UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

LOCAL RULES

JULY 1, 2016

(March 2018 Supplement)

Including

March 2018 Supplement: Expedited Amendments to Local Admiralty Rules (B) & (E)

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Rule 101. Counsel
1. Who May Appear as Counsel; Who May Appear Without Counsel

I. CIVIL

RULE 101. COUNSEL

1. Who May Appear as Counsel; Who May Appear Without Counsel

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. Individuals who are parties in civil cases may only 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. All parties other than individuals must be represented by counsel.

b) Pro Hac Vice

i) Generally. Except as provided in subsection (v) of this Rule, the Court may permit any attorney who is an active 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 is, and continuously remains, an active member in good standing of the Bar of this Court who shall sign all documents and, unless excused by the presiding judge, be present at any court proceedings.

ii) Certification Requirement. The Motion for Admission Pro Hac Vice shall include a certification as to the number of times the attorney has been admitted pro hac vice during the twelve (12) months immediately preceding the filing of the motion and identify any other active cases in this Court in which the attorney is admitted pro hac vice.

iii) Limitation. Admission pro hac vice is not a substitute for admission to the Bar of this Court, but rather is intended to facilitate occasional appearances only. Unless otherwise ordered for good cause shown, no attorney may be admitted pro hac vice in more than three (3) unrelated cases in any twelve (12) month period, nor may any attorney be admitted pro hac vice in more than three (3) active unrelated cases at any one time.

Rule 101. Counsel
1. Who May Appear as Counsel; Who May Appear Without Counsel

iv) Multi-District Litigation. Attorneys in multi-district litigation cases need not be members of this Court's Bar. Instead, an attorney may move for admission pro hac vice if the attorney is a member in good standing of the bar of any United States District Court. For purposes of this subsection only, attorneys requesting admission pro hac vice (1) are not required to have their admissions moved by an active member of this Court's Bar, (2) do not need another member of this Court's Bar to sign pleadings or enter appearances, and (3) are limited to practice in this Court in only the multi-district litigation proceeding.

v) Limitation on Maryland Attorneys. An attorney, who is an active member of the Maryland Bar or maintains any law office in Maryland, is ineligible for admission pro hac vice. For the purposes of this subsection, an attorney shall be deemed to maintain an office in Maryland if a Maryland address is used by that attorney on any document filed in this Court for purposes of satisfying L.R. 102.1.b. However, if an attorney is a member of a law firm having offices in multiple jurisdictions, an attorney who is a member of such a firm shall not be deemed to maintain a law office in Maryland if that attorney does not maintain a regular physical presence in the Maryland office of the firm. Failure of an attorney to satisfy this continuing requirement may result in the revocation of the attorney's pro hac vice admission.

c) Appearance for Obtaining Deposition Subpoenas

Unless otherwise ordered by the Court, it shall not be necessary for counsel to be admitted to the Bar of this Court in order to participate in proceedings to enforce or to quash any subpoena as provided by Fed. R. Civ. P. 45. However, an attorney exempted by this Rule from the requirement of being admitted to the Bar of this Court is subject to the disciplinary jurisdiction of this Court.

d) Duty to Avoid Scheduling 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.

Rule 101. Counsel
2. Withdrawal of Appearance

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 seven (7) 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 without counsel 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 seven (7) 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 (30) 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.

c) Automatic Termination of Appearance

When no appeal has been taken from a final judgment, and upon the resolution of any post-judgment motion or matter under L.R. 109, the appearance of an attorney is automatically deemed terminated upon the expiration of the appeal period, unless otherwise ordered by the Court. If an appeal is taken, the appearance of the attorney is automatically deemed terminated ninety (90) days after the issuance of a mandate of the court of appeals.

Rule 102. General Filing and Service Requirements
1. Signatures, Identifying Information, and Proof of Service

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 Without Counsel. When a party is appearing without counsel, 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 self-represented 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. Upon inquiry, all parties appearing without counsel must disclose the identity of any individual who has prepared, or assisted in preparing, any documents filed in this Court

b) Identifying Information

i) Required on All Court Documents. At the bottom of all court documents, counsel and self-represented litigants shall state their name, address, telephone number, email 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 email 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 Self-Represented Litigants to Keep Current Address on File. Self-represented litigants must file with the Clerk in every case which they have pending a statement of their current address where case-related papers may be served. This obligation is continuing, and if any self-represented litigant fails to comply, 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.

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c) Proof of Service

Except as provided for in Rules 112.1 and 112.2, all court documents other than the original complaint must bear a signed 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 only permitted in accordance with the policies and procedures established by the Court. Electronic filing includes submission by email or by portable electronic media (e.g., disk, flash drive).

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

All documents filed with the Court shall not exceed 8 1/2" x 11", with a one-inch margin on all sides. Lines of text for all documents, including correspondence, 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 in at least 12-point font size.

c) Legibility

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

3. Issuance of Subpoenas in Self-Represented Cases

The Clerk shall not issue any subpoena under Fed. R. Civ. P. 45(a)(3) to any self-represented litigant 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, or is otherwise inconsistent with the requirements of Fed. R. Civ. P. 26 and 45(d).

4. Interdivisional Filing

Unless otherwise ordered by the Court, if a case designated to one division under L.R. 501 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.

5. Electronic Orders and Documents

a) Entry

The electronic filing by a judge or the Clerk of any order, decree, judgment, proceeding, or other documents shall constitute entry of that document on the docket maintained by the Clerk as well as notice to and service upon registered parties in the case under the federal rules of procedure. Pursuant to Fed. R. Civ. P. 79 and Fed. R. Crim. P. 55, documents filed under this method are deemed to be the official court record maintained by the Clerk.

b) Signatures

Orders and documents issued by either a judge or the Clerk may be signed either with an original signature or an electronic signature as defined by the policies and procedures established by the Court for electronic filing. Any order or document filed electronically without the original signature of the judge or the Clerk has the same force and effect as if the judge or the Clerk had signed a paper copy of the order or document.

c) Paperless Orders

At the discretion of the presiding judge or the Clerk, an order may be entered by having a text-only entry made on the docket. Such orders shall have the same force and effect as any other order.

Rule 103. Institution of Suit and Pleadings
1. Civil Cover Sheet/Extra Copies of Complaint/Designation of Related Cases

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 (2) 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 (1) 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.

Rule 103. Institution of Suit and Pleadings
2. Process

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 (1) 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 (5) copies of the summons should be submitted; (b) four (4) copies of a warrant for arrest or summons with process of maritime attachment and garnishment for tangible property or two (2) copies of such documents for intangible property; and (c) two (2) 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 (2) 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 (6) copies of the summons should be submitted; (b) five (5) copies of a warrant for arrest or summons with process of maritime attachment and garnishment for tangible property or two (2) copies of such documents for intangible property; and (c) three (3) 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.

d) Issuance of Summons in Self-Represented Cases

To ensure a summons is "properly completed" under Fed. R. Civ. P. 4(b), the Clerk shall not issue a summons to any self-represented litigant without first obtaining an order from the Court authorizing issuance of the summons.

3. Disclosure of Affiliations and Financial Interest

When filing an initial pleading, including the removal of a state action, 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. The identity of all members of any party that is a business entity established under state law, other than a corporation; and in cases based on diversity jurisdiction, the state of citizenship of each member.

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 thirty (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 (14) 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 (14) days of the date of removal, whichever is earlier.

c) Disclosure of Affiliations and Financial Interest

Within seven (7) days after the filing of a notice of removal, all parties shall make the disclosures required by L.R. 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 ninety (90) 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 (14) 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 (9) 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 (14) 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 (1) time or cumulatively, more than thirty (30) requests for production, or more than thirty (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 (1) matter does not justify delay in taking any other discovery.

4. Conference of Counsel and Commencement of Discovery

Unless otherwise ordered by the Court or agreed upon by the parties, the conference of counsel required by Fed. R. Civ. P. 26(f) need not take place and 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 (30) 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 (14) days thereafter. The moving party shall serve any reply memorandum within fourteen (14) days thereafter. The parties shall serve motions and memoranda under L.R. 104.8 in accordance with Fed. R. Civ. P. 5(a) and shall not serve them through the Court's electronic filing system nor file with the Court notices of service of the motion and memoranda.

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 served. 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 the certificate required by L.R. 104.7, and shall append thereto a copy of the motion and memoranda previously served by the parties under L.R. 104.8.a.

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 (2) copies of its motion and memorandum concerning the motion to compel and three (3) 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 disclose the subject matter on which the witness is expected to present evidence under Fed. R. Evid. 702, 703, or 705, as well as a summary of the facts and opinions to which the hybrid fact/expert witness is expected to testify, pursuant to Fed. R. Civ. P. 26(a)(2)(C). In addition, 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)(E)

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 $325 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.

14. Stipulated Order Regarding Non-Waiver of Attorney-Client Privilege and Work Product Protection

Counsel should be familiar with, and should consider the applicability and propriety of entering into and submitting for the Court's approval and entry, the Stipulated Order Regarding Non-Waiver of Attorney-Client Privilege and Work Product Protection that is included in Appendix D.

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 (1) copy of all motions and memoranda shall be filed, except that two (2) 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 (14) days of the service of the motion and any reply memoranda within fourteen (14) 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 (2) 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 thirty-five (35) pages, and reply memoranda shall not exceed twenty (20) 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 (25) pages in length.

5. Appendix of Exhibits

If any motion, memorandum, or brief is accompanied by more than five (5) 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. 50, 52, 59, or 60, any motion to reconsider any order issued by the Court shall be filed with the Clerk not later than fourteen (14) 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 fourteen (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.

Rule 106. Pretrial Procedure
2. Contents of Pretrial Order

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 fourteen (14) 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 seven (7) 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 seven (7) 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 (1) 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 (1) 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 (1) 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 (2) 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 (1) 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 (1) 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 (1) 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 (1) 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

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.

Rule 108. Judgments
1. Judgment by Confession

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 (14) 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 (14) days of the issuance of the mandate by the Court of Appeals or, in the event of review by the Supreme Court, within fourteen (14) 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 (14) days of the entry of judgment. The memorandum required by L.R. 109.2.b must be filed within thirty-five (35) 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 (14) days of the issuance of the mandate of the Court of Appeals. Any opposition to the motion shall be filed within fourteen (14) 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. If the Rules and Guidelines for Determining Attorneys' Fees in Certain Cases contained in Appendix B to these Rules are applicable, any motion for attorneys' fees also shall be prepared in accordance with such Rules and Guidelines.

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 with the following exception and additions: (i) the motion must be filed within thirty (30) days of the date of the Notice of Award letter sent to the claimant and the attorney at the conclusion of the Social Security Administration's past-due benefit calculation and (ii) the motion may not seek any award of fees for representation of the claimant in administrative proceedings.

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 Petitions

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.

f) Filing

All communications shall be directed to and filed with the Clerk. At the time of filing a petition or motion under 28 U.S.C. § 2241, 28 U.S.C. § 2254, or 28 U.S.C. § 2255, self-represented prisoners must provide the Clerk's Office with one service copy of the petition or motion.

g) Service

All court documents—other than the original petition or motion—filed by self-represented prisoners under 28 U.S.C. § 2241, 28 U.S.C. § 2254, or 28 U.S.C. § 2255 are deemed "filed electronically" for L.R. 102.1.c purposes at the time the documents are electronically docketed by the Clerk's Office. For any response to a document filed electronically under this paragraph, any deadline for filing a response will be calculated from the date the document is electronically docketed by the Clerk's Office.

