

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

In the Matter of                   §  
LOCAL RULES for the               §  
SOUTHERN DISTRICT OF TEXAS   §  
   §

Entered February 22, 1994

ORDER No.    94-2

ORDER ADOPTING LOCAL RULES

After considering all comments received in response to the public notice and opportunity for comment given under 28 U.S.C. § 2071, the attached Local Rules are adopted for the United States District Court for the Southern District of Texas, effective February 22, 1994.

Signed, with the consent of the majority of the judges in active service, at Houston, Texas, on February 22, 1994.

\Signed\

NORMAN W. BLACK  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

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**LOCAL RULES  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS**

**Rule 1. Admission to Practice.**

- A. **Eligibility.** Members of the State Bar of Texas or members of any United States District Court, whose professional character and competence are good, may be admitted to the bar of this court.
- B. **Division.** Lawyers who reside in the district must apply in the division where the lawyer resides. Applicants who do not reside in the district may apply for admission in any division.
- C. **Application.** The lawyer shall **file** an application on a form prescribed by the court.
- D. **Committee on Admissions.** Each division of the Court shall have a standing committee on admissions. The Court will appoint three members and designate one member as chairman.
- E. **Action on the Application.** After a review of the application, the court will admit or deny admissions. A person not admitted may request a hearing to show why the application should be granted. The hearing will be conducted under the procedures for disciplinary matters.
- F. **Uncompensated Assignment.** The pro bono representation of indigent clients is encouraged by this Court. It is hoped that as a matter of public service a member of the Bar of the Southern District of Texas will accept an uncompensated assignment to an indigent's civil matter as often as every twelve months.
- G. **Workshop.** An approved applicant must attend a workshop held by the Court before being admitted, unless the applicant either is over seventy years old or resides out of the district and is a member of the bar of another United States District Court. Former Circuit, District, Bankruptcy and Magistrate Judges are exempt from attending the workshop.
  - 1. On approval of an application, the clerk will notify the applicant, giving the locations and dates of the next workshops.
  - 2. Applicants who reside in the Houston or Galveston Divisions must attend the workshop in Houston.

3. Applicants for admission in the Brownsville, Corpus Christi, Laredo, McAllen, and Victoria Divisions may attend a workshop in any division.

H. **Expiration.** Members of the bar must reapply every five years from the date of admission by filing a new application and paying the fee. If a member fails to reapply before the expiration of the term, a later application will be treated as an original application, requiring reapproval and attendance at a workshop.

I. **Oath.** On admission, the lawyer will take this oath before any judicial officer of the United States:

I do solemnly swear [affirm] that I will discharge the duties of attorney and counselor of this court faithfully, that I will demean myself uprightly under the law and the highest ethics of our profession, and that I will support and defend the Constitution of the United States.

J. **Fee.** The applicant will pay the fee set by order. Should an applicant scheduled to take the oath, unreasonably fail to notify the clerk that he will not appear as scheduled, the applicant forfeits the fee.

K. **Practice Without Admission.** A lawyer who is not admitted to practice before this Court may appear as attorney-in-charge for a party in a case in this Court with the permission of the judge before whom the case is pending. When a lawyer who is not a member of the bar of this Court first appears in a case, the lawyer shall move for leave to appear as attorney-in-charge for the client.

L. **Conduct of Attorneys.** The Rules of Discipline in Appendix A govern membership in the bar of the United States District Court for the Southern District of Texas.

**Rule 2. Attorney-in-Charge.**

A. **Designation.** On first appearance through counsel, each party shall designate an attorney-in-charge. Signing the pleading effects designation.

B. **Responsibility.** The attorney-in-charge is responsible in that action for the party. That individual attorney shall attend all court proceedings or send a fully informed attorney with authority to bind the client.

C. **Signing of Pleadings.** Every document filed must be signed by, or by permission of, the attorney-in-charge.

1. **Required Information.** Under the signature shall appear:

- (a) attorney's individual name,
- (b) designation "attorney-in-charge,"
- (c) State bar number,
- (d) office address including zip code, and
- (e) telephone number with area code.

2. **Allowed Information.** Names of firms and associate counsel may appear with the designation "of counsel."

D. **Withdrawal of Counsel.** Although no delay will be countenanced because of a change in counsel, withdrawal of counsel-in-charge may be effected by motion and order, under conditions imposed by the Court.

