UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LOCAL RULES OF CIVIL PROCEDURE

May 8, 2023

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OF THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Effective July 1, 1995
Including Amendments Effective Through May 8, 2023

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Rule 1.1 Effective Date

The Local Civil Rules of the United States District Court for the Eastern District of Pennsylvania,[1] adopted May 22, 1995 and effective July 1, 1995, and amended January 21, 1997, March 3, 1997, August 3, 1998, October 24, 2003, June 2, 2004, February 15, 2005, April 2, 2007, December 1, 2009, September 5, 2013, and June 15, 2017, are hereby amended with an effective date of May 8, 2023.

A court's authority to prescribe local rules is governed by both statute and the Federal Rules of Practice and Procedure. These Local Rules shall be construed in a way consistent with both Acts of Congress and the Federal Rules of Practice and Procedure. *See* 28 U.S.C. §§ 2071(a)-(b); Fed. R. App. P. 47; Fed. R. Bankr. P. 9029; Fed. R. Civ. P. 83; Fed. R. Crim. P. 57.

Rule 1.1.1 Standing Orders

Standing Orders currently in effect may be viewed on the Court's website at https://www.paed.uscourts.gov. Alternatively, copies may be obtained from the Office of the Clerk of Court.

Rule 4.1 Special Appointment for Service of Process7.1

Requests for special appointment of a named person, other than the United States Marshal or the Marshal's deputy, to serve process pursuant to Federal Rule of Civil Procedure 4(c) must be in the form of a written motion accompanied by the representation of counsel that the named individual is or would be competent and not less than eighteen (18) years of age, and is not and will not be a party to the action.

Rule 4.1.1 Lis Pendens

Counsel for a party who desires to give notice of proceedings in this court involving title to real property by way of Lis pendens shall, at any time after proceedings have commenced, file with the Clerk a proposed order directing entry of the proceedings upon the judgment index and designating those persons against whom the proceeding is to be indexed. The Clerk shall note on the index the names of the persons indicated in the order, the number of the action, and the date when the entry is made. Counsel ordering the notation shall immediately notify the designated parties in writing.

[1] These Rules may be cited and referred to as "Local Civil Rules" or abbreviated as "L. Civ. R.".

Rule 4.1.2 Summons Enforcement Proceedings Pursuant to 26 U.S.C. Sections 7402(b) and 7604(a)

(a) This rule applies to summons enforcement proceedings initiated pursuant to 26 U.S.C. §§ 7402(b) and 7604(a) (hereinafter enforcement proceedings).

(b) Each enforcement proceeding shall be initiated by complaint filed by the Secretary of the Treasury (hereinafter the Secretary) or the Secretary's delegate, which shall separately allege:

(1) that an investigation by the Internal Revenue Service is contemplated or in process, that such investigation has a legitimate purpose, and that the inquiry which is the subject of the enforcement proceeding may be relevant to that purpose.

(2) that the books, papers, records, data, or testimony sought are not already in the possession of the Internal Revenue Service; and

(3) that the Secretary or the Secretary's delegate has complied with all administrative procedures required by the Internal Revenue Code of 1954, as amended. Attached to the complaint shall be an affidavit of the Secretary or the Secretary's delegate in support of each of the allegations required by this rule.

(c) Process upon such complaint shall be in the form of an order signed by the court and served upon the person summoned, directing that person to appear at a date and time certain (not less than fourteen (14) days from the date of service of the order) and show cause why an order should not be entered enforcing the administrative summons. The order to show cause shall:

(1) set a date for the filing of an answer, motion or other responsive pleading by the person summoned, together with an affidavit in support thereof, and

(2) notify the person summoned that only those issues raised in the pleadings or motions and supported by affidavit will be considered by the court on the return date, and that any uncontested allegation in the complaint will be taken as admitted for the purpose of the enforcement proceeding.

(d) At the hearing upon the order to show cause, the Secretary or Secretary's delegate shall be prepared to prove the material allegations of the complaint. The person summoned may rebut the evidence offered by the Secretary or the Secretary's delegate, and shall have the burden of proof with respect to

any affirmative defenses raised in the motions or responsive pleadings. If the interests of justice so require, the court may direct further proceedings in the matter, and may order such discovery as permitted by law. At the conclusion of the enforcement proceedings, the court shall make findings of fact and conclusions of law in conformity with Federal Rule of Civil Procedure 52(a).

Rule 4.1.3 Acceptance of Service in Cases Seeking Social Security Review

In civil actions filed against the Commissioner of the Social Security Administration pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), service of the summons and complaint as outlined in Federal Rule of Civil Procedure 4(i) shall be by electronic means via the Court's CM/ECF System.

(a) In cases where the filing fee has been paid and in cases where the plaintiff has been granted leave to is proceed *in forma pauperis*, upon filing of the complaint by the plaintiff, the Clerk of Court shall issue the summonses in accordance with Federal Rule of Civil Procedure 4(i) by electronic means via CM/ECF upon the Commissioner, as well as the United States Attorney General and the United States Attorney for the Eastern District of Pennsylvania ("the United States").

(1) Service is not considered effectuated until the date of the CM/ECF filing of the complaint and issuance of the summonses, whichever is later ("Date of Service").

(2) Other filings and/or CM/ECF actions related to the filing of a complaint and/or summons, including but not limited to an application for *in forma pauperis*, do not constitute service. Only transmissions by the Clerk of the complaint or summons constitutes initial service of the action for purposes of this Rule.

(b) The Clerk will ensure that CM/ECF notifications indicating that the complaint has been filed, and summonses have been issued, are sent to the Commissioner and to the United States.

(c) The Commissioner, within sixty (60) days of the Date of Service, shall file and serve either a dispositive motion or the Certified Administrative Record, which shall be deemed an answer (general denial) to the plaintiff's complaint as outlined in Federal Rule of Civil Procedure 8(b)(3).

Rule 5.1 Appearances

(a) The filing of a pleading, motion, or stipulation shall be deemed an entry of appearance. Other appearances of counsel shall be by notice filed with the Clerk.

(b) Any party who appears *pro se* shall file with the party's appearance or with the party's initial pleading, a physical address and an email address when available where notices and papers can be served. The party shall notify the Clerk within fourteen (14) days of any change of address.

An attorney's appearance may not be withdrawn except by leave of court, unless another attorney admitted to practice in this court shall at the same time enter an appearance for the same party, or another attorney admitted to practice in this court had previously entered an appearance for the same party and continues to represent that party in the matter.

(c) The Clerk shall send to all *pro se* litigants the Notice of Guidelines for Representing Yourself in Civil Cases.

Rule 5.1.1 Pleading Claim for Unliquidated Damages

No pleading asserting a claim for unliquidated damages shall contain any allegations as to the specific dollar amount claimed, but such pleadings shall contain allegations sufficient to establish the jurisdiction of the court, and to reveal whether the case is or is not subject to arbitration under Local Civil Rule 53.2.

Rule 5.1.2 Electronic Case Filing

All cases and documents filed in this court are required to be filed on the Electronic Case Filing ("ECF") System in accordance with the Rules set forth below, unless excepted under the Local Rules or pursuant to Standing Orders of the Court.

1. Definitions

(a) "ECF Filing User" means those who have registered for an ECF E-Filer account in the Eastern District of Pennsylvania.

(b) "Notice of Electronic Case Filing" means the notice generated by the ECF system when a document has been filed electronically, stating that the document has been filed.

(c) "Judge" means the District Judge assigned to the case, or the Magistrate Judge to whom all or any part of a case has been referred pursuant to 28 U.S.C. § 636.

(d) "Court" shall mean the United States District Court for the Eastern District of Pennsylvania.

2. Scope of Electronic Case Filing

(a) All civil and criminal cases filed in this court are required to be entered into the court's ECF System in accordance with these Rules and the Court's Standing Orders.

(b) Attorneys are required to commence a civil action by electronic filing except as otherwise provided in the Local Rules and the Court's Standing Orders. All pleadings, documents, motions, memoranda of law, petitions, certificates of service, and other documents required to be filed with the Clerk in connection with a case must be electronically filed except as otherwise provided in the Local Rules and the Court's Standing Orders, or as otherwise ordered by the judge assigned to the case.

(c) In criminal cases, the indictment or information and motion and order for an arrest warrant or summons cannot be electronically filed. Such filings should be emailed as attachments to the designated Clerk's Office email address. Documents designated as "highly sensitive" (HSD) may be submitted in paper form.

(d) Unrepresented litigants are required to file their documents: (1) in paper form; (2) by using the Court's Electronic Document Submission tool available on the home page domain of the Court's website; (3) via the ECF System if they receive court permission to use the System under Local Civil Rule 5.1.2(3)(b); or (4) any other electronic means authorized by standing order of the Court.

(e) If an amended pleading filed under Federal Rule of Civil Procedure 15(a)(1) or (a)(2) adds new parties, the filing party must simultaneously file a notice with the Clerk of Court seeking issuance of summons for the new party.

(f) A paper filed via the ECF System constitutes the original, official record of the Court and a paper filed electronically is equivalent to a written paper as set forth in Federal Rule of Civil Procedure 5(d)(3)(D). The scanned image in the ECF system of a paper not filed electronically is deemed equivalent to the paper document.

(g) Once registered, an ECF Filing User may only request to withdraw from

participation in the ECF System for good cause shown by providing the Clerk with written notice of the request which shall be forwarded to the Chief Judge for consideration.

(h) Nothing in this Rule shall be construed to nullify or contradict the provisions pertaining to discovery set forth in Local Civil Rule 26.1.

(i) Nothing in this Rule shall be construed to nullify or contradict the provisions pertaining to records, files, and exhibits set forth in Local Civil Rule 39.3(e).

(j) All cases filed in the ECF System in which a notice of appeal is filed shall be governed by Federal Rule of Appellate Procedure 10 and all relevant Local Rules and internal operating procedures of the court to which an appeal will be taken. Any questions about whether the record truly discloses what occurred in the district court are to be submitted to and settled by the district judge. Cases in which there is a right of direct appeal to the United States Supreme Court shall be governed by the rules of the United States Supreme Court.

3. Eligibility, Registration and Password

(a) Attorneys admitted to the bar of this court, including those admitted *pro hac vice*, are required to register through PACER as Users of the court's ECF System.

(b) Upon the approval of the judge, a party to a case who is not represented by an attorney must create a PACER account in order to register as an ECF Filing User in the ECF System solely for purposes of the action, but may not file a complaint or other case opening documents. Registration is in a form prescribed by the Clerk and requires identification of the case as well as the name, address, telephone number, and email address of the party. If, during the course of the case, the party retains an attorney who appears on the party's behalf, the attorney must advise the Clerk to terminate the party's registration as an ECF Filing User upon the attorney's appearance. A judge may revoke an unrepresented party's permission to file electronically at any time or in light of excessive filings, either in number or length.

(c) Registration as an ECF Filing User constitutes agreement to receive and consent to make electronic service of all documents as provided in this Rule and in accordance with Federal Rule of Civil Procedure 5(b)(2)(E). This

agreement and consent is applicable to all future cases until revoked by the ECF Filing User.

(d) Once registration is complete, the applicant will receive notification that they are able to file electronically in the Eastern District. ECF Filing Users agree to protect the security of their passwords and immediately notify the Clerk by telephone, confirmed immediately thereafter in writing delivered by email, facsimile or hand-delivery to the attention of the Clerk, if they learn that their password has been compromised. Users may be subject to sanctions by the judge for failure to comply with this provision. For security reasons, the court recommends that ECF Filing Users periodically change their passwords.

4. Consequences of Electronic Filing

(a) Electronic transmission of a document to the ECF System consistent with the provisions of these Rules, together with the transmission of a notice of electronic case filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Civil Procedure and the Local Rules of this court, and constitutes entry of the document on the docket maintained by the Clerk pursuant to Federal Rules of Civil Procedure 58 and 79.

(b) A document that has been filed electronically is the official record of the document, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently submitted electronically under Section 2 above, a document filed electronically is deemed filed at the time and date stated on the notice of electronic case filing from the court. A document filed by an unrepresented litigant using the court's electronic document submission tool is deemed filed at the time it is submitted.

(c) Filing a document electronically does not change any filing deadline set by the Federal Rules of Civil Procedure, the Local Rules of the court, or an order of the judge.

(d) All pleadings and documents filed electronically must be transmitted in the form prescribed by Federal Rule of Civil Procedure 10(a). All transmissions for electronic case filings of pleadings and documents to the ECF System shall be titled in accordance with the approved directory of civil and criminal events of the ECF System.

