UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

LOCAL RULES

(Current as of April 1, 2024)

Sean F. Cox
Chief Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

United States District Judges

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Nancy G. Edmunds
Denise Page Hood
Paul D. Borman
George Caram Steeh
David M. Lawson
Thomas L. Ludington
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F. Kay Behm
Jonathan J.C. Grey
Susan K. DeClercq
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APRIL 2024

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LOCAL RULES APPENDICES

Appendix	Title	Reference
ECF	ECF Policies and Procedures (Revised April 2023)	LR 5.1.1, LR 5.2
CIVILITY	Civility Principles Administrative Order 08-AO-009 (Filed January 23, 2008)	LR 83.20

LR 1.1 Scope of Rules

(a) Title and Citation. These rules are to be known as the Local Rules of the United States District Court for the Eastern District of Michigan. They may be cited as "E. D. Mich. LR " and "E.D. Mich. LCrR ".

(b) Effective Date. The Civil Rules became effective on January 1, 1992; the Criminal Rules on July 1, 1992. An amendment to these rules takes effect on the first day of the month following adoption unless otherwise ordered by the court. The effective date of the most recent amendment to a rule appears in the lower left hand corner of the page.

(c) Scope of Rules. These rules apply in civil and criminal actions. Special rules governing proceedings before magistrate judges may be found at LR 72.1, bankruptcy cases at LR 83.50, admiralty cases at LR B.1 through E.1, and criminal cases at LCrR 1.1 to 58.1. The Local Rules of the Bankruptcy Court for the Eastern District of Michigan govern practice in the bankruptcy court. In the absence of a specific provision in one of these special rules, the general provisions apply.

(d) Relationship to Prior Rules; Actions Pending on Effective Date. These Rules supersede all previous Rules promulgated by this Court or any Judge of this Court. They shall govern all applicable proceedings brought in this Court after they take effect. They also shall apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the Court the application thereof would not be feasible or would work injustice, in which event the former Rules shall govern.

January 4, 1999

LR 1.2 Emergency Suspension of the Local Rules

For good cause shown, for a particular matter, any Judge of this Court may temporarily suspend the operation of the Rules.

January 1, 1992

LR 1.3 Availability of the Local Rules

Copies of these Rules as amended are available online at www.mied.uscourts.gov.

January 1, 2016

LR 3.1 Civil Case Cover Sheet

(a) A person filing a complaint or other document initiating a civil action must—

(1) when filing electronically, provide the information normally entered on the civil case cover sheet, or

(2) when not filing electronically, complete and file a civil case cover sheet.

(b) The clerk will accept for filing an initiating document without a civil case cover sheet and may enlist the cooperation of counsel or a pro se party in completing the civil case cover sheet.

COMMENT: The civil case cover sheet is available at the clerk's office and the court's web site.

July 1, 2010

LR 3.2 Method of Payment

The United States District Court for the Eastern District of Michigan does not accept cash for payment of court fees, services, fines payments, bond payments or restitution. The Court accepts credit cards, checks and money orders as forms of payment. Checks should be made payable to Clerk, U.S. District Court. Court staff will not make change; exact amount whether in check or money order must be presented.

May 1, 2016

LR 4.1 Issuance and Service of Process

(a) **Issuance of Process.** A party requesting the issuance of any process or who initiates a proceeding in which the issuance of process is required by statue, rule, or order must prepare all required forms. Where necessary, the party must present the process to the Clerk for signature and sealing.

(b) **Service of Process.** Subject to subsection (c) of this rule, unless the plaintiff requests otherwise, the Clerk must arrange for service of the summons and complaint by the United States Marshal for a plaintiff authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916. A request for that assistance is not necessary.

(c) **Represented Parties.** If an attorney represents a plaintiff authorized to proceed in forma pauperis under 28 U.S.C. § 1915, or as a seaman under 28 U.S.C. § 1916, that attorney is deemed specially appointed by the Court and must arrange for service of the summons and complaint.

(d) This rule does not apply to social security actions seeking review under 42 U.S.C. § 405(g).

COMMENT: This rule implements Federal Rule of Civil Procedure 4(c)(3). When a plaintiff who qualifies for pauper status is represented by an attorney, the attorney must arrange for service of process, but may seek assistance for service from the United States Marshal at government expense only after obtaining an Order Directing Service by the United States Marshal.

COMMENT TO 2024 REVISIONS: Issuance and service of process in social security actions are governed by the supplemental Rules for Social Security Actions under 42 U.S.C. § 405(g).

January 1, 2024

LR 5.1 Filing of Papers

(a) Papers presented for filing must comply with the following:

(1) Required Information. Papers must include:

(A) the name of the court,

(B) the title and number of the case,

(C) the name or nature of the paper in sufficient detail for identification,

(D) the name of the district judge and magistrate judge to whom the case is assigned, and

(E) the following contact information:

(i) For an attorney: Name, office address, e-mail address, telephone number, and state bar identification number.

(ii) For a party without counsel: Name, address, e-mail address, and telephone number.

(2) Format. All papers must be on 8 ½ x 11 inch white paper of good quality, plainly typewritten, printed, or prepared by a clearly legible duplication process, and double-spaced, except for quoted material and footnotes. Margins must be at least one inch on the top, sides, and bottom. Each page must be numbered consecutively. This subsection does not apply to exhibits submitted for filing and documents filed in removed actions before removal from the state courts.

(3) Type Size. Except for standard preprinted forms that are in general use, type size of all text and footnotes must be no smaller than 10-1/2 characters per inch (non-proportional) or 14 point (proportional).

(b) Number of Copies Required.

(1) Papers Filed Electronically. Attorneys and parties without counsel should refer to the court's ECF Policies and Procedures and the court's website to determine those papers that each judge requests be provided as a judge's copy.

(2) Papers Not Filed Electronically. All papers not filed electronically with the clerk must include an original and one copy. The copy should be clearly marked "JUDGE'S COPY."

(c) Number of Copies Required for a Three-Judge Court. In any action or proceeding in which a three-judge court is requested, parties not filing electronically must file an original and three copies of papers until it is determined either that a three-judge court will not be convened or that the three-judge court has been convened and dissolved and the case remanded to a single judge. The court may allow fewer copies.

(d) Exhibits.

(1) Filed Electronically. Exhibits filed electronically must comply with the court's ECF Policies and Procedures.

(2) Not Filed Electronically. Bulky exhibits must be securely bound or fastened and clearly marked with the case number and the name of the judge to whom the case is assigned.

COMMENT: LR 26.2 applies to filing discovery material.

LR 83.50 applies to filing papers in bankruptcy cases and proceedings.

Counsel and parties not filing electronically are advised that the handling and storage of documents are facilitated if they are received flat and without folds.

Under LR 5.1.1, the court may excuse a party from electronic filing on motion for good cause shown.

Attempts to circumvent the LR in any way may be considered an abusive practice which may result in papers being stricken as well as sanctions being imposed under LR 11.1.

(e) Restrictions.

(1) Motions must not be combined with any other stand-alone document. See Rule 7.1(i).

December 1, 2022

LR 5.1.1 Filing and Service by Electronic Means

(a) Governing Rules and Procedures. The local rules, the court's ECF Policies and Procedures (Appendix ECF to these rules), and court orders govern papers filed by electronic means. Except as specified otherwise in the ECF Policies and Procedures or by court order, all papers (not simply cases) filed after November 30, 2005 must be filed electronically. The court may excuse a party from electronic filing on motion for good cause shown. Except as specified otherwise in this rule, papers must also comply with LR 5.1.

(b) (Reserved)

(c) Judge's Copies.

(1) Requirement. The court's web site specifies those papers that each judge requests be provided directly to the judge as a judge's copy. Judge's copies otherwise need not be provided unless the judge specifically requests them.

(2) Form. The judge's copy must have the Notice of Electronic Filing attached to the front.

(3) Submission to Judge. The judge's copy must be submitted directly to the judge's chambers, not to the clerk's office. Furnishing a judge's copy is not filing.

(d) Facsimile Transmission. Filing by electronic means does not include filing by facsimile transmission.

COMMENT: The Court will maintain electronic case files for all civil cases.

Administrative Order No. 04-AO-08, filed on February 4, 2004, suspended the original effective date of LR 5.1.1 from March 1, 2004, to June 1, 2004.

A judge may impose time or other limitations on the "good cause shown" referred to in (a).

April 1, 2019

LR 5.2 Enjoined Filers

A district judge may enjoin a litigant from filing actions without first obtaining leave of court if the judge finds that the litigant has engaged in a pattern of filing repetitive, frivolous, or vexatious cases.

> **COMMENT:** The Sixth Circuit court of appeals has authorized courts to implement a pre-filing screening mechanism to filter out complaints from litigants who have filed multiple actions that previously were found to be frivolous. *See Feathers v. Chevron, U.S.A., Inc.*, 141 F.3d 264, 269-70 (6th Cir. 1998).

April 1, 2023

LR 5.3 Civil Material Filed Under Seal

(a) Sealing Items Authorized by Statute or Rule. When a statute or rule authorizes filing a document or other item under seal in a civil case, the item may be filed without a court order, according to the following procedure:

(1) A separate notice of filing under seal must be filed before filing an item under seal.

(2) The notice must include:

(A) a citation of the statute or rule authorizing the seal;

(B) an identification and description of each item submitted under seal; and

(C) a statement establishing that the items are within the statute or rule authorizing the sealing.

(b) Sealing Items Not Authorized by Statute or Rule

(1) Except as allowed by statute or rule, documents (including settlement agreements) or other items may not be sealed except by court order. A party or other person may not file or tender to the clerk an item proposed for sealing under this subrule unless the Court enters an order permitting sealing.

(2) A party or other person seeking to file a document under seal in a civil case under this section must file and serve a motion to authorize sealing that is narrowly tailored to seek sealing in accord with applicable law.

(3) Procedure for Moving to File Under Seal.

(A) Motion. Any motion to file under seal must contain:

(i) an index of documents which are proposed for sealing and, as to each document, whether any other party objects;

(ii) a description of any non-party or third-party privacy interests that may be affected if the documents or portions thereof to be sealed were publicly disclosed on the court record;

(iii) whether the proposed sealed material was designated as 'confidential' under a protective order and by whom;

(iv) for each proposed sealed exhibit or document, a detailed analysis, with supporting evidence and legal citations, demonstrating that the request to seal satisfies controlling legal authority;

(v) a redacted version of the document(s) to be sealed, filed as an exhibit to the motion, unless the proponent of filing is seeking to file the entire document under seal, in which case a blank sheet shall be filed as an exhibit. The redacted version must be clearly marked by a cover sheet or other notation identifying the document as a "REDACTED VERSION OF DOCUMENT(S) TO BE SEALED"; and

(vi) an unredacted version, filed as a sealed exhibit, of the document that is sought to be filed under seal. Under this section the unredacted version may be filed under seal for the limited purpose of resolving the motion to seal without a prior court order. The unredacted version must be clearly marked by a cover sheet or other notation identifying the document as an "UNREDACTED VERSION OF DOCUMENT(S) TO BE SEALED PURSUANT TO LR 5.3(b)(3)(B)(iii)." The unredacted version must clearly indicate, by highlighting or other method, the portions of the document which are the subject of the motion.

(B) If the Court has not ruled on the sealing motion by the time the underlying filing must be made (e.g., a motion or brief or exhibits attached thereto), said filing shall have redactions matching those submitted under paragraph (A)(v).

(C) Disposition of Sealing Motion.

(i) The Court may grant a motion to seal only upon a finding of a compelling reason why certain documents or portions thereof should be sealed.

(ii) If the Court grants the sealing motion in whole or in part, the Court's sealing order shall specifically reference each document (or portion thereof) as to which sealing was granted. These documents may be considered by the Court with regard to the underlying filing. The moving party shall promptly file each document authorized for sealing in lieu of or as an exhibit to the underlying filing.

(iii) If the Court denies in part or in whole the sealing motion:

(1) The unredacted documents filed under seal under paragraph (b)(3)(A)(vi) remain sealed for purposes of preserving the record with regard to the court's ruling on the sealing motion.

(2) The court will not consider or rely on the unredacted version of the documents sought to be sealed and as to which the sealing motion was denied, unless the moving party promptly files the unredacted version.

(3) The court may determine that it can rule on the underlying filing without regard to any documents sought to be sealed and as to which sealing was denied (i.e., based upon the redacted document), in which case it may rule on the filing without further action by the parties.

(4) The court may determine that justice requires, in order to adjudicate the underlying filing, that a party file additional materials. The court may adjust briefing and hearing schedules accordingly.

(iv) Statements made in any motions or responses to motions filed under this rule are not admissible by any party to prove or disprove any element of a disputed claim or to impeach by a prior inconsistent statement or contradiction. An order adjudicating a motion filed under this rule does not create any presumption on any substantive issue in the case.

(c) Unsealing Documents. When the Court orders an item unsealed, the clerk will make it publicly available as any other public document.

COMMENT: Attorneys are cautioned that attempts to circumvent this rule may result in the imposition of sanctions.

Sealed settlement agreements are covered by LR 5.3(b)(1). Generally, except in extraordinary circumstances, the sealing of settlement agreements is disfavored.

Protective orders are covered under LR 26.4.

The delivery of papers filed under seal to Federal Court facilities must be in accordance with LR 83.31(a)(3)(B). (7/1/08)

Other material provided by statute, e.g., Qui Tam cases, are not covered by this rule.

Documents filed electronically must comply with the Court's ECF Policies and Procedures (Appendix ECF to these rules).

COMMENTS TO 2018 REVISIONS: Attorneys are cautioned that there is a strong presumption in favor of openness as to court records. The burden of overcoming this presumption is borne by the party that seeks to seal documents on the court record. The burden is a heavy one and only the most compelling reasons can justify non-disclosure of judicial records.

For further guidance on the legal standards governing filing under seal, see *Shane Group, Inc. v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299 (6th Cir. 2016), *Beauchamp v. Fed. Home Loan Mortgage Corp.*, 658 Fed. App'x 202 (6th Cir. 2016), and *Rudd Equipment Co. v. John Deere Const. & Forestry Co.*, 834 F.3d 589 (6th Cir. 2016).

Parties are encouraged to consider redaction of documents to excise those portions which are deemed confidential and not relevant to the matter before the court, and thus avoid a sealing motion. Parties are expected to confer in detail before a sealing motion is filed in order to reduce the number of documents which are the subject of the motion and to otherwise reach agreement on the relief requested.

March 1, 2018

LR 7.1 Motion Practice

(a) Seeking Concurrence in Motions and Requests.

(1) Before filing a motion relating to discovery, the movant must comply with Federal Rule of Civil Procedure 37(a)(1). Otherwise, the movant must ascertain before filing whether the contemplated motion or request under Federal Rule of Civil Procedure 6(b)(1)(A) will be opposed. To accomplish this, the movant must confer with the other parties and other persons entitled to be heard on the motion in good faith and in a manner that reasonably explains the basis for the motion and allows for an interactive process aimed at reaching agreement on the matter or those aspects of the matter that can be resolved without court intervention, given the nature of the contemplated motion. The conference must be held sufficiently in advance of filing the motion to allow a good faith interactive exchange aimed at resolving the matter. If the movant obtains concurrence, the parties or other persons involved may make the subject matter of the contemplated motion or request a matter of record by stipulated order.

(2) If concurrence is not obtained, the motion or request must state:

(A) there was a conference between attorneys or unrepresented parties and other persons entitled to be heard on the motion in which the movant explained the nature of the motion or request and its legal basis and requested but did not obtain concurrence in the relief sought;

(B) despite reasonable and timely efforts specified in the motion or request, the movant was unable to conduct a conference; or

(C) concurrence in the motion has not been sought because of the emergent nature of the relief requested in the motion; or

(D) concurrence in the motion has not been sought because the movant or nonmovant is an incarcerated prisoner proceeding pro se.

(3) The court may impose sanctions for unreasonable withholding of consent and for violating this rule, which may include taxing costs and attorney's fees, denying the motion, and striking the filing.

(b) Motions.

(1) Motions must comply with LR 5.1.

(2) A party must obtain leave of court to file more than one motion for summary judgment. For example, a challenge to several counts of a complaint generally must be in a single motion.

(c) Responses.

(1) A respondent opposing a motion must file a response, including a brief and supporting documents then available.

(2) Responses must comply with LR 5.1.

(3) A party must obtain leave of court to file more than one response to a motion for summary judgment. For example, a challenge to several arguments raised in a motion for summary judgment generally must be in a single response.

(d) Briefs.

(1) Briefs Required and Permitted.

(A) Unless the court permits otherwise, each motion and response to a motion must be accompanied by a single brief. The brief may be separate from or may be contained within the motion or response. If contained within the motion or response, the brief must begin on a new page and must be clearly identified as the brief. A movant may also file a reply brief.

(B) Briefs must comply with LR 5.1.

(2) Form of Required Briefs. A brief supporting a motion or response must, at the beginning, contain a concise statement of the issues presented and, on the following page, the controlling or most appropriate authority for the relief sought. The brief may contain a table of contents, an index of authorities, and an index of exhibits attached to the brief.

(3) Length of Briefs.

(A) The text of a brief supporting a motion or response, including footnotes and signatures, may not exceed 25 pages. A person seeking to file a longer brief may apply *ex parte* in writing setting forth the reasons.

(B) The text of a reply brief, including footnotes and signatures, may not exceed 7 pages.

(e) Briefing Schedule.

(1) Standard Briefing Schedule.

(A) Responses to all motions, except those listed in subparagraph 2(A) below, must be filed within 14 days after service of the motion.

(B) If filed, a reply brief supporting such motion must be filed within 7 days after service of the response, but at least 3 days before the motion hearing.

(2) Enlarged Briefing Schedule.

(A) Responses to the following motions must be filed within 21 days following service of the motion:

- for injunctive relief,
- for judgment on the pleadings,
- for summary judgment,
- to dismiss or quash an indictment or information made by a defendant,
- to suppress evidence in a criminal case,
- to certify or decertify a class,

- to dismiss under Federal Rule of Civil Procedure 12(b), and
- to involuntarily dismiss an action under Federal Rule of Civil Procedure 41(b).

(B) If filed, a reply brief supporting such a motion must be filed within 14 days after service of the response, but not less than 3 days before the motion hearing.

(f) Hearing on Motions.

(1) The court will not hold a hearing on a motion for rehearing or reconsideration, a motion for reduction of sentence, or a motion in a civil case where a person is in custody unless the judge orders a hearing.

(2) The court will hold a hearing on all other motions unless the judge orders submission and determination without hearing.

(3) The motion must be filed with the clerk, who will forward it to the assigned judge. The judge will set or cause to be set a date for hearing with notice to the parties and other persons entitled to be heard on the motion. Inquiries regarding time of hearing may be directed to the judge's chambers.

(g) Additional Time to File Supporting Documents and Brief.

(1) When a motion, response or written request states that the filing of additional affidavits or other documents in support or opposition is necessary, the assigned judge may specify the time within which the additional documents and brief must be filed by:

(A) entering an *ex parte* order prepared by the person making the request, or

(B) approving a written stipulation.

(2) A person obtaining such an order must immediately:

(A) serve it on opposing parties and other persons entitled to be heard on the motion, and

(B) notify them personally or by telephone, electronic mail, or facsimile of the signing of the order.

(3) A person against whom an *ex parte* enlargement of time has been granted may immediately move for a dissolution of the order granting enlargement.

(h) Motions for Rehearing or Reconsideration.

(1) **Final Orders and Judgments.** Parties seeking reconsideration of final orders or judgments must file a motion under Federal Rule of Civil Procedure 59(e) or 60(b). The court will not grant reconsideration of such an order or judgment under this rule.

(2) **Non-Final Orders.** Motions for reconsideration of non-final orders are disfavored. They must be filed within 14 days after entry of the order and may be brought *only* upon the following grounds:

(A) The court made a mistake, correcting the mistake changes the outcome of the prior decision, and the mistake was based on the record and law before the court at the time of its prior decision;

(B) An intervening change in controlling law warrants a different outcome; or

(C) New facts warrant a different outcome and the new facts could not have been discovered with reasonable diligence before the prior decision.

(3) **No Response and No Hearing Allowed.** No response to the motion and no oral argument are permitted unless the court orders otherwise.

(4) A motion to reconsider an order denying a motion for reconsideration may not be filed.

COMMENT: Federal Rule of Civil Procedure 6(b)(1)(A) permits a person to seek an enlargement of time "with or without motion or notice … if a request is made before the original time or its extension expires…" Although the Court generally prefers that such relief be sought by stipulation or motion, if a person chooses to seek relief by means of a "request," LR 7.1(a) still applies. The court retains the authority to alter the briefing schedule. 12/1/22

Attempts to circumvent the LR in any way may be considered an abusive practice which may result in the motion or response being stricken as well as sanctions being imposed under LR 11.1.

The following LR's also apply to specific types of motions:

1) LR 15.1, Form of a Motion to Amend and Its Supporting Documentation

2) LR 37.1, Motion to Compel Discovery

3) LR 37.2, Form of Discovery Motions

4) LR 54.2, Social Security Fee Motions

5) LR 59.1, Motion to Alter or Amend a Judgment

6) LR 65.1, Motions for Temporary Restraining Orders and for Preliminary Injunctions

7) LR 83.50, Bankruptcy Cases and Proceedings

Stylistic amendments to the Federal Rules of Civil Procedure took effect on December 1, 2007. Pursuant to those amendments, the reference to Fed.R.Civ.P. 6(b)(1) in LR 7.1(a)(1) was changed to Fed.R.Civ.P. 6(b)(1)(A). (6/2/08)

The movant must not include a "notice of hearing" unless the judge so directs.

Good practice requires a moving party to state clearly the relief requested in the motion, especially where declaratory or injunctive relief is sought. A moving party may submit through document utilities a proposed order describing the relief sought. See Electronic Filing Policies and Procedures R 11(a). Proposed orders must not be filed on the case docket.

(i) Restrictions.

Motions must not be combined with any other stand-alone document. For example, a motion for preliminary injunctive relief must not be combined with a complaint, a counter-motion must not be combined with a response or reply, and a motion for downward departure must not be combined with a sentencing memorandum. Papers filed in violation of this rule will be stricken.

(j) The briefing schedule contained in this rule under subsection (e) does not apply to social security actions seeking review under 42 U.S.C. § 405 (g).

COMMENT to 2024 REVISIONS: The briefing schedule for motion practice in social security actions is governed by the Supplemental Rules for Social Security Actions under 42 U.S.C. § 405 (g).

LR 7.1(a) requires that a moving party conduct a meaningful and timely conference with other parties to explain the nature of the relief sought and the grounds for the motion, to seek concurrence, and to narrow the issues. The Court's strong preference is for conferences held in a manner that facilitates discussion and debate, such as in person, by video or by telephone. Sometimes, email exchanges may suffice if the motion is rudimentary and uncomplicated, or to document conversations. But sending an email without engaging the other parties will not satisfy this rule.

January 1, 2024

LR 9.1 Special Rules of Pleading

(a) Notation of "Jury Demand" in the Pleading. If a party demands a jury trial by including it in a pleading, as permitted by Fed. R. Civ. P. 38(b)(1), the party must place a notation on the front page of the pleading, to the right of the caption, stating "Demand For Jury Trial" or the equivalent.

(b) Procedure for Notification of Any Claim of Unconstitutionality. In any action, suit or proceeding in which the United States or any agency, officer, or employee thereof is not a party and in which the constitutionality of an Act of Congress affecting the public interest is drawn in question, or in any action, suit or proceeding in which a State or any agency, officer, or employee thereof is not a party, and in which the constitutionality under the Constitution of the United States of any statute of that State affecting the public interest is drawn in question, the party raising the constitutional issue shall notify the Court of the existence of the question by stating on the paper that alleges the unconstitutionality, to the right of the caption, "Claim of Unconstitutionality" or the equivalent.

(c) Request for Three-Judge Court. In any action or proceeding which a party believes is required to be heard by a three-Judge court, the words "Three-Judge Court Requested" or the equivalent shall be included to the right of the caption of the first pleading in which the cause of action requiring a three-Judge court is pleaded. The words "Three-Judge Court Requested" or the equivalent on a pleading is a sufficient request under 28 U.S.C. § 2284. Together with the pleading requesting a three-Judge court, there shall be submitted a separate document entitled "Application for Three-Judge Court," together with a memorandum of points and authorities in support of the application.

(d) Designation of "Class Action" in the Caption. In any case sought to be maintained as a class action, the complaint, or other pleading asserting a class action, shall include to the right of the caption, the words "Class Action."

(e) Failure to Comply. The failure to comply with the requirements of this Rule shall not be grounds for denial of or construed as a waiver of rights otherwise provided by law.

July 1, 2010

LR 11.1 Sanctions for Non-Compliance with Local Rules

If, after notice and a reasonable opportunity to respond, the Court determines that a provision of these Local Rules has been knowingly violated, the Court may impose an appropriate sanction upon the attorneys, law firms, or parties that have violated the Local Rule or are responsible for the violation. The procedures for imposing sanctions and the nature of sanctions shall be as set out in Fed. R. Civ. P. 11(c). For purposes of this rule, references in Fed. R. Civ. P. 11(c) to violations of "Rule 11(b)" are deemed to be references to violations of the Local Rules, and Fed. R. Civ. P. 11(c)(5)(A) does not apply.