E. **Notices.** All communications about an action will be sent to the attorney-in-charge who is responsible for notifying associate counsel.

F. **Change of Address.** Notices will be sent only to the address on file. A lawyer or pro se litigant is responsible for keeping the clerk advised in writing of the current address. Counsel of record and pro se litigants must include in this advice the case numbers of all pending cases in which they are participants in this district.

G. **Parties' Agreements.** Agreements among the parties are enforceable by the Court only if they are announced in open court or reduced to writing and signed. Nevertheless, agreements of the parties are not binding on the Court.

**Rule 3. Filing Requirements.**

A. **Cover Sheet.** Parties represented by counsel must file a civil action cover sheet (Form JS44c) with all original pleadings.

B. **Summons.** Parties other than prisoners must provide completed summons forms for issuance by the clerk.

C. **Place.** Papers are filed by delivery of the original to the clerk, not to the judge.

- D. **Original and Copy.** An original and one copy of each document to be filed in a case must be provided to the Clerk at the time of filing.
- E. **Caption.** Papers must have a caption, including the name and party designation of the party filing it and a statement of its character, like "Defendant John Doe's Motion for Partial Summary Judgment". Federal Rule of Civil Procedure 10(a).
- F. **Related Litigation and Affected Non-Parties.** The parties must advise the Court of related current or recent litigation and of directly affected non-parties.
- G. **Service.** Papers must have at the end a certificate reflecting how and when service has been made or why service is not required. Federal Rule of Civil Procedure 5(b).
- H. **Format.** Papers offered for filing may not be in covers. They must be on 8 1/2" x 11 " paper, stapled at the top only, punched at the top with two holes, double spaced, and paginated.
- I. **Jury Demand.** Pleadings in which a jury is demanded shall bear the word "jury" at the top, immediately below the case number.
- J. **Admiralty.** Papers in cases arising within the admiralty or maritime jurisdiction shall bear the word "admiralty" at the top, immediately below the case number.
- K. **Removal.** Notices for removal shall have attached only the following documents:
  - 1. All executed process in the case;
  - 2. Pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings;
  - 3. All orders signed by the state judge;
  - 4. The docket sheet;
  - 5. An index of matters being filed; and
  - 6. A list of all counsel of record, including addresses, telephone numbers and parties represented.
- L. **Withdrawal.** No filed instrument shall be removed from the clerk's custody without an order.
- M. **Sanctions.** A paper that does not conform to the local or federal rules or that is otherwise objectionable may be struck on the motion of a party or by the court.

**Rule 4. Costs.**

- A. **Deposit for Costs.**
  - 1. The clerk will not be required to perform any service requiring a payment unless

- a. The payment is deposited with the clerk;
  - b. A law excuses the payment or the deposit in advance; or
  - c. Leave to proceed in forma pauperis has been granted. 28 U.S.C. SS 1915
2. The U. S. Marshal may require a deposit to cover fees and expenses. 28 U.S.C. SS 192 1 (d).
- B . **Bill of Costs.** The parties must maintain their own record of taxable costs. The clerk does not record taxable costs. An application for costs shall be made by filing a bill of costs within 14 days of the entry of a final judgment. When attorney's fees are taxable as costs, an application for them must be made with the application for other costs. Objections to allowance of the bill, the attorney's fees, or both must be filed within five days of the bill's filing. Rule 54(d). 28 U.S.C. § 1920.

**Rule 5. Discovery.**

- A. **Not Filed.** Depositions, interrogatories, answers to interrogatories, requests for admission, production, or inspection, responses to those requests, and other discovery material shall not be filed with the clerk.
- B. **Use.** When a discovery document is needed in a pretrial procedure, the required portions may be filed as an exhibit to a motion or response. Discovery material needed at a trial or hearing may be introduced in open court under the Federal Rules of Evidence.
- C. **Placement.** Every answer, objection, or other response to any interrogatory, request for admission, or to produce shall be preceded by the question or request to which the response pertains.
- D. **Limitation of Interrogatories.** No more than twenty-five interrogatories (counting sub-parts) may be served without leave of Court.
- E. **Video-Taped Depositions.** By this rule, leave of Court is granted, in civil cases, for video-taped depositions without contemporaneous stenographic recordation. The notice or subpoena must indicate that the deposition is to be by video-tape to allow anyone desiring stenographic recordation to arrange for it.