2. Prisoner Civil Rights Actions

a) Forms

All self-represented 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. At the time of filing the complaint, self-represented prisoners must provide the Clerk's Office with a service copy of the complaint as to each defendant.

c) Service

i) As to all defendants represented by counsel, all court documents—other than the original complaint—filed by self-represented prisoners in civil rights actions are deemed "filed electronically" for L.R. 102.1.c purposes at the time the documents are electronically docketed by the Clerk's Office. For any response to a document filed electronically under this paragraph, any deadline for filing a response will be calculated from the date the document is electronically docketed by the Clerk's Office.

ii) As to all defendants not represented by counsel, self-represented prisoners are responsible for serving a copy of all documents filed with the Court upon a defendant in accordance with Fed. R. Civ. P. 5. Self-represented prisoners are solely responsible both for determining which defendants are represented and for ensuring unrepresented defendants are served with a copy of any document filed with the Court.

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 Rule 101.b.iv for moving for admission pro hac vice. Parties in multi-district litigation cases need not have counsel who have 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 (30) 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 (30) 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

A defendant in a criminal case may be represented by (1) a member of the Bar of this Court or (2) an attorney who certifies that he or she is (a) a member in good standing of the bar of the highest court of any state or the District of Columbia and (b) familiar with Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, and the Local Rules of this Court.

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, except as provided by L.R. 101.2.c.

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
3. Pretrial

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. Marshals Service, 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 fourteen (14) 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 fourteen (14) 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, 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) Disclosure of Probation Officer's Recommendations

Unless otherwise ordered by the presiding judge, the probation officer shall disclose any recommendations on sentence to the defendant, the defendant's counsel, and the counsel for the United States. Any disclosures under this subsection shall not be placed in the public record, shall remain confidential internal court documents, and shall not be disclosed outside of the Court except as provided by L.R. 213.

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 L.R. 301.5.b below. Nondispositive pretrial matters include, but are not limited to, discovery disputes and pretrial orders under Fed. R. Civ. P. 16.

Rule 301. Authority of United States Magistrate Judges
5. Authority Under 28 U.S.C. § 636(b)

Any objection to a magistrate judge's order must be served and filed within fourteen (14) days after service 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 fourteen (14) 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.

Rule 301. Authority of United States Magistrate Judges
6. Other Duties

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.

Rule 301. Authority of United States Magistrate Judges
6. Other Duties

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.

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6. Other Duties

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 fourteen (14) 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 thirty (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 thirty (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 (1) 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. The Chief Magistrate Judge, or a person designated by the Chief Magistrate Judge, is authorized to reassign from one magistrate judge to another matters originally assigned by a district judge to a magistrate judge pursuant to L.R. 301 and 28 U.S.C. § 636.

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 (1) of a number of multiple offenses, and any one (1) 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.

Rule 304. Forfeiture of Collateral
1. General Provisions

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 U.S. Courts – CVB, P.O. Box 71363, Philadelphia, PA 19176-1363, 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 a 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)

Rule 304. Forfeiture of Collateral
1. General Provisions

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 (1) offense. If an alleged offender is deemed to have committed more than one (1) 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

Rule 304. Forfeiture of Collateral
1. General Provisions

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 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 8009

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 8009, 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 8009 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 8018

Whenever the appellant fails to serve and file a brief within the time required by Bankruptcy Rule 8018, 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 8007, 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 L.R. 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 fourteen (14) days before the date scheduled for the first hearing on the merits and,

i) in the case of an adversary proceeding, within twenty-one (21) 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-one (21) 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.

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. P. 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 (AO Form JS-44) 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 fourteen (14) 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 fourteen (14) 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

This Rule governs the assignment of cases to judges of the Court and among the two (2) divisions of the Court. It is a rule of administrative convenience, and it is not intended to, nor does it, confer any rights upon any litigant. Notwithstanding the provisions of this Rule, the Court may assign a case to a judge in a division other than the one specified in this Rule.

All cases will be assigned to one (1) of the judges of the Court. With the exception of 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

A case removed from a state tribunal shall be assigned to one (1) of the judges sitting in the division of the Court in which the state tribunal is located.

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

Other civil cases shall be assigned in accordance with the provisions set forth in this paragraph, with priority accorded to the first provision that may be applicable. Any questions about a particular assignment shall be decided by the Court.

a) Cases Involving Government Agencies

i) A case in which a Maryland local government or agency is a party shall be assigned to a judge sitting in the division of the Court in which the principal office of the local government or agency is located.

ii) A case in which the United States, the State of Maryland, or one of their agencies and a non-governmental entity or individual residing in Maryland are opposing parties shall be assigned to a judge sitting in the division of the Court in which the non-governmental party resides.

b) Cases Involving Maryland Residents

i) A case in which all of the Maryland parties reside in the same division (a corporation's residence shall be its principal place of business in Maryland) shall be assigned to a judge sitting in that division.

ii) A case in which the Maryland parties reside in different divisions of the Court shall be assigned to a judge sitting in the division where a majority of the Maryland parties reside, but if there is not a majority resident in either division, then the case shall be assigned to a judge sitting in the division of the Court in which the events described in the Complaint took place.

iii) A class action shall be assigned to a judge sitting in the division of the Court where a majority of the named plaintiffs reside, but if there is not a majority resident in either division, then the case shall be assigned to a judge sitting in the division of the Court in which the events described in the Complaint took place.

c) Cases in Which No Party Resides in Maryland

A case in which no party is a resident of Maryland shall be assigned to a judge sitting in the division in which the events described in the Complaint took place.

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. Marshals Service, 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.

Rule 506. Photographing and Recording Court Proceedings and Courthouse Spaces
3. Penalties

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 district 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 (1) 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 five (5) years, or six (6) years if the funds represent the unclaimed wages or proceeds from the sale of the unclaimed effects of a deceased seaman, 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

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. § 1342 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' staff, 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.

3. "Affidavit"

For purposes of these Rules, "affidavit" means either (1) a sworn statement the contents of which are affirmed under the penalties of perjury to be true or (2) an unsworn declaration as provided under 28 U.S.C. § 1746. Unless the applicable rule expressly requires the affidavit to be made on personal knowledge, the statement may be made to the best of the affiant's knowledge, information, and belief.

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 and Admissions Committee of the Court for appropriate action the name of any attorney against whom more than two (2) fines have been imposed within five (5) 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 any other 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 (3) 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 ninety (90) days prior to the proposed effective date, the Court will cause to be published on the Court's website 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 (30) 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. Expedited Procedure

When the Court determines that there is an immediate need to implement either a new rule or an amendment to an existing rule, including a technical, clarifying, or conforming amendment, the Court may adopt the rule or amendment without complying with the procedure set forth in L.R. 605.1. If such a rule or amendment 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.

Rule 701. Admission
1. Qualifications

VII. ATTORNEY ADMISSION, ASSISTANCE, AND DISCIPLINE

RULE 701. ADMISSION

1. Qualifications

a) General

Except as provided in subsections (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, an active 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 Maryland Lawyers' Rules of Professional Conduct, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, the Federal Rules of Appellate Procedure, and these Local Rules; is (to the extent relevant to his or her area(s) of practice) familiar with the Federal Rules of Criminal Procedure, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy 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 an active 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 the attorney is, or becomes, a member of the bar of the United States District Court for the district in which the attorney maintains his or her principal law office if that district court 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.

Rule 701. Admission
1. Qualifications

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. For the purposes of this subsection, an attorney shall be deemed to maintain an office in Maryland if a Maryland address is used by that attorney on any document filed in this Court for purposes of satisfying L.R. 102.1.b. However, if an attorney is a member of a law firm having offices in multiple jurisdictions, an attorney who is a member of such a firm shall not be deemed to maintain a law office in Maryland if that attorney does not maintain a regular physical presence in the Maryland office of the firm. Failure of an attorney to satisfy this continuing requirement may result in the attorney either being moved to ineligible status or subjected to expedited remedial action as provided for in L.R. 705.1.i.

e) Principal Office

The term "principal law office" as used in this Rule means "the chief or main office in which an attorney usually devotes a substantial period of his or her time to the practice of law during ordinary business hours in the traditional work week." In determining whether an office is the "principal law office," the Court shall consider the following non-exclusive factors:

i. The attorney's representations of his or her "principal law office" or "law office" for purposes of malpractice insurance coverage, tax obligations, and client security trust fund obligations.

ii. The address utilized in pleadings, correspondence with clients, applications for malpractice insurance and bar admissions, advertising, letterhead, and other business matters.

iii. The location of meetings with clients, conduct of depositions, research, and employment of support staff and associates.

iv. Location of client files, accounting records, and other business records, library and communication facilities such as telephone and fax service.

v. Whether the attorney has other offices, their locations and their relative utilization.

vi. The laws under which the law practice is organized, such as the place of incorporation.

Rule 701. Admission
2. Procedure

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 (1) 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 thirty (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 changed to inactive status.

c) Request to Resign or Withdraw an Application for Admission

i) Request. A request to resign from, or to withdraw an initial or renewal application for admission to, the practice of law in this Court shall be submitted in writing under oath. The request shall state that the resignation or request to withdraw an original or renewal application is not being offered to avoid disciplinary action and that the attorney has no knowledge of any pending investigation, action, or proceedings in any jurisdiction involving allegations of professional misconduct by the attorney or the commission of a crime.

ii) When Attorney May Not Resign or Withdraw an Application for Admission. An attorney may not resign or withdraw an original or renewal application for admission while the attorney is the subject of a disciplinary investigation, action, or proceeding involving allegations of professional misconduct or the commission of a crime. A request to resign or to withdraw an original or renewal application does not prevent or stay any disciplinary action or proceeding against the attorney.

iii) Procedure. Upon receiving a copy of the request submitted in accordance with section (c)(i) of this Rule, the Disciplinary and Admissions Committee shall investigate the request and submit a recommendation to the full bench of the Court.

iv) Order of the Court. After considering the recommendation of the Disciplinary and Admissions Committee, the Court shall enter an order accepting or denying the resignation or request to withdraw an application. A resignation or withdrawal of an application is effective only upon entry of an order approving it.

v) Duty of Clerk. When the Court enters an order accepting an attorney's resignation or permitting the withdrawal of an application, the Clerk of the Court shall strike the name of the attorney from the register of attorneys in this Court.

vi) Effect of Resignation or Withdrawal of Application for Admission. An attorney may not practice law in this Court after entry of an order accepting the attorney's resignation or permitting the withdrawal of an application.

vii) Motion to Vacate. After notice and opportunity to be heard, the Court may, at any time, vacate or modify the order in case of intrinsic or extrinsic fraud.

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 email address, irrespective of any changes noted on a pleading or other document.