> **COMMENT:** Stylistic amendments to the Federal Rules of Civil Procedure took effect on December 1, 2007. Pursuant to those amendments, the reference to "subdivision (b)" was changed to "Rule 11(b)" and the reference to Fed.R.Civ.P. 11(c)(2)(A) was changed to Fed.R.Civ.P. 11(c)(5)(A). (6/2/08)

September 12, 1994

LR 11.2 Failure to Provide Notification of Change of Address

Every attorney and every party not represented by an attorney must include his or her contact information consisting of his or her address, e-mail address, and telephone number on the first paper that person files in a case. If there is a change in the contact information, that person promptly must file and serve a notice with the new contact information. The failure to file promptly current contact information may subject that person or party to appropriate sanctions, which may include dismissal, default judgment, and costs.

> **COMMENT:** Notice should be filed with the Clerk and served on all parties.

July 1, 2009

LR 15.1 Form of a Motion to Amend and Its Supporting Documentation

A party who moves to amend a pleading shall attach the proposed amended pleading to the motion. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must, except by leave of court, reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference. Failure to comply with this Rule is not grounds for denial of the motion.

January 1, 1992

LR 16.1 Pretrial Conferences

(a) All pretrial conferences shall be held as ordered by the Judges having jurisdiction of each case, with reasonable notice of the time thereof given to counsel or any party without counsel.

(b) Counsel or a party without counsel in any case may petition the Court to hold a pretrial conference at a time prior to the setting of a conference by order of the Court.

(c) Each represented party must be represented in the pretrial conference by at least one attorney who will participate actively in the trial of the action, and who has information and authority adequate for responsible and effective participation for all purposes, including settlement. At settlement conferences, all parties must be present, including, in the case of a party represented by an insurer, a claim representative with authority adequate for responsible and effective participation in the conference.

(d) If counsel for a party or a party without counsel fails to appear at a pretrial conference, the Judge may impose sanctions as appear proper, including costs and dismissal of the action or entry of default judgment.

(e) The following categories of action shall be exempted from the requirements of Fed. R. Civ. P. 16(b), unless otherwise ordered by the Judge to whom the action or proceeding is assigned:

(1) all actions in which one of the parties appears *pro se* and is incarcerated;

(2) all actions for judicial review of administrative decisions of government agencies or instrumentalities where the review is conducted on the basis of the administrative record (this includes social security actions);

(3) prize proceedings, actions for forfeitures and seizures, for condemnation, or for foreclosure of mortgages or sales to satisfy liens of the United States;

(4) proceedings in bankruptcy, for admission to citizenship or to cancel or revoke citizenship;

(5) proceedings for *habeas corpus* or in the nature thereof, whether addressed to federal or state custody;

(6) proceedings to compel arbitration or to confirm or set aside arbitration awards;

(7) proceedings to compel the giving of testimony or productions of documents under a subpoena or summons issued by an officer, agency or instrumentality of the United States not provided with authority to compel compliance;

(8) proceedings to compel the giving of testimony or production of documents in this District in connection with discovery, or testimony *de bene esse*, or for perpetuation of testimony, for use in a matter pending or contemplated in a U.S. District Court of another District;

(9) proceedings for the temporary enforcement of orders of the National Labor Relations Board;

(10) actions for recovery of erroneously paid educational assistance;

(11) proceedings involving efforts by the Internal Revenue Service to enforce the tax laws.

(f) If a timely-filed dispositive motion remains pending on the seventh day before the date for submitting the final pretrial order, that date will be postponed and rescheduled to a date no earlier than 7 days after the date of decision on the motion, unless the court orders otherwise. The court will also reschedule the final pretrial conference and the trial date accordingly. For purposes of this rule, "dispositive motion" means a motion for judgment on the pleadings, for summary judgment, to certify or decertify a class, to dismiss for failure to state a claim upon which relief can be granted, or to involuntarily dismiss an action, including such a motion directed to fewer than all claims, issues, or parties.

> **COMMENT:** The requirement that all parties be present at a pretrial conference held within 90 days of trial is eliminated. All parties are required to attend settlement conferences whenever they may be held.

July 1, 2010

LR 16.2 Joint Final Pretrial Order

(a) Joint Final Pretrial Order. The parties shall furnish a joint final pretrial order in every civil case at, or if the judge requires, before the final pretrial conference. This joint final pretrial order shall fulfill the parties' disclosure obligations under Fed.R.Civ.P. 26(a)(3), unless the Judge orders otherwise. All objections specified in Rule 26(a)(3)(B) shall be made in this order. Counsel for plaintiff(s) or a plaintiff without counsel shall convene a conference for all parties to confer and collaborate in formulating a concise joint final pretrial order. Counsel for plaintiff(s) or a plaintiff without counsel shall compile the order. Counsel for all parties and any party without counsel shall approve and sign the order. Counsel for plaintiff(s) or a plaintiff without counsel shall submit an original and one copy of the order to the assigned Judge for approval and adoption. The order shall provide for the signature of the Court and, when signed and filed in the Clerk's Office, becomes an order of the Court, superseding the pleadings and governing the course of trial unless modified by further order. The pretrial order shall not be a vehicle for adding claims or defenses. The order will not be filed in the Clerk's Office until the Judge has signed it.

(b) Contents of Order. The joint final pretrial order shall contain, under numbered and captioned headings, the following:

(1) Jurisdiction. The parties shall state the basis for Federal Court jurisdiction and whether jurisdiction is contested by any party.

(2) Plaintiffs' Claims. The statement of the claim or claims of plaintiffs shall include legal theories.

(3) Defendants' Claims. The statement of the defenses or claims of defendants, or third parties, shall include legal theories.

(4) Stipulation of Facts. The parties shall state, in separately numbered paragraphs, all uncontested facts.

(5) Issues of Fact to be Litigated.

(6) Issues of Law to be Litigated.

(7) Evidence Problems Likely to Arise at Trial. Include objections to exhibits and to the use of deposition testimony, including the objections required under Fed.R.Civ.P. 26(a)(3)(B). The order shall list all motions *in limine* of which counsel or a party without counsel should reasonably be aware.

(8) Witnesses. Each party shall list all witnesses whom that party will call and all witnesses whom that party may call. This listing shall include, but is not limited to, the disclosures required under Fed.R.Civ.P. 26(a)(3)(A)(i) and (ii). A party may, without further notice, call a witness listed by another party as a "will call" witness. Except as permitted by the Court for good cause a party may not list a witness unless the witness was included on a witness list submitted under a prior order or has been deposed. The list shall state whether the witness is an expert and whether testimony will be offered by deposition. Only listed witnesses will be permitted to testify at trial, except for rebuttal witnesses whose testimony could not be reasonably anticipated before trial, or except for good cause shown. The provisions of Fed.R.Civ.P. 37(c)(1) shall apply to a failure to list a witness.

(9) Exhibits. The parties must number and list, with appropriate identification, each exhibit, including summaries, as provided in Fed. R. Civ. P. 26(a)(3)(A)(iii). Objections to listed exhibits must be stated in the joint pretrial order. Only listed exhibits will be considered for admission at trial, except for rebuttal exhibits which could not be reasonably anticipated before trial, or except for good cause shown. The provisions of Fed. R. Civ. P. 37(c)(1) will apply to a failure to list an exhibit.

(10) Damages. The parties shall itemize all claimed damages and shall specify damages that can be calculated from objective data. The parties shall stipulate to those damages not in dispute.

(11) Trial

(A) Jury or non-jury.

(B) Estimated length of trial.

(12) Settlement. Counsel or a party without counsel shall state that they have conferred and considered the possibility of settlement, giving the most recent place and date, and state the current status of negotiations and any plans for further discussions. They may state that they wish the Court to schedule a settlement conference.

(c) Failure to Cooperate. For failure to cooperate in preparing or submitting the joint final pretrial order or failure to comply strictly with the terms of the joint final pretrial order, the Court may dismiss claims, enter default judgment, refuse to permit witnesses to testify or to admit exhibits, assess costs and expenses, including attorney fees, or impose other appropriate sanctions.

(d) Filing of Trial Briefs, Findings and Instructions. The joint final pretrial order must further provide that trial briefs and requests for jury instructions must be filed on the first day of trial and proposed findings of fact and conclusions of law in nonjury cases must be filed before the last day of trial unless the court orders otherwise.

(e) Additional Requirements. A Judge, in an appropriate case, may add additional requirements to the joint final pretrial order, or may suspend application of this Rule, in whole or in part.

(f) Juror Costs Attributable to Parties. Each party shall also acknowledge that the Court may assess juror expenses under LR 38.2.

COMMENT: Under LR 16.2(b)(9), any objection based on foundation or authenticity will be deemed waived if not raised before trial.

Stylistic amendments to the Federal Rules of Civil Procedure took effect on December 1, 2007. Pursuant to those amendments:

1) The reference to Fed.R.Civ.P. 26(a)(3) in the third sentence of LR 16.2(a) was changed to Fed.R.Civ.P. 26(a)(3)(B).

2) The reference to Fed.R.Civ.P. 26(a)(3) in LR 16.2(b)(7) was changed to Fed.R.Civ.P. 26(a)(3)(B).

3) The reference to Fed.R.Civ.P. 26(a)(3)(A) and (B) in LR 16.2(b)(8) was changed to Fed.R.Civ.P. 26(a)(3)(A)(i) and (ii).

4) The reference to Fed.R.Civ.P. 26(a)(3)(C) in LR 16.2(b)(9) was changed to Fed.R.Civ.P. 26(a)(3)(A)(iii). (6/2/08)

November 2, 1998

LR 16.3 Alternative Dispute Resolution: General Provisions

(a) ADR Favored. Alternative dispute resolution (ADR) refers to a set of procedures that seek to provide litigants a more informal, less expensive, and less adversarial method for resolving their disputes than is afforded by traditional litigation procedures. The judges of this district favor ADR methods in cases where the court determines, after consultation with the parties, that ADR may help resolve the case. The ADR methods approved by these rules include facilitative mediation (LR 16.4); case evaluation (LR 16.5); settlement conferences (LR 16.6); and other procedures (LR 16.7). The court will also consider other ADR methods that the parties propose.

(b) Court Administration of the ADR Program. ADR is authorized in all civil actions in this district under 28 U.S.C. § 651(b). Each ADR program is governed by these rules.

(c) Consideration of ADR. In appropriate cases, as part of the conference held under Rule 26(f) of the Federal Rules of Civil Procedure, or at some other conference ordered by the court, all litigants and counsel must consider and discuss the use of an appropriate ADR process at a suitable stage of the litigation.

(d) Confidentiality. Communications in ADR proceedings are confidential. They are not subject to discovery, are not admissible in a proceeding, and may not be disclosed to anyone other than the ADR participants unless the court permits disclosure. No party may compel a mediator to produce documents that relate to, or testify to matters discussed during, ADR proceedings except on order of the court.

(e) Judicial Officers. District judges and magistrate judges performing alternative dispute resolution functions, such as serving as mediators or settlement conference judges, act in their capacity as federal judicial officers.

(f) Neutrality of Evaluators, Mediators and Arbitrators.

(1) Standards for Disqualification. The standards for disqualification of a judicial officer under 28 U.S.C. § 455 apply to an evaluator and mediator. If the parties agree to the rules of an arbitration tribunal (such as the American Arbitration Association), the standards for disqualification of an arbitrator in those rules apply. If the rules of an arbitration tribunal do not apply, the standards for disqualification of a judicial officer under 28 U.S.C. § 455 apply to an arbitrator.

(2) Procedure for Disqualification. If an evaluator, mediator, or arbitrator becomes aware of facts that may require disqualification, or a party raises an issue about disqualification, the evaluator, mediator or arbitrator must disclose the relevant facts to the parties. If a party requests that the person withdraw, the person may withdraw and notify the court that another person should be appointed. If the person determines that withdrawal is not warranted, the person may elect to continue. The objecting party may then ask the court to remove the person by filing a motion. This procedure does not apply if the parties have agreed to another procedure.

(g) Status of Discovery, Motions and Trial During the ADR Process.
Cases referred to ADR continue to be subject to the case management schedule established by the judge assigned to the case. Unless otherwise ordered, parties are not precluded from filing pretrial motions or pursuing discovery. Referral of a case to ADR is not grounds to avoid or postpone any deadline or obligation imposed by the case management order unless ordered by the court.

(h) Attorney's Responsibility for Payment of Fees.
The attorney or law firm representing a party participating in ADR is directly responsible for fees payable to the court, mediators, or arbitrators. Parties not represented by an attorney are personally responsible for fees. To the extent consistent with ethical rules, the attorney or law firm may seek reimbursement from the client. If any attorney or unrepresented party is delinquent in paying any fee required to be paid to a mediator or arbitrator under these rules, the mediator or arbitrator may petition the court for an order directing payment, and any judge or magistrate judge assigned to the case may order payment, upon pain of contempt.

> **COMMENT:** Responsibility for payment of fees to mediators can be adjusted by the Court, considering the fairness in allocating likely expenses among the parties. In cases in which a party is represented by a *pro bono* attorney under the Court's *pro bono* counsel program, volunteer mediators are available at no cost to the parties. See also LR 16.4(d).

February 1, 2015

LR 16.4 Facilitative Mediation

(a) Definition.

(1) Mediators. Mediators are neutral persons who meet with the litigants and facilitate settlement negotiations.

(2) Mediation. Facilitative Mediation (mediation) is a flexible, nonbinding dispute resolution process in which an impartial third party — the mediator — facilitates negotiations among the parties to help them reach settlement. Mediation seeks to expand traditional settlement discussions and broaden resolution options, often by going beyond the issues in controversy. The mediator, who may meet jointly and separately with the parties, serves as a facilitator only and does not decide issues or make findings of fact. Cases will be assigned to mediation if the district or magistrate judge, after consultation with counsel or the parties, is satisfied that the selection of mediation will assist in the resolution of the case.

(b) Qualification of mediators. Mediators must be qualified by training or experience. Completion of a mediator training course approved by the Michigan Supreme Court Administrative Office is sufficient to establish qualifications. A judge may maintain a list of qualified mediators to assist the parties in selecting a mediator.

(c) Mediator Selection. The parties may select a mediator. The court may disapprove the selection. If the parties cannot agree on a mediator, the judge may -

- appoint a mediator from the parties' nominations
- appoint a mediator from the judge's qualified mediator list, or
- appoint another federal judicial officer, including a magistrate judge.

Once a mediator is selected, the court will enter an order appointing the mediator and referring the case to mediation.

> **COMMENT:** The parties' choice of mediator will generally be honored and disapproval is expected to be exceedingly rare.

(d) Mediator Compensation. The mediator must be paid his or her standard hourly rate, assessed in as many equal parts as there are separately represented parties, unless the parties agree in writing or the court orders otherwise. The mediator is responsible for billing counsel and unrepresented parties.

> **COMMENT:** Responsibility for payment of fees to mediators can be adjusted by the Court, considering the fairness in allocating likely expenses among the parties. In cases in which a party is represented by

a *pro bono* attorney under the Court's *pro bono* counsel program, volunteer mediators are available at no cost to the parties. See also LR 16.3(h).

(e) The Mediation Process.

(1) Agreement. The mediator may require the parties to sign an agreement consistent with this rule regarding confidentiality of the proceedings, discovery for the proceedings, and other procedural matters.

(2) Notice. The mediator must send a notice of the time and place of the mediation session(s) to participating parties.

(3) Parties' Memoranda. Unless the mediator directs otherwise, no later than seven calendar days before the mediation session, each party must provide the mediator with a concise memorandum stating the party's position, including issues of both liability and damages. Mediators may establish formal requirements for the memoranda. The mediator may circulate the parties' memoranda if the mediator gives the parties notice before they submit them.

(4) Process. The mediator will preside over the mediation session(s). The mediator may determine the length and timing of the session(s) and the order in which issues are presented. The mediator may meet jointly with the parties and separately with each party or group of parties. The mediator is expected to encourage and assist the parties in reaching a settlement but not to compel or coerce the parties to settle.

(5) Party Responsibilities. All parties or individuals with settlement authority must attend the mediation session(s), unless the court orders otherwise. Corporate parties must be represented by an agent with authority to negotiate a binding settlement. In cases involving insurance carriers, an insurer representative with settlement authority must attend in person. Each party must be accompanied by the lawyer expected to be primarily responsible for handling trial of the matter. The court will excuse a party or lawyer from attending in person only on a showing of extraordinary circumstances.

(6) Completion of Mediation. The mediator must advise the court of completion of mediation within seven days of completion, stating only the date of completion, who participated, whether settlement was reached, and whether further ADR proceedings are contemplated.

(7) Settlement. If the case is settled, the parties must notify the court without delay and submit appropriate documents to conclude the case within 21 days of settlement.

February 1, 2015

LR 16.5 Case Evaluation

(a) Case Evaluation Under Mich. Ct. R. 2.403. The court may refer a case to case evaluation under Michigan Court Rule 2.403, as amended from time to time, with or without the parties' consent, and subject to the provisions of this rule. The court may not enforce the sanctions provisions of that rule unless the parties consent to be bound by those provisions before the referral is made. The court may approve other procedures different from those in Mich. Ct. R. 2.403.

(b) Excepted Cases. Cases in which the United States is a party are not subject to case evaluation.

(c) Case Evaluation Panel; Stipulation of the Parties. The Wayne County Mediation Tribunal Association or another Michigan state trial court case evaluation system will evaluate cases, unless the court orders otherwise. For cases evaluated by the Wayne County Mediation Tribunal Association, the tribunal clerk is the case evaluation clerk. With the court's approval, the parties may stipulate to different procedures that apply.

(d) Actual Costs and Attorney's Fees. Actual costs, including attorney fees, may be awarded under this rule. However, if a statute or Federal Rule of Civil Procedure also authorizes the payment of attorney's fees, duplicate costs and attorney's fees may not be awarded.

> **COMMENT:** For example, if attorney's fees are awarded pursuant to Fed. R. Civ. P. 68 - Offers of Judgment, or 42 U.S.C. 1988 - Civil Rights Cases, the same fees may not be awarded pursuant to this Local Rule.

November 1, 2017

LR 16.6 Settlement Conferences

The judge assigned to the case may order a settlement conference to be held before that judge, another district judge, or a magistrate judge. The court may require parties to be present. For parties that are not natural persons, the court may require a natural person representing that party who possesses ultimate settlement authority to attend in person. In cases where an insured party does not have full settlement authority, the court may require an official of the insurer with ultimate settlement authority to attend.

> **COMMENT:** The court may consider assigning a settlement conference to another judicial officer rather than ordering a case to facilitative mediation when the amount in controversy is low or a party appears *pro se.*

February 1, 2015

LR 16.7 Other ADR Procedures

A judge may use other methods of alternative dispute resolution, including summary jury trials, summary bench trials, and (with the parties' consent) arbitration, or recommend or facilitate the use of any extrajudicial procedures for dispute resolution not otherwise provided for by these rules.

February 1, 2015

LR 16.8 Pretrial Filings and Exchanges

(a) Applicability. These requirements apply unless the court orders otherwise.

(b) Trial Briefs. Parties in civil cases must file and serve trial briefs on the first day of trial.

(c) Exhibits. Parties in civil cases must mark, number, and exchange all trial exhibits before trial. For good cause, the court may admit exhibits that are not marked, numbered, and exchanged before trial. During trial, each party must have its exhibits available as needed. After trial, each party must retain its exhibits.

(d) Jury Instructions.

(1) Parties in jury trials must file and serve on opposing counsel requested instructions on the first day of trial. In civil cases, they must include an instruction stating concisely the party's claim and theory of the issues. At any time before closing argument, a party may file and serve additional requested instructions that could not have reasonably been anticipated before trial.

(2) A party may file and serve with the requests a legal memorandum in support of the requested instructions. Parties may file and serve legal memoranda opposing requested instructions at any time before settlement of the instructions.

(3) Each requested instruction must:

(A) start on a separate page;

(B) be consecutively numbered;

(C) bear the case number;

(D) identify the requesting party; and

(E) cite supporting authority.

COMMENT: In criminal cases, the court's Standing Order for Discovery and Inspection and Fixing Motion Cut-Off Date in Criminal Cases governs certain pretrial obligations.

February 1, 2015

LR 26.1 Form of Certain Discovery Documents

The party serving interrogatories, pursuant to Fed. R. Civ. P. 33, serving requests for production of documents or things, pursuant to Fed. R. Civ. P. 34, or serving requests for admission, pursuant to Fed. R. Civ. P. 36, shall provide a space after each such interrogatory, request, or admission, for the answer, response, or objection thereto. The party answering, responding, or objecting to written interrogatories, requests for production of documents or things, or requests for admission shall either set forth the answer, response, or objection in the space provided or shall quote each such interrogatory or request in full immediately preceding the statement of any answer, response, or objection thereto. Each party shall also number its interrogatories, requests, answers, responses, or objections sequentially, regardless of the number of sets of interrogatories or requests. In cases involving multiple parties, the sequential numbering required by this rule operates for each plaintiff and defendant. A separate numerical sequence shall be maintained for each discovery device and for each party from whom discovery is sought.

> **COMMENT:** Fed. R. Civ. P. 33(a)(1) limits interrogatories to 25 without leave of court. [Stylistic amendments to the Federal Rules of Civil Procedure took effect on December 1, 2007. Pursuant to those amendments, the above reference to Fed.R.Civ.P. 33(a) was changed to Fed.R.Civ.P. 33(a)(1).] (6/2/08)

April 3, 1995

LR 26.2 Filing Discovery Material

(a) A party or other person may not file discovery material specified in Fed.R.Civ.P. 5(d)(1) and certificates of service for such discovery material except:

(1) when it provides factual support for a motion, response or reply. The party or other person relying on the material must file only the germane portion of it as an exhibit or attachment to the motion, response, or reply.

(2) when it is read or otherwise used during a trial or other proceeding. The party or other person relying on the material must file it at the conclusion of the trial or other proceeding in which it was used or at a later time that the court permits.

(3) on order of the court.

(4) if discovery material not previously filed is needed for an appeal, the party or other person with custody of the discovery material must file it either by stipulation or court order.

(b) Deposition material must be filed in written form. A written transcript of an audio taped or videotaped deposition will be accepted.

(c) The originating party or other person must maintain discovery material for six months after expiration of the last applicable appeal period, or until the court directs otherwise.

(d) If the court orders filing, the party or other person with custody of the discovery material must file it within 14 days of service of the order.

COMMENT: Documents filed electronically must comply with the Court's ECF Policies and Procedures (Appendix ECF to these rules).

April 1, 2008

LR 26.3 Disclosures Required By Fed. R. Civ. P. 26(a)(3)

The parties must make the disclosures and objections required by Fed. R. Civ. P. 26(a)(3) in the joint final pretrial order as specified in LR 16.2 unless the Court orders otherwise.

> **COMMENT:** Effective December 1, 2000, courts are no longer allowed to opt-out of the provisions of Fed.R.Civ.P. 26(a).

July 1, 2001

LR 26.4 Protective Orders on Ground of Privilege or Other Protection

(a) Motions for Protective Orders.

(1) This rule governs motions for protective orders based on a claim that information is privileged or subject to protection. It does not apply to a motion for a protective order on other grounds. The motion must:

(A) state the claim that information, otherwise discoverable, is either privileged or subject to protection, and

(B) without revealing privileged or protected information, describe the nature of the documents, communications, or things not produced or disclosed, to enable the court to assess application of the privilege or protection.

(2) A party or other person may not file or tender to the clerk an item proposed for sealing under a protective order unless the court enters a protective order authorizing sealing.

(b) Filing Protected Material. If a motion for protective order is granted, protected material shall not be filed with the Clerk except:

(1) when it provides factual support for a motion, response or reply. The party or other person relying on the material must file only the germane portion of it as an exhibit or attachment to the motion, response or reply.

(2) if it is read or otherwise used during a trial or other proceeding. The party or other person relying on the material must file it at the conclusion of the trial or other proceeding in which it was used or at a later time that the court permits.

(3) on order of the court.

(4) if privileged or protected material not previously filed is needed for an appeal, the party or other person with custody of the material must file it either by stipulation or court order.

(c) Sealing, Unsealing, and Disposition of Material. LR 5.3 govern the method of filing sealed items, unsealing, and disposition of sealed material.

COMMENT: Sealed settlement agreements are covered under LR 5.3(b)(1).

Filing of depositions under seal is covered under LR 5.3.

Stipulated protective orders must be submitted as directed in the ECF Policies and Procedures (Appendix ECF to these rules).

The retention of protected material is addressed in Appendix ECF.

April 1, 2021

LR 37.1 Motion to Compel Discovery

With respect to all motions to compel discovery, counsel for each of the parties or a party without counsel shall confer in advance of the hearing in a good faith effort to narrow the areas of disagreement. The conference shall be held a sufficient time in advance of the hearing so as to enable the parties to narrow the areas of disagreement to the greatest possible extent. It shall be the responsibility of counsel for the movant or a party without counsel to arrange for the conference.

COMMENT: Motions to compel discovery are also subject to LR 7.1.