**Rule 6. Civil Pretrial Motion Practice.**

- A. **Form.** Opposed motions shall
1. Be in writing;
  2. Include or be accompanied by authority;
  3. Be accompanied by a separate proposed order granting the relief requested and setting forth information sufficient to communicate the nature of the relief granted;
  4. Except for motions under Federal Rule of Civil Procedure 12(b), (c), (e), or and 56, contain an averment that
    - a. The movant has conferred with the respondent and
    - b. Counsel cannot agree about the disposition of the motion.
- B. **Unopposed Motions.** Motions without opposition and their proposed orders must bear in their caption "unopposed." They will be considered as soon as it is practicable.
- C. **Service.**
1. All motions must be served on all parties and contain a certificate of service.
  2. Motions for default judgment must be served on the defendant-respondent by certified mail (return receipt requested).
- D. **Submission.** Opposed motions will be submitted to the judge twenty days from filing without notice from the clerk and without appearance by counsel.
- E. **Responses.** Failure to respond will be taken as a representation of no opposition. Responses to motions
1. Must be filed by the submission day;
  2. Must be written;
  3. Must include or be accompanied by authority; and
  4. Must be accompanied by a separate form order denying the relief sought.
- F. **Oral Submission.**
1. **By Request.** If a party views oral argument as

helpful to the Court, the motion or response may include a request for it. If it is granted, the parties will be notified by the clerk.

2. **By Court Order.** When oral presentation is required by the Court, counsel will be notified by the clerk of a date for oral presentation irrespective of any submission day.

G. **Consolidation.** A motion to consolidate cases will

1. Contain in the caption of the motion
  - a. The case numbers;
  - b. Full styles; and
  - c. Judge to whom each of the cases is assigned;
2. Be filed only in the oldest case with a courtesy copy furnished to the other affected courts
3. Be heard by the judge to whom the oldest case is assigned.

H. **Supporting Material.** If a motion or response requires consideration of facts not appearing of record, proof by affidavit or other documentary evidence must be filed with the motion or response.

I. **Hearing.** The Court may in its discretion, on its own motion or upon application, entertain and decide any motion, shorten or extend time periods, and request or permit additional authority or supporting material.

**Rule 7. Criminal Pretrial Motion Practice.**

A. **Implementation.** Federal Rule of Criminal Procedure 12 and this rule are to be followed to ensure consistent and efficient practice before this Court. Motions and responses that do not comply with these rules are waived.

B. **Form.** A pretrial motion shall be in writing and state specifically the basis for the motion. The motion shall be supported by a statement of authority. It shall also be accompanied by a separate order granting the relief requested and by an averment that the movant has conferred with the respondent, but that an agreement cannot be reached on the disposition of the motion. If the motion presents issues of fact, it shall be supported by affidavit or declaration which sets forth with particularity the material facts at issue. An unopposed motion and its order must bear in the captions

"unopposed."

- C. **Responses.** If the respondent contests the motion, the response must be in writing, accompanied by authority and controverting affidavit or declaration of material facts, together with a separate order denying the relief sought.
- D. **Service.** All motions must be served on all parties and contain a certificate of service.
- E. **Submission.** At the time of arraignment the judicial officer shall set the time for pretrial motions and for any responses to the motions.

**Rule 8. Civil Initial Pretrial Conference; Scheduling Orders.**

Within 140 days after the filing of a complaint or notice of removal, the judge will conduct an initial pretrial conference under Fed.R.Civ.P. 16 and enter a scheduling order, except in these types of cases: (a) prisoner civil rights; (b) state and federal habeas corpus; (c) student and veteran loan; (d) social security appeals; (e) bankruptcy appeals; and (f) forfeiture of seized assets.

A judge may conduct an initial pretrial conference and enter a scheduling order in any of the types of cases excepted.

A scheduling order setting cut-off dates for new parties, motions, expert witnesses and discovery, setting a trial date, and establishing a time framework for disposition of motions will be entered at the conference. Should there be an earlier Rule 26(f) discovery conference, the scheduling order may be entered at that conference entered at that conference.

Additional pretrial/settlement/discovery conferences may be scheduled by the Court as the need is identified.

By individual notice, the Court will require attendance at conferences "by an attorney who has the authority to bind that party regarding all matters . . .", 28 U.S.C. SS 473(b)(2), and require "that all requests for extensions of deadlines for completion of discovery or for postponement of the trial be signed by the attorney and the party making the request." 28 U.S.C. SS 473(b)(3).

