report Under Seal.

The final presentence investigation report, addendum, and probation officer's recommendation shall be filed in CM/ECF under seal and shall be otherwise disclosed only upon order. Defendants and their attorneys may retain their copies of the presentence investigation report and addendum. In the event of post- sentencing proceedings, including appeal, *habeas corpus* application, or motion for modification or revocation of probation or supervised release, attorneys of record may, upon request, be provided a copy of the presentence report by the probation office.

(k) Role of the Defendant's Attorney in Presentence Investigation.

Upon adjudication of guilt, the probation officer will initiate the presentence investigative process. The defendant's attorney shall advise the probation officer attending court whether or not the defendant will submit to an interview with the officer and whether or not the attorney desires to be present at the interview. The attorney, if attending, and the defendant shall make themselves available for the interview within 14 calendar days of adjudication.

(l) Disclosure of Presentence Report to Expert Witnesses and Agents.

The parties may provide a copy of the presentence report to expert witnesses and agents. The parties are responsible for recovering the report at or prior to sentencing. In the case of a juvenile no information, including the presentence report, may be released except pursuant to a court order.

Rule 33.1 Reserved for Future Purposes

Rule 34.1 Reserved for Future Purposes

Rule 35.1 Reserved for Future Purposes

Rule 36.1 Reserved for Future Purposes

Rule 37.1 Reserved for Future Purposes

Rule 38.1 Reserved for Future Purposes

Rule 39.1 Reserved for Future Purposes

Rule 40.1 Reserved for Future Purposes

Rule 41.1 Reserved for Future Purposes

Rule 42.1 Reserved for Future Purposes

Rule 43.1 Waiver of Appearance in Misdemeanor Cases

In accordance with Fed. R. Crim. P. 43(b)(2), a defendant in misdemeanor cases may execute a written waiver of appearance which contains the following statements:

(a) the designation of an attorney to appear in behalf of the defendant and the granting to such attorney full authority to enter on behalf of the defendant a plea of guilty, not guilty, or *nolo contendere* to the offense charged, or to a lesser offense or offenses in lieu thereof;

(b) a consent to trial by the magistrate judge; and, a waiver of: (1) the right to be tried and sentenced by a district judge, (2) the right to a jury trial, (3) the

right to testify in person, and (4) the right to face his or her accusers;

(c) an agreement to be bound by the decisions of the court as in any other case of adjudication and the entry of judgment subject to the right of appeal as in any other case; and,

(d) the circumstances which justify the approval of the written waiver of appearance by the court. The waiver of appearance must be (1) in writing, (2) signed by the defendant and his or her attorney, (3) consented to by the attorney for the government, and (4) approved by the court.

Rule 44.1 Appearances of Attorneys in Criminal Cases

(a) Obligation to Notify the Court.

A defendant who does not apply for representation at government expense, or who is deemed ineligible after application, must inform the court of the identity of any attorney retained by the defendant within 14 days of his or her first appearance before a judicial officer in this district. Retention of an attorney outside this period will not constitute grounds for a continuance of pretrial proceedings or trial unless the defendant demonstrates due diligence in attempting to retain an attorney.

(b) Notice of Appearance.

An attorney representing a defendant in a criminal action shall file a Notice of Appearance with the clerk and serve the attorneys of record with a copy. The Notice of Appearance shall contain the attorney's name and the name of the attorney's law firm, phone number and state bar number, and shall state whether the attorney is appointed, retained, or representing the defendant pro bono. The attorney also shall file contemporaneously a corporate affiliate/financial interest disclosure statement in accordance with Fed. R. Crim. P. 12.4 and Local Criminal Rule 12.3.

Rule 44.2 Disclosure Statements in Litigation By Unrepresented Persons

As part of making an appearance in every case, all unrepresented persons not incarcerated shall file contemporaneously a disclosure statement in accordance with Fed. R. Crim. P. 12.4 and Local Criminal Rule 12.3.

Rule 45.1 Reserved for Future Purposes

Rule 46.1 Prohibited Sureties

Members of the bar, administrative officers and employees of this court, and the marshal and deputies and assistants thereto shall not act as surety in any matter pending in this court.

Rule 47.1 Motion Practice

(a) General Requirements.

All motions shall be concise and shall state precisely the relief requested. Motions shall conform to the general motions requirements, standards, and practices set forth in the applicable Federal Rules of Criminal Procedure and in Local Criminal Rule 47.3. Time for the filing of pretrial motions in criminal cases is governed by Local Criminal Rule 12.1.

(b) Supporting Memoranda.

Except for motions which the clerk may grant as specified in Local Criminal Rule 56.1, all motions made other than in a hearing or trial shall be filed with an accompanying supporting memorandum in the manner prescribed by Local Criminal Rule 47.2(a). Where appropriate, motions shall be accompanied by affidavits or other supporting documents.

(c) Responses to Motions.

Any party may file a written response to any motion. A response shall be in the form of a memorandum in the manner prescribed by Local Criminal Rule 47.2(a), and may be accompanied by, without limitation, affidavits and other supporting documents. Responses and accompanying documents shall be filed within 14 days after service of the motion in question unless otherwise ordered by the court or prescribed by the applicable Federal Rules of Procedure.

(d) Subsequently Decided Controlling Authority.

A suggestion of subsequently decided controlling authority, without argument, may be filed at any time prior to the court's ruling and shall contain only the citation to the case relied upon, if the case is published, or a copy of the opinion if the case is unpublished.

(e) Affidavits.

Ordinarily, affidavits will be made by witnesses themselves and not by attorneys. However, affidavits may be made by an attorney for a person if the sworn facts are known to the attorney or the attorney can swear to them upon information and belief, and

(1) the facts relate solely to an uncontested matter; or

(2) the facts relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the facts; or

(3) the facts relate solely to the nature and value of the legal services rendered for the person by the attorney or the attorney's law firm; or

(4) the refusal to accept the affidavit would work a substantial hardship on the person and the court finds that its acceptance of the affidavit would not be such as to require that the attorney or the attorney's law firm be disqualified from continuing to appear for the person.

(f) Hearings on Motions.

Hearings on motions may be ordered by the court in its discretion. Unless so ordered, motions shall be determined without hearing.

(g) Frivolous or Delaying Motions.

Where the court finds that a motion is frivolous or filed for delay, costs may be assessed against the person filing such motion or the person's attorney.

(h) Motions for an Extension of Time to Perform an Act.

(1) Each motion for an extension of time to perform an act required or allowed to be done within a specified time must show good cause. The motion must also show that the movant has in good faith conferred or attempted to confer with all parties and nonparties whose interests are directly affected by the motion, including unrepresented parties and nonparties but excluding incarcerated unrepresented parties and nonparties. The motion must identify the views of each party or nonparty consulted, as well as the efforts to consult with any parties and nonparties who did not respond. The

motion must be accompanied by a separate proposed order granting the motion.

(2) Except as ordered by the court, designated secured leave under Rule 26 of the General Rules of Practice for the Superior and District Courts of the State of North Carolina shall not be the sole basis for an extension of time or continuance.

(i) Motion Practice in Proceedings Seeking Relief Under 28 U.S.C. § 2255.

Local Civil Rule 7.1 and 7.2 shall govern motion practice in a proceeding seeking relief under 28 U.S.C. § 2255.

Rule 47.2 Supporting Memoranda

(a) Form and Content.

A memorandum shall comply with Local Criminal Rule 47.3 and shall contain:

(1) a concise summary of the nature of the case;

(2) a concise statement of the facts that pertain to the matter before the court for ruling;

(3) the argument (brevity is expected) relating to the matter before the court for ruling with appropriate citations in accordance with subsections (b), (c) and (d) of this rule;

(4) copies of any decisions in cases cited as required by subsections (c) and (d) of this rule

(b) Citation of Published Decisions.

Published decisions cited should include parallel state court citations, the year of the decision, and the court deciding the case. The following are illustrations:

(1) State Court Citation: *Rawls v. Smith*, 238 N.C. 162, 77 S.E.2d 701 (1953).

(2) District Court Citation: *Smith v. Jones*, 141 F. Supp. 248 (E.D.N.C.

1956).

(3) Court of Appeals Citation: *Smith v. Jones*, 237 F.2d 597 (4th Cir. 1956).

(4) United States Supreme Court Citation: *Smith v. Jones*, 325 U.S. 196 (1956). United States Supreme Court cases should be cited in accordance with current Bluebook form.

(c) Citation of Authorities Not Appearing in Certain Published Sources.

Any authority (e.g., court decision, administrative decision, regulation) that is not available on LexisNexis or Westlaw may be cited if a copy of the authority is filed as an exhibit to the motion or memorandum in which it is cited.

(d) Citation of Unpublished Decisions.

A decision designated as "unpublished" by a United States District Court may be considered by this court. A decision designated as "unpublished" by a United States Court of Appeals will be given due consideration and weight but will not bind this court. In accordance with subsection (c) of this rule, if such an "unpublished" decision is not available on LexisNexis or Westlaw, a copy of it shall be filed as an exhibit to the motion or memorandum in which it is cited.

(e) Provision of Authorities.

If an authority is not reasonably available to an opposing party or nonparty, the moving person citing that authority shall furnish the authority to the opposing party or nonparty upon request.

(f) Length of Memoranda.

Unless the court orders otherwise, memoranda must conform to either the page limits or word limits below.

(1) Headings, footnotes, citations, and quotations in a memorandum count toward the page and word limits. The case caption, the signature block, any required certificates, any table of contents, any table authorities, and any attachments, exhibits, affidavits, and other addenda to a memorandum do not count toward the page and word limits.

(2) Page Limits.