5. Attachments and Exhibits

(a) When filing documents identified as exhibits or attachments, an ECF Filing User must submit only those excerpts of the identified documents that are relevant to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. ECF Filing Users are required to adhere to the current ECF file-size limits posted on the Court website when uploading their attachments for filing.

(b) Each document filed as an exhibit must be filed as a separately numbered attachment to the main document and must be clearly titled with an objective description of the document (e.g., 6/14/19 Deposition of John Doe; 10/14/21 Letter from Smith to Jones; 3/15/20-3/23/20 Email Thread between Doe and Roe) so that the nature of the exhibit and its relevance are clearly discernible without the need to open the file. The filing of exhibits in text searchable format is encouraged, but not required. Alternatively, exhibits may be filed in a single pdf if accompanied by an index to the compilation providing the above information.

6. Sealed Documents

A motion to file documents under seal along with the documents sought to be filed under seal should be emailed to the designated Clerk's Office email address at ECF_Documents@paed.uscourts.gov. The document(s) sought to be filed under seal must be accompanied by a cover sheet that clearly states that the document(s) are sought to be filed under seal. An order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. Documents ordered to be placed under seal shall be uploaded by the Clerk's Office under the appropriate setting. Non-ECF Filing Users may file their sealed documents in paper if they are unable to email them, and Clerk's Office staff will upload them under the appropriate setting.

7. Service of Documents by Electronic Means

(a) When an ECF Filing User electronically files a pleading or other document using the ECF system, a Notice of Electronic Case Filing is automatically generated by the system and sent to all parties entitled to service under the Federal Rules of Civil Procedure and the Local Civil Rules of the Eastern District of Pennsylvania who have consented to electronic service. Electronic service of the Notice of Electronic Case Filing constitutes service of the filed document to all such parties and shall be deemed to satisfy the requirements of Federal Rule of Civil Procedure 5(b)(2)(E).

(b) All documents filed using the ECF System shall contain a Certificate of Service stating that the document has been filed electronically and is available for viewing and downloading from the ECF System. The Certificate of Service must identify the manner in which service on each party was accomplished, including any party who has not consented to electronic service.

(c) Parties who have not consented to electronic service are entitled to receive a paper copy of any electronically filed pleading or other document. Service of such paper copy must be made by counsel according to the Federal Rules of Civil Procedure and the Local Civil Rules of the Eastern District of Pennsylvania. Counsel filing a pleading or document is responsible for service.

(d) As set forth in Section 3 of this Rule, registration as an ECF Filing User constitutes agreement to receive and consent to make electronic service of all documents as provided in this Rule and in accordance with Federal Rule of Civil Procedure 5(b)(2)(E). This agreement and consent is applicable to all pending and future actions assigned to the ECF System until revoked by the ECF Filing User. By using the Court's Electronic Document Submission tool or any other electronic means established by standing order, unrepresented litigants consent to service by email at the email address provided to the court.

(e) In accordance with Federal Rule of Civil Procedure 77(d), the court may serve notice of entry of orders or judgments by electronic means.

(f) In civil cases, the provisions of this section of the Local Rules apply to service of documents covered by Federal Rule of Civil Procedure 5(a). Service of Original Process under Federal Rule of Civil Procedure 4 is not authorized to be accomplished electronically, unless otherwise provided by these Rules or by any service agreement by which the court may forward service to a defendant.

8. Signature

(a) The user log-in and password required to submit documents to the ECF System serve as the ECF Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Federal Rule of Civil Procedure 11(a), the Local Civil Rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court. Electronically filed documents must include a signature

block and must set forth the name, address, telephone number, email, and the attorney's state bar identification number, if applicable. In addition, the name of the ECF Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear. An unrepresented litigant using the Court's Electronic Document Submission tool or other electronic means authorized by standing order may also use "s/" to electronically sign a submitted document.

(b) No ECF Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

(c) Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; (3) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by the other parties no later than seven (7) days after filing; or (4) any other manner approved by the court.

9. Submission of Stipulations and Proposed Orders

Stipulations or proposed orders which may require a judge's signature must be electronically filed by counsel, unless otherwise ordered by the presiding judge. An ECF Filing User who electronically files a stipulation or proposed order is bound by all signature requirements set forth in Section 8 of these ECF Procedures and Federal Rule of Civil Procedure 11(a).

10. Retention Requirements

Documents that are electronically filed and require original signatures other than that of the ECF Filing User must be maintained in paper form by the ECF Filing User until three (3) years after the time period for appeal expires. The ECF Filing User must provide original documents for review upon request of the judge.

11. Public Access

(a) Any person or organization not registered as an ECF Filing User under Section 3 of this Rule may access the ECF Filing System at the court's website, www.paed.uscourts.gov, by obtaining a PACER log-in and password. Those

who have PACER access but who are not Filing Users may retrieve docket sheets and those documents which the court makes available on the Internet for the fee normally charged for this service as set by the fee schedule authorized by the Administrative Office of United States Courts, but they may not file documents.

(b) Documents are available electronically for inspection by the public. Social Security numbers, dates of birth, financial account numbers and names of minor children must be modified or partially redacted in all filings in accordance with Federal Rule of Procedure 5.2.

(c) In connection with the electronic filing of any material, any person may apply by motion for an order limiting electronic access to, or prohibiting the electronic filing of, certain specifically identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

12. Entry of Court Order

All orders, decrees, judgments and records related to proceedings of the court will be filed in accordance with these rules which will constitute entry on the docket maintained by the Clerk pursuant to Federal Rules of Civil Procedure 58 and 79. Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order.

13. Notice of Court Order and Judgment

Immediately upon the entry of an order or judgment on the case docket, the ECF System will generate a Notice of Electronic Filing that will be sent to all ECF Filing Users in the case. Electronic transmission of the Notice of Electronic Case Filing constitutes the notice required by Federal Rule of Civil Procedure 77(d). In accordance with the Federal Rules of Civil Procedure, the Clerk must give notice in paper form to parties who are not registered as ECF Filing Users, or who have not consented to service by means of the court's electronic document submission tool.

14. Technical Failure

An ECF Filing User whose filing is determined to be untimely as the result of a technical failure may seek appropriate relief from the judge assigned to the case,

provided that the User immediately notifies the Clerk of the technical failure by telephone, confirmed immediately thereafter in writing delivered by email or by hand to the Clerk's attention. The Clerk will then notify the assigned judge's chambers as soon as possible.

15. Special Filing Requirements; Public Access Restrictions

The following types of filings cannot be electronically filed on the court's ECF System, and must be filed in paper or by email as set forth below:

A. DOCUMENTS THAT MUST BE FILED IN PAPER FORM

1. Documents that qualify as Highly Sensitive Documents ("HSD") as defined on the Court website and documents for which counsel seeks that designation.

2. State court records in habeas cases, except as permitted to be filed by e-mail by the county providing the records, or as ordered by the judge assigned to the case.

3. Documents filed by prisoners, unless the institution where they are confined provides the means for them to file electronically.

B. DOCUMENTS THAT CAN BE FILED BY EMAIL TO THE CLERK

1. Sealed cases and sealed documents.

2. Qui tam cases and related documents.

3. Case opening documents in criminal cases, including the indictment or information and motion and order for an arrest warrant or summons.

4. All documents requiring the signature of a defendant in a criminal proceeding or a proceeding before a magistrate judge, such as waiver of indictment, waiver of presentence report, waiver of a jury trial, plea agreement, appearance bond, affidavit, and financial affidavit.

5. Presentence Reports or other documents related to the Presentence Reports.

6. Ex parte Motions in criminal cases, in civil forfeiture cases and miscellaneous matters that require the same security as

criminal ex parte motions (e.g., grand jury information and IRS tax returns).

C. TRANSCRIPTS

Consistent with Judicial Conference Policy, transcripts are uploaded to the ECF System. Civil transcripts are publicly viewable after the conclusion of the redaction period, unless otherwise ordered by the presiding judge. Criminal transcripts are not publicly viewable after the conclusion of the redaction period except as directed by the presiding judge after giving the prosecution and defense counsel an opportunity to be heard. Sealed transcripts will be maintained under a sealed setting and are not publicly viewable.

Rule 5.1.3 Modification or Redaction of Personal Identifiers

Personal identifiers such as Social Security numbers, dates of birth, financial account numbers, and names of minor children must be modified or partially redacted in all documents filed either in paper or electronic form, except that financial account numbers that identify accounts allegedly subject to forfeiture and real property addresses that identify property allegedly subject to forfeiture need not be redacted.

Rule 5.1.5 Documents Filed Under Seal

(a) A document in a civil action may be filed under seal only if:

(1) the civil action is brought pursuant to a federal statute that prescribes the sealing of the record or of certain specific documents; or

(2) the Court orders the document sealed.

(b) Where a document is sealed pursuant to a federal statute, the continued status of the document under seal shall be governed by the relevant federal statute.

(c) If no federal statute governs, the continued status of the document is subject to the following sections:

(1) When a document is sealed pursuant to a court order, the Court may specify an appropriate date in the future when the document may be unsealed.

(2) If the Court has not specified the date for the document to be unsealed, following the conclusion of the action including all appeals, or during

the pendency of the action for good cause shown, a party seeking access may petition the Court to unseal the document, provided that at least sixty (60) days' notice is given to the party which originally requested sealing of the document by court order. The Court may shorten the notice period for good cause shown.

Rule 7.1 Motion Practice

(a) Every motion shall be accompanied by a form of order which, if approved by the court, would grant the relief sought by the motion. Every response in opposition to a motion shall be accompanied by a form of order, which, if approved by the court, will deny or amend the relief sought by the motion.

(b) Every uncontested motion shall be accompanied by a certificate of counsel that such motion is uncontested.

(c) Every motion not certified as uncontested, or not governed by Local Civil Rule 26.1(g), shall be accompanied by a brief containing a concise statement of the legal contentions and authorities relied upon in support of the motion. Unless the Court directs otherwise, any party opposing the motion shall serve a brief in opposition together with such answer or other response that may be appropriate, within fourteen (14) days after service of the motion and supporting brief. A party who intends to amend pursuant to Federal Rule of Civil Procedure 15 shall file a notice of intent to do so within the 14-day limit prescribed by this Rule. In the absence of a timely response, the motion may be granted as uncontested except as provided under Federal Rule of Civil Procedure 56, or otherwise prohibited by law. The Court may require or permit additional briefs or submissions if the Court deems them necessary. Counsel are directed to consult each judge's policies and procedures.

(d) Every motion not certified as uncontested shall be accompanied by a written statement as to the date and manner of service of the motion and supporting brief.

(e) Within fourteen (14) days after filing any post-trial motion, the movant shall either (a) order a transcript of the trial in writing utilizing the procedures established by the Clerk's Office, or (b) file a verified motion showing good cause to be excused from this requirement. Unless a transcript is thus ordered, or the movant excused from ordering a transcript, the post-trial motion may be dismissed for lack of prosecution.

(f) Any interested party may request oral argument on a motion. The court may dispose of a motion without oral argument.

(g) Motions for reconsideration or reargument shall be served and filed within fourteen (14) days after the entry of the order concerned, other than those governed by Federal Rule of Civil Procedure 59(e).

7.1.1 Citations to Audio Record

If the testimony has not been transcribed, parties may cite to the recording of the proceedings with the judge's permission. Any such citation must provide the specific location of the relevant testimony on the recording. If there is any challenge as to the accuracy or authenticity of the audio record, the party citing to the record shall obtain the necessary certification from the Electronic Court Reporter under § 350.30.20 of the Guide to Judiciary Policy.

Rule 7.4 Notices; Stipulations

(a) All notices by parties or counsel shall be in writing and filed on ECF.

(b) Stipulations of Counsel

(1) Stipulations of counsel relating to the business of the court, except such stipulations at bar as are noted by the deputy clerk upon the minutes or by the court reporter's notes, shall be recorded in writing, signed by counsel of record, and filed on ECF. Electronic signatures shall suffice for counsel registered via ECF.

(2) In accordance with Federal Rule of Civil Procedure 6(b), no stipulation between the parties relating to extension of time shall be effective until approved by the Court.

Rule 9.3 Petitions for Writs of Habeas Corpus pursuant to 28 U.S.C. § 2254 (non-death penalty)

A. Scope

These rules shall apply in the United States District Court for the Eastern District of Pennsylvania, in all non-capital proceedings initiated under 28 U.S.C. § 2254. In addition to these rules, all parties should also consult 28 U.S.C. § 2254, the applicable provisions of the federal habeas corpus statute at 28 U.S.C. §§ 2241-2266, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), P.L. 104-132, effective April 24, 1996, and the Rules Governing Section 2254 Cases in the United States District Courts.