**Rule 9. Pretrial Order.**

The form of the pretrial order in Appendix B is acceptable to the judges who require one.

**Rule 10. Notice of Settlement.**

Counsel shall notify the Court immediately of settlements that obviate court settings. Unnecessarily summoned veniremen or disrupted court schedules resulting from an unexcusable failure to notify may be the predicate for sanctions.

**Rule 11. Exhibits at Civil and Criminal Trials.**

- A. **Authentication.** A party requiring authentication of an exhibit must notify the offering party in writing within five days after the exhibit is listed and made available. Failure to object in advance of the trial in writing concedes authenticity.
- B. **Objections.** Objections to admissibility of exhibits must be made at least three business days before trial by notifying the Court in writing of the disputes, with copies of the disputed exhibit and authority.
- C. **Disposition of Exhibits.**
  - 1. Exhibits that are not easily stored in a file folder (like posters, parts, or models) must be withdrawn within two business days after the completion of the trial and reduced reproductions or photographs substituted.
  - 2. If there is no appeal, exhibits will be removed by the offering party within thirty days after disposition of the case. When there is an appeal, exhibits returned by the court of appeals will be removed by the offering party within ten days after written notice from the clerk. Exhibits not removed will be disposed of by the clerk, and the expenses incurred will be taxed against the offering party.

**Rule 12. Juror Contact.**

Except with leave of the Court, no attorney, party, nor agent of either of them may communicate with a former juror to obtain evidence of misconduct in the jury's deliberations.

**Rule 13. Disclosure and Publicity.**

- A. The **Free Press-Fair Trial Guidelines of the Judicial Conference of the United States** apply to all criminal proceedings in this district. 87 F.R.D. 519, 525 (1980).
- B. **Preserving Confidentiality.**
  - 1. **Civil Actions.** On the filing of a civil action that the party desires be sealed, the party shall present

an application to the clerk attaching the complaint and accompanying materials in a sealed envelope marked "sealed exhibit." A miscellaneous case number will be assigned and the case file presented to the miscellaneous judge. Once that judge has ruled on the application, the case file and order will be returned immediately to the clerk for the drawing of a civil action number and random assignment to a judge.

**2. Jurors' Names.**

- a. The names of grand jurors shall be held confidential.
- b. The trial judge may hold the names of petit jurors confidential.
- c. Names of jurors held confidential shall not be disclosed other than to employees of the judiciary of the United States in their official duties.

**3. Grand Jury Witnesses.** Names of witnesses appearing before a grand jury may be sealed for cause.

- C. Electro-Mechanical Devices.** Except by leave of the presiding judge, no photo- or electro-mechanical means of recordation or transmission of court proceedings is permitted in the courthouse.

**Rule 14. United States Magistrate Judges.**

- A. The magistrate judges are authorized to perform all of the duties allowable to magistrates under the Federal Magistrates Act, as amended, 28 U.S.C. SS 631, 636@ under General Order No. 80-5, General Order No. 91-26 and General Order No. 91-30.
- B. These rules apply to proceedings before the magistrate judges.

**Rule 15. Bond Procedure.**

- A. **Sureties.** No employee of the United States Courts or of the United States Marshal's Service will be accepted as a surety on any bond or undertaking in any proceeding.
- B. **Non-Assignability of Receipts.** A clerk's receipt or the claim for the refund of a deposit is not assignable.
- C. **Return of Criminal Bond Deposits.** When a depositor is entitled to a refund of the deposit, the clerk will submit

the request for the refund to the United States Attorney who will certify that the defendant has met the obligations of the bond fully and that the United States Attorney consents to the return.

**Rule 16. Guideline Sentencing.**

- A. **Initial Disclosure Date.** At the time of a determination of guilt, the Court will **fix** the date the initial presentence report shall be disclosed to counsel. The normal schedule for investigation, preparation, and completion of the initial report will be 35 days.
- B. **Delivery.** Counsel must obtain the report at the probation office in the city of the sentencing court, either personally or through an agent. Persons obtaining the report must verify receipt on a probation office form. Alternative delivery via express mail, messenger, or certified mail is authorized provided counsel make arrangements for the delivery, at their own expense, and confirm those arrangements in writing, with the probation office. Delivery via facsimile is not authorized. Alternative delivery extends no time limits.
- C. **Counsel's Duty.** Defense counsel shall disclose every report to the client.
- D. **Objections.**
  - 1. Within 10 days after disclosure of the initial report, counsel shall deliver objections to the report in writing to the probation office. Objections to the report shall include proposed changes to the facts of the offense as reported and to the interpretation and application of the sentencing guidelines.
  - 2. A party not objecting must deliver a statement of non-objection to the probation office.
  - 3. Defense communications shall be signed by the client and counsel. All papers must contain a certificate of service on all counsel. A copy of the instrument and certificate shall be filed with the district clerk.
- E. **Final Report.**
  - 1. After the time for objections, the probation office shall promptly investigate and revise the initial

report, as required. The probation office may require counsel to meet the officer to discuss disputed factual and legal issues.

