Local Rules of the United States District Court

EASTERN DISTRICT OF CALIFORNIA

Effective July 1, 2011

The Court wishes to acknowledge the generous assistance rendered by Ann Taylor Schwing, Esq., in the preparation of these Local Rules.

EASTERN DISTRICT OF CALIFORNIA LOCAL RULES

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GENERAL RULES

RULE 100 (Fed. R. Civ. P. 1)

TITLE – CONSTRUCTION – NUMBERING

(a) Title. These are the Local Rules of Practice for the United States District Court, Eastern District of California. They may be cited as "L.R."

(b) Numbering. When a Local Rule is a general, civil, or magistrate judges' Rule, the Rule number appears without designation; when criminal, the abbreviation "Crim" prefaces the Rule number to distinguish it. Admiralty and In Rem Rules are prefaced by the letter "A."

(c) Construction. These Local Rules are adopted pursuant to 28 U.S.C. § 2071, Fed. R. Civ. P. 83, and Fed. R. Crim. P. 57. They are intended to supplement and shall be construed and administered consistently with and subordinately to the United States Constitution; federal statutes; the Federal Rules of Civil Procedure, including the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (Supplemental Rules); the Federal Rules of Criminal Procedure; the Federal Rules of Appellate Procedure; and the Rules Governing Section 2254 Cases in the United States District Courts.

(d) Applicability. Local Rules 100 through 199 and 300 through 399 govern proceedings in all actions in the United States District Court for the Eastern District of California to the extent not inconsistent with other Rules more specifically applicable to the particular action. Local Rules 200 through 299 govern proceedings in civil actions only, while Local Rules 400 through 499 are limited in application to criminal actions. Local Rules 500 through 599 are the Admiralty and In Rem Rules for the Eastern District of California.

(e) Effective Date. These Local Rules are effective on December 1, 2009, and shall govern all actions then pending or commenced thereafter. Where justice requires, the Court may order that an action pending before that date be governed by the practice of the Court before the adoption of these Local Rules.

(f) Electronic Filing Rules. These Local Rules include the requirements and procedures for electronic filing, service, and retention of documents. The Clerk shall maintain on the Court's website a comprehensive electronic filing user's manual that contains the procedures applicable to electronic filing. The Clerk shall notify the membership of the Bar of this Court and other attorneys authorized to practice in this Court of changes to electronic filing procedures by the most appropriate means.

RULE 101 (Fed. R. Civ. P. 1)

DEFINITIONS

For purposes of these Rules, unless the context otherwise requires, the terms below are defined as follows.

"Action" means a case, proceeding, or matter.

"Affidavit" includes a declaration prepared in accordance with federal law. See 28 U.S.C. § 1746.

"Attorney" refers to a member of the Bar of this Court, licensed to practice law by the State of California or a member of the bar in another state authorized to practice in this Court unless inconsistent with the purpose and intent of a particular Rule. Compare "attorney" with "counsel." See L.R. 183.

"Attorney's Signature" includes either a handwritten signature or an electronic signature.

"Briefs" include memoranda, points and authorities, and other written arguments, or compilations of authorities.

"Chief Judge" means the Chief Judge of the District appointed pursuant to 28 U.S.C. § 136.

"Clerk" means the Clerk of the District Court appointed pursuant to 28 U.S.C. § 751, or a duly authorized deputy clerk, as the case may be.

"CM/ECF" is the Case Management / Electronic Case Files docketing and file system implemented by the Eastern District of California. Districts implementing CM/ECF electronically manage their case files, i.e., the case files are stored in a data base and not in paper (CM), and filings in court are performed, to the extent possible, electronically in lieu of paper (ECF).

"Complaint" includes any complaint, petition, counterclaim, cross-claim, claim for relief under Fed. R. Civ. P. 14, or other claim for affirmative relief.

"Consent to Service" is the authorization by an attorney or party to accept service during the course of an action by electronic means pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49. See L.R. 135(g).

"Conventional Filing" is the filing of a document with the Clerk of Court in paper format. Documents filed conventionally may be filed via mail or in person. Parties that

require a conventionally-filed document to be conformed and returned must submit one additional legible conformed copy, and if mailed, a postage paid return envelope. If a postage paid envelope is not received, documents cannot be returned.

"Conventional Service" is service during the course of an action accomplished pursuant to Fed. R. Civ. P. 5(b)(2)(A)-(D) and Fed. R. Crim. P. 49.

"Courtesy Paper Copy" is a document submitted in paper format to the Clerk for delivery to chambers when an electronic filing exceeds 25 pages or an exhibit or attachment exceeds 50 pages. The courtesy paper copy must be prominently labeled COURTESY COPY in the upper right corner of the first page. See L.R. 133(f).

"Counsel" refers to an attorney and/or a party acting in propria persona or pro se. See L.R. 183.

"Court" means the Judge and/or Magistrate Judge to whom an action has been assigned or before whom an action is being conducted.

"Courtroom Deputy Clerk" means the deputy clerk assigned to the particular Judge or Magistrate Judge to whom an action has been assigned or the Judge or Magistrate Judge before whom an action or a part thereof is being conducted.

"Defendant" includes any party against whom a complaint, petition, counterclaim, cross-claim, claim for relief under Fed. R. Civ. P. 14, indictment, information, violation notice, citation, or any other claim for affirmative relief is made.

"Direct Electronic Filing" means the filing of a document in electronic format via the Internet through the Court's ECF system.

"ECF System" means the Electronic Case Files system used by the Court, also referred to as CM/ECF, that allows for the filing and service of documents in .pdf format.

"E-Filing Registration" means registering with the United States District Court for the Eastern District of California to file documents electronically through ECF, distinct from PACER registration; e-filing registration also acts as a consent to service by electronic means during the course of an action unless the attorney opts out. See L.R. 135(g).

"Electronic Case Files" are the official records of each case file kept by the Court in electronic format.

"Electronic Filing" means the filing of documents in .pdf format through the Court's ECF system or submitted to the Clerk in electronic format on portable electronic media.

"Electronic Signature" is the signature on an electronically-filed document, constituting a combination of (1) the person's representative signature, "/s/ - Name" or a facsimile personalized signature on the signature line of the document, coupled with (2) the successful electronic filing of that document through use of the person's login and password. Alternatively, when a document is submitted to the Clerk on portable electronic media, signatures shall appear either as a facsimile of the original (in a scanned document placed on portable electronic media), or on a separate, scanned signature page if the document was published to .pdf and then placed on portable electronic media. In the latter situation, the docket shall reflect submission of the signature page.

"Email Box" means the email box assigned to each respective Judge or Magistrate Judge as listed on the Court's website used exclusively for transmission of emailed documents pertinent to court proceedings.

"En banc" means the several Judges or Magistrate Judges acting as a group or sitting en banc.

"Fed. R. App. P." means the Federal Rules of Appellate Procedure.

"Fed. R. Civ. P." means the Federal Rules of Civil Procedure.

"Fed. R. Crim. P." means the Federal Rules of Criminal Procedure.

"Filed" means delivered into the custody of the Clerk and accepted by the Clerk for inclusion in the official records of the action. Documents are filed for purposes of these Rules whether they are conventionally filed in paper or electronically filed, so long as the manner of filing is as provided for in these Rules or by order of the Court. See generally L.R. 133.

"General Duty Judge" means the Judge in Sacramento appointed by the Chief Judge to perform the following duties in Sacramento:

(a) Preside over naturalization ceremonies (or arrange for a substitute Judge or Magistrate Judge), and hear contested applications for citizenship;

(b) Select and impanel Grand Juries and preside over matters before the Grand Jury, including release and substitution of jurors and alternates, motions to compel testimony and production of records, bank secrecy and other protective orders, issuance of subpoenas and motions to disclose or quash, receipt and safekeeping of confidential materials such as those submitted to the Court pursuant to Fed. R. Crim. P. 6(e)(3)(B);

(c) Preside over attorney admissions;

(d) Assume and discharge the duties of a United States Magistrate Judge when the need arises; and

(e) Preside over such other miscellaneous matters as may from time to time be designated by the Chief Judge.

"General Order" means an order entered or adopted by the Chief Judge or by the Judges en banc relating to internal court administration. See L.R. 102(a).

"Judge" means a United States District Judge.

"Lodged" means delivered to the Clerk or to the courtroom deputy clerk for inclusion in the official records of the action. Lodged documents are not normally part of a record on appeal.

"Magistrate Judge" means a United States Magistrate Judge appointed pursuant to 28 U.S.C. § 631.

"Magistrate Judge Actions" are all criminal complaints, initial Rule 40 appearances or class B and C misdemeanors also known as "Petty Offense Actions," and all other actions opened as "mj" actions.

"Miscellaneous Case/Action" is a number assigned to an ancillary or supplementary proceeding not defined as a civil or criminal action.

"Motion" means a motion, application, petition, or other request made to the Court for an order or other judicial activity.

"Notice of Electronic Filing" is a notice generated in ECF that notifies parties that a document has been filed.

"Order" means any directive by the Court other than a judgment, including oral, telephonic, written, and electronic directives.

"PACER," short for Public Access to Court Electronic Records, is a system maintained by the Administrative Office of the United States Courts for access to court electronic records. Registration to this system is required to access documents filed in ECF.

"PACER Registration" is a separate requirement for e-filing along with e-filing registration. PACER registration allows users to view documents through the PACER (Public Access to Court Electronic Records) System, http://pacer.psc.uscourts.gov. See L.R. 135(g)(3).

".PDF" or "Portable Document Format" is the required format for documents filed through the ECF system. Documents may be converted to .pdf format through .PDF software.

".PDF Software" is the software needed to convert word processor or scanned documents to .pdf format.

"Plaintiff" includes any party who files a complaint, petition, cross-claim, claim for relief under Fed. R. Civ. P. 14, or any other claim for affirmative relief.

"Pretrial Conference" means the final pretrial conference as defined in Fed. R. Civ. P. 16(e). See L.R. 282.

"Prisoner Actions" are actions brought in propria persona by a person in custody who is seeking habeas corpus relief (28 U.S.C. § 2241 et seq.) or any relief authorized by 42 U.S.C. § 1981 et seq., or actions pursuant to *Bivens* or the Federal Tort Claims Act.

"Pro Se Action" means an action in which all the plaintiffs or all the defendants are proceeding in propria persona. In these Rules, "pro se" and "in propria persona" are used interchangeably.

"Received" means accepted by the Clerk for physical inclusion in the Court's records but not suitable for filing as part of the official record in the action, e.g., copies of correspondence between the parties, letters to the Court not suitable for filing, and other miscellaneous documents. Received documents are not normally part of a record on appeal.

"Removed Case" means an action removed from state court to federal court pursuant to 28 U.S.C. § 1441 et seq. Removed cases are initiated pursuant to the CM/ECF procedures in the same fashion as any other civil action. The appropriate state court file records, see 28 U.S.C. §§ 1446(a), 1447(b), should be filed electronically or as otherwise provided herein. See L.R. 133.

"Serve" includes service of process, personal and mailed service during the course of the action by conventional filers, and the service of documents by electronic filers during the course of the action effected through the CM/ECF System and communicated by the Notice of Electronic Filing. See Fed. R. Civ. P. 4, 4.1, 5; Fed. R. Crim. P. 49, L.R. 135.

"Signature" refers to either a handwritten signature on a paper document or an electronic signature. A signature on a document submitted to the Clerk on portable electronic media shall appear either as a facsimile of the original in a scanned document, or on a separate, scanned signature page if the document was published to .pdf. See L.R. 131.

"Status Conference" means any pretrial, scheduling, or discovery conference excepting the final pretrial conference as defined in Fed. R. Civ. P. 16(e). See L.R. 240.

"Text Only Order" refers to an order issued by the Court without an attached electronic document. The order appears as a docket entry with the words "Text Entry Only." See L.R. 137.

"Weapon" means any instrument intended to be used for attack or defense, including but not limited to firearms and knives. See L.R. 103.

RULE 102 (Fed. R. Civ. P. 1)

SCOPE AND AVAILABILITY OF LOCAL RULES

(a) Scope. These Rules govern all actions in the United States District Court for the Eastern District of California, the boundaries of which are set forth in 28 U.S.C. § 84. Outside the scope of these Rules are matters relating to internal court administration that, in the discretion of the Court en banc, may be accomplished through the use of General Orders, provided, however, that no matter appropriate for inclusion in these Rules shall be treated by General Order. No party or attorney shall be bound by any General Order.

(b) Availability of Local Rules. The Clerk shall maintain updated Rules in .pdf format available for downloading on the Court's website: www.caed.uscourts.gov.

(c) Notice After Adoption. Immediately upon the adoption of these Rules or any change in these Rules, copies of the new and revised Rules shall be provided to such publications and persons as the Chief Judge deems appropriate. The Clerk shall promptly notify the Judicial Council and the Administrative Office of the United States Courts, all county law libraries in the Eastern District of California and other law libraries maintained by the State or by law schools in the Eastern District of California. Copies shall be distributed in a manner calculated to ensure maximum notification to those practicing in the Eastern District of California. A notice shall be posted prominently in the Clerk's Offices and on the Court's website.

(d) Procedures Outside the Rules. Unless contrary to law, the Court in its discretion may make such orders supplementary or contrary to the provisions of these Rules as it may deem appropriate and in the interests of justice and case management under Fed. R. Civ. P. 16 or Fed. R. Crim. P. 17.1 in a special circumstance.

RULE 103 (Fed. R. Civ. P. 83)

POLICY REGARDING WEAPONS IN THE COURTHOUSE AND COURTROOMS

(a) Prohibition on Unauthorized Weapons. Only duly authorized law enforcement officers are allowed to carry weapons in the United States Courthouses or any building housing a Court of the United States within the Eastern District of California. Only the United States Marshal, deputy marshals, and court security officers are authorized to carry weapons within the confines of the courtrooms, secured judicial corridors, and chambers of the Judges, Magistrate Judges, and Bankruptcy Judges. The United States Marshal is ordered to provide appropriate security to ensure against the introduction of unauthorized weapons or other dangerous weapons into the United States Courthouses, courtrooms, or any building housing a Court of the United States and/or any grounds appurtenant to such building within the Eastern District of California.

(b) Authorization for Weapon Possession. In high security situations, or when the United States Marshal otherwise deems it appropriate, the United States Marshal may authorize a duly authorized law enforcement officer to carry a weapon in the courtroom, provided the law enforcement officer wears an identification badge issued by the United States Marshal. Law enforcement officers so authorized to carry weapons within the courtroom shall immediately identify themselves to every United States Marshal and/or court security officer on duty within that courtroom.

(c) Use of Weapons in Evidence. Before any weapon is introduced as evidence in a court proceeding, said weapon shall first be rendered inoperable to the satisfaction of the United States Marshal and appropriately marked as evidence. In all actions in which a weapon is to be introduced as evidence, that fact shall be made known to the United States Marshal and/or court security officer on duty <u>before</u> the introduction of the weapon into the courtroom. At that time and place, the weapon shall be inspected by the United States Marshal and/or court security officer to ensure that it is in fact inoperable.

RULE 110 (Fed. R. Civ. P. 11)

SANCTIONS FOR NONCOMPLIANCE WITH RULES

Failure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or within the inherent power of the Court.

RULE 120 (Fed. R. Civ. P. 3)

SESSIONS OF COURT - INTRADISTRICT VENUE

(a) Sacramento and Fresno. Court shall be in continuous session at Sacramento and Fresno. See 28 U.S.C. §§ 84, 132 et seq. The Court maintains libraries in Sacramento and Fresno which are open to attorneys admitted to practice in this Court and to persons appearing in propria persona in this Court, who may use the libraries in accordance with such General Orders as the Court may adopt. Persons using the libraries are directed to refrain from requesting legal advice.

(b) Other Regular Sessions. The Magistrate Judges also hold regular sessions in Bakersfield, Redding and Yosemite National Park.

(c) Other Sessions. Sessions of court may also be held at other places in the District as the Court requires.

(d) Commencement of Actions. All civil and criminal actions and proceedings of every nature and kind cognizable in the United States District Court for the Eastern District of California arising in Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Stanislaus, Tulare, and Tuolumne counties shall be commenced in the United States District Court sitting in Fresno, California, and in Bakersfield, California, Yosemite National Park. or other designated places within those counties as the Court shall designate when appropriate for Magistrate Judge criminal proceedings. All civil and criminal actions and proceedings of every nature and kind cognizable in the United States District Court for the Eastern District of California arising in Alpine, Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Mono, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Yolo, and Yuba counties shall be commenced in the United States District Court sitting Sacramento, California, and in Redding, California, or other designated places within those counties as the Court shall designate when appropriate for Magistrate Judge criminal proceedings.

(e) Assignment of Actions. All actions will be assigned in accordance with the Assignment Plan approved by the Court en banc and reproduced as Appendix A to these Rules.

(f) Transfer. Whenever in any action the Court finds upon its own motion, motion of any party, or stipulation that the action has not been commenced in the proper court in accordance with this Rule, or for other good cause, the Court may transfer the action to another venue within the District.

(g) General Duty Judge. The Chief Judge shall, from time to time, appoint a General Duty Judge. See L.R. 101.

RULE 121 (Fed. R. Civ. P. 77)

THE CLERK OF THE DISTRICT COURT

(a) Locations. The Clerk of the District Court shall maintain offices at 501 "I" Street, Sacramento, California 95814, where the records of the United States District Court sitting in Sacramento shall be kept, and offices at 2500 Tulare Street, Fresno, California 93721, where the records of the United States District Court sitting in Fresno shall be kept.

(b) Office Hours. The regular office hours of the Clerk at Sacramento and Fresno shall be from 9:00 a.m. to 4:00 p.m. each day except Saturdays, Sundays, legal holidays, and such other times so ordered by the Chief Judge. See Fed. R. Civ. P. 77; Fed. R. Crim. P. 56.

(c) Advance Payment of Fees. Except as required by law, or as otherwise directed by the Court, the Clerk shall not file any paper, issue any process, or render any other service for which a fee is prescribed by statute or by the Judicial Conference of the United States unless the fee is prepaid. See 28 U.S.C. § 1914 et seq.

(d) Civil Complaint - Filing Procedures for Attorneys. Complaint filings by attorneys in civil actions (including prisoner, habeas corpus, in forma pauperis, and removal) shall be performed electronically. Detailed procedures are prescribed on the Court's website. See also L.R. 133.

(e) Initial Action Filing Procedures - Death Penalty Habeas Corpus. Whatever the manner of their filing, death penalty habeas corpus initial filings shall be assigned to a Judge and, in Sacramento, to a Magistrate Judge, immediately and communicated to the assigned Judge and Magistrate Judge immediately.

(f) Initial Action Filing Procedures - Miscellaneous Actions in General. With the sole exception of grand jury proceedings and miscellaneous actions filed by pro se plaintiffs, all documents submitted for filing in a miscellaneous proceeding, no matter when the action was originally commenced, shall be filed in accordance with the provisions governing civil actions in general. Grand jury proceedings should be submitted for filing by the United States Attorney in original paper format. These documents will be scanned into .pdf format by the Clerk and, except where authorized to be publicly available, shall be kept on a secure part of the Court's servers. All grand jury paper documents shall be returned to the United States Attorney.

RULE 122 (Fed. R. Civ. P. 63)

AUTHORITY OF ASSIGNED JUDGES AND MAGISTRATE JUDGES IN EMERGENCIES

The Judge assigned to an action, or the Magistrate Judge when authorized, shall preside over the trial and determine all motions or other matters in that action, except as otherwise provided in Fed. R. Civ. P. 63 and Fed. R. Crim. P. 25, or as otherwise ordered, or in cases of emergency. In the event of an emergency requiring prompt action, if the assigned Judge or Magistrate Judge is unavailable, the matter shall be presented to the Clerk for temporary assignment to another available Judge or Magistrate Judge, if necessary. In such instance, it shall be the responsibility of counsel presenting the matter to provide the Judge or Magistrate Judge to whom the matter is presented with a detailed explanation of the necessity for the application's being handled on an emergency basis. The matter shall be returned to the calendar of the unavailable assigned Judge or Magistrate Judge upon the resolution of the matter, unless the matter is transferred pursuant to these Rules.

RULE 123 (Fed. R. Civ. P. 83)

RELATED CASES

(a) Definition of Related Cases. An action is related to another action within the meaning of this Rule when

(1) both actions involve the same parties and are based on the same or a similar claim;

(2) both actions involve the same property, transaction, or event;

(3) both actions involve similar questions of fact and the same question of law and their assignment to the same Judge or Magistrate Judge is likely to effect a substantial savings of judicial effort, either because the same result should follow in both actions or otherwise; or

(4) for any other reasons, it would entail substantial duplication of labor if the actions were heard by different Judges or Magistrate Judges.

(b) Duties of Counsel. Counsel who has reason to believe that an action on file or about to be filed may be related to another action on file (whether or not dismissed or otherwise terminated) shall promptly file in each action and serve on all parties in each action a Notice of Related Cases. This notice shall set forth the title and number of each possibly related action, together with a brief statement of their relationship and the reasons why assignment to a single Judge and/or Magistrate Judge is likely to effect a savings of judicial effort and other economies. The Clerk shall notify the Judges and Magistrate Judges to whom the actions are assigned promptly of such filing.

(c) Reassignment. Following the filing of a Notice of Related Cases, the Chief Judge or a Judge designated by the Chief Judge may, by special order, reassign either action to any Judge or Magistrate Judge sitting in the Eastern District of California as the situation may dictate. If the Judge to whom the action with the lower or lowest number has been assigned determines that assignment of the actions to a single Judge is likely to effect a savings of judicial effort or other economies, that Judge is authorized to enter an order reassigning all higher numbered related actions to himself or herself.

(d) Refiling. An action may not be dismissed and thereafter refiled for the purpose of obtaining a different Judge or Magistrate Judge. If an action is dismissed and it, or one essentially the same, is refiled, it shall be assigned to the same Judge and Magistrate Judge. It is the duty of all counsel appearing therein to bring the facts of the refiling to the attention of the Clerk pursuant to this Rule. See L.R. 110.

(e) Habeas Corpus Petitions. Related habeas corpus petitions are governed by L.R. 190(d) or L.R. 191(f)(5) as the case may be.

(f) Petition for Violation of Probation or Supervised Release. Where a Notice of Related Cases is filed suggesting that a petition for probation action and/or violation of the terms of supervised release should be related to a new indictment, and the basis of the probation petition or alleged supervised release violation is the conduct underlying the new indictment, the two actions shall be related and the Judge or Magistrate Judge assigned to the new criminal action shall also be assigned the earlier action, unless the original sentencing judge desires to retain the first action, in which circumstance both actions shall be assigned to the original sentencing judge.

RULE 130 (Fed. R. Civ. P. 7)

GENERAL FORMAT OF DOCUMENTS

(a) Electronically-Filed Documents. Documents electronically filed shall be created and formatted to comply, in appearance and presentation both in an electronic format and when printed, with the requirements for conventionally-filed paper documents.

(b) Conventionally-Filed Documents and Courtesy Copies. All documents presented for conventional filing or lodging and the chambers courtesy copies shall be on white, unglazed opaque paper of good quality with numbered lines in the left margin, 8-1/2" x 11" in size, and shall be flat, unfolded (except where necessary for presentation of exhibits), firmly bound at the top left corner, pre-punched with two (2) holes (approximately 1/4" diameter) centered 2-3/4" apart, 1/2" to 5/8" from the top edge of the document, and shall comply with all other applicable provisions of these Rules. Matters contained thereon shall be presented by typewriting, printing, photographic or offset reproduction, or other clearly legible process, without erasures or interlining that materially defaces the document, and shall appear on one side of each sheet only.

(c) Spacing. Documents shall be double-spaced except for the identification of counsel, title of the action, category headings, footnotes, quotations, exhibits and descriptions of real property. Quotations of more than fifty (50) words shall be indented.

(d) Numbering. Each page shall be numbered consecutively at the bottom and shall provide a brief description of the document on the same line.

RULE 131 (Fed. R. Civ. P. 7)

COUNSEL IDENTIFICATION AND SIGNATURES

(a) Counsel Identification. The name, address, telephone number, and the California State Bar membership number of all attorneys, or, if in propria persona, the name, address, and telephone number of the party, and the specific identification of each party represented by name and interest in the litigation (e.g., plaintiff Smith, defendant Jones) shall appear in the upper left-hand corner of the first page of each document presented for filing, except that in the instance of multi-party representation reference may be made to the signature page for the complete list of parties represented. Attorneys for service shall be designated in accordance with L.R. 180. See Fed. R. Civ. P. 11; L.R. 180, 182; Cal. Rules of Court 2.111.

(b) Signatures Generally. All pleadings and non-evidentiary documents shall be signed by the individual attorney for the party presenting them, or by the party involved if that party is appearing in propria persona. Affidavits and certifications shall be signed by the person executing the document. The name of the person signing the document shall be typed or printed underneath the signature. See Fed. R. Civ. P. 11. If a document is submitted to the Clerk via portable electronic media, signatures shall appear either as a facsimile of the original (in a scanned document placed on portable electronic media), or on a separate, scanned signature page if the document was published to .pdf and then placed on portable electronic media. In the latter situation, the docket shall reflect the submission of the signature page.

(c) Attorney Signatures. Anything filed using an attorney's name, login, and password will be deemed to have been signed by that attorney for all purposes, including Fed. R. Civ. P. 11. For example, for the attorney whose login and password is being used, it is sufficient to indicate a signature as in the following example: "/s/ John M. Barrister, Esquire."

(d) Misuse of Attorney's Electronic Signature. Any person challenging the authenticity of an electronically-filed document or placement of the attorney's signature on that document must file an objection and request that the document be stricken within twenty-one (21) days of receiving the Notice of Electronic Filing, or at a later time for good cause shown by an attorney exercising due diligence. Attorneys are responsible for, and must take care to ensure, the validity of their signatures.

(e) Documents Requiring Signatures of Multiple Counsel. Documents that are normally signed by more than one counsel, whether the counsel represent the same party or different parties, may be prepared by obtaining approval from any other counsel to state that the other counsel has authorized submission of the document on that counsel's behalf. Submitting counsel shall place the other counsel's signature on the electronic filing by using "/s/ counsel's name (as authorized on __[date]__)."

Alternatively, one counsel may obtain the original signatures from all counsel who are filing the document, scan the signature page(s) only and file the signature page(s) as an attachment to the document with an explanatory statement on the signature page of the filed document.

(f) Non-Attorney's Electronic Signature. Documents that are required to be signed by a person who is not the attorney of record in a particular action (verified pleadings, affidavits, papers authorized to be filed electronically by persons in pro per, etc.), may be submitted in electronic format bearing a "/s/" and the person's name on the signature line along with a statement that counsel has a signed original, e.g., "/s/ John Doe (original signature retained by attorney Mary Roe)." It is counsel's duty to maintain this original signature for one year after the exhaustion of all appeals. This procedure may also be followed when a hybrid electronic/paper document is filed, i.e., the conventionally served document may also contain an annotated signature in lieu of the original.

(g) Misuse of Non-Attorney's Electronic Signature. A non-filing signatory, party, or attorney who disputes the authenticity of an electronically-filed document with a non-attorney signature must file an objection and request that the document be stricken within twenty-one (21) days of receiving the Notice of Electronic Filing or a copy of the document, whichever first occurs, unless good cause exists for a later contest of the signature by a person exercising due diligence.

(h) Electronic Signatures on Certain Documents in Criminal Actions. Several documents in criminal actions require the signature of a non-attorney, such as a grand jury foreperson, a defendant, a third-party custodian, a United States Marshal, an officer from Pretrial Services or Probation, or some other federal officer or agent. Unless the procedure in L.R. 131(f) is followed, the Clerk will scan these documents, upload them to the CM/ECF system, and except as otherwise provided by administrative procedures, discard the paper documents. The electronically-filed document as it is maintained on the Court's servers shall constitute the official version of that record.

RULE 132 (Fed. R. Civ. P. 5.1)

NOTICE OF CLAIM OF UNCONSTITUTIONALITY

(a) Notice of Claim of Unconstitutionality of Federal Law. If, at any time in an action to which neither the United States nor any of its officers, agencies, or employees is a party, any party draws in issue the constitutionality of a federal administrative regulation of general applicability, that party shall immediately file a notice identifying the regulation in issue and setting forth in what respects its constitutionality is questioned. Thereupon, or sua sponte, the Court shall serve a copy of the notice on the United States Attorney General, on the United States Attorney, and on all other parties. If the party required to file and serve the notice fails to do so, every other party shall file and serve such a notice, provided that, as soon as a notice is filed and served, all other parties are relieved of this obligation. Cf. 28 U.S.C. § 2403(a) (requirement re Acts of Congress); Fed. R. Civ. P. 5.1.

(b) Notice of Claim of Unconstitutionality of State Law. If, at any time in an action to which neither a State nor any of its officers, agencies, or employees is a party, any party draws in issue the constitutionality of any state administrative regulation of general applicability, that party shall immediately file a notice identifying the regulation in issue and setting forth in what respects its constitutionality is questioned. Thereupon, or sua sponte, the Court shall serve a copy of that notice on the Attorney General of the State and on all other parties. If the party required to file and serve such a notice fails to do so, every other party shall file and serve such notice, provided that as soon as a notice is filed and served, all other parties are relieved of this obligation. Cf. 28 U.S.C. § 2403(b) (requirement re state statutes); Fed. R. Civ. P. 5.1.

RULE 133 (Fed. R. Civ. P. 5)

FILING AND CONTENTS OF DOCUMENTS

(a) Electronic Filing. The Eastern District of California is an electronic case management/filing district (CM/ECF). Unless excused by the Court or by the electronic filing procedures set forth in these Rules, attorneys shall file all documents electronically pursuant to those Rules. All complaints, and subsequent motions, pleadings, briefs, exhibits, and all other documents in an action shall be electronically filed except as otherwise provided by these Rules. Pro se parties shall file and serve paper documents as provided in these Rules. After a pro se party files a paper document, the Clerk will transform the paper filing into an electronic record and ultimately discard the paper filing.

(b) Exceptions

(1) Attorney Exceptions. In exceptional circumstances and for specific documents, an attorney may apply for permission to file documents in paper format. See L.R. 133(b)(3). The decision to permit paper filing is in the sole discretion of the assigned Judge or Magistrate Judge. Any request to file paper documents must be made no less than seven (7) days before the date the documents would otherwise be due to be filed. Permission to file paper documents may be revoked at any time. Paper filings will be scanned, and the electronic format will become the official court record unless otherwise ordered by the assigned Judge or Magistrate Judge. The paper filing will ultimately be discarded.

(2) Pro Se Party Exception. Any person appearing pro se may **not** utilize electronic filing except with the permission of the assigned Judge or Magistrate Judge. See L.R. 133(b)(3). All pro se parties shall file and serve paper documents as required by applicable Federal Rules of Civil or Criminal Procedure or by these Rules.

(3) Form of Requests. Requests to use paper or electronic filing as exceptions from these Rules shall be submitted as stipulations as provided in L.R. 143 or, if a stipulation cannot be had, as written motions setting out an explanation of reasons for the exception. Points and authorities are not required, and no argument or hearing will normally be held. Requests may also be made in scheduling conference and pretrial conference statements when the need can be foreseen.

(4) Grand Jury Exception. Grand jury proceedings shall be submitted for filing by the United States Attorney in paper format. These documents will be scanned into .pdf format by the Clerk and, unless authorized to be publicly available, shall be kept under seal. All paper documents shall be returned to the United States Attorney.

(5) Exception for Certain Other Criminal Documents. See L.R. 131(h).

(c) Controlling Procedures. Whenever, in these Rules, reference is made to filing or service of a document, the reference shall include filing and serving documents electronically in conformity with these Rules. If these Rules require paper filings or service for certain persons or circumstances, then conventional filing and service procedures shall control to that extent.

(d) Paper Documents

(1) Delivery of Paper Documents to the Clerk. Except as expressly authorized in advance by the Court, all paper documents presented for filing or lodging shall be delivered to the Clerk who will, when appropriate, deliver the documents to the Judge or Magistrate Judge after docketing. Original documents to be filed or lodged shall not be mailed to chambers. If a particular document is to be brought to the immediate attention of the Judge or Magistrate Judge assigned to the action, a copy may be mailed or otherwise delivered to the chambers, but the original shall be presented to the Clerk. See Fed. R. Civ. P. 5; L.R. 121(b). All documents delivered to the Clerk for filing or lodging in a pending action must be presented to the Clerk at the office where the action is pending. Documents submitted for filing in a pending action at an incorrect office will not be accepted. See L.R. 120, 121.

(2) Filing of Multiple Copies of Paper Documents. One additional legible conformed copy of all paper documents to be filed or lodged shall be delivered to the Clerk, for the Court's use, except that in actions to be heard by a District Court composed of three Judges, three additional legible conformed copies of each brief and supporting documents shall be delivered to the Clerk.

(3) Handling of Improper Paper Documents. The Clerk will not refuse to file a paper document that is submitted for filing in a pending action at the correct office. The Clerk will scan it and, if improperly filed, notify the Court that the document was filed in an improper format. An order to show cause (OSC) may be issued in appropriate actions regarding an attorney's disregard for the requirement to utilize electronic filing or other violations of these electronic filing procedures. See L.R. 110.

(e) Facsimile Documents.

(1) Facsimile as Original Document. For purposes of this Rule, the image of the original manual signature appearing on a facsimile (fax) copy filed pursuant to this Rule shall constitute an original signature for all court purposes. The document, which itself may be in whole or in part a fax copy, must be marked "original" before submission to the Clerk for filing.

