LOCAL RULES OF THE

United States District Court

FOR THE

SOUTHERN DISTRICT

OF TEXAS

EFFECTIVE MAY 1, 2000

With new CrLR 58, effective May 3, 2001;
new Appendix D, effective May 8, 2001;
amended LR 72 and CrLR 57.1, effective June 25, 2001;
amended LR 5, effective September 7, 2004;
amended CrLR 49, effective April 6, 2005;
amended LR 5.1, effective March 12, 2007;
amended Appendix A, June 19, 2007;
amended LR 7, 16, 44, 46, 54, 79; Supplemental Admiralty Rule E;
CrLR 32, 35; Appendix A, Rule 5; and Appendix B, effective December 1, 2009;
amended LR 16.4 and new CrLR 57.3, effective October 18, 2012;
amended CrLR 32, effective January 31, 2014;
amended LR 83.1.A, effective March 22, 2018;
amended LR 7.4, effective November 26, 2018;
new CrLR 18, effective May 14, 2019;
amended LR 83.1.D, effective May 19, 2020.

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LR3. **COMMENCEMENT OF ACTION**

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

LR4. **SUMMONS**

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

LR5. **FILING REQUIREMENTS**

LR5.1 **Electronic Filing.** Except as expressly provided or unless permitted by the presiding Judge, the Court requires documents being filed to be submitted, signed or verified by electronic means that comply with the procedures established by the Court. The notice of electronic filing that is automatically generated by the Court's electronic filing system constitutes service of the document on those registered as filing users of the system. (Amended by General Order 2007-3, effective March 12, 2007.)

LR5.2 **Related Litigation Policy.** The parties must advise the Court of related current or recent litigation and of directly affected non-parties.

LR5.3 **Certificate of 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).

LR5.4 **Discovery 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.

LR5.5 **Service of Pleadings and Other Papers.** All motions must be served on all parties. Motions for default judgment must be served on the defendant-respondent by certified mail (return receipt requested). (Amended by General Order 2004-10, effective September 7, 2004.)

LR7. **CIVIL PRETRIAL MOTION PRACTICE**

LR7.1 **Form.** Opposed motions shall

A. Be in writing;

B. Include or be accompanied by authority;

C. Be accompanied by a separate proposed order granting the relief requested and setting forth information sufficient to communicate the nature of the relief granted;

D. Except for motions under Federal Rules of Civil Procedure 12(b), (c), (e), or (f) and 56, contain an averment that

(1) The movant has conferred with the respondent and

(2) Counsel cannot agree about the disposition of the motion.

LR7.2 **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.

LR7.3 **Submission.** Opposed motions will be submitted to the judge 21 days from filing without notice from the clerk and without appearance by counsel. (Amended by General Order 2009-17, effective December 1, 2009.)

LR7.4 **Responses and Replies.** Failure to respond to a motion will be taken as a representation of no opposition. Responses to motions

A. Must be filed by the submission day;

B. Must be written;

C. Must include or be accompanied by authority; and

D. Must be accompanied by a separate form order denying the relief sought.

E. Replies. Unless otherwise directed by the presiding judge, a party who has filed an opposed motion may file a brief within 7 days from the date the response is filed.

(Amended by General Order 2018-16, effective November 26, 2018).

LR7.5 **Oral Submission.**

7.5.A. ***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.

7.5.B. ***By 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.

LR7.6 **Consolidation.** A motion to consolidate cases will

A. Contain in the caption of the motion

(1) The case numbers;

(2) Full styles; and

(3) Judge to whom each of the cases is assigned.

B Be filed only in the oldest case with a courtesy copy furnished to the other affected courts.

C. Be heard by the judge to whom the oldest case is assigned.

D. The term "oldest case," as used in this Rule, means the case filed first in any court, state or federal, including cases removed or transferred to this Court.

LR7.7 **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.

LR7.8 **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.

LR10. FORM OF PLEADINGS

LR10.1 **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).

LR10.2 **Format.** Papers offered for filing may not be in covers. They must be on 8½" x 11" paper, stapled at the top only, punched at the top with two holes, double spaced, and paginated.