January 1, 1992

LR 37.2 Form of Discovery Motions

Any discovery motion filed pursuant to Fed. R. Civ. P. 26 through 37, shall include, in the motion itself or in an attached memorandum, a verbatim recitation of each interrogatory, request, answer, response, and objection which is the subject of the motion or a copy of the actual discovery document which is the subject of the motion.

January 1, 1992

LR 38.1 Jury Selection

(a) The random selection of grand and petit jurors for service in this Court is provided for in a plan adopted by the Court in compliance with the requirements and provisions of the Jury Selection and Service Act of 1968, 28 U.S.C. § 1861, et seq. The plan is available for inspection at the offices of the Clerk.

(b) Jurors are summoned from the following counties for each place of holding court:

(1) Ann Arbor - Jackson, Lenawee, Monroe, Oakland, Washtenaw and Wayne.

(2) Bay City - Alcona, Alpena, Arenac, Bay, Cheboygan, Clare, Crawford, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw and Tuscola.

(3) Detroit - Jackson, Lenawee, Macomb, Monroe, Oakland, St. Clair, Sanilac, Washtenaw and Wayne.

(4) Flint - Genesee, Lapeer, Livingston and Shiawassee.

(5) Port Huron - Macomb, Oakland, St. Clair, Sanilac and Wayne.

January 1, 1992

LR 38.2 Assessment of Juror Expenses

The expense to the United States of bringing jurors to the courthouse for a trial may be assessed to one or more of the parties or counsel if the jury trial is not begun as scheduled or the jurors are not used for that trial for any reason attributable to the parties or counsel.

> **COMMENT:** It is the policy of the Judicial Conference of the United States that last minute settlements and continuances which result in unnecessary juror fees and expenses be penalized by the assessment of costs against the responsible attorney or party. See also LR 40.2.

January 1, 1992

LR 40.1 Assignment of Cases for Trial

Pursuant to Fed. R. Civ. P. 40, cases shall be set for trial in the manner and at the time designated by the Judge before whom the case is pending.

COMMENT: For reassignment of civil cases, see LR 83.11(b).

March 2, 1998

LR 40.2 Continuances

Counsel or any party without counsel shall be prepared and present themselves as ready in all cases set for trial or for pretrial on the date set unless, on timely application and good cause shown, the cases are continued. Where application is made for the continuance of the trial of a case, such application shall be made to the Court as soon as the need arises.

> **COMMENT:** It is the policy of the Judicial Conference of the United States that last-minute settlements and continuances which result in unnecessary juror fees and expenses be penalized by the assessment of costs against the responsible attorney or party. See also LR 38.2.

January 1, 1992

LR 41.1 Settlements

Whenever an action pending in this Court is to be settled by the parties thereto, otherwise disposed of out of Court, or obviously will not be tried, to the knowledge of counsel or a party without counsel, it shall be the duty of counsel for all parties or any party without counsel to see that immediate notice of such fact is given to the courtroom deputy clerk of the Judge handling the case.

> **COMMENT:** Failure to provide the notice required by this Rule may, in an appropriate case, lead to the assessment of juror expenses under LR 38.2.

January 1, 1992

LR 41.2 Dismissal for Lack of Subject Matter Jurisdiction or Failure to Prosecute

Subject to Fed. R. Civ. P. 23(e) and LR 81.1, when it appears that the court lacks subject matter jurisdiction or that the parties have taken no action for a reasonable time, the court may, on its own motion after reasonable notice or on application of a party, enter an order dismissing or remanding the case unless good cause is shown. An application for a continuance or pending discovery may not preclude a dismissal for failure to prosecute.

March 2, 1998

LR 42.1 Motions to Consolidate

(a) A party seeking to consolidate cases under Federal Rule of Civil Procedure 42(a) must:

(1) file a motion in the case with the earliest case number; and

(2) file a notice of the motion in each related case.

(b) The district judge presiding in the earliest numbered case will decide the motion. However, the motion may not be granted unless the judges presiding in the related cases consent.

(c) If the motion is granted, the consolidated cases will be reassigned to the judge presiding in the earliest numbered case.

November 1, 2013

LR 43.1 Examination of Witnesses

Not more than one counsel on the same side shall be allowed to examine the same witness unless leave of Court is obtained.

January 1, 1992

LR 47.1 Juror Communication

(a) During the course of a trial, parties and attorneys must refrain from having contact with jurors before a verdict is returned.

(b) Once summoned to a courtroom for selection and until discharged, jurors must refrain from any outside contact or communication that relates to the case, which includes the use of cell phones, BlackBerries, iPhones, and other smartphone devices, the Internet, e-mail, text messaging, instant messaging, chat rooms, blogs, or the use of social networking websites such as Facebook, MySpace, LinkedIn, YouTube, or Twitter.

(c) Parties, attorneys, and jurors learning of a violation of this rule must immediately notify the judicial officer presiding over the trial.

(d) Any person wilfully violating this rule is subject to sanctions.

> **COMMENT:** The court is encouraged to instruct the jury at the beginning of trial and before deliberations about these restrictions. See, for example, the suggested jury instruction prepared by the Judicial Conference Committee on Court Administration and Case Management, December 2009.

February 1, 2011

LR 52.1 Proposed Findings and Conclusions

Parties in civil non-jury trials must file and serve proposed findings of fact and conclusions of law before the last day of trial unless the court orders otherwise.

March 2, 1998

LR 54.1 Taxation of Costs

A party seeking costs must file a bill of costs no later than 28 days after the entry of judgment. The clerk will tax costs under Fed. R. Civ. P. 54(d)(1) as provided in the Bill of Costs Handbook available from the clerk's office and the court's web site.

> **COMMENT:** A post-judgment motion that extends the time to appeal also extends the time to file a bill of costs under this rule until 28 days after the court rules on the post-judgment motion. *Miltimore Sales, Inc v International Rectifier, Inc,* 412 F3d 685 (6th Cir 2005).

June 1, 2007

LR 54.1.2 Attorneys' Fees

(a) A motion for attorneys' fees and related non-taxable expenses pursuant to Fed.R.Civ.P. 54(d)(2) must be filed no later than 28 days after entry of judgment.

(b) A motion for an award of attorneys' fees shall be supported by a memorandum brief as to the authority of the court to make such an award, and as to why the movant should be considered the "prevailing party," if such is required for the award. The motion shall also be supported by an affidavit of counsel setting out in detail the number of hours spent on each aspect of the case, the rate customarily charged by counsel for such work, the prevailing rate charged in the community for similar services, and any other factors which the court should consider in making the award. Within 14 days after filing of the motion, the party or parties against whom the award is requested shall respond with any objections thereto and accompanying memorandum setting forth why the award is excessive, unwarranted, or unjust.

> **COMMENT:** Where a request for reconsideration under Fed.R.Civ.P. 59(e) has been filed, the time limit shall begin to run upon the denial of the motion. See *Miltimore Sales, Inc. v. International Rectifier*, 412 F.3d 685 (6th Cir. 2005).

June 1, 2007

LR 54.2 Social Security Fee Motions

(a) Attorneys representing clients in social security disability claims under Title II of the Social Security Act who seek District Court approval under 42 U.S.C. § 406 must file and serve a social security fee motion no later than 14 days after entry of judgment or receipt of the social security certificate award (notice of award), whichever is later. Attorneys representing clients in social security disability claims who seek District Court approval under 28 U.S.C. § 2412 (d), the Equal Access to Justice Act, shall file a motion within 30 days of final judgment in the action.

(b) The social security fee motion must include the following information and any other information that the applicable statute requires:

(1) the past due benefits due the claimant,

(2) the past due benefits due any dependents,

(3) the dollar amount under (1) and (2) withheld by the Secretary for attorney's fees,

(4) the fees sought under 42 U.S.C. § 406 and court costs, fees and/or expenses sought under 28 U.S.C. § 2412,

(5) separate totals of hours counsel spent preparing and presenting the case in the District Court and before the Social Security Administration, and a certification by counsel that these hours are accurate and they are derived from contemporaneous time records, and

(6) a statement of whether counsel has represented the client in any other matter that involved the impairments in the disability claim. If so, indicate:

(A) whether the attorney has or may obtain an attorney fee from that matter and the amount or means of calculation;

(B) which medical evidence or reports prepared for or used in that matter were also used in the social security proceedings.

(c) The social security fee motion shall be accompanied by the following documents:

(1) a legible copy of the notice of award showing the amount of past due benefits and the amount withheld by the Secretary under 42 U.S.C. § 406,

(2) an itemized statement of services rendered showing chronological time entries for services at the administrative agency and District Court levels. These chronological time entries shall indicate the specific task(s) performed by the attorney.

(3) a copy of any fee agreement entered into between the plaintiff and the attorney.

(4) a certificate of service that the attorney's fee motion and attachments have been served on the U.S. Attorney and on the plaintiff. The certificate of service on the plaintiff shall include a statement that the plaintiff has received the following notice on a cover page of his or her copy of the motion and attachments:

United States District Court
Eastern District of Michigan

NOTICE

Under the Social Security Act, the District Court must review and approve a reasonable attorney fee for legal services rendered in your case. This fee will be paid from a portion of your past due benefits that the Social Security Administration has withheld. This fee cannot be more than 25% of your past due benefits. It can, however, be an amount less than 25% of your past due benefits even if you have signed an agreement with your attorney for the full 25%. The attorney is not legally permitted to accept more from you or Social Security than the Federal Court allows. Enclosed is a copy of the attorney's fee application and attachments. If you have any objections to the fee or consider it to be unreasonable, or if you believe that any of the statements in the fee application are incorrect, you should send a brief statement of your concerns to the Judge whose name is on the motion, c/o U.S. District Court, 231 W. Lafayette, Detroit, MI 48226. Your statement will be given to the Judge, and the Court will send a copy of it to your attorney and will consider your statement in arriving at a reasonable fee for your attorney.

March 2, 1998

LR 55.1 Clerk's Entry of Default

Requests for, with affidavits in support of, a Clerk's Entry of Default shall contain the following information:

(a) A statement identifying the specific defendant who is in default.

(b) A statement attesting to the date the summons and complaint were served upon the defendant who is in default.

(c) A statement indicating the manner of service and the location where the defendant was served.

COMMENT: The Clerk's Office provides a form for the Clerk's Entry of Default.

January 1, 1992

LR 55.2 Clerk's Entry of Judgment by Default

Requests for a Clerk's Entry of Judgment by Default must be accompanied by an affidavit which sets forth:

(a) The sum certain or the information necessary to allow the computation of a sum certain.

(b) The name of the defendant who is subject to default.

(c) A statement that the defendant is not:

(1) an infant or an incompetent person, or

(2) in the military service.

(d) A statement that a default has been entered because the defendant failed to plead or otherwise defend in accordance with Fed. R. Civ. P. 55(a).

COMMENT: The Clerk's Office has forms for requests for a Clerk's Entry of Judgment by Default and Affidavit of Sum Certain to assist parties and attorneys in complying with LR 55.2.

January 1, 1992

LR 58.1 Procedure for Entry of Judgments and Orders

The court may enter a judgment or order by one of the following methods:

(a) The court may sign the judgment or order at or after the time it grants the relief in the judgment or order.

(b) The court will sign the judgment or order when the parties and any other person entitled to be heard on entry of the judgment or order approve its form.

(c) Within seven days after granting the judgment or order, or later if the court allows, a person seeking entry of a judgment or order may serve a copy of the proposed judgment or order on the other parties and any other person entitled to be heard on entry of the judgment or order, with notice that it will be submitted to the court for signing if no written objections are filed within seven days after service of the notice. The person seeking entry of the judgment or order must file the original and proof of service with the court.

(1) If no written objections are filed within seven days, the court will then sign the judgment or order if, in the court's determination, it comports with the court's decision. If the proposed judgment or order does not comport with the decision, the court will notify the parties and any other person entitled to be heard on entry of the judgment or order to appear before the court on a specified date for settlement of the matter; or, in the court's discretion, the court may enter its own order consistent with the court's decision.

(2) A person filing the objections must serve them on all parties and other persons entitled to be heard on entry of the judgment or order.

(3) If objections are filed, within seven days after receiving notice of the objections, the person who proposed the judgment or order must notice it for settlement before the court.

(d) A person seeking entry of a judgment or order may prepare a proposed judgment or order and notice it for settlement before the court.

> **COMMENT:** Pursuant to the recent amendments to Fed. R. Civ. P. 6(a)(1)(B), effective December 1, 2009, the counting of seven days under this rule includes Saturdays, Sundays, and legal holidays.

March 1, 2010

LR 59.1 Motion to Alter or Amend a Judgment

(a) A motion to alter or amend a judgment must be filed within the time allowed by Federal Rule of Civil Procedure 59(e)

(b) No response to a motion to alter or amend a judgment and no oral argument are permitted unless the court directs otherwise.

December 1, 2018

LR 65.1 Motions for Temporary Restraining Orders and for Preliminary Injunctions

Requests for temporary restraining orders and for preliminary injunctions must be made by a separate motion and not by order to show cause. Motions for temporary restraining orders and preliminary injunctions and responses must comply with the briefing requirements of LR 7.1(b)-(d). A request under LR 7.1(a) to the opposing party for concurrence in the relief sought is not necessary for a temporary restraining order if Fed. R. Civ. P. 65(b)(1) permits an *ex parte* order. The court may set a different time schedule for motions and briefing and may grant an *ex parte* temporary restraining order under Fed. R. Civ. P. 65(b)(1).

> **COMMENT:** Stylistic amendments to the Federal Rules of Civil Procedure took effect on December 1, 2007. Pursuant to those amendments, the references to Fed.R.Civ.P. 65(b) were changed to Fed.R.Civ.P. 65(b)(1). (6/2/08)

March 2, 1998

LR 65.1.1 Attorney or Officer as Surety

The court will not accept a member of the bar in active practice, or officer or employee of the court or the United States Marshals Service as a surety, except that a district judge may approve a member of the bar as a surety for a family member if the attorney is not counsel of record in the case.

March 2, 1998

LR 67.1 Deposit and Withdrawal of Funds in Interest-Bearing Accounts

(a) Deposit Order. The Clerk of Court shall accept only certified check, cashier's check or money order for deposit in an interest-bearing account. A proposed order directing the Clerk to deposit funds in an interest-bearing account shall include the following information:

(1) the amount to be invested; and

(2) language which directs the Clerk to deduct from the account any fee authorized by the Judicial Conference of the United States.

The proposed order shall be reviewed by the Clerk or his designee for approval as to form before it is submitted to the Judge. After signature, the movant shall personally serve a copy of the order on the Clerk or his designee who shall deposit the funds as soon as the business of the Clerk's Office allows.

(b) Withdrawal Order. An order for the withdrawal of funds held in an interest-bearing account shall state:

(1) the name and address of each recipient of the funds and, except for any governmental entity, the corresponding social security or employer identification number of each recipient, and

(2) the exact amount of principal and the percentage of interest to be paid to each recipient.

The proposed withdrawal order shall be reviewed by the Clerk or his designee for approval as to form before it is submitted to the Judge. After signature, the movant shall personally serve a copy of the order on the Clerk or his designee who shall execute the order as soon as the business of the Clerk's Office allows.

November 1, 2014

LR 69.1 Garnishments

Except in cases in which the United States is the judgment creditor and unless the Court orders otherwise, a garnishment writ shall direct the garnishee to make all payments by check directly to the plaintiff by first-class mail to the plaintiff's attorney.

> **COMMENT:** The Federal Debt Collection Procedures Act of 1990 and revised MCR 3.101 authorize this simplified procedure.

November 7, 1994

LR 72.1 United States Magistrate Judges

(a) Authority of Magistrate Judges

(1) General. Pursuant to 28 U.S.C. § 636(b)(4), each United States magistrate judge appointed by this court is authorized to exercise all powers and perform all duties conferred upon magistrate judges by 28 U.S.C. § 636, as amended.

(2) Specific Duties. A magistrate judge may:

(A) conduct extradition proceedings, in accordance with 18 U.S.C. § 3184;

(B) direct the probation department to conduct a presentence investigation in a case in which the magistrate judge has exercised trial jurisdiction under 18 U.S.C. § 3401;

(C) hear and determine any nondispositive pretrial motions in civil and criminal cases, and hear and recommend the determination of any dispositive motions in such cases;

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

(E) conduct pretrial conferences, settlement conferences, and related pretrial proceedings in civil and criminal cases;

(F) conduct arraignments in criminal cases not triable by the magistrate judge and take not guilty pleas in such cases;

(G) receive grand jury returns in accordance with Fed. R. Crim. P. 6(f);

(H) accept waivers of indictment, pursuant to Fed. R. Crim. P. 7(b);

(I) conduct *voir dire* and select petit juries for the court, with the consent of the parties;

(J) accept petit jury verdicts in civil cases in the absence of a district judge;

(K) conduct necessary proceedings leading to the potential revocation of probation;

(L) issue subpoenas, writs of *habeas corpus ad testificandum* or *habeas corpus ad prosequendum*, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(M) order the exoneration or forfeiture of bonds;

(N) conduct proceedings for the collection of civil penalties of not more than $200 assessed under the Federal Boat Safety Act of 1971, 46 U.S.C. § 4311(d);

(O) conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

(P) conduct proceedings for initial commitment of narcotics addicts under the Narcotic Addict Rehabilitation Act, 42 U.S.C. § 3412;

(Q) supervise proceedings conducted pursuant to letters rogatory in accordance with 28 U.S.C. § 1782;

(R) consider and, when appropriate, grant applications of the United States to enter premises for the purpose of seizing property or the rights to property subject to levy, pursuant to 26 U.S.C. § 6331;

(S) submit to a district judge of the court a report containing proposed findings of fact and recommendations for disposition by the district judge on motions for review of default judgments.

(T) perform any additional duties not inconsistent with the Constitution and laws of the United States.

(3) Consent Jurisdiction. Upon the consent of the judge to whom the case is assigned, and with the consent of the parties, magistrate judges are authorized to conduct civil proceedings (LR 73.1).

(4) Other Duties. A magistrate judge may perform any other duty authorized by 28 U.S.C. § 636.

(b) Assignment of Duties to Magistrate Judges

(1) General. A magistrate judge may perform any of the duties authorized above upon specific reference by a judge of the court or pursuant to a general order of the court assigning duties. In performing such duties the magistrate judge will conform to the general procedural rules of this court, the instructions of the district judge to whom the case is assigned, and the Plan for the Administration of the Magistrate Judge System.

(2) Prisoner Cases Under 28 U.S.C. §§ 2254, 2255 and 42 U.S.C. § 1983. In addition to the authority granted in 28 U.S.C. § 636(b)(1)(B), Rule 10 of the Rules Governing Section 2254 Cases in the United States District Courts and Rule 8(b) of the Rules Governing Section 2255 Proceedings in the United States District Courts, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary or other appropriate hearings in prisoner cases under 28 U.S.C. §§ 2254, 2255 and 42 U.S.C. § 1983.

(3) Social Security Benefits Cases. All cases seeking review of a denial of social security benefits will be assigned both to a district judge and a magistrate judge by the clerk of the court at the time of filing. The clerk will provide for the random selection of a magistrate judge so that each magistrate judge in this district receives an equal share of all such cases from each division of the court. The magistrate judge will determine all non-dispositive motions in such cases pursuant to 28 U.S.C. § 636(b)(1)(A) and will file a report and recommendation in each such case pursuant to 28 U.S.C. § 636(b)(1)(B) and (C).

(c) Registry Funds. A magistrate judge is authorized to enter an order of the court under 28 U.S.C. § 2042 to withdraw registry funds in any matter in which the magistrate judge is authorized by law to enter judgment, including but not limited to:

(1) misdemeanor and petty offense cases disposed of by a magistrate judge pursuant to 18 U.S.C. § 3401; 28 U.S.C. § 636(a)(3);

(2) bail release proceedings in which a magistrate judge has ordered bail money to be deposited into court pursuant to 18 U.S.C. § 3141 et seq.; 28 U.S.C. § 636(a)(2); and

(3) pretrial matters referred to the magistrate judge for determination pursuant to 28 U.S.C. § 636(b)(1)(A).

(d) Review and Appeal

(1) Objections under Fed. R. Civ. P. 72 must:

(A) specify the part of the order, proposed findings, recommendations, or report to which a person objects; and

(B) state the basis for the objection.

(2) A person serving objections permitted by Fed. R. Civ. P. 72 must serve them on the magistrate judge and all parties and other persons entitled to be heard on the matter.

(3) A person may respond to objections within 14 days of service.

(4) A person may file a reply brief within 7 days of service of a response.

(5) LR 7.1 governs the form of objections, responses, and replies.

COMMENT: 28 U.S.C. § 636(b)(4) requires that "Each district court shall establish rules pursuant to which the magistrate judges shall discharge their duties."

LR 72.1(d) conforms procedures for the filing of objection to a Magistrate judge's order or report and recommendation to the provisions of Fed. R. Civ. P. 72 and provides that the form and time limits for the filing of responses to objections are to be governed by LR 7.1.

Review of matters referred under LR 72.1 is by the district judge. Review of matters referred under LR 73.1 is in the court of appeals.

Effective December 1, 2009, the time to file objections under Fed. R. Civ. P. 72 will change from 10 days to 14 days.

March 1, 2010

LR 72.2 Effect of Magistrate Judge Ruling Pending Appeal to a District Judge

When an objection is filed to a magistrate judge's ruling on a non-dispositive motion, the ruling remains in full force and effect unless and until it is stayed by the magistrate judge or a district judge.

February 1, 2011

LR 73.1 Special Designation to Exercise Civil Consent Authority

(a) Authority of a Magistrate Judge. Upon consent of all of the parties, and upon approval of the district judge to whom the case is assigned through entry of an order of reference, a magistrate judge may conduct all proceedings in a civil case and order entry of judgment in the case.

(b) Notice of Consent Option. Upon the filing of a complaint or notice of removal in a civil case, the clerk will give the plaintiff or plaintiff's counsel or the removing defendant or removing defendant's counsel a notice/consent form (form) informing the parties that they may consent to have a magistrate judge conduct all proceedings in the case and order the entry of final judgment. The parties or their attorneys must sign the form if they consent to the exercise of dispositive authority by the magistrate judge. Plaintiff or plaintiff's counsel must attach a copy of the form to each copy of the complaint and summons served. A removing defendant or removing defendant's counsel must include the form with the notice of removal required under 28 U.S.C. §1446(a). Additional copies of the form may be furnished to the parties at later stages of the proceedings. The parties are free to withhold consent without adverse consequences, and any notice or other communication from the court under authority of this LR will so advise them. This section will not apply if the district judge so instructs the clerk.

(c) Execution of Consent. If all of the parties in a civil case consent to have the magistrate judge exercise the authority described in (a), the plaintiff or plaintiff's counsel must file with the clerk the form described in (b), signed by all parties or their attorneys. The clerk will not accept the form without all such signatures, and neither the form nor its contents may be made known or available to a district judge or magistrate judge if it lacks any signatures required under this LR. A party's decision regarding consent will not be communicated to a district judge or magistrate judge before a fully-executed form is filed. Consent in a civil case under (a) may be entered until 28 days before scheduled trial of the case unless otherwise ordered by the district judge.

(d) Reference of Civil Consent Case. Upon filing of an executed form as described in (c), the clerk will send it to the district judge. The district judge may then refer the case to the magistrate judge for all further proceedings. A magistrate judge may exercise consent jurisdiction only if the district judge enters an order specifically referring the case.

(e) Party Added After Consent Occurs. A party added to a civil case after reference of the case to a magistrate judge on consent will be given an opportunity to consent to the continued exercise of case-dispositive authority by the magistrate judge. The clerk will give the party a copy of the form described in (b). A party choosing to consent must, within 28 days of appearance, file with the clerk the form signed by the party or attorney. The case will be returned to the district judge for all further proceedings unless a form is properly signed and filed.

COMMENT: Review of matters referred under LR 73.1 is in the court of appeals. Review of matters referred under LR 72.1 is by the district judge.

March 1, 2010

United States District Court
Eastern District of Michigan

LR 77.1 Sessions of the Court

This court shall be in continuous session for transacting judicial business on all business days throughout the year.

> **COMMENT:** 28 U.S.C. § 141 reads:
>
> "Special sessions; places; notices. Special sessions of the district court may be held at such places in the district as the nature of the business may require, and upon such notice as the court orders. Any business may be transacted at a special session which might be transacted at a regular session."

March 2, 1998

LR 77.2 Presiding Judge

(a) Presiding Judge Calendar (Detroit). The presiding judge calendar is compiled by the Chief Judge and is based on the availability of each district judge (including senior judges who consent) in Detroit. The presiding judge normally acts for designated one-week periods. The identity of the presiding judge may not be disclosed before Monday at 8:30 a.m.

(b) Role of Presiding Judge. The presiding judge may act in the absence or unavailability of the assigned judge. Since judges often make specific arrangements with other judges to act if they are absent or unavailable, counsel or a person without counsel should always contact the chambers of the assigned judge. If it appears that no such arrangements have been made, counsel or a person without counsel may contact the presiding judge. The first presiding judge to act for the assigned judge concerning any case or matter will hear all other issues arising in the case or matter in the absence or unavailability of the assigned judge. Unless other arrangements have been made, the presiding judge normally presides over naturalization ceremonies.

