

**UNITED STATES DISTRICT COURT**

**FOR THE**

**WESTERN DISTRICT OF MISSOURI**

**LOCAL - RULES**



Adopt  
ed by  
the  
Court

Effective ~~January 1, 2015~~           , 2016

## PREFACE

~~What may initially appear to be a major transformation of the Local Rules adopted in 1946 and frequently amended is simply a renumbering, to comply with Judicial Conference standards. The major objective is to create as much uniformity between districts in the numbering of rules as may be feasible. The minor objective is to rearrange the Local Rules to correspond with the numbering of the Federal Rules of Civil Procedure, insofar as there is correlation. Certain gaps in numbering will reserve space for additional local rules that correspond to the Federal Rules of Civil Procedure.~~

~~Pursuant to Federal Rule of Civil Procedure 83(a), the United States District Court for the Western District of Missouri adopts the following Local Rules, governing cases before the District on and after \_\_\_\_\_, 2016.~~

~~The Local Rules supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure. Attorneys practicing before the District must be familiar with all of these rules. For the attorneys' convenience, the Local Rules are numbered to correspond to the Federal Rules of Civil Procedure. Local Rules applying to criminal actions only are numbered as Local Rules 99.0 to 99.10.~~

~~Citations should be to Local Rule \_\_\_A\_\_\_ or L.R. \_\_\_\_\_.0\_\_.~~



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## LOCAL RULES

### CIVIL

#### 1.1 DEFINITIONS

As used in these Rules:

- (a) **District.** “District” means the United States District Court for the Western District of Missouri.
- (b) **Court.** “Court” means the district judge or magistrate judge to whom a case is assigned.
- (c) **District Judge.** “District judge” means a United States District Judge for the Western District of Missouri, including judges on senior status.
- (d) **Magistrate Judge.** “Magistrate judge” means a United States Magistrate Judge for the Western District of Missouri, including full-time and part-time magistrate judges.
- (e) **Judge.** “Judge” means either a district judge or a magistrate judge.
- (f) **Court En Banc.** “Court en banc” means all district judges assigned to the District, including judges on senior status.
- (g) **Clerk.** “Clerk” means the Clerk of the United States District Court for the Western District of Missouri.

#### ~~2. Composition~~ **3.1 CIVIL DIVISIONAL VENUE**

~~(a) Divisions within the Western District of Missouri.~~ The ~~United States District Court for the Western District of Missouri~~ comprises the following divisions:

##### **1. To Be Heard in Federal Court in Kansas City, Missouri:**

~~(a)~~ **A. Western Division:**— The Western Division comprises the counties of Clay, Ray, Carroll, Saline, Lafayette, Jackson, Cass, Johnson, Henry, Bates, and St. Clair.

~~(b)~~ **B. St. Joseph Division:** The St. Joseph Division comprises the counties of Atchison, Nodaway, Worth, Gentry, Harrison, Mercer, Putnam, Sullivan, Grundy, Livingston, Daviess, Caldwell, DeKalb, Clinton, Platte, Buchanan, Holt, and Andrew.

##### **2. To Be Heard in Federal Court in Jefferson City, Missouri:**

**Central Division:** The Central Division comprises the counties of Pettis, Benton, Hickory, ~~Howard~~, Cooper, Morgan, Camden, Boone, Moniteau, Miller, Callaway, Cole, and Osage.

**3. To Be Heard in Federal Court in Springfield, Missouri:**

~~(a)~~ **A.** **Southern Division:** The Southern Division comprises the counties of Cedar, Dade, Polk, Greene, Christian, Taney, Dallas, Webster, Douglas, Ozark, Laclede, Wright, Pulaski, Texas, Howell, and Oregon.

~~(b)~~ **B.** **Southwestern Division:** The Southwestern Division comprises the counties ~~of~~ Vernon, ~~Barton~~, ~~Jasper~~, ~~Newton~~, McDonald, Lawrence, Barry, and Stone.

**(b) Divisional Venue.**

1. **Single ~~defendant.~~ Defendant.** All actions brought against a single defendant who is a resident of this district must be brought in a division where the defendant resides, or where the claim for relief arose.
2. **Multiple ~~defendants.~~ Defendants.** All actions brought against multiple defendants all of whom reside in the same division must be brought in that division, or in the division where the claim for relief arose. ~~If~~ at least two of the defendants reside in different divisions, such action ~~shall~~must be filed in any division in which one or more of the defendants~~;~~ reside, or where the claim for relief arose.

3. ~~Non-resident defendant.~~ **Resident Defendant.** - If none of the defendants is a resident of the ~~Western District of Missouri~~, the action ~~shall~~**must** be filed in the division where at least one plaintiff resides, or where the claim for relief arose.

(c) **Location of Proceedings.** ~~In all cases~~**Subject to statutory limitations**, the Court ~~retains discretion to~~**may** fix the location where any courtroom proceedings ~~shall~~**be** held.

(d) ~~Construction with Other Venue Statutes.~~ **Construction with Other Venue Statutes.** -This ~~Local Rule~~ **shall** ~~must~~ be construed consistently with ~~the text and definitions contained in 28 U.S.C. § 1391(e), (d), (e) and (f), 1392, 1446(a), 1404(a) and 1406(a) and (b).~~**the district venue statutes.**

~~(de)~~ **Filing by Attorneys of a Civil Cover Sheet in Each Civil Case.** In a civil action, ~~an attorney filing a pleading asserting a claim for relief, or an amended pleading asserting a new claim for relief, must complete and file a civil cover sheet on the form prescribed by the Court en banc and provided by the Clerk.~~

## 5.1 MANDATORY ELECTRONIC FILING

~~Unless otherwise expressly provided for by these rules or by court order or by exceptional circumstances preventing electronic filing, all litigants and other interested parties~~**Any** represented by legal counsel ~~shall electronically file all pleadings and documents (including initiating documents)~~**party filing a document** in connection with a case ~~on the Court's~~**must do so electronically through the District's** electronic filing system ~~in accordance with the~~. ~~The~~ *CM/ECF Civil and Criminal Administrative Procedures Manual and User's Guide***CIVIL AND CRIMINAL ADMINISTRATIVE PROCEDURES MANUAL**, available on the ~~Court's web site~~**District's website and through the Clerk's Office**, governs electronic filing. The Court may excuse compliance with this Rule if a ~~prospective filer demonstrates exceptional circumstances preventing electronic filing.~~

## 5.2 SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

Documents may be served through the ~~court's~~**District's** transmission facilities by electronic means to the extent and in the manner authorized by the *CM/ECF Civil and Criminal Administrative Procedures Manual* ~~approved by the court and User's Guide~~. Transmission of the Notice of Electronic Filing through the ~~court's~~**District's** transmission facilities constitutes service of the filed document upon each party in the case who is registered as a Filing User. ~~Any~~**All** other ~~party or parties~~ **shall** ~~must~~ be served ~~documents~~ according ~~to these Local Rules and either the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure~~**usual procedures.**

## ~~6.1 — TIME COMPUTATION~~

~~Computing any time period specified in these Local Rules shall be done in the same manner as provided in Federal Rule of Civil Procedure 6.~~

## ~~7.0 — PLEADINGS AND MOTIONS~~

~~(a) — Filing by Attorneys of a Civil Cover Sheet in Each Civil Case. Any attorney filing a pleading in a civil action asserting a claim for relief, or an amended pleading in a civil action asserting a new claim for relief, shall complete and file a civil cover sheet with the district court Clerk in the form currently prescribed by the Court and available online and in the Office of the Clerk.~~

~~(b) — Motions. Unless oral argument is ordered by the Court, motions will be ruled upon the written motion, supporting suggestions, opposing suggestions and reply suggestions.~~

~~(c) — **Suggestions in Support of Motions.** The moving party shall serve and file with the party's motion a brief written statement of the reasons in support of the motion.~~

~~(d) — **Suggestions in Opposition.** Within 14 days from the time the motion is filed, each party opposing the motion shall serve and file a brief written statement of the reasons in opposition to the motion. For time limits concerning summary judgment motions, see Rule 56.1.~~

~~(e) — **Reply Suggestions.** Within 14 days from the time the suggestions in opposition are filed, a reply brief may be filed. For time limits concerning summary judgment motions, see Rule 56.1.~~

~~(f) — **Length of Suggestions.** Suggestions shall be concise. A party's primary authorities shall be emphasized. Suggestions in support of or in opposition to a motion shall be no longer than 15~~ **5.3 FORMATTING OF FILINGS**

~~Typed filings must be double-spaced typewritten pages, exclusive of facts presented in accordance with Rule 56.1, without permission of the Court. Reply suggestions shall be limited to 10 double-spaced pages, unless otherwise authorized by the Court. Suggestions exceeding 10 pages in length shall have a table of contents and table of authorities. Margins must be at least one inch on all four sides. Page numbers may be placed in the margins, but no text may appear there. Either a proportionally spaced or a monospaced font may be used. A proportionally spaced font must be 12 point or larger. A monospaced font may not contain more than 102~~ **10½** characters per inch.

~~(g) — **7.0 WRITTEN MOTIONS**~~

~~(a) **Suggestions Generally.** A written motion must be supported and opposed with suggestions, which are a written brief containing relevant facts and applicable law. Suggestions must be concise and emphasize their primary authorities.~~

~~(b) **Considerations in Ruling on Motions.** In ruling upon a written motion, the Court must consider the motion, supporting suggestions, opposing suggestions, and reply suggestions. The Court may, but need not, order and consider oral argument.~~

~~(c) **Timing of Suggestions.**~~

~~1. **Supporting Suggestions.** At the same time it files a motion, the moving party must file suggestions supporting the motion.~~

~~2. **Opposing Suggestions.** Within 14 days after a motion is filed, each party opposing the motion must file suggestions opposing the motion. For summary judgment motions, a party instead has 21 days to file its opposing suggestions.~~

3. Reply Suggestions. Within 14 days after the opposing suggestions are filed, the moving party may file reply suggestions.

(d) Length of Suggestions.

1. Unless the Court orders otherwise:

A. Supporting suggestions may not exceed 15 pages;

B. Opposing suggestions may not exceed 15 pages; and

C. Reply suggestions may not exceed 10 pages.

2. Attachments, certificates of service, and statements of fact—including facts presented under Rules 9.1(d)(2) or 56.1—do not count toward these page limitations.

3. Suggestions exceeding 10 pages must have a table of contents and table of authorities, which do not count toward these page limitations.

(e) Oral Arguments. ~~A A party must separately state a request for oral arguments shall be separately stated at the conclusion of the motion or written suggestions. Any request for oral argument must be clearly marked on the first page of either the motion or the suggestions.~~

~~(h) Discovery Motions.~~ For additional requirements concerning discovery motions *see* Rule 37.1.

~~(i) Summary Judgment Motions.~~ For additional requirements concerning Summary Judgment Motions *see* Rule 56.1.

## 7.1 DISCLOSURE OF CORPORATION INTERESTS

~~(a) Certificate of Interest.~~ Every non-governmental corporate party ~~in a civil or criminal case~~ must file a certificate of interest. ~~Information~~The Court may consider the information provided in the certificate ~~may be used by the judge assigned, but only~~ to a case for the sole purpose of ~~determining~~determine whether recusal is ~~necessary or~~ appropriate. ~~The party must file this~~ certificate ~~shall be filed with the party's~~ first pleading or entry of appearance. ~~The~~Unless the Court orders otherwise, the party may not file the certificate of interest ~~may be filed~~ under seal ~~if so ordered by the court.~~

(b) ~~Content.~~ ~~The certificate of interest shall~~must identify all parent companies of the corporation, subsidiaries ~~(except wholly owned subsidiaries),~~ ~~and~~ affiliates that

have issued shares to the public. ~~When a~~ The certificate must indicate when its answer is negative or not applicable ~~response is required, the certificate shall so state.~~

(c) ~~\_\_\_\_\_~~ **Changes and Updates.** ~~If a change in any of the items listed in paragraph (b) of this rule occurs~~ the information contained in the certificate of interest changes after the certificate is filed and before time has expired for filing a notice of appeal from a final judgment in the case, the party must file an amended certificate ~~shall be filed~~ within 7 days ~~of~~ after the change.

## 9.1 SOCIAL SECURITY PRACTICE

~~The review of final decisions by the Commissioner of Social Security shall begin with the filing of a complaint, followed by the filing of the record on appeal, defendant's answer, plaintiff's brief, defendant's brief and plaintiff's reply brief.~~

(a) ~~(a)~~ **The Complaint.** ~~Review~~ To obtain review of a final decision of the Commissioner of Social Security ~~is obtained by filing a complaint with the Clerk of the Court within the time prescribed by law.~~, a party must file a complaint. The caption of the complaint ~~shall~~ must include the name of each party seeking review, the name of the defendant designated in the applicable statute, and identify the final decision or part of the final decision to be reviewed. The complaint ~~shall also~~ must contain a citation to the statute by which jurisdiction is claimed, a short and plain statement of the claim showing that the plaintiff is entitled to relief, and a demand for the relief the plaintiff seeks. ~~If two or more persons are entitled to seek judicial review of the same order and their interests are such as to make joinder proper, they may file a joint complaint.~~ ~~Complaint forms, in~~ The plaintiff may use his or her own complaint, or the form attached to this Rule, may be obtained from ~~provided by~~ the Clerk of. ~~Once a complaint is filed, the Court Clerk must add the designation "SSA" to the case number.~~

(b) ~~\_\_\_\_\_~~ **Case Designation.** ~~Any complaint for review of a decision of the Commissioner of Social Security shall also contain the designation "SSA" in the case number to indicate the nature of the case as an appeal from a decision of the Commissioner of Social Security.~~

(c) ~~\_\_\_\_\_~~ **Service of Process.** ~~Service of process shall be in the manner provided by Rule 4, Federal Rules of Civil Procedure.~~

(d) ~~\_\_\_\_\_~~ **The Answer.** ~~Defendant shall~~ The defendant must file an answer to the complaint within ~~60 days after the United States Attorney is served with the~~ complaint.

~~(e) **Filing and Service of Briefs.** The plaintiff shall serve and file a brief within 40 days after the date on which the answer is filed. The defendant shall serve and file a brief within 40 days after service of the brief of the plaintiff. The plaintiff may serve and file a reply brief within 21 days after service of the brief of the defendant. The briefs shall be divided into ~~“Facts”~~ and ~~“Argument”~~ sections with each issue separately designated in the Argument section. The argument portion of the initial brief and the responding brief shall not exceed 15 pages in length and the argument portion of the reply brief shall not exceed 10 pages in length. Extensions of the time for filing and serving briefs shall not be granted except for limit prescribed by Fed. R. Civ. P. 12(a)(2).~~

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~~good cause shown. The case shall be submitted when all briefs have been filed. The decision of the court will be rendered upon the briefs and the record, without oral argument, unless otherwise directed by the court.~~

~~**(f)(c) The Record on Review.**~~

- ~~1. **Date of Filing.** The defendant shall file the record with the Clerk of **Timing.** Unless the Court orders otherwise, the defendant must file the record within 90 days after service of the complaint, unless a different time is provided by order of the court served.~~
- ~~2. **Composition.** The final decision sought to be reviewed, Unless the Court orders otherwise, the record in Social Security cases comprises all decisions by an Administrative Law Judge and all pleadings, evidence and orders shall constitute the record on appeal from a decision of the Commissioner of Social Security, unless otherwise provided by order of the Court.~~
- ~~3. **Omissions From from, or Misstatements in, the Record on Review.** — If anything material to any a party is omitted from or misstated in the record, the parties may supply the omission or correct the misstatement by stipulation, or the court may at any time direct that the omission or misstatement be corrected and, if necessary, that a supplemental record be prepared and filed. Any party who discovers a material omission from<sub>2</sub> or misstatement in<sub>2</sub> the record shall:
  - A. The discovering party must immediately notify the Court and all other parties;
  - B. The parties may supply the omission or correct the misstatement by stipulation; and~~

C. The Court may order a party to correct the omission or misstatement and, if necessary, prepare and file a supplemental record.

(d) Suggestions.

1. Considerations in Ruling on Motions. In ruling upon a Social Security complaint, the Court must consider the record, supporting suggestions, opposing suggestions, and reply suggestions. The Court may, but need not, order and consider oral argument.

2. Composition

(g) . Suggestions must be divided into “Facts” and “Argument” sections, with each issue separately designated in the Argument section.

3. Timing of Suggestions. Unless the Court orders otherwise:

a. Within 40 days after the complaint is served, the plaintiff must file suggestions supporting the complaint.

b. Within 40 days after the supporting suggestions are filed, the defendant must file suggestions opposing the complaint.

c. Within 21 days after the opposing suggestions are filed, the plaintiff may file reply suggestions.

(e) Applicability of Other Rules. The parties shall give the same notice of the filing of pleadings, records and other documents as is required by Rule 5, Federal Rules of Civil Procedure. The provisions of this rule shall control over the provisions of This Rule supersedes any Local Rule in conflict.

**9.2 PETITIONS FOR ~~HABEAS CORPUS AND MOTIONS PURSUANT TO 28 U.S.C. SECTION 2255 (Attacking a sentence imposed by this Court)~~ POST-CONVICTION RELIEF FILED BY PERSONS IN CUSTODY**

(a) ~~General. In the absence of~~ (a) **Generally.** Absent exceptional circumstances, petitions for a writ of habeas corpus ~~pursuant to~~ under 28 U.S.C. Section § 2254 and ~~28 U.S.C. Section § 2241 and motions filed pursuant to 28 U.S.C. Section 2255 (attacking a sentence imposed by this Court), by persons in eustody, shall~~ under 28 U.S.C. § 2255 must be in writing, signed and verified. ~~Such~~ The Clerk must provide forms for such petitions and motions ~~shall be on forms available on request from the Clerk's Office.~~

(b) ~~Mandatory~~ **Information.** The Required for a Petition under This Rule. A petitioner under this Rule must supply the following information ~~shall be supplied by every petitioner, if applicable and if known:~~

- ~~1. Petitioner's~~ 1. Petitioner's full name and prison number ~~(if any);~~;
- ~~2. The name of the respondent (petitioner's, i.e., the petitioner's custodian);~~  
\_\_\_\_\_
3. The place ~~of petitioner's detention~~ where the petitioner is detained;
4. The name and location of the court which imposed the sentence;
5. The indictment number(s) ~~(if known)~~ upon which, and ~~the~~ offense(s) for which, the sentence was imposed;
6. The date upon which the sentence was imposed and the terms of the sentence;
7. Whether ~~a finding of the petitioner pled guilty was made after a plea of~~ (1), not guilty, ~~(2) not guilty,~~ or ~~(3) nolo contendere~~;
8. ~~In~~ If the ~~ease of a petitioner who~~ pled not guilty but was found ~~to be guilty following a plea of not~~ guilty, whether the finding of guilty was made ~~(1) by a jury,~~ or ~~(2) by a judge without a jury~~;
9. ~~Whether or not~~ If the petitioner appealed ~~from the judgment of his or her conviction or from the imposition of sentence, and, if so,~~ the name of each court to which the petitioner appealed, the results of such appeals, the date of such results, and ~~(if known),~~ the citations of any written opinions or orders entered ~~therein~~ on appeal;
10. ~~Whether petitioner was~~ The name and address of each attorney that represented by an attorney the petitioner in connection with the petitioner's case at any time during the course of petitioner's including arraignment and, plea, trial (if any), sentencing, appeal, or filing of a post-conviction motion—and the proceedings at which each attorney represented the petitioner;
11. ~~and appeal (if any), or preparation, presentation or consideration of~~ Whether the petitioner has previously filed any petition, motions or applications which the petitioner filed motion, or application with respect to this conviction; if so, the name and address of such attorney(s) and the proceedings at which petitioner was so represented; and

~~11. If petitioner seeks leave to proceed in forma pauperis, whether the affidavit attached to the form has been completed.~~

~~(e) **Additional Information (Petitioner in State Custody).** The following additional information shall be supplied by a petitioner in state custody seeking a writ of **habeas corpus** pursuant to 28 U.S.C. Section 2254 or 28 U.S.C. Section 2241:~~

- ~~1. If petitioner did not appeal from the judgment of conviction or the imposition of sentence, the reasons why said petitioner did not do so;~~
- ~~2. In concise form, the grounds upon which petitioner bases the allegation that the petitioner is being held in custody unlawfully, the facts which support each of these grounds, and whether any such grounds have been previously presented to any court, state or federal, by way of any petition, motion or application; if so, which grounds have been previously presented; and in what proceedings; and~~
- ~~3. Whether petitioner has filed in any court, state or federal, previous petitions, applications, or motions with respect to this conviction; if so, the~~

~~name and location of each court, the specific nature of the proceedings therein, the disposition thereof, the date of such disposition, and (if known), citations of any written opinions or orders entered therein.~~

~~(d) **Additional Information (Petitioner in Federal Custody).** The following additional information shall be supplied by a petitioner in federal custody who is seeking a writ of **habeas corpus**, pursuant to 28 U.S.C. Section 2241:~~

~~1. Whether petitioner has filed in any court, state or federal, previous petitions for **habeas corpus**, motions (pursuant to 28 U.S.C. Section 2255) to vacate sentence, or any other petitions, motions or applications with respect to this conviction; if so, the name and location of ~~any and~~ all such courts, the specific nature of the proceedings therein, the disposition thereof, the date of each such disposition, and ~~(if known)~~the citations of any written opinions or orders entered therein;~~

~~212. In concise form, the grounds ~~upon~~for which ~~the~~ petitioner bases the allegation that ~~petitioner~~he or she is being held in custody unlawfully, or the allegation that the sentence which was imposed upon him or her is invalid; the facts ~~which~~that support each ~~of these grounds, and~~; whether ~~any such these~~ grounds have been previously presented to any federal court, by way of ~~petition for writ of habeas corpus, motion pursuant to 28 U.S.C. Section 2255, or any other any~~ petition, motion or application; and if so, which grounds have been previously presented and in what proceedings; and.~~

~~3. If a previous motion pursuant to 13. If the petitioner seeks leave to proceed in forma pauperis, an affidavit completed in accordance with Rule 83.7.~~

~~(c) **Additional Information for Motions under 28 U.S.C. §§ 2241 or 2254.** A petitioner seeking a writ of habeas corpus under 28 U.S.C. Section 2255 was not filed, or if such a motion was filed and denied, §§ 2241 or 2254 must also supply the reasons why ~~petitioner's~~ the petitioner did not appeal his or her conviction or sentence, if the petitioner did not do so.~~

~~(d) **Additional Information for Motions under 28 U.S.C. § 2241.** A petitioner seeking a writ of habeas corpus under 28 U.S.C. § 2241 must also supply the reasons why the remedy by way of such motion under 28 U.S.C. § 2255 is inadequate or ineffective to test the legality of ~~his~~ the petitioner's detention, if the petitioner has not previously filed a motion under 28 U.S.C. § 2255.~~

~~(e) **Additional Information – Petitioner Seeking Relief Underfor Motions under 28 U.S.C. Section**  
§ 2255. The following additional information shall be supplied by aA petitioner in~~

~~federal custody who is seeking relief by motion pursuant to~~ under 28 U.S.C. Section § 2255:

1. ~~The~~ must also supply the name of the judge who imposed the sentence;
2. ~~In concise form, the grounds upon which petitioner bases the allegation that the sentence which was imposed upon petitioner is invalid, the facts which support each of these grounds, whether any such grounds have been presented to any federal court on a previous petition for writ of habeas corpus, motion pursuant to 28 U.S.C. Section 2255, or any other petition, motion or application, and, if so, which grounds have been previously presented and in which proceedings; and~~
3. ~~Whether petitioner has filed in any court petitions for habeas corpus, motions pursuant to 28 U.S.C. Section 2255, or any other petitions, motions or applications with respect to this conviction; if so, the name and location of each such court, the specific nature of the proceedings therein;~~

~~the disposition thereof, the date of each such disposition and (if known), citations of any written opinion or orders entered therein.~~

~~(f) — **In Forma Pauperis Affidavit.** Where a petition or motion is taken **in forma pauperis**, petitioner shall complete the **forma pauperis** affidavit attached to the back of the form and shall set forth information which establishes that said petitioner will be unable to pay the fees and costs of the **habeas corpus** or 28 U.S.C. Section 2255 proceeding.~~

~~(g) — **Submission of Petitions & Motions to the Clerk of Court.** Petitions and motions shall be addressed . A petitioner under this Rule must send an original and one copy of the completed petition to the Clerk. ~~Petitioners shall send to the Clerk an original and one copy of the completed petition or motion form.~~ A petition or motion A petition addressed to an individual judge shall must be re directed to the Clerk of the Court for assignment pursuant to the rules of.~~

~~(g) **Noncompliance with Form and Content Requirements.** If a petition under this Court, provided that motions under 28 U.S.C. Section 2255 shall, if possible, be assigned to the sentencing judge.~~

~~In the event a petition or motion Rule does not substantially comply with the above requirements of form and content, the Clerk ~~of the Court~~ shall provisionally file the petition or motion and notify the prisoner of the defects giving the prisoner a reasonable time to correct said defects and resubmit the petition or motion.must:~~

~~(h) — **Filing of Traverse.** A traverse of the response to an order to show cause shall be filed by the petitioner or movant within 7 days after service of or notice of the filing of the response, unless the time for filing the traverse is extended by a judge or a United States Magistrate Judge. In the absence of a timely traverse, all facts well pleaded in the response to the order to show cause shall be deemed admitted by the petitioner or movant, unless for good cause shown an extension of time for filing the traverse is obtained and the traverse is filed within the extended time.~~

~~1. Provisionally file the petition;~~

~~2. Notify the petitioner of the defects; and~~

~~3. Give the petitioner a reasonable amount of time to correct the defects and to resubmit the petition.~~

~~(h) **Suggestions.** Once assigned a petition, the Court must fix a time by which the respondent must file suggestions opposing the petition. Unless the Court grants an extension, the petitioner must file reply suggestions within 14 days after the opposing suggestions are served. If the petitioner fails to timely file reply suggestions, and fails to show good cause for failing to do so, the Court must deem admitted all facts well pleaded in the opposing suggestions.~~

(i) **Duty of the U.-S. Attorney.** ~~Upon~~If the ~~filing~~United States of ~~America is~~ a ~~motion pursuant to 28 U.S.C. Section 2255,~~party in a petition for writ of habeas corpus, ~~a petition~~proceeding opened under ~~the civil rights statutes or a petition for injunctive relief, it shall become the duty and responsibility of~~this Rule, the United States Attorney or other ~~counsel~~attorney representing the United States of America ~~in each instance where the United States (or its agent, servant or employee) is a party, to~~must obtain whatever order of court may be appropriate ~~and necessary~~ to secure the appearance of any ~~movant, petitioner, or~~ ~~other person~~ (including ~~but not limited to~~ the petitioner or a material witness), ~~who~~ is in state or federal custody, at all proceedings where ~~said person's appearance~~ issuch persons' appearances are necessary.

