LR 4.2 FEES

(a) Collection in Advance.

(1) General Rule. Ordinarily, the clerk must collect in advance statutory fees associated with the institution or prosecution of any action. The clerk must deposit and account for those fees in accordance with directives of the Administrative Office of the United States Courts. The clerk is not required to collect fees in advance when a party seeks to proceed in forma pauperis in accordance with LR 4.2(a)(2).

(2) Proceedings in Forma Pauperis. If a party seeks to proceed in forma pauperis, the party must file the complaint or other case-initiating document and an application to proceed in district court without prepaying fees or costs.

(b) Nonpayment. If a party has failed to pay costs or fees owed to and demanded by the clerk or the United States marshal, the clerk or marshal must inform the court of the party's failure to pay. The court may order the party to show cause why the court should not require immediate payment of the unpaid costs or fees.

[Adopted effective February 1, 1991; amended July 23, 2012; amended ____, 2021]

2021 Advisory Committee's Note to LR 4.2

Local Rule 4.2 has been amended to reflect the current process the Clerk's Office follows when receiving a new complaint or petition. The Clerk's Office will accept and open a new case for all complaints or petitions when they are received. If the Clerk's Office receives a complaint or petition that was not accompanied with the requisite filing fee or an application to proceed without prepaying fees or costs, the Clerk's Office will open the new case and ask the plaintiff or petitioner to supply the necessary payment or paperwork. The Court will follow-up with the plaintiff or petitioner if no payment or paperwork is received. The case may be summarily dismissed for failure to provide the necessary payment or paperwork. Subsection (c) was removed to reflect this process.

Subsection (d) was removed because the language no longer applies to the current service process employed by the U.S. Marshals Service.

LR 16.5 ALTERNATIVE DISPUTE RESOLUTION AND MEDIATED SETTLEMENT CONFERENCE

(a) Alternative Dispute Resolution.

(1) Purpose. The court has devised and implemented an alternative dispute resolution program to encourage and promote the use of alternative dispute resolution in this district.

(2) Authorization. The court authorizes the use of alternative dispute resolution processes in all civil actions, including adversary proceedings in bankruptcy, except that the use of arbitration is authorized only as provided in 28 U.S.C. § 654.

(3) Administrator. The court will designate by administrative order the administrator of the court's alternative dispute resolution program.

(4) Neutrals. The full-time magistrate judges constitute the panel of neutrals made available for use by the parties. The disqualification of a magistrate judge from serving as a neutral is governed by 28 U.S.C. § 455.

(b) Mediated Settlement Conference. Before trial — except in a proceeding listed in Fed. R. Civ. P. 26(a)(1)(B) or where the parties have participated in a private mediation — the court must schedule a mediated settlement conference before a magistrate judge. The court, at a party's request or on its own, may require additional mediated settlement conferences. Each party's trial counsel, as well as a party representative having full settlement authority, must attend each mediated settlement conference. If insurance coverage may be applicable, an insurer's representative having full settlement authority must also attend.

(c) Other Alternative Dispute Resolution Processes.

(1) The court may order the parties, trial counsel, and other persons whose participation the court deems necessary, to participate in any or all of the following alternative dispute resolution processes: mediation, early neutral evaluation, and, if the parties have consented, arbitration.

(2) The court may offer the parties the opportunity to participate in other alternative dispute resolution processes, including mini-trials and summary trials.

(3) The court may order the parties to pay, and may allocate among them, the reasonable costs and expenses associated with the processes set forth in subparagraphs (1) and (2), but the court must not allocate any such costs or expenses to a party who is proceeding in forma pauperis as authorized by 28 U.S.C. § 1915.

(d) Confidentiality of Dispute Resolution Communications.

(1) *Definitions.*

(A) A "confidential dispute resolution communication" is a communication that (i) relates to a settlement proposal or to a party's considerations regarding settlement and (ii) is made by a participant to a different participant during or in connection with a court-ordered alternative dispute resolution process.

(B) A "participant" is anyone that participates in a court-ordered alternative dispute resolution process, including a magistrate judge or other neutral. A party and its representatives are a single "participant" for purposes of subparagraph (A).

(2) *Nondisclosure*. A confidential dispute resolution communication must not be disclosed outside the alternative dispute resolution process in which it was made unless the court authorizes, or the parties agree to, the communication's disclosure.

(A) A party may file a letter seeking authorization to disclose a confidential dispute resolution communication, but the letter must not include the content of the communication at issue, even if the letter is filed under seal. This rule authorizes a party to file such a letter by ECF.

(B) This rule does not prohibit the parties from entering into an agreement that establishes greater or lesser restrictions on the disclosure of confidential dispute resolution communications.

(3) This rule does not address whether the terms of a settlement, once final, will be confidential.

(4) This rule does not prohibit a party from disclosing information known or learned outside the alternative dispute resolution process.

[Adopted effective November 1, 1996; amended January 3, 2000; amended July 23, 2012; amended May 14, 2014; amended __, 2021]

2021 Advisory Committee's Note to LR 16.5

Local Rule 16.5(b) has been amended to provide that a mediated settlement conference before a magistrate judge is not required, absent an order of the court, where the parties have participated in a private mediation.

Local Rule 16.5(c) has been condensed and simplified to better reflect the court's practice. It has also been revised to avoid suggesting — as previous LR 16.5(c)(1) arguably, but erroneously, did — that a magistrate judge could preside over an arbitration.

Local Rule 16.5(d) has been amended to establish a default rule of confidentiality for virtually all communications made in connection with a settlement conference or court-ordered alternative dispute resolution process. The previous version of LR 16.5(d) required a party to "expressly identif[y]" the communications that it wished to keep confidential. The default rule of confidentiality in the amended rule will be more workable for both the court and practitioners. By virtue of the definitions in LR 16.5(d)(1), the

only communications that fall outside of the default rule of confidentiality are those that are made exclusively among a party and its representatives, provided they do not implicate inter-party communications.

In light of the new default rule of confidentiality, LR 16.5(d)(2) now provides a mechanism for the parties to seek, by means of a letter, court authorization to disclose a confidential dispute resolution communication. Of course, if the parties agree to disclosure, no court authorization is required.

Local Rule 16.5(d) does not prohibit parties from entering into their own agreement regarding restrictions on the disclosure of confidential dispute resolution communications. It also does not address the confidentiality of communications in connection with alternative dispute resolution processes that were not ordered by the Court.

In addition, certain stylistic changes have been made to better align with the court's style guidelines.

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), a party may file a response within 14 days. Unless the court orders otherwise, a party must not file a reply brief.

(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 7 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 7 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 May 14, 2013; amended ___, 2021]

2021 Advisory Committee's Note to LR 54.3

Subsection (b) has been revised to specify a 14-day response period on a motion for attorney's fees or related nontaxable expenses. This includes such motions under the EAJA. The court will no longer issue a briefing schedule in every case.

Subsection (c) has been revised to be consistent with Fed. R. Civ. P. 54(d)(1). The time to file a motion to review the clerk's action, and to file a response to that motion, has been changed from 14 days to 7 days.