(2) Retention of Actual Original. The originator of the document, or in the case of an affidavit or certification, the presenting attorney or party, must maintain the document containing the original manual signature until the conclusion of the action, including any appeal and remand after appeal. In the event there are multiple signatories to a document, the filing party or attorney shall retain the originally signed document(s).

(3) Filing of Actual Original. The Court may require that the document containing the original manual signature be filed.

(**4) No Direct Fax to Clerk or Chambers.** This Rule does not provide for documents to be transmitted via fax directly to the Clerk. Documents directly faxed to the Clerk or to a chambers of the Court will not be filed, lodged, received, returned, or acknowledged, absent an express order of the Court.

(f) Chambers Courtesy Paper Copies. A person who electronically files any document (excluding attachments or exhibits) in excess of 25 pages must also provide a courtesy paper copy of the document to the appropriate chambers. A person who electronically files attachments or exhibits that total in excess of 50 pages must also provide a paper courtesy copy of those attachments or exhibits to chambers by delivering it to the Clerk. The courtesy copy must be mailed or otherwise sent to the pertinent courtroom deputy clerk no later than the next business day following the electronic filing. *All courtesy copies shall be prominently labeled as such in capital letters on the face sheet of the courtesy copy.* Chambers have no obligation to retain the courtesy copies. See also L.R. 130(b).

(g) Caption and Title. Following the counsel identification and commencing on the eighth line of the initial page of each document (except where additional space is required for identification), there shall appear: (1) the title of the Court, (2) the title of the action, (3) the file number of the action, followed by the initials of the Judge and Magistrate Judge to whom it is currently assigned, (4) a title describing the document, (5) immediately below the case number and title of the document, a statement of the date, time, and name of the Judge or Magistrate Judge for any scheduled hearing, and (6) any other matter required by these Rules.

(h) Reference to Parties. If there are more than two parties, including intervenors or amici, references to all parties shall include the name (which may be abbreviated) of the particular party or parties to whom reference is made.

(i) Citations.

(1) Federal Citations. Citations to federal decisions shall be to the United States Supreme Court Reports, Federal Reports, Federal Supplement, or Federal Rules Decisions, if so reported, and shall indicate the court and year of

decision. Citations to federal statutes shall be to the United States Code, if so codified. Citations to federal administrative rules shall be to the Code of Federal Regulations, if so codified, or to the Federal Register, if published therein.

(2) State Citations. Citations to California decisions shall be to the official California Reports. Citations to other state cases shall be to the National Reporter System, showing state and year of decision. Other parallel citations may be added.

(3) Unreported, Uncodified Citations.

(i) General Requirement. If case, statutory, or regulatory authority is relied upon that has not been reported, published or codified in any of the foregoing references, and that is not available through Westlaw/Lexis, a copy of that authority shall be appended to the brief or other document in which the authority is cited. This requirement shall include, but not be limited to, the Statutes at Large, the Public Laws of the United States, the California Administrative Code, administrative regulations not contained in the Code of Federal Regulations or the Federal Register, and decisions and other matters published in specialized reporter services.

(ii) Incarcerated Pro Se Parties. In any action wherein a party is incarcerated and appearing pro se, that party shall be served with a paper copy of the case, statutory, or regulatory authority cited by the filing party that has not been reported as set forth in (1) and (2) above, regardless of its availability in Westlaw/Lexis, as well as a paper copy of that authority otherwise required to be appended in 3(i) above. No copy of the authority available in Westlaw/Lexis shall be filed with the court.

(j) Depositions. Depositions shall not be filed through CM/ECF. Before or upon the filing of a document making reference to a deposition, counsel relying on the deposition shall ensure that a courtesy hard copy of the entire deposition so relied upon has been submitted to the Clerk for use in chambers. Alternatively, counsel relying on a deposition may submit an electronic copy of the deposition in lieu of the courtesy paper copy to the emailbox of the Judge or Magistrate Judge and concurrently email or otherwise transmit the deposition to all other parties. Neither hard copy nor electronic copy of the entire deposition will become part of the official record of the action absent order of the Court. Pertinent portions of the deposition intended to become part of the official record shall be submitted as exhibits in support of a motion or otherwise. See L.R. 250.1(a).

(k) Tables. Briefs exceeding fifteen (15) pages in length shall be accompanied by an indexed table of contents related to the headings or subheadings and by an indexed table of statutes, rules, ordinances, cases, and other authorities cited.

RULE 134 (Fed. R. Civ. P. 5)

TIME OF FILING

(a) Filing Complete. Emailing a document to the Clerk or to the Court (as opposed to electronic filing in CM/ECF) shall not constitute "filing" of the document. Except as noted in L.R. 121 for the filing of initial documents, a document filed electronically shall not be considered filed for purposes of these Rules or the Federal Rules of Civil or Criminal Procedure until the filing counsel receives a system-generated "Notice of Electronic Filing." See L.R. 135. Paper filings, when permitted or required by these procedures, shall be complete upon presentation to the Clerk.

(b) Time of Filing A document will generally be deemed filed on a particular day if filed before midnight (Pacific Time) on that business day. However, if the time of day at which the document is filed is of the essence, the Court may order that the document be filed by a time certain. Filings via CM/ECF may be made twenty-four hours a day, but portable electronic media may be submitted over the counter at the Clerk's Office only during Clerk's Office business hours. See 77-121(b).

(c) Technical Failures. The Clerk shall deem the CM/ECF site to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than two hours after 2:00 p.m. on a given day. Known systems outages will be posted on the website, if possible. CDs or other electronic media may be filed during a time of technical failure.

(1) Untimely Filings Due to CM/ECF Failure. A party may file on the next business day following the technical failure that is announced on the Court's website. If the technical failure is not so announced on the Court's website, then the party must file the document as promptly as possible and seek appropriate relief from the Court.

(2) Service Required Despite Court's Technical Failure. If filing is impossible due to the CM/ECF failure, counsel shall timely serve the document directly on all counsel in the action by email, overnight delivery, or other expeditious means appropriate to the circumstances.

(3) Failure at the Sender. Problems on the filer's end, such as phone line problems, problems with the filer's Internet Service Provider (ISP), or hardware or software problems, will not constitute a technical failure under these procedures nor excuse an untimely filing. A filer subject to mandatory electronic filing who cannot directly file a document electronically because of a technical problem on the filer's end must file the document electronically from another computer or in portable electronic format at the Clerk's Office. If electronic filing is not possible in any form, the party may

file a paper document, shall annotate on the cover page that electronic filing was not possible because of technical reasons, and shall file electronically as soon as possible.

(d) After-Hours Filed Documents. Generally, documents, including motions for temporary restraining orders, filed electronically after normal business hours of the Clerk's Office will not be reviewed by the Court until the next business day, at the earliest.

RULE 135 (Fed. R. Civ. P. 5)

SERVICE OF DOCUMENTS DURING ACTION

(a) Service of Electronic Documents. "Service" as utilized in these Rules includes electronic service as set forth in the CM/ECF procedures in these Rules. "Notice of Electronic Filing" is a notice automatically generated by CM/ECF at the time a document is filed with the system. When counsel have consented to electronic service, see L.R. 135(g), this Notice will constitute automatic service of the document on all others who have consented. This Notice will set forth the time of filing, the name of the parties and attorney(s) filing the document, the type of document, the text of the docket entry, the name of the parties and/or attorney(s) receiving the notice, and an electronic link (hyperlink) to the filed document that allows recipients to retrieve the document automatically. Service via this electronic Notice constitutes service pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49.

(b) Conventional Service. If persons are not registered for the CM/ECF system, e.g., prisoners or pro se parties, or have not consented to receive electronic service, the Notice will identify the persons who were not electronically served. Persons who were not electronically served must be conventionally served. Persons who are unregistered or do not consent may not rely on electronic service and must serve documents conventionally as otherwise provided by the Rules. Counsel shall serve these persons in accordance with the appropriate Federal Rules of Procedure.

(c) Proof of Service for Paper Documents. When service of any pleading, notice, motion, or other document required to be served is made, proof of such service shall be endorsed upon or affixed to the original of the document when it is lodged or filed. Except for ex parte matters, a paper document shall not be submitted for filing unless it is accompanied by a proof of service. Proof of service shall be under penalty of perjury and shall include the date, manner and place of service.

(d) Service Upon All Parties. Unless a party expressly waives service, copies of all documents submitted to the Court shall be served upon all parties to the action, except that no service need be made upon parties held in default for failure to appear unless the document involved asserts new or additional claims for relief against such defaulting parties. See Fed. R. Civ. P. 5(a).

(e) Service Upon Pro Se Party. Service of all documents authorized to be served in accordance with Fed. R. Civ. P. 5 or Fed. R. Crim. P. 49 shall be complete when served upon a party appearing in propria persona. See also Fed. R. Civ. P. 4.1.

(f) Service Upon Attorney. Service of all documents authorized to be served in accordance with Fed. R. Civ. P. 5 or Fed. R. Crim. P. 49 shall be complete when served upon the attorney for the party, if the party has appeared and is

represented by an attorney. When an attorney represents multiple parties, service of one copy of the document upon that attorney shall constitute service upon all parties represented by that attorney, unless the Court otherwise orders. Where multiple attorneys represent the same party or parties, service shall be made upon all such attorneys, unless the Court otherwise orders. See also Fed. R. Civ. P. 4.1.

(g) Attorney Registration for Electronic Filing. All attorneys who wish to file documents in the Eastern District of California must be admitted to practice or admitted to appear pro hac vice. Admission to practice in the Eastern District of California includes the requirement that the attorney complete an e-filing registration form and receive a username and password. Completion of the registration form will permit electronic filing of documents and, unless an attorney opts out, will authorize acceptance of service by electronic means. To do this, an attorney must have a valid internet email address. After registration, attorneys will receive a unique user name and password. Registration enables an attorney to file documents electronically. The court registration name and password, when utilized for the electronic filing of documents, will serve as the party's signature for Fed. R. Civ. P. 11 purposes. See also L.R. 131. In conjunction with the court filing registration requirement, registration for PACER, see L.R. 135(g)(3), is also mandated in order to permit access to images of documents maintained within court electronic records.

(1) Consent to Service. Unless an attorney opts out by designating such on the registration form, registration as a filing user constitutes: (1) consent to receive service electronically pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49 and waiver of the right to receive service by any other means; and (2) consent to making electronic service pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49 and waiver of the right to make service by any other means. This consent pertinent to Fed. R. Civ. P. 5 does **not** affect service of a summons and complaint pursuant to Fed. R. Civ. P. 4, i.e., there is no electronic service of a complaint. The foregoing waiver of service and notice applies to notice of the entry of an order or judgment. Service by electronic means is complete upon transmission of the Notice of Electronic Filing.

(2) Court Preference. Although the Eastern District of California does not require attorneys to serve and/or accept service of documents by electronic means, the Court **strongly encourages** the use of this practice.

(3) PACER Registration Required. Documents already on the Court's servers are accessed through the Public Access to Court Electronic Records ("PACER") Service Center. A PACER login is required in order to utilize CM/ECF to review documents, *in addition to*, the password issued by the Court for filing purposes. To register for PACER, a user must complete the online form or submit a registration form, available on the PACER website (http://pacer.psc.uscourts.gov).

(4) Credit Card Payment. All fees related to electronically-filed documents, e.g., complaint, should be paid by use of a credit card on the Court's secure servers. If credit card payment cannot be made, fees may be paid by check or money order; however, when payment of fees is required, the document will not be filed until payment is tendered.

RULE 136 (Fed. R. Civ. P. 6)

[DELETED]

RULE 137 (Fed. R. Civ. P. 5)

REDUCTION OF ORDERS TO WRITING - SERVICE OF ORDERS

(a) Reduction of Orders to Writing. Subject to Fed. R. Civ. P. 58 and unless the Court otherwise directs or permits, whenever the Court makes an oral order (except intermediate orders in the course of a hearing), the prevailing party shall serve upon all other parties and lodge a proposed written order embodying all provisions of the orally-announced order. Unless all counsel have approved the order as to form, counsel preparing the order shall serve it on all other parties and wait seven (7) days before lodging the proposed order. Counsel submitting a proposed order to the Court shall provide a certificate reflecting service and expiration of the seven (7) days. Counsel not preparing the order shall have seven (7) days after service of a copy of the proposed order within which to apply to the Court for correction or modification of the proposed order to reflect accurately the ruling of the Court or to submit an alternative order. If the proposed order is approved by the Court, it shall be signed and filed.

(b) Electronically-Lodged Proposed Orders. When a proposed order is electronically submitted to the Court, the person proposing the order must submit it via CM/ECF, thereby effecting service on all other parties. Except in situations in which a proposed order is contained in a stipulation, electronically-submitted proposed orders may not be combined into a motion or request. In addition to filing the proposed order electronically in .pdf format, the proposing person must also submit by email a separate proposed order in Word or Word Perfect format to the appropriate Judge or Magistrate Judge's email box listed on the Court's website. The email subject line must contain the words "proposed order" as well as the case number. Counsel should not include table/cell formatting in the date and signature portions of proposed orders. Use of table/cell formatting in the date and signature portions of proposed orders may cause the document(s) to be returned unsigned and/or unprocessed.

In all cases involving submission of a proposed order, simply emailing the word processing document to the Judge or Magistrate Judge's email box does **not** constitute the proper submission of that proposed order with the Court. Conversely, simply submitting a .pdf version of the proposed order via CM/ECF does **not** constitute proper submission of the proposed order. **Both** the submission of the .pdf version and the submission via email to the email box of the assigned Judge or Magistrate Judge must be accomplished.

(c) Documents Requiring Leave of Court. If filing a document requires leave of court, such as an amended complaint after the time to amend as a matter of course has expired, counsel shall attach the document proposed to be filed as an exhibit to moving papers seeking such leave and lodge a proposed order as required by these Rules. If the Court grants the motion, counsel shall file and serve the document in accordance with these Rules and the Federal Rules of Civil and Criminal Procedure.

(d) Order Processing. Orders will be generated by chambers and converted to .pdf, or generated in .pdf format in CM/ECF. The assigned Judge, Magistrate Judge, or their designee will electronically file all signed orders. Any order signed electronically has the same force and effect as if the Judge or Magistrate Judge had signed a paper copy of the order and it been entered on the docket conventionally.

(e) Routine Orders. The Court may grant routine orders by a text-only entry upon the docket. In such cases, no .pdf document will issue; the text-only entry shall constitute the Court's only order on the matter. The System will generate a "Notice of Electronic Filing" as described in these procedures for purposes of electronic service, and the Clerk will effect conventional service if required.

(f) Service. Copies of all written orders signed and filed by the Court conventionally or electronically, whether drafted by counsel or by the Court, shall be served forthwith by the Clerk on all counsel who have appeared in the action. A certificate of service by the Clerk shall accompany the order as served and shall be attached to the order as filed.

RULE 138 (Fed. R. Civ. P. 39)

FILES AND RECORDS – EXHIBITS

(a)(1) Official Court Record. Except as provided by these Rules, the official court record in all actions filed after January 3, 2005 is the electronic case file. For cases filed before January 3, 2005, all documents filed up to January 3, 2005 will be maintained in paper format; all documents filed after January 3, 2005 will be maintained in electronic format. The official court record in these actions is paper up to January 3, 2005 and electronic thereafter. After January 3, 2005, the official record shall include paper documents permitted by these Rules. When paper filings are authorized, the Court may order that the paper filings be maintained indefinitely by the Clerk until archival and may also order that the paper file created be the official record of the Court.

(a)(2) Custody and Withdrawal of the Official Case Record. All electronic and paper files and records of the Court shall remain in the custody of the Clerk. No file and no record, paper, or item belonging to the files of the Court shall be taken from the custody of the Clerk without a special order of the Court and a receipt given by the party obtaining it, describing it and the date of its receipt, except as otherwise provided by this Rule. Retention of sealed paper documents shall be governed by the sealed documents procedures. See L.R. 141.

(b) Administrative Records. Due to the usual size of administrative records, attorneys shall, if possible, submit the administrative record in electronic format with a mandatory courtesy copy in paper for the assigned Judge or Magistrate Judge. If there is no electronic record, the Clerk will accept for filing a certified paper copy accompanied by an electronic "Notice of Filing in Paper Format." The administrative record will be maintained in paper format and returned to the submitting attorney at the conclusion of the action, if no appeal is filed, and after appeal or further proceedings in the district court as appropriate. Administrative record or trial transcript procedures for Social Security or habeas corpus actions are set forth in L.R. 190(f), 191(i), and 206(c). Pro se parties shall submit the administrative records in paper if they have the obligation to file the administrative records.

(c)(1) Pretrial/Post-trial Exhibits and Affidavits; Size Guidelines for Electronic Format. Unless otherwise permitted or required to be filed in paper format by these Rules, all pretrial exhibits and affidavits must be submitted in electronic format**.** While there is no presumptive page limit on exhibits that may be submitted to the Court in electronic format, voluminous scanned attachments and exhibits may have to be divided into separate attachments. Current size limits for documents submitted through CM/ECF can be found through the Court Information link on the Court's CM/ECF Welcome Page: https://ecf.caed.circ9.dcn/cgi-bin/CourtInfo.pl.

(c)(2) Scanning Exhibits. Absent special circumstances, exhibits that are black and white documents should be scanned in black and white with a scanner configured at 300 dots per inch (dpi), if possible. (Higher resolutions take too much electronic file space and are slower to load/upload, while lower resolutions will provide a poor quality document). Documents in color in their original form, such as color photographs, may be scanned in color and submitted. The filing counsel shall verify the readability of scanned documents before filing them electronically. Parties who anticipate filing many exhibits in color should seek special procedures for filing at the time of a scheduling conference or from the Court at reasonable time before the due date of the filing. These procedures could include an exemption from the usual electronic size of a filed document or filing in paper.

(c)(3) Retention of Scanned Documents. Originals of documents requiring scanning that are filed electronically must be retained by the filing counsel and made available, upon request, to the Court and other parties, for at least one year after final judgment and completion of all appeals. If law, including state law concerning attorney practice, or the needs of the action require further retention, filing counsel shall retain the originals for the necessary period.

(d) Pretrial/Post-trial Exhibits; Conventional (Paper) Submission. Pro se parties may only file paper documents and need not seek permission to do so. If an attorney, for exceptional circumstances, believes submission of exhibits must be in paper format, the attorney must apply to the Court for an exemption from the requirement for electronic submission. Any such application must be filed no less than seven (7) days before the date the filing is due. When exhibits are submitted in paper format, the party shall file and serve the exhibits and also electronically file, a one page .pdf document entitled "Notice of Attachment" referencing the electronically-filed pleading, motion or other document pertinent to the Notice and stating that exhibits are being submitted in paper. The Notice shall specify the date of the order permitting filing in paper to enable the docket to reflect that documents are being held as ordered with the Clerk in paper format. The party shall also file a CD or other appropriate media containing the filed exhibits for the Clerk's use. Unless the Court orders otherwise, no court file containing the paper exhibits shall be maintained, and the exhibits shall be placed in the chronological paper file and discarded after a one year period.

(e) Trial Exhibits. Exhibits offered or admitted at trial will not be scanned or received electronically unless ordered by the Court.

(f) Custody of Exhibits. All exhibits, including models and diagrams marked for identification or introduced in evidence, upon the hearing of any action or motion, shall be delivered to the Clerk, who shall keep custody of the same, except as otherwise ordered by the Court. All exhibits received in evidence that are in the nature of narcotic drugs, legal or counterfeit money, firearms or contraband of any kind shall be entrusted to the custody of the arresting or investigative agency of the Government pending disposition of the action and for any appeal period thereafter.

(g) Withdrawal of Civil Exhibits. In a civil action, after judgment has become final or upon the filing of a stipulation of the parties waiving the right of appeal, rehearing and a new trial, any party may withdraw any evidentiary exhibit originally produced by that party unless some other person files and serves on all other parties prior notice of a claim or entitlement to the exhibit, in which case the Clerk shall not deliver the exhibit, except with the written consent of all claimants, until the Court has determined the identity of the person entitled thereto.

(h) Withdrawal of Criminal Exhibits. Absent a stipulation of all parties, see L.R. 143, the Clerk shall maintain all exhibits during the pendency of the criminal trial and all appeals unless otherwise provided in these Rules. Following the spreading of mandate, the Clerk shall notify all parties of the availability of the exhibit for repossession by the party offering the exhibit in the absence of objection by another party. If no objection is lodged within twenty-eight (28) days, the Clerk may return the exhibit to the party offering it on request.

(i) Disposition of Unclaimed Exhibits. If exhibits are not re-claimed within sixty (60) days after notice to the parties to claim the same, the Clerk may dispose of them as the Clerk may deem fit.

(j) Substitution of Copies. Unless there is a specific reason why original exhibits should be retained, the assigned Judge or Magistrate Judge may, upon stipulation or motion, order them returned to the party to whom they belong upon the filing of a copy certified by the Clerk or approved by counsel for all parties concerned.

(k) Electronic and Mailed Correspondence. Non-case related correspondence is not governed by these Rules. Appropriate case-related correspondence shall be transmitted to the email address or conventional mail address of the pertinent courtroom deputy clerk. The assigned Judge or Magistrate Judge to whom the correspondence is addressed will determine whether such correspondence should be filed.

RULE 140 (Fed. R. Civ. P. 5.2) (Fed. R. Crim. P. 49.1)

PRIVACY CONCERNS AND REDACTION

(a) Privacy In General. Except as set forth below, pursuant to the Judicial Conference Policy on Privacy and Electronic Access to Case Files, and the E-Government Act of 2002, Pub. L. No. 107-347, effective April 16, 2003, when filing documents, counsel and the Court shall omit or, where reference is necessary, partially redact the following personal data identifiers from all pleadings, documents, and exhibits, whether filed electronically or on paper, unless the Court orders otherwise:

(i) Minors' names: In criminal actions, use the minors' initials; in civil actions use initials when federal or state law *require* the use of initials, or when the specific identity of the minor is not necessary to the action or individual document;
(ii) Financial account numbers: Identify the name or type of account and the financial institution where maintained, but use only the last four numbers of the account number;
(iii) Social Security numbers: Use only the last four numbers;
(iv) Dates of birth: Use only the year;
(v) Home addresses in criminal actions only; use only the city and state; and
(vi) All other circumstances: Redact when federal law *requires* redaction.

(b) Order Required for Other Redactions. No other redactions are permitted unless the Court has authorized the redaction. Counsel has the responsibility to be cognizant of federal privacy law and, when appropriate, state privacy law. Moreover, counsel should recognize proprietary or trade secret information that is protected from dissemination by law. When counsel seeks to submit protected information, a protective order or order authorizing redaction should be sought. A party that makes a redacted filing may also file an unredacted copy under seal if the Court so orders. The unredacted copy will be retained by the Court under seal as part of the record.

(c) Reference List for Redacted Documents. If the Court so orders, a filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item of redacted information listed. The reference list must be filed under seal and may be amended as of right. All references in the action to the identifiers included in the reference list will be construed to refer to the corresponding items of information.

(d) Submission of Unredacted Documents. Pursuant to the terms of a protective order or applicable law, counsel may seek to submit an unredacted document containing protected information for review by the Court. In such an event, counsel is

required to file a motion to file the document under seal. See L.R. 141. If the Court grants the motion, counsel shall then submit the unredacted paper document to the Clerk for review by the Court. The paper document must have a cover page with the caption and number of the action and a prominent designation stating the following: "Document filed under seal."

(e) No Sua Sponte Sealing or Redaction. Neither the Clerk nor the Court will review filed documents for compliance with privacy or other protective law, nor will the Court as a matter of course seal on its own motion documents containing personal data identifiers, or redact documents, whether filed electronically or on paper. No procedure set forth herein will excuse a violation of privacy or other law by counsel or party.

(f) Redaction Exceptions. Filings of administrative transcripts, see L.R. 138(b), need not be redacted to comply with this Rule. Filings of official records of a state court proceeding in an action removed to federal court need not be redacted. In a civil or criminal forfeiture proceeding, financial account numbers that identify the property alleged to be subject to forfeiture need not be redacted. See L.R. 570.

RULE 141 (Fed. R. Civ. P. 5.2, 26) (Fed. R. Crim. P. 49, 49.1)

SEALING OF DOCUMENTS

(a) Sealing Documents: General Principles. Documents may be sealed only by written order of the Court, upon the showing required by applicable law. To ensure that documents are properly sealed, specific requests to seal must be made even if an existing protective order, statute, or rule requires or permits the sealing of the document. Notice that a request to seal has been made will typically be filed in the publicly available case file. Unless the Court orders otherwise, court orders sealing documents will also be filed in the publicly available case file and will not reveal the sealed information. Access to all documents filed under seal will be restricted to the Court and authorized court personnel.

(b) Requests to Seal. If a party seeks to seal documents, the party shall submit, in the manner prescribed below, a "Notice of Request to Seal Documents," a "Request to Seal Documents," a proposed order, and all documents covered by the request.

Except in pre-indictment criminal investigations in which sealing is sought, the "Notice of Request to Seal Documents" shall be filed electronically, or for non-electronic filers, shall be submitted on paper to the Clerk for filing by hand delivery, by same-day or overnight delivery service provided by a courier, or by U.S. Mail, and shall be served on all parties. The Notice shall describe generally the documents sought to be sealed, the basis for sealing, the manner in which the "Request to Seal Documents," proposed order, and the documents themselves were submitted to the Court, and whether the Request, proposed order, and documents were served on all other parties.

Except in criminal pre-indictment matters, the "Request to Seal Documents," the proposed order, and all documents covered by the Request shall be either (1) e-mailed to the appropriate Judge or Magistrate Judge's proposed orders e-mail box listed on the Court's website, with the e-mail subject line including the case number and the statement: "Request to Seal Documents"; or (2) submitted on paper to the Clerk by hand delivery, by same-day or overnight courier, or by U.S. Mail; the envelope containing the Request, proposed order an documents shall state in a prominent manner "Request to Seal Documents." If the Request, proposed order, and documents are delivered to the Clerk, the party seeking sealing shall submit a self-addressed, stamped envelope for return of the documents. In either case, the Request, proposed order, and submitted documents shall not be filed at this time.

Except in matters in which it is clearly appropriate not to serve the "Request to Seal Documents," proposed order, and/or documents upon the parties, which would include criminal pre-indictment matters, all Requests, proposed orders, and submitted documents shall be served on all parties on or before the day they are

submitted to the Court. See L.R. 135.

The "Request to Seal Documents" shall set forth the statutory or other authority for sealing, the requested duration, the identity, by name or category, of persons to be permitted access to the documents, and all other relevant information. If the Request, proposed order, and/or documents covered by the Request were submitted without service upon one or more other parties, the Request also shall set forth the basis for excluding any party from service. The documents for which sealing is requested shall be paginated consecutively so that they may be identified without reference to their content, and the total number of submitted pages shall be stated in the request.

In pre-indictment criminal investigations, unless otherwise ordered, instead of filing a "Notice of Request to Seal Documents," government counsel shall submit to the Court, with the "Request to Seal Documents," proposed order, and documents proposed for sealing, a second proposed order sanitized of any identifying information, indicating in the caption that attached documents have been approved for filing under seal, with the understanding that the sanitized order will be filed in the publicly available case file.

(c) Oppositions to Sealing Requests. Except in criminal pre-indictment matters, and unless otherwise ordered by the Court, a party may submit an opposition to the "Request to Seal Documents" within three days of the date of service of the "Notice of Request to Seal Documents." The opposition shall be either: (1) e-mailed to the appropriate Judge or Magistrate Judge's proposed orders e-mail box listed on the Court's website, with the e-mail subject line including the case number and statement: "Opposition to Request to Seal Documents"; or (2) submitted on paper to the Clerk by hand delivery, by same-day or overnight courier, in an envelope stating in a prominent manner "Opposition to Request to Seal Documents." The Opposition shall be served on the party or parties requesting sealing and on any other party served with the "Request to Seal Documents." The Opposition shall not be filed at this time.

(d) Orders on Sealing Requests. Unless the Court orders otherwise, following review of a "Request to Seal Documents," the documents sought to be sealed, and any opposition to the Request, the Court will file in the publicly available case file an order granting or denying the Request. The order shall identify the documents for which sealing has been granted or denied by page number without revealing their contents. The Court may file a more detailed ruling under seal. The publicly filed order or the docket shall include a notation that a sealed order has been filed.

(e) Disposition of Documents.

Upon issuance of an order on a sealing request and unless the Court has ordered otherwise, the Clerk will file under seal the request, proposed order, and any opposition. Disposition of the documents covered by the request to seal depends on

whether the request is denied or granted.

(1) Denial. If a Request is denied in full or in part, the Clerk will return to the submitting party the documents for which sealing has been denied.

(2) Grant. If a Request is granted in full or in part, the disposition of documents to be sealed depends upon whether the requesting party is authorized to file electronically.

(i) Electronic Filer. If the requesting party is authorized to file electronically, then counsel for the requesting party shall either e-mail to the Clerk, at the e-mail address for sealed documents listed on the Court's website, an electronic copy of the documents covered by the sealing order, in .pdf format as an attachment, or submit to the Clerk by hand-delivery, U.S. mail, or same-day or overnight courier, a CD containing a copy of the documents in .pdf format. If submitted by e-mail, the subject line of the e-mail shall include the case number and the body of the e-mail shall identify the order authorizing the sealing of the attached documents. If submitted by hand, U.S. mail, or courier, the envelope containing the CD shall state in a prominent manner: "Sealed Documents" and shall identify the order authorizing sealing. The Clerk will file the documents under seal and will then return to the submitting party any documents submitted by hand, U.S. mail, or courier and any CD.

(ii) Non-Electronic Filer. If the requesting party is not authorized to file electronically, the Court will transmit to the Clerk the documents to be sealed along with the order authorizing sealing. The Clerk will scan the documents to be sealed and file them under seal. The Clerk will then return the documents to the submitting party.

(f) Unsealing Documents. Upon the motion of any person, or upon the Court's own motion, the Court may, upon a finding of good cause or consistent with applicable law, order documents unsealed. See Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1.

RULE 141.1 (Fed. R. Civ. P. 26)

ORDERS PROTECTING CONFIDENTIAL INFORMATION

(a) Presumption of Public Access; Limits to Protection.

(1) All information provided to the Court in a specific action is presumptively public, but may be sealed in conformance with L.R. 141. Confidential information exchanged through discovery, contained in documents to be filed in an action, or presented at a hearing or trial otherwise may be protected by seeking a protective order as described herein.

(2) A protective order is entered without prejudice to any rulings made in a different lawsuit or dispute, and the determination in an action in this Court does not bind other courts.

(b) Mechanics of Obtaining a Protective Order.

(1) Non-Trial Civil and Criminal Protective Orders. Either the person possessing or the party seeking information to be protected may move the Court for a protective order pursuant to L.R. 230, 251, or 430.1 or may submit a proposed stipulated protective order signed by all parties and the person possessing the information in accordance with L.R. 143. See L.R. 302(c)(2). A protective order issued prior to trial does not affect the admission of evidence at trial unless the order specifically so states.

(2) Protective Order for Civil Trial. A party seeking a protective order relating to the admission of evidence at trial shall submit a stipulation or request with the party's pretrial statement. A non-party seeking a protective order for trial shall submit a motion at or before the time for filing pretrial statements or promptly following discovery of the need for the order. See L.R. 230, 281, 282.

(3) Protective Order for Criminal Trial. Before the trial confirmation hearing in a felony or Class A misdemeanor case, either the person possessing or the party seeking information to be protected may move the Court for a protective order pursuant to L.R. 430.1 or may submit a proposed stipulated protective order signed by all parties and the person possessing the information in accordance with L.R. 143. In any other criminal action, a motion or proposed stipulated protective order shall be filed at least fourteen (14) days prior to trial. See L.R. 450.

(c) Requirements of a Proposed Protective Order. All stipulations and motions seeking the entry of a protective order shall be accompanied by a proposed form of order. Every proposed protective order shall contain the following provisions:

(1) A description of the types of information eligible for protection under the order, with the description provided in general terms sufficient to reveal the nature of the information (e.g., customer list, formula for soda, diary of a troubled child);

(2) A showing of particularized need for protection as to each category of information proposed to be covered by the order; and

(3) A showing as to why the need for protection should be addressed by a court order, as opposed to a private agreement between or among the parties.

(d) Hearing on Civil or Criminal Protective Orders. The Court may order that the person for whose benefit a protective order is sought shall attend a hearing, in camera or in open court, to discuss the necessity for the protective order.

(e) Filing Documents Subject to Protective Order. Documents that are the subject of a protective order may be filed under seal only if a sealing order is first obtained in compliance with L.R. 141.

(f) Closed Actions. Once the Clerk has closed an action, unless otherwise ordered, the Court will not retain jurisdiction over enforcement of the terms of any protective order filed in that action.

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RULE 142 (Fed. R. Civ. P. 43)

AFFIDAVITS

(a) Requirements. An affidavit, see L.R. 101, submitted in support of any motion shall

(1) identify the affiant, the party or parties on whose behalf it is submitted, and the motion to which it pertains, see L.R. 133(h);

(2) be served on all other parties and filed with the motion, opposition or reply to which it relates, unless accompanied by an affidavit of counsel purporting to show good cause for the separate filing thereof; and

(3) identify, authenticate, and attach documents and exhibits offered in support of or in opposition to the motion, unless such documents and exhibits are already in the record and specifically referred to in the motion or opposition.

(b) Affidavits Referencing Depositions. When deposition testimony is referenced in or appended to an affidavit, the party filing the affidavit shall comply with L.R. 133(j).

