

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.

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.

LR 1.3 Availability of the Local Rules

Copies of these Rules as amended are available. Order forms may be obtained from the Clerk's Office in Ann Arbor, Bay City, Detroit and Flint.

LR 3.1 Civil Case Cover Sheet

Every complaint or other document initiating a civil action shall be accompanied by a completed civil case cover sheet, on a form available from the Clerk. If the complaint or other document is received without a completed civil case cover sheet, the Clerk shall accept it for filing and may enlist the cooperation of counsel or a party in a case filed *pro se* in completing the civil case cover sheet.

LR 5.1 Filing of Papers

(a) General Format of Papers Presented for Filing. All papers presented for filing must show the name of the court, the title and number of the case, the name or nature of the paper in sufficient detail for identification, the name of the judge and magistrate judge to whom the case is assigned, and the name, office address, telephone number and state bar identification number of the attorney. All papers must be on 8 ½ x 11 inch white paper of good quality and be plainly typewritten, printed, or prepared by a clearly legible duplication process, and double-spaced, except for quoted material and footnotes. Except for standard preprinted forms that are in general use, type size of all text and footnotes must be no smaller than 10 characters per inch (non-proportional) or 12 point (proportional). Margins must be at least one and one-half inches on the top and one inch on the 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 prior to removal from the state courts.

(b) Number of Copies Required for Filing. All papers filed with the clerk must include an original and one copy. The copy should be clearly marked "JUDGE'S COPY."

(c) Copies Required for a Three-Judge Court. In any action or proceeding in which a three-judge court is requested, parties must file an original and three copies of all 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 parties may be permitted to file fewer copies by order of the court.

(d) Exhibits. Bulky exhibits are to 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 are advised that the handling and storage of documents are facilitated if they are received flat and without folds.

LR 5.2 Service of Non-Dispositive and Dispositive Orders;
 Stipulations and Orders

(a) Service of Non-Dispositive Orders. Unless otherwise directed by the Court, the Clerk shall send the movant seeking a non-dispositive order a copy of the order signed by the judicial officer. Within 10 days of the date of the order, unless otherwise directed by the judge in a particular case, the movant shall serve, in accordance with Fed. R. Civ. P. 5, copies of the order on all other parties and promptly file a proof of service.

(b) Stipulations and Orders; Service of Orders. The party initiating a stipulation and proposing an order shall submit a self-addressed stamped envelope and shall be responsible for serving copies of the order on all other parties within 10 days of the date of the order, unless otherwise directed by the judge in a particular case. No proof of service is required.

(c) Service of Dispositive Orders. The preparer of a dispositive order, other than a stipulated order, shall submit the proposed order to the Court with an original and a copy for the Court and sufficient copies and addressed, stamped envelopes for all parties in the case. The Clerk shall mail to the parties the order or judgment and provide a proof of service for the record of the Court.

(d) Definition of Dispositive Order. For purposes of this Rule, "dispositive order" means an order disposing of a 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 for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action, whether the order grants or denies the motion in whole or in part.

COMMENT:

In (a), the movant is responsible for service even if the movant does not prevail, in whole or in part.

In (b), the initiating party carries the same burden as the movant in (a). No proof of service is necessary because the order follows a stipulation.

In (c), the preparer includes the Court. If the Court prepares the dispositive order, then the Court provides all documents, envelopes and postage for service. If the Court directs a party to prepare the final order, then that party provides copies of the order, envelopes and postage for the Court to complete service after the judicial officer signs the order.

LR 5.3 Civil Material Sealed Under Protective Orders

(a) Filing. Documents subject to a protective order must be filed pursuant to LR 5.1. In addition, each document subject to a protective order must be placed in a separate 9 ½ x 12 inch envelope and sealed closed. Each envelope must plainly state the full case caption, title of the document enclosed and the text, “FILED UNDER SEAL PURSUANT TO A PROTECTIVE ORDER” in bold, capital letters not less than one inch high.

(b) Disposition. Sixty days after the entry of a final judgment and an appellate mandate, if appealed, attorneys must present to the court a proposed order specifying whether the material sealed with protective order is (a) to be returned to the parties or (b) unsealed and placed in the case file. Failure to present the order will result in the court ordering the clerk to unseal the material and place it in the case file.

COMMENT: LR 5.3 makes attorneys responsible for material sealed with a protective order. Upon receipt of sealed material, the Clerk’s Office will provide copies of this Rule to the submitting party.