LR11. SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPERS BY ATTORNEY IN CHARGE

LR11.1 **Designation.** On first appearance through counsel, each party shall designate an attorney-in charge. Signing the pleading effects designation.

LR11.2 **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.

LR11.3 **Signing of Pleadings.** Every document filed must be signed by, or by permission of, the attorney-in-charge.

11.3.A. ***Required Information***. Under the signature shall appear:

(1) attorney's individual name,

(2) designation "attorney-in-charge,"

(3) State bar number,

(4) Southern District of Texas bar number,

(5) office address including zip code, and

(6) telephone and facsimile numbers with area codes.

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

LR11.4 **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.

LR16. CIVIL PRETRIAL PROCEEDINGS

LR16.1 **Civil Initial Pretrial Conference; Scheduling Order.** Within 140 days after the filing of a complaint or notice of removal, the judge will conduct an initial pretrial conference under Federal Rule of Civil Procedure 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.

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. § 473(b)(2).

LR16.2. **Pretrial Order.** The form of the pretrial order in Appendix B is acceptable to the judges who require one.

LR16.3. **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.

LR16.4. **Alternative Dispute Resolution.** Pursuant to 28 U.S.C.§ 652 (1998) and to facilitate the settlement or narrowing of issues in civil actions, the Court adopts the following Alternative Dispute Resolution Program:

16.4.A. ***ADR Methods Available.*** The Court approves the use of the following ADR methods in civil cases pending before district, magistrate, and bankruptcy judges: mediation, early neutral evaluation, mini-trial, summary jury trial, and, if the parties consent, non-binding arbitration pursuant to 28 U.S.C. § 654 (1998) (collectively, "ADR"). A judge may approve any other ADR method the parties suggest and the judge finds appropriate for a case.

16.4.B. ***Timing of ADR Decision.***

(1) Before the initial conference in a case, counsel are required to discuss with their clients and with opposing counsel the appropriateness of ADR in the case.

(2) At the initial pretrial conference the parties shall advise the judge of the results of their discussions concerning ADR. At that time and at other conferences, if necessary, the judge shall explore with the parties the possibility of using ADR. The judge may require the use of mediation, early neutral evaluation, and, if the parties consent, non-binding arbitration pursuant to 28 U.S.C. § 654 (1998).

16.4.C. ***ADR Referral.*** A judge may refer any civil case to ADR on motion of any party, on the agreement of the parties, or on its own motion. If the parties agree upon an ADR method or provider, the judge will respect the parties' agreement unless the judge 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 judge from suggesting or requiring other settlement initiatives.

16.4.D. ***Opposition to ADR Referral, ADR Method or ADR Provider.*** A party opposing in a particular case either the ADR referral, ADR method, or the

appointed ADR provider must file written objections within 14 days of entry of the order for ADR, and must explain the reasons for any opposition. The objections and related submissions shall be filed with the judge presiding over the case.

16.4.E. ***Standing Panel, ADR Administrator and List of Providers.***

(1) **Standing Panel.** The Court shall maintain a Standing Panel on ADR Providers ("Panel") to oversee implementation, administration, and evaluation of the Court's ADR program. The Chief Judge of the District will appoint three members, one of whom shall be a district judge who shall serve as chairperson. Each Panel member shall be appointed for a three year term. The Panel shall review applications from prospective ADR providers and annually shall prepare an ADR List of those qualified under the criteria contained in this rule.

(2) **ADR Administrator.** The Court shall designate a person in the Court clerk's office as ADR Administrator to assist the Panel with its responsibilities and to serve as the primary contact for public inquiries regarding the Court's ADR Program.

(3) **ADR Provider List.**

a. Copies of the ADR Provider List shall be available to the public in the clerk's office and on the District's website. (Amended by General Order No. 2012-13, effective October 18, 2012.)

b. To be eligible for initial listing as an ADR provider, the applicant must meet the following minimum qualifications:

(i) membership in the bar of the United States District Court for the Southern District of Texas;

(ii) licensed to practice law for at least ten years; and

(iii) 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.

c. Each applicant for the ADR Provider List shall submit a completed application in December or January for

consideration for the next ADR Provider List. The applicant must use the form available in the clerk's office or on the District's website. The application shall contain:

(i) the ADR method(s) for which the applicant seeks to be listed;