2. Within 12 days after the time for objections, the probation office shall submit to the sentencing judge the final report, with an addendum of unresolved objections and the officer's comments on them. The final report shall contain a certificate that it has been disclosed to all counsel and that a copy has been filed under seal with the district clerk.

- F. **Availability.** The report may be obtained on the initial disclosure date. The final report and addendum may be obtained as soon as counsel are notified that the report is available. The probation office will telephone all counsel.
- G. **Effect.** Except for objections in the addendum, the Court may accept the final report as accurate. Absent a clear demonstration of good cause, no party shall be allowed at the time of sentencing to present other objections.
- H. **Sentencing Date.** Unless waived, the sentencing date shall be at least 10 days after the final report is **filed** and disclosed. 18 U.S.C. SS 3552(d).
1. **Limitation.** This rule does not require disclosure of portions of the report not disclosable under Federal Rules of Criminal Procedure 32.

#### **Rule 17. Admiralty Sales.**

In the absence of conflicting requirements in the order of sale, these are the procedures for sales of property under marshal's seizure in admiralty actions:

- A. **Notice.** The notice of sale shall be published in a daily newspaper of general circulation in the division of the seizure on at least four days, between three and thirty-one days before the sale date.
- B. **Payment.**
  1. Payment to the marshal shall be by cash, cashier's check, or certified check; acceptance of cashiers' checks is conditioned on their payment.
  2. Accepted bids of less than \$1,000 shall be paid to the marshal on their acceptance.

3. For accepted bids of \$1,000 and more, the higher of ten percent of the bid or \$1,000 shall be deposited immediately and be paid in full within three business days of the sale. If an objection is filed within the three days, the buyer may defer payment of the balance until the sale is confirmed.

C. **Default.** If the buyer does not pay the bid on time,

1. The deposit is forfeited to the action, applied to costs then paid to the registry; and
2. The Court may accept the second bid or order a new sale.

D. **Objection.**

1. **Time.** Objections must be written and filed with the marshal within three business days of the sale date.
2. **Deposit.** Objections shall be accompanied by a cost deposit of seven days of estimated expenses of custody.
3. **Disposition.**
  - a. **Sustained.** The deposits by the bidder and objector will be refunded immediately.
  - b. **Overruled.** The balance of the objector's deposit that remains after deduction of the expenses of custody from the day of the objection until the day of the confirmation will be paid to the objector.

**Rule 18. Stays of Execution.**

A. **Application Requirements.** A party who seeks to stay the execution of a Texas death warrant shall include in the application:

1. A copy of each state court opinion and judgment in the matter;
2. A description of the relief sought from any United States Court, including action number and court name;
3. The reasons for denying relief given by the courts that have considered the matter, by written opinion or portions of the transcript; and

4. An explanation why issues urged in the application have not been raised or exhausted in state court.
- B. **Appeal.** If a certificate of probable cause is issued, the stay of execution will continue until the court of appeals acts.

C. **Successive Applications.**

1. All applications for relief from state orders in a single matter will be assigned to the judge to whom the first application was assigned.
2. All applications for relief from state orders after the first will be strictly and promptly considered.

**Rule 19. Courtroom Behavior.**

Traditional, formal courtroom etiquette is required of all who appear in court as specified in Appendix C.

**Rule 20. Alternative Dispute Resolution.**

This Court recognizes that alternative dispute resolution procedures may facilitate settlement or narrowing of issues in certain civil actions. Therefore, the Court adopts these ADR procedures:

A. **Timing of ADR Decision.**

1. Before the initial conference in a case, counsel shall discuss the appropriateness of ADR in the litigation with their clients and with opposing counsel.
2. At the initial pretrial conference the parties shall advise the Court of the results of their discussions concerning ADR. At that time and at subsequent conferences, if necessary, the Court may explore with the parties the possibility of using ADR.