(A) A memorandum in support of or in opposition to a motion shall not exceed 30 pages in length.
(B) A reply or surreply memorandum (where allowed) shall not exceed 10 pages in length.

(3) Word Limits.

(A) A memorandum in support of or in opposition to a motion shall not exceed 8400 words.
(B) A reply or surreply memorandum (where allowed) shall not exceed 2800 words.

A memorandum under this subsection (f)(3) must contain a certificate, signed by the attorney or unrepresented party, attesting that the memorandum complies with the applicable word limit. The signer of the certificate may rely on the word count generated by word processing software, as long as the software counts the elements required by subsection (f)(1). The certificate must state the number of the words in the memorandum.

Rule 47.3 Form of Pleadings, Motions and Documents

All pleadings, motions, discovery procedures, memoranda and other papers filed with the clerk or the court shall:

(a) be double-spaced on single-sided, standard letter size (8 ½ x 11) paper, with all typed matter appearing in at least 11 point font size with a one inch margin on all sides;

(b) state the court and division in which the action is pending;

(c) except for the initial filing, bear the case number assigned by the clerk;

(d) contain the caption of the case;

(e) if applicable, state the title of the pleading, motion, discovery procedure or document and the federal statute or rule number under which the party is proceeding;

(f) contain the individual name, firm name, address, telephone number, fax

number, e-mail address and state bar identification, where applicable, of all attorneys who appear for the filing person, including any attorney making a special appearance pursuant to Local Criminal Rule 57.1(e);

(g) bear the date when it was signed;

(h) be signed by an attorney or unrepresented person;

(i) include below the filer's signature, on the line immediately below, the typed or printed name in the same form as the signature. In preparation of documents for signature by a judge or magistrate judge, a blank space shall be provided below the signature line in which the name may be typed or printed;

(j) have each page numbered sequentially; and

(k) absent an order of the court upon a showing of good cause, be in the English language unless translations are furnished. Any English translation shall include a certification that the translation is accurate. Partial translations are acceptable if the person filing the document believes that the portion translated is sufficient to address the issues being litigated. Within 14 days of the filing of the translated document, any opposing party or nonparty may file objections to the translation or to the partial nature of the translation, or may file additional partial or complete translations of the document as it believes necessary.

The following forms are examples to be followed:

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. __:____-___-__

UNITED STATES OF AMERICA	)	
	)	
v.	)	MOTION TO TRANSFER
	)	PROCEEDING
	)	FED. R. CRIM. P. 21(a)
AARON T. JONES,	)	
Defendant.	)	

(Closing)

This ____ day of January 202_.

_____
John B. Counselor
Abbot, Ball and Counselor
Attorneys at Law
200 Main Street
Post Office Box 50
Raleigh, North Carolina 27602
John.B.Counselor@email.address.com
(919) 878-8787
Fax (919) 878-8000
State Bar No.
Attorney for Defendant

Rule 47.4 Form of Exhibits to Motions

Exhibits containing double-sided documents are not permitted and will not be considered by the court. Condensed deposition transcripts are discouraged.

[Rule 47.5] [Implementing Requirements of the E-Government Act of 2002]

(Rescinded eff. December 1, 2007)
See Fed. R. Civ. P. 5.2

Rule 47.6 *Ex Parte* Motions

Unless the related case is already under seal, an *ex parte* motion shall only be sealed upon specific order of the court. A motion requesting permission to file an *ex parte* motion under seal shall include the *ex parte* motion as an attachment. The clerk shall treat the motion to seal and attachment as sealed pending order of the court.

Rule 48.1 Reserved for Future Purposes

Rule 49.1 Filing and Service of Papers

(a) Electronic Filing.

(1) Documents submitted for filing.

Unless otherwise permitted by the Electronic Case Filing Administrative Policies and Procedures Manual (Policy Manual), or otherwise authorized by the assigned judge, all documents submitted for filing shall be filed electronically in searchable text format using the Case Management/Electronic Case Filing system(CM/ECF) and in accordance with the Policy Manual. A system generated Notice of Electronic Filing (NEF) shall be the official confirmation of electronic filing. Any document electronically filed or converted by the clerk's office to electronic format shall be the official record of the court. As such, the clerk's office will not maintain a paper record of these documents. The clerk's office will not accept any e-mail or facsimile transmission for filing unless ordered by the court.

(2) Court-Generated Documents

All orders, decrees, judgments, and records of criminal proceedings will be filed in accordance with the Policy Manual, which shall constitute entry of that document on the criminal docket kept by the clerk in accordance with Fed. R. Crim. P. 55 and as contemplated by Fed. R. App. 4(b). All signed orders will be filed electronically by the court or court personnel. Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order or other court-issued document and it had been entered on the docket in a conventional manner. Orders may be 'text only' entries on the docket, without an attached document. Such orders are official and binding.

(b) Registered User.

Only an attorney who is registered in CM/ECF may file documents electronically.

(c) Authorized User of CM/ECF Password.

No attorney shall knowingly permit or cause to permit the attorney's

CM/ECF password to be used by anyone other than an authorized employee of the attorney's law firm. No person shall knowingly use or cause another person to use the password of a registered attorney unless such person is an authorized employee of the attorney's law firm.

(d) Entry on Docket.

The electronic filing of a document in accordance with the Policy Manual shall constitute entry of that document on the docket kept by the clerk under Fed. R. Crim. P. 55 Except in the case of documents first filed in paper, a document filed electronically is deemed filed at the date and time stated on the NEF that is automatically generated by CM/ECF.

(e) Service of Document.

(1) Documents Submitted for Filing

Except as provided in Section VI.F of the Policy Manual and subsection (f) below of this rule, when a document is filed in CM/ECF, it is served electronically on registered users in compliance with Fed. R. Crim. P. 49(a)(3)(A), and the time to respond shall be calculated from the date of the NEF, regardless of whether other means of service are used.. Non-registered persons must be served with a copy of any document filed electronically in accordance with the Federal Rules of Criminal Procedure. Service on any attorney currently appearing on behalf of a person shall be service on that person.

(2) Court-Generated Documents.

When more than one attorney appears on behalf of a person in a case, and not all of the attorneys for that person are registered filing users, service of any court-generated document (e.g., orders, notices) will only be made on the attorneys registered in CM/ECF. It is the responsibility of the non-registered attorneys to make arrangements with the attorney users for that person to remain apprised of the court-generated filings in that case. Non-registered attorneys will not receive paper copies from the court.

(f) Exceptions to Electronic Filing.

(1) Documents Excluded From Electronic Filing.

Unless otherwise ordered by the court, documents filed by an unrepresented person and those documents listed in Section V.A of the Policy Manual, shall be filed in paper form and are excluded from electronic filing. Any document filed in paper form that is not exempt pursuant to this section must be accompanied by a motion for leave to file the document and a proposed order. When filed in paper form, the document must have an original signature of the attorney or each unrepresented person A document filed in paper form shall be deemed filed on the date that it is received by the clerk except that for incarcerated unrepresented persons a document filed in paper form is deemed filed on the date that it is deposited in the institution's mailing system.

(2) Service of Documents Filed by an Unrepresented Person.

Unless the document is listed in Section V.A. of the Policy Manual, the clerk shall scan and electronically file a document submitted for filing by an unrepresented person. Except as provided for in Section VI.F of the Policy Manual, the electronic filing of the document by the clerk constitutes service on registered users in compliance with Fed. R. Crim. P. 49(a)(3)(A), and the deadline to respond to the document shall be calculated from the date of the NEF, regardless of whether other means of service are used. An unrepresented person must separately serve any non-registered person as provided in Fed. R. Crim. P. 49(a)(3)(B) or (a)(4).

(3) Service of Other Documents Excluded From Electronic Filing.

Any document filed in paper form pursuant to Section V.A of the Policy Manual or with leave of court must be served on opposing parties as provided in Fed. R. Crim. P. 49(a). Service on any attorney currently appearing on behalf of a person shall be service on that person.

(g) Privacy Protection for Filings Made with the Court

The responsibility for redacting personal identifiers rests solely with the filer. The clerk will not review each filed document and any attachments for compliance with Fed. R. Crim. P. 49.1.

Rule 50.1 Definition of Related Criminal Cases

"Related cases" are matters which, by sharing common events or defendants, would entail substantial duplication of labor in pretrial, trial, or sentencing proceedings if heard by different judges, including prior cases that have been closed or dismissed. Examples of related cases may include but are not limited to:

(a) matters arising out of the same conspiracy, common scheme, transaction, series of transactions or events; or

(b) matters involving one or more defendants in common.

Rule 50.2 Notice of Related Cases

(a) Notice by the government.

Upon determining that a later filed case and an earlier filed case are related cases as defined in Local Criminal Rule 50.1, the attorney for the government shall as soon as reasonably practicable file and serve in the later filed case a Notice of Related Criminal Case identifying the earlier field case and setting forth the reason why the cases are related. Whenever practicable , the government shall file the Notice with the indictment or information and serve it on the defendant's attorney promptly after that attorney's appearance in the case.

(b) Notice by defendant.

The defendant may file a Notice of Related Cases at such time as the defendant becomes aware that a later filed case and an earlier filed case are related cases. The Notice must identify the earlier filed case and set forth the reasons why the cases are related.

(c) Responses.

Any party may file a response to another's party Notice of Related Cases or to the *sua sponte* reassignment of a case under this rule or Local Criminal Rule 50.4 within 7 days after the Notice is served, or *sua sponte* reassignment is made, or within such time as the court may set. Whenever practicable, the court will resolve the assignment of the case within 14 days thereafter.

Rule 50.3 Criminal Transfers

(a) Indictment When Plea Pending.

