

# **LOCAL RULES**

OF THE

**UNITED STATES DISTRICT COURT**

FOR THE

**DISTRICT OF MARYLAND**

**AS AMENDED AUGUST 16, 2004**

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## I. CIVIL

### Rule 101. Counsel

#### 1. Who May Appear as Counsel; Who May Appear *Pro Se*

##### a. **Generally**

Except as otherwise provided in this Rule and in L.R. 112.3 and 28 U.S.C. § 515, only members of the Bar of this Court may appear as counsel in civil cases. Only individuals may represent themselves. Individuals representing themselves are responsible for performing all duties imposed upon counsel by these Rules and all other applicable federal rules of procedure.

##### b. ***Pro Hac Vice***

The Court may permit any attorney (except any attorney who is a member of the Maryland Bar or maintains any law office in Maryland) who is a member in good standing of the Bar of any other United States Court or of the highest court of any state to appear and participate as counsel in a particular civil case. Such permission shall not constitute formal admission to the Bar of this Court. However, an attorney admitted *pro hac vice* is subject to the disciplinary jurisdiction of this Court. Any party represented by an attorney who has been admitted *pro hac vice* must also be represented by an attorney who has been formally admitted to the Bar of this Court who shall sign all documents and, unless excused by the presiding judge, be present at any court proceedings.

##### c. **Appearance for Obtaining Deposition Subpoenas**

It shall not be necessary for counsel to be admitted to the Bar of this Court in order to obtain a subpoena for depositions to be taken in this District for cases pending in other Districts. However, an attorney seeking such a subpoena is subjected to the disciplinary jurisdiction of this Court.

##### d. **Checking for Conflicts**

Before entering an appearance in a case, counsel must inquire whether any hearing date or a trial date has already been set in the case. If a date has been set and it conflicts with counsel's schedule in any respect, counsel shall not enter an appearance unless counsel first resolves the conflict by obtaining a continuance of one of the conflicting proceedings or, if counsel is a member of a firm, obtaining the client's consent to have another member of the firm appear on the client's behalf. After entering an appearance, counsel has a continuing duty to honor all scheduling commitments made to the Court.

#### 2. Withdrawal of Appearance

a. **Individuals**

In the case of an individual, appearance of counsel may be withdrawn only with leave of Court and if (1) appearance of other counsel has been entered, or (2) withdrawing counsel files a certificate stating (a) the name and last known address of the client, and (b) that a written notice has been mailed to or otherwise served upon the client at least five days previously advising the client of counsel's proposed withdrawal and notifying the client either to have new counsel enter an appearance or to advise the Clerk that the client will be proceeding without counsel. If the withdrawal of counsel's appearance is permitted, the Clerk shall notify the party that the party will be deemed to be proceeding *pro se* unless and until new counsel enters an appearance on behalf of the party.

b. **Parties Other Than Individuals**

In the case of any party other than an individual, including corporations, partnerships, unincorporated associations and government entities, appearance of counsel may be withdrawn only with leave of Court and if (1) appearance of other counsel has been entered, or (2) withdrawing counsel files a certificate stating (a) the name and last known address of the client, and (b) that the written notice has been mailed to or otherwise served upon the client at least five days previously advising the client of counsel's proposed withdrawal and notifying it that it must have new counsel enter an appearance or be subject to the dismissal of its claims and/or default judgment on claims against it. In the event that within thirty days of the filing of the motion to withdraw, new counsel has not entered an appearance, the Court may take such action, if any, that it deems appropriate, including granting the motion to withdraw and dismissing any affirmative claim for relief asserted by the party and/or directing the party to show cause why a default should not be entered on claims asserted against it.

**Rule 102. General Filing and Service Requirements**

1. **Signatures, Identifying Information and Proof of Service**

a. **Signatures**

i. **Parties Represented by Counsel**

When a party is represented by counsel, the Clerk shall accept for filing only documents signed by a member of the Bar of this Court whose appearance is entered on behalf of that party. Use of any of the methods for signing an electronic document established by the Court, including use of an attorney's login and password to electronically file a document, constitutes the attorney's signature on the document.

ii. **Parties Appearing *Pro Se***

When a party is appearing *pro se*, the Clerk will accept for filing only documents signed

by that party. Attorneys who have prepared any documents which are submitted for filing by a *pro se* litigant must be members of the Bar of this Court and must sign the document, state their name, address, telephone number and their bar number assigned by this Court.

**b. Identifying Information**

**i. Required on All Court Documents**

At the bottom of all Court documents, counsel and *pro se* litigants shall state their name, address, telephone number, e-mail and fax number. Counsel shall also state their bar number assigned by this Court. This is not a substitute for compliance with L.R. 101.1.b.ii and L.R. 701.3.

**ii. Duty of Counsel to Notify the Clerk of Any Change in Address**

Counsel must promptly notify the Clerk of any change of address, including e-mail address irrespective of any changes noted on a pleading or other document. This obligation is continuing and if counsel fails to comply, the Court may enter an order dismissing any affirmative claims for relief and may enter a default judgment.

**iii. Duty of Pro Se Litigants to Keep Current Address on File**

*Pro se* litigants must file with the Clerk in every case which they have pending a statement of their current address. If a *pro se* plaintiff resides outside of the District, the party shall keep on file with the Clerk an address within the District where notices can be served. These obligations are continuing, and if any *pro se* litigant fails to comply with them, the Court may enter an order dismissing any affirmative claims for relief filed by that party and may enter a default judgment on any claims asserted against that party.

**c. Proof of Service**

All Court documents other than the original complaint must bear a certificate signed by counsel stating that the service required by Fed. R. Civ. P. 5(a) has been made. If a document is filed electronically, the notice of electronic filing constitutes a certificate of service as to all parties to whom electronic notice is sent.

**d. Electronic Transmission**

Electronic filing of documents is permitted in accordance with the policies and procedures established by the Court.

**2. Format of Court Documents**

**a. Caption**

The case caption on all Court documents shall contain only a short title, consisting of the names of the first plaintiff and the first defendant only, and the civil action number. This rule shall not apply to the original complaint (which shall contain the names and addresses of all parties and the county of residence of any Maryland party) or any pleading seeking to add a new party (which shall contain the short caption and the name and address of the parties sought to be added and the county of residence of any Maryland party sought to be added).

**b. Margins, Spacing and Numbering and 2-Hole Punched**

All documents filed with the Court shall not exceed 8 ½" x 11", with a top margin of at least 1 ½" and left-hand margin of 1" and a right-hand margin of ½". Lines of text shall be double spaced except for quotations and footnotes. Pages shall be numbered at the bottom of every page after the first page. Typed, printed or written material shall appear only on the front side of any page. All documents submitted in paper format shall be two-hole punched on the top of each page.

**c. Legibility**

No document shall be accepted for filing unless it is legible.

**3. Issuance of Subpoenas in *Pro Se, In Forma Pauperis* Cases**

The Clerk shall not issue any subpoena under Fed. R. Civ. P. 45(a)(3) to any *pro se* litigant proceeding *in forma pauperis* without first obtaining an order from the Court authorizing the issuance of the subpoena. Before entering any such order the Court may require the litigant to state the reasons why the subpoena should be issued, and the Court may refuse to authorize issuance of the subpoena if it concludes that the subpoena imposes undue burden or expense on the person subject to the subpoena or upon the U.S. Marshal or other court officer who would be required to serve it under 28 U.S.C. § 1915.

**4. Interdivisional Filing**

Unless otherwise ordered by the Court, if a case designated to one division under the Court's standing order is assigned to a judge in the other division, any pleadings, motions, memoranda or other documents may be filed in the designated division and, if such filing is made within any applicable deadline, shall be deemed to be timely.

**Rule 103. Institution of Suit and Pleadings**

**1. Civil Cover Sheet/Extra Copies of Complaint/Designation of Related Cases**

**a. Civil Cover Sheet and Extra Copies of Complaint**

**i. Cases Subject to Electronic Filing**

The complaint, civil cover sheet and any other documents being filed should be submitted to the Clerk in accordance with the electronic filing procedures adopted by the Court.

ii. **Cases Exempt from Electronic Filing**

When filing a complaint, counsel shall submit to the Clerk a complete civil cover sheet and two copies of the complaint.

b. **Related Cases**

i. **Designation by Plaintiff**

If counsel for a plaintiff in a civil action believes that the action being filed and one or more other civil actions or proceedings previously decided or pending in this Court (1) arise from the same or identical transactions, happenings, or events; (2) involve the identical parties or property; (3) involve the same patent or trademark; or (4) for any other reason would entail substantial duplication of labor if heard by different judges, counsel shall indicate that fact by designating the case as a "related case" on the civil cover sheet. A copy of the cover sheet shall be served on all parties.

ii. **Designation by Defendant**

If counsel for a defendant believes that a case is related to a prior case and that fact has not been noted on the civil cover sheet by plaintiff, counsel for the defendant shall bring that information to the attention of all parties and the Clerk, and the Clerk shall note it on the cover sheet and inform the judge to whom the new case has been assigned.

iii. **Resolution of Disputes**

Any disputes regarding the designation of a case as being related to another case shall be presented by motion to the judge to whom the new or later case has been assigned.

2. **Process**

a. **Number of Copies**

i. **Cases Subject to Electronic Filing**

In cases subject to electronic filing, counsel shall submit to the Clerk the following number of copies when process is to be served; (a) one copy of any summons for each party to be served, except that in cases where the United States, a federal agency or a federal employee in his official capacity is named as a defendant, five copies of the summons should be submitted; (b) four copies of a warrant for arrest or summons with process of maritime attachment and garnishment for tangible property or two copies of such documents for intangible property; and (c) two copies of all writs, including writs of possession, replevin, execution, garnishment and attachment before a judgment.

ii. **Cases Exempt from Electronic Filing**

In cases exempt from electronic filing, counsel shall submit to the Clerk the following number of copies when process is to be served: (a) two copies of any summons for each party to be served, except that in cases where the United States, a federal agency, or a federal employee in his official capacity is named as a defendant, six copies of the summons should be submitted; (b) five copies of a warrant for arrest or summons with process of maritime attachment and garnishment for tangible property or two copies of such documents for intangible property; and (c) three copies of all writs, including writs of possession, replevin, execution, garnishment and attachment before a judgment.

b. **When Served by Marshal**

Unless otherwise ordered by the Court, the United States Marshal shall not serve any process or subpoenas except the following: (a) all process for a party proceeding *in forma pauperis* without counsel, (b) warrants of arrests *in rem* or process of maritime attachment and garnishment, (c) writs of possession, replevin, execution, garnishment and attachment before a judgment, (d) process served under 28 U.S.C. § 2361, and (e) when requested by the plaintiff, process in suits where the plaintiff is authorized to proceed as a seaman under 28 U.S.C. § 1916. Unless otherwise ordered by the Court and except for a party who is proceeding *in forma pauperis* or as a seaman under 28 U.S.C. § 1916, the Marshal may require a party to pay or secure the fees and expenses before serving any process which this Rule requires that the Marshal serve.

c. **Waiver Procedure**

Whenever the waiver procedure under Fed. R. Civ. P. 4(d) is invoked, counsel shall submit to the Clerk a notice identifying the defendant(s) to whom the notice and request to waive service of summons is being sent.

The notice shall be filed upon the filing of the complaint or such later date that counsel decides to invoke the waiver procedure.

3. **Disclosure of Affiliations and Financial Interest**

When filing an initial pleading or promptly after learning of the information to be disclosed, counsel shall file a statement (separate from any pleading) containing the following information:

a. **Corporate Affiliation**

The identity of any parent or other affiliate of a corporate party and the description of the relationship between the party and such affiliates.

b. **Financial Interests in the Outcome of the Litigation**

The identity of any corporation, unincorporated association, partnership or other business entity, not a party to the case, which may have any financial interest whatsoever in the

outcome of the litigation, and the nature of its financial interest. The term "financial interest in the outcome of the litigation" includes a potential obligation of an insurance company or other person to represent or to indemnify any party to the case. Any notice given to the Clerk under this Rule shall not be considered as an admission by the insurance company or other person that it does in fact have an obligation to defend the litigation or to indemnify a party or as a waiver of any rights that it might have in connection with the subject matter of the litigation.

**4. Security for Costs**

Any party against whom affirmative relief (other than a compulsory counterclaim) is filed may file a motion requesting that the party seeking the affirmative relief give security for costs if that party is not a resident of this District. Upon the filing of the motion, the Court shall issue a show cause order to the party seeking affirmative relief. A party who does not show cause why such security should not be required shall deposit with the Clerk on the date that the show cause response is due or on such later date as may be set by the Court the sum of \$150 or such higher amount as the Court determines is appropriate. The Court may dismiss the claim of a party who fails to deposit the required security. This Rule shall not apply to any party proceeding *in forma pauperis* or as a seaman under 28 U.S.C. § 1916.

**5. Removal**

**a. Certification of Filing of State Court Documents**

Any party effecting removal shall file with the notice true and legible copies of all process, pleadings, documents and orders which have been served upon that party. Within 30 days thereafter the party shall file true and legible copies of all other documents then on file in the state court, together with a certification from counsel that all filings in the state court action have been filed in the United States District Court. In cases subject to electronic filing, the copies shall be filed in accordance with the electronic filing procedures adopted by the Court.

**b. Filing Memoranda Regarding Pending Motions**

If a motion is pending at the time of removal as to which a legal memorandum has not been submitted, the moving party shall file a supporting memorandum within fourteen days of the date of removal. If at the time of removal a motion is pending as to which a legal memorandum has been submitted, the party opposing the motion shall file an opposition memorandum on the date that the opposition memorandum was due in the state court or within fourteen days of the date of removal, whichever is earlier.

**c. Disclosure of Affiliations and Financial Interest**

Within seven days after the filing of a notice of removal, all parties shall make the disclosures required by Local Rule 103.3.

d. **Cases Related to Bankruptcy Cases**

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

6. **Amendments of Pleadings**

a. **Original of Proposed Amendment to Accompany Motion**

Whenever a party files a motion requesting leave to file an amended pleading, the original of the proposed amended pleading shall accompany the motion. If the motion is granted, an additional copy of the amended pleading need not be filed. The amended pleading shall be deemed to have been served, for the purpose of determining the time for response under Fed. R. Civ. P. 15(a), on the date that the Court grants leave for its filing.

b. **Exhibits to Amended Pleadings**

Unless otherwise ordered by the Court, only newly added exhibits are to be attached to an amended pleading. However, if the amended pleading adds a new party, counsel shall serve all exhibits referred to in the amended pleading upon the new party.

c. **Identification of Amendments**

Unless otherwise ordered by the Court, the party filing an amended pleading shall file and serve (1) a clean copy of the amended pleading and (2) a copy of the amended pleading in which stricken material has been lined through or enclosed in brackets and new material has been underlined or set forth in bold-faced type.

d. **Requested Consent of Other Counsel**

Before filing a motion requesting leave to file an amended pleading, counsel shall attempt to obtain the consent of other counsel. Counsel shall state in the motion whether the consent of other counsel has been obtained.

7. **Third-Party Complaints**

a. **Filing**

A third-party plaintiff shall file with the Clerk only the third-party complaint itself and not all the prior pleadings attached thereto.

b. **Service**

Unless otherwise ordered by the Court, a third party plaintiff shall serve upon a third party defendant copies of all documents (other than notices of previously held depositions) which the parties have previously served upon one another and shall make all previously-conducted discovery materials available for review by the third party defendant.

## 8. Dismissal for Want of Prosecution

### a. Failure to Effect Service

If a party demanding affirmative relief has not effected service of process within 120 days of filing the pleading seeking the affirmative relief, the Court may enter an order asking the party to show cause why the claim should not be dismissed. If the party fails to show good cause within fourteen days of the entry of the order or such other time as may be set by the Court, the claim shall be dismissed without prejudice.

### b. Dormancy of Action for Nine Months

If no document has been filed in Court in any action for more than nine months, the Court may enter an order asking the parties to show cause why the case should not be dismissed. If good cause is not shown within fourteen days of the entry of the show cause order or such other time as may be set by the Court, the case shall be dismissed without prejudice.

## 9. Scheduling Orders

### a. Categories of Actions Generally Exempted From Fed. R. Civ. P. 16(b)

All categories of actions in which ordinarily discovery is not conducted and additional parties are not added are exempted from Fed. R. Civ. P. 16(b). These categories of actions include petitions filed under 28 U.S.C. § 2254, motions filed under 28 U.S.C. § 2255, Social Security appeals, bankruptcy appeals, appeals on the record from administrative agencies, motions to enforce arbitration awards, forfeiture actions, actions seeking enforcement of judgments, and mortgage or deed of trust foreclosures. In all actions in which a scheduling order is not entered under Fed. R. Civ. P. 16(b), the presiding judge will enter such orders as are necessary to assure the prompt and expeditious resolution of the litigation.

### b. Actions Exempted From the Consultation Requirement of Fed. R. Civ. P. 16(b)

All actions except ones which the presiding judge notifies the parties that he or she designates to be complex, e.g., antitrust, mass tort, patent infringement, RICO and securities fraud actions in which all parties are represented by counsel, are exempted from the requirement of Fed. R. Civ. P. 16(b) that the Court consult with counsel (or unrepresented parties) or await a report from the parties under Fed. R. Civ. P. 26(f) before entering a scheduling order. All scheduling orders, however, shall provide that any party who believes that any deadline set in the scheduling order is unreasonable may request in writing a modification of the order or that a conference be held for the purpose of seeking a modification of the order.

## Rule 104. Discovery

1. **Limitation on Number of Requests for Production and Requests for Admission**  
Unless otherwise ordered by the Court, or agreed upon by the parties, no party shall serve upon any other party, at one time or cumulatively, more than 30 requests for production, or more than 30 requests for admission (other than requests propounded for the purpose of establishing the authenticity of documents or the fact that documents constitute business records), including all parts and sub-parts.
2. **Timely Written Discovery Requests Required**  
Interrogatories, requests for production, motions for physical and mental examination, and written deposition questions must be made at a sufficiently early time to assure that they are answered before the expiration of the discovery deadline set by the Court. Unless otherwise ordered by the Court, no discovery deadline will be extended because written discovery requests remain unanswered at its expiration.
3. **Discovery to Proceed Despite Existence of Disputes**  
Unless otherwise ordered by the Court, the existence of a discovery dispute as to one matter does not justify delay in taking any other discovery.
4. **Commencement of Discovery**  
Unless otherwise ordered by the Court or agreed upon by the parties, discovery shall not commence and disclosures need not be made until a scheduling order is entered.
5. **Discovery Materials Not to Be Filed With Court**  
Unless otherwise ordered by the Court, written discovery requests, responses thereto, notices of service of discovery requests or responses, depositions, and disclosures under Fed. R. Civ. P. 26(a) (1) and (2) shall not be filed with the Court. The party propounding written discovery or taking a deposition shall be responsible for retaining the original copies of the discovery materials (including the certificates of service) and shall make them available for inspection by any other party.
6. **Format of Responses to Interrogatories and Requests for Production**  
Responses to interrogatories and requests for production shall set forth each interrogatory or request followed by the answer and/or a brief statement of the grounds for objection, including a citation of the main applicable authorities (if any).
7. **Conference of Counsel Required**  
Counsel shall confer with one another concerning a discovery dispute and make sincere attempts to resolve the differences between them. The Court will not consider any discovery motion unless the moving party has filed a certificate reciting (a) the date, time and place of the discovery conference, and the names of all persons participating therein, or (b) counsel's attempts to hold such a conference without success; and (c) an itemization of the issues

requiring resolution by the Court.

**8. Procedure Regarding Motions to Compel**

The following procedure shall be followed in litigating motions to compel answers to interrogatories and requests for production or entry upon land as to which a response has been served. This procedure shall not govern motions to compel (a) answers to interrogatories or to requests for production or entry upon land where no responses at all have been served, (b) answers to deposition questions or (c) responses to discovery requests directed to a non-party. Such latter motions shall be filed with the Court and treated as any non-discovery motion, except that, as to disputes concerning discovery directed to a non-party, unless otherwise directed by the Court, the Court will not consider the motion until a conference has been held under L.R. 104.8.b and a certificate has been filed under L.R. 104.8.c.

**a. Service of Motions and Memoranda**

If a party who has propounded interrogatories or requests for production is dissatisfied with the response to them and has been unable to resolve informally (by oral or written communications) any disputes with the responding party, that party shall serve a motion to compel within thirty days of the party's receipt of the response. The memorandum in support of the motion shall set forth, as to each response to which the motion is directed, the discovery request, the response thereto, and the asserted basis for the insufficiency of the response. The memorandum shall be succinct and need not include citation to legal authorities unless such citation is necessary in order to understand the issues presented. The opposing party shall serve a memorandum in opposition to the motion within fourteen days thereafter. The moving party shall serve any reply memorandum within eleven days thereafter. The parties shall file with the Court notices of service of the motion and memoranda. In cases subject to electronic filing, the motion and memoranda should be attached to the notices filed with the Court. In cases exempt from electronic filing, the motion and memoranda should not be filed with the Court. Extensions of time given by the parties to one another to serve any document hereunder need not be approved by the Court, provided, however, that no extension of time limits set in any scheduling order entered by the Court shall be made without the Court's prior approval.

**b. Conference of Counsel**

Counsel are encouraged to confer with one another before or immediately after a motion to compel is filed. If they are unable to resolve their disputes, counsel must hold the conference required by L.R. 104.7 after serving upon one another all of the documents relating to the motion to compel.

**c. Filing of Certificate of Conference and Motions and Memoranda**

**i. Cases Subject to Electronic Filing**

If counsel fail to resolve their differences during their conference, the party seeking to compel discovery shall file a motion to compel, any memoranda not previously filed as attachments to notices of service, and the certificate required by L.R. 104.7.

ii. **Cases Exempt from Electronic Filing**

If counsel fail to resolve their differences during their conference, the party seeking to compel discovery shall file (i) the certificate required by L.R. 104.7, and (ii) the original and two copies of its motion and memorandum concerning the motion to compel and three copies of all other memoranda concerning the motion.

9. **Smoking During Depositions Prohibited**

Unless all persons present otherwise agree, smoking is prohibited in the room in which a deposition is being taken.