(j) **Duty of ~~Counsel~~Attorneys Representing the State of Missouri.** ~~Upon the filing of a petition for writ of habeas corpus, a petition under the civil rights statutes or a petition for injunctive relief, it shall become the duty and responsibility of~~If the State of Missouri is a party in a proceeding opened under this Rule, the Attorney General of the State of Missouri or other ~~counsel~~attorney representing the State of Missouri, ~~in each instance where the State of Missouri (or its agent, servant or employee) is a party, to~~must obtain whatever order of court may be appropriate and necessary to secure the appearance of any ~~petitioner or other~~ ~~person~~ (including ~~but~~

~~not limited to the petitioner or a material witness), — who is in state or federal custody, at all proceedings where their appearance is such persons' appearances are necessary.~~

## 15.1 MOTIONS TO AMEND AND FOR LEAVE TO FILE

(a) Requirements of Motion. A party filing a motion to amend or a motion for leave to file a pleading or other document that may not be filed as a matter of right must:

1. Set forth a concise statement of the amendment or leave sought;
2. Attach the proposed pleading or other document; and
3. Comply with the other requirements of Rule 7.0.

(b) Where Motion Is Granted. If the court grants the motion, the moving party must file and serve the pleading within 7 days ~~of~~after the court's order granting the motion, or as the court otherwise directs.

## 16.1 SCHEDULING OF CIVIL ACTIONS-SCHEDULING

~~(a) — General Principles.~~ Unless otherwise ordered, this Local Rule is applicable to all civil actions pending in this district, except for the actions exempted by Rule 16.1(c). Counsel are responsible for completing ~~(a) — Generally.~~ The parties must complete discovery in the shortest time reasonably possible, with the least expense, and without the necessity of judicial ~~intervention.~~

~~Rule 16(b), Federal Rules of Civil Procedure, requires that a scheduling order be entered in every action, except those specifically exempted, limiting the time (1) to join other parties and to amend the pleadings; (2) to file motions; and (3) to complete discovery. A scheduling order shall be entered within the time set out in Rule 16.1(ba). Counsel should have the initial responsibility for suggesting reasonable dates for the scheduling order.~~

~~Upon completion of discovery, post discovery pretrial procedures will be scheduled pursuant to Rule 39.1 and the action will be set for trial. Post-discovery pretrial procedures and the trial setting will be coordinated whenever possible.~~

~~(b) — Method of Calculating the Scheduling Order Deadline; Method of Calculation.~~ A scheduling order shall be entered no later than 90 days after the appearance of a defendant or 120 days after the complaint has been served on a defendant, whichever is earlier.

~~The following guidelines apply to the calculation of the scheduling order deadlines:~~

~~1. The 90-day period begins to run on. For the purposes of calculating the time periods in Fed. R. Civ. P. 16(b)(2), the date that “any defendant has appeared” means the date on which any defendant files any paper in the action.~~

~~2. The 120-day deadline applies if no defendant has appeared within 30 days after the complaint was first served on a defendant and begins to run on the date the complaint was first served on any defendant.~~

~~(e) **Actions Exempt From These Procedures.** Categories **Timing** of actions exempted from compliance with these procedures are specified in Rule 26(a)(1)(B), Federal Rules of Civil Procedure. Exemptions in particular cases are further subject to orders of the Court.~~

~~(d) **Proposed Scheduling Order/Discovery Plan Required; Plaintiff’s Counsel Shall Take Lead in Preparation of Proposed Scheduling Order/Discovery Plan.** The parties shall file a proposed scheduling order ~~complying with Rule~~~~

~~16.1(f), together with the discovery plan required by this Rule, within 14 days after the meeting required by Rule 26.1(a). The discovery plan shall be included as part of the proposed scheduling order. After the meeting required by Rule 26.1(a) of these Rules, counsel for holding the Fed. R. Civ. P. 26(f) conference.~~

~~(dc) **Responsibility for Drafting the Proposed Scheduling Order.**~~

~~**1. Plaintiff’s Attorney Generally Takes the Lead in Drafting.** An attorney for the plaintiff ~~is responsible for preparing a~~ must prepare a draft ~~of the~~~~

~~proposed scheduling order/discovery plan. The draft prepared by plaintiff's counsel shall be presented to counsel. Plaintiff's attorney must present this draft to the attorneys for all other parties for additions and modifications. In pro se cases not exempt under Rule 26(a)(1)(E), Federal Rules of Civil Procedure, counsel for defendant(s) shall take the lead in preparing the proposed scheduling order/discovery plan. Counsel should fully and openly. If no plaintiff is represented by an attorney, the defendant's attorney must discharge these duties.~~

2. Resolving Disagreements. The attorneys must communicate fully, openly, and in good faith with each other so that they can submit a joint proposed scheduling order/discovery plan is submitted. If all counsel attorneys do not agree on a proposed scheduling order/discovery plan, they may not file separate proposed scheduling orders/discovery plans should not be filed. Disagreements. Rather, they must state disagreements concerning the proposed scheduling order/discovery plan, if unresolved by the good faith efforts of counsel, should be stated in the joint proposed scheduling order/discovery plan.

~~(ed) Sanctions for Failing to Cooperate in Preparing a Proposed Scheduling Order/Discovery Plan. The failure of a party or a party's counsel to participate in good faith in the framing of the proposed scheduling order/discovery plan may result in the imposition of appropriate sanctions. See Rules 16(f) and 37(g), Federal Rules of Civil Procedure.~~

~~(f) Content of the Proposed Scheduling Order. The attorneys must suggest reasonable dates for the proposed scheduling order. The proposed scheduling order referred to in Rule 16.1(d) shall must:~~

~~1. Propose a date limiting joinder of parties;~~

~~2. Propose a date limiting the filing of types of motions. The attorneys in most actions should consider proposing that, s:~~

~~A. All motions to amend the pleadings (It is suggested that counsel consider in most actions a date be filed approximately 180 days after the filing of the complaint.);~~

~~3. Propose a date limiting the filing of motions [It is suggested that counsel in most actions consider proposing that (a) all BA. All discovery motions be filed on or before the date proposed for the completion of discovery; and (b) subject~~

~~BC.~~ Subject to ~~the provisions of Rule Fed. R. Civ. P. 12(h)(2), Federal Rules of Civil Procedure,~~ all dispositive motions be filed within 30 days after the date proposed for the completion of discovery ~~;~~;

~~4.~~ Propose a discovery plan for the completion of all discovery, as required by ~~16.1(d) of these Rules, including the date by which all discovery shall be completed. Counsel should not propose a date for the completion of discovery which is known to be without any reasonable basis. See Rules 26.1(c) and 26.1(d); and~~

~~53.~~ Include the discovery plan specified in Rule 26.1(c);

~~4.~~ Estimate the number of days necessary to try the action ~~withand give reasons supporting the estimate.;~~

~~6.~~ ~~Suggest an agreeable~~ 5. Propose a trial date for the court's consideration.; and

~~76.~~ State whether any party anticipates requesting a protective order. ~~In the meeting required by Rule 26 Fed. R. Civ. P. 26(f), Federal Rules of Civil Procedure) conference,~~ the parties ~~shall~~must discuss specific areas of written discovery and deposition testimony which may be the subject of a request for protective order. ~~-Any~~

~~party which~~that anticipates requesting a protective order ~~shall~~must serve on every other party a proposed protective order and a proposed stipulation for its entry no later than the date of serving ~~initial disclosures required in Rule~~Fed. R. Civ. P. 26(a)(1) initial disclosures. If a party seeks a protective order without first having followed the requirements of this Rule, then it must state the cause within any motion for a protective order later filed with the Court.

~~26(a)(1), Federal Rules of Civil Procedure. Any party seeking a protective order without first having followed the requirements of this Local Rule shall state the cause within any motion for protective order later filed with the Court.~~

**(ef) Sanctions for Failing to Cooperate in Preparing a Proposed Scheduling Order.** If a party or its attorney fails to participate in good faith in the framing of the proposed scheduling order—including the discovery plan—the Court may impose sanctions consistent with Fed. R. Civ. P. 16(f) and 37(b)(2g).

**(gf) Actions Exempt from These Procedures.** This Rule does not apply to categories of actions specified in Fed. R. Civ. P. 26(a)(1)(B).

## 16.2 PRETRIAL CONFERENCES

~~All pretrial conferences will be held as ordered by the~~ **(a) Optional Pretrial Conference.** The Court—Reasonable may hold a pretrial conference, either upon motion or sua sponte. The Court must give the parties reasonable notice of the time and place thereof will be given to counsel of any pretrial conference.

~~Counsel may request~~ **(b) Trial Attorneys Must Participate.** Unless the Court to hold a pretrial conference. A pretrial conference may be initiated by order of Court.

~~The attorney orders otherwise, the attorneys~~ who will ~~actually~~ handle the trial ~~shall~~must participate in all pretrial conferences ~~unless excused by the Court. Trial counsel are required to.~~ The trial attorneys must have authority to agree to uncontroverted facts and to the scope and scheduling of future discovery.

## 16.3 EXTENSION OF DEADLINES FIXED IN SCHEDULING ORDER

**A(a) Contents of a Motion to Extend a Scheduling Deadline.** A party may move to extend a deadline established by a scheduling order—will be extended only upon a good cause finding by the Court. In the absence of disabling circumstances, the deadline for completion of all discovery will not be extended unless there has been active discovery. Delayed discovery will not justify an extension of discovery deadlines.—A. The motion to extend any deadline in a scheduling order shall demonstrate must:

1. Demonstrate a specific need for the requested extension; and ~~should be accompanied by~~
2. Contain a detailed proposed amendment to the previously entered scheduling order. ~~—The date~~For motions to extend the deadline for completion of all discovery ~~will be extended only if,~~ the remaining discovery is must be specifically described and scheduled, e.g., the motion must provide the names of each remaining deponent and the date, time and place of each remaining deposition.

**(b) Standard for Granting an Extension of a Scheduling Deadline.** The Court may grant a Rule 16.3(a) motion only upon a showing of good cause. Further, the Court may extend the deadline for completion of all discovery only if:

1. There has been active discovery; or
2. The moving party demonstrates that disabling circumstances precluded active discovery.

#### ~~16.4 TRIAL SETTINGS~~

~~Whenever possible, trial settings will be closely coordinated with the~~ Upon completion of discovery, the Court must schedule post-discovery pretrial procedures pursuant to Rule 39.1 and set the action for trial. The Court must coordinate post-discovery pretrial procedures and the trial setting whenever possible.

#### **16.54 ALTERNATIVE DISPUTE RESOLUTION**

Pursuant to 28 U.S.C. § 651(b), alternative dispute resolution proceedings are authorized for use in all civil actions, including adversary proceedings in bankruptcy. Pursuant to the ~~Court's~~District's General Order (~~—available on its website~~), ~~litigants~~ parties in all civil cases, except those cases specifically exempted by the Order, ~~shall~~must participate in the ~~Western~~ District's Mediation and Assessment Program. The ~~presiding judge in~~Court may, at any stage of a civil action ~~may,~~ require the ~~litigants~~parties to participate in an alternative dispute resolution process ~~at any stage of the litigation deemed appropriate.~~

#### **26.1 DISCOVERY SCHEDULING**

**(a) Meeting of the Parties; Initial Disclosures.** ~~The~~ meeting of the parties required by Rulemust hold their Fed. R. Civ. P. 26(f), Federal Rules of Civil Procedure, should take place—) conference as soon as practicable, but not ~~fewer~~earlier than 30 days before the Court's scheduling order is ~~to be entered~~due under ~~Rule~~Fed. R. Civ. P.

~~16.1(b) of these Rules.~~ The parties are encouraged to make their Fed. R. Civ. P. 26(a)(1) initial disclosures ~~required under Rule 26(a)(1), Federal Rules of Civil Procedure should be made~~ at this ~~meeting~~ conference, but in any event must be ~~made~~ make them no later than 14 days after the ~~meeting~~ conference. If ~~the attorneys~~ fail to investigate their actions and ~~who~~ fail to make initial disclosures as provided by these Rules, ~~the Court~~ may ~~be subject themselves to impose~~ sanctions ~~on them~~.

(b) ~~Discovery Shall Commence After Meeting of the Parties; Filing of Motions Does Not Automatically Stay Discovery or Disclosure Requirements.~~

- ~~1. Parties required to meet and confer may not seek discovery from any source before such meeting, except by agreement or by order of Unless the Court.~~
- ~~2. Absent an order of the Court to the contrary, orders otherwise, the filing of any motion, including a motion to dismiss, a discovery motion, a motion, or a motion for summary judgment, or a motion to dismiss, does not stay the action or excuse counsel the parties from complying with this Rule, with any disclosure requirement under this Rule or the Federal Rules of Civil Procedure, any discovery rule or with any scheduling order entered in the action.~~

~~(e) Content of Discovery Plan. The discovery plan required by Rule 16.1(d) shall:~~

~~1(c) Content of Discovery Plan. The proposed scheduling order required by Rule 16.1 includes a discovery plan. In creating the discovery plan, the parties should consider proposing dates prior to the close of discovery for the completion of specific phases of discovery. The attorneys should keep in mind the general principles governing discovery, as set forth in the Federal Rules of Civil Procedure and Rule 16.1(a). Specifically, the discovery plan must:~~

- ~~1. Conform with Fed. R. Civ. P. 26(f)(3);~~
- ~~2. Propose a date by which all discovery will must be completed, and state the facts, such as the complexity of the issues, which counsel the attorneys considered in arriving at the proposed deadline for the completion of all discovery; If the parties propose more than 180 days to complete discovery, then they must provide an explanation sufficiently detailed to inform the Court why the period of time proposed for completing discovery is necessary. The longer the time proposed for discovery, the greater detail the attorneys must furnish in support of the request.~~
- ~~23. State the subjects on which discovery may be needed, the status of all discovery completed to date, a description of all discovery each party~~

~~intends to initiate prior to the close of discovery, and whether discovery should be conducted in phases or be limited to or focused upon particular issues;~~

- ~~3. State including the date by which the Fed. R. Civ. P. 26(a)(1) initial disclosures required by Rule 26(a)(1), Federal Rules of Civil Procedure, were made or will be made, and propose what changes, if any, should be made in the timing, form, or requirement for disclosures under Rule 26(a), Federal Rules of Civil Procedure, these Rules, or a standing order. See Rule 26(f)(1), Federal Rules of Civil Procedure.~~
  
- ~~4. Propose, if necessary, any additional limitations on discovery that should be imposed, or any changes to the limitations on discovery imposed by these Rules or the Federal Rules of Civil Procedure. See Rule 26(f)(3), Federal Rules of Civil Procedure.~~
  
- ~~5. Propose, if necessary, any other orders that should be entered by the Court. See Rule 26(f)(4), Federal Rules of Civil Procedure.~~

~~The information furnished pursuant to subsections 1, 2, and 3 should be sufficiently detailed to inform the Court why the period of time proposed for completing discovery is believed necessary. The specificity of the information furnished pursuant to subsections 1 and 2 shall increase in direct relation to the extent to which the deadline for completion of discovery exceeds 180 days after a defendant has been served. In other words, the longer the time proposed for discovery, the greater detail counsel shall furnish in support of the request. Consideration should be given to proposing dates prior to the close of discovery for the completion of specific phases of discovery. Counsel should keep in mind the general principles governing discovery set forth in the Federal Rules of Civil Procedure and Rule 16.1(a).~~

- ~~(d) — **Preliminary Discovery Plan.** — The Court recognizes that in some actions it may be impossible for the parties to file a realistic discovery plan when it is due under Rule 16.1(d). If the parties believe that it is impossible to propose a date for the completion of discovery which has a reasonable basis, the parties should realistic deadline under Rule 26.1(c) by the deadline of Rule 16.1(eb), they must file a preliminary discovery plan which conforms to Rule 26.1(e). Date for completion of all discovery should be suggested and a date should be proposed by which a plan will be filed fully complying with Rule 26.1(e).~~

~~Counsel proposing a. The Court may accept this preliminary discovery plan shall explain only in special situations and upon a showing of good cause. The preliminary discovery plan must:~~

- ~~1. Explain in detail why a deadline for completion of all discovery cannot be proposed. Only in extraordinary situations and upon a showing of good cause will a preliminary plan be accepted.;~~
- ~~2. Suggest a date for completing all discovery; and~~
- ~~3. Suggest a date by which the parties must file a plan fully complying with Rule 26.1(c).~~

- ~~(e) — **Discovery Conference.** — If requested prior to or at the time a proposed scheduling order is filed, or if ordered by the Court on its own motion after reviewing a proposed scheduling order, a discovery conference pursuant to Rule 16(a), Federal Rules of Civil Procedure, will be held before entering a scheduling order.~~

- ~~(f) — **Limits on Stipulations.** — Parties may not eliminate by stipulation any of the disclosures required by Rule Fed. R. Civ. P. 26, Federal Rules of Civil Procedure, this rule, or any General Order of this Court. Parties who want to eliminate a particular disclosure requirement shall must file a joint written motion setting forth the proposed change and showing good cause for such the change.~~

## 26.2 THE FORM OF ANSWERS AND RESPONSES TO CERTAIN DISCOVERY REQUESTS AND DISCLOSURE REQUIREMENTS

~~The~~A party answering interrogatories, complying with disclosure requirements, or responding to requests to admit, produce, or inspect, ~~shall~~must set forth each question, ~~or~~ disclosure requirement, or request immediately before ~~the answer or its~~ response.— Upon request, the party propounding the discovery requests must provide responding counsel with an electronic copy of the discovery requests, if an electronic version is available.

## 26.43 NON-FILING OF DISCOVERY DOCUMENTS

~~The (a)~~Discovery Documents Not to Be Filed. Unless the Court orders otherwise and except as provided in Rule 26.3(d), a party must serve but not file the following discovery documents:

1. ~~Initial disclosures under Rule Fed. R. Civ. P. 26(a)(1), Federal Rules of Civil Procedure;~~

2. Disclosure of expert testimony under ~~Rule~~Fed. R. Civ. P. 26(a)(2), ~~Federal Rules of Civil Procedure~~;  
~~Procedure~~;
3. Depositions under ~~Rule~~Fed. R. Civ. P. 30 and 31, ~~Federal Rules of Civil Procedure~~;
4. Interrogatories, and answers thereto, under ~~Rule~~Fed. R. Civ. P. 33, ~~Federal Rules of Civil Procedure~~;  
~~Procedure~~;
5. Requests for production or inspection, and responses thereto, under ~~Rule~~Fed. R. Civ. P. 34, ~~Federal Rules of Civil Procedure~~; and
6. Requests for admissions, and responses thereto, under ~~Rule~~Fed. R. Civ. P. 36, ~~Federal~~.

~~Rules~~(b) **Filing of Civil Procedure**

~~shall be served upon opposing counsel and parties, but shall not be filed with the Court, except upon order~~**Certificate of the Court.** ~~However,~~ **Service Required.** A party must file a certification~~certificate of service shall be filed and in respect to depositions, the~~ when it serves any discovery document.

**(c) Filing of Certificate for Deposition Transcript.** ~~A court reporter, when the upon completing a deposition transcript is completed, shall, must~~ file a certificate showing the name of the deponent, the date of taking, the name and address of the person having custody of the original transcript, and the charge made for the original.

**(d) Filing Required for Discovery Disputes.** ~~If relief is sought under any of the Federal Rules of Civil Procedure, copies of only the a party files a motion placing a discovery matters~~matter in dispute shall be filed with, the Court~~party must contemporaneously with any motion filed under said rules~~file copies of the relevant discovery materials.

### 30.1 DEPOSITIONS

**(a) Public Inspection.** ~~Except as~~Unless the Court orders otherwise ~~provided by law or court order,~~ any deposition ~~when transcript~~ filed ~~in the Clerk's Office shall be deemed to be by a party is~~ a public record and ~~shall~~must be available for public inspection to the same extent as any other paper in the case file.

(b) ~~Examining a Witness. — Except as provided by law, ordered by~~ Unless the Court, ~~orders otherwise~~ or ~~pursuant to an agreement of~~ the parties stipulate otherwise, not more than one ~~counsel~~ attorney for each ~~litigant shall be entitled to~~ party may examine any one witness during ~~depositions~~ a deposition.

(c) ~~Non-stenographic Stenographic Recordings. — Depositions authorized by Rule 30, Federal Rules of Civil Procedure, may be recorded by the use of~~ A party may record a deposition by non-stenographic means, including ~~sound~~ audio or ~~sound and visual~~ audiovisual means, without leave of Court and without ~~stipulation~~ agreement of the parties. ~~When a non-stenographic recording method is used, the parties shall observe the following rules:~~

1. ~~If~~ The party planning on recording the deposition ~~is to be recorded~~ by non-stenographic means, ~~or by both stenographic and non stenographic means, every notice or subpoena for the taking of the deposition shall~~ must state the method or methods to be used and ~~shall~~ state the name, address, and employer of the recording technician or technicians. ~~If a~~ the ~~recording party upon whom is the party conducting the deposition, it must~~ include this information in every notice ~~or subpoena for the taking of a deposition has been served desires to have the testimony additionally recorded by~~ the deposition. If the recording party is any other ~~than~~ stenographic means, he or she shall serve notice on the opposing party and the witness that the proceedings are to be recorded and

~~the method to be used. Such notice shall be served not less than 3 days prior to before the date designated in the original notice for the taking of the depositions and shall state the name, address and employer of the recording technician.~~ party, it must include this information in a separate document filed no later than 3 days prior to before the date designated in the original notice for the taking of the depositions and shall state the name, address and employer of the recording technician.

~~2. Where a party intends, in any court proceeding before the Court, to use deposition testimony which has been recorded only by non-stenographic means, the party must prepare a written transcription of the deposition or part to be so used shall be prepared, submitted used. That party must submit the transcription to the witness for signature, unless the witness and the parties waive signature, and to the Court in accordance with Rule Fed. R. Civ. P. 26(a)(3)(B) and Rule 32(c), Federal Rules of Civil Procedure.~~

~~2. More 3. The recording party may use more than one camera or recording device may be used, either in sequence or simultaneously.~~

~~3. The 4. An attorney for the party requesting recording by non-stenographic recording of the deposition shall means must take custody of, and be responsible for, the safeguarding of the recording and shall, upon request, the attorney must permit the examination thereof by the opposing another party to examine the recording, and if requested, shall to provide the other party with a copy of the recording at the requesting party's cost of the party requesting the copy.~~

~~4. Unless otherwise ordered by the Court orders otherwise or stipulated by the parties agree otherwise, the party recording by non-stenographic means bears its expense of non-stenographic recording is to be borne by the party utilizing it and shall. This expense may not be taxed as costs.~~

## 37.1 DISCOVERY MOTIONS

~~(a) Except when authorized by an order of the Court, no party may file a discovery motion until the following requirements have been satisfied:~~ **Attorneys Must Attempt to Resolve Discovery Disputes on Their Own before Requesting Court Intervention.** Unless the Court will not entertain any orders otherwise, no party may file a discovery motion until the following requirements have been satisfied:

~~1. Counsel An attorney for the prospective moving party has, in good faith, conferred or attempted to confer by telephone or in person with opposing counsel concerning the matter prior to the filing of the motion. Merely writing. The attorney must do more than merely write a demand letter is not sufficient. Counsel for the moving party shall certify compliance with this~~

~~rule in any discovery motion. See Rule 26(e), Federal Rules of Civil Procedure and Crown Center Redevelopment Corp. v. Westinghouse Elec., 82 F.R.D. 108 (W.D. Mo. 1979); and~~

~~82 F.R.D. 108 (W.D. Mo. 1979); and~~

2. If ~~the issues remain unresolved after the attorneys have conferred in person or by telephone, counsel shall~~attorney has satisfied Rule 37.1(a)(1), the attorney must arrange with the Court for an immediate telephone conference with the judge and opposing counsel. ~~No~~When communicating with the Court, the attorney for the prospective moving party must certify compliance with this Rule. The attorney may not file a written discovery motion ~~shall be filed until after~~after this telephone conference ~~has been held.~~

- ~~(b) Sub-section~~ **Exception. Rule 37.1(a)** ~~shall~~does not apply to an initial motion requesting ~~this~~the Court compel or ~~deny~~ ~~discovery~~ ~~pursuant~~ ~~to~~ ~~a~~ ~~subpoena~~ issued ~~under~~ ~~the~~ District's authority ~~of the Western District~~ if the primary case is pending in another ~~District.~~ district. Once such a motion has been filed and a miscellaneous case is initiated within the ~~Western~~ District, ~~counsel shall~~the parties are then ~~follow the requirements in sub-section (a)~~subject to ~~resolve the discovery dispute.~~Rule 37.1(a).

## 38.1 DEMAND FOR JURY TRIAL

~~In all cases where a demand for~~ A party demanding a jury trial ~~is made,~~ must make the demand ~~shall be separately stated~~ in either:

- (a) A separate statement at the conclusion of the appropriate pleading; ~~or may be made in a~~
- (b) A separate document endorsed "Demand for Jury Trial." ~~See Rule 38(b), Federal Rules of Civil Procedure.~~

## ~~39~~ 40.1 PREPARATION FOR TRIAL TRIAL FILINGS

~~Upon~~ No later than the completion of discovery, ~~or before if deemed appropriate,~~ the Court ~~will~~ must establish dates for ~~various post-discovery~~ pretrial filings such as, including but not limited to the Fed. R. Civ. P. 26(a)(3) ~~pretrial disclosures required by Rule 26(a)(3), Federal Rules of Civil Procedure,~~ stipulations of uncontroverted facts, proposed voir dire questions ~~where appropriate~~ and jury instructions, and trial briefs.