B. The Petition

1. Naming the Respondents

a. If the petitioner is currently serving a state court sentence and (s)he is challenging that state court conviction/sentence or the calculation of the sentence, (s)he must name as the respondent the state officer who has custody (i.e., the warden or superintendent of the facility where (s)he is confined). The petitioner must also name as respondents the District Attorney of the county in which (s)he was convicted and sentenced, and the Attorney General of the State in which (s)he was convicted and sentenced.

b. If the petitioner is challenging probation/parole proceedings, or if (s)he is currently on parole or probation, (s)he must name the Pennsylvania Board of Probation and Parole as the respondent along with the District Attorney of the county in which (s)he was convicted and sentenced, and the Attorney General of the State in which (s)he was convicted and sentenced.

2. Form

a. Form of Petition.
A petitioner who files a petition seeking relief pursuant to 28 U.S.C. § 2254 shall submit the petition on the standard form supplied by this Court, and shall provide all of the information required by the form. Any attempt to circumvent this requirement by purporting to incorporate by reference other documents may result in dismissal of the petition. Only one side of each page may contain writing; no writing or typing shall be made on the back of any page of the filing.

b. Content.
The petitioner may challenge only one conviction in a single petition unless multiple cases were consolidated for trial and appeal. A separate petition is required to challenge additional convictions, even if they arose in the same jurisdiction. The petitioner is to state all claims for relief, provide specific facts supporting each argument and identify the relief requested. Failure to include all claims for relief in one, comprehensive petition, may result in dismissal of any subsequently filed petition.

c. Memorandum of Law.
An accompanying memorandum of law is not required but may be filed at the time the petition is filed or within 30 (thirty) days of the filing of the petition. A petitioner may seek to extend the time for filing a memorandum by filing a motion stating good cause for additional time. The memorandum may not exceed thirty (30) pages, double spaced and single sided, excluding exhibits, and

petitioner may seek to amend the page limit by filing a motion stating good cause therefor. The Petitioner may refer to, but need not attach, documents that are included in the state court record.

C. The Answer and Reply.

1. The Answer.

a. When Required.

Upon directive of the Court, the respondents shall file an Answer to the petition.

b. Contents.

The Answer is not a responsive pleading that simply admits or denies the allegations contained in the petition. In habeas petitions challenging state conviction/sentence, the Answer shall contain a discussion of the relevant procedural history of all state proceedings, including the state Court trial, direct appeal, and post-conviction proceedings. In habeas petitions challenging state parole proceedings, the Answer shall contain the relevant procedural and factual history of the parole proceedings and any state Court proceedings which related to the parole proceedings. The answer may not exceed thirty (30) pages, double spaced and single sided, excluding exhibits, and respondents may seek to amend the page limit by filing a motion stating good cause therefor.

If the respondents maintain that the petition was filed outside the limitations period, they may forego a discussion of other procedural defenses and/or the merits of the claims presented in the petition. Respondents must serve the Answer on the petitioner.

c. State Court Record.

Although the Court will attempt to obtain the complete state court record, including transcripts (pretrial, trial, sentencing, and post-conviction proceedings), pleadings, briefs, opinions, and state court orders, from the appropriate Court of Common Pleas, the respondents will be responsible for supplementing the record with any missing documents as directed by the Court. If the respondent provides the Court with the state court record, the respondents shall also submit an index of all material, with page references.

The Clerk of Court shall note on the docket that the original state court record has been received. State court records are not part of this Court's permanent case file and will be returned to the appropriate state court upon final disposition, including appeals.

2. The Reply (previously known as a Traverse).

Although not required, if the petitioner chooses to file a Reply, it must be filed within 30 (thirty) days of the filing of the Answer. The reply shall not exceed thirty (30) pages, single sided and double spaced, excluding exhibits. The petitioner may refer to, but need not include, documents that are included in the state court record. Petitioner may file a motion to extend the time and page limits stating good cause for the request.

D. Appointment of Counsel.

There is no constitutional right to counsel in § 2254 proceedings. However, where the interest of justice requires, the court has discretion to appoint counsel to financially eligible petitioners. 18 U.S.C. § 3006A(a)(2).

E. Summary Dismissal.

If it plainly appears from the petition and any attached exhibits that petitioner is not entitled to relief, the Court may, after appropriate notice to petitioner and respondents, dismiss the petition without ordering a response. In considering summary dismissal, the Court may, as justice requires, take any action it deems appropriate to ensure the prompt review and disposal of the matter, including the use of an order directing a limited response or further submission by the petitioner or respondents addressing discrete issues such as timeliness and exhaustion. Any such limited submissions ordered by the Court shall be without prejudice to the parties' right to address the merits of the claims or other procedural issues if the petition is not summarily dismissed.

Rule 9.4 Motions to Vacate Sentence Under 28 U.S.C. § 2255 (non-death penalty)

A. Scope

These rules shall apply in the United States District Court for the Eastern District of Pennsylvania, in all non-capital proceedings initiated under 28 U.S.C. § 2255. In addition to these rules, all parties should also consult 28 U.S.C. § 2255, the applicable provisions of the federal habeas corpus statute at 28 U.S.C. §§ 2241-2266, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), P.L. 104-132, effective April 24, 1996, and the Rules Governing Section 2255 Cases in the United States District Courts.

B. The § 2255 Motion

1. Form

a. Form of Motion

Motions seeking relief under 28 U.S.C. § 2255, shall be submitted on the standard form supplied by this Court, and shall provide all of the information required by the form. Any attempt to circumvent this requirement by purporting to incorporate by reference other documents may result in dismissal. Only one side of each page may contain writing; no writing or typing shall be made on the back of any page of the filing.

b. Content
The § 2255 motion shall state all grounds for relief, provide specific facts supporting each argument and identify the relief requested. Failure to include all grounds for relief in one, comprehensive pleading, may result in dismissal of any subsequently filed § 2255 motion.

c. Memorandum of Law
An accompanying memorandum of law is not required but may be filed at the time the § 2255 motion is filed. A judge may for good cause shown extend the time for filing the memorandum of law. It may not exceed thirty (30) pages, double spaced and single sided, excluding exhibits, and petitioner may seek to amend the page limit by filing a motion stating good cause therefor.

C. The Answer and Reply

1. The Answer
Upon order of the Court, or pursuant to the assigned judge's standing policies and procedures for counsel, the United States Attorney shall file an Answer to the § 2255 motion. The answer may not exceed thirty (30) pages, double spaced and single sided, excluding exhibits, and respondents may seek to amend the page limit by filing a motion stating good cause therefor.

2. The Reply
Although not required, if the movant chooses to file a Reply, it must be filed within thirty (30) days of the filing of the Answer. It may not exceed thirty (30) pages, double spaced and single sided, excluding exhibits, and petitioner may seek to amend the page limit by filing a motion stating good cause therefor.

D. Appointment of Counsel
There is no constitutional right to counsel in proceedings brought under § 2255. However, where the interest of justice requires, the court has discretion to appoint counsel to financially eligible movants. 18 U.S.C. § 3006A.

Rule 9.5 Capital cases: Petitions under 28 U.S.C. § 2254 and Motions to Vacate Sentence Under 28 U.S.C. § 2255

A. Scope

These rules shall apply in the United States District Court for the Eastern District of Pennsylvania, in proceedings initiated under 28 U.S.C. § 2254 and 28 U.S.C. § 2255 where the petitioner is challenging a death sentence. In addition to these rules, all parties should also consult 28 U.S.C. § 2254 and 28 U.S.C. § 2255, the applicable provisions of the federal habeas corpus statute at 28 U.S.C. §§ 2241-2266, as amended by the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"), P.L. 104-132, effective April 24, 1996, and the Rules Governing Section 2254 Cases in the United States District Courts and the Rules Governing Section 2255 Cases in the United States District Courts.

B. The Petition

1. Naming the Respondents in 2254 Petitions
    a. If the petitioner is currently serving a state court sentence and (s)he is challenging that state court conviction/sentence or the calculation of the sentence, (s)he must name as the respondents the state officer who has custody (i.e., the warden or superintendent of the facility where (s)he is confined). The petitioner must also name the District Attorney of the county in which (s)he was convicted and sentenced, and the Attorney General of the State in which (s)he was convicted and sentenced.

2. Petitions for a writ of habeas corpus under 28 U.S.C. § 2254 and motions to vacate sentence under 28 U.S.C. § 2255 that challenge a capital sentence may be submitted on the standard form supplied by this Court. If the form is not utilized, the submission must be accompanied by a cover sheet that lists:

    a. petitioner's full name and prisoner number; if prosecuted under a different name or alias that name must be indicated

    b. name of person having custody of petitioner (warden, superintendent, etc.)

    c. petitioner's address

    d. name of trial judge

    e. court term and bill of information or indictment number

    f. charges of which petitioner was convicted

    g. sentence for each of the charges

    h. plea entered

    i. whether trial was by jury or to the bench

    j. date of filing, docket numbers, dates of decision and results of direct appeal of the conviction

    k. date of filing, docket numbers, dates of decision and results of any state collateral attack on a state conviction including appeals

    l. date of filing, docket numbers, dates of decision of any prior federal habeas corpus or § 2255 proceedings, including appeals

m. name and address of each attorney who represented petitioner, identifying the stage at which the attorney represented the litigant

3. A petition for writ of habeas corpus under 28 U.S.C. § 2254 or motion to vacate sentence under 28 U.S.C. § 2255 in a death penalty case must

   a. list every ground on which the petitioner claims to be entitled to relief under 28 U.S.C. § 2254 (or § 2255 for federal prisoners) followed by a concise statement of the material facts supporting the claims;

   b. identify at what stage of the proceedings each claim was exhausted in state court if the petition seeks relief from a state court judgment;

   c. contain a table of contents if the petition is more than twenty-five (25) pages;

   d. contain citation to legal authority that forms the basis of the claim.

4. Petitioner must file, not later than sixty (60) days after the date of the filing of the petition under § 2254 or motion to vacate sentence under § 2255, a memorandum of law in support. The memorandum of law must

   a. contain a statement of the case

   b. contain a table of contents if it is more than twenty-five (25) pages.

5. The petition/motion and memorandum together must not exceed one hundred fifty (150) pages.

6. All documents filed must be succinct and must avoid repetition.

C. C. The Answer and Reply.

1. The Answer
   Respondents need not file a response until the memorandum of law is filed.

   a. The response must not exceed one hundred fifty (150) pages;

   b. The response must contain a table of contents if it is more than twenty-five (25) pages;

   c. The response must be filed within sixty (60) days of the filing of the memorandum of law.

2. State Court Record.
   Although the Court will attempt to obtain the complete state court record, including transcripts (pretrial, trial, sentencing, and post-conviction proceedings), pleadings, briefs,

opinions, and state court orders, from the appropriate Court of Common Pleas, the respondent will be responsible for supplementing the record with any missing documents as directed by the Court. If the respondents provide the Court with the state court record, the respondents shall also submit an index of all material, with page references.

The Clerk of Court shall note on the docket that the original state court record has been received. State court records not submitted electronically do not become part of this Court's permanent case file and will be returned to the appropriate state court upon final disposition, including appeals.

3. The Reply
    a. Any reply to the response must be filed within sixty (60) days of the filing of the response and may not exceed seventy-five (75) pages.

D. Additional provisions for capital cases.

1. Upon motion and for good cause shown, the judge may extend the page limits for any document.

2. Upon motion and for good cause shown, the judge may extend the time for filing any document.

3. Upon motion and for good cause shown, the judge may permit the filing of a sur-reply to address arguments presented for the first time in a reply brief.

4. The petitioner must file with the Clerk of the District Court a copy of the "Certificate of Death Penalty Case" required by Third Circuit L.A.R. Misc. 111.2(a). Upon docketing, the Clerk of the District Court will transmit a copy of the certificate, together with a copy of the petition to the Clerk of the Court of Appeals as required by Third Circuit L.A.R. Misc. 111.2(a).

5. Upon the entry of a warrant or order setting an execution date in any case within the geographical boundaries of this district, and in aid of this court's potential jurisdiction, the clerk is directed to monitor the status of the execution and any pending litigation and to establish communications with all parties and relevant state and/or federal courts. Without further order of this court, the clerk may, prior to the filing of a petition, direct parties to lodge with this court (1) relevant portions of previous state and/or federal court records, or the entire record, and (2) pleadings, briefs, and transcripts of any ongoing proceedings. To prevent delay, the case may be assigned to a judge, by the same selection process as for other cases, up to fourteen (14) days prior to the execution date. The identity of the judge assigned shall not be disclosed until a petition is actually docketed.