10. **Actions and Witnesses Exempted From Provisions of Fed. R. Civ. P. 26(a)(2)(B)**

Unless otherwise ordered by the Court a party must provide the disclosures required by Fed. R. Civ. P.26(a)(2)(B) only as to experts retained or specially employed by a party to provide expert testimony. The disclosures need not be provided as to hybrid fact/expert witnesses such as treating physicians. The party must disclose the existence of any hybrid fact/expert witness pursuant to Fed. R. Civ. P.26(a)(2)(A), and an adverse party may obtain the opinions of such witnesses (to the extent appropriate) through interrogatories, document production requests, and depositions.

11. **Fees and Costs**

a. **Interpretation of Fed. R. Civ. P. 26(b)(4)(C)**

Unless otherwise ordered by the Court, any reasonable fee charged by an expert for the time spent in a discovery deposition and in traveling to and from the deposition shall be paid by the party taking the deposition. The fee charged by the expert for time spent preparing for the deposition shall be paid by the party designating the expert. The expert may not charge an opposing party for a discovery deposition a fee at any hourly rate higher than the rate that he or she charges for the preparation of his or her report.

b. **Limitation on the Amount of Fees of Treating Physician**

Unless otherwise ordered by the Court, a treating physician shall not charge a fee higher than the hourly fee that he or she customarily charges for in-office patient consultation or \$250 per hour, whichever is lower, for any work that he or she performs in connection with any discovery matter or for the taking of a *de bene esse* deposition. Any party noticing a deposition of a treating physician shall (after conferring with opposing counsel) advise the physician of the number of hours that will be required for the deposition (both on direct and cross examination). The treating physician may not charge for any hours exceeding this

estimate, provided that the deposition is completed within the estimate, and may terminate the deposition when the estimated time has elapsed.

**c. Limitation on Cost of Photocopying**

Unless otherwise ordered by the Court, the amount that a party or third-party witness may charge as a photocopying expense when producing documents in response to a discovery request or subpoena shall not exceed the rate established by the Court for taxation of costs.

**12. Familiarity With Discovery Guidelines**

Counsel should be familiar with the Discovery Guidelines that are an appendix to these Rules.

**13. Proposed Confidentiality Orders**

Any proposed confidentiality order shall include (a) a definition of confidentiality consistent with Fed. R. Civ. P.26(c); (b) a method for challenging particular designations of confidentiality with the burden remaining on the party seeking confidentiality to justify it under Rule 26(c); (c) a provision that whenever materials subject to the confidentiality order (or any pleading, motion or memorandum referring to them) are proposed to be filed in the Court record under seal, the party making such filing must simultaneously submit a motion and accompanying order pursuant to L.R. 105.11; and (d) a provision permitting the Clerk to return to counsel or destroy any sealed material at the end of the litigation.

**Rule 105. Motions, Briefs and Memoranda**

**1. Memoranda Required; Number of Copies**

Any motion and opposition to a motion shall be filed with the Clerk and be accompanied by a memorandum setting forth the reasoning and authorities in support of it.

**a. Cases Subject to Electronic Filing**

The motion, memorandum and any exhibits or attachments should be filed electronically in accordance with the procedures adopted by the Court.

**b. Cases Exempt from Electronic Filing**

The original and one copy of all motions and memoranda shall be filed, except that two copies of discovery motions and memoranda shall be filed. If, however, counsel considers it impractical to file a copy of voluminous exhibits appended to a motion or memorandum, counsel may contact the judge to whom the case is assigned to ask permission not to file such a copy.

**2. Filing Schedule**

**a. General**

All motions must be filed within deadlines set by the Court. Unless otherwise ordered by the Court, all memoranda in opposition to a motion shall be filed within fourteen days of the service of the motion and any reply memoranda within eleven days after service of the opposition memoranda. Unless otherwise ordered by the Court, surreply memoranda are not permitted to be filed.

**b. Last-minute Filing Prohibited**

In no event, unless otherwise ordered by the Court, is any memorandum to be filed after 4:00 p.m. on the afternoon before the last business day preceding the day on which the proceeding to which the memorandum relates is to be held. For example, a memorandum relating to a proceeding to be held on a Monday must be filed by 4:00 p.m. the previous Thursday.

**c. Where More Than One Party Plans To File Summary Judgment Motions**

In a two-party case, if both parties intend to file summary judgment motions, counsel are to agree among themselves which party is to file the initial motion. After that motion has been filed, the other party shall file a cross-motion accompanied by a single memorandum (both opposing the first party's motion and in support of its own cross-motion), the first party shall then file an opposition/reply, and the second party may then file a reply. If more than two parties intend to file motions in a multi-party case, counsel shall submit a proposed briefing schedule when submitting their status report.

**3. Limitations on Length**

Unless otherwise ordered by the Court, memoranda in support of a motion or in opposition thereto and trial briefs shall not exceed fifty pages, and reply memoranda shall not exceed twenty-five pages, exclusive of (a) affidavits and exhibits, (b) tables of contents and citations, and (c) addenda containing statutes, rules, regulations and similar material.

**4. When Table of Contents Required**

A table of contents shall be included in any memorandum or brief exceeding twenty-five pages in length.

**5. Appendices**

**a. Appendix of Cases Not Generally Reported**

Every memorandum or brief shall be accompanied by an appendix containing any opinions cited therein which are not reported in WESTLAW or in West's Federal or regional reports. A copy of the appendix shall be served upon other counsel.

**b. Appendix of Exhibits**

If any motion, memorandum or brief is accompanied by more than five exhibits, the exhibits

shall be tabbed and indexed.

**6. Hearings**

Counsel may (but need not) file a request for hearing. Unless otherwise ordered by the Court, however, all motions shall be decided on the memoranda without a hearing.

**7. Trial Briefs**

Unless otherwise ordered by the Court, counsel may (but need not) submit trial briefs.

**8. Motions for Sanctions**

**a. Not to be Filed as a Matter of Course**

The Court expects that motions for sanctions will not be filed as a matter of course. The Court will consider in appropriate cases imposing sanctions upon parties who file unjustified sanctions motions.

**b. Responses Required Only Upon Court Order**

Unless otherwise ordered by the Court, a party need not respond to any motion filed under Fed. R. Civ. P. 11 or 28 U.S.C. § 1927. The Court shall not grant any motion without requesting a response.

**9. Motions for Extension of Time**

Before filing a motion to postpone any proceeding or to extend the time for the filing of any document or the taking of any other required action counsel shall attempt to obtain the consent of other counsel and shall give notice of the motion to other counsel a reasonable time before presentation of the motion to the Court. Counsel shall state in the motion whether the consent of other counsel has been obtained. Where counsel deems it reasonably practicable, counsel also shall try to obtain the consent of an unrepresented party.

**10. Motions to Reconsider**

Except as otherwise provided in Fed. R. Civ. P. 60, any motion to reconsider any order issued by the Court shall be filed with the Clerk not later than 10 days after entry of the order.

**11. Sealing**

Any motion seeking the sealing of pleadings, motions, exhibits or other documents to be filed in the Court record shall include (a) proposed reasons supported by specific factual representations to justify the sealing and (b) an explanation why alternatives to sealing would not provide sufficient protection. The Court will not rule upon the motion until at least 14 days after it is entered on the public docket to permit the filing of objections by interested parties. Materials that are the subject of the motion shall remain temporarily sealed pending a ruling by the Court. If the motion is denied, the party making the filing will be given an opportunity to

withdraw the materials. Upon termination of the action, sealed materials will be disposed of in accordance with L.R. 113.

## **Rule 106. Pretrial Procedure**

### **1. When Pretrial Order Required**

A pretrial order must be submitted in all cases except the following: (a) prisoner habeas corpus petitions; (b) prisoner civil rights cases; (c) collection cases brought by the United States; (d) land condemnation cases; (e) *in rem* forfeiture actions brought by the United States; (f) administrative appeals brought against the Secretary of the Department of Health and Human Services; (g) foreclosure actions; (h) petitions brought by the United States to enforce a summons of the Internal Revenue Service; (i) appeals from rulings of the Bankruptcy Court; and (j) suits to enforce or quash subpoenas.

### **2. Contents of Pretrial Order**

A proposed pretrial order shall contain the following:

- a. A brief statement of facts that each plaintiff proposes to prove in support of that plaintiff's claims, together with a listing of the separate legal theories relied upon in support of each claim.
- b. A brief statement of facts that each defendant proposes to prove or rely upon as a defense thereto, together with a listing of the separate legal theories relied upon in support of each affirmative defense.
- c. Similar statements as to any counterclaim, crossclaim, or third-party claim.
- d. Any amendments required of the pleadings.
- e. Any issue in the pleadings that is to be abandoned.
- f. Stipulations of fact or, if the parties are unable to agree, requested stipulations of fact.
- g. The details of the damages claimed or any other relief sought as of the date of the pretrial conference.
- h. A listing of each document or other exhibit, including summaries of other evidence, other than those expected to be used solely for impeachment, separately identifying those which each party expects to offer and those which each party may offer if the need arises. The listing shall indicate which exhibits the parties agree may be offered in evidence without the usual authentication. This requirement may be met by attaching an exhibit list to the pretrial

order.

- i. A list for each party of the name, address, and telephone number of each witness, other than those expected to be called solely for impeachment, separately identifying those whom the party expects to present and those whom the party may call if the need arises.
- j. A list for each party of the name and specialties of experts the party proposes to call as witnesses including hybrid fact/expert witnesses such as treating physicians.
- k. A list of the pages and/or lines of any portion of a deposition to be offered in a party's case in chief or any counter-designations under Fed. R. Civ. P. 32(a)(4).
- l. Any other pretrial relief, including a reference to pending motions, which is requested.
- m. Any other matters added by the Court.

### 3. **Responsibility for Preparing Pretrial Order**

The plaintiff shall prepare the first draft of the pretrial order covering all matters which the plaintiff proposes to include in the pretrial order. Unless otherwise ordered by the Court or agreed upon by counsel, the plaintiff shall serve a copy of a draft upon opposing counsel fifteen days before the proposed pretrial order is due to be filed. Unless otherwise ordered by the Court or agreed upon by counsel, opposing counsel shall serve any proposed revisions and additions upon plaintiff's counsel at least five days before the order is due to be filed. If counsel are unable to agree upon any particular provision of the proposed order, counsel for each party shall submit to the Judge by the filing date a draft proposal on the provision in dispute.

### 4. **Submission of Pretrial Order**

#### a. **Time**

Unless otherwise ordered by the Court, the pretrial order shall be submitted to the Judge five days before the pretrial conference is to be held.

#### b. **Submission Procedure**

##### i. **Cases Subject to Electronic Filing**

The proposed pretrial order should be filed in accordance with the Court's electronic filing procedures.

##### ii. **Cases Exempt from Electronic Filing**

The original and one copy of the pretrial order shall be submitted.

#### c. **Fed. R. Civ. P.26(a)(3) Disclosures**

Submission of a pretrial order containing the information required by L.R. 106.2 within the time limits prescribed by L.R. 106.3 and L.R. 106.4 shall be deemed to constitute compliance with Fed. R. Civ. P.26(a)(3).

**5. Approval and Entry of Pretrial Order**

After approving the pretrial order, the Judge shall have the approval entered on the docket.

**6. Pretrial Conference**

The pretrial conference shall be attended by at least one of the attorneys for each of the parties who will actually participate in the trial. Attorneys attending the conference shall be familiar with all aspects of the case and shall confer with their clients before the conference to obtain authority from them to enter into stipulations. If the case involves numerous exhibits, counsel shall be prepared to discuss proposals for the orderly presentation of the exhibits at trial.

**7. Pretrial Preparation of Exhibits**

**a. Pretrial Numbering**

Prior to trial counsel shall attach tags to all exhibits clearly identifying their proponent and number. Tags may be obtained from the Clerk. Counsel shall file with the Clerk and serve upon opposing counsel at least one business day prior to the scheduled trial date an exhibit list. Counsel shall retain the exhibits until they are presented at trial. This Rule does not apply to exhibits to be used solely for impeachment.

**b. Pretrial Review of Exhibits**

Prior to trial counsel shall meet for the purpose of reviewing and making available for copying one another's proposed exhibits, except those to be used solely for impeachment. All exhibits which are proffered at trial shall be precisely the same in form and substance as the exhibits which were made available for review and copying prior to trial unless counsel otherwise indicates to opposing counsel.

**8. Jury Instructions, Voir Dire Questions, and Special Verdict Forms**

**a. Submission Procedure**

**i. Cases Subject to Electronic Filing**

Unless otherwise ordered, proposed jury instructions, voir dire questions and special verdict forms should be filed electronically.

**ii. Cases Exempt from Electronic Filing**

Unless otherwise ordered, the original and two copies of proposed instructions, voir dire questions, and special verdict forms shall be filed with the Clerk.

**b. Contents of Proposed Instructions**

Proposed instructions shall be numbered and shall set forth in a separate paragraph or on a separate page a citation to any authorities upon which they are based. Counsel may submit any proposed instructions which they deem appropriate but, unless otherwise ordered by the Court, counsel need not submit proposed instructions on general matters not particular to the case. Upon request the Court shall provide to counsel a copy of its customary general instructions prior to the instructions submission deadline.

**Rule 107. Trial**

1. [Reserved for Future Use]

**2. Postponements - Client Consent Required**

No motion seeking the postponement of any trial shall be made by any counsel without the knowledge and consent of the client whom that counsel represents.

**3. Subpoenas - Timely Service**

As provided in L.R. 103.2.b, unless ordered by the Court, the United States Marshal shall not serve trial subpoenas except for a party who is proceeding *in forma pauperis* without counsel.

**4. Imposition of Jury Costs for Late Settlement**

Except for good cause shown, whenever the settlement of an action tried by a jury causes a trial to be postponed, canceled or terminated before a verdict, all juror costs shall be imposed upon the parties unless counsel has notified the Court and the Clerk's Office of the settlement at least one full business day prior to the day on which the trial is scheduled to begin. The costs shall be assessed equally against the parties and their counsel unless otherwise ordered by the Court.

**5. Exhibits**

**a. Pretrial Numbering and Exchange of Exhibits**

Counsel are to number exhibits prior to trial in accordance with L.R. 106.7.a. At trial counsel need not hand to other counsel for review any exhibit which prior to trial was made available for review and copying in accordance with L.R. 106.7.b.

**b. Admission into Evidence**

Unless otherwise ordered by the Court or unless counsel requests that a particular exhibit be marked for identification only, whenever an exhibit number is first mentioned by counsel during the examination of a witness at trial, the exhibit shall be deemed to be admitted into evidence unless opposing counsel then asserts an objection to it.

c. **Circulation to Jury**

The Court may permit counsel to circulate exhibits among the jurors at trial. However, if such permission is granted, counsel shall be expected to continue with questioning of the witness while the exhibit is being circulated unless the Court otherwise orders. Counsel shall not abuse this procedure by seeking to circulate exhibits at the conclusion of the examination.

d. **Disposition**

[See. L.R. 113]

6. **Obligation to Anticipate Evidentiary Objections**

Counsel are under an obligation to anticipate evidentiary objections and, whenever possible, bring them to the attention of the Court before they are formally asserted so that they can be resolved when the jurors are not present.

7. **Exclusion of Witnesses**

Witnesses need not be excluded unless a party invokes the exclusion of witness rule. "Exclusion of witness rule" means that only parties (or the designated representatives of parties), their counsel, and expert witnesses approved by the Court may be present in the courtroom during the course of trial and that no person may directly or indirectly advise a witness (other than a party or expert witness) of what the testimony of another witness has been. Subject to this constraint, counsel may prepare their witnesses for trial during the course of trial.

8. **Time Limitations**

a. **Presentations to Jury**

Unless otherwise ordered by the Court, no opening statement or closing argument (including rebuttal argument) shall exceed one hour.

b. **Presentation of Evidence**

In cases which it deems exceptional, the Court may, after consultation with counsel and giving respect to their views, impose in advance reasonable time limitations on presentation of evidence.

9. **Courtroom Etiquette**

a. **Counsel to Stand When Addressing Court**

Unless otherwise permitted by the Court, counsel shall stand whenever addressing the Court except in stating brief evidentiary objections.

**b. Movement in the Courtroom**

**i. Generally**

Unless otherwise ordered by the Court, counsel may conduct their examination of witnesses from any reasonable location in the well of the Court.

**ii. Approaching Witnesses**

Unless otherwise ordered by the Court, counsel may approach a witness to show an exhibit without prior approval of the Court but may not do so for any other reason.

**c. Persons to Be Referred to By Surname**

Unless otherwise ordered by the Court, counsel shall refer by surname to all parties, witnesses or other persons whose names may be mentioned during the course of trial (except persons under the age of 18).

**10. One Attorney Per Witness**

Only one attorney for each party may conduct the examination of any witness. Only that attorney may object to questions asked by opposing counsel during the examination of that witness.

**11. Examination of Witnesses**

**a. Order of Questioning and Argument**

Unless otherwise ordered by the Court, co-parties represented by different counsel will examine witnesses and present argument in the order in which they are named in the complaint, and third-party defendants will examine witnesses after defendants have done so.

**b. Limitation on Redundant Cross-Examination**

In cases involving parties who share common interests, the judge may order that counsel for those parties designate one of themselves as "lead counsel" for each witness. The counsel so designated shall be the only counsel authorized to conduct cross-examination concerning matters which relate to the common interests shared by the parties.

**12. [Reserved for Future Use]**

**13. Witnesses Excused at Conclusion of Testimony**

Unless counsel otherwise so indicate, a witness shall be excused at the conclusion of the witness's testimony.

**14. Speaking With Witness on the Stand**

Unless otherwise ordered by the Court, during all breaks and recesses counsel may speak with a witness while conducting a direct examination of the witness but (with the exceptions noted below) may not discuss testimony with the witness, including a party, while the witness is on cross, re-direct or re-cross examination. Notwithstanding the foregoing, unless otherwise ordered by the Court, counsel representing a defendant in a criminal case may confer with the defendant during breaks and recesses, and a non-party witness may confer with the witness's own counsel at any time.

**15. Mistrial and Imposition of Costs for Unfair Conduct**

If any witness volunteers unfairly prejudicial testimony not fairly responsive to the question asked, or if counsel commits any prejudicial error during the course of trial (including failing to advise a witness of evidence which the Court has ruled is inadmissible with the result that the witness refers to such evidence), the Court may order a mistrial and impose upon the responsible person all jury costs thus far incurred.

**16. Interviews of Jurors**

Unless permitted by the presiding judge, no attorney or party shall directly or through an agent interview or question any juror, alternate juror or prospective juror with respect to that juror's jury service.

**Rule 108. Judgments**

**1. Judgment By Confession**

**a. Complaint, Related Documents, and Attachments**

A complaint requesting the entry of judgment by confession shall be filed by the plaintiff accompanied by the written instrument authorizing the confession of judgment and entitling the plaintiff to a claim for liquidated damages and supported by an affidavit made by the plaintiff or someone on that party's behalf stating the specific circumstances of the defendant's execution of said instrument and including, where known, the age and education of the defendant, and further including the amount due thereunder, and the post office address (including street address if needed to effect mail delivery) of the defendant.

**b. Review by Court Regarding Entry of Judgment**

Upon review of the aforesaid documents, the Court may direct the entry of judgment upon a finding that the aforesaid documents prima facie establish (1) a voluntary, knowing, and intelligent waiver by the defendant of the right to notice and a prejudgment hearing on the merits of the claim of the plaintiff for liquidated damages and (2) a meritorious claim of the plaintiff for liquidated damages against the defendant.

**c. Notice To Defendants**

Immediately upon the entry of a judgment pursuant to paragraph b. above, the clerk shall issue a notice for the defendant notifying said party of the entry of the judgment and requiring defendant to appear in the cause wherein it is entered within thirty (30) days or such other time as may be required by statute or rule after the service of the notice and show, if such be the case, that said party did not voluntarily, knowingly, and intelligently waive the right to notice and a prejudgment hearing on the merits of the claim or otherwise show cause why the judgment should be vacated, opened or modified.

**d. Application to Vacate Judgment**

Application to vacate, open or modify the judgment must be made by motion within thirty (30) days after service of the notice; or such other time as may be required by statute or rule. The motion shall be made on the ground that the defendant has a meritorious defense to the cause of action. It shall set forth fully the facts relied on for such defense. A copy of the motion shall be served on the plaintiff or his attorney. If no application is made within the time allowed, the judgment shall be final.

**e. Determination of Motion**

The motion shall be considered and determined as promptly as possible by the Court. If the evidence presented establishes that there are substantial and sufficient grounds for an actual controversy as to the merits of the case, the Court shall order the judgment by confession vacated, opened, or modified, with leave to the defendant to file a pleading, and the case shall stand for trial. If the evidence does not establish that there are substantial and sufficient grounds for actual controversy as to the merits of the case, the judgment shall stand to the same extent as a final judgment.

**f. Failure to Effect Service**

If the notice issued under section c. is not served despite reasonable efforts to effect service, the Court, upon petition of the plaintiff setting forth an account of the efforts made to effect service, shall provide for notice to the defendant in the manner provided by statute or rule.

**g. Address of Defendant Unknown**

Where the affidavit indicates that the address of the defendant is unknown, a judgment shall not be entered except upon order of Court, and the Court shall provide notice to the defendant pursuant to statute or rule.

**h. Entry of Judgment By Confession**

Except as authorized by this rule, judgment by confession shall be entered only upon order of Court, after such notice and upon such terms as the Court may direct.

**i. Sale on Execution Upon Judgment by Confession**

Unless otherwise ordered by the Court, a sale on execution upon a judgment by confession shall not be made until after judgment has become final under sections c., d., and e. of this rule.

## **Rule 109. Post-trial Proceedings**

### **1. Bill of Costs**

#### **a. Time For Filing**

Unless provided by L.R. 109.2.c or otherwise ordered by the Court, a bill of costs shall be filed within fourteen days of the entry of judgment, or of the entry of an order denying a motion, filed under Fed. R. Civ. P. 50(b), 52(b) or 59. A bill for costs incurred on appeal taxable in this Court should be filed within fourteen days of the issuance of the mandate by the Court of Appeals or, in the event of review by the Supreme Court, within fourteen days of the entry of judgment by the Supreme Court. Non-compliance with these time limits shall be deemed a waiver of costs.