4. Confidentiality of Attorney Records

No information contained in any bar admission application, renewal application, or an attorney's administrative or disciplinary record may be released by the Clerk of this Court except by the order of the Chair of the Disciplinary and Admissions Committee of the Court or the presiding judge in a pending case, in consultation with the Committee Chair for requests for administrative records and in consultation with the full bench in cases of disciplinary files. However, the Clerk of Court may provide an attorney with a copy of that attorney's previously submitted bar admission or renewal application upon request, including confirming the contents of these documents.

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 bankruptcy judge, 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 (2) 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 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 (12) 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. Attorney Misconduct

a) Allegations of Misconduct

If allegations of misconduct which, if substantiated, would warrant discipline of an attorney, come to the attention of a judge of this Court, the judge may refer the matter to the Court's Disciplinary and Admissions Committee. Upon referral, the Disciplinary and Admissions Committee may either (1) conduct its own investigation or (2) it may decline to take action and instead refer the matter to either the Maryland Attorney Grievance Commission, or the state bar authority serving as the basis for the attorney-respondent's membership in this Court's Bar. If after its initial review, the Disciplinary and Admissions Committee finds that further investigation is necessary, it may recommend to the Court the appointment of an attorney-investigator as provided for in L.R. 705.1.b. If the Disciplinary and Admissions Committee finds no reasonable basis for additional investigation, it may recommend to the Court either (1) the initiation of formal proceedings under L.R. 705.1.c or (2) the imposition of a warning, conditional diversion agreement, or additional conditions as permitted by L.R. 705.1.h. If the Disciplinary and Admissions Committee finds no basis for discipline, it may dismiss the matter and advise the attorney-respondent by letter.

Rule 705. Disciplinary Proceedings
1. Attorney Misconduct

b) Appointment of Attorney-Investigator

The Court, upon the recommendation of the Disciplinary and Admissions Committee, may appoint one or more members of the Bar of the Court as attorney-investigators to conduct the investigation. Notice of any such appointment shall be given to the attorney-respondent, and the attorney-respondent may move to disqualify any appointed attorney-investigator within fourteen (14) days of mailing the notice of appointment to the attorney-respondent's address on file with the Clerk's Office. After the conclusion of the investigation, the attorney-investigator(s) shall submit to the Disciplinary and Admissions Committee a report and recommendation that a formal proceeding be held or that the matter be disposed of by dismissal, warning, deferral, or otherwise. Upon review of the attorney-investigator's report and recommendation, the Disciplinary and Admissions Committee shall recommend to the Court whether to (1) initiate formal proceedings under L.R. 705.1.c; (2) impose a warning, conditional diversion agreement, or additional conditions as permitted by L.R. 705.1.h.; or (3) dismiss the matter and advise the attorney-respondent and attorney-investigator by letter.

c) Initiation of Formal Proceedings

If formal disciplinary proceedings are to be initiated, the Court shall issue an order requiring the attorney-respondent to show cause within thirty (30) days after service of the order why the attorney-respondent should not be disciplined. A copy of the attorney-investigator's report and recommendation shall accompany the show cause order. A copy of any exhibits to the report and recommendation shall be made available to the attorney-respondent upon request.

d) Disciplinary Hearing

If the attorney-respondent's answer to the show cause order raises any issue of material fact to which the attorney-respondent wishes to be heard or if the attorney-respondent wishes to be heard in mitigation, a disciplinary hearing shall be held and, insofar as possible and necessary, the attorney-investigator may be assigned to prosecute the case. If no attorney-investigator has been previously appointed in this matter, and an attorney-investigator is necessary in this case, the Court will appoint an attorney-investigator as provided by L.R. 705.1.b.

e) Recommendation and Final Action

i) Following the disciplinary hearing, the presiding judge or panel of judges shall prepare a report and recommendation of appropriate remedy and/or sanction as provided in L.R. 705.1.h for consideration by the Disciplinary and Admissions Committee. The Disciplinary and Admissions Committee shall then recommend final action on the disciplinary matter for

Rule 705. Disciplinary Proceedings
1. Attorney Misconduct

consideration by the Court. The Court will determine final action in the matter, and the Chief Judge will issue an appropriate order on behalf of the Court.

ii) If no hearing is held, the Disciplinary and Admissions Committee shall recommend an appropriate remedy and/or sanction to the Court, as provided in L.R. 705.1.h. The Court will review the Committee's recommendation and determine final action in the matter. The Chief Judge will then issue an appropriate order on behalf of the Court.

f) Confidentiality

Proceedings under L.R. 705.1 shall be confidential unless otherwise ordered in a final order in a disciplinary proceeding, except that any opinion and order entered by the Court disbarring, suspending, or publicly reprimanding an attorney-respondent shall be placed on the public record, along with any panel's report and recommendation and exhibits, but only if said exhibits are expressly incorporated into the final order. An attorney-investigator's report and supporting materials shall not be publicly disclosed without prior approval by the Disciplinary and Admissions Committee.

g) Disbarment by Consent While Under Disciplinary Investigation or Prosecution

i) An attorney-respondent may consent to disbarment while a disciplinary investigation or proceeding is pending against that attorney by delivering to the Clerk an affidavit stating that the attorney-respondent desires to consent to disbarment and that: (1) the attorney-respondent's consent is freely and voluntarily rendered; (2) the attorney-respondent is not being subjected to coercion or duress; (3) the attorney-respondent is fully aware of the implications of so consenting; (4) the attorney-respondent is aware that there is presently pending an investigation or proceeding involving allegations that there exists grounds for the attorney-respondent's discipline, the nature of which the attorney-respondent shall specifically set forth; (5) the attorney-respondent acknowledges that the material facts so alleged are true, unless such acknowledgment would involve the admission of a crime; and (6) the attorney-respondent so consents because the attorney-respondent knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney-respondent could not provide a sufficient defense.

ii) Upon receipt of the required affidavit, the Clerk shall promptly refer the affidavit to the Disciplinary and Admissions Committee to review the petition and to determine if a hearing is necessary. If the Disciplinary and Admissions Committee finds good cause that disbarment by consent is appropriate without a hearing, the Court shall enter an order disbarring the attorney-respondent.

iii) The order disbarring the attorney-respondent by consent, and the required affidavit, shall be a matter of public record.

Rule 705. Disciplinary Proceedings
1. Attorney Misconduct

h) Available Sanctions and Remedies for Misconduct

i) Regardless of an attorney-respondent's consent to the sanction, the Court may impose upon the attorney-respondent the following sanctions: disbarment, suspension, or public or private reprimand for professional conduct.

ii) At any point in a disciplinary proceeding, the Court may, upon recommendation of the Disciplinary and Admissions Committee, choose to terminate the disciplinary proceeding and either issue a warning or authorize entering into a conditional diversion agreement with the attorney-respondent. Neither a warning nor a conditional diversion agreement constitutes discipline by this Court.

iii) Regardless of an attorney-respondent's consent, the Court may impose one or more of the following conditions on an attorney-respondent in lieu of, or in addition to, either disciplinary sanctions, a warning, or a conditional diversion agreement: (1) demonstration through the report of a health care professional or other proper evidence that the attorney-respondent is mentally and physically competent to resume the practice of law; (2) engagement of an attorney who is satisfactory to the Disciplinary and Admissions Committee to monitor an attorney-respondent's legal practice; (3) proof that former clients have been reimbursed for any part of fees paid in advance for legal services not completed; (4) satisfaction of any judgment providing reimbursement for any claim that arose out of the attorney-respondent's practice of law; (5) restitution to any client of any sum found to be due to the client; (6) limitations on the nature or extent of the attorney-respondent's future practice of law in this Court; (7) payment of costs assessed by the Court; (8) issuance of an apology; or (9) participation in a program tailored to individual circumstances that provides the attorney-respondent with law office management assistance, lawyer assistance, treatment for alcohol or substance abuse, psychological counseling, or specified courses in legal ethics, professional responsibility, or continuing education. For good cause shown, the Court may impose additional reasonable conditions not explicitly provided for in this paragraph.

iv) The Court retains the authority to require an attorney-respondent to perform conditions, even if the attorney-respondent has not been formally disciplined, if it appears that the conditions would benefit the attorney-respondent's practice and possibly prevent foreseeable acts that may warrant discipline.

v) Any conditions this Court imposes on an attorney-respondent shall not constitute reportable disciplinary sanctions unless ordered by the Court or accompanied by a sanction of disbarment, suspension, or public reprimand.

Rule 705. Disciplinary Proceedings
1. Attorney Misconduct

i) Expedited Disciplinary or Remedial Action

i) Upon receipt of information that an active member of the Bar is engaging in professional misconduct and poses an immediate threat of causing (1) death or substantial bodily harm to another; (2) substantial injury to the financial interest or property of another; or (3) substantial harm to the administration of justice, including a failure to respond to disciplinary investigation-related inquiries or court orders, the Disciplinary and Admissions Committee may recommend the Court immediately suspend the attorney-respondent pending a disciplinary investigation under L.R. 705.1.

ii) If the Court accepts the Disciplinary and Admissions Committee's recommendation, then the Court shall issue an order (1) immediately suspending the attorney-respondent's membership in the Bar pending an investigation under L.R. 705.1 and (2) giving the attorney-respondent thirty (30) days to show cause why the suspension should not continue until the Court issues a final order in the disciplinary proceeding.

iii) If the attorney-respondent does not file a timely response to the initial suspension order, then the suspension shall continue until the Court issues a final order in the disciplinary proceeding.

iv) If the attorney-respondent files a timely response, the Disciplinary and Admissions Committee shall recommend to the Court whether the suspension shall continue through the end of the disciplinary proceeding. The Court shall then issue an order either terminating the suspension or reinstating or continuing the suspension of the attorney-respondent pending completion of the disciplinary proceeding.

j) Referrals and Complaints from Outside the Court

i) Upon receipt of a complaint from the public, a current or former litigant, or Maryland Bar Counsel (or a similar state bar authority if located outside of the District) concerning alleged incapacity or professional misconduct in this Court by an active member of this Court's Bar, the Chair of the Disciplinary and Admissions Committee shall make an initial investigation and ensure that the complaint is not facially frivolous or unfounded. In evaluating the complaint, the Chair of the Disciplinary and Admissions Committee may contact the attorney-respondent and obtain an informal response to the allegations, as well as contact the complainant for additional information.

ii) If the Chair of the Disciplinary and Admissions Committee concludes that the complaint is either frivolous, unfounded, or fails to allege facts which, if true, would demonstrate either professional misconduct or incapacity, the Chair may dismiss the complaint and notify the complainant, the attorney named in the complaint, state bar authority, and the Disciplinary and Admissions Committee of the dismissal. Otherwise, the Chair shall refer the complaint to the Disciplinary and Admissions Committee for further

review and investigation as provided under L.R. 705.1.a. The Chair shall also advise the referring state bar authority of the referral to the Disciplinary and Admissions Committee.

iii) Nothing in this subsection shall permit the Chair of the Disciplinary and Admissions Committee to dismiss a Committee referral by a judge of this Court without the referring judge's consent. Any referral by a judge of this Court shall be referred for investigation as provided under L.R. 705.1.a.