Attorneys are cautioned to seal only those documents specifically referenced in the protective order. If the sealed documents are exhibits to a motion, only the exhibits are to be filed under seal. Attorneys are instructed not to fasten, staple or bind sealed and public documents together.

Sealed settlement agreements or other material provided by statute, e.g., *Qui Tam* cases, are not covered by LR 5.3.

LR 5.4 Sealed Settlement Agreements in Civil Cases

Absent an order to the contrary, sealed settlement agreements will remain sealed for two years after the date of sealing, after which time they will be unsealed and placed in the case file.

COMMENT: LR 5.4 is an exception to [LR 5.3](#). If a sealed settlement agreement is submitted to chambers for filing the judge's courtroom deputy clerk will provide a copy of this Rule to the attorneys of record.

LR 6.1 Computation of Time

In computing a period of time under Fed. R. Civ. P. 6(a) and 6(e) and Fed. R. Crim. P. 45(a) and 45(e):

(a) In determining whether a period of time is less than 11 days for purposes of Fed. R. Civ. P. 6(a) and Fed. R. Crim. P. 45(a), the time period must be considered without regard to any extension of time that may apply under Fed. R. Civ. P. 6(e) or Fed. R. Crim. P. 45(e).

(b) The additional three days added to the time period after service by mail must be computed by adding three consecutive calendar days to the period computed under Fed. R. Civ. P. 6(a) or Fed. R. Crim. P. 45(a).

(c) If the period under Fed. R. Civ. P. 6(a) or Fed. R. Crim. P. 45(a) before extension under Fed. R. Civ. P. 6(e) or Fed. R. Crim. P. 45(e) ends on a Saturday, Sunday, or legal holiday, the three days under Fed. R. Civ. P. 6(e) or Fed. R. Crim. P. 45(e) must be added before applying an extension.

LR 7.1 Motion Practice

(a) Seeking Concurrence in Motions.

(1) The movant must ascertain whether the contemplated motion will be opposed. If the movant obtains concurrence, the parties may make the subject matter of the contemplated motion a matter of record by stipulated order.

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

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

(B) despite reasonable efforts specified in the motion, the movant was unable to conduct a conference.

(3) The court may tax costs for unreasonable withholding of consent.

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

(c) Briefs.

(1) Briefs Required and Permitted.

(A) Motions and responses to motions must be accompanied by a brief. The brief may be separate from or may be contained within the motion. If contained within the motion, 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 20 pages. A party 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 5 pages.

(d) Briefing Schedule.

(1) Dispositive Motions.

(A) Dispositive motions are motions:

- ! 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 for failure to state a claim upon which relief can be granted, and
- ! to involuntarily dismiss an action.

(B) A response to a dispositive motion must be filed within 21 days after service of the motion.

(C) If filed, a reply brief supporting a dispositive motion must be filed within 7 days after service of the response, but not less than 3 days before oral argument.

(2) Nondispositive Motions.

(A) Nondispositive motions are motions not listed in [LR 7.1\(d\)\(1\)\(A\)](#).

(B) A response to a nondispositive motion must be filed within 14 days after service of the motion.

(C) If filed, a reply brief supporting a nondispositive motion must be filed within 7 days after service of the response, but not less than 3 days before oral argument.

(e) Hearing on Motions.

(1) Oral hearings on motions for rehearing or reconsideration, motions for reduction of sentence and motions in civil cases where a party is in custody will not be held unless ordered by the assigned judge.

(2) Oral hearings on all other motions will be held unless the judge at any time prior to the hearing orders their submission and determination without oral hearing on the briefs filed as required by this rule.

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

(f) Additional Time to File Supporting Documents and Brief. When it is indicated in a motion, response or written request that the filing of additional affidavits or other documents in support or opposition is necessary, the judge to whom the case is assigned may enter an *ex parte* order (which must have been prepared by the party making the request) specifying the time within which such additional documents and brief must be filed, or approve any written stipulations in regard thereto. A copy of an *ex parte* order so entered must immediately be served upon opposing counsel or a party without counsel. Counsel or a party without counsel obtaining such order must also immediately notify opposing counsel or a party without counsel personally or by telephone of the signing of the order. A party against whom an *ex parte* enlargement of time has been granted may immediately move for a dissolution of the order granting enlargement.

(g) Motions for Rehearing or Reconsideration.

(1) Time. A motion for rehearing or reconsideration must be filed within 10 days after entry of the judgment or order.