Whenever an information or indictment originating in another district is transferred to this court pursuant to Fed. R. Crim. P. 20 and involves a defendant also proceeded against by indictment or information in this district, the clerk shall directly assign the Rule 20 transferred matter to the calendar of the judge to whom the matter arising in this district is assigned. If an indictment is returned in this district against a defendant who has a Rule 20 plea pending, the indictment shall be directly assigned to the judge to whom the Rule 20 plea has been assigned.

(b) Transfers of Jurisdiction.

(1) Whenever supervision of a defendant is transferred to this court from another district that is related to a pending or closed case in this district, and that fact has been brought to the attention of this court, then the incoming transfer of jurisdiction shall be directly assigned to the judge to whom the related case is assigned.

(2) If an incoming transfer of jurisdiction is related to more than one criminal case with more than one judge assigned, and this fact is brought to the attention of the court, then the incoming transfer of jurisdiction shall be directly assigned to the judge to whom the earlier case is assigned, unless otherwise directed by the court.

(3) If the incoming transfer of jurisdiction is a return of case that originated in this district, and this fact is brought to the attention of the court, then the transfer of jurisdiction shall be filed in the defendant's case in this district instead of opening a new case, unless otherwise directed by the court.

Rule 50.4 Indictment or Information Previously Dismissed

Whenever an indictment or information has been dismissed before trial, any new indictment or information involving the same transaction or series of transactions and at least a majority of the same defendants shall be directly assigned to the judge to whom the first indictment or information was assigned.

Rule 51.1 Reserved for Future Purposes

Rule 52.1 Reserved for Future Purposes

Rule 53.1 Photographing and Reproducing Court Proceedings

The taking of photographs or broadcasting or recording (in any form) of proceedings in the courtroom, court offices, or corridors immediately adjacent thereto during judicial proceedings or during any recess of the court is prohibited except as set forth herein. The taking of photographs or broadcasting or recording of ceremonial proceedings, such as naturalization proceedings, the administration of oaths of office to officers of the court, presentation of portraits, and other ceremonial occasions, may be allowed with the permission of the presiding judge and under the supervision and control of the court.

Rule 54.1 Reserved for Future Purposes

Rule 55.1 Exhibits

The clerk shall be the custodian of all exhibits admitted into evidence. Upon 14 days' notice by mail to all parties, the clerk may, within 30 days after the entry of final judgment, destroy or otherwise dispose of the exhibits.

Rule 55.2 Sealed Documents

(a) Filing Sealed Documents.

No cases or documents may be sealed without an order from the court. A person desiring to file a document under seal must first file a motion seeking leave in accordance with Section V.G of the CM/ECF Policy Manual. All sealed and proposed documents shall be maintained electronically in CM/ECF unless otherwise ordered by the court. First-time filers are strongly encouraged to call the CM/ECF Help Desk at 866-855-8894.

(b) Proposed Sealed Documents.

(1) Unless otherwise permitted by Section V.G of the CM/ECF Policy

Manual or order of the court, all proposed sealed documents must be accompanied by a motion to seal. The motion to seal shall be a public document and noted with a docket entry that gives the public notice of the request to seal. The docket entry for the proposed sealed document shall identify it as a "proposed" sealed document and describe the type of document it is (e.g., affidavit, record) and the substantive motion or other specific proceedings in the case to which it relates (e.g., in support of defendant's motion to compel at D.E. ____). The proposed sealed document is deemed to be provisionally sealed until the court rules on the motion to seal.

(2) If the motion to seal is granted, the clerk will remove the word "proposed" from the docket entry.

(3) If the motion to seal is denied, the document will remain sealed and the word "proposed" will remain in the docket entry for the document in order to preserve the record. The document will not be considered by the court, except as provided herein or as otherwise ordered by the court. A person desiring to remove a proposed sealed document or docket entry therefor from the docket sheet must file a motion to strike in accordance with Local Criminal Rule 47.1. A person whose motion to seal is denied but that desires the court to consider a proposed sealed document as a publicly filed document shall file the document as a public document within 3 days after entry of the order denying the motion to seal or within such other period as the court directs.

(c) Return of Sealed Documents.

(1) For those sealed documents not scanned into CM/ECF, upon 14 days' notice to all parties, the clerk may destroy or dispose of the sealed documents, unless the person who filed them retrieves them from the clerk. This notice may occur no earlier than 30 days after the judgment of conviction has become final and the one-year period of limitation within which to file a motion under 28 U.S.C. § 2255 has expired, and in the event a § 2255 motion is filed, then after the conclusion of the litigation. If the trial results in an acquittal or dismissal as to all counts and all defendants, then the 30-day period would begin to run from the date of the jury verdict or the court's order of acquittal or dismissal, unless the government appeals, in which case the period would begin to run after that appellate litigation has been completed and any proceedings on remand have become final.

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(2) If, during the fourteen-day period after the clerk has given notice of intent to dispose of the sealed documents, any person files an objection to such disposition, the presiding judge in the case shall resolve the dispute over the proposed disposition.

(d) Procedures for Manual Filers.

For those persons who are required to manually file all court documents (i.e., unrepresented persons), proposed sealed documents shall be delivered to the clerk's office in paper form in a sealed envelope. The proposed sealed documents must be accompanied by a motion to seal in accordance with Section V.G of the CM/ECF Policy Manual. Both the documents and the envelope shall be prominently labeled "UNDER SEAL." The envelope must also have written on it: the case caption; the case number; the title of the document or, if the title contains proposed sealed information, the title omitting the proposed sealed information; and the following notice in all capital letters and prominently displayed:

PROPOSED SEALED DOCUMENTS: SUBMITTED PURSUANT TO MOTION TO SEAL.

Rule 56.1 Courts and Clerks

(a) Court in Continuous Session.

This court shall be in continuous session in all divisions of the district on all business days throughout the year. All matters not reached at the regular sessions of court are deemed to be in an open status and subject to being called for disposition before the next regular session of court upon reasonable notice to the interested parties.

(b) Assignment of Cases to a Division.

The clerk shall assign all criminal indictments to a division when an indictment is filed or transferred. If the indictment alleges the crime occurred within the district, the clerk shall assign the action to the division in which the crime is alleged to have occurred. In cases where it is not alleged that the crime occurred in the district or in cases in which it is unclear in which division the alleged crime occurred, the clerk shall assign the indictment to the division in which the first named defendant who resides

within this district resides. In all other instances, an indictment shall be assigned to a division in the discretion of the clerk.

(c) Orders and Judgments.

The clerk or deputy clerk is authorized to enter the orders and judgments listed below without further direction of the court. However, such action may be suspended, altered, or rescinded by the court for cause shown.

(1) Consent orders for substitution of attorneys.

(2) Orders extending for a reasonable amount of time the period within which an act must be performed under the local rules of this court.

(3) Orders canceling liability on bonds.

(4) Orders changing the time of opening and adjourning court in the absence of the judge.

(5) Certification of law students and supervising attorneys pursuant to Local Civil Rule 83.2.

(6) Any other motion, rule or order which may be granted of course or without notice.

Rule 57.1 Attorneys

(a) Roll of Attorneys.

The bar of this court consists of those previously admitted and those hereafter admitted as prescribed by this Local Criminal Rule 57.1.

(b) Eligibility.

A member in good standing of the bar of the Supreme Court of North Carolina is eligible for admission to the bar of this court.

(c) Procedure for Admission.

Before being presented to the court to take the required oath, an applicant for admission shall certify in a written application that such applicant:

(1) Is a member in good standing of the bar of the Supreme Court of North Carolina; and

(2) Has studied the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, and the local rules of this court.

In addition to these certifications, the written application shall contain the certification of two attorneys who are members in good standing of the bar of this court that the applicant is of good moral character and professional reputation and meets the requirements for admission. An applicant may be admitted to practice in this court by a district judge, bankruptcy judge, or magistrate judge of this court or of the United States District Court for the Middle District or Western District of North Carolina upon oral motion by a member of the bar of this court. If the motion for admission is granted, the applicant shall take the following oath or affirmation:

> *I do solemnly swear [affirm] that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic, and that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will conduct myself as an attorney of this court, uprightly and according to law. So help me God. [This is my solemn affirmation.]*

Following the administration of the oath or affirmation, the application shall be signed by the district judge, bankruptcy judge, or magistrate judge and the applicant shall file with the clerk the application, accompanied by the filing fee required by the Administrative Office of the United States Courts and this court for admission to practice in this district. The clerk shall then issue the applicant a certificate of admission to the bar of this court.

(3) Current law clerks to district judges, magistrate judges, and bankruptcy judges within this District shall be admitted to the bar of this court without payment of an admission fee.

(d) Representation by Local Attorneys Who Must Sign All Pleadings.

Persons appearing in criminal actions in this court, except governmental agencies and unrepresented parties, must be represented by at least one member of the bar of this court who shall sign all documents filed in this court, including his or her state bar number and fax number in the signature block on all pleadings. If an attorney appears solely to bring a person in compliance with this local rule, he or she shall in each instance designate himself or herself "Local Criminal Rule 57.1(d) Attorney." In signing the pleading, motion, discovery request, or other document, the attorney

certifies that he or she is an authorized representative for communication with the court about the litigation and that the document conforms to the practice and procedure of this court. For failure to comply with the requirements of this rule, the court may on motion or its own initiative disqualify individuals from serving as local attorneys. Signatures in the following form shall be sufficient to comply with this local rule. Local Criminal Rule 57.1(d) Local Attorneys must include the state bar number and fax number in the signature block on all pleadings:

_____
Jane M. Jones
Jones, Jones and Jones
P.O. Box 500
New York, NY 10050
(212) 555-1212
Jane.jones@email.address.com
State Bar No.
Attorney for Defendant

_____
John B. Counselor
Abbott, Ball and Counselor
P.O. Box 50
Raleigh, NC 27602
John.B.Counselor@email.address.com
(919) 878-8787
Fax (919) 878-8000
State Bar No.
Local Criminal Rule 57.1(d) Attorney for Defendant

(e) Appearances by Attorneys Not Admitted in the District – Special Appearance.