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 finding of guilt or 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 receipt of a finding of guilt or certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been found guilty or convicted of a serious crime in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States, the Court shall enter an order immediately suspending the attorney, whether the finding of guilt or 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 direct the attorney-respondent to show cause within thirty (30) days why disbarment or some lesser punishment should not be imposed. A copy of such order shall immediately be served upon the attorney-respondent.

iii) Imposition of Discipline. After the show cause period has ended, the Court's Disciplinary and Admissions Committee will review the finding of guilt or conviction, as well as any response. If the attorney-respondent's response includes a request for a hearing, the matter shall be assigned for a prompt hearing as provided for in L.R. 705.1.d. Absent such a request, the Disciplinary and Admissions Committee may (a) appoint an attorney-investigator pursuant to L.R. 705.1.b; (b) conduct a disciplinary hearing pursuant to L.R. 705.1.d; or (c) recommend final action to the full bench, which may include any disciplinary sanction or condition available under L.R. 705.1.h.

iv) Lifting of Discipline. In the event that an attorney-respondent's underlying finding of guilt or conviction is reversed or vacated and that attorney-respondent has had imposed disciplinary sanction or condition imposed under the provisions of this Rule, the attorney-respondent will not be reinstated immediately but must apply for reinstatement under L.R. 705.4.

v) Attorney's Duty to Disclose. Upon a finding of guilt or conviction of a serious crime in any court of the United States or the District of Columbia, or in a court of any state, territory, commonwealth, or possession of the United States, any attorney admitted to practice before this Court shall promptly inform the Clerk of such finding of guilt or conviction and provide a copy of the finding, conviction, or order within thirty (30) days after the entry thereof.

b) Other Crimes

The Disciplinary and Admissions Committee may, pursuant to L.R. 705.1, initiate a disciplinary proceeding against 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

Upon being subjected to public discipline or being enjoined from the practice of law 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, any attorney admitted to practice before this Court shall promptly inform the Clerk of such action and provide a copy of the order or document imposing discipline within thirty days (30) after the imposition of discipline.

Rule 705. Disciplinary Proceedings
3. Discipline Imposed by Other Courts

b) Notification to Attorney

Upon the receipt of a copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disbarred, suspended, publicly reprimanded, or enjoined from the practice of law by another court, this Court shall forthwith issue a notice directed to the attorney-respondent containing:

i. a copy of the judgment or order from the other court;

ii. an order immediately suspending the attorney-respondent, in the event the discipline imposed by the other court consists of suspension or disbarment, or an order enjoining the attorney-respondent from the practice before this Court, in the event the attorney-respondent has been enjoined from the practice of law; and

iii. an order directing the attorney-respondent to show cause within thirty (30) days after service of the order why identical action by this Court would be unwarranted.

c) Stay

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

d) Imposition of Identical Discipline

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

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

ii. 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. the imposition of the same discipline by this Court would result in grave injustice; or

iv. the misconduct established is deemed by this Court to warrant substantially different discipline or injunctive action.

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

e) Treatment of Disciplinary Sanctions in Other Jurisdictions

For the purposes of this subsection, this Court shall treat public censures imposed by another bar authority as identical to a public reprimand imposed by this Court. This Court shall not impose reciprocal discipline for another bar authority's imposition of any level of discipline other than disbarment, suspension, or public reprimand.

4. Reinstatement

a) When Court Order Required

An attorney suspended for ninety (90) days 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 ninety (90) days or disbarred may not resume practice until reinstated by order of this Court, pursuant to a petition for reinstatement filed by the suspended attorney.

b) Time of Application Following Disbarment

An attorney who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of the disbarment.

Rule 705. Disciplinary Proceedings
4. Reinstatement

c) Hearing on Application

i) Petitions for reinstatement by a disbarred or suspended attorney shall be filed with the Clerk. Upon receipt of the petition, the Clerk shall promptly refer the petition to the Court's Disciplinary and Admissions Committee for review and determination whether a hearing is necessary. If the Disciplinary and Admissions Committee finds good cause that reinstatement is appropriate without a hearing, then the Court, if in agreement, may grant the petition for reinstatement.

ii) Otherwise, the Chief Judge shall assign the matter for prompt hearing. The judge or judges assigned to the matter shall, within thirty (30) days after referral, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence the petitioner has the moral qualifications, competency, and learning in the law required for admission to practice law before this Court and the petitioner's 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 Attorney-Investigator

The Court may, pursuant to L.R. 705.1.b, appoint an attorney-investigator 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 the order may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment, or upon any of the conditions identified in L.R. 705.1.h. If the petitioner has been suspended or disbarred for five (5) 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 petitioner'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 (1) 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 this Court has either criminally convicted, disbarred, suspended, or publicly reprimanded an active member of this Court's Bar, and the attorney is an active member of the bar of any other jurisdiction or court, the Clerk shall, within fourteen (14) days of the conviction, disbarment, suspension, or public reprimand, transmit to the disciplinary authority in such other jurisdiction or court, a certificate of the conviction or a certified copy of the judgment or order of disbarment, suspension, or public reprimand, as well as to the last known office and residence addresses of the defendant or respondent. This provision shall not apply to discipline imposed under L.R. 705.3 when this Court only imposes discipline identical to the discipline imposed by another court or bar authority.

b) To the American Bar Association

Unless otherwise directed in a final order of the Court, the Clerk shall promptly notify the National Lawyer Regulatory Data Bank operated by the American Bar Association of any order disbarring, suspending, or publicly reprimanding any attorney-respondent admitted to practice before this Court.

6. Definitions

a) "Court"

For purposes of L.R. 705, whenever an action or order is issued or taken by "the Court," the action or order shall first be reviewed and approved by a majority of the district judges, present and voting, sitting en banc. Any subsequent order shall be signed by the Chief Judge on behalf of the Court.

b) "Judge" and "Clerk"

For purposes of L.R. 705, "judge" includes district judges, magistrate judges, and bankruptcy judges of this Court, and "Clerk" includes the Clerk of Court and any deputy clerk of the District Court.

c) "Hearing"

Whenever a hearing is required under L.R. 705 or otherwise authorized by the Court in connection with an attorney's application for membership or continued membership in this Court's Bar, the hearing shall be before one (1) or more judges of the Court. If the hearing is predicated upon the complaint of a judge of this Court, the hearing shall be conducted before a panel of three (3) other judges of this Court appointed by the Chief Judge or, if there are less than three (3) 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. At least one district judge shall serve on each panel.

d) "Attorney-Respondent"

For purposes of L.R. 705, the term "attorney-respondent" shall refer to any attorney referred to the Disciplinary and Admissions Committee or otherwise subject to a pending investigation or disciplinary sanction.

e) Service of Papers on Attorney-Respondent

Unless otherwise ordered, the Clerk shall serve all orders initiating a case under L.R. 705 to an attorney-respondent by certified mail at the attorney-respondent's last known address on file with the Clerk's Office. All subsequent orders and papers shall be served by regular mail either to the attorney-respondent's address most recently stated in a document filed by the attorney-respondent in the case, or to the attorney-respondent's last known address on file with the Clerk's Office. Service in all cases is complete upon mailing consistent with this subsection. In the event counsel represents an attorney-respondent, service will be made on the attorney-respondent as well as counsel.

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. PATENTS

RULE 801. SCOPE

Unless otherwise ordered by the Court, these Rules apply to all civil actions filed in or transferred to this Court in which one or more parties (a) assert claims of patent infringement; (b) seek a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable; (c) seek an order pursuant to 35 U.S.C. § 256 directing the Director of Patents of the United States Patent Office to issue a certificate to correct an error regarding the identity of inventors; or (d) assert a claim pursuant to 35 U.S.C. § 292 for false marking. Section I of the Local Rules of this Court shall also apply to such actions, except to the extent that they are inconsistent with the Local Rules in this Section VIII.

RULE 802. SCHEDULING CONFERENCE

Within seven (7) days after an Answer has been filed or, with respect to a case that has been transferred to this District, within seven (7) days after the case has been docketed, Plaintiff's counsel shall contact all counsel and Chambers to arrange a telephone conference between counsel for the parties and Chambers for the purpose of scheduling a Scheduling Conference. Counsel should be prepared to address the following issues during the Scheduling Conference:

a. Proposed modification of the obligations or deadlines set forth in Section VIII of the Local Rules;

b. The scope and timing of discovery, including expert witness disclosures and expert witness depositions, and limits on the total number of hours of fact witness depositions;

c. The scope and timing of dispositive motions;

d. Limits on the number of patent claims that can be construed by each party;

e. The format of the Claim Construction Hearing, including whether the Court will hear live testimony, the order of presentation, and the estimated length of the hearing;

f. How the parties intend to educate the Court on the patent(s) at issue;

g. The need for any Confidentiality Order in accordance with L.R. 104.13;

h. Whether any party intends to seek discovery of electronically stored information and whether the parties have reached an agreement on such discovery. (The Court will expect that counsel will have reviewed the Principles for the Discovery of Electronically Stored Information in Civil Cases, published on the Court's website.);

i. Whether the parties unanimously consent to proceed before a United States Magistrate Judge;

j. Whether the parties jointly request an early settlement or ADR conference; and

k. The applicability and propriety of the form of Stipulated Order referenced in L.R. 104.13.

Unless justice requires otherwise, the Court will approve reasonable adjustments to the deadlines set forth in Section VIII of the Local Rules when (1) all parties agree to the adjustments; (2) a case involves particularly complex technologies or a large number of patents; (3) the parties include non-U.S. entities or individuals; or (4) a substantial portion of the testimonial or documentary evidence will require translation to English.

RULE 803. DISCOVERY

1. Commencement

Subject to L.R. 803.2, discovery shall be conducted in accordance with L.R. 104 and shall not commence until the issuance of a Scheduling Order.

2. Objections

Except as provided in this Rule or as otherwise ordered, it shall not be a ground for objecting to an opposing party's discovery request (e.g., interrogatory, document request, request for admission, deposition question) that the discovery request or disclosure requirement is premature in light of, or otherwise conflicts with, Section VIII of the Local Rules. A party may object, however, to responding to the following categories of discovery requests on the ground that they are premature in light of the timetable provided in Section VIII of the Local Rules:

a. Requests seeking to elicit a party's claim construction position;

b. Requests seeking to elicit from the patent claimant a comparison of the asserted claims and the accused apparatus, product, device, process, method, act, or other instrumentality;

c. Requests seeking to elicit from an accused infringer a comparison of the asserted claims and the prior art; and

d. Requests seeking to elicit from an accused infringer the identification of any advice of counsel, and related documents.

Where a party properly objects to a discovery request as set forth above, that party shall provide the requested information on the date on which it is required to be provided to an opposing party under Section VIII of the Local Rules or as set by the Court, unless there are other legitimate grounds for objection.