RULE 143 (Fed. R. Civ. P. 83)

STIPULATIONS

(a) Form. Except stipulations entered into during the course of a deposition and set forth in the transcript thereof, stipulations shall be

(1) in writing, signed by all attorneys or pro se parties who have appeared in the action and are affected by the stipulation, except as otherwise required by Fed. R. Civ. P. 41(a)(1)(A), and filed;

(2) made in open court and noted by the courtroom deputy clerk upon the minutes or by the court reporter in the notes; or

(3) recited in a pretrial or other court order.

Stipulations not in conformity with these requirements will not be recognized unless necessary to prevent manifest injustice.

(b) Order. Stipulations are not effective unless approved by the Court, except as otherwise provided in these Rules or in the Federal Rules of Civil, Criminal, or Appellate Procedure. A proposed order shall be submitted with a written stipulation and may consist of an endorsement on the stipulation of the words, "**IT IS SO ORDERED**," with spaces designated for the date and signature of the Judge or Magistrate Judge. See L.R. 137.

RULE 144 (Fed. R. Civ. P. 6)

EXTENDING AND SHORTENING TIME

(a) Extensions on Stipulation. Unless the filing date has been set by order of the Court, an initial stipulation extending time for no more than twenty-eight (28) days to respond to a complaint, cross-claim or counterclaim, or to respond to interrogatories, requests for admissions, or requests for production of documents may be filed without approval of the Court if the stipulation is signed on behalf of all parties who have appeared in the action and are affected by the stipulation. All other extensions of time must be approved by the Court. No open extensions of time by stipulation of the parties will be recognized.

(b) Contents of Application for Extension. All motions for extensions of time shall set forth the total period of extensions already obtained by the parties as to the particular matters for which the extension is sought.

(c) Initial Ex Parte Extension. The Court may, in its discretion, grant an initial extension ex parte upon the affidavit of counsel that a stipulation extending time cannot reasonably be obtained, explaining the reasons why such a stipulation cannot be obtained and the reasons why the extension is necessary. Except for one such initial extension, ex parte applications for extension of time are not ordinarily granted.

(d) Time for Requesting Extensions. Counsel shall seek to obtain a necessary extension from the Court or from other counsel or parties in an action as soon as the need for an extension becomes apparent. Requests for Court-approved extensions brought on the required filing date for the pleading or other document are looked upon with disfavor.

(e) Shortening Time. Applications to shorten time shall set forth by affidavit of counsel the circumstances claimed to justify the issuance of an order shortening time. Ex parte applications to shorten time will not be granted except upon affidavit of counsel showing a satisfactory explanation for the need for the issuance of such an order and for the failure of counsel to obtain a stipulation for the issuance of such an order from other counsel or parties in the action. Stipulations for the issuance of an order shortening time require the approval of the Judge or Magistrate Judge on whose calendar the matter is to be heard before such stipulations are given effect. Any proposed order shortening time shall include blanks for the Court to designate a time and date for the hearing and for the filing of any response to the motion.

RULE 145 (Fed. R. Civ. P. 83)

APPEALS FROM BANKRUPTCY COURT

(a) Motion for Leave to Appeal from Bankruptcy Court. All motions for leave to file an interlocutory appeal from the Bankruptcy Court to the District Court shall comply with Bankruptcy Rule 8003(a) and be addressed to the District Court. Compliance with Rule 8003(a)(3) requires a concise statement of (1) why the appeal is meritorious, and (2) why interlocutory review is appropriate. The appropriateness of interlocutory appeal should address: (a) whether further proceedings in the Bankruptcy Court will affect the scope of the order to be reviewed; (b) whether the order determines and seriously affects substantive rights; and (c) whether the denial of immediate review will cause irreparable harm to appellant.

(b) Determination of Reviewability. If a notice of appeal is filed from a judgment, order or decree of the Bankruptcy Court without a motion for leave to appeal, the District Court may partially remand the matter to the Bankruptcy Court for a recommendation concerning the finality of the subject judgment, order or decree. If the Bankruptcy Court advises the District Court that the subject judgment, order or decree is not final but interlocutory, the Bankruptcy Court shall make a recommendation to the District Court whether leave to appeal should be granted. In aid of the Bankruptcy Court's determination on such recommendations, the Bankruptcy Court may order the parties to the appeal to file briefs in support of finality or leave.

RULE 146 (Fed. R. Civ. P. 83)

APPEALS TO THE NINTH CIRCUIT

Electronic filers shall file a Notice of Appeal electronically. It is not necessary to provide the Court with paper copies of the notice for service on the other parties. The electronic notice generated by the system will constitute the copy the Clerk is required to serve under Fed. R. App. P. 3(d). Conventional filing and service shall be made upon, and by, pro se parties unless authorized by the Court to file electronically.

RULE 150 (Fed. R. Civ. P. 67)

DEPOSITS OF REGISTRY FUNDS

(a) Deposits as of Right. Leave of court is hereby granted for the making of deposits into the registry of the Court in all interpleader actions and in all instances in which money is deposited in lieu of filing a bond and all deposits by a receiver appointed by order of the Court under L.R. 232. In these circumstances, a party is not required to seek specific leave of court before making the deposit. See generally 18 U.S.C. § 3141 et seq.; Fed. R. Civ. P. 67; Fed. R. Crim. P. 46.

(b) Other Deposits. In all other circumstances not encompassed within (a), specific leave of court is required before making a deposit into the registry of the Court. Leave of court may be requested by stipulation of all parties who have appeared or by motion set on the regular calendar of the assigned Magistrate Judge not less than seven (7) days from the date of filing and service. A copy of any proposed order shall be delivered promptly to the Clerk or Chief Deputy Clerk for inspection pursuant to (e). See L.R. 302(c)(6).

(c) Routine Placement of Deposit. In any instance in which money is deposited into the registry of the Court and no specific order is given as to the form or placement of the deposit, the deposit shall be placed in an interest-bearing account at such financial institutions as the Court may, by General Order, have designated as qualifying for the making of such deposits of registry funds and shall be deposited into one account unless the order specifically addresses that issue. All matters relating to the creation and administration of such account or accounts shall be governed by General Order.

(d) Special Placement of Deposit. In any action in which a deposit is made into the registry of the Court, a depositor or party may request that the money be placed in a particular type of account or in a particular financial institution or that other particular provisions govern the placement of the deposit. Such request may be made in accordance with (b).

(e) Order for Deposit - Interest-Bearing Account. Whenever a party seeks a court order for money to be deposited by the Clerk in an interest-bearing account, whether routine or special placement, the party shall personally deliver the order to the Clerk or Chief Deputy Clerk who will inspect the proposed order for proper form and content and compliance with the Rule before signature by the Court. Such orders shall contain the following provision: "**Approved as to Form _____, Clerk, U.S. District Court.**"

(f) Order Directing Investment of Funds by Clerk. Any order obtained by a party or parties in an action that directs the Clerk to invest funds deposited in the registry of the Court pursuant to 28 U.S.C. § 2041 into an interest-bearing account or instrument shall include the following:

(1) the amount to be invested;

(2) the name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited; and

(3) a designation of the type of account or instrument in which the funds shall be invested.

(g) Delivery to Clerk Required. Upon approval by the Court of an order for the deposit of funds into an interest-bearing account, it shall be the further responsibility of counsel presenting the order to deliver a signed copy to the Clerk appointed pursuant to 28 U.S.C. § 751 or the Chief Deputy Clerk personally. Absent such personal service, the Clerk is relieved of any personal liability relating to compliance with the order.

(h) Order for Disbursement of Registry Funds. At such time as registry funds are to be disbursed, an Order for Disbursement shall be presented to the Court before whom the action is pending for approval and signature. The order shall contain specific language "directing the Clerk to disburse funds" to the parties or otherwise as specifically stated within the order.

(i) Registry Fund Fees. All funds invested - including criminal bond money deposited at interest - will be assessed a registry fee according to the schedule established by the Administrative Office of the United States Courts. A copy of the current schedule is available from the Clerk on request and is available on the Court's website.

RULE 151 (Fed. R. Civ. P. 65.1)

SECURITY

(a) Scope of Rule. Whenever a security, bond, or undertaking is required by federal statute, the Federal Rules of Civil, Criminal or Appellate Procedure, or by order of the Court, and the form or amount thereof is not otherwise specified by statute, rule, or order, the amount and form shall be as provided by this Rule. See 18 U.S.C. § 3141 et seq., 31 U.S.C. § 9301 et seq.; Fed. R. App. P. 7, 8; Fed. R. Civ. P. 65, 65.1; Fed. R. Crim. P. 46.

(b) Security for Costs. On its own motion or on motion of a party, the Court may at any time order a party to give a security, bond, or undertaking in such amount as the Court may determine to be appropriate. The provisions of Title 3A, part 2, of the California Code of Civil Procedure, relating to vexatious litigants, are hereby adopted as a procedural Rule of this Court on the basis of which the Court may order the giving of a security, bond, or undertaking, although the power of the Court shall not be limited thereby.

(c) Bond for Writ of Attachment. See Cal. Civ. Proc. Code § 481.010 et seq.

(d) Supersedeas Bond. When required, a supersedeas bond shall be 125 percent of the amount of the judgment unless the Court otherwise orders. See Fed. R. Civ. P. 62.

(e) Form of Bond. A security, bond, or undertaking shall be given, signed and acknowledged by the party offering it and by that party's surety. Every security, bond, undertaking, or deposit instrument shall state the conditions of the obligation and shall contain a provision expressly subjecting it to all applicable federal law.

(f) Corporate Surety. No security, bond, or undertaking with corporate surety shall be accepted unless the corporate surety is in compliance with the provisions of 31 U.S.C. §§ 9304-06, and there is, either attached to the face of the security, bond, or undertaking or on file with the Clerk, a duly authenticated power of attorney appointing the agents or officers executing such obligation to act on behalf of the corporate surety.

(g) Personal Surety. No security, bond, or undertaking with personal surety in a civil matter shall be accepted unless it is accompanied by affidavits in the form prescribed by sections 995.510 and 995.520 of the California Code of Civil Procedure. No Clerk, Marshal or deputy marshal, member of the Bar, or other officer or employee of the Court will be accepted as surety in this Court, absent express Court approval. The Court may, in its discretion, require that more than one personal surety be obligated

on the security, bond, or undertaking.

(h) Cash, Negotiable Bonds of the United States. In lieu of corporate or personal surety, a party may deposit with the Clerk the required amount of lawful money or negotiable bonds of the United States accompanied by a written instrument, to be approved by the Court, executed and acknowledged by the party, setting forth the conditions upon which the deposit is made, and the fact that the Clerk may collect or sell the obligations and apply the proceeds, or the cash deposited, in the case of default as provided in the bond. Where the true owner is other than the party making the deposit, the instrument shall so state and shall be executed and acknowledged by the true owner. Upon exoneration of the deposit, it shall be returned by the Clerk to the depositor or, if the depositor is other than the true owner, then to the true owner.

(i) Personal and Real Property Bonds. If personal property is provided as security, it shall be accompanied by a security agreement and a financing statement, executed in conformity with the California Commercial Code. If real property is provided as security, a trust deed naming the Clerk as beneficiary and describing the property shall be deposited with the Clerk.

(j) Required Affidavit of Ownership. Any deposit of money or documents evidencing ownership of property shall be accompanied by an affidavit (accompanied by preliminary title report, litigation guarantee, or abstract from a title company, in the case of real property) that the property is unencumbered, or if encumbered, is encumbered in an amount specified, and that the property is of a specified value (assessed value, in the case of real property). See 31 U.S.C. § 9303; L.R. 150.

(k) Submission to Jurisdiction - Agent for Service of Process. Notwithstanding any provision of a security agreement to the contrary, all sureties or depositors of security subject themselves to the jurisdiction of this Court, irrevocably appoint the Clerk as their agent on whom any papers affecting their liability may be served, and consent that their liability shall be joint and several, that judgment may be entered against them in accordance with this obligation simultaneously with judgment against their principals, and that execution may therefore issue against their property. Notwithstanding appointment of the Clerk as agent for service of process, any person seeking judgment against any surety or depositor shall make a good faith effort to give actual notice to the surety or depositor of all actions or motions by which judgment is sought against the surety or depositor.

(l) Further Security or Justification of Personal Sureties. Upon reasonable notice to the party presenting the security, any other party for whose benefit it is presented may apply to the Court at any time for further or different security or for an order requiring personal sureties to establish the facts supporting their affidavits under sections 995.510 and 995.520 of the California Code of Civil Procedure.

RULE 160 (Fed. R. Civ. P. 16)

NOTICE OF SETTLEMENT OR OTHER DISPOSITION

(a) Notice. When an action has been settled or otherwise disposed of, or when any motion seeking general or interim relief has been resolved, whether by settlement conference or out of Court, and whether the action is pending in the District Court or is before an appellate court, it is the duty of counsel to inform the courtroom deputy clerk and the assigned Court's chambers immediately. See L.R. 272.

(b) Dispositional Documents. Upon such notification of disposition or resolution of an action or motion, the Court shall fix a date upon which the documents disposing of the action or motion must be filed, which date shall not be more than twenty-one (21) days from the date of said notification, absent good cause. The Court may, on good cause shown, extend the time for filing the dispositional papers. A failure to file dispositional papers on the date prescribed by the Court may be grounds for sanctions. See L.R. 272.

RULE 161 (Fed. R. Civ. P. 47)

GRAND AND PETIT TRIAL JURORS

The Plan for the Random Selection of Grand and Petit Trial Jurors, approved by this Court and the reviewing panel pursuant to the Jury Selection and Service Act of 1968 (Public Law 90-274) and filed in the Office of the Clerk governs the management of the jury selection process.

RULE 162.1 (Fed. R. Civ. P. 47)

EXAMINATION AND CHALLENGES OF TRIAL JURY - CIVIL AND CRIMINAL

(a) Examination of Jurors. Examination of prospective jurors shall be by the Court subject to supplementation by counsel as provided by Fed. R. Civ. P. 47 and Fed. R. Crim. P. 24. Not less than seven (7) days before commencement of the trial, unless otherwise ordered, counsel shall file, and serve any requested questions for voir dire examination touching upon unique or unusual aspects of the action. These requests may be reasonably supplemented by oral requests during voir dire examination to remedy omissions, to clarify, or to pursue lines of inquiry suggested by answers.

(b) Procedure. Counsel shall consult with the courtroom deputy clerk of the assigned Judge or Magistrate Judge for procedures utilized by that Judge in the selection of a jury and in the exercise of peremptory challenges. See 28 U.S.C. § 1870; Fed. R. Civ. P. 47(b).

RULE 162.2 (Fed. R. Civ. P. 48)

IMPANELMENT OF TRIAL JURY – CIVIL AND CRIMINAL

(a) Number of Jurors. Whenever a jury is demanded in civil actions, trial of the action shall be before a jury consisting of no fewer than six and no more than twelve members. See Fed. R. Civ. P. 48. Unless waived by the defendant in writing and in the presence of the Court, all criminal trials shall be before a jury consisting of twelve members, plus such alternates as may be impaneled.

(b) Procedure. Counsel shall consult with the courtroom deputy clerk of the assigned Judge or Magistrate Judge for procedures utilized by that Judge in the impanelment of a jury.

RULE 163 (Fed. R. Civ. P. 51)

JURY INSTRUCTIONS AND VERDICTS - CIVIL AND CRIMINAL ACTIONS

(a) Filing. Unless the Court otherwise orders or permits, requested jury instructions in all actions shall be filed and copies served on all parties at the opening of the trial. Instructions thereafter presented may be deemed not to have been properly requested unless (1) the necessity for the request arose in the course of trial and could not reasonably have been anticipated before trial from the pleadings, discovery or nature of the action and (2) the request is presented as promptly as possible. See Fed. R. Civ. P. 51; Fed. R. Crim. P. 30.

(b) Form and Number.

(1) Electronic Filers. Two copies of the instructions shall be submitted. One copy shall be electronically filed as a .pdf document and shall contain each instruction on a separate page, numbered and identified as to the party presenting it. Each instruction shall cite the decision, statute, ordinance, regulation, or other authority supporting the proposition stated in the instruction. The second copy (jury copy) shall comply with (b)(4) and shall be submitted by e-mail to the appropriate e-mail address as listed on the Court's website in Word or Word Perfect format. See L.R. 137(b).

(2) Conventional Filers. Two (2) copies of the instructions shall be filed on 8-1/2" x 11" paper. The first copy shall contain each instruction on a separate page, numbered and identified as to the party presenting it. Each instruction shall cite the decision, statute, ordinance, regulation, or other authority supporting the proposition stated in the instruction. The second copy (jury copy) shall comply with (b)(4).

(3) Cover Sheet. The cover sheet on each set of instructions shall contain the appropriate caption (title, Court and cause) and an identification of the party presenting the instructions.

(4) Jury Copies. As the jury copy may be duplicated and given to the jury, the individual instructions shall be unnumbered and unidentified as to the party presenting them and shall contain no citation to the authority supporting the proposition stated in the instruction.

(c) Content. Each requested instruction shall be (as far as possible) free of legal jargon, understandable, concise, impartial, and free from argument. All requested instructions on a single subject shall be grouped together when submitted to the Court. All instructions intended as alternates shall be so designated.

(d) Standard Instructions. When the instructions are derived from the Ninth Circuit Pattern Jury Instructions, California Jury Instructions-Civil (CACI), California Jury Instructions-Civil (BAJI), California Jury Instructions-Criminal (CALJIC) or Federal Jury Practice and Instructions (Civil and Criminal), or other source of standard instructions, the source shall be from the latest edition provided. If a standard instruction is altered by omissions, additions, or modifications by counsel (other than substitution of the parties' names for "plaintiff" and "defendant"), the modification shall be specifically noted and explained on the file copy.

(e) Verdict and Special Interrogatories. The jury instructions shall be accompanied by a form or forms of verdict. Requests for special verdicts or interrogatories to be answered in connection with a general verdict shall also accompany the instructions.

(f) Conference - Objections. The Court will set a time for a conference with counsel for the purpose of settling instructions. Unless the Court orders otherwise, counsel shall be prepared at that time to object to any instructions and to support any objection with citation to authority. Upon the settling of the instructions, and before counsel's final argument to the jury, the Court will hold a hearing on the record and outside the presence of the jury for the purpose of permitting counsel to voice any objections concerning the instructions.

RULE 170 (Fed. R. Civ. P. 80)

COURT REPORTERS AND COURT RECORDERS

Official reporting in the Eastern District of California is governed by 28 U.S.C. § 753 and by such fee schedules and regulations promulgated by the Administrative Office of the United States Courts, General Orders, or other regulations as may from time to time be filed with the Clerk. Copies of such documents may be obtained from the Clerk. Each reporter shall be responsible for maintaining all records of reported proceedings before the Judge or Magistrate Judge to whom the reporter is assigned. When court proceedings are recorded, the official court recorder shall be responsible for maintaining the recordings.

RULE 171 (Fed. R. Civ. P. 83)

PUBLICATION

There is no official newspaper for the Eastern District of California. In each instance in which publication of any document, notice, or other matter is required or permitted, the Court shall designate by order the appropriate newspaper or other vehicle for publication. In seeking such designation, counsel shall file a motion proposing the place and manner of publication, setting forth such information as the language to be published, the frequency of publication, the reasons underlying selection of the proposed vehicle of publication, and all other relevant matters.

RULE 173 (Fed. R. Civ. P. 83)

PHOTOGRAPHING, RECORDING OR BROADCASTING OF JUDICIAL PROCEEDINGS

(a) Prohibitions Imposed. All forms, means, and manner of taking photographs, tape recordings, broadcasting, or televising are prohibited in all courtrooms and the corridors adjacent thereto in the United States Courthouse Buildings during the course of, or in connection with, any judicial proceedings, whether the Court is actually in session or not.

(b) Permissible Reproduction. This Rule shall not prohibit recordings by a court reporter; provided, however, no court reporter or other person shall use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio or television broadcast of any kind. The Court may, in appropriate circumstances, permit photographs to be taken or recordings to be made under such conditions as may be imposed.

RULE 180 (Fed. R. Civ. P. 83)

ATTORNEYS

(a) Admission to the Bar of this Court. Admission to and continuing membership in the Bar of this Court are limited to attorneys who are active members in good standing of the State Bar of California.

(1) Petition for Admission. Each applicant for admission shall present to the Clerk an affidavit petitioning for admission, stating both residence and office addresses, the courts in which the applicant has been admitted to practice, the respective dates of admissions to those courts, whether the applicant is active and in good standing in each, and whether the applicant has been or is being subjected to any disciplinary proceedings. Forms will be furnished by the Clerk and shall be available on the Court's website.

(2) Proof of Bar Membership. The petition shall be accompanied by a certificate of standing from the State Bar of California or a printout from the State Bar of California website that provides that the applicant is an active member of the State Bar of California and shall include the State Bar number.

(3) Oath and Prescribed Fee. Upon qualification the applicant may be admitted, upon oral motion or without appearing, by signing the prescribed oath and paying the prescribed fee, together with any required assessment, which the Clerk shall place as directed by law with any excess credited to the Court's Nonappropriated Fund.

(b) Practice in this Court. Except as otherwise provided herein, only members of the Bar of this Court shall practice in this Court.

(1) Attorneys for the United States. An attorney who is not eligible for admission under (a), but who is a member in good standing of and eligible to practice before, the Bar of any United States Court or of the highest Court of any State, or of any Territory or Insular Possession of the United States, may practice in this Court in any matter in which the attorney is employed or retained by the United States or its agencies. Attorneys so permitted to practice in this Court are subject to the jurisdiction of this Court with respect to their conduct to the same extent as members of the Bar of this Court.

(2) Attorneys Pro Hac Vice. An attorney who is a member in good standing of, and eligible to practice before, the Bar of any United States Court or of the highest Court of any State, or of any Territory or Insular Possession of the United States, and who has been retained to appear in this Court may, upon application and in the discretion of the Court, be permitted to appear and participate in a particular case. Unless authorized by the Constitution of the United States or an Act of Congress, an

attorney is not eligible to practice pursuant to (b)(2) if any one or more of the following apply: (i) the attorney resides in California, (ii) the attorney is regularly employed in California, or (iii) the attorney is regularly engaged in professional activities in California.

(i) Application. The pro hac vice application shall be electronically presented to the Clerk and shall state under penalty of perjury (i) the attorney's residence and office addresses, (ii) by what courts the attorney has been admitted to practice and the dates of admissions, (iii) a certificate of good standing from the court in the attorney's state of primary practice, (iv) that the attorney is not currently suspended or disbarred in any court, and (v) if the attorney has concurrently or within the year preceding the current application made any other pro hac vice applications to this Court, the title and number of each action in which such application was made, the date of each application, and whether each application was granted.

(ii) Designee. The attorney shall also designate in the application a member of the Bar of this Court with whom the Court and opposing counsel may readily communicate regarding that attorney's conduct of the action and upon whom service shall be made. The attorney shall submit with such application the name, address, telephone number, and consent of such designee.

(iii) Prescribed Fee. The pro hac vice application shall also be accompanied by payment to the Clerk of any prescribed fee, together with any required assessment which the Clerk shall place as directed by law with any excess credited to the Court's Nonappropriated Fund. If the pro hac vice application is denied, the Court may refund any or all of the fee or assessment paid by the attorney.

(iv) Subject to Jurisdiction. If the application is granted, the attorney is subject to the jurisdiction of the Court with respect to conduct to the same extent as a member of the Bar of this Court.

(3) Certified Students. See L.R. 181.

(4) Designated Officers, Agents or Employees.

(A) An officer, agent or employee of a federal agency or department may practice before the Magistrate Judges on criminal matters in this Court, whether or not that officer, agent, or employee is an attorney, if that officer, agent or employee:

(i) has been assigned by the employing federal agency or department to appear as a prosecutor on its behalf;

(ii) has received four or more hours training from the United States Attorney's Office in the preceding twenty-four (24) months;

(iii) has filed a designation in accordance with (B); and

(iv) is supervised by the United States Attorney's Office. Supervision by the United States Attorney's Office means that employees of that Office are available to answer questions of any such officer, agent, or employee.

(B) Designations shall be filed on a form provided by the Clerk that shall include a verification that the officer, agent, or employee has satisfied the requirements of this Rule. A designation is effective for twelve months. The officer, agent, or employee shall file the designation either in Fresno, if the officer, agent, or employee anticipates appearing only before Magistrate Judges at locations in the counties specifically enumerated in L.R. 120(b), or in Sacramento in all other circumstances. After filing the designation in any calendar year, the officer, agent, or employee shall not appear before any particular Magistrate Judge without providing a copy of the designation to that Magistrate Judge.

(C) Officers, agents and employees so permitted to practice in this Court are subject to the jurisdiction of this Court with respect to their conduct to the same extent as members of the Bar of this Court.

(5) RIHC and RLSA Attorneys. An attorney who is currently designated by the State Bar of California as Registered In-House Counsel (RIHC) or as a Registered Legal Services Attorney (RLSA) may petition the Court to practice by completing the petition for admission, supplying the proof of bar membership, and providing the oath and prescribed fee under (a). Any attorney allowed to practice in the Eastern District of California under this section may only practice as long as the attorney is designated as an RIHC or RLSA by the State Bar of California.

(c) Notice of Change in Status. An attorney who is a member of the Bar of this Court or who has been permitted to practice in this Court under (b) shall promptly notify the Court of any change in status in any other jurisdiction that would make the attorney ineligible for membership in the Bar of this Court or ineligible to practice in this Court. In the event an attorney appearing in this Court under (b) is no longer eligible to practice in any other jurisdiction by reason of suspension for nonpayment of fees or enrollment as an inactive member, the attorney shall forthwith be suspended from practice before this Court without any order of Court until becoming eligible to practice in another jurisdiction.

(d) Penalty for Unauthorized Practice. The Court may order any person who practices before it in violation of this Rule to pay an appropriate penalty that the Clerk shall credit to the Court's Nonappropriated Fund. Payment of such sum shall be an additional condition of admission or reinstatement to the Bar of this Court or to practice in this Court.

(e) Standards of Professional Conduct. Every member of the Bar of this Court, and any attorney permitted to practice in this Court under (b), shall become familiar with and comply with the standards of professional conduct required of members of the State Bar of California and contained in the State Bar Act, the Rules of Professional Conduct of the State Bar of California, and court decisions applicable thereto, which are hereby adopted as standards of professional conduct in this Court. In the absence of an applicable standard therein, the Model Code of Professional Responsibility of the American Bar Association may be considered guidance. No attorney admitted to practice before this Court shall engage in any conduct that degrades or impugns the integrity of the Court or in any manner interferes with the administration of justice.

(f) Attorney Registration for Electronic Filing. All attorneys who wish to file documents in the Eastern District of California must be admitted to practice or admitted to appear pro hac vice. They must also complete an e-filing registration as prescribed in L.R. 135.

RULE 181 (Fed. R. Civ. P. 83)

CERTIFIED STUDENTS

(a) Definitions.

(1) "Certified Student" means a law student who has been certified by the Clerk pursuant to this Rule.

(2) "Dean" means the Dean or the Dean's specially designated representative at the law school in which the student is enrolled or from which the student has graduated.

(3) "Supervising Attorney" means an attorney admitted to the Bar of this Court who satisfies the requirements of (e).

(4) "Accredited law school" means a law school accredited by the State Bar of California or the American Bar Association. Upon application and a showing of good cause therefor, the Chief Judge shall have sole discretion to determine that a student from a law school not qualifying under the foregoing accreditation requirement may be a Certified Student under this Rule.

(b) Eligibility for Certification. To engage in the activities permitted under this Rule, a Certified Student must:

(1) either have successfully completed one year of full-time studies at an accredited law school or have passed the First Year Law Student's Examination;

(2) be currently enrolled in an accredited law school in good academic standing, subject to the normal hiatus between quarters or semesters, or have graduated from an accredited law school but subject to the limitations of (g)(4);

(3) either have successfully completed or be currently enrolled in academic courses that provide training in both evidence and civil procedure, unless otherwise specifically ordered by the Chief Judge upon application on good cause shown;

(4) have submitted an Application for Certification to the Clerk; and

(5) have received a Notice of Certification from the Clerk.

(c) Application for Certification. Law students shall apply for certification on a form to be furnished by and filed with the Clerk accompanied by the prescribed filing fee. Applications for Certification shall provide for signatures and attestations as

follows:

(1) Law students shall attest that

(A) they have read, are familiar with, and will abide by the Rules of Professional Conduct of the State Bar of California and these Rules;

(B) they meet all the requirements of (b)(1), (2), and (3), or anticipate satisfaction of those requirements in the normal course of events; and

(C) they shall immediately notify the Clerk upon failing to meet the requirements of (b)(1) or upon ceasing to meet the requirements of (b)(2).

(2) Deans shall attest that

(A) they are the Deans or have been specifically designated by the Dean to administer the law school's practical training program;

(B) the named law students meet the requirements of (b)(1), (2) and (3) or satisfaction of those requirements is anticipated in the normal course of events; and

(C) they have no knowledge of facts or information that might disqualify the law students from participation in the activities permitted by this Rule.

(3) Supervising Attorneys shall specify the period during which they will be responsible for and will supervise the law student and shall attest that each Supervising Attorney

(A) meets the requirements of (e)(1), and

(B) has read, is familiar with, and will abide by and will assume full responsibility under the requirements of (e)(2) through (8).

(d) Permitted Activities.

(1) A Certified Student may engage in the activities permitted hereunder only if the client on whose behalf the student is to act has approved in writing on a Consent Form available from the Clerk the performance of such acts by such Certified Student. The term "client" shall mean the individual client, the corporate officer or other similar individual authorized to act on behalf of a nongovernmental entity, or the government attorney or other appropriate legal officer authorized to act on behalf of a government agency, as the case may be.

(2) Except as permitted in (d)(3), a Certified Student may engage in the

following activities on behalf of a nongovernmental client only with the approval and under the direct and immediate supervision and in the personal presence of the Supervising Attorney or the Supervising Attorney's designee:

(A) appearing at or taking depositions on behalf of the client; and

(B) appearing on behalf of the client in any trial, hearing, or other proceeding before any Judge, Magistrate Judge, or special master of the United States District Court for the Eastern District of California, but only to the extent approved by such Judge, Magistrate Judge, or special master.

(3) A Certified Student may appear in any action on behalf of a government agency or on behalf of the Office of the Federal Defender in the prosecution or defense of misdemeanors, but only subject to approval by the Judge or Magistrate Judge presiding at the hearing or trial in such action, without the personal appearance of the Supervising Attorney, but only if the Supervising Attorney or the Supervising Attorney's designee shall be available by telephone or otherwise to advise the Certified Student.

(4) A Certified Student may engage in the following acts on behalf of a government agency as a representative of that agency without the personal appearance of the Supervising Attorney, but only if the Supervising Attorney or the Supervising Attorney's designee is available by telephone or otherwise to advise the Certified Student:

(A) appearing at or taking depositions on behalf of the agency;

(B) appearing on behalf of the agency in any noncriminal trial hearing, or other proceeding, before any Judge, Magistrate Judge, or special master of the United States District Court for the Eastern District of California, but only to the extent approved by such Judge, Magistrate Judge, or special master;

(C) appearing in any proceeding in actions brought under Title 42 of the United States Code to review a final decision of the Commissioner of Social Security;

(D) appearing in any proceeding in actions brought to enforce Internal Revenue Service summonses filed pursuant to 26 U.S.C. §§ 7402(b) and 7604(a), and/or actions to quash administrative summonses filed pursuant to 26 U.S.C. § 7609(b)(2);

(E) appearing in any proceeding in actions to enforce collection on promissory notes involving federally insured loans and direct federal loans in which the prayer for relief is less than $25,000;

(F) appearing in any proceeding in actions to enforce cease and desist orders issued by the National Labor Relations Board;

(G) appearing in any proceeding in actions to enforce civil penalties assessed under 46 U.S.C. §§ 2302, 4311(d), and/or 12309(c); and

(H) appearing in any proceeding in petitions for writs, or actions seeking relief under the Federal Civil Rights Act by incarcerated persons acting in propria persona.

(5) In all instances in which, under these Rules, a Certified Student is permitted to appear in any trial, hearing, or other proceeding before any Judge, Magistrate Judge, or special master of the United States District Court for the Eastern District of California, the Certified Student shall, as a condition to such appearance, cause the filing of the Consent Form or present the Consent Form for filing to the Judge, Magistrate Judge, or special master.

(6) Certified Students whose Supervising Attorneys are not governmental attorneys or attorneys acting full-time on behalf of the Office of the Federal Defender shall satisfy not only the requirements of this Rule, but also the requirements imposed by the State Bar of California Rules Governing the Practical Training of Law Students, as those Rules may be amended from time to time.

(7) Nothing in this Rule shall prevent a student, certified or uncertified, from performing any advisory or representational activity that a person who is not admitted to practice before the United States District Court for the Eastern District of California could lawfully perform.