#### **b. Contents**

In any case where any costs other than the fee for filing the action are being requested, the bill of costs shall be supported by affidavit and accompanied by a memorandum setting forth the grounds and authorities supporting the request. Any vouchers or bills supporting the cost being requested shall be attached as exhibits.

#### **c. Objections**

A party objecting to any requested costs shall submit a memorandum in opposition to the request within the time permitted by L.R. 105.2. If no such memorandum is filed within the required time, the Clerk may without notice or hearing tax all of the requested costs.

### **2. Motions Requesting Attorneys' Fees**

#### **a. Time for Filing**

Unless otherwise provided by statute, L.R. 109.2.c or otherwise ordered by the Court, any motion requesting the award of attorneys' fees must be filed within fourteen days of the entry of judgment. The memorandum required by L.R. 109.2.b must be filed within thirty-five days from the date the motion is filed; or (unless otherwise ordered by the Court) in the event an appeal is taken from the underlying judgment, within fourteen days of the issuance of the mandate of the Court of Appeals. Any opposition to the motion shall be filed within fourteen days of service of the memorandum. Non-compliance with these time limits shall be deemed to be a waiver of any claim for attorneys' fees.

#### **b. Contents**

Any motion requesting the award of attorneys' fees must be supported by a memorandum setting forth the nature of the case, the claims as to which the party prevailed, the claims as to which the party did not prevail, a detailed description of the work performed broken down by hours or fractions thereof expended on each task, the attorney's customary fee for such like work, the customary fee for like work prevailing in the attorney's community, a listing of any expenditures for which reimbursement is sought, any additional factors which are required by the case law, and any additional factors that the attorney wishes to bring to the Court's attention. Any motion for attorneys' fees in civil rights and discrimination cases shall be prepared in accordance with the Rules and Guidelines For Determining Lodestar Attorneys' Fees in Civil Rights And Discrimination Cases that are an appendix to these Rules.

**c. Social Security Cases**

The provisions of Rules 109.2.a. and 109.2.b shall apply to motions requesting an award of attorneys' fees under 42 U.S.C. § 406 (b) with the following exception and additions: (i) the motion must be filed within thirty days of the entry of judgment; and (ii) the motion may not seek any award of fees for representation of the claimant in administrative proceedings. A motion for bill of costs in a Social Security benefits case must be filed within thirty days of the entry of judgment.

**Rule 110. Appeal**

**1. Bonds**

**a. Amount**

Unless otherwise ordered by the Court, the amount of any supersedeas bond filed to stay execution of a money judgment pending appeal shall be 120% of the amount of the judgment plus an additional \$500 to cover costs on appeal.

**b. Waiver for State and Municipal Agencies**

Unless otherwise ordered by the Court, the State of Maryland, any of its political subdivisions, and any agents thereof shall not be required to post a supersedeas or appeal bond.

**Rule 111. Settlement Orders**

When the Court has been notified by counsel that a case has been settled, the Court may enter an order dismissing the case and providing for the payment of costs. Such an order of dismissal shall be without prejudice to the right of a party to move for good cause to reopen the case within a time set by the Court if the settlement is not consummated. Alternatively, the Court, upon being notified by counsel that a case has been settled, may require counsel to submit within sixty (60) days a proposed order

providing for settlement, in default of which the Court may enter such judgment or other order as may be deemed appropriate.

An order entered pursuant to this Rule means that the entire case, including all claims, counter-claims, cross-claims, third-party claims and claims for attorneys' fees and costs has been settled, unless otherwise stated in the order.

## **Rule 112. Special Proceedings**

### **1. Habeas Corpus Motions**

#### **a. Applicability of General Rules**

Petitions for habeas corpus filed pursuant to 28 U.S.C. § 2254 and motions filed pursuant to 28 U.S.C. § 2255 shall be governed, respectively, by the Rules Governing § 2254 Cases In The United States District Courts and the Rules Governing § 2255 Proceedings In The United States District Courts.

#### **b. Return of Insufficient Petitions**

The Clerk of the Court may, upon Court order, return petitions that do not comply with Rules 2 and 3 of the above Rules but shall retain a copy of them as required by said Rules.

#### **c. Form**

Petitions shall be filed on forms as they are approved from time to time by order of the Court.

#### **d. Filing Fee for § 2254 Actions**

A filing fee of \$5.00 shall be required for 28 U.S.C. § 2254 actions unless the Court authorizes the petitioner to proceed *in forma pauperis*. The Court generally will not authorize a petitioner who has \$25.00 or more available after payment of the fee to proceed *in forma pauperis*.

#### **e. No Responses to § 2255 Motions Required Without Court Order**

The Government need not respond to a motion filed under 28 U.S.C. § 2255 unless requested by the Court.

### **2. Prisoners' Civil Rights Actions**

#### **a. Forms**

All *pro se* civil rights actions brought by inmates of penal institutions shall be filed on forms approved from time to time by order of the Court. Petitions to proceed *in forma pauperis* shall likewise be filed on forms approved from time to time by the Court. The Court may

authorize penal institutions to produce, stock or distribute such approved forms.

**b. Filing and Service**

All communications shall be directed to and filed with the Clerk and a copy of them served upon the opposing party or counsel in accordance with Fed. R. Civ. P. 5.

**3. Multi-District Litigation**

**a. Numbering and Docketing**

A group of actions transferred to this District under 28 U.S.C. § 1407 shall be given the composite number previously assigned by the Multi-District Panel. Individual actions within the group shall be given specific civil action numbers.

**b. Counsel Need Not Be a Member of the Bar of This Court**

Counsel representing a party in a transferred action need not be a member of the bar of this Court but shall follow any modified procedures for *pro hac vice* admission established by the Court, and such a party need not have counsel who has been admitted to the bar of this Court.

**c. Notification of Address**

Upon receipt of an order of transfer, all counsel in the transferred action shall notify the Clerk of their names, addresses and telephone numbers.

**4. Condemnation Cases - Request For Immediate Possession**

A plaintiff in a condemnation case seeking immediate possession of land shall submit a statement reciting (a) whether or not the land is improved and, if so, a specific description of the improvements, (b) whether or not the land is occupied and, if so, the name and address of the occupant and (c) whether the owner and the occupant consent to plaintiff's taking immediate possession.

**5. Review of Jeopardy Assessments**

All actions arising under 26 U.S.C. § 7429 shall bear the designation "Review of Jeopardy Assessment" on the complaint next to the style of the case. A proposed show cause order shall be submitted with the complaint, and the Clerk shall immediately bring the action to the attention of the Court. Failure to comply with this Rule may result in dismissal of the action.

**Rule 113. Disposition of Exhibits and Sealed Materials**

**1. Trial and Hearing Exhibits**

**a. Pending Appeal**

Unless otherwise ordered by the Court, at the conclusion of a trial or a hearing, the Clerk shall return all exhibits to counsel who submitted them. It is the responsibility of counsel to maintain the exhibits until the time for filing a notice of appeal has expired, or, in the event an appeal is taken, until the appeal is concluded. Upon request by counsel for another party or the Court, counsel having custody of the exhibits must make them available for inspection. Upon request, counsel must transmit the exhibits to the appellate court.

**b. Upon Final Termination of Action**

Within thirty days of the final termination of an action, counsel may request the return of any trial and hearing exhibits which are in the custody of the Clerk. If any counsel fails to request the return of exhibits, the Court may direct the return, destruction, or other disposition of the exhibits.

**2. Firearms, Contraband and Currency**

In any action to which the United States is a party, the United States shall maintain custody throughout the proceedings of any firearms, contraband, or currency which have been presented as exhibits and shall be responsible for their safekeeping.

**3. Sealed Materials Other than Trial and Hearing Exhibits**

Within thirty days of the final termination of an action, counsel may request the return of any sealed materials other than trial and hearing exhibits or request that the materials be unsealed. If counsel fails to request the return or unsealing of any sealed materials, the Court may direct the return, destruction or other disposition of the materials.

## **II. CRIMINAL**

### **Rule 201. Counsel**

**1. Who May Appear as Counsel**

Any attorney who meets the qualifications for admission to the bar of this Court as set forth in L.R.701.1. and any member of a Federal Public Defender's Office may represent a defendant in a criminal case.

**2. Appointment of Counsel**

Counsel for indigent defendants shall be appointed in accordance with the procedures established by the plan as adopted and amended by the Court from time to time pursuant to 18 U.S.C. § 3006A. The plan is available for public inspection through the Clerk's Office.

**3. Withdrawal of Appearance**

Counsel for a defendant may withdraw their appearance only with leave of Court.

## **Rule 202. General Filing and Service Requirements**

### **1. Generally**

The provisions of L.R. 102 (other than the requirement of L.R. 102.1.a.i that where a party is represented by counsel, all papers filed with the Clerk must be signed by a member of the Bar of this Court) apply to criminal proceedings.

### **2. Superseding Charging Documents**

The provisions of L.R. 103.6.c apply to any superseding charging documents.

## **Rule 203. Speedy Trial Plan**

The order establishing time limits and procedures to assure the prompt disposition of criminal cases and certain juvenile proceedings as adopted and amended from time to time by Court order is available for public inspection through the Clerk's Office.

## **Rule 204. Release of Information by Attorneys**

### **1. Generally**

An attorney shall not directly or indirectly release or authorize the public release of any information or opinion concerning any imminent or pending criminal litigation if there is a reasonable likelihood that the release of the information or opinion will interfere with a fair trial or otherwise prejudice the due administration of justice.

### **2. Investigations**

Any attorney participating in any grand jury or other investigation shall not make any extra-judicial public statement which goes beyond the public record or which 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 danger, or otherwise to aid in the progress of the investigation.

### **3. Pretrial**

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, a lawyer associated with the prosecution or defense shall not release or authorize the release, for dissemination by any means of public communication, of any extra-judicial statement concerning:

- a. The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has

not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in the apprehension or to warn the public of any dangers that person may present;

- b. 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;
- c. The performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;
- d. The identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;
- e. The possibility of a plea of guilty to the offense charged or a lesser offense;
- f. Any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

The foregoing shall not be construed to preclude the lawyer, in the proper discharge of 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 Court records 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 which have been made.

#### **4. Trial**

During a jury trial, including the period of selection of the jury, no lawyer associated with the prosecution or defense shall give or authorize any extra-judicial statement or interview, relating to the trial or the parties or issues in the trial, for dissemination by any means of public communication, except that the lawyer may quote from or refer without comment to public Court records in the case.

#### **5. Scope of Rule**

Nothing in this Rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to any public charges of

misconduct that are made.

**6. Penalty**

Any violation of this Rule may be treated as a contempt of Court and may subject the violator to the disciplinary action of the Court.

**Rule 205. Release of Information by Court Personnel**

No person associated with the Court, including any member of the Clerk's Office, of the U.S. Marshal's Office, the staff of any Judge or Magistrate Judge, and any court reporter shall directly or indirectly disclose to any person, without prior authorization by the Court, any information relating to a pending investigation or case which is not part of the public Court records. By way of illustration and not by way of limitation, no Court personnel shall divulge any information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

**Rule 206. Bail**

**1. Grounds for Insufficiency**

**a. Property Otherwise Pledged**

Unless otherwise ordered by the Court, property serving as security for bail pledged in any other Court shall not be accepted as security for bail ordered in this Court.

**b. Person Acting Under Power of Attorney**

Bail shall not be taken from a person under a power of attorney or other written instrument, save in cases of corporate surety where the power of attorney or written instrument has first been filed with and approved by the Clerk.

**2. Traffic Offenses**

If any person taken into custody for violation of any traffic law or regulation triable before a United States Magistrate Judge is a member of a travel club, automobile association or other organization providing its members with guaranteed appearance bond service and if the terms and conditions of such service are set forth on the defendant's membership card, the membership card may be accepted, in accordance with its terms and conditions and subject to its monetary limits, in lieu of cash or corporate undertaking. The card shall be retained by the judicial officer setting bail and shall be transmitted forthwith to the organization issuing it, according to its established procedures, in exchange for other security to be furnished to the Court.

**3. Forfeiture Procedure**

a. **General**

When a bail is forfeited by order of the Court, the Clerk shall send to the defendant, defense counsel, and the surety a copy of the forfeiture order by regular mail. Within ten days of the date of the order, the surety shall either produce the defendant in Court or shall deposit in the registry of the Court the sum forfeited. A surety who fails to comply with this requirement within the ten-day period shall be prohibited from writing any other bails in this Court until compliance has been accomplished. In the case of a corporate surety, this provision shall apply both to the bondsman and the corporate surety.

b. **Judgment by Default**

Judgment by default upon any forfeiture shall be entered in accordance with the provisions of Fed. R. Crim. P. 46(e)(3).

4. **Prepayment of Fees**

The Marshal may require any party (other than one whom the Court has found to be indigent) to pay or secure fees and expenses before serving any writ.

**Rule 207. Motions**

The provisions of L.R. 105 (except L.R. 105.2.c and 105.11) apply to criminal proceedings.

**Rule 208. Arrest to Arraignment**

[Reserved for Future Use]

**Rule 209. Discovery**

[Reserved for Future Use]

**Rule 210. Pretrial Procedure**

The provisions of L.R. 106.7 (to the extent that under otherwise applicable law exhibits must be disclosed prior to trial) and L.R. 106.8 apply to criminal proceedings.

**Rule 211. Trial**

The provisions of L.R. 107.2, 107.5(a), and 107.5(b) (to the extent that under otherwise applicable law exhibits must be disclosed prior to trial), 107.5(c), 107.6, 107.7, 107.8, 107.9, 107.10, 107.11, 107.13, 107.14, and 107.16 apply to criminal proceedings.

**Rule 212. Post-Trial Motions**

[Reserved for Future Use]

## **Rule 213. Sentencing**

### **1. Confidentiality of Presentence, Supervised Release, and Probation Records**

#### **a. Generally**

Unless the Court orders that a presentence report, supervised release report, violation report, probation record, or portion thereof be placed in the public record, such report or record is a confidential internal Court document to which the public has no right of access. Except as otherwise authorized by Fed. R. Crim. P. 32(c), by this Rule or otherwise by law, the probation department shall not, unless otherwise ordered by the Court, disclose to any person any such report or record.

#### **b. Procedure Upon Demand by Judicial Process**

When the production of a presentence report, supervised release report, violation report, probation record, or portion thereof, or the testimony of a probation officer concerning information learned during the performance of official duty is commanded by subpoena or other judicial process, the probation officer shall seek instruction from the Court and request that the Court issue an appropriate order. Except in the most unusual circumstances, the Court shall order that the probation officer be excused from honoring the subpoena or other judicial process and that the requested disclosure not be made.

#### **c. Limited Disclosure by Direction of the Chief Probation Officer**

The Chief Probation Officer may authorize the disclosure of a presentence report, supervised release report, violation report, probation record, or portion thereof, to law enforcement agencies, rehabilitation agencies and bona fide research agencies for use in the normal course of their duties. If authorizing such a disclosure, the Chief U.S. Probation Officer shall promulgate written guidelines to assure the security and confidentiality of the disclosed information.

#### **d. [Reserved for Future Use]**

#### **e. Non-disclosure of Probation Officer's Recommendations**

Unless otherwise ordered in a particular case by the Court, the probation officer's recommendation on the sentence is not to be disclosed to the defendant, the defendant's counsel, or the attorney for the government.

### **2. Entry of Scheduling Order**

In any case governed by the Sentencing Guidelines promulgated by the United States Sentencing Commission, the Court shall enter an order relating to the sentencing process, in a

form prescribed by the Court *en banc*, at the time of entry of a plea of *nolo contendere* or guilty or after a verdict of guilty after trial. The form of order is available for public inspection in the Clerk's Office.

### **3. Misdemeanor Cases**

Pursuant to § 6A1.2(d) of the Sentencing Guidelines and Policy Statements of the United States Sentencing Commission, in any case for which there has been no conviction above the level of a Class A misdemeanor, (which includes all misdemeanors and infractions), the judicial officer may permit the parties to make oral statements at or before sentencing of the sentencing factors to be relied upon at sentencing in lieu of a written statement.

Pursuant to § 6B1.4 (c) of the Sentencing Guidelines and Policy Statements of the United States Sentencing Commission, a judicial officer taking a plea of guilty or *nolo contendere* pursuant to a plea agreement, for any offense or offenses not above the level of a Class A misdemeanor (which includes all misdemeanors and infractions), may permit the parties to make any required stipulation of facts relative to sentencing orally, on the record, at the time the plea agreement is offered, in lieu of a written stipulation.

## **Rule 214. Disposition of Exhibits and Sealed Materials**

The provisions of L.R. 113 apply to criminal proceedings.

## **III. UNITED STATES MAGISTRATE JUDGES**

### **Rule 301. Authority of United States Magistrate Judges**

#### **1. Geographical Jurisdiction**

All Magistrate Judges have jurisdiction to try, hear and determine cases within their original and referred jurisdiction throughout the entire District of Maryland and in such cases arising in adjoining districts pursuant to separate authorizations.

#### **2. Recording**

All Court proceedings before Magistrate Judges shall be recorded either electronically or by a court reporter.

#### **3. Criminal Cases**

All Magistrate Judges are specially designated to conduct criminal cases with the consent of the defendant, including trial, judgment, sentence, and revocation of probation or supervised release, in conformity with and subject to the limitations of 18 U.S.C. § 3401, Fed. R. Crim. P. 58, and any other applicable law of the United States. All full-time Magistrate Judges may

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

4. **Civil Cases**

Pursuant to 28 U.S.C. § 636(c), with the consent of the parties, a District Judge may designate a full-time Magistrate Judge to conduct any or all proceedings, including trial, in a jury or non-jury civil matter, and to order the entry of final judgment in the case. Cases referred to a Magistrate Judge shall be randomly assigned.

Upon the filing of any civil case, the Clerk of Court shall notify the parties of their right to proceed by consent before a Magistrate Judge.

5. **Authority Under 28 U.S.C. § 636(b)**

a. **Nondispositive Matters**

Pursuant to 28 U.S.C. § 636(b), a District Judge may designate a full-time Magistrate Judge to hear and determine (including the passage of final orders as to all or any part of) any pretrial matter pending before the Court except those listed in Section 5.b. below. Nondispositive pretrial matters include, but are not limited to, discovery disputes and pretrial orders under Fed. R. Civ. P. 16.

Any objection to a Magistrate Judge's order must be served and filed within ten days of the entry of the order. Unless otherwise ordered by the Magistrate Judge who issued the order or the District Judge who designated the Magistrate Judge to hear and determine the matter, the filing of objections to the Magistrate Judge's order shall not operate as a stay of any obligation or deadline imposed by the order. A District Judge may reconsider, modify, or set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law.

b. **Dispositive Matters**

Pursuant to 28 U.S.C. § 636(b), a District Judge may designate a full-time Magistrate Judge to conduct hearings, if necessary, including evidentiary hearings, and to submit to the District Judge proposed findings of fact and recommendations for action to be taken by the District Judge as to any of the following:

- i. a motion for injunctive relief;
- ii. a motion for judgment on the pleadings;
- iii. a motion for summary judgment;
- iv. a motion by a defendant to dismiss or quash an indictment or information;
- v. a motion to suppress evidence in a criminal case;
- vi. a motion to dismiss or permit maintenance of a class action;

- vii. a motion to dismiss for failure to state a claim upon which relief can be granted;
- viii. a motion to involuntarily dismiss an action;
- ix. a motion to review an administrative determination as to Social Security or related benefits, pursuant to 42 U.S.C. §405(g);
- x. prisoner petitions challenging conditions of confinement; and
- xi. applications for post-trial relief under 28 U.S.C. § 2254 and § 2255 made by individuals convicted of criminal offenses.

Any objections must be served and filed within ten days after a copy of the proposed findings and recommendations is served on the party wishing to object, pursuant to Fed. R. Civ. P. 72(b). When the proceedings before the Magistrate Judge have been electronically recorded, transcription of the record shall not be necessary unless otherwise directed by the Court.

The District Judge shall make a *de novo* determination as to those portions of the proposed findings and recommendations to which specific objections are made. The District Judge may accept, reject, or modify the recommended decision, may receive further evidence, or may recommit the matter to the Magistrate Judge with instructions.

**c. Designation as Special Master**

A District Judge may designate a Magistrate Judge to serve as a special master pursuant to and in accordance with Fed. R. Civ. P. 53. With consent of the parties, such designation may be made without regard to the limitations of Fed. R. Civ. P. 53(b). Appeals from the decision of a Magistrate Judge designated as a special master pursuant to this Rule shall be taken in accordance with Fed. R. Civ. P. 53(e).

**6. Other Duties**

All Magistrate Judges are specially designated to exercise all powers heretofore held by United States Commissioners, to exercise all other powers authorized by 28 U.S.C. § 636(a) and (g), or any other applicable law, and to perform such additional duties as are not inconsistent with the Constitution and laws of the United States. These powers and duties include, but are not limited to, the following:

- a. Consideration of criminal complaints and affidavits and issuance of arrest warrants or summonses pursuant to Fed. R. Crim. P. 3, 4, and 9.
- b. Conduct of initial appearance proceedings for defendants pursuant to Fed. R. Crim. P. 5.
- c. Conduct of preliminary examinations pursuant to Fed. R. Crim. P. 5.1 and 18 U.S.C. § 3060.