(1) Attorneys who are members in good standing of the bar of a United States Court and the bar of the highest court of any state or the District of Columbia may practice in this court for a particular case in association with a member of the bar of this court. By filing a Notice of Special Appearance (available on the district's website), completing an Electronic Filing Attorney Registration Form, and

complying with Section IV.D of the Policy Manual, an attorney agrees that:

(a) the special appearance attorney will be responsible for ensuring the presence of an attorney who is familiar with the case and has authority to control the litigation at all conferences, hearings, trials and other proceedings;

(b) the attorney submits to the disciplinary jurisdiction of the court for any misconduct in connection with the litigation in which the attorney is specially appearing;

(c) for purposes of Fed. R. Civ. P. 11, the Federal Rules of Civil and Criminal Procedure and the Local Criminal Rules of this court, the special appearance attorney's electronic signature shall carry the same force and effect as an original signature; and

(d) the special appearance attorney shall submit any document to Local Criminal Rule 57.1(d) counsel for review prior to filing the document with this court.

(2) An attorney who is not a member of the bar of this court will not receive electronic notification until the attorney becomes a registered CM/ECF filer with this court and files a Notice of Special Appearance.

(3) A member of the bar of this court who accepts employment in association with a special appearance attorney is responsible to this court for the conduct of the litigation of the proceeding, must be a CM/ECF registrant, and shall review for submission by the special appearance attorney all pleadings and papers electronically filed. The responsibility of the member of the bar who accepts employment in association with a special appearance attorney and designates him or herself as Local Criminal Rule 57.1(d) local counsel shall be governed by Local Criminal Rule 57.1(d).

(4) Any document filed by a special appearance attorney that does not comport with associated Local Criminal Rule 57.1(d) attorney's standards may be objected to. Any such objection must be filed within 7 days of the issuance of the NEF for the document.

(5) A special appearance is not a substitute for admission to the bar of this court;it is intended only to facilitate occasional appearances. Unless otherwise ordered for good cause shown, no attorney may be admitted pursuant to Local Criminal Rule 57.1 in more than three unrelated cases in any twelve-month period, nor may any attorney be admitted pursuant to Local Criminal Rule 57.1 in more than three active unrelated cases at any one time.

(f) Pleadings, Service and Attendance by Local Attorneys in Cases Where Out-of-State Attorneys Appear by Special Appearance.

Pleadings and other documents filed in a case where an attorney appears who is not admitted to the bar of this court shall contain the individual name, firm name, address, and phone number of both the attorney making a special appearance under this local rule and the associated local attorney. As part of making an appearance in every case, an attorney also shall file contemporaneously a corporate affiliate/financial interest disclosure statement in accordance with Fed. R. Crim. P. 12.4 and Local Criminal Rule 12.3. The service of all pleadings and notices as required shall be sufficient if served only upon the associated local attorney. The local attorney shall attend all court proceedings unless excused by the court.

(g) Withdrawal of Appearance.

No attorney or law firm whose appearance has been entered shall withdraw his or her appearance or have it stricken from the record except with leave of the court. However, if an attorney within the same firm replaces counsel for a party, the new attorney may file a notice of substitution of counsel and the court will substitute the attorneys without order of the court.

(h) Courtroom Decorum.

Attorneys shall conduct themselves with dignity and propriety. Attorneys shall rise when addressing the court, and all statements to the court shall be made from a counsel table or from behind the lectern facing the court. Attorneys shall not approach the bench unless requested to do so by the court or unless permission is granted upon the request of the attorney.

(i) Questioning of Witnesses.

Only one attorney for each party may question a particular witness unless the court allows otherwise. Attorneys shall remain seated while questioning witnesses.

(j) Professional Standards.

The ethical standard governing the practice of law in this court is the Revised Rules of Professional Conduct, now in force and as hereafter modified by the Supreme Court of North Carolina, except as may be otherwise provided by specific rule of this court. Attorneys are directed to advise the clerk within 14 days of disciplinary action taken against them resulting in suspension or disbarment. The disciplinary procedures of this court shall be on file with the clerk and furnished to the attorney upon request.

(k) Admission of Attorneys Previously Admitted to the United States District Courts for the Middle or Western Districts of North Carolina.

Attorneys already admitted to the bar of either the United States District Court for the Middle District of North Carolina or the United States District Court for the Western District of North Carolina may be admitted to the bar of this court upon tendering the application and fees required by subsection (c) of this rule, together with a copy of the order admitting the attorney to practice in one of the other districts, without the necessity of taking the oath that is otherwise required and without obtaining the character certification by two members of the bar of this court.

(l) Electronic Devices in Courtroom Facilities.

(1) Attorneys are subject to the Standing Order on Prohibition of Wireless Communication Devices in Courtroom Facilities dated August 15, 2005, 05-PLR-7. To be exempted from the Order, attorneys will be required to present a bar card to the court security officer to retain a cellular phone, smartphone, laptop, tablet, or other electronic device. If an attorney fails to present a bar card, the attorney will be prohibited from bringing any such item into the courthouse.

(2) By bringing an electronic device into the courthouse, an attorney agrees to the following:

(A) The electronic device will not be used to record, broadcast, or transmit any video images or audio sounds.

(B) While in the courtroom, the attorney will ensure that no sounds are emitted from the device.

(C) Upon entering the United States District Courthouse in the Eastern District of North Carolina, the electronic device will be screened by the Court Security Officers using visual observation, x-ray scanning, chemical detection devices or other screening methods.

(D) The attorney will maintain custody over the electronic device and will not allow it to be used by anyone else unless the attorney has been given Court permission.

(E) Failure to comply with these provisions may result in loss of the attorney's right to use an electronic device in the United States District Courthouses in the Eastern District of North Carolina, confiscation of the device, or other court sanctions, including but not limited to contempt of court.

(3) Persons using wireless communication devices for evidence presentation or for other similar purposes must notify the court prior to the commencement of any proceeding that such a device is in their possession.

(4) Judges may permit additional exceptions to or impose additional limitations on the use of wireless electronic devices within courtroom facilities at their discretion.

Rule 57.2 Student Practice Rule

(a) Compliance with Rule.

Students may participate as attorneys in civil and criminal cases in this court subject to their compliance with all of the requirements of this rule.

(b) Eligibility.

An eligible student must:

(1) be duly enrolled in a law school accredited or provisionally accredited by the American Bar Association;

(2) have completed at least three semesters of legal studies;

(3) have knowledge of the Federal Rules of Civil and Criminal

Procedure, the Federal Rules of Evidence, the Code of Professional Responsibility, and the local rules of this court;

(4) be supervised by a supervising attorney as defined in subsection (c) of this rule

(5) be certified by the Dean of the Law School where the student is enrolled, or the Dean's designee, as being of good character and sufficient legal ability and adequately trained to fulfill the responsibilities of a legal intern to both the client and the court;

(6) be certified by the court to practice pursuant to subsection (d) of this rule; and

(7) decline personal compensation for his or her legal services from a client or any other source.

(c) Supervising Attorney.

A supervisor must:

(1) either (i) have faculty or adjunct faculty status at a law school at which a portion of the supervisor's duties includes supervision of students in a clinical program; or (ii) be a member of the bar of this court for at least two years, who in the determination of the court, is competent to carry out the role of supervising attorney;

(2) be admitted to practice in this court;

(3) be certified by the court as a student supervisor;

(4) be present with the student at all times in court, and at other proceedings in which testimony is taken;

(5) co-sign all pleadings or other documents filed with the court;

(6) assume full personal and professional responsibility for a student's guidance and any work undertaken and for the quality of the student's work, and to be available for consultation with represented clients;

(7) assist and counsel the student in activities mentioned in subsection (e) of this rule, and review such activities with the student, to the

extent required for proper practical training of the student and the protection of the client; and

(8) supplement oral or written work of the student as necessary to ensure proper representation of the client.

(d) Certification of Student and Supervisor.

(1) Student. The court's certification of a student to practice under this rule shall be filed with the clerk and shall remain in effect for 18 months or until the student graduates from law school, whichever is earlier. Certification to appear generally or in a particular case may be withdrawn by the court at any time, in the discretion of the court, and without any showing of cause.

(2) Supervising Attorney. Certification of the supervising attorney shall be filed with the clerk, and shall remain in effect indefinitely unless withdrawn by the court, in its discretion, and without any showing of cause.

(e) Activities.

A certified student may under the personal supervision of his or her supervisor:

(1) represent any client including federal, state or local governmental bodies, if the client on whose behalf the certified student is appearing has consented in writing to that appearance and the supervising attorney has given written approval of that appearance;

(2) represent a client in any criminal, civil or administrative matter; however, the court retains the authority to limit a student's participation in any individual case;

(3) in connection with matters in this court, engage in other activities on behalf of the client in all ways that a licensed attorney may, under the general supervision of the supervising attorney; however, a student shall make no binding commitments on behalf of a client absent prior client and supervisor approval, and in any matters, including depositions, in which testimony is taken the student must be accompanied by the supervising attorney. Documents or papers filed by the student shall be read, approved, and co-signed by the supervising attorney. The court retains the authority to establish

exceptions to such activities; and

(4) prior to oral participation by a certified student in a hearing or trial, the supervising attorney shall provide the court with a written statement of the anticipated scope of the student's participation.