## 47.1 CHALLENGE TO JURY PANEL

~~In~~ (a) Applicability. ~~This Rule applies only to civil cases each actions.~~

(b) Generally. ~~Each~~ party ~~shall be~~ is entitled to ~~three~~ 3 peremptory challenges. ~~Several defendants or several~~ If there are multiple plaintiffs or defendants, the Court may either:

1. Consider all plaintiffs or all defendants to be ~~considered as~~ a single party for the purpose of ~~making~~ exercising peremptory challenges; ~~or the Court may allow~~
2. Allow additional peremptory challenges and permit the parties to exercise them ~~to be exercised~~ separately or jointly. ~~Any~~

(c) Requesting Additional Peremptory Challenges. ~~If a party authorized to make a request for~~ wants additional peremptory challenges ~~to the array or panel of jurors called in such cases shall make such request, in writing,~~ it must file a motion at least 30 days before the date of trial setting. ~~Such request shall be filed with the Clerk of~~ Failure to timely file such a motion is deemed a waiver of the right to request additional peremptory challenges. ~~If the Court, who shall immediately grants the motion, it must~~ notify the judge of the Court before whom the cause is set for trial, that the Court might act upon the request and, if granted, Clerk, who will arrange for adding to the panel the additional jurors necessary to provide for the peremptory challenges allowed.

~~A failure by any party to make such request in writing and within the time herein specified shall be deemed a waiver of the right to request additional peremptory challenges.~~

## 51.1 PROPOSED JURY INSTRUCTIONS AND VERDICT FORMS

~~(a) **Annotated Set Must Be Filed.** Each party that submits proposed jury instructions and verdict forms must file and serve an annotated set. At the top of each proposed instruction in this set, the tendering party must place the words "Instruction No. \_\_\_\_." Neither "Plaintiff" nor "Defendant" may precede "Instruction No. \_\_\_\_." At the bottom of each proposed instruction in this set, the tendering party must state who is submitting the instruction and the number of the instruction (e.g., "Plaintiff's Instruction No. 1") and the legal source or authority for the instruction.~~

~~(b) **Clean Set Must Be Emailed to the Courtroom Deputy.** Each party that submits proposed jury instructions and verdict forms must also email a "clean" set to the appropriate courtroom deputy. At the top of each proposed instruction in this set, the tendering party must place the words "Instruction No. \_\_\_\_." The "clean" set of instructions may not identify the legal source or authority for the instruction nor the party submitting the instruction.~~

~~**Original and Copy to the Courtroom Deputy.** Each party that submits proposed jury instructions and verdict forms submitted under Rule 30, Federal Rules must, in addition to the usual manner of Criminal Procedure, or Rule 51, Federal Rules of Civil Procedure, shall be distributed as follows:~~

- ~~1. filing and service, distribute an original and one electronic copy shall be delivered to the appropriate courtroom deputy;~~
- ~~2. one copy shall be filed with the Clerk's office;~~
- ~~3. one copy shall be served on each party.~~

~~(b) **Marking Proposed Jury Instructions.** At the top of the original and each copy of each jury instruction shall appear, the tendering party must place the words "Instruction No. \_\_\_\_." Neither "Plaintiff" nor "Defendant" shall may precede "Instruction No. \_\_\_\_."~~

~~(c) .” At the bottom of each copy, the party tendering it shall party must state who is submitting the instruction and the number of the instruction (e.g., Plaintiff’s “Plaintiff’s Instruction No. 1”) and the legal source and/or authority for the instruction. The tendering party must leave the original shall be “clean”, with no identification of the source or the party submitting the instruction.~~

## 54.1 BILL OF COSTS

### (a)          District Court Costs.

1. A party seeking an award of costs shall must file a verified bill of costs, upon a form provided by the Clerk, no later than 21 days after entry of final judgment pursuant to under Fed. R. Civ. P. 58. ~~Each~~ Within 14 days after the bill of costs is filed, each party objecting to ~~at~~ the bill of costs shall must file, within 14 days of being served, a memorandum suggestions stating specific objections. ~~—~~ Within 14 days after being served with the memorandum objections are filed, the moving party may file a reply memorandum. ~~The suggestions.~~

2. If timely objections are filed, after the Court ~~must~~ considers the objections and any reply, it will ~~and then~~ direct the Clerk shall to tax costs as appropriate. If no timely objection is filed, the Clerk must tax costs as claimed in the bill ~~if no timely objection is filed.~~

3. Costs shall ~~be~~are paid directly to ~~counsel~~ the attorneys of record and execution may be had therefor. ~~-~~ The filing of a bill of costs in no way affects the finality and appealability of the final judgment previously entered.

~~4. If an appeal is filed following the filing of a verified bill of costs, the taxing of such costs shall be suspended until the issuance of the mandate by the Court of Appeals. See section issues the mandate.~~

~~(b) below:~~

~~(b) Costs on Appeal Taxable in the District Court. ~~Costs allowable pursuant to Fed. R. App. P. 39(e) will be taxed in accordance with section (a) of this rule, provided party files a bill of costs or amended bill of costs is filed within 21 days of the issuance of the mandate by~~ after the Court of Appeals issues the mandate, the Clerk must tax costs allowable pursuant to Fed. R. App. P. 39(e) in accordance with Rule 54.1(a).~~

## 54.2 MOTIONS TO RECONSIDER

~~Although such motions are disfavored, under some circumstances a party may file a motion asking the Court to reconsider an order or decision it made.~~

~~(a) **Dispositive Orders and Judgments.** A party seeking reconsideration of a dispositive order or judgment must file a motion pursuant to Fed. R. Civ. P. 59(e) or 60. The Court will not grant reconsideration of such an order or judgment pursuant to this Rule.~~

~~(b) **Non-Dispositive Orders.** A party seeking reconsideration of non-dispositive orders must file a motion within 14 days after the order is filed. The Court will not consider a motion to reconsider unless it is based on at least one of the following, which must be clearly demonstrated to the Court in the motion:~~

~~1. An intervening change in controlling law;~~

~~2. The availability of new evidence; or~~

~~3. The need to correct clear error or prevent manifest injustice.~~

## 56.1 SUMMARY JUDGMENT MOTIONS

~~(a) The suggestions in support of a motion **Supporting Suggestions.** A party moving for summary judgment ~~shall~~**must** begin its supporting suggestions with a concise statement of uncontroverted material facts. ~~Each fact shall~~**must** be set forth in a separately numbered paragraph. ~~Each fact shall be and supported by reference to where in the record the fact is established. See Rule 56~~in accordance with Fed. R. Civ. P. 56(ec).~~

~~(b) **Opposing Suggestions** in opposition to.~~

~~1. A party opposing a motion for summary judgment ~~shall~~**must** begin with a section that contains a concise listing of material facts as to which the party contends a genuine issue exists. Each fact in dispute shall be set forth in a separate paragraph, shall refer specifically to those portions of the record upon which the opposing party relies, and, if applicable, shall state the paragraph number in movant's listing of facts that is disputed. All its opposing suggestions by admitting or controverting each separately numbered paragraph in the movant's statement of facts. If the opposing party controverts a given fact, it must properly support its denial in accordance with Fed. R. Civ. P. 56(c). Unless specifically controverted by the opposing party, all facts set forth in the statement of the movant ~~shall be~~deemed admitted for the purpose of summary judgment unless specifically controverted by the opposing party.~~

~~All facts~~ 2. If the opposing party relies on which a motion or opposition is based shall be presented in accordance with Rule 56 of the Federal Rules of Civil Procedure. Affidavits or declarations shall be made on personal knowledge any facts not contained in the movant's suggestions, the party must add a concise listing of material facts.- Each fact in dispute must be set forth in a separately numbered paragraph and by a person competent to

~~testify to the facts stated. Where facts referred to are properly supported in accordance with Fed. R. Civ. P. 56(c).~~

(c) **Reply Suggestions.** The party moving for summary judgment may file reply suggestions. In those suggestions, the party must respond to the non-moving party's statement of additional facts in the manner prescribed in Rule 56.1(b)(1). Unless specifically controverted by the moving party, all facts set forth in the statement of the opposing party are deemed admitted for the purpose of summary judgment.

(d) **Presentation of Factual Matter.** If a party's suggestions refer to facts contained in another document, such as a deposition, interrogatory answer, or admission, the party must attach a copy of the relevant excerpt ~~from the document shall be attached.~~

~~(b) — **Suggestions in Opposition to Summary Judgment.** Within 21 days from the time the motion is filed, each party opposing the motion shall serve and file a brief written statement of the reasons in opposition to the motion.~~

~~(c) — **Reply Suggestions in Support of Summary Judgment.** Within 14 days from the time the suggestions in opposition are filed, a reply brief may be filed.~~

## 58.1 ENTRY OF JUDGMENTS AND ORDERS

~~(a) — In all cases~~ **Timing of Entry of Judgments and Orders.** ~~At the earliest practicable time, the Clerk must make the notation of judgments and orders in the civil docket by the Clerk will be made at the earliest practicable time.~~ The notation of judgments ~~will~~may not be delayed pending taxation of costs, but a blank space may be left in the form of judgment for insertion of costs by the Clerk after they have been taxed, or there may ~~be~~ ~~inserted~~ ~~in~~ ~~the~~ ~~judgment~~ ~~a~~ ~~clause~~ reserving ~~jurisdiction to tax~~ and apportion the costs by subsequent order.

~~(b) — No judgment or order, except those which the Clerk is~~ **Authorization to Enter Judgments and Orders.** ~~Except as authorized by the Federal Rules of Civil Procedure to enter, the Clerk may not note any judgment or order without direction of the Court, will be noted in the civil docket until the Clerk has received from the Court a specific direction from the Court to enter it. Unless the Court's~~ The Court's direction is may be evidenced by either:

1. A directive given to the Clerk in open court and noted in the minutes; it should be evidenced by the; or

2. The signature or initials of the judge on the form of judgment or order.

~~(c) — Every order and judgment shall be filed in the Clerk's office.~~

~~(c) — **Mandatory Filing of Judgments and Orders.** The Clerk must file every judgment and order he or she is authorized to enter.~~

## 58.2 SETTLEMENT OF JUDGMENTS AND ORDERS BY THE COURT

~~(a) — Within 7 days after the announcement of the decision of~~ **Proposed Judgment or Order.** ~~If the Court awarding awards any judgment or order which requires settlement and Court approval as to form by, the judge, Court may order the prevailing party shall, if so directed by the Court to, within 7 days after the announcement of the decision, prepare a draft of the order or judgment or order embodying the Court's Court's decision and, serve a copy thereof upon each party who has appeared in the action and mail or deliver, and file a copy to the Clerk. Any party thus. Within 7 days after receiving the proposed draft of judgment or order shall within 7 days thereafter serve upon the prevailing party and mail or deliver to the Clerk, any party may file a statement of said party's approval or disapproval as to the form of the draft and, in the latter instance, and serve a copy upon each party. If~~

~~that party disapproves of the draft of judgment, it must file a statement of said party's~~ objections ~~and,~~ the reasons ~~therefore~~~~therefor,~~ and a draft of the ~~order or~~ judgment ~~or order~~ which ~~said party~~ it proposes as a substitute for the transmitted draft. ~~At the expiration of 14 days after the announcement of the decision, the Clerk will submit to the judge for such further proceedings as are necessary in the circumstances all drafts and accompanying papers which the Clerk has received.~~

~~(b) No judgment need be signed by the judge, but an~~ **(b) Court Approval.** ~~If the Court approves a proposed draft submitted under Rule 58.2(a), the Court need not sign it. The Court's initialed approval on the draft of judgment will be sufficient evidence of direction to enter it and authorization to the Clerk to note the judgment forthwith in the civil docket.~~

## 66.1 RECEIVERSHIPS

~~In the exercise of the authority vested in the District Courts by~~ **(a) Applicability.** ~~This Rule 66 of the Federal Rules of Civil Procedure, this Rule is promulgated for~~ applies to the administration of estates by receivers or by other similar officers appointed by the Court. - In respects other than administration of the estate, any civil action in which the appointment of a receiver or other similar officer is sought, or which is brought by or against such an officer, is governed by the Federal Rules of Civil Procedure and by ~~these~~ this Rule. This Rule does not supersede any special provisions made by the General or Special Bankruptcy Rules.

~~Nothing in this Rule is intended to affect or repeal any special provisions made by the General or Special Bankruptcy Rules.~~

~~(a)~~ ~~(b)~~ **Inventories.** ~~Unless the Court otherwise orders, a The receiver or similar officer, as soon as practicable after appointment and not later than 30 days after said person has taken possession of the estate, shall must~~ file an inventory of all the estate's property and assets in ~~said person's~~ his or her possession ~~or, and~~ in the possession of others who hold possession as ~~said person's~~ the agent, ~~and, in of the receiver or similar officer. In~~ a separate schedule, the receiver or similar officer must file an inventory of all the estate's property and assets ~~of the estate not reduced to possession~~ possessed by ~~said person~~ him or her, but rather claimed and held by others. Unless the Court otherwise orders, the receiver or similar officer must file these inventories as soon as practicable after appointment, but not later than 30 days after he or she has taken possession of the estate.

~~(b)~~ ~~(c)~~ **Reports.** - Within ~~three~~ 3 months after the filing of the inventory, and at regular intervals of ~~three~~ 3 months thereafter, the receiver or similar officer ~~shall~~ must file a report of receipts and expenditures, and a report of acts and transactions undertaken in an official capacity.

~~(e)~~ ~~(d)~~ **Compensation of Receivers, Attorneys, and Others.** ~~The~~ In its discretion, the Court may ascertain and award the compensation of receivers or similar officers, of their ~~counsel~~ attorneys, and of all those who may have been appointed ~~by the Court to aid in the estate's administration of the estate shall be ascertained and awarded by the Court in its discretion. Such~~. The Court may make such an allowance ~~shall be made~~ only on ~~such~~ notice to creditors and other persons in interest, as the Court may direct. -The notice ~~shall~~ must state the amount claimed by each applicant.

~~(d)~~ ~~(e)~~ **Administration of Estates.** ~~In~~ Unless the Court orders otherwise, in all other respects, the receiver or similar officer ~~shall~~ must administer the estate as

nearly as may be in accordance with the practice in the administration of estates in bankruptcy, ~~except as otherwise ordered by the Court.~~

**72.1 DUTIES AND POWERS OF ~~FULL-TIME AND PART-TIME UNITED STATES~~ MAGISTRATE JUDGES**

**(a) Generally.** This Rule describes and defines the general, specific, and additional duties of ~~full-time and part-time United States Magistrate Judges~~ magistrate judges in the ~~Western District of Missouri.~~ ~~(a) — Duties Under Section 28 U.S.C., Sec. 636(a).~~

~~1. — Each full-time United States Magistrate Judge and each part-time United States Magistrate Judge, unless, Unless otherwise limited or prohibited by a special or general an order of the Court en banc, are hereby each magistrate judge is designated, authorized, and empowered to~~

~~exercise all powers and perform all duties now or hereafter prescribed by Section 636(a), Title 28, United States Code, and shall:~~

- ~~a. Exercise all the powers and duties conferred or imposed upon United States Magistrate Judges and formerly conferred or imposed upon United States Commissioners by law and the Federal Rules of Criminal Procedure;~~
- ~~b. Administer oaths and affirmations, impose conditions of release under Section 3146, Title 18, United States Code, and take acknowledgments, affidavits, and depositions; and~~
- ~~c. Conduct extradition proceedings in accordance with Section 3184, Title 18, United States Code.~~

~~(b) **Determination of Non-Dispositive Pretrial Matters** [28 U.S.C. Sec. 636(b)(1)(A)]. Each full-time United States Magistrate Judge and each part-time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, are hereby designated, authorized, and empowered to hear and determine any procedural or discovery motion or other pretrial matters in a civil or criminal case, other than the motions which are this Rule. In performing these duties, a magistrate judge must conform to all applicable provisions of federal statutes and rules, to the Local Rules, and to the requirements specified in Rule 72.1(e), any order of reference from a district judge.~~

~~(e)(b) **Recommendations Regarding Case-Dispositive Motions** [28 U.S.C. Sec.:~~

~~636(b)(1)(B)].~~

- ~~1. Each full-time United States Magistrate Judge and each part-time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, are hereby designated, authorized, and empowered to 1. A magistrate judge may conduct any necessary evidentiary hearing or other proceedings, and submit to the district judge ~~of the Court~~ a report containing proposed findings of fact and recommendations for disposition by the district judge, on any of the following ~~pretrial~~ motions or ~~and~~ matters ~~in civil and criminal cases:~~~~

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

~~bB. Motions for judgments on the pleadings;~~

- eC. Motions for summary judgment;
- eD. Motions to dismiss or permit the maintenance of a class action;
- eE. Motions to dismiss for failure to state a claim upon which relief may be granted;
- fF. Motions to involuntarily dismiss an action;

- ~~g~~G. Motions for review of default judgments;
- ~~h~~H. Motions to dismiss or quash an indictment or information made by a defendant;
- ~~i~~I. Motions to suppress evidence in a criminal case;
- ~~j~~J. Proceedings for pleas pursuant to ~~Rule~~Fed. R. Crim. P. 11 ~~of the Federal Rules of~~

~~Criminal Procedure; and~~

- ~~k~~K. Motions, ~~pursuant to~~ under 18 U.S.C. § 4241, to determine whether a defendant may presently be suffering from a mental disease or defect that would render the defendant mentally incompetent to the extent that ~~he~~the defendant is unable to understand the nature of the proceedings against him or her or to assist properly in his or her defense.;

~~2. — A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this section of the Rule.~~

~~(d) — Processing Prisoner Cases Under 28 U.S.C. Section 2254 and 2255. Each full-time United States Magistrate Judge and each part-time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, are hereby designated, authorized, and empowered to perform any and all of the duties imposed upon a judge by the rules governing proceedings in the United States district courts under Sections 2254 and 2255, Title 28, United States Code. In so doing, under an order of reference made pursuant to Title 28, United States Code, Section 636(b)(1)(B), a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and shall submit to a judge a report containing proposed findings of fact and recommendations for disposition of the petition by the judge. Any order disposing of the petition may only be made by a judge.~~

~~(e) — Processing Prisoner Cases under 28 U.S.C. Section 2241. Each full-time United States Magistrate Judge and each part-time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, are hereby designated, authorized, and empowered to perform any and all of the duties imposed upon a judge by Section 2241, et. seq., Title 28, United States Code. In so doing, under an order of reference made pursuant to Title 28, United States Code, Section 636(b)(1)(B), a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendation for disposition of the petition by the judge. Any order disposing of the petition may only be made by a judge.~~

~~(f) **Processing Prisoner Cases Under 42 U.S.C. Section 1983.** Each full time United States Magistrate Judge and each part time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, are hereby designated, authorized, and empowered, under an order~~

~~of reference made pursuant to Title 28, United States Code, Section 636(b)(1)(B), a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendation for disposition of petitions filed by prisoners challenging their conditions of confinement. Any order disposing of the petition may only be made by a judge.~~

~~(g) — **Special Master Reference.** Each full time United States Magistrate Judge and each part time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, are hereby designated, authorized, and empowered to serve as special master in appropriate civil cases in accordance with Section 636(b)(2), Title 28, United States Code, and Rule 53 of the Federal Rules of Civil Procedure. Upon the consent of the parties, a magistrate judge may be designated by a judge to serve as a special master in any case, notwithstanding the limitations of Rule 53(b) of the Federal Rules of Civil Procedure.~~

~~(h) — **Conduct of** L. Petitions and motions for post-conviction relief under 28 U.S.C. §§ 2241, 2254, and 2255;~~

~~M. Petitions filed by prisoners challenging the conditions of their confinement; and~~

~~N. Applications or petitions for enforcement of summonses issued under 26 U.S.C. §§ 6420(e)(2), 6421(g)(2), 6427(j)(2), and 7602, in accordance with 26 U.S.C. § 7604.~~

~~2. While exercising the authority conferred by Rule 72.1(b)(1), a magistrate judge may determine any preliminary matter, issue any procedural order, and conduct any necessary proceeding, including an evidentiary hearing.~~

~~(c) **Determining Non-Dispositive Pretrial Matters.** A magistrate judge may hear and determine any non-dispositive motion or matter not specified in Rule 72.1(b)(1).~~

~~(d) **Conducting Trials and Disposition** Disposing of a Civil Case Upon upon the Parties' Consent of the Parties [28 U.S.C. Sec. 626(e)]. Upon the consent of the parties, each full time United States Magistrate Judge and each part time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, hereby designated, authorized, and empowered to conduct any and all proceedings in any civil case which is filed in or transferred to this district. If all parties consent, a magistrate judge may conduct any and all proceedings in a civil case, including the conduct of a jury or non-jury trial, and may order the entrance of enter a final judgment in accordance with Section 28 U.S.C. § 636(c), Title 28, United States Code. In the course of conducting such proceedings, a magistrate judge may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case-dispositive motions: and motions specified in Rule 72.1(b)(1).~~

- ~~(i) **Process Applications or Petitions for Enforcement of Internal Revenue Service Summons.** Each full-time United States Magistrate Judge and each part-time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, are hereby designated, authorized, and empowered to process and hear applications or petitions for enforcement of summonses issued pursuant to Section 6420(e)(2), 6421(f)(2), 6424(d) and 7602, Title 26, United States Code, in accordance with the provisions of Section 7604, Title 26, United States Code. In so doing, under an order of reference made pursuant to Title 28, United States Code, Section 636(b)(1)(A), a magistrate judge may issue an order to show cause and any other preliminary orders and conduct any necessary evidentiary hearing or appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for disposition of the application or petition by the judge. Any order disposing of the petition may only be made by a judge.~~
- ~~(j) **Other Duties.** Each full-time United States Magistrate Judge and each part-time United States Magistrate Judge, unless otherwise limited or prohibited by a special or general order of the Court en banc, are hereby designated, authorized, and empowered to:~~

(e) Other Duties. A magistrate judge may:

1. Exercise all powers and perform all duties prescribed by 28 U.S.C. § 636(a);
2. Exercise general ~~–~~supervision ~~–~~of ~~–~~civil ~~–~~and ~~–~~criminal ~~–~~calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases before the district judges;
23. Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil and criminal cases;
34. Conduct arraignments in criminal cases not triable by the magistrate judge and take not guilty pleas in such cases;
45. Receive grand jury returns in accordance with ~~Rule 6(f) of the Federal Rules of Criminal Procedure~~Fed. R. Crim. P. 6(f) and issue orders for the issuance of warrants of arrest and summonses;
56. Accept waivers of indictment, ~~pursuant to Rule in accordance with Fed. R. Crim. P. 7(b) of the Federal Rules of Criminal Procedure;~~);
67. Conduct voir dire and select petit juries for ~~the court~~ district judge;
78. Accept petit jury verdicts in civil and admiralty cases ~~in the absence of~~ a district judge;
89. Conduct ~~necessary~~ ~~–~~proceedings ~~–~~leading ~~–~~to ~~–~~the ~~–~~potential ~~–~~revocation of probation;
910. Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings;
1011. Approve sureties, both corporate and individual, to proffer bail, surety, and other bonds ~~to the court,~~ and ~~make orders that~~order previously approved sureties to be precluded from proffering bail, surety, and other bonds to the Court because of conduct of such nature to cause a loss of confidence in the personal or business integrity of the surety, and order the exoneration of forfeiture of bonds;

- ~~12.~~ **12.** Conduct proceedings for the collection of civil penalties of not more than \$200.00 assessed under the Federal Boat Safety Act of 1971, in accordance with ~~Section 14846 U.S.C. § 4311(d), Title 46, United States Code;~~
  
- ~~12.~~ ~~13.~~ **13.** Conduct ~~examination~~ examinations of judgment debtors in accordance with ~~Rule Fed. R. Civ. P. 69 of the Federal Rules of Civil Procedure;~~
  
- ~~13.~~ ~~Conduct proceedings for initial commitment of narcotic addicts under Title III of the Narcotic Addict Rehabilitation Act;~~
  
- 14.** Perform the functions specified in 18 U.S.C. ~~Section~~ §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to

~~transfer to or from the United States and the appointment of counselan attorney therein;~~

15. Audit ~~Criminal Justice Act~~ forms ~~submitted by appointed~~ counsel attorneys for payment of expert, investigative, or other services or for payment of counseling services and expenses, and make a written recommendation to the ~~judge to whom the case is assigned~~Court in respect to the amount to be approved for payment;

16. ~~Discharge indigent prisoners or persons imprisoned for non-payment of a fine and/or costs, pursuant to Section 3569, Title 18, United States Code;~~

~~17.—Institute prosecutions against persons for violation of Section 1990, Title under 42, United States Code, and Sections 5506 to 5516 and 5518 to 5532 of the Revised Statutes, pursuant to Section U.S.C. § 1987, Title 42, United States Code;~~

~~18.—Order presentence investigations, with~~17. With the consent of a defendant, ~~to be commenced in respect to defendants who have~~has not been convicted but havehas signified an intention to enter a plea of guilty or nolo contendere, order presentence investigations to be commenced in respect to that defendant;

~~19~~18. Issue orders authorizing the installation and use of devices, such as traps and traces, which are used to determine from which telephone number a telephone call originated, and pen registers, which are used to register telephone numbers dialed or pulsed from a particular telephone; and issue orders directing a communications common carrier, as that term is defined in ~~Section 153(h), Title 47, United States Code,~~47 U.S.C. § 153(11), including a telephone company, to provide assistance to a named federal investigative agency in accomplishing the installation of traps, traces, and pen registers;

~~20~~19. Issue ~~statutory administrative inspection or search~~ warrants on determination of probable cause;

~~21~~20. Issue search warrants for searches and seizures which are not within the purview of Rule Fed. R. Crim. P. 41~~of the Federal Rules of Criminal Procedure;~~

~~22~~21. Issue warrants of arrest for persons who have been determined, pursuant to Section 3149, Title in accordance with 18, United States Code U.S.C. § 3144, to be material witnesses;

~~23~~22. Preside over naturalization ceremonies ~~and,~~ administer the oath required by ~~Section 8~~ U.S.C. § 1448(a), Title 8, United States Code, and submit a written list of persons who took the oath to a district judge;

~~24. — Settle or certify the nonpayment of seamen's wages in accordance with the provisions of Sections 603 and 604, Title 46, United States Code; and enforce~~23. Enforce the award or arbitration or decree of any consul, vice consul, or commercial agent of any foreign nation in differences between the captain and ~~the~~ ~~crew~~ ~~of~~ ~~a~~ ~~vessel~~ ~~belonging~~ ~~to~~ ~~the~~ nation ~~whose~~ ~~interests~~ ~~are~~ committed to his charge, in accordance with 22 U.S.C. § 258a;

~~committed to his charge, 24. Conduct extradition proceedings in accordance with the provisions of Section 258(a), Title 22, United States Code; 18 U.S.C. § 3184;~~

25. Serve as a member of the ~~district's~~District's Speedy Trial Act Planning Group and assist the Court en banc in drafting and promulgating local rules and procedures;

26. Preside over and conduct proceedings relating to any Re-entry, Drug or similar court conducted in the District; and

27. Perform ~~any other additional duty as that~~ is ~~not inconsistent~~ consistent with ~~the~~ Constitution and the laws of the United States.