- B. **ADR Referral.** The Court may refer a case to ADR on the motion of a party, on the agreement of the parties, or on its own motion. If the parties agree upon an ADR method or provider, the Court will respect the parties' agreement unless the Court believes another ADR method or provider is better suited to the case and parties. The authority

to refer a case to ADR does not preclude the Court from suggesting or requiring other settlement initiatives.

- C. **Opposition to ADR Referral.** A party opposing either the ADR referral or the appointed provider must file written objections with the Court within ten days of receiving notice of the referral or provider and explain the reasons for any opposition.
- D. **ADR Methods Available.** The Court recognizes these ADR methods: mediation, minitrial, summary jury trial, and arbitration. The Court may approve any other ADR method the parties suggest or the Court believes is suited to the litigation.
- E. **List of Providers.** The Court shall have a standing panel on ADR providers. The Court will appoint three members and designate one member as chairman. The panel will review applications from providers and annually prepare a list of those qualified under the criteria contained in this rule. A provider denied listing may request a review of that decision.
  - 1. To be eligible for listing, providers must meet these minimum qualifications:
    - a. Membership in the bar of the United States District Court for the Southern District of Texas;
    - b. A license to practice law for at least ten years;
    - c. Completion of at least forty hours' training in dispute resolution techniques in an alternative dispute resolution course approved by the State Bar of Texas Minimum Continuing Legal Education Department.
  - 2. A provider must submit a completed application which contains:
    - a. The ADR methods in which the provider has particular expertise;
    - b. A summary of the provider's training, experience, and qualifications for the ADR methods in which the provider seeks to be listed;
    - c. The subject matter areas in which the provider has particular expertise;
    - d. The provider's fee schedule;

- e. A statement of commitment to accept some cases gratis or for a reduced fee.
  3. After having been listed, the provider must participate annually in at least five hours of ADR training.
  4. Each provider will remain on the list for five years. After a five-year term, the provider may apply for relisting.
  5. The Court may approve any other provider the parties agree upon, even though the provider is not listed.
- F. **Attendance; Authority to Settle.** Party representatives with authority to negotiate a settlement and all other persons necessary to negotiate a settlement, including insurance carriers, must attend the ADR session.
- G. **Fees.** The provider and the litigants will determine the fees for the ADR. However, the Court reserves the right to review the reasonableness of fees.
- H. **Binding Nature.** The results of ADR are not binding unless the parties agree otherwise.
- I. **Confidentiality; Privileges and Immunities.** All communications made during ADR procedures are confidential and protected from disclosure and do not constitute a waiver of any existing privileges and immunities.
- J. **Disqualification.** All providers are subject to disqualification pursuant to 28 U.S.C. SS 455 (1988).
- K. **Conclusion of ADR Proceedings.** At the conclusion of each ADR proceeding the provider, parties, and the Court will take the following action:
1. The ADR provider will send the court clerk a memorandum stating the style and civil action number of the case; the names, addresses, and telephone numbers of counsel and the parties; the type of the case; the method of the ADR proceeding; the success or failure of the ADR proceeding, and the provider's fees.
  2. The clerk of court will submit a questionnaire to the parties and will require counsel and their clients to complete and return the questionnaire for reference by the Court, attorneys, and public.
  3. The court clerk annually will tabulate, analyze, and report on the disposition of ADR proceedings. The

clerk will retain the questionnaires from closed ADR proceedings.

- L. **Sanctions.** Federal R. Civ. P. 16(f) sanctions apply to violations of this rule.

## APPENDIX A

RULES OF DISCIPLINE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

### *Rule 1. Standards of Conduct.*

- A. Lawyers who practice before this court are required to act as mature and responsible professionals, and the minimum standard of practice shall be the Texas Disciplinary Rules of Professional Conduct.
- B. Violation of the Disciplinary Rules of Professional Conduct shall be grounds for disciplinary action, but the court is not limited by that code.

### *Rule 2. Conviction of Crime.*

- A. A lawyer convicted of a felony shall promptly notify the clerk of court and furnish to the clerk a certified copy of the judgment of conviction. Without prior notice, the court may suspend the attorney temporarily.
- B. After the court has notice, the court will follow the due process procedure in these rules to determine whether discipline should be imposed on the lawyer.

