LR 7.3 TELEPHONIC HEARINGS

(a) General Rule; Form of Requests; Arrangements. The court may allow a telephonic hearing for any pretrial matter.

(1) Form of request. A party seeking a telephonic hearing must request the hearing by filing and serving a letter requesting a telephonic hearing and contacting the judge's courtroom deputy after the letter is filed to coordinate the request. This rule authorizes the party to file this letter by ECF.

(2) Arrangements. Unless the court directs otherwise, the requesting party must arrange the logistics of the hearing and must communicate the specific arrangements to all parties before the hearing.

(3) Transcription. If any party intends to request that the telephonic hearing be transcribed, that party must inform the judge's courtroom deputy before the hearing.

(b) Hearings Without Written Notice. When deposition-related issues can and must be immediately resolved to avoid manifest injustice, the court may hold a telephonic hearing without written notice. A party may request such a hearing only in exigent circumstances. If, in such a hearing, a party or its attorney takes a position wholly unsupported by legal authority, the court may impose the sanctions allowed under Fed. R. Civ. P. 37(b).

[Adopted effective November 1, 1996; amended __, 2013]

2013 Advisory Committee's Note to LR 7.3

The language of LR 7.3 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Subsection (a) has been revised to clarify that a party must request a telephonic hearing by filing a letter in ECF and follow up that request by contacting the judge's courtroom deputy. Subsection (a)(3) was added to require that parties inform the judge's courtroom deputy if they intend to have the telephonic hearing transcribed. Telephonic hearings for certain nondispositive motions are recorded at the judge's discretion.

Former subsection (b), which related to requesting a transcript of a telephonic hearing, was deleted as unnecessary with the addition of the language in (a)(3).

1996 Advisory Committee's Note to LR 7.3

In 1993, the Civil Justice Reform Act Advisory Group recommended the use of cost-efficient measures to reduce the expense of civil pretrial proceedings, including increased use of telephonic appearances. The rule on telephonic hearings is based on strong competing interests, and the effort to appropriately balance those interests. On the one hand, the rule reflects the interest in controlling the

costs and burdens associated with multiple court appearances, and the economies associated with hearings that do not require personal appearances.

On the other hand, the Court's time is a valuable resource which is carefully scheduled. It is in the interests of justice that previously scheduled matters not be disrupted by spontaneous hearing requests, and that parties and counsel previously scheduled to be in Court be allowed the Court's undivided attention. For that reason, the rule provides for spontaneous telephonic hearings only in exigent circumstances when manifest unfairness would otherwise occur. Each judicial officer retains the discretion whether to entertain spontaneous telephonic hearings on a case-by-case basis.

LR 9.1 SOCIAL SECURITY NUMBER IN SOCIAL SECURITY CASES

(a) A plaintiff suing the Commissioner of Social Security under 42 U.S.C. § 405(g) must provide, on a separate paper attached to the complaint, the social security number of the worker whose wage record forms the basis of the benefit application underlying the suit. The separate paper containing the worker's social security number must also be served, along with the complaint, on the Commissioner, and the complaint must state that the separate paper was served on the Commissioner. But the complaint will not be dismissed for failure to comply with this rule.

(b) The clerk must file the separate paper containing the worker's social security number under seal.

[Adopted effective February 1, 1991; amended September 24, 2009; amended ___, 2013]

2013 Advisory Committee's Note to LR 9.1

The language of LR 9.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

A new provision, subsection (b), has been added to clarify that the required paper containing the worker's social security number will be filed under seal.

1991 Advisory Committee's Note to LR 9.1

See LR 7.2 for motion practice in Social Security cases.

LR12.1 CRIMINAL DISCOVERY AND PRETRIAL MOTIONS

(a) Discovery.

(1) Unless the court orders otherwise, within 14 days after the arraignment order or scheduling order is entered, the government must disclose or make available for inspection all Fed. R. Crim. P. 16(a) materials and any evidence that may be subject to a motion to suppress evidence under Fed. R. Crim. P. 12.

(2) A defendant who accepts the materials or evidence disclosed or made available by the government under LR 12.1(a)(1) must provide

reciprocal discovery to the government under Fed. R. Crim. P. 16(b) within 14 days after accepting the government's materials or evidence.

(b) Meet-and-Confer Requirement.

(1) Conference. Before filing a motion under Fed. R. Crim. P. 12, the moving party must meet and confer with the opposing party in a good-faith effort to resolve the issues raised by the motion. The moving and opposing parties need not meet in person.

(2) Meet-and-Confer Statement. A moving party must include a meet-and-confer statement in the motion that it relates to. The statement need not be filed separately. The statement must:

(A) certify that the moving party met and conferred with opposing party; and

(B) state the outcome of the conference.

(c) Pretrial Motions.

(1) Moving Party.

(A) Time limits. Unless the court orders otherwise, a motion under Fed. R. Crim. P. 12 must be filed and served within 14 days of the date on which the government is required to make disclosures under LR 12.1(a).

(B) Motion contents. To the extent practicable, a motion filed under LR 12.1 must specify with particularity the motion's factual and legal basis and must include a statement of relevant facts then known and citations to authority.

(2) Responding Party.

(A) Time limits. Unless the Court orders otherwise, any response to a motion filed under LR 12.1 must be filed and served within 7 days after the motion is served.

(B) Content of government response. A government response must include legal argument, must specify how many witnesses the government intends to call, and must provide an estimate of the duration of the testimony.

(d) Motion Hearings. Except for good cause, a hearing on a motion filed under LR 12.1 is limited to the factual and legal issues addressed in the motion and response, and to any unanticipated issues that arise in the course of the hearing.

[Adopted effective ___, 2013]

2013 Advisory Committee's Note to LR 12.1

This rule is intended to promote early and comprehensive disclosures in criminal cases and an ongoing exchange of information between the parties, particularly as to issues that may give rise to an evidentiary hearing. This goal is furthered by the requirement that a moving party, to the extent practicable, provide a particularized factual and legal basis for any motion. With challenges to police searches, for example, it is expected that the exchange of information called for by this rule will find the moving party in a position to identify specific defects in warrants and supporting affidavits under review, specific grounds for challenging warrantless searches, and particularized bases upon which a hearing is requested under *Franks v. Delaware*, 438 U.S. 154 (1978).

The Committee recognizes that with regard to some matters traditionally addressed by defendants' pretrial motions, such as the government's obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), or the government's obligations regarding the rough notes of agents, a defendant may choose to file a pretrial motion for purposes of preserving the record even if there is no particularized dispute between the parties. The Committee does not intend this rule to prohibit that traditional practice.

LR 39.1 PREPARATION FOR TRIAL IN CIVIL CASES

(a) Trial Date. Each judge regularly places a group of civil cases on a trial calendar and sets the date that a trial will begin in one of those cases (the "trial date"). At least 21 days before the trial date, the judge must notify the parties of a case's placement on the trial calendar. Cases on the trial calendar may be tried in any order, in front of any judge.

(b) Trial-Related Documents. Unless the court orders otherwise, each party must submit or make available the following documents:

(1) Before any trial.

(A) Initial pretrial documents. At least 14 days before the trial date, each party must file and serve the following documents:

(i) Trial brief.

(ii) Exhibit list. Parties must use an exhibit-list form that is substantially the same as the exhibit-list form available from the clerk. Parties must mark each exhibit with the offering party's role (and, if necessary, the offering party's name), a unique arabic numeral identifying the exhibit, and the case number. For example:

- Pltf. 1, 08-CV-1234

- Deft. 1, 08-CV-1234
- Pltf. Smith 1, 08-CV-1234

(iii) Witness list. A party's witness list must briefly summarize each witness's expected testimony.