- d. Receipt of grand jury returns pursuant to Fed. R. Crim. P. 6(f) and issuance of bench warrants on indictments pursuant to Fed. R. Crim. P. 9.
- e. Acceptance of waivers of indictment pursuant to Fed. R. Crim. P. 7(b).
- f. Conduct of preliminary hearings in probation or supervised release revocation proceedings pursuant to Fed. R. Crim. P. 32.1.
- g. Conduct of initial proceedings pursuant to Fed. R. Crim. P. 5(c) for defendants charged in other districts.
- h. Issuance of search and seizure warrants pursuant to Fed. R. Crim. P. 41.
- i. Appointment of attorneys pursuant to 18 U.S.C. § 3006A and Fed. R. Crim. P. 44.
- j. Issuance of orders concerning release or detention of defendants and material witnesses and forfeiture or exoneration of bond pursuant to 18 U.S.C. §3141 *et seq.*, and Fed. R. Crim. P. 32.1, 40 and 46.
- k. Direction of the payment of basic transportation and subsistence expenses for released persons financially unable to bear such costs, pursuant to 18 U.S.C. §§ 4282 and 4285.
- l. Issuance of orders permitting dismissals, on the government's motion, of violation notices, complaints, information, and indictments in criminal cases pursuant to Fed. R. Crim. P. 48(a).
- m. Handling of arraignments in criminal cases pursuant to Fed. R. Crim. P. 10, including acceptance of not guilty pleas, scheduling of motions, scheduling of pretrial conferences and trials, and issuance of bench warrants for the arrest of a defendant who fails to appear for arraignment before the Magistrate Judge.
- n. Conduct of initial proceedings upon the appearance of an individual accused of an act of juvenile delinquency pursuant to 18 U.S.C. § 5034.
- o. Appointment of interpreters pursuant to 28 U.S.C. §§ 1827 and 1828 in cases initiated by the United States.
- p. Under appropriate conditions and when an order is required, issuance of orders for lineups, photographs, fingerprinting, palmprinting, voice identification, mental or physical examination, the taking of blood, urine, fingernail, hair, or bodily secretion samples (with

appropriate medical safeguards required by due process considerations), and handwriting exemplars.

- q. Upon the request of the United States Attorney, (1) authorization of the installation of pen registers and trap and trace devices, and execution of orders directing the telephone company to assist the Government in such installation; (2) authorization of the installation of beeper devices ("transponders"), Global Positioning Satellite ("GPS") tracking devices, other tracking devices; and (3) authorization of the installation of devices ("clone beepers") which duplicate signals received on a contact beeper or similar device, and execution of orders directing the company or other person furnishing the contact beeper to assist the Government in such installation.
- r. Issuance of orders (1) under the provisions of § 356 of the Tax Equity and Fiscal Responsibility Act of 1982 (P.L. 97-248) authorizing, pursuant to 26 U.S.C. § 6103 (as amended by P.L. 97-248), the disclosure of tax returns and return information for use in criminal proceedings, and (2) directing banks not to notify their customers of the issuance of subpoenas for financial records pursuant to 12 U.S.C. § 3409 or 12 U.S.C. § 3413(i).
- s. Issuance of writs of habeas corpus *ad testificandum* and *ad prosequendum*.
- t. Upon request of the United States Attorney, a Magistrate Judge shall have the authority to consider and approve an agreement between the Government and a defendant to defer prosecution in any petty offense or misdemeanor case for a period not to exceed one year from the date said agreement is approved by the Magistrate Judge.
- u. Use of the services of the United States Probation Office for preparation of presentence investigations and other reports and recommendations.
- v. Conduct of international extradition proceedings pursuant to 18 U.S.C. § 3184.
- w. Appointment of counsel and performance of the verification functions set forth in 18 U.S.C. §§ 4107, 4108, and 4109 relating to proceedings for the transfer of offenders between the United States and foreign countries.
- x. Issuance of warrants or orders permitting entry into and inspection of premises and/or seizure of property, as authorized by law, when properly requested by a government agency.
- y. Issuance of show cause orders to enforce administrative summons or subpoenas.

- z. Issuance of attachments, conduct of hearings, including evidentiary hearings, and submission to the District Judge of proposed findings of fact and recommendations with respect to the disposition of a petition to enforce compliance with a summons issued by the Internal Revenue Service.
- aa. Consideration and granting or denial of motions of litigants to proceed *in forma pauperis*, with appeal to a District Judge.
- ab. Appointment of counsel for indigent litigants pursuant to 28 U.S.C. § 1915(e)(1) and other statutes.
- ac. Making special appointments to serve process pursuant to Fed. R. Civ. P. 4(c)(2).
- ad. Organization of petit and grand juries.
- ae. Conduct of voir dire and receipt of jury verdicts in civil and criminal cases being tried by a District Judge, on consent of the parties.
- af. Supervision of proceedings on requests for letters rogatory in civil and criminal cases pursuant to 28 U.S.C. §1782.
- ag. Execution of exemplifications of Court records.
- ah. Issuance of orders in mortgage foreclosure proceedings prior to ratification of sale.
- ai. Ordering and conducting prejudgment remedy proceedings in accordance with 28 U.S.C. §§ 3101-3105.
- aj. Ordering and conducting supplementary proceedings in accordance with Md. R. Proc. 2-633, upon the filing of an appropriate affidavit.
- ak. Review and issuance of orders concerning confessed judgments pursuant to L.R. 108.1.b *supra*.
- al. Review of default judgments and recommendations concerning damages.
- am. Review of matters and issuance of orders under Local Admiralty Rule (LAR)(e)(4).
- an. Issuance of orders for the deposit and withdrawal of registry funds in conjunction with matters over which Magistrate Judges exercise jurisdiction.

- ao. Conduct of naturalization ceremonies.
- ap. Admission of attorneys to the Bar of this Court.
- aq. Any full-time Magistrate Judge is authorized to conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotics Addicts Rehabilitation Act.

The Magistrate Judge, after conducting such proceedings, shall recommend to the District Judge the commitment of the addict or shall state his reasons for recommending against commitment. In a case where the Magistrate Judge recommends against commitment, the addict shall have a right to a hearing *de novo* before a District Judge.

The Magistrate Judge's recommendation shall be transmitted forthwith to the Chambers Judge for appropriate action.

- ar. All Magistrate Judges for the District of Maryland are specially designated to commit persons to St. Elizabeth's Hospital, Washington, D.C., in accordance with the provisions of the District of Columbia Code, § 21-902.
- as. Issue orders for contempt of Court as authorized by the Federal Courts Improvement Act of 2000, 28 U.S.C. § 636(e).

#### **7. Part-time Magistrate Judges**

Nothing in these Local Rules shall be deemed an assignment to part-time Magistrate Judges of additional duties under 28 U.S.C. § 636(b) other than those permitted by rule 7 of the Conflict of Interest Rules for Part-Time Magistrate Judges adopted by the Judicial Conference pursuant to 28 U.S.C. § 632(b).

### **Rule 302. Appeals from Decisions by Magistrate Judges**

#### **1. Criminal Cases**

Appeals in criminal cases shall be made to the District Court within ten days from entry of the decision, order, judgment of conviction, or sentence in accordance with Fed. R. Crim. P. 58(g)(2) and other applicable statutes and rules.

Within 30 days of the docketing of the appeal, the appellant shall file with the Clerk of Court and serve on the appellee a memorandum stating the exact points of law, facts, and authorities on which the appeal is based. The appellee shall file an answering memorandum within 30 days thereafter. The Court may extend these times upon a showing of good cause. If an appellant fails to file a memorandum within the time provided, the Court may dismiss the appeal. All

appeals shall be decided on the record and the parties' memoranda, unless the Court, in its discretion, orders oral argument.

## 2. **Civil Cases**

Appeals in civil cases referred by consent shall be governed by Fed. R. Civ. P. 73.

### **Rule 303. Designation of Chief Magistrate Judge**

The Chief District Judge shall have the authority to designate one of the full-time Magistrate Judges as Chief United States Magistrate Judge for the District of Maryland. The Chief Magistrate Judge shall perform such duties in connection with the administration of the Magistrate Judges' system within this District as the Chief District Judge may, from time to time, assign.

### **Rule 304. Forfeiture of Collateral**

#### 1. **General Provisions**

- a. The provisions of this Rule do not create or otherwise define an offense. This Rule applies to petty offenses which have otherwise been created and/or defined by federal statutes, regulations, or applicable state statutes lawfully assimilated by virtue of the Assimilative Crimes Act (18 U.S.C. § 13) which petty offenses are committed within the jurisdiction of the United States District Court for the District of Maryland.
- b. When an asterisk (\*) is inserted next to a listed violation, no forfeiture of collateral will be permitted. Forfeiture of collateral will not be permitted unless same is specifically authorized by the collateral schedule hereinafter provided, except as authorized by Paragraph (d) below. For any offense not specifically listed, a mandatory appearance will be required except as may be authorized by Paragraph (d) below.
- c. In the event any non-mandatory offense is one of a number of multiple offenses, and any one of such multiple offenses is a mandatory appearance offense, the arresting officer or officer issuing a violation notice shall treat all offenses which otherwise would have been non-mandatory as a mandatory appearance offense. In the event any non-mandatory offense is deemed by the arresting officer or officer issuing a violation notice to be of an aggravated nature, the officer may treat the offense as a mandatory appearance offense. The arresting officer or officer issuing a violation notice may, within his discretion, always treat any offense as a mandatory appearance offense notwithstanding the fact that forfeiture of collateral may otherwise be permitted pursuant to this Rule.
- d. Notwithstanding any other provision contained in this Rule, at the request or recommendation of, or with the consent of the prosecuting authority, the United States

Magistrate Judge may set or authorize the setting of collateral for any petty offense. Notwithstanding any other provision contained in this Rule, at the request or recommendation of, or with the consent of the prosecuting authority, the United States Magistrate Judge may increase or decrease any collateral which may otherwise be authorized or set pursuant to this Rule. The United States Magistrate Judge may require a mandatory appearance for any petty offense so long as any collateral which may have been previously authorized and set pursuant to this Rule has not been received prior to the Magistrate Judge's issuance of a notice of mandatory appearance.

- e. At no time may collateral be set in an amount greater than the maximum fine authorized for the offense charged, nor may collateral be less than any mandatory minimum fine which may be required as a penalty for the offense charged. Should any collateral erroneously be set higher than the authorized maximum fine then the collateral shall automatically be reduced to said authorized maximum fine. Should any collateral erroneously be set in an amount less than a required mandatory minimum fine, the amount of collateral shall automatically be increased to said mandatory minimum.
- f. A collateral offense shall be processed by giving an alleged offender a violation notice or citation with mail-in envelope (comparable to DD Form 1805 in use on military installations or in such other form as may otherwise be approved by the Court), the notice or citation setting forth the offense, the date and location thereof, name of the issuing officer, the full name, address, date of birth, and any other identifying data, which may include Social Security Number, concerning the offender and the amount of collateral which can be forfeited. It shall further contain instructions to pay the collateral to the Clerk of the Court, or if the offender wishes to contest the charge, to indicate the option to appear before a United States Magistrate Judge for trial or other appropriate proceedings, in either event by mailing the form to the Clerk of the Court within seven (7) days of receipt of the violation notice or citation. The violation notice or citation shall also set forth the date and time upon which the matter will be heard before a United States Magistrate Judge or otherwise indicate that the defendant will be notified when to appear in the future.
- g. The Clerk shall establish a Central Violations Bureau for the processing of violation notices, citations and collateral. The address of the Central Violations Bureau shall be Central Violations Bureau, Clerk, United States District Court, United States Courthouse, Baltimore, Maryland 21201 or such other address as may be subsequently approved by the Court. All violation notices and citations issued to alleged offenders shall show the appropriate address for the receipt of collateral or notice that a defendant desires a hearing before the United States Magistrate Judge.
- h. For any petty offense in which collateral is not set, the defendant shall be issued a violation notice or citation containing the information required in Paragraphs (f) and (g) above,

except that in the space provided for the amount of collateral there shall be inserted the letters "M.A." which letters shall indicate mandatory appearance required, directing the defendant to appear before a United States Magistrate Judge at a specified date and time or otherwise indicating that the defendant will be notified when to appear in the future. However, if the arresting officer has reason to believe that the person charged with an offense may not appear as required, the officer may take the alleged offender before a United States Magistrate Judge or other judicial officer as set forth in 18 U.S.C. § 3041 without unnecessary delay for the purpose of setting appropriate conditions of release in accordance with the provisions of 18 U.S.C. § 3146.

- i. Except in exceptional circumstances, a violation notice or citation shall charge only one offense. If an alleged offender is deemed to have committed more than one offense, each offense shall be charged on a separate violation notice or citation. Nothing contained in this Rule shall be deemed to prohibit the prosecution of a petty offense by means of a criminal complaint, criminal information, or indictment.
- j. The payment of collateral for any offense in which collateral is set as authorized by this Rule, shall cause said collateral to be forfeited to the United States and payment and forfeiture of said collateral shall signify that the defendant does not contest the charge nor requires a hearing before a United States Magistrate Judge. If collateral is paid and forfeited, such action shall be tantamount to a finding of guilty, and the defendant shall be deemed convicted of any offense for which collateral is paid and forfeited. Upon conviction, the Clerk or United States Magistrate Judge shall certify the record of any conviction of a traffic violation, but not to include parking offenses, to the appropriate State Motor Vehicle Administration.
- k. Whenever a check is returned to the Clerk as uncollectible for any reason within the control of the payor, the offense for which the collateral was posted shall be referred promptly to the appropriate United States Magistrate Judge for the scheduling of a mandatory appearance or such other action as may be deemed appropriate by the United States Magistrate Judge.
- l. When any alleged offender fails to pay any collateral set pursuant to this Rule and fails to appear in response to a Notice to Appear or Summons, the United States Magistrate Judge may consider and treat the offense as a mandatory appearance offense, and thereafter refuse any tender of the payment of collateral and set the case for hearing, or in the Magistrate Judge's discretion, increase the amount of collateral. A United States Magistrate Judge may also issue a warrant for the arrest of the alleged offender as authorized by Fed. R. Crim. P. 58(d)(3) and/or set the case for hearing.

- m. For offenses designated as "Hunting and Fishing," "Wildlife," or "Migratory Bird Treaty Act," in the case of an aggravated offense, multiple offenses, an offense involving a defendant who has previously been convicted of an offense in the above categories, or for any other reason deemed appropriate by the Office of the United States Attorney for the District of Maryland or any other attorney acting under the authority of the United States Attorney to represent the Government in proceedings before United States Magistrate Judges, the arresting officer or officer issuing a violation notice shall have the discretion to set collateral within the minimum and maximum limits hereinafter specified, subject to prior authorization from the Office of the United States Attorney for the District of Maryland or any other attorney acting under the authority of the United States Attorney for the District of Maryland. Otherwise, the collateral shall be the minimum amount provided for in the collateral schedule.
- n. In the event the payment is received by the Clerk before the Violation Notice is forwarded to a Magistrate Judge for collection, the Clerk shall retain and process it. Should it be necessary for the Court or United States Magistrate Judge to issue an arrest warrant as a result of any alleged violator's failure to appear, the amount of collateral shall automatically triple from the amount originally set on the violation notice or citation. For good cause shown, the Court and/or United State Magistrate Judge may reduce the collateral. Nothing contained herein shall prevent the United States Magistrate Judge from requiring a mandatory appearance.
- o. In any mandatory appearance case or in the event that any authorized collateral is not forfeited, should any alleged violator fail to appear in response to a Notice to Appear or Summons, the United States Magistrate Judge, Clerk of the Court, Central Violations Bureau and/or the United States Marshal may, in coordination with the Maryland Department of Transportation Motor Vehicle Administration, utilize the Motor Vehicle Administration violation and flagging procedures so as to prohibit an alleged violator who fails to appear in connection with any parking or traffic offense from obtaining a current motor vehicle registration from the State of Maryland until such time as any outstanding offenses are disposed of according to law. The Clerk or United States Magistrate Judge shall not authorize the release of any flag upon the vehicle registration of an alleged violator until such time as all collateral is paid by cash, certified check or money order, and forfeited, except that in the event a trial is requested, no hearing or trial shall be held until such time as the total collateral is deposited with the Clerk or United States Magistrate Judge. Upon the deposit of said collateral, any flag upon the vehicle registration of the alleged violator shall be released. For good cause shown, in the interest of justice or in otherwise exceptional circumstances, the United States Magistrate Judge may reduce the amount of collateral to be paid and forfeited or deposited under this paragraph and authorize the release of any flag upon the vehicle registration of the alleged violator upon the

payment or deposit of such reduced amount, unless it is determined by the United States Magistrate that no payment or deposit shall be required.

- p. The provisions of this Rule shall apply to petty offenses alleged to have been committed by a juvenile prior to the filing of the Attorney General's certification referred to in 18 U.S.C. § 5032 and 18 U.S.C. § 3401(g). After the filing of such certification, the provisions of this Rule shall apply only in the event that the juvenile, with the advice of counsel, files a written request to be prosecuted as an adult.
- q. Nothing contained in this Rule shall prevent the issuance of a Warrant of Arrest in accordance with Fed. R. Crim. P. 58(d)(3) or any other lawful authority.

**2. Schedule of Monetary Collateral and Mandatory Appearance Offenses**

The Court shall approve a schedule of monetary collateral and mandatory appearance offenses, which schedule shall be filed with the Clerk as a public document. The Court may amend the schedule from time to time.

#### **IV. BANKRUPTCY PROCEEDINGS**

**Rule 401. Rules in Bankruptcy Court Proceedings**

Proceedings in the Bankruptcy Court shall be governed by Local Bankruptcy Rules as adopted from time to time by order of the Court.

**Rule 402. Referral of Bankruptcy Cases and Proceedings**

Pursuant to 28 U.S.C. § 157(a), all cases under Title 11 of the United States Code and proceedings arising under Title 11 or arising in or related to cases under Title 11 shall be deemed to be referred to the Bankruptcy Judges of this District.

**Rule 403. Definition of Transmittal**

As used in this chapter, transmittal of a document includes the forwarding of a paper document or copy; or providing access to an electronic document in accordance with the procedures adopted by the Court.

**Rule 404. Appeals to the District Court**

**1. Manner of Appeal**

**a. Generally**

Appeals to the District Court from the Bankruptcy Court shall be taken in the manner prescribed in Part VIII of the Bankruptcy Rules, Rules 8001 et. seq.

**b. Bankruptcy Court Opinion and Order**

Appellant shall provide with the opening brief a copy of the Bankruptcy Court opinion and order from which the appeal is being taken.

**2. Dismissal for Non-Compliance With Bankruptcy Rule 8006**

Whenever the appellant fails to designate the contents of the record on appeal or to file a statement of the issues to be presented on appeal within the time required by Bankruptcy Rule 8006, the Bankruptcy Clerk shall transmit forthwith to the Clerk of the District Court a partial record consisting of a copy of the order or judgment appealed from, the notice of appeal, a copy of the docket entries and such other documents as the Bankruptcy Clerk deems relevant to the appeal. (The District Court may thereafter order the Bankruptcy Clerk to transmit any other relevant documents to the Clerk of the District Court). When the partial record has been filed in the District Court the Court may, upon motion of the appellee (which is to be filed in the District Court) or upon its own initiative, dismiss the appeal for non-compliance with Bankruptcy Rule 8006 after giving the appellant an opportunity to explain the non-compliance and upon considering whether the non-compliance had prejudicial effect on the other parties.

**3. Dismissal for Non-Compliance With Bankruptcy Rule 8009**

Whenever the appellant fails to serve and file a brief within the time required by Bankruptcy Rule 8009, the District Court may, upon motion of the appellee (to be filed in the District Court) or upon its own initiative, dismiss the appeal after giving the appellant an opportunity to explain the non-compliance and upon considering whether the non-compliance had prejudicial effect on the other parties.

**4. Procedure Regarding Motion To Stay Pending Appeal**

After seeking appropriate relief under Bankruptcy Rule 8005, an appellant seeking a stay pending appeal by the District Court of an order entered by the Bankruptcy Court shall file with the Clerk of the District Court a motion to stay and copies of all documents in the record of the Bankruptcy Court relevant to the appeal. Upon the filing of these documents, the Clerk of the District Court shall immediately open a civil file and the District Court shall give immediate consideration to the motion to stay. If the underlying appeal is ultimately perfected, it will be assigned the same civil action number as was assigned to the motion to stay.

**5. Bankruptcy Court Certification Regarding Interlocutory Appeal**

Whenever there has been filed in the District Court an application for leave to appeal an interlocutory order of the Bankruptcy Court, the Bankruptcy Court shall, upon request of the District Court, submit to the District Court a written certification stating whether, in its opinion, the interlocutory order involves a controlling question of law as to which there is substantial

ground for difference of opinion and whether an immediate appeal of it may materially advance the ultimate termination of the case. The District Court shall thereafter determine whether to grant or deny the application for leave to appeal.

## **Rule 405. Rules of Procedure for Withdrawal of Reference**

### **1. General Rule**

When a case or proceeding has been referred by this Court to the Bankruptcy Court, all documents and pleadings in or related to such case or proceeding shall be filed with the Clerk in the Bankruptcy Court.

### **2. Withdrawal of Reference of Bankruptcy Case or Proceeding**

#### **a. Filing of Motion for Withdrawal of Reference With Bankruptcy Clerk**

A motion pursuant to 28 U.S.C. § 157(d) and Bankruptcy Rule 5011 to withdraw the reference of any bankruptcy case, contested matter or adversary proceeding referred to the Bankruptcy Court pursuant to 28 U.S.C. § 157(a) and Local Rule 402 shall be filed with the Clerk in the Bankruptcy Court. If the motion requests withdrawal of only a portion of the case, a contested matter, or a portion of an adversary proceeding, the motion shall be accompanied by the filing of a designation of the documents and pleadings filed in the case or proceeding to which the motion relates.

#### **b. Withdrawal of Reference of Bankruptcy Cases**

A motion to withdraw the reference of a case to the Bankruptcy Court must be timely filed, and in any event, before the case is closed.

#### **c. Withdrawal of Reference of Adversary Proceeding or Contested Matter**

A motion to withdraw an adversary proceeding or a contested matter in a case which has been referred to the Bankruptcy Court must be filed by the earlier of eleven (11) days before the date scheduled for the first hearing on the merits and,

- i. in the case of an adversary proceeding, within twenty (20) days after the last pleading is permitted to be filed pursuant to Bankruptcy Rule 7012; or
- ii. in the case of a contested matter, within twenty (20) days after the last responsive pleading or memorandum in opposition is permitted to be filed pursuant to Local Bankruptcy Rule 9013-1(b)(3).