~~(k) — Assignment of Matters to Magistrate Judges.~~

~~1. — Civil Cases.~~

~~a. — Applications or Petitions for Enforcement of Internal Revenue Service Summonses Filed in the Western and St. Joseph Divisions. All applications or petitions for the enforcement of Internal Revenue Service summonses filed in the Western and St. Joseph Divisions of the Court shall be randomly assigned by the Clerk of Court, upon the filing of the application or petition, to a magistrate judge stationed in the Western Division for processing and handling in accordance with Section (i) of this Rule.~~

~~b. — Applications or Petitions for Enforcement of Internal Revenue Service Summonses Filed in the Southern and Southwestern Divisions. All applications or petitions for the enforcement of Internal Revenue Service summonses filed in the Southern and Southwestern Divisions of the Court shall be assigned by the Clerk of Court, upon the filing of the application or petition, to the magistrate judge stationed in Springfield, Missouri, for processing and handling in accordance with Section (i) of this Rule.~~

~~c. — Applications or Petitions for Enforcement of Internal Revenue Service Summonses Filed in the Central Division. All applications or petitions for the enforcement of Internal Revenue Service summonses filed in the Central Division of the Court shall be assigned by the Clerk of Court, upon the filing of the application or petition, to the magistrate judge stationed in Jefferson City, Missouri, for processing and handling in accordance with Section (i) of this Rule.~~

d. ~~Motions for Examination of Judgment Debtors Filed in the Western and St. Joseph Divisions. All motions for examination of judgment debtors filed in the Western and St. Joseph Divisions of the Court shall be randomly assigned by the Clerk of Court, upon the filing of the motion, to a magistrate judge stationed in the~~

~~Western Division, for the purpose of presiding over the examination.~~

~~e. Motions for Examination of Judgment Debtors Filed in the Southern and Southwestern Divisions. All motions for examination of judgment debtors filed in the Southern and Southwestern Divisions of the Court shall be assigned by the Clerk of Court, upon the filing of the motion, to the magistrate judge stationed in Springfield, Missouri, for the purpose of presiding over the examination.~~

~~f. Motions for Examination of Judgment Debtors Filed in the Central Division. All motions for examination of judgment debtors filed in the Central Division of the Court shall be assigned by the Clerk of Court, upon the filing of the motion, to the magistrate judge stationed in Jefferson City, Missouri, for the purpose of presiding over the examination.~~

~~2. General. Nothing in this Section shall preclude the Court, or a judge thereof, from reserving any proceeding for conduct by a judge, rather than by a magistrate judge. The Court en banc, moreover, may, by order, modify the method of assigning proceedings to a magistrate judge as changing conditions may warrant.~~

~~(l) Procedures Before a Magistrate Judge.~~

~~1. General. In performing duties for the Court, a magistrate judge shall conform to all applicable provisions of federal statutes and rules, to the general procedural rules of this Court, and to the requirements specified in any order of reference from a judge.~~

~~(m) Selection of Chief Magistrate Judge, Territorial Assignments and Administrative Provisions.~~

~~1. (f) Territorial Assignments and Administrative Provisions.~~

~~1. Chief Magistrate Judge Assignments. Under ~~the Chief District Judge's~~ supervision ~~of the chief judge of this district, the chief magistrate judge, and~~ with the assistance of the Clerk of Court, shall be, the Chief Magistrate Judge is responsible for ~~the assignment and reassignment of civil, admiralty, and criminal~~ assigning and reassigning actions and, proceedings, and petitions to magistrate judges.~~

~~2. Doubts about Administrative Actions. In case of doubt about ~~any~~ administrative action, the ~~chief magistrate judge shall~~ Chief Magistrate Judge must secure directions from the ~~chief judge of the district~~ Chief District Judge, or if the ~~chief judge~~ Chief District Judge is unavailable, from the ~~senior regular~~ active district judge with the most seniority who is available.~~

~~3. Ordinarily a part-time magistrate judge with an official station in a division shall perform the general duties and powers of a part-time magistrate judge in proceedings to be performed in the division in which the magistrate judge's official station is located unless otherwise specially ordered by the Chief United States Magistrate Judge, the Court en banc, or~~

~~a judge of this Court. The order of a judge shall prevail over the order of any magistrate judge in case of conflict; provided, however, a jointly appointed part-time magistrate judge for the Western and Eastern Districts of Missouri, with an official station at Fort Leonard Wood, Missouri, may perform such duties in or arising from actions or omissions occurring only within the territorial jurisdiction specified in the order appointing said part-time magistrate judge or as may be expanded by any subsequent joint supplemental order or orders of the United States District Court for the Western and Eastern Districts of Missouri.~~

~~4.~~ 3. Full-Time Magistrate Judges Generally Must Perform Duties at Their Duty Stations.

~~A.~~ Generally, a full-time magistrate judge with official a duty station at Springfield, Missouri, shall Kansas City must perform all duties to be performed in the Southern Western and Southwestern St. Joseph Divisions of the district or in connection with actions and proceedings arising therein.

~~5.~~ Ordinarily the B. Generally, a full-time magistrate judges judge with official stations a duty station at Kansas City, Missouri, shall Springfield must perform all duties to be performed in the Western Southern and St. Joseph Southwestern Divisions of for in connection with actions and proceedings arising therein.

~~C.~~ Generally, a full-time magistrate judge with a duty station at Jefferson City must perform duties to be performed in the district Central Division or in connection with actions and proceedings arising therein.

~~6.~~ Ordinarily the full-time magistrate judge with official station at Jefferson City, Missouri, shall perform all duties to be performed in the Central Division of the district or in connection with actions and proceedings arising therein.

~~7.~~ 4. Full-Time Magistrate Judges May Perform Duties Elsewhere in the District. Any full-time magistrate judge may perform any duty or exercise any power granted, conferred, or imposed by this Rule in any division of ~~this district~~ the District or in any action or proceeding arising herein.

~~8.~~ In 5. Part-Time Magistrate Judges Must Perform All Duties at Their Duty Stations. Unless otherwise ordered by the ~~absentee~~ Chief Magistrate Judge, the Court en banc, or a district judge, a part-time magistrate judge must perform the general duties and powers of a full-time magistrate judge in the division in which the part-time magistrate judge's duty station is located.

6. Part-Time Magistrate Judge at Fort Leonard Wood. The United States District Court for the Western and Eastern Districts of Missouri may jointly appoint a part-time magistrate judge for the Western and Eastern Districts of Missouri, with an official station at Fort Leonard Wood, Missouri. The order of appointment must specify the part-time magistrate judge's territorial jurisdiction. This part-time magistrate judge must perform such duties in or arising from actions or omissions occurring only within the territorial jurisdiction specified. The United States District Court for the Western and Eastern Districts of Missouri may expand or alter the territorial jurisdiction by any subsequent joint supplemental order.

(g) Reserving or Assigning Additional Duties from or to Magistrate Judges.

1. Reserving Proceedings for Conduct by a District Judge. Notwithstanding this Rule, the Court en banc or any district judge may reserve any proceeding for conduct by a district judge, rather than by a magistrate judge. The Court en banc may, by order, modify the method of assigning proceedings to a magistrate judge as changing conditions may warrant.

2. Assigning Additional Duties to a Magistrate Judge. Absent exceptional circumstances —requiring —a— temporary emergency assignment, the assignment by a district judge of duties and functions to a magistrate judge shall be approved by the Court en banc, as a part of a system of assignment or by special order, must approve a district judge's assignment of duties or functions to a magistrate judge beyond those permitted in this Rule.

3. District Judge Orders Supersede Magistrate Judge Orders. In case of conflict, the order of a district judge prevails over the order of any magistrate judge.

**74.1 MAGISTRATE JUDGES —PROCEDURE FOR REVIEW (a) Review and Appeal.**REVIEWING MAGISTRATE JUDGES' ORDERS

1.(a) Appeal of Non-Dispositive Matters [~~28 U.S.C. Sec. 636(b)~~].

1)(A). Any party may appeal from a magistrate judge's order determining a motion or matter under Rule 72.1(b), *supra*, within 14 days after issuance of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. The appealing party shall file with the Clerk of Court, and serve on the magistrate judge and all parties, a written statement of appeal —which— shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. A judge of the court shall its objections.

2. Unless the magistrate judge or assigned district judge orders otherwise, the appealing party must file its written statement within 14 days after the magistrate judge issues the order.

3. The assigned district judge must consider the appeal and ~~shall~~ set aside any portion of the ~~magistrate judge's~~ order found ~~he or she finds~~ to be clearly erroneous or contrary to law.

4. The assigned district judge may ~~also~~ reconsider sua sponte any matter determined by a magistrate judge under ~~this Rule~~ Rule 72.1(c), and set aside any portion of the order he or she finds to be clearly erroneous or contrary to law.

~~2.~~ Review (b) Appeal of Case-Dispositive Motions, Internal Revenue Service Enforcement Cases, and Prisoner Litigation [28 U.S.C. Sec. 636(b)(1)(B)]. Matters.

1. Any party may ~~object to appeal from~~ a magistrate judge's ~~judge's~~ proposed findings, recommendations, or report under Rule 72.1(e)(d)(e)(f), supra, within 14 days after being served a copy thereof. ~~Such party shall file with the Clerk of Court~~ 72.1(b). The appealing party must file, and serve on the magistrate judge and all parties, a written objections statement of appeal which ~~shall~~ specifically identify/identifies the portions of the proposed findings, recommendations, or report to which objections are made and the basis for such objections. ~~Upon a showing of~~

2. The appealing party must file its objections within 14 days after the magistrate judge issues the findings, recommendations, or report. If the appealing party shows excusable neglect or good cause, the ~~district judge or magistrate judge or district judge~~ may extend the this time for making objections for an additional by up to 21 days. ~~A party may respond to another party's party's objections within 14 days after being served with a copy thereof.~~

3. The assigned district judge to whom the case is assigned shall must make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. ~~The assigned district judge, however, need conduct a new hearing only in his discretion or where required by law, and may also recommit the matter to the magistrate judge with instructions.~~

4. In making its determination, the assigned district judge may consider the record developed before the magistrate judge, ~~making and make~~ his or her own determination on the basis of that record. ~~The assigned district judge may also conduct a new hearing, but does not have to unless required by law. In a new hearing, the assigned district judge may receive further evidence, or recall witnesses, or recommit the matter to the magistrate judge with instructions. A waiver of the~~

5. A party waives its right to appeal ~~will result as to~~ any issue which has been determined by the magistrate judge ~~and but~~ which ~~has not been presented it failed to present~~ to the assigned district judge by timely written objections.

~~3.(c) **Special Master Reports** [28 U.S.C. Sec. 636(b)(2)].~~ Any party may seek a review of, or action on, a special ~~master's~~master's report filed by a magistrate judge in accordance with ~~the provisions of Rule~~Fed. R. Civ. P. 53(e) of the Federal Rules of Civil Procedure.f).

~~4.(d) **Appeals From**from **Judgments in Misdemeanor Cases** [18 U.S.C. Sec. 3402].~~

~~.~~A defendant may appeal a judgment of conviction by a magistrate judge after trial in a misdemeanor case ~~by filing. The appealing defendant must file~~ a notice of appeal within 14 days after entry of the judgment, and ~~by serving~~serve a copy ~~of upon the notice upon~~United States Attorney. The scope of appeal is the same as on an appeal from a judgment of the district court to the court of appeals.

~~the United States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the district court to the court of appeals.~~

~~5. **Appeal from Judgments in Civil Cases Disposed on Consent of the Parties** [28 U.S.C. Sec. 636(e)]. See Rule 73.1(d)(1).~~

## 79.1 WITHDRAWAL OF FILES

- (a) ~~Procedure for Withdrawal.~~ ~~Papers on file in the office of the Clerk~~ **Clerk's Office** may not be removed except pursuant to a subpoena from any federal or state court directing their production or on order of the Court.
- (b) ~~Receipt Required.~~ ~~Whenever papers are withdrawn, the person receiving them shall~~ **must** leave ~~with the Clerk a signed receipt identifying the paper taken~~ and agreeing to return the same in the same condition as received and within the period allotted.

## 79.2 CUSTODY OF EXHIBITS

- ~~(a) General. All~~ **Generally.** ~~The Clerk must mark for identification and retain all exhibits, including models and diagrams, introduced in offered into evidence upon the hearing of any cause or motion shall, after being marked for identification, remain in the Clerk's custody until after the judicial proceeding.~~
- (~~ba~~) ~~Withdrawal.~~ ~~After trial or as soon as possible, but within~~ **no more than** 14 days after a verdict is rendered or a judgment is entered, the offering attorney must withdraw ~~any~~ **any** exhibits in the Clerk's custody and give the Clerk a receipt for the exhibits.
- (~~eb~~) **Duty to Retain Exhibits.** ~~An attorney must:~~
- (~~i~~) ~~retain~~ **1. Retain** exhibits withdrawn from the Clerk's custody ~~for at least 1 year after until~~ the judgment is ~~final and is therefore~~ no longer subject to appellate review;
- (~~ii~~) ~~preserve~~ **2. Preserve** the retained exhibits in the same condition they were in when offered into evidence;
- (~~iii~~) ~~if~~ **3. If** an ~~opposing attorney requests the exhibits, make them~~ available ~~for examination and use at reasonable times and places; and~~
- (~~iv~~) ~~upon~~ **4. Upon** request, promptly return the exhibits to the Clerk.
- (~~dc~~) **Sanctions.** ~~Sanctions may be awarded for the failure to abide by this rule. Despite entry of judgment, the court retains jurisdiction over the parties and attorneys for purposes of enforcing this rule.~~

(e) ~~—~~ **Destruction.** —After the judgment is no longer subject to appellate review, the an attorney may destroy or otherwise dispose of the exhibits ~~—without further authorization. —If the.~~ If an attorney does not claim and withdraw the any exhibits, the Clerk may destroy or otherwise dispose of any exhibits not claimed and withdrawn. On the date the Clerk destroys such exhibits. Upon destroying the exhibits, the ~~clerk enters~~ Clerk must enter a remark on the docket sheet reflecting the date and fact of destruction.

## 80.1 COURT REPORTERS- TRANSCRIPTS

~~When any official (ed) Sanctions. The Court Reporter has completed the preparation of any~~ may impose sanctions on any person that violates this Rule. The Court retains jurisdiction over the parties and their attorneys for the purpose of enforcing this Rule, even after judgment has been entered.

## 80.1 COURT REPORTERS' TRANSCRIPTS

(a) Procedures for Filing Transcripts. ~~When a court reporter or transcriber completes a transcript of any proceeding in this Court District, the Court Reporter shall~~ court reporter he or she must electronically file the certified transcript, as required by Section in accordance with 28 U.S.C. § 753(b), Title 28, United States Code.

). ~~The transcript will~~ must be made available to the public in the following manner:

1. ~~A~~ For a period of 90 days after the transcript is filed, the Clerk must make the transcript available for public inspection only. The Clerk must make the transcript provided to the court by a court reporter or transcriber will be available at the office of the clerk, for public inspection only, for a period of 90 days after it is delivered to the clerk. filing. During this 90-day period, any person may purchase a copy of the transcript may be purchased by counsel, parties or the general public from the court reporter or transcriber at the rate established by the Judicial Conference. Purchase Unless the Court orders otherwise, purchase by members of the general public shall be ~~is~~ subject to completion of the redaction process set forth in paragraphs (Rule 80.1(a)(2), (3), and (4) below, unless otherwise ordered by the Court.)

2. ~~Within 7 days of after the transcript is filed~~ court reporter files the transcript being electronically filed, each party wishing to redact personal data identifiers, as required by Federal Rules Criminal Procedure 49.1 and Federal Rules Civil Procedure 5.2, from the electronic transcript must inform the Court by filing in accordance with Fed. R. Crim. P. 49.1 and Fed. R. Civ. P. 5.2 must file a Notice of Intent to Redact. —Any party wishing to redact additional information, must do so by filing a written motion to the Court.

3. ~~Within 21 days of after the transcript is filed~~ court reporter files the transcript being electronically filed, any party having that ~~filed a Notice of Intent to Redact must file with the clerk's office a statement indicating the page number and line number where the personal data identifiers to be redacted appear in the transcript.~~

4. ~~Within 31 days of after the transcript is filed~~ the court reporter files the transcript being electronically filed, the Court Reporter or transcriber, the

court reporter or transcriber must perform the requested redactions and file a redacted version of the ~~-transcript-with-the-~~. The Clerk of Court. ~~The~~ must retain the original, unredacted ~~-electronic transcript~~ will be retained by ~~the Clerk of Court~~ as a restricted document.

5. After the initial 90-day period has ended, the Clerk must make the filed, redacted transcript ~~(—or the original—, if -no -redactions -are-were requested)~~ will be — available ~~-for -inspection -and copying in the clerk's office~~ Clerk's Office, and for download from the ~~Court's CM/ECF~~ District's Case Management/Electronic Case Files system, ~~the c-through the judiciary's PACER system or from the Court r~~ Reporter, or transcriber or transcriber.

~~The Clerk of Court shall~~ **(b) The Clerk Must Develop Further Policies and Procedures.**  
The Clerk must develop a written policy and procedures document which will ~~cover~~ covers the ~~information in~~ subject of this ~~rule~~ Rule in more detail.

### 83.1 PARTICIPATION BY FORMER LAW CLERKS IN CASES PENDING BEFORE THE JUDGE ~~OR MAGISTRATE JUDGE~~ WHO PREVIOUSLY EMPLOYED THEM

- (a) ~~—~~ Cases Pending ~~During~~ during ~~Tenure as a Law Clerk.~~ ~~No~~ An attorney who has been employed as a law clerk to a judge ~~or magistrate judge of this Court shall appear or perform any of the District may not~~ work in any case which was pending before that judge ~~or magistrate judge~~ during the attorney's ~~tenure of the attorney~~ as a law clerk. ~~A violation of~~

~~If a former law clerk violates this Rule, the Court may result in the disqualification of~~ disqualify the attorney and his or her employer from appearing in the case. ~~The~~ An employer of a former law clerk ~~shall~~ must implement ~~appropriate~~ procedures to assure that the ~~attorney-former law clerk~~ does not ~~appear in or work on any case which was pending before the judge or magistrate judge during his or her tenure as a law clerk~~ violate this Rule.

~~(b)~~ **Newly-Filed Cases.** ~~For two years after a law clerk leaves the employment of a judge of the court, the~~ District:

1. ~~The former law clerk should~~ may not work on any ~~newly filed case that is assigned to the~~ that judge. ~~If a complaint that, even if the case was filed after the attorney left the judge's employment; and~~

2. ~~If the former law clerk has prepared or has assisted in preparing a case, or in preparing the defense of a case, that is then assigned at the time of filing to the judge, the former law firm shall~~ clerk's employer must promptly ~~call that fact to the attention of the judge and the judge shall recuse. If the law clerk participated in any way in the preparation of the defense of the case before it was assigned to the judge, the law firm shall promptly call that fact to the attention of the judge~~ file notice of such and the judge shall recuse. ~~In the event that the law clerk begins work on a newly filed case after the case has been assigned to the judge, the law firm shall promptly call that fact to the attention of the judge and the law clerk and the employing firm, if any, shall be disqualified from further participation in the case~~ must recuse.

## **83.2 WITHDRAWAL OF COUNSEL**

~~An~~ To withdraw from a case, an attorney must file a motion to withdraw. The Court may grant the motion only upon a showing of good cause, which may be shown by entry of appearance of substitute counsel. ~~attorney may not be relieved from further representation of a client unless granted leave of Court. The Court may grant leave only if entry of appearance by substitute counsel is assured or has occurred, or if the Court finds exceptional circumstances.~~

## **83.3 COURTHOUSE DECORUM**

~~(a)~~ **Addressing the Court.** ~~Counsel shall~~ Unless the Court orders otherwise, an attorney must stand while addressing the Court; and while examining witnesses ~~unless otherwise permitted by the Court.~~

~~(b)~~ **Examining a Witness.** ~~Not~~ Unless the Court orders otherwise, not more than one ~~counsel~~ attorney for each ~~litigant shall be entitled to~~ party may examine any one witness ~~without permission of the Court.~~

(c) ~~\_\_\_\_\_ Grand Jury. WhileWhen a grand jury is convening, no ~~one shall person~~ may remain in a location within the courthouse for the purpose of observing or monitoring persons who enter and leave the grand jury chambers. ~~—This rule prohibition shall~~does not apply to:~~

1) ~~grand.~~ Grand jurors; ~~(~~

2) ~~witnesses; (.~~ Witnesses;

3) ~~the government's.~~ The Government's attorneys, agents, and employees; ~~(~~

4) ~~court.~~ District personnel; ~~(~~

5) ~~private attorneys.~~ Attorneys whose clients were called to appear as witnesses at a grand jury session then in progress or about to commence; and ~~(6) others specifically authorized by the court to be present.~~

6. Others specifically authorized by a judge to be present.

#### 83.4 **PHOTOGRAPHING, BROADCASTING AND TELEVISION IN COURTROOMS AROUND COURTHOUSES**

##### **& ENVIRONS**

(a) ~~—When Photographing & Broadcasting Are Not Permitted.—~~ The taking of photographs in any courtroom or its environs in this district, or radio or television broadcasting (or making of audio or video tapes) in any courtroom or its environs, during the progress of or in connection with judicial proceedings, including proceedings before a United States Magistrate Judge, whether or not court is actually in session, is prohibited except as hereinafter provided, and regardless of whether or not such hearing or proceeding takes place on federal property, in the private office of the chambers of a judge or magistrate judge or otherwise.

(b) ~~—When Photographing & Broadcasting Are Permitted.—~~ Still or motion pictures, and audio and video tapes, of ceremonies and interviews, including administration

~~of oaths to executive, legislative, and judicial officers, may be made with portable hand-held equipment in the press room and in the executive, legislative, and judicial officers' quarters and chambers located in the courthouse and environs, with leave of the officer in charge thereof; provided that there shall be no simultaneous broadcast or telecast thereof and provided further that the ceremonies and interviews are not connected with any judicial proceedings. "Judicial proceedings," as used herein shall include~~**(a) Definitions.** As used in this Rule:

**1. Environs.** "Environs" includes every part of the United States Courthouses in Kansas City, Jefferson City, and Springfield, including courtrooms, post offices, offices, driveways, parking spaces, steps, docks, and entrances to and exits from those buildings.

**2. Judicial Proceedings.** "Judicial proceedings" includes all judicial proceedings, whether civil or criminal, and whether pending, on appeal, or terminated.

~~(c) **Definition of "Environs".** "Environs," as used in this Rule, shall include the entire United States Courthouse at 400 East 9<sup>th</sup> Street, Kansas City, Missouri and the entire United States Courthouse at Jefferson City, St. Joseph, Springfield, and Joplin, Missouri including but not limited to post offices, offices, and driveways, parking spaces, steps, docks, and entrances to and exits from said buildings.~~

**(b) When Photographing & Broadcasting Are Not Permitted.** Except as provided by this Rule, no person may, during the progress of or in connection with judicial proceedings, regardless of whether court is in session:

**1. Take photographs in any District environs; or**

**2. Broadcast any radio or television, or make any audio or video tapes, in any District environs.**

**(c) When Photographing & Broadcasting Are Permitted.** With leave of the officer in charge, a person may make still or motion pictures, and audio and video tapes, of a ceremony or interview, including administration of oaths to executive, legislative, and judicial officers, so long as the ceremony or interview is not connected with any judicial proceedings. ~~Unless specifically ordered by a district judge in respect to a particular case, orders otherwise, if~~ the United States Marshal determines, in his or her judgment, that there is no problem of security, a person may permit take photographs with ~~hand-held~~**handheld** equipment in the back driveway parking areas ~~when, in his judgment, there is no security problem involved~~ in connection to a particular case.

~~(d) **Non-applicability**~~**Applicability of Rule.** —This Rule ~~shall~~**does** not apply to legislative hearings, naturalization or other ceremonial proceedings, or to recordings made for future use in judicial proceedings by official court reporters or other persons authorized by ~~the presiding~~**a** judge.

## 83.5 BAR ADMISSION

(a) ~~\_\_\_\_\_~~ **Roll of Attorneys.** ~~The Bar of this Court shall consist~~District consists of those attorneys ~~at law (hereinafter called "attorney" or "counsel") heretofore and those hereafter~~ admitted to appear and practice before the ~~Court.~~District. Except as otherwise provided in this Rule, only members of the Bar of this District, attorneys admitted pro hac vice, and individuals representing themselves may appear or practice before this District.