(ii) a concise summary of the applicant's training, experience, and qualifications for the ADR method(s) for which the applicant seeks to be listed;

(iii) the subject matter area(s) in which the applicant has particular expertise (*e.g.*, the concentration of non-ADR practice, board certification); (iv) the applicant's fee schedule; and (v) a commitment to accept some cases for no fee or a reduced fee. (Amended by General Order No. 2012-13, effective October 18, 2012).

d. To maintain the listing, an ADR Provider annually, between January 1 and January 31, must file a certification with the ADR Administrator that the provider has completed five hours of ADR training during the previous calendar year. Self-study of court decisions on ADR and authoritative writings on ADR techniques and/or ADR ethics may be used to satisfy this requirement, if the provider identifies the materials studied and the dates of study in the annual certificate. (Amended by General Order No. 2012-13, effective October 18, 2012).

e. Each ADR provider shall remain on the ADR Provider List for five years, provided the requirements of subparagraph E(3)(d) are met. After a five-year term, the ADR provider may apply for re-listing.

f. An applicant denied listing may request a review of that decision by sending a letter to the Chief Judge of the District. The Chief Judge shall have final decision-making authority on the matter.

g. In any particular case, a judge may approve any ADR provider on which the parties agree, even if the provider is not listed on the ADR Provider List or does not satisfy the criteria for eligibility for the list.

16.4.F. ***Attendance; Authority to Settle.*** Party representatives (in addition to litigation counsel) with authority to settle and all other persons necessary to negotiate a settlement, such as insurance carriers, must attend the ADR proceeding.

16.4.G. ***Fees.*** The provider and the parties generally will determine the fees for each ADR proceeding. However, the judge presiding over a case has the right to review the reasonableness of fees and to adjust them as appropriate. A judge also may at any time request a provider on the ADR Provider List or any other person to conduct an ADR proceeding *pro bono* or for a reduced fee.

16.4.H. ***Binding Nature.*** The results of all ADR proceedings approved by this rule are non-binding unless the parties agree otherwise in a written agreement or by announcement in open court.

16.4.I. ***Confidentiality, Privileges and Immunities***. All communications made during ADR proceedings (other than communications concerning scheduling, a final agreement, or ADR provider fees) are confidential, are protected from disclosure, and may not be disclosed to anyone, including the Court, by the provider or the parties. Communications made during ADR proceedings do not constitute a waiver of any existing privileges and immunities. The ADR provider may not testify about statements made by participants or negotiations that occurred during the ADR proceedings. This provision does not modify the requirements of 28 U.S.C. § 657 (1998) applicable to non-binding arbitrations.

16.4.J. ***Standards of Professional Conduct and Disqualification of ADR Providers.***

(1) All providers are subject to disqualification pursuant to standards consistent with those set forth in 28 U.S.C. § 455 (1988). In addition, all ADR providers are required to comply with the State Bar of Texas Alternative Dispute Resolution Section's Ethical Guidelines for Mediators, the Code of Ethics for Arbitrators in Commercial Disputes promulgated by the American Arbitration Association, and the American Bar Association and such other rules and guidelines as the Panel specifies. (Amended by General Order No. 2012-13, effective October 18, 2012).

(2) Issues concerning potential ADR provider conflicts shall be raised with the judge presiding in the case relating to the ADR proceeding.

16.4.K. ***Conclusion of ADR Proceedings.*** After each ADR proceeding the provider, the parties, and the Court will take the following actions:

(1) Within 14 days of completion of the proceeding, the parties jointly must file a memorandum in the case stating the style and civil action number of the case; the names, addresses, and telephone numbers of counsel and party representatives in attendance; the type of case; the name of the ADR Provider, the ADR method used; whether the case settled; and the fees paid to the ADR provider. This reporting provision does not apply to non-binding arbitrations conducted pursuant to 28 U.S.C. § 654.

(2) Within 14 days of completion of the proceeding, the ADR provider must file a report in the case disclosing only the information listed in subparagraph K.1.

(3) Thereafter, the ADR Administrator shall submit a questionnaire evaluating the ADR provider and proceeding to the parties and counsel; counsel and the parties must complete and return the questionnaires by mail to the ADR Administrator. The Court, attorneys, and the public may review the questionnaires in the clerk's office. Data in the questionnaires shall be compiled by the ADR Administrator each calendar year. The questionnaires shall be retained by the clerk's office for at least three years.