(e) Supervising Attorney. The Supervising Attorney shall:

(1) be admitted to practice before the United States District Court for the Eastern District of California;

(2) supervise no more than twelve (12) Certified Students concurrently, provided, however, that this limitation on supervision may be modified by the Chief Judge upon application and showing of good cause therefor;

(3) assume personal professional responsibility for any work performed by the Certified Student while under the attorney's supervision;

(4) assist and counsel with the Certified Student in the activities permitted under this Rule and review such activities with the Certified Student;

(5) read, approve, and sign any pleadings, briefs or other papers

prepared by the Certified Student before the filing thereof, provided, however, that this requirement shall not apply to (i) amendments to accusatory pleadings; (ii) papers other than pleadings and briefs filed by a Certified Student whose Supervising Attorney is a member of the United States Attorney's Office; (iii) papers other than pleadings and briefs filed by a Certified Student whose Supervising Attorney is a member of the Federal Defender's Office; or (iv) pleadings and briefs filed in a Magistrate Judge's Court in a county other than Sacramento or Fresno by a Certified Student whose Supervising Attorney is a member of the United States Attorney's Office and whose Supervising Attorney has approved the pleading or brief after hearing it read over the telephone and authorizing the filing thereof;

(6) provide the required supervision of the Certified Student for the activities listed in this Rule;

(7) assign full responsibility for supervision to another designated attorney qualified to serve as a Supervising Attorney under this Rule in any instance in which the Supervising Attorney is to be unavailable; and

(8) notify the Clerk promptly in writing whenever the attorney's supervision of the Certified Student will cease without a written substitution of another qualified Supervising Attorney being filed.

(f) Use of the Designation "Certified Student." A Certified Student may be designated as such on pleadings, briefs, letters on the Supervising Attorney's letterhead, and other documents on which the Certified Student has worked with or under the supervision and direction of the Supervising Attorney, by placing the Certified Student's name thereon with the words "Certified Student" immediately thereunder.

(g) Duration of Certification. Certification shall commence with the issuance by the Clerk of a Notice of Certification and shall remain in effect for the period specified in the Notice of Certification unless sooner terminated by the earliest of the following occurrences, absent relief from such termination granted by the Chief Judge:

(1) the Supervising Attorney terminates supervision of the Certified Student without a written substitution of another qualified Supervising Attorney on a form provided by and filed with the Clerk;

(2) the Certified Student ceases to be enrolled in an accredited law school before graduation therefrom, excepting the normal hiatus between quarters or semesters;

(3) the Dean notifies the Clerk that the Certified Student should be disqualified from participation in the activities permitted by this Rule;

(4) the Certified Student fails to take or is notified of a failure to pass

the first California General Bar Examination after the Certified Student's graduation from law school; or

(5) certification is withdrawn by the Chief Judge.

Upon the happening of any of the occurrences listed in (1), (3) or (5), the Clerk shall send Notice of Withdrawal of Certification to the Certified Student, the Supervising Attorney, and the Dean, which Notice shall set forth the reasons for the termination of Certified Student status.

(h) Rights Upon Withdrawal of Certification. If certification is withdrawn under (g)(3) or (5), the termination shall be effective fourteen (14) days from the date on which the Clerk transmits the Notice of Withdrawal of Certification. Upon receipt of such Notice, the Certified Student may present a request for a stay of the termination pending hearing, which the Chief Judge may allow only upon good cause shown. The Certified Student may contest the termination by a request to the Chief Judge, presented within fourteen (14) days of the transmission of the Notice of Withdrawal of Certification, for a hearing to show cause why certification should not be terminated. Hearing on such request shall be commenced within twenty-one (21) days following receipt of such request, unless the time for such hearing be extended by the Chief Judge upon a showing of good cause. The Chief Judge may assign responsibility for the conduct of the proceedings under this subsection to any Judge.

RULE 182 (Fed. R. Civ. P. 83)

ATTORNEYS - APPEARANCE AND WITHDRAWAL

(a) Appearance as Attorney of Record.

(1) Appearance Required. Except as permitted in (b) and except as the Court may allow a courtesy appearance in criminal actions, no attorney may participate in any action unless the attorney has appeared as an attorney of record. A single client may be represented by more than one attorney of record to the extent authorized by the applicable Rules of Professional Conduct.

(2) Manner of Making Appearance. Appearance as an attorney of record is made (i) by signing and filing an initial document, see L.R. 131(a); (ii) by causing the attorney's name to be listed in the upper left hand corner of the first page of the initial document; (iii) by physically appearing at a court hearing in the matter, formally stating the appearance on the record, and then signing and filing a confirmation of appearance within seven (7) days; or (iv) by filing and serving on all parties a substitution of attorneys as provided in (g).

(b) Attorneys Within Organizations. Appearances as an attorney of record shall not be made in the name of a law firm, organization, public entity, agency, or department. See Fed. R. Civ. P. 11. When an attorney is employed or retained by a law firm, organization, public entity, agency, or department, however, the attorney may participate in an action, without filing a substitution of attorneys, if another person employed or retained by the same law firm, organization, public entity, agency, or department is attorney of record in the action.

(c) Counsel for Service.

(1) Designation of Counsel for Service. When multiple attorneys from a single law firm, organization, public entity, agency, or department are listed in the upper left hand corner of the first page of each filed document, see L.R. 131(a), one of the listed attorneys shall be designated as counsel for service. That designation shall be accomplished by so designating in the counsel identification in the upper left hand corner of the first page of the initial document or by filing and serving a document entitled "Designation of Counsel for Service," which will state the name, address, and telephone number of the designated counsel for service and will be signed by that counsel. The Clerk will serve court orders on the designated counsel for service. See L.R. 137(f). The identity of counsel for service in a particular action may be changed by filing and serving on all parties a document entitled "Change in Designation of Counsel for Service" stating the name, address, and telephone number of new and old counsel for service, identifying new counsel for service and bearing the signature of the new counsel for service.

(2) Service in the Absence of a Designation. If no designation of counsel for service has been made in a particular instance, the Clerk may select the attorney for service from the listing in the upper left hand corner of the first page of the initial filed document or from the signature block.

(d) Withdrawal. Unless otherwise provided herein, an attorney who has appeared may not withdraw leaving the client in propria persona without leave of court upon noticed motion and notice to the client and all other parties who have appeared. The attorney shall provide an affidavit stating the current or last known address or addresses of the client and the efforts made to notify the client of the motion to withdraw. Withdrawal as attorney is governed by the Rules of Professional Conduct of the State Bar of California, and the attorney shall conform to the requirements of those Rules. The authority and duty of the attorney of record shall continue until relieved by order of the Court issued hereunder. Leave to withdraw may be granted subject to such appropriate conditions as the Court deems fit.

(e) Withdrawal Following Limited Appearance. Any attorney who has appeared on behalf of a party in an action solely for the purpose of contesting an application for a temporary restraining order or other preliminary injunctive relief may withdraw from that action within fourteen (14) days after making that appearance, or at such other time as the Court may determine, by filing a notice and affidavit that the attorney is no longer counsel of record for the party. Such application shall establish that the attorney has returned all documents and other items received in connection with the action and shall set forth the last known address and telephone number of the party.

(f) Change of Address. Each appearing attorney and pro se party is under a continuing duty to notify the Clerk and all other parties of any change of address or telephone number of the attorney or the pro se party. Absent such notice, service of documents at the prior address of the attorney or pro se party shall be fully effective. Separate notice shall be filed and served on all parties in each action in which an appearance has been made.

(g) Substitution of Attorneys. An attorney who has appeared in an action may substitute another attorney and thereby withdraw from the action by submitting a substitution of attorneys that shall set forth the full name and address of the new individual attorney and shall be signed by the withdrawing attorney, the new attorney, and the client. All substitutions of attorneys shall require the approval of the Court, and the words **"IT IS SO ORDERED"** with spaces designated for the date and signature of the Judge affixed at the end of each substitution of attorneys.

(h) Local Co-Counsel. A Judge to whom an action is assigned has discretion in that action, and upon notice, to require an attorney appearing in this Court who maintains an office outside this District to designate a member of the Bar of this Court who does maintain an office within this District as co-counsel with the authority to act as attorney of record for all purposes. In such a case, the attorney shall file with such designation the address, telephone number and consent of the designee.

(i) Formal Notice of Association of Counsel. Any attorney not substituted in as counsel of record under (g) and not authorized to participate under other provisions in this Rule must file a notice of association, signed by an attorney of record and the associating attorney, and served on all parties.

RULE 183 (Fed. R. Civ. P. 83)

PERSONS APPEARING IN PROPRIA PERSONA

(a) Rules Governing Appearance. Any individual who is representing himself or herself without an attorney must appear personally or by courtesy appearance by an attorney admitted to the Bar of this Court and may not delegate that duty to any other individual, including husband or wife, or any other party on the same side appearing without an attorney. Any individual representing himself or herself without an attorney is bound by the Federal Rules of Civil or Criminal Procedure, these Rules, and all other applicable law. All obligations placed on "counsel" by these Rules apply to individuals appearing in propria persona. Failure to comply therewith may be ground for dismissal, judgment by default, or any other sanction appropriate under these Rules. A corporation or other entity may appear only by an attorney.

(b) Address Changes. A party appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

(c) Pro Se Party Exceptions to Electronic Filing. Pro se parties are exempted from the requirement of filing documents electronically. Pro se parties must file documents conventionally, and any person appearing pro se may use electronic filing only with the permission of the assigned Judge. See L.R. 133.

RULE 184 (Fed. R. Civ. P. 83)

DISCIPLINARY PROCEEDINGS AGAINST ATTORNEYS

(a) Discipline. In the event any attorney subject to these Rules engages in conduct that may warrant discipline or other sanctions, any Judge or Magistrate Judge may initiate proceedings for contempt under 18 U.S.C. § 401 or Fed. R. Crim. P. 42, or may, after reasonable notice and opportunity to show cause to the contrary, take any other appropriate disciplinary action against the attorney. In addition to or in lieu of the foregoing, the Judge or Magistrate Judge may refer the matter to the disciplinary body of any Court before which the attorney has been admitted to practice.

(b) Notice of Change in Status. An attorney who is a member of the Bar of this Court or who has been permitted to practice in this Court shall promptly notify the Court of any disciplinary action or any change in status in any jurisdiction that would make the attorney ineligible for membership in the Bar of this Court or ineligible to practice in this Court. If an attorney's status so changes with respect to eligibility, the attorney shall forthwith be suspended from practice before this Court without any order of Court until becoming eligible to practice. Upon written motion to the Chief Judge, an attorney shall be afforded an opportunity to show cause why the attorney should not be suspended or disbarred from practice in this Court.

(c) Penalty for Unauthorized Practice. The Court may order any person who practices before it in violation of this Rule to pay an appropriate penalty that the Clerk shall credit to the Court's Nonappropriated Fund. Payment of such sum shall be an additional condition of admission or reinstatement to the Bar of this Court or to practice in this Court.

RULE 190 (Fed. R. Civ. P. 81)

PETITIONS FOR HABEAS CORPUS AND MOTIONS PURSUANT TO 28 U.S.C. §§ 2254 & 2255

(a) Scope of This Rule. All petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2254 and motions filed pursuant to 28 U.S.C. § 2255 shall be subject to the provisions of this Rule unless otherwise ordered by the Court.

(b) Form of Petitions and Motions. The petition or motion shall be signed under penalty of perjury, and, if presented in propria persona, upon the form and in accordance with the instructions approved by the Court. Copies of the forms and instructions shall be supplied by the Clerk upon request. In the event a petition or motion is submitted that is not in the proper form, the Clerk shall forthwith transmit the proper form and instructions to the person submitting the petition or making the motion.

(c) Filing. Petitions and motions shall be addressed to the Clerk of the United States District Court for the Eastern District of California, 501 "I" Street, Sacramento, California 95814, or 2500 Tulare Street, Fresno, California 93721, according to L.R. 120(b). No petition or motion shall be addressed to an individual Judge or Magistrate Judge.

(d) Assignment. Petitions and motions shall be assigned by the Clerk pursuant to L.R. 122, provided that motions under 28 U.S.C. § 2255 shall, if possible, be assigned to the sentencing Judge or Magistrate Judge. If, in the same matter in this Court, the petitioner has previously filed a petition for relief or for a stay of enforcement, the new petition shall be assigned to the Judge or Magistrate Judge who considered the prior matter.

(e) Contents.

(1) All petitions by state prisoners shall state with specificity that all issues raised in the petition, either

(A) have been raised before all state tribunals in which the issues could be heard, to the exhaustion of petitioner's state remedies; or

(B) have not been raised before all state tribunals in which the issues could be heard, in which case the petition shall also set forth all facts which justify the failure to exhaust state remedies.

(2) All petitions shall state whether or not petitioner has previously sought relief arising out of the same matter from this Court or any other federal court, together with the ruling and reasons given for denial of relief.

(f) State Court Habeas Transcripts. Due to the size of state court records, the Attorney General should, if possible, file habeas corpus transcripts and other state court records in electronic format along with a mandatory courtesy copy for chambers in paper. If the Attorney General cannot provide an electronic copy, a certified paper copy shall be filed concurrently with electronic filing of a Notice of Filing in Paper Format. These state court records will be returned to the Attorney General at the conclusion of the action, if no appeal is filed, and after appeal or further proceedings in the district court as appropriate. If the Attorney General and the Clerk agree, the state court records may be discarded by the Clerk.

(g) Where Relief Is Granted. If relief is granted on a petition of a state prisoner, or if any stay of execution of state court judgment is issued by the Court, the Clerk shall forthwith notify the state authority having jurisdiction over the prisoner of the action taken.

RULE 191 (Fed. R. Civ. P. 81)

SPECIAL REQUIREMENTS FOR HABEAS CORPUS PETITIONS INVOLVING THE DEATH PENALTY

(a) Applicability. This Rule shall govern the procedures for a first petition for a writ of habeas corpus filed pursuant to 28 U. S.C. § 2254 in which a petitioner seeks relief from a judgment imposing the penalty of death. A subsequent filing relating to a particular petition may be deemed a first petition under these Rules if the original filing was not dismissed on the merits. The application of this Rule may be modified by the Judge or Magistrate Judge to whom the petition is assigned. *See* Rule 102(d), *supra*.

(b) Notices from California Attorney General. The California Attorney General is requested to notify the Chief Judge and Clerk, within seven (7) days, whenever an execution date is set. The Chief Judge, or a designate, will request a semi-annual report from the Attorney General's Office that includes the following categories: (1) all scheduled executions in California; (2) all capital cases pending on direct appeal before the California Supreme Court; (3) all capital cases pending before the California Supreme Court on habeas corpus: (4) all capital cases affirmed by the California Supreme Court on direct appeal since the last report; (5) all capital cases denied by the California Supreme Court on habeas corpus since the last report; and (6) until December 31, 2010, all capital cases affirmed on direct appeal by the California Supreme Court.

(c) Attorney Representation. Each indigent petitioner shall be represented by an attorney unless petitioner has clearly elected to proceed pro se. In the event a petitioner seeks to proceed pro se, the Court will conduct a hearing to determine whether the petitioner's election is appropriate under applicable legal standards. Unless petitioner is represented by a retained attorney, an attorney shall be appointed in every case as soon as possible. A Selection Board appointed by the Chief Judge will certify attorneys qualified for appointment in death penalty cases. The Selection Board consists of a lawyer representative from: (1) The Capital Habeas Unit of the Office of the Federal Defender; (2) the California Appellate Project; (3) the Habeas Corpus Resource Center; (4) the State Public Defender; and (5) a member of the State Bar. If the Selection Board agrees, preference will be given to counsel who represented petitioner on state habeas corpus, except when state habeas counsel also actively represented petitioner on direct appeal. Appointment and compensation of a second attorney shall be governed by Section 2.11 of Volume VII of the Guide to Judiciary Policies and Procedures, Appointment of Counsel in Criminal Cases. Having appointed counsel to represent the petitioner, the Court generally will not consider pro se documents about the presentation of his or her case. However, the Court generally will consider pro se motions concerning petitioner's representation by appointed counsel.

(d) Budgeting and Case Management. The Judicial Council of the Ninth Circuit has mandated up-front budgeting in all pending capital habeas cases in which CJA counsel have been appointed. To assist in the budgeting and case management process, the Judicial Council routinely publishes updates of a CJA Capital Habeas Costs Policy. The Costs Policy is posted on the public internet site for the Eastern District of California, both the Sacramento and Fresno Divisions.

(e) Filing. Petitions shall be filed in accordance with Local Rule 190. All initial filings, whether a petition, request for stay and appointment of counsel, or other document, (1) shall state whether petitioner has previously sought relief arising out of the same matter from this Court or any other federal court, together with the ruling and reasons given for denial of relief; and (2) shall set forth any scheduled execution date. All filings shall contain the wording in full caps and underscored "DEATH PENALTY CASE" directly under the case number. No filing fee is required.

(f) Transfer of Venue. Subject to the provisions of 28 U.S.C. § 2241(d), it is the policy of this Court that a petition should be heard in the District in which petitioner was convicted rather than in the District of petitioner's present confinement. If an order for the transfer of venue is made, the Judge may order a stay of execution to continue until such time as the transferee court acts upon the petition or the order of stay. All actions shall be commenced in accordance with Local Rule 120.

(g) Stays of Execution

(1) Temporary Stay for Appointment of an Attorney. When the attorney in state court proceedings withdraws at the conclusion of the state court proceedings or is otherwise not available or qualified to proceed, an indigent petitioner acting pro se, or a member of the Selection Board acting on petitioner's behalf, may file an application for appointment of an attorney and for a temporary stay of execution. Upon the filing of this application, the Court may, in its discretion, issue a temporary stay of execution and refer the case to the Selection Board for recommendation of counsel. The temporary stay will remain in effect until ninety (90) days after counsel is appointed.

(2) Stay Pending Final Disposition. Upon the filing of a habeas corpus petition, unless the petition is patently frivolous, the Court may, in its discretion, issue a stay of execution pending final disposition of the matter. When an execution date is set and a non-frivolous petition is pending, the Court will issue a stay of execution.

(3) Stay Pending Appeal. If the petition is denied, the Court will consider an application for a stay of execution to continue in effect until the Court of Appeals has the opportunity to issue a stay.

(h) Procedures for Considering the Petition. Absent summary dismissal ofthe petition under Rule 4 ofthe Rules Governing § 2254 cases, the following schedule and procedures shall apply subject to modification by the Court. Requests for enlargement of any time period in this Rule shall comply with the applicable Local Rules of the Court. *See* L.R. 144.

(1) Respondent shall as soon as possible, but in any event on or before forty-five (45) days from the date of service of the order appointing counsel, lodge with the Clerk the following: (A) transcripts of the state trial court proceedings; (B) appellant's and respondent's briefs on direct appeal to the California Supreme Court, and the opinion or orders of that Court; and (C) petitioner's and respondent's briefs in any state court habeas corpus proceedings, and all opinions, orders and transcripts of such proceedings. Lodged materials are to be marked and numbered so that they can be uniformly cited. Respondent shall file an index of the lodged materials listed above. If any items identified in paragraphs (A) through (C) above are not available, respondent shall state when, if at all, such missing material can be filed.

(2) If counsel for petitioner claims that respondent has not complied with paragraph (1), or if counsel for petitioner does not have copies of all the documents identified in the filed index of lodged documents, counsel for petitioner shall file a notice to that effect with the Court. Copies of any missing documents will be provided to counsel for petitioner by the Court.

(3) These state court records will be returned to the respondent when all federal proceedings are complete, or if the respondent and the Court agree, the records will be discarded by the Court.

(4) The petition shall conform to the requirements of Rule 2 of the Rules Governing § 2254 Cases. The answer and any traverse shall conform to the requirements of Rule 5 of the Rules Governing § 2254 Cases.

(5) Formal discovery requires leave of the Court. *See* Rule 6 of the Rules Governing § 2254 Cases. Investigation, or informal discovery between the parties by agreement, does not require leave of the Court.

(6) The Court will order an answer, merits briefing, and briefing of a motion for an evidentiary hearing according to a case management plan developed for each individual case.

(i) Evidentiary Hearing. If an evidentiary hearing is held, the parties may request the preparation of a transcript of the hearing, to be provided to petitioner and respondent for use in briefing and post-hearing argument.

(j) Final Dispositive Orders. Consistent with Rule 11 of the Rules Governing § 2254 Cases, and unless further input is solicited from the parties, the Court

will issue or deny a certificate of appealability (COA) when it enters its final order adverse to the petitioner. See 28 U.S.C. § 2253(c)(2). If the petitioner moves for reconsideration of the denial of a COA, the motion does not extend the time within which to appeal.

CIVIL RULES

RULE 200 (Fed. R. Civ. P. 3)

DESIGNATION OF CATEGORY OF ACTION

Every complaint, amended complaint, or other document initiating a civil action shall be accompanied by a completed civil cover sheet, on a form available from the Clerk and on the Court's website.

This requirement is solely for administrative purposes, and matters appearing only on the civil cover sheet have no cognizable effect in the action.

RULE 201 (Fed. R. Civ. P. 38)

DEMAND FOR JURY TRIAL

Where demand is made for a jury trial, it shall appear immediately following the title of the complaint or answer containing the demand, or on such other document as may be permitted by Fed. R. Civ. P. 38(b).

Any notation on the civil cover sheet, as described in L.R. 200, concerning whether a jury trial is or is not demanded, shall not constitute a demand for a jury trial under these Rules.

RULE 202 (Fed. R. Civ. P. 17)

MINORS AND INCOMPETENTS

(a) Appointment of Representative or Guardian. Upon commencement of an action or upon initial appearance in defense of an action by or on behalf of a minor or incompetent person, the attorney representing the minor or incompetent person shall present (1) appropriate evidence of the appointment of a representative for the minor or incompetent person under state law or (2) a motion for the appointment of a guardian ad litem by the Court. See Fed. R. Civ. P. 17(c).

(b) Settlement. No claim by or against a minor or incompetent person may be settled or compromised absent an order by the Court approving the settlement or compromise.

(1) Initial State Court Approval. In actions in which the minor or incompetent is represented by an appointed representative pursuant to appropriate state law, excepting only those actions in which the United States courts have exclusive jurisdiction, the settlement or compromise shall first be approved by the state court having jurisdiction over the personal representative. Following such approval, a copy of the order and all supporting and opposing documents filed in connection therewith shall be filed in the District Court with a copy to all parties and to the Judge or Magistrate Judge who may either approve the settlement or compromise without hearing or calendar the matter for hearing.

(2) Approval in All Other Actions. In all other actions, the motion for approval of a proposed settlement or compromise shall be filed and calendared pursuant to L.R. 230. The application shall disclose, among other things, the age and sex of the minor or incompetent, the nature of the causes of action to be settled or compromised, the facts and circumstances out of which the causes of action arose, including the time, place and persons involved, the manner in which the compromise amount or other consideration was determined, including such additional information as may be required to enable the Court to determine the fairness of the settlement or compromise, and, if a personal injury claim, the nature and extent of the injury with sufficient particularity to inform the Court whether the injury is temporary or permanent. If reports of physicians or other similar experts have been prepared, such reports shall be provided to the Court. The Court may also require the filing of experts' reports when none have previously been prepared or additional experts' reports if appropriate under the circumstances. Reports protected by an evidentiary privilege may be submitted in a sealed condition to be reviewed only by the Court in camera, with notice of such submission to all parties.

(c) Disclosure of Attorney's Interest. When the minor or incompetent is represented by an attorney, it shall be disclosed to the Court by whom and the terms

under which the attorney was employed; whether the attorney became involved in the application at the instance of the party against whom the causes of action are asserted, directly or indirectly; whether the attorney stands in any relationship to that party; and whether the attorney has received or expects to receive any compensation, from whom, and the amount.

(d) Attendance at Hearing. Upon the hearing of the application, the representative compromising the claim on behalf of the minor or incompetent, and the minor or incompetent shall be in attendance unless, for good cause shown, the Court excuses their personal attendance. The Court may require the testimony of any appropriate expert, as well as the submission of other evidence relating to the application.

(e) Payment of Judgment. Whenever money or property is recovered on behalf of a minor or incompetent person, the money or property will be (1) disbursed to the representative pursuant to state law upon a showing that the representative is duly qualified under state law, (2) disbursed otherwise pursuant to state law, or (3) disbursed pursuant to such other order as the Court deems proper for the protection of the minor or incompetent person.

(f) Interim Disbursements. Applications for orders authorizing interim disbursements shall be heard by the appropriate state court judge or by the assigned Magistrate Judge. See L.R. 302(c)(14). In the event of a hearing by a state court judge concerning interim disbursements, a copy of the order shall be filed with a copy to the Magistrate Judge and shall be reviewed by the Magistrate Judge in accordance with (b)(1).

RULE 203 (Fed. R. Civ. P. 24)

NOTICE OF REQUIREMENT OF THREE-JUDGE COURT

Whenever any action is required by Act of Congress to be heard and determined by a District Court of three Judges, the plaintiff shall immediately file a notice to this effect and serve a copy on all other parties. If the plaintiff fails to do so, every other party shall file and serve such notice provided that, as soon as a notice is filed and served, all other parties are relieved of this obligation. See 28 U.S.C. § 2284 governing the filing of papers in actions heard by a three-judge court.

RULE 204 (Fed. R. Civ. P. 8)

ALLEGATIONS OF JURISDICTION

When an affirmative allegation of jurisdiction is required pursuant to Fed. R. Civ. P. 8(a)(1), it (i) shall appear as the first allegation of any complaint, petition, counterclaim, cross-claim, or third party claim; (ii) shall be styled "Jurisdiction"; (iii) shall state the claimed statutory or other basis of federal jurisdiction; and (iv) shall state the facts supporting such jurisdictional claim.

RULE 205 (Fed. R. Civ. P. 23)

SPECIAL RULE FOR CLASS ACTIONS

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

(1) Determination. Within such time as the Court may direct pursuant to order issued under Fed. R. Civ. P. 16(d), the plaintiff shall move for a determination under Fed. R. Civ. P. 23 whether the action is to be maintained as a class action. In ruling on the motion, the Court may allow or conditionally allow the action to be so maintained, may disallow and strike the class action allegations, or may order postponement of the determination pending discovery or such other preliminary procedures as appear appropriate and necessary.

(2) Counterclaims or Cross-Claims. The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross-claim alleged to be brought for or against a class.

RULE 206 (Fed. R. Civ. P. 8)

SPECIAL RULE FOR SOCIAL SECURITY AND BLACK LUNG ACTIONS

(a) Pleadings. Complaints under Titles II, XVI, and XVIII of the Social Security Act, 42 U.S.C. §§ 405(g), 1383(c)(3), and/or 1395ff, or under Part B, Title N, of the Federal Coal Mine Health and Safety Act of 1969, shall contain the following information in addition to the matters otherwise required by the Federal Rules of Civil Procedure and these Rules:

(1) In actions involving claims for retirement, survivors, disability, health insurance and black lung benefits, the last four digits of the social security number of the worker on whose wage record the application for benefits was filed (who may or may not be the plaintiff); or

(2) In actions involving claims for supplemental security income benefits, the last four digits of the social security number of the plaintiff.

Plaintiff shall disclose privately to defendant within seven (7) days after a request for the full social security number of the worker or plaintiff, as the case may be.

(b) Administrative Transcripts in Social Security Actions. See L.R. 138(b).

(c) Privacy Issues in Social Security Actions. Except for court orders and proposed findings and recommendations, Internet access to the individual documents will be limited to attorneys of record, persons authorized by the Court, and court staff. Docket sheets, court orders and proposed findings and recommendations, however, will be available over the Internet to non-parties. Pro se parties and non-parties will continue to have direct access to the documents on file with the Clerk. See L.R. 140(a).

RULE 210 (Fed. R. Civ. P. 4)

SERVICE OF PROCESS AND RETURN OF SERVICE

(a) Issuance of Summons. Summons may be prepared by counsel for issuance by the Clerk in actions using conventional filing. The Clerk will prepare and transmit the summons electronically to counsel for plaintiffs that are electronic filers.

(b) Proof of Service of Process. If service of process is not waived, proof of service of process shall be made by acknowledgment of the party served or by affidavit of the person serving such process. Such proof of service shall be filed and served on all parties who have been served or who have appeared in the action as of the time of filing the proof of service, as soon as possible after service has been completed and, in any event, before any action based upon the service is requested or taken by the Court or is taken by a party in reliance on proper service. Such proof of service shall show the date, place, and manner of the service. When service is made by personal delivery, it shall show the hour, the particular address or vicinity at which service was made, the name and address of the person served, and the name and address of the person making the service. See Fed. R. Civ. P. 4(l).

(c) Filing of Waiver of Service. If the defendant has waived service of process, the plaintiff shall file the waiver of service as soon as possible after receiving the waiver and, in any event, before any action based upon the waiver of service is requested or taken by the Court or is taken by a party in reliance on proper service or a waiver thereof. See Fed. R. Civ. P. 4(d)(4).

(d) Service of Process Required. Counsel for plaintiff shall effect service of process on the defendant. See Fed. R. Civ. P. 4. Electronic filing does not affect this requirement.

(e) Service of Other Process. See Fed. R. Civ. P. 4.1.

RULE 220 (Fed. R. Civ. P. 15)

CHANGED PLEADINGS

As used in this Rule, the term "changed pleadings" shall refer to amended and supplemental pleadings permitted and filed pursuant to Fed. R. Civ. P. 15.

Unless prior approval to the contrary is obtained from the Court, every pleading to which an amendment or supplement is permitted as a matter of right or has been allowed by court order shall be retyped and filed so that it is complete in itself without reference to the prior or superseded pleading. No pleading shall be deemed amended or supplemented until this Rule has been complied with. All changed pleadings shall contain copies of all exhibits referred to in the changed pleading. Permission may be obtained from the Court, if desired, for the removal of any exhibit or exhibits attached to a superseded pleading, in order that the same may be attached to the changed pleading.

RULE 230 (Fed. R. Civ. P. 78)

CIVIL MOTION CALENDAR AND PROCEDURE

(a) Motion Calendar. Each Judge or Magistrate Judge maintains an individual motion calendar. Information as to the times and dates for each motion calendar may be obtained from the Clerk or the courtroom deputy clerk for the assigned Judge or Magistrate Judge.

(b) Notice, Motion, Brief and Evidence. Except as otherwise provided in these Rules or as ordered or allowed by the Court, all motions shall be noticed on the motion calendar of the assigned Judge or Magistrate Judge. The moving party shall file a notice of motion, motion, accompanying briefs, affidavits, if appropriate, and copies of all documentary evidence that the moving party intends to submit in support of the motion. The matter shall be set for hearing on the motion calendar of the Judge or Magistrate Judge to whom the action has been assigned or before whom the motion is to be heard not less than twenty-eight (28) days after service and filing of the motion. . Motions defectively noticed shall be filed, but not set for hearing; the Clerk shall immediately notify the moving party of the defective notice and of the next available dates and times for proper notice, and the moving party shall file and serve a new notice of motion setting forth a proper time and date. See L.R. 135..

(c) Opposition and Non-Opposition. Opposition, if any, to the granting of the motion shall be in writing and shall be filed and served not less than fourteen (14) days preceding the noticed (or continued) hearing date. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. No party will be entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has not been timely filed by that party. See L.R. 135. .

(d) Reply. Not less than seven (7) days preceding the date of hearing, the moving party may serve and file a reply to any opposition filed by a responding party.

(e) Related or Counter-Motions. Any counter-motion or other motion that a party may desire to make that is related to the general subject matter of the original motion shall be served and filed in the manner and on the date prescribed for the filing of opposition. If a counter-motion or other related motion is filed, the Court may continue the hearing on the original and all related motions so as to give all parties reasonable opportunity to serve and file oppositions and replies to all pending motions.

(f) Continuances. Requests for continuances of hearings on the motion calendar, upon stipulation or otherwise, shall be made to the Judge or Magistrate Judge on whose calendar the matter is set, at least seven (7) days before the scheduled hearing date. All stipulations for continuance shall be submitted for approval to the

Court. See L.R. 143, 144.

(g) Hearing and Oral Argument. Upon the call of the motion, the Court will hear appropriate and reasonable oral argument. Alternatively, the motion may be submitted upon the record and briefs on file if the parties stipulate thereto, or if the Court so orders, subject to the power of the Court to reopen the matter for further briefs or oral arguments or both. Any party that believes that extended oral argument, more than 10 minutes per side or 20 minutes in the aggregate, will be required shall notify the courtroom deputy clerk so that the hearing may be rescheduled if deemed appropriate by the Court.

(h) Use of Affidavits. Factual contentions involved in pretrial motions shall be initially presented and heard upon affidavits, except that the Court may in its discretion require or allow oral examination of witnesses. See L.R. 142.

(i) Failure to Appear. Absent notice of intent to submit the matter on the briefs, failure to appear may be deemed withdrawal of the motion or of opposition to the motion, in the discretion of the Court, or may result in the imposition of sanctions.

(j) Applications for Reconsideration. Whenever any motion has been granted or denied in whole or in part, and a subsequent motion for reconsideration is made upon the same or any alleged different set of facts, counsel shall present to the Judge or Magistrate Judge to whom such subsequent motion is made an affidavit or brief, as appropriate, setting forth the material facts and circumstances surrounding each motion for which reconsideration is sought, including:

(1) when and to what Judge or Magistrate Judge the prior motion was made;

(2) what ruling, decision, or order was made thereon;

(3) what new or different facts or circumstances are claimed to exist which did not exist or were not shown upon such prior motion, or what other grounds exist for the motion; and

(4) why the facts or circumstances were not shown at the time of the prior motion.

(k) Motions Before a Magistrate Judge. Only those motions in matters specified in L.R. 302 and 303 shall be noticed, briefed, and argued before a Magistrate Judge. All other motions shall be noticed, briefed and argued before a Judge.

(l) Motions in Prisoner Actions. All motions, except motions to dismiss for lack of prosecution, filed in actions wherein one party is incarcerated and proceeding in propria persona, shall be submitted upon the record without oral argument unless otherwise ordered by the Court. Such motions need not be noticed on the motion calendar. Opposition, if any, to the granting of the motion shall be served and filed by the responding party not more than twenty-one (21),days after the date of service of the motion. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. Failure of the responding party to file an opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions. The moving party may, not more than seven (7) days after the opposition is served, serve and file a reply to the opposition. All such motions will be deemed submitted twenty-eight (28) days after the service of the motion or when the reply is filed, whichever comes first. See L.R. 135.