(c) Judge Absent or Unavailable. The presiding judge will be present in the courthouse during business hours through the week assigned as presiding judge. If the presiding judge is absent or unavailable, counsel or a person without counsel should contact the clerk's office to determine if arrangements have been made for another judge to act as presiding judge. If it appears that no such arrangements have been made, the clerk's office will contact judges, beginning with the most senior district judge in Detroit (including senior judges who consent), until an available judge is found to act as presiding judge.

(d) Ann Arbor and Port Huron. The presiding judge in Detroit acts as presiding judge for the Ann Arbor and Port Huron court locations.

(e) Bay City. In Bay City, the presiding judge is the resident district judge at that court location. If that judge is not available, the matter will be referred by the Clerk's Office to the presiding judge in Detroit.

(f) Flint. In Flint, the more senior resident judge will establish the presiding judge calendar, which will designate one of the resident district judges at that court location as the presiding judge for the period. The presiding judge normally acts for designated one-week periods. If that judge is not available, the matter will be referred by the Clerk's Office to the presiding judge in Detroit.

COMMENT: The role of presiding judge when an appeal of a magistrate judge's decision in a preliminary criminal proceeding which has not been assigned to a district judge is defined in LCrR 57.2.

The role of presiding judge in determining whether exigent circumstances exist in proceedings commenced by attachment and garnishment and actions in rem is defined in LR B.1.

The designated period referred to in LR 77.2(a) begins at 8:30 a.m. on Monday and ends at 8:29 a.m. on the following Monday unless that

Monday is a Federal holiday, in which case the designated period would extend until 8:29 a.m. on Tuesday.

July 1, 2014

LR 80.1 Orders for Transcript from Official Court Reporters

(a) All requests for transcripts from any proceeding held in the United States District Court for the Eastern District of Michigan shall be in writing and addressed to the court reporter for the District Judge before whom the matter was heard.

(b) A copy of a transcript must not be represented as an official transcript of a court proceeding unless a court reporter of the court or electronic transcriber performing services for the court certifies the transcript.

(c) The Clerk shall post and make available upon request the schedule of fees approved by the Judicial Conference of the United States and this Court.

November 1, 2014

LR 81.1 Removal of Diversity Actions

(a) This rule applies to actions removed on the basis of diversity of citizenship in which the complaint does not plead a specific amount in controversy in excess of the jurisdictional amount required under 28 U.S.C. § 1332.

(b) The removing defendant must:

(1) allege in the notice of removal that the amount in controversy exceeds the required jurisdictional amount, and

(2) set forth the facts or other reasons that the removing defendant possesses that support that allegation or state that the removing defendant has no such facts at that time.

(c) If the notice of removal does not establish that the case meets the jurisdictional requirement, the court may issue an order to the defendant to show cause, either orally or in writing, why the case should not be remanded to state court.

(d) If a plaintiff moves to remand, contending that the amount in controversy does not exceed the required jurisdictional amount, the plaintiff must include with the motion a signed statement of damages claimed, itemizing all damages by category and amount, or, for those categories for which the plaintiff is unable to specify a precise amount, an estimate of the maximum amount and a detailed description of the factual basis for the estimate.

(e) The court will not enter an order to remand on the ground that the amount in controversy does not exceed the required jurisdictional amount without an opportunity to be heard.

COMMENT: Nothing in LR 81.1 is intended to alter the otherwise applicable burden of proof. A form of Notice of Removal may be obtained from the Clerk's Office in Ann Arbor, Bay City, Detroit and Flint.

At both a show cause hearing or hearing on a motion to remand, both parties may file statements of facts supporting their jurisdictional allegations. These statements may be supported by affidavits or documentary evidence. The statements and supporting materials are "papers" within the meaning of Fed. R. Civ. P. 11.

March 2, 1998

LR 83.1 Amendments to Local Rules; Effective Date

(a) When the court proposes an amendment to or amends these rules, it must provide public notice of the proposal or amendment on its website and via other sources that will reach a wide audience.

(b) An amendment to these rules takes effect on the first day of the month following adoption unless otherwise ordered by the court.

> **COMMENT:** These Rules may be amended in compliance with Fed. R. Civ. P. 83 and Fed. R. Crim. P. 57.
>
> In addition to the Court's website, sources as used in LR 83.1(a) will include legal newspapers throughout the Eastern District, and the roster of persons registered to file papers electronically (filing users).
>
> A notice will appear in each issue of the Michigan Bar Journal and the Bar Journal's website advising persons that proposed and final amendments to the Court's local rules will be posted on the Court's website.
>
> LR 83.20(a) requires that "a person practicing in this court must know these rules, including the provisions for sanctions for violating the rules." For the most up-to-date information, persons practicing in this court are encouraged to visit the Court's website frequently.

October 1, 2022

LR 83.2 Reporters and Advisory Committee

The Chief Judge of this Court shall appoint one or more reporters who shall be empowered to recommend amendments to these Rules. The reporters shall collect material relevant to proposed changes. The Chief Judge of this Court shall also appoint an advisory committee composed of members of the Bar who will assist the reporters in these functions. This provision does not limit the authority of the Judges of this Court to adopt amendments independent of the reportorial process.

January 1, 1992

LR 83.3 Administrative Orders

When authorized by the Court, the Chief Judge may issue administrative orders of general scope which apply to all cases pending in the district and administrative orders of a more limited nature which apply to smaller groups of cases. Administrative orders shall be transmitted to the Clerk who shall maintain a public file of all administrative orders currently in force. The Clerk shall transmit administrative orders to the State Bar United States Courts Committee, the Federal Bar Association Eastern District of Michigan Chapter, and the Local Rules Advisory Committee. When directed by the Chief Judge, the Clerk shall arrange for publication of an administrative order.

October 2, 1995

LR 83.4 Disclosure of Corporate Affiliations and Financial Interest

(a) Parties Required to Make Disclosure. With the exception of the United States Government or agencies thereof, or a state government or agencies or political subdivisions thereof, all corporate parties to a civil case and all corporate defendants in a criminal case must file a Statement of Disclosure of Corporate Affiliations and Financial Interest. A negative report is also required.

(b) Financial Interest to be Disclosed.

(1) Whenever a corporation which is a party to a case is a subsidiary or affiliate of any publicly owned corporation not named in the case, counsel for the corporation which is a party must file the statement of disclosure provided in (c) identifying the parent corporation or affiliate and the relationship between it and the corporation which is a party to the case. A corporation is considered an affiliate of a publicly owned corporation for purposes of this Rule if it controls, is controlled by, or is under common control with a publicly owned corporation.

(2) Whenever, by reason of insurance, a franchise agreement, lease, profit sharing agreement, or indemnity agreement, a publicly owned corporation or its affiliate, not a party to the case, has a substantial financial interest in the outcome of the litigation, counsel for the party whose interest is aligned with that of the publicly owned corporation or its affiliate must file the statement of disclosure provided in (c) identifying the publicly owned corporation and the nature of its or its affiliate's substantial financial interest in the outcome of the litigation.

(3) The duty of disclosure by the corporate parties described in this Rule is continuing.

(c) Statement of Disclosure. The statement of disclosure must be made on a form provided by the Clerk and filed, as part of the first pleading or paper filed by the party in this Court, or as soon as the party becomes aware of the corporate affiliation or financial interest, or as otherwise ordered by the judge to whom the case is assigned.

> **COMMENT:** LR 83.4 is based on 6th Cir. R. 26.1. It is the responsibility of the courtroom deputy clerk for the judge to whom the case is assigned to monitor compliance with this Rule, including but not limited to sending out copies of the statement of disclosure to new defendants, third-party defendants, and others affected under (b).

May 1, 1999

LR 83.10 Assignment of Civil Cases to Places of Holding Court

(a) Counties and Places of Holding Court. Except as provided in LR 83.11, civil cases arising in or related to one or more of the following counties shall be assigned as provided in (b):

(1) Genesee, Jackson, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Sanilac, Shiawassee, Washtenaw and Wayne counties for which the places of holding court are Detroit, Ann Arbor, Flint and Port Huron.

(2) Alcona, Alpena, Arenac, Bay, Cheboygan, Clare, Crawford, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw and Tuscola counties for which the place of holding court is Bay City.

(b) Assignment of Cases. Civil cases shall be assigned by the Clerk to a place of holding court by reference to the counties in (a) in the following order of priority:

(1) If an action is removed from State Court, the county in which the case was pending in State Court (28 U.S.C. § 1441(a)).

(2) If an action is local in nature, the county in which the real estate is located.

(3) The county in which a plaintiff resides.

(4) The county in which the claim arose.

(5) In a case in which a defendant is an officer or employee of the United States or any agency thereof acting in his or her official capacity, or under color of legal authority, or an agency of the United States, the county in which an office of a defendant is located.

(6) A county in which a defendant resides or has a place of business.

(7) The place of holding court in which the case is filed.

(c) Improper Assignments. A case improperly assigned to a place of holding court shall be transferred to the proper location by order of the Court.

October 1, 2003

LR 83.11 Assignment and Reassignment of Civil Cases to Judges

(a) Random Method for Assignment of Cases to Judges.

(1) In Ann Arbor, Detroit, Flint and Port Huron, the Clerk shall employ a random method for the assignment of civil cases (excluding social security cases and special civil cases) to Judges. Special civil cases are defined as those cases arising under 28 U.S.C. §§ 2241 and 2254 and 42 U.S.C. §§ 1983 and 1985 in which the plaintiff is an inmate or resident of any facility of the Michigan Department of Corrections, the United States Bureau of Prisons, or of any county or local jail.

(2) In Bay City, the Clerk shall assign civil cases to the Judge regularly holding court in Bay City.

(3) In Ann Arbor, Bay City, Detroit, Flint and Port Huron, the Clerk shall employ a random method for the assignment of social security cases and special civil cases to Judges.

(4) A case in which a three-Judge court is requested under 28 U.S.C. § 2284 shall be assigned by random method regardless of the place of holding court in which the case is filed.

(5) Assignment of cases to the Chief Judge, to Senior Judges, and, in cases of emergency, to Judges in active service, shall be as provided by administrative order of the Court.

(6) Miscellaneous matters shall be assigned to a judge at the place of holding court where the miscellaneous matter is filed.

(b) Reassignment of Civil Cases.

(1) Cases shall be reassigned only by order of the Court.

(2) To promote docket efficiency, or to conform to the requirement of any case management plan adopted by the Court, or upon consent of the parties, or after notice and hearing, or in the interests of justice, the Chief Judge may order a civil case to be reassigned, but only with the consent of the Judge to whom the case was originally assigned and with the consent of the Judge to whom it is to be reassigned.

(3) To promote judicial efficiency in cases not requiring reassignment under these Rules, the Judges, after notice to the parties and opportunity to respond, may jointly order consolidation of some or all aspects of related cases.

(4) Reassignment of cases because of a change in judicial personnel shall be in accordance with an administrative order authorized by the Court.

(5) Successive habeas corpus petitions challenging the same conviction or sentence regardless of grounds asserted shall be assigned to the judge to whom the original petition was assigned. If that judge no longer receives such assignments, the petition will be reassigned under LR 83.11(a).

(6) Motions for relief filed under 28 U.S.C. § 2255 shall be assigned to the Judge who imposed sentence on the defendant. If the sentencing judge no longer receives any cases due to death or retirement, the matter will be reassigned by random method under subsection LR 83.11(a). However,

motions under 28 U.S.C. § 2255 filed by co-defendants in multi-defendant cases will be reassigned to the judge to whom the first motion was reassigned.

(7) Companion Cases.

(A) Companion cases are cases in which it appears that:

(i) substantially similar evidence will be offered at trial, or

(ii) the same or related parties are present and the cases arise out of the same transaction or occurrence, or

(iii) they are Social Security cases filed by the same claimant.

(B) Cases may be companion cases even though one of them has been terminated.

(C) Counsel or a party without counsel must bring companion cases to the court's attention by responding to the questions on the civil case cover sheet or in the electronic filing system.

(D) When it becomes apparent to the Judge to whom a case is assigned and to a Judge having an earlier case number that two cases are companion cases, upon consent of the Judge having the earlier case number, the Judge shall sign an order reassigning the case to the Judge having the earlier case number.

(8) Matters arising from a civil, special civil (as defined in subsection (a)(1)), or miscellaneous case assigned to a judge who no longer receives such case assignments due to death or retirement will be reassigned by random method under LR 83.11(a).

(9) New cases filed by filers enjoined under LR 5.2 shall be docketed as a new civil action and then reassigned to the district judge that issued the injunction against that filer. Motions filed by filers enjoined under LR 5.2 shall be docketed as a miscellaneous matter and reassigned to the district judge that issued the injunction against that filer.

(c) Refiled, Dismissed, and Remanded Civil Cases.

(1) If an action is filed or removed to this court and assigned to a judge and then is discontinued, dismissed, or remanded to a state court and later refiled, it shall be assigned to the same judge who received the initial case assignment without regard for the place of holding court where the case was refiled. Counsel or a party without counsel must bring such cases to the court's attention by responding to the questions on the civil case cover sheet or in the electronic filing system.

(2) When it becomes apparent to the Judge to whom a case is assigned that the case has been previously filed in this Court and assigned to another Judge and has later been discontinued, dismissed without prejudice or remanded to a State Court, the two Judges shall sign an order reassigning the case to the Judge who had been assigned the earlier case.

(d) Disqualification of Judge.

When a Judge to whom a case is assigned is disqualified from hearing it, the Clerk shall reassign the case in accordance with (a)(1) or (a)(3).

COMMENT: The "earlier case number" referred to in (b)(7)(D) will mean the earlier case filed as determined by date and time.

Miscellaneous matters referred to in LR 83.11(a)(6) include, but are not limited to, the following:

1) matters sealed in the early stages of criminal proceedings;

2) registrations of judgment from other districts;

3) actions to enforce administrative subpoenas and summons;

4) proceedings ancillary to an action pending in another district, e.g., deposition subpoenas

5) supplementary proceedings brought in aid of execution;

6) applications for writs of habeas corpus ad testificandum or ad prosequendum;

7) appointments of counsel under the Criminal Justice Act;

8) disciplinary proceedings for attorneys;

9) incoming letters rogatory.

NOTE: Any of these may be changed into a civil case if contested before a district judge.

The civil case cover sheet referred to in (b)(7)(C) and (c)(1) is available at the clerk's office and the court's web site.

April 1, 2023

LR 83.20 Attorney Admission

(a) Definitions.

(1) As used in this rule, except as provided in LR 83.20(i)(1)(D), "practice in this court" means, in connection with an action or proceeding pending in this court, to appear in, commence, conduct, prosecute, or defend the action or proceeding; appear in open court; sign a paper; participate in a pretrial conference; represent a client at a deposition; or otherwise practice in this court or before an officer of this court. A person practicing in this court must know these rules, including the provisions for sanctions for violating the rules. A person is not permitted to circumvent this rule by directing the conduct of litigation if that person would not be eligible to practice in this court.

(2) As used in this rule, "chief judge" includes his or her designee.

(b) Roll of Attorneys. The bar of this court consists of those currently admitted to practice in this court. The clerk will maintain the roll of admitted attorneys.

(c) Eligibility for Admission.

(1) A person who is admitted to practice in a court of record in a state, territory, commonwealth, or possession of the United States, the District of Columbia, or a United States District Court and who is in good standing is eligible for admission to the bar of this court, except as provided in (c)(2). *Pro hac vice* admission is not permitted.

(2) If the applicant has been held in contempt, subject to public or private discipline administered by a court or the Michigan Attorney Discipline Board or other similar disciplinary authority of another state, is not in compliance with an order of a court directed to the applicant as a party, or convicted of a crime, the chief judge will make an independent determination as to whether the applicant is fit to be entrusted with professional matters and to aid in the administration of justice as an attorney and officer of the court.

(d) Procedure for Admission.

(1) An applicant for admission to the bar of this court must pay the fee established by the court and complete the application provided by the clerk. The following information must be included in the application:

(A) applicant's name, firm/agency name (if applicable), office address, email address, office telephone and fax numbers;

(B) the date of admission for each jurisdiction where the applicant has been admitted to practice and appropriate I.D. number;

(C) whether the applicant has ever been held in contempt, or the subject of an order of discipline as defined in LR 83.22(a)(1). If so, the applicant must state the facts and the final disposition of each such instance;

(D) whether the applicant is not in compliance with an order of a court directed to the applicant as a party, or been convicted of a crime. If so, the applicant must state the facts and the final disposition of each instance; and

(E) any other name under which the applicant has received legal education or has practiced or been licensed and the periods during which the names were used.

(2) An applicant for admission to the bar of this court must submit an original certificate of good standing issued within the last 30 days from a court of record identified in (c)(1).

(3) A sponsor is not required for an applicant under (c)(1), unless directed by the chief judge. A sponsor is required for an applicant under (c)(2) and for an applicant taking the oath of office by telephone or video conference in (d)(4). A sponsor is a member of the bar of this court who must sign a declaration supporting the application for admission. The sponsor must declare that the applicant is of good character and reputation and is qualified to practice as a member of the bar of this court. A sponsor who knowingly and willfully provides a false or fraudulent declaration will be subject to sanctions under 18 U.S.C. § 1001.

(4) If the court grants the application, the applicant must take the oath of office. An applicant with an office in the district must personally appear to take the oath before a judicial officer. A judicial officer may designate the clerk or a deputy clerk to administer the oath. An applicant without an office in the district may take the oath by telephone or video conference before a judicial officer. The clerk then will issue a certificate of admission.

(e) Maintaining Eligibility for Admission. An attorney immediately must report to the chief judge a change of the status of his or her permission to practice law in any other jurisdiction if:

(1) the attorney's license to practice law becomes inactive in any jurisdiction for any reason other than under an order of discipline as defined in LR 83.22(a)(1);

(2) the change to inactive status leaves the attorney unlicensed to practice law in all other states and the District of Columbia; and

(3) the attorney has a case pending in this court or seeks to appear in a case.

The chief judge then will make an independent determination whether the attorney may continue to practice in this court. The chief judge may issue a show cause order to assist in making the determination. The failure to make a timely report may itself be grounds for discipline. The obligation to report orders of discipline from other jurisdictions is governed by LR 83.22(g)(3).

(f) Local Counsel.

(1) General Requirement. A member of the bar of this court who appears as attorney of record in the district court and is not an active member of the State Bar of Michigan must specify as local counsel a member of the bar of this court with an office in the district. Local counsel must enter an appearance and have the authority and responsibility to conduct the case if non-local counsel does not do so. On application, the court may relieve an attorney who is not an active member of the State Bar of Michigan of the obligation to specify local counsel.

(2) Appearances of Local Counsel. Local counsel must attend each scheduled appearance on the case unless the court, on its own motion or on motion or request of a party, dispenses with the requirement.

(g) Government Attorneys. An attorney representing the United States or an agency of the United States may practice in this court in an official capacity without applying for admission. If the attorney does not have an office in the district, he or she must designate the United States attorney or an assistant United States attorney for this district to receive service of all notices and papers. Service of notice on the United States attorney or designated assistant will constitute service on the nonresident government attorney.

(h) Law Student Practice. Law students may practice in this court only as permitted by LR 83.21, Law Student Practice.

(i) Unauthorized Practice.

(1) A person must be a member in good standing of the bar of this court to practice in this court or to hold himself or herself out as being authorized to practice in this court, except that--

(A) a party may proceed *in pro per*.

(B) government attorneys may practice under LR 83.20(g).

(C) law students may practice under LR 83.21.

(D) an actively-licensed attorney who is not under suspension or disbarment in this or another federal or state court may --

(i) cosign papers or participate in pretrial conferences in conjunction with a member of the bar of this court.

(ii) represent a client in a deposition, provided that an attorney who is not a member of the bar of this court who conducts a deposition will be subject to the disciplinary rules of this court.

(iii) counsel a client in an action or proceeding pending in this court.

(2) A person knowingly violating this provision may, on notice and after hearing, be found guilty of criminal contempt.

(j) Consent to Standards of Conduct and Disciplinary Authority. An attorney admitted to the bar of this court or who practices in this court as permitted by this rule is subject to the Rules of Professional Conduct adopted by the Michigan Supreme Court, as amended from time to time, and consents to the jurisdiction of this court and the Michigan Attorney Grievance Commission and Michigan Attorney Discipline Board for purposes of disciplinary proceedings.

COMMENT: Admission to practice *pro hac vice* has not been permitted in the Eastern District since 1981. The provision of LR 83.20(c)(1) is subordinate to any provision of federal law or rules to the contrary, e.g.,

Rule 6 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation promulgated pursuant to 28 U.S.C. § 1407(f).

The application referred to in LR 83.20(d)(1) requires attorneys to swear (or affirm) that they have read and will abide by the Civility Principles approved by the Court (APPENDIX CIVILITY to these rules). 11/6/2006

Under (d)(4), an applicant taking the oath of office in person will be referred to the presiding judge, a volunteer judge, or a judge with whom the applicant has made a previous arrangement. 06/04/2012

Local counsel appearances under (f) do not apply to bankruptcy cases, which are governed by the bankruptcy court's orders, rules, and policies, or to criminal cases, which are governed by LCrR 57.1. 06/04/2012

October 1, 2022

LR 83.21 Law Student Practice

(a) Purpose. Effective legal service for each person in the Eastern District of Michigan, regardless of that person's ability to pay, is important to the directly affected person, to our system of justice and to the whole citizenry. Law students and recent law graduates, under supervision by a member of the Bar of this Court, may assist the United States Attorney's Office, the Federal Defender's Office and the *Pro Bono* Civil Assignment Panel of this Court or an accredited law school or a legal aid clinic funded pursuant to the Legal Services Corporation Act. Law students and recent law graduates may participate in legal training programs organized in the offices of the United States Attorney, the Federal Defender and the *Pro Bono* Civil Assignment Panel.

(b) Eligible Persons. A student in a law school approved by the American Bar Association who has received a passing grade in law school courses and has completed the first year is eligible to participate in a legal aid clinic or United States Attorney's Office or Federal Defender's Office or *Pro Bono* Civil Assignment Panel, if the student meets the academic and moral standards established by the dean of the school. For the purpose of this rule, a "recent law graduate" is a person who has graduated from law school within the last year.

(c) Scope; Procedure.

(1) A member of the legal aid clinic, in representing an indigent person, is authorized to advise the person and to negotiate and appear on the person's behalf before this Court.

(2) Representation must be conducted under the supervision of a member of the Bar of this Court. Supervision by a member of the Bar of this Court includes the duty to examine and sign all pleadings filed. It does not require the member of the Bar of this Court to be present:

(A) while a law student or graduate is advising an indigent person or negotiating on the person's behalf, or

(B) during a courtroom appearance of a law student or graduate, except in a criminal case exposing the client to a penalty of more than six months.

(3) A law student or graduate may not appear in a case before any judicial officer of this Court without the approval of the judicial officer. If the judicial officer grants approval, the judicial officer may suspend the proceedings at any stage if he or she determines that the representation by the law student or graduate:

(A) is professionally inadequate, and

(B) substantial justice requires suspension.

(4) A law student or graduate serving in a United States Attorney's Office, Federal Defender's Office or *Pro Bono* Civil Assignment Panel may be authorized to perform comparable functions and duties assigned by the United States Attorney or Federal Defender, except that

(A) the law student or graduate is subject to the conditions and restrictions of this Rule; and

(B) the law student or graduate may not be appointed as an Assistant United States Attorney or Assistant Federal Defender.

COMMENT: LR 83.21 is based on MCR 8.120 which governs law student practice before the Michigan Courts.

January 1, 1992

LR 83.22 Attorney Discipline

(a) Definitions. The following definitions apply in this rule.

(1) "Order of discipline" means an order entered against an attorney by the Michigan Attorney Discipline Board, a similar disciplinary authority of another state, or a court

(A) revoking or suspending an attorney's license or admission before a court to practice law,

(B) placing an attorney on probation or inactive status,

(C) reprimanding an attorney for misconduct,

(D) requiring an attorney to make restitution, or

(E) transferring an attorney to inactive status in lieu of discipline.

(2) "State" means a state, territory, commonwealth, or possession of the United States, and the District of Columbia.

(3) "Serious crime" means:

(A) a felony.

(B) a crime, a necessary element of which, as determined by the statutory or common law definition of the crime in the jurisdiction of the conviction, involves interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, willful failure to pay income tax, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy, or solicitation of another to commit a serious crime.

(C) a crime that reflects adversely on the attorney's honesty, trustworthiness, or fitness as an attorney.

(4) “Chief judge” includes his or her designee.

(b) Standards of Professional Conduct. The Rules of Professional Conduct adopted by the Michigan Supreme Court, as amended from time to time, apply to members of the bar of this court and attorneys who practice in this court as permitted by LR 83.20. A violation of those rules is ground for discipline.

(c) Disciplinary Proceedings. When misconduct or allegations of misconduct that, if substantiated, would warrant discipline of an attorney who is a member of the bar of this court or has practiced in this court as permitted by LR 83.20 come to the attention of a judicial officer, including a bankruptcy judge or a magistrate judge, whether by complaint or otherwise, the judicial officer may refer the matter to:

(1) the Michigan Attorney Grievance Commission for investigation and prosecution,

(2) another disciplinary authority that has jurisdiction over the attorney, or

(3) the chief district judge for institution of disciplinary proceedings by this court under LR 83.22(e).