### (b) Eligibility and Qualifications.

#### ~~(b) Eligibility and Qualifications.~~

~~1. Any~~ An attorney ~~who is eligible for admission to the Bar of this District if he or she is a member of in good standing of either the Missouri Bar in good standing, or admitted to practice before or the Bar of the United States District Court for the District of Kansas and is regularly engaged in the practice of law shall be admitted to practice upon motion of an attorney of this Bar who is currently in good standing and has been a member of this Bar for a minimum of five years, and upon taking the proper oath and the entry of the attorney's name on the Roll of Attorneys.~~

~~2. Any attorney who has passed the Missouri Bar Examination and who has been admitted to practice by the Supreme Court of Missouri in the current calendar year, and who intends to engage regularly in the practice of law, or serve as a law clerk to a federal judge or a judge of a state court of record, shall be eligible for admission to the Bar of this Court, provided, however, that any such attorney may not, without special leave, appear as counsel in this Court unless he or she maintains a law office and is regularly engaged in the practice of law or is associated with or employed by an attorney or attorneys admitted to the Bar of this Court. The form of~~

~~application shall be modified for use by applicants being currently admitted to the Missouri Bar by the Supreme Court of Missouri. The Clerk of this Court shall ascertain that an applicant admitted under this paragraph has met all character requirements of the Supreme Court of Missouri. Appropriate certification of that fact will be accepted by this Court in lieu of the certificate required under Rule 83.5(d).~~

- ~~3. Any attorney who is a member of the Missouri Bar in good standing who has not been regularly engaged in the practice of law for the preceding two years, who desires to be admitted to this Bar, may file a petition with the Clerk in the form and manner set forth in Rule 83.5(d) and also state the reasons for seeking admission. The Clerk shall submit such petition to any judge, who may, for good cause shown, grant it, or may appoint some member of this Bar to examine the attorney's reason for seeking admission, and legal training, prior experience in the practice of the law, and fitness to become a member of this Bar, and report to the Court the examiner's conclusions and findings. Upon the filing of the report, the judge appointing the examiner shall dispose of any such petition so filed, as to the judge shall be just and right. The judge denying any such petition may, for good cause shown, reconsider the same. A subsequent petition, filed after denial of an earlier petition, shall be presented only to the judge denying the earlier petition so long as that judge remains an active member of this Court.~~

**(c) Standards for Professional Conduct.**

- ~~1. For misconduct defined in these Rules, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this Court may be disbarred, suspended from practice before this Court, reprimanded or subjected to such other disciplinary action as the circumstances warrant.~~
- ~~2. Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Code of Professional Responsibility adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Code of Professional Responsibility adopted by this Court is the Code of Professional Responsibility adopted by the highest court of the state in which this Court sits, as amended from time to time by that state court, except as otherwise provided by specific Rule of this Court after consideration of comments by representatives of bar associations within the state.~~

**(d) Procedure for Admission ~~and~~.**

- 1. Admission Fee.** ~~Each applicant~~Materials. To apply for admission ~~shall file with, an eligible attorney must submit to the Clerk a, on the forms provided by the Clerk:~~

A. A written petition ~~in form provided by the Clerk,~~ setting forth: the applicant's name, age, ~~—and—~~ office address; the date the applicant was admitted to practice by the Supreme Court of ~~the State of~~ Missouri or the United States District Court for the District of Kansas, ~~and;~~ an attestation that applicant is not in default in

~~payment of any fee required by the Rules of the Missouri Supreme Court of Missouri or the United States District Court for the District of Kansas, for the then current year. The petition shall be accompanied;~~

~~B. Two certificates, each signed by the certificate of two members a member of this Bar, of who has at least five years' years' good standing, stating when they were admitted to this Bar; and what they know of the applicant's applicant's character and experience at the Bar. The Clerk will examine If the petition applicant has passed the Missouri Bar Examination and certification and, if been admitted to the Missouri Bar in eompliance with this Rule, the petition will be presented to the current calendar year, then the applicant may instead submit a judge. The applicant will make suitable arrangement thereafter with form indicating, unless the Court for appearance and en banc orders otherwise, that he or she:~~

~~i. Maintains a law office:~~

~~ii. Is associated with, or employed by, an attorney admitted to this Bar; or~~

~~iii. Serves as a law clerk to any state or federal judge.~~

~~C. The appropriate admission in open court fee as set by the Court en banc; and~~

~~D. A completed registration form for the District's Case Management/Electronic Case Files system.~~

~~2. Notification of Ceremony. If the submitted materials comply with Rule 83.5(c)(1), the Clerk must notify the applicant of a date and time for the admission ceremony.~~

~~3. Procedure at Ceremony. The applicant must attend the admission ceremony. When ahis or her petition is called in open court, a member of this Bar shall must move the admission of the petitioner. applicant. If admitted, the applicant shall must, in open court, take the following oath: an oath in the form prescribed by the Court en banc and provided by the Clerk. The Clerk must enter the attorney's name into the rolls and the Case Management/Electronic Case Files system. The applicant is now a member of the Bar of the District.~~

~~"I do solemnly swear (or affirm) that:~~

~~I will support the Constitution of the United States and the Constitution of the State of Missouri. I will maintain the respect due to Courts of Justice and judicial officers.~~

~~I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land.~~

~~I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law.~~

~~I will maintain the confidence and preserve inviolate the secrets of my client, and will accept no compensation in connection with my client's business except from my client or with my client's knowledge and approval.~~

~~I will abstain from all offensive personalities, and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged.~~

~~I will never reject from any consideration personal to myself the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice.~~

~~**SO HELP ME GOD !"**~~

~~After taking the oath, the attorney shall sign the Roll of Attorneys. As part of the admissions procedure, the applicant shall also remit the admission fee prescribed by the Judicial Conference of the United States plus an additional fee of \$7.00 as prescribed by this Court. The total amount of the attorney admission fee shall be posted on the Court's website.~~

~~(e) **Continuing Legal Education Requirement.** Rescinded by Court en banc on December 7, 2000.~~

~~(f)~~ (d) **Annual Fee.**

1. Annual Fee Required. Every attorney admitted to practice in the Western District of Missouri shall member of this Bar must pay an annual fee ~~of~~ as set ~~from time to time~~ by the Court en banc, ~~but not to exceed \$10.00.~~ This fee shall must be paid in the manner designated by the Clerk. ~~The Clerk of Court.~~ (A reinstatement fee of \$50.00 will be required for all fees may establish a deadline for these payments. If a fee is received after March 31st.) the deadline, the Clerk may assess a reinstatement fee.

~~(g)~~ 2. Failure to Comply. ~~Failure~~ If an attorney fails to pay the Annual Fee ~~(Local Rule 83.5(f))~~ will result in loss of the right to practice before this Court by placing the subject annual fee, the Clerk must place the attorney on inactive status and ~~disabling the attorney's CM/ECF password~~ disable the attorney's Case Management/Electronic Case Files account, if applicable. While on inactive status, the attorney may not appear or practice before the District.

~~(h)~~ 3. Bar Fund. ~~The fund created by~~ Clerk must maintain keep the collected annual fees hereinabove required shall be kept by the Clerk in a separate account, and shall be disbursed by the Clerk disburse these fees under ~~the direction and order~~ of the Court en banc.

~~(i)~~ Periodic Assessment of Attorneys; (e) Disciplinary Registration Statements; Fees.

1. ~~Every attorney admitted to practice before this Court shall upon~~ Disciplinary Registration Fees Required. Upon admission, every member of this Bar must pay ~~to the Clerk of Court~~ an initial disciplinary registration fee, in an amount ~~to be determined~~ set by ~~Order of~~ the Court which shall be used, until this Court determines that an additional assessment will be required, en banc. The Clerk must maintain these fees in a separate account, as trustee, for the payment of expenditures incurred for the payment of costs incurred in the disciplinary administration and enforcement under these Rules Rule 83.6.

2. Payment of the Disciplinary Registration Fee to Another Court. If an attorney demonstrates that he or she has paid a disciplinary registration fee shall be a condition precedent to the granting of any application for admission pro hac vice by any attorney not otherwise admitted to the Bar of this Court.

~~3. If an attorney has paid a registration fee in another court of the United States pursuant to that court's adoption, ~~of that court,~~ of disciplinary rules similar to this local rule, then said the attorney shall need not ~~be required to~~ pay the registration fee required under Rule 83.5(d) above.~~

~~4. An attorney (f) Inactive Status.~~

~~1. Process. Any member of this Bar who ~~has retired or is not engaged~~ desires to become inactive in the practice of law before ~~this Court~~ the District may advise the Clerk ~~of Court,~~ in writing, that said the attorney desires to assume inactive status ~~and said attorney is not required to pay the fee required under (f) above. Upon the filing of a notice to assume inactive status, the attorney shall no longer be eligible to practice law in this Court and shall be removed from the rolls of those classified as active until, and unless, said attorney requests and is granted reinstatement to the active rolls by the Clerk of Court.~~~~

~~5. The fund created by the disciplinary registration fee hereinabove required shall be maintained in a separate account held by the Clerk of Court, as trustee, for the payment of expenditures incurred, pursuant to Rule 83.6(i) and not on behalf of the United States.~~

~~(j) **Inactive Status.** If a member of this Bar desires to, Members also become inactive in the practice of law before this Court, said member shall submit a request, in writing, to the Clerk of this Court. Members will also be deemed inactive automatically upon failure to pay any annual fees required hereunder.~~

~~2. **Effect.** Upon the filing of a notice to assume inactive status, or upon the nonpayment of annual fees, the attorney may not appear or practice in the District and is no longer required to pay the annual fees.~~

~~3. **Reinstatement.** If a member of this Bar has been granted or placed on inactive status and desires to be reinstated to active status, said member shall the attorney must submit a request through the Case Management/Electronic Case Filing system and pay the required fee electronically or in writing accompanied by a payment of \$100.00, to, Once the Clerk of accepts this Court. Upon receipt of notification of reinstatement request, the attorney may is again practice in this Court, and will be expected to comply with Local Rule 83.5(f)-a member of this Bar.~~

~~(k) **(g) Local Counsel.** In If an attorney in any case, civil or criminal, in which is a member of this Bar but whose office is situated a great distance from the place of holding court in the division in which the action is ending, represents one or more parties, the judge to whom the action is assigned Court may, in his or her discretion, require the attorney to retain a local attorney, who is also a member in good standing of this Bar, and who can be available for unscheduled meetings and hearings.~~

~~(l) **Visiting Attorneys: Permission to Appear in a Particular Case. (h) Pro Hac Vice Admission.** Any attorney who is not a member of this Bar, but who is a member in good standing of the bar of any court of record, may be permitted to nonetheless appear and participate practice in a particular case, civil or criminal, under the following conditions:~~

~~Any attorney residing outside of this district and if admitted to practice before and then in good standing in the United States District Court in the district of residence, may, upon written motion, be permitted by this Court to appear and participate as an attorney in the trial of any action or the hearing of any motion, petition or other proceeding then pending before this Court, but only if the attorney associates with an active Missouri resident member in good standing of this Bar who shall participate in the preparation and trial of the case or presentation of the matter involved and on whom service of all papers may be made. An attorney seeking admission to practice pursuant to this provision shall file a Petition for Admission Pro Hac Vice, on a form supplied by the Clerk of Court (set forth on Appendix "A" to this Rule), accompanied by payment of the sum of \$50.00. The Clerk of Court shall~~

~~maintain a roll of attorneys so admitted. The Clerk of Court shall not accept for filing papers which do not contain the name of an attorney admitted to practice before this Court~~pro hac vice.

~~Unless~~1. **Eligibility.** The attorney seeking pro hac vice admission must reside outside the District, be admitted to practice in the United States District Court in the district of residence, and be a member in good standing in all bars of which he or she is a member.

~~2.~~ **Limited Initial Appearance before Application.** An attorney that is not a member of this Bar may appear in a case, but must comply with Rule 83.5(h)(3) within 14 days after entering the appearance. If the attorney fails to do so, then the Court, upon motion or sua sponte, may remove the attorney from the case.

~~3.~~ **Procedures for Admission.** The applicant must:

~~A.~~ Associate with an active member in good standing of this Bar who resides within the boundaries of the District;

~~B.~~ File a written Petition for Admission *Pro Hac Vice* via the Case Management/Electronic Case Files system;

~~C.~~ Submit an admission fee in an amount set by the Court en banc; and

~~D.~~ Submit the disciplinary registration fee under Rule 83.5(e).

~~4.~~ **Admission.** If the statement, *supra*, is filed with the initial pleading, or within 14 days thereafter, submitted materials comply with Rule 83.5(h)(3), the Clerk must enter the Court, upon motion or on its own motion, applicant's name into the rolls and notify the applicant. The applicant may dismiss the action commenced in violation of this Rule. Upon compliance then participate as an attorney in the specified case only.

~~5.~~ **Role of Sponsoring Attorney.** As soon as the visiting attorney complies with the foregoing and introduction of the visiting attorney to enters an appearance, the Court, may excuse the sponsoring Rule 83.5(h)(3)(A) attorney may be excused from further attendance and in the visiting case. Even if such attorney will be permitted to appear for the purpose of the particular case, without enrollment. After being so excused from attendance, however, the sponsoring attorney shall retain he or she retains all of the responsibilities of a counsel an attorney of record and shall must continue to accept service of papers and to serve as a point of contact or communication between the Court and the party represented by the sponsoring attorney he or she represents.

~~(m) — **Attorneys Specially Admitted.** 6. **Discipline.** Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (pro hac vice), admission, the attorney shall be deemed thereby consents to have conferred disciplinary jurisdiction upon by this ~~Court~~District for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.~~

~~(n) — (i) **Government — Attorneys — and — Federal — Public — Defenders.** — Any An attorney representing who is not a member of this Bar may nonetheless practice in a particular case in the attorney's official capacity if he or she represents the United States Government, or, any agency thereof of its agencies, or employed by the Office of the Federal Public Defender, may appear and participate in particular cases in the attorney's official capacity without petition completes a Petition for admission. If the Admission of a Government Attorney. If the attorney represents the United States and is not a resident of ~~this~~the District, the attorney shall must designate the United States Attorney or ~~the an~~ Assistant United States Attorney for this District, ~~for the purpose of receiving to receive~~ service of all notices or papers in said action. Service of notice upon ~~the such~~ designated ~~District Attorney, or an Assistant, shall constitute~~attorney constitutes service upon ~~such~~the non-resident Government ~~Attorney~~attorney.~~

~~(o) — **Withdrawal of Counsel and Entry of Appearance of New Counsel.** Counsel may not be relieved from further representation of a client without obtaining leave of Court. Such leave will ordinarily be denied unless entry of appearance by substitute counsel is assured or has occurred.~~

~~(p) — (j) **Certificates of Good Standing.** A Certificate of Good Standing issued by this District attests to an attorney's admission to practice and current status of good standing before the bar. A Good Standing ~~indicates~~ that ~~the a particular~~ attorney is admitted to this Bar, is not currently suspended or disbarred, has registered timely with the Clerk's Office, and is current with payment of the ~~\$20.00~~ annual fee.~~

~~The fee for To obtain a Certificate of Good Standing is \$18.00, and is payable, a person must make a request in writing via the Case Management/Electronic Case Filing system and submit a fee to the Clerk, U.S. District Court. A request for a certificate shall be submitted electronically or mailed to the Clerk's Office and should include the fee. Non-electronic requests shall be in writing and shall contain the following information: (1) name and bar number of the attorney for whom the certificate is requested; and (2) name and mailing address of the requesting party in an amount as set by the Court en banc.~~

~~(k) **Duty to Report Contact Information.** An attorney admitted to practice under this Rule has a continuing duty to promptly notify the Clerk of any change of name, business address, telephone number, or e-mail address. An attorney may do so through the Case Management/Electronic Case Filing system.~~

## 83.6 ATTORNEY DISCIPLINE

~~The United States District Court for the Western District of Missouri, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys who are admitted to practice before it, or admitted for the purpose of a particular proceeding (*pro hac vice*), promulgates the following Procedures of Disciplinary Enforcement superseding all of its other Procedures pertaining to disciplinary enforcement heretofore promulgated.~~

~~(a) — Attorneys Convicted of Crimes.~~

- ~~1. — Upon the filing with this (a) **Generally.** If an attorney admitted to this Bar commits misconduct as specified in this Rule, then the Court en banc may discipline that attorney in accordance with this Rule.~~

~~(b) **Definitions.** As used in this Rule:~~

- ~~1. **Any Court** — of a certified copy of a judgment of conviction demonstrating that. “Any court” includes any attorney admitted to practice before the Court has been convicted in any Court of the United States, or the District of Columbia, or any federal court or the court of any state, territory, commonwealth, or possession of the United States of a serious.~~
- ~~2. **Serious Crime.** “Serious crime as hereinafter defined, the Court shall~~

~~enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.~~

~~2. The term "serious crime" shall include any felony and any lesser crime" includes any crime, a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime."the above crimes.~~

~~3. (c) **Forms of Misconduct.**~~

~~1. **Attorneys Violating Rules of Professional Responsibility.** An attorney admitted to this Bar has committed misconduct if he or she violates the District's adopted Code of Professional Responsibility, whether by act or omission, whether committed individually or in concert with any other person or persons, and whether committed in the course of an attorney client relationship or the practice of law. The District's Code of Professional Responsibility is the Rules of Professional Conduct adopted by the Supreme Court of Missouri, except as otherwise provided by specific order of the Court en banc after consideration of comments by representatives of bar associations within the State.~~

~~2. **Attorneys Convicted of Crimes.**~~

~~A. An attorney admitted to this Bar has committed misconduct if convicted of a crime in any court, whether the conviction resulted from a plea of guilty, or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal.~~

~~B. If the Clerk receives a certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of demonstrating that crime in any an attorney admitted to this Bar has been convicted of a serious crime in any court, the Court en banc must enter an order commencing a disciplinary proceeding instituted against that attorney based upon the conviction and immediately suspending that attorney until final disposition of the disciplinary proceeding. The Court en banc must immediately serve a copy of such order upon the~~

~~attorney. For good cause shown~~ Upon a showing of good cause, the Court en banc may set aside such order.

~~4. Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court may, in addition to suspending that attorney in accordance with the provisions of this Rule, institute a disciplinary process as provided in these Rules in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that any disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.~~

~~5. Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime," the Court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the Court; provided, however, that the Court may in its discretion make no reference with respect to convictions for minor offenses.~~

~~6C.~~ An attorney suspended under ~~the provisions of~~ this Rule ~~will~~must be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed ~~but the~~. This reinstatement ~~will~~does not terminate any disciplinary proceeding then pending against the attorney, the disposition of which ~~shall~~must be determined by the Court en banc on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

~~(b) Discipline Imposed By D.~~ In any disciplinary proceeding instituted against an attorney based upon a criminal conviction, a certified copy of a judgment of that is conclusive evidence that the attorney committed that crime.

E. If the misconduct alleged is the commission of a serious crime, the Court en banc may not issue discipline until all appeals from the conviction are concluded.

### 3. Attorneys Disciplined by Other Courts.

~~1. Any~~ A. An attorney admitted ~~to practice before this Court shall, upon being~~ Bar has committed misconduct if subjected to public discipline by any ~~other Court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly~~ court besides this District. Upon being subjected to such discipline, the attorney must so inform the Clerk ~~of this Court of such action.~~

2B. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted ~~to practice before this Court~~ Bar has been disciplined by another Court ~~court,~~ this Court ~~shall forthwith issue a notice directed to en banc must serve on~~ the attorney containing under investigation:

a. ~~ai.~~ A copy of the judgment or order from the other court; and

b. ~~anii.~~ An order directing the respondent to show cause ~~directing that the attorney inform this Court within 30 days after service of that order upon~~ why the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in Rule 83.5(c) that ~~the imposition of the Court en banc should not impose identical discipline by the Court would be unwarranted and the reasons therefor.~~

~~3. In the event the discipline imposed in~~ C. If the other jurisdiction ~~court has been stayed there~~ the discipline imposed, any reciprocal discipline imposed ~~in this by the~~ Court ~~shall en banc must~~ be deferred until ~~such~~ the stay expires.

~~4. Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of (b) above, this Court shall~~ D. In any disciplinary proceeding instituted against an attorney based upon discipline by another court, a final adjudication by that court that the attorney was guilty of misconduct is conclusive evidence that the attorney committed misconduct.

E. No sooner than 30 days after serving the respondent, the Court en banc must impose the identical discipline unless the ~~respondent-attorney demonstrates, or this Court finds, that upon~~ Court en banc enters an order finding from the face of the ~~record upon which the discipline in another jurisdiction is predicated~~ it certified copy of the judgment or order that clearly ~~appears:~~

- a. ~~that the~~i. The procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; ~~or~~
- b. ~~there~~ii. There was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court en banc could not, consistent with its duty, accept as final the conclusion on that subject; ~~or~~
- e. ~~that the~~iii. The imposition of the same discipline by ~~this~~the Court en banc would result in grave injustice; or
- d. ~~that the~~iv. The misconduct established ~~is deemed by this Court to warrant~~warrants substantially different discipline.

~~Where this Court determines that any of said elements exist, it shall enter such other~~F. Upon resigning or being disbarred on consent from the bar of any other court, the attorney must so inform the Clerk. Upon the filing of a certified or exemplified copy of a judgment or order as it deems appropriate.

- ~~5. In all by any other respects, a final adjudication in another court that court accepting the resignation or disbarment on consent from that court by an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in the Court of the United States.~~
- ~~6. This Court may at any stage appoint counsel to prosecute the disciplinary proceedings.~~

~~(e) **Disbarment on Consent or Resignation in Other Courts.**~~

- ~~1. Any attorney admitted to this Bar, the Clerk must strike the attorney's name from the rolls. The stricken attorney is no longer permitted to appear or practice before in this Court who shall be disbarred on consent or resign from the bar of any other Court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of. Such a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court. A voluntary resignation of the attorney from the bar of any state territory, commonwealth or possession of the United States where an investigation into allegations of misconduct is pending, or disbarment on consent does not terminate any disciplinary proceeding against that attorney in this Court.~~

- ~~2. Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from the bar of any other Court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this Court of such disbarment on consent or resignation.~~

~~(d) **Disciplinary Proceedings.** Except as specified in Rule 83.6(c), the following governs the process of disciplining attorneys admitted to this Bar that have committed misconduct.~~

- ~~1. **1. Initiating a Disciplinary Investigation.** When misconduct, or allegations of misconduct which, if substantiated, would warrant discipline constitute a misconduct, on the part of an attorney admitted to practice before this Court shall Bar come to the attention of this Court the Clerk or a judge, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules, this Rule, the Clerk must initiate a disciplinary investigation.~~

2. Investigation.

A. Once a disciplinary investigation is initiated, the Court en banc may refer the matter to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate. If this Court determines that appointment of counsel is not necessary for a determination that an attorney to serve as a special master.

i. The special master may perform any appropriate task, including investigating the case, determining whether probable cause exists to believe that discipline is warranted, the Court may give notice of the grounds for discipline without the appointment of counsel an attorney has violated Rule 83.6(c), prosecuting a formal disciplinary proceeding, and formulating another appropriate recommendation.

2. Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent attorney, the disposition of which in the judgment of the counsel should be awaited

~~before further action by this Court is considered or for any other valid reason, counsel shall file with the Court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise setting forth the reasons therefor.~~

~~3. To initiate a formal disciplinary proceeding, when counsel has been appointed, counsel must demonstrate to the Court ii. An attorney is eligible to serve as special master if he or she is an attorney for the Missouri Office of Chief Disciplinary Counsel, a member of this Bar, or an Assistant United States Attorney. The attorney under investigation may move at any time to disqualify a special master on the grounds that the special master is or has been engaged in any matter as an adversary of the attorney under investigation. A special master, once appointed, may not resign unless granted leave of the Court en banc.~~

~~iii. If the special master concludes after investigation and review that there is probable cause to believe that discipline is warranted. If a finding of probable cause is made by the Court, counsel shall file, with the Court, a complaint which an attorney has violated Rule 83.6(c), the special master must demonstrate such to the Court en banc. If the Court en banc concurs with the special master, the special master must file with the Court en banc an order that contains a short and plain statement of each ground for discipline. The complaint shall be served on the attorney who shall have 30 days thereafter to and that directs the attorney under investigation to show cause why he or she should not be disciplined. The Court en banc must serve the show cause order on the respondent, who may, within 30 days, file an answer which shall identify identifying any disputed issues of fact and any matters in mitigation.~~

~~iv. If this Court determines that probably cause exists to believe that discipline is warranted without the appointment of counsel, the Court shall serve a complaint on the attorney in question containing the special master concludes after investigation and review that there is no probable cause to believe that an attorney has violated Rule 83.6(c), or that the Court en banc should await the disposition of another proceeding against the attorney under investigation, the special master must file with the Court en banc a report containing recommendations for~~

disposition—whether by dismissal, admonition, or deferral—and setting forth the reasons.

B. Once a disciplinary investigation is initiated, if the Court en banc does not appoint an attorney to serve as special master, the Court en banc must undertake its own investigation. If the Court en banc determines that there is probable cause to believe that an attorney has violated Rule 83.6(c), the Court en banc must serve on the attorney under investigation an order that contains a short and plain statement of each ground for discipline.—The attorney shall have 30 days thereafter to— and that directs the respondent to show cause why he or she should not be disciplined. The respondent may, within 30 days, file an answer which shall identify identifying any disputed issues of fact and any matters in mitigation.

4.—Upon 3. Selecting Discipline.

A. If the respondent attorney-s answer respondent’s response to the complaint, if show cause order raises any issue of fact is raised or the respondent attorney or gives notice of issues on which the respondent attorney wishes to be heard in mitigation, this the Court shall en banc must set the matter for prompta hearing before.

i. The Chief District Judge must appoint one or more judges of this Court, provided; however, that if the disciplinary proceeding is predicated upon the complaint of a judge of this Court, to serve on the hearing shall be conducted before a panel of three other. If the proceeding resulted from the initial complaint of a judge, the Chief District Judge must appoint 3 judges, none of this Court appointed by who may be the Chief Judge, complaining judge. If the Chief District Judge is the complainant, the active district judge with the most seniority shall must appoint the three judge panel. The judge or judges of this Court appointed to conduct a disciplinary hearing may consist of magistrate judges, active district judges or senior district judges. In the event the If the appointing judge —determines —that —the —disciplinary hearing complaint involves issues related to practice before the Bankruptcy Court, the judge or judges appointed shall include at least one bankruptcy judge. The judge or judges must be appointed to conduct a disciplinary.

ii. The hearing shall panel must submit to the Court en banc a report containing findings on disputed facts and issues heard in mitigation, together with its recommendation and recommendations for appropriate discipline, if any, to the court. The court shall Court en banc. Upon consideration of this report and recommendation, the Court en banc must determine the appropriate discipline, if any, and terminate the proceeding.