RULE 231 (Fed. R. Civ. P. 65)

TEMPORARY RESTRAINING ORDER - PRELIMINARY INJUNCTION

(a) Temporary Restraining Orders. Except in the most extraordinary of circumstances, no temporary restraining order shall be granted in the absence of actual notice to the affected party and/or counsel, by telephone or other means, or a sufficient showing of efforts made to provide notice. See Fed. R. Civ. P. 65(b). Appropriate notice would inform the affected party and/or counsel of the intention to seek a temporary restraining order, the date and time for hearing to be requested of the Court, and the nature of the relief to be requested. Once a specific time and location has been set by the Court, the moving party shall promptly give additional notice of the time and location of the hearing.

(b) Timing of Motion. In considering a motion for a temporary restraining order, the Court will consider whether the applicant could have sought relief by motion for preliminary injunction at an earlier date without the necessity for seeking last-minute relief by motion for temporary restraining order. Should the Court find that the applicant unduly delayed in seeking injunctive relief, the Court may conclude that the delay constitutes laches or contradicts the applicant's allegations of irreparable injury and may deny the motion solely on either ground.

(c) Documents to Be Filed. No hearing on a temporary restraining order will normally be set unless the following documents are provided to the Court and, unless impossible under the circumstances, to the affected parties or their counsel:

(1) a complaint;

(2) a motion for temporary restraining order;

(3) a brief on all relevant legal issues presented by the motion;

(4) an affidavit in support of the existence of an irreparable injury;

(5) an affidavit detailing the notice or efforts to effect notice to the affected parties or counsel or showing good cause why notice should not be given, see L.R. 142;

(6) a proposed temporary restraining order with a provision for a bond, see L.R. 151;

(7) a proposed order with blanks for fixing the time and date for hearing a motion for preliminary injunction, the date for the filing of responsive papers, the

amount of the bond, if any, and the date and hour of issuance, see L.R. 137; and

(8) in all instances in which a temporary restraining order is requested ex parte, the proposed order shall further notify the affected party of the right to apply to the Court for modification or dissolution on two (2) days' notice or such shorter notice as the Court may allow. See Fed. R. Civ. P. 65(b).

(d) Preliminary Injunction.

(1) Notice. See L.R. 144, 230.

(2) Accompanying Documents. All motions for preliminary injunction shall be accompanied by (i) briefs on all relevant legal issues to be presented by the motion, (ii) affidavits in support of the motion, including affidavits on the question of irreparable injury, and (iii) a proposed order with a provision for a bond. See L.R. 230, 151.

(3) Required Information. All parties shall inform the Court in their briefs of the following: (i) whether they desire to present oral testimony at the hearing, and (ii) an estimate of the amount of time they anticipate will be required for the hearing. The parties shall inform the Court and all other parties immediately upon learning of a change in the need for a preliminary injunction, the length of time the hearing will require, or other similar information.

(e) Modification or Dissolution. When a preliminary injunction or temporary restraining order has been issued, the affected party may apply to the Court for modification or dissolution of the injunction or order. Such motion shall normally be accompanied by a brief on all relevant legal issues to be presented in its support and affidavits supporting modification or dissolution and detailing the notice to or efforts to notify the affected party or counsel.

(f) Actions Involving Real Property. A motion for a preliminary injunction or a temporary restraining order to limit picketing, restrain real property encroachments, or protect easements shall depict by drawings, plot plans, photographs, or other appropriate means, or shall describe in detail the premises involved, including, if applicable, the length and width of the frontage on a street or alley, the width of sidewalks, and the number, size, and location of entrances.

RULE 232 (Fed. R. Civ. P. 66)

RECEIVERS

(a) Definitions. For purposes of this Rule:

(1) "temporary receiver" shall mean a receiver appointed without notice or on less than the notice provided in L.R. 230 to the party sought to be subjected to the receivership, and

(2) "receiver" shall mean any receiver appointed after the giving of either (i) at least the notice of hearing upon the motion for appointment of receiver required by L.R. 230, or (ii) such lesser notice of hearing on the motion as may be agreed to by the party sought to be subjected to the receivership and the Court.

(b) Notice: Temporary Receiver. A temporary receiver shall not be appointed without notice to the party sought to be subjected to receivership except upon an appropriate showing of necessity and immediacy of potential harm. If a temporary receiver is appointed ex parte, the party seeking and securing such appointment shall give notice forthwith of the temporary receiver's appointment, any terms and conditions pertaining thereto, and the date calendared for subsequent hearing on the question of continuance of the receivership.

(c) Continuance of Receivership. Upon appointment of a temporary receiver, the Court shall calendar a hearing on the continuation of the receivership. The determination whether to continue the receivership shall be made as set forth in (d), and no weight shall be given to the fact that a temporary receiver was appointed.

(d) Appointment of a Receiver. A receiver may be appointed upon the notice set forth in (a)(2). Motions for appointment of a receiver need not be preceded by a motion for appointment of a temporary receiver.

(e) Reports of Receivers.

(1) Unless otherwise ordered by the Court, at least one (1) day before the hearing provided in (c), the temporary receiver shall file and personally serve a summary report of the temporary receivership.

(2) At such time as the Court may direct, and at least once a year, a receiver shall file and serve a report that shall be heard with notice to all parties in accordance with L.R. 230. The report shall contain (i) a summary of the operations of the receiver, (ii) an inventory of all the assets and their value, (iii) a schedule of all the receiver's receipts and disbursements, (iv) the receiver's recommendations for a continuation or discontinuation of the receivership and the reasons therefor, and (v)

such other matters as the Court may direct. At the hearing, the Court shall approve or disapprove the receiver's report and determine whether the receivership shall be continued.

(f) Notice of Hearings. Unless the Court otherwise orders, L.R. 230 shall apply to all motions by the receiver.

(g) Employment and Compensation of Attorneys, Accountants, and Investigators. A receiver shall not employ an attorney, accountant, or investigator without first obtaining an order of the Court authorizing such employment, which order may set forth a tentative basis for computation of compensation. The actual compensation of such persons shall subsequently be fixed by the Court, after hearing, upon the applicant's affidavit setting forth in reasonable detail the nature of the services and the existence of any agreements concerning the amount of compensation to be paid.

(h) Deposit of Funds. A receiver shall deposit all funds received in a depository designated by the Court, entitled "Receiver's Account" together with the name and number of the action. See L.R. 150.

(i) Undertaking of Receiver. A receiver shall not act until a sufficient undertaking as determined by the Court is filed. See L.R. 151.

RULE 240 (Fed. R. Civ. P. 16)

STATUS CONFERENCE

(a) Conference. After an action has been filed, the assigned Judge or Magistrate Judge shall order the holding of one or more status conferences for the purpose of entering a pretrial scheduling order, and further status conferences may be held at any time thereafter, with or without the request of any party. See Fed. R. Civ. P. 16. All parties receiving notice of any status conference shall appear in person or by attorney, shall be prepared to discuss such subjects as may be specified in the order noticing the conference, and shall have authority to enter into stipulations and to make admissions regarding all matters that the participants may reasonably anticipate may be discussed. Such subjects may include:

(1) service of process on parties not yet served;

(2) jurisdiction and venue;

(3) whether the action is required to be heard by a District Court composed of three Judges, see L.R. 203, or whether the action draws in issue the constitutionality of a statute or regulation under circumstances requiring notice as set forth in 28 U.S.C. § 2403, Fed. R. Civ. P. 5.1 or L.R. 132;

(4) joinder of additional parties and amendment of pleadings;

(5) the formulation and simplification of the issues, including elimination of frivolous claims and defenses;

(6) the appropriateness of any variance from the usual filing and service requirements applicable to the action;

(7) the disposition of pending motions, the timing of a motion for class certification, see L.R. 205, the appropriateness and timing of summary adjudication under Fed. R. Civ. P. 56, and other anticipated motions;

(8) propriety of initial disclosures as contemplated by Fed. R. Civ. P. 26(a)(1); results of the initial discovery conference; anticipated or outstanding discovery, including the necessity for relief from discovery limits; and the control and scheduling of discovery, including deferral of discovery whether to hold further discovery conferences, and other orders affecting discovery pursuant to Fed. R. Civ. P. 26 and 29 through 37;

(9) the avoidance of unnecessary proof and of cumulative evidence, and limitations or restrictions on the use of testimony under Fed. R. Evid. 702;

(10) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the Court on the admissibility of evidence;

(11) further proceedings, including setting dates for further conferences, for the completion of motions and discovery and for pretrial and trial; the appropriateness of an order adopting a plan for disclosure of experts under Fed. R. Civ. P. 26(a)(2), Cal. Civ. Proc. Code § 2034.210 et seq., or an alternative plan; and the appropriateness of an order establishing a reasonable limit on the time allowed for presenting evidence;

(12) modification of the standard pretrial procedures specified by these Rules because of the relative simplicity or complexity of the action;

(13) the appropriateness of an order for a separate trial pursuant to Fed. R. Civ. P. 42(b) with respect to a claim, counterclaim, cross-claim, or third-party claim, or affirmative defense, or with respect to any particular issue in the action;

(14) the appropriateness of an order directing a party or parties to present evidence early in the trial with respect to a manageable issue that could, on the evidence, be the basis for a judgment as a matter of law under Fed. R. Civ. P. 50(a) or a judgment on partial findings under Fed. R. Civ. P. 52(c);

(15) appropriateness of special procedures such as reference to a special master or Magistrate Judge or the Judicial Panel on Multidistrict Litigation, or application of the Manual for Complex Litigation;

(16) the prospects for settlement and the use of special procedures to assist in resolving the dispute when authorized by statute or these Rules, provided, however, that counsel shall not, in the absence of a written stipulation, reveal any offers made or rejected during settlement negotiations, and counsel shall specify whether they will stipulate to the trial Judge or Magistrate Judge acting as settlement judge and waive any disqualification by virtue thereof;

(17) the appropriateness of alternate dispute resolution, such as this District's Voluntary Dispute Resolution Program (VDRP), or any other alternative dispute resolution procedure; and

(18) any other matters that may facilitate the just, speedy and inexpensive determination of the action.

(b) Reports. Except in those types of actions specifically exempted from initial disclosure by Fed. R. Civ. P. 26(a)(1)(B), the parties must submit reports to the Court concerning their proposed discovery plan within fourteen (14) days after their discovery conference. The Court may require the submission of preconference reports

on some or all of the foregoing subjects. See also L.R. 271(d)(2).

(c) Exceptions to Mandatory Scheduling Order Requirement. The following categories of civil actions are excepted from the mandatory scheduling order requirement set forth in Fed. R. Civ. P. 16(b):

(1) actions brought under Title 42 of the United States Code to review a final decision of the Commissioner of Social Security;

(2) actions brought to enforce Internal Revenue Service summonses filed pursuant to 26 U.S.C. §§ 7402(b) and 7604(a), and actions to quash administrative summonses filed pursuant to 26 U.S.C. § 7609(b)(2);

(3) actions for writs of entry in connection with the enforcement of Internal Revenue Service tax liens;

(4) actions to enforce collection on promissory notes involving federally insured loans and direct federal loans in which the prayer for relief is less than $25,000;

(5) actions to enforce cease and desist orders issued by the National Labor Relations Board;

(6) actions to enforce arbitration awards;

(7) actions under 46 U.S.C. §§ 2302, 4311(d) and 12309(c);

(8) prisoner actions as defined in L.R. 101;

(9) petitions for writs of habeas corpus by incarcerated persons;

(10) extradition proceedings;

(11) discovery disputes originating from out-of-district actions;

(12) civil commitment proceedings; and

(13) Federal Debt Collection proceedings.

RULE 250.1 (Fed. R. Civ. P. 30)

DEPOSITIONS

(a) Filing of Depositions. Depositions taken orally or by written question, whether duces tecum or not, subpoenas and notices therefor, proofs of service thereof, if any, and related documents shall not be filed unless and until there is a proceeding in which the document or proof of service is at issue. Before or upon the filing of a document making reference to a deposition, counsel shall comply with L.R. 133(j).

(b) Custody and Maintenance of Deposition Transcripts. Counsel noticing a deposition is responsible to obtain the original deposition transcript or audio or video tape record from the deposition reporter, see Fed. R. Civ. P. 30(f), and to retain it under conditions suitable to protect it from loss, destruction or tampering until the earlier of (1) the date it is filed in accordance with L.R. 133(j) and 250.1(a), or (2) one year after the judgment has become final or other final disposition of the action. Before that date, for good cause, any party or intervenor may move the Court for an order prohibiting the destruction of a transcript or record permitted hereunder or otherwise directing the custody and maintenance of the transcript or record.

RULE 250.2 (Fed. R. Civ. P. 33)

INTERROGATORIES

(a) Interrogatories. Interrogatories shall be so arranged that after each separate question there shall appear a blank space reasonably calculated to enable the answering party to insert the answers and/or objections. The answering party shall answer or object within the spaces provided or, if unable to do so, shall retype the interrogatories along with the answers and/or objections.

(b) Objections. Each objection to any interrogatory shall include a statement of reasons and, if appropriate, citation to relevant authority. See Fed. R. Civ. P. 33(b)(4).

(c) Filing of Interrogatories. Interrogatories, responses, and proofs of service thereof shall not be filed unless and until there is a proceeding in which the interrogatories or proof of service is at issue. When required in a proceeding, only that part of the set of interrogatories and answers that is in issue shall be filed.

RULE 250.3 (Fed. R. Civ. P. 34)

PRODUCTION OF DOCUMENTS

(a) Requests for Production. Responses to requests for production shall set forth each request in full before each response.

(b) Objections. Each objection to any request for production shall include a statement of reasons and, if appropriate, citation to relevant authority. See Fed. R. Civ. P. 33(b)(2)(C).

(c) Filing of Requests for Production. Requests for production, responses and proofs of service thereof shall not be filed unless and until there is a proceeding in which the request, response, or proof of service is at issue. When required in a proceeding, only that part of the request for production, response or proof of service that is in issue shall be filed.

RULE 250.4 (Fed. R. Civ. P. 36)

REQUESTS FOR ADMISSION

(a) Requests for Admission. Responses to requests for admission shall set forth each request in full before each response.

(b) Objections. Each objection to any request for admission shall include a statement of reasons and, if appropriate, citation to relevant authority. See Fed. R. Civ. P. 36(a)(5).

(c) Filing of Requests for Admission. Requests for admission, responses, and proofs of service thereof shall not be filed unless and until there is a proceeding in which the document or proof of service is at issue. When required in a proceeding, only that part of the request for admission and response that is in issue shall be filed.

RULE 250.5 (Fed. R. Civ. P. 45)

SUBPOENAS DUCES TECUM

(a) Subpoenas Duces Tecum. Responses to subpoenas duces tecum shall identify each category in the subpoena duces tecum as to which no documents are produced because no documents exist in the possession of the person subpoenaed and shall comply with Fed. R. Civ. P. 45(d)(2).

(b) Objections. Each objection to any subpoenas duces tecum shall include a statement of reasons and, if appropriate, citation to relevant authority. See Fed. R. Civ. P. 45(c)(2)(B).

(c) Service of Subpoenas Duces Tecum. Subpoenas duces tecum directed to parties or non-parties shall be served on all parties to the action and on the non-party. Fed. R. Civ. P. 45.

(d) Filing of Subpoenas Duces Tecum. Subpoenas duces tecum, responses, and proofs of service thereof shall not be filed unless and until there is a proceeding in which the request, response, or proof of service is at issue. When required in a proceeding, only that part of the subpoena duces tecum, response, or proof of service that is in issue shall be filed.

RULE 251 (Fed. R. Civ. P. 37)

MOTIONS DEALING WITH DISCOVERY MATTERS

(a) Hearing Regarding Discovery Disagreements. Except as provided in (e), a hearing of a motion pursuant to Fed. R. Civ. P. 26 through 37, including any motion to exceed discovery limitations or motion for protective order, may be had by the filing and service of a notice of motion and motion scheduling the hearing date on the appropriate calendar at least twenty-one (21) days from the date of filing and service. No other documents need be filed at this time. The hearing may be dropped from the calendar without prejudice if the Joint Statement re Discovery Disagreement or an affidavit as set forth below is not filed at least seven (7) days before the scheduled hearing date. If the notice of motion and motion are filed concurrently with the Joint Statement, the motion shall be placed on the next regularly scheduled calendar for the Magistrate Judge or Judge hearing the motion at least seven (7) days thereafter.

(b) Requirement of Conferring. Except as hereinafter set forth, a motion made pursuant to Fed. R. Civ. P. 26 through 37, including any motion to exceed discovery limitations or motion for protective order, shall not be heard unless (1) the parties have conferred and attempted to resolve their differences, and (2) the parties have set forth their differences and the bases therefor in a Joint Statement re Discovery Disagreement. Counsel for all interested parties shall confer in advance of the filing of the motion or in advance of the hearing of the motion in a good faith effort to resolve the differences that are the subject of the motion. Counsel for the moving party or prospective moving party shall be responsible for arranging the conference, which shall be held at a time and place and in a manner mutually convenient to counsel.

(c) Joint Statement re Discovery Disagreement. If the moving party is still dissatisfied after the conference of counsel, that party shall draft and file a document entitled "Joint Statement re Discovery Disagreement." All parties who are concerned with the discovery motion shall assist in the preparation of, and shall sign, the Joint Statement, which shall specify with particularity the following matters:

(1) The details of the conference or conferences;

(2) A statement of the nature of the action and its factual disputes insofar as they are pertinent to the matters to be decided and the issues to be determined at the hearing; and

(3) The contentions of each party as to each contested issue, including a memorandum of each party's respective arguments concerning the issues in dispute and the legal authorities in support thereof.

Each specific interrogatory, deposition question or other item objected to, or concerning

which a protective order is sought, and the objection thereto, shall be reproduced in full. The respective arguments and supporting authorities of the parties shall be set forth immediately following each such objection. When an objection is raised to a number of items or a general protective order is sought that is related to a number of specific items, the arguments and briefing need not be repeated. If a protective order is sought that is unrelated to specific, individual items, repetition of the original discovery document is not required. All arguments and briefing that would otherwise be included in a memorandum of points and authorities supporting or opposing the motion shall be included in this joint statement, and no separate briefing shall be filed.

(d) Failure to Meet or Obtain Joint Statement. If counsel for the moving party is unable, after a good faith effort, to secure the cooperation of counsel for the opposing party in arranging the required conference, or in preparing and executing the required joint statement, counsel for the moving party may file and serve an affidavit so stating, setting forth the nature and extent of counsel's efforts to arrange the required conference or procure the required joint statement, the opposing counsel's responses or refusals to respond to those efforts, the issues to be determined at the hearing, and the moving party's contentions with regard to the issues, including any briefing in respect thereto. Refusal of any counsel to participate in a discovery conference, or refusal without good cause to execute the required joint statement, shall be grounds, in the discretion of the Court, for entry of an order adverse to the party represented by counsel so refusing or adverse to counsel. See L.R. 110.

(e) Exceptions from Required Joint Statement re Discovery Disagreement. The foregoing requirement for a Joint Statement re Discovery Disagreement shall not apply to the following situations: (1) when there has been a complete and total failure to respond to a discovery request or order, or (2) when the only relief sought by the motion is the imposition of sanctions. In either instance, the aggrieved party may bring a motion for relief for hearing on fourteen (14) days notice. The responding party shall file a response thereto not later than seven (7) days before the hearing date. The moving party may file and serve a reply thereto not less than two (2) court days before the hearing date. L.R. 135.

(f) Notice Provisions. By reason of the notice provisions set forth in (a) and (e), the provisions of L.R. 230 shall not apply to motions and hearings dealing with discovery matters.

RULE 260 (Fed. R. Civ. P. 56)

MOTIONS FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION

(a) Motions for Summary Judgment or Summary Adjudication. Each motion for summary judgment or summary adjudication shall be accompanied by a "Statement of Undisputed Facts" that shall enumerate discretely each of the specific material facts relied upon in support of the motion and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish that fact. The moving party shall be responsible for the filing of all evidentiary documents cited in the moving papers. See L.R. 133(j).

(b) Opposition. Any party opposing a motion for summary judgment or summary adjudication shall reproduce the itemized facts in the Statement of Undisputed Facts and admit those facts that are undisputed and deny those that are disputed, including with each denial a citation to the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon in support of that denial. The opposing party may also file a concise "Statement of Disputed Facts," and the source thereof in the record, of all additional material facts as to which there is a genuine issue precluding summary judgment or adjudication. The opposing party shall be responsible for the filing of all evidentiary documents cited in the opposing papers. See L.R. 133(j). If a need for discovery is asserted as a basis for denial of the motion, the party opposing the motion shall provide a specification of the particular facts on which discovery is to be had or the issues on which discovery is necessary.

(c) Stipulated Facts. All interested parties may jointly file a stipulation setting forth a statement of stipulated facts to which all interested parties agree. As to any stipulated facts, the parties so stipulating may state that their stipulations are entered into only for the purposes of the motion for summary judgment and are not intended to be otherwise binding.

(d) Use of Affidavits. See Fed. R. Civ. P. 56(e); L.R. 142.

(e) Use of Depositions. See L.R. 133(j), 250.1.

(f) Summary Adjudication. This Rule shall apply to motions for orders specifying material facts that appear without substantial controversy pursuant to Fed. R. Civ. P. 56(d), except that the proposed "Statement of Undisputed Facts" and the "Statement of Disputed Facts" shall be limited to the facts that the moving party asserts are without substantial controversy and the facts the opposing party contends are in dispute.

RULE 270 (Fed. R. Civ. P. 16)

COURT SETTLEMENT CONFERENCES

(a) Setting of Settlement Conferences. A settlement conference shall be held in all actions unless otherwise ordered by the Court on objection of a party or for other good cause. Counsel shall notify the Court when the settlement conference is set if the litigation is unusual or complex and if there is a need to provide for additional time or special arrangements to ensure that the settlement conference will be meaningful.

(b) Settlement Conferences Before the Assigned Judge or Magistrate Judge. Unless all the parties affirmatively request that the assigned Judge or Magistrate Judge participate in the conference and waive in writing any claim of disqualification on that basis to act as Judge or Magistrate Judge in the action thereafter, the assigned Judge or Magistrate Judge shall not conduct the settlement conference. See L.R. 240(a)(16).

(c) Settlement Conference Statements. Unless otherwise ordered by the Court, the submission of settlement conference statements before the conference is optional. Statements submitted before the conference are reviewed in preparation for the conference and may assist in achieving the goals of the conference; they should be drafted with that purpose in mind.

(d) Confidentiality of Settlement Conference Statements. Settlement conference statements shall not be disclosed to the Judge or Magistrate Judge assigned to try the action unless the parties have agreed, and the Judge or Magistrate Judge has approved, that such Judge or Magistrate Judge will preside at the settlement conference. Settlement conference statements may be e-mailed in .pdf format directly to the courtroom deputy clerk of the Judge or Magistrate Judge before whom the settlement conference is to be held or may be submitted in paper directly to chambers. If the statement is confidential, it must be clearly captioned to reveal its confidential character. If a party is submitting a confidential settlement conference statement, the party must file a one page document entitled "Notice of Submission of Confidential Settlement Conference Statement." That filing, if done electronically, will thereby effect service of this notice on all other parties. If the notice is filed conventionally, the filing party must serve all other parties. The parties may agree, or not, to serve each other with the settlement statements.

(e) Return of Settlement Conference Statements. At the completion of the settlement conference, the Judge or Magistrate Judge before whom the settlement conference is held shall return the statements to the respective parties who submitted them or otherwise dispose of them. Settlement conference statements shall not be filed or made a part of the Court's records.

(f) Participation of a Principal.

(1) United States Not a Party. In actions in which the United States is not a party, and unless specifically permitted otherwise by the Judge or Magistrate Judge conducting the settlement conference, counsel shall be accompanied in person by a person capable of disposition, or shall be fully authorized to settle the matter at the settlement conference on any terms. When settlement must be approved by a vote of a party's governing body, unless specifically permitted otherwise by the Judge or Magistrate Judge conducting the settlement conference, counsel shall be designated or shall be accompanied in person by a representative designated by the body who shall have learned the body's preconference disposition relative to settlement.

(2) United States a Party. In actions in which the United States is a party, the attorney for the United States shall obtain the approval of the United States Attorney to compromise any matter within the authority delegated to the United States Attorney by rule or regulation of the Attorney General. If such delegated authority to approve a compromise settlement is limited by the opposition of another federal agency, a responsible and knowledgeable representative of such agency shall attend the conference. In other actions in which the approval of officials of the Department of Justice in Washington, D.C. is required for a compromise settlement, the attorney for the United States shall, before the settlement conference, attempt to confer with such officials, or their appropriate representatives, to determine the terms and conditions upon which a compromise settlement would be approved. If a tentative compromise settlement that is within such terms and conditions is agreed to at the conference, the attorney for the United States shall promptly recommend it to and seek the required approval of the appropriate official.

RULE 271 (Fed. R. Civ. P. 16)

VOLUNTARY DISPUTE RESOLUTION PROGRAM

(a) Purpose and Scope.

(1) Purpose. Pursuant to 28 U.S.C. § 651 et seq., and in recognition of the economic burdens and delay in the resolution of disputes that can be imposed by full, formal litigation, this Rule governs the referral of certain actions to the Voluntary Dispute Resolution Program ("VDRP") at the election of parties.

It is the Court's intention that the VDRP shall allow the participants to take advantage of a wide variety of alternative dispute resolution methods. These methods may include, but are not limited to, mediation, negotiation, early neutral evaluation, and settlement facilitation. The specific method or methods employed will be determined by the Neutral and the parties and may vary from matter to matter.

(2) Scope. This Rule presumptively applies to all civil actions except (i) prisoner petitions and actions, including habeas corpus petitions, (ii) actions in which one of the parties is appearing pro se, (iii) voting rights actions, (iv) social security actions, (v) deportation actions, (vi) Freedom of Information Act actions, and (vii) actions involving the constitutionality of federal, state or local statutes or ordinances. The fact that an action falls in a category that is exempt from presumptive applicability of this Rule neither (1) precludes the parties to such an action from agreeing to participate in an Alternative Dispute Resolution ("ADR") process, nor (2) deprives the Court of authority to compel participation in an appropriate ADR proceeding.

(3) Parties Retain the Option of Securing ADR Services Outside the Program Sponsored by the Court. Nothing in this Rule precludes the parties from agreeing to seek ADR services outside the VDRP. ADR proceedings conducted outside this Rule, however, will not be subject to the provisions of this Rule unless the parties stipulate to adopt one or more provisions to govern their ADR proceedings.

(b) Program Administration.

(1) ADR Judge.

(A) Appointment. The Chief Judge shall appoint one or more Judges or Magistrate Judges to serve as the ADR Judge of this Court. When necessary or appropriate, including but not limited to instances when the designated ADR Judge is the assigned Judge or Magistrate Judge for a particular action, the Chief Judge shall appoint another Judge or Magistrate Judge to perform the duties of ADR Judge temporarily.

(B) Duties. The ADR Judge shall serve as the primary liaison between the Court and the VDRP staff, consulting with that staff on matters of policy, program design and evaluation, education, training, and administration. The ADR Judge shall rule on all disputes resulting from a party's request to be excused from appearing in person at any VDRP proceeding and shall hear and determine all complaints alleging violations of this Rule.

(2) VDRP Administrator. The VDRP Administrator shall be responsible for implementing, administering, overseeing, and evaluating the VDRP and procedures covered by this Rule. These responsibilities shall extend to educating parties, lawyers, Judges, and court staff about the VDRP and its rules. In addition, the VDRP Administrator shall ensure that appropriate systems are maintained for recruiting, screening, and training Neutrals, as well as for maintaining on an ongoing basis the Neutrals' ability to provide role-appropriate and effective services to the parties.

(3) Rules and Materials Available. The Clerk shall make pertinent rules and explanatory materials available to the parties.

(4) Parties May Request Referral to the VDRP at Any Time. Notwithstanding any other provision of this Rule, parties, individually or in any combination, including parties to a counterclaim, cross-action, or third-party action, may ask the assigned Judge or Magistrate Judge, at any stage in the proceedings, to refer the action, in whole or in part, to the VDRP. The Court may enter an order of reference only if all parties voluntarily agree to the proposed reference. For the purposes of this Rule, the phrase "all parties" means all parties to an action or, in a complex action in which counterclaims, cross-actions, or third-party actions are pending, all parties to a discrete sub-part of the complex action. The decision whether to enter an order of reference is within the Court's discretion and includes the considerations set forth in (i)(3) and (4).

(c) Referral to the VDRP.

(1) Notice of Availability. The Clerk shall provide a notice of the availability of the VDRP with a citation to this Rule to all plaintiffs upon the filing of the complaint or to defendants upon a removal. The notice will order the plaintiff to provide all other parties with copies of the notice at the time service is effected or, for parties already served, no more than fourteen (14) days after plaintiff receives the notice from the Court. After filing of the original complaint or a removal action, any party who causes a new party to be joined in the action shall promptly serve a copy of the notice on the new party.

(2) Authority of Assigned Judge and Magistrate Judge. As part of the status or scheduling conference or otherwise, the assigned Judge or Magistrate Judge may inform the parties of the availability of the VDRP. See L.R. 240(a)(17). In general, actions may not be assigned to the VDRP over the objection of a party.

Nevertheless, when a complex action including counterclaims, cross-actions or third-party actions are pending, the Court may assign discrete sub-parts of the complex action to the VDRP if all parties to the sub-part agree to reference to the VDRP and the party objecting to the VDRP is not a party to the sub-part of the complaint, counterclaim, cross-action, or third-party action to be assigned to the VDRP.

(3) Request by the Parties. Parties may request referral to the VDRP by filing a Stipulation and Order reflecting the agreement of all parties to submit the action to the VDRP pursuant to this Rule. See L.R. 143; 271(i).

(d) VDRP Selection Process.

(1) The Parties' Duty to Consider VDRP and Confer. In accordance with L.R. 240(a)(17), unless otherwise ordered, in every action to which this Rule applies, the parties must confer about

(A) whether the parties are willing to participate in the VDRP; and

(B) when the VDRP session, if any, should be held.

(2) The Parties' Duty to Report. The parties must report in their status conference report their shared or separate views about referral to the VDRP and when the VDRP session, if any, should occur. In these reports or statements, counsel must represent that they understand and have explained to their clients the VDRP rules and process and that, with their assistance, their clients have carefully considered whether their action might benefit from participation in the VDRP. If all parties stipulate to using the VDRP, these reports or statements must be accompanied by a Stipulation and Order for VDRP Referral in conformity with (i).

(e) Panels of Neutrals; Selection of Neutrals.

(1) Panels of Neutrals. The VDRP Administrator shall ensure that a panel is maintained of persons who are trained and otherwise qualified to serve as Neutrals for the VDRP. Only persons who agree to serve on the terms set forth in this Rule and in any pertinent General Orders, and whose background, training, and skills satisfy the requirements that the Court establishes for the VDRP, shall be admitted to and remain as members of the panel.

(2) Parties to Confer About Selection of Neutral and Confirm Neutral's Availability. Unless otherwise ordered, the parties may confer about and attempt to agree on a Neutral at the same time they confer under (d)(1)(A), for the purposes of discussing the appropriateness of the VDRP in the particular action and suggesting the time frame in which the VDRP session should be held. If authorized by the assigned Judge, the parties may nominate a Neutral who is not on the Court-

approved panel. Before nominating a Neutral, the individual must have confirmed his or her availability and willingness to serve within the time frame they propose.

(3) Selection by the Parties or Randomly by the Clerk. Upon the filing of a Stipulation and Order for VDRP Referral, the assigned Judge or Magistrate Judge or the VDRP Administrator may assign a Neutral, or the VDRP Administrator may supply to the parties a list of not more than three (3) potential Neutrals, from which list the parties shall agree upon one. If the identity of the Neutral is by selection of the parties, counsel for the party first asserting jurisdiction in the Court shall report the selection of the parties, in writing, to the VDRP Administrator within fourteen (14) days following service of the list by the VDRP Administrator. If the parties are unable to agree upon a Neutral or fail to communicate their agreement to the VDRP Administrator, the VDRP Administrator may designate a Neutral drawn randomly from the panel of Neutrals to be the Neutral assigned to the action and shall notify the parties and the Neutral of that designation. The Neutral shall notify the VDRP Administrator within fourteen (14) days from notification of selection whether he or she is able and willing to serve as Neutral for the action, or whether he or she is unable or unwilling to serve as Neutral for that action. If a selected Neutral is unable or unwilling to serve, the VDRP Administrator shall select and notify another Neutral. When a Neutral has agreed to serve, the VDRP Administrator shall send notice to the Neutral and the parties of the selection.

(4) Documents Provided to the Neutral. Promptly after the Neutral is designated, the VDRP Administrator shall provide her or him with a copy of

(A) the Stipulation and Order for VDRP Referral;

(B) each party's most recent pleading; and

(C) any other order or document from the court file that sets forth requirements or stipulations related to the VDRP proceedings.

(f) Disqualification of Neutrals.

(1) Applicable Standards. No person may serve as a Neutral in a VDRP proceeding under this Rule in violation of

(A) the standards set forth in 28 U.S.C. § 455;

(B) any applicable standard of professional responsibility or rule of professional conduct; or

(C) any additional standards adopted by the Court.

(2) Mandatory Disqualification and Notice of Recusal. A prospective Neutral who discovers a circumstance requiring disqualification shall immediately submit to the parties and to the VDRP Administrator a written notice of recusal. The parties may not waive a basis for disqualification that is described in 28 U.S.C. § 455(b).