(iv) List of deposition testimony. A party must designate the specific parts of a deposition to be offered at trial.

(v) Motions in limine.

(B) Exhibits. At least 14 days before the trial date, the parties must make exhibits available to one another for examination and copying.

(C) Deposition objections. At least 7 days before the trial date, a party who objects to deposition testimony designated by another party for introduction at trial must file and serve a list of objections.

(2) Before a jury trial. In a jury trial, each party must also file and serve the following documents at least 14 days before the trial date:

(A) Proposed voir dire questions.

(B) Proposed jury instructions.

(i) In general. Each proposed jury instruction must be numbered, must begin on a separate page, and must identify the supporting legal authority.

(ii) Patent cases. In a case that involves a claim that arises under the patent laws, if a proposed jury instruction is based on model jury instructions that the parties agreed to use under LR 16.6(c), the proposed instruction must show how it differs from the model instruction.

(C) Proposed verdict form.

(3) Before a bench trial. In a bench trial, each party must also file and serve proposed findings of fact and conclusions of law at least 14 days before the trial date.

[Adopted effective February 1, 1991; amended November 1, 1996; amended May 17, 2004, amended February 9, 2006; amended December 1, 2009; amended ___, 2013]

2013 Advisory Committee's Note to LR 39.1

The language of LR 39.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

The provision relating to the submission of exhibit lists, now LR 39.1(b)(1)(A)(ii), has been revised to permit parties to submit their exhibit lists either on a form available from the clerk or on a form substantially the same as the clerk's form.

Former LR 39.1(c), related to sanctions for failure to comply with LR 39.1, was deleted as a needless cross-reference to LR 1.3, which applies of its own force.

2005 Advisory Committee's Note to LR 39.1(b)(2)(B)(ii)

In general. Paragraph (b)(2)(B)(ii) set outs a suggested practice in which the jury instructions of both parties relating to the scope, validity, enforcement, or unenforceability of patents is based on a single, common set of standard jury instructions. The handling of jury instructions has proven to require significant resources from both the parties and the Court. The instructions can be lengthy and detailed. In addition, the traditional process, by which the parties construct their proposed instructions in isolation from each other, presents inherent inefficiencies. It tends to cause the parties to suggest differing instructions even where they do not disagree over substance. In addition, it makes it difficult to identify the substantive points that the parties actually dispute. The problems are especially acute in cases relating to patents.

The suggestion in paragraph (b)(2)(B)(ii) addresses these problems by encouraging the parties to present their proposed suggestions as additions to or deletions from a common set of standard instructions. Under this practice, the instructions proposed by the parties will agree unless at least one party takes the affirmative step of proposing a modification of the standard language. Presumably this will occur only where the party considers the matter to be worth addressing. As a result, aspects of the instructions over which the parties do not disagree, and which the parties consider routine, will be proposed in unmodified form in such a manner as to make the lack of dispute clear. Accordingly, the areas of true disagreement will be plainly visible. In this way, the paragraph should reduce the time and cost, for both the parties and the Court, of attending to jury instructions.

Various other districts have promulgated local rules that require or encourage the parties' proposed instructions to be related to a common set of standard instructions. The suggestion in paragraph (b)(2)(B)(ii) is similar to the more lenient of these rules.

Two-stage procedure; default standard instructions. Paragraph (b)(2)(B)(ii) operates in connection with paragraph (c) of Local Rule 16.6. Under the two paragraphs, the parties are to consult regarding the selection of a particular set of pattern jury instructions as part of the final pretrial conference. The Rule contemplates that the parties will, in most cases, be able to agree on a particular set of pattern jury instructions. In the event that they are unable to agree, however, the parties should expect that the Court may, on its own initiative, impose a set of common instructions on them.

Scope of requirement; included cases vs. included instructions. The suggestion in paragraph (b)(2)(B)(ii), and the related requirement to confer under paragraph (c) of Local Rule 16.6, are intended to apply to cases relatively broadly. Cases that are included under the Rule are any that involve a claim or defense relating to patents. This includes, but is not limited to, cases that include claims for patent infringement and/or declarations for patent non-infringement or invalidity. It also includes cases in which the claims may not "arise under" the law of patents strictly, but in which the claim or defense draws upon or involves a patent more tangentially. Examples of this latter type of case include, for example, claims for breach of contract, where the contract terms at issue refer to patents or patentable subject

matter, or claims for violation of antitrust law where the accused conduct involves the use of a patent or patent rights.

At the same time, the suggestion in paragraph (b)(2)(B)(ii) actually to submit instructions in terms of additions and/or deletions from a standard text is narrower. It applies only to those instructions, in an included case, that relate to the scope, validity, enforcement, or unenforceability of a patent. This is less than all the issues that may exist in an included case, and it is contemplated that, under the usual circumstances, only some of the instructions in an included case will be of the type that the Rule suggests be presented as additions and/or deletions. Instructions not included in the suggestion can be presented in any acceptable manner.

Freedom to propose particular instructions; consistency with Fed. R. Civ. P. 51. Under the practice suggested in paragraph (b)(2)(B)(ii), all parties retain the freedom to propose whatever instructions they choose. The practice does not restrict the substance of what the parties must propose; rather, it addresses only the form. The paragraph contemplates that parties who disagree with a particular standard instruction have the freedom to alter it if necessary to lay out the text of the instruction that they wish to propose. In this way, paragraph (b)(2)(B)(ii) is fully consistent with the parties' general freedom to present jury instructions, as set out for example in Fed. R. Civ. P. 51.

LR 39.2 CONDUCT OF TRIALS AND HEARINGS

(a) Addressing the Court and Examining Witnesses.

(1) When addressing the court, counsel must stand and speak clearly and audibly from the counsel table or the lectern. Counsel must not approach the bench for private communications except at the judge's request or with the judge's permission.

(2) Ordinarily, counsel must examine a witness from the lectern. But counsel may, if necessary, approach the witness or the court reporter's table to present or examine an exhibit.

(3) Unless the court orders otherwise, only one attorney for each party may examine a witness or present argument to the court with respect to a particular topic.

(b) Examining Jurors.

(1) In general. Unless the court orders otherwise, the court will conduct voir dire examination of jurors. A party may submit proposed voir dire questions to the court.

(2) Peremptory challenges.

(A) When exercised. No party may exercise a peremptory challenge until a full panel has been called, sworn, and qualified.

(B) Ordinary civil cases. In an ordinary civil case, the defendant and plaintiff will take turns — in that order — exercising their peremptory challenges by striking one juror each until each party has exhausted or waived its peremptory challenges.

(C) Civil cases with third-party defendants. In a civil case involving a third-party defendant, the defendant, the third-party defendant, and the plaintiff will take turns — in that order — by striking one juror each until each party has exhausted or waived its peremptory challenges.

(D) Criminal cases. In a normal criminal case with a panel of 28 jurors, the parties will exercise peremptory challenges as follows:

- 3 by defendant;
- 2 by the government;
- 3 by defendant;
- 2 by the government;
- 2 by defendant;
- 1 by the government;
- 2 by defendant; and
- 1 by the government.

(c) Opening Statements and Final Arguments

(1) Opening statements.

(A) Civil cases. After a jury has been selected and before evidence is presented, a party may make an opening statement that summarizes generally what the party expects to prove. If the party with the burden of proof wishes to make an opening statement, that party makes the first opening statement. Unless the court orders otherwise, a party may not make an opening statement after evidence has been presented.

(B) Criminal cases. The defendant in a criminal case may make an opening statement either:

(i) after the jury has been selected and before any evidence is presented; or

(ii) after the prosecution rests.