6. In accordance with Third Circuit L.A.R. Misc. 111.3(b), at the time a final decision is entered, the court shall state whether a certificate of appealability is granted or denied. If a certificate of appealability is granted, the court must state the issues that merit the

granting of a certificate and must also grant a stay pending disposition of the appeal, except as provided in 28 U.S.C. § 2262.

Rule 14.1 Time of Motion to Join Third Party

(a) Applications pursuant to Federal Rule of Civil Procedure 14 for leave to join additional parties after the expiration of the time limits as specified in that rule will ordinarily be denied as untimely unless filed not more than ninety (90) days after the service of the moving party's answer. If it appears to the court's satisfaction that the identity of the party sought to be joined, or the basis for joinder, could not with reasonable diligence have been ascertained within that time period, a brief further extension of time may be granted by the court in the interests of justice.

(b) In cases subject to compulsory arbitration pursuant to Local Civil Rule 53.2, unless otherwise ordered by the court for cause shown, all applications for leave to join additional parties shall be deemed untimely unless filed before the entry appointing arbitrators.

Rule 16.1 Pretrial Procedure

Attorneys and pro se litigants shall consult the pretrial practices and procedures of the judge to whom their case is assigned.

In every case scheduled for trial, as a minimum requirement, counsel must file a pre-trial memorandum that sets forth a factual summary of the case, the parties' respective claims and defenses, the relief sought, and a list of witnesses and exhibits to be used or introduced into evidence. Failure to do so can result in the imposition of sanctions, including the preclusion of witnesses or evidence.

In a jury trial, counsel must submit proposed instructions no later than the commencement of trial, unless otherwise ordered by the court, and failure to do so can constitute waiver of a claim, defense, or legal position.

Rule 16.2 Civil Cases Exempt From Issuance of a Scheduling Order

The following categories of civil cases shall, unless the assigned judge directs otherwise, be exempt from the provision of Federal Rule of Civil Procedure 16(b) that mandates the issuance of a scheduling order:

A. Appeals from the final determination of the Commissioner of Social Security, 42 U.S.C. § 405(g) (Social Security Appeals).

B. Habeas Corpus petitions and actions pursuant to 28 U.S.C. §§ 2254 and 2255.

C. Actions eligible for or referred to arbitration pursuant to Local Civil Rule 53.2.

D. Actions for review of administrative agency actions pursuant to 5 U.S.C. § 702 (Administrative Procedure Act).

E. Actions by the United States for repayment of loans in default.

F. Actions to enforce rights under an employee welfare benefit plan pursuant to 29 U.S.C. § 1132 (ERISA).

G. Internal Revenue Service Proceedings to enforce civil summons pursuant to 26 U.S.C. § 7402.

H. Bankruptcy Appeals.

I. *Pro se* prisoner civil rights actions.

J. Actions in which no pleading or appearance has been filed on behalf of any party defendant within one hundred twenty (120) days from the filing of the complaint.

K. Civil forfeiture (*in rem*) actions

Rule 23.1 Class Actions

In any case sought to be maintained as a class action:

(a) The complaint shall bear next to its caption "Complaint -- Class Action."

(b) The complaint shall contain under a separate heading, styled "Class Action Allegations":

(1) A reference to the portion or portions of Federal Rule of Civil Procedure 23 under which it is claimed that the suit is properly maintainable as a class action.

(2) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:

A. the size (or approximate size) and definition of the alleged class,

B. the basis upon which the plaintiff (or plaintiffs) claims,

(i) to be an adequate representative of the class, or

(ii) if the class is comprised of defendants that those named as parties are adequate representatives of the class.

C. the alleged questions of law and fact claimed to be common to the class, and

D. In actions claimed to be maintainable as class actions under Federal Rule of Civil Procedure 23(b)(3), allegations thought to support the findings required by that subdivision.

(c) As early as practicable, and after considering the views of counsel, the Court shall issue an order scheduling all proceedings relating to the filing of the motion for class certification including, but not limited to, class and related merits fact discovery, expert witness discovery, the filing of the motion for class certification and responses, and, if warranted, the convening of any hearing on the class certification motion.

(d) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or crossclaim alleged to be brought for or against a class.

Rule 26.1 Discovery

(a) Discovery requests and materials and deposition notices and requests served pursuant to Federal Rules of Civil Procedure 30, 31, 33, 34, and 36 shall not be filed with the court. The party serving the discovery material or taking the deposition shall retain the original and be the custodian of it.

(b) Every motion pursuant to the Federal Rules of Civil Procedure governing discovery shall identify and provide, verbatim, the relevant parts of the interrogatory, request, answer, response, objection, notice, subpoena, or depositions in the party's memorandum. Counsel may also identify the disputed discovery in an attached exhibit, provided that the exhibit clearly identifies the relevant portions. Any party responding to the motion shall provide, verbatim, any other part that the party believes necessary to the court's consideration of the motion.

(c) If material in interrogatories, requests, answers, responses, or depositions is used as evidence in connection with any motion, the relevant parts shall be

set forth, verbatim, in the moving papers or in responding memoranda, or as an exhibit attached thereto. If it is used as evidence at trial, the party offering it shall read it into the record or, if directed to do so by the court, offer it as an exhibit.

(d) The court shall resolve any dispute that may arise about the accuracy of any quotation or discovery material used as provided in (b) and (c) and may require production of the original paper or transcript.

(e) The court, on its own motion, on motion by any party, or on application by a non-party, may require the filing of the original of any discovery paper or deposition transcript. The parties may provide for such filing by stipulation.

(f) No motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.

(g) A routine motion to compel answers to interrogatories or to compel compliance with a request for production under Federal Rule of Civil Procedure 34, wherein it is averred that no response or objection has been timely served, need have no accompanying brief, and need have no copy of the interrogatories or Federal Rule of Civil Procedure 34 request attached. The court may summarily grant or deny such motion without waiting for a response.

Rule 39.1 Summations by Attorney

(a) Unless the trial judge shall otherwise grant leave, only one attorney may sum up for any party.

(b) In actions which involve no third-party action, if evidence has been admitted on offer by both sides, the plaintiff's attorney shall first sum up, stating explicitly upon what the plaintiff relies. The defendant's attorney shall next sum up as the nature of defendant's defense may require. The plaintiff's attorney may then reply, restricting himself or herself to rebuttal without assertion of any new ground on plaintiff's behalf.

In like actions, if no evidence has been admitted on offer of any defendant, the same order of summation shall prevail, except that plaintiff's attorney shall not reply.

(c) In actions involving more than one plaintiff, defendant, or third-party defendant, if the attorneys are unable to agree, the trial judge shall determine the order of speaking, *inter se*, of attorneys for plaintiffs, defendants, and third-party defendants.

Rule 39.3 Records, Files and Exhibits

(a) No record or paper belonging to the files of the Court shall be taken from the office or custody of the Clerk except by court order.

(b) The Clerk shall not be required to enter upon the records of this Court any written paper which does not set forth the number of the original suit.

(c) If the papers in a case are mislaid or lost and cannot be found when the case is called for trial, they may be supplied by copies.

(d) All exhibits received in evidence, or offered and rejected, upon the hearing of any cause or motion shall be delivered to the courtroom deputy, who shall keep the same in custody, unless otherwise ordered by the Court.

(e) All exhibits referred to in section (d) shall be taken from the courtroom deputy's custody by the party by whom they were produced or offered within thirty (30) days after the dismissal of the case by the parties or pursuant to Local Civil Rule 41.1 or the entry of final judgment by this Court, or, in the event of an appeal, within thirty (30) days after the receipt and filing of a mandate or other process or certificate showing the disposition of the case by the appellate court; otherwise, such exhibits shall be deemed abandoned and shall be destroyed or otherwise disposed of by the courtroom deputy.

Rule 39.3.1 Video Recordings

(a) One hundred eighty (180) days after the time for appeal has expired following final judgment or one hundred eighty (180) days after a cause is settled of record, each video recording filed of record shall be returned to the party who caused it to be filed.

(b) Nothing in this rule shall prevent this Court from making such other order with respect to any video recordings as it may deem advisable.

Rule 40.1 Assignment of Court Business

I. All civil litigation in this Court shall be divided into the following categories:

a. Federal Question Cases:

i. Indemnity contract, marine contract and all other contracts.

ii. FELA.

iii. Jones Act -- Personal Injury.

iv. Antitrust.

v. Wage and Hour Class Action/Collective Action

vi. Patent.

vii. Copyright/Trademark

viii. Employment

ix. Labor-Management Relations.

x. Civil Rights.

xi. Habeas Corpus.

xii. Securities Cases

xiii. Social Security Review Cases

xiv. Qui Tam cases

xv. All other federal question cases.

b. Diversity Jurisdiction Cases:

i. Insurance Contract and other Contracts.

ii. Airplane Personal Injury.

iii. Assault, Defamation.

iv. Marine Personal Injury.

v. Motor Vehicle Personal Injury.

vi. Other Personal Injury.

vii. Products Liability.

viii. All Other Diversity Cases.

II. Location

a. For general civil matters, where it appears from the complaint, petition, motion, answer, response, or other pleading in a civil case, that a plaintiff or defendant resides in or that the accident, incident, or transaction occurred in the counties of Berks, Lancaster, Lehigh, or Northampton, the case shall be assigned or reassigned for trial and pretrial procedures to a judge stationed in Reading, Allentown, or Easton. Unless otherwise directed by the court, all trial and pretrial procedures with respect thereto shall be held in Reading, Allentown, or Easton. Cases assigned to judges in Reading, Allentown, or Easton shall be given appropriate credit by category for any case so assigned, reassigned, or transferred.

b. All other cases, unless otherwise directed by the court, shall be tried in Philadelphia. As each case is filed, it shall be assigned to a judge, who shall thereafter have charge of the case for all purposes.

III. General Case Assignment

a. Case assignment shall take place in the following manner:

i. Cases are randomly assigned to judges on an equal basis using the automated Case Assignment System.

ii. The numbering and assignment of each case shall be completed before processing of the next case is begun.

IV. Related Cases

a. Newly filed cases are related to a prior filed civil case if they:

i. involve property included in an earlier numbered suit;

ii. involve a transaction or occurrence which was the subject of an earlier numbered suit;

iii. involve the validity or infringement of a patent which was the subject of an earlier numbered suit;

iv. are filed by the same *pro se* individual as an earlier numbered suit, other than a habeas or social security action;

v. are filed by the same habeas petitioner, whether proceeding *pro se* or with counsel; or

vi. involve a social security appeal filed by the same individual, whether proceeding *pro se* or with counsel.

b. Attorney Designations. Attorneys must indicate relatedness on the Civil Cover Sheet and the Designation Form. If none of the relatedness categories on the Designation Form apply, but the attorney believes the case is related to an earlier numbered suit, the attorney must explain why the case is nonetheless related.

c. Defense counsel may raise the issue of relatedness by motion to the assigned judge before defendant's initial pleading. The motion must be filed on the docket in each potentially affected case, with a copy delivered to the Chief Judge, who shall decide the issue of relatedness in consultation with the assigned judges in accordance with the provisions of this Rule.

V. Assignment of Related Cases

a. If at the time of filing the fact of relationship is indicated on the appropriate form, or is otherwise apparent based on the face of the complaint under these Rules, the assignment clerk shall assign the case to the same judge to whom the earlier numbered related case is assigned. If the judge receiving the later case is of the opinion that the relationship does not exist, the judge shall refer the case to the assignment clerk for reassignment by random selection in the same manner as if it were a newly filed case.

b. If the fact of relationship does not become known until after the case is assigned, the judge receiving the later case may refer the case to the Chief Judge for reassignment to the judge to whom the earlier related case is assigned. If the Chief Judge determines that the cases are related, the Chief Judge shall transfer the later case to the judge to whom the earlier case is assigned; otherwise, the Chief Judge shall send the later case back to the judge to whom it was originally assigned.

c. Whenever related cases require handling in such a way as to amount to substantially separate treatment of each case, and one or more of these related cases remain to be tried after disposition or trial of the other related case, the judge in question may call the matter to the attention of the Chief Judge and request leave to reassign a case of like category and approximately similar age. If the Chief Judge determines that such reassignment is desirable in promoting the substantially equal distribution of the workload, the Chief Judge shall reassign such equivalent case, either to the judge who originally transferred a later related case, or to a judge selected by lot (by reference to the assignment clerk), as the case may be.

d. If a pending civil action or proceeding and a pending criminal action are related, the Chief Judge, at the request of any party or judge, may reassign the civil action or proceeding, in the interest of justice, to the judge to whom the criminal action is assigned.