Rule 57.3 Change of Address

All attorneys and unrepresented persons in a criminal action must notify the court in writing within 14 days of any change of address. Failure to notify the court in a timely manner of an address change may result in dismissal of the action or the imposition of such other relief that the court deems just and proper.

Rule 57.4 Correspondence

Correspondence addressed to the court shall indicate that copies have been transmitted to all other parties; failure to transmit the same to all other parties may result in sanctions by the court. Such correspondence shall not become a part of the record in the case.

Rule 57.5 Disciplinary Rules

The rules governing the discipline of attorneys set forth in Local Civil Rule 83.7a - 83.7k are also applicable to attorneys practicing in criminal cases.

Rule 57.6 Courtroom Technology

If a party or nonparty needs to use any type of courtroom technology for a hearing or trial, including but not limited to any audio equipment, video equipment, document presentation system, and jury evidentiary recording system, the party or nonparty must notify the case manager and request training from the court's information technology staff for the person or persons who will be operating the courtroom technology. Unless excepted by the clerk, no later than 7 days before the scheduled proceeding, the party or nonparty must file a certification provided by the court's technology staff that training has been completed.

Rule 58.1 Magistrate Judges

(a) Disposition of Misdemeanor Cases -- 18 U.S.C. § 3401.

A magistrate judge may:

(1) try persons accused of, and sentence persons convicted of, misdemeanors committed within this District in accordance with 18 U.S.C. § 3401;

(2) direct the probation service of the court to conduct a presentence investigation in any misdemeanor case; and

(3) conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States.

(b) Appeal from Judgments in Misdemeanor Cases -- 18 U.S.C. § 3402.

A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case by filing a notice of appeal and paying the filing fee as set out in the District Court Miscellaneous Fee Schedule within 14 days after entry of the judgment, and by serving a copy of the notice upon the attorney for the government. The scope of appeal shall be the same as on an appeal from a judgment of the district court to the court of appeals.

(1) Upon receipt of the notice of appeal, the clerk shall docket the appeal and assign the case to a district judge.

(2) The record on appeal shall consist of the original papers and exhibits filed in the proceedings before the magistrate judge and the record of proceedings.

(3) Unless excused by order of the district judge, every appellant shall be responsible for preparation of a typewritten transcript of the proceedings before the magistrate judge from which an appeal has been taken. Preparation of the transcript should be coordinated with the clerk of court. A copy of the record of such proceedings shall be made available at the expense of the court to a person who establishes by affidavit the inability to pay or give security therefore.

(4) Within 21 days of the date on which the transcript is filed in the clerk's office, or if there is to be no transcript, within 21 days of the filing of the notice of appeal, the appellant shall serve and file a memorandum which shall enumerate each reversible error claimed to have occurred in the proceedings before the magistrate judge and

shall explain the factual and legal basis for each claimed error, with citations to the record and to pertinent legal authorities, and any objections to the transcript. Within 21 days of service of the appellant's memorandum, the appellee shall serve and file a memorandum that responds to each claim of error, and any objections to the transcript. The appellant may serve and file a reply brief within 7 days of service of the appellee's brief. All memoranda shall conform to the requirements and length restrictions of Local Criminal Rules 47.2 and 47.3. Reply briefs shall be limited to 10 pages.

(5) The district judge to whom the appeal is assigned may hear oral argument or may decide the appeal on the briefs. Requests for oral argument shall be made at the time briefs are filed and shall be granted at the discretion of the district judge.

Rule 58.2 Forfeiture of Collateral in Lieu of Appearance

As provided in Fed. R. Crim. P. 58(d)(1), a person who is charged with a petty offense or other misdemeanor, whether it is a violation of a federal statute or regulation, or a violation of an assimilated state law, may be permitted, in lieu of appearance, to post collateral for the offense, waive appearance before the court, and consent to forfeiture of the collateral. The offenses for which collateral may be posted and forfeited in lieu of appearance and the amount of collateral to be posted are set out in written schedules approved by the court, on file with the clerk, and posted on the court's website. Collateral may not be forfeited in lieu of appearance with respect to any offense for which appearance is specified as mandatory in a schedule or any offense the citation for which specifies that appearance is required.

Rule 59.1 Reserved for Future Purposes

Rule 60.1 Reserved for Future Purposes

Rule 61.1 Publicity in Criminal Matters

(a) In General.

All court personnel, including but not limited to the marshal and deputy

marshals and office personnel, the clerk and deputy clerks and office personnel, probation officers and office personnel, bailiffs, court reporters, and the district judges' and magistrate judges' office personnel, are prohibited from disclosing to any person, without authorization of the court, information relating to any pending matter that has not been filed as a part of the public records of the court. This proscription applies to the divulgence of any information concerning arguments and hearings held in chambers or otherwise outside the presence of the jury or the public.

(b) Statements by One Participating in or Associated with an Investigation.

An attorney participating in or associated with the investigation of a criminal matter shall not make or participate in making any extra-judicial statement that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:

(1) information contained in a public record;

(2) that the investigation is in progress;

(3) the general scope of the investigation including a description of the offense and, if permitted by law, the identity of the victim;

(4) a request for assistance in apprehending a suspect or assistance in other matters and the information necessary thereto; and

(5) a warning to the public of any dangers.

(c) Statements After Filing Complaint, Information, or Indictment, Issuance of Warrant or Arrest.

An attorney or law firm associated with the prosecution or defense of a criminal matter shall not, from the time of the filing of a complaint, information, or indictment, the issuance of an arrest warrant, or arrest until the commencement of the trial or disposition without trial, make or participate in making an extra-judicial statement that a reasonable person would expect to be disseminated by means of public communication that relates to:

(1) the character, reputation, or prior criminal record (including arrests, indictments, or other charges of crime) of the accused;

(2) the possibility of a plea of guilty to the offense charged or to a lesser offense;

(3) the existence or contents of any confession, admission, or statement given by the accused or the refusal or failure of the accused to make a statement;

(4) the performance or results of any examinations or tests or the refusal or failure of the accused to submit to examination or tests;

(5) the identity, testimony, or credibility of a prospective witness; or

(6) any opinion as to the guilt or innocence of the accused, the evidence, or the merits of the case.

(d) Statements That Can Be Made.

This local rule does not preclude an attorney during such period from announcing:

(1) the name, age, residence, occupation, and family status of the accused;

(2) if the accused has not been apprehended, any information necessary to aid in apprehension of the accused or to warn the public of any dangers the accused may present;

(3) a request for assistance in obtaining evidence;

(4) the identity of the victim of the crime;

(5) the fact, time, and place of arrest, resistance, pursuit, and use of weapons;

(6) the identity of investigating and arresting officers or agencies and the length of the investigation;

(7) at the time of seizure, a description of the physical evidence seized, other than a confession, admission or statement;

(8) the nature, substance, or text of the charge;

(9) quotations from or references to public records of the court in the case;

(10) the scheduling or result of any step in the judicial proceedings; or

(11) that the accused denies the charges made against him.

(e) Statements During Jury Selection or Trial.

During the selection of a jury or the trial of a criminal matter, an attorney or a law firm associated with the prosecution or defense of a criminal matter shall not make or participate in making any extra-judicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to the trial, parties, or issues in the trial or other matters that are reasonably likely to interfere with a fair trial, except that the attorney may quote from or refer without comment to public records of the court in the case.

(f) Statements After Trial, Disposition without Trial, or Sentencing.

After the completion of a trial or disposition without trial of a criminal matter and prior to the imposition of sentence, an attorney or a law firm associated with the prosecution or defense shall not make or participate in making an extra-judicial statement that a reasonable person would expect to be disseminated by public communication and that is reasonably likely to affect the sentence.

(g) Statements of Staff and Employees.

An attorney shall exercise reasonable care to prevent employees and associates from making an extra-judicial statement that the attorney would be prohibited from making under this rule.

Rule 100.1 Court Libraries

The clerk shall maintain the court libraries in the district. Use of the facilities is limited to judicial officers, court staff, and members of the bar of this court. Books shall not be removed from the library without the consent of the person responsible for the maintenance of the particular library and shall not be removed from the courthouse under any circumstances. A violation of this local rule shall be punishable as contempt of court.

Rule 100.2 Jurisdictional Agreements With Other Courts

The clerk shall maintain all jurisdictional agreements entered into by the Chief District Judge of this court and the Chief District Judge of any other United States District Court and a copy of such agreements shall be furnished to any person upon request.

ATTACHMENT C

United States District Court

Eastern District of North Carolina

Local Admiralty and Maritime Claims Rules

of

Practice and Procedure

May 2023

TABLE OF CONTENTS

LOCAL ADMIRALTY RULE A
GENERAL PROVISIONS

Rule A.1 Citation

These local admiralty rules apply to the admiralty and maritime proceedings as defined in Supplemental Rule A of the Federal Rules of Civil Procedure and shall be cited as "Local Admiralty Rule____."

Rule A.2 Scope

The Local Civil Rules of the United States District Court for the Eastern District of North Carolina apply to all civil cases, including admiralty and maritime proceedings, but if a local rule is inconsistent with a local admiralty rule, the local admiralty rule shall control. Alternative dispute resolution in admiralty and maritime cases shall be governed by the provisions of Local Civil Rules 101-101.3.

Rule A.3 Definitions

As used in these local rules,

(a) The term "court" means a United States District Judge or a United States Magistrate Judge.

(b) The term "person" refers to any human being, entity, or vessel.

(c) The term "party" refers to a person who assert a claim or has a claim asserted against him, her, or it. A represented party shall act through the party's attorney of record unless a particular rule states otherwise.

(d) The term "nonparty" refers to any person other than a party, an attorney, a judge, or court staff member who is acting in that capacity. A represented party nonparty shall act through the nonparty's attorney of record unless a particular rule states otherwise.