B. If no hearing panel is required, then the Court en banc must determine the appropriate discipline, if any, and terminate the proceeding.

(e) **Disbarment on Consent While under Disciplinary Investigation or Prosecution.**

1. **Affidavit Required to Consent to Disbarment.** Any attorney admitted to ~~practice before this Court~~Bar who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to ~~this~~the Court en banc an affidavit stating~~swearing~~ that the attorney ~~desires to consent to disbarment and that:~~

~~a. the attorney's consent is freely~~ A. Freely and voluntarily rendered; ~~the attorney consents to disbarment,~~ is not being subjected to coercion or duress; ~~the attorney, and~~ is fully aware of the implications of so consenting;

~~b. the attorney is~~ B. Is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the ~~attorney's~~ attorney's discipline the nature of which the attorney ~~shall~~ must specifically set forth;

~~e. the attorney acknowledges~~ C. Acknowledges that the material facts so alleged are true; and

~~d. the attorney so consents because the attorney knows~~ D. Acknowledges that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself.

2. Disbarment upon Receipt of Affidavit. Upon ~~receipt of the required receiving this~~ affidavit, ~~this~~ the Court ~~shall~~ en banc must enter an order disbarring the attorney and terminating the disciplinary investigation or proceeding.

3. Disbarment Order Matter of Public Record. The order disbarring the attorney on consent ~~shall~~ must be a matter of public record. ~~However, the~~ Unless the Court en banc orders otherwise, the attorney's affidavit ~~required under the provisions of this Rule shall~~ may not be publicly disclosed or made available for use in any other proceeding ~~except upon order of this Court.~~

(f) **Resignation While under Disciplinary Investigation or Prosecution.**

An attorney admitted to ~~practice before~~ this ~~Court~~ Bar who is the subject of an investigation into or a pending proceeding involving allegations of misconduct may voluntarily resign from the ~~bar of the Court~~ Bar, but the resignation ~~shall~~ does not automatically terminate the disciplinary proceeding against that attorney.

(g) **Reinstatement.**

1. ~~After Disbarment or Suspension.~~ An attorney suspended for ~~three~~ **Generally.** An attorney who is suspended for more than 3 months or disbarred may not resume practice until the Court en banc grants a petition for reinstatement. An attorney who is suspended for 3 months or less ~~shall be~~ is automatically reinstated at the end of the period of suspension ~~upon the filing if he or she files~~ with the Chief District Judge ~~of the Court~~ an affidavit of compliance with the provisions of the order of suspension.

2. Ineligibility for Reinstatement. An attorney ~~suspended for more than three months or disbarred~~ may not ~~resume practice until reinstated by~~ petition for reinstatement within one year following an order ~~of~~ rejecting a petition for reinstatement. Unless the Court-

2. ~~Time of Application Following Disbarment.~~ An en banc orders ~~otherwise, an~~ attorney who has been disbarred, may not ~~apply~~ petition for reinstatement, ~~without leave of Court,~~ until ~~the expiration of~~ at least five years ~~from~~ after the effective date of the disbarment.

3. ~~**Deposit of Costs of Proceeding.**~~ **Filing the Petition.** A petition for reinstatement ~~under this Rule shall~~ must be filed with the Chief District Judge and must be accompanied by an advance deposit, in an amount to be set from time to time by the Court en banc, towards payment of anticipated costs of the reinstatement proceeding. ~~The~~ The Court en banc must fix the actual amount of the cost of the reinstatement proceeding ~~shall be fixed by the Court~~ at the conclusion of the proceeding.

4. ~~**Petitions for Reinstatement.**~~ **Assigning the Petition.** ~~Petitions for reinstatement by a disbarred attorney or an attorney suspended for more than three months under this Rule shall be filed with the Chief Judge of this Court.~~ Upon ~~receipt of the~~ receiving a petition for reinstatement, the Chief District Judge ~~shall~~ must assign the petition to one or more judges of this Court to conduct appropriate proceedings and to recommend ~~to the Court~~ appropriate disposition, to the Court en banc. If the ~~original disbarment or suspension~~ discipline resulted from the initial complaint of a judge ~~of this Court~~, the Chief District Judge may not assign the petition for reinstatement ~~shall be assigned to a judge or judges other than the~~ complaining judge. ~~In addition, the~~ The Court en banc, after consulting with the ~~judge or judges~~ assigned to whom the petition was assigned, may appoint ~~counsel~~ a special master in accordance with Rule 83.6(d)(2)(A)(ii) to investigate the petition ~~on behalf of the Court~~.

If ~~counsel~~ a special master is appointed under this Rule, the ~~counsel appointed~~ special master must submit, within 45 days, a report and recommendation to the ~~judge or judges~~ assigned to whom the petition ~~has been assigned.~~

**5. Hearing on Reinstatement.** After ~~receipt of the~~ receiving and considering any report and recommendation of ~~appointed counsel~~ a special master, the ~~judge or judges~~ assigned to whom the petition ~~has been assigned~~ may schedule a hearing ~~on the petition.~~ If a hearing is scheduled, ~~appointed counsel shall assure that~~ the special master must present all pertinent information bearing on the relief requested in the petition ~~is presented to~~ at the Court hearing. At the hearing, the ~~disciplined attorney shall have~~ petitioner has the burden of demonstrating by clear and convincing evidence that ~~the disciplined attorney~~ he or she has the necessary integrity, moral qualifications, and competency ~~for readmission to practice before this Court~~ Bar. The ~~judge or judges~~ assigned to whom the petition ~~is assigned shall~~ must submit suggested findings and conclusions to the Court en banc.

**56. Conditions of Reinstatement.** ~~If the petitioning attorney is readmitted to practice before this Court, readmission may be~~ Upon consideration of these findings and conclusions, the Court en banc must decide whether

to reinstate the petitioner and terminate the proceeding. The Court en banc may reinstate the petitioner subject to conditions. Conditions of reinstatement may include the payment of all or part of the costs of the proceedings, and may include partial or complete restitution to parties harmed by the attorney, and proof of competency to practice before ~~this Court~~the District.

~~6. **Successive Petitions.** No petition for reinstatement under this Rule shall be filed within one year following an order rejecting a petition for reinstatement.~~

(h) **Service of Papers and Other Notices.**

~~Service of a complaint instituting a formal disciplinary proceeding shall be made. The show cause order specified in Rule 83.6(d) must be served on the respondent by personal service or by registered or certified mail. Service of any papers or notices required by these Rules shall be deemed to have been made if a paper or notice under this Rule is proper if such the paper or notice is addressed to the respondent-attorney at the address shown on the:~~

- ~~1. The most recent registration statement filed pursuant to Rule 83.5(i); or to counsel or address the respondent attorney at the Clerk has on file;~~
- ~~2. The address indicated in the most recent pleading or other document filed in the course of any proceeding; or at the respondent attorney's last known address.~~
- ~~3. The respondent's last known address.~~

**(i) Appointment of Counsel.**

~~Whenever counsel is to be appointed, pursuant to these Rules, to investigate allegations of misconduct; prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney, this Court shall make the appointment on such conditions as the Court approves. The Court may appoint as counsel the counsel of the disciplinary agency of the highest court of the State of Missouri wherein the Court sits, or one or more members of the Bar of this Court, or an Assistant United States Attorney, to investigate allegations of misconduct or to prosecute disciplinary proceedings under these rules, provided, however, that the respondent attorney or disciplined attorney may move to disqualify counsel so appointed who is or has been engaged as an adversary of the said attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this Court.~~

**(j) Payment of Fees and Costs.**

- ~~1. At the conclusion of any disciplinary investigation or prosecution, if proceeding, any, under these Rules, counsel special master may make application to this move the Court en banc for an order awarding reasonable fees and reimbursing costs expended in the course of such disciplinarythe investigation or prosecutionproceeding. The Court en banc may require counsel at any timethe special master to submit a budget for approval by the Court.~~

~~Additionally, any costs incurred by this Court in administering the provisions of this Rule shall be paid upon order of the 2. The Chief District Judge of this Court. Any payments made under this Rule will be made by may order the Clerk of Court, as trustee, from of the funds collected pursuantunder Rule 83.5(i) hereof. Such payments maye), to pay the~~

costs incurred by the Court en banc in administrating this Rule. The Chief District Judge may order these payments to be taxed as costs against any attorney disciplined by the Court en banc.

**(k)(j) Certificate of Disciplinary Judgment and Notice by Clerk.**

1. Upon being informed that an attorney admitted to ~~practice before this Court has~~Bar may have been convicted of anya crime, the Clerk ~~of this Court shall~~must determine whether the clerk of the court in which such conviction occurred has forwarded a certificate of such conviction to ~~this~~the Court en banc. If a certificate has not been ~~so~~forwarded, the Clerk ~~of this Court shall~~must promptly obtain a certificate and file it with ~~this~~the Court en banc.

2. \_\_\_\_\_ Upon being informed that an attorney admitted to ~~practice before~~ this

~~Court has~~ Bar may have been subjected to discipline by ~~another~~ any other court, the Clerk ~~of this Court shall~~ must determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with ~~this~~ the Court, ~~and, if en banc. If it has~~ not been filed, the Clerk ~~shall~~ must promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with ~~this~~ the Court en banc.

3. ~~Whenever it appears~~ Upon being informed that ~~any person convicted of any crime and has been an attorney~~ disbarred, suspended, censured, or disbarred on consent by this Court-District for being convicted of a crime is admitted to practice law ~~in any other jurisdiction or~~ before any other court, the Clerk ~~of this Court shall, within 14 days of that conviction,~~ disbarment, suspension, censure, or disbarment on consent, must promptly transmit ~~to the disciplinary authority in such other jurisdiction, or for such other court,~~ a certificate of the conviction or a certified exemplified copy of the

judgment or order of disbarment, suspension, censure, or disbarment on consent, ~~as well as to the disciplinary authority of that court and to~~ the last known office and residence addresses of the ~~defendant or respondent~~ attorney.

4. The Clerk ~~of this Court shall, likewise, must~~ promptly notify the National Discipline Data Bank operated by the American Bar Association of any order by the Court en banc imposing public discipline upon ~~any~~ an attorney admitted to ~~practice before this Court~~ Bar.

~~(j)~~ ~~—~~ ~~(k)~~ **Jurisdiction.** ~~Nothing contained in this~~ This Rule ~~shall be construed to~~ does not deny ~~to this~~ the Court ~~such~~ any powers ~~as are~~ necessary ~~for the Court~~ to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under ~~Rule 42 of the Federal Rules of Criminal Procedure~~ Fed. R. Crim. P. 42.

~~(m)~~ ~~—~~ ~~(l)~~ **Unauthorized Practice.** ~~An~~ Unless specifically authorized by a judge, an attorney who, before admission, ~~unless specially authorized by one of the judges,~~ or during disbarment or suspension, exercises any of the privileges of a member of this Bar, or who pretends to be entitled to so do, is guilty of contempt of court and ~~becomes~~ is subject to appropriate punishment ~~therefor~~, to be instituted in the same manner as provided in this Rule ~~83.6~~.

### 83.7 FILING FEES FOR INDIGENT PERSONS

- (a) ~~Suit by Indigent Person.~~ ~~(Written Request to proceed~~ Proceed In forma pauperis.)

1. ~~1.~~ **Forma Pauperis.** An individual may request leave to commence a civil action without being required to prepay fees or costs by filing with the complaint an affidavit requesting leave to proceed in forma pauperis. ~~-The affidavit~~ ~~should~~must ~~either~~ be ~~in~~on the form provided by the ~~Court.~~ ~~Alternatively, the affidavit must~~ Clerk, or else contain the same information ~~called for by~~requested on the ~~court-~~approvedClerk's form.

2. ~~2.~~ **(b) Materials Reviewed.** The Court ~~or Clerk of Court shall~~must review the affidavit, ~~together with~~ and any other information ~~filed with the~~ Courtapplicant provides that is relevant to ~~the plaintiff's~~his or her ability to prepay the filing fees and costs. ~~-If the applicant is confined in a municipal, state or federal institution, the Clerk of~~ incarcerated, the Court may request a

copy of the ~~applicant's~~ applicant's inmate account, if it is not filed with the affidavit. ~~Also~~ In calculating the applicant's average monthly income, the ~~defendant~~ Court must exclude gifts of \$5.00 or less, unless the applicant has received a sufficient number of such gifts that it is reasonable to include them in the applicant's average income. The Court may ~~be given an~~ give the defendants the opportunity to show cause why ~~plaintiff~~ the applicant should not be granted leave to proceed in forma pauperis.

3. ~~3.~~ (dc) Standards for Granting In Forma Pauperis Status. The Court ~~or Clerk of Court shall~~ must determine whether the applicant is capable of paying the initial filing fee. ~~A payment will not be required~~ An applicant is not capable of paying the initial filing fee if ~~to do~~ doing so will cause the plaintiff ~~him or her~~ to give up the basic necessities of life. ~~If~~ Unless the applicant ~~is~~ shows good cause, an incarcerated, ~~and~~ applicant is capable of paying the initial filing fee if ~~the~~ applicant's ~~his or her~~ average monthly income or the balance in the inmate account is \$1,200.00, ~~the applicant shall be deemed capable of paying the complete filing fee unless some good reason is shown to the contrary.~~ In calculating the average monthly income, the Court or Clerk of Court shall exclude gifts of \$5.00 or less, unless the applicant has received a sufficient number of such gifts that it is reasonable to include them in the applicant's average income. ~~If the Court or Clerk of~~ If the Court concludes the applicant is capable of paying the initial filing fee, ~~the~~ Court may require the fee to be paid before the case proceeds or may grant the applicant leave to pay the filing fee within ~~30 days unless a longer~~ specified time ~~is allowed by period no shorter than 30 days.~~ If the Court. ~~However, if a party does not~~ applicant then fails to timely pay the filing fee, the Court may dismiss the complaint ~~may be dismissed by the Court for that reason.~~ The Court may grant ~~a person~~ leave to proceed in forma pauperis after they have the applicant has paid the filing fee.

4. ~~If the Court or Clerk of~~ (ed) Partial Filing Fees. ~~Except in cases filed under 28 U.S.C. §§ 2254 and 2255, if the~~ Except in cases filed under 28 U.S.C. Sections 2254 and 2255, ~~require the~~ applicant to pay a partial filing fee: of at least \$1.50. The partial fee required ~~should~~ may not cause the applicant to give up the basic necessities of life. ~~If the applicant is confined in an institution which provides the basic necessities of life,~~ the Court may impose a partial filing fee of 10% of the ~~applicant's~~ applicant's average monthly income for the six months immediately preceding the filing of the complaint ~~may be imposed.~~ In calculating the average monthly income, the Court or the Clerk of Court shall exclude gifts of \$5.00 or less unless the applicant has received a sufficient number of such gifts that it is reasonable to include them. If the Court concludes the applicant is capable of paying the partial filing fee, the Court may require the fee to be paid before the case proceeds or may grant the applicant leave to pay the filing

fee within a specified time period no less fewer than 30 days. If the applicant then fails to timely pay the partial filing fee, the Court may dismiss the complaint.

~~(fe) **Objections to In** the applicant's average income. A partial filing fee of less than \$1.50 shall not be imposed. When the Court orders payment of a partial filing fee, payment of the amount will be required within 30 days, unless a longer period is allowed by the Court. The failure of a party to make a required payment will justify dismissal of the lawsuit.~~

5. ~~—~~ **Forma Pauperis Status.** If a filing fee is imposed on a person who has requested leave to proceed in forma pauperis, any party to the case ~~will be allowed~~ may, within 21 days after being notified of the fee imposed ~~to,~~ file written objections to the fee, to correct the information that may have been considered in setting the fee, or to demonstrate special circumstances justifying the payment of a lower or higher fee. ~~The Court will~~ must review promptly the objections and rule on the application for leave to proceed in forma pauperis.

6. ~~—~~ **In(gf) Review and Rescission of In Forma Pauperis Status.** The Court may review and rescind in forma pauperis status ~~may be reviewed and rescinded by the Court~~ at any time. ~~Some grounds for review and rescission would be~~ any reason, such as if the party

~~becomes capable of paying the complete filing fee or, if the Court determines the case is frivolous, or if the Court determines that the applicant has willfully misstated information in the his or her application ~~for leave to proceed in forma pauperis.~~~~

~~7. An application (hg) Payment of Attorney's Fees and Costs from Recovery. By applying for in forma pauperis status ~~shall constitute consent by,~~ the applicant and ~~counsel~~ his or her attorney consents that a portion of any recovery, as directed by the Court ~~shall, must~~ be paid to the Clerk, who will pay therefrom all unpaid attorney's fees of counsel and costs taxed against the plaintiff applicant.~~

### 83.8 PRACTICE BY STUDENT INTERNS ENROLLED IN LAW SCHOOL

~~Any~~ An eligible law student acting under a supervising attorney ~~shall be allowed to make an appearance~~ may appear and participate in proceedings in this ~~Court District pursuant to these rules under this Rule.~~

(a) **Eligibility.** To be eligible to appear and participate, a law student must:

1. Be a student in good standing in a law school approved by the American Bar Association;
2. Have ~~completed legal studies amounting to~~ three ~~3~~ semesters, or the equivalent if the law school is on some other basis than a semester basis;
- ~~3. File with the Clerk of the Court a Notice of appearance in each case in which the student is participating or appearing as a law student intern. The notice shall be in the form prescribed by the Court and shall be signed by the supervising attorney and the student intern. When signing the notice of appearance, the law student intern must certify that he/she has read and agrees to abide by the rules of the Court, all applicable codes of professional responsibility, and all relevant federal practice rules. The supervising attorney shall also certify that he/she has advised the client(s) that the law student intern will make an appearance and the client(s) has/have consented to the participation of the law student intern.~~
- ~~4. Be introduced to the Court in which the student is appearing by an attorney admitted to practice in this Court.~~

~~(b) **Restrictions.** No law student admitted under these rules shall:~~

- ~~1. Request or receive any compensation or enumeration of any kind from the client, but this restriction does not prevent the supervising attorney or his or her law firm, a law school, a public defender or any agency of the~~

~~government from paying compensation to the law student or prevent any firm or agency from making such charges for its services as it may otherwise properly require;~~

~~2. Appear in court without the presence of the supervising attorney; or~~

3. ~~File any documents or papers with the Court that the student has prepared which have not been read, approved, and signed. Be sponsored by the a supervising attorney and co-signed by the student.who must:~~

~~(c) **Notice.** Any supervising attorney intending to use a law student pursuant to this rule in any contested matter shall notify the Court of such intention at least 24 hours before the matter is scheduled to commence. If the Court should conclude that, for reasons sufficient to the Court, the participation by the student attorney would be inappropriate, the Court shall so advise the supervising attorney and the appearance shall not be made.~~

~~(d) **Termination.** The student's participation may be terminated by a judge of this Court at any time without notice or hearing and without a showing of cause. Notice of the termination may be filed with the Clerk of Court.~~

~~(e) **Supervising Attorney.** Any person acting as a supervising attorney under this Rule must be admitted to practice in this Court and shall:~~

~~1. A. Be a member in good standing of this Bar;~~

~~B. Assume personal professional responsibility for the conduct of the student being supervised;~~

~~2C. Co-sign all pleadings, papers, and documents prepared by the student;~~

~~3D. Advise the Court of the ~~student's~~student's participation in accordance with Rule~~

~~83.8(c), be present with the student at all times in ~~Court~~court, and be prepared to supplement oral or written work of the student as requested by the Court or as necessary to ensure proper representation of the client; and~~

~~4E. Be available for consultation with the client.;~~

~~4. File with the Clerk a Notice of Appearance, on the form provided by the Clerk, in each case in which the student is appearing or participating. The notice must be signed by the supervising attorney and the law student. When signing the notice of appearance, the law student must certify that he or she has read and agrees to abide by the Local Rules, all applicable codes of professional responsibility, and all relevant federal practice rules. The supervising attorney must certify that he or she has advised the client that the law student will make an appearance and that the client have consented to the participation of the law student intern; and~~

5. Be introduced by the supervising attorney to the Court in which the student is appearing.

(b) **Restrictions.** No law student admitted under this Rule may:

1. Request or receive any compensation or enumeration of any kind from the client, except that the supervising attorney or his or her law firm, a law school, a public defender, or any agency of the government may pay compensation to the law student or charges for its services as it may otherwise properly require;

2. Appear in court without the presence of the supervising attorney; or

3. File any documents or papers that the student has prepared which have not been read, approved, and signed by the supervising attorney and co-signed by the student.

(c) **Notice.** Any supervising attorney intending to use a law student under this Rule in any contested matter must notify the Court of such intention at least 24 hours before the matter is scheduled to commence. If the Court deems participation by the law student would be inappropriate, the Court must so advise the supervising attorney and the appearance may not be made.

(d) **Termination.** Any judge may terminate a law student's participation under this Rule at any time, without notice or hearing, and without a showing of cause. The judge may file notice of the termination.

### **83.9 ASSIGNMENT OF CASES**

(a) **Assignment of New Cases.** Unless otherwise provided in ~~an Administrative Directive approved by a statute, federal rule, or order of~~ the Court en banc, the ~~assignment of~~ Clerk must assign newly filed ~~criminal and civil~~ matters ~~shall be by blind draw~~ among the qualified judges ~~by blind draw~~. Judges ~~shall be~~ considered qualified unless they have given blanket recusal instructions to the Clerk in writing. ~~However, any~~

(b) **Temporary Case Management by Another Judge.** If a judge assigned to a case is unavailable or so requests, any other judge may enter an order in ~~any~~that case ~~at the request~~, subject to Rule 72.1.

(c) **Transfer of** ~~or in the event of unavailability of the~~Cases. The Clerk must transfer a case to another judge ~~to whom they~~:

1. The transferring judge and the receiving judge mutually consent;

2. The case is assigned. ~~Cases may be transferred between judges by mutual consent. Cases on a joint trial docket may be reassigned in order to~~, and the

Chief District Judge certifies that reassigning the case would promote ~~their~~its prompt and efficient disposition. ~~If a case that has been;~~

3. The case is a refiling of a previously dismissed ~~is~~ case, in which instance the refiled, ~~the refiled~~ case ~~shall~~ must be ~~assigned~~ transferred to the judge last handling the dismissed case. ~~Related cases, by mutual consent of the judges to whom the cases are assigned, shall; or~~
4. The case is related to another case filed in the District, in which instance the ~~later-filed case must~~ be transferred to the judge with the ~~earliest~~ earlier-filed case, ~~without regard to~~ regardless of whether the earliest filed case is pending.

**83.10—            SANCTIONS FOR LATE NOTIFICATION OF SETTLEMENT**

~~Whenever any~~ If the parties in a civil action scheduled for jury trial ~~is settled~~ settle or otherwise ~~disposed of in advance~~ dispose of the ~~actual jury trial~~ action, then, ~~except for good cause shown, jury costs, including~~

~~Marshal fees, mileage, and per diem, may be assessed equally against the parties and their counsel, or otherwise assessed by the Court, unless the Clerk of the Court is notified they must notify the Clerk before twelve noon of the last business day preceding before the timeday when the actiontrial is scheduled for trial in time to advise the jurors that it will not be necessary for them to attend. Likewise, when any civil action is settled at trial in advance of the verdict, then, except for good cause shown, jury costs, including Marshal fees, mileage and per diem, may be assessed equally against begin. Unless they show good cause, if the parties and their counsel, or otherwise assessed as directed by the Court, fail to so notify the Clerk, then the Court may assess equally against them and their attorneys the jury costs, including Marshal fees, mileage, and per diem.~~

### 83.11—            ELECTRONIC COMMUNICATION DEVICES

(a) ~~For purposes of Definitions. As used in this Rule, an “electronic communication device” includes any computer, personal digital assistant, cellular telephone, digital camera or camcorder, pager, two-way radio, or other electronic device.~~

(b) ~~General Prohibition on Possessing Electronic Communication Device. No person may possess an electronic communication device in any District courthouse, except by:~~

~~1. Law enforcement officers;~~

~~2. United States Attorneys and staff;~~

~~3. Federal Public Defenders and staff, bankruptcy;~~

~~4. Bankruptcy panel trustees, Court;~~

~~5. District employees and other tenants of the courthouse may bring electronic communication devices into the any District courthouse;~~

(c) ~~Possession of electronic communication devices in the courthouse is otherwise prohibited, except by:~~

~~1. lawyers 6. Attorneys, including pro hac vice counsel, who present photo identification and a current bar registration card from this or any other federal or state court; and staff; and~~

~~2. staff in the company of such lawyers; and~~

~~3. individuals who are 7. Others specifically granted specific permission by this Court a judge.~~

~~All such individuals and~~ **(c) Restrictions on Use.** Individuals authorized under Rule 83.11(b) to possess an electronic communication devices are device:

~~1. Are~~ **1.** Are subject to proper screening and security clearance before entry into ~~the~~ District courthouse. ~~Furthermore, lawyers are responsible for ensuring that their staff comply with all rules regarding use of electronic communication devices.;~~

~~(d) — No person who is allowed to possess an electronic communication device in the courthouse may~~ **2.** May not allow it an electronic communication device to be used by any unauthorized person or for any unauthorized purpose. ~~;~~ and

~~(e) — Courtroom Use. Only~~ **3.** May not use an electronic communication device—except for a laptop computers may be used computer—in the courtroom. No other electronic communication device may be used or turned on in the courtroom except by members of, unless the individual is court personnel or has been granted specific permission by a judge.