Note: In order to conform to the request of the Judicial Conference of the United States, the Court, on December 19, 1974, effective January 1, 1975, ordered as follows:

i. The Clerk is authorized and directed to require a completed and executed AO Form JS44c, *Civil Cover Sheet, which shall accompany each civil case to be filed.

ii. The Clerk has the authority to direct counsel to provide a properly completed civil cover sheet if counsel does not provide one at the time the case is filed.

iii. At the time of filing a civil case, those persons who are in the Custody of a City, State, or Federal Institution and persons filing civil cases *pro se*, are exempt from the requirement that the Civil Cover Sheet accompany their filing.

*Forms and instructions are available in the Clerk's Office and on the Court website.

VI. Procedures for Assignment of Bankruptcy Matters

a. Appeals

i. Pursuant to 28 U.S.C. § 158(a), the district court has jurisdiction over appeals from final judgments, orders and decrees entered by bankruptcy judges in cases and proceedings referred to the bankruptcy court.

ii. After an appeal from the bankruptcy court has been docketed pursuant to Federal Rule of Bankruptcy Procedure 8003(d)(2), the clerk of the district court shall assign a civil action number to the appeal and, subject to subdivision (4) below, assign the appeal to a district court judge at random from a district-wide wheel.

b. Motions for Withdrawal of the Reference

i. Pursuant to Federal Rule of Bankruptcy Procedure 5011(a), a motion for withdrawal of the reference shall be heard by a district judge.

ii. Pursuant to Local Bankruptcy Rule 5011-1(c), (d), a motion for withdrawal of the reference shall be filed with the clerk of the bankruptcy court who shall promptly transmit the motion to the clerk of the district court.

iii. After a motion for withdrawal of the reference has been transmitted to the district court, the clerk of the district court shall assign a miscellaneous number to the matter and, subject to subdivision (4) below, assign the motion to a district court judge at random from a district-wide wheel.

c. Proposed Findings of Fact and Conclusions of Law

i. Pursuant to 28 U.S.C. § 157(c)(1), Federal Rule of Bankruptcy Procedure 9033(a) and *Stern v. Marshall*, 564 U.S. 462 (2011), in non-core, related proceedings and

certain core proceedings in which the parties do not consent to entry of a final judgment or order by the bankruptcy judge, the bankruptcy judge is required to file proposed findings of fact and conclusions of law.

ii. Upon receipt of the bankruptcy judge's proposed findings of fact and conclusions of law, the clerk of the district court shall assign a civil action number to the matter and, subject to subdivision (4) below, assign the matter to a district court judge at random from a district-wide wheel.

d. If there has been a previous appeal, motion for withdrawal of the reference or transmittal to the district court of proposed findings of fact and conclusions of law arising from the same bankruptcy case, the subsequent matter shall be treated as a related matter and assigned to the same judge of the district court to whom the first appeal, motion or proposed findings of fact and conclusions of law was assigned.

Rule 40.1.1 Emergency Judge

The judge who is designated as "Emergency Judge" shall have the following duties:

(1) Acting in lieu of the judge to whom a case is assigned, whenever the assigned judge is absent from the Court House and cannot feasibly return prior to the expiration of the time within which judicial action is required.

A. Orders entered by the Emergency Judge may be modified, prospectively, by the assigned judge upon the assigned judge's return.

B. Where the Emergency Judge is required to hold an extensive hearing or otherwise perform a substantial amount of work, the Chief Judge may, at the Emergency Judge's request, assign the case to the Emergency Judge for all purposes, and permit him or her to transfer an equivalent case to the judge originally assigned.

(2) Ceremonial Functions.

Rule 40.3 Calendar Control; Operating Procedures

Calendar control and other matters affecting the conduct of court business shall be governed by written policy statements on file in the Clerk's Office, which may be adopted or modified by the court in the implementation of the local rules (but not in derogation thereof), and also in the implementation of operating agreements that may be in effect between this court and certain other courts concerning conflicting engagements of counsel, recognition of busy-slips, and the like.

Rule 40.3.1 Calendar Review

The Chief Judge (or, in case of the absence or disability of the Chief Judge, the next most senior active judge) shall serve as Calendar Judge, and as such shall have the following duties and responsibilities:

(1) The duties and responsibilities set forth in Local Civil Rule 40.1.

(2) The Chief Judge may recommend to the judges of this Court the reassignment of substantial numbers of cases whenever a judge falls appreciably farther behind in trial work than the other members of the Court, and in the interests of justice to litigants and fairness to the Court as a whole, such reassignments are deemed appropriate. No such reassignment of substantial numbers of cases shall take place without the approval of a majority of the judges of this Court.

(3) Where particular counsel or law firms are unable to keep reasonably current with their trial assignments, the Chief Judge may confer with counsel in an attempt to rectify the situation through voluntary action on the part of counsel. In extreme cases, the Chief Judge may recommend to the judges of this Court the adoption of a policy requiring reassignment of cases beyond a certain age in excess of a certain number per lawyer; or for the non-recognition of busy slips for cases beyond a certain age, etc. No such mandatory reassignment or change in policy shall be effective unless approved by a majority vote of the judges of this Court.

Where an issue of reassignment presents a conflict for the Chief Judge, the duties set forth above shall be performed by the next most senior judge eligible to serve as Chief Judge.

Rule 41.1 Dismissal and Abandonment of Actions

(a) Whenever in any civil action the deputy clerk ascertains that no proceeding has been docketed therein for a period of more than one year, the deputy clerk for the respective judge shall send notice to counsel of record and to the parties that the action shall be dismissed, unless the court, upon written application filed within thirty (30) days from the date of such notice and upon good cause shown, shall otherwise order. In the absence of such application or order by the court, the deputy clerk shall, without special order, enter upon the record "dismissed with prejudice under Local Civil Rule 41.1," and shall, upon application by the defendant, tax the costs against the plaintiffs.

(b) Whenever in any civil action counsel shall notify the deputy clerk or the judge to whom the action is assigned that the issues between the parties have been settled, the deputy clerk shall, upon order of the judge to whom the case is assigned, enter an order dismissing the action with prejudice, without

costs, pursuant to the agreement of counsel. Any such order of dismissal may be vacated, modified, or stricken from the record, for good cause shown, upon the application of any party served within ninety (90) days of the entry of such order of dismissal, provided the application of the ninety-day time limitation is consistent with Federal Rule of Civil Procedure 60(c).

Rule 41.2 Minors, Incapacitated Persons, and Decedents' Estates.

(a) No claim of a minor or incapacitated person or of a decedent's estate in which a minor or incapacitated person has an interest shall be compromised, settled, or dismissed unless approved by the court.

(b) No distribution of proceeds shall be made out of any fund obtained for a minor, incapacitated person or such decedent's estate as a result of a compromise, settlement, dismissal or judgment unless approved by the court.

(c) No counsel fee, costs or expenses shall be paid out of any fund obtained for a minor, incapacitated person or such decedent's estate as a result of a compromise, settlement, dismissal or judgment unless approved by the court.

Rule 42.1 Consolidation of Cases

If a party seeks consolidation of cases that do not otherwise qualify as "related" under these Local Rules, the following procedure applies:

1) A letter shall be sent to the Chief judge and docketed in every case that would be affected by the proposed consolidation. The letter must:
    a. attach a comprehensive list of cases proposed for consolidation.
    b. state whether all parties support consolidation.
    c. concisely set forth the basis on which consolidation is warranted.
    d. describe the scope of the proposed consolidation, *e.g.* for discovery purposes only, for pretrial purposes only, etc.

The Chief Judge, following consultation with all judges whose dockets would be affected by consolidation, shall determine whether consolidation is warranted, and the scope of the consolidation.

Rule 43.1 Conduct of Trials

(a) On the trial of an issue of fact, only one attorney for any party shall examine or cross-examine any witness, unless otherwise permitted by the Court.

(b) It is the right and duty of attorneys in a case to be present in the courtroom

at all times the Court may be in session in that case. Any attorney who voluntarily is absent during such times or during the deliberation of the jury, waives the right, and that of the client, to be present and consents to such proceedings as may occur in the courtroom during such absence.

Rule 45.1 Subpoenas for Trial

No trial shall be continued on account of the absence of any witness unless a subpoena for the attendance of such witness has been served at least seven (7) days prior to the date set for trial. This rule shall not dispense with the obligation to take the deposition of any witness where the party requiring his/her attendance, or counsel, knows that such witness intends to be absent from the district at the time of the trial, or where such witness is not subject to subpoena within this jurisdiction.

Rule 45.1.1 Appearance of Judicial Officer of this Court as Character Witness

(a) No District Judge, U.S. Magistrate Judge, or Bankruptcy Judge shall testify as a character witness, except pursuant to a subpoena.

Rule 48.1 Number of Jurors in Civil Trials

(a) Except as provided in subparagraph (b) below, juries in civil cases shall consist, initially, of eight members. Trials in such cases shall continue so long as at least six jurors remain in service. If the number of jurors falls below six, a mistrial shall be declared upon prompt application by any party then on the record, unless the parties stipulate that the verdict may be taken from the number of jurors then remaining.

(b) Whenever it appears likely that the trial will be unusually protracted, or whenever the court in its discretion determines that the interests of justice so require, the jury may be enlarged to include as many as twelve (12) members, but not more than twelve (12) persons shall participate in the deliberations of the jury, nor may any verdict be rendered by a jury consisting of more than twelve (12) persons, or fewer than six (6) persons.

Rule 53.1 Marshal's Sales

(a) In cases wherein the proceeds of any Marshal's sale shall be before the Court for distribution and the claims upon such proceeds shall be referred to a Master, the procedure prescribed by Federal Rule of Civil Procedure 53 shall be followed.

(b) Before the acknowledgment of any deed executed by the Marshal for any interest in real estate sold by the Marshal by virtue of any process from this court shall be taken, the process under which such sale shall have been made shall be duly returned and filed with the Clerk.

(c) Notice of any sale by the Marshal which requires confirmation by the court shall contain, as well, notice of the time of application for confirmation. A motion for confirmation of such sale and acknowledgment of such deeds may be heard on any motion day at least fourteen (14) days after the filing of the return of process. Notice of sale, including the notice of time and place of application for confirmation, shall be given to all interested parties in advance of the sale.

(d) Whenever any such sale shall be postponed by the Marshal or by order of court, notice of the postponed time and place of the sale and of the postponed time and place of application for confirmation shall, if then known, be given by public announcement at the time and place originally fixed for such sale and, if not known, shall thereafter be given to all interested parties and, in either event, shall be published at least once in the official legal publication of the county in which the sale is to be held at least seven (7) days prior to the date of the proposed sale.

Rule 53.2 Arbitration

Arbitrators, counsel, and the parties must comply with any Standing and Procedural Orders of the Court related to arbitration procedures, in addition to the provisions of this Rule.

1. Certification of Arbitrators.

A. The Chief Judge shall certify as many arbitrators as he or she determines to be necessary under this rule.

B. Any individual may be certified to serve as an arbitrator if: (1) he or she has been for at least five years a member of the bar of the highest court of a state or the District of Columbia, (2) he or she is admitted to practice before this court, and (3) he or she is determined by the Chief Judge to be competent to perform the duties of an arbitrator.

C. Any member of the bar possessing the qualifications set forth in subsection 1.B, desiring to become an arbitrator, shall complete the application form obtainable in the office of the Clerk and when completed shall file it with the Clerk who shall forward it to the Chief Judge for a determination as to whether the applicant should be certified.

D. Each individual certified as an arbitrator shall take the oath or affirmation prescribed by Title 28 U.S.C. § 453 before serving as an arbitrator.

E. A list of all persons certified as arbitrators shall be maintained in the office of the Clerk.

F. Any member of the Bar certified as an arbitrator may be removed from the list of certified arbitrators for cause by a majority of the judges of this court.

2. Compensation and Expenses of Arbitrators.

The arbitrators appointed to a panel shall each be compensated $175.00 for services in each case assigned for arbitration (and $225 if the arbitration lasts beyond lunch). Whenever the parties agree to have the arbitration conducted before a single arbitrator, the single arbitrator shall be compensated $250 for services in each case assigned for arbitration. The fees shall be paid by or pursuant to the order of the director of the Administrative Office of the United States Courts.