(Amended by General Order No. 2012-13, effective October 18, 2012).

16.4.L. ***Evaluations.*** The Court annually shall evaluate and issue a public report on the use of ADR in the district, dispositions of ADR proceedings, and other matters the Panel requires.

16.4.M. ***Sanctions.*** Fed. R. Civ. P. 16(f) sanctions apply to violations of this rule.

LR26. **DISCOVERY**

LR26.1. **Use of Discovery.** 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 trial or hearing may be introduced in open court under the Federal Rules of Evidence.

LR26.2. **Placement of Discovery.** 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.

LR30. **DEPOSITIONS**

LR30.1. **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.

LR33. **INTERROGATORIES**

LR33.1. **Limitation of Interrogatories.** No more than twenty-five interrogatories (counting sub-parts) may be served without leave of Court.

LR38. **JURY TRIALS**

LR38.1. **Jury Demand.** Pleadings in which a jury is demanded shall bear the word "jury" at the top, immediately below the case number.

LR44. **PROOF OF OFFICIAL RECORD**

LR44.1. **Authentication of Exhibits.** A party requiring authentication of an exhibit must notify the offering party in writing within 7 days after the exhibit is listed and made available. Failure to object in advance of the trial in writing concedes authenticity. (Amended by General Order 2009-17, effective December 1, 2009).

LR46. **OBJECTIONS TO EXHIBITS**

Objections to admissibility of exhibits must be made at least 7 days before trial by notifying the Court in writing of the disputes, with copies of the disputed exhibit and authority. (Amended by General Order 2009-17, effective December 1, 2009).

LR47. **JUROR CONTACT**

Except with leave of 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.

LR54. **COSTS**

LR54.1. **Deposit for Costs.**

A. The clerk will not be required to perform any service requiring a payment unless

(1) The payment is deposited with the clerk;

(2) A law excuses the payment or the deposit in advance; or

(3) Leave to proceed in forma pauperis has been granted. 28 U.S.C. § 1915.

B. The U.S. Marshal may require a deposit to cover fees and expenses. 28 U.S.C. § 1921(d).

LR54.2. **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 7 days of the bill's filing. Rule 54(d). 28 U.S.C. § 1920. (Amended by General Order 2009-17, effective December 1, 2009).

LR65. BOND PROCEDURE

LR65.1. **Sureties.** No employee of the United States Courts or of the United States Marshal's Service will be accepted as surety on any bond or undertaking in any proceeding.

LR65.2. **Non-Assignability of Receipts.** A clerk's receipt or the claim for the refund of a deposit is not assignable.

LR72. UNITED STATES MAGISTRATE JUDGES

The magistrate judges of this District are authorized to perform all of the duties allowed by law, including the provisions of 28 U.S.C. § 636, and General Order 2001-6. These rules apply to proceedings before a magistrate judge. (Amended by General Order 2001-9, effective June 2, 2001).

LR79. BOOKS AND RECORDS KEPT BY THE CLERK

LR79.1. **Withdrawal of Instruments.** No filed instrument shall be removed from the clerk's custody without an order.

LR79.2. **Disposition of Exhibits.**

A. Exhibits that are not easily stored in a file folder (like posters, parts, or models) must be withdrawn within 7 days after the completion of the trial and reduced reproductions or photographs substituted.

B. 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 14 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.

(Amended by General Order 2009-17, effective December 1, 2009).

LR81. **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.

LR83. **MISCELLANEOUS LOCAL RULES**

LR83.1. **Admission to Practice.**

A. ***Eligibility.*** A lawyer applying for admission to the bar of this court must be licensed to practice law by the licensing authority of one of the fifty states, the District of Columbia, or a Territory of the United States. If licensed by a licensing authority other than the State of Texas, then an attorney must also be a member in good standing of a United States District Court. Attorneys employed by the Department of Justice or the Federal Public Defender are exempt from the requirement of good standing in another United States District Court. (Amended by General Order 2018-6, effective March 22, 2018).