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

(3) Grounds. Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

COMMENT: The 20-page limit under [LR 7.1\(c\)\(3\)\(A\)](#) will be strictly enforced by the Court. 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](#). (Approved 12/6/99)

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

LR 9.1 Special Rules of Pleading

(a) **Notation of "Jury Demand" in the Pleading.** If a party demands a jury trial by endorsing it on a pleading, as permitted by Fed. R. Civ. P. 38(b), a notation shall be placed on the front page of the pleading, to the right of the caption, stating "Demand For Jury Trial" or an equivalent statement.

(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 either by checking the appropriate box on the civil case cover sheet or 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) **Social Security Cases.** Complaints filed in civil cases, pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g) for benefits under Titles II, XVI and XVIII of the Social Security Act shall contain, in addition to what is required under Fed. R. Civ. P. 8(a), the following information:

(1) The social security number of the worker on whose wage record the application for benefits was filed (who may or may not be the plaintiff) in cases involving claims for retirement, survivors, disability, health insurance and black lung disease.

(2) The social security number of the plaintiff in cases involving claims for supplemental security income benefits.

(f) **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.

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 "subdivision (b)" are deemed to be references to violations of the Local Rules, and Fed. R. Civ. P. 11(c)(2)(A) does not apply.

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.

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 party shall be represented in the pretrial conference by at least one attorney who shall thereafter participate actively in the trial of the action, and who, in attending the conference, shall be possessed of information and authority adequate for responsible and effective participation in it for all purposes, including settlement. Furthermore, at all conferences designated as settlement conferences, all parties shall 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 tenth day before the scheduled date for submitting the final pretrial order, that date and the final pretrial conference shall be postponed and rescheduled to a date no earlier than 10 days after the date of decision on the motion, unless otherwise directed by the judge in a particular case. Any scheduled trial date shall also be rescheduled 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.

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) 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). 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) and (B). 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)(C). 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.

LR 16.3 Mediation

(a) Mediation Under MCR 2.403. Michigan Court Rule 2.403, as amended from time to time, applies to civil cases that the court selects for mediation, subject to the provisions of this rule.

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

(c) Mediation Panel; Stipulation of the Parties.

(1) Cases will be mediated by the Wayne County Mediation Tribunal Association or another Michigan state trial court mediation system unless the court orders otherwise. For cases mediated by the Wayne County Mediation Tribunal Association, the tribunal clerk is the mediation clerk. For all other cases, the parties may stipulate to or the court may order the procedures that will apply.

(2) The parties may stipulate to procedural rules for mediation. The stipulation may include, by way of illustration, binding mediation, special mediation, binding special mediation, and the award of attorney fees as a sanction. In a special mediation, the parties control selection of the mediators.

(d) Actual Costs. Actual costs, including attorney fees, may be awarded under this rule where permitted by law or consent of the parties.

(e) Relationship to Offers of Judgment. When both Fed. R. Civ. P. 68 and this rule require an award of costs, Fed. R. Civ. P. 68 supersedes this rule for the costs to which it applies and this rule applies to any other costs.

LR 16.4 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.

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) limits interrogatories to 25 without leave of court.

LR 26.2 Filing of Discovery Material

(a) Depositions, interrogatories, requests for the production of documents, requests for admission and responses to such discovery material shall not be filed with the Clerk except:

(1) When discovery material provides factual support for a motion, response, or reply, the party relying on the material must file it as an exhibit or attachment to the motion, response, or reply.

(2) When discovery material is to be read or otherwise used during a trial, hearing or other miscellaneous proceeding, the party relying on the material must file it at the start of the trial, hearing or proceeding or at such later time as the Court permits.

(b) Filing of all deposition material shall be only in written form. If audiotaped or videotaped, a written transcript of the depositions will be accepted for filing.

(c) The party taking the deposition, initiating interrogatories, requesting the production of documents and admissions and any responses to such requests shall maintain custody of the deposition or other discovery material until it is filed with the Court, or until six months after the expiration of the last applicable appeal period, or until the Court directs otherwise. When the Court orders filing, the party charged with custody of the discovery material must file it with the Court within 10 days of service of the order, unless the Court directs otherwise.

(d) If discovery material not previously filed with the Clerk is needed for an appeal in a case, the party maintaining custody of the discovery material shall file it with the Clerk either on stipulation of the parties or on order of the Court.

COMMENT: The Court has extended the prohibition of filing discovery material to include the certificate of service of such discovery material.

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).

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](#).

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.

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.

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](#).

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\(b\)](#).

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](#).

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](#).

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.

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.

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.

LR 54.1 Taxation of Costs

Costs will be taxed by the Clerk as provided in the Bill of Costs Handbook available from the Clerk's Office.