(d) Discipline Other than Suspension or Disbarment. In addition to the discipline authorized by (c), a judicial officer may impose discipline, except suspension or disbarment from this court, on any attorney who engages in conduct violating the Rules of Professional Conduct, these rules, the Federal Rules of Civil or Bankruptcy Procedure, or orders of the court; or engages in other conduct unbecoming of a member of the bar of this court. Prior to the imposition of discipline, the attorney shall be afforded an opportunity to show good cause, within such time as the court shall prescribe, why the discipline should not be imposed. Upon the attorney's response, and after a hearing, if requested and allowed by the judicial officer, or upon expiration of the time prescribed for a response if no response is made, the court shall enter an appropriate order. The provisions of this rule do not preclude contempt proceedings including those pursuant to 18 U.S.C. §§ 401 and 402 and Fed.R.Crim.P. 42 or proceedings under 28 U.S.C. § 1927 and Fed.R.Civ.P. 11.

(e) Discipline by Court After Hearing.

(1) Hearing Panel. On receipt of a request by a judicial officer under LR 83.22(c), the chief judge will assign a three judge panel to hear and determine the matter. The three judicial officers shall be randomly selected, except that the judicial officer who made the request for discipline or before whom the conduct giving rise to the request took place may not be appointed. At least one member of the panel must be a district judge. If the alleged misconduct occurred in relation to a bankruptcy proceeding, the panel must include one bankruptcy judge. If the alleged misconduct occurred in relation to a magistrate judge's proceeding, the panel must include one magistrate judge. Otherwise the panel must consist of three district judges. The most senior district judge will preside and has the authority to resolve issues of procedure and evidence.

(2) Order to Show Cause. The panel will determine whether to issue an order to show cause. The order to show cause will include the specific facts that give rise to the proposed discipline, including the date, place and nature of the alleged misconduct, and the names of all persons involved. The clerk must mail to the attorney who is the subject of investigation a copy of the order and any supporting documents.

(3) Response. The respondent must respond to the order to show cause within 21 days from entry of the order. The response must -

(A) specifically admit or deny each factual allegation in the order and,

(B) state specific facts on which the respondent relies, including all other material dates, places, persons and conduct, and all documents or other supporting evidence not previously filed with the order that are relevant to the charges of misconduct.

(4) Notice of the Hearing. The court must give the respondent 21 days written notice of the date and location of the hearing and notice of the respondent's rights under LR 83.22(e)(6)(B).

(5) Discovery. The panel may order prehearing discovery for good cause shown.

(6) Hearing and Decision.

(A) Prosecuting Counsel. The chief judge must appoint an attorney to present the evidence supporting the allegations giving rise to the request for discipline when a hearing is necessary to resolve disputed facts. An attorney appointed under this rule will be paid at a rate not to exceed the Criminal Justice Act rate in effect at the time.

(B) Respondent's Rights. The respondent may be represented by counsel, to present witnesses and other evidence, and to confront and cross examine adverse witnesses.

(C) Subpoenas. The presiding judge may authorize a party to subpoena witnesses or documents for the hearing for good cause shown.

(D) Witnesses. Witnesses must testify under oath. The judicial officer who initiated the referral may be called as a witness at the hearing at the panel's discretion.

(E) Burden of Proof. The conduct giving rise to the request for discipline must be proven by a preponderance of the evidence.

(F) Failure to Appear. The respondent's failure to appear at the hearing is grounds for discipline.

(G) Confidentiality; Recording. The hearing will be confidential and recorded.

(H) Decision. Decision is by a majority of the panel. The panel may order suspension, disbarment, or any other remedy or sanction it deems appropriate, including costs and attorney's fees. The panel will prepare a written order including the panel's findings and disposition of the disciplinary charges. The order will be a public record. The court will send the order to the respondent and the complainant.

(7) Appeal. The decision of the panel will be the final decision of the district court.

(8) Required Notice on Suspension or Disbarment. Within 14 days after service of an order suspending or disbarring an attorney under LR 83.22(e)(6)(H), the respondent must:

(A) Send a copy of the order to:

(i) the Michigan Attorney Grievance Commission,

(ii) the licensing authority of any other state in which the respondent is licensed to practice law, and

(iii) the clerk of every other federal court in which the respondent is admitted to practice.

(B) Notify each client of the respondent in matters that the disciplinary action may affect of the following:

(i) the nature and duration of the discipline;

(ii) the effective date of the discipline;

(iii) the attorney's inability to act as an attorney in this court after the effective date of the discipline;

(iv) the location and identity of the custodian of the client's files and records, which will be made available to the client or to substitute counsel;

(v) that the client may wish to seek legal advice and counsel elsewhere, but, if the attorney was a member of a law firm, the firm may continue to represent the client with the client's express written consent; and

(vi) the address to which all correspondence to the attorney may be addressed.

(C) In every matter in which the respondent is representing a client in litigation affected by the disciplinary action, send a copy of the order of discipline to all parties and other persons entitled to notice of matters in the litigation.

(9) Affidavit of Compliance. Within 14 days after service of an order suspending or disbarring an attorney under LR 83.22(e)(6)(H), the respondent must file an affidavit with the clerk certifying compliance with LR 83.22(e)(8). The affidavit must include as an appendix copies of the disclosure notices required under LR 83.22(e)(8).

(f) Attorneys Convicted of Crimes.

(1) Serious Crimes.

(A) When an attorney admitted to practice before this court is convicted of a serious crime, the attorney is automatically suspended from practice in this court without further action of the court, regardless of the pendency of an appeal. A conviction occurs upon the return of a verdict of guilty or upon the acceptance of a plea of guilty or *nolo contendere.* On receipt of written notice of conviction of a serious crime of an attorney admitted to practice before this court, the chief judge will enter an order suspending the attorney. The suspension will continue until after final disposition of an appeal of the conviction, proceedings on remand after an appeal, and any disciplinary investigation and proceeding based on the conduct that resulted in the conviction. The court shall serve a copy of the order on the attorney by certified mail.

(B) On application, the chief judge may reinstate the attorney on a showing that--

(i) there is a jurisdictional deficiency that establishes that the suspension may not properly be ordered, such as that the crime did not constitute a serious crime or that the attorney is not the individual convicted; or

(ii) the conviction has been reversed and there is no likelihood of further criminal prosecution or disciplinary action related to the conduct that resulted in the conviction. A reinstatement will not terminate any disciplinary investigation or proceeding based on the conduct that resulted in the conviction.

(2) Other Crimes. LR 83.22(c) applies if the court receives written notice of conviction of an attorney admitted to practice before this court of a crime not constituting a serious crime.

(3) Obligation to Report Conviction. An attorney admitted to practice before this court must, on being convicted of a serious crime, immediately inform the clerk. If the conviction was in this court, the attorney must notify all other jurisdictions in which the attorney is admitted to practice. An attorney knowingly violating this provision may, on notice and after hearing, be found guilty of criminal contempt.

(g) Discipline by Other Jurisdictions.

(1) Order of Discipline.

(A) On receipt of written notice that another jurisdiction imposed discipline against an attorney admitted to practice in this court, the chief judge will enter an order imposing the same discipline, effective as of the date that the discipline was effective in the other jurisdiction. If the discipline imposed in the other jurisdiction has been stayed there, the court may defer discipline until the stay expires. If the order of discipline includes a period of suspension or disbarment, an attorney may be reinstated to this court only by application pursuant to LR 83.22(i)(1).

(B) When this court enters an order of discipline against an attorney, the attorney must provide to the clerk a list of all other jurisdictions in which the attorney is admitted to practice.

(2) Application to Modify Order of Discipline.

(A) Within 28 days after the effective date of the order of discipline in this court, the attorney may apply to the chief judge for modification or vacation of the discipline.

(B) The court shall modify or vacate the discipline if, on the record supporting the order of discipline in the other jurisdiction, the attorney demonstrates or the court fines that it clearly appears that--

(i) the procedure in the other jurisdiction constituted a deprivation of due process; or

(ii) there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this court could not accept as final the conclusion on that subject; or

(iii) imposing the same discipline in this court would result in grave injustice; or

(iv) the misconduct warrants substantially different discipline.

If the court determines that any of these grounds exist, it shall order other appropriate discipline or no discipline.

(3) Obligation to Report Discipline.

(A) An attorney admitted to practice before this court appearing or participating in a pending matter must, on being subjected to an order of discipline, immediately inform the clerk of the order of discipline.

(B) An attorney admitted to practice before this court must, before appearing or participating in a matter in the court after being subjected to an order of discipline that has not previously been reported to the court, immediately inform the clerk of the order of discipline.

(C) An attorney knowingly violating this provision may, on notice and after hearing, be found guilty of criminal contempt.

(4) Administrative Suspension and Reinstatement. An attorney who is suspended for nonpayment of dues to the State Bar of Michigan or any other bar association on which the attorney's admission to practice in this court may be based will be automatically suspended in this court without any action by the court other than written notice to the attorney. On receipt of notice that the attorney has been reinstated for payment of dues and penalties and payment of the court's attorney renewal fee, the attorney will be automatically reinstated in this court.

(h) Resignation in Other Jurisdictions.

(1) If an attorney resigns from the bar of another court of the United States or the bar of a state while an investigation into allegations of misconduct is pending,

(A) the attorney will immediately and automatically be disbarred from this court, and

(B) the attorney must promptly inform the clerk of the resignation. An attorney knowingly violating this notification provision may, on notice and after hearing, be found guilty of criminal contempt.

(2) On receipt of written notice that an attorney has resigned from the bar of another court of the United States or the bar of a state while an investigation into allegations of misconduct was pending, the chief judge will enter an order disbarring the attorney, effective as of the date of resignation in the other jurisdiction.

(3) An attorney disbarred under (h)(1)(A) may be reinstated if the attorney is readmitted in the jurisdiction from which the attorney resigned and there has been a final disposition of the investigation into allegations of misconduct without an order of discipline.

(i) Reinstatement.

(1) When this court has suspended or disbarred an attorney under LR 83.22(g) or (h), the attorney may apply for reinstatement by filing in this court an affidavit that the jurisdiction that entered the order of discipline on which this court based its discipline has reinstated the attorney. When this court has suspended or disbarred an attorney under LR 83.22(e), the attorney may apply for reinstatement by filing an application for reinstatement. The affidavit or application must be accompanied by payment of the court's attorney renewal fee. The clerk will assign the affidavit or application to a panel of three judges chosen randomly from among the active and senior judges.

(2) The attorney seeking reinstatement must prove by clear and convincing evidence that-

(A) the attorney has complied with the orders of discipline of this court and all other disciplinary authorities.

(B) the attorney has not practiced in this court during the period of disbarment or suspension and has not practiced law contrary to any other order of discipline.

(C) the attorney has not engaged in any other professional misconduct since disbarment or suspension.

(D) the attorney has the moral qualifications, competency and learning in the law required for admission to practice before this court, and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

(3) The court may invite any judge of the court, the Michigan Attorney Grievance Commission or other disciplinary counsel to present grounds why the attorney should not be reinstated and may conduct an evidentiary hearing if factual issues are contested.

(4) If the attorney seeking reinstatement has met the burden of proof in subsections (2)(A)-(D), and unless the court finds such irregularities in the proceedings conducted in the other jurisdiction so as to undermine confidence in the result, or finds that there are other compelling reasons for not reinstating the attorney, the application will be granted.

(5) In addition to payment of the attorney renewal fee, the court may condition reinstatement on--

(A) payment of all or part of the costs of the disciplinary and reinstatement proceedings in this court and may impose any of the conditions of reinstatement imposed in the other jurisdiction, or such other conditions as are warranted.

(B) partial or complete restitution to the persons harmed by the misconduct that led to disbarment or suspension.

(C) if the disbarment or suspension has been for five years or more, certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice after the date of disbarment or suspension.

(6) An attorney may not file an application for reinstatement under this rule within one year following denial of such an application.

(j) Service of Papers. Service of papers on an attorney under this rule may be by mail to the address of the attorney shown on the court's roll of attorneys or the address in the most recent paper the attorney filed in a proceeding in this court.

(k) Duties of the Clerk.

(1) On being informed that an attorney admitted to practice before this court has been convicted of a serious crime, the clerk will determine whether the court in which the conviction occurred sent a certificate of the conviction to this court. If not, the clerk will promptly obtain a certificate and file it with the court.

(2) On being informed that another court or a state has entered an order of discipline against an attorney admitted to practice before this court, the clerk will determine whether a certified copy of the order has been filed with this court. If not, the clerk will promptly obtain a certified copy of the order and file it with the court.

(3) When this court convicts an attorney of a serious crime or enters an order of discipline against an attorney, the clerk will promptly notify the National Discipline Data Bank operated by the American Bar Association.

(l) Other Authority. Nothing in this rule abridges the court's power to control proceedings before it, including the power to initiate proceedings for contempt under Title 18, United States Code or Fed. R. Crim. P. 42.

COMMENT: The United States Supreme Court has held that "conduct unbecoming" [referred to in (d)], is conduct "contrary to professional standards that show an unfitness to discharge continuing obligations to clients or courts, or conduct inimical to the administration of justice". In re. Snyder, 472 U.S. 634, 645 (1985).

Under LR 83.22(e)(1), a hearing panel assigned as a result of alleged misconduct in relation to a bankruptcy proceeding will consist of two district judges and one bankruptcy judge. Likewise, a hearing panel assigned as a result of alleged misconduct in relation to a magistrate judge's proceeding will consist of two district judges and one magistrate judge.

28 U.S.C. § 1291 applies to LR 83.22(e)(7).

In 1997, the Judicial Conference of the United States authorized courts to charge, at their option, a fee for renewal of an attorney's admission to practice. The Eastern District of Michigan established the attorney renewal fee effective January 1, 2000 (Administrative Order 99-AO-059).

July 1, 2013

LR 83.25 Attorney's Appearance

(a) Appearance. An attorney must appear before representing a person or a party, except for practice permitted under LR 83.20(i)(1)(D). An attorney appears and becomes an attorney of record by filing a pleading or other paper or a notice of appearance. The attorney's office address, e-mail address, and telephone number must be included in the appearance. Attorney's seeking to appear for purposes of providing limited legal representation must also comply with LR 83.25(b) and (c).

(b) Duration of Appearance.

(1) An attorney's appearance continues until entry of—

(A) a final order or judgment disposing of all claims by or against the party the attorney represents, or

(B) a withdrawal or substitution order.

(2) An attorney may withdraw or be substituted for only on order of the court.

(c) Appearance to Provide Limited Representation

(1) After obtaining leave of court, or for unrepresented parties obtaining assistance through the court-approved pro se law clinic, an attorney may appear on behalf of an unrepresented party in a civil action for limited purposes, including, but not limited to, depositions, hearings, discovery, and motion practice, if the following conditions are satisfied:

(A) The attorney e-files a notice of limited appearance before appearing in the action in any capacity;

(B) The notice of limited appearance specifically identifies the components of the action in which the attorney will appear; and

(C) The limited representation is reasonable under the circumstances.

(2) An attorney who has filed a notice of limited appearance must restrict activities in accordance with the notice or any amended notice of limited appearance.

(3) Duration of Limited Legal Representation

(A) An attorney who has filed a notice of limited appearance and who has completed the representation identified in the notice must file an *ex parte* motion certifying that the representation has been completed and seeking the termination of the appearance.

(B) An attorney's appearance to provide limited legal representation continues until the court enters an order terminating the limited appearance.

(4) Nonappearance of Attorney Assisting in Document Preparation. An attorney who only assists in preparing pleadings or other papers filed in court as authorized in the Michigan Rules of Professional Conduct 1.2(b)(1) and (2) need not appear and need not sign the pleadings or other papers.

COMMENT: Once an attorney's limited appearance is approved, and while the limited appearance is effective, opposing counsel must communicate with the party through the attorney, unless the attorney has the consent of the other attorney or is authorized by law to do so, consistent with Michigan Rule of Professional Conduct 4.2(a) and (b).

December 1, 2021

LR 83.30 Courtroom Decorum

(a) Attorney as a Witness. No attorney shall, without leave of the Court secured in advance of trial when feasible, conduct the trial of an action in which he or she is to be a witness.

(b) Presence During In-Court Proceedings. Unless other arrangements have been made with the Court, it is the duty of attorneys to be present in Court at all times the Court may be in session in their case. In civil cases, any attorney who absents himself or herself during such times or during the deliberation of the jury waives his or her right to be present and consents to such proceedings as may occur in the courtroom during his or her absence.

July 1, 2012

LR 83.31 Conduct in Federal Court Facilities

(a) Security.

(1) As used in this rule, "federal court facility" includes any facility occupied by the United States District Court or the United States Bankruptcy Court for the Eastern District of Michigan, or any temporary facility occupied by a judicial officer of the Eastern District of Michigan.

(2) All persons entering a federal court facility are required to pass through a magnetometer and have all belongings and packages subject to physical and/or x-ray examination by the United States Marshals Service.

(3) All mail and packages addressed to any office within a federal court facility are subject to physical and/or x-ray examination by the United States Marshals Service.

(A) Except as provided in (B), sealed envelopes brought by courier may not be delivered to any office within a federal court facility. They must be given to a court security officer for processing in that facility's mail room.

(B) Sealed filings authorized by statute, rule, or court order in accordance with LR 5.3 must have the court order or notice of filing under seal affixed to the top of the sealed envelope. Such filings may be delivered to the clerk's office.

(b) Soliciting, Loitering and Disruptive Behavior.

(1) The solicitation of business relating to bail bonds or to employment as counsel is prohibited.

(2) Loitering in or about federal court facilities is prohibited.

(3) Any behavior which impedes or disrupts the orderly conduct of the business of the court is prohibited. Cards, signs, placards, or banners may not be brought into any courtroom or its environs.

(c) Cameras and Recording Devices

(1) The taking of photographs in connection with any judicial proceeding and the recording or broadcasting of judicial proceedings by radio, television or other means is prohibited.

(A) As used in this rule, "judicial proceeding" includes proceedings before district, bankruptcy or magistrate judges, and sessions of the grand jury.

(B) As used in this rule, "in connection with any judicial proceeding" includes all participants and persons in the vicinity of a judicial proceeding while they are in a courtroom, judicial chambers, or their environs.

(2) A judicial officer may authorize, by written notice to the United States Marshal the use of electronic or photographic means for the presentation of evidence or for the perpetuation of the record.

(3) A district judge may authorize, by written notice to the United States Marshal:

(A) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings; and

(B) the radio or television broadcasting, audio or video recording or photographing of court proceedings pursuant to a resolution of the Judicial Conference of the United States.

(d) Firearms and Weapons.

(1) Firearms, knives, explosives, and other weapons are prohibited from federal court facilities and subject to confiscation.

(2) Exceptions to this rule may include:

(A) the United States Marshal, deputy marshals, court security officers, and employees of the Federal Protective Service in accordance with 18 U.S.C. § 930(d);

(B) federal law enforcement agencies having offices in a federal court facility are exempt from the provisions regarding the carrying of weapons while entering the building and while going to and from the floor where their offices are located; or

(C) state, county, and local law enforcement officers who are:

(i) escorting prisoners to and from court under the direction of the United States Marshals Service, or

(ii) assisting the Marshals Service by supporting or providing additional security, as directed, in and around federal court facilities.

(3) All other federal, state or local law enforcement officers are required to identify themselves and store their weapons at the office of the United States Marshal.

(4) The handling of firearms as exhibits in trials is governed by an administrative order authorized by the court.

(5) An exception to this Rule regarding weapons or firearms may only be made by the Chief Judge or the Judge in whose courtroom the proceedings are occurring.

(e) Recording Devices. Subject to LR 83.32, recording devices (tape and audio recorders and devices and dictating devices) are prohibited from federal court facilities unless otherwise ordered b a judge in a particular case.

(f) Access to Federal Court Facilities Outside of Regular Court Hours.

(1) A judicial officer is responsible for all aspects of conducting a judicial proceeding outside of regular court hours. This rule supplements and does not limit the authority of the judicial officer.

(2) If any person in attendance at an initial appearance conducted in a federal court facility outside of regular court hours is aware of the presence of persons outside the facility who wish to attend the proceeding, such person should advise the judicial officer promptly and prior to commencement of the proceeding.

(3) If the judicial officer is aware that there are persons outside the facility who wish to attend the proceeding, the judicial officer should then confer with the United States Marshal (or designee) to determine whether court security officers and/or deputy marshals must be summoned to ensure the security of the facility and the safety of those already present if the persons outside are allowed to enter. This determination will take into account the requirement of this rule that all persons entering the facility must pass through the magnetometer as well as the need to ensure that the persons who enter do not have unrestricted access to areas of the facility other than the courtroom in which the judicial proceeding is to take place.

(4) The United States Marshal (or designee) may confer with any law enforcement officers who are present to determine whether there are a sufficient number of such officers already in the facility for security purposes. The United States Marshal (or designee) may exercise, in his or her discretion, one of the following options:

(A) utilize federal law enforcement officers already present in the facility to assume the additional duties involved in providing adequate security; or

(B) summon court security officers or deputy marshals to the facility for the purpose of providing adequate security.

(5) If adequate security arrangements are not possible that will allow for a court proceeding to take place without unnecessary delay, the judicial officer may proceed to conduct the initial appearance of the defendant or material witness without ordering that any persons outside the facility be allowed to enter and attend. If any persons are excluded, the judicial officer at the outset of the initial appearance will place on the record the actions taken and the reasons for these actions. The parties who are present shall be permitted to place any objections on the record.

(g) Compliance.

(1) The United States Marshals Service, or any judicial officer sua sponte, and the custodians of federal court facilities may enforce this rule, or

(2) the United States Attorney may require any person who violates this rule to appear before a judge of this court to answer to a charge of contempt.

March 1, 2018

LR 83.32 Possession and Use of Electronic Devices in Federal Court Facilities

(a) Definitions

(1) "Electronic Device" means:

(A) a Personal Electronic Device;

(B) a General Purpose Computing Device; and

(C) any other device that is capable of being used for

(i) wireless communication;

(ii) receiving, creating, capturing, storing, retrieving, sending, or broadcasting any signals or any text, sound, or images;

(iii) accessing the internet or any other network or off-site system or equipment for communicating or for storing or retrieving information; or

(iv) gathering, recording, storing, receiving, transmitting, or processing data or information by electronic means.

(2) "Personal Electronic Device" includes any cellular telephone, smart phone, and any other comparable device. For purposes of this Rule, this definition excludes those devices that constitute a "General Purpose Computing Device", as defined in this Rule.

(3) "General Purpose Computing Device" includes any laptop, iPad or similar tablet device, any electronic computing device, and any other comparable device. For purposes of this Rule, this definition excludes those devices that constitute a "Personal Electronic Device," as defined in this Rule.

(4) "Federal Court facility" includes any facility occupied by the United States District Court for the Eastern District of Michigan, or any temporary facility occupied by a judicial officer of the Eastern District of Michigan, but not the United States Bankruptcy Court.

(5) "Environs" for purposes of this Rule encompass United States Courthouse properties in their entirety including all entrances to and exits from such buildings. It does not include public sidewalks outside of such properties.

(6) "Court Official" means a judicial officer, the United States Marshal and deputy marshals, court security officers, and an employee of the United States District Court for the Eastern District of Michigan.

(7) "Judicial Proceedings" includes proceedings before district, bankruptcy or magistrate judges, and sessions of the grand jury.

(8) "Bona fide members of the press" means a person that has obtained press credentials authorized by the court.

(b) Exempted Persons and Uses

(1) General Policy - Except as provided in subparagraph (2), below, Electronic Devices are not permitted in federal court facilities.

(2) Exempted Persons - Subject to subparagraph (c), below, the following persons are permitted to carry and use Electronic Devices within federal court facilities in the Eastern District of Michigan:

(A) Officers of the Court - Attorneys appearing in their official capacity as officers of the Court, and law students practicing under LR 83.21.

(B) Building tenants - Employees and visiting employees of the federal court facility.

(C) U.S. Marshal's Service personnel - Including Court Security Officers and contract guards, only if consistent with performance standards.

(D) Other federal, state, local law enforcement - When appearing in their official capacity.

(E) GSA approved contractors - By written notice to the U.S. Marshals Service, the General Service Administration Property Manager or his designee may authorize an individual or contract group to possess a cellular telephone, laptop computer, or other wireless

communication device for the purpose of maintaining or enhancing the facility, to include repair and alterations.

(F) Jurors - Grand jury members, petit jury members, and persons appearing as directed pursuant to a jury summons may carry a Personal Electronic Device, but may not use the device in any way except upon permission of a judicial officer.

(G) Judicial authority - Upon request to the court, a judicial officer may issue an order granting permission to an individual or group, such as pro se litigants, otherwise not authorized to possess and use an Electronic Device. The U.S. Marshal shall be notified of such order.

(H) Members of the Press - Bona fide members of the press who present official credentials satisfactory to the U.S. Marshal.

(I) Attendees at Naturalization Ceremonies may use a Personal Electronic or Computing Device only to take still photographs in the Detroit Room or any courtroom in which the ceremony takes place.