(2) Final arguments.

(A) In general. Unless the court orders otherwise, a final argument must not exceed one hour

(B) Civil cases. Each party may make a final argument. The party without the burden of proof on a claim makes its final argument first, with no opportunity for rebuttal.

(C) Criminal cases. The government makes its final argument first. The defendant makes his or her final argument next. The government may make a brief rebuttal, to which the defendant may not respond.

[Adopted effective February 1, 1991; amended ___, 2013]

2013 Advisory Committee's Note to LR 39.2

The language of LR 39.2 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

The title of the rule has been revised to eliminate an inconsistency between the previous rule's title and its text. Specifically, former LR 39.2(a)(3) referred to "the presentation of a motion or other matter," which would seem to refer to hearings other than trials, but the rule's title was "Conduct of Trials." The rule's new title clarifies that LR 39.2's non-trial-specific provisions apply to hearings as well as trials.

LR 40.1 INDIVIDUAL CALENDAR SYSTEM

(a) Assignment of Cases.

(1) In general. When a case or matter is filed, the clerk must assign it to a specific judge by a method of random allocation approved by the court. Unless the assigned judge orders otherwise, that judge will preside over the case until it is finally determined.

(2) Requests for immediate relief. When a party requests immediate relief such as an order to show cause, a temporary restraining order, or a similar order, the request will ordinarily go to the judge assigned in accordance with LR 40.1(a)(1). But if the assigned judge is unavailable, the request will go to a judge designated by the assigned judge to review such requests.

(b) Scheduling. Each judge independently schedules all matters.

[Adopted effective February 1, 1991; amended ___, 2013]

2013 Advisory Committee's Note to LR 40.1

The language of LR 40.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

LR 40.1(b) has been revised to reflect the court's current practice of allowing each judge to schedule matters independently. Former LR 40.1(c) was deleted as a needless cross-reference to LR 6.1, which applies of its own force.

1991 Advisory Committee's Note to LR 40.1

LR 40.1 is the same as 1987 Local Rule 2, except that, to conform with the uniform numbering system, part (C) of 1987 Local Rule 2, dealing with continuance of cases, was re-numbered as LR 6.1.

This rule is not intended to modify the procedures for recusal or the reassignment of related cases. The random allocation order is on file with the Clerk of Court and is available to counsel.

LR 47.2 CONTACTS WITH JURORS

(a) General Rule. Unless the court orders otherwise, a party and anyone acting for a party must not directly or indirectly contact a juror until the court has discharged the juror from service.

(b) Law Enforcement Exception. In extraordinary circumstances involving a jury-tampering investigation or related criminal investigation, federal law enforcement authorities may contact undischarged jurors without prior court approval. The government must notify the court as soon as possible after such contact.

[Adopted effective February 1, 1991; amended ___, 2013]

2013 Advisory Committee's Note to LR 47.2

The language of LR 47.2 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

LR 54.3 COSTS AND ATTORNEY'S FEES

(a) Under EAJA. A party must file and serve an application for fees under the Equal Access to Justice Act within 30 days of final judgment as that term is defined in 28 U.S.C. § 2412(d)(2)(G).

(b) Under Rule 54(d)(2). When a party timely files and serves a motion for attorney's fees and related nontaxable expenses under Fed. R. Civ. P. 54(d)(2), the court must issue a briefing schedule. A party who seeks to be excused for failing to comply with the briefing schedule must show good cause.

(c) Under Rule 54(d)(1). If a party seeks costs under Fed. R. Civ. P. 54(d)(1):

(1) Bill of costs.

(A) Within 30 days after judgment is entered, a party seeking costs must file and serve a verified bill of costs using a form available from the clerk.

(B) Within 14 days after being served with the bill of costs, the opposing party may file and serve objections.

(C) Within 7 days after being served with any objections, the party seeking costs may file and serve a response.

(2) Taxing of costs by the clerk. Unless the court directs otherwise, the clerk will tax costs after the bill of costs, any objections, and any response have been filed and served in accordance with LR 54.3(c)(1).

(3) Review of clerk's action.

(A) Within 14 days after the clerk taxes costs, a party may file and serve a motion and supporting documents for review of the clerk's action.

(B) Within 14 days after being served with the motion for review, a party may file and serve a response.

(C) Unless the court orders otherwise, a party must not file a reply brief.

(d) Under Fed. R. App. P. 39.

(1) At the request of the circuit clerk under Fed. R. App. P. 39(d), the clerk must promptly add the statement of costs on appeal (or any amendment of that statement) to the mandate of the court of appeals.

(2) A party that seeks costs taxable under Fed. R. App. P. 39(e) must file a verified bill of costs (or amended bill of costs) within 14 days after the court of appeals issues the mandate. The procedures described in LR 54.3(c) — except the deadline for filing the initial bill of costs found in LR 54.3(c)(1)(A) — govern a bill of costs under this subsection.

[Adopted effective February 1, 1991; amended November 1, 1996; amended January 3, 2000; amended May 17, 2004; amended December 1, 2009; amended July 23, 2012; amended ___, 2013]

2013 Advisory Committee's Note to LR 54.3

The language of LR 54.3 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Subsection (b) has been revised to eliminate a filing deadline that was inconsistent with Fed. R. Civ. P. 54(d)(2)(B). Accordingly, the timeliness of a motion for attorney's fees and related nontaxable expenses depends on sources of law outside of LR 54.3(b), and LR 54.3(b) relates only to briefing schedules for such motions.

Former LR 54.3(c)(5), which specified that filing a bill of costs does not affect the appealability of a final judgment, has been deleted as unnecessary. When and whether a final judgment is appealable is the type of legal issue that is not subject to a court's local rules.

For organizational purposes, former subsection (c)(6) is now designated as subsection (d). New subsection (d)(2) (formerly part of subsection (c)(6)) relating to appellate costs taxable in the district court under Fed. R. App. P. 39(e) has been revised to clarify that — as with an ordinary bill of costs under LR 54.3(c) — a party must file a "verified" bill of costs, as required by 28 U.S.C. § 1924.

2012 Advisory Committee's Note to LR 54.3

Former subsection (d), which stated that motions filed under this rule must comply with LR 7.1, has been deleted as redundant of LR 7.1.

2009 Advisory Committee's Note to LR 54.3

This local rule has been amended to be consistent with the amendments to the federal rules on time-computation and changes the past practice of the Clerk of Court not to tax costs until all applicable appeal periods have expired. The amended rule now requires the request to be filed promptly after the entry of judgment.

The form referenced in LR 54.3(c)(1) is available in all Clerk's Office locations and electronically on the Court's website at www.mnd.uscourts.gov. When filing a bill of costs or amended bill of costs under subsection (c)(6), refer to Fed. R. App. P. 41 to determine when the Court of Appeals mandate was issued.

Parties are encouraged to refer to the District Court's Bill of Costs Guide, which is available in all Clerk's Office locations and electronically on the Court's website at www.mnd.uscourts.gov.

1991 Advisory Committee's Note to LR 54.3

In general, applications for attorney's fees should be submitted promptly after a determination of the case on the merits. Prompt submission aids the trial Judge, whose memory of the work of the lawyers is fresh, and facilitates appellate consideration of the whole controversy. As a general procedure, then, the rule requires attorney's fees motions to be submitted within 30 days of the entry of judgment.