(3) Disclosure and Waiver of Non-Mandatory Grounds for Disqualification. If a prospective Neutral discovers a circumstance that would not compel disqualification under rules of professional conduct or under 28 U.S.C. § 455(b), but that might be covered by 28 U.S.C. § 455(a) (impartiality might reasonably be questioned), the Neutral must promptly disclose that circumstance in writing to all counsel and the VDRP Administrator. A party may waive a possible basis for disqualification that is premised only on 28 U.S.C. § 455(a), but any such waiver must be in writing and delivered to the VDRP Administrator within fourteen (14) days of the party's receiving notice of the possible basis for disqualification. See L.R. 102(d).

(g) Compensation of Neutrals. Neutrals shall serve without compensation.

(h) Immunity of Neutrals. All persons serving as Neutrals under this Rule are deemed to be performing quasi-judicial functions and shall be immune to the extent provided by 28 U.S.C. § 655(c) and applicable authorities.

(i) Stipulation and Order for VDRP Referral.

(1) File with Status Conference Report. If all parties stipulate to using the VDRP, pursuant to (d), counsel must file with their Status Conference Reports pursuant to L.R. 240(a)(17), or with statements they file separately to comply with this Rule, a Stipulation and Order for VDRP Referral.

(2) Contents of Stipulation and Order. The Stipulation and Order for VDRP Referral must:

(A) specify the time frame within which the parties propose the VDRP process will be completed and the date by which the Neutral must file confirmation of that completion;

(B) suggest and explain any modifications or additions to the case management plan that would be advisable because of the reference to the VDRP; and

(C) describe any pretrial activity, e.g., specified discovery or motions, that shall be completed before the VDRP session is held or that shall be stayed until the VDRP session is concluded.

(3) Protection Against Unreasonable Delay. In fixing deadlines in its Order of VDRP Referral, the Court will assure that the time allotted for completing the VDRP process is no more than is appropriate and that the referral does not cause unreasonable delay in case development, in hearing motions, or in commencing trial.

(4) Assigned Judge's Continuing Responsibility for Case Management. Neither the parties' agreement to participate in the VDRP nor the Court's referral of an action to the VDRP shall reduce the assigned Judge's power and responsibility to maintain overall management control of an action before, during, and after the pendency of the VDRP process.

(j) Communications by Neutral Before the VDRP Session. Promptly after being appointed to serve in an action, the Neutral may hold a brief joint telephone conference with all counsel involved in the VDRP, or may communicate in writing with all counsel involved in the VDRP, to discuss:

(1) fixing a convenient date and place for the VDRP session (the session shall be held as soon as reasonably possible, but no more than ninety-one (91) days after the Neutral is selected, unless otherwise ordered by the Court);

(2) the type of session desired by the parties (i.e. settlement conference, evaluation, or other dispute resolution process) and the procedures that will be following during the session;

(3) who shall attend the session on behalf of each party;

(4) what material or exhibits should be provided to the Neutral before the session or brought by the parties to the session;

(5) any issues or matters that it would be especially helpful to have the parties address in their written pre-session statements; and

(6) any other matters that might enhance the utility of the VDRP proceeding.

(k) Written VDRP Statements.

(1) Service Deadline. Unless otherwise directed by the Neutral, at least seven (7) days before the VDRP session, each party shall submit directly to the Neutral and serve on all other parties a written VDRP statement not to exceed ten (10) pages. Statements shall not be filed, and the assigned Judge or Magistrate Judge shall not have access to them.

(2) The Content of the Statements. Unless otherwise directed by the Neutral, each statement must:

(A) give a brief statement of the facts;

(B) identify the pertinent principles of law;

(C) identify the significant legal and factual issues that are in dispute;

(D) identify any legal or factual issues whose early resolution might reduce the scope of the dispute or contribute significantly to the productivity of settlement discussions;

(E) identify by name and role with respect to the litigation and the parties the person(s) in addition to counsel who will attend the session as representatives of the party filing the statement with decision-making authority; and

(F) identify or attach particular document(s) or other physical evidence, if any, central to an understanding of the dispute and an appreciation of the merits of each party's case.

(I) Attendance at the VDRP Session.

(1) In Person Attendance. All parties and their lead counsel, having authority to settle and to adjust pre-existing settlement authority if necessary, are required to attend the VDRP session in person unless excused under (I)(2). Insurer representatives also are required to attend in person, unless excused, if their agreement would be necessary to achieve a settlement.

(A) Corporations and Other Non-Governmental Entities. A corporation or other non-governmental entity satisfies this attendance requirement if represented by a person who has, to the greatest extent possible, authority to settle, and who is knowledgeable about the facts of the action and the corporation's or non-governmental entity's position in the action.

(B) Governmental Entities. A governmental entity satisfies this attendance requirement if represented by a person who has, to the greatest extent possible, authority to settle, and who is knowledgeable about the facts of the action, the governmental entity's position in the action, and the procedures and policies under which the governmental entity can enter into, finalize, and perform settlements.

(2) Requests to be Relieved of Duty to Appear in Person.

(A) Duty to Confer. No one may ask the Neutral to be relieved

of the duty to attend a VDRP session in person, unless that person first has conferred about the matter with the other parties who will be participating in the session.

(B) Standard. A person may be excused from attending a VDRP session in person only on a showing that personal attendance would impose a serious and unjustifiable hardship.

(3) Participation by Telephone When Appearance in Person Is Excused. Every person who is excused from attending a VDRP session in person must be available to participate by telephone, unless otherwise directed by the Neutral.

(m) Confidentiality of VDRP Proceedings.

(1) Generally Applicable Provision. Except as provided in this Rule, and except as otherwise required by law or as stipulated in writing by all parties and the Neutral, all communications made in connection with any VDRP proceeding under this Rule shall be privileged and confidential to the fullest extent provided by applicable law.

(2) Limitations on Communication with Assigned Judge or Magistrate Judge. No person may disclose to the assigned Judge or Magistrate Judge any communication made, position taken, or opinion formed by any party or Neutral in connection with any VDRP proceeding under this Rule except as otherwise:

(A) stipulated in writing by all parties and the Neutral;

(B) provided in this Rule; or

(C) ordered by the Court – after application of pertinent legal tests that are appropriately sensitive to the interests underlying VDRP confidentiality – in connection with a proceeding to determine:

(i) whether, a signed writing or otherwise sufficient evidence is produced that appears to constitute a binding agreement, the parties entered an enforceable settlement contract at the end of the VDRP session, or

(ii) whether a person violated a legal norm, rule, court order, or ethical duty during or in connection with the VDRP session.

(3) Authorized Studies and Assessments of Program. Nothing in this Rule shall be construed to prevent any participant or Neutral in a VDRP proceeding from responding to an appropriate request for information duly made by persons authorized by the Court to monitor or evaluate any aspect of the VDRP or to enforce any provision of the Rule. The identity of the sources of such information provided for purposes of monitoring or evaluating the VDRP shall be appropriately protected.

(n) Neutral's VDRP Completion Report.

(1) Timing and Limited Content. By the deadline fixed in the Stipulation and Order for VDRP Referral, or, if no such deadline was fixed, no later than fourteen (14) days after the VDRP session has been concluded, the Neutral shall submit to the VDRP Administrator (copying all parties) the Neutral's VDRP Completion Report that reports only the date on which the parties completed the VDRP process.

(2) Prohibition on Disclosure of Confidential Communications or Neutral's Opinions. Except as otherwise provided in this Rule, the Neutral's VDRP Completion Report must not disclose to the assigned Judge any confidential communication or any opinions or thoughts the Neutral might have about the merits of the action, about how the action should be managed, or about the character of any party's participation in the VDRP proceeding. The Neutral may communicate an alleged abuse of the VDRP process to the ADR Judge.

(o) Parties' Joint VDRP Completion Report.

(1) Completion Report. By the deadline fixed in the Stipulation and Order for VDRP Referral, or, if no such deadline was fixed, no later than fourteen (14) days after the VDRP session has been concluded, the parties must jointly file the Parties' Joint VDRP Completion Report in which they report to the assigned Judge or Magistrate Judge:

(A) whether the action in its entirety was resolved or settled during the VDRP session, and if so, when a request for dismissal will be filed;

(B) if the action in its entirety was not resolved or settled, whether any resolution, stipulation, or agreement was reached on any part of the action, including but not limited to any stipulation or agreement regarding facts, issues, procedures, or claims; and

(C) the current status of the action, including an update, as appropriate, on the subjects set forth in L.R. 240.

(2) Dismissal. Where appropriate, a Dismissal or Stipulation and Order for dismissal of the action, pursuant to Fed. R. Civ. P. 41, may be filed in lieu of the Parties' Joint VDRP Completion Report if the Dismissal or Stipulation and Order for dismissal is filed within fourteen (14) days after completion of the VDRP session.

(p) Violations of This Local Rule

(1) Complaints Alleging Material Violations. A complaint alleging that any person or party has materially violated this Rule must be presented in writing directly to the ADR Judge or a Judge who has been designated by the Chief Judge to

hear the matter and to whom the underlying action is not assigned (the "designated Judge"). Copies of any such complaint must be sent to all counsel and the Neutral at the time they are presented to the ADR Judge or designated Judge. Any such complaint must be accompanied by a competent affidavit, must not be filed or lodged, and must not be presented to the Judge or Magistrate Judge to whom the underlying action is assigned for litigation.

(2) Proceedings in Response to Complaint. Upon receipt of an appropriately presented and supported complaint of material violation, the ADR Judge or designated Judge shall determine whether the matter warrants further proceedings and shall so notify the parties and the person complaining. If further proceedings are warranted, the ADR Judge or designated Judge may issue an order to show cause why sanctions should not be imposed. Any such proceeding shall be conducted on the record, and the ADR Judge or designated Judge shall have the discretion as to whether the proceedings should be under seal. The ADR Judge or designated Judge shall afford all interested persons an opportunity to be heard before deciding whether to impose or recommend a sanction.

RULE 272 (Fed. R. Civ. P. 16)

NOTICE OF SETTLEMENT

(a) General Rule. See L.R. 160.

(b) Sanctions. If for any reason attributable to counsel or parties, including settlement, the Court is unable to commence a jury trial as scheduled when a panel of prospective jurors has reported for voir dire, the Court may assess against counsel or parties responsible all or part of the cost of the panel. See L.R. 110.

RULE 280 (Fed. R. Civ. P. 40)

DILIGENCE - SETTING FOR PRETRIAL CONFERENCE OR FOR TRIAL

(a) Counsel's Duty of Diligence. All counsel shall proceed with reasonable diligence to take all steps necessary to bring an action to issue and readiness for pretrial conference and trial. The action shall be ready for trial on the date set by the Court.

(b) Motion to Set for Pretrial Conference and/or Trial. Although ordinarily it is expected that the pretrial conference will be set at a status conference, any party who is ready to proceed to pretrial conference and trial may serve and file a motion to have the action set for pretrial conference or trial or both. The motion shall be accompanied by a Certificate of Readiness stating:

(1) The action is at issue as to all parties.

(2) The party has completed all desired depositions, other discovery, and pretrial motions, except specified discovery or motions, if any. Reasons for any exceptions shall be given, together with the date of anticipated completion thereof.

(3) The party has met all obligations with respect to deposition and discovery requests or motions of other parties.

(4) The party is ready for pretrial conference and trial.

(c) Opposition and Reply re Motion to Set. Opposition to a motion to set an action for pretrial conference or trial and any reply shall be filed in accordance with L.R. 230. Opposition shall state with specificity the reasons for opposing the motion.

(d) Notice. The Clerk shall serve notice of every order setting an action for pretrial conference or trial on all counsel, whether made pursuant to motion or sua sponte.

RULE 281 (Fed. R. Civ. P. 16)

PRETRIAL STATEMENTS

(a) Time for Filing. As required by the pretrial (scheduling) order in the action, counsel shall file either separate pretrial statements or a joint pretrial statement as follows:

(1) Separate Statements. Not less than fourteen (14) days before the date set by the Court for the holding of the final pretrial conference, counsel for the plaintiff shall serve and file a pretrial statement in the form prescribed herein. Not less than seven (7) days before the date set for the holding of the pretrial conference, counsel for all other parties shall serve on all parties and file pretrial statements that may adopt by reference any or all of the matters set forth in the plaintiff's pretrial statement.

(2) Joint Statements. Not less than seven (7) days before the date set by the Court for the holding of the final pretrial conference, or such other time as the Court may order, counsel for all parties shall file a joint pretrial statement in the form prescribed herein or in such other form as the Court may prescribe.

(3) Word Processed Copy. Electronic filers shall also concurrently submit an electronic copy of their statement in Word or Word Perfect format following the procedures for proposed orders. See L.R. 137(b).

(b) Form, Contents. The pretrial statement shall state the name of the party or parties on whose behalf it is presented and set forth the nature of the action and the following matters, under the following captions and in the following order:

(1) Jurisdiction - Venue. The factual and statutory basis of federal jurisdiction and venue and whether there is any dispute concerning jurisdiction or venue.

(2) Jury - Non-Jury. Whether the party has demanded a jury trial of all or any of the issues or, if not, whether a demand for jury trial made by any other party is conceded or contested.

(3) Undisputed Facts. A plain, concise statement of the facts that are undisputed.

(4) Disputed Factual Issues. A plain, concise statement of each fact (and any related essential facts) that the party claims or concedes to be in dispute.

(5) Disputed Evidentiary Issues. A plain, concise summary of any

reasonably anticipated disputes concerning admissibility of live and deposition testimony, physical and demonstrative evidence and the use of special technology at trial, including computer animation, video discs, and other high technology, and a statement whether each such dispute should be resolved by motion in limine, briefed in the trial brief, or addressed in some other manner.

(6) Special Factual Information in Certain Actions. In addition to the facts and issues described in (3) through (5), the following special information with respect to the following types of actions shall be specified within either the disputed or undisputed facts sections as appropriate:

(i) In eminent domain actions:

(A) As to each parcel involved, its designation, general description, location, and size; the interest taken; the names of persons claiming an interest therein and the interests claimed; whether an order of possession has been issued; each objection or defense to the taking, if any; and the claimed market value of the interest taken at the time of the taking.

(B) Whether consolidation of trial with other actions would be practicable or desirable.

(C) Suggested procedures for a mutual exchange of lists of comparable sales to be relied upon by the valuation experts, such lists to include for each transaction, to the extent known, the names of the parties, the date of transaction, amount of consideration, location of property, and recording date.

(D) Whether evidence of value other than comparable sales is to be relied upon and, if so, the method of valuation and the authority for its use.

(ii) In patent actions:

(A) The name, number, filing, and issue date of the patent or patents involved.

(B) The names of all persons claiming a present interest in each patent.

(C) An abstract of each patent sufficient to permit determination of the nature and essence of the technical disclosure of the application. An abstract in keeping with that called for in Patent Office Rule 1.72(b) shall be deemed sufficient. See 37 C.F.R. § 1.72.

(D) A statement of the facts relied upon to support any charge of infringement.

(E) Where invalidity of a patent has been asserted as a defense, any and all prior art (patents, publications, and public uses) pleaded in the answer or noticed pursuant to 35 U.S.C. § 282, in relation to the defense invoked, whether the defense be 35 U.S.C. § 102 or 35 U.S.C. § 103.

(F) An explanation of any interparty tests that have been conducted and a request for such interparty tests as should be ordered before setting for trial.

(iii) In actions involving contracts:

(A) The parties' respective versions of the terms of the contract.

(B) Whether the contract and any modifications or collateral agreements were written or oral or both, specifying any document, letter, or other writing relied upon by date and parties, and indicating any oral agreement relied upon by date, place, and parties.

(C) Any misrepresentation of fact, mistake, or other matter affecting validity.

(D) Any breach of contract.

(E) Any waiver or estoppel.

(F) The relief sought (rescission, restitution, damages for breach, specific performance, etc.).

(G) The measure of restitution or damages and an itemized statement of the elements thereof.

(iv) In tort actions for personal injury, wrongful death or property damage:

(A) The date, place, and general nature of the incident; the particular acts, omissions, or conditions constituting the basis for liability; the particular acts, omissions or conditions constituting the basis of any defense; any statute, ordinance, or regulation violated by either party; the applicability of the doctrine of strict liability or res ipsa loquitur.

(B) Each plaintiff's age; injuries sustained; any prior injury or condition worsened; periods of hospitalization; medical expenses and estimated future medical expenses; the period of total and/or partial disability; annual, monthly, or

weekly earnings before the incident; earnings loss to date and estimated diminution of future earnings power; property damage; general damages; punitive damages.

(C) In wrongful death actions: the names and ages of dependents; the annual, monthly, or weekly contribution of decedent to dependents before death; the physical condition, education, and training of decedent at the time of death.

(7) Relief Sought. The elements of monetary damage, if any, and the specific nature of any other relief sought.

(8) Points of Law. A statement of the legal theory or theories of recovery or of defense and of any points of law (substantive or procedural) that are or may reasonably be expected to be in controversy, citing the pertinent statutes, ordinances, regulations, cases, and other authorities relied upon. Extended legal argument is not required in the pretrial statement.

(9) Abandoned Issues. A statement of all issues raised by the pleadings that have been abandoned, including, for example, claims for relief and affirmative defenses.

(10) Witnesses. A list (names and addresses) of all prospective witnesses, whether offered in person or by deposition or interrogatory, designating those who are expert witnesses. Only witnesses so listed will be permitted to testify at the trial, except as may be otherwise provided in the pretrial order.

(11) Exhibits - Schedules and Summaries. A list of documents or other exhibits that the party expects to offer at trial. Only exhibits so listed will be permitted to be offered at trial except as may be otherwise provided in the pretrial order.

(12) Discovery Documents. A list of all portions of depositions, answers to interrogatories, and responses to requests for admission that the party expects to offer at trial.

(13) Further Discovery or Motions. Any requests for further discovery or pretrial motions. Where discovery and/or law and motion has been terminated by a Court order, counsel shall set forth the grounds for relief from that order and why a motion to be relieved was not made before the date ordered in the status conference for termination. Motions for relief at pretrial are not favored and will ordinarily be denied unless the moving party makes a strong showing.

(14) Stipulations. Any stipulations requested or offered for pretrial or trial purposes.

(15) Amendments - Dismissals. Any requested amendments to

pleadings, dismissals, additions or substitutions of parties, or dispositions as to defaulting parties.

(16) Settlement Negotiations. A statement whether settlement negotiations between parties and/or a court settlement conference under L.R. 270 would be helpful.

(17) Agreed Statements. A statement whether presentation of all or part of the action upon an Agreed Statement of Facts is feasible and advisable.

(18) Separate Trial of Issues. A statement whether separate trial of any of the issues is feasible and advisable.

(19) Impartial Experts - Limitation of Experts. A statement whether appointment by the Court of impartial expert witnesses or limitation of the number of expert witnesses is advisable.

(20) Attorneys' Fees. A statement whether attorneys' fees are sought and the time and manner in which they are to be ascertained. See L.R. 293.

(21) Trial Exhibits. Any special handling of trial exhibits and a statement of advisability of court retention of exhibits pending appeal decision. See L.R. 138(e).

(22) Trial Protective Order. Whether a trial protective order will be sought pursuant to L.R. 141.1(b)(2).

(23) Miscellaneous. Any other appropriate comments, suggestions, or information that might aid in the disposition of the action, including references to any matters set forth in Fed. R. Civ. P. 16(c).

(c) Claims of Privilege. If any privilege against disclosure is claimed with respect to any statement required by this Rule and the validity of the claim has not yet been determined, a party may omit such statement and include instead a statement of such claim of privilege and the grounds therefor.

(d) Fed. R. Civ. P. 26(a)(3) Disclosures. The foregoing disclosures satisfy the requirements of Fed. R. Civ. P. 26(a)(3).

RULE 282 (Fed. R. Civ. P. 16)

PRETRIAL CONFERENCE

The agenda for the pretrial conference shall include discussion of the following:

(1) The items set forth in the pretrial statements filed pursuant to L.R. 281 and the matters set forth in Fed. R. Civ. P. 16(c).

(2) The filing of trial briefs on designated points of law likely to be presented at trial. See L.R. 285.

(3) The procedures for voir dire and the filing of proposed voir dire questions and proposed jury instructions. See L.R. 163.

(4) The filing and exchange of lists of documentary and other exhibits, summaries, schedules, and other illustrative exhibits to be offered at trial, statements waiving or reserving objections to the exhibits listed by other parties, and the marking and indexing of exhibits.

(5) The filing of statements designating portions of depositions, admissions and answers to interrogatories that the respective parties intend to offer at the trial (except portions to be used only for impeachment or rebuttal).

(6) The inspection of originals of listed exhibits and of reports of experts who will be called as witnesses. See L.R. 281.

(7) The filing of proposed findings of fact and conclusions of law.

All of the foregoing agenda items shall be subject to any appropriate claims of privilege from disclosure. See L.R. 281(c).

RULE 283 (Fed. R. Civ. P. 16)

PRETRIAL ORDER

(a) Preparation of Pretrial Order. The Court, or a party if so directed by the Court, shall prepare a proposed pretrial order, serve a copy thereof on all parties, and lodge the original. See L.R. 137. If directed by the Court, a party shall do so within fourteen (14) days after the pretrial conference. Any party upon whom the proposed pretrial order is served may, within the time permitted in the proposed pretrial order, submit objections to the proposed pretrial order and, in so doing, shall set forth the basis of the objections and any changes to be made in the proposed pretrial order.

(b) Contents of Pretrial Order. All pretrial orders shall recite the appearances and representations (and any non-appearances) at the pretrial conference and the action taken by the Court and agreements made by the parties with respect to each of the items discussed at the conference, except that parties shall not refer to settlement negotiations. All pretrial orders shall conclude by setting the date for the trial and stating the Court's estimate of the number of court days required for the trial.

(c) Pretrial Order to Control. See Fed. R. Civ. P. 16.

RULE 285 (Fed. R. Civ. P. 16)

TRIAL BRIEFS

(a) Opening Briefs. Counsel for each party shall file and serve on all other parties within the time set by the Court but not less than fourteen (14) days before trial a brief setting forth:

(1) a short statement of facts;

(2) all admissions and stipulations not recited in the pretrial order; and

(3) a summary of points of law, including reasonably anticipated disputes concerning admissibility of evidence, legal arguments, and citations of authority in support thereof.

(b) Responding Briefs. Although not required to do so, opposing counsel may file and serve on all other parties an answering brief within the time set by the Court but not less than seven (7) days before trial; provided, however, that as to any evidentiary questions raised in a trial brief by one party and not also addressed in the opposing party's opening brief, a brief shall be filed and served by the opposing party on those questions at least seven (7) days before trial.

RULE 290 (Fed. R. Civ. P. 52)

SETTLEMENT OF FINDINGS OF FACT AND CONCLUSIONS OF LAW

(a) Preparation of Proposed Findings of Fact, Conclusions of Law. After a ruling requiring preparation of findings of fact and conclusions of law, the prevailing party shall, unless otherwise directed by the Court, prepare proposed findings of fact and conclusions of law.

(b) Procedure. Proposed findings and conclusions that are signed and approved as to form by all parties shall be lodged with the Clerk who shall immediately present them to the Court. Alternatively, counsel shall follow the procedure for proposed orders. See L.R. 137.

(c) Disapproval. Any party who disapproves the form of proposed findings and conclusions shall, within seven (7) days after service of a copy thereof, file and serve a notice of disapproval, together with reasons therefor, and lodge and serve a proposed modification thereof.

RULE 291.1 (Fed. R. Civ. P. 50)

POST-TRIAL MOTIONS FOR JUDGMENT AS A MATTER OF LAW

Motions for judgment as a matter of law shall state with specific references to relevant portions of any existing record and to any supporting affidavits: (1) the particular errors of law claimed, (2) if a ground is insufficiency of the evidence, the particulars thereof, and (3) if a ground is newly discovered evidence, the particulars thereof, together with a full, complete description of the facts relating to the discovery of such evidence and the movant's diligence in connection therewith. A motion for judgment as a matter of law and any opposition thereto shall be supported by briefs. Except as otherwise provided in this Rule or in the Federal Rules of Civil Procedure, L.R. 230 shall apply to motions for judgment as a matter of law. See Fed. R. Civ. P. 50.

RULE 291.2 (Fed. R. Civ. P. 59)

MOTIONS FOR NEW TRIAL

Motions for new trial shall state with specific references to relevant portions of any existing record and to any supporting affidavits: (1) the particular errors of law claimed, (2) if a ground is insufficiency of the evidence, the particulars thereof, and (3) if a ground is newly discovered evidence, the particulars thereof, together with a full. complete description of the facts relating to the discovery of such evidence and the movant's diligence in connection therewith. A motion for new trial and any opposition thereto shall be supported by briefs. Except as otherwise provided in this Rule or in the Federal Rules of Civil Procedure, L.R. 230 shall apply to motions for new trial.

RULE 292 (Fed. R. Civ. P. 54)

COSTS

(a) Rules for Taxing Costs. Costs shall be taxed in conformity with the provisions of 28 U.S.C. § 1920, and such other provisions of law as may be applicable.

(b) Filing of Cost Bill. Within fourteen (14) days after entry of judgment or order under which costs may be claimed, the prevailing party may serve on all other parties and file a bill of costs conforming to 28 U.S.C. § 1924. The cost bill shall itemize the costs claimed and shall be supported by a memorandum of costs and an affidavit of counsel that the costs claimed are allowable by law, are correctly stated, and were necessarily incurred. Cost bill forms shall be available from the Clerk upon request or on the Court's website.

(c) Objections. The party against whom costs are claimed may, within seven (7) days from date of service, file specific objections to claimed items with a statement of grounds for objection.

(d) Taxing Costs. If no objection is filed, the Clerk shall proceed to tax and enter costs. If objections are filed, they should state specific objections to claimed items with a statement of grounds thereof. The Clerk may require and consider further affidavits as necessary to determine allowable costs. The parties may request a hearing, in person or by telephone conference call, and the Clerk shall schedule the hearing as needed. Upon the taxation and entry of costs the Clerk shall serve notice thereof to all parties.

(e) Review. On motion filed and served within seven (7) days after notice of the taxing of costs has been served, the action of the Clerk may be reviewed by the Court as provided in Fed. R. Civ. P. 54(d). See L.R. 230.

(f) Items Taxable. Items taxable as costs include the following:

(1) Clerk's fees (28 U.S.C. §§ 1914, 1920(1));

(2) Marshal's fees and fees for service by a person other than the Marshal under Fed. R. Civ. P. 4 to the extent they do not exceed the amount allowable for the same service by the Marshal (28 U.S.C. §§ 1920(1), 1921);

(3) Court reporter's fees (28 U.S.C. § 1920(2));

(4) Docket fees (28 U.S.C. §§ 1920(5), 1923);

(5) Fees for exemplification and copies of papers necessarily obtained

for use in the action (28 U.S.C. § 1920(4));

(6) Fees to masters, receivers, and commissioners (Fed. R. Civ. P. 53(a));

(7) Premiums on undertaking bonds or security required by law or by order of the Court or necessarily incurred by a party to secure a right accorded in the action;

(8) Per diem, mileage and subsistence for witnesses (28 U.S.C. § 1821);

(9) Compensation of Court-appointed experts, compensation for interpreters, and salaries, fees, expenses, and costs of special interpretation services (28 U.S.C. §§ 1828, 1920(6));

(10) Costs on appeal taxable in the District Court pursuant to Fed. R. App. P. 39(e); and

(11) Other items allowed by any statute or rule or by the Court in the interest of justice.

RULE 293 (Fed. R. Civ. P. 54)

AWARDS OF ATTORNEYS' FEES

(a) Time for Application. Motions for awards of attorneys' fees to prevailing parties pursuant to statute shall be filed not later than twenty-eight (28) days after entry of final judgment. Such motions are governed by L.R. 230 for notice, opposition, reply, and decision. See also Fed. R. Civ. P. 54(d), 58.

(b) Matters to be Shown. All motions for awards of attorneys' fees pursuant to statute shall, at a minimum, include an affidavit showing:

(1) that the moving party was a prevailing party, in whole or in part, in the subject action, and, if the party prevailed only in part, the specific basis on which the moving party claims to be a prevailing party;

(2) that the moving party is eligible to receive an award of attorneys' fees, and the basis of such eligibility;

(3) the amount of attorneys' fees sought;

(4) the information pertaining to each of the criteria set forth in (c); and

(5) such other matters as are required under the statute under which the fee award is claimed.

(c) Criteria for Award. In fixing an award of attorneys' fees in those actions in which such an award is appropriate, the Court will consider the following criteria:

(1) the time and labor required of the attorney(s);

(2) the novelty and difficulty of the questions presented;

(3) the skill required to perform the legal service properly;

(4) the preclusion of other employment by the attorney(s) because of the acceptance of the action;

(5) the customary fee charged in matters of the type involved;

(6) whether the fee contracted between the attorney and the client is fixed or contingent;

(7) any time limitations imposed by the client or the circumstances;

(8) the amount of money, or the value of the rights involved, and the results obtained;

(9) the experience, reputation, and ability of the attorney(s);

(10) the "undesirability" of the action;

(11) the nature and length of the professional relationship between the attorney and the client;

(12) awards in similar actions; and

(13) such other matters as the Court may deem appropriate under the circumstances.

MAGISTRATE JUDGES' RULES

RULE 300 (Fed. R. Civ. P. 72)

SCOPE OF MAGISTRATE JUDGES' RULES
GENERAL AUTHORITY

(a) General Applicability. Local Rules 300 through 399 govern the discharge of duties by the United States Magistrate Judges in the Eastern District of California in all actions. The Rules are promulgated pursuant to 28 U.S.C. § 636(b)(4) and are intended to amplify the provisions of Chapter 43 of Title 28 of the United States Code and the Federal Rules of Civil and Criminal Procedure (including the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions). Proceedings before Magistrate Judges are also governed by L.R. 100 through 199 and such other Rules as may be applicable to the particular action.

(b) Definitions. As used in these Magistrate Judges' Rules:

(1) "Magistrate Judge" means both the full-time Magistrate Judges and the part-time Magistrate Judges sitting in the Eastern District of California.

(2) "General pretrial matters" means all pretrial matters as to which the standard of review is the "clearly erroneous or contrary to law" standard set forth in 28 U.S.C. § 636(b)(1)(A). See Fed. R. Civ. P. 72(a).

(3) "Excepted pretrial matters" means all pretrial matters as to which de novo review by a Judge is available. See Fed. R. Civ. P. 72(b).

RULE 301 (Fed. R. Civ. P. 73)

TRIALS BY CONSENT

Upon the consent of all appearing parties, the Magistrate Judges are specially designated to conduct any and all proceedings in any civil action, including the conduct of jury or nonjury trials, and to order the entry of final judgments, in accordance with Fed. R. Civ. P. 73 and 28 U.S.C. § 636(a)(5) and (c). In such actions, L.R. 303 and 304 shall be inapplicable.

RULE 302 (Fed. R. Civ. P. 72)

DUTIES TO BE PERFORMED BY MAGISTRATE JUDGES

(a) General. It is the intent of this Rule that Magistrate Judges perform all duties permitted by 28 U.S.C. § 636(a), (b)(1)(A), or other law where the standard of review of the Magistrate Judge's decision is clearly erroneous or contrary to law. Specific duties are enumerated in (b) and (c); however, those described duties are not to be considered a limitation of this general grant.

Magistrate Judges will perform the duties described in 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 53 upon specific designation of a District Judge or by designation in (b) and (c).

(b) Duties to Be Performed in Criminal Matters by a Magistrate Judge Pursuant to 28 U.S.C. § 636(a), (b)(1)(A), (b)(1)(B), (b)(3), or Other Law.

(1) All pretrial matters in felony criminal actions except motions to suppress evidence, motions to quash or dismiss an indictment or information, motions to discover the identity of an informant, motions for severance, and entry of pleas of guilty;

(2) Preliminary proceedings in felony probation or supervised release revocation actions;

(3) All pretrial, trial, and post-trial matters in any misdemeanor action (including petty offenses and infractions), see Fed. R. Crim. P. 58; L.R. 421;

(4) Supervision of proceedings conducted pursuant to letters rogatory or letters of request;

(5) Receipt of indictments returned by the grand jury in accordance with Fed. R. Crim. P. 6(e)(4), 6(f);

(6) Conduct of all proceedings contemplated by Fed. R. Crim. P. 1, 3, 4, 5, 5.1, 9, 40, 41, except Rule 41(e) post-indictment/information motions and Rule 41(f) motions in felony actions made at any time; included within this grant are applications for mobile tracking devices (18 U.S.C. § 3117), pen registers or trap and trace devices (18 U.S.C. § 3121 et seq.), applications for retrieval of electronic communications records (18 U.S.C. § 2701 et seq.), and applications for disclosure of tax return information (26 U.S.C. § 6103);

(7) Motions to exonerate bail;

(8) Extradition proceedings, 18 U.S.C. § 3181 et seq.;

(9) Upon specific designation of a Judge and consent of the parties, jury voir dire in criminal actions.

(c) Duties to Be Performed in Civil Matters by a Magistrate Judge Pursuant to 28 U.S.C. § 636(a), (b)(1)(A), (b)(1)(B), (b)(3), or Other Law.