No compensation is permitted for preparation time on the case or for hearings that are cancelled. In the event that the arbitration hearing is protracted, or for cases involving extensive preparation time, the court will entertain a petition for additional compensation. Arbitrators shall not be reimbursed for actual expenses incurred by them in the performance of their duties under this rule.

3. Cases Eligible for Compulsory Arbitration.

A. The Clerk of Court shall, as to all cases wherein only money damages are being sought, and such damages do not exceed $150,000.00, exclusive of interest and costs, designate and process such cases for compulsory arbitration, including adversary proceedings in bankruptcy, but excluding (1) social security cases, (2) cases in which a prisoner is a party, (3) cases alleging a violation of a right secured by the U.S. Constitution, and (4) actions in which jurisdiction is based in whole or in part on 28 U.S.C. § 1343. In cases where an award of counsel fees is permissible, any motion for counsel fees shall be referred to the assigned judge for resolution.

B. The parties may agree by written stipulation that the Clerk shall designate and process for arbitration any civil case eligible for arbitration pursuant to Section 3.A of this rule (including adversary proceedings in bankruptcy) wherein money damages only are being

sought in an amount in excess of $150,000.00, exclusive of interest and costs.

C. For purposes of this rule only, damages shall be presumed to be not in excess of $150,000.00, exclusive of interest and costs, unless:

(1) Counsel for plaintiff, at the time of filing the complaint, or in the event of the removal of a case from state court or transfer of a case from another district to this court, within fourteen (14) days of the docketing of the case in this district filed a certification that the damages sought exceed $150,000.00, exclusive of interest and costs; or

(2) Counsel for a defendant, at the time of filing a counterclaim or cross-claim, filed a certification with the court that the damages sought by the counterclaim or cross-claim exceed $150,000.00, exclusive of interest and costs.

(3) The judge to whom the case has been assigned may, *sua sponte* or upon motion filed by a party prior to the appointment of the arbitrators to hear the case pursuant to section 4.C, order the case exempted from arbitration upon a finding that the objectives of an arbitration trial (*i.e.*, providing litigants with a speedier and less expensive alternative to the traditional courtroom trial) would not be realized because (a) the case involves complex legal issues, (b) legal issues predominate over factual issues, or (c) for other good cause.

D. Counsel's designation is entitled to substantial deference. In rare cases where quantifiable special damages are absent or minimal, the judge may issue a rule to show cause why the case is not eligible for arbitration. Counsel's designation may be disregarded if counsel's assessment of the potential value of the case is objectively unreasonable.

4. Scheduling Arbitration Trial.

A. After an answer is filed in a case determined to be eligible for arbitration, and after the parties have filed the consent/declination of consent to proceed by videoconference, the arbitration clerk shall send a notice to counsel setting forth the date, time, format, and location (if applicable) for the arbitration trial. The date of the arbitration trial set forth in the notice shall be a date approximately one hundred twenty (120) days from the date the answer was filed. The notice shall also advise counsel that they may agree to an earlier date for the arbitration trial provided the arbitration clerk is notified

within thirty (30) days of the date of the notice. The notice shall also advise counsel that they have ninety (90) days from the date the answer was filed to complete discovery unless the judge to whom the case has been assigned orders a shorter or longer period for discovery. In the event a third party has been brought into the action, this notice shall not be sent until an answer has been filed by the third party.

B. The arbitration trial shall be held before a panel of three arbitrators, one of whom shall be designated as chairperson of the panel, unless the parties agree to have the hearing before a single arbitrator. The arbitration panel shall be chosen through a random selection process by the clerk of the court from among the lawyers who have been certified as arbitrators. The arbitration clerk shall endeavor to assure insofar as reasonably practicable that each panel of three arbitrators shall consist of one arbitrator whose practice is primarily representing plaintiffs, one whose practice is primarily representing defendants, and a third panel member whose practice does not fit either category. The arbitration panel shall be scheduled to hear not more than four (4) cases on a date or dates several months in advance.

C. The judge to whom the case has been assigned shall at least thirty (30) days prior to the date scheduled for the arbitration trial sign an order setting forth the date and time of the arbitration trial and the names of the arbitrators designated to hear the case. In the event that a party has filed a motion to dismiss the complaint, a motion for summary judgment, a motion for judgment on the pleadings, or a motion to join necessary parties, the judge shall not sign the order until the court has ruled on the motion, but the filing of such a motion on or after the date of said order shall not stay the arbitration unless the judge so orders.

D. Upon entry of the order designating the arbitrators, the parties must send the arbitration clerk an email with a copy of the docket sheet and all relevant pleadings, in the form in which they appear on CM/ECF, as attachments. The email should be sent to the email address designated on the Court website and in accordance with all procedural orders then in effect. The arbitration clerk will then forward the documents to the arbitrators by email, along with a copy of the court's order and any relevant procedural orders.

E. Persons selected to be arbitrators shall be disqualified for bias or prejudice as provided in 28 U.S.C. § 144, and shall disqualify themselves in any action in which they would be required under 28 U.S.C. § 455 to disqualify themselves if they were a justice, judge or magistrate judge.

F. The arbitrators designated to hear the case shall not discuss settlement with the parties or their counsel, or participate in any settlement discussions concerning the case assigned to them.

5. The Arbitration Trial.

A. The trial before the arbitrators shall take place on the date and at the time set forth in the order of the Court. The trial shall take place in the United States Courthouse in a room assigned by the arbitration clerk, unless all parties have consented to proceed by videoconference. The arbitrators are authorized to change the date and time of the trial provided the trial is commenced within thirty (30) days of the trial date set forth in the Court's order. Any continuance beyond this thirty (30) day period must be approved by the judge to whom the case has been assigned. The arbitrators must immediately notify the arbitration clerk of any changes in date or time.

B. Counsel for the parties shall promptly report settlement of the case to the arbitration clerk and all members of the arbitration panel assigned to the case.

C. The trial before the arbitrators may proceed in the absence of any party who, after notice, fails to be present. In the event, however, that a party fails to participate in the trial in a meaningful manner, the Court may impose appropriate sanctions, including, but not limited to the striking of any demand for a trial de novo filed by that party.

D. Federal Rule of Civil Procedure 45 shall apply to subpoenas for attendance of witnesses and the production of documentary evidence at the trial before the arbitrators. Testimony at the trial shall be under oath or affirmation.

E. The Federal Rules of Evidence shall be used as guides to the admissibility of evidence. Copies or photographs of all exhibits, except exhibits intended solely for impeachment, must be marked for identification and delivered to adverse parties at least fourteen (14) days prior to the trial and the arbitrators shall receive such exhibits into evidence without formal proof unless counsel has been notified at least seven (7) days prior to the trial that the adverse party intends to raise an issue concerning the authenticity of the exhibit. The arbitrators may refuse to receive into evidence any exhibit, a copy or photograph of which has not been delivered prior to trial to the adverse party, as provided herein.

F. A party may have a recording and transcript made of the arbitration hearing at the party's expense.

6. Arbitration Award and Judgment.

The arbitration award shall be promptly emailed to the arbitration clerk for docketing after the trial is concluded, and shall be entered as the judgment of the court after the thirty (30) day time period for requesting a trial de novo has expired, unless a party has demanded a trial de novo, as hereinafter provided. The judgment so entered shall be subject to the same provisions of law, and shall have the same force and effect as a judgment of the court in a civil action, except that it shall not be the subject of appeal. In a case involving multiple claims and parties, any segregable part of an arbitration award concerning which a trial de novo has not been demanded by the aggrieved party before the expiration of the thirty (30) day time period provided for filing a demand for trial de novo shall become part of the final judgment with the same force and effect as a judgment of the court in a civil action, except that it shall not be the subject of appeal.

7. Trial De Novo.

A. Within thirty (30) days after the arbitration award is entered on the docket, any party may demand a trial de novo in the district court. Written notification of such a demand shall be served by the moving party upon all counsel of record or other parties. Withdrawal of a demand for a trial de novo shall not reinstate the arbitrators' award and the case shall proceed as if it had not been arbitrated.

B. Upon demand for a trial de novo, the action shall be placed on the trial calendar of the Court and treated for all purposes as if it had not been referred to arbitration. Any right of trial by jury which a party would otherwise have shall be preserved inviolate.

C. At the trial de novo, the court shall not admit evidence that there had been an arbitration trial, the nature or amount of the award, or any other matter concerning the conduct of the arbitration proceeding unless the evidence would otherwise be admissible in the Court under the Federal Rules of Evidence.

D. To make certain that the arbitrators' award is not considered by the Court or jury either before, during or after the trial de novo, the arbitration clerk shall, upon the filing of the arbitration award, enter onto the docket only the date and "arbitration award filed" and nothing more, and shall retain the arbitrators' award in a separate file in the Clerk's office. In the event no demand for trial de novo is filed within the designated time period, the arbitration clerk shall enter the award on the docket.

Rule 53.3 Alternative Dispute Resolution

(a) Litigants in all civil actions, exempting only social security appeals, *pro se* prisoner civil rights actions, and petitions for habeas corpus, shall be required to consider the use of an alternative dispute resolution process (the "ADR process") at an appropriate stage in the litigation.

(b) ADR processes may include mediation and settlement conferences and such other ADR processes as the judge to whom the case is assigned (the "assigned judge") may designate.

(c) All ADR processes subject to this Rule shall be confidential, and disclosure or use by any person of dispute resolution communications is prohibited unless confidentiality has been waived by all participants in the ADR process, or disclosure is ordered by the assigned judge for good cause shown.

(d) Nothing in this Rule shall be construed to limit the assigned judge from (a) conducting settlement conferences or referring a matter to a magistrate judge for a settlement conference, or (b) ordering the litigants to participate in an ADR process, or (c) approving or disapproving of an ADR process selected by the litigants.

(e) The Chief Judge shall administer, oversee, and evaluate the court's ADR program in accordance with the Alternative Dispute Resolution Act of 1998. The Clerk, or such other person as may be designated from time to time by the Chief Judge, shall serve as the ADR coordinator. The ADR coordinator shall recruit and screen attorneys to serve as mediators and maintain a list of mediators approved by the Court.

(f) This Rule is intended to be flexible so as to permit the court to adopt, from time to time, guidelines and policies for the administration of the ADR program. The procedures promulgated by the court for the implementation of the ADR program are available on the court website.

(g) Nothing in this Rule shall be construed to amend or modify the provisions of Local Civil Rule 53.2 (compulsory and voluntary arbitration with right of trial *de novo*).

Rule 54.1 Costs: Taxation, Payment

(a) Taxation of Costs

(1) Any party requesting taxation of costs by the Clerk must file a notice of

taxation of costs using form AO133 (Bill of Costs), along with the required supporting documentation, within seventy-five (75) days of the entry of final judgment, or, if the judgment is appealed, within seventy-five (75) days after final disposition of the appeal, unless otherwise ordered by the court. Submission of the form along with supporting documentation shall constitute notice in accordance with Federal Rule of Civil Procedure 54(d)(1).

(2) No costs will be taxed during the pendency of any appeal, motion for reconsideration, or motion for a new trial. The party seeking taxation of costs must file a new notice of taxation of costs using form AO133, along with the required supporting documentation, within seventy-five (75) days of the determination of an appeal that terminates the case without remand for further proceedings, motion for reconsideration, or motion for a new trial. The same procedures apply if a party files a petition for a writ of certiorari.

(3) Failure to file a notice of taxation of costs using the required form and supporting documentation within the applicable seventy-five (75) day period, unless otherwise ordered by the court, will result in waiver of costs.

(4) Any party objecting to the bill of costs must, within fourteen (14) days of the date of service of the notice of taxation of costs, file objections with the Clerk describing the specific items objected to and the grounds for objection. The Clerk will then rule on the bill of costs.

(5) If no objections to the bill of costs are filed, the Clerk will make a determination to grant or deny a request for taxation of costs no sooner than twenty-one (21) days after the notice of taxation of costs is filed.

(6) The Clerk's decision will be indicated in the appropriate section of form AO133, which will be docketed on CM/ECF along with a judgment. No opinion will issue.

(7) Any party wishing to appeal the Clerk's taxation of costs may do so by filing a motion with the court within seven (7) days of the Clerk's taxation of costs in accordance with Federal Rule of Civil Procedure 54(d)(1). The motion must describe the items objected to and the grounds for the objection.