The Equal Access to Justice Act, 28 U.S.C. § 2412, requires (and permits) applications for fees to be made "within thirty days of final judgment in the action". "Final judgment" is defined as "a judgment that is final and not appealable, and includes an order of settlement". It is clear that the EAJA contemplates that fee applications will be made either after appeal, or after the time for appeal has run. The rule adopts the statutory time and definitions for EAJA petitions. Some circumstances (in addition to those relating to the EAJA) may call for a different schedule for the submission of fee motions. For example, if post-judgment motions may significantly affect the results of the case (and thus the extent of the award), it may be more fair or more efficient to postpone submission and consideration of the fee motions until after those motions are decided. Additionally, in rare instances, delaying the fee consideration until after an appeal is determined may promote justice and efficiency. Subparagraph (b)(2) provides a procedure by which a party seeking fees can ask the Court to establish an alternate schedule. The Notice of Intention to Claim an Award of Attorney's Fees tolls the time for submitting a fee motion, pending the establishment of the schedule by the district court. The drafters contemplate that the Court will, in its schedule, provide adequate time for the preparation and submission of the detailed fee petition.

Finally, Section (b)(3) provides that the Court may excuse failure to abide by the provisions of the rule, for good cause shown. This section does not apply to EAJA petitions, which are governed by the statutory time limit.

LR 58.1 FIXED-SUM PAYMENT FOR PETTY OFFENSES AND OTHER MISDEMEANORS

(a) Authorization. For a petty offense or misdemeanor listed in the court's fixed-sum payment schedule, the court may accept a fixed-sum payment in lieu of the defendant's appearance and end the case.

(b) Fixed-Sum Payment Schedule. The full-time magistrate judges must maintain a schedule of petty offenses and other misdemeanors for which a fixed-sum payment may be accepted in lieu of the defendant's appearance. The fixed-sum payment schedule must specify the amount of payment required for each identified offense and the effective date of the schedule. The fixed-sum payment schedule must be filed in the clerk's offices and made available on the court's website. The magistrate judges may amend the fixed-sum payment schedule periodically.

(c) Payment.

(1) How made. To pay a fixed sum, a defendant must submit payment to the Central Violations Bureau on or before the date the defendant is scheduled to appear in court.

(2) Effect. A defendant who pays a fixed sum in lieu of appearing for a petty offense or other misdemeanor waives the right to contest the charged violation.

(d) Failure to Appear. If a defendant does not pay a fixed sum and does not appear in court for a charged petty offense or other misdemeanor, the magistrate judge may:

(1) impose any punishment — including fine, imprisonment or probation — that would be permitted upon conviction;

(2) direct that a new summons be issued that orders the defendant to appear on a new date; or

(3) order that a warrant be issued for the defendant's arrest.

(e) Arrest and Mandatory Appearance. Local Rule 58.1 does not prohibit a law-enforcement officer from:

(1) requiring a defendant to appear in court based on the aggravated nature of the offense;

(2) arresting a defendant for committing an offense; or

(3) taking an arrested defendant, promptly after the arrest, before a magistrate judge.

[Adopted effective February 9, 2006; amended ___, 2013]

2013 Advisory Committee's Note to LR 58.1

The language of LR 58.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Local Rule 58 was renumbered to LR 58.1 to be consistent with the court's local rule numbering conventions. Subsection (b) was amended to eliminate the list of agencies that may have a fixed-sum payment schedule and instead require that the fix-sum payment schedule be posted on the court's website. Subsection (c) is amended to reflect that fixed sum payments must now be made through the federal courts' Central Violation Bureau (CVB). Payments to CVB may be made by phone, mail, or online at www.cvb.uscourts.gov. Subsection (e) was combined with former subsection (f) to include those instances where, within the law-enforcement officer's discretion, the defendant must appear in court due to the aggravated nature of the offense or that an arrest must be made.

LR 67.1 MONEY DEPOSITED INTO THE COURT REGISTRY

(a) Court Order Required. A party may deposit money into the court registry only by court order.

(b) Motion and Proposed Order; Memoranda.

(1) A party seeking to deposit money into the court registry under Fed. R. Civ. P. 67(a) must:

(A) file and serve a motion requesting an order permitting the deposit; and

(B) provide to chambers and serve a proposed order that specifies the exact amount of money to be deposited.

(2) Parties must not file proposed orders on the court's ECF system. Instead, proposed orders must be emailed to chambers and served in accordance with the procedures set forth in the court's most recent civil ECF guide.

(3) A party opposing a motion to deposit money into the court registry under Fed. R. Civ. P. 67(a) must, no later than 7 days after the motion is served, file and serve a memorandum that must not exceed 1,500 words if set in a proportional font, or 140 lines if set in a monospaced font.

(4) No later than 7 days after a memorandum opposing a motion to deposit money into the court registry is served, a party seeking to deposit money into the court registry may file and serve a reply memorandum that must not exceed 1,500 words if set in a proportional font, or 140 lines if set in a monospaced font.

(c) Interest on Deposits.

(1) The clerk will not deposit money posted as bond in an interest-bearing account.

(2) Unless the court orders otherwise, the clerk will deposit all other money in an interest-bearing account.

[Adopted effective February 1, 1991; amended October 29, 2003; amended January 31, 2011; amended ___, 2013]

2013 Advisory Committee's Note to LR 67.1

The language of LR 67.1 relating to proposed orders has been revised to be consistent with similar language in LR 7.1.

2011 Advisory Committee's Note to LR 67.1

The filing requirements of LR 7.1(a)-(b), Civil Motion Practice, do not apply to motions to deposit money in the court registry. Parties who desire to deposit money into the court registry under Fed. R. Civ. P. 67(a) need only file a motion on the court's ECF system requesting the court to enter an order to deposit money into the court registry and e-mail the presiding judge a proposed order on that motion. Refer to the ECF Guides for information on providing the court with proposed orders.

Please note that the court requires the order to deposit money into the court registry to identify the exact amount that will be deposited. If the amount to be deposited changes between when the proposed order is filed and the order is to be entered — because of accrued interest, for example — the moving party must provide the court an amended proposed order identifying the exact amount to be deposited.

LR 71.1 CONDEMNATION CASES [Abrogated]

[Adopted effective February 1, 1991; abrogated __, 2013]

2013 Advisory Committee's Note to LR 71.1

Local Rule 71.1 is abrogated as unnecessary. The court has general procedures for consolidating related cases, and those procedures are adequate for handling land-condemnation cases.

LR 72.1 MAGISTRATE JUDGE DUTIES

(a) General Designation. In every case, the court designates the magistrate judge assigned to the case to perform the following duties authorized by 28 U.S.C. § 636:

(1) Conduct scheduling conferences and enter pretrial schedules;

(2) Hear and determine any pretrial matter pending before the court, except a motion: for injunctive relief; for judgment on the pleadings; for summary judgment; to dismiss or to permit maintenance of a class action; to dismiss for failure to state a claim upon which relief can be granted; or to involuntarily dismiss an action;

(3) Conduct hearings, including evidentiary hearings, and submit to the district judge proposed findings and recommendations for the disposition of:

(A) dispositive pretrial motions in criminal cases, such as motions to dismiss or quash an indictment or information made by a defendant and motions to suppress evidence;

(B) applications for post-trial relief made by individuals convicted of criminal offenses;

(C) prisoner petitions challenging conditions of confinement; and

(D) motions for summary judgment in Social Security appeals under 42 U.S.C. § 405;

(4) Conduct arraignments in criminal cases;

(5) Conduct settlement conferences in civil cases; and

(6) In accordance with 18 U.S.C. § 3401, with respect to misdemeanors committed within the district:

(A) Try a defendant accused of, and sentence a defendant convicted of, a petty offense; and

(B) With the defendant's consent, try a defendant accused of, and sentence a defendant convicted of, a misdemeanor other than a petty offense.