~~(d) Sanctions for Violations. The Court, the United States Marshal's Marshals Service, and Court Security Officers and court personnel, unless specific permission is granted by this Court.~~

~~(f) — No electronic communication device shall be used in violation of Rule 83.4 (Photographing, Broadcasting and Televising in Courtrooms and Environs).~~

(g) ~~Any~~ may confiscate any electronic communication device that is used in violation of this ~~Rule or Rule~~

~~83.4 is subject to confiscation.~~ 83.4. In addition, ~~in the discretion of the Court, additional~~ may impose sanctions, including financial sanctions, ~~may be imposed.~~

|

## LOCAL CRIMINAL RULES

### 99.0 APPLICABILITY OF LOCAL CIVIL RULES

Unless the context clearly indicates otherwise, all Local Civil Rules apply to criminal proceedings in this District.

### 99.1 BAIL AND SURETIES

(a) ~~\_\_\_\_\_ Bail. —When~~If a person is arrested in ~~this district for the commission of~~District for committing a criminal offense, ~~said~~the Court may admit that person ~~may be admitted to bail as provided in Rule~~accordance with Fed. R. Crim. P. 46, Federal Rules of Criminal Procedure, and Sections18 U.S.C. §§ 3141, 3146, 3148, and 3149, Title 18, United States Code.

(b) ~~\_\_\_\_\_ Justification Approval of Sureties. Any individual, corporation, partnership, or association~~Unless a district judge orders otherwise, any entity offered as a surety and required to "justify," pursuant to ~~Rule 46(d), Federal Rules of Criminal Procedure, shall do so~~must appear before a ~~United States Magistrate Judge appointed by this Court, unless otherwise ordered by a judge of this Court.~~magistrate judge to demonstrate that its assets are adequate under Fed. R. Crim. P. 46(e) and that, if applicable, it satisfies Rule 99.1(c). If a ~~judge of this Court or a United States Magistrate Judge~~magistrate judge is not readily available, the Clerk ~~of the Court~~may take such justification demonstration and admit a defendant to bail ~~in accordance with the order of the judicial officer issued pursuant to Section,~~

~~3146(e), Title 18, United State Code.~~

(c) ~~\_\_\_\_\_ Qualifications for Individual Sureties. —An individual shall not~~may be ~~"justified" and~~ accepted as a surety on bond or undertaking in any ~~criminal or civil~~ action or proceeding ~~in this Court unless said individual possesses the following qualifications~~only if he or she:

1. ~~The surety must be~~Is a reputable person, at least 21 years of age, and a bona fide resident of the State of Missouri;
2. ~~The surety shall~~Has not ~~have~~ been convicted of any felony under the law of the United States or of any state;
3. ~~The surety shall~~Is not ~~be~~ an attorney ~~at law~~, a peace officer, marshal or deputy marshal, a constable or deputy constable, sheriff, or deputy sheriff;

4. ~~The surety shall~~Is not the Clerk, a deputy clerk, or other officer or employee of ~~this Court~~the District;
5. ~~The surety shall~~Is not ~~be~~ an elected or appointed official or employee of the United States, or any state or any political subdivision thereof;
6. ~~The surety must be the owner of~~Owns real ~~estate~~ or personal property having a reasonable market value, in excess of all encumbrances thereon, exemptions, and all other liabilities, at least equal to the amount specified in the bond which the ~~surety~~individual proposes to execute.— To qualify upon the basis of real estate owned, an individual must be the sole, legal, and equitable owner thereof in fee simple and at record, and ~~shall~~must file in connection with the ~~surety's "justification"~~surety's Fed. R. Crim. P. 46(e) demonstration a certificate of a title company authorized to do business in the State of Missouri as to ownership and encumbrances and an appraisal made by a real estate appraiser who is a member of the Society of Real Estate Appraisers or the American Institute of Real Estate Appraisers in respect to the real estate proffered as security.

If there are several sureties, the aggregate market value of real estate or personal property owned by them, in excess of encumbrances, exceptions, and all other liabilities, must be at least equal to the amount specified in the bond.

**(d) ~~Disqualification of Sureties. If any~~**

**1. Conditions.** Any judge may enter an order disqualifying a surety (individual, corporation, partnership, or association), from proffering bail, surety, or other bonds if:

A. The surety—~~or any its~~ agent, ~~representative, servant, or employee thereof,~~ conducts himself or herself in the surety's business ~~respecting the writing of bail, surety, or bonds of any type or character, so as to forfeit in a manner that forfeits~~ the confidence of ~~this Court, or cause any~~ the judge; or magistrate

B. Causes the judge ~~of this Court~~ to ~~lose confidence in~~ the business integrity or moral manner by which the surety carries out the ~~surety's~~ business or undertakings, ~~the Court en banc or any judge or magistrate judge of this Court expressing any such loss of confidence may enter an order directing that such surety, or any agent, representative, or employee thereof, be precluded from proffering bail, surety, or any other bonds to this Court. Provided, however, when a magistrate judge issues an order precluding a surety or any agent, representative, or employee thereof, from proffering bail, surety, or any other bonds to this Court, .~~ The judge measures “moral manner” by whether, in the magistrate judge’s opinion, the method of the conduct of the business of the surety will subject the judge or District to calumny in any manner.

**2. Procedure for Magistrate Judges.** If the disqualifying judge ~~shall~~ is a magistrate judge, he or she must set forth findings of fact and conclusions of law in the order. ~~The magistrate judge shall~~ must file ~~such~~ the order ~~with the Clerk of the Court and forthwith mail or cause a copy of the order to be mailed~~ to the surety. ~~Any surety may, within~~ Within 14 days after being served with a copy of ~~such~~ the order ~~of, the magistrate judge, surety may~~ file a written specific objection to the order. ~~The~~ If timely filed, the Court en banc ~~or a district judge of this Court, when, if~~ so designated by the Court en banc, ~~shall~~ must make a de novo determination of the ~~order of the magistrate judge precluding a surety, or any agent, representative, or employee thereof, from proffering bail, surety, or other bonds to this Court to which a timely specific objection is filed. The Court en banc, magistrate judge’s order. The Court en banc~~ or the district judge designated to make a de novo determination ~~may~~ accept, reject, or modify, in whole or in part,

the order issued by the magistrate judge, or recommit the matter to the magistrate judge with instructions.

~~The "moral manner" by which a surety, or an agent, representative, or employee thereof, shall be measured is whether or not, in the opinion of the Court en banc of this Court or any judge or magistrate judge of the Court, the method of the conduct of the business of the surety will subject the court to calumny in any manner.~~

**99.2 ESTABLISHING — PANEL — OF — EXPERTS — AND — PROCEDURES — FOR DETERMINATION OF MENTAL COMPETENCY ~~TO STAND TRIAL AND/OR THE EXISTENCE OF INSANITY AT TIME OF THE OFFENSE~~**

(a) ~~\_\_\_\_\_ Purpose of Rule.~~ —The purpose of this Rule is to establish a panel of experts and to ~~prescribe the~~ procedure ~~to be followed in~~ connection ~~with~~ examinations ordered pursuant to ~~Section 18 U.S.C. §§ 4241 or 4242 of Title 18, United States Code,~~ and any other examination that may be ordered pursuant to other laws.

(b) ~~Establishment of Panel of Experts.~~ —The ~~Court shall~~ District must establish a panel of competent, ~~licensed,~~ or ~~certified~~ psychiatrists or psychologists. —A list of the

psychiatrists and psychologists on the panel ~~shall~~must be on file with the Clerk and with the Chief ~~of United States~~ Probation and Pretrial Services ~~of this Court.~~ Officer. The ~~Court~~District may add to such list other competent experts in mental diseases who may, from time to time, be designated to serve with and assist a particular psychiatrist and/or psychologist in connection with a particular examination.

(c) — \_\_\_\_\_ Procedures for Order of Examination. ~~When the Court orders~~In ordering an examination ~~pursuant to~~under this ~~local rule~~Rule, the ~~order~~Court may authorize the Chief ~~of United States~~ Probation and Pretrial Services Officer to make proper arrangements with a psychiatrist and/or psychologist designated by the Court from the approved panel for such examination. ~~Should~~If the ~~accused~~defendant is in custody, ~~this standing order authorizes~~ the United States Marshal ~~to~~may deliver the ~~accused~~defendant to the office of the ~~examiner~~ designated ~~by the Court~~examiner and ~~to~~afterward return the ~~accused~~defendant to the place of confinement ~~after said examination.~~

(d) Preparation and Protection of Social History. Except for examinations conducted at a federal penal institution, the Chief United States Probation and Pretrial Services Officer ~~shall be responsible for the preparation of~~ must prepare a social history of the ~~accused~~defendant for use by the examiner, if so requested by the examiner. Any Fed. R. Crim. P. 12.2(c) protects the social history and any statements made by the ~~accused~~defendant in connection with that social history ~~and the social history itself shall be considered within the protection of Rule 12.2 of the Federal Rules of Criminal Procedure.~~

### 99.3 ~~DIRECTIVES AND PROCEDURES IN REGARD TO~~ SPECIAL GRAND JURIES (Chapter 216, Title 18, United States Code)

(a) — \_\_\_\_\_ Purpose of Rule. — The ~~purpose of this rule~~Rule is ~~to establish~~ directives ~~and procedures calculated to insure compliance with all provisions of Chapter 216, Title 18, United States Code~~ 18 U.S.C. §§ 3331–3334, and to avoid the dissemination of any information concerning or contained in any report submitted by a special grand jury impaneled under ~~that Chapter~~those statutory sections until and unless such report has been ordered accepted by the Court and ordered filed as a public record in accordance with ~~the provisions of that Chapter~~those statutory sections.

(b) — Release of Information Concerning Special Grand Jury Reports. ~~No member of a special grand jury, and no other person who may have information concerning any special grand jury report shall, may~~ reveal any information concerning the contents of a special grand jury report, ~~which in every instance shall be submitted to the Court,~~ until and unless such report has been accepted and ordered filed by the Court as a public record in accordance with ~~Chapter 216, Title 18, United States Code. It is determined that the~~ 18 U.S.C. §§ 3331–3334. The release of any information

concerning the contents of a special grand jury report before such time presents a reasonable likelihood that the release of such information could interfere with fair trials in pending or future cases and would otherwise prejudice the proper administration of justice.

~~The provisions(c)~~ **Application of Rule 99.7** ~~of this Court are, Rule 99.7~~ fully ~~applicable~~applies to the release of any information by lawyers and other employees of the federal, state, city or county employees participating in or associated with any investigation being made by a special grand jury. —Such persons are expressly prohibited ~~by this Rule~~ from

~~making any public judicial or extra-judicial statement concerning the contents of any special grand jury report until and unless such report is ordered accepted and ordered filed as a public record in accordance with the provisions of Chapter 216, Title 18, United States Code. Then the statement is~~ 18 U.S.C. §§ 3331–3334. At that time, such persons' statements are limited to the contents of the report approved by the Court for filing.

~~(e) — (d) Procedures Concerning Submission of Special Grand Jury Reports. Should~~ If a special grand jury, upon ~~completion of completing~~ its original term, desire to submit a report authorized by ~~Section 18 U.S.C. § 3333, Title 18, United States Code,~~ it ~~shall submit such a report by the filing of an appropriate~~ must file a motion in accordance with the following procedures:

1. ~~—~~ The proceeding shall ~~must~~ be entitled ~~"In the Matter of a Report Submitted by Special Grand Jury Impaneled on [INSERT DATE]."~~ "In the Matter of a Report Submitted by Special Grand Jury Impaneled on [INSERT DATE]."
2. The special grand ~~jury's~~ jury's motion ~~submitting its report shall~~ must allege that its report is submitted upon the completion of its original term, that such report has the concurrence of a majority of its members, and that, in its judgment, such report is based upon facts revealed in the course of an investigation ~~authorized by subsection (a) of Section 18 U.S.C. § 3332(a) and~~ is supported by the preponderance of the evidence.
3. The special grand jury ~~shall~~ must place its submitted report in a sealed envelope marked ~~"Exhibit -A"~~ and labeled ~~"Report Submitted by Special Grand Jury" and~~ "Exhibit -A" and ~~It must place in another sealed envelope,~~ marked ~~"Exhibit -B"~~ and labeled ~~"Supporting Data," in which shall be included,~~ the facts revealed in the course of its investigation which it believes ~~support~~ supports its report by the preponderance of evidence ~~as required by Section 3333(b)(1).~~ The supporting data may consist of a transcript of proceedings before the special grand jury and exhibits presented to the special grand jury.
4. The ~~special grand jury's~~ motion ~~shall~~ must pray for an appropriate order either ~~(a) accepting:~~
  - A. Accepting and filing such report as a public record; or ~~(b) if~~
  - B. If the report is one submitted pursuant to ~~Section 18 U.S.C. § 3333(a)(1), that~~ directing further proceedings to be ~~directed~~ conducted in accordance with law.

5. The Clerk ~~shall~~must immediately transmit the ~~special grand jury's~~ motion and ~~the~~any attached exhibits ~~attached thereto~~ to the Court for further ~~appropriate~~ proceedings, ~~according to law.~~ No in accordance with. Unless the Court orders otherwise, no person ~~shall~~may reveal the contents of Exhibit A or Exhibit B directly or indirectly ~~without express authority of court order.~~
  
6. The ~~Court~~ ~~will,~~must, after ~~direction~~ ~~of proper~~ of in accordance with further proceedings ~~and appropriate consideration according to law,~~ enter its order as to whether the report submitted by the special grand jury should or should not be accepted and ordered filed as a public record.

~~(d)~~ (e) **Sanctions for Violations of this Rule.** ~~Any violation of this Rule by~~ If any person ~~shall be punished by appropriate~~ violates this Rule in any manner, the Court ~~may initiate~~ contempt proceedings ~~pursuant to Rule~~ under Fed. R. Crim. P. 42 ~~of the Rules of Criminal Procedure.~~

#### 99.4 REPORT BY PERSONS ADMITTED TO BAIL

Any person admitted to bail ~~shall~~ must report to the ~~Office of the United States Marshal~~ Probation and Pretrial Services Office immediately prior to any court proceeding which ~~said~~ such person is required to attend.

#### ~~99.5 INTERVIEWING; SEARCHING; OR USING OF PERSONS WHO ARE UNDER ARREST; IN CUSTODY; OR ON BAIL PENDING TRIAL; SENTENCING; OR APPEAL; OR ON PROBATION OR PAROLE; BY COUNSEL; OFFICERS; AGENTS; OR EMPLOYEES OF THE UNITED STATES~~

#### 99.5 INDUCING VIOLATIONS OF, AND MODIFYING, CONDITIONS OF PROBATION, PAROLE, OR BAILBAIL, PROBATION, OR SUPERVISED RELEASE

~~(a)~~ (a) **General.** Applicability. This Rule applies to persons ~~on probation, on parole,~~ released on bail, on probation, on supervised release, or in one or more of those circumstances concurrently, provided that:

1. The supervision of the probation or ~~parole~~ supervised release is being conducted by the United States Probation and Pretrial Services Office; or
2. The order fixing the conditions of bail has been entered by a judge or by the Court of Appeals in an appeal from a judgment in a criminal action entered in the District.

(b) **Generally.** No ~~counsel~~ attorney, officer, agent, or employee of the United States ~~shall~~ may request, cause, or attempt to cause any person ~~or persons (1) on probation,~~ under supervision of the probation office of this Court, ~~(2) on parole under the supervision of the probation office of this Court, or (3) on bail pending trial, sentence, or appeal under an order of a judge or magistrate judge of this Court or the Court of Appeals,~~ specified in Rule 99.5(a) to violate any condition of bail, probation, or ~~parole~~ supervised release, including but not limited to, use of using such a person under circumstances that violate one or more of the conditions of bail, bail, probation, or supervised release ~~parole, or parole, provided that an informal or formal ex parte request may be made to the judge or magistrate judge having jurisdiction, for modification of such condition or conditions for lawful purposes~~ bail.

~~(b)~~ **Submission of Request for (c) Requesting a Modification of Conditions of Bail, Bail, Probation, or Parole.** ~~Any, or Bailor Supervised Release. An attorney, officer, agent, or employee of the United States may submit a request for modification of one or more conditions of bail, bail, probation, or supervised release probation, or parole, or bail to the Court or to the appropriate probation officer. This request may be submitted informally or formally, and may be submitted ex parte, to the magistrate judge or judge having jurisdiction or to the appropriate probation officer in case of parole, stating. The request must state the exceptional facts which justify such a request. In an emergency, any judge or magistrate judge of this Court may grant such a request.~~

~~(e)~~ **(d) Granting of Request for Modification of Conditions of Bail, Probation, or Supervised Release Parole.** ~~If possible, and if time permits, prior to granting any request under Rule 99.5(bc), the judge or magistrate judge shall, if time permits, must consult with the Chief United States Probation and Pretrial Services Officer or the probation officer assigned to supervision of the person, before granting such a request, and shall by. If the judge or probation officer grants the request, he or she must issue a sealed order modify/modifying the conditions of bail, bail, probation or supervision of, parole by the probation office of this district, or bailor supervised release, as the circumstances shall require.~~

~~(d)~~ **(e) Procedures Not Prohibited by Rule.** ~~Provided however, that, in respect With regard to persons under arrest, in custody, on bail pending trial, sentencing or appeal, on probation, or supervised release on parole, this rule shall Rule does not be construed to prohibit:~~

1. On the initiative of the person or ~~counsel~~ this or her attorney, an officer, agent, or employee of the ~~United States~~, interviewing ~~the person,~~, ~~“debriefing” the person,~~

- ” questioning ~~the person~~, or taking a voluntary statement from the person concerning intelligence or information on any subject ~~relating to, whether or unrelated not it relates~~ to, the offense or offenses of which the person was convicted, or ~~to~~ the alleged offense or offenses on which the ~~bail releasee~~person is awaiting trial, sentencing, or appeal;
2. Making searches and seizures, determined by ~~counsel, an attorney~~, officer, agent, or employee of the United States to be lawful, including, ~~but not limited to~~, searches or seizures from the person ~~or persons~~, subject to later determination by the Court of lawfulness thereof; and
  3. Appearances ~~and~~ testimony by the ~~person~~ ~~in~~ ~~any~~ lawful ~~discovery~~ or investigative proceedings as a witness, formally or informally, including, ~~but not limited to~~, appearance or appearances as a witness before a grand jury.

~~(e) — To Whom Applicable. This local rule shall apply to persons who are on probation, parole, or released on bail or in one or more of such circumstances concurrently, provided (1) that the supervision of the probation or parole is being conducted by the probation office of this Court, or provided (2) that the order fixing the conditions of bail has been entered (a) by a district judge or magistrate judge of this district or (b) by the Court of Appeals or a judge thereof in an appeal from a judgment in one or more criminal actions entered in this district.~~

## 99.6 EXPUNGING THE RECORD

~~Upon the filing of~~ (a) Sending Prescribed Expungement Form to Judge. If the Clerk receives an application for expungement from a person, the Clerk must submit a proposed order directing to the judge to whom the case was last assigned, or his or her successor. The proposed order must be on the form provided by the Clerk, and must direct the Clerk to expunge the record of a defendant be expunged in accordance with Section 404, Title II, Public Law 91-84 Stat. 1264, Section 844, Title 21, U.S.C.A., and future amendment thereof and supplements thereto, the Clerk of the district court shall obliterate the person pursuant to a particular legal authority.

(b) Implementation of Expungement. If the judge signs the order, the Clerk must:

1. Obliterate the name of the individual from all indexes ~~and withdraw~~;
2. Withdraw the docket sheets and the file containing the papers of the criminal action from the ~~court~~ District's records; ~~and~~

~~The Clerk shall also notify~~ 3. Notify the Administrative Office of the United States Courts, the court reporter, the Chief United States Probation and



~~ORDER EXPUNGING THE RECORD~~

~~On motion by defendant \_\_\_\_\_ for an order of court expunging from the official records all recordation of arrest, indictment or information, trial findings of guilty and dismissal and discharge, the court finds that the defendant \_\_\_\_\_ pursuant to the provisions of the Controlled Dangerous Substances Act, Section 404, Title II, Public Law 91-513, 84 Stat. 1264, Section 844, Title 21, U.S.C.A., is entitled to relief, It is therefore hereby~~

~~ORDERED that, in accordance with Section 404, Title II, Public Law 91-513, 84 Stat. 1264, Section 844, Title 21, U.S.C.A., the records of defendant \_\_\_\_\_ be expunged from the official records of this court, and the Clerk of the Court is hereby further~~

~~ORDERED to obliterate the name of the defendant from all indexes and to withdraw the docket sheets and the file containing the papers of this criminal action from the court records, and shall notify the Administrative Office of the United States Courts, the court reporter or reporters reporting the proceedings therein, the Chief Probation Officer and the magistrate judge or magistrate judges acting therein of the order, instructing them to make a similar obliteration and withdrawal of the papers in the above criminal action and to deliver all the papers and records therein to the Clerk of this Court. It is further~~

~~ORDERED that all the papers and records mentioned above shall thereupon be expunged by being placed in the sealed records of the court to be opened only upon order of court; and if the sealed records are opened they shall be resealed by order of court; and all such sealed papers shall be physically destroyed after 10 years.~~

~~(Judge)(Magistrate Judge), United States Court~~

~~Kansas City, Missouri~~

~~Dated:~~

~~5. After 10 years, physically destroy all such sealed papers.~~

**99.7 "FREE PRESS FAIR TRIAL" DIRECTIVES**

**(a) Duties of Attorneys. It is the duty of the Counsel.**

**1. Statements Interfering with the Due Administration of Justice. No attorney or law firm ~~not to~~ may release, or authorize the release of, information or opinion which a reasonable person would expect to be disseminated by any means of public communication, in connection with pending or imminent criminal litigation with which ~~an~~ the attorney or ~~a~~ law firm is ~~associated, if there is reasonable likelihood that such~~**

dissemination- will interfere with a fair trial or otherwise prejudice the due administration of justice.

**2. Statements with Respect to a Grand Jury.** With respect to a grand jury or other pending investigation of any criminal matter, ~~an~~the attorney participating in or associated with the investigation ~~shall refrain from making~~may not make any extrajudicial statement which a reasonable person would expect to be disseminated, ~~by~~ any ~~means~~ ~~of~~ ~~public~~ ~~communication~~, ~~that~~ ~~goes~~ ~~beyond~~ the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance

in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

**3. Statements Related to the Accused.** From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition ~~without trial, an no attorney or law firm associated with the prosecution or defense shall not may~~ release, or authorize ~~the release of,~~ any extrajudicial ~~statement which a~~ reasonable ~~person would expect to~~ be disseminated by means of public communication, relating to that matter and concerning:

**1A.** The prior criminal record ~~(including arrests, indictments, or other charges of crime), or~~ the character or reputation of the accused, except that the attorney counsel or law firm may make a factual statement of the accused's accused's name, age, residence, occupation, and family status and, if the accused has not been apprehended, ~~an attorney counsel~~ associated with the prosecution may release any information necessary to aid in the accused's accused's apprehension or to warn the public of any dangers the accused may present, but these prohibitions ~~only~~ apply only when the release of such information poses a serious and imminent threat of interference with the fair administration of justice;

**2B.** The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

**3C.** The performance of any examinations or tests or the accused's accused's refusal or failure to submit to an examination or test;

**4D.** The identity, testimony, or credibility of prospective witnesses, except that the attorney or law firm may announce the identity of the victim if the announcement is not otherwise prohibited by law, and the release of any such information does not pose a serious and imminent threat of interference with the fair administration of justice;

**5E.** The possibility of a plea of ~~guilty to the offense charged or a~~ lesser offense; or

- 6F. Any opinion as to the ~~accused's~~accused's guilt or innocence or as to the merits of the case, when such an opinion would pose a serious and imminent threat of interference with the fair administration of justice.

~~The foregoing shall not be construed to~~4. **Brief and General Statements.**

Rule 99.7(a)(3) does not preclude the attorney or law firm during this period, in the proper discharge of the ~~attorney's~~attorney's or the ~~firm's~~firm's official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; ~~from making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature,~~

substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against the accused.

**5. Statements during Trial.** During a trial of any criminal matter, including the period of selection of the jury, no attorney or law firm associated with the prosecution or defense ~~shall~~may give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial, which a reasonable person would expect to be disseminated by means of public communication if such communication poses a serious and imminent threat of interfering with the fair administration of justice, except that the attorney or law firm may quote from or refer without comment to public records of the court in the case.

~~Nothing in this~~**6. More Restrictive Rules** ~~is intended to. This Rule does not preclude the formation;~~

~~A. A judge from forming or application of applying more restrictive rules relating than those above if they relate to the release of information about juvenile or other offenders, to preclude the holding of hearing or the lawful issuance of reports by legislative;~~

~~B. Legislative, administrative, or investigative bodies, from holding hearing or lawfully issuing reports; or to preclude any~~

~~C. Any~~ attorney from replying to charges of misconduct that are publicly made against that attorney.

~~(b) —~~**Duties of Court Personnel.** ~~No~~Unless the Court orders otherwise, no supporting personnel connected in any way with ~~this Court~~the District or its operation, ~~including among others,~~ marshals, deputy marshals, court clerks or deputies, bailiffs, secretaries, court reporters, and employees or subcontractors retained by the court-appointed official reporters, ~~shall~~may disclose to any person, ~~without specific authorization by the Court,~~ any information to a pending grand jury proceeding or criminal case that is not a part of the public records of the ~~Court.~~District. This prohibition applies specifically to divulging information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

~~(c) —~~**Special Orders in Certain Cases.** In a widely publicized or sensational case, the Court, on motion of any party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses which might interfere with the rights of the accused to a fair trial by an impartial

jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court ~~may deem~~deems appropriate for inclusion in such an order.

## 99.8 GUIDELINE SENTENCING

~~(a) Unless~~ **Generally. An officer from the United States Probation and Pretrial Services Office must, without unreasonable delay, prepare a defendant's presentence investigation report ~~is waived by~~ and compute the applicable United States Sentencing Commission Guidelines, unless the Court ~~pursuant to Rule:~~**

**1.** ~~Waives the presentence investigation under Fed. R. Crim. P. 32(b)(1), and the Court finds); or~~

**2.** ~~Finds~~ that there is sufficient information in the record to enable the meaningful exercise of sentencing authority ~~pursuant to~~ in accordance with 18 U.S.C. § 3553.