(b) Payment

26.1

(1) The Clerk shall not enter an order of dismissal or of satisfaction of judgment until the Clerk's and Marshal's costs have been paid. The

Clerk, in cases settled by parties without payment of costs, may have an order on one or more of the parties to pay the costs. Upon failure to pay the costs within fourteen (14) days, or at such time as the court may otherwise direct, the Clerk may issue execution for recovery of costs.

Rule 56.1 Judgments pursuant to a Warrant of Attorney

No judgment shall be entered on any warrant of attorney more than ten (10) years old but less than twenty (20) years old without leave of court. If the warrant is more than ten (10) but less than twenty (20) years old, the motion for leave shall be accompanied by an affidavit of one having knowledge of the facts, stating the due execution of the warrant, nonpayment, and that the obligor is alive. If the warrant is twenty (20) or more years old, a petition shall be filed for a rule to show cause why leave should not be granted and service of the petition and rule shall be made on the obligor, if he or she is within this district.

Rule 67.1 Bail, Sureties and Security

(a) No attorney or officer of this Court shall be acceptable as surety, bail or security of any kind in any proceeding in this court.

(b) Exceptions to bail or surety must be filed in writing with the Clerk, and written notice thereof shall be given by the expectant to the opposing party or their attorney and to the Marshal within forty-eight (48) hours of filing.

Rule 67.2 Deposits in Court

(a) Payments into Court shall, unless otherwise determined by the Clerk, be in cash, money order, certified check, or cashier's check.

(b) When funds on deposit with the Clerk are disbursed, payment shall be made by check payable to the party entitled thereto and the resident attorney of record, if any, representing such party. The check shall be delivered to such attorney unless otherwise ordered by the court.

Rule 72.1 United States Magistrate Judges

I. Authority of United States Magistrate Judges in Civil Matters.

(a) **Duties under 28 U.S.C. § 636.**

Each United States magistrate judge of this district is authorized to exercise the powers and perform the duties prescribed by 28 U.S.C. § 636(a).

(b) **Prisoner Cases under 28 U.S.C. §§ 2254 and 2255.**

A magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the United States District Courts under 28 U.S.C. §§ 2254 and 2255, except signing CJA vouchers for compensation to be paid unless representation is furnished exclusively before a magistrate judge. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendation for disposition of the petition by the judge. Any order disposing of the petition may be made only by a judge.

(c) **Prisoner Cases under 42 U.S.C. § 1983.**

A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a judge a report containing proposed findings of fact and recommendations for the disposition of complaints filed by prisoners challenging the conditions of their confinement.

(d) **Special Master References.**

Upon the consent of the parties, a magistrate judge may be designated by a judge to serve as a special master in any civil case in accordance with 28 U.S.C. § 636(b)(2) and Federal Rule of Civil Procedure 53.

(e) **Other Duties.**

A magistrate judge is also authorized to:

(1) Exercise general supervision of civil calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the judges;

(2) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil cases;

(3) Conduct voir dire and select petit juries;

(4) Accept petit jury verdicts in civil cases in the absence of a judge;

(5) Issue subpoenas, writs of habeas corpus ad testificandum or habeas

corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for Court proceedings;

(6) Order the exoneration or forfeiture of bonds;

(7) Conduct proceedings for the collection of civil penalties of not more than $200 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. §§ 4311(d) and 12309(c);

(8) Conduct examinations of judgment debtors in accordance with Federal Rule of Civil Procedure 69;

(9) Conduct proceedings for initial commitment of narcotics addicts under Title III of the Narcotic Addict Rehabilitation Act, with the final determination and order of commitment to be made by the district judge assigned to the case; and

(10) Perform any additional duty that is not inconsistent with the Constitution and laws of the United States.

II. Assignment of Matters to Magistrate Judges in Civil Matters.

In General. In accordance with procedures adopted by the Board of Judges, each district judge shall have an assigned magistrate judge. Matters shall be referred to magistrate judges at the direction of the district judge to whom the case is assigned. The pairings, and the procedures for assignment of cases where parties have consented to the jurisdiction of a magistrate judge, will be posted on the Court's website.

III. Procedures before Magistrate Judges in Civil Matters.

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

(b) **Special Provisions for the Disposition of Civil Cases by a Magistrate Judge on Consent of the Parties—28 U.S.C. § 636(c).**

(1) **Notice.** The Clerk shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be provided to the plaintiff or the plaintiff's representative at the time an action is filed and to other parties as attachments to copies of

the complaint and summons, when served. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

(2) **Execution of Consent.** The plaintiff shall be responsible for securing the execution of consent forms by the parties and for filing such forms with the Clerk of Court. Unless otherwise ordered by the district judge to whom the case is assigned, consent forms may be filed at any time prior to trial. No consent form will be made available nor will its contents be made known to any judge or magistrate judge, unless all parties have consented to the reference to a magistrate judge.

(3) **Reference.** After receipt and approval of the signed consent form by the presiding judge, the Clerk shall reassign the case to the magistrate judge to whom it was referred.

IV. Reconsideration and Appeal in Civil Matters.

(a) Reconsideration of Non-Dispositive Matters—28 U.S.C. § 636(b)(1)(A).

Any party may object to a magistrate judge's order determining a motion or matter under 28 U.S.C. § 636(b)(1)(A), within fourteen (14) days after issuance of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a judge. Such party shall file with the Clerk, and serve on the magistrate judge and all parties, a written statement of objections which shall specifically designate the order objected to and the basis for such objection.

(b) Review of Case-Dispositive Motions and Prisoner Litigation—28 U.S.C. § 636(b)(1)(B).

Any party may object to a magistrate judge's proposed findings, recommendations, or report under 28 U.S.C. § 636(b)(1)(B), and subsections 1(c) and (d) of this Rule within fourteen (14) days after being served with a copy thereof. Written objections shall be filed with the Clerk and served on the magistrate judge and all parties. Objections must specifically identify the portions of the proposed findings, recommendations, or report to which objection is made and the basis for such objections. Any party may respond to another party's objections within fourteen (14) days after being served with a copy thereof.

(c) All issues and evidence shall be presented to the magistrate judges, and unless the interest of justice requires it, new issues and evidence shall not be raised after the filing of the Magistrate Judge's Report and Recommendation if they could have been presented to the magistrate judge.

Rule 83.3 Broadcasting, Filming and Recording in Courtrooms and Appurtenant Areas

(a) No judicial proceedings may be broadcast by radio or television, or filmed by still or motion-picture camera or other electronic device, except that investitive, naturalization or other ceremonial proceedings may be broadcast, or filmed, subject to the supervision of the Clerk, and pursuant to regulations formulated by the Clerk, with the approval of the Chief Judge, which regulations are calculated to ensure that the solemnity of such proceedings is not jeopardized.

(b) Except as provided by any applicable standing court order concerning electronic devices, no cameras, broadcasting mechanisms, or electronic device capable of filming or recording may be brought into, or retained or operated within, any district court courtroom or any hall on the same floor as such courtroom. The bringing of cameras, broadcasting mechanisms, or related apparatus into any vacant courtroom or its appurtenant hallways, and the retention or operation of such apparatus therein, are subject to the supervision of the Clerk, pursuant to regulations formulated by the Clerk with approval of the Chief Judge.

(c) No person not employed in such office may bring any cameras, broadcasting mechanisms, or related apparatus into the Clerk's office, the Marshal's office, the Probation office, the Office of Pre-Trial Services, or any other office which is an administrative component of the district court, except as permitted and supervised by the chief of that office or an authorized designee thereof.

(d) No cameras, broadcasting mechanisms, or related apparatus may be operated within 50 feet of the elevator bay on the ground floor of the Courthouse.

Rule 83.5 Admission to Practice

(a) Any attorney who is a member in good standing of the bar of the Supreme Court of Pennsylvania may, by a verified application and upon motion of a member of the bar of this Court, make application to be admitted generally as an attorney of the Court. A fee established by this court shall be assessed for all such admissions. No admission shall be effective until such time as the fee has been paid.

(b) The petition for admission shall aver, under oath, all pertinent facts. The Court may admit the petitioner upon such petition and motion or may require that the petitioner offer satisfactory evidence of present good moral and professional character.

(c) Upon admission the petitioner shall take and subscribe to the following oath or affirmation:

"I do swear (or affirm) that I will accord myself as an attorney of this Court uprightly and accordingly to law and that I will support and defend the Constitution of the United States."

(d) Upon appropriate motion and the taking of the oath prescribed in subparagraph (c), any attorney admitted to the limited practice provided by Subchapter C of the Pennsylvania Bar Admission Rules may be admitted to a similar limited practice before this court as to all causes in which the defender association or legal services program with which that attorney is affiliated acts as counsel.

1. The right to practice under this rule shall terminate upon termination of admission to practice under Subchapter C of the Pennsylvania Bar Admission Rules.

2. The roll of attorneys maintained by the Clerk of this Court shall be specially noted to show those admitted under the provisions of this subparagraph.

(e) Any attorney who is a member in good standing of the bar of the highest court of any state, territory, or the District of Columbia may, without being admitted generally as an attorney of this Court, act as an attorney in this Court on behalf of the United States Government or any of its departments or agencies.

(f) An attorney applying for first-time admission to the bar of this court must simultaneously inform the court of any previous public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States and of any conviction for a "serious crime" as defined in these rules.

Petitions for first-time admission filed by an attorney who has previously been publicly disciplined by another court or convicted of a serious crime shall be filed with the Chief Judge of this court. Upon receipt of the petition, the Chief Judge shall assign the matter for prompt hearing before one or more judges of this court appointed by the Chief Judge. The judge or judges assigned to the matter shall thereafter schedule a hearing at which the petitioner shall have the burden of demonstrating, by clear and convincing evidence, that the petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this court, and that the petitioner's admission shall not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest. In all the above-described proceedings, the attorney

applying for first-time admission shall have the right to counsel. All such petitions shall be accompanied by an advance cost deposit in an amount to be set by the court, from time to time, to cover anticipated costs of the proceeding.

(g) The judge or judges to whom a matter is assigned under Local Rule 83.5(f) shall make a report and recommendation to the court after a hearing. The court shall decide the matter.

Rule 83.5.1 Student Practice Rule

Program Eligibility

A. Law school clinical practice programs for which students receive academic credit are eligible. Eligible programs:

1. must provide academic and practice advocacy training, and utilize law school faculty or adjunct faculty for practice supervision, including federal government attorneys or private practitioners;

2. must be certified by this court;

3. must be conducted in a manner that does not conflict with normal court schedules;

4. must maintain malpractice insurance for its activities; and

5. may accept compensation other than from a client.

B. An eligible student:

1. must be duly enrolled in a law school and have completed at least three semesters of legal studies, or the equivalent;

2. must be enrolled for credit in a law school clinical program which has been certified by this court;

3. must be certified by the Dean of the law school, or the Dean's designee, and by this Court, as being of good character and sufficient legal ability, in accordance with subparagraphs 1–3 above, to fulfill the student's responsibilities as a legal intern to both the student's client and this Court;

4. must not accept personal compensation for legal services from a client or other source;

5. may, under personal supervision of a certified supervisor, represent any client including federal, state or local government bodies, in any civil or administrative matter, if the client on whose behalf the student is appearing has indicated consent in writing to that appearance and the supervising lawyer has also indicated in writing the supervisor's approval of that appearance; and

6. may engage in all activities on behalf of the student's client that a licensed attorney may engage in.

C. A supervisor must:

1. have faculty or adjunct faculty status at the responsible law school and be certified by the Dean of the law school as being of good character and sufficient legal ability and as being adequately trained to fulfill a supervisor's responsibilities;

2. be admitted to practice in this court;

3. be present with the student at all times in court, and at other proceedings, including depositions, in which testimony is taken;

4. co-sign all pleadings or other documents filed with the court;

5. assume full personal professional responsibility for guiding the student in any work undertaken and for the quality of a student's work, and be available for consultation with represented clients;

6. assist and counsel the student in activities mentioned in this rule, and review such activities with the student, to the extent required for the proper practical training of the student and the protection of the client; and

7. be responsible to supplement oral or written work of the student as necessary to ensure proper representation of the client.

Certification of Student, Program, and Supervisor

A. Certifications may be withdrawn by this court at any time, in the discretion of the court, and without any showing of cause.

1. Students are certified by order of the Chief Judge. Certification shall remain in effect for 18 months.

2. Certification of a program by this court shall be filed with the Clerk and shall remain in effect indefinitely unless withdrawn by the court.

3. Certification of a supervisor must be filed with the Clerk, and shall remain in effect indefinitely unless withdrawn by this court or in writing by the Dean of the law school.

Limitation of Activities

The court retains the power to limit a student's participation in any case to those activities deemed consistent with the appropriate administration of justice.