(b) Specific Designation. The district judge assigned to a case may specifically designate a magistrate judge to perform any of the duties authorized by 28 U.S.C. § 636(b). In performing the designated duties, the magistrate judge must conform to the Local Rules and the instructions of the district judge.

(c) Consent Jurisdiction

(1) In every case, upon the consent of the parties, the court specially designates the assigned full-time magistrate judge under 28 U.S.C. § 636(c) to conduct the proceedings in a civil matter and to order the entry of judgment.

(2) When an action is filed, the clerk will notify the parties that a magistrate judge is available to conduct proceedings upon the parties' consent. Thereafter, a judge may again advise the parties of the magistrate judge's availability, but in doing so, the judge must advise the parties that they are free to withhold consent without adverse substantive consequences.

[Adopted effective February 1, 1991; amended May 17, 2004, amended May 16, 2005; amended September 24, 2009; amended December 1, 2009; amended ___, 2013]

2013 Advisory Committee's Note to LR 72.1

The language of LR 72.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments. In particular, the language of LR 72.1 has been revised to align more closely with the language of 28 U.S.C. § 636 and 18 U.S.C. § 3401.

2005 Advisory Committee's Note to LR 72.1 and LR 72.2

This Rule was substantially restructured in 2005 to accommodate various changes made over the years to the Magistrate Judge Act, Title 28 United States Code, Section 636 and to Federal Rules of Civil Procedure 72 and 73.

The Rule contemplates that the duties described in Local Rule 72.1. a. will be automatically exercised by the Magistrate Judge in every case to which he or she is assigned without any further direction or reference by the District Court Judge.

In any individual case, pursuant to Local Rule 72.1 b, the District Judge to whom the case is assigned may also designate a Magistrate Judge to perform any of the other duties described in the

Magistrate Judge Act. The Court and the Committee intend that these duties include the full range of duties permitted by the Act, Title 28 United States Code, Section 636, and may include but are not limited to: Serving as a special master; taking a jury verdict in the absence of the District Judge; conducting hearings and submitting to the District Judge assigned to the case proposed findings of fact and recommendations for the disposition of dispositive pretrial motions in civil cases; receiving grand jury returns pursuant to Fed. R. Crim. P. 6(f); issuing writs or other process necessary to obtain the presence of parties or witnesses or evidence needed for Court proceedings; and performing any other additional duties as are not inconsistent with the Constitution and laws of the United States @ Title 28 United States Code, Section 636(b)(3).

1991 Advisory Committee's Note to LR 72.1(b)(2) and LR 72.1(c)(2)

The Advisory Committee does not intend to require or encourage the filing of briefs accompanying objections to decisions by the Magistrate Judges. Ordinarily, the briefs submitted to the Magistrate Judge are sufficient for the district Judge to decide on objections. However, this rule gives the objecting party the option of filing a brief when the objecting party believes that special circumstances justify doing so.

The time period for appeal under LR 72.1(b) runs from the "entry of the Magistrate Judge's order". The time period for objecting under LR 72.1(c) runs from "being served with" a copy of the findings, recommendations, or report of the Magistrate Judge. This difference in language appears in Fed. R. Civ. P. 72(a) and Fed. R. Civ. P. 72(b), so the committee reluctantly preserved this distinction in the local rules.

This rule applies to objections to decision of Magistrate Judges under Fed. R. Civ. P. 72. It does not affect practice in appeals from trials by consent under Fed. R. Civ. P. 73-75. See Fed. R. Civ. P. 75(c), which provides time lines for filing briefs in proceedings on appeal from Magistrate Judges to district Judges under Fed. R. Civ. P. 73(d).

LR 72.2 REVIEW OF MAGISTRATE JUDGE RULINGS

(a) Nondispositive Matters. When a pretrial matter not dispositive of a party's claim or defense is referred to and decided by a magistrate judge, a party may seek review of the magistrate judge's order on the matter as follows:

> *(1) Objections.* A party may file and serve objections to the order within 14 days after being served with a copy, unless the court sets a different deadline. A party may not assign as error a defect in the order not timely objected to.
>
> *(2) Response.* A party may respond to another party's objections within 14 days after being served with a copy.
>
> *(3) Review by district judge.* The district judge must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law. The district judge may also reconsider on his or her own any matter decided by the magistrate judge but not objected to.

(b) Dispositive Motions and Prisoner Petitions. When, without the parties' consent, a pretrial matter dispositive of a party's claim or defense or a prisoner petition challenging the conditions of confinement is assigned to and heard by a magistrate judge, a party make seek review of the magistrate judge's recommended disposition as follows:

(1) Objections and transcript. A party may file and serve specific written objections to a magistrate judge's proposed findings and recommendations within 14 days after being served with a copy of the recommended disposition, unless the court sets a different deadline. Unless the district judge orders otherwise, the objecting party must promptly arrange for transcribing the record, or whatever portions of it the parties agree to or the magistrate judge deems sufficient.

(2) Response. A party may respond to another party's objections within 14 days after being served with a copy.

(3) Review by district judge. The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions. Ordinarily, the district judge does not conduct a new hearing when ruling on a party's objections, but instead relies on the record of proceedings before the magistrate judge.

(c) Format of Objections and Responses.

(1) Word or Line Limits.

(A) Except with the court's prior permission, objections or a response to objections filed under LR 72.2 must not exceed 3,500 words if set in a proportional font, or 320 lines of text if set in a monospaced font.

(B) All text — including headings, footnotes, and quotations — counts toward these limits, except for:

(i) the caption designation required by LR 5.2;

(ii) the signature-block text; and

(iii) certificates of compliance.

(C) A party who seeks to exceed these limits must first obtain permission to do so by filing and serving a letter of no more than two pages requesting such permission. A party who opposes such

a request may file and serve a letter of no more than two pages in response. This rule authorizes the parties to file those letters by ECF.

(2) Type Size.

(A) Represented Parties. Objections or a response to objections filed by a represented party must be typewritten. All text, including footnotes, must be set in at least font size 13 (i.e., a 13-point font) as font sizes are designated in the word-processing software used to prepare the objections or response to objections. Text must be double-spaced, with these exceptions: headings and footnotes may be single-spaced, and quotations more than two lines long may be indented and single-spaced. Pages must be 8 ½ by 11 inches in size, and no text — except for page numbers — may appear outside an area measuring 6 ½ by 9 inches.

(B) Unrepresented Parties. Objections or a response to objections filed by an unrepresented party must be either typewritten and double-spaced or, if handwritten, printed legibly.

(3) Certificate of Compliance. Objections or a response to objections must be accompanied by a certificate executed by the party's attorney, or by an unrepresented party, affirming that the document complies with the limits in LR 72.2(c)(1) and with the type-size limit of LR 72.2(c)(2). The certificate must further state how many words (if set in a proportional font) or how many lines (if set in a monospaced font) the document contains. The person preparing the certificate may rely on the word-count or line-count function of his or her word-processing software only if he or she certifies that the function was applied specifically to include all text, including headings, footnotes, and quotations. The certificate must include the name and version of the word-processing software that was used to generate the word count or line count.

[Adopted effective February 1, 1991; amended May 17, 2004, amended May 16, 2005; amended September 24, 2009; amended December 1, 2009; amended July 23, 2012; amended ___, 2013]

2013 Advisory Committee's Note to LR 72.2

The language of LR 72.2 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments. In particular, the language of LR 72.2 has been revised to align more closely with the language of Fed. R. Civ. P. 72, and material that was redundant of 28 U.S.C. § 636 and Fed. R. Civ. P. 73 has been deleted. These deletions are not intended to have any substantive effect. Former subsection (c) was deleted and the rule was renumbered accordingly.