RULE 804. DISCLOSURES

1. Cases Involving Claims of Infringement

Unless otherwise ordered by the Court, in all cases other than those arising under the Hatch-Waxman Act (21 U.S.C. § 355), in which a party has asserted a claim of patent infringement, the parties shall make the following disclosures.

a) Initial Disclosure of Infringement Contentions

Thirty (30) days from the date of the Scheduling Order, any party claiming patent infringement shall serve on all parties an Initial Disclosure of Infringement Contentions, separately setting forth for each allegedly infringing party, the following information:

i. Each claim of each patent in suit that is allegedly infringed by each allegedly infringing party, including for each claim the applicable statutory subsections of 35 U.S.C. § 271 asserted;

ii. Separately for each allegedly infringed claim, each accused apparatus, product, device, process, method, act, or other instrumentality ("Accused Instrumentality") of each allegedly infringing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus shall be identified by name or model number, if known. Each method or process shall be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;

iii. A chart identifying specifically where each limitation of each asserted claim is found within each Accused Instrumentality, including for each limitation that such party contends is governed by 35 U.S.C. § 112 ¶(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function;

Rule 804. Disclosures
1. Cases Involving Claims of Infringement

iv. For each claim which is alleged to have been indirectly infringed, an identification of any direct infringement and a description of the acts of the alleged indirect infringer that contribute to or are inducing that direct infringement. Insofar as alleged direct infringement is based on joint acts of multiple parties, the role of each such party in the direct infringement must be described;

v. Whether each limitation of each asserted claim is alleged to be literally present or present under the doctrine of equivalents in the Accused Instrumentality;

vi. For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled;

vii. The date of conception and the date of reduction to practice of each asserted claim;

viii. If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party shall identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim; and

ix. If a party claiming patent infringement alleges willful infringement, the basis for such allegation.

b) Document Production Accompanying Initial Disclosure of Infringement Contentions

With the Initial Disclosure of Infringement Contentions, the party claiming patent infringement shall produce to each allegedly infringing party or make available for inspection and copying all documents relating to:

i. Any offers to sell or efforts to market each claimed invention prior to the date of the application for the patent (A party's production of a document as required herein shall not constitute an admission that such document evidences or is prior art under 35 U.S.C. § 102);

ii. The standing of the party alleging infringement with respect to each patent upon which such allegations are based; and

iii. A copy of the file history for each patent in suit.

Rule 804. Disclosures
1. Cases Involving Claims of Infringement

c) Initial Disclosure of Invalidity Contentions in Defense of Infringement Claims

Sixty (60) days from the date of the Scheduling Order, each party opposing a claim of patent infringement shall serve on all parties its Invalidity Contentions, which shall contain the following information:

i. The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title, date of publication, and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) shall be identified by providing the name of the person(s) from whom and the circumstances under which the invention or any part of it was derived. Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the person(s) or entities involved in and the circumstances surrounding the making of the invention before the patent applicant(s);

ii. Whether each item of prior art anticipates each asserted claim or renders it obvious. If obviousness is alleged, an explanation of why the prior art renders the asserted claim obvious, including an identification of any combinations of prior art showing obviousness;

iii. A chart identifying where specifically in each alleged item of prior art each limitation of each asserted claim is found, including for each limitation that such party contends is governed by 35 U.S.C. § 112 ¶(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function; and

iv. Any grounds of invalidity based on 35 U.S.C. § 101, indefiniteness under 35 U.S.C. § 112 ¶(2), or enablement or written description under 35 U.S.C. § 112 ¶(1) of any of the asserted claims.

d) Document Production Accompanying Initial Disclosure of Invalidity Contentions

With the Initial Disclosure of Invalidity Contentions, the party opposing a claim of patent infringement shall produce or make available for inspection and copying a copy of any prior art identified in the Initial Disclosure of Invalidity Contentions that does not appear in the file history of the patent(s) at issue. To the extent any such item is not in English, an English translation of the portion(s) relied upon shall be produced.

2. Cases Seeking Declaratory Judgment of Invalidity

Unless otherwise ordered by the Court, in all cases in which a party files a complaint or other pleading seeking a declaratory judgment that a patent is invalid, and there are no claims for patent infringement asserted by any party, the parties shall make the following disclosures.

a) Initial Disclosure of Invalidity Contentions

Thirty (30) days from the date of the Scheduling Order, the party seeking a declaratory judgment of invalidity shall serve upon each opposing party its Initial Disclosure of Invalidity Contentions that conform to L.R. 804.1.c.

b) Document Production Accompanying Initial Disclosure of Invalidity Contentions

With the Initial Disclosure of Invalidity Contentions, the party seeking a declaratory judgment that a patent is invalid shall produce or make available for inspection and copying the documents described in L.R. 804.1.d.

3. Cases Arising Under the Hatch-Waxman Act (21 U.S.C. § 355)

Unless otherwise ordered by the Court, in all cases alleging patent infringement based upon a Paragraph IV certification under 21 U.S.C. § 355, the parties shall make the following disclosures.

a) Initial Disclosure of Invalidity Contentions

Thirty (30) days from the date of the Scheduling Order, the Defendant shall serve upon the Plaintiff its Initial Disclosure of Invalidity Contentions that conform to L.R. 804.1.c.

b) Initial Disclosure of Non-Infringement Contentions

With the Initial Disclosure of Invalidity Contentions, the Defendant shall serve upon the Plaintiff its Initial Disclosure of Non-Infringement Contentions for any patents referred to in Defendants Paragraph IV Certification which shall include a claim chart identifying each claim in the patent at issue in the case and each limitation of each claim and shall specifically

identify for each claim which claim limitation(s) are literally absent from the Defendants allegedly infringing Abbreviated New Drug Application or New Drug Application.

c) Document Production Accompanying Initial Disclosures of Invalidity and Non-Infringement Contentions

With the Initial Disclosures of Invalidity and Non-Infringement Contentions, the Defendant shall produce or make available for inspection and copying and produce to the Plaintiff or make available for inspection and copying the documents described in L.R. 804.1.d, as well as a complete copy of the entire Abbreviated New Drug Application or New Drug Application that is the basis of the case in question and any document or thing that the Defendant intends to rely on in defense against any infringement contentions by Plaintiff.

d) Initial Disclosure of Infringement Contentions

Sixty (60) days from the date of the Scheduling Order, Plaintiff shall serve Defendant with an Initial Disclosure of Infringement Contentions for all patents referred to in Defendants Paragraph IV Certification, which shall contain all disclosures required by L.R. 804.1.a.

e) Document Production Accompanying Initial Disclosure of Infringement Contentions

Plaintiffs Initial Disclosure of Infringement Contentions shall be accompanied by the production of documents required under L.R. 804.1.b.

4. Cases Seeking Correction of Inventors (35 U.S.C. § 256)

Unless otherwise ordered by the Court, in all cases in which a party seeks an order directing the Director of Patents to correct the inventors on a certificate of patent pursuant to 35 U.S.C. § 256, the parties shall make the following disclosures.

a) Initial Disclosure of Contribution Contentions

Thirty (30) days from the date of the Scheduling Order, any party seeking an order directing the Director of Patents to correct a certificate of patent pursuant to 35 U.S.C. § 256 by adding to or replacing the inventors identified on the certificate shall serve the opposing parties a claim chart identifying each claim in the patent(s) at issue in the case to which the party alleges a person or persons, not named as inventor or joint inventor on certificate(s) of patent, made a significant contribution in conception and/or reduction to practice, describing the contribution made by the alleged inventor or joint inventor(s), and identifying the date each such contribution was made.

b) Document Production Accompanying Initial Disclosure of Contribution Contentions.

With the Initial Disclosure of Contribution Contentions, the party seeking correction of a certificate of patent shall produce or make available for inspection and copying and produce to opposing parties or make available for inspection and copying:

i. All documents upon which the party asserts its standing to bring the claim(s) pursuant to 35 U.S.C. § 256; and

ii. All documents reflecting the alleged inventor or joint inventor(s) contribution to the conception and/or reduction to practice of the inventions described in the claims identified in the Initial Disclosure of Contribution Contentions.

c) Documents Reflecting Conception and Reduction to Practice

Sixty (60) days from the date of the Scheduling Order, the opposing parties shall serve upon the disclosing party all documents reflecting or pertaining to the conception and reduction to practice of the inventions described in the claims identified in the Initial Disclosure of Contribution Contentions.

5. Cases Alleging False Marking (35 U.S.C. § 292)

Unless otherwise ordered by the Court, in all cases in which a party alleges false marking pursuant to 35 U.S.C. § 292, the parties shall make the following disclosures.

a) Initial Disclosure of False Marking Contentions

Thirty (30) days from the date of the Scheduling Order, any party asserting a claim of false marking pursuant to 35 U.S.C. § 292 shall serve the opposing parties a chart identifying each item or article that the party claims has been falsely marked, the patent numbers with which the item or article was allegedly marked, the alleged expiration date of each such patent, and, to the extent that the party contends that the item or article is not within the inventions claimed in each such patent, the basis for each such contention.

b) Response to Initial Disclosure of False Marking Contentions.

Sixty (60) days from the date of the Scheduling Order, the opposing parties shall serve upon the disclosing party a chart listing each item or article identified in the Initial Disclosure of False Marking, identifying all patent numbers with which those items and articles were marked and the periods of time during which they were so marked, the number of units of each item and article that were sold during each such period, and the basis for the opposing party's contention that the items and articles were within the inventions claimed in each such patent.

6. Amendment to Contentions

A party may amend Contentions described in L.R. 804.1 through 804.5 upon written consent of all parties or, for good cause shown, upon leave of the Court.

7. Advice of Counsel

Unless otherwise ordered by the Court, not later than thirty (30) days after entry of the Court's claim construction order, each party relying upon advice of counsel as part of a patent-related claim or defense for any reason shall:

a. Produce or make available for inspection and copying any written advice and documents related thereto for which the attorney-client and work product protection have been waived;

b. Provide a written summary of any oral advice and produce or make available for inspection and copying that summary and documents related thereto for which the attorney-client and work product protection have been waived; and

c. Serve a privilege log identifying any documents other than those identified in L.R. 804.7.a above, except those authored by counsel acting solely as trial counsel, relating to the subject matter of the advice which the party is withholding on the grounds of attorney-client privilege or work product protection.

d. A party who does not comply with the requirements of this L.R. 804.7 shall not be permitted to rely on advice of counsel for any purpose absent a stipulation of all parties or by order of the Court.