(e) The term "attorney" refers to an attorney of record for a person, unless the context of a particular rule refers to attorneys more generally.

(f) The term "unrepresented person" refers to a person during any time when the person is proceeding without an attorney.

(g) The term "movant" refers to a person makes a motion.

(h) The term "keeper" means any person or entity appointed by the marshal to take physical custody of and maintain the vessel or other property under arrest or attachment.

(i) The term "marshal" means the United States Marshal and includes deputy marshals.

(j) The term "substitute custodian" means the individual who or entity that, upon motion and order of the court, assumes the duties of the marshal or keeper with respect to the vessel or other property that is arrested or attached.

(k) The term "Supplemental Rule" followed by a capital letter, e.g., "Supplemental Rule C," refers to the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions.

Rule A.4 Pleadings and Parties

(a) Every complaint filed as a Fed. R. Civ. P. 9(h) action shall set forth:

(1) "In Admiralty" following the designation of the court, in addition to the statement, if any, contained in the body of the complaint pursuant to such rule; and

(2) The individual name, firm name, address, telephone number, fax number, email address and State Bar number where applicable, of all attorneys who appear for the filing party, including an attorney making a special appearance pursuant to Local Civil Rule 83.1(e) or the telephone number and address of the plaintiff, if plaintiff appears pro se.

(b) Every complaint in Supplemental Rule B and C actions shall state the amount of the debt, damages, or salvage for which the action is brought, and shall include in addition thereto the amounts of unliquidated claims, including a good faith estimate of attorney's fees to be supplemented seasonably. The

defendant or claimant may post bond pursuant to Supplemental Rule E(5) based on such allegations. When a bond is posted under the Local Admiralty Rules for any reason, notice of the posting with a copy of the bond attached shall be electronically filed in the case by the posting party. The paper original of the bond shall be retained by the posting party unless otherwise directed by the court.

(c) In cases of salvage, the complaint shall also state to the extent known or estimated the value of the hull, cargo, freight and other property salvaged, the amount claimed, the names of the principal salvors, and that the suit is instituted in their behalf and in the behalf of all other persons interested or associated with them. There shall also be attached to the complaint a list of all known salvors and all persons believed entitled to share in the salvage, and also any agreement of consortship available and known to exist among them or any of them, including a copy of any such agreement.

LOCAL ADMIRALTY RULE B
IN PERSONAM ACTIONS: ATTACHMENT AND GARNISHMENT

Rule B.1 Definition of "Not Found Within the District"

A defendant is considered to be "not found within the district" if, in an action in *personam*, service upon the defendant cannot be effected in person or upon an authorized officer or agent within the State of North Carolina or if the only effective service is through the Secretary of State, the North Carolina Long Arm Statute, or through any method of substituted service.

Rule B.2 Affidavit that Defendant is Not Found Within the District

The affidavit required by Supplemental Rule B(1)(b) to accompany the complaint shall specify with particularity the efforts made by and on behalf of the plaintiff to find and serve the defendant.

Rule B.3 Use of State Procedures

When the plaintiff invokes a state procedure to attach or garnish property under Fed. R. Civ. P. 4(n), the process of attachment and garnishment shall include a citation to the applicable state law.

LOCAL ADMIRALTY RULE C
IN REM ACTIONS: SPECIAL PROVISIONS

Rule C.1 Issuance of Process: Intangible Property

(a) Issuance and Effect of Summons.

The summons issued pursuant to Supplemental Rule C(3) shall direct the person having control of the funds or other intangible property to show cause no later than 14 days after service why the funds or other property should not be delivered to the court to abide the judgment. The court, for good cause shown, may shorten or lengthen the time. Service of the summons has the effect of an arrest of the property and brings it within the control of the court.

(b) Payment to Marshal.

The person who is served may deliver or pay over to the marshal the property or funds proceeded against, or a part thereof, sufficient to satisfy the claim. If such payment is made, the person served is excused from any duty to show cause.

(c) Manner of Showing Cause.

The claimant of the property may show cause why the property should not be delivered to the court by serving and filing a claim as provided in Supplemental Rule C(6) within the time allowed to show cause, and by serving and filing an answer to the complaint within 21 days thereafter.

(d) Effect of Failure to Show Cause.

If a claim is not filed within the time stated in the summons, or an answer is not filed within the time allowed under this Rule, the person who was served shall deliver or pay to the marshal the property or funds proceeded against, or a part thereof, sufficient to satisfy plaintiff's claim.

Rule C.2 Publication

(a) Publication required by Supplemental Rule C(4) shall be made once, without

further court order, in any one of the following newspapers:

Northern Division: The Virginian-Pilot (Norfolk, Virginia); The News and Observer (Raleigh, North Carolina)

Southern Division: Star News (Wilmington, North Carolina); The News and Observer (Raleigh, North Carolina)

All Other Divisions: The News and Observer (Raleigh, North Carolina)

(b) If the property arrested is not released within 14 days after execution of process, publication hereunder shall, unless otherwise ordered, be caused by the plaintiff or intervenor to be made within 21 days after execution of process.

(c) Such notice shall be substantially as follows, except and unless otherwise provided in actions for the enforcement of forfeitures for violation of any federal statute:

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
_____Division
In Admiralty
No.

Caption of Case

NOTICE: The United States Marshal, Eastern District of North Carolina, has on (date) arrested the (Vessel and appurtenances) (Property) in the above causes, civil and maritime for (nature of claim, i.e. contract, salvage, damage, collision, foreclosure of preferred mortgage, etc.) amounting to ($ (and nature of unliquidated items)). Any person who has not been previously served with process and who is entitled to possession or who claims an interest in the (Vessel or Property), must file a claim and serve an answer no later than (date 21 days after publication); otherwise, default may be entered and condemnation ordered.

DATED at (city of publication), (state), (month, day and year of publication).

(Name)

(Firm Name)
(Address)
(Telephone Number)
(Fax Number)
(N.C. Bar Number)
(Attorney(s)) for (Plaintiff)(Intervenor)

(d) Whenever publication is required, the person or party causing the publication shall file with the clerk, no later than 30 days after the date of publication, sworn proof of publication (1) by a person duly authorized by the newspaper to execute affidavits of legal notices, together with a copy of the publication or (2) through an affidavit executed by the person, party, or attorney of record. The affidavit shall include as an exhibit a copy of the required publication.

Rule C.3 Default In Action In Rem

(a) Notice Required.

Except in actions by the United States for forfeitures, a party seeking a default judgment in an action in rem must show that due notice of the action and arrest of the property has been given:

(1) By publication, as required in Local Admiralty Rule C.2;

(2) By service on the master or other person having custody of the property;

(3) By service on every other person who has not appeared in the action and is known to have an interest in the property; and

(4) By service in accordance with the Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1602 et seq., if the property is subject to that Act.

(b) Persons with Recorded Interests.

(1) If the defendant property is a vessel documented under the laws of the United States, a party seeking default judgment must obtain a current certificate of ownership or abstract of title from the United

States Coast Guard and attempt to serve persons named in the certificate or abstract who appear to have an interest in the property.

(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, 46 U.S.C. §§ 4301 et seq., a party seeking default judgment must attempt to serve persons named in the records of the issuing authority who appear to have an interest in the property.

(3) If the defendant property is of such character that there exists a governmental registry of recorded property interests or security interests in the property, a party seeking default judgment must attempt to notify all persons named in the records of each such registry who appear to have an interest in the property.

(c) Manner of Giving Notice.

A required notice, other than by publication, of the action and arrest of the property shall be given by delivery under Fed. R. Civ. P. 5(b).

Rule C.4 Entry Of Default

After the time for filing a claim or answer has expired, the plaintiff may request an entry of default under Fed. R. Civ. P. 55(a). Default will be entered upon the filing of an affidavit showing that:

(a) Notice has been given as required in Local Admiralty Rule C.3 or, in the case of forfeiture actions in rem arising from a federal statute, as required by Supplemental Rule G(4);

(b) Where available, a copy of any of the following is attached: the United States Coast Guard certificate of ownership or abstract of title; any numbering identification obtained from any issuing authority; and/or the information obtained from the private and/or governmental registries; and if not available, an explanation or description of the attempts to obtain the same;

(c) Where appropriate, notice has been attempted as required by Rule C.3(b); and

(d) No claim has been served or filed within the prescribed time or no answer

has been served or filed within the prescribed time.

The plaintiff may move for judgment under Fed. R. Civ. P. 55(b) at any time after default has been entered.

LOCAL ADMIRALTY RULE D
POSSESSORY, PETITORY, AND PARTITION ACTIONS

Rule D.1 Return Date in Possessory, Petitory, and Partition Actions

In an action under Supplemental Rule D, the court may order that the claim and answer be filed on a date earlier than 21 days after the arrest, and may by order set a date for expedited hearing of the action.

LOCAL ADMIRALTY RULE E
GENERAL PROVISIONS IN ACTIONS IN REM AND QUASI IN REM

Rule E.1 Verification of Pleadings And Answers to Interrogatories

Every complaint and claim in an action filed under the Supplemental Rules shall be verified on oath or solemn affirmation by a party, or an officer of a corporate party. If no party or corporate officer is within the district, verification of a complaint, claim or answers to interrogatories may be made by an agent, attorney-in-fact or attorney of record, who shall state briefly the sources of his or her knowledge, information and belief, declare that the document affirmed is true to the best of his or her knowledge, information and belief, state the reason why verification is not made by the party or a corporate officer, and that he or she is so authorized to act. Any such verification will be deemed to have been made by the party to whom a document might apply as if verified personally. Any interested party may move the court, with or without a request for stay, for the personal oath of any party or of a corporate party's officer. If required by the court, such verification shall be procured by commission or as otherwise ordered.