### *Rule 3. Discipline by Another Court.*

- A. A lawyer suspended or disbarred by another court in the United States shall promptly notify the clerk of court in writing of that action and immediately cease to practice before this court. The lawyer will furnish a certified copy of the order of suspension or disbarment. A lawyer subjected to a published reprimand by a state bar shall notify the clerk of court, but may continue to practice, pending review by this court.
- B. A final adjudication in another court that the lawyer has been guilty of an offense leading to the action referred to in Rule 3A shall establish conclusively the conduct for the purposes of proceeding in this court.

### *Rule 4. Disbarment by Consent or Resignation in Other Courts.*

- A. A lawyer who is disbarred on consent or resigns from the bar of another court in the United States to avoid further discipline must advise the clerk of the action and immediately cease to practice before this court. The lawyer shall furnish a certified copy of the disciplinary order to the clerk.

- B. Upon request by the lawyer, the court will follow the due process procedure in these rules to determine under what conditions the lawyer might continue to practice.

*Rule 5. Charges of Misconduct Warranting Discipline.*

- A. Charges that any lawyer of this bar has engaged in conduct which might warrant disciplinary action shall be brought to the attention of the court by a writing addressed to the chief judge with a copy to the clerk of court.
- B. Upon receipt of a charge, the chief judge shall immediately refer the charge to a panel of three judges which shall determine whether further disciplinary proceedings are to be held. This panel will notify the charged lawyer of the charges made and give that lawyer an opportunity to be heard.
- C. If a majority of the three judges determines that further disciplinary proceedings are warranted, the chief judge will be notified and will immediately designate one judge of the court as the hearing judge.
- D. At the hearing, the charged lawyer shall have the right to counsel and at least 14 days' notice of the time and charges so that the lawyer has a full opportunity to present any defense. The hearing shall be held in open court, reported, and all witnesses sworn.
- E. In the prosecuting of charges before the hearing judge, the prosecution will be by an attorney specially appointed by the hearing judge. Costs of the prosecutor and fees allowed by the hearing judge will be paid from the Attorney Admissions Fund.

*Rule 6. Reinstatement.*

- A. Any lawyer who is suspended by this court is automatically reinstated at the end of the period of suspension or upon satisfying the chief judge that any special condition of suspension has been met.
- B. Any lawyer who has been disbarred may not apply for reinstatement until at least five years from the effective date of his disbarment.
- C. Petitions for reinstatement shall be delivered to the chief judge who will promptly refer the petition to a three-judge panel. The panel may appoint counsel as provided in Rule 5E or investigate the application without counsel. The panel will make its recommendation on the petition to the chief judge for action by the court.
- D. Petitions for reinstatement shall be accompanied by an advance cost deposit in an amount to be set by the court to cover anticipated costs of the proceeding.
- E. No petition for reinstatement may be filed within one year following an adverse ruling on a previous petition.

*Rule 7 Lawyers Specially Admitted.*

An appearance by a lawyer before the court, by writing, or in person, confers disciplinary jurisdiction upon the court under these rules.

*Rule 8. Service of Papers.*

Service of papers under these rules shall be by personal service or by first class mail addressed to the respondent or respondent's attorney.

*Rule 9. Special Duties of the Clerk.*

- A. In addition to all other duties assigned, the clerk shall collect advance cost deposits and place them in the Attorney Admissions Fund. These sums shall be maintained by the clerk as trustee and administered by the court for expenses incurred under these rules and not on behalf of the United States.
- B. Upon final disciplinary action by the court, the clerk shall send certified copies of the court's order to the State Bar of Texas and the National Discipline Data Bank operated by the American Bar Association.

*Rule 10. Inherent Power of Judges.*

The existence of these rules shall not limit the power of district judges to exercise their inherent powers over lawyers who practice before them.

*Rule 11. Effective Date.*

These rules are effective February 22, 1994, and all pending disciplinary matters will be concluded under these rules.

**APPENDIX B**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

_____ ,	SS
Plaintiffs	SS
	SS
vs.	SS
CIVIL ACTION NO.	
	SS
_____ ,	SS
Defendants,	SS

JOINT PRETRIAL ORDER

1. APPEARANCE OF COUNSEL

List each party, its counsel, and counsel's address and telephone number in separate paragraphs.

2. STATEMENT OF THE CASE

Give a brief statement of the case, one that the judge could read to the jury panel for an introduction to the facts and parties; include names, dates, and places.