Rule 83.5.2 Associate Counsel

(a) Except for attorneys appearing on behalf of the United States Government or a department or agency thereof pursuant to Local Civil Rule 83.5(e), any attorney who is not a member of the bar of this court shall, in each proceeding in which that attorney desires to appear, have as associate counsel of record a member of the bar of this court upon whom all pleadings, motions, notices and other papers can be served conformably to the Federal Rules of Civil Procedure and the local rules of this court. At least one associate counsel shall maintain their appearance on the docket until the conclusion of the case or until granted leave to withdraw by the court.

(b) An attorney who is not a member of the bar of this Court shall not actively participate in the conduct of any trial or pre-trial or post-trial proceeding before this Court unless, upon motion of a member of the bar of this Court containing a verified application, leave to do so shall have been granted. A fee established by this court shall be assessed for all such applications. No admission shall be effective until such time as the fee has been paid, ***except that any counsel appearing in a case transferred pursuant to an Order of the Judicial Panel on Multidistrict Litigation need not pay such a fee***.

0Rule 83.6 Rules of Attorney Conduct

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The United States District Court for the Eastern District of Pennsylvania, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys who are admitted to practice before it, promulgates the following Rules of Disciplinary Enforcement superseding all of its other Rules pertaining to disciplinary enforcement heretofore promulgated.

Rule I -- Attorneys Convicted of Crimes.

A. An attorney admitted to practice in this court shall promptly notify the Clerk of this court whenever he or she has been convicted in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined. Upon such notification or upon the filing with this court of a certified copy of the judgment of conviction, the court shall enter an order immediately suspending that attorney, whether the conviction resulted from plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice to do so.

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

C. A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

D. Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the court shall in addition to suspending that attorney in accordance with the provisions of this rule, also refer the matter to counsel for the institution of a disciplinary proceeding before the court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

E. Upon the filing of a certified copy of a judgment of conviction of an attorney

for a crime not constituting a "serious crime," the court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the court; provided, however, that the court may in its discretion make no reference with respect to convictions for minor offenses.

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

Rule II -- Discipline or Prohibitions Imposed By Other Courts or Authorities.

A. Any attorney admitted to practice before this court, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, or upon being prohibited from the practice of law for failure to fulfill any continuing legal education requirement, for voluntarily entering into inactive status, or for any other reason, shall promptly notify the Clerk of this court of such action. Placement on inactive status or other action taken for failure to maintain a bona fide office in another jurisdiction shall not be grounds for discipline or other action by this court so long as the attorney maintains a bona fide office in another jurisdiction.

B. Upon notification as required under paragraph A or the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this court has been disciplined by another court or otherwise has been prohibited from the practice of law, the Chief Judge of this court, if he or she deems it appropriate, shall forthwith issue a notice directed to the attorney containing:

1. a copy of the judgment or order from the other court or authority; and

2. an order to show cause directing that the attorney inform this court within thirty 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in paragraph D that the imposition of the identical discipline or prohibition by the court would be unwarranted and the reasons therefor.

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

D. Upon the expiration of thirty (30) days from service of the notice issued pursuant to the provisions of (B) above and after an opportunity for any attorney contesting the imposition of the identical discipline or prohibition to be heard by one or more judges designated by the Chief Judge, this court shall impose the identical discipline or prohibition unless the respondent-attorney demonstrates, or this court finds, that upon the face of the record upon which the discipline or prohibition in another jurisdiction is predicated it clearly appears:

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

2. that there was such an infirmity of proof as to give rise to the clear conviction that this court could not, consistent with its duty, accept as final the conclusion on that subject; or

3. that the imposition of the same discipline or prohibition by this court would result in grave injustice; or

4. that the misconduct or other basis established for the discipline or prohibition is deemed by this court to warrant substantially different action.

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

E. In all other respects, a final adjudication in another court or authority that an attorney has been guilty of misconduct or otherwise should be prohibited from the practice of law shall establish conclusively the facts for purposes of a proceeding under this rule in the court of the United States.

F. This court may at any stage appoint counsel to investigate and/or prosecute the proceeding under this rule.

G. The judge or judges to whom any proceeding under this rule is assigned shall make a report and recommendations to the court after the parties have been heard, which will be filed under seal and served on the parties. A party shall serve and file under seal any objections within fourteen (14) days thereafter. Further submissions by any party shall be served and filed under seal within seven (7) days after service of any objections. The court shall then decide the matter; after decision the report and recommendation, any objections, and any submissions shall be unsealed unless otherwise ordered by the court.

H. Any attorney who is disciplined or otherwise prohibited from the practice of

law by a state court or authority may continue to practice in this court if this court decides, in accordance with this Rule, that no discipline or prohibition should be imposed. However, continuance of practice in this court does not authorize an attorney to practice in any other jurisdiction, and no attorney shall hold out himself or herself as authorized to practice law in any jurisdiction in which the attorney is not admitted.

Rule III -- Disbarment on Consent or Resignation in other Courts.

A. Any attorney admitted to practice before this court who shall be disbarred on consent or resign from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this court and be stricken from the roll of attorneys admitted to practice before this court.

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

Rule IV -- Standards for Professional Conduct.

A. For misconduct defined in these rules, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this court may be disbarred, suspended from practice before this court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

B. Acts or omissions by an attorney admitted to practice before this court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of any attorney-client relationship.

The Rules of Professional Conduct adopted by this court are the Rules of Professional Conduct adopted by the Supreme Court of Pennsylvania, as amended from time to time by that state court, except as otherwise provided by specific rule of this Court after consideration of comments by representatives of bar associations within the state, except that prior court approval as a condition to the issuance of a subpoena addressed to an

attorney in any criminal proceeding, including a grand jury, shall not be required. The propriety of such a subpoena may be considered on a motion to quash.

Rule V -- Disciplinary or Other Proceedings against Attorneys.

A. When the misconduct or other basis for action against an attorney (other than as set forth in Rule 83.6 Section II) or allegations of the same which, if substantiated, would warrant discipline or other action against an attorney admitted to practice before this court shall come to the attention of a judge of this court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these rules, the judge shall refer the matter to the Chief Judge who shall issue an order to show cause.

B. Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, the Chief Judge shall set the matter for prompt hearing before one or more judges of this court, provided however that if the proceeding is predicated upon the complaint of a judge of this court the hearing shall be conducted before a panel of three other judges of this court appointed by the Chief Judge.

C. This court may at any stage appoint counsel to investigate and/or prosecute the proceeding under this rule.

D. This court may refer any matter under this rule to the appropriate state disciplinary or other authority for investigation and decision before taking any action. The attorney who is the subject of the referral shall promptly notify this court of the decision of any state court or authority and shall take whatever steps are necessary to waive any confidentiality requirement so that this court may receive the record of that referral.

E. The judge or judges to whom any proceeding under this rule is assigned shall make a report and recommendation to the court after the parties have been heard, which will be filed under seal and served on the parties. A party shall serve and file under seal any objections within fourteen (14) days thereafter. Further submissions by any party shall be served and filed under seal within seven (7) days after service of any objections. The court shall then decide the matter; after decision the report and recommendation, any objections, and any submissions shall be unsealed unless otherwise ordered by the court.

Rule VI -- Disbarment on Consent While Under Disciplinary Investigation or Prosecution.

A. Any attorney admitted to practice before this court who is the subject of an

investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to this court an affidavit stating that the attorney desires to consent to disbarment and that:

1. the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;

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

3. the attorney acknowledges that the material facts so alleged are true; and

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

B. Upon receipt of the required affidavit, this court shall enter an order disbarring the attorney.

C. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon the order of this court.

Rule VII -- Reinstatement.

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

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

C. **Hearing on Application.** Petitions for reinstatement under this rule by an attorney who has been disbarred, suspended or otherwise prohibited from the practice of law shall be filed with the Clerk of this court. Upon the filing of

the petition, the Chief Judge shall assign the matter for prompt hearing before one or more judges of this court, provided however that if the proceeding was predicated upon the complaint of a judge of this court the hearing shall be conducted before a panel of three other judges of this court appointed by the Chief Judge. The judge or judges assigned to the matter shall promptly schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that the petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this court and that 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. In the case where this court has imposed discipline or otherwise taken adverse action identical to that imposed or taken by a state court or authority, any petition for reinstatement in this court shall be held in abeyance until a petition for reinstatement to practice in the state court has been filed and finally decided. Nonetheless, if the petition for reinstatement to practice in the state curt remains pending before the state court or authority for more than a year without a final decision, this court may proceed to consider and decide the petition pending before it. Whenever the state court renders a final decision, the attorney shall promptly file with this court a copy of said decision including any findings of fact and conclusions of law. After review of the state court decision, this court may reconsider its action upon notice and an opportunity to be heard. This court shall not hold the reinstatement petition in abeyance where the state disciplining or taking other action against the attorney does not provide for reinstatement under the circumstances. If the discipline imposed or other action taken by this court was different from that imposed or taken by the state court or authority, this court will proceed to consider the petition for reinstatement upon receipt.

D. The court may at any stage appoint counsel in opposition to a petition for reinstatement.

E. **Deposit for Costs of Proceeding.** Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the court to cover anticipated costs of the reinstatement proceeding.

F. **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 judgment shall reinstate the petitioner, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five years or more,

reinstatement may be conditioned, in the discretion of the judge or judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

G. **Successive Petitions.** No petition for reinstatement under this rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

H. The judge or judges to whom any proceeding under this rule is assigned shall make a report and recommendation to the court after the parties have been heard, which will be filed under seal and served on the parties. A party shall serve and file under seal any objections within fourteen (14) days thereafter. Further submissions by any party shall be served and filed under seal within seven (7) days after service of any objections. The court shall then decide the matter; after decision the report and recommendation, any objections, and any submissions shall be unsealed unless otherwise ordered by the court.

I. Any attorney who is reinstated may practice before this court notwithstanding the refusal or failure of any state court to reinstate said attorney to practice. However, reinstatement to practice before this court does not authorize an attorney to practice in any other jurisdiction, and no attorney shall hold out himself or herself as authorized to practice law in any jurisdiction in which the attorney is not admitted.

Rule VIII -- Attorneys Specially Admitted.

Whenever an attorney applies to be admitted or is admitted to this court for purposes of a particular proceeding, the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

Rule IX -- Service of Papers and Other Notices.

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address shown in the roll of attorneys of this court or the most recent edition of the Legal Directory. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address shown on the roll of attorneys of this court or the most recent edition of the Legal Directory; or the respondent's attorney at the address indicated in the most recent pleading or other document filed by them in the course of any proceeding.

Rule X -- Appointment of Counsel.

Whenever counsel is to be appointed pursuant to these rules to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney, this court shall appoint as counsel the disciplinary agency of the Supreme Court of Pennsylvania, or other disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or such appointment is clearly inappropriate, this court shall appoint as counsel one or more members of the Bar of this court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these rules, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this court.

Rule XI -- Duties of the Clerk.

A. Upon being informed that an attorney admitted to practice before this court has been convicted of any crime, the Clerk shall determine whether the clerk of the court in which such conviction occurred has forwarded a certificate of such conviction to this court. If a certificate has not been forwarded, the Clerk shall promptly obtain a certificate and file it with this court.

B. Upon being informed that an attorney admitted to practice before this court has been subjected to discipline by another court, the Clerk shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this court, and if not, the Clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this court.

C. Whenever it appears that any person convicted of any crime or disbarred or suspended or censured or disbarred on consent by this court is admitted to practice law in any other jurisdiction or before any other court, the Clerk shall, within ten (10) days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified exemplified copy of the judgment or order of disbarment, suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

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

Rule XII – Jurisdiction.

Nothing contained in these rules shall be construed to deny to this court such powers as are necessary for the court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Federal Rule of Criminal Procedure 42.

Rule XIII -- Effective Date.

These rules became effective on August 1, 1980, provided that any formal disciplinary proceeding then pending before this court shall be concluded under the procedure existing prior to the effective date of these rules.

Rule 83.6.1 Expedition of Court Business

(a) Attorneys shall promptly advise the court of the settlement or other final disposition of a case.

(b) No attorney shall, without just cause, fail to appear when that attorney's case is before the court on a call, motion, pretrial proceeding, or trial, or present to the court vexatious motions or vexatious opposition to motions or fail to prepare for presentation to the court, or otherwise so multiply the proceedings in a case as to unreasonably and vexatiously increase costs.

(c) Any attorney who fails to comply with (a) or (b) may be disciplined as the court shall deem just.

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