Rule E.2 Process

(a) Order Authorizing the Clerk to Issue Process of Arrest, Attachment or Garnishment.

Except in actions by the United States for forfeitures or where exigent circumstances make court review impracticable, the pleadings, the affidavit required by Supplemental Rule B, and accompanying supporting papers must be reviewed by the court pursuant to Supplemental Rules B and C before the clerk will issue a summons and process of arrest, attachment or garnishment to any party, including intervenors. The clerk may refer a motion under this provision to any district or magistrate judge. The motion may be heard and the decision thereon communicated to the clerk by telephone or other electronic communication. If the court finds the conditions set forth in Supplemental Rules B or C appear to exist, as appropriate, the court shall authorize the clerk to issue process. Supplemental process may thereafter be issued by the clerk upon application without

further order of the court.

(1) Order

Upon approving the application for arrest, attachment or garnishment, the court will issue an order to the clerk to issue such process. The proposed form of order authorizing the issuance of such process and the proposed process itself shall be submitted to the court or the clerk before the court's review.

(b) Exigent circumstances

If the plaintiff or the attorney of record certifies by affidavit submitted to the clerk that exigent circumstances make review by the court impracticable, the clerk shall issue a summons and warrant of arrest or process of attachment and garnishment. In actions by the United States for forfeitures for federal statutory violations, the clerk, upon filing of the complaint, shall immediately issue a summons and warrant for arrest of the vessel or other property without requiring a certification of exigent circumstances.

(c) Return of Process -- Supplemental Rules C and D.

Unless otherwise ordered by the court, all process from this court within the scope of Supplemental Rules C and D shall be returnable by claim no later than 14 days after execution of the process and by answer within 21 days following filing of a claim or, in the event the property is not released within 14 days after execution of process, by filing a claim and serving an answer within 21 days of publication as required by Supplemental Rule C(4).

Rule E.3 Seizure Of Property Already In Custody Of An Officer Of The United States

In addition to the requirements of Supplemental Rule C(3), where property in the custody of an officer or employee of the United States is to be arrested or attached, the marshal shall deliver a copy of the complaint and warrant for arrest, or summons and process of attachment, to such officer or employee or, if the officer or employee is not found within the district, then to the custodian of the property within the district. The marshal shall notify such officer, employee or custodian not to relinquish such property from custody until ordered to do so by the court.

Rule E.4 Post Arrest Procedure

(a) Whenever property is arrested, attached or garnished, any person claiming an interest in the property shall be entitled to a prompt hearing before the court on notice to the party bringing the arrest, attachment or garnishment and to all other parties who have appeared in the action. The hearing shall be noticed and scheduled as is a hearing on a request for temporary restraining order. At the hearing, the party that obtained the arrest, attachment or garnishment shall show cause why the arrest, attachment or garnishment order should not immediately be vacated or other appropriate relief granted.

(b) If the arrest, attachment or garnishment was obtained under a certification of exigent circumstances, the party obtaining the arrest, attachment or garnishment shall have the burden to show that exigent circumstances existed.

(c) This Rule shall have no application to suits for seamen's wages when process is issued upon a certification of sufficient cause filed pursuant to 46 U.S.C. §§ 603 and 604 or to actions by the United States for forfeitures.

Rule E.5 Release Of Seizures; Custodial Costs; General Bonds

(a) Property seized by the marshal may be released as follows:

(1) By the marshal upon the receipt of security by the marshal, accompanied by the endorsed express authorization for release signed by the party or counsel for the party as provided by Supplemental Rule E(5)(c) if all costs and charges of the court and its officers shall have first been paid. Monies received as part of any cash stipulation shall be delivered by the marshal to the clerk for deposit in the registry of the court.

(2) In an action entirely for a sum certain, by paying into the court the amount alleged in the complaint to be due, plus interest at the rate of 10% per annum from the date claimed to be due to a date 24 months after the date the claim was filed, or by filing an approved stipulation for such alleged amount and interest. In either event, claim of the

property shall be filed.

(3) In actions other than possessory, petitory, and partition, by filing, in addition to a claim of the property, an approved stipulation for the amount of the appraised or agreed value of the property seized, with interest (unless otherwise ordered by the court), interlocutory or final, and to pay the amount awarded by the final decree rendered by this court or by any appellate court, with interest.

(4) In possessory, petitory, and partition actions, only upon the order of the court, and on such security and terms as ordered.

(5) Upon the dismissal or discontinuance of the action or upon the written consent of the attorney for the party on whose behalf the property is detained, if all costs and charges of the court and its officers shall have first been paid.

(b) The marshal shall not deliver any property so released until costs and charges of the marshal shall first have been paid.

(c) In any general bond as provided for by Supplemental Rule E(5)(b) the vessel will be identified by name, nationality, dimension, official number or registration number, hailing port and port of documentation, to the extent applicable. The owner of such vessel shall also file complete designated United States address and email address, if available, for communications to the owner or designated agent, which shall be by mail or email. Execution of process against the vessel so stayed under Supplemental Rule E(5)(b) shall be endorsed to the marshal as stayed pursuant to the rule. Such process shall be served by the marshal together with a copy of the complaint on the master or other person in whose charge or custody the vessel is found and the marshal shall make his or her return thereof. If no master or other person in charge of custody is found aboard the vessel, the marshal shall so make his or her return accordingly, and the clerk shall advise by mail or email the owner or designated agent, at the address furnished pursuant to this rule, of the nature of the action, any amount claimed, the plaintiff, the name and address of plaintiff's attorney, the case number, and the return day 30 days from the date of the marshal's attempt. The clerk will maintain a current list of vessels subject to a general bond and file said bonds alphabetically by name of vessel and endorsed as provided by Supplemental Rule E(5)(b).

Rule E.6 Appraisal

(a) Order for Appraisal.

An order for appraisal of property so that security may be given or altered will be entered by the clerk at the written request of any interested party. If the parties do not agree in writing on the selection of the appraiser, the court will appoint the appraiser.

(b) Appraiser's Oath.

The appraiser shall be sworn to the faithful and impartial discharge of duties before any federal or state officer authorized by law to administer oaths, and a copy of the oath shall be filed with the clerk.

(c) Appraisal.

The appraiser shall give one day's notice of the time and place of making the appraisal to the parties who have appeared in the action. The appraiser shall file the appraisal in writing with the clerk as soon as it is completed and shall serve it on all parties.

(d) Cost of Appraisal.

Absent stipulation of the parties or order of the court to the contrary, the appraiser shall be paid by the party requesting the appraisal. Appraiser's fees shall thereafter be taxed as the court orders.

Rule E.7 Security Deposits for Seizure of Vehicles

(a) Deposit Required Before Seizure.

Any party, including any intervenor, who seeks arrest, attachment or garnishment of property in an action governed by Supplemental Rule E and Fed. R. Civ. P. 4(n) shall deposit with the marshal the sum estimated by the marshal to be sufficient to pay the fees and expenses of arresting, attaching, or garnishing and keeping the property for at least 14 days, or such lesser

amount as the marshal deems sufficient. The marshal is not required to execute process of arrest, attachment or garnishment until such deposit is made.

(b) Additional Deposits Required After Seizure.

Any party who has caused the marshal to arrest, attach or garnish property shall advance additional sums from time to time as required by the marshal to pay the fees and expenses of the marshal until the property is released or disposed of as provided in Supplemental Rule E.

(c) Sanction for Failure to Make Deposit.

Any party who fails to make a deposit when required by the marshal may be subject to sanctions including the release of the vessel.

Rule E.8 Stipulations And Undertakings

(a) Except in cases instituted by the United States by information, or complaint of information upon seizures for any breach of the revenue, navigation, or other laws of the United States, stipulations or bonds in admiralty and maritime actions need not be under seal and may be executed on behalf of the stipulator or obligor by his/her/its agent or counsel. Stipulations for costs with corporate surety need not be signed or executed by the party, but may be signed on the party's behalf by the party's agent or counsel, and shall be sufficient in any event if executed only by the surety approved by the court.

(b) If, before or after commencement of suit, the arresting, attaching or garnishing party accepts any written undertaking to respond on behalf of the vessel or other property sued in return for foregoing its arrest or for stipulating to the release of such vessel or other property, the undertaking shall be filed, shall become the res in place of the vessel or other property sued and shall be deemed the subject referred to when any pleading, order or judgment in the action refers to the vessel or other property. The preceding shall apply to any such undertaking, subject to its own terms, whether or not it has been approved by a judge or the clerk.

Rule E.9 Intervention

(a) Presentation of Claim.

When a vessel or other property has been arrested, attached or garnished, and is in the custody of the marshal or substitute custodian, anyone seeking to enforce a claim against the vessel or property shall file a complaint in intervention in the in rem action, unless otherwise ordered by the court. The clerk shall promptly provide a copy of the complaint in intervention and the intervenor's warrant of arrest or process of attachment or garnishment as filed to the marshal, who shall deliver the same to the vessel and custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of a party originally arresting, attaching or garnishing the vessel or property unless otherwise provided herein, and the vessel or property shall stand arrested, attached or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the marshal until ordered by the court.

(b) Intervention When Sale Has Been Scheduled.

No party may intervene without first obtaining leave of court if intervention is sought less than 21 days prior to the date for which a sale of the vessel or property has been set by the court.

(c) Compliance with Rules.

An intervenor must comply with the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the Federal Rules of Civil Procedure and these Local Admiralty Rules in accomplishing and perfecting the arrest, attachment or garnishment unless otherwise provided in this Rule E.10 or by order of the court.

(d) Sharing of Marshal's Fees and Expenses.