### **3. Filing of Pleadings After Reference Withdrawn**

- a. If the reference of an entire case has been withdrawn from the Bankruptcy Court to the District Court, all pleadings and documents in or related to such case shall be thereafter filed with the Clerk in the District Court.
- b. Where the reference of only a portion of an entire case has been withdrawn, pleadings and documents with respect to the case (including any parts thereof that have been withdrawn or transferred) shall continue to be filed with the Clerk in the Bankruptcy Court. Any pleadings and documents which relate to any parts of the case which have been withdrawn or transferred to the District Court shall also be filed with the Clerk of the District Court. The Clerk in the Bankruptcy Court shall keep a separate docket sheet of those pleadings and documents filed in the portion of the case that has been transferred to the District Court.
- c. Upon withdrawal or transfer of any complaint to the District Court, the plaintiff may forward to the defendant a notice and request to waive service of summons or the Clerk shall issue a District Court summons pursuant to Fed. R. Civ. 4(d) unless either of the aforementioned has already occurred pursuant to the Bankruptcy Rules.
- d. This subsection (d) governs personal injury tort and wrongful death claims which must be tried in the District Court pursuant to 28 U.S.C. § 157(b)(5). Except for the procedures contained within this subsection, personal injury tort and wrongful death proceedings shall be filed with the Clerk in the Bankruptcy Court. However, beneath the bankruptcy number, the pleading or other document shall designate the pleading or document as a "SECTION 157(b)(5) MATTER." When filing a complaint a completed District Court civil cover sheet (A.O. Form JS-44c) should be submitted beneath the Bankruptcy Court cover sheet required by Local Bankruptcy Rule 7003-1. No summons shall be issued until the proceeding is transferred to the District Court. Upon filing the complaint, the Clerk in the Bankruptcy Court shall immediately transfer the proceeding to the District Court and plaintiff may send to the defendant(s) a notice and request to waive service of summons pursuant to Fed. R. Civ. P. 4(d) or the Clerk of the District Court shall issue a summons.

**4. Motions Concerning Venue in Bankruptcy Cases and Proceedings**

All motions concerning venue in cases arising under Title 11 or arising in or related to cases under Title 11 shall be determined by the Bankruptcy Court, except in those cases to be tried in the District Court pursuant to 28 U.S.C. § 157(b)(5).

**Rule 406. Jury Trial**

**1. Demand**

In any bankruptcy proceeding any party may demand a trial by jury of any issue triable of right by jury by (1) serving upon the other parties a demand therefor in writing at any time after the

commencement of the action and not later than 10 days after the service of the last pleading directed to such issue, and (2) filing the demand as required by Bankruptcy Rule 9015. Such demand may be indorsed upon a pleading of the party. If the adversary proceeding is one that has been removed from another court, any demand previously made under the rules of that court shall constitute a demand for trial by jury under this rule.

**2. Specification of Issues**

In the demand a party may specify the issues which the party wishes so tried; otherwise the party shall be deemed to have demanded trial by jury for all the issues so triable. If the party has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the Court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

**3. Waiver**

The failure of a party to serve and file a demand as required by this rule constitutes a waiver by the party of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

**4. Consent to Jury Trial before United States Bankruptcy Judge**

Pursuant to 28 U.S.C. 157(e), with the consent of the parties, a District Judge may designate a Bankruptcy Judge to conduct a jury trial.

**Rule 407. Removal**

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

**V. COURT ADMINISTRATION AND SECURITY**

**Rule 501. Assignment of Cases**

**1. In General**

All cases will be assigned to one of the Judges of the Court. With the exception of asbestos cases and cases referred to Magistrate Judges, all proceedings in a particular case will usually be held before the Judge to whom that case is assigned.

**2. Removals**

All cases removed from a tribunal in a county within the Southern Division (Calvert, Charles, Montgomery, Prince George's and Saint Mary's Counties) shall be assigned to judges sitting in

the Southern Division. All cases removed from a tribunal in a county within the Northern Division shall be assigned to judges sitting in the Northern Division.

**3. Prisoner Cases**

All District Judges shall be assigned a pro-rata share of all (i) habeas corpus cases, and (ii) civil rights cases filed by prisoners.

**4. Other Civil Cases**

**a. Cases Involving Maryland Residents**

- i. Cases in which all of the Maryland parties reside in the Southern Division (a corporation's residence shall be its principal place of business in Maryland) shall be assigned to judges sitting in the Southern Division.
- ii. Cases in which at least one Maryland party resides in the Northern Division shall be assigned to judges sitting in the Northern Division.

iii. Class actions shall be governed by the residence of the named plaintiffs.

**b. Cases Where No Party Resides in Maryland**

Cases in which no party is a resident of Maryland shall be assigned to judges sitting in the Division where the events allegedly giving rise to the claim(s) set forth in the complaint occurred.

**c. Exceptions**

For the purpose of remedying any imbalance in caseload, the Court may direct that any case be assigned to any judge regardless of the division where the judge sits.

**Rule 502. Jury Selection Plan**

The Jury Selection Plan as adopted and amended from time to time by Court order shall be available for public inspection in the Clerk's Office.

**Rule 503. No Attorneys or Court Personnel as Sureties**

No member of the Bar, of the Clerk's Office, of the U.S. Marshal's Office or of the staff of any Judge or Magistrate Judge shall act as surety on any bond or undertaking in any action or proceeding in the Court.

**Rule 504. Hours of Clerk's Office**

**1. Hours of Actual Operation**

The Clerk's Office shall be open from 9:00 a.m. to 4:00 p.m. on all days except Saturdays, Sundays, the legal holidays specified in Fed. R. Civ. P. 77(c) and the day after Thanksgiving.

**2. After Hours Box**

For the convenience of litigants and counsel, an "after hours" or "night" box in which filings can be made outside of normal business hours is located on the first floor of each Courthouse. The hours during which each box is accessible are posted on the Court's website and at the entrance to each Courthouse.

**3. Emergency Contact**

A representative of the Clerk's Office may be contacted in an emergency to arrange to accept filings. The appropriate telephone number(s) may be obtained by contacting the Clerk's Office during normal business hours or by consulting the website. The emergency contact number(s) are also posted at the entrance to each Courthouse.

**Rule 505. Courthouse Security**

**1. Inspection of Entering Persons**

All persons entering any federal court facility in this District and all items carried by them shall be subject to appropriate screening and checking by any United States Marshal or any security officer or any law enforcement officer on duty. Any person who refuses fully to cooperate in such screening or checking may be denied entrance to the courthouse.

**2. Confiscation of Weapons and Contraband**

Any weapons (unless carried by law enforcement officers on their official duties) shall be impounded by the person conducting inspection. Property thus impounded may be retained for use as evidence and may be forfeited, destroyed or otherwise disposed of in accordance with law. Any person unlawfully carrying such property is subject to criminal prosecution.

**Rule 506. Photographing and Recording Court Proceedings and Courthouse Spaces**

**1. Photographing, Recording and Transmitting Court Proceedings**

Unless otherwise ordered by the Chief Judge, no Court proceeding may be photographed, video recorded, audio recorded, broadcast, televised or otherwise transmitted except as follows:

- a. Persons presiding over naturalization proceedings may authorize the use of cameras or video recorders during the proceedings.

- b. Judges presiding over ceremonial proceedings may authorize the use of cameras and video recorders during the proceedings.
- c. Official court reporters and official electronic recorders employed by the Clerk's Office shall record Court proceedings, provided, however, that no court reporter or electronic recorder shall use or permit to be used any official recording of a Court proceeding in connection with any radio or television broadcast;
- d. Any judge may authorize a court reporter privately retained by one or more parties to record a Court proceeding if any official court reporter or official electronic recorder is unavailable or unable to perform the necessary recording.

## 2. **Photographing, Video Recording and Televising Courthouse Spaces**

### a. **Courtrooms and Other Public Spaces**

Unless otherwise ordered by the Chief Judge, no courtroom or other public space in the courthouse may be photographed, video recorded or televised except as follows:

- i. On the day of naturalization proceedings, persons being naturalized and their families and friends may use cameras in the public spaces on the first floor;
- ii. On the day of receptions or other social events, persons attending the event may use cameras in the space where the event is being held; and
- iii. Employees of the General Services Administration and GSA architects and contractors may use cameras in the courtrooms and other public spaces when Court is not in session.

### b. **Office Spaces**

Cameras may not be used in any office within the courthouse except with the approval of the person in charge of the office.

## 3. **Penalties**

Any camera, recording device or other equipment used in violation of this Rule may be impounded. Any violation of this Rule may be treated as a contempt of Court and any violator who is a member of the Bar may be subjected to the disciplinary action of the Court.

## **Rule 507. Copying and Removal of Court Papers**

### 1. **Copying**

Requests for copies of documents which are part of the public record may be processed by either the Clerk's Office or the copy service designated by the Court.

**2. Removal of Original Papers Prohibited**

Unless otherwise ordered by the Court, no Court paper or any paper connected with the business of the Clerk shall be taken out of the Clerk's Office, provided, however, that authorized Court personnel may remove such papers for the purpose of carrying them to a courtroom or the chambers of a Judge or Magistrate Judge.

**Rule 508. Investment of Registry Funds**

The Court shall by standing order set the amount of funds deposited in the Court Registry which shall be invested at interest. These funds shall be placed in an interest bearing account or such other investment as is ordered by the Court. Funds in any one case will be divided as necessary to assure full F.D.I.C. coverage of principal and interest. All funds invested at interest will be assessed a charge pursuant to the fee schedule set by the Judicial Conference of the United States.

In the event the Clerk is not present for service of the order required by Fed. R. Civ. P. 67, such service shall be made upon the Chief Deputy Clerk or the Finance Clerk, only.

**Rule 509. Preservation of Records in Actions Involving Title to Realty**

The official file in any case involving title to realty shall be deemed to be a permanent record of the Court and shall not be destroyed.

**Rule 510. Unclaimed Funds in the Registry**

Funds in the registry unclaimed for more than two years shall be transferred, with the approval of the Court, to the Treasury. They may be withdrawn from the Treasury by the claimant pursuant to the procedure set forth in 28 U.S.C. § 2042.

**Rule 511.** [Reserved for Future Use]

**Rule 512. Lapse in Appropriations**

This Rule shall become effective only when Congress fails to enact legislation to fund operations of the United States Courts. The Anti-Deficiency Act, 31 U.S.C. § 655 limits permissible government activities in the event of such a failure to those otherwise "authorized by law" or those needed to meet "cases of emergency involving the safety of human life or the protection of property."

This Court is directly involved in the judicial process, and under the Constitution and laws of the United States, it is always open to exercise the judicial power of the United States. Thus, the Court must continue, even in the absence of funding by Congress, to receive new cases, and hear and dispose of pending cases. Activities will, however, be limited as nearly as practical to those functions necessary and essential to continue the resolution of pending cases. The Court shall advise the United States Marshal and the General Services Administration of the level of building and security services necessary to maintain such Court operations.

The Court finds that District Judges' staff, Magistrate Judges' staffs, the Clerk's Office, the CJA Supervising Attorney, the Staff Attorneys, the Probation Department, the Pretrial Services Office, the Federal Public Defender's Office, Criminal Justice Act Attorneys, Official Court Reporters, and Jurors are all essential to the continuation of Court operations. Work of all personnel shall be limited to those essential functions set forth above. In the event any personnel are not engaged in those services, they shall be furloughed for the period of lapsed appropriations.

The Court will recognize that the United States Attorney, as an officer of the Department of Justice, may have to restrict the role of the staff of the United States Attorney's Office to cases "essential to protect life and property."

## **VI. MISCELLANEOUS**

### **Rule 601. Definitions**

#### **1. The "Court" and the "Judge"**

Except in the Supplemental Admiralty and Maritime Rules (see LAR(a)(3)), the terms the "Court" and the "Judge" mean "United States Magistrate Judge" as to all proceedings pending before a United States Magistrate Judge.

#### **2. Statutory References**

All references in these Local Rules to specific statutes or rules of procedure shall be deemed to apply to any amended or renumbered versions of such statutes or rules as may be promulgated in the future.

### **Rule 602. Fines**

Any attorney who fails to appear at or who is late for a proceeding scheduled by the Court or who shall fail to submit a timely status report to the Court may be fined by the Court up to \$250.00. The Clerk shall maintain a record of fines imposed under this Rule and shall refer to the Disciplinary Committee of the Court for appropriate action the name of any attorney against whom more than two fines have been imposed within five years. Nothing contained in this Rule shall be construed as limiting the power of a Judge of this Court, in addition to imposing a fine hereunder, to assess costs against an attorney for a

non-appearance or lateness, or to punish any such offending attorney in any other way for contempt of Court.

**Rule 603. Special Orders in Widely Publicized and Sensational Cases**

In a widely publicized or sensational criminal or civil case, the Court, on motion of either party or on its own motion, in the exercise of its general powers, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to 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 another matters which the Court may deem appropriate for inclusion in such an order.

**Rule 604. Suspension of Rules**

For good cause shown, the Court may in a particular case suspend the provisions of any of these Rules upon application of a party or upon its own motion and may order proceedings in accordance with its direction.

**Rule 605. Amendment of Rules**

**1. Regular Procedure**

The Court shall consider proposed amendments to these Rules at least every three years. Any person may submit proposed amendments to the Chief Judge. Any such proposals will be reviewed by the Rules Committee of the Court which will recommend to the Court as a whole any amendments which it believes should be adopted. At least 90 days prior to the proposed effective date, the Court will cause to be published on the Court's web site notice of the substance of any amendment (subject to public notice and comment) which a majority of the members of the Court have agreed should be adopted. The Clerk shall maintain for public inspection copies of any proposed amendments. Any member of the public may submit comments on a proposed amendment to the Chief Judge within thirty days of the first public notice of the proposed amendment or such later date as may be set by the Court. The Court will take final action upon the proposed amendments after giving consideration to any such comments which have been submitted. Unless otherwise ordered by the Court, the effective date of any amendment shall be July 1st of the year in which it is adopted.

**2. Emergency Procedure**

The Court may adopt a rule necessary to meet any condition of emergency without complying with the procedure set forth in L.R. 605.1. If such an emergency rule is adopted, public notice of it shall be given promptly after its adoption and it shall be submitted for public consideration in accordance with L.R. 605.1 during the next regular amendment cycle.

## **Rule 606. Civility**

The Court expects all of its judges and all counsel to conduct themselves in a professional and courteous manner in connection with all matters pending before the Court.

## **Rule 607. Alternative Dispute Resolution**

### **1. Authorization of ADR**

The Court authorizes the use of all alternative dispute resolution processes in civil actions, including adversary proceedings in bankruptcy. The Magistrate Judges of the Court shall constitute the panel of neutrals made available by the Court for use by the parties. The provisions of 28 U.S.C. § 455 shall govern the disqualification of a Magistrate Judge from serving as a neutral. The parties may agree to the use of a neutral other than a Magistrate Judge.

### **2. Consideration of ADR**

Litigants in all civil cases shall consider using the ADR process provided by the Court at an appropriate stage in the litigation.

### **3. Attendance at ADR proceedings**

Trial counsel for each party, as well as a party representative having full settlement authority, shall attend each settlement conference held by the Court. If insurance coverage may be applicable, a representative of the insurer, having full settlement authority, shall attend.

### **4. Confidentiality**

The Court's ADR process is confidential. Unless otherwise agreed by the parties and the Court no disclosure shall be made to anyone, including the judicial officer to whom the case is assigned, of any dispute resolution communication that in any respect reveals the dispute resolution positions of the parties or advice or opinions of neutrals. No such communication shall be admissible in any subsequent proceeding except as permitted by the Federal Rules of Evidence.

### **5. Arbitration**

Actions may be referred to arbitration only in accordance with the provisions of 28 U.S.C. § 654. Consent to arbitration must be freely and knowingly given. No party or attorney shall be prejudiced in any way for refusing to participate in arbitration.

## **VII. ATTORNEY ADMISSION, ASSISTANCE AND DISCIPLINE**

### **Rule 701. Admission**

## 1. Qualifications

### a. General

Except as provided in subsection (c) and (d) of this rule, an attorney is qualified for admission to the bar of this District if the attorney is and continuously remains, a member in good standing of the highest court of any State (or the District of Columbia) in which the attorney maintains his or her principal law office, or of the Court of Appeals of Maryland, is of good private and professional character, is familiar with the Code of Professional Responsibility, the Federal Rules of Civil and Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure and these Local Rules and is willing, available and competent to accept appointments by the Court to represent indigent parties in civil cases in this District unless the acceptance of such appointments is inconsistent with an attorney's professional employment obligations as, for example, a government attorney.

### b. Federal Government Attorneys

An attorney who is a member of a Federal Public Defender's Office, the Office of the United States Attorney for this District, or other federal government lawyer, is qualified for admission to the bar of this District for purposes relating to her or his employment if the attorney is a member in good standing of the highest court of any state (or the District of Columbia), is of good private and professional character, is familiar with the Code of Professional Responsibility, the Federal Rules of Civil Procedure and Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure and these Local Rules.

### c. Reciprocity with Other Jurisdictions

No attorney, other than a member of the Maryland bar, who maintains his or her principal law office outside the District of Maryland may be a member of the bar of this District if:

- i. the United States District Court for the district in which the attorney maintains his or her principal law office has a local rule that denies membership in its bar to any attorney who is a member of the Maryland bar maintaining his or her principal law office in Maryland; and
- ii. the attorney is a member of the bar of that district.

### d. Non-Maryland Lawyers Maintaining Any Law Office in Maryland

An attorney who is not a member of the Maryland Bar is not qualified for admission to the bar of this District if the attorney maintains any law office in Maryland.

## 2. Procedure

a. **Original Applications**

Each applicant for admission to the bar shall file an application, accompanied by a motion filed by the applicant's sponsor. The application and motion shall be on forms prescribed by the Court and shall be made available by the Clerk to applicants upon request. The applicant's sponsor must be a member of the bar of this Court and must have known the applicant for at least one year. The latter requirement may be waived if the sponsor sets forth sufficient grounds in the motion for admission to satisfy the Court that the sponsor has reason to know that the applicant is qualified for admission. Each applicant for admission shall also pay any original admission fee set by the Court.

b. **Renewal Applications**

Each member of the bar of this Court shall submit an application to renew her or his membership periodically as directed by the Court. The application shall be on a form prescribed by the Court. Notice shall be sent by the Clerk to each member of the bar of the Court at least 30 days prior to the date on which the application is due. The applicant for renewal shall also pay any renewal fee set by the Court. A timely renewal application shall be granted if the applicant meets all of the qualifications for admission to the bar of this Court and if she or he pays the renewal fee. Failure to submit a timely renewal application or to pay the renewal fee will cause the attorney's membership in the bar of this Court to be stricken.

3. **Duty of Counsel to Notify the Clerk of Any Change in Address**

Counsel must promptly notify the Clerk of any change of address, including e-mail address irrespective of any changes noted on a pleading or other document.

**Rule 702. Student Practice**

1. **Eligibility**

Any eligible law student in a law school accredited by the American Bar Association may, under the conditions stated below, represent a party, and appear before any Magistrate Judge or District Court Judge in this District.

2. **Requirements**

For a student to be eligible to practice, the following requirements must be met:

- a. The conduct of the case must be under the supervision of a member of the bar of this District and that supervisor must be present with and prepared to assist the student at any Court appearances, assume full professional responsibility for the student's work, and read, approve and co-sign all documents filed with the Court.
- b. The student must be in his or her final two years of law school.

- c. The student must be enrolled for credit in a law school clinical program.
- d. The program must maintain professional liability insurance for its activities and those of its supervisors and participating students.
- e. The student may not accept personal compensation from a client or other source, although the supervisor or the law school clinical program may accept compensation.

**3. Petition to Practice**

Before a student shall be eligible under this rule, the dean of the student's law school shall file with the Clerk of this Court a petition listing: the names of the enrolled students, the names of the supervisors and the address of an office in this District to which the Court may send all notices in connection with this rule. The petition shall include a certification that, in the opinion of the dean and the faculty, the students have adequate knowledge of the procedural rules and substantive law, and that the activities of the students will be adequately supervised as required by this rule. Upon written approval by the chief judge, or a designated judge, of this District, to be filed with the Clerk of this Court, the listed students shall be authorized to practice pursuant to this Rule and subject to the further order of this Court. The written approval of the said judge as to both students and supervisors shall remain in effect for twelve months from the date of approval, unless withdrawn or unless, by further petition by the dean, the said judge shall extend the privilege.

**Rule 703. Attorneys Subject to Discipline**

Any attorney practicing before this Court or who has practiced before this Court in any way shall be deemed thereby to have conferred disciplinary jurisdiction upon the Court for any alleged misconduct of that attorney. To the extent appropriate, all Rules set forth herein as applicable to attorneys admitted to practice before the Court shall also be deemed applicable to and enforceable against any attorney participating in any manner in any proceeding in this Court, whether or not admitted to practice before the Court.

**Rule 704. Rules of Professional Conduct**

This Court shall apply the Rules of Professional Conduct as they have been adopted by the Maryland Court of Appeals.

**Rule 705. Disciplinary Proceedings**

**1. Allegations of Misconduct**

**a. Referral for Investigation**

When allegations of misconduct which, if substantiated, would warrant discipline of an attorney shall come to the attention of a Judge of this Court, the Judge shall refer the matter to the Court's Disciplinary Committee. If the Disciplinary Committee determines that further investigation is necessary, it may refer the matter to Maryland Bar Counsel to conduct an investigation. Alternatively, the Court, upon the recommendation of the Disciplinary Committee, may appoint one or more members of the bar of the Court as counsel to conduct the investigation. Notice of any such appointment shall be given to the respondent-attorney, and the respondent-attorney may move to disqualify counsel so appointed within fifteen days after service of the notice.

**b. Recommendation by Counsel**

After the conclusion of the investigation, counsel shall submit to the Disciplinary Committee a recommendation that a formal hearing be held or that the matter be disposed of by dismissal, admonition, deferral or otherwise. The Disciplinary Committee shall take such action as it deems appropriate.

**c. Initiation of Formal Proceedings**

If formal disciplinary proceedings are to be initiated, the Court shall issue an order requiring the respondent-attorney to show cause within thirty days after service of the order why the attorney should not be disciplined.

**d. Hearing**

If the respondent-attorney's answer to the show cause order raises any issue of fact or if the respondent-attorney wishes to be heard in mitigation, a hearing shall be held before one or more Judges of the Court, provided however that if the disciplinary proceeding is predicated upon the complaint of a Judge of this Court the hearing shall be conducted before a panel of three other Judges of this Court appointed by the Chief Judge or, if there are less than three Judges eligible to serve or the Chief Judge is the complainant, the panel shall be appointed by the Chief Judge of the Fourth Circuit Court of Appeals.

**e. Confidentiality**

Proceedings under this section shall be confidential except that any opinion and order entered by the Court disbarring, suspending, or imposing other discipline upon an attorney shall be placed on the public record.