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.*** The district shall have one committee on admissions comprised of seven attorney members chosen by the Chief Judge and who shall serve staggered three-year terms. The participation of four members, either in person or by electronic means, shall constitute a quorum.

E. ***Action on the Application.*** After a review of the application, the Court will admit or deny admission. 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 Assignments.*** 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.

LR83.2. **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.

LR83.3. **Notices.** All communications about an action will be sent to the attorney-in-charge who is responsible for notifying associate counsel.

LR83.4. **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.

LR83.5. **Parties' Agreement.** 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.

LR83.6. **Preserving Confidentiality.**

83.6.A. ***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.

83.6.B. ***Jurors' Names.*** The trial judge may hold the names of petit jurors confidential. Names of jurors held confidential shall not be disclosed other than to employees of the judiciary of the United States in their official duties.

LR83.7. **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.

LR83.8. **Courtroom Behavior.** Traditional, formal courtroom etiquette is required of all who appear in court as specified in Appendix C.

SUPPLEMENTAL ADMIRALTY RULES

A. **DESIGNATION AS "ADMIRALTY CASE"** - Papers in cases arising within the admiralty or maritime jurisdiction shall bear the word "admiralty" at the top, immediately below the case number.

E. **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:

E.1. **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.

E.2. **Payment.**

A. Payment to the marshal shall be by cash, cashier's check, or certified check; acceptance of cashiers' checks is conditioned on their payment.

B. Accepted bids of less than $1,000 shall be paid to the marshal on their acceptance.

C. 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 7 days of the sale. If an objection is filed within the 7 days, the buyer may defer payment of the balance until the sale is confirmed. (Amended by General Order 2009-17, effective December 1, 2009).

E.3. **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.

E.4. **Objections.**

E.4.1. ***Time***. Objections must be written and filed with the marshal within 7 days of the sale date. (Amended by General Order 2009-17, effective December 1, 2009).

E.4.2. ***Deposit.*** Objections shall be accompanied by a cost deposit of seven days of estimated expenses of custody.

E.4.3. ***Disposition.***

A. If sustained, the deposits by the bidder and objector will be refunded immediately.

B. If 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.

SUPPLEMENTAL HABEAS CORPUS RULES

1. **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 appealability is issued, the stay of execution will continue until the court of appeals acts.

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

CRIMINAL RULES

CrLR6. GRAND JURY WITNESSES

Names of witnesses appearing before a grand jury may be sealed for cause.

CrLR12. CRIMINAL PRETRIAL MOTION PRACTICE

CrLR12.1. **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.

CrLR12.2. **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."

CrLR12.3. **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.

CrLR12.4. **Service.** All motions must be served on all parties and contain a certificate of service.

CrLR12.5. **Submission.** At the time of arraignment the judicial officer shall set the time for pretrial motions and for any responses to the motions.

CrLR18. PLACE OF TRIAL WITHIN THE DISTRICT

A. Division in Which Prosecution and Trial May Occur.

(1) Unless a statute, other rule, or court order requires otherwise, the government may prosecute a case in any Division in the District in which the offense was committed, in whole or in part.

(2) The court may fix the venue of a criminal case in any Division in the District, consistent with Federal Rule of Criminal Procedure 18 and this Local Rule.

B. Multiple Offenses. In cases involving multiple offenses joined under Federal Rule of Criminal Procedure 8(a), the court may fix the venue in any Division in the District in which any one of the offenses may be tried.

C. Multiple Defendants. In cases involving multiple defendants joined under Federal Rule of Criminal Procedure 8(b), the court may fix the venue in any Division in the District in which any one of the defendants may be tried.

D. Intradistrict Transfer. On a judge's own motion or on the motion of a party, the judge in whose court the case was filed may transfer the case to a different Division in the District, if, after notice to the parties and an opportunity for them to be heard, the judge finds that the case was not filed in the proper Division or that transfer to a different Division would be in the interests of justice, based on the convenience of the defendant and the witnesses and on the prompt administration of justice.

(1) If a case is transferred to another Division under Rule 18 and this Local Rule, the Clerk of Court will assign the case to a judge in the transferee Division in accordance with the plan for random assignment, unless the transferor judge orders that he or she will continue to handle the case after transfer.