2012 Advisory Committee's Note to LR 72.2

Technical amendments were made to LR 72.2 in light of changes made to LR 7.1. Specifically, all cross-references to LR 7.1 were eliminated, and a new subsection (d) was added to LR 72.2 to clarify that the format and filing requirements in LR 72.2 apply to objections and responses to objections filed under this rule in all cases, whether civil or criminal.

2005 Advisory Committee's Note to LR 72.1 and LR 72.2

This Rule was substantially restructured in 2005 to accommodate various changes made over the years to the Magistrate Judge Act, Title 28 United States Code, Section 636 and to Federal Rules of Civil Procedure 72 and 73.

The Rule contemplates that the duties described in Local Rule 72.1. a. will be automatically exercised by the Magistrate Judge in every case to which he or she is assigned without any further direction or reference by the District Court Judge.

In any individual case, pursuant to Local Rule 72.1 b, the District Judge to whom the case is assigned may also designate a Magistrate Judge to perform any of the other duties described in the Magistrate Judge Act. The Court and the Committee intend that these duties include the full range of duties permitted by the Act, Title 28 United States Code, Section 636, and may include but are not limited to: Serving as a special master; taking a jury verdict in the absence of the District Judge; conducting hearings and submitting to the District Judge assigned to the case proposed findings of fact and recommendations for the disposition of dispositive pretrial motions in civil cases; receiving grand jury returns pursuant to Fed. R. Crim. P. 6(f); issuing writs or other process necessary to obtain the presence of parties or witnesses or evidence needed for Court proceedings; and performing any other additional duties as are not inconsistent with the Constitution and laws of the United States @ Title 28 United States Code, Section 636(b)(3).

1991 Advisory Committee's Note to LR 72.1(b)(2) and LR 72.1(c)(2)

The Advisory Committee does not intend to require or encourage the filing of briefs accompanying objections to decisions by the Magistrate Judges. Ordinarily, the briefs submitted to the Magistrate Judge are sufficient for the district Judge to decide on objections. However, this rule gives the objecting party the option of filing a brief when the objecting party believes that special circumstances justify doing so.

The time period for appeal under LR 72.1(b) runs from the "entry of the Magistrate Judge's order". The time period for objecting under LR 72.1(c) runs from "being served with" a copy of the findings, recommendations, or report of the Magistrate Judge. This difference in language appears in Fed. R. Civ. P. 72(a) and Fed. R. Civ. P. 72(b), so the committee reluctantly preserved this distinction in the local rules.

This rule applies to objections to decision of Magistrate Judges under Fed. R. Civ. P. 72. It does not affect practice in appeals from trials by consent under Fed. R. Civ. P. 73-75. See Fed. R. Civ. P. 75(c), which provides time lines for filing briefs in proceedings on appeal from Magistrate Judges to district Judges under Fed. R. Civ. P. 73(d).

LR 79.1 CUSTODY AND DISPOSITION OF EXHIBITS AND DOCUMENTS

(a) Custody of the Clerk. Ordinarily, a party must deliver to the clerk all exhibits introduced into evidence at a hearing or trial, and the clerk will keep custody of

the exhibits. But exhibits such as drugs, legal or counterfeit money, firearms, or contraband may be entrusted to the custody of the arresting or investigative government agency pending disposition of a case and during any subsequent appeal period.

(b) Withdrawal of Original Exhibits and Documents. A person may withdraw an original exhibit or document from the custody of the clerk or another court officer only:

(1) by leave of court, and

(2) after leaving a proper receipt with the clerk or officer.

(c) Sealed Documents. The clerk must not disclose or make available documents that are filed under seal, unless the court orders otherwise.

[Adopted effective February 1, 1991; amended November 1, 1996; amended May 1, 2000; amended October 18, 2007; amended ____, 2013]

2013 Advisory Committee's Note to LR 79.1

The language of LR 79.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Former subsections (d) and (e) concerning the removal and disposition of sealed documents have been eliminated. All documents, including sealed documents that are filed as part of the case record, are maintained in the case record in accordance with the records-disposition schedule approved by the Judicial Conference and the Archivist of the United States.

1996 Advisory Committee's Note to LR 79.1

To facilitate reference, the portion of the 1991 version of LR 79.1 that relates to filing of discovery documents has been moved to LR 26.4.

LR 80.1 COURT REPORTERS' TRANSCRIPTS

(a) Filing.

(1) Reporters employed by the judiciary. Unless the court orders otherwise, when an official court reporter employed by the judiciary completes a transcript of a court proceeding, the reporter must promptly file a certified copy on the court's ECF system.

(2) Other reporters. Unless the court orders otherwise, when an official court reporter not employed by the judiciary completes a transcript of a court proceeding, the reporter must promptly file a certified copy with the clerk, and the clerk must then file the copy on the court's ECF system.

(b) Post-Filing Restriction.

(1) Unless the court orders otherwise, access to a transcript prepared by an official court reporter and filed under LR 80.1(a) is restricted as follows:

(A) A transcript of a sealed proceeding or filed in a sealed case must not be made available to the public in any format.

(B) A transcript of a criminal voir dire proceeding must not be made available to the public in any format.

(C) Remote electronic access to a transcript of a civil voir dire proceeding is permanently restricted to the users identified in LR 80.1(b)(2).

(D) Remote electronic access to any other transcript is restricted to the users identified in LR 80.1(b)(2) for 90 days after the transcript is filed.

(2) Unless the court orders otherwise, during the 90 days after a transcript is filed, only the following users may access the transcript through the court's ECF system:

(A) Court staff;

(B) Persons using public terminals in the clerk's office for inspection only, not for copying;

(C) Parties that have purchased the transcript; and

(D) Other persons — such as, for example, appellate attorneys — as ordered by the court.

(c) Availability After 90-Day Restriction Period. After the 90-day post-filing restriction period and after the court resolves all pending motions related to the transcript's availability or contents, a transcript not subject to special restrictions under LR 80.1(b)(1) is available as follows unless the court orders otherwise:

(1) Unredacted transcripts. If an original transcript was not redacted, the clerk must permit remote electronic access to the transcript through the court's ECF system and must permit inspection and copying of the transcript at the clerk's office.

(2) Redacted transcripts. If an original transcript was redacted, the clerk must permit remote electronic access to the redacted transcript through the court's ECF system. Remote electronic access to the unredacted transcript is restricted to the users identified in LR 80.1(b)(2). The clerk must permit inspection and copying of the unredacted transcript at the clerk's office.

(d) Transcript Fees.

(1) Payment required. Ordinarily, until a party makes the required payment, a court reporter may decline to begin preparing a transcript or to furnish a completed transcript. But the court may excuse a party who has been permitted to proceed in forma pauperis from paying for a transcript and may require the court reporter to begin preparing a transcript or to furnish a completed transcript without payment from the party.

(2) Fees for electronic access. A person other than a court employee who remotely accesses a transcript through the court's ECF system must pay the applicable fees. A person may electronically access a transcript at the public terminals in the clerk's office for free.

(3) Fees for purchasing transcript from court reporter. A person may buy a copy of a publicly available transcript from a court reporter by paying the applicable fee.

(4) Fee schedule. The fees for transcript preparation and for transcripts purchased from court reporters are established by the Judicial Conference of the United States. The current fee schedule is available from the clerk and from the official court reporters.

[Adopted effective February 1, 1991; amended April 6, 2004; amended May 12, 2008; amended August 11, 2008; amended ___, 2013]

2013 Advisory Committee's Note to LR 80.1

The language of LR 80.1 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

2008 Advisory Committee's Note to LR 80.1

LR 80.1 does not apply to deposition transcripts.