**f. Disbarment by Consent While Under Disciplinary Investigation or Prosecution**

i. Any respondent-attorney may consent to disbarment while a disciplinary investigation or proceeding is pending against that attorney, but only by delivering to the Court an affidavit stating that the attorney desires to consent to disbarment and that: (1) the attorney's consent is freely and voluntarily rendered; (2) the attorney is not being

subjected to coercion or duress; (3) the attorney is fully aware of the implications of so consenting; (4) the attorney is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline the nature of which the attorney shall specifically set forth; (5) the attorney acknowledges that the material facts so alleged are true, unless such acknowledgment would involve the admission of a crime; and (6) the attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself.

- ii. Upon receipt of the required affidavit, the Court shall enter an order disbarring the attorney.
- iii. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of the Court.

## 2. **Criminal Convictions**

### a. **Serious Crimes**

#### i. **Definition**

For purposes of this Rule the term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involved 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 any of the above.

#### ii. **Suspension**

Upon the filing with the Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any Court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime, 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. Such order shall continue until final disposition of a disciplinary proceeding to be commenced upon the 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.

iii. **Referral for Investigation**

The Disciplinary Committee may, pursuant to L.R. 705.1, refer the matter to counsel for investigation and initiation of disciplinary proceedings.

iv. **Lifting of Suspension**

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

b. **Other Crimes**

The Disciplinary Committee may, pursuant to L.R. 705.1, refer to counsel for investigation and initiation of disciplinary proceedings any attorney who has been convicted of any crime other than a serious crime.

3. **Discipline Imposed by Other Courts**

a. **Attorney's Duty to Disclose**

Any attorney admitted to practice before this Court shall, upon being 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 inform the Clerk of this Court of such action.

b. **Notification to Attorney**

Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another Court, this Court shall forthwith issue a notice directed to the attorney containing:

- i. a copy of the judgment or order from the other Court;
- ii. an order immediately suspending the attorney, in the event the discipline imposed by the other Court consists of suspension or disbarment; and
- iii. an order directing the attorney to show cause within 30 days after service of the order why the imposition of identical discipline by this Court would be unwarranted.

c. **Stay**

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

**d. Imposition of Identical Discipline**

This Court shall impose the identical discipline imposed by the other Court unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears:

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

Where this Court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

**4. Reinstatement**

**a. When Court Order Required**

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

**b. Time of Application Following Disbarment**

A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

**c. Hearing on Application**

Petitions for reinstatement by a disbarred or suspended attorney, and seven copies of said petition, shall be filed with the Clerk of this Court. Upon receipt of the petition, the Chief Judge may promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more Judges of this Court, provided however that if the disciplinary proceeding was predicated upon the complaint of a Judge of this Court the hearing shall be conducted before a panel of three other Judges of this Court appointed by the Chief Judge, or, if there are less than three Judges eligible to serve or the Chief Judge was the

complainant, by a panel appointed by the Chief Judge of the Court of Appeals of the Fourth Circuit. The Judge or Judges assigned to the matter shall, within 30 days after referral, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his resumption of the practice of law will not be detrimental to the integrity and standing of the Bar or to the administration of justice, or subversive of the public interest.

**d. Appointment of Counsel**

The Court may, pursuant to L.R. 705.1.a, appoint counsel to investigate whether the petition for reinstatement should be granted and to participate in the reinstatement hearing.

**e. Conditions of Reinstatement**

If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the Court may enter an order of reinstatement, provided that the order may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

**f. Successive Petitions**

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

**5. Dissemination of Information**

**a. To Other Courts**

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

**b. To the American Bar Association**

The Clerk shall promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this Court.

### **Rule 706. Fee Agreements**

In any civil case, other than cases governed by the Prison Litigation Reform Act, where counsel is appointed by the Court to represent a party, counsel may request that the party to be represented enter into a contingent fee agreement. The agreement shall not require the payment of attorneys' fees in an amount greater than 25% of any recovery if the case is settled, nor greater than 33 1/3% of any amount awarded after a trial. The agreement may not require the plaintiff to pay litigation expenses unless such payment is approved by the Court. In cases where there is a statutory provision for attorneys' fees, the contingent fee shall be reduced by any statutory fees.

## **VIII. SUPPLEMENTAL ADMIRALTY AND MARITIME RULES**

### **Local Admiralty Rule (a) SCOPE, CITATION AND DEFINITIONS.**

#### **LAR (a)(1) Scope**

These local admiralty rules apply only to civil actions that are governed by the Supplemental Rules for Certain Admiralty and Maritime Claims (Supplemental Rule or Rules). All other local rules are applicable in these cases, but to the extent that another local rule is inconsistent with the applicable local admiralty rules, the local admiralty rules shall govern.

#### **LAR (a)(2) Citation**

The local admiralty rules may be cited by the letters "LAR" and the lower case letters and numbers in parentheses that appear at the beginning of each section. The lower case letter is intended to associate the local admiralty rule with the Supplemental Rule that bears the same capital letter.

#### **LAR (a)(3) Definitions**

As used in the local admiralty rules, "Court" means the United States District Court for the District of Maryland; "judicial officer" means a United States District Judge or a United States Magistrate Judge; "Clerk of Court" means the Clerk of the United States District Court and includes deputy clerks of Court; "Marshal" means the United States Marshal and includes deputy marshals; "keeper" means any person or entity appointed by the Marshal to take physical custody of and maintain the vessel or other property under arrest or attachment; and "substitute custodian" means the individual or entity who,

upon motion and order of the Court, assumes the duties of the Marshal or keeper with respect to the vessel or other property arrested or attached.

Local Admiralty Rule (b)  
MARITIME ATTACHMENT AND GARNISHMENT

**LAR (b)(1) “Found Within the District”**

A defendant is not found within the District unless the defendant, at the time of the filing of the complaint, can be personally served therein by delivering process (i) in the case of an individual, to the individual personally, or by leaving a copy thereof at the individual’s dwelling house or usual place of abode with some person of suitable age and discretion; (ii) in the case of a corporation, trust or association, to an officer, trustee, managing or general agent thereof; (iii) in the case of a partnership, to a general partner thereof; and (iv) in the case of a limited liability company, to a manager thereof.

**LAR (b)(2) Affidavit that Defendant is Not Found Within the District**

The affidavit required by Supplemental Rule B(1) to accompany the complaint shall specify with particularity the efforts made by and on behalf of the plaintiff to find and serve the defendant within the District.

**LAR (b)(3) Use of State Procedure**

When the plaintiff invokes a state procedure in order to attach or garnish under Fed. R. Civ. P. 4(e), the process of attachment or garnishment shall so state.

**LAR (b)(4) Notice to Defendant**

In default applications, the affidavit or other proof required by Supplemental Rule B(2)(c) from the plaintiff or the garnishee shall specify with particularity the efforts made to give notice of the action to the defendant.

Local Admiralty Rule (c)  
ACTIONS IN REM: SPECIAL PROVISIONS

**LAR (c)(1) Intangible Property**

The summons to show cause why property should not be deposited in the Court, issued pursuant to Supplemental Rule C(3)(c) shall direct the person having control of intangible property to show cause no later than 10 days after service why the intangible property should not be delivered to the Court to

abide further order of the Court. A judicial officer for good cause shown may lengthen or shorten the time. Service of the warrant shall have the effect of arresting the intangible property and bringing it within the control of the Court. Service of the summons to show cause requires a garnishee wishing to retain possession of the property to establish grounds for doing so, including specification of the measures taken to segregate and safeguard the intangible property arrested. Upon order of the Court, the person who is served may deliver or pay over to the Clerk of Court the intangible property proceeded against to the extent sufficient to satisfy the plaintiff's claim. If such delivery or payment is made, the person served is excused from the duty to show cause.

#### **LAR (c)(2) Publication of Notice of Action and Arrest**

The notice required by Supplemental Rule C(4) shall be published at least once in a newspaper of general circulation in the division of the District where the property has been seized. The Clerk of Court shall maintain and make available a list of newspapers of general circulation for each division of the District. The plaintiff's attorney shall file with the Clerk of Court a copy of the notice as it was published. The notice shall contain:

- a. The court, title, and number of the action;
- b. The date of the arrest;
- c. The identity of the property arrested;
- d. The name, address, telephone number, and bar number of the attorney for the plaintiff;
- e. A statement that a person asserting ownership interest in the property or a right of possession pursuant to Supplemental Rule C(6) must file a statement of such interest with the Clerk and serve it on the attorney for the plaintiff within 10 days after publication;
- f. A statement that an answer to the complaint must be filed and served within 20 days after the filing of the statement of interest and that otherwise default may be entered and condemnation ordered;
- g. A statement that motions to intervene under Fed. R. Civ. P. 24 by persons asserting maritime liens or other interests shall be filed within a time fixed by the Court; and
- h. The name, address, and telephone number of the Marshal and the keeper or substitute custodian.

#### **LAR (c)(3) Notice Requirements**

a. **Default Judgments**

i. **Notice Given**

A party seeking a default judgment in an action *in rem* must satisfy the judge that due notice of the action and arrest of the property has been given (1) by publication as required in LAR (c)(2); (2) by service of the complaint and warrant of arrest upon the Marshal and keeper, substitute custodian, master, or other person having custody of the property; and (3) by mailing such notice to every other person who has not appeared in the action and is known to the party seeking the default judgment to have an ownership interest in the property.

ii. **Notice Attempted**

(1) If the defendant property is a vessel documented under the laws of the United States, the plaintiff must attempt to notify all persons identified as having an interest in the vessel in the United States Coast Guard Certificate of Ownership or the General Index or Abstract of Title. (2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, the plaintiff must attempt to notify the owner as named in the records of the issuing authority.

b. **Ship Mortgage Act**

For purposes of the Ship Mortgage Act, 46 U.S.C.A. § 31325, notice to the Master of a vessel, or the person having physical custody thereof, by service of the Warrant of Arrest and Complaint shall be deemed in compliance with the notice requirements of such Act, as to all persons, except as to those who have recorded a notice of claim of lien.

c. **Mailing**

The notification requirement is satisfied by mailing copies of the warrant of arrest and complaint to the person's address using any form of mail requiring a return receipt.

LAR (c)(4) **Entry of Default and Default Judgment**

After the time for filing a claim or answer has expired, the plaintiff may move for entry of default under Fed. R. Civ. P. 55(a). Default will be entered upon showing by affidavit or certificate of counsel that:

- a. Notice has been given as required by LAR (c)(3)(a) (i); and
- b. Notice has been attempted as required by LAR (c)(3)(a) (ii), where appropriate; and
- c. The time to answer by any person asserting a right of possession or any ownership interest in the property has expired; and

- d. No answer has been filed and no one has appeared to defend on behalf of the property.

The plaintiff may move for judgment under Fed. R. Civ. P. 55(b) at any time after default has been entered.

Local Admiralty Rule (d)  
POSSESSORY, PETITORY, AND PARTITION ACTIONS

**LAR (d) Return Date**

In an action under Supplemental Rule D, a judicial officer may order that the statement of interest and answer be filed on a date earlier than 20 days after arrest. The order may also set a date for expedited hearing of the action.

Local Admiralty Rule (e)  
ACTIONS *IN REM* AND *QUASI IN REM*: GENERAL PROVISIONS

**LAR (e)(1) Itemized Demand for Judgment**

The demand for judgment in every complaint filed under Supplemental Rules B or C shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage.

**LAR (e)(2) Salvage Action Complaints**

In an action for a salvage award, the complaint shall allege the dollar value of the vessel, cargo, freight, and other property salvaged or any other basis for an award. The complaint shall also state the dollar amount of the award claimed.

**LAR (e)(3) Verification of Pleadings**

Every complaint in Supplemental Rules B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized officer of a corporate party. If no party or authorized corporate officer is readily available, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information, and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant or declarant is authorized so to verify. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.

**LAR (e)(4) Review by Judicial Officer**

Unless otherwise required by the judicial officer, the review of complaints and papers called for by Supplemental Rules B(1) and C(3) does not require the affiant or declarant, party or attorney to be present. Any complaint presented to a judicial officer for review shall be accompanied by a form of order to the Clerk which, upon signature by the judicial officer, shall direct the arrest, attachment, or garnishment sought by the applicant.

**LAR (e)(5) Exigent Circumstances**

The certification of exigent circumstances by the plaintiff or his attorney under Supplemental Rules B and C shall consist of an affidavit or a declaration pursuant to 28 U.S.C. § 1746 describing in detail the facts establishing the exigent circumstances.

**LAR (e)(6) Instructions to the Marshal**

The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the Marshal.

**LAR (e)(7) Property in Possession of United States Officer**

When the property to be attached or arrested is in the custody of an employee or officer of the United States, the Marshal shall deliver a copy of the complaint and warrant of arrest or summons and process of attachment or garnishment to that officer or employee if present, and otherwise to the custodian of the property. The Marshal shall instruct the officer or employee or custodian to retain custody of the property until ordered to do otherwise by a judicial officer.

**LAR (e)(8) Adversary Hearing**

An adversary hearing provided for in Supplemental Rule E(4)(f) following arrest or attachment or garnishment shall be conducted by the Court within three days after a request for such hearing, unless otherwise ordered.

**LAR (e)(9) Security Deposit for Seizure of Vessels**

The party(ies) who seek(s) arrest or attachment of a vessel or property aboard a vessel shall deposit with the Marshal \$3,000 for vessels more than 65 feet in length overall or \$500 for vessels 65 feet in length overall or less. These deposits shall be used to cover the expenses of the Marshal including, but not limited to, dockage, keepers, maintenance, and insurance. The party(ies) shall advance additional sums from time to time as requested by the Marshal to cover the estimated expenses until the property is released or disposed of as provided in Supplemental Rule E.

## LAR (e)(10) **Intervenors' Claims and Sharing of Marshal's Fees and Expenses**

### a. **Intervention Before Sale**

When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint under Fed. R. Civ. P. 24, and not by filing an original complaint, unless otherwise ordered by a judicial officer. An order permitting intervention may be signed *ex parte* at the time of filing the motion, subject to the right of any party to object to such intervention within 15 days after receipt of a copy of the motion and proposed pleading. Such motions shall not be subject to the provisions of L.R. 105. Upon the signing of an order permitting intervention, the Clerk shall forthwith deliver a conformed copy of the intervening complaint to the Marshal, who shall deliver the copy to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal for seizure of a vessel as required by LAR (e)(9). Property arrested, attached, or garnished by an intervenor shall be released in accordance with Supplemental Rule E(5).

### b. **Sharing Marshal's Fees and Expenses Before Sale**

Upon motion by any party, security deposits may be ordered to be paid or shared by any party who has arrested, attached, or garnished a vessel or property aboard a vessel in amount or proportions to be determined by a judicial officer.

### c. **Intervention After Sale**

After ratification of sale and payment of the purchase price, any person having a claim against the vessel or property that arose before ratification must present the same by intervening complaint, pursuant to LAR (e)(10)(a), against the proceeds of the sale and may not proceed against the vessel unless a judicial officer shall otherwise order for good cause shown. Where an intervening complaint prays service of process *in rem*, the filing of such intervening complaint with the Clerk shall be deemed to be a claim against such proceeds without the issuance of an *in rem* process, unless a judicial officer shall otherwise order for good cause shown. The judicial officer shall allow a period of at least thirty (30) days after due ratification of the sale for the submission of such claims.

## LAR (e)(11) **Custody of Property**

### a. **Safekeeping of Property**

When a vessel or other property is brought into the Marshal's custody by arrest or attachment, the Marshal shall arrange for adequate safekeeping, which may include the

placing of keepers on or near the vessel. A substitute custodian in place of the Marshal may be appointed by order of the Court.

**b. Insurance**

The Marshal may order insurance to protect the Marshal, his deputies, keepers, and substitute custodians, from liabilities assumed in arresting and holding the vessel, cargo, or other property, and in performing whatever services may be undertaken to protect the vessel, cargo, or other property, and in maintaining the Court's custody. The premiums charged for the liability insurance shall be paid out of the security deposits advanced to the Marshal in accordance with LAR(e)(9).

**c. Employment Of Vessel's Officers and Crew By Marshal**

All officers and members of the crew employed on a vessel of 750 gross tons or more shall be deemed employees of the Marshal for the period of 120 hours after the attachment or arrest of the vessel unless the Marshal, pursuant to a Court order, has notified the officers and members of the crew that they are not so employed or unless the vessel is released from attachment or arrest. If the vessel is not released within 120 hours, the Marshal shall, on request of the seizing party, immediately thereafter designate which, if any, officers and members of the crew he is continuing to employ to preserve the vessel and shall promptly notify the remaining officers and members of the crew that they are no longer in his employ and are no longer in the service of the vessel and are free to depart from the vessel. The notice required by the preceding sentence shall be by written notice posted in a prominent place in each of the mess rooms or dining salons used by the officers and unlicensed personnel aboard the vessel.

**d. Normal Vessel Operations and Movement of the Vessel**

Following arrest, attachment, or garnishment of a vessel or property aboard a vessel, normal vessel operations shall be permitted to commence or continue unless otherwise ordered by the Court. No movement of the vessel shall take place unless authorized by order of a judicial officer.

**e. Procedure for Filing Claims by Suppliers for Payment of Charges**

A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the Court who has not been paid and claims the right to payment as an expense of administration shall submit an invoice to the Clerk in the form of a verified claim within the time period set by the Court for intervention after sale pursuant to LAR (e)(10)(c). The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims individually or schedule a single hearing for all claims.

**LAR (e)(12) Sale of Property**

a. **Notice**

Notice of sale of property in an action under Supplemental Rules B or C shall be published under such terms and conditions as set by the Court.

b. **Payment of Bid**

These provisions apply unless otherwise ordered in the order of sale: The person whose bid is accepted shall immediately pay the Marshal the full purchase price if the bid is \$1,000 or less. If the bid exceeds \$1,000, the bidder shall immediately pay a deposit of at least \$1,000 or 10% of the bid, whichever is greater, and shall pay the balance within three days after the day on which the bid was accepted. If an objection to the sale is filed within that three-day period, the bidder is excused from paying the balance of the purchase price until three days after the sale is confirmed. Payment shall be made in cash, by certified check, or by cashier's check drawn on banks insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

c. **Default**

If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall be in default. In such a case, the judicial officer may accept the second highest bid or arrange a new sale. The defaulting bidder's deposit shall be forfeited and applied to any additional costs incurred by the Marshal because of the default, the balance being retained in the registry of the Court awaiting its order.

d. **Report of Sale by Marshal**

At the conclusion of the sale, the Marshal shall forthwith file a written report with the Court of the fact of sale, the date, the price obtained, the name and address of the successful bidder, and any other pertinent information.

e. **Time and Procedure for Objection to Sale**

An interested person may object to the sale by filing a written objection with the Clerk within three days following the sale, serving the objection on all parties of record, the successful bidder, and the Marshal, and depositing such sum with the Marshal as determined by him to be sufficient to pay the expense of keeping the property for at least seven days. Payment to the Marshal shall be in cash, certified check, or cashier's check drawn on banks insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

f. **Confirmation of Sale**

A sale shall be confirmed by order of the Court within five days, but no sooner than three days, after the sale. If an objection to the sale has been filed pursuant to LAR(e)(12)(e),

the Court shall hold a hearing on the confirmation of the sale. The Marshal shall transfer title to the purchaser upon the order of the Court.

**g. Disposition of Deposits**

**i. Objection Sustained**

If an objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

**ii. Objection Overruled**

If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.

**LAR (e)(13) Discharge of Stipulations For Value and Other Security**

When an order is entered in any cause marking the case "Dismissed" or "Agreed and Settled," or "Agreed, Settled and Satisfied," the entry shall operate as a cancellation of all stipulations for value or other security provided to release the property seized that were filed in the case, unless otherwise provided in the order or by the Court.

Local Admiralty Rule (f)  
**LIMITATION OF LIABILITY**

**LAR (f)(1) Security for Costs**

The amount of security for costs under Supplemental Rule F(1) shall be \$1,000, and it may be combined with the security for value and interest, unless otherwise ordered.

**LAR (f)(2) Order of Proof at Trial**

Where the vessel interests seeking statutory limitation of liability have raised the statutory defense by way of answer or complaint, the plaintiff in the former or the party asserting a claim against the vessel or owner in the latter shall proceed with its proof first, as is normal at civil trials.

## APPENDIX A

### DISCOVERY GUIDELINES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

#### GUIDELINE 1: CONDUCT OF DISCOVERY

- a. The purpose of these Guidelines is to facilitate the just, speedy, and inexpensive conduct of discovery in all civil cases before the Court, and these Guidelines will be construed and administered accordingly with respect to all attorneys, parties, and non-parties involved in discovery of civil cases before this Court.
- b. Compliance with these Guidelines will be considered by the Court in resolving discovery disputes, including whether sanctions should be awarded pursuant to Fed. R. Civ. P. 37.
- c. Attorneys are expected to behave professionally and with courtesy towards all involved in the discovery process, including but not limited to opposing counsel, parties and non-parties.
- d. Whenever possible, attorneys are expected to communicate with each other in good faith throughout the discovery process to resolve disputes without the need for intervention by the Court. In the event that such good faith efforts are unsuccessful, the disputes should be referred promptly to the Court for resolution.
- e. To the extent that any part of these Guidelines is considered by the Court to conflict with any Federal Rule of Civil Procedure, Local Rules of this Court, or order of this Court in a particular case, then the conflicting rule or order should be considered to be governing.

#### GUIDELINE 2: STIPULATIONS SETTING DISCOVERY DEADLINES

Subject to approval by the Court, attorneys are encouraged to enter into written discovery stipulations to supplement the Court's scheduling order.

#### GUIDELINE 3: EXPERT WITNESS FEES

- a. Unless counsel agree that each party will pay its own experts, the party taking an expert witness's deposition ordinarily pays the expert's fee for the time spent in deposition and related travel. *See* L.R. 104.11.a. Accordingly, counsel for the party that designated the expert witness should try to assure that the fee charged by the expert to the party taking the deposition is fair and reasonable. In the event a dispute arises as to the reasonableness or other aspects of an expert's fee, counsel should promptly confer and attempt in good faith to resolve the dispute without the involvement of the Court. If counsel are unsuccessful, the expert's deposition shall proceed on the date noted,

unless the Court orders otherwise, and the dispute respecting payment shall be brought to the Court's attention promptly. The factors that may be considered in determining whether a fee is reasonable include, but are not limited to: (1) the expert's area of expertise; (2) the expert's education and training; (3) the fee being charged to the party who designated the expert; and (4) the fees ordinarily charged by the expert for non-litigation services, such as office consultations with patients or clients.