(2) If a case is retained in the Division where it was filed, the judge may direct the Clerk of Court to assign it to a judge in a Division in which venue would have been proper under Rule 18 and this Local Rule, in accordance with the plan for random assignment.

(Added May 14, 2019, General Order 2019-4).

CrLR23. **TRIAL**

CrLR23.1. **Free Press-Fair Trial Guidelines.** The Free Press-Fair Trial Guidelines of the Judicial Conference of the United States shall apply to all criminal proceedings in this district. 87 F.R.D. 519, 525 (1980).

CrLR23.2. **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.

CrLR24. **JURIES**

CrLR24.1. **Juror Contact.** Except with leave of 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.

CrLR24.2. **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.

CrLR32. **SENTENCING PROCEDURES**

CrLR32.1. **Waiver of the Presentence Investigation.** A presentence investigation will be prepared and submitted to the Court unless the Court finds that information in the record enables it to exercise its sentencing authority under 18 U.S.C. § 3553 and explains this finding on the record.

A. On motion filed before rearraignment, the Court will consider waiving the preparation of the presentence investigation. The motion shall contain:

(1) a factual summary of the defendant's relevant conduct in committing the offense;

(2) a listing of the defendant's criminal history, including dates of conviction, dispositions, and representation by counsel;

(3) guideline calculations leading to the establishment of the total offense level and criminal history category;

(4) a statement reflecting the resulting imprisonment, fine and supervised release ranges, as well as any factors that may warrant a departure from these ranges;

(5) a statement as to the identity and address of any victim(s) and the amount of restitution due to any victim. In the case of any identified victim where no restitution or only partial restitution is being recommended, the motion shall include a statement justifying the recommendation.

CrLR32.2. **Order of Presentence Investigation and Initial Disclosure Date.** At the time of determination of guilt, the Court will fix the date by which 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. In addition, unless waived by the defendant, the presentence report shall be disclosed not less than 35 days before the sentencing date.

CrLR32.3. **Presence of Counsel.** On request, defense counsel is entitled to notice and a reasonable opportunity to attend any interview of the defendant by a probation officer in the course of a presentence investigation.

A. A request to be present at interviews conducted by the probation officer must be made to the probation office immediately after the determination of guilt, followed by written notice to the probation office within 7 days. (Amended by General Order 2009-17, effective December 1, 2009).

B. The term "interview" applies to communications initiated by the probation officer for purposes of developing information which will be used in preparation of the presentence investigation. Spontaneous or unplanned encounters between the defendant and probation officer would not normally fall within the purview of this rule.

C. Having received notice, defense counsel, or his/her designee, is responsible for being present at the interview(s) to enable timely completion of the presentence report.

CrLR32.4. **Delivery.** Presentence reports and related documents are filed under seal by the probation office electronically in the Court's Electronic Filing System (CM/ECF). The Notice of Electronic Filing (NEF) automatically generated by the Court's Electronic Filing System notifies counsel their copy of the report can be retrieved utilizing their Filing User log-in and password issued upon admittance to the bar of this Court. (See Administrative Procedures for Electronic Filing in Civil and Criminal Cases). In extenuating circumstances, paper copies may be requested from the probation office by counsel. Counsel will then be responsible for obtaining the paper copy of the report at the probation office in the city of the sentencing court, or making arrangements with the probation office for alternative delivery, at counsel's expense. These arrangements should be confirmed in writing with the probation office. Delivery via facsimile is not authorized. Alternative delivery extends no time limits. (Amended by General Order No. 2014-4, effective January 31, 2014).

CrLR32.5. **Counsel's Duty.** Defense counsel shall disclose every report to the client.

CrLR32.6. **Objections.**

A. Within 14 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.

B. A party not objecting must deliver a statement of non-opposition to the probation office.

C. 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.

CrLR32.7. **Final Report.**

A. 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.

B. Within 14 days after the time for objections but in no event later than 7 days before sentencing, 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.

CrLR32.8. **Availability.** The initial report may be obtained on the disclosure date established by the Court. The final report (if different from the initial report) and addendum may be obtained as soon as counsel are notified that the report is available. Notification will be accomplished via a Notice of Electronic Filing issued by the Court's Electronic Filing System (CM/ECF). (Amended by General Order No. 2014-4, effective January 31, 2014).