At any time after the filing of a complaint in intervention, any party to the action or the marshal may move the court for an order directing that the intervenor pay a fair share, as determined by the court, of the marshal's fees and expenses incurred and to be incurred for the arrest, attachment, garnishment, keeping, maintenance and security of the vessel or other property. A hearing on such motion may be held upon three days' notice.

(e) Intervenors' Obligations upon Vacation of the Arrest, Attachment or Garnishment.

If an original arrest, attachment or garnishment is vacated, a party who has filed a complaint in intervention in the in rem action which was presented in accordance with Local Admiralty Rule E.10(a) shall bear responsibility for the marshal's fees and expenses and shall deposit the sum required by the marshal for fees and expenses within 48 hours after receiving written notice from the marshal requiring such deposit. Such notice may be given as soon as the marshal learns that the original arrest, attachment or garnishment is to be vacated. If more than one complaint in intervention has been delivered to the marshal, the intervenors shall step into the position of the originally arresting, attaching or garnishing party as provided herein in order of the delivery of their complaints in intervention to the marshal.

(f) Service and Responsive Pleadings.

The intervenor shall serve a copy of (1) the complaint in intervention, (2) the order authorizing arrest, attachment or garnishment in intervention, and (3) the warrant, writ and/or summons in intervention on all parties who have appeared in the action pursuant to Fed. R. Civ. P. 5 and any order of the court. Within 21 days of such service, each party to the action shall serve an answer, motion or other responsive pleading to the complaint in intervention consistent with Fed. R. Civ. P. 12. The intervenor shall have 21 days from the filing of the complaint in intervention to file and serve an answer, motion or other responsive pleading to the complaints and claims previously filed in the action.

Rule E.10 Custody of Property

(a) Safekeeping of Property When Seized.

When a vessel, cargo or other property is seized, the marshal shall take custody and arrange for adequate and necessary security for its safekeeping which may include, in the marshal's discretion, the placing of keepers on or near the vessel, or the appointment of a facility or person as custodian of the property in lieu of the marshal. When a vessel with crew aboard is seized, the removal of such crew shall fall within the discretion of the marshal.

(b) Cargo Handling, Repairs and Movement of the Vessel.

Upon arrest or attachment of the vessel, no cargo handling, repairs or movement of the vessel may be made without a court order except in an emergency situation in the discretion of the marshal. Written notice shall be given to the marshal and to all parties who have appeared prior to the application for such order, and the certificate of service of such notice shall be filed with the clerk before application is made to the court. For good cause shown, the court may direct the marshal to allow the conduct of cargo handling, repairs, movement of the vessel or other operations on a vessel under arrest or attachment. Neither the United States nor the marshal shall be liable for the consequence of the undertaking or continuation of any such activities during the arrest or attachment.

(c) Motion for Change in Arrangements.

Prior to or after a vessel, cargo or property has been taken into custody by the marshal, any party then appearing may move the court to dispense with keepers or to remove or place the vessel, cargo or other property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the marshal and to all parties who have appeared.

(d) Insurance.

The marshal may order insurance to protect the marshal, his or her deputies, keepers and substitute custodians from liability assumed in arresting and holding the vessel, cargo or other property and performing whatever services are undertaken to protect the vessel, cargo or other property and maintain the court's custody. The party applying for arrest of the vessel, cargo or other

property shall reimburse the marshal for premiums paid for the insurance. The party applying for removal of the vessel, cargo or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium shall reimburse the marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo or other property is in *custodia legis*.

(e) A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the court who has not been paid and claims the right to payment as an expense of administration shall file a verified claim with the court at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim pursuant to Fed. R. Civ. P. 5(b), on the marshal, substitute custodian (if one has been appointed), and all parties of record. The court may consider the claims individually or schedule a single hearing for all claims.

Rule E.11 Sale of Property

(a) Publication of Notice of Sale.

Unless otherwise ordered upon a showing of urgency, impracticality or other good cause, or as provided by law, notice of the sale of property shall be published daily, at least twice, the first publication to be a least one calendar week prior to the date of sale and the second publication to be at least three calendar days prior to the date of sale, unless otherwise ordered by the court.

(b) Place of Sale.

The place of sale will occur at a federal courthouse in the division in which the property is located unless the court otherwise directs.

(c) Payment of Bid.

The person whose bid is accepted shall immediately pay the marshal either the full purchase price if the bid is no more than $500 or a deposit of $500 or ten percent of the bid, whichever is greater, if the bid exceeds $500. The bidder shall pay the balance of the purchase price within three days following

the sale. If an objection to the sale is filed within that time, the bidder is excused from paying the balance of the purchase price until three days after the sale is confirmed. Payments to the marshal shall be in cash, certified check or cashier's check. The court may specify different terms in any order of sale.

(d) Penalty for Late Payment of Balance.

A successful bidder who fails to pay the balance of the bid within the time allowed under these rules or a different time specified by the court shall also pay the marshal the costs of keeping the property from the date payment of the balance was due to the date the bidder pays the balance and takes delivery of the property. Unless otherwise ordered by the court, the marshal shall refuse to release the property until this additional charge is paid.

(e) Penalty for Default in Payment of Balance.

A successful bidder who fails to pay the balance of the bid within the time allowed is in default and the court may at any time thereafter order a sale to the second highest bidder or order a new sale as appropriate. Any sum deposited by the bidder in default shall be forfeited and applied to pay any additional costs incurred by the marshal by reason of the forfeiture and default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the court.

(f) Report of Sale by the Marshal.

At the conclusion of the sale, the marshal shall immediately file a written report with the court of the fact of sale, the date thereof, the price obtained, the name and address of the successful bidder, and any other pertinent information.

(g) Time and Procedure for Objection to Sale.

An interested person may object to the sale by filing a written objection with the clerk within three days following the sale, serving the objection on all parties, the successful bidder and the marshal, and depositing a sum with the marshal that is sufficient to pay the expense of keeping the property for at least 7 days. Payment to the marshal shall be in cash, certified check, or

cashier's check. The written objection must be endorsed by the marshal with an acknowledgment of receipt of the deposit prior to filing with the clerk.

(h) Confirmation of Sale Without Motion.

A sale shall stand confirmed as of course without any affirmative action by the court unless (1) written objection is filed with the court within the time allowed under these rules, or (2) the purchaser is in default for failure to pay the balance due to the marshal. The purchaser in a sale so confirmed as of course shall present a proposed order reflecting the confirmation of the sale for entry by the clerk no earlier than the fourth day following the sale. The marshal shall transfer title to the purchaser upon issuance of such order by the clerk.

(i) Confirmation of the Sale on Motion.

If an objection has been filed or if the successful bidder is in default, the marshal, the objector, the successful bidder, or a party may move the court for relief. Any person seeking a hearing on such motion may apply to the court for an order fixing the date and time of a hearing and directing the manner of giving notice and shall give written notice of the motion to the marshal, all parties, the successful bidder and the objector. The motion will be determined promptly by the court. The court may confirm the sale, order a new sale, or grant such other relief as justice requires.

(j) Disposition of Deposits.

(1) Objection Sustained.

If an objection is sustained, sums deposited by the successful bidder will be returned to the bidder immediately. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

(2) Objection Overruled.

If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector immediately.

(k) Title to Property.

Failure of a party to give the required notice of the action and arrest of the vessel, cargo or other property or required notice of the sale may afford grounds for objecting to the sale but does not affect the title of a bona fide purchaser of the property without notice of the failure.

Rule E.12 Taxation Of Costs

All applications for costs shall be made in accordance with Local Civil Rule 54.1 If costs shall be awarded to any party, then the reasonable premium or expenses paid on all bonds or stipulations or other security by the party in whose favor such costs are allowed shall be taxed as a part of the costs of the case. In addition, if costs shall be awarded to any party, then the reasonable expenses paid by a party incidental to or arising out of the attachment or arrest of any property in the proceedings or while said property is in *custodia legis* shall be taxed as a part of the costs of the case.

Rule E.13 Stay Of Execution Or Of Release Of Property After Judgment Or Dismissal

No execution of judgment shall issue nor shall seized property be released pursuant to judgment or order of dismissal, until 14 days after its entry. Upon the filing of a motion for new trial or notice of appeal or motion to set aside default within said 14 day period, a further stay shall exist for a period not to exceed 30 days from the entry of judgment or dismissal to permit the entry of an order fixing the amount of a supersedeas bond and the filing of same.

Rule E.14 Claims After Sale How Limited

Claims upon the proceeds of sale of property under a final decree, except for seamen's wages, shall not be admitted in behalf of lienors who file their claims after the sale, to the prejudice of lienors who filed their claims before the sale, but shall be limited to remnants and surplus, unless for cause shown it shall be otherwise ordered.

LOCAL ADMIRALTY RULE F
LIMITATION OF LIABILITY

Rule F.1 Security For Costs.

In complying with the provisions of Supplemental Rule F(1) concerning security for costs, if plaintiff elects to post cash, that sum shall be $500.00; if the plaintiff elects to post a bond, the amount of the bond shall be $500.00 plus interest at the rate of 6% per annum from the date of the security.

Rule F.2 Notice

Plaintiff shall effect publication required by Supplemental Rule F(4) without further court order, in any one of the following newspapers:

Northern Division: The Virginian-Pilot (Norfolk, Virginia); The News and Observer (Raleigh, North Carolina)
Southern Division: Star News (Wilmington, North Carolina);The News and Observer (Raleigh, North Carolina)
All Other Divisions: The News and Observer (Raleigh, North Carolina)

Rule F.3 Order Of Proof At Trial

In an action where a party seeks to limit liability under Supplemental Rule F, whether the right to limit arises as a claim or defense, the damage claimants shall offer their proof first.