RULE 805. CLAIM CONSTRUCTION

1. Cases Involving Claims of Infringement

Unless otherwise ordered by the Court, in all cases other than those arising under the Hatch-Waxman Act (21 U.S.C. § 355), in which a party has asserted a claim of patent infringement:

a) Sixty (60) days from the date of the Scheduling Order, the party asserting infringement shall serve on each alleged infringing party a Claim Chart containing the following information:

Rule 805. Claim Construction
1. Cases Involving Claims of Infringement

i. Each claim of any patent in suit which the party alleges was infringed;

ii. Separately for each allegedly infringed claim, the identity of each accused apparatus, product, device, process, method, act, or other instrumentality ("Accused Instrumentality") of each allegedly infringing party;

iii. Whether such infringement is claimed to be literal or under the doctrine of equivalents;

iv. Where each element of each infringed claim is found within each Accused Instrumentality; and

v. If the party alleging infringement wishes to preserve the right to rely on that party's own apparatus, product, device, process, method, act, or other instrumentality as evidence of commercial success, the party must identify, separately for each claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim.

b) Sixty (60) days from the date of the Scheduling Order, the party asserting infringement shall also serve on each alleged infringing party a Proposed Claim Construction Statement containing the following information for each claim in issue:

i. Identification of any special or uncommon meanings of words or phrases in the claim;

ii. All references from the specification that support, describe, or explain each element of the claim;

iii. All material in the prosecution history that describes or explains each element of the claim; and

iv. Any extrinsic evidence that supports the proposed construction of the claim, including, but not limited to, expert testimony, inventor testimony, dictionary definitions, and citations to learned treatises, as permitted by law.

c) Ninety (90) days from the date of the Scheduling Order, the alleged infringing parties shall serve upon the party claiming infringement a Responsive Claim Chart containing the following:

Rule 805. Claim Construction
1. Cases Involving Claims of Infringement

i. The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title; date of publication; and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) shall be identified by providing the name of the person(s) from whom and the circumstances under which the invention or any part of it was derived. Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the person(s) or entities involved in and the circumstances surrounding the making of the invention before the patent applicant(s);

ii. Whether the prior art anticipates the claim or renders it obvious. If a combination of prior art references makes a claim obvious, that combination must be identified;

iii. Where, specifically, within each item of prior art each element of the claim is found;

iv. All grounds of invalidity other than anticipation or obviousness of any of the claims listed in the Claim Chart. This identification must be as specific as possible. For example, each party asserting an enablement defense must set forth with particularity what is lacking in the specification to enable one skilled in the art to make or use the invention, specifically citing information or materials obtained in discovery to the extent feasible. Each party asserting an enablement defense must set forth with particularity what is lacking in the specification to enable one skilled in the art to make or use the invention; and

v. If the claimant has alleged willful infringement, the date and a document reference number for each opinion of counsel upon which the party relies to support a defense to the willfulness allegation, including, but not limited to, issues of validity and infringement of any patent in suit.

Rule 805. Claim Construction
1. Cases Involving Claims of Infringement

d) Ninety (90) days from the date of the Scheduling Order, the alleged infringing parties shall serve upon the party claiming infringement a Responsive Claim Construction Statement containing the following:

i. Identification of any special or uncommon meanings of words or phrases in the claim in addition to those disclosed in the Proposed Claim Construction Statement;

ii. All references from the specification that support, describe, or explain each element of the claim in addition to or contrary to those described in the Proposed Claim Construction Statement;

iii. All material in the prosecution history that describes or explains each element of the claim in addition to or contrary to those described in the Proposed Claim Construction Statement; and

iv. Any extrinsic evidence that supports the proposed construction of the claim, including, but not limited to, expert testimony, inventor testimony, dictionary definitions, and citations to learned treatises, as permitted by law.

e) Amendment of a Claims Chart or a Responsive Claims Chart may be made only on stipulation of all parties or by Order of the Court, which shall be entered only upon a showing of excusable subsequent discovery of new information or extraordinary good cause.

f) One hundred twenty (120) days from the date of the Scheduling Order, the parties, having met and conferred on claim construction, shall file a Joint Claim Construction Statement which shall contain the following information:

i. The construction of those claims and terms on which the parties agree;

ii. Each party's proposed construction of each disputed claim and term, supported by the same information that is required in the respective claim construction statements; and

iii. For any party who proposes to call one or more witnesses at any claim construction hearing, the identity of each such witness, the subject matter of his or her testimony, and an estimate of the time required for the testimony.

g) One hundred twenty (120) days from the date of the Scheduling Order, the parties shall file and serve opening briefs with supporting evidence and identification of any proposed Claim Construction Hearing witnesses.

h) One hundred fifty (150) days from the date of the Scheduling Order, the parties shall file and serve any responsive brief and supporting evidence directly rebutting their opponents supporting evidence and identifying any additional proposed Claim Construction Hearing witnesses.

2. Cases Seeking Declaratory Judgment of Invalidity

Unless otherwise ordered by the Court, in all cases in which a party files a complaint or other pleading seeking a declaratory judgment that a patent is invalid and there are no claims for patent infringement asserted by any party:

a) Sixty (60) days from the date of the Scheduling Order, the party asserting invalidity shall serve on each alleged infringing party a Claim Chart containing the following information:

i. The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title; date of publication; and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) shall be identified by providing the name of the person(s) from whom and the circumstances under which the invention or any part of it was derived. Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the person(s) or entities involved in and the circumstances surrounding the making of the invention before the patent applicant(s);

ii. Whether the prior art anticipates the claim or renders it obvious. If a combination of prior art references makes a claim obvious, that combination must be identified;

iii. Where, specifically, within each item of prior art each element of the claim is found; and

Rule 805. Claim Construction
2. Cases Seeking Declaratory Judgment of Invalidity

iv. All grounds of invalidity other than anticipation or obviousness of any of the claims listed in the Claim Chart. This identification must be as specific as possible. For example, each party asserting an enablement defense must set forth with particularity what is lacking in the specification to enable one skilled in the art to make or use the invention, specifically citing information or materials obtained in discovery to the extent feasible. Each party asserting an enablement defense must set forth with particularity what is lacking in the specification to enable one skilled in the art to make or use the invention.

b) Sixty (60) days from the date of the Scheduling Order, the party asserting invalidity shall also serve on each opposing party a Proposed Claim Construction Statement containing the following information for each claim in issue:

i. Identification of any special or uncommon meanings of words or phrases in the claim;

ii. All references from the specification that support, describe, or explain each element of the claim;

iii. All material in the prosecution history that describes or explains each element of the claim; and

iv. Any extrinsic evidence that supports the proposed construction of the claim, including, but not limited to, expert testimony, inventor testimony, dictionary definitions, and citations to learned treatises, as permitted by law.

c) Ninety (90) days from the date of the Scheduling Order, the opposing parties shall serve upon the party claiming invalidity a Responsive Proposed Claim Construction Statement containing the following:

i. Identification of any special or uncommon meanings of words or phrases in the claim in addition to those disclosed in the Proposed Claim Construction Statement;

ii. All references from the specification that support, describe, or explain each element of the claim in addition to or contrary to those described in the Proposed Claim Construction Statement;

iii. All material in the prosecution history that describes or explains each element of the claim in addition to or contrary to those described in the Proposed Claim Construction Statement; and

iv. Any extrinsic evidence that supports the proposed construction of the claim, including, but not limited to, expert testimony, inventor testimony, dictionary definitions, and citations to learned treatises, as permitted by law.

d) Amendment of a Claims Chart or a Responsive Claims Chart may be made only on stipulation of all parties or by Order of the Court, which shall be entered only upon a showing of excusable subsequent discovery of new information or extraordinary good cause.

e) One hundred twenty (120) days from the date of the Scheduling Order, the parties, having met and conferred on claim construction, shall file a Joint Claim Construction Statement which shall contain the following information:

i. The construction of those claims and terms on which the parties agree;

ii. Each party's proposed construction of each disputed claim and term, supported by the same information that is required in the respective claim construction statements; and

iii. For any party who proposes to call one or more witnesses at any claim construction hearing, the identity of each such witness, the subject matter of his or her testimony, and an estimate of the time required for the testimony.

f) One hundred twenty (120) days from the date of the Scheduling Order, the parties shall file and serve opening briefs with supporting evidence and identification of any proposed Claim Construction Hearing witnesses.

g) One hundred fifty (150) days from the date of the Scheduling Order, the parties shall file and serve any responsive brief and supporting evidence directly rebutting their opponents supporting evidence and identifying any additional proposed Claim Construction Hearing witnesses.

3. Cases Arising Under the Hatch-Waxman Act (21 U.S.C. § 355)

Unless otherwise ordered by the Court, in all cases alleging patent infringement based upon a Paragraph IV certification under 21 U.S.C. § 355:

Rule 805. Claim Construction
3. Cases Arising Under the Hatch-Waxman Act (21 U.S.C. § 355)

a) Sixty (60) days from the date of the Scheduling Order, the Defendant shall serve the Plaintiff with a Claim Chart containing the following:

i. The identity of each item of prior art that allegedly anticipates each asserted claim or renders it obvious. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title; date of publication; and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) shall be identified by providing the name of the person(s) from whom and the circumstances under which the invention or any part of it was derived. Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the person(s) or entities involved in and the circumstances surrounding the making of the invention before the patent applicant(s);

ii. Whether the prior art anticipates the claim or renders it obvious. If a combination of prior art references makes a claim obvious, that combination must be identified;

iii. Where, specifically, within each item of prior art each element of the claim is found; and

iv. All grounds of invalidity other than anticipation or obviousness. This identification must be as specific as possible. For example, each party asserting an enablement defense must set forth with particularity what is lacking in the specification to enable one skilled in the art to make or use the invention, specifically citing information or materials obtained in discovery to the extent feasible. Each party asserting an enablement defense must set forth with particularity what is lacking in the specification to enable one skilled in the art to make or use the invention.

b) Sixty (60) days from the date of the Scheduling Order, the Defendant shall serve the Plaintiff with a Proposed Claim Construction Statement containing the following information for each claim in issue:

i. Identification of any special or uncommon meanings of words or phrases in the claim;

Rule 805. Claim Construction
3. Cases Arising Under the Hatch-Waxman Act (21 U.S.C. § 355)

ii. All references from the specification that support, describe, or explain each element of the claim;

iii. All material in the prosecution history that describes or explains each element of the claim; and

iv. Any extrinsic evidence that supports the proposed construction of the claim, including, but not limited to, expert testimony, inventor testimony, dictionary definitions, and citations to learned treatises, as permitted by law.

c) Ninety (90) days from the date of the Scheduling Order, the Plaintiff shall serve upon the Defendant a Responsive Proposed Claim Construction Statement containing the following:

i. Identification of any special or uncommon meanings of words or phrases in the claim in addition to those disclosed in the Proposed Claim Construction Statement;

ii. All references from the specification that support, describe, or explain each element of the claim in addition to or contrary to those described in the Proposed Claim Construction Statement;

iii. All material in the prosecution history that describes or explains each element of the claim in addition to or contrary to those described in the Proposed Claim Construction Statement; and

iv. Any extrinsic evidence that supports the proposed construction of the claim, including, but not limited to, expert testimony, inventor testimony, dictionary definitions, and citations to learned treatises, as permitted by law.

d) Amendment of a Claims Chart or a Responsive Claims Chart may be made only on stipulation of all parties or by Order of the Court, which shall be entered only upon a showing of excusable subsequent discovery of new information or extraordinary good cause.

e) One hundred twenty (120) days from the date of the Scheduling Order, the parties, having met and conferred on claim construction, the parties shall file a Joint Claim Construction Statement which shall contain the following information:

i. The construction of those claims and terms on which the parties agree;

ii. Each party's proposed construction of each disputed claim and term, supported by the same information that is required in the respective claim construction statements; and

iii. For any party who proposes to call one or more witnesses at any claim construction hearing, the identity of each such witness, the subject matter of his or her testimony, and an estimate of the time required for the testimony.

f) One hundred twenty (120) days from the date of the Scheduling Order, the parties shall file and serve opening briefs with supporting evidence and identification of any proposed Claim Construction Hearing witnesses.

g) One hundred fifty (150) days from the date of the Scheduling Order, the parties shall file and serve any responsive brief and supporting evidence directly rebutting their opponents supporting evidence and identifying any additional proposed Claim Construction Hearing witnesses.