COMMENT: The authority of the Clerk to tax costs is found in Fed. R. Civ. P. 54(d).

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:

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.

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.

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.

LR 58.1 Procedure for Entry of Judgments and Orders

An order or judgment shall be entered by one of the following methods:

(a) The Court may sign the judgment or order at or after the time it grants the relief provided by the judgment or order.

(b) The Court shall sign the judgment or order when its form is approved by all the parties.

(c) Within seven days after the granting of the judgment or order, or later if the Court allows, a party may serve a copy of the proposed judgment or order on the other parties, with a notice to them 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 party must file with the Court the original of the proposed judgment or order and proof of its service on the other parties.

(1) If no written objections are filed within seven days, the Court shall 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 shall notify the parties 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) The party filing the objections must serve them on all parties.

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

(d) A party may prepare a proposed judgment or order and notice it for settlement before the Court.

LR 59.1 Motion to Alter or Amend a Judgment

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

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) 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).

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.

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

(a) Deposit Order. The Clerk of Court shall accept only cash, 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.

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.

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 the party objects; and

(B) state the basis for the objection.

(2) A party must serve the magistrate judge and all parties with objections permitted by Fed. R. Civ. P. 72.

(3) A party may respond to objections within 10 days of service.

(4) A party may file a reply brief within 5 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.

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 30 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 30 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.

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.”

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 judge to whom a case or matter has been assigned. Since judges often make specific arrangements with other judges to act if they are absent or unavailable, counsel or a party without counsel should always contact the chambers of the assigned judge. If it appears that no such arrangements have been made, counsel or a party 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 party 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 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.

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.

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, with a copy of such request filed with the Clerk of the Court.
- (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.

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.

LR 83.1 Amendments to Local Rules; Effective Date

- (a) When the court proposes an amendment to or amends these rules, it must publish notice of the proposal or amendment in legal newspapers in the district and the Michigan Bar Journal.

- (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 by a majority vote of the judges of this court in conformity with Fed. R. Civ. P. 83 and Fed. R. Crim. P. 57.

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.

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.

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).

LR 83.10 Assignment of Civil Cases to Places of Holding Court

(a) Counties and Places of Holding Court. 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.

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 to Judges of civil cases and special civil cases. 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 and special civil cases to the Judge regularly holding court in Bay City.

(3) 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.

(4) 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.

(5) 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 or to the Judge who is appointed to fill the vacancy of that Judge. If no judge has been appointed to fill that vacancy, the matter will be reassigned by random method under (a).

(6) Motions for relief filed under 28 U.S.C. § 2255 shall be assigned to the Judge who imposed sentence on the defendant or to the Judge who is appointed to fill the vacancy of the sentencing Judge. If no judge has been appointed to fill that vacancy, the matter will be reassigned by random method under (a).

(7) 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 civil 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.

(8) Matters arising from a civil, special civil (as defined in (a)(1)), or miscellaneous case assigned to (1) a judge who has retired from the court, or (2) a senior judge no longer receiving special civil or miscellaneous cases, will be assigned to the judge who is appointed to fill the vacancy of that judge. If no judge has been appointed to fill that vacancy, the matter will be reassigned by random method under (a).

(c) Refiled, Dismissed and Remanded Civil Cases.

(1) If an action is filed or removed to this Court and assigned to a Judge, after which it is discontinued, dismissed or remanded to a State Court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel 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 civil case cover sheet.

(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.

(1) In Ann Arbor, Detroit, Flint and Port Huron, 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).

(2) 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.

COMMENT:

Because each place of holding court has its own sequential numbering system, the “earlier case number” referred to in (b)(7)(C) will mean the earlier case filed as determined by date and time. (12/4/00)

Miscellaneous matters referred to in [LR 83.11\(a\)\(5\)](#) 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.

LR 83.20 Attorney Admission

(a) Definitions.

(1) As used in this rule, except as provided in LR 83.20(i)(1)(E), "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, 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) office address and telephone number;

(B) the date of admission and each jurisdiction where the applicant has been admitted to practice; and

(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.

(2) A sponsor who is a member of the bar of this court 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.

(3) If the court grants the application, the applicant must take the oath of office. A judicial officer, the clerk, or a deputy clerk may administer the oath. The clerk shall issue a certificate of admission.

(e) Limited Pre-Admission Practice. An attorney may appear of record and file papers in a case or proceeding before actual admission to practice in this court if--

- (1) the attorney pays the fee established by the court;
- (2) the attorney files the application required by (d)(1) with the clerk; and
- (3) the attorney is admitted before a personal appearance in court.