3. JURISDICTION

Briefly specify the jurisdiction of the subject matter and the parties. If there is an unresolved jurisdictional question, state it.

4. MOTIONS

List pending motions.

5. CONTENTIONS OF THE PARTIES

State concisely in separate paragraphs each party's claims.

6. ADMISSIONS OF FACT

List all facts that require no proof.

7. CONTESTED ISSUES OF FACT

List all material facts in controversy.

8. AGREED PROPOSITIONS OF LAW

List the legal propositions that are not in dispute.

9. CONTESTED PROPOSITIONS OF LAW

State briefly the unresolved questions of law, with authorities to support each.

10. EXHIBITS

A. On a form similar to the one provided by the clerk, each party will attach two lists of all exhibits expected to be offered and will make the exhibits available for examination by opposing counsel. All documentary exhibits must be exchanged before trial, except for rebuttal exhibits or those whose use cannot be anticipated.

B. A party requiring authentication of an exhibit must notify the offering counsel in writing within five (5) days after the exhibit is listed and made available; failure to object in advance of the trial in writing concedes authenticity.

C. Within reason, other objections to admissibility of exhibits must be made at least three business days before trial; the Court will be notified in writing of disputes, with copies of the disputed exhibit and authority.

D. Parties must mark their exhibits to include the date and case number on each.

E. At the trial, the first step will be the offer and receipt in evidence of exhibits.

11. WITNESSES

A. List the names and addresses of witnesses who may be called with a brief statement of the nature of their testimony. Include the qualifications of expert witnesses; these will be used to qualify the expert at trial.

B. Include:

"If other witnesses to be called at the trial become known, their names, addresses, and subject of their testimony will be reported to opposing counsel in writing as soon as they are known; this does not apply to rebuttal or impeachment witnesses."

12. SETTLEMENT

State that all settlement efforts have been exhausted, that the case cannot be settled, and that it will have to be tried.

13. TRIAL

A. Probable length of trial; and

B. Logistical problems, including availability of witnesses, out-of-state people, bulky exhibits, and demonstrations.

14. ATTACHMENTS

Include these required attachments:

A. For a jury trial:

(1) Proposed questions for the voir dire examination.

(2) Proposed charge, including instructions, definitions, and special interrogatories, with authority.

B. For a nonjury trial:

(1) Proposed findings of fact (without repeating uncontested facts) and

(2) Conclusions of law, with authority.

Date: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

Approved:

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney-in-Charge,  
Plaintiff

Date: \_\_\_\_\_

\_\_\_\_\_  
Attorney-in-Charge,  
Defendant

## APPENDIX C

### Courtroom Etiquette.

People who appear in court must observe these and other conventions of courteous, orderly behavior.

- A. Be punctual.
- B. Remain in attendance until excused. All persons sitting before the bar shall remain there during each session and return after recess. Parties and counsel must remain in attendance during jury deliberations; absence waives the right to attend the return of the verdict.
- C. Dress with dignity.
- D. Address others only by their titles and surnames, including lawyers, witnesses, and court personnel.
- E. Stand when the Court speaks to you; stand when you speak to the Court. Speak only to the Court, except for questioning witnesses and, in opening and closing, addressing the jury.
- F. Avoid approaching the bench. Counsel should anticipate the necessity for rulings and discuss them when the jury is not seated. When a bench conference is unavoidable, get permission first.
- G. Hand to the clerk, not the judge or reporter, all things for examination by the judge.
- H. Stand when the judge or jury enters or leaves the courtroom.
- I. Contact with the law clerks is ex parte contact with the Court. Contact must be through the case manager.
- J. Assist the summoning of witnesses from outside the courtroom. Furnish the clerk and marshal with a list of witnesses showing the order they are likely to be called.

K. Question witnesses while seated at counsel table or standing at the lectern. When it is necessary to question a witness about an exhibit, ask permission to approach the witness.

L. Conduct no experiment or demonstration without permission.

M. Do not participate in a trial as an attorney if you expect you may be called as a material witness.

N. Avoid disparaging remarks and acrimony toward counsel, and discourage ill will between the litigants. Counsel must abstain from unnecessary references to opposing counsel, especially peculiarities.

O. Make no side-bar remarks.

P. Counsel are responsible for advising their clients, witnesses, and associate counsel about proper courtroom behavior.

Q. Request the use of easels, light boxes, and other equipment well in advance so that they may be set up while the Court is not in session.