4. Cases Seeking Correction of Inventors (35 U.S.C. § 256) and Cases Alleging False Marking (35 U.S.C. § 292)

Sixty (60) days from the date of the Scheduling Order, the parties, having met and conferred on claim construction, shall report to the Court as to whether there are any contested issues of claims construction and, if so, shall propose a schedule for serving Claim Construction Statements and Responsive Claim Construction Statements and filing a Joint Claim Construction Statement, opening claim construction briefs, and responsive claim construction briefs.

RULE 806. CERTIFICATION OF DISCLOSURES.

All statements, disclosures, and charts served in accordance with L.R. 804 and L.R. 805 shall be dated and signed by counsel of record. Counsel's signature shall constitute a certification that to the best of his or her knowledge, information, and belief – formed after an inquiry that is reasonable under the circumstances – the information contained in the statement, disclosure, or chart is complete and correct at the time it is made.

RULE 807. MOTIONS FOR STAY PENDING REEXAMINATION

No motion for stay pending reexamination of a patent by the Central Reexamination Unit ("CRU") of the USPTO shall be considered unless accompanied by a copy of (1) the Reexamination Order and (2) the First Office Action issued by the CRU.

IX. 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 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(n)(2), 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 fourteen (14) 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 fourteen (14) days after publication;

f. A statement that an answer to the complaint must be filed and served within twenty-one (21) 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. § 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:

Notice has been given as required by LAR(c)(3)(a)(i); and

a. Notice has been attempted as required by LAR(c)(3)(a)(ii), where appropriate; and

b. The time to answer by any person asserting a right of possession or any ownership interest in the property has expired; and

c. 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 twenty-one (21) 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)(5) Exigent Circumstances

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 salved 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 (3) 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 sixty-five (65) feet in length overall or $500 for vessels sixty-five (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 therefore, 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 fourteen (14) 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 seven (7) days 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 seven (7) days, 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

Local Admiralty Rule (e): Actions In Rem and Quasi In Rem: General Provisions
LAR(e)(12) Sale of Property

$1,000 or 10% of the bid, whichever is greater, and shall pay the balance within seven (7) days after the day on which the bid was accepted. If an objection to the sale is filed within that seven (7) day period, the bidder is excused from paying the balance of the purchase price until seven (7) days after the sale is confirmed. Payment shall be made by certified check, by cashier's check drawn on banks insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or as otherwise authorized by the Marshal.

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 seven (7) 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 (7) days. Payment to the Marshal shall be made by certified check, by cashier's check drawn on banks insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, or as otherwise authorized by the Marshal.

f) Confirmation of Sale

A sale shall be confirmed by order of the Court within seven (7) days, but no sooner than three (3) 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 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 the Court. Fed R. Civ. P. 26 requires that discovery be relevant to any party's claim or defense; proportional to what is at issue in a case; and not excessively burdensome or expensive as compared to the likely benefit of obtaining the discovery being sought.

The parties and counsel have an obligation to cooperate in planning and conducting discovery to tailor the discovery to ensure that it meets these objectives. Counsel have a duty to confer early and throughout the case as needed to ensure that discovery is planned and conducted consistent with these requirements and, where necessary, make adjustments and modifications in discovery as needed.

During the course of their consultation, counsel are encouraged to think creatively and to make proposals to one another about alternatives or modifications to the discovery otherwise permitted that would permit discovery to be completed in a more just, speedy, inexpensive way. By way of illustration only, such alternatives could include different or additional deadlines for the filing of motions or the completion of all or part of discovery; accelerated exchanges of disclosures, additional data, or descriptions of the parties' claims and defenses; sampling techniques; and substantial limitations on, or even the elimination of, depositions, coupled with alternative methods of exchanging or obtaining factual information or the equivalent of deposition testimony.

b. The parties and their counsel are encouraged to submit to the Court for approval their agreements to expand or limit discovery. If, however, counsel are unable to reach agreement on a discovery plan that substantially modifies the normal course of discovery, and either side believes that the Court's assistance would be helpful in framing or implementing such a plan, then the Court will make itself available with reasonable promptness, in response to a brief, written request for a discovery management conference that identifies the issues for consideration.

c. Counsel are expected to have read the Federal Rules of Civil Procedure, Local Rules of the Court, these Guidelines, and, with respect to discovery of electronically stored information, the Principles for the Discovery of Electronically Stored Information in Civil Cases, posted on the Court's website, www.mdd.uscourts.gov. 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, or the Court's inherent powers.

d. 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. This includes cooperation and civil conduct in an adversary system. Cooperation and civility include, at a minimum, being open to, and reasonably available for, discussion of legitimate differences in order to achieve the just, speedy, and inexpensive resolution of the action and every proceeding. Cooperation and communication can reduce the costs of discovery, and they are an obligation of counsel.

e. All discovery requests, responses, and objections are governed by the requirements of Fed. R. Civ. P. 26(g) and counsel and parties are expected to be familiar with the requirements of the Rule.

f. 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, and should do so promptly after becoming aware of the grounds for the dispute. In the event that such good faith efforts are unsuccessful, an unresolved dispute should be brought to the Court's attention promptly after efforts to resolve it have been unsuccessful. A failure to do so may result in a determination by the Court that the dispute must be rejected as untimely. Counsel may bring the unresolved dispute to the Court's attention by filing a letter, in lieu of a written motion, that briefly describes the dispute, unless otherwise directed by the Court.

g. Upon being notified by the parties of the unresolved discovery dispute, the Court will promptly schedule a conference call with counsel, or initiate other expedited procedures, to consider and resolve the discovery dispute. If the Court determines that the issue is too complicated to resolve informally, it may set an expedited briefing schedule to ensure that the dispute can be resolved promptly.

h. To the extent that any part of these Guidelines conflicts with any Local Rule of the Court, or an order of the 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. During the scheduling process, the Court will consider requests to impose milestone dates for motions, such as spoliation motions, and motions in limine (including *Daubert* motions) that do not normally otherwise have automatically-imposed deadlines. The Court encourages parties to submit to the Court for approval joint suggestions made pursuant to the Principles for the Discovery of Electronically Stored Information in Civil Cases.

Guideline 3: Expert Witnesses

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 fees 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 should proceed on the date noted, unless the Court orders otherwise, and the dispute respecting payment should 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 or other visually recorded de bene esse depositions rather than requiring the physician's presence at trial. Note that this Discovery Guideline does not limit the reasonable fee a treating physician may charge if required to testify in Court.

c. The parties are encouraged not to designate multiple experts on the same or similar topics.

d. Guideline 4.d is applicable to expert witness depositions.

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, before 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. Noncompliance with Guideline 4.d may rebut the presumption contained herein.

d. If an attorney making a good faith effort to coordinate deposition dates under Guideline 4.a anticipates requesting that the deponent produce electronically stored informed at the deposition, that anticipated request should be disclosed to the opposing counsel, parties, and non-party deponents at the time of the Guideline 4.a coordination effort, or as soon thereafter as it becomes anticipated. At a minimum, the discovering/requesting party should describe the scope and form of electronically stored information that will be requested. Counsel are encouraged to review and, if applicable, comply with the Principles for the Discovery of Electronically Stored Information in Civil Cases.

e. Upon reasonable request, and where reasonably practicable, in order to expedite the deposition questioning, a deponent should produce documents including electronically stored information, properly requested in a notice of deposition and accompanying subpoena, if any, a reasonable time prior to the deposition. Noncompliance with a reasonable and timely request for production of such documents prior to a deposition may be considered by the Court in a motion or request made pursuant to Fed. R. Civ. P. 30(d)(1) to determine whether additional time is needed to fairly examine the deponent or if the deponent, another person, or any other circumstance has impeded or delayed the examination.

Guideline 5: Designation by an Organization of Someone to Testify on Its Behalf

a. Requested Areas of Testimony.

A notice or subpoena to an entity, association or other organization should accurately and concisely identify the designated area(s) of requested testimony, giving due regard to the nature, business, size and complexity of the entity being asked to testify. The notice or subpoena should ask the recipient to provide the name(s) of the designated person(s) and the areas that each person will testify to by a reasonable date before the deposition is scheduled to begin.

b. Designating the Best Person to Testify for the Organization.

An entity, association, or other organization responding to a deposition notice or subpoena should make a diligent inquiry to determine what individual(s) is (are) best suited to testify.

c. More Than One Person May Be Necessary.

When it appears that more than one individual should be designated to testify without duplication on the designated area(s) of inquiry, each such individual should be identified, a reasonable period of time before the date of the deposition, as a designated witness along with a description of the area(s) to which he or she will testify.

Guideline 6: 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(c)(2). 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, should 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(c)(2). 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 6(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 should notify other parties not later than seven (7) 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 should 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. Other than the deponent, counsel representing a party or unrepresented party, persons attending a deposition may not ask or answer questions during, or otherwise participate in the process of, the deposition.

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 7: 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:

b. In accordance with Fed. R. Civ. P. 26(b)(5), the person asserting the privilege should identify during the deposition the nature of the privilege (including work product) that is being claimed.

c. After a claim of privilege has been asserted, the person seeking disclosure should 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 that, under Fed. R. Evid. 502, may demonstrate that a prior disclosure was or was not permitted without waiver of the privilege; (iii) any circumstances that may constitute an exception to the assertion of the privilege; and (iv) any circumstances which may result in the privilege having been waived.

d. In accordance with Fed. R. Civ. P. 26(b)(5), the party asserting the privilege, in providing the foregoing information, should not be required to reveal the information that is itself privileged or protected from disclosure.

Guideline 8: 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) should 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 the Court.

Guideline 9: 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 should 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 should contact opposing counsel as soon as practical after receipt of the discovery request, but not later than three (3) days before the response is due. In multiple party cases,

the attorney wanting additional time should 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 the Court, or a court order should not be unreasonably refused. If a request for additional time is granted, the requesting party should 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 the Court, no stipulation that 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, fourteen (14) days' notice should be deemed to be "reasonable notice" within the meaning of Fed. R. Civ. P. 30(b)(1) for the noting of depositions.

Guideline 10: 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 cases where a party is represented by more than one attorney of record, no discovery motion, response, or opposition should be filed unless a senior attorney of record has read the contents of the motion and any supporting memorandum and exhibits.

d. In accordance with Fed. R. Civ. P. 26(b)(5), where a claim of privilege is asserted 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. The above information should be provided separately for each document for which privilege/protection is asserted, unless doing so would be excessively burdensome or expensive. In such instances, the party asserting privilege/protection should particularize why providing separate designations would be excessively burdensome or expensive, and then may identify by categories the voluminous documents or communications for which privilege/protection is asserted, providing the above information for each category. A party may only designate documents as privileged/protected by category if each document (1) is within the privilege/protection claimed and (2) shares common characteristics such as sender, receiver, author, or specific subject matter. Where only part of a document or communication is privileged/protected, the unprivileged/unprotected portion should be disclosed if otherwise discoverable and within the scope of the discovery request.

iv. Reasonably promptly after receiving the information contained in Guideline 10.d.ii., the party seeking disclosure should notify the party from whom disclosure is sought of any deficiencies in the particularization of the basis for any privilege/protection asserted, including any "category designations" under Guideline 10.d.iii. Once done, the party from whom disclosure was sought shall, with reasonable promptness, provide sufficient factual information, including by affidavit, to establish the factual basis for each claim of privilege or protection that has been claimed. Failure to do so may result in a determination by the Court that the party asserting the privilege or work product protection has failed to particularize it as required by Fed. R. Civ. P. 26(b)(5), resulting in the waiver of any privilege/protection that has been claimed.

v. The parties are encouraged to confer and reach agreement regarding how to assert privilege/protection claims with respect to email "chains" or "strings," and if unable to do so, to bring to the attention of the Court their disagreement for prompt resolution.

e. If a party asserts in response to an interrogatory, request for production of documents, or request for admission of facts, that electronically stored information is not reasonably accessible because of undue burden or cost, within the meaning of Fed. R. Civ. P. 26(b)(2)(B), or otherwise asserts that requested discovery is unduly burdensome or expensive, the party making that assertion is expected to disclose, promptly and with particularity, the facts on which it relies to support that contention.

f. In addition to paper copies, parties are encouraged to exchange discovery requests and responses in a commonly-accepted word processing format, if requested, in order to reduce the clerical effort required to prepare responses and motions.