~~3553,~~ **(b) Interviewing the Defendant.** ~~The probation officer who interviews a defendant as part of a presentence investigation must, on request, give the defendant's attorney notice and a reasonable opportunity to attend the interview.~~

~~If the Probation Officer shall, without unreasonable delay, prepare a~~

~~probation officer plans to interview the defendant at any point during the presentence investigation report and compute the applicable United States~~

~~Sentencing Commission (USSC) Guidelines.~~

~~(b) — On, then defense counsel, upon request, defendant's counsel is entitled to must receive notice and reasonable opportunity to attend any interview of the defendant by the Probation Officer, in the course of the presentence investigation interview.~~

(c) — Disclosing the Preliminary Report. Immediately after completion, the ~~Probation Officer shall~~ probation officer must provide the preliminary presentence investigation report to the defendant ~~and, defense~~ counsel ~~for the defendant~~, and the United States, ~~pursuant to Rule 32(b)(6) and in accordance with~~ 18 U.S.C. § 3552(d).

(d) — ~~It shall be the obligation of defense~~ Reviewing the Report with the Defendant. ~~Defense~~ counsel ~~to must~~ review the report with, and explain it to, the defendant.

(e) — ~~If~~ Making Objections. ~~Defense~~ counsel ~~for the defendant~~, a pro se defendant, or ~~counsel for the government has an objection~~ the United States may object to anything in the preliminary presentence investigation report. The objections must:

1. Be submitted in writing within 14 days after disclosure of the preliminary presentence investigation report, the objecting party must submit the objection in writing;

2. Be sent to the United States Probation and Pretrial Services Office and ~~to served on~~ all other parties within 14 days after disclosure of the preliminary presentence investigation report. The objections, submitted in;

3. Contain separately numbered paragraphs, ~~shall list (1);~~

4. List any and all objections believed material to application of the Sentencing Guidelines, including factual information, sentencing classifications, ~~sentencing~~ guideline ranges, and policy statements which are contained in the presentence investigation report; ~~and (2)~~

5. List any additional matters which the submitter believes should be included in, or deleted from, the presentence investigation report.

(f) ~~After~~ Investigating Objections. Upon receiving timely written objections, as provided in Rule 99.8(e), the ~~Probation Officer shall~~ probation officer must immediately conduct a further investigation and make such revisions to the presentence investigation report as ~~may be deemed~~ the probation officer deems appropriate. ~~The Probation Officer~~ probation officer may meet with each counsel or pro se defendant to discuss any unresolved factual issues.

(g) Submitting the Final Report. The ~~Probation Officer shall~~ probation officer must submit the final presentence investigation report to the sentencing judge, the defendant, defense counsel, and ~~counsel for~~ the United States within 14 days ~~after of counsels' receiving~~ objections, or 14 days after disclosing the preliminary presentence investigation report if no objections were received. The report, ~~or the revised report, shall be accompanied by~~ (1) must include an addendum which ~~shall set~~ sets forth clearly and fairly any ~~objections that counsel or the pro se defendant have raised in writing, as provided in Rule 99.8(e), which remain unresolved~~ objections, and ~~(2) the comments of the Probation Officer~~ probation officer.

(h) Preparing a Sentencing Recommendation. ~~When At the same time the probation officer submits the~~ presentence investigation report ~~is submitted as provided in under~~ Rule

~~99.8(g), the Probation Office shall~~ the probation officer must also submit ~~a~~ a confidential ~~sentencing recommendation to the Court.~~ ~~The sentencing recommendation shall~~ must be contained in a confidential memorandum. ~~This~~ Unless the Court orders otherwise, this memorandum shall may not be further disclosed ~~without a specific directive by the Court.~~

(i) The Setting the Sentencing Date. Unless waived by the defendant and defense counsel, the sentencing judge ~~shall~~ must set the sentencing date to be:

1. No fewer than 7 days after receiving the presentence investigation report under Rule 99.8(g); and

2. No fewer than 35 days after the presentence investigation is disclosed under Rule 99.8(c).not less than within 7 days after receipt of receiving the information as provided in Rule 99.8(g), unless waived by counsel and the defendant. The sentencing date, however, shall not be set less than 35), set the sentencing date.

(j) Submitting Unresolved Objections to the Court. Within 7 days from distribution of after the preliminary presentence investigation report Rule 99.8(e) unless waived by is submitted to the defendant and Court under Rule 99.8(g), defense counsel.

~~(j) Counsel for the government or defendant or, a pro se defendant, or the United States~~ may submit to the Court, with copies to opposing counsel and to the United States Probation and Pretrial Services Office, notice of any unresolved objection or other matter pertaining to the presentence investigation report within 21 days after receipt of opposing counsel's objections, or within 7 days after the presentence investigation report is submitted to the Court. Opposing counsel may then submit a response, and the Probation Officer probation officer may submit comments, to the additional objection as may be deemed appropriate.

~~(k) The presentence investigation report submitted to the parties as provided in Rule 99.8(e) may be accepted by the Court as accurate except for those portions of the preliminary presentence investigation report objected to by a party as provided in Rule 99.8(e).~~ (k) The Court Need Not Consider Objections That Do Not Comply with Rule 99.8(e). At the At the sentencing hearing, the Court will consider only unresolved objections raised under Rule 99.8(e), unless the Court finds good cause to allow an objection to be raised without complying with Rule 99.8(e). sentencing hearing, the Court will consider only unresolved objections raised by a party or parties as provided in paragraph under Rule 99.8(e) unless the Court, upon a showing of good cause, allows an objection to be raised without compliance with Rule 99.8(e).

~~(l) The~~ Modifying Deadlines. Upon a showing of good cause, the Court may modify the times set forth in this Rule may be modified by the Court upon a showing of good cause.

~~(m) Nothing within~~ Construction with Fed. R. Crim. P. 32. This Rule must be construed consistently with requires the disclosure of any portion of the presentence investigation report that is not permitted under Rule Fed. R. Crim. P. 32 of the Federal Rules of Criminal Procedure.

~~(n) Pursuant to~~ Providing the Report on Appeal. If an appeal is taken under 18 U.S.C. § 3742, the Clerk of Court shall must advise the United States Probation and Pretrial Services Office, which will must provide a copy of the presentence investigation report to be maintained under seal as a part of the Court file.

## 99.9 CRIMINAL MATTERS HANDLED BY MAGISTRATE JUDGE

(a) ~~Disposition of Misdemeanor Cases (18 U.S.C. Sec. 3401). Each full-time United States Magistrate Judge and each part-time United States Magistrate Judge, unless. Unless~~ otherwise limited or prohibited by a special or general order of the Court en banc, ~~are hereby each magistrate judge is~~ designated, authorized, and empowered to:

1. Try persons accused of, and sentence persons convicted of, misdemeanors committed within or transferred to ~~this district the District~~ in accordance with ~~Section 18 U.S.C. § 3401 and Fed. R. Crim. P. 58;~~  
~~3401, Title 18, United States Code;~~
2. Direct ~~the probation service of the Court~~ United States Probation and Pretrial Services Office to ~~conduct a~~ presentence investigation in any misdemeanor case; and
3. Conduct a jury trial in any misdemeanor case where the defendant so requests and is so entitled ~~to trial by jury~~ under the Constitution and laws of the United States.

(b) Assignment of Criminal Matters to Magistrate Judges.

1. ~~Criminal~~Misdemeanor Cases.

~~In a. All misdemeanor cases filed in the Western and St. Joseph Divisions of the Court shall be randomly assigned by the Clerk of Court, case, upon the filing of an information, complaint, violation notice, or return of an indictment or upon the transfer to this district under Rule 20 or Rule 21 of the Federal Rules of Criminal Procedure of an indictment, or information charging a misdemeanor, to a magistrate judge stationed at Kansas City, Missouri, who shall proceed in accordance with the provisions of Section 3401, Title 18, United States Code, and the Rules of Procedure for the Trial of Misdemeanors Before United States Magistrate Judges; the Clerk must randomly assign the case to a magistrate judge in accordance with Rule 72.1(f).~~

~~b. All misdemeanor cases filed in the Southern and Southwestern Divisions of the Court shall be assigned by the Clerk of Court, upon the filing of an information, complaint, violation notice, return of an indictment or upon the transfer to this district under Rule 20 or Rule 21 of the Federal Rules of Criminal Procedure of an indictment, or information charging a misdemeanor, to the magistrate judge stationed at Springfield, Missouri, who shall proceed in accordance with the provisions of Section 3401, title 18, United States Code, and Rules of Procedure for Trial of Misdemeanors Before United States Magistrate Judges.~~

~~c. All misdemeanor cases filed in the Central Division of the Court shall be assigned by the Clerk of Court, upon the filing of an information, complaint, violation notice, return of an indictment or upon the transfer to this district under Rule 20 or Rule 21 of the Federal Rules of Criminal Procedure of an indictment, or information charging a misdemeanor, to the magistrate judge stationed at Jefferson City, Missouri, who shall proceed in accordance with the provisions of Section 3401, title 18, United States Code, and Rules of Procedure for Trial of Misdemeanors Before United States Magistrate Judges.~~

~~d. Upon the return of an indictment or the filing of an information in the Western and St. Joseph Divisions, of the Court, all felony cases shall be referred by the Clerk of the Court to a magistrate judge stationed at Kansas City for the conduct of all pretrial matters. An order of reference from the presiding district judge to the magistrate judge shall be entered. . . .~~

~~e. Upon the return of an indictment or the filing of an information in the Southern and Southwestern Divisions of the Court, all felony cases shall be referred by the Clerk of the Court to the magistrate judge stationed at Springfield, Missouri, for the conduct of all~~

~~pretrial matters. An order of reference from the presiding district judge to the magistrate judge shall be entered.~~

~~f. Upon the return of an indictment or the filing of an information in the Central Division of the Court, all felony cases shall be referred by the Clerk of the Court to the magistrate judge stationed at Jefferson City, Missouri for the conduct of all pretrial matters. An order of reference from the presiding district judge to the magistrate judge shall be entered.~~

2. **Felony Cases.** In a felony case, upon the return of an indictment or the filing of any information, the Clerk must refer the case to a magistrate judge in accordance with Rule 72.1(f), and the assigned district judge must enter an order of reference.

**99.10— PAYMENT OF FIXED SUM IN LIEU OF APPEARANCE IN SUITABLE TYPES OF MISDEMEANOR CASES**

(a) **Purpose of Rule; Forms; Definitions.** This Rule is adopted pursuant to ~~Rule 58 of the Federal Rules of Criminal Procedure, Fed. R. Crim. P. 58~~ to promote the more efficient administration of justice and improve the effectiveness of court administration. The Court en banc may adopt any form related to the implementation of this Rule, including a violation notice form, and may establish the procedures to be followed in issuing, filing, and processing violation notices. As used in this Rule, “charge,” “offense,” and “violation” mean the violation set forth on the face of the violation notice.

(b) **Payment of Fixed Sum in Lieu of Personal Appearance for Specified Misdemeanors.** A ~~person~~defendant who is charged with ~~the commission of one of the hereinafter committing a misdemeanor specified misdemeanors, in Rule 99.10(c)~~—whether chargeable under an applicable federal statute or regulation or an applicable state statute or regulation by virtue of the Assimilative Crimes Act—~~(, 18 U.S.C. Section § 13)~~—may, prior to or at the time fixed for appearance, pay a fixed sum to the Clerk ~~of the Court~~ in lieu of personal appearance before ~~a magistrate judge or district judge~~the Court. Upon ~~receipt by receiving this payment~~, the Clerk ~~of payment of a fixed sum in lieu of appearance, must terminate the proceeding shall be terminated.~~ The. By making this payment of a fixed sum in lieu of appearance in accordance with, the provisions of this Rule shall signifydefendant signifies that the person charged with the misdemeanor offense (a) does not contest the charge, (b) does not request a trial before a magistrate judge or a district judge, (c) agrees that the payment shall be the equivalent of a plea of guilty, and (d) agrees that the amount so paid shall be forfeited to the United States of America.he or she:

The1. Does not contest the charge;

2. Does not request a trial before a judge;

3. Agrees that the payment is the equivalent of a plea of guilty; and

4. Agrees that the amount so paid is forfeited to the United States.

(c) Schedules. The following schedules set out the misdemeanor offenses for which a fixed sum may be paid in lieu of personal appearance ~~before a magistrate judge or district judge,~~ and the ~~sums~~ sums to be paid ~~are set forth in the following schedules and subsequent amendments thereof which are incorporated herein by reference and made a part hereof as if fully set out:~~

~~(a)~~ 1. Schedule "A" entitled "Schedule of Cash Payments That May Be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of the Interior to Regulate the Occupancy and Use of National Parks, Reservations, and Monuments."

~~(b)~~ 2. Schedule "B" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of Agriculture to Regulate the Occupancy and Use of National Forests, and for Violation of Statutes Relating to National Forests."

~~(e)~~ 3. Schedule "C" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the

Administrator of General Services to Regulate the Occupancy and use of Public Buildings and Grounds."

- (d) 4. Schedule "D" entitled, "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of the Interior to Regulate Hunting and Fishing and the Occupancy -and -Use -of -Wildlife -Refuge -Areas, -and for -Violation -of Statutes Relating to Fish and Wildlife."
- (e) 5. Schedule "E" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of the Army to Regulate the Occupancy and Use of Water Resources Development Projects."
- (f) 6. Schedule "F" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Administrator of ~~Veterans~~'Veterans' Affairs to Regulate the Occupancy and Use of Property, Buildings, and Facilities Under the Charge and Control of the Veterans Administration."
- (g) 7. Schedule "G" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Postmaster General to Regulate the Occupancy and Use for Real Property Under the Charge and Control of the Postal Service."
- (h) 8. Schedule "H" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Statutes or Regulations Regulating Registration and Operation of Motor Vehicles, Hunting, Trapping, and Fishing on Military Installations."
- (i) 9. Schedule "I" entitled "Schedule of Cash Payments That May be Made in Lieu of Appearance for Violation of Regulations Promulgated by the Secretary of the Interior to Protect, Manage, and Control Wild, Free- Roaming Horses and Burros and Maintain a Natural Ecological Balance on Lands Administered Through the Bureau of Land Management."

Whenever (d) Access and Modifications to Schedules. The schedules specified in Rule 99.10(c) are not published as a part of these Rules, but are incorporated into this Rule by reference. The Clerk must maintain copies of such schedules for examination by the public during regular business hours upon request in the

Clerk's Office in Kansas City, Springfield, and Jefferson City. The Court en banc may issue an order amending or supplementing any such schedule, substituting a page bearing a new number or numbers and the effective date.

(e) **Mandatory Personal Appearances.** A defendant must personally appear before the Court, and may not pay a fixed sum in lieu of appearance, if the alleged violation ~~(a) is:~~

1. ~~Is not shown on the schedules hereto, or (b) involves a schedule specified in Rule 99.10(c);~~

2. ~~Involves the operation of a motor vehicle which was involved in a collision, or (c) is;~~

3. ~~Is for operating a motor vehicle while under the influence of an intoxicating liquor, narcotic, or controlled substance, or (d) is;~~

4. ~~Is for leaving the scene of a motor vehicle accident, or (e) is;~~

5. ~~Is for operating a motor vehicle while ~~operator's~~operator's or ~~chauffeur's~~chauffeur's license is under suspension or has been revoked, or (f) is;~~

6. ~~Is for operating a motor vehicle without being licensed to drive, or (g) is;~~

7. ~~Is for exceeding the speed limit, except on a military installation, by more than 15 miles per hour when operating a motor vehicle, or (h) is;~~

8. ~~Is for exceeding the speed limit, on a military installation by more than 20 miles per hour when operating a motor vehicle; or (i) is~~

9. ~~Is for a second moving traffic violation occurring within the preceding 12-month period when operating a motor vehicle, the payment of a fixed sum in lieu of appearance and personal appearance before a magistrate judge or district judge is required of the person charged with such a violation. Further, if in the opinion of the enforcement,~~

**(f) Arrests for Misdemeanor Violations.** If, in the opinion of the enforcement officer or agent, the circumstances surrounding an alleged violation are so aggravated that payment of the specified sum may not be adequate punishment for the offense, or if the offense is one ~~for which a mandatory appearance is required, specified in Rule 99.10(e), this Rule does not prohibit~~ the officer or agent ~~is not by this Rule prohibited~~ from arresting the alleged offender and taking ~~said~~the offender immediately before a magistrate judge, or requiring the person, upon written notice, to appear before ~~a magistrate judge or district judge~~the Court.

~~The adoption of the form of violation notice and other forms to be utilized in the implementation of this Rule and the establishment of the procedures to be followed in issuing, filing, and processing violation notices will be by order or orders entered by the United States District Court en banc for the Western District of Missouri.~~

~~The words "charge," "offense," and "violation" as used herein shall mean the violation set forth on the face of the violation notice.~~

~~When a mandatory appearance is required, the person charged shall appear in the United States District Court for the Western District of Missouri before the designated magistrate judge or district judge.~~

~~Any schedule incorporated herein and made part hereof may be amended or supplemented by an order entered by the United States District Court en banc for the Western District of Missouri, substituting a page bearing a new number or numbers and the effective date.~~

~~The schedules incorporated herein and made a part hereof shall not be printed or published as a part of the Rules of the United States District Court for the Western District of Missouri, but copies of such schedules will be maintained for examination by the public during regular business hours upon request in the Office of the Clerk of Court in Kansas City, Springfield, and Jefferson City.~~

## Revised Local Rules

Local Rule Number	Local Rule Name	Adopted/Revision Date(s)
3.1	Divisional Venue in Civil Actions – Renumbered from 3.2	October 6, 2010
3.1	Disclosure of Corporation Interests – Renumbered to 7.1	October 6, 2010
3.1	Disclosure of Corporation Interests	May 14, 1999;
3.1(c)	Disclosure of Corporation Interests – Changes and Updates	December 1, 2009
3.2	Divisional Venue in Civil Actions – Renumbered to 3.1	October 6, 2010
3.2	Divisional Venue in Civil Actions	February 27, 2004
3.2	Divisional Venue in Civil Actions Rescinded by the Court en banc	September 7, 2000
3.2	Divisional Venue in Civil Actions	August 11, 2000
5.1	Mandatory Electronic Filing	June 29, 2007
6.1	Time Computation	December 1, 2009
7.0	Pleadings and Motions – Renumbered from 7.1	October 6, 2010
7.1	Disclosure of Corporation Interests – Renumbered from 3.1	October 6, 2010
7.1	Pleadings and Motions – Renumbered to 7.0	October 6, 2010
7.1(d); 7.1(e)	Pleadings and Motions – Suggestions in Opposition; Reply Suggestions	December 1, 2009; June 17, 2002
7.1(f)	Pleadings and Motions – Length of Suggestions	April 1, 2001
9.1	Social Security Practice	April 2, 1998
9.1(a)	Social Security Practice – The Complaint	April 1, 2001
9.1(d)	Social Security Practice – The Answer	April 1, 2004
9.1(e)	Social Security Practice – Filing and Service of Briefs	December 1, 2009
9.2(h)	Petitions for Habeas Corpus and Motions Pursuant to 28 U.S.C. Section 2255 (Attacking a sentence imposed by this Court) by Persons in Custody – Deleted and subsequent subsections re-alphabetized	October 6, 2010
9.2(i)	Petitions for Habeas Corpus and Motions Pursuant to 28 U.S.C. Section 2255 (Attacking a sentence imposed by this Court) by Persons in Custody	December 1, 2009
16.1(c)	Civil Actions – Scheduling – Actions Exempt from These Procedures	June 13, 2011
16.1(a)	Civil Actions – Scheduling – General Principles	October 6, 2010
16.1(c)	Civil Actions – Scheduling – Actions Exempt from these Procedures; Proposed Scheduling Order/Discover Plan Required	April 1, 2001

16.1(d)	Civil Actions – Scheduling – Proposed Scheduling Order/Discover Plan Required; Plaintiff’s Counsel Shall Take Lead in Preparation of Proposed Scheduling Order/Discovery Plan	December 1, 2009; April 1, 2001
16.1(f)7	Civil Actions – Scheduling – Content of the Proposed Scheduling Order	June 29, 2007
16.4	Trial Settings	October 6, 2010

16.5	Alternative Dispute Resolution	August 1, 2013
26.1(a); 26.1(b)	Discovery – Meeting of the Parties; Initial Disclosures; Discovery Shall Commence After Meeting of the Parties; Filing of Motions Does Not Automatically Stay Discovery or Disclosure Requirements	April 1, 2001
37.1	Discovery Motions	January 1, 2012
54.1	Bill of Costs – Renumbered from 83.2	October 6, 2010
56.1	Summary Judgment Motions	December 21, 1998
56.1(b)	Summary Judgment Motions – Suggestions in Opposition to Summary Judgment	October 6, 2010; June 17, 2002
56.1(c)	Summary Judgment Motions – Reply Suggestions in Support of Summary Judgment	December 1, 2009; June 17, 2002
58.1	Entry of Judgments and Orders	June 13, 2011
58.1(d)	Entry of Judgments and Orders	October 6, 2010
58.2(a)	Entry of Judgments and Orders	December 1, 2009
72.1	Duties and Powers of Full-Time and Part-Time United States Magistrate Judges	December 21, 1998
72.1(c)1	Duties and Powers of Full-Time and Part-Time United States Magistrate Judges – Recommendations Regarding Case Dispositive Motions	October 6, 2010
72.1(j)	Duties and Powers of Full-Time and Part-Time United States Magistrate Judges – Other Duties	October 6, 2010
72.1(k)	Duties and Powers of Full-Time and Part-Time United States Magistrate Judges – Assignment of Matters to Magistrate Judges	October 6, 2010
72.1(m)	Duties and Powers of Full-Time and Part-Time United States Magistrate Judges – Selection of Chief Magistrate Judge, Territorial Assignments and Administrative Provisions	October 6, 2010
73.1	Special Provisions for the Disposition of Civil Cases by a Magistrate Judge on Consent of the Parties in Accordance with Section 636(c), Title 28, United States Code Rescinded by the Court en banc	September 20, 2003
74.1(a)1; 74.1(a)2; 74.1(a)4	Magistrate Judges – Procedure for Review – Review and Appeal	December 1, 2009
77.2	Orders by the Clerk – Deleted	June 13, 2011
77.2(a)	Orders by the Clerk	December 1, 2009
79.2	Custody of Exhibits	October 6, 2010
80.1	Court <del>Reporters</del> <u>Reporters</u> ' Transcripts	October 6, 2010; December 1, 2009; June 5, 2008; February 10, 2003

83.2	Bill of Costs – Renumbered to 54.1	October 6, 2010
83.2(a); 83.2(b)	Bill of Costs – District Court Costs; Costs on Appeal Taxable in the District Court	December 1, 2009
83.3	Courthouse Decorum	December 9, 2004

83.4(c)	Photographing, Broadcasting and Televising in Courtrooms & Environs	October 6, 2010
83.5	Bar Admission	November 1, 2004; October 13, 1999; December 21, 1998
83.5(b)1	Bar Admission – Eligibility and Qualifications	October 6, 2010
83.5(d)	Bar Admission – Procedure for Admission and Admission Fee	January 1, 2012
83.5(e)	Bar Admission - Continuing Legal Education Requirement Rescinded by the Court en banc	December 7, 2000
83.5(f)	Bar Admission - Annual Fee	January 1, 2012; January 8, 2007
83.5(j)	Bar Admission - Inactive Status	January 1, 2012; October 6, 2010; January 8, 2007
83.5(l)	Bar Admission - Visiting Attorneys: Permission to Appear in a Particular Case	January 1, 2012; December 1, 2009
83.5(p)	Bar Admission - Certificate of Good Standing	January 1, 2012 October 6, 2010; January 8, 2007; December 1, 2005; September 1, 2005
83.6	Attorney Discipline	January 20, 2007
83.6(g)2	Attorney Discipline - Reinstatement	October 22, 2012
83.6(k)3	Attorney Discipline - Certificate of Disciplinary Judgment and Notice by Clerk	December 1, 2009
83.7(a)	Filing Fees – Suit by Indigent Person	October 6, 2010
83.7(a)5	Filing Fees – Suit by Poor Person	December 1, 2009
83.8	Practice by Student Interns Enrolled in Law School	October 6, 2010
83.8(a)	Practice by Student Interns Enrolled in Law School - Eligibility	October 6, 2010
83.8(c)	Practice by Student Interns Enrolled in Law School - Notice	October 6, 2010
83.8(d)	Practice by Student Interns Enrolled in Law School - Termination	October 6, 2010
83.8(e)	Practice by Student Interns Enrolled in Law School – Supervising Attorney	October 6, 2010
83.8(f)	Practice by Student Interns Enrolled in Law School – Law School Clinical Program Requirements - Deleted	October 6, 2010
83.9	Assignment of Cases	October 6, 2010; April 1, 2001
83.11	Electronic Communication Devices	October 16, 2007
99.1(d)	Bail and Sureties - Disqualification of Sureties	December 1, 2009
99.2	Establishing Panel of Experts and Procedures for Determination of Mental Competency to Stand Trial and/or the Existence of Insanity at	September 20, 2003

	<b>Time of the Offense</b>	
99.2(b)	Establishing Panel of Experts and Procedures for Determination of Mental Competency to Stand Trial and/or the Existence of Insanity at Time of the Offense – Establishment of Panel of Experts	October 6, 2010
99.2(c)	Establishing Panel of Experts and Procedures for Determination of Mental Competency to Stand Trial and/or the Existence of Insanity at Time of the Offense – Procedures for Order of Examination	October 6, 2010
99.8(i); 99.8(j)	Guideline Sentencing	December 1, 2009
99.9(b)1	Criminal Matters Handled by Magistrate Judge – Assignment of Matters to Magistrate Judges	October 6, 2010
99.10	Payment of Fixed Sum in Lieu of Appearance in Suitable Types of Misdemeanor Cases	October 6, 2010