- b. Recognizing that a treating physician may be considered both a fact witness and an expert, the Court has chosen to impose a specific limitation on the fee a treating physician may charge to either party. It is implicit in L.R. 104.11.b, which requires counsel to estimate the hours of deposition time required, that the physician may charge a fee for the entire time he or she reserved in accordance with the estimate, even if counsel conclude the deposition early. Further, unless the physician received notice at least two business days in advance of a cancellation, the physician is entitled to be paid for any time reserved that cannot reasonably be filled. Every effort should be made to schedule depositions at a time convenient for the witness, and to use videotaped *de bene esse* depositions rather than requiring the physician's presence at trial. Note that the Rule does not limit the reasonable fee a treating physician may charge if required to testify in Court.

#### **GUIDELINE 4: SCHEDULING DEPOSITIONS**

- a. Attorneys are expected to make a good faith effort to coordinate deposition dates with opposing counsel, parties, and non-party deponents, prior to noting a deposition.
- b. Before agreeing to a deposition date, an attorney is expected to attempt to clear the date with his/her client if the client is a deponent, or wishes to attend the deposition, and with any witnesses the attorney agrees to attempt to produce at the deposition without the need to have the witness served with a subpoena.
- c. An agreed upon deposition date is presumptively binding. An attorney seeking to change an agreed upon date has a duty to coordinate a new date before changing the agreed date.

#### **GUIDELINE 5: DEPOSITION QUESTIONING, OBJECTIONS AND PROCEDURE**

- a. An attorney should not intentionally ask a witness a question that misstates or mischaracterizes the witness's previous answer.
- b. During the taking of a deposition, it is presumptively improper for an attorney to make objections which are not consistent with Fed. R. Civ. P. 30(d)(1). Objections should be stated as simply, concisely and non-argumentatively as possible to avoid coaching or making suggestions to the deponent, and to minimize interruptions in the questioning of the deponent (for example: "objection, leading"; "objection, asked and answered"; "objection, compound question"; "objection, form"). If

an attorney desires to make an objection for the record during the taking of a deposition that reasonably could have the effect of coaching or suggesting to the deponent how to answer, then the deponent, at the request of any of the attorneys present, or, at the request of a party if unrepresented by an attorney, shall be excused from the deposition during the making of the objection.

- c. An attorney should not repeatedly ask the same or substantially identical question of a deponent if the question already has been asked and fully and responsively answered by the deponent. Upon objection by counsel for the deponent, or by the deponent if unrepresented, it is presumptively improper for an attorney to continue to ask the same or substantially identical question of a witness unless the previous answer was evasive or incomplete.
- d. It is presumptively improper to instruct a witness not to answer a question during the taking of a deposition unless under the circumstances permitted by Fed. R. Civ. P. 30(d)(1). However, it is also presumptively improper to ask questions clearly beyond the scope of discovery permitted by Fed. R. Civ. P. 26(b)(1), particularly of a personal nature, and continuing to do so after objection shall be evidence that the deposition is being conducted in bad faith or in such a manner as unreasonably to annoy, embarrass, or oppress the deponent or party, which is prohibited by Fed. R. Civ. P. 30(d)(3).
- e. If requested to supply an explanation as to the basis for an objection, the objecting attorney should do so, consistent with Guideline 5(b) above.
- f. While the interrogation of the deponent is in progress, neither an attorney nor the deponent should initiate a private conversation except for the purpose of determining whether a privilege should be asserted. To do so otherwise is presumptively improper.
- g. During breaks in the taking of a deposition, no one should discuss with the deponent the substance of the prior testimony given by the deponent during the deposition. Counsel for the deponent may discuss with the deponent at such time whether a privilege should be asserted or otherwise engage in discussion not regarding the substance of the witness's prior testimony.
- h. Unless otherwise ordered by the Court, the following persons may, without advance notice, attend a deposition: individual parties; a representative of non-individual parties; and expert witnesses of parties. Except for the persons identified above, counsel shall notify other parties not later than five (5) business days before the taking of a deposition if counsel desires to have a non-party present during a deposition. If the parties are unable to agree to the attendance of this person, then the person shall not be entitled to attend the deposition unless the party desiring to have the person attend obtains a Court order permitting him/her to do so. Unless ordered by the Court, however, a dispute regarding who may attend a deposition shall not be grounds for delaying the deposition. All

persons present during the taking of a deposition should be identified on the record before the deposition begins.

- i. Except for the person recording the deposition in accordance with Fed. R. Civ. P. 30(b), during the taking of a deposition no one may record the testimony without the consent of the deponent and all parties in attendance, unless otherwise ordered by the Court.

#### **GUIDELINE 6: ASSERTIONS OF PRIVILEGE AT DEPOSITIONS**

- a. When a claim of privilege is asserted during a deposition, and information is not provided on the basis of such assertion:
  - i. In accordance with Fed. R. Civ. P. 26(b)(5), the person asserting the privilege shall identify during the deposition the nature of the privilege (including work product) that is being claimed.
  - ii. After a claim of privilege has been asserted, the person seeking disclosure shall have reasonable latitude during the deposition to question the witness to establish other relevant information concerning the assertion of privilege, including: (i) the applicability of the particular privilege being asserted; (ii) any circumstances which may constitute an exception to the assertion of the privilege; (iii) any circumstances which may result in the privilege having been waived; and (iv) any circumstances that may overcome a claim of qualified privilege. In accordance with Fed. R. Civ. P. 26(b)(5), the party asserting the privilege, in providing the foregoing information, shall not be required to reveal the information which is itself privileged or protected from disclosure.

#### **GUIDELINE 7: MAKING A RECORD OF IMPROPER CONDUCT DURING A DEPOSITION**

Upon request of any attorney, party unrepresented by an attorney, or the deponent if unrepresented by an attorney, the person recording the deposition in accordance with Fed. R. Civ. P. 30(b) shall enter on the record a description by the requesting person of conduct of any attorney, party, or person attending the deposition which violates these guidelines, the Federal Rules of Civil Procedure, or the Local Rules of this Court.

#### **GUIDELINE 8: DELAY IN RESPONDING TO DISCOVERY REQUESTS**

- a. **Interrogatories, Requests for Production of Documents, and Requests for Admission of Facts and Genuineness of Documents.**

The Federal Rules of Civil Procedure designate the time prescribed for responding to interrogatories, requests for production of documents, and requests for admission of facts and

genuineness of documents. Nothing contained in these guidelines modifies the time limits prescribed by the Federal Rules of Civil Procedure. Attorneys shall make good faith efforts to respond to discovery requests within the time prescribed by those rules.

Absent exigent circumstances, attorneys seeking additional time to respond to discovery requests shall contact opposing counsel as soon as practical after receipt of the discovery request, but not later than three days before the response is due. In multiple party cases, the attorney wanting additional time shall contact the attorney for the party propounding the discovery.

A request for additional time which does not conflict with a scheduling deadline imposed by the Federal Rules of Civil Procedure, the Local Rules of this Court, or a Court order should not be unreasonably refused. If a request for additional time is granted, the requesting party shall promptly prepare a writing which memorializes the agreement, which shall be served on all parties but need not be submitted to the Court for approval.

Unless otherwise provided by the Local Rules of this Court, no stipulation which modifies a Court-imposed deadline shall be deemed effective unless and until the Court approves the stipulation.

**b. Depositions.**

Unless otherwise ordered by the Court or agreed upon by the parties, eleven days notice shall be deemed to be “reasonable notice” within the meaning of Fed. R. Civ. P.30(b)(1), for the noting of depositions.

**GUIDELINE 9: INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS, ANSWERS TO INTERROGATORIES, AND WRITTEN RESPONSES TO DOCUMENT REQUESTS**

- a. A party may object to an interrogatory, document request, or part thereof, while simultaneously providing partial or incomplete answers to the request. If a partial or incomplete answer is provided, the answering party shall state that the answer is partial or incomplete.
- b. No part of an interrogatory or document request should be left unanswered merely because an objection is interposed to another part of the interrogatory or document request.
- c. In accordance with Fed. R. Civ. P. 26(b)(5), where a claim of privilege is asserted in objecting to any interrogatory, document request, or part thereof, and information is not provided on the basis of such assertion:

- i. The party asserting the privilege shall, in the objection to the interrogatory, document request, or part thereof, identify with specificity the nature of the privilege (including work product) that is being claimed;
- ii. The following information should be provided in the objection, if known or reasonably available, unless divulging such information would cause disclosure of the allegedly privileged information:
  - a. For oral communications:
    - i. the name of the person making the communication and the names of persons present while the communication was made, and, where not apparent, the relationship of the persons present to the person making the communication;
    - ii. the date and place of the communication; and
    - iii. the general subject matter of the communication.
  - b. For documents:
    - i. the type of document;
    - ii. the general subject matter of the document;
    - iii. the date of the document; and
    - iv. such other information as is sufficient to identify the document, including, where appropriate, the author, addressee, custodian, and any other recipient of the document, and, where not apparent, the relationship of the author, addressee, custodian, and any other recipient to each other.
- iii. Within twenty days after the receipt of the information contained in paragraph (ii), the party seeking disclosure of the information withheld may serve a motion to compel in accordance with L.R. 104.8.
- d. In addition to paper copies, parties are encouraged, but not required, to exchange discovery requests and responses on computer disk in an ASCII or other commonly-accepted format, if requested, in order to reduce the clerical effort required to prepare responses and motions.

## APPENDIX B

### RULES AND GUIDELINES FOR DETERMINING LODESTAR ATTORNEYS' FEES IN CIVIL RIGHTS AND DISCRIMINATION CASES<sup>1</sup>

#### 1. **Mandatory Rules Regarding Billing Format, Time Recordation, and Submission of Quarterly Statements**

- a. Time shall be recorded by specific task and lawyer or other professional performing the task as set forth more fully in L.R. 109.2.b.
- b. Fee applications, accompanied by time records, shall be submitted in the following format organized by litigation phase<sup>2</sup>:
  - i. case development, background investigation and case administration (includes initial investigations, file setup, preparation of budgets, and routine communications with client, co-counsel, opposing counsel, and the Court);
  - ii. pleadings;
  - iii. interrogatories, document production, and other written discovery;
  - iv. depositions (includes time spent preparing for depositions);

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<sup>1</sup>These rules and guidelines apply to cases in which a prevailing party would be entitled to reasonable attorneys' fees under 42 U.S.C. § 1988(b) and to cases brought under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Equal Pay Act, the Americans With Disabilities Act, ERISA, the Rehabilitation Act, the Individuals With Disabilities Education Act, the Family and Medical Leave Act, The Fair Credit Reporting Act and equivalent statutes. They do not apply to Social Security cases.

<sup>2</sup>In general, preparation time and travel time should be reported under the category to which they relate. For example, time spent preparing for and traveling to and from a Court hearing should be recorded under the category "Court hearings." Factual investigation should also be listed under the specific category to which it relates. For example, time spent with a witness to obtain an affidavit for a summary judgment motion or opposition should be included under the category "motions practice." Similarly, a telephone conversation or a meeting with a client held for the purpose of preparing interrogatory answers should be included under the category "Interrogatories, document production and other written discovery." Of course, each of these tasks must be separately recorded in the back-up documentation in accordance with Guideline 1.a.

- v. motions practice;
  - vi. attending Court hearings;
  - vii. trial preparation and post-trial motions;
  - viii. attending trial;
  - ix. ADR; and
  - x. fee petition preparation.
- c. Counsel for a party intending to seek fees if the party prevails shall submit to opposing counsel quarterly statements showing the amount of time spent on the case and the total value of that time. These statements need not be in the “litigation phase” format provided in Guideline 1.b or otherwise reflect how time has been spent. The first such statement is due at the end of the first quarter in which the action is filed.
- d. Upon request by the Judge (or private mediator agreed upon by the parties) presiding over a settlement conference, counsel for all parties (with the exception of public lawyers who do not ordinarily keep time records) shall turn over to that officer (or mediator) statements of time and the value of that time in the “litigation phase” format provided in Guideline 1.b.
- e. If during the course of a fee award dispute a Judge orders that the billing records of counsel for the party opposing fees must be turned over to the party requesting fees, those billing records shall be submitted in the “litigation phase” format.

## **2. Guidelines Regarding Compensable and Non-compensable Time**

- a. Where plaintiffs with both common and conflicting interests are represented by different lawyers, there shall be a lead attorney for each task (e.g., preparing for and speaking at depositions on issues of common interest and preparing pleadings, motions, and memoranda), and other lawyers shall be compensated only to the extent that they provide input into the activity directly related to their own client’s interests.
- b. Only one lawyer for each separately represented party shall be compensated for attending depositions<sup>3</sup>.

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<sup>3</sup>Departure from this guideline would be appropriate upon a showing of a valid reason for sending two attorneys to the deposition, e.g. that the less senior attorney’s presence is necessary

- c. Only one lawyer for each party shall be compensated for client and third party conferences.
- d. Only one lawyer for each party shall be compensated for attending hearings<sup>4</sup>.
- e. Generally, only one lawyer is to be compensated for intra-office conferences. If during such a conference one lawyer is seeking the advice of another lawyer, the time may be charged at the rate of the more senior lawyer. Compensation may be paid for the attendance of more than one lawyer at periodic conferences of defined duration held for the purpose of work organization and delegation of tasks in cases where such conferences are reasonably necessary for the proper management of the litigation.
- f. Travel
  - i. Whenever possible time spent in traveling should be devoted to doing substantive work for a client and should be billed (at the usual rate) to that client. If the travel time is devoted to work for a client other than the matter for which fees are sought, then the travel time should not be included in any fee request. If the travel time is devoted to substantive work for the client whose representation is the subject of the fee request, then the time should be billed for the substantive work, not travel time.
  - ii. Up to 2 hours of travel time (each way and each day) to and from a Court appearance, deposition, witness interview, or similar proceeding that cannot be devoted to substantive work may be charged at the lawyer's hourly rate.

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because he organized numerous documents important to the deposition but the deposition is of a critical witness whom the more senior attorney should properly depose. Departure from the guideline also would be appropriate upon a showing that more than one retained attorney representing the defendant attended the deposition and charged the time for her attendance. (If two lawyers from a public law office representing a defendant attend a deposition, the Court should consider this fact and the role played by the second lawyer, *i.e.*, whether she provided assistance, including representation of a separate public agency or individual defendant, or was present for merely educational purposes, in determining whether plaintiff should also be compensated for having a second lawyer attend.)

<sup>4</sup>The same considerations discussed in footnote 3 concerning attendance by more than one lawyer at a deposition also apply to attendance by more than one lawyer at a hearing. There is no guideline as to whether more than one lawyer for each party is to be compensated for attending trial. This must depend upon the complexity of the case and the role that each lawyer is playing. For example, if a junior lawyer is present at trial primarily for the purpose of organizing documents but takes a minor witness for educational purposes, consideration should be given to billing her time at a paralegal's rate.

- iii. Time spent in long-distance travel above the 2 hours limit each way, that cannot be devoted to substantive work, may be charged at one-half of the lawyer's hourly rate.

### 3. **Guidelines Regarding Hourly Rates**<sup>5</sup>

- a. Lawyers admitted to the bar for less than five years: \$135-170.
- b. Lawyers admitted to the bar for five to eight years: \$150-225.
- c. Lawyers admitted to the bar for more than eight years: \$200-275.
- d. Paralegals and law clerks: \$90.

### 4. **Reimbursable Expenses**

- a. Generally, reasonable out-of-pocket expenses (including long-distance telephone calls, express and overnight delivery services, computerized on-line research and faxes) are compensable at actual cost.
- b. Mileage is compensable at the rate of reimbursement for official government travel in effect at the time the expense was incurred.
- c. Copy work is compensable at the rate established by the Court for taxation of costs.

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<sup>5</sup>These rates are intended solely to provide practical guidance to lawyers and judges when requesting, challenging and awarding fees. The factors established by case law obviously govern over them. However, the guidelines may serve to make the fee petition less onerous by narrowing the debate over the range of a reasonable hourly rate in many cases. The guidelines were derived by informally surveying members of the bar concerning hourly rates paid on the defense side in employment discrimination and civil rights cases and adding an upward adjustment to account for the risk of nonpayment faced by a plaintiff's lawyer in the event that her client does not prevail. The guideline rates also are generally comparable to those applied by the Court in several recent cases involving the award of fees to plaintiffs' counsel after considering affidavits submitted in support of such rates. They do not apply to cases governed by the Prison Litigation Reform Act, which sets an hourly rate by statute.

## **APPENDIX C**

### **REGULATIONS GOVERNING THE REIMBURSEMENT OF EXPENSES IN PRO BONO CASES IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND**

#### **I. Eligibility for Reimbursement**

When an attorney has been appointed to represent an indigent party in a civil case before this Court, that attorney shall be allowed to petition the Court for reimbursement of certain expenses, incurred in the preparation and presentation of the case, subject to these regulations. The limit applicable to such expenses, unless otherwise requested by counsel and approved by the Court's Attorney Admissions Committee, is Five Thousand (\$5,000.00) dollars.

#### **II. Restrictions on Eligibility**

- A. Any costs that are either waived or recoverable under the provisions of Title 18, U. S. Code or Title 28, U.S. Code or which have been otherwise recovered shall not be reimbursed from the Admissions Fund.
- B. In no case shall an appointed attorney for a party who has been awarded costs and/or fees pursuant to a judgment in a suit before this Court be eligible for reimbursement of those costs and/or fees from the Admissions Fund.
- C. Only those costs associated with the preparation or presentation of a civil action in the United States District Court for the District of Maryland shall be approved for reimbursement. No costs associated with the preparation or presentation of an appeal to the U.S. Court of Appeals or the U.S. Supreme Court shall be reimbursed from the Admissions Fund.

#### **III. Procedures for Petitioning for Reimbursement**

- A. Within thirty (30) days of the entry of a judgment, the appointed attorney shall file with the Judge a request for reimbursement of costs on a form approved by the Court and available from the Clerk. Where it is considered necessary and appropriate, the Judge may approve an interim reimbursement of extraordinary and substantial expenses.
- B. In cases in which an appointed attorney has withdrawn or has been dismissed prior to the entry of a judgment, that attorney shall file a request for reimbursement within thirty (30) days of such withdrawal or dismissal. Any work product obtained with expenditures from the Admissions

Fund shall subsequently be provided to the newly-appointed counsel or, where no new counsel is appointed, to the party for whom counsel was appointed.

- C. In cases where interim reimbursements are approved and paid and appointed counsel subsequently recovers previously reimbursed expenses, counsel shall, within thirty (30) days from said recovery, return to the Admissions Fund an amount up to the amount previously reimbursed, depending on the amount of the recovery.

#### IV. **Reimbursable Expenses**

The following out-of-pocket expenses may be reimbursed upon approval by the Judge:

##### 1. **Depositions and Transcripts**

The costs of depositions and transcripts may be reimbursed up to the rates, and subject to the limitations, established by the Court for the taxation of costs.

##### 2. **Investigative, Expert or Other Services**

A. Counsel may request (in an *ex parte* application) investigative, expert or other services necessary for the adequate preparation of a matter. The Court, upon finding after appropriate *ex parte* inquiry that the services are necessary, may authorize them.

B. Without prior request, counsel may obtain, subject to later review, investigative, expert or other services necessary for the adequate preparation of the case. Counsel should note that approval of this type of expenditure is not automatic and should be prepared to defend his or her reasons for not requesting prior approval.

##### 3. **Travel Expenses**

Travel may be reimbursed at actual cost if public transportation is used, or if a private vehicle is used, at the rate of reimbursement for official government travel in effect at the time the expense was incurred, plus parking, tolls, and similar expenses.

##### 4. **Service/Witness Fees**

Service and witness fees that are not otherwise avoided, waived or recoverable may be reimbursed from the Admissions Fund.

##### 5. **Interpreter Services**

Costs of interpreter services not otherwise avoided, waived or recoverable may be reimbursed from the Admissions Fund.

##### 6. **Photocopies, Photographs, Telephone Long Distance Calls, etc.**

Actual out-of-pocket expenses incurred for items such as photographs, long distance calls, express and overnight delivery services, and computerized on-line research necessary for the preparation of the case may be reimbursed from the Admissions Fund. Copy work may be reimbursed at the rate established by the Court for taxation of costs.

**7. Other Expenses**

Expenses other than those in sections one through six, above, may be approved by the Judge. For anticipated expenses over \$500.00, counsel should seek *ex parte* approval from the presiding Judge prior to making the expenditure. When requesting reimbursement under this section, a detailed description of the expenses should be attached to the petition filed with the Judge.

**V. Restrictions on Reimbursement**

- A. General office overhead is not reimbursable from the Admissions Fund.
- B. The Judge may disallow reimbursement for any expense that is not documented.
- C. The Judge may disallow reimbursement of expenses if he or she determines that appointed counsel did not pursue reasonable courses of recovery of expenses, including seeking statutorily permitted costs and fees, prior to application for reimbursement from the Admissions Fund.
- D. Under no circumstances shall Admissions Fund funds be authorized to pay for costs or fees taxed against a party or appointed counsel, as a result of a Court ruling or as part of a judgment obtained by an adverse party in a civil action before this Court.

## APPENDIX D

### STANDARD FORMS

#### **Guidelines for Uniform Instructions and Definitions For Use in Discovery Requests**

These Guidelines set forth the full text of instructions and definitions for Interrogatories and Requests for Production of Documents. Parties may use any instructions, definitions, or rules of construction that are consistent with the Federal Rules of Civil Procedure. This Court has stated that the use of reasonable definitions may be helpful. *Diversified Products Corp. v. Sports Center Co.*, 42 F.R.D. 3, 4 (D. Md. 1967). This Court has also stated that unreasonable definitions may render interrogatories so burdensome that objections to the entire series should be sustained, with sanctions. *Id.*

The purpose of the Guidelines is to provide a presumptively proper “safe harbor.” The Guidelines are appropriate for many cases and their use is encouraged. The Guidelines may not be appropriate in certain cases. Their use is purely and wholly optional. If they are used, the Court will likely consider them presumptively proper and a party objecting to them will have the burden of demonstrating that they are not proper. Compliance with the Guidelines will be considered by the Court in resolving discovery disputes, including whether sanctions should be awarded pursuant to Fed. R. Civ. P. 37.