(3) Judicial Authority. A judicial officer may institute another policy in his or her courtroom, including requiring that attorneys store their Personal Electronic Device in chambers during Judicial Proceedings. A judicial officer located in a court facility at a duty station away from the Theodore Levin U.S. Courthouse in Detroit, Michigan may make appropriate orders regulating the possession and use of Electronic Devices in the buildings in which he or she presides, but only with the consent of all judicial officers in that court facility.

(4) Chief Judge Delegated Authority. The Chief Judge may delegate authority to other court officials to grant permission to an individual or group otherwise not authorized to possess, and use an Electronic Device. The U.S. Marshal shall be notified of such permission.

(5) Co-located Court Facilities. Court facilities in the Eastern District of Michigan that are co-located with other government agencies shall be governed by this rule concerning the possession and use of Personal Electronic Devices in all court spaces, and the rules prescribed herein shall take precedence over other rules applicable elsewhere in the building.

(c) Conditions for authorized use of Personal Electronic Devices

Unless express permission to the contrary is given by the presiding judicial officer, the following conditions and restrictions apply to those individuals authorized to carry a Personal Electronic Device:

(1) While in a courtroom, Personal Electronic Devices shall be in the "off" position (i.e., completely powered down) at all times.

(2) The device may not be used and must be turned off except in designated areas of the court facility.

(3) The device cannot be initiated, "answered," or examined or manipulated (for text messaging or otherwise) while in a courtroom.

(4) The device may be used for communication by non-building tenants only in designated areas. Designated areas will be identified by each court facility by administrative order, to be posted prominently in each facility and on the court's Internet website.

(5) The Personal Electronic Device may not be used for purposes of taking pictures or making any audio or video recording.

(6) Prospective jurors and seated jurors may bring into a Federal Court facility their Personal Electronic Device, and electronic book readers of any kind, including but not limited to Kindles, Nooks, iPads, and any type of electronic tablet reading device, but may not use the device in any way except upon permission of a judicial officer. No juror may use an electronic device to access the Internet in any Federal Court facility or its environs.

(d) Conditions for authorized use of General Purpose Computing Devices

(1) The use of personally owned General Purpose Computing Devices in the courtrooms of this district during Judicial Proceedings (except grand jury proceedings) is permitted, limited to counsel, and pro se litigants (as authorized under (b)(2)(G)) and only in support of the proceedings before the Court. The Judicial Officer may at any time limit the use of electronic devices during or before Judicial Proceedings.

(2) All devices must be set to mute before entering the courtroom. No sounds will be permitted.

(3) Taking photographs, and making video or audio recordings of any type are strictly prohibited.

(4) A district judge or magistrate judge may authorize internet access for personally owned devices. Counsel, however, should still come prepared with all needed material loaded

on the device prior to the commencement of court in case there is an issue receiving internet service. A user may NOT access the Internet by any wireless means during jury selection.

(5) Courtroom electrical outlets may not be available for use with general purpose computing devices, and attorneys are encouraged to bring their devices to court fully charged. The electrical outlets located in attorney waiting rooms and other common space within the courthouse may be used to recharge devices as needed and as the outlets are available.

(6) Devices which distract from, interfere with or disrupt a proceeding will be removed from the courtroom.

(7) Devices which interfere with court equipment will be removed from the courtroom.

(8) No spectator or media representative will be permitted to use any electronic device inside the courtroom.

(9) Court Staff are not available to assist counsel with the use of personally owned Electronic Devices.

(10) Counsel must follow any directives issued by court personnel
with regard to the use of Electronic Devices in the courtroom.

(e) Permitted and Prohibited Uses

(1) Except as allowed by this section, no Electronic Device may be used in a Federal Court facility to record sounds or images.

(2) Taking photographs or video or audio recordings in connection with any Judicial Proceeding (including any participants in a Judicial Proceeding while they are in a courtroom or its environs), and the recording or broadcasting of Judicial Proceedings by radio or television or other means is prohibited.

(3) A judicial officer may authorize the use of electronic or photographic means for the presentation of evidence or for the perpetuation of the record. The judicial officer will provide by written notice to the United States Marshal that such permission has been granted.

(4) A district judge or magistrate judge may authorize:

(A) The broadcasting, televising, recording or photographing of investiture, ceremonial, or naturalization proceedings; and

(B) The radio or television broadcasting, audio or video recording or photographing of court proceedings, but only pursuant to a resolution of the Judicial Conference of the United States.

The judicial officer will provide by written notice to the United States Marshal that such permission has been granted.

(5) The General Service Administration (GSA) Property Manager or his designee can authorize an individual or contract group to possess a camera or recording device for the purpose of maintaining or enhancing the facility, to include repair and alterations. The GSA Property Manager must provide by written notice to the United States Marshal that such permission has been granted.

(f) Enforcement. The United States Marshal, his deputies, and court security officers may demand from any individual in possession of a cellular telephone or wireless communication device, to produce identification in aid of enforcement of this rule, and if the identification does not satisfy the officer that the person in possession of the device is authorized in accordance with the terms of this rule, the officer may refuse admittance to this person or confiscate the device or both.

(g) Violations.

(1) Attorney Discipline. An attorney violating this rule may be subject to discipline, including debarment, in accordance with Local Rule 83.22.

(2) Confiscation. A violation of this rule, including without limitation unauthorized possession of an Electronic Device, use of a Personal Electronic Device in an unauthorized space, possession of an Electronic Device in an audible mode, and failing to turn off an Electronic Device when required, may result in immediate confiscation of the electronic device. Any judicial officer may order confiscation of an Electronic Device. Any United States Marshal, Deputy Marshal, or court security officer may also confiscate an Electronic Device.

(3) Contempt of Court. A violation of this rule may be punished as criminal contempt of court. A violation that disrupts a judicial proceeding may be punished by summary proceedings.

(4) Relief from Confiscation of an Electronic Device. A person whose Electronic Device has been confiscated may apply in writing within twenty-eight (28) days after confiscation for return of the Electronic Device. The application shall be made to the judicial officer whose proceedings were disturbed by the violation, or, if there is no such judicial officer, to the chief judge. The judicial officer may grant or refuse the request. If the judicial officer determines that no violation of this rule occurred, he or she shall order the Electronic Device returned. If a

violation has occurred and the request for return is granted, the judicial officer shall assess an appropriate monetary payment as a condition of returning the Electronic Device. Confiscated Electronic Devices that are not returned, either because no request has been made within the time provided or the request for return has been denied, shall be disposed of in a manner directed by the chief judge.

(5) Consent to Provisions. Any person bringing into a Federal Court facility of its environs an Electronic Device shall be determined to have consented to the provisions of this rule.

(h) Suspension or Modification of This Rule During Heightened Security. The privileges conferred by this Rule shall be subject to suspension or modification without notice in the event that the U. S. Marshal's Service, the Court, or other federal agency declares a need for a heightened level of security at the courthouse.

April 1, 2024

LR 83.40 Certification of Issues to State Courts

(a) Upon motion or after a hearing ordered by the Judge *sua sponte*, the Judge may certify an issue for decision to the highest Court of the State whose law governs its disposition. An order of certification shall be accompanied by written findings that:

(1) the issue certified is an unsettled issue of State law, and

(2) the issue certified will likely control the outcome of the federal suit, and

(3) certification of the issue will not cause undue delay or prejudice.

Such order shall also include citation to precedent, statutory or court rule authority authorizing the State Court involved to resolve certified questions.

(b) In all such cases, the order of certification shall stay federal proceedings for a fixed time which shall be subsequently enlarged only upon a showing that such additional time is required to obtain a State Court decision and is not the result of dilatory actions on the part of the litigants.

(c) In cases certified to the Michigan Supreme Court, in addition to the findings required by this Rule, the United States District Court shall approve an agreed statement of facts which shall be subsequently transmitted to the Michigan Supreme Court by the parties as an appendix to briefs filed therein.

January 1, 1992

LR 83.50 Bankruptcy Cases and Proceedings

(a) Matters Referred to the Bankruptcy Judges

(1) Unless withdrawn by a district judge, all cases under Title 11 of the United States Code and any or all proceedings arising under Title 11 or arising in or related to a case under Title 11 are referred to bankruptcy judges. The court intends to give bankruptcy judges the broadest possible authority to administer cases and proceedings properly within their jurisdiction.

(2) Under 28 U.S.C. § 157(b)(1), bankruptcy judges will hear and determine all cases under Title 11 and all core proceedings (including those listed in 28 U.S.C. § 157(b)(2)) arising under Title 11, or arising in or related to a case under Title 11, and will enter appropriate orders and judgments, subject to review under 28 U.S.C. § 158.

(3) Bankruptcy judges will hear all the non-core proceedings related to a case under Title 11.

(A) By Consent. With the parties' express consent, bankruptcy judges may conduct hearings and enter appropriate orders or judgments in the proceeding, subject only to review under 28 U.S.C. § 158.

(B) Absent Consent. Absent consent of the parties, bankruptcy judges will conduct hearings and file proposed findings of fact and conclusions of law and a proposed order or judgment with the bankruptcy clerk. Bankruptcy judges may also file recommendations for expedited review. The bankruptcy clerk will immediately serve copies on all parties by mail and enter the date of mailing on the docket. Objections to a bankruptcy judge's proposed findings of fact and conclusions of law must be filed as required by Fed. R. Bankr. P. 9033(b) and (c).

(b) Motions to Withdraw. District judges will hear motions to withdraw cases or proceedings. The district clerk will serve a copy of the order on the bankruptcy clerk and the bankruptcy judge.

(c) Matters to be Heard and Determined or Tried by District Judges. District judges will hear and determine cases or proceedings withdrawn under 28 U.S.C. § 157(d). District judges will also try personal injury tort and wrongful death claims under 28 U.S.C. § 157(b)(5). If necessary, parties may move under (b) to withdraw a personal injury tort or wrongful death claim from a bankruptcy judge.

(d) Filing Papers.

(1) While cases or proceedings are pending before a bankruptcy judge, or before entry of an appeal on the district court docket under Fed. R. Bankr. P. 8010(b), all papers -- including removal notices under 28 U.S.C. § 1452(a) and motions to withdraw the reference -- will be filed with the bankruptcy clerk. If a notice of removal is mistakenly filed with the district clerk, the district clerk will note on the notice the date on which it was received and transmit it to the bankruptcy clerk. It will be deemed filed with the bankruptcy clerk on the date noted.

(2) After a contested matter or proceeding is assigned to a district judge, all papers in the matter or proceeding must bear a civil case number in addition to the bankruptcy case number(s) and must be filed with the district clerk.

(3) With the exception of papers required under Fed. R. Bankr. P. 8009, after the district clerk gives notice of the date on which the appeal was docketed, all papers must bear a civil case number in addition to the bankruptcy case number(s) and must be filed with the district clerk.

(e) Submitting Papers, Records or Files to the District Court; Assigning District Judges.

(1) The bankruptcy clerk will submit the necessary papers to the district clerk when:

(A) the time for filing objections under Fed. R. Bankr. P. 9033(b) expires;

(B) a district judge enters an order under 28 U.S.C. § 157(d);

(C) a party files a motion to withdraw a case or proceeding;

(D) a bankruptcy judge determines that a case or proceeding is one in which a personal injury tort or wrongful death claim is to be tried in a district court under 28 U.S.C. § 157(b)(5); or

(E) the record is complete for purposes of appeal under Fed. R. Bankr. P. 8010(b).

(2) In connection with matters other than appeals, the bankruptcy clerk will send a notice to the parties identifying the papers submitted to the district clerk.

(3) Subject to (4), below, the district clerk will assign a civil case number to each matter submitted. The district clerk will assign all cases and proceedings arising out of a bankrupt estate to the district judge to whom the case was first assigned. If there is no prior assignment, the district clerk will assign the matter under LR 83.11.

(4) If the assigned judge believes that a bankruptcy case is one of unusual complexity, then, with the consent of the assigned judge, the chief judge may reassign to other judges of this court by random draw subsequent cases, motions to withdraw the reference under 28 U.S.C. § 157(d), proceedings withdrawn under 28 U.S.C. § 157(d), and appeals under 28 U.S.C. § 158, arising from that bankruptcy case for the purpose of docket efficiency and to expedite the resolution of such matters. In such a case, the following case management guidelines apply:

(A) In motions and appeals, expedited briefing schedules should be ordered.

(B) Oral argument should be allowed, unless the court finds explicitly that oral argument will delay or inhibit the decision.

(C) The order or opinion deciding motions and appeals should be filed within 28 days of oral argument.

COMMENT: If multiple matters are reassigned under (e)(4), the chief judge will consider whether each subsequent matter should be treated as a companion case and reassigned under the companion case rule in LR 83.11(b)(7). The 2022 amendments changed the references to the Federal Rules of Bankruptcy Procedure to conform to the numbering changes to hose rule citations.

October 1, 2022

LR B.1 Exigent Circumstances in Proceedings Commenced by Attachment and Garnishment and Actions in Rem

Exigent circumstances shall exist when the assigned judge, presiding judge and Chief Judge of the district are unavailable to make a determination as to whether the conditions for the issuance of a warrant for arrest or writ for attachment or garnishment of maritime property exist and the property to be subject to the arrest or attachment may in the immediate future leave the District. For purposes of this Local Rule, a Judge shall be deemed unavailable, unless the Judge indicates that he or she will immediately consider the proposed order.

January 1, 1992

LR E.1 Actions in Rem and Quasi in Rem

(a) Advance Deposit for Cost. The United States Marshal shall collect in advance of the arrest, attachment or garnishment only that amount sufficient to cover the cost of service or process, United States Marshal's insurance and 10 days' keeper and maintenance fees. If the plaintiff is represented by an attorney duly authorized to practice in this District, then the advance deposit for cost may be satisfied by tendering to the United States Marshal a check from the attorney or attorney's firm in the amount of the required deposit. The United States Marshal shall not deliver any property so released until costs and charges of the Court have been paid.

(b) Custody and Operation of Seized Vessels. On seizure of a vessel by arrest or attachment, the marshal must appoint as custodian of the vessel the master or other officer in control of the vessel if the master or other officer accepts the responsibilities and liabilities of the appointment. Absent such acceptance, the marshal must make other satisfactory arrangements for the safekeeping of the vessel. The marshal in either event may require the party at whose instance the vessel was seized to pay the fees and costs as incurred. On motion of the plaintiff or another person claiming an interest in the vessel, the court may appoint a different custodian. In that event the person at whose instance the appointment was made must pay the fees and costs as incurred. Unless restriction of the vessel is necessary for its safekeeping, the loading or discharging of cargo or other normal working of the vessel shall not be impeded. The marshal may permit the vessel to be moved from berth to berth within a marine terminal or to a local anchorage within the district without further court order.

(c) Release of Maritime Property. The United States Marshal shall release property under arrest, attachment or garnishment upon receipt of any of the following:

(1) An order of the Court expressly authorizing the release; or

(2) A stipulation signed by the party on whose behalf the property is detained, or his or her attorney, expressly authorizing the release; or

(3) A voluntary dismissal under Fed. R. Civ. P. 41(a) signed by the party on whose behalf the property is detained, or his or her attorney, which expressly authorizes the release.

(4) Under (2) and (3), it is not necessary that the defendant or his or her attorney sign the pleading.

March 1, 2010

LCrR 1.1 Scope of Rules

In addition to these local criminal rules, the general local rules apply to criminal actions as provided in LR 1.1(c).

March 2, 1998

LCrR 5.1 Initial Appearances by Defendant

(a) All initial appearances shall comply with Fed. R. Crim. P. 5.

(b) If a defendant is appearing voluntarily, the defendant shall report to the Pretrial Services Agency for the purpose of a bond recommendation and to the United States Marshals Service before the defendant's initial appearance in court.

(c) The United States Attorney shall provide the Magistrate Judge a copy of the complaint, removal petition, other papers and information relating to the defendant's initial appearance.

July 1, 1992

LCrR 6.1 Grand Juries

(a) All grand juries are under the direct supervision of the Court. The Chief Judge shall act for the Court. The Chief Judge, by Administrative Order, may designate District Judges to act for the Court.

(b) A motion or application filed in connection with a grand jury subpoena or other matter occurring before a grand jury, all other papers filed in support of or in opposition to such a motion or application, and all orders entered by the Court in connection therewith, shall be filed under seal.

(c) The moving party shall prepare a motion and order to seal and shall bring such papers to the District Judge to whom the matter has been assigned rather than file them in the Clerk's Office.

(d) The moving party shall contact the Assistant United States Attorney assigned to the investigation to determine whether a prior miscellaneous matter in the same grand jury investigation has resulted in the assignment of a District Judge.

(e) All miscellaneous matters regarding grand juries sitting in Detroit shall be ssigned by random method to District Judges in active service in Detroit, except the Chief Judge. All miscellaneous matters regarding grand juries sitting in Bay City or Flint shall be assigned to the District Judge designated by the Chief Judge to act for the Court in supervising the grand jury in that place of holding court.

> **COMMENT:** LCrR 6.1(e) makes clear that miscellaneous matters relating to grand juries, e.g. motions to quash grand jury subpoenas, are assigned by random method to District Judges in Detroit and are not directed to the Chief Judge under LCrR 6.1(a).

July 1, 1992

LCrR 10.1 Arraignments

(a) If a defendant is arrested on a warrant or is otherwise in custody, the United States Attorney shall schedule the case for arraignment. In the case of a voluntary appearance, the United States Attorney shall schedule the arraignment and inform defendant or defendant's attorney, if defendant is represented by counsel, of the time and date of the arraignment.

(b) On the scheduled arraignment date, the defendant's attorney shall inform the defendant to report to the Pretrial Services Agency for a bond recommendation prior to the arraignment. If the defendant is not represented by counsel, the United States Attorney shall so inform the defendant.

(c) The defendant's attorney shall inform the defendant to report to the United States Marshals Service for processing after completion of the Pretrial Services Agency interview.

(d) All arraignments shall be conducted pursuant to Fed. R. Crim. P. 10.

July 1, 1992

LCrR 12.1 Motion Practice

(a) Motions in criminal cases shall be filed in accordance with the procedures set forth in LR 7.1.

(b) Pretrial motions shall be filed within the time specified in the standing order of discovery and inspection and fixing motion cut-off date in criminal cases unless modified by order of the District Judge.

COMMENT: LCrR 12.1 should be read with Fed. R. Crim. P. 47.

July 1, 1992

LCrR 12.2 *Ex Parte* Motion Under the Criminal Justice Act

Ex parte motions permitted pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A(e)(1), shall be filed with the District Judge or Magistrate Judge assigned to the case rather than in the Clerk's Office and shall be filed under seal.

> **COMMENT:** While *ex parte* motions are not routinely permitted, the Criminal Justice Act authorizes *ex parte* motions under limited circumstances.

July 1, 1992

LCrR 17.1 Subpoenas

(a) Defendant Unable to Pay

(1) Subpoenas Served Within 100 Miles. For subpoenas to be served within 100 miles from the place of holding court, defense counsel appointed under the Criminal Justice Act and federal defenders may obtain witness subpoenas from the clerk's office. The clerk must issue those subpoenas signed, sealed, and designated *in forma pauperis*, but otherwise in blank. By completing such a subpoena, defense counsel certifies that in counsel's opinion the witness's presence is necessary to an adequate defense.

(2) Subpoenas Served More Than 100 Miles Away. For subpoenas to be served more than 100 miles from the place of holding court, an application for issuance of a subpoena *in forma pauperis* must be made to the Court. The application may be made *ex parte*.

(b) A party seeking a subpoena for books, papers, documents, data, or other objects under Fed. R. Crim. P. 17(c) in advance of trial must seek prior approval from the court. An application for approval may be made *ex parte*. The subpoena must state that the requested items must be returned to the chambers of the assigned judge.

> **COMMENT:** LCrR 17.1 should be read with Fed. R. Crim. P. 17 (which is substantially similar to Fed R. Civ. P. 45). Paragraph (b) provides guidance for the issuance and return of subpoenas under Fed. R. Crim. P. 17(c). That rule was "not intended to provide a means of discovery for criminal cases," but it was designed "to expedite the trial by providing a time and place before trial for the inspection of subpoenaed materials." *United States v. Nixon*, 418 U.S. 683, 698-99 (1974). To facilitate court supervision of subpoenas directed to third parties, subpoenas issued under that rule must specify that the items sought be returned to the court, and not elsewhere, such as a lawyer's office.

July 1, 2017

LCrR 18.1 Assignment of Criminal Cases to Places of Holding Court

(a) Counties and Places of Holding Court. Criminal cases shall be assigned to the place of holding court which serves the county in which the offense is alleged to have been committed:

(1) Jackson, Lenawee, Macomb, Monroe, Oakland, St. Clair, Sanilac, Washtenaw and Wayne counties for which the places of holding court are Ann Arbor, Detroit and Port Huron.

(2) Genesee, Lapeer, Livingston and Shiawassee counties for which the place of holding court is Flint.

(3) Alcona, Alpena, Arenac, Bay, Cheboygan, Clare, Crawford, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw and Tuscola counties for which the place of holding court is Bay City.

(b) Improper Assignments. A case improperly assigned to a place of holding court shall be transferred to the proper location by order of the Court.

April 3, 1995

LCrR 32.1 Guideline Sentencing

(a) Not less than 35 days before the sentencing date, the probation officer must disclose the presentence investigation report, excluding the probation officer's recommendation, to the *pro se* defendant or to defense counsel and government counsel. The presentence report is disclosed under 18 U.S.C. § 3552(d):

(1) when it is physically or electronically delivered, or

(2) three days after it is mailed.

(b) Within 14 days after disclosure, the *pro se* defendant or counsel for the defendant and counsel for the Government shall communicate to the probation officer and to each other any objections to any material information, sentencing classifications, sentencing guideline ranges, and policy statements which are contained in, or omitted from, the report. Such communication shall be in writing and shall be signed by the defendant or counsel for the defendant or counsel for the Government, or in another manner as the Court directs. Any response to an objection shall be in writing and submitted directly to the probation officer, with copies furnished to all parties.

(c) After receiving a timely objection or response, the probation officer shall immediately conduct a further investigation and make such revisions to the presentence report as are warranted. The probation officer may require each counsel or *pro se* defendant to meet with the officer to discuss any unresolved factual and legal issues.

(d) Prior to the date set for sentencing, the probation officer shall submit the presentence report to the sentencing judge. The report shall be accompanied by

(1) an addendum which shall set forth any unresolved objections that counsel or the *pro se* defendant may have and any response thereto, and

(2) the comments of the probation officer. The probation officer shall certify that the contents of the report, including any revisions and the addendum, have been disclosed to the defendant and counsel for the defendant and counsel for the Government, and that the addendum to the presentence report, if any, fairly states all of the remaining objections.

(e) After reviewing the presentence report and addendum, the Court, upon a showing of good cause, may allow a new objection to be raised at any time prior to the imposition of sentence.

(f) When the Court resolves disputed sentencing factors, it shall notify the parties of its tentative findings and provide a reasonable opportunity for the submission of oral or written objections to the Court before the imposition of sentence. If the Court determines that a hearing is necessary to resolve disputed sentencing factors, a hearing shall be held for that purpose upon reasonable notice to all interested parties. See Fed. R. Crim. P. 32.

(g) A party who submits a document to the Court shall serve a copy of the document on the probation officer.

(h) The times set forth in this LCrR may be modified by the Court upon a showing of good cause.

(i) The presentence report, any objections thereto, and any correspondence between counsel and a probation officer concerning any such objections shall be maintained in confidence and shall not be disclosed to any person other than the defendant, counsel for the defendant, counsel for the Government, other persons assisting counsel in the discharge of their professional responsibility representing the client, the probation officer, the Court, and the United States Sentencing Commission without a prior order of the Court authorizing such disclosure.

COMMENT: LCrR 32.1(g) requires service on the probation officer of a copy of any document submitted to the Court under LCrR 32.1.

LCrR 32.1(a) provides that disclosure is "under 18 U.S.C. § 3552(d)." The statute requires disclosure "at least ten days prior to the date set for sentencing, unless this minimum period is waived by the defendant." The 35-day requirement of Fed R Crim P 32(e)(2) supersedes the statutory ten-day requirement.

November 1, 2017

LCrR 46.1 Release from Custody

(a) Eligibility for release prior to trial shall be in accordance with the Bail Reform Act, 18 U.S.C. §§ 3141-3142.

(b) An individual posting bond with the Clerk's Office shall present a copy of the order setting conditions of the bond signed by the District Judge or Magistrate Judge.

(1) Only money order or cashier's check made payable to "Clerk, United States District Court", or credit card is acceptable for a cash bond.

(2) Unless approved in writing by a District Judge, property shall not be accepted as collateral for a bond.

(3) Court personnel shall not recommend specific bail bonding agencies.

(c) To recover money posted as bond, a District Judge's or Magistrate Judge's order releasing the bond must be on file in the Clerk's Office and the individual must present the original receipt and personal identification. The Clerk's Office will issue a check in the name of the owner of the cash identified in the affidavit accompanying the original bond.

(d) The court will not accept a member of the bar in active practice, or officer or employee of the court or the United States Marshals Service as a surety, except that a district judge may approve a member of the bar as a surety for a family member if the attorney is not counsel of record in the case.