CrLR32.9. **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.

CrLR32.10. **Sentencing Date.** Unless waived by the defendant, the sentencing date shall be at least 7 days after the final report is delivered to the Court.

CrLR32.11. **Limitation.** This rule does not require disclosure of portions of the report not disclosable under Federal Rule of Criminal Procedure 32. The probation officer's recommendation on the sentence shall not be disclosed unless so ordered by the sentencing judge.

CrLR46. BOND PROCEDURE

CrLR46.1. **Sureties and Non-Assignability of Receipts.** No employee of the United States Courts or of the United States Marshal's Service will be accepted as surety on any bond or undertaking in any proceeding. A clerk's receipt or the claim for the refund of a deposit is not assignable.

CrLR46.2. **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.

CrLR49. **FILING REQUIREMENTS**

The provisions of LR5 with respect to electronic filing and service in civil cases are applicable to criminal cases. (Amended by General Order No. 2005-7, effective April 6, 2005).

CrLR55. **RECORDS**

CrLR55.1. **Withdrawal of Instruments.** No filed instrument shall be removed from the clerk's custody without an order.

CrLR55.2. **Exhibits at Criminal Trials.**

A. ***Authentication of Exhibits.*** A party requiring authentication of an exhibit must notify the offering party in writing within 7 days after the exhibit is listed and made available. Failure to object in advance of the trial in writing concedes authenticity.

B. ***Objections to Exhibits.*** Objections to admissibility of exhibits must be made at least 7 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 7 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 14 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.

(Amended by General Order 2009-17, effective December 1, 2009).

CrLR57. **MISCELLANEOUS**

CrLR57.1 **Magistrate Judges.** The magistrate judges of this District are authorized to perform all of the duties allowed by law, including the provisions of 28 U.S.C. § 636, General Order No. 2001-6, and General Order 91-26. These local rules apply to proceedings before a magistrate judge. (Amended by General Order 2001-9, effective June 25, 2001).

CrLR57.2. **Courtroom Behavior.** Traditional, formal courtroom etiquette is required of all who appear in court as specified in Appendix C.

CrLR57.3 **Admission to Practice.** The provisions of LR83.1 with respect to admission to practice are applicable to criminal cases.

CrLR58. **PROCEDURE FOR MISDEMEANORS AND OTHER PETTY OFFENSES**

CrLR58.1. **Forfeiture of Collateral in Lieu of Appearance**

A. A person or organization charged with a misdemeanor or a petty offense as defined in Title 18, United States Code, Section 19, for which there is a published schedule providing for forfeiture of collateral may, in lieu of appearance, post collateral in the amount indicated for the offense, waive appearance before the United States District or Magistrate Judge, and consent to forfeiture of collateral.

B. The Court has adopted forfeiture schedules and may from time to time modify and change these schedules by general order of the court without notice or comment.

C. If a person or organization charged with an offense under Section A of this Rule fails to post and forfeit collateral, any punishment, including fine, imprisonment, or probation, may be imposed within the limits established by law upon conviction by plea or after trial.

D. A person or organization charged with a misdemeanor or petty offense for which there is not a published schedule providing for forfeiture of collateral must appear before a United States District or Magistrate Judge.

E. Of the total collateral amount paid, the sum of five dollars is designated as the special assessment required by Title 18, United States Code, Section 3013.

(Added May 3, 2001).

APPENDIX A

RULES OF DISCIPLINE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
(Effective June 19, 2007)

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 Texas 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 or a misdemeanor involving moral turpitude or controlled substance shall promptly notify this court in writing and furnish to the clerk of court a certified copy of the judgment of conviction. A lawyer convicted of a felony shall immediately cease practicing before this court pending further action by the court.

B. After the court has notice that a lawyer practicing before it has a conviction described in Rule 2 (A), it 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 disciplined by another court in the United States shall promptly notify this court in writing and furnish to the clerk of the court a certified copy of the order of discipline. A lawyer suspended or disbarred by another court in the United States shall immediately cease to practice before this court. A lawyer subjected to a reprimand 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 unless the lawyer requests a hearing and carries the burden of showing that such prior action lacked due process.