The Guidelines are not intended to broaden or narrow the scope of discovery permitted by the Federal Rules of Civil Procedure.

The Instructions and Definitions of the Guidelines may be incorporated into a party's Interrogatories or Request for Production of Documents by the following statement: "The Uniform Instructions and Definitions For Use in Discovery Requests are incorporated herein." If this statement, or a substantially similar statement, is placed in the party's Interrogatories or Request for Production of Documents, the Court will deem the Instructions and Definitions of these Guidelines to be incorporated by reference therein. If a specific discovery request is incorporated into a party's Interrogatories or Request for Production of Documents, the request should state "(Standard Interrogatory No. \_\_)" or "(Standard Document Request No. \_\_)."

**STANDARD INTERROGATORIES**

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

_____	*	
Plaintiff	*	
v.	*	Civil Action No.:
_____	*	_____
Defendant	*	

\* \* \* \* \*

**INTERROGATORIES**

Pursuant to Fed. R. Civ. P. 33, and L.R. 104, \_\_\_\_\_, by its undersigned attorneys, propounds these Interrogatories, to which \_\_\_\_\_ shall respond separately and fully, in writing and under oath, within the time prescribed by the Federal Rules of Civil Procedure, in accordance with the Instructions and Definitions set forth hereinafter.

**INSTRUCTIONS**

1. These instructions and definitions should be construed to require answers based upon the knowledge of, and information available to, the responding party as well as its agents, representatives, and, unless privileged, attorneys. It is intended that the following discovery requests will not solicit any material protected either by the attorney/client privilege or work product doctrine which was created by, or developed by, counsel for the responding party after the date on which this litigation was commenced. If

any inquiry is susceptible of a construction which calls for the production of such material, that material need not be provided and no privilege log pursuant to Fed. R. Civ. P. 26(b)(5) or Discovery Guideline 9(a) will be required as to such material.

2. These Interrogatories are continuing in character, so as to require that supplemental answers be filed seasonably if further or different information is obtained with respect to any interrogatory.

3. Pursuant to Discovery Guideline 9(b), no part of an interrogatory should be left unanswered merely because an objection is interposed to another part of the interrogatory. Pursuant to Discovery Guideline 9(a), if a partial or incomplete answer is provided, the responding party shall state that the answer is partial or incomplete.

4. Pursuant to Discovery Guideline 9(c), in accordance with Fed. R. Civ. P. 26(b)(5), where a claim of privilege is asserted in objecting to any interrogatory or part thereof, and information is not provided on the basis of such assertion:

A. In asserting the privilege, the responding party shall, in the objection to the interrogatory, or part thereof, identify with specificity the nature of the privilege (including work product) that is being claimed;

B. The following information should be provided in the objection, if known or reasonably available, unless divulging such information would cause disclosure of the allegedly privileged information,

(1) For oral communications:

- a. the name of the person making the communication and the names of persons present while the communication was made, and, where not apparent, the relationship of the persons present to the person making the communication;
- b. the date and place of the communication; and
- c. the general subject matter of the communication.

(2) For documents:

- a. the type of document,
- b. the general subject matter of the document,
- c. the date of the document, and
- d. such other information as is sufficient to identify the document, including, where appropriate, the author, addressee, custodian, and any other recipient of the document, and where not apparent, the relationship of the author, addressee, custodian, and any other recipient to each other.

5. If the responding party elects to specify and produce business records in answer to any interrogatory, the specification shall be in sufficient detail to permit the interrogating party to locate and identify, as readily as the responding party can, the business records from which the answer may be ascertained.

6. If, in answering these interrogatories, the responding party encounters any ambiguities when construing a question, instruction, or definition, the responding party's answer shall set forth the matter deemed ambiguous and the construction used in answering.

## DEFINITIONS

Notwithstanding any definition below, each word, term, or phrase used in these Interrogatories is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.

1. *Concerning*: The term “concerning” means relating to, referring to, describing, evidencing, or constituting.

2. *Communication*: The term “communication” means the transmittal of information by any means.

3. *Document*: The terms "document" and "documents" are defined to be synonymous in meaning and equal in scope to the usage of the term “documents” in Fed. R. Civ. P. 34(a) and include(s) the term “writing”. Unless the producing party demonstrates undue burden or other grounds sufficient to meet the requirements of Fed. R. Civ. P. 26(c), electronic mail is included within the definition of the term “document”. The terms “writings”, “recordings”, and “photographs” are defined to be synonymous in meaning and equal in scope to the usage of those terms in Fed. R. Evid. 1001. A draft or non-identical copy is a separate document within the meaning of the term “document”.

4. *Identify (with respect to persons)*: When referring to a person, to “identify” means to state the person’s full name, present or last known address, and, when referring to a natural person, additionally, the present or last known place of employment. If the business and home telephone numbers are known to the answering party, and if the person is not a party or present employee of a party, said telephone numbers shall be provided. Once a person has been identified in accordance with this subparagraph, only

the name of the person need be listed in response to subsequent discovery requesting the identification of that person.

5. *Identify (with respect to documents)*: When referring to documents, to “identify” means to state the: (i) type of document; (ii) general subject matter; (iii) date of the document; and, (iv) author(s), addressee(s), and recipient(s) or, alternatively, to produce the document.

6. *Occurrence/Transaction*: The terms "occurrence" and “transaction” mean the events described in the Complaint and other pleadings, as the word “pleadings” is defined in Fed. R. Civ. P. 7(a).

7. *Parties*: The terms “plaintiff” and “defendant” (including, without limitation, third-party plaintiff, third-party defendant, counter claimant, cross-claimant, counter-defendant, and cross-defendant), as well as a party’s full or abbreviated name or a pronoun referring to a party, mean that party and, where applicable, its officers, directors, and employees. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation or to limit the Court’s jurisdiction to enter any appropriate order.

8. *Person*: The term “person” is defined as any natural person or any business, legal or governmental entity or association.

9. *You/Your*: The terms “you” or “your” include the person(s) to whom these requests are addressed, and all of that person’s agents, representatives and attorneys.

10. The present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. "All" means "any and all"; "any" means "any and all." "Including" means

"including but not limited to." "And" and "or" encompass both "and" and "or." Words in the masculine, feminine or neuter form shall include each of the other genders.

### **STANDARD INTERROGATORIES TO A PLAINTIFF**

STANDARD INTERROGATORY NO. 1: Identify all persons who are likely to have personal knowledge of any fact alleged in the complaint, and state the subject matter of the personal knowledge possessed by each such person.

STANDARD INTERROGATORY NO. 2: Identify all persons who have a subrogation interest in any claim set forth in the complaint, and state the basis and extent of such interest.

STANDARD INTERROGATORY NO. 3: Itemize and show how you calculate any damages claimed by you in this action, whether economic, non-economic, punitive or other.

### **STANDARD INTERROGATORIES TO A DEFENDANT**

STANDARD INTERROGATORY NO. 4: If you contend that the Defendant is improperly identified, state Defendant's correct identification.

STANDARD INTERROGATORY NO. 5: Identify any persons or entities whom Defendant contends are persons needed for just adjudication within the meaning of Fed. R. Civ. P. 19, but who have not been named by Plaintiff.

STANDARD INTERROGATORY NO. 6: Identify all persons who are likely to have personal knowledge of any fact alleged in the complaint or in your answer to the complaint, and state the subject matter of the personal knowledge possessed by each such person.

STANDARD INTERROGATORY NO. 7: If you have knowledge of any person carrying on an insurance business that might be liable to satisfy part or all of a judgment that might be entered in this action or to indemnify or reimburse the payments made to satisfy the judgment, identify that person and state the applicable policy limits of any insurance agreement under which the person might be liable.

**STANDARD INTERROGATORIES TO ANY PARTY**

STANDARD INTERROGATORY NO. 8: For each witness identified by you in connection with the disclosures required by Fed. R. Civ. P. 26(a)(2)(A), provide a complete statement of the opinions to be expressed and basis and reasons therefor.

STANDARD INTERROGATORY NO. 9: For each witness you have retained or specially employed to provide expert testimony in this case, or employed by you whose duties regularly involve giving expert testimony and whom you expect to testify at trial, provide a complete statement of the opinions to be expressed and the basis and reasons therefor.

STANDARD INTERROGATORY NO. 10: State the facts concerning the matters alleged in [paragraph \_\_\_\_ of your Complaint] [paragraph \_\_\_\_ of your Answer to the Complaint] [your affirmative defense no. \_\_\_\_].

STANDARD INTERROGATORY NO. 11: If you contend that \_\_\_\_\_, state the facts concerning such contention.

**STANDARD REQUESTS FOR PRODUCTION OF DOCUMENTS**

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

_____	*	
Plaintiff	*	
v.	*	Civil Action No.:
_____	*	_____
Defendant	*	

\* \* \* \* \*

**REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Fed. R. Civ. P. 34, and L.R. 104, \_\_\_\_\_, by its undersigned attorneys, requests that \_\_\_\_\_ respond to this Request within the time prescribed by the Federal Rules of Civil Procedure, and produce the following documents for inspection and copying on the \_\_\_\_ day of \_\_\_\_\_, 199\_, at \_\_\_\_ o'clock, a.m., and continuing from day to day thereafter, until completed, at the offices of \_\_\_\_\_(name and address)\_\_\_\_\_, or at such time and place as may be agreed upon by all counsel.

**INSTRUCTIONS**

1. If, in responding to this Request for Production, the responding party encounters any ambiguities when construing a request or definition, the response shall set forth the matter deemed ambiguous and the construction used in responding.

2. Whenever in this Request you are asked to identify or produce a document which is deemed by you to be properly withheld from production for inspection or copying:

A. If you are withholding the document under claim of privilege (including, but not limited to, the work product doctrine), please provide the information set forth in Fed. R. Civ. P. 26(b)(5) and Discovery Guideline 9(c)(ii)(b), including the type of document, the general subject matter of the document, the date of the document, and such other information as is sufficient to identify the document, including, where appropriate, the author, addressee, custodian, and any other recipient of the document, and where not apparent, the relationship of the author, addressee, custodian, and any other recipient to each other, in a manner that, without revealing the information claimed to be protected, will enable this party to assess the applicability of the privilege or protection claimed by you;

B. If you are withholding the document for any reason other than an objection that it is beyond the scope of discovery or that a request is unduly burdensome, identify as to each document and, in addition to the information requested in ¶2.A, above, please state the reason for withholding the document.

3. When a document contains both privileged and non-privileged material, the non-privileged material must be disclosed to the fullest extent possible without thereby disclosing the privileged material. If a privilege is asserted with regard to part of the material contained in a document, the party claiming the privilege must clearly indicate the portions as to which the privilege is claimed. When a document has been

redacted or altered in any fashion, identify as to each document the reason for the redaction or alteration, the date of the redaction or alteration, and the person performing the redaction or alteration. Any redaction must be clearly visible on the redacted document.

4. It is intended that this Request will not solicit any material protected either by the attorney/client privilege or by the work product doctrine which was created by, or developed by, counsel for the responding party after the date on which this litigation was commenced. If any Request is susceptible of a construction which calls for the production of such material, that material need not be provided and no privilege log pursuant to Fed. R. Civ. P. 26(b)(5) or Discovery Guideline 9(a) will be required as to such material.

5. If production of any requested document(s) is objected to on the grounds that production is unduly burdensome, describe the burden or expense of the proposed discovery.

#### DEFINITIONS

Notwithstanding any definition set forth below, each word, term, or phrase used in this Request is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure. As used in this Request, the following terms are to be interpreted in accordance with these definitions:

1. *Communication*: The term "communication" means the transmittal of information by any means.
2. *Concerning*: The term "concerning" means relating to, referring to, describing, evidencing, or constituting.
3. *Document*: The terms "document" and "documents" are defined to be synonymous in meaning and equal in scope to the usage of the term "documents" in Fed. R. Civ. P. 34(a) and include(s) the term

“writing”. Unless the producing party demonstrates undue burden or other grounds sufficient to meet the requirements of Fed. R. Civ. P. 26(c), electronic mail is included within the definition of the term “document”. The terms “writings”, “recordings”, and “photographs” are defined to be synonymous in meaning and equal in scope to the usage of those terms in Fed. R. Evid. 1001. A draft or non-identical copy is a separate document within the meaning of the term “document”.

4. *Occurrence/Transaction:* The terms "occurrence" and “transaction” mean the events described in the Complaint and other pleadings, as the word “pleadings” is defined in Fed. R. Civ. P. 7(a).

5. *Parties:* The terms “plaintiff” and “defendant” (including, without limitation, third-party plaintiff, third-party defendant, counter claimant, cross-claimant, counter-defendant, and cross-defendant), as well as a party’s full or abbreviated name or a pronoun referring to a party, mean that party and, where applicable, its officers, directors, and employees. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation or to limit the Court’s jurisdiction to enter any appropriate order.

6. *Person:* The term “person” is defined as any natural person or any business, legal or governmental entity, or association.

7. *You/Your:* The terms "you" or "your" include the person(s) to whom this Request is addressed, and all of that person's agents, representatives and attorneys.

8. The present tense includes the past and future tenses. The singular includes the plural, and the plural includes the singular. "All" means "any and all"; "any" means "any and all." "Including" means "including but

not limited to." "And" and "or" encompass both "and" and "or." Words in the masculine, feminine or neuter form shall include each of the other genders.

9. If the requested documents are maintained in a file, the file folder is included in the request for production of those documents.

### **STANDARD DOCUMENT REQUESTS**

1. All documents referred to in your Answers to Interrogatories.

2. All statements (as that term is used in Fed. R. Civ. P. 26(b)(3)) which were previously made by this party and any of its present or former directors, officers, or employees, concerning the action or its subject matter.

3. All documents (including, but not limited to, correspondence, notes, memoranda, and journal entries) which relate to, describe, summarize, or memorialize any communication between you and [Name], or anyone known or believed by you to have been acting under the authority of [Name], concerning the occurrence.

4. All documents (including, but not limited to, fee agreements, reports, and correspondence) provided to, received from, or prepared by each witness identified by you in connection with the disclosures required by Fed. R. Civ. P. 26(a)(2)(A) or in connection with any witness identified in your Answer to Standard Interrogatory No. 8 or 9.

5. All contracts or agreements entered into between Plaintiff and Defendant concerning the occurrence or transaction.

6. All documents concerning your claim for damages or the methods used to calculate such alleged damages.

7. All documents concerning any release, settlement, or other agreement, formal or informal, pursuant to which the liability of any person or any entity for damage arising out of the occurrence which is the subject matter of this lawsuit has been limited, reduced, or released in any manner. This request includes all agreements by one party or person to indemnify another party or person for claims asserted in this litigation.

8. All insurance policies under which a person carrying on an insurance business might be liable to pay to you or on your behalf all or part of the damages sought in this action.

9. All documents received from or provided to any other party to this action since the filing of the Complaint, whether provided informally or in response to a formal request. All documents referred to in the Complaint and other pleadings, as the word “pleadings” is defined in F. R. Civ. P. 7(a).

**STIPULATED ORDER REGARDING  
CONFIDENTIALITY OF DISCOVERY MATERIAL  
(Local Rule 104.13)**

Whereas, the parties have stipulated that certain discovery material be treated as confidential;

Accordingly, it is this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_, by the United States District Court for the District of Maryland, ORDERED:

1. Designation of Discovery Materials as Confidential. All documents produced in the course of discovery, all answers to interrogatories, all answers to requests for admission, all responses to requests for production of documents, and all deposition testimony and deposition exhibits shall be subject to this Order concerning confidential information, as set forth below:

(a) The designation of confidential information shall be made by placing or affixing on the document, in a manner which will not interfere with its legibility, the word "CONFIDENTIAL." One who provides material may designate it as confidential only when such person in good faith believes it contains sensitive personal information, trade secrets or other confidential research, development, or commercial information. Except for documents produced for inspection at the party's facilities, the designation of confidential information shall be made prior to, or contemporaneously with, the production or disclosure of that information. In the event that documents are produced for inspection at the party's facilities, such documents may be produced for inspection before being marked confidential. Once specific documents have been designated for copying, any documents containing confidential information will then be marked

confidential after copying but before delivery to the party who inspected and designated the documents. There will be no waiver of confidentiality by the inspection of confidential documents before they are copied and marked confidential pursuant to this procedure.

(b) Portions of depositions of a party's present and former officers, directors, employees, agents, experts, and representatives shall be deemed confidential only if they are designated as such when the deposition is taken or within seven business days after receipt of the transcript. Any testimony which describes a document which has been designated as "CONFIDENTIAL", as described above, shall also be deemed to be designated as "CONFIDENTIAL".

(c) Information or documents designated as confidential under this Order shall not be used or disclosed by the parties or counsel for the parties or any persons identified in subparagraph (d) below for any purposes whatsoever other than preparing for and conducting the litigation in which the information or documents were disclosed (including appeals). The parties shall not disclose information or documents designated as confidential to putative class members not named as plaintiffs in putative class litigation unless and until one or more classes has/have been certified.

(d) The parties and counsel for the parties shall not disclose or permit the disclosure of any documents or information designated as confidential under this Order to any other person or entity, except that disclosures may be made in the following circumstances:

(i) Disclosure may be made to counsel and employees of counsel for the parties who have direct functional responsibility for the preparation and trial of the lawsuit. Any such employee to whom

counsel for the parties makes a disclosure shall be provided with a copy of, and become subject to, the provisions of this Order requiring that the documents and information be held in confidence.

(ii) Disclosure may be made only to employees of a party required in good faith to provide assistance in the conduct of the litigation in which the information was disclosed.

(iii) Disclosure may be made to court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents. Prior to disclosure to any such court reporter or person engaged in making photocopies of documents, such person must agree to be bound by the terms of this Order.

(iv) Disclosure may be made to consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of the lawsuit. Prior to disclosure to any expert, the expert must be informed of and agree in writing to be subject to the provisions of this Order requiring that the documents and information be held in confidence.

(e) Except as provided in subparagraph (d) above, counsel for the parties shall keep all documents designated as confidential which are received under this Order secure within their exclusive possession and shall take reasonable efforts to place such documents in a secure area.

(f) All copies, duplicates, extracts, summaries, or descriptions (hereinafter referred to collectively as "copies") of documents or information designated as confidential under this Order or any portion thereof, shall be immediately affixed with the word "CONFIDENTIAL" if that word does not already appear.

2. Confidential Information Filed with Court. To the extent that any materials subject to this Confidentiality Order (or any pleading, motion or memorandum referring to them) are proposed to be filed or are filed with the Court, those materials and papers, or any portion thereof which discloses confidential information, shall be filed under seal (by the filing party) with the Clerk of the Court in an envelope marked "SEALED PURSUANT TO ORDER OF COURT DATED \_\_\_\_\_", together with a simultaneous motion pursuant to L.R. 104.13(c) (hereinafter the "Interim Sealing Motion"). The Interim Sealing Motion shall be governed by L. R. 105.11. Even if the filing party believes that the materials subject to the Confidentiality Order are not properly classified as confidential, the filing party shall file the Interim Sealing Motion; provided, however, that the filing of the Interim Sealing Motion shall be wholly without prejudice to the filing party's rights under ¶4 of this Confidentiality Order.

3. Party Seeking Greater Protection Must Obtain Further Order. No information may be withheld from discovery on the ground that the material to be disclosed requires protection greater than that afforded by paragraph 1 of this Order unless the party claiming a need for greater protection moves for an order providing such special protection pursuant to Fed. R. Civ. P. 26(c).

4. Challenging Designation of Confidentiality. A designation of confidentiality may be challenged upon motion. The burden of proving the confidentiality of designated information remains with the party asserting such confidentiality.

5. Return of Confidential Material at Conclusion of Litigation. At the conclusion of the litigation, all material treated as confidential under this Order and not received in evidence shall be returned to the originating party. If the parties so stipulate, the material may be destroyed instead of being returned. The

Clerk of the Court may return to counsel for the parties, or destroy, any sealed material at the end of the litigation, including any appeals.

[SIGNATURES OF COUNSEL]

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UNITED STATES [DISTRICT] [MAGISTRATE] JUDGE

**ORDER SEALING PORTIONS OF THE COURT RECORD  
(Local Rule 105.11)**

Whereas, the parties have filed a Joint Motion seeking a Protective Order Sealing Portions of the Court Record (the “Joint Motion”);

Whereas, in the Joint Motion, the parties have “proposed reasons supported by specific factual representations to justify the [requested] sealing”, in accordance with L. R. 105.11;

Whereas, the parties have identified the following portion of the record as that portion which is subject to the Joint Motion [describe with particularity the portion to be sealed](the “Sealed Record”);

Whereas, the Court has considered the Joint Motion and any opposition thereto;

Whereas, the Court has not ruled on the Joint Motion for at least 14 days after it was entered on the public Court docket to permit the filing of objections by interested parties;

Whereas, the Court has considered any objections by interested parties, pursuant to L.R. 105.11;

Whereas, the parties have stated in the Joint Motion why alternatives to sealing would not provide sufficient protection;

Whereas, the Court finds and holds that alternatives to sealing would not provide sufficient protection;

Whereas, the Court finds and holds that sealing of a portion and/or portions of the record, specified herein, is appropriate;

Accordingly, it is this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the United States District Court for the District of Maryland, ORDERED:

1. That the Joint Motion for Protective Order Sealing Portions of the Record be, and the same hereby is, GRANTED, as specifically set forth herein;

2. That the Sealed Record (as defined above) be, and hereby is, PLACED UNDER SEAL by the Clerk of the Court and that the Sealed Record shall be placed in an envelope or other container which is marked “SEALED, SUBJECT TO ORDER OF COURT DATED \_\_\_\_\_.”

3. A copy of this Order shall be mailed to all counsel of record and to any other person entitled to notice hereof, and shall be docketed in the Court file.

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UNITED STATES [DISTRICT] [MAGISTRATE] JUDGE