COMMENT: The Court accepts the following credit cards for a cash bond:
VISA, MasterCard, American Express, Discover, and Diners Club.

November 1, 2014

LCrR 49.1 (Reserved)

This rule has been deleted. See Fed. R. Crim. P. 49.

April 1, 2019

LCrR 50.1 Prompt Disposition of Criminal Cases

The Judges of the United States District Court for the Eastern District of Michigan have adopted a Speedy Trial Act Plan which has been approved by the Chief Judge of the United States Court of Appeals for the Sixth Circuit, to minimize undue delay and further the prompt disposition of criminal cases. A copy of the Plan is available in the Clerk's Office for use by counsel and the public.

July 1, 1992

LCrR 57.1 Appearances by Attorneys in Criminal Cases

(a) An attorney, whether retained or appointed, who enters a post-indictment appearance shall continue to represent the defendant until the case is dismissed, the defendant is acquitted, or the direct appeal is completed unless the attorney is granted leave to withdraw by the District Court or the Court of Appeals if notice of appeal has been filed.

(b) An attorney who has appeared in a criminal case may thereafter withdraw only by written motion served upon the defendant personally or at the defendant's last-known address and upon all other parties. The Court may deny a motion to withdraw if the attorney's withdrawal would unduly delay trial of the case, or be unfairly prejudicial to any party, or otherwise not be in the interest of justice.

(c) The United States Attorney shall advise the Clerk and the District Judge to whom the case is assigned regarding any change in the attorney for the United States responsible for the prosecution.

COMMENT: LCrR 57.1 should be read with Fed. R. Crim. P. 44.

July 1, 1992

LCrR 57.2 Review of Order of Magistrate Judge

A motion for review of a release or detention order as provided in 18 U.S.C. § 3145 (a) and (b) entered by a magistrate judge in a preliminary criminal proceeding which has not been assigned to a district judge shall be heard and decided by the district judge who was the presiding judge on the date the magistrate judge's order was entered. If that judge is not available, the motion will be heard and decided by a district judge selected by random method. If the judge selected is not available, the motion will be heard and decided by the district judge who was the presiding judge on the date the motion was filed.

> **COMMENT:** As an example of a matter covered by LCrR 57.2, an appeal of a magistrate judge's bond order is properly before the judge who was presiding judge on the date the bond order was entered if the case has not been assigned to a district judge.
>
> Pursuant to LR 77.2(c), if the district judge who was the presiding judge on the date the motion was filed is not available, and no arrangements have been made for another judge to act as presiding judge, the Clerk's Office will contact judges, beginning with the most senior district judge in active service in Detroit until an available judge is found to act as presiding judge.
>
> Appeals of a magistrate judge's bond order arising out of the Flint location in cases where no district judge is assigned will be heard by the presiding judge in Flint. See LR 77.2(f).

April 1, 2021

LCrR 57.3 Recording of Proceedings

All initial appearances and arraignments shall be recorded. Attorneys may order copies of these proceedings from the Court Reporting Supervisor.

July 1, 1992

LCrR 57.10 Assignment and Reassignment of Criminal Cases to Judges

(a) Assignment of Criminal Cases to Judges.

(1) In Ann Arbor, Detroit and Port Huron, the Clerk shall employ a random method for the assignment of criminal cases to Judges.

(2) In Flint, the Clerk shall assign criminal cases to the Judge regularly holding court in Flint.

(3) In Bay City, the Clerk shall assign criminal cases to the Judge regularly holding court in Bay City.

(4) Assignment of criminal cases to the Chief Judge, to senior Judges, and, in cases of emergency to Judges in active service, shall be as provided by administrative order authorized by the Court.

(b) Reassignment of Criminal Cases.

(1) Cases shall be reassigned only by order of the Court.

(2) To promote docket efficiency, or to conform to the requirement of any case management plan adopted by the Court, or upon consent of the parties, or after notice and hearing, or in the interests of justice, the Chief Judge may order a criminal case to be reassigned, but only with the consent of the Judge to whom the case was originally assigned and with the consent of the Judge to whom it is to be reassigned.

(3) Reassignment of cases because of a change in judicial personnel shall be in accordance with an administrative order authorized by the Court.

(4 Companion Cases.

(A) Companion cases are those cases in which it appears that:

(i) substantially similar evidence will be offered at trial, or

(ii) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.

(B) Counsel, including the United States Attorney, or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the criminal case cover sheet.

(C) When it becomes apparent to the Judge to whom a case is assigned and to a Judge having an earlier case number that two cases are companion cases, upon consent of the Judge having the earlier case number, the Judge shall sign an order reassigning the case to the Judge having the earlier case number.

(5) Matters arising from a criminal case assigned to a judge who no longer receives any criminal cases because of death or retirement will be reassigned under LCrR 57.10(a). If a matter is reassigned under this subrule, matters arising in cases of co-defendants in multi-defendant cases will be reassigned to the judge to whom the first matter was reassigned.

(c) Disqualification of Judge.

(1) In Ann Arbor, Detroit and Port Huron, when a Judge to whom a criminal case is assigned is disqualified from hearing it, the Clerk shall reassign the case by random method.

(2) In Flint, when a Judge to whom a criminal case is assigned is disqualified from hearing it, the Clerk shall reassign the case in accordance with an administrative order authorized by the Court.

(3) In Bay City, when a Judge to whom a case is assigned is disqualified from hearing it, the Clerk shall reassign the case in accordance with an administrative order authorized by the Court.

(d) Superseding Indictments or Informations.

(1) A superseding indictment or information shall be assigned to the Judge to whom the superseded matter was assigned when:

(A) it merely corrects errors in names, dates and places, etc., or

(B) it is a follow-up to an indictment or information terminated on motion of the government, or

(C) it is a follow-up information involving different charges or added counts for purpose of a plea only, or

(D) it is a follow-up to an indictment or information embracing the same subject matter terminated by motion of the defendant or on the Court's motion, or

(E) it is a follow-up to an indictment or information embracing the same subject matter but containing additional defendants or charges.

(2) The United States Attorney shall attach a cover sheet in a form prescribed by the Clerk's Office to permit assignments according to this Rule.

(3) Superseding indictments and informations shall not be filed in closed cases or cases where the last defendant has pleaded guilty and is awaiting sentencing.

COMMENT: The "earlier case number" referred to in (b)(4)(C) will mean the earlier case filed as determined by date and time. (12/4/00)

December 1, 2022

LCrR 58.1 Forfeiture of Collateral in Lieu of Appearance in Accordance with Fed. R. Crim. P. 58(d)(1)

(a) A person who is charged with a violation of a federal wildlife act, parking regulations governing federal buildings, national forest offenses, conduct on Postal Service property, motor vehicle violations on Postal Service property, violations of law on military property, or any other petty offense as defined in 18 U.S.C. § 19, may, in lieu of appearance, post collateral in the amount indicated for the offense, waive appearance before a Magistrate Judge, and consent to the forfeiture of collateral. The offenses for which collateral may be posted and forfeited are set forth in an administrative order from the Court which may be obtained from the Clerk's Office. Those offenses marked with an asterisk and for which no amount of collateral is shown require a mandatory appearance before a Magistrate Judge.

(b) If a person charged with an offense under (a) fails to post and forfeit collateral, any punishment, including fine, imprisonment or probation, may be imposed within the limits established by law upon conviction or after trial.

(c) If, within the discretion of the law enforcement officer the offense is of an aggravated nature, the law enforcement officer may require appearance, and any punishment, including fine, imprisonment or probation, may be imposed within the limits established by law upon conviction or after trial.

(d) Nothing in this LCrR shall prohibit a law enforcement officer from arresting a person for the commission of any offense, including those for which collateral may be posted and forfeited, and requiring the person charged to appear before a Magistrate Judge or, upon arrest, taking the person immediately before a Magistrate Judge.

July 1, 1992

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

ELECTRONIC FILING

POLICIES AND PROCEDURES

Sean F. Cox
Chief Judge

Revised April 2023

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Introduction

As of June 1, 2004, the official record of filed cases shall be maintained electronically. These policies and procedures set forth the scope and requirements for filing users. The Court approved mandatory electronic filing November 30, 2005.

R1 Definitions

The following terms appear in these Electronic Filing Policies and Procedures:

(a) "ECF Inaccessibility" is defined as a malfunction of ECF and/or PACER. This does not include malfunctioning of a filing user's equipment.

(b) "E-Government Act of 2002" establishes a broad framework for the use of technology to enhance public access to government information and services. Pub. L. No. 107-347, 116 Stat. 2899. See 44 U.S.C. §§ 3601, et seq.

(c) "Electronic Case Files" (hereinafter ECF) refers to the Court's automated system that receives and stores papers filed in electronic form. The program is part of the CM/ECF (Case Management/Electronic Case Files) software, which was developed for the Federal Judiciary by the Administrative Office of the United States Courts.

(d) "Electronic Filing" means filing a paper over the Internet by a registered attorney or a non-incarcerated *pro se* party.

(e) "Filing User" is an attorney or a *pro se* party who has been granted permission by the Court to file papers electronically over the Internet in the Eastern District of Michigan. *Pro se* party refers to a non-incarcerated person only.

(f) "Flatten" refers to the process of saving a Portable Document Format (PDF) file so that all fields will be consolidated to the same imaging level and the content is no longer interactive (see R1(m)).

(g) "Hyperlink" is a selectable connection from a word, picture, or information object to another, providing a mechanism for navigating to information between or within electronic documents or to Internet material. Hyperlinks are activated when the user clicks on an "active" region on the document. The active region is usually indicated by the highlighting or underlining of text.

(h) "Initiating Papers" are comprised of the following: civil complaints, statements of disclosure of corporate affiliations and financial interest, notices of removal, criminal complaints, indictments or informations, and any other document filed with the Court that creates a new case and new case number on the Court's docket.

(i) "Media File" is an audio or video recording that is presented in one of the following formats to be filed with the Court: avi, mov, mp3, mp4, mpeg, wav, wmv (see R19(c)).

(j) "Notice of Electronic Filing" (hereinafter NEF) is a notice automatically generated by ECF at the time a paper is filed, setting forth the time of filing, the name of the filing user, the type of paper, the text of the docket entry, the name of the filing user receiving the notice, and an electronic link (hyperlink) to the filed paper, which allows recipients to retrieve the paper automatically.

(k) "PageID" is a sequential page identification applied by the ECF system to each document that is initiated with the first filing of the case. The PageID

is found in the document header displayed at the top of every page in the ECF system.

(l) "Paper" is defined as a pleading, motion, exhibit, declaration, affidavit, memorandum, order, notice, and any other filing by or to the Court.

(m) "Portable Document Format" (hereinafter PDF) refers to an electronic file that is converted to a format that will look the same on a computer screen and in print, regardless of the printer used to print it, and regardless of the software package originally used to create it. PDF papers must be:

(1) flattened; and

(2) submitted in a text-searchable format to the extent possible (see R5(c)).

(n) "Proposed Order" is a draft paper submitted for a judge's editing, if necessary, and signature, in a Microsoft Word compatible format and not in PDF (see R12(a)).

(o) "Public Access to Court Electronic Records" (hereinafter PACER) is an electronic public access service that allows users to obtain case and docket information online from federal appellate, district, and bankruptcy courts. A PACER account upgraded or obtained after August 10, 2014 will allow a user to use the same account for PACER and e-filing access to this Court and other Courts where e-filing privileges are granted.

(p) "Restricted Paper" means a filing that is not accessible to the public or the parties in the case.

(q) "Text-Only Order" is a docket entry that itself constitutes the order; no PDF or paper order is issued. These text-only orders, which are generally only used for routine matters, are official and binding.

(r) "Traditional Manner" means filing a paper (hard copy) or a physical object at a Clerk's Office (see R19(d)).

(s) "Web-Based Resource" is material made available on the World Wide Web, accessed by means of a universal record locater (URL).

R2 Scope of Electronic Filing

All papers (not simply cases) filed June 1, 2004 and thereafter will be maintained as electronic case files no matter when a case was originally filed.

R3 Eligibility and Registration

(a) A filing user must be an attorney admitted and in good standing to practice in the Eastern District of Michigan, an attorney authorized to represent the United States Government, or a non-incarcerated *pro se* party granted permission to file on a case-by-case basis.

(1) Attorneys already admitted to practice who have a case pending before the Court must immediately comply with registration requirements outlined on the Court's website to receive permission to file electronically.

(2) Newly-admitted attorneys will be automatically registered as filing users as part of the admissions process.

(b) (Reserved)

(c) A filing user must have an upgraded PACER account (see R1(o)).

(d) Each filing user is responsible for maintaining valid and current contact information in his or her PACER account[1]. When a user's contact information changes, the user must promptly update his or her PACER account. If the filing user has a pending case before the Court, the user must also promptly notify all parties in all cases. Electronic service upon an obsolete e-mail address will constitute valid service if the user has not updated the account profile with the new e-mail address.

R4 Non-Compliance

(a) The Court may excuse a party from electronic filing on motion for good cause shown.

(b) The Court may issue an order to show cause for repeated filing errors or other instances of non-compliance with these Policies and Procedures. The Court may also subject a filing user to sanctions in accordance with LR 11.1. See Procedure to Address Non-Compliance with ECF Policies and Procedures (EXHIBIT A).

R5 Filing - In General

(a) Filing users are required to file papers electronically.

(b) Filing users must comply with the courtesy copy policy of the judge to whom the case is assigned, as outlined in each judge's practices guidelines appearing on the Court website.

(c) A file created with a word processor, or a paper that has been scanned, must be converted to PDF to be filed electronically with the Court. Converted files contain the extension ".pdf". Scanned papers must be text-searchable whenever possible. All

[1] A filing user must maintain a primary email address to receive all NEFs as part of a user's PACER account. In addition, a filing user has the option of maintaining a secondary email address with the Court. Instructions on establishing a secondary email address are found on the Court's website.

fonts embedded in PDF records (except in papers that have been scanned) must have been publicly identified as a font that may be legally embedded (i.e., the font license permits embedding) in a file for unlimited, universal viewing and printing. Common font styles include but are not limited to the following: Courier, Arial, Times New Roman, Calibri, Century Schoolbook, Symbol and ZapfDingbats (see R1(m)). No embedded interactive content is allowed, such as embedded audio and video. If a party chooses to file audio or video recordings with the Court, the party must obtain leave of Court to file using the Media File Upload procedures under R19(c).

(d) A hyperlink (as defined in R1(g)) contained in an electronic filing is merely a convenient mechanism created by the author for accessing Web-based resources (see R1(s)). A hyperlink is not a part of the Court's record. Accordingly, the Court does not endorse nor exercise any responsibility over the content at the destination. Any hyperlink to a case or other authority included in an electronic filing must be expressed in the full traditional citation method for the cited authority.

(e) A cited Web-based resource that refers to information that has not already been made part of the record, must be captured, preserved in PDF, and attached to the paper. The attachment should include a notation of the date it was viewed and the case to which it relates.

(f) Motions must be filed with an accompanying brief and any supporting affidavits/declarations as one PDF document (See LR 7.1(d)). Motions must not be combined with any other stand-alone document. For example, a motion for preliminary relief must not be combined with a complaint. A counter-motion must not be combined

with a response or reply. A motion for downward departure must not be combined with a sentencing memorandum. Papers filed in violation of this rule will be stricken.

(g) Papers containing advertisements, which may be generated as a result of the use of free or trial-run PDF conversion software, will be stricken.

(h) PDF files must be flattened (See R1(f)).

R6 Referencing the Court Record

A filing user referring to a portion of the record previously filed shall make reference to the PageID (see R1(k)) identified thereon, following the citation form identified below. Pro se litigants are exempt from this requirement.

TO REFERENCE:	CITATION FORM EXAMPLE:
A single page	PageID.234
Multiple sequential pages	PageID.234-235
Multiple pages that are not in succession	PageID.234, 238, 245

The citation form for any filing that references a portion of a different case record within the Eastern District of Michigan shall be preceded with the 13-character case number for that other case (e.g., 1:19-cv-59999 PageID.234).

[NOTE: PageID numbers are assigned to restricted papers (see R1(p)) but will not be available to filing users for referencing.]

If a media file is filed as an exhibit to a paper, the filing user must include a timestamp citation wherever it is referenced in the paper (e.g., Exhibit A – Dashcam video 4:36 – 6:03) (see R19(c)).

R7 Filing - Civil Initiating Papers

(a) Filing users must file civil initiating papers and request for issuance of a summons electronically. A case is not considered filed until an initiating paper has been uploaded and a judicial officer has been assigned to the case.

(b) Payment of initial filing fees may be accomplished electronically at the time the initiating papers are filed and is the Court's preferred method. If payment is not made at that time, the filing user has seven calendar days to remit payment to the Clerk's Office or file an application to proceed *in forma pauperis*, or the case may be dismissed by the assigned judicial officer.

(c) Corporate plaintiffs must file the Statement of Disclosure of Corporate Affiliations and Financial Interest in accordance with LR 83.4, along with initiating papers. Corporate defendants in either civil or criminal cases should e-file the Statement as one of the first pleadings or papers filed with the Court, or as soon as the party becomes aware of the corporate affiliation or financial interest, or as otherwise ordered by the judge to whom the case is assigned.

(d) A *pro se* party does not have permission to file civil initiating papers electronically in ECF.

R8 Filing - Criminal Initiating Papers

Criminal initiating papers may be filed in the traditional manner or may be filed electronically by the United States Government.

R9 Service

(a) Fed. R. Civ. P. 5(b) and Fed. R. Crim. P. 49(b) do not permit electronic service of process for purposes of obtaining personal jurisdiction, i.e., Rule 4 service. Therefore, service of process must be effected in the traditional manner.

(b) Whenever a non-restricted paper is filed electronically in accordance with these procedures, ECF will generate a NEF to all filing users associated with that case and to the judge to whom the case is assigned. Sealed papers, allowed by court order or statute, must be filed electronically and served in the traditional manner on all applicable parties as prescribed by Fed. R. Civ. P. 5(b)(A)-(D).

(c) (Reserved)

(d) (Reserved)

(e) A party who is *pro se* and not a filing user, or a party excused from electronic filing under Fed. R. Civ. P. 5(d)(3)(A), is entitled to a hard copy of any paper filed electronically. Service of such copy must be made according to the federal rules of procedure (civil and criminal) and local rules. Unless otherwise ordered by the Court, an attorney who is not a filing user is not entitled to this traditional service.

R10 Signatures

(a) See Fed. R. Civ. P. 5(d)(3)(C).

(b) A paper filed electronically must include a signature block containing the name of the filing user represented by "s/", "/s/" or a scanned signature, firm name (if applicable), street address, telephone number, primary e-mail address, and bar ID number (where applicable). The format of the signature block should substantially conform to the following sample:

SAMPLE: s/John Doe
Doe Law Firm
123 Main Street
Detroit, MI 48200
(313) 555-1234
jdoe@doelaw.com
P12345

(c) A paper containing the signature of a defendant in a criminal case shall be scanned and filed by filing users or Court personnel.

(d) An affidavit, declaration or paper containing the signature of a non-attorney shall be scanned and filed electronically.

(e) A paper requiring the signature of more than one party shall be filed electronically by:

(1) representing the consent of the other parties on the paper by including the name of the consenting party in a separate signature block as shown in the following sample;

SAMPLE: s/ with consent of Jane Roe
Law Office of Roe & Roe
456 Mockingbird Lane
Ann Arbor, MI 49888
(734) 555-6789
jroe@roeroe.com
P23456

or

(2) submitting a scanned paper containing all necessary signatures, or

(3) in any other manner approved by the Court.

(f) No filing user may submit a paper with an electronic signature unless the filing user has permission of the signatory.

R11 Entry of Court-Issued Papers

(a) All signed orders will be filed by Court personnel. Any order signed electronically (with s/judge's name) shall have the same force and effect as if the judge had affixed his or her signature to a hard copy of the order and it had been entered on the docket in the traditional manner.

(b) The judge to whom a case is assigned may issue routine text-only notices and orders for which ECF will generate a NEF. The text-only order entry shall constitute the Court's only order on the matter. In civil cases, such notices and orders may include but are not limited to notices setting or modifying a schedule, orders extending time, and orders granting leave to file papers. In criminal cases, such orders could include orders of dismissal filed under Fed. R. Crim. P. 48(a) and orders unsealing documents.

R12 Proposed Orders

(a) Proposed orders (see R1(n)) must be submitted to the judge to whom the case is assigned or to the magistrate judge to whom the matter is referred via the link located under the Utilities section of ECF. This link may not be used for any other purpose. Proposed orders must not include the judge's electronic signature.

(1) If the movant (filing user) obtains concurrence pursuant to E.D. Mich. LR 7.1(a)(1), the proposed stipulated order must be submitted via the link referred to in (a).

(2) If concurrence is obtained and the movant (filing user) prepares a separate stipulation and separate proposed order, the stipulation must be submitted with the proposed order via the link referred to in (a), unless:

(i) the stipulation requires the signature of a *pro se* party who is not a filing user or a non-attorney, in which case the stipulation is to be electronically filed and the proposed order submitted via the link referred to in (a); or

(ii) the stipulation is regarding trial exhibits for appeal purposes and does not require an order signed by a district or magistrate judge.

(3) Proposed orders shall not be combined with *ex-parte* motions. The *ex-parte* motion must be filed electronically first and the proposed order must be submitted via the link referred to in (a).

(4) An exception to the submission of proposed orders via the link referred to in (a) is found in E.D. Mich. LR 58.1(c).

(b) The movant (filing user) must provide all other parties a copy of the proposed order either by e-mail or other form. ECF does not automatically generate an NEF or a copy of the proposed order for them.

(c) Alternatively, a motion or stipulation may request that routine relief be granted by text-only order. Such orders are official and binding.

R13 Docket/Official Court Record

A paper filed electronically in accordance with these policies and procedures shall constitute entry of that paper on the docket kept by the Clerk under Fed. R. Civ. P. 58 and 79, and Fed. R. Crim. P. 55.

R14 ECF Inaccessibility; Technical Difficulties with Filing User's Equipment

(a) If ECF inaccessibility (see R1(a)) is prolonged, the Court will send an e-mail to primary and secondary e-mail addresses to notify users of the problem. The Court will send another e-mail when ECF is accessible. If a filing user has a deadline during that time, he or she should contact the judicial officer's chambers to seek appropriate relief.

(b) A filing user experiencing technical difficulties on his or her own equipment should make every effort to honor deadlines but may also seek appropriate relief from the Court by contacting chambers.

R15 Correcting Docket Entries Including Papers Filed in Error

Once a paper is filed electronically and becomes part of the docket, corrections to the docket may be made only by the Clerk's Office. If a paper is filed in error, the filing user must seek appropriate relief from the Court.

R16 Deadlines

(a) A paper filed electronically is deemed filed on the date and time stated on the NEF.

(b) Filing electronically does not alter the filing deadline for a paper. Filing users are encouraged to file electronically during ordinary business hours; however, filing electronically must be completed before 12:00 midnight (Eastern Time) in order to be considered timely filed that day. In accordance with Fed.R.Civ.P. 6(d) and Fed.R.Crim.P. 45(c), service by electronic means is governed by Federal Rule of Civil Procedure 5(b)(2)(E).

R17 Transcripts and Audio Files of Federal Court Proceedings

(a) Transcripts of federal court proceedings will be filed electronically in ECF by the court reporter, transcriber, or Court personnel.

(b) Access to transcripts of federal court proceedings will be governed by the Court's Procedures Governing the Electronic Availability and Redaction of Transcripts (EXHIBIT B).

(c) An audio file uploaded in ECF by the Court is a copy of the original audio recording and provided as a convenience to filing and PACER users. A transcript must still be produced in accordance with 28 U.S.C. § 753(b).

R18 Retention Requirements

The official Court record shall be the electronic file maintained on the Court's servers and any papers allowed to be filed in the traditional manner. The Clerk's Office will discard all papers brought to the Clerk's Office for entry on the docket after those papers are scanned and uploaded to ECF. Therefore, the Court encourages filing users to retain the originals of papers with intrinsic value.

R19 Exhibits

(a) In General

An exhibit available in original electronic format must be converted to PDF, made text-searchable and filed electronically. An exhibit available in paper must be scanned as an electronic image, converted to PDF, made text-searchable and filed electronically. If an individual exhibit's file size is larger than 50 megabytes, filing users must divide the exhibit into separate files, each smaller than 50 megabytes, and upload the files.

Filing users must file only portions of exhibits that are germane and shall not include any paper that is already part of the record. Previously filed papers should be referenced using the PageID (see R6).

The offering party shall retain hard copies, or accurate electronic copies, of exhibits until entry of final orders by the District Court and, if applicable, appellate courts.

(b) Filing Exhibits to Papers Electronically

For exhibits filed electronically, filing users must use the following procedure:

(1) Unless there is only one exhibit, the filing user must prepare an index of exhibits and file the index as the first attachment to the paper. Each exhibit must be described on the index both by an exhibit identifier and by a brief narrative description. See Sample Index of Exhibits (EXHIBIT C).

(2) Each exhibit then must be filed and identified as a separate attachment to the paper and must be labeled in the electronic record with an exhibit identifier and brief narrative description.