(1) All discovery motions, including Fed. R. Civ. P. 37 motions, and supervision of proceedings conducted pursuant to letters rogatory or letters of request; all stipulations and motions relating to protective orders and sealing documents submitted or filed for hearing before discovery cutoff;

(2) Supervision of proceedings conducted pursuant to letters rogatory or letters of request;

(3) All pretrial motions pursuant to the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss for failure to state a claim upon which relief can be granted, and to dismiss an action involuntarily;

(4) Review of petitions in civil commitment proceedings under Title III of the Narcotic Addict Rehabilitation Act;

(5) Proceedings under 46 U.S.C. §§ 2302, 4311(d), and 12309(c);

(6) All motions for specific leave of court for the making of deposits into the registry of the Court, and all motions for orders providing for special placement of deposits, see L.R. 150;

(7) All motions brought pursuant to the Federal Debt Collections Procedures Act of 1990, 28 U.S.C. § 3001 et seq.;

(8) Applications for writs of entry in connection with the enforcement of Internal Revenue Service tax liens;

(9) Petitions to enforce Internal Revenue Service summonses filed pursuant to 26 U.S.C. §§ 7402(b) and 7604(a);

(10) Petitions to quash administrative summonses filed pursuant to 26 U.S.C. § 7609(b)(2);

(11) Examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

(12) Settlement conferences as may be calendared;

(13) In Fresno, all pretrial scheduling conferences and the final pretrial conference;

(14) All applications for interim disbursement under L.R. 202(f);

(15) Actions brought under Title 42 of the United States Code to review a final decision of the Commissioner of Social Security, including dispositive and non-dispositive motions and matters;

(16) Actions involving federally insured student loans, 20 U.S.C. § 1071 et seq., including dispositive and non-dispositive motions and matters;

(17) Actions brought by a person in custody who is seeking habeas corpus relief (28 U.S.C. § 2241 et seq., or any relief authorized by 42 U.S.C. § 1981 et seq.), *Bivens* or the Federal Tort Claims Act including dispositive and non-dispositive motions and matters;

(18) Upon specific designation of a Judge, jury verdicts in civil actions;

(19) Motions for entry of default judgment under Fed. R. Civ. P. 55(b)(2);

(20) Enforcement of L.R. 271 as provided in L.R. 271(i);

(21) In Sacramento, all actions in which all the plaintiffs or defendants are proceeding in propria persona, including dispositive and non-dispositive motions and matters. Actions initially assigned to a Magistrate Judge under this paragraph shall be referred back to the assigned Judge if a party appearing in propria persona is later represented by an attorney appearing in accordance with L.R. 180.

(d) Retention by a District Judge. Notwithstanding any other provision of this Rule, a Judge may retain any matter otherwise routinely referred to a Magistrate Judge. Applications for retention of such matters, however, are looked upon with disfavor and granted only in unusual and compelling circumstances.

RULE 303 (Fed. R. Civ. P. 72)

ROLE OF MAGISTRATE JUDGE AND PROCEDURE FOR RESOLVING GENERAL PRETRIAL MATTERS IN CRIMINAL AND CIVIL ACTIONS

(a) Determination. In accordance with 28 U.S.C. § 636(b)(1), a Magistrate Judge shall hear, conduct such evidentiary hearings as are appropriate in, and determine all general pretrial matters referred in accordance with L.R. 302. Rulings of the Magistrate Judge shall be in writing with a statement of the reasons therefor and shall be filed and served on all parties.

(b) Finality. Rulings by Magistrate Judges pursuant to this Rule shall be final if no reconsideration thereof is sought from the Court within fourteen (14) days calculated from the date of service of the ruling on the parties, unless a different time is prescribed by the Magistrate Judge or the Judge.

(c) Reconsideration by a District Judge. A party seeking reconsideration of the Magistrate Judge's ruling shall file a request for reconsideration by a Judge and serve the Magistrate Judge and all parties. Such request shall specifically designate the ruling, or part thereof, objected to and the basis for that objection. This request shall be captioned "Request for Reconsideration by the District Court of Magistrate Judge's Ruling."

(d) Opposition. Opposition to the request shall be served and filed within seven (7) days after service of the request.

(e) Notice and Argument. The timing requirements of L.R. 230 have no application to requests for reconsideration under this Rule. The request shall be referred to the assigned Judge automatically by the Clerk, promptly following the date for filing opposition, without the necessity of a specific motion for such reference by the parties. Unless otherwise ordered, requests in criminal actions shall be calendared and heard at the trial confirmation. No oral argument shall be allowed in the usual civil action unless the assigned Judge specifically calendars such argument, either on request of a party or sua sponte.

(f) Standard of Review. The standard that the assigned Judge shall use in all such requests is the "clearly erroneous or contrary to law" standard set forth in 28 U.S.C. § 636(b)(1)(A). See Fed. R. Civ. P. 72(a).

(g) The assigned Judge may also reconsider any matter at any time sua sponte.

RULE 304 (Fed. R. Civ. P. 72)

MAGISTRATE JUDGES' AUTHORITY IN EXCEPTED PRETRIAL MATTERS

(a) Determination. In accordance with 28 U.S.C. § 636(b)(1)(B) and (C), the Magistrate Judges shall hear, conduct such evidentiary hearings as are appropriate in, and submit to the assigned Judge proposed findings of fact and recommendations for the disposition of excepted pretrial motions referred in accordance with L.R. 302. The Magistrate Judge shall file the proposed findings and recommendations and shall serve all parties.

(b) Objections. Within fourteen (14) days after service of the proposed findings and recommendations on the parties, unless a different time is prescribed by the Court, any party may file, and serve on all parties, objections to such proposed findings and/or recommendations to which objection is made and the basis for the objection.

(c) Transcripts. If objection is made to a proposed finding or recommendation based upon a ruling made during the course of any evidentiary hearing, which ruling has not otherwise been reduced to writing, the party making such objection shall so indicate at the time of filing objections and shall forthwith cause a transcript of all relevant portions of the record to be prepared and filed.

(d) Response. Responses to objections shall be filed, and served on all parties, within fourteen (14) days after service of the objections.

(e) Notice and Argument. The timing requirements of L.R. 230 have no application to objections to proposed findings and recommendations under this Rule. No separate notice is required. The objections shall be referred to the assigned Judge automatically by the Clerk, promptly following the date for filing opposition, without the necessity of a specific motion for such reference by the parties. Unless otherwise ordered, requests in criminal actions shall be calendared by the courtroom deputy clerk upon request of any party filed with that party's objections or opposition thereto or upon the direction of the assigned Judge.

(f) Review. See Fed. R. Civ. P. 72(b).

RULE 305 (Fed. R. Civ. P. 73)

PROCEDURES FOR THE DISPOSITION OF CIVIL ACTIONS ON CONSENT OF THE PARTIES

(a) Notice of Option. The Clerk shall notify the parties in all civil actions that they may consent to have a Magistrate Judge conduct any and all proceedings in the action and order the entry of a final judgment. Such notice shall be handed or transmitted by the Clerk to the plaintiff at the time the action is filed, and to the removing defendant at the time of removal, and the plaintiff or defendant shall transmit the notice to all other parties as an attachment to copies of the complaint and summons, or the removal documents, when served. See also 28 U.S.C. § 636(c). The Court may, at appropriate times, inform the parties of the options available under section 636(c). All such communication shall comply with the requirement of section 636(c)(2).

(b) Reference to Magistrate Judge. After all necessary consents have been obtained, the Clerk shall transmit the file in the action to the assigned Judge, for review, approval by the Judge and Magistrate Judge, and referral. Notwithstanding the consent of all parties, the Judge or Magistrate Judge may reject the referral. Once an action has been referred to a Magistrate Judge, that Magistrate Judge shall have authority to conduct all proceedings referred to the Magistrate Judge, including, if appropriate, authority to enter a final judgment in the action. See Fed. R. Civ. P. 73(a).

(c) Appeal to the Court of Appeals. Upon the entry of final judgment in any action disposed of by a Magistrate Judge on consent of the parties under the authority of 28 U.S.C. § 636(c) and these Rules, an aggrieved party may appeal directly to the United States Court of Appeals for the Ninth Circuit in the same manner as governs appeals from any other final judgment of the Court. See Fed. R. Civ. P. 73(c).

CRIMINAL RULES

RULE 400 (Fed. R. Crim. P. 50)

GENERAL RULES APPLICABLE IN CRIMINAL ACTIONS, ELECTRONIC FILING AND PLAN FOR PROMPT DISPOSITION OF CRIMINAL ACTIONS

(a) Applicability of General Rules. Local Rules 100 to 199 and 300 to 399 are fully applicable in criminal actions in the absence of a specific Criminal Rule directly on point.

(b) Filings in Criminal Actions in General. Criminal Proceedings are defined as all felony and class-A misdemeanor actions that are opened as "cr" actions by the District Court. In general, all documents submitted for filing in this district by attorneys in a criminal proceeding on or after January 3, 2005 shall be filed electronically. See L.R. 135. Pro se defendants must file and serve conventionally in accord with applicable Rules unless specifically authorized to file electronically. See L.R. 133.

(c) Filings in Magistrate Judge Criminal Actions in General. Magistrate Judge Criminal Actions are defined as all complaints, initial Rule 40 appearances or class B and C misdemeanors also known as "Petty Offense Actions," and all other actions where a "mj" action is opened. In general, except for filings by pro se defendants, all documents submitted for filing after January 3, 2005 shall be submitted in electronic format. See L.R. 135.

(d) Exemption from Electronic Filing for CVB Actions. Until the District Court is responsible for transmitting statistics in actions generated via the Central Violations Bureau (CVB), and maintained as CVB actions, such actions are exempt from CM/ECF.

(e) Mandatory Exceptions from Electronic Filing in Criminal Actions. Due to their unique nature, the following documents shall be filed in paper format and scanned into electronic format by the Clerk:

(1) Indictments / Informations;
(2) Arrest Warrants issued by a Judge or Magistrate Judge;
(3) Search Warrants and accompanying documents;
(4) Seizure Warrants and accompanying documents;
(5) Pen Register authorizations and like documents;
(6) Criminal Complaints and accompanying documents;
(7) Rule 5(c)(3) / 20 documents;
(8) Writs ad testificandum and prosequendum; and
(9) Wiretap proceedings.

(f) Filings in Juvenile Actions. Documents in juvenile delinquency matters shall not be filed electronically.

(g) Adoption of Plan for Prompt Disposition of Criminal Actions. Pursuant to the requirements of Fed. R. Crim. P. 50(b), the Speedy Trial Act of 1974 (18 U.S.C. §§ 3161-74), and the Federal Juvenile Delinquency Act (18 U.S.C. §§ 5036-37), the Court en banc has adopted a local plan establishing time limits and procedures for the prompt disposition of criminal actions. The Local Plan provides that "a copy of Section II shall be made available to practicing members of the Bar."

(h) Availability of Plan. Counsel may obtain a copy of Section II from the Clerk and also on the court website. Counsel in criminal actions shall acquaint themselves with Section II of the Local Plan.

RULE 401 (Fed. R. Crim. P. 43)

SHACKLING OF IN-CUSTODY DEFENDANTS

(a) Applicability. This Rule is applicable to the shackling, when advisable, of in custody defendants during criminal court proceedings convened in the Sacramento and the Fresno Courthouses.

(b) Definitions.

(1) "Crime of Violence" means:

(A) an offense that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another;

(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) "Fully Shackled" means leg restraints (including waist chains), and handcuffs.

(3) "Long Cause Proceeding" means a proceeding that is expected to last at least 30 minutes, such as an evidentiary hearing.

(c) Shackling at Initial Appearance.

(1) Single Defendant Actions.

(A) Prior to the commencement of initial appearances, the Marshal shall make an individualized shackling recommendation for each prisoner. In connection with this recommendation, the Marshal shall complete a written form (Prisoner Restraint Level Form) giving the recommendation regarding the level of restraint necessary, if any.

(B) Once the Prisoner Restraint Level Form is completed by the Marshal, and as soon as practicable, it shall be given to the Judge or Magistrate Judge presiding over the initial proceeding. The Court may review the information on the Form, a Pre-Trial Service report, and any other information pertinent to shackling. The Court shall then annotate on the form its determination regarding the appropriate restraint level. Unless it is not feasible, the Form shall be distributed to the defendant's attorney and the Assistant United States Attorney prior to hearing.

(C) The attorney for either party may request that the Court modify its restraint level determination for the initial proceeding. At the end of the initial proceeding, the deputy courtroom clerk shall annotate the Court's final restraint level determination in the minutes.

(D) When making a determination on restraints, the Court shall, where information is reasonably available, consider the following as it may weigh in favor of, or against, imposition of restraints:

(i) The nature and circumstances of the offense charged, including whether the offense is a crime of violence, a federal crime of terrorism, or involves a firearm, explosive, or destructive device;

(ii) The weight of the evidence against the in custody defendant;

(iii) The history and characteristics of the in custody defendant, including: the in custody defendant's character, physical and mental condition, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and whether, at the time of the current offense or arrest, the in custody defendant was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal, state, or local law;

(iv) Circumstances of the defendant's arrest, including but not limited to, voluntary surrender, or flight to avoid apprehension, resistance upon arrest, other indicia of possible flight.

(2) Multiple Defendant Actions. In an action where multiple defendants are charged, and it is likely that the action will require an appearance by multiple defendants at any proceeding, the Court shall consider the following in determining restraint levels:

(A) Those factors described in (c)(1)(D) above;

(B) The number of defendants in the action;

(C) The Marshal staffing actually available to counteract any disruption or other untoward behavior;

(D) The logistical disruption which might entail in having numerous defendants with varied restraint levels.

The Prisoner Restraint Form procedure set forth in (c)(1)(A)-(C) above shall be employed in a multiple defendant action. A determination shall be made for each defendant.

(d) Subsequent Proceedings. The Court's determination of shackling status made at the initial appearance shall continue in effect unless changed circumstances warrant a different restraint level, or a Judge determines on de novo review that a different restraint level is appropriate, giving the affected parties an opportunity to be heard. Any party may request that the court change the restraint level. Nothing herein alters the inherent power of the Judge to order up to full and immediate shackling if such an order is necessary, in the discretion of the Judge, to ensure the safety of all people in the courtroom. After the implementation of such an order, the affected parties will be afforded the opportunity to be heard within a time reasonably proximate to the shackling.

(e) Multiple Actions Proceedings. Notwithstanding any other provision of this Rule, in a proceeding in which multiple defendants in different actions are present in the courtroom at the same time, a Judge may direct, prior to the commencement of the proceeding, that all in custody defendants be restrained at the level the Judge believes appropriate. Any party may be heard to argue a different restraint level at the time that party's case is heard.

(f) Unshackling of Writing Hand. When an in custody defendant is fully shackled:

(1) At Rule 11 proceedings, the in custody defendant shall be permitted the unshackled use of the defendant's writing hand, unless the Marshal recommends full shackling for particularized reasons, and the Court adopts the recommendation.

(2) In long cause proceedings, the in custody defendant shall be permitted the unshackled use of the defendant's writing hand, unless the Marshal recommends full shackling for particularized reasons, and the Court adopts the recommendation. The in custody defendant shall remain seated at the defense table, except when giving testimony.

(g) Jury Proceedings. This Rule does not apply to trial proceedings at which a jury is being chosen or has been impaneled.

RULE 403 (Fed. R. Crim. P. 5)

COURT INTERPRETER SERVICES IN CRIMINAL ACTIONS

(a) Courtroom Proceedings. Regardless of the presence of a private interpreter, only official, judicially-designated interpreters may interpret official courtroom proceedings in criminal actions, except as provided in 28 U.S.C. § 1827(f)(1).

(b) Notice of Need for Interpreter Services. Defense counsel in criminal actions shall promptly determine whether they will need interpreter services for any defendants or defense witnesses at future court proceedings and shall timely notify the court staff interpreter, and/or the courtroom deputy clerk for the Judge or Magistrate Judge assigned to hear the action, that an interpreter is needed. It may take up to one week to arrange for interpreter services in languages other than Spanish, and three court days for Spanish interpreter services. Notification of the need for interpreter services should include identification of the language required, any dialect, and any additional information that could assist the court staff interpreter. If a scheduled court proceeding is canceled or rescheduled, counsel shall promptly notify the staff interpreter and/or courtroom deputy to cancel or reschedule any accompanying interpreter arrangements. As to interpreters for Government witnesses, see 28 U.S.C. § 1827.

(c) Staff Interpreter. Pursuant to 28 U.S.C. § 1827(c), the Court employs a staff interpreter in both Sacramento and Fresno, who is responsible for securing the services of qualified interpreters. The staff interpreter can be reached through the Clerk.

RULE 410 (Fed. R. Crim. P. 46)

FIXED SUMS PAYABLE IN LIEU OF APPEARANCE

This Court has provided by General Order for the payment of a fixed sum in suitable misdemeanor actions in lieu of appearance. Acceptance and payment of such fixed sum shall terminate the action; however, a Magistrate Judge may fix a higher amount in the event that payment of the fixed sum is not timely made or otherwise under conditions set forth by General Order so long as the fixed sum does not exceed the maximum authorized fine.

Copies of General Orders referenced in this Rule are available on request from the Clerk and on the Court's website.

RULE 420 (Fed. R. Crim. P. 58)

REFERRAL OF MISDEMEANORS TO MAGISTRATE JUDGES

(a) Referral to a Magistrate Judge. All citations, violation notices, complaints, informations or indictments charging misdemeanors shall be referred by the Clerk directly to the appropriate Magistrate Judge. See L.R. 302(b)(3).

(b) Court Reporters. A party requesting a court reporter for the hearing or trial of a misdemeanor must make such request sufficiently before trial to ensure the presence of a court reporter.

RULE 421 (Fed. R. Crim. P. 58)

DISPOSITION OF MISDEMEANOR ACTIONS

(a) Authorization. Each Magistrate Judge is designated to try persons accused of misdemeanors and petty offenses and to sentence such persons upon conviction. See L.R. 302(b)(2).

(b) Pretrial and Post-Trial Matters. Except as set forth herein, the Magistrate Judge to whom a misdemeanor or petty offense action is assigned shall have the authority to hear and dispose of all pretrial or post-trial matters arising in that action.

(c) Jury Trials. When a defendant requests a jury trial in an action pending before a Magistrate Judge in Bakersfield, Redding, or Yosemite National Park the Magistrate Judge may set the matter for trial in Sacramento or Fresno or may transfer the action to Sacramento or Fresno for trial. See L.R. 120(d).

(d) Presentence Reports. Each Magistrate Judge is authorized to direct the Probation Office to conduct a presentence investigation and to render a report as provided in Fed. R. Crim. P. 32 and L.R. 460. Such requests by Magistrate Judges in misdemeanor petty offense actions shall be limited to those actions in which the Magistrate Judge determines that exceptional circumstances exist. See L.R. 460.

RULE 422 (Fed. R. Crim. P. 58)

APPEAL FROM CONVICTION BY A MAGISTRATE JUDGE

(a) Notice of Appeal. A defendant who has been convicted in a trial by a Magistrate Judge may appeal to a Judge by proceeding in accordance with Fed. R. Crim. P. 58(g).

(b) Record. A transcript, if desired, shall be ordered from the official court reporter or the electronic court recorder operator (E.C.R.O.) as prescribed by Fed. R. App. P. 10(b). Arrangements for payment shall also be made (as approved by the Judicial Conference). Parties shall have fourteen (14) days to object to any specific matter contained therein by filing and serving a written statement of grounds for the objection. If no party objects, the parties will be referred to the assigned Magistrate Judge who shall, within fourteen (14) days after the referral, correct if necessary and certify the accuracy of the transcript.

Within twenty-eight (28) days after a transcript has been ordered, the Clerk shall file the transcript, as stipulated to by the parties or as corrected and certified by the assigned Magistrate Judge. Upon such filing of the transcript, the record on appeal shall be deemed complete.

If no transcript is ordered within fourteen (14) days after the notice of appeal is filed and served, the record on appeal shall be deemed complete without a transcript.

(c) Assignment to a District Judge. The Clerk shall assign the appeal to a Judge in the same manner as any indictment or felony information. See L.R. 120, Appendix A.

(d) Notice of Hearing. After assignment, the Clerk shall promptly notify the parties of the date and time set for oral argument which shall not be less than sixty-three (63) nor more than ninety-one (91) days after the date of the notice. An earlier date may be set upon joint application of the parties to the assigned Judge.

(e) Time for Serving and Filing Briefs. Appellant's brief shall be served and filed within twenty-one (21) days after service of the notice of hearing. Appellee's brief shall be served and filed within twenty-one (21) days after the filing and service of the appellant's brief. See L.R. 135. Appellant may serve and file a reply brief within seven (7) days after service of the appellee's brief. These periods may be altered by the assigned Judge upon application of the parties or sua sponte. See L.R. 144.

RULE 423 (Fed. R. Crim. P. 58)

REFERRAL OF CLASS A MISDEMEANORS TO THE DISTRICT COURT

The following procedure shall be observed in each instance in which a defendant charged with a misdemeanor elects to be tried by a Judge pursuant to 18 U.S.C. § 3401:

(a) Right to Trial Before Judge or Magistrate Judge. At the time of arraignment and bail setting in Class A misdemeanor actions, the Magistrate Judge will explain the defendant's right to trial by Magistrate Judge or Judge. If the defendant declines to be tried by a Magistrate Judge, the Magistrate Judge shall order the defendant to appear before a Judge at the date and time directed by the Clerk pursuant to summons.

(b) Election to Trial Before District Judge. Upon a defendant's election to trial before a Judge, the Magistrate Judge shall forthwith inform the United States Attorney by written notice of the pendency of the action and the defendant's election, providing the United States Attorney copies of all documents theretofore filed in the action. The Magistrate Judge's responsibility in the action under L.R. 420, 421 and 422 shall thereupon terminate, but the Magistrate Judge may entertain a motion from the United States Attorney to dismiss the charged offense.

(c) Options Available to United States Attorney. Upon a defendant's election to trial before a Judge, the United States Attorney has discretion to determine whether the action shall proceed. The United States Attorney may file an information against the defendant. Upon election not to prosecute the action, the United States Attorney shall move the Magistrate Judge for dismissal and exoneration of bail, if bail has been posted. If the United States Attorney does not commence proceedings on the action or dismiss it within ninety-one (91) days after service of notice by the Magistrate Judge that the defendant has elected to be tried by a Judge, then the charge against the defendant shall be dismissed with prejudice on motion of the Court or the defendant.

(d) Defendants in Custody. If the defendant electing trial before a Judge is in custody, the Magistrate Judge shall immediately notify the United States Attorney by telephone of the election and shall order the transportation of the defendant to the appropriate facility unless released from custody.

RULE 430.1 (Fed. R. Crim. P. 12)

CRIMINAL MOTIONS AND PROCEDURES

(a) Motion Calendar. Each Judge and Magistrate Judge will maintain an individual motion calendar. Information as to the times and dates for calling each motion calendar may be obtained from the Clerk or the courtroom deputy clerk for the assigned Judge or Magistrate Judge.

(b) Motion Procedures. Entries of pleas of guilty and motions to quash or dismiss an information or indictment, to suppress evidence, to sever, and to discover the identity of informants shall be heard by the assigned Judge. See L.R. 302(b)(1). All other pretrial matters in criminal actions shall be heard by the Magistrate Judge, L.R. 302(b)(1), unless the assigned Judge elects to hear some or all of such matters in individual actions. See L.R. 302(d). Motions to be heard by the Magistrate Judge shall be filed separately from those to be heard by the Judge. Motions and accompanying documents shall conform to the requirements of the Federal Rules of Criminal Procedure and these Rules. See, e.g., Fed. R. Crim. P. 47, 49; L.R. 130, 131, 132, 134.

(c) Notice. Except as otherwise provided in these Rules or as ordered or allowed by the Court, all motions shall be noticed on the motion calendar of the assigned Judge or Magistrate Judge as may be appropriate depending on the character of the motion and the orders of the Court. The moving party shall file a notice of motion, motion, accompanying brief, affidavits, if appropriate, and copies of all documentary evidence that the moving party intends to submit in support of the motion. All pretrial motions shall be filed within twenty-one (21) days after arraignment unless a different time is specifically prescribed by the Court. The moving party shall notice all pretrial motions for hearing on the regularly scheduled calendar of the assigned Judge or Magistrate Judge not less than fourteen (14) days after the filing of the motion, and at least seven (7) days before the date of trial confirmation if that date has been established. See L.R. 135.

(d) Opposition. The responding party shall file and serve an opposition brief and any accompanying affidavits or documentary evidence on all other parties within seven (7) days. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. No party will be entitled to be heard in opposition to a motion at oral argument if that party has not timely filed an opposition to the motion. See L.R. 135.

(e) Reply. The moving party may file and serve a reply brief within three (3) days following service of the opposition. The moving party controls the initial filing date of the motion and the amount of time available between the filing of the motion and the trial confirmation date, and will not be heard to complain that time for the reply brief was

cut short due to the late filing of the motion.

(f) Extensions of Time. If a party is unable to comply with the foregoing schedule for the filing of motions, that party shall move the assigned Magistrate Judge for an extension of time specifically setting forth the basis for the requested extension. See L.R. 144. Such motion shall be made as soon as practicable but, in any event, not later than the last date set by the Court for the filing of motions.

(g) Calculation of Time Periods. The time periods fixed by this Rule shall supersede the time periods for service of notices of motion, affidavits, and other documents prescribed in Fed. R. Crim. P. 47.

(h) Evidentiary Hearings. The notice of all motions and each response or opposition thereto shall contain a statement whether an evidentiary hearing is requested and an estimate of the time required for the presentation of evidence and/or arguments. The reply brief shall contain a re-estimate of the time or a statement that the original estimate is unchanged. *Counsel shall comply with L.R. 403 as to witnesses or parties requiring interpreter services.*

(i) Motions for Reconsideration. Whenever any motion has been granted or denied in whole or in part, and a subsequent motion for reconsideration is made upon the same or any alleged different set of facts, see L.R. 303, it shall be the duty of counsel to present to the Judge or Magistrate Judge to whom such subsequent motion is made an affidavit or brief, as appropriate, setting forth the material facts and circumstances surrounding each motion for which reconsideration is sought, including:

(1) when and to what Judge or Magistrate Judge the prior motion was made;

(2) what ruling, decision or order was made thereon; and

(3) what new or different facts or circumstances are claimed to exist that did not exist or were not shown upon such prior motion or what other grounds exist for the motion.

(j) Appeal from Magistrate Judge's Rulings. An appeal from a final decision of the Magistrate Judge shall be served and filed within fourteen (14) days after service of the Magistrate Judge's decision concurrently with the required filing fee. See generally L.R. 303, 304. To the extent appropriate, the brief supporting the appeal shall contain the information prescribed in (i).

RULE 430.2 (Fed. R. Crim. P. 17.1)

CRIMINAL TRIAL SETTING PROCEDURES

(a) Trial, Trial Confirmation Dates. Except as otherwise provided in this Rule, the Magistrate Judge shall assign the trial, trial confirmation, and/or pretrial conference dates at the time the defendant is arraigned. Each criminal action to be tried before a Judge shall be set for trial, and for trial confirmation and/or pretrial conference, in such manner and in accordance with such scheduling practices as the assigned Judge may prescribe.

(b) Complex Actions. Any party who believes the criminal action is unusual or complex within the meaning of 18 U.S.C. § 3161 shall so inform the Magistrate Judge at the time of arraignment. If the Magistrate Judge determines that the action is unusual or complex, the action shall be placed on the assigned Judge's next available criminal motion calendar for a status conference.

(c) Shortening and Extending Time. See L.R. 144.

RULE 440 (Fed. R. Crim. P. 16)

PRETRIAL DISCOVERY AND INSPECTION

(a) Initial Disclosure. Upon request of the defendant and unless otherwise ordered by the Court, all discovery required by Fed. R. Crim. P. 16(a)(1)(A), (B), (C), (D), (E) and (G) to be provided by the Government shall be provided in the manner set forth in the Rule within fourteen (14) days from the date of arraignment.

(b) Discovery of Reports. All discovery of reports of examination or tests, as provided for in Fed. R. Crim. P. 16(a)(1)(F), shall, when in possession of government counsel, be made in conformance with the preceding paragraph, and when not in government counsel's possession, as soon as reasonably possible after the expiration of the fourteen (14) day period. In no event shall the Government fail to disclose such reports at least seven (7) days before the trial confirmation/pretrial conference.

(c) Discovery from Defendant. Unless otherwise ordered by the Court, all discovery required by Fed. R. Crim. P. 16(b) to be provided by the defendant shall be provided within twenty-one (21) days from the request for such discovery.

(d) Continuing Duty. The duty of the Government and the defendant to provide discovery under this Rule is a continuing one. Upon failure to provide discovery and inspection as required by this Rule, the Government or the defendant or counsel may be subject to sanctions as set forth in L.R. 110.

RULE 450 (Fed. R. Crim. P. 17.1)

TRIAL CONFIRMATION

A trial confirmation hearing shall be calendared in each criminal action on a date approximately two (2) weeks before the scheduled trial date. The following persons shall appear at the trial confirmation hearing: the defendant, the defendant's attorney, if any, and a prosecutor from the United States Attorney's Office who is familiar with the facts and has authority to take action. Before the trial confirmation hearing, the defendant's attorney or the pro se defendant shall have completed all work necessary for a determination of whether the defendant will go to trial or plead guilty. All defendants who elect to plead guilty shall be prepared to plead guilty before or at the trial confirmation hearing. See L.R. 160.

RULE 460 (Fed. R. Crim. P. 32)

DISCLOSURE OF PRESENTENCE REPORTS AND RELATED RECORDS

(a) Confidential Character of Presentence Reports and Related Records. The presentence reports, violation reports, and related documents to be offered in sentencing and violation hearings (collectively "presentence reports") are confidential records of the United States District Court. Unless further disclosure is expressly authorized by order of the Court, such records shall be disclosed only to the Court, court personnel, the defendant, the defendant's counsel, the defense investigator, if any, and the United States Attorney's Office in connection with the sentencing or violation hearing.

(b) Requests for Disclosure. Any applicant seeking an order authorizing further disclosure of a presentence report maintained by the probation office shall file a written petition to the Court establishing with particularity the need for specific information in the records. Requests for disclosure made to probation officers are improper. The probation officer may seek instruction from the Court with respect to a request and may direct a person seeking release of records to petition the Court. No disclosure shall be made except upon an order issued by this Court.

(c) Availability of Proposed Presentence Report. A copy of the probation officer's proposed presentence report, including the probation officer's recommendations, shall be made available to the United States Attorney's Office and to defense counsel not less than thirty-five (35) days before the date set for sentencing hearing.

(d) Objections to the Report. Defense counsel shall discuss the presentence report with the defendant. Not less than twenty-one (21) days before the date set for the sentencing hearing, counsel for defendant and the Government shall each deliver to the probation officer and exchange with each other a written statement of all objections they have to statements of material fact, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the presentence report. These objections are not and shall not become part of the Court file. After receipt of the objections, the probation officer shall conduct any further investigation and make any necessary revisions to the presentence report.

(e) Submission to the Court. Not less than fourteen (14) days before the date set for the sentencing hearing, the probation officer shall submit the presentence report, including recommendations, to the sentencing Judge and make it available to counsel for the defendant and the Government. If the presentence report has not been revised, counsel may be so notified and not given a new report.

(f) Formal Objections to Report. Not less than seven (7) days before the sentencing hearing, counsel for the defendant and the Government shall each file and serve on each other and the probation officer, a concise memorandum of all objections and facts in dispute to be resolved by the Court. This memorandum must specifically identify each item in the report which is challenged as inaccurate or untrue, must set forth the remedy sought (i.e., specified findings or the Court's agreement to disregard the disputed information), and must set forth the reason that the contested information will affect the sentencing guideline, departure or adjustment in the particular action. This requirement is not satisfied by submission of the written objections to the probation officer as set forth in (d).

(g) Limitation on Objections. Except for good cause shown, no objections may be made to the presentence report other than those previously submitted to the probation officer pursuant to (d) and those relating to information contained in the presentence report that was not contained in the proposed presentence report.

(h) Resolution of Disputes. Except with regard to objections not yet resolved, the Court may accept the presentence report as accurate. In resolving any disputes concerning the report, the Court may consider any relevant information having sufficient indicia of reliability.

(i) Sentencing Proceedings. At the time set for imposition of sentence, if there are no material items in dispute, the Court may proceed with the imposition of sentence. If any material dispute remains with respect to the presentence report, the Court shall afford the parties adequate opportunity to present arguments and information on the matter. If the Court determines that the matter cannot be resolved without an evidentiary hearing, the action may be continued for a reasonable period if necessary to enable the parties to secure the attendance of witnesses and the production of documents at the hearing.

RULE 461 (Fed. R. Crim. P. 32)

DISCLOSURE OF OTHER PROBATION RECORDS

(a) Confidential Character of Probation Records. The reports, probation supervision records, and other confidential records maintained by the probation office are confidential records of the United States District Court. Such records shall be disclosed only to the Court, unless further disclosure is authorized by order of the Court.

(b) Requests for Disclosure. Any applicant seeking an order authorizing further disclosure of confidential records maintained by the probation office shall file a written petition to the Court establishing with particularity the need for specific information in the records. Requests for disclosure made to probation officers are improper. The probation officer may seek instruction from the Court with respect to a request and may direct the person seeking access to documents to petition the Court in writing for release of the records or documents. No disclosure shall be made except upon an order issued by this Court.

RULE 480 (Fed. R. Crim. P. 35)

RULE 35 MOTIONS - SERVICE

Motions and supporting documents filed pursuant to Fed. R. Crim. P. 35 shall be served on opposing counsel and the United States Probation Department. See L.R. 135(c). In calendaring and responding to a motion under Fed. R. Crim. P. 35, counsel shall specify whether oral argument is desired. Failure to request oral argument shall result in submission on the written record.