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

A. A lawyer who is disbarred or suspended by consent or agreement or who resigns from the bar of another court in the United States to avoid further discipline must advise this

court in writing and immediately cease to practice before this court. The lawyer shall furnish a certified copy of the disciplinary order or letter of resignation 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 in this court.

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 that is not frivolous, the chief judge shall order the clerk to file the charge and randomly assign it to a district judge for review to determine whether further disciplinary proceedings should be held. The reviewing judge shall notify the charged lawyer of the charges made and give that lawyer an opportunity to respond. If the charge is made by a bankruptcy judge or is one occurring in bankruptcy court, the clerk may assign the charge to a bankruptcy judge, who may serve as reviewing judge. The chief judge may elect to forego the review procedures of this paragraph if, in the judgment of the chief judge, the information provided to the chief judge with the charge is sufficiently clear to warrant further disciplinary proceedings of paragraph 5 (c), et seq.

C. After review, the judge will, by written report, recommend to the chief judge whether further disciplinary proceedings should be heard and the charges to be heard. If further proceedings are recommended, the chief judge shall order further hearings to be held before a district judge, who may have been the reviewing judge.

D. The hearing judge will give at least 14 days notice to the charged lawyer of the time of the hearing, the charges and the right to counsel at the hearing. The hearing shall be held on the record in open court as a miscellaneous proceeding. Rule 1101(d)(3), Federal Rules of Evidence applies, and all witnesses shall be sworn.

E. In the hearing of charges before the hearing judge, the prosecution shall be by an attorney specially appointed by the hearing judge. Costs of the prosecutor and fees allowed by the hearing judge may be paid from the Attorney Admissions Fund.

F. The hearing judge shall file his judgment, providing a copy to the chief judge and the lawyer. If the hearing judge determines that disciplinary action should be taken, the judge shall make findings of violations and order either permanent disbarment, a suspension, a written or oral reprimand and whether such should be public or private with such conditions as the judge may order.

G. The decision of the hearing judge is final, except that, within 14 days, the lawyer may appeal the judgment by filing a notice of appeal. A panel of three district judges of the court, randomly assigned, will hear the appeal. The appeal shall be on the record developed at the hearing. Facts found by the hearing judge are not reviewable unless clearly erroneous. The law determined by the hearing judge is reviewable de novo. The decision of the panel is final. There is no en banc review. (Amended by General Order 2009-17, effective December 1, 2009).

H. If the membership in the Southern District Bar of the lawyer being disciplined was not current at the time of the court order imposing discipline, the order may include that the lawyer shall not reapply for admission except under such conditions as the court may impose.

Rule 6. *Reinstatement.*

A. A suspended or disbarred lawyer must apply to this court for reinstatement before resuming practice before this court. A lawyer who has been suspended may apply for reinstatement before or after the end of his term of suspension. The term of suspension includes all conditions and periods of suspension, including probated and inactive suspension. A lawyer who has been disbarred may apply for reinstatement but not before five years from the effective date of the disbarment.

B. All petitions for reinstatement shall be filed with the clerk of the court who will promptly refer the petition to the Attorney Admissions Committee for its recommendation on the petition to the chief judge. The chief judge may make the final decision of the court on the petition.

C. 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.

D. 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.

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, and the chief judge shall have the right to designate another district judge, to serve under these rules in the place of the chief judge.

Rule 11. *Effective Date.*

These rules are effective immediately; all pending disciplinary matters will be concluded under these rules; and the rules effective October 10, 1996 are superseded by them.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

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

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 7 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 7 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.

APPENDIX D

Guidelines for Professional Conduct.

A. In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.

B. A lawyer owes, to the judiciary, candor, diligence and utmost respect.

C. A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.

D. A lawyer unquestionably owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.

E. Lawyers should treat each other, the opposing party, the court, and members of the court staff with courtesy and civility and conduct themselves in a professional manner at all times.

F. A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.

G. In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.

H. A lawyer should not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or counsel's client.

I. Lawyers will be punctual in communications with others and in honoring scheduled appearances, and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.

J. If a fellow member of the Bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.

K. Effective advocacy does not require antagonistic or obnoxious behavior and members of the Bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.

(Added May 8, 2001).