> SAMPLE DOCKET ENTRY: Motion for Summary Judgment filed by ABC Company (Attachments: #1 Index of Exhibits #2 Exhibit A - Affidavit of John Smith #3 Exhibit B - Excerpts from Jane Doe's Deposition #4 Exhibit C1 - Contract Between XYZ Company and ABC Company, pages 1-35 #5 Exhibit C2 - Contract Between XYZ Company and ABC Company, pages 36-69 #6 Exhibit D - XYZ Company General Ledgers)

(c) Media Files

Media files (see R1(i)), such as an audio clip or video clip, may be filed only with leave of court. A filing user must file a motion for leave in accordance with L.R. 7.1 and include the following:

(1) A statement regarding concurrence pursuant to L.R. 7.1(a);

(2) A description of the content of the media file;

(3) A concise explanation of how the media file provides factual support to the motion, response, reply or memorandum;

(4) Whether the media file has been or will be used in a court proceeding; and

(5) Whether the content of the media file complies with the privacy protections outlined in the E-Government Act of 2002 and all other applicable law (see R21).

If the Court grants the motion, the filing user must provide a timestamp reference to the part of the media file that is offered in support of the corresponding paper (see R6). All audible portions of a media file must be transcribed; the transcript must be filed in written form as an exhibit to the paper (see R19(a)).

The approved media file exhibit is submitted using the electronic portal called “Media File Upload” located in the ECF system and then must be filed according to the following procedures:

(1) The filing user must prepare an index of exhibits. This index must be filed as an attachment to the main paper and must state that the media file exhibit is being filed under this rule.

(2) The filing user shall file the media file exhibit via the portal. The Clerk's Office will note on the docket its receipt of the exhibit.

(3) The filing user shall file the transcription of any audible portions of the media file as an attachment to the main paper.

(4) A filing user must serve materials filed under this rule on other parties in accordance with the federal and local rules, and file a certificate of service.

Files submitted without leave, not in the proper format or not in compliance with the above procedures may be stricken.

(d) Physical Objects

A filing user with a physical object must obtain leave of court to file it in the traditional manner. See Ex Parte Motion for Leave to File an Exhibit in the Traditional Manner (EXHIBIT D). If the Court grants a filing user's motion, an original and judge's courtesy copy (if practicable) must be brought or mailed to the Clerk's Office for filing. Physical objects must have a label physically attached that include a case number, date of the order granting permission to file and a description.

The exhibit then must be filed according to the following procedures:

(1) The filing user must prepare an index of exhibits. This index must be filed as an attachment to the main paper and must state the exhibit is being filed under this rule.

(2) The filing user shall file the exhibit in the traditional manner. The Clerk's Office will note on the docket its receipt of the exhibit.

(3) A filing user must serve materials filed under this rule (if practicable) on other parties in accordance with the federal and local rules, and file a certificate of service.

R20 Access To Papers in ECF

(a) A person may retrieve information from ECF at the Court's Internet site by obtaining a PACER login and password. A person who has PACER access may retrieve the docket and papers in civil cases, except immigration and social security benefits cases. In immigration and social security benefits cases, only counsel of record or parties

in the case may retrieve papers. Judicial Conference of the United States policy prohibits routine public access via the Internet of immigration and social security benefits cases.

(b) A person who has PACER access may retrieve the docket and papers filed after November 1, 2004 in a criminal case. However, only counsel of record in a case, or a *pro se* defendant with PACER access, may retrieve papers filed before November 1, 2004.

R21 E-Government Act of 2002

Privacy protection for filings made with the Court is governed by Fed.R.Civ.P. 5.2 and Fed.R.Crim.P. 49.1. To supplement the federal rules, the Court has entered an administrative order (EXHIBIT E) which makes it clear that counsel and the parties are responsible for redacting filings with the Court. The Clerk's Office will not review papers for compliance with the federal rules.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

PROCEDURE TO ADDRESS NON-COMPLIANCE WITH ECF POLICIES AND PROCEDURES

(Revised September 2009)

I. Authority

At the May 2007 Judges' Meeting, the Court approved a Procedure to Address Non-Compliance with the ECF Policies and Procedures (Appendix ECF to the Local Rules).

II. Overview

With each e-filing error or instance of non-compliance a Notice of E-Filing Error or Notice of Non-Compliance will be generated and served on the filing user, opposing counsel, and the judge's chambers. Action will be taken after there have been a combined threshold of three occurrences of e-filing errors, or non-compliance, or a combination of the two within a six-month period. The threshold will be met whether three violations occur in a single case or a single violation occurs in three different cases.

With each violation, the offending filing user will receive a Notice of E-filing Error or Notice of Non-Compliance that will identify the problem and the course of action that should be taken. The Notice will caution the offending filing user that sanctions may result from repeated errors and/or instances of non-compliance.

III. Definitions

(A) E-filing Error. Electronically filing a document which violates the local and/or federal rules.

(B) Non-Compliance.

(1) Registered filing users filing a document in paper without leave of Court.

(2) Failure to update the Court with current contact information resulting in an e-mail being returned to the Court's electronic mailbox as undeliverable.

(3) An attorney who is admitted to practice before this Court, and has an active case or cases, but has not registered for electronic filing.

(4) Any other violation of local and/or federal rules.

EXHIBIT A

(C) Chief Judge's Designee. For purposes of this procedure, the Chief Judge has designated Judge Robert H. Cleland to act for the Court.

IV. Clerk's Office Contact

After the third violation within a six-month period, the offending filing user will be contacted in writing by CM/ECF Help Desk personnel. The offending filing user will be instructed to follow a prescribed course of action appropriate for the violations that have occurred. Appropriate action may include, but not be limited to, completion of online training, a violation warning or direction to review specific online content related to electronic filing. The user will be warned that further violations will be referred to the Chief Judge's designee for further action.

V. Further Violations

Upon the fourth violation within a six-month period, the Chief Judge's designee may issue an Order to Show Cause directing the offending filing user to explain the offending conduct. The Chief Judge's designee may take any remedial action deemed appropriate.

Any additional violations within a six-month period may be considered contempt of court. If held in contempt, an appropriate monetary fine will be imposed.

VI. Newly-Admitted attorneys

Newly admitted attorneys, who have a pending case at the time of admission, have up to two weeks from their admission date to register and otherwise comply with the ECF Policies and Procedures. Attorneys who do not have any active cases pending at the time of admission are not required to register until such time as the attorney has appeared in an active case.

Approved: May 7, 2007
Revised: September 2009

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

PROCEDURES GOVERNING THE ELECTRONIC AVAILABILITY AND REDACTION OF TRANSCRIPTS

(Revised September 2009)

A. Authority

At its September 2007 session, the Judicial Conference of the United States approved a new policy regarding the availability of transcripts of courtroom proceedings. The language from that session states:

(1) A transcript provided to a court by a court reporter or transcriber will be available at the office of the clerk of court for inspection only, for a period of 90 days after it is delivered to the clerk.

(2) During the 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference, the transcript will be available within the court for internal use, and an attorney or party who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's CM/ECF system for the purposes of creating hyperlinks to the transcript in court filings or for other purposes.

(3) After the 90-day period has ended, the filed transcript will be available for inspection and copying in the clerk's office and for downloading from the court's CM/ECF system through the judiciary's PACER system.

In addition, amendments to the Federal Civil and Criminal Rules of Procedure that took effect on December 1, 2007, require that personal identification information be redacted from documents filed with the court - individuals' Social Security numbers, names of minor children, financial account numbers, dates of birth, and, in criminal cases, home addresses.

B. Procedures

These procedures apply to all transcripts of federal court proceedings, or parts of federal court proceedings, filed by official court reporters, contract court reporters, and transcribers.

The responsibility to review the transcripts and request redactions, if necessary, rests solely with the attorneys and parties to the case.

EXHIBIT B

Nothing in these procedures creates a private right of action against the court, the official court reporter, the contract court reporter, or transcriber.

1. Transcripts of federal court proceedings, or parts of federal court proceedings, will be filed electronically in CM/ECF by the court reporter or transcriber. Transcripts will not be made electronically available for 90 calendar days from the date of filing, however they may be viewed at the clerk's office using the public terminal. CM/ECF will calculate the release of transcript restriction deadlines.

2. Upon receipt of payment from the ordering party, the court reporter or transcriber will grant the attorney or party electronic access to the transcript in CM/ECF. If the transcript is ordered by a Federal Government agency, the agency will be granted access to the transcript in CM/ECF upon its completion.

3. Any attorney or party needing to review the transcript for redaction purposes may purchase a copy from the court reporter or transcriber, or view the transcript at the clerk's office using the public terminal.

4. Once a prepared transcript is filed with the clerk's office, the attorneys or parties in the case are responsible for reviewing it for the personal data identifiers required by the federal rules to be redacted, and providing the court reporter or transcriber with a statement of the redactions to be made to comply with the rules. Attorneys and parties must request the redaction of the following personal data identifiers:

- Social Security numbers (or taxpayer identification numbers) to the last four digits;
- financial account numbers to the last four digits;
- dates of birth to the year;
- names of minor children to the initials; and
- in criminal cases, any home addresses stated in court to the city and state.

5. Unless otherwise ordered by the court, attorneys and parties must review the following portions of the transcript:

- opening and closing statements made on the party's behalf;
- statements of the party;
- the testimony of any witnesses called by the party;
- sentencing proceedings; and
- any other portion of the transcript as ordered by the court.

6. An attorney serving as "standby" counsel appointed to assist a *pro se* defendant in his or her defense in a criminal case must review the same portions of the transcript as if the *pro se* defendant were his or her client. The attorney conducting the review is entitled

to compensation under the Criminal Justice Act for functions reasonably performed to fulfill the redaction obligation and for reimbursement for related reasonable expenses.

7. Within 21 days from the filing of the transcript, or longer if the court so orders, an attorney or party must submit to the court reporter or transcriber a statement (Redaction Request) indicating where the personal data identifiers appear in the transcript, by page and line number, and how they are to be redacted. A copy must also be filed with the clerk's office. [NOTE: The Court's standard Redaction Request is attached. It is also available on the Court's website.]

8. If an attorney or party wishes to redact additional information, he or she may make a motion to the court within the 21-day period, with a copy served on the court reporter or transcriber. The transcript will not be electronically available until the court has ruled on any such motion, even though the 90-day restriction period may have ended.

9. If redaction is requested, the court reporter or transcriber must, within 31 days from the filing of the original transcript, or longer if the court so orders, perform the requested redactions and file a redacted version of the transcript with the clerk of court. A copy of the redaction request must be retained by the court reporter or transcriber in order to have a record to support the redactions made.

10. The redacted transcript will be available for remote access after 90 calendar days from the date the original transcript was filed. The unredacted, original transcript will be retained by the clerk of court as a restricted document, and will continue to be available at the clerk's office public terminal for viewing only.

11. If, at the end of the 90-day restriction period, there are no redaction documents or motions linked to the transcript, CM/ECF will automatically remove the access restrictions.

12. Transcripts that include voir dire or other juror information will only be available to parties in the case if they are specifically requested. The voir dire transcript will be sealed to ensure a juror's right to privacy. Parties to the case will be required to seek permission of the Court to use the transcript in any other proceeding except an appeal of the same case. Members of the public must receive permission from the judge that ordered the voir dire transcript sealed prior to obtaining a copy of the transcript, and the transcript may be subject to redaction before it is given to any member of the public.

C. Purchase of Transcripts by the Public

Members of the public, including the news media, who purchase a transcript from the court reporter or transcriber within the 90-day restriction period, will not be granted remote electronic access during the restriction period. At the end of the restriction period, the public will be provided remote electronic access to the redacted transcript, or if no

redaction was done, to the transcript originally submitted, unless it is under seal.

If both redacted and unredacted versions exist at the time a transcript is ordered by a member of the public, including the news media, the redacted transcript is the version that should be sold.

D. Redaction Procedures

Court reporters and transcribers may perform the requested redactions manually or with the assistance of various software programs. To manually redact, an "x" should be placed in the space of each redacted character. Regardless of the method used, the page and line numbers of the original transcript must be preserved.

E. Certification of Redacted Transcripts

The title page of the transcript will include a notation of "REDACTED TRANSCRIPT" on a blank line immediately below the case caption and before the volume number and the name and title of the Judge.

At the end of the transcript, and without affecting the page number, the redacted transcript should be certified by the court reporter or transcriber by stating:

> *"I (we) certify that the foregoing is a true and correct copy of the transcript originally filed with the clerk of court on mm/dd/yy, and incorporating redactions of personal identifiers requested by the following attorneys of record or parties:_____ in accordance with Judicial Conference policy. Redacted characters appear as an "x" (or black box) in the transcript."*

F. Remote Access and PACER Charges

Charges for access through PACER will accrue during and after the 90-day restriction period. Charges will accrue for the entire transcript rather than being capped at 30 pages. The user will incur PACER charges each time the transcript is accessed even though he or she may have purchased it from the court reporter or transcriber and obtained remote access through CM/ECF. There will not be a remote free copy of the transcript. In addition, the transcript policy approved by the Judicial Conference does not provide for a free copy of the transcripts for the Department of Justice at the clerk's office.

G. Effective Date

These procedures apply to transcripts of court proceedings, or parts of proceedings, filed on or after June 16, 2008.

Attachment

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

Plaintiff(s), Case No.

v.

Defendant(s).
_____/

REDACTION REQUEST – TRANSCRIPT

Pursuant to Judicial Conference policy, _____requests redaction of transcript(s) on file in this case:

(Please list the document number, page, and line number and a redacted identifier for each redaction necessary; *e.g.,* Doc. No. 15, Page 12, Line 9, Social Security No. to read xxx-xx-6130.)

Document Number	Page Number	Line Number(s)	Redacted Identifier

The undersigned understands that redaction of information other than personal identifiers listed below requires an order of the court.

Social Security or taxpayer-identification numbers to the last four digits
Dates of birth to the year
Names of minor children to the initials
Financial account numbers to the last four digits
Home addresses to the city and state (in a criminal case)

The requesting party is responsible for providing a copy of this request to the Court Reporter.

Date: _____

_____
Signature

_____
Bar No.

_____
Street Address

_____
City, State, Zip Code

_____
Telephone Number

_____
Primary Email Address

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

SAMPLE INDEX OF EXHIBITS

Exhibit	Description
A	Affidavit of John Smith
B	Excerpts from Jane Doe's Deposition
C-1	Contract Between XYZ Company and ABC Company (Part 1, Pages 1-35)
C-2	Contract Between XYZ Company and ABC Company (Part 2, Pages 36-69)
D	XYZ Company General Ledgers

EXHIBIT C

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

Plaintiff(s), Case No.

v. Judge

Magistrate Judge

Defendant(s).

_____/

EX PARTE MOTION FOR LEAVE TO FILE AN EXHIBIT IN THE TRADITIONAL MANNER

NOW COMES the undersigned _____, and pursuant to the Electronic Filing Policies and Procedures, seeks leave of this Court to file an exhibit in the traditional manner. If granted, the exhibit would be filed via US mail or brought to the Clerk's Office.

[ ] An original and judge's copy will be provided.

[ ] The original cannot be duplicated and a judge's copy is not practicable.

The exhibit to _____ cannot be converted to PDF for the following reason(s): _____

_____

_____.

For the foregoing reasons, the undersigned respectfully requests that this Court grant the leave sought in this motion.

Date: _____ s/Name of Filing User _____

Firm Name (if applicable)
Street Address
City, State, Zip Code
Telephone Number
Primary Email Address
Attorney Bar No. (if applicable)

EXHIBIT D

FILED

2007 NOV 30 P 2:42

U.S. DIST. COURT CLERK
EAST. DIST. MICHIGAN
DETROIT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

In re: Federal Rules Governing Privacy Protection for Filings Made with the Court - Responsibility for Redaction

Administrative Order

No. 07-AO- 030

ADMINISTRATIVE ORDER

It appearing that privacy protection for filings made with this Court have been governed by Administrative Orders 05-AO-025 (civil) and 05-AO-026 (criminal); and

It further appearing that new federal rules, Fed.R.Civ.P. 5.2 and Fed.R.Crim.P. 49.1, governing privacy protection for filings made with the Court will take effect on December 1, 2007, absent contrary Congressional action;

NOW THEREFORE IT IS ORDERED that counsel and the parties are responsible for redacting filings with the Court. The Clerk's Office will not review papers filed with the Court for compliance with the federal rules.

This administrative order supersedes Administrative Orders 05-AO-025 and 05-AO-026 in their entirety, and remains in effect until amendments to the appropriate local rule have been approved by the Court.

IT IS ORDERED.

FOR THE COURT:

Bernard A. Friedman
Chief Judge

EXHIBIT E

FILED
2008 JAN 23 A 8: 5
U.S. DIST. COURT CLERK
EAST. DIST. MICHIGAN
DETROIT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

In re: Civility Principles

Administrative Order

No. 08-AO- 009

ADMINISTRATIVE ORDER

This Administrative Order supersedes Administrative Order 07-AO-011, in re: Civility Plan.

A. Introduction

On October 4, 1993, the United States District Court for the Eastern District of Michigan approved a Plan for the Reduction of Expense and Delay in Civil Cases as provided in 28 U.S.C. § 471, et seq. Section VII(C) of that Plan stated that the Court would request that the Federal Bar Association/Detroit Chapter (FBA) and the State Bar of Michigan propose a civility plan to the Court. The FBA and the U.S. Courts Committee of the State Bar of Michigan made recommendations which were considered by the Court.

B. Adoption of Civility Principles

On February 5, 1996, the Court adopted the attached Civility Principles.

On November 5, 2007, on the recommendation of the Joint Standing Committee on Civility, the Court approved a "Lawyer's Commitment of Professional Civility" to be included with the Civility Principles.

The Civility Principles are included as an Appendix to the Local Rules of the United States District Court for the Eastern District of Michigan.

C. Distribution of Principles and New Member Certification

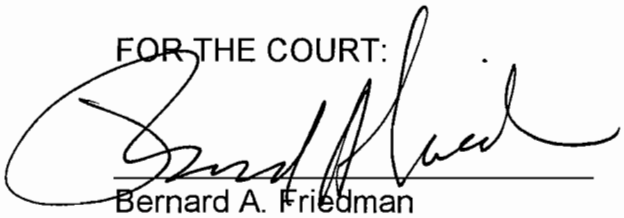
The Clerk of the Court will distribute a copy of the Civility Principles to any attorney who applies for admission to practice before the Court. The application for admission to practice before the Court also includes a certification that the applicant has read and will abide by the Civility Principles.

D. Joint Standing Committee

A Joint Standing Committee shall be selected/designated by the Chief Judge and will consist of two judicial officers, one representative of the FBA, one representataive of the State Bar of Michigan, and at least two other members as designated by the Chief

Judge. The Joint Standing Committee will meet as needed to consider civility issues and further measures to promote civility and collegiality between attorneys and judicial officers.

FOR THE COURT:



Bernard A. Friedman
Chief Judge

Attachments

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

CIVILITY PRINCIPLES

Preamble

An attorney's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as attorneys, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful and efficient manner.

A judge's conduct should be characterized at all times by courtesy and patience toward all participants. As judges we owe all participants in a legal proceeding respect, diligence, punctuality and protection against unjust and improper criticism or attack.

Conduct that may be characterized as uncivil, abrasive, abusive, hostile or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully and efficiently. Such conduct tends to delay, and often deny, justice.

The following standards are designed to encourage us, judges and attorneys, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

We expect judges and attorneys will make a mutual and firm commitment to these standards. Voluntary adherence is expected as part of a commitment by all participants to improve the administration of justice throughout the Eastern District.

These standards shall not be used alone as a basis for litigation, sanctions or penalties. However, nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which attorney negligence or misconduct may be determined.

These standards should be reviewed and followed by all judges and attorneys participating in any proceeding in the Eastern District. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

Approved February 5, 1996

Attorneys' Responsibilities to Other Counsel

1) We will practice our profession with a continuing awareness that our role is to advance the legitimate interest of our clients. In our dealings with others, we will not reflect the ill feelings of our clients. We will treat all other counsel, parties and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.

2) We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses. We will treat adverse witnesses and parties with fair consideration.

3) We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.

4) We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.

5) We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances and necessary to protect our client's lawful interests.

6) We will adhere to all express promises and agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.

7) When we reach an oral understanding on a proposed agreement or stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide other counsel the opportunity to review the writing. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.

8) We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.

9) In civil actions, we will stipulate to relevant matters if they are undisputed and if no good-faith advocacy basis exists for not stipulating.

Approved February 5, 1996

10) We will not use any form of discovery or discovery scheduling as a means of harassment.

11) We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings, discovery requests and objections.

12) We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.

13) We will not request an extension of time solely for the purpose of unjustified delay or to obtain tactical advantage.

14) We will consult other counsel regarding scheduling matters in a good-faith effort to avoid scheduling conflicts.

15) We will endeavor to accommodate previously-scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars or other functions that produce good-faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.

16) We will notify other counsel and, if appropriate, the Court or other persons, at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the Court to use the previously-reserved time for other matters.

17) We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, recognizing that it is the attorney, and not the client, who has the sole discretion to determine the accommodations to be granted opposing counsel in all matters not materially or adversely affecting the client's legitimate rights. We will affirm that in such matters no client has a right to demand that his or her counsel shall be illiberal or that we do anything therein repugnant to our own sense of honor and propriety.

18) We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity.

19) We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.

20) We will not engage in any conduct during a deposition that would not be

appropriate in the presence of a judge.

21) We will not obstruct questioning during a deposition or object to deposition questions unless appropriate under the applicable rules.

22) During depositions, we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.

23) We will carefully craft document production requests and/or interrogatories so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.

24) We will respond to document requests and interrogatories reasonably and not strain to interpret the requests or interrogatories in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents and information fairly within the scope of the requests or interrogatories. We will not produce documents or answer interrogatories in a manner designed to hide or obscure the existence of particular documents or information.

25) We will base our discovery objections on a good-faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.

26) When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the Court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the Court.

27) We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

28) Unless specifically permitted or invited by the Court, or unless otherwise necessary, we will not send copies of correspondence between counsel to the Court.

Attorneys' Responsibilities to the Court

1) We will speak and write civilly and respectfully in all communications with the Court.

2) We will be punctual and prepared for all Court appearances so that all hearings, conferences and trials may commence on time; if delayed, we will notify the Court and counsel, if possible.

3) We will be considerate of the time constraints and pressures on the Court and Court staff inherent in their efforts to administer justice.

4) We will not engage in conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in Court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

5) We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication.

6) We will not send letters to the Court (whether addressed to the Court or copies of letters to opposing counsel) that contain argument or criticize counsel in connection with a pending action, unless invited or permitted by the Court or as appropriate exhibits to Court filings, in which event a copy shall be provided to opposing counsel in such a manner as to insure delivery to opposing counsel on that same day that it is delivered to the Court.

7) Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the Court of any likely problems.

8) We will act and speak civilly to marshals, clerks, court reporters, secretaries and law clerks with an awareness that they, too, are an integral part of the judicial system.

Court's Responsibilities to Attorneys

1) We will endeavor to be courteous, respectful and civil to attorneys, parties and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to insure that all litigation proceedings are conducted in a civil manner.

2) We will not employ hostile, demeaning or humiliating words in opinions or in written or oral communications with attorneys, parties or witnesses.

3) We will be punctual in convening hearings, meetings and conferences; if delayed, we will notify counsel, if possible.

4) The Court, recognizing the existence of family and business obligations of parties, witnesses and attorneys, will attempt, in scheduling all hearings, meetings and conferences, to be considerate of time schedules of attorneys, parties and

witnesses.

5) We will make reasonable efforts to decide promptly matters presented to us for decision.

6) While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on attorneys.

7) We recognize that an attorney has a right and a duty to present a cause fully and properly, and that a litigant has a right to fair and impartial consideration.

8) We will not impugn the integrity or professionalism of any attorney on the basis of the clients whom, or the causes which, an attorney represents.

9) We will do our best to insure that Court personnel act civilly toward attorneys, parties and witnesses.

10) We will not adopt procedures that needlessly increase litigation expense.

11) We will bring to an attorney's attention uncivil conduct which we observe.

Judges' Responsibilities to Each Other

1) We will be courteous, respectful and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.

2) In all written and oral communications, we will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge.

3) We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

Lawyer's Commitment of Professional Civility

A lawyer shall conduct him/herself in accordance with the standards of professional integrity and personal courtesy set forth in the Civility Principles of the United States District Court for the Eastern District of Michigan.

A lawyer shall honor and respect the Constitution of the United States, the judicial system, the legal profession and will strive to uphold the dignity of each.

A lawyer shall be guided by a fundamental sense of integrity, candor and fair play.

A lawyer shall abstain from disrespectful, disruptive and/or abusive behavior, and will at all times act with dignity, decency and courtesy.

A lawyer shall seek to resolve and not prolong legal disputes, without lessening your obligations to client interests.

A lawyer shall respect the time and commitments of others and will be diligent and punctual in communicating with others and fulfilling in your own responsibilities.

A lawyer shall exercise independent judgment and will not be guided by ill will, deceit or avarice.

As a lawyer you shall further your profession's dedication to public service.

A lawyer shall strive to do honor to the search for truth and justice.

As a lawyer your word is your bond.

Incorporated into Civility Principles - December 3, 2007

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