LR 83.10 CRIMINAL SENTENCING

(a) Plea Agreements and Sentencing Stipulations. Before a defendant enters a guilty plea pursuant to a plea agreement, the defendant and the government must make every effort to resolve material disputes and thus minimize the need for an

evidentiary hearing with respect to sentencing. The parties' resolution of such disputes remains subject to court review and acceptance. When the government and the defendant agree to a plea pursuant to a plea agreement, they must jointly submit a written plea agreement. The plea agreement must include:

(1) the maximum potential penalties for the offense (or offenses) to which the defendant agrees to plead guilty;

(2) all terms of the plea agreement; and

(3) to the extent possible, stipulations with respect to:

(A) the essential elements of the offense (or offenses); and

(B) the applicable sentencing guidelines.

(b) Preparing the Preliminary Presentence Report. The probation officer must exercise due diligence in conducting the presentence investigation and preparing a preliminary presentence report. Within the reasonable constraints of ongoing investigations and proceedings, the government must exercise due diligence in providing materials to the probation officer for that officer's use in preparing the preliminary presentence report. The probation officer who interviews a defendant as part of a presentence investigation must, on request, give the defendant's attorney notice and a reasonable opportunity to attend the interview.

(c) Objections to the Preliminary Presentence Report.

(1) Time to Object. By the deadline set by the probation officer in compliance with Fed. R. Crim. P. 32(f)(1), the parties must state in writing any objections to the preliminary presentence report, including objections to material information, sentencing guideline ranges, and policy statements contained in or omitted from the report. A party's written objections must include material information and legal authority supporting the objections, as well as any proposed minor amendments or corrections that do not affect the guideline calculations.

(2) Serving Objections. An objecting party must provide a copy of its objections to the opposing party and to the probation officer.

(3) Untimely Objections. If a party's objections are untimely, the probation officer must not accept the objections unless the party has received the court's permission to make untimely objections.

(d) Final Presentence Report, Addendum, and Recommendation.

(1) After the deadline for objections has passed, the probation officer must — in accordance with Fed. R. Crim. P. 32(f)(3) and (g) — revise the presentence report as appropriate, prepare an addendum, and submit the final presentence report and addendum to the parties and the court.

(2) The probation officer must submit a confidential sentencing recommendation to the court. Unless the court directs otherwise, the probation officer must not further disclose this recommendation.

(e) Position Regarding Sentencing. Within 14 days of the date of the final presentence report, each party must file and serve a document entitled "Position Regarding Sentencing." Two courtesy copies must be provided to the judge and one courtesy copy must be provided to the probation officer. This document must:

(1) set forth the party's position with respect to both the sentencing guidelines and the sentencing factors set forth in 18 U.S.C. § 3553(a);

(2) specifically identify any issues in dispute;

(3) state, with respect to each issue in dispute, the extent to which the court can rely on the final presentence report to resolve the dispute; and

(4) specifically identify any issues as to which the party requests an evidentiary hearing.

(f) Evidentiary Hearing.

(1) With respect to contested issues relevant to sentencing, if a party believes that a hearing on an issue is necessary, that party must file and serve a separate motion requesting an evidentiary hearing on the issue. The motion must:

(A) be filed at the same time as the Position Regarding Sentencing;

(B) set forth the contested issue; and

(C) provide an estimate of the time required for the hearing.

(2) At least 7 days before an evidentiary hearing, each party must provide the judge, the opposing party, and the probation officer with a witness list and an exhibit list.

(g) Response to Position Regarding Sentencing; Motion for Downward Departure.

(1) At least 7 days before sentencing, each party may file and serve a response to the opposing party's Position Regarding Sentencing. Two courtesy copies must be provided to the judge and one courtesy copy must be provided to the probation officer.

(2) If the government intends to move for a downward departure under § 5K1.1 of the Sentencing Guidelines or under 18 U.S.C. § 3553(e), it must do so at least 7 days before sentencing. The government's motion must be filed under seal and served on the defendant. The government must provide two courtesy copies to the judge and one courtesy copy to the probation officer.

(h) Alternative Procedures in Complex Cases. A party may request permission from the judge to deviate from the procedures and deadlines set forth in this rule. A party making such a request must explain why the complexity or particular nature of the case justifies the request.

(i) Court's Authority. Nothing in this rule restricts the court's authority to accept or to reject a plea agreement or to accept or to reject a stipulation of fact.

(j) Non-Disclosure. Nothing in this rule requires the disclosure of any portions of the presentence report that are not discoverable under Fed. R. Crim. P. 32.

[Adopted effective February 1, 1991; amended November 1, 1996; amended May 17, 2004; amended September 24, 2009; amended ___, 2013]

2013 Advisory Committee's Note to LR 83.10

The language of LR 83.10 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Revised LR 83.10 does, however, include a handful of substantive changes. Specifically, revised subsection (a) directs parties to include in plea agreements "stipulations" of any kind, rather than just "stipulations of fact." Revised subsection (f) provides that either party may request an evidentiary hearing about a contested sentencing-related issue, regardless of whether the requesting party bears the burden of proof on the issue.

Further, the provisions relating to deadlines for objections to presentence reports and deadlines for sentencing position papers have been modified slightly to conform better to current practice and to Fed. R. Crim. P. 32.

With respect to objections, under revised LR 83.10(c), the probation officer will establish a specific deadline for serving objections in every case. That deadline will be communicated along with the preliminary presentence report. The deadline will always be at least 14 days from the date of the report, in accordance with Fed. R. Crim. P. 32(f)(1). An additional 3 days will typically be added to the deadline if the report is delivered by mail; if that adjusted deadline falls on a weekend or holiday, the deadline will be moved to the next business day.

The deadline for sentencing position papers under the revised rule is 14 days from the date of the final presentence report, regardless of how that report is delivered.

The following table illustrates the timelines in revised LR 83.10:

Day	Event
Day *X*	Probation officer issues preliminary presentence report, including deadline for objections.
Deadline set by probation officer (at least Day *X* + 14 days, and sometimes Day *X* + 17 or more days)	Parties serve objections.
Day *Y*	Probation officer issues final presentence report with addendum.
Day *Y* + 14 days	Parties file Positions Regarding Sentencing. Parties file motions for an evidentiary hearing (if one is sought).
Day *Z*	Date of sentencing hearing.
At least 7 days before Day *Z*	Optionally, parties file responses to Positions Regarding Sentencing. Optionally, government moves for downward departure.

2009 Advisory Committee's Note to LR 83.10

[To avoid confusion, the 2013 advisory committee has deleted the table of timelines that previously appeared in the 2009 committee note.]

1991 Advisory Committee's Note to LR 83.10

LR 83.10 supersedes the Court's Revised Order Re Sentencing Procedures Under the Sentencing Reform Act of 1984, dated October 30, 1989.

The purpose of LR 83.10 is to provide adequate time for preparation of the presentence report by the United States Probation Office, for disclosure of the presentence report to the parties, for the filing of presentence submissions by the parties, and to otherwise facilitate administration of the sentencing guidelines.

[A table provided in the 1991 Advisory Committee Notes was removed to avoid confusion with later changes. Please refer to the 2012 committee note for a table illustrating the timelines in LR 83.10.]

LR 83.11 COURT ADMINISTRATION

(a) Divisions. The State of Minnesota constitutes one judicial district, divided into six divisions.

(b) Case Assignment. The court assigns cases to particular divisions and particular judges in accordance with the Order for Assignment of Cases that the court's district judges have adopted. The district judges may modify this order from time to time as they see fit.

(c) Offices of the Clerk.