APPENDIX B

RULES AND GUIDELINES FOR DETERMINING ATTORNEYS' FEES IN CERTAIN CASES*

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. 109.1.b.

b. Fee applications, accompanied by time records, shall be submitted in the following format organized by litigation phase:†

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);

v. motions practice;

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*These rules and guidelines apply to cases in which a prevailing party would be entitled, by applicable law or contract, to reasonable attorneys' fees based on a set of criteria including hours and rates. They do not apply to cases in which statutes or contracts authorize fees based on a fixed percentage or other formula, such as social security and Prisoner Litigation Reform Act cases.

†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.

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. Failure to submit these statements may result in a denial or reduction of fees.[*]

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.[†]

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[*]Opposing counsel may not seek a denial or reduction of fees from the court if he/she did not first request that such statements be provided.

[†]Departure from this Guideline would be appropriate upon a showing of a valid reason for sending

c. Only one lawyer for each party shall be compensated for attending hearings[*].

d. Generally, only one lawyer is to be compensated for client, third party, and intra-office conferences, although if only one lawyer is being compensated 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 where justified for specific purposes such as periodic conferences of defined duration held for the purpose of work organization, strategy, and delegation of tasks in cases where such conferences are reasonably necessary for the proper management of the litigation.

e. 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 two (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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two attorneys to the deposition, e.g., that the less senior attorney's presence is necessary because he/she 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 may be appropriate upon a showing that more than one retained attorney representing the defendant attended the deposition and charged the time for his/her attendance.

[*]The same considerations discussed in footnote 4 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 his/her time at a paralegal's rate.

iii. Time spent in long-distance travel above the two (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*

a. Lawyers admitted to the bar for less than five (5) years: $150-225.

b. Lawyers admitted to the bar for five (5) to eight (8) years: $165-300.

c. Lawyers admitted to the bar for nine (9) to fourteen (14) years: $225-350.

d. Lawyers admitted to the bar for fifteen (15) to nineteen (19) years: $275-425.

e. Lawyers admitted to the bar for twenty (20) years or more: $300-475.

f. Paralegals and law clerks: $95-150.

4. Reimbursable Expenses

a. Generally, reasonable out-of-pocket expenses (including long-distance telephone calls, express and overnight delivery services, computerized online 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.

*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. One factor that would support an adjustment to the applicable range is an increase in the cost of legal services since the adoption of the Guidelines. The Guidelines, however, 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 Court recognizes that there are attorneys for whom, and cases for which, the market rate differs from these guideline rates. In any event, the Court expects all claims to be appropriately supported.

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 Fund Committee, is ten thousand dollars ($10,000.00). During the representation, the Court may request that counsel prepare and propose for approval a budget of anticipated expenses. Counsel shall prepare and propose for approval a budget of anticipated expenses whenever counsel reasonably expects that total expenses will exceed $10,000.00.

II. Restrictions on Eligibility

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.

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.

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.

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/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 online 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. 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.* "[L]awyers customarily serve requests that are far broader, more redundant and burdensome than necessary to obtain sufficient facts to enable them to resolve the case through motion, settlement or trial." *Mancia v. Mayflower Textile Servs. Co.*, 253 F.R.D. 354, 358 (D. Md. 2008).

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 and Rule 26(g) requires the exercise of independent professional judgment in propounding discovery. The use of these forms 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 without modification 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, L.R. 104, and Appendix A to the Local Rules (Discovery Guidelines), _____, 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 information protected either by the attorney/client privilege or work product doctrine which was created 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 information, that material need not be provided and no privilege log pursuant to Fed. R. Civ. P. 26(b)(5) or Discovery Guideline 10(d) will be required as to such information.

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 10(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 10(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 10(d), 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 or, if produced electronically, produced in a manner consistent with Guideline 2.04 of the ESI Principles.

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 term "items" in Fed. R. Civ. P. 34(a)(1) and include(s), but is not limited to, electronically stored information. 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, 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 pleadings, 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 therefore.

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 therefore.

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, L.R. 104, and Appendix A to the Local Rules (Discovery Guidelines), _____, by its undersigned attorneys, requests that _____ respond to this Request within the time prescribed by the Federal Rules of Civil Procedure, and produce or make available for inspection and copying the following documents and electronically storied information ("ESI") on the ____ day of _____ _____, 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. Pursuant to Rule 34(b)(2)(B), if you object to a request, the grounds for each objection must be stated with specificity. Also pursuant to that Rule, if you intended to produce copies of documents or of ESI instead of permitting inspection, you must so state.

2. 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.

3. Pursuant to Rule 34(b)(2)(C), an objection must state whether any responsive materials are being withheld on the basis of that objection.

4. 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 10(d)(ii)(b). For electronically stored information, a privilege log (in searchable and sortable form, such as a spreadsheet, matrix, or table) generated by litigation review software, containing metadata fields that generally correspond to the above paragraph is permissible, provided that it also discloses whether transmitting, attached or subsidiary ("parent-child") documents exist and whether those documents have been produced or withheld.*

B. If you are withholding the document for any reason other than an objection that it is beyond the scope of discovery, identify as to each document and, in addition to the information requested in paragraph 4.A, above, please state the reason for withholding the document. If you are withholding production on the basis that ESI is not reasonably accessible because of undue burden or cost, provide the information required by Discovery Guideline 10(e).

5. 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

*Comment: Many commercial "litigation review software" platforms are capable of generating a privilege log. Nothing in this Appendix compels the use of such platforms in general or for privilege logs. A requesting party may choose to include this optional paragraph, which may be appropriate or inappropriate, depending on the needs of the case.

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.

6. 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.

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 "items" in Fed. R. Civ. P. 34(a)(1) and include(s), but is not limited to electronically stored information. 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. *Form or Forms:* If documents are produced as electronically stored information, they shall be produced in the following form or forms: [to be determined by the requesting party consistent with Guideline 2.04 of the ESI Principles].*

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

6. *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.

7. *Person*: The term "person" is defined as any natural person or any business, legal or governmental entity, or association.

8. *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.

9. 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."

*Comment: Pursuant to Fed. R. Civ. P. 34(b)(1)(C), a requesting party "may specify the form or forms in which electronically stored information is to be produced." A requesting party may choose to include this optional paragraph, which may be appropriate or inappropriate, depending on the needs of the case.

"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.

10. 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. The documents referred to in your Answers to Interrogatories.

2. All statements (as that term is used in Fed. R. Civ. P. 26(b)(3)(C)) 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. The 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. The 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 or received from any third-party since the filing of the Complaint, whether provided informally or in response to a formal request.

10. All documents referred to in the Complaint and other pleadings, as the word "pleadings" is defined in Fed. 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 which is in fact confidential. A party shall not routinely designate material as "CONFIDENTIAL," or make such a designation without reasonable inquiry to determine whether it qualifies for such designation. 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 disclosing 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 with a simultaneous motion pursuant to L.R. 104.13(c) (hereinafter the "Interim Sealing Motion"), in accordance with the current version of the Court's Electronic Filing Requirements and Procedures for Civil Cases. 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 paragraph (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. The provisions of Fed. R. Civ. P. 37(a)(5) apply to such motions.

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]

_____

UNITED STATES [DISTRICT] [MAGISTRATE] JUDGE

Stipulated Order Regarding Non-Waiver of Attorney-Client Privilege and Work Product Protection

(Local Rule 104.14)

Whereas, the parties have stipulated, and hereby request the entry of an order providing, that the attorney-client privilege and work product protection shall not be waived under certain circumstances as specified herein;

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

1. Non-Waiver of Attorney-Client Privilege and Work Product Protection. Pursuant to Fed. R. Evid. 502(d) and (e), the disclosure during discovery of any communication or information (hereinafter "Document") that is protected by the attorney-client privilege ("Privilege" or "Privileged," as the case may be) or work-product protection ("Protection" or "Protected," as the case may be), as defined by Fed. R. Evid. 502(g), shall not waive the Privilege or Protection in the above-captioned case, or any other federal or state proceeding, for either that Document or the subject matter of that Document, unless there is an intentional waiver of the Privilege or Protection to support an affirmative use of the Document in support of the party's claim or defense, in which event the scope of any such waiver shall be determined by Fed. R. Evid. 502(a)(2) and (3). The parties intend that this stipulated order shall displace the provisions of Fed. R. Evid. 502(b)(1) and (2). That is, all disclosures not made to support an affirmative use of the Document in support of a party's claim or defense shall be regarded as "inadvertent," and the producing party is hereby deemed to have taken "reasonable steps to prevent disclosure," regardless of any argument or circumstances suggesting otherwise.

2. Return of Privileged or Protected Materials. Except when the requesting party contests the validity of the underlying claim of Privilege or Protection (including a challenge to the reasonableness of the timing or substance of the measures undertaken by the producing party to

retrieve the Document(s) in question), any Document(s) the producing party claims as Privileged or Protected shall, upon written request, promptly be returned to the producing party and/or destroyed, at the producing party's option. If the underlying claim of Privilege or Protection is contested, the parties shall comply with, and the requesting party may promptly seek a judicial determination of the matter pursuant to, Fed. R. Civ. P. 26(b)(5)(B). In assessing the validity of any claim of Privilege or Protection, the court shall not consider the provisions of Fed. R. Evid. 502(b)(1) and (2), but shall consider whether timely and otherwise reasonable steps were taken by the producing party to request the return or destruction of the Document once the producing party had actual knowledge of (i) the circumstances giving rise to the claim of Privilege or Protection and (ii) the production of the Document in question.

3. For purposes of paragraph 2, "destroyed" shall mean that the paper versions are shredded, that active electronic versions are deleted, and that no effort shall be made to recover versions that are not readily accessible, such as those on backup media or only recoverable through forensic means.

4. For purposes of paragraph 2, "actual knowledge" refers to the actual knowledge of an attorney of record or other attorney with lead responsibilities in the litigation (for example, lead counsel, trial counsel, or a senior attorney with managerial responsibilities for the litigation).

[SIGNATURES OF COUNSEL]

_____

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 fourteen (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.

_____

UNITED STATES [DISTRICT] [MAGISTRATE] JUDGE