ADMIRALTY AND IN REM RULES

RULE 500

TITLE AND SCOPE OF RULES

(a) Title. These are the Local Admiralty and In Rem Rules for the United States District Court for the Eastern District of California.

(b) Applicability. These Local Admiralty and In Rem Rules apply to maritime and admiralty proceedings as defined in Supplemental Rule A of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions (Supplemental Rules) and to all in rem and quasi in rem proceedings referenced in Supplemental Rule A pending or filed in the United States District Court for the Eastern District of California. Local Rules 100 through 399 also apply to all civil actions, including maritime and admiralty proceedings and in rem proceedings. See L.R. 100(b).

(c) Inconsistency with Other Local Rules. If a general, civil, criminal, or magistrate judges' Local Rule is inconsistent with one of these Local Rules 500 through 599, these Rules shall control all proceedings within the scope of Supplemental Rule A. L.R. 151 shall have no application to proceedings governed by the Supplemental Rules and these Local Admiralty and In Rem Rules.

(d) Supplemental Rule G governs civil forfeiture actions.

RULE 501

THE UNITED STATES MARSHAL

(a) Locations. The United States Marshal for the Eastern District of California maintains permanent offices at 501 "I" Street, Sacramento, California 95814, and at the United States Courthouse, 2500 Tulare Street, Fresno, California 93721.

(b) Office Hours. The regular office hours of the Marshal at Sacramento and Fresno are from 8:00 a.m. to 4:30 p.m. each day except Saturdays, Sundays, and holidays.

(c) Emergency Telephone. In emergencies, the United States Marshal may be reached by telephone 24 hours a day at (916) 930-2030 in Sacramento and (559) 487-5600 in Fresno.

(d) Meaning of "Marshal." When used throughout these Local Admiralty and In Rem Rules, unless otherwise specified, the term "Marshal" means the United States Marshal appointed pursuant to 28 U.S.C. § 561, or a duly appointed deputy marshal, as the case may be.

RULE 510

COMPLAINTS, ALLEGATIONS AND ACCOMPANYING AFFIDAVIT

(a) Caption. Every complaint filed as a Fed. R. Civ. P. 9(h) action shall set forth "In Admiralty" following the designation of the Court, in addition to the statement, if any, contained in the body of the complaint pursuant to Fed. R. Civ. P. 9(h). If the complaint contains one or more causes of action at law, it shall set forth "At Law and In Admiralty."

(b) Mandatory Allegations. Every complaint in actions under Supplemental Rule B and C shall state the dollar amount of the debt, damages, or salvage for which the action is brought. This dollar amount shall also be stated in the process, together with a description of the nature of any other items of damage including any unliquidated items claimed, such as attorneys' fees. The defendant or claimant may post bond pursuant to Supplemental Rule E(5) based on such allegations. See L.R. 151, 523.

(c) Mandatory Allegations in Salvage Actions. In salvage actions, the complaint shall state to the extent known or the estimated dollar value of the hull, cargo, freight, and other property salved, the dollar amount claimed, and the names of the principal salvers, and shall state that the action is instituted in their behalf and in behalf of all other persons interested or associated with them.

(d) Affidavit Showing Defendant's Absence. The affidavit accompanying the complaint as required by Supplemental Rule B shall state with particularity the efforts made to obtain in personam jurisdiction over the defendant within the District. The phrase "not found within the district" in Supplemental Rule B(1) means that, in an in personam action, the defendant cannot be served with the summons and complaint as provided in Fed. R. Civ. P. 4.

RULE 512

PROCESS GENERALLY

(a) Issuance of Summons. See L.R. 210(a).

(b) Proof of Service. See L.R. 210(b).

(c) Judicial Authorization for Arrest, Attachment or Garnishment. See Supplemental Rules B(1), C(3). Unless otherwise ordered, the review of complaints and accompanying papers provided for in Supplemental Rules B(1) and C(3) is conducted in the absence of the affiant party or attorney. The plaintiff shall lodge a form of order that, upon signature by the Court, will direct the arrest, attachment or garnishment. See L.R. 137(b).

(d) Issuance of Authorization by the Clerk. Process may be issued by the Clerk only when a plaintiff or attorney certifies by affidavit filed with the Clerk that specified exigent circumstances make review by the Court impracticable, but no such process shall be issued until every effort to secure judicial review has been pursued, including conducting a hearing by telephone conference.

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

(f) Instructions to Marshal. If service of process is to be effected by the Marshal, see Supplemental Rules C(3) and E(4), the party who requires service shall state in writing that party's instructions to the Marshal on appropriate forms available from the Marshal's Office specifying information necessary to effect service. If the party does not wish the process to be served at the time of giving instructions, the party shall request that service of process be held in abeyance. In such a case, the Marshal has no responsibility to ensure that process is served at a later date absent further instruction.

(g) Seizure of Property Already in Custody of the United States. When property in the custody of an officer or employee of the United States is to be arrested or attached, the person effecting service shall deliver a copy of the complaint and warrant for arrest, order of the Court, or summons and process of attachment, to such officer or employee or, if such officer or employee is not found within the District, then to the custodian of the property within the District. The person effecting service shall notify such officer, employee, or custodian not to relinquish the property from custody until ordered to do so by the Court.

RULE 513

PROMPT HEARING FOLLOWING ARREST, ATTACHMENT OR GARNISHMENT

Whenever property is arrested, attached, or garnished, any person claiming an interest in the property shall be entitled to a prompt hearing before the Court on written notice to the party bringing the arrest, attachment, or garnishment and to all other parties who have appeared in the action. The hearing shall be noticed and scheduled as is a hearing on a request for temporary restraining order. See L.R. 231. At the hearing, the party that obtained the arrest, attachment, or garnishment shall show cause why the arrest, attachment, or garnishment order should not be vacated forthwith and other appropriate relief granted. See Supplemental Rules B(1), C(3), and E(4)(f). This Rule shall not apply to those actions excepted in Supplemental Rule E(4)(f).

RULE 520

SECURITY FOR COSTS

(a) Security for Costs in Supplemental Rule E Actions. In an action governed by Supplemental Rule E, a party may serve on all parties and file a motion for an order requiring the posting of security for costs or for an increase in the amount of security for costs previously posted. See L.R. 144, 230.

(b) Security for Costs in Supplemental Rule F Actions. The amount of the security for costs required by Supplemental Rule F(1) shall be $1000 unless a different amount is specifically set by the Court. Unless otherwise ordered by the Court, the security for costs may be combined with the security for value and interest, if such security is posted.

(c) Time of Posting Security. The $1000 security for costs required by Supplemental Rule F(1) and L.R. 520(b) shall be posted before issuance of process and service of the complaint. Any party ordered to post security for costs in a Supplemental Rule E action or additional security in an action under Supplemental Rules E or F shall do so within seven (7) days after service of the order requiring its posting, unless a different time is specified by the Court.

(d) Election to Make Deposit in Lieu of Bond. See L.R. 150, 151.

(e) Sanction for Failure to Post Security. A party that fails to post security as required or as ordered may not participate further in the action except to seek relief from this Rule.

RULE 521

DEPOSITS OF MARSHAL'S FEES AND EXPENSES

(a) Deposit Required Before Seizure. A party who seeks arrest, attachment, or garnishment of property in an action governed by Supplemental Rule E shall deposit with the Marshal the sum estimated by the Marshal to be sufficient to pay the fees and expenses of arresting and keeping the property for at least fourteen (14) days. The Marshal is not required to execute process of arrest, attachment, or garnishment until such deposit is made. See 28 U.S.C. § 1921.

(b) Additional Deposits Required After Seizure. A party who has caused the Marshal to arrest, attach, or garnish property shall advance additional sums from time to time as required by the Marshal to pay the fees and expenses of the Marshal until the property is released or disposed of as provided in Supplemental Rule E.

(c) Sanction for Failure to Make Deposit. Any party who fails to make a deposit when required by the Marshal may not participate further in the action except to seek relief from this Rule.

RULE 522

INTERVENORS' CLAIMS

(a) Presentation of Claims. When a vessel or other property has been arrested, attached, or garnished, and is in the custody of the Marshal or a substitute custodian, anyone other than the party obtaining the original arrest, attachment, or garnishment who has a claim against the vessel or other property shall present that claim by filing a complaint in intervention, rather than an original complaint, unless otherwise ordered by the Court.

(b) Intervenor's Arrest, Attachment, or Garnishment. Upon satisfaction of Fed. R. Civ. P. 24, the intervenor may deliver a conformed copy of the complaint in intervention to the Marshal who shall deliver it to the custodian of the vessel or other property. In such a case, the intervenor shall thereafter be subject to the rights and obligations of a party originally arresting, attaching, or garnishing the vessel or other property, and the vessel or other property shall stand arrested, attached, or garnished by the intervenor as well as by the original arresting, attaching, or garnishing party. The intervenor in such a case shall not be required to advance a security deposit to the Marshal as was required of the original arresting, attaching, or garnishing party under L.R. 521.

(c) Sharing of Marshal's Fees and Expenses. An intervenor who has delivered a conformed copy of the complaint in intervention to the Marshal shall owe a debt to the originally arresting, attaching, or garnishing party that is enforceable on motion, consisting of the intervenor's share of the Marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims on which the vessel or other property has been arrested, attached, or garnished.

(d) Intervenor's Obligation Upon Vacation of the Arrest, Attachment, or Garnishment by the Original Party. If the originally arresting, attaching, or garnishing party permits vacation of the arrest, attachment, or garnishment, an intervenor who has delivered conformed copies of a complaint in intervention to the Marshal shall bear responsibility for the fees and expenses and shall deposit the sum estimated by the Marshal to be sufficient to pay fees and expenses for ten (10) days within thirty-six (36) hours after notice from the Marshal requiring such deposit. Such notice may be given as soon as the Marshal learns that the originally arresting, attaching, or garnishing party intends to permit vacation of the arrest, attachment, or garnishment, and an intervenor's deposit received before the funds of the originally arresting, attaching, or garnishing party are exhausted will be held for use upon exhaustion of such funds. If more than one complaint in intervention has been delivered to the Marshal, the intervenors shall step into the position of the originally arresting, attaching, or garnishing party as provided herein in order of the delivery of their complaints in intervention to the Marshal. On the sharing of Marshal's fees and expenses among intervenors, see L.R. 522(c).

RULE 523

UNDERTAKINGS IN LIEU OF ARREST

If, before or after commencement of the action, all parties accept a written undertaking to respond on behalf of the vessel or other property sued in return for forgoing the arrest or stipulating to the release of the vessel or other property, the undertaking shall be filed and shall become a party in place of the vessel or other property sued and be deemed referred to under the name of the vessel or other property in any pleading, order, or judgment in the action.

RULE 530

PUBLICATION OF NOTICE OF ACTION AND ARREST

(a) Content of Notice. The notice required by Supplemental Rule C(4) shall be published once in accordance with L.R. 171. See L.R. 580. The notice shall contain the following:

(1) The court, title, and number of the action;

(2) The date of the arrest;

(3) The identity of the property arrested;

(4) The name, address, and telephone number of the attorney for the plaintiff or the plaintiff if appearing in propria persona;

(5) A statement that claims of persons entitled to possession or claiming an interest pursuant to Supplemental Rule C(6) must be filed and served on the attorney for the plaintiff or the plaintiff if appearing in propria persona in accordance with and within the time specified in Supplemental Rule C(6) following the date of publication;

(6) A statement that (i) answers to the complaint must be filed and served in accordance with and within the time specified in Supplemental Rule C(6) following the date of publication and (ii) default may be entered and condemnation ordered in the absence thereof;

(7) A statement that motions for intervention under Fed. R. Civ. P. 24 by persons claiming maritime liens or other interests shall be filed and served on the attorney for the plaintiff or the plaintiff if appearing in propria persona in accordance with and within the time specified in Supplemental Rule C(6) for filing a claim following the date of publication;

(8) The name, address, and telephone number of the Marshal; and

(9) Such other information as the Court may order.

(b) Filing of Proof of Publication. Plaintiff shall cause to be filed no later than twenty-eight (28) days after the date of publication sworn proof of publication by or on behalf of the publisher of the newspaper in which notice was published, together with a copy of the proof of publication or reproduction thereof.

RULE 540

DEFAULT IN ACTIONS IN REM

(a) Notice Required. A party seeking a default judgment in an action in rem shall show to the satisfaction of the Court that due notice of the action and arrest of the property has been given:

(1) By publication, see L.R. 530;

(2) By personal service on the person having custody of the property;

(3) If the property is in the hands of a law enforcement officer, by personal service on the person having custody before its possession by law enforcement agency or officer; and

(4) By personal service or by certified mail, return receipt requested, to every other person who has not appeared in the action and is known to have an interest in the property; provided, however, that failure to give actual notice to such other person may be excused upon a satisfactory showing of diligent efforts to give such notice without success.

(b) Notice to Persons with Recorded Interests. In providing the notice required by the foregoing (a)(3), the plaintiff shall satisfy the following requirements, provided, however, that such satisfaction shall not limit the obligation to give notice to any other persons known to have an interest.

(1) If the defendant property is a vessel documented under the laws of the United States, the party must obtain a current certificate of ownership from the United States Coast Guard and give notice to all persons named therein.

(2) If the defendant property is a vessel with an identifying number, the party must obtain information from the issuing authority and give notice to the persons named in the records of such authority.

(3) If the defendant property is of such character that there exists a registry of recorded property interests and/or security interests in the property (whether governmental or private), the party must obtain information from each such registry and give notice to the persons named in the records of each such registry.

(c) Evidence of Search for Recorded Interests. As part of the motion for default judgment, the moving party shall provide to the Court a copy of the United States Coast Guard certificate of ownership, any numbering identification obtained from any issuing authority, and/or the information obtained from the private and/or

governmental registries.

(d) Motion for Default Judgment. Upon a showing that no one has appeared to claim the property and give security, and that due notice of the action and arrest of the property has been given, a party may move for judgment at any time after the time for answer has expired. See L.R. 302(c)(19). If no one has appeared, the party may have an ex parte hearing before the Court and judgment without further notice. If any person has appeared and does not join in the motion for judgment, such person shall be given seven (7) days notice of the motion; provided, however, that the Court can extend or shorten the time of the required notice on good cause. See L.R. 144.

RULE 550

CUSTODY OF PROPERTY

(a) Safekeeping of Property When Seized. When a vessel, cargo, or other property is seized, the Marshal shall take custody and arrange for adequate and necessary security for its safekeeping which may include, in the Marshal's discretion, the placing of keepers on or near the vessel. The Court may order the appointment of a facility or person as substitute custodian of the property in lieu of the Marshal on motion of any party or on its own motion. See L.R. 550(c).

(b) Cargo Handling, Repairs and Movement of the Vessel. Upon arrest or attachment of the vessel, no cargo handling, repairs, or movement of the vessel may be made without a court order. The applicant for such an order shall give notice to the Marshal and to all parties who have appeared before the application for such order, and the certificate of service of such notice shall be filed before application is made to the Court. For good cause shown, and upon proof of adequate insurance coverage to indemnify for any liability, the Court may direct the Marshal to allow the conduct of cargo handling, repairs, movement of the vessel, or other operations on a vessel under arrest or attachment. Neither the United States nor the Marshal shall be liable for the consequence of the undertaking or continuation of any such activities during the arrest or attachment.

(c) Motion for Change in Arrangements. After a vessel, cargo, or other property has been taken into custody by the Marshal, any party then appearing may move the Court to dispense with keepers or to remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian, or for similar relief. The applicant for such an order shall obtain a hearing date from the courtroom deputy clerk for the assigned Judge or Magistrate Judge and thereupon give notice of the motion to the Marshal and to all parties who have appeared. The moving papers shall establish the suitability of the substitute custodian and the existence of adequate insurance. At the hearing of the motion, the Court will determine whether such a facility or substitute custodian is capable of and will safely keep the vessel, cargo, or other property. No hearing date need be obtained for an order to be made concurrently with the order authorizing the Marshal to take the vessel, cargo, or other property into custody if the moving papers for that authority and for the substitute custodian are filed concurrently, satisfy the requirements stated herein and expressly declare in the caption that no hearing is requested.

(d) Insurance. The Marshal may order insurance to protect the Marshal, any deputy Marshal, keepers and substitute custodians from liability assumed in arresting and holding the vessel, cargo, or other property and performing whatever services are undertaken to protect the vessel, cargo, or other property and maintain the Court's custody. The party applying for arrest of the vessel, cargo, or other property shall

reimburse the Marshal for premiums paid for the insurance and shall be an additional insured on the policy. The party applying for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian or for other relief that will require an additional premium shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in the custody of the Court.

(e) Claims by Suppliers for Payment of Charges. A person who furnishes services or supplies to a vessel, cargo, or other property in custody who has not been paid and claims the right to payment as an expense of administration shall submit an invoice to the Court for approval in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties appearing in the action. The Court may consider the claims individually or schedule a single hearing for all claims against the property.

RULE 560

APPRAISAL

(a) Order for Appraisal. An order for appraisal of property so that security may be given or altered will be entered by the Clerk at the written request of any interested party. If the parties do not agree in writing on the selection of the appraiser, the Court will appoint the appraiser.

(b) Appraiser's Oath. The appraiser shall be sworn to the faithful and impartial discharge of duties before any federal or state officer authorized by law to administer oaths, and a copy of the oath shall be filed.

(c) Appraisal. The appraiser shall give two (2) court days personal notice or one (1) day other notice plus the three (3) days for service of notice of the time and place of making the appraisal to the parties who have appeared in the action. The appraiser shall file the appraisal in writing as soon as it is completed and shall serve it on all parties. See L.R. 135.

(d) Cost of Appraisal. Absent stipulation of the parties or order of the Court to the contrary, the appraiser shall be paid by the party requesting the appraisal. Appraiser's fees shall thereafter be taxed as the Court orders.

RULE 570

SALE OF PROPERTY

(a) Notice. Unless otherwise ordered upon a showing of urgency, impracticality or other good cause, or as provided by law, notice of the sale of property in an action in rem shall be published daily in accordance with L.R. 171 for a period of four (4) days before the date of sale. See L.R. 580.

(b) Payment of Bid. The person whose bid is accepted shall immediately pay the Marshal for deposit into the Court's registry either the full purchase price if the bid is no more than $1000 or a deposit of $1000 or 10 percent of the bid, whichever is greater, if the bid exceeds $1000. The bidder shall pay the balance of the purchase price within three (3) court days following the sale. If an objection to the sale is filed within that time, the bidder is excused from paying the balance of the purchase price until three (3) court days after the sale is confirmed. Payments to the Marshal shall be in cash, certified check or cashier's check. The Court may specify different terms in any order of sale.

(c) Penalty for Late Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed under these Rules or a different time specified by the Court shall also pay the Marshal the costs of keeping the property from the date payment of the balance was due to the date the bidder pays the balance and takes delivery of the property. Unless otherwise ordered by the Court, the Marshal shall refuse to release the property until this additional charge is paid.

(d) Penalty for Default in Payment of Balance. A successful bidder who fails to pay the balance of the bid within the time allowed is in default, and the Court may at any time thereafter order a sale to the second highest bidder or order a new sale as appropriate. Any sum deposited by the bidder in default shall be forfeited and applied to pay any additional costs incurred by the Marshal by reason of the forfeiture and default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the Court, and the Court shall be given notice of its existence whenever the registry deposits are reviewed.

(e) Report of Sale by the Marshal. At the conclusion of the sale and no later than one (1) court day before payment of the balance is due, the Marshal shall forthwith file a report of the fact of sale, the date thereof, the price obtained, the name and address of the successful bidder, and any other pertinent information.

(f) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing an objection within three (3) days following the sale, serving the objection on all parties, the successful bidder and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at

least six (6) court days. Service shall be in person or by an appropriate overnight delivery method calculated to ensure delivery to the recipient within thirty (30) hours of transmittal. Payment of the required deposit to the Marshal shall be in cash, certified check, or cashier's check. The written objection must be endorsed by the Marshal with an acknowledgment of receipt before filing.

(g) Confirmation of Sale Without Motion. A sale shall stand confirmed as of course without any affirmative action by the Court unless (1) objection is filed within the time allowed under these Rules, or (2) the purchaser is in default for failure to pay the balance due the Marshal. The purchaser in a sale so confirmed as of course shall present a form of order reflecting the confirmation of the sale for entry by the Clerk on or after the fifth day following the sale. The Marshal shall transfer title to the purchaser upon presentation of such order signed by the Clerk.

(h) Confirmation of Sale on Motion. If an objection has been filed or if the successful bidder is in default, the Marshal, the objector, the successful bidder, or a party may move the Court for relief. The motion will be heard summarily by the Court. The person seeking a hearing on such motion shall apply to the Court for an order fixing the date and time of the hearing and directing the manner of giving notice and shall give notice of the motion to the Marshal, all parties, the successful bidder and the objector. The Court may confirm the sale, order a new sale, or grant such other relief as justice requires.

(i) Disposition of Deposits.

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

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

(j) Title to Property Sold. Failure of a party to give the required notice of the action and arrest of the vessel, cargo or other property or required notice of the sale may afford grounds for objecting to the sale but does not affect the title of a bona fide purchaser of the property without notice of the failure.

RULE 580

PUBLICATION OF NOTICES

Every notice required to be published in a newspaper by any statute of the United States or any Rule applying to admiralty and maritime proceedings, including the Supplemental Rules for Certain Admiralty and Maritime Claims and these Local Rules, shall be published in accordance with L.R. 171.

RULE 590

RATE OF PREJUDGMENT INTEREST ALLOWED

Unless the Court directs otherwise, an award of prejudgment interest shall be computed at the rate authorized in 28 U.S.C. § 1961, providing for interest on judgments.

APPENDIX A

AUTOMATED CASE ASSIGNMENT PLAN

(a) Purpose. This Assignment Plan is adopted to set forth a method whereby actions are assigned in this District, in accordance with the provisions of 28 U.S.C. § 137. Civil and criminal actions shall be assigned at random by means of an Automated Case Assignment System. All proceedings hereunder shall be under the supervision of the Clerk.

(b) Assignment of Civil Actions. Upon the filing of the initial complaint or other document first filed in a civil action, the Clerk shall assign a case number which shall be consecutive and prefixed by a the number "1:" denoting Fresno or "2:" denoting Sacramento, a filing year (the last two digits of the year in which the action is filed), followed by a "-cv-" and the next available case number available. Example: 1:05-cv-00205.

(c) Assignment of Criminal Actions. Upon the filing of the indictment, information, or other first document in a criminal action, the Clerk shall mark as provided in (b) except that "-cr-" will be used instead of "-cv-."

(d) Assignment of Miscellaneous Actions. Upon the filing of the first document in any action other than a civil action or a criminal action, the Clerk shall mark it as provided in (b)(1) and (2), except that "mc" will be used instead of "cv."

(e) Assignment Procedure. The Clerk shall assign actions to a Judge sitting in Sacramento or Fresno, where the action is filed, in the following manner:

(1) There shall be a separate category for each of the following types of actions:

A. Fresno Civil:

1. Frs DJ Civ (Civil)
2. Frs DJ Civ (Death Penalty)
3. Frs DJ Civ (Prisoner Civil Rights)
4. Frs DJ Civ (Prisoner Habeas Corpus)
5. Frs MJ Civ (Civil)
6. Frs MJ Civ (Prisoner Civil Rights)
7. Frs MJ Civ (Prisoner Habeas Corpus)
8. Frs MJ Civ (Social Security)
9. Frs MJ FP (In Forma Pauperis)
10. Frs MJ MC (Miscellaneous)

B. Fresno Criminal:

1. Frs DJ Cr (01 Defendant)
2. Frs DJ Cr (02-04 Defendants)
3. Frs DJ Cr (05-07 Defendants)
4. Frs DJ Cr (8+ Defendants)
5. Frs DJ Mc (Pre-Indictment Criminal)
5. Frs MJ (Mag Case/Petty Offense)
6. Frs MJ Cr (Misdemeanor)
7. Frs MJ SW (Search Warrant)

C. Sacramento Civil:

1. Sac All St (Settlement Conf)
2. Sac DJ (Emergency / TRO)
3. Sac DJ Civ (Bankruptcy)
4. Sac DJ Civ (Civil Rights)
5. Sac DJ Civ (Contract)
6. Sac DJ Civ (Death Penalty)
7. Sac DJ Civ (Federal Tax Suits)
8. Sac DJ Civ (Forfeiture/Penalty)
9. Sac DJ Civ (Labor)
10. Sac DJ Civ (Other Statutes)
11. Sac DJ Civ (Personal Injury)
12. Sac DJ Civ (Personal Property)
13. Sac DJ Civ (Prisoner Petitions)
14. Sac DJ Civ (Pro Se)
15. Sac DJ Civ (Property Rights)
16. Sac DJ Civ (Real Property)
17. Sac DJ Civ (Social Security)
18. Sac DJ Civ (Unassigned Presider)
19. Sac DJ Mc (Miscellaneous)
20. Sac MJ Civ (Civil)
21. Sac MJ Civ (Death Penalty)
22. Sac MJ Civ (Prisoner Civil Rights)
23. Sac MJ Civ (Prisoner Habeas Corpus)
24. Sac MJ Civ (Pro Se)
25. Sac MJ Civ (Social Security)
26. Sac MJ Mc (Miscellaneous)
27. Sac MJ St (Settlement Conference)

D. Sacramento Criminal:

1. Sac DJ Cr (01-05 Defendants)
2. Sac DJ Cr (06-10 Defendants)
3. Sac DJ Cr (11+ Defendants)
4. Sac DJ Cr (Appeals from MJ)

5. Sac DJ SW (Wire Tap)
6. Sac MJ (Mag Case/Petty Offense)
7. Sac MJ Cr (Misdemeanor)
8. Sac MJ SW (Search Warrant)

E. Bakersfield Criminal:

1. Bak MJ (Mag Case/Petty Offense)
2. Bak MJ Cr (Misdemeanor)

F. Redding Criminal:

1. Red MJ (Mag Case/Petty Offense)
2. Red MJ Cr (Misdemeanor)
3. Red MJ SW (Search Warrant)

G. Yosemite Criminal:

1. Yos MJ (Mag Case/Petty Offense)
2. Yos MJ Cr (Misdemeanor)

(2) Each category or "deck" shall contain a number of "cards" signifying the name of each active Judge. The number of cards for each Judge shall be equal, except as may from time to time be determined by the Court.

(3) The "deck of cards" shall be automatically shuffled by the computer at the time the categories are filled and each time an assignment is made, so that the sequence of the Judge's names shall be random and secret.

(4) When the initial document is presented for filing and has been marked pursuant to (b), (c), or (d), the Clerk shall draw a Judge from the applicable category in the Automated Case Assignment System on the computer.

(5) Thereafter the Clerk shall proceed by assigning the initials of the assigned Judge and Magistrate Judge, immediately after the case number placed on the document pursuant to (b), (c), and (d). All subsequent papers filed in the action shall bear the designation "1:" or "2:" followed by the year, case type "-cv-," "-cr-," or "-mc-" and the case number, followed by the initials of the assigned Judge or Judge and Magistrate Judge, e.g., **"1:05-cr-00200-ABC" or "2:05-cv-0700-ABC-DEF."**

(6) The assignment of each action shall be completed as each initial document is presented for filing and before the processing of the next action is begun.

(7) In emergency situations (in Sacramento) when counsel deems prompt action necessary and if the assigned Judge is absent or otherwise unable to hear the matter in time, the Clerk shall draw the name of another Judge in the manner hereinabove described from the category "Emergency Applications." The matter shall

be returned to the calendar of the unavailable assigned Judge upon completion of the hearing on the emergency application unless the matter is transferred pursuant to these Rules.

(f) Reassignments.

No action, once assigned, shall be reassigned to any other Judge except as hereinafter provided:

(1) Actions may be reassigned between Judges on order signed by the transferring and accepting Judges as approved by the Court.

(2) Actions may be assigned and reassigned by order of the Court to effectuate the related case rule. See L.R. 123.

(3) In the event the Judge to whom an action has been assigned files therein a statement of disqualification or is disqualified, the Court may make an order directing the Clerk to draw again for reassignment of the action to another Judge and to replace the name of the disqualified Judge in the Automated Case Assignment System.

(4) With the approval of the Court en banc, the Chief Judge may make such other assignments, reassignments or related orders as are conducive to the equitable division and just, efficient and economical determination of the business of the Court.

(5) At the time of each reassignment the Clerk shall make such appropriate adjustment in the Automated Case Assignment System as is necessary to balance the equal number of "cards" in each assignment category.

(g) Visiting Judges. Whenever a Judge has been assigned to serve as a visiting Judge in this Court, the Chief Judge shall, before the arrival of such Judge, make an order transferring to the visiting Judge from the other Judges those actions designated by them as available for transfer. Selection of actions for this purpose shall be made upon a basis equitable among all the Judges and after consultation with them.

(h) Review of Assignments. A Judge may request the Chief Judge to review an assignment or reassignment. If the Chief Judge requests such review, the Chief Judge shall designate another Judge to serve on the hearing of such request. A Judge affected by a ruling may have the ruling reviewed by the Court en banc.

(i) Assignment Reports.

(1) The Clerk shall maintain assignments in the Automated Case Assignment System which shall contain an account of all actions assigned to each of the Judges or to any visiting Judge and all reassignments among Judges.

(2) At the end of each month, the Clerk will prepare from the foregoing records for the Chief Judge (copy to each Judge) a report showing the number of actions assigned to and pending before each Judge and such other information as the Chief Judge may direct.

(j) Social Security Actions. Notwithstanding any other provision in Appendix A, Social Security individual benefits review actions brought in Sacramento under 42 U.S.C. §§ 405(g), 1383(c)(3), and/or 1395ff, shall be assigned as follows:

(1) When initially assigned, the action shall be randomly assigned to a Magistrate Judge only. The parties shall forthwith be informed of their right to consent to proceed before a Magistrate Judge pursuant to 28 U.S.C. § 636(c). Such notice shall be handed or transmitted by the Clerk to the plaintiff at the time the action is filed, and the plaintiff shall transmit the notice to all other parties as an attachment to copies of the complaint and summons, when served. The form entitled Consent to Assignment or Request for Reassignment shall be returned to the Clerk within ninety (90) days from the date the action was filed.

(2) If all executed Consent to Assignment or Request for Reassignment forms have not been returned within ninety (90) days, parties will be ordered to show cause why the forms have not been returned to the Clerk.

(3) If any party requests reassignment to a United States District Judge, the Clerk will randomly assign a District Judge to hear the action. In the absence of a future consent by all parties, the action shall be adjudicated pursuant to 28 U.S.C. § 636(b)(1)(A) and (b)(3); L.R. 302(c)(15).

(k) Prisoner Civil Rights and Habeas Corpus Actions. Notwithstanding any other provision in Appendix A, actions encompassed by L.R. 302(c)(17) (generally actions brought by a person in state custody for habeas corpus relief or whether in state or federal custody pursuant to 42 U.S.C. § 1981 et seq. or its federal *Bivens* equivalent) shall be assigned as follows:

(1) When initially assigned, the action shall be randomly assigned to a Magistrate Judge only. The parties shall be given notice of their right to proceed before a Magistrate Judge pursuant to 28 U.S.C. § 636(c). Such notice shall be transmitted by the Clerk to the plaintiff/petitioner as soon as practicable after the filing of the complaint. Respondents in habeas corpus actions shall be given notice at the time the petition is transmitted to the appropriate government attorney. Defendants in civil rights actions shall be given notice when an order to serve defendants is issued. Notice shall include a form entitled “Consent to Assignment or Request for Reassignment,” and the form shall be returned no later than thirty (30) days after receipt of the consent notice referenced above.

(2) If executed Consent to Assignment or Request for Reassignment forms have not been returned as required by (1) above, the parties may be ordered to show cause why the forms have not been returned to the Clerk.

(3) If any party requests reassignment to a United States District Judge, the Clerk shall randomly assign a District Judge as presiding judge. In the absence of a future consent by all parties, the action shall be adjudicated pursuant to 28 U.S.C. § 636(b)(1)(A) and (b)(3); L.R. 302(c)(17). Actions in which all parties have consented pursuant to 28 U.S.C. § 636(c) shall remained assigned to the Magistrate Judge only.

(4) In the event not all named parties have appeared but all who have appeared have consented, the Magistrate Judge shall act in the action pursuant to 28 U.S.C. § 636(c), and shall so continue to act until the action is reassigned to a District Judge as required by this subsection or otherwise applicable law.

(I) Direct Assignments. Notwithstanding any other provision in Appendix A, the Judges of this Court have agreed that the following actions shall be directly assigned as follows.

(1) Criminal actions arising from a wire tap search warrant shall be directly assigned to the Judge who was assigned the wire tap search warrant.

(2) Civil forfeiture actions arising from a criminal action shall be directly assigned to the Judge who was assigned to the criminal action. If the civil forfeiture action is filed prior to the criminal action, the Judge initially assigned the civil forfeiture action shall be directly assigned to the criminal action.

(3) All civil actions initiated by non-prisoner plaintiffs from Butte, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, and Trinity counties shall be directly assigned to the Magistrate Judge sitting in Redding. The direct assignment of these cases would be for those purposes anticipated by these Rules, including resolution of discovery disputes, conducting of settlement conferences, and holding jury trials with consent of the parties.

(4) All civil actions where defendants reside in Inyo and Kern counties shall be directly assigned to the Magistrate Judge sitting in Bakersfield. The direct assignment of these cases would be for those purposes anticipated by these Rules including resolution of discovery disputes, conducting of settlement conferences, and holding jury trials with consent of the parties.

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