(1) The Clerk of Court maintains offices in St. Paul, Minneapolis, Duluth, and Fergus Falls. All offices are generally open from 8:00 a.m. to 5:00 p.m., Monday through Friday. But the offices are closed on the following holidays:

- New Year's Day;
- Martin Luther King Jr.'s Birthday;
- Washington's Birthday;
- Memorial Day;
- Independence Day;
- Labor Day;
- Columbus Day;
- Veterans' Day;
- Thanksgiving Day;
- the Friday after Thanksgiving Day; and
- Christmas Day.

(2) In general, the clerk maintains the files for each pending matter in electronic format. A party may file papers relative to any matter in any office, and a party may get copies of publicly filed papers from any office.

(d) Calendars. The court operates on an individual calendar system. Questions about motions, hearing or trial dates, or other issues related to a particular case should be addressed to the courtroom deputy for the judge to whom the case has been assigned.

[Adopted effective February 1, 1991; amended November 1, 1996; amended October 29, 2003; amended ___, 2013]

2013 Advisory Committee's Note to LR 83.11

The language of LR 83.11 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

Subsection (c) (former subsection (b)) has been revised to better reflect the court's current practices with respect to what offices are open, what holidays are observed, and how files are maintained.

2003 Advisory Committee's Note to LR 83.11

The first paragraph of LR 83.11 (a) was amended in 2003 to conform to the current Court procedure of assigning cases to divisions and judges pursuant to the Order that may be revised from time to time.

1991 Advisory Committee's Note to LR 83.11

The division system of the United States District Court for the District of Minnesota is a product of the Courts' modification of the division system established by statute to fit the practicalities of present judicial activity within the district.

By statute, Minnesota is divided into six divisions. 28 U.S.C. § 103. The statute provides that terms of Court shall be held in Winona, Mankato, St. Paul, Minneapolis, Duluth, and Fergus Falls. A District Court retains the discretion to pretermit any regular session of Court for insufficient business or other good cause. 28 U.S.C. § 140.

The Court on two occasions has utilized its pretermission authority to effectively eliminate trials or hearings in three divisions. By an Order dated December 2, 1960, the Court pretermitted the terms of Court in the First and Second Divisions. In an order dated January 31, 1990, the Court pretermitted the terms of Court in the Sixth Division. The Judges of the Court maintain chambers in the Third Division and Fourth Division. Cases emanating from counties of the First, Second, Third, Fourth and Sixth Divisions are assigned to either the Third or fourth Division based upon the location of the chambers of the Judge to whom the case is assigned. Cases emanating from the Fifth Division are assigned to the Fifth Division regardless of the location of the chambers of the Judge to whom the case is assigned.

The remaining significance of the division system in Minnesota is two-fold. First, petit juries are selected by division. That is, cases assigned to the Third Division have their jury drawn from individuals residing in counties that make up the Third Division. The same is true in the Fourth and Fifth Divisions. Second, although the Judges of the Court maintain offices in the Third and Fourth Divisions, terms of Court are held in the Fifth Division for matters assigned to the Fifth Division.

LR 83.12 COMPLAINTS AGAINST A JUDGE

A person may file with the Clerk of the United States Court of Appeals for the Eighth Circuit a complaint against a judge alleging misconduct or disability. Such complaints are governed by

- 28 U.S.C. § 372(c);
- the Judicial-Conduct and Judicial-Disability Rules adopted by the Judicial Conference of the United States; and
- the Rules Governing Complaints of Judicial Misconduct and Disability adopted by the Judicial Council of the Eighth Circuit.

[Adopted effective November 1, 1996; amended __, 2013]

2013 Advisory Committee's Note to LR 83.12

The language of LR 83.12 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments. In addition, LR 83.12 has been revised to refer not only to the relevant Eighth Circuit rules, but also to the relevant rules of the Judicial Conference of the United States.

1996 Advisory Committee's Note to LR 83.12

LR 83.12 was added in the 1996 amendments upon consideration by the Committee of the request of Judge William J. Bauer, Chairman of the Committee to Review Circuit Council Conduct and

Disability Orders of the Judicial Conference of the United States, that federal district courts include in their Local Rules a reference to the procedure established by 28 U.S.C. § 372(c) and to the Circuit Court rules governing the process. The Judicial Council of the Eighth Circuit agreed with this proposal at its meeting of December 6, 1994. See letter from the Honorable William J. Bauer to the Honorable Richard S. Arnold, October 14, 1994; letter from the Honorable Richard S. Arnold to the Honorable William J. Bauer, December 7, 1994.

LR 83.13 COURT APPOINTEES

(a) Scope. This rule applies to any person whom a judge appoints to assist the court in a matter. Appointees under this rule may include, for example, special masters, receivers, referees, trustees, commissioners, court-appointed experts, investigators, mediators, and arbitrators.

(b) Conflicts of Interest.

(1) If an appointee becomes aware of any circumstances that may constitute, or appear to constitute, a conflict of interest, the appointee must immediately inform the appointing judge of all facts relevant to those circumstances. The appointing judge must then determine what, if any, action should be taken.

(2) A "conflict of interest" includes any set of circumstances that affects, or appears to affect, an appointee's ability to act impartially in the matter for which he or she was appointed.

(c) Complaints.

(1) A complaint about an appointee's conduct must be made in writing to the appointing judge. The complaint must include a detailed description of the facts and circumstances giving rise to the complaint and must expressly identify the statute, rule, regulation, canon, or other authority on which the complaint is based.

(2) The judge must permit the appointee and the parties to respond to the complaint.

(3) The judge must review the complaint, determine whether the appointee committed misconduct, and decide what action, if any, to take. The judge may take appropriate action to protect the rights and interests of anyone who may have been affected by an appointee's misconduct.

(d) Court-Initiated Discipline. An appointing judge may, at any time, independently review an appointee's conduct and take appropriate action.

[Adopted effective January 3, 2000; amended ___, 2013]

2013 Advisory Committee's Note to LR 83.13

The language of LR 83.13 has been amended in accordance with the restyling process described in the 2012 Advisory Committee's Preface on Stylistic Amendments.

1999 Advisory Committee's Note to LR 83.13

The Committee concluded that allegations of misconduct by court appointees will most often arise out of either actual or apparent conflicts of interest. For this reason, the rule expressly requires appointees to disclose any such conflicts to the appointing judge. The Committee further concluded that it would not be feasible or necessary to develop a comprehensive code of ethical conduct for all court appointees. Such appointees will be expected to follow the broad moral and ethical principles that guide the conduct of lawyers and judicial officers.

The Committee recognizes that judges must retain the authority to manage and control their cases. The automatic assignment of an "outside judge" to consider complaints against a court appointee could adversely affect that authority. If a party or the appointing judge believes that some other judge should consider a complaint against an appointee, the general rules regarding recusal would be applicable.

This rule confirms the appointing judge's authority to act on a complaint of misconduct by an appointee. The rule expressly recognizes the judge's authority to (a) preserve the integrity of the court by taking appropriate disciplinary action against the appointee, and (b) protect litigants whose interests may have been adversely affected by the misconduct of an appointee. A judge's response to misconduct by an appointee may include, without being limited to, termination of the appointment, imposition of sanctions, application of the power of contempt, recommending to other judges that the appointee should be barred from future appointments in this District, initiation of attorney disciplinary proceedings in this District pursuant to L.R. 83.6(e), referring the matter to the Minnesota Office of Lawyers Professional Responsibility, or referring the matter to the United States Attorney or the Minnesota Attorney General to consider criminal charges. Complaints regarding fee issues (in cases involving special masters) should be raised and addressed under Fed.R.Civ.P. 53. Any party who is dissatisfied with a judge's action on a complaint against an appointee would retain the same right to appeal that exists for any other action taken by a district court judge.