(f) Local Counsel. Any member of the bar of this court who is not an active member of the State Bar of Michigan must not appear as attorney of record in any case without specifying on the record, as local counsel, a member of the bar of this court having an office within the district upon whom service of all papers may be made. Such local counsel must enter an appearance in the case and must have both the authority and responsibility for the conduct of the case should out-of-town counsel not respond to any order of the court for appearance or otherwise. 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.

(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) limited pre-admission practice is permitted under [LR 83.20\(e\)](#).
- (C) government attorneys may practice under [LR 83.20\(g\)](#).
- (D) law students may practice under [LR 83.21](#).

(E) 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.

(F) an attorney may issue a subpoena under Fed.R.Civ.P. 45(a)(3)(B).

(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).

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.

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 judge, whether by complaint or otherwise, the judge may refer the matter to the Michigan Attorney Grievance Commission for investigation and prosecution. The judge may also refer the matter to another disciplinary authority that has jurisdiction over the attorney, including reference to the chief judge for institution of appropriate disciplinary proceedings by this court.

(d) **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.

(e) Discipline by Other Jurisdictions.

(1) Reciprocal Discipline.

(A) When another jurisdiction enters an order of discipline against an attorney admitted to practice in this court, the same discipline is automatically effective in this court without further action by the court. On receipt of written notice that another jurisdiction entered an order of 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 reciprocal discipline until the stay expires.

(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 Reciprocal Discipline.

(A) Within 30 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 finds 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 admissions 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. Upon receipt of notice that the attorney has been reinstated for payment of dues and penalties, the attorney will be automatically reinstated in this court.

(f) 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 (f)(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.

(g) Reinstatement.

(1) In cases in which an attorney has been suspended or disbarred by this court based on an action by another jurisdiction, 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. In cases in which an attorney has been suspended or disbarred by direct action of this court, the attorney may apply for reinstatement by filing an application for reinstatement. The clerk will assign such affidavits and applications randomly among the active and senior judges to a panel of three 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) 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 parties 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.

(h) 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.

(i) 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.

(j) 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.

LR 83.30 Courtroom Decorum

- (a) **Withdrawal of Appearances.** Withdrawal of appearances may be accomplished only by leave of Court on motion of counsel.
- (b) **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.
- (c) **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.

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.

(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 in a judicial proceeding while they are in a courtroom or its 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) Laptop Computers. Laptop computers are permitted in federal court facilities, but may not be used in any courtroom without the written permission of the appropriate judicial officer.

(f) Cellular Telephones. Cellular telephones are not permitted in federal court facilities.

(g) Communication Devices. Communication devices (tape and audio recorders and devices and dictating devices) are prohibited from federal court facilities unless otherwise ordered by a judge in a particular case.

(h) Pagers; Beepers. Pagers and beepers are permitted in federal court facilities, but must be programmed to an inaudible mode.

(i) 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.

(j) 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.

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.

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. 8007(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. 8006, 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. 8007(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) 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](#).

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.

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. Upon seizure of a vessel by arrest or attachment, the Marshal shall appoint as custodian of the vessel the master or other officer in control of the vessel if the master or such other officer shall accept the responsibilities and liabilities incidental to such appointment. Absent such acceptance, the Marshal shall make such other arrangements for the safekeeping of the vessel as shall be satisfactory to the Marshal. The Marshal in either event may require the party at whose instance the vessel was seized to pay any costs as incurred. Upon proper motion of the plaintiff or of any other person claiming an interest in the vessel, the Court may appoint a different custodian in which event the fees and costs thereof shall be paid as incurred by the party at whose instance such appointment was made. Unless restriction thereof is deemed necessary for the safekeeping of any vessel seized by the Marshal, the loading or discharging of its 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 any one marine terminal or to a local anchorage within the District without further order of the Court.

(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.

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).

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.

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 assigned 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).

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.

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.

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.

LCrR 17.1 Issuance of Subpoenas on Application of Appointed Counsel

(a) 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. Witness subpoenas issued under this subrule may not be served more than 100 miles from the place of holding court.

(b) An application for the issuance of a subpoena *in forma pauperis* shall be made to the Court if the witness will be subpoenaed at a place more than 100 miles from the place of holding court. The application may be made *ex parte*.

(c) The United States Marshal is authorized to serve witness subpoenas pursuant to Fed. R. Crim. P. 17(d).

COMMENT: LCrR 17.1 should be read with Fed. R. Crim. P. 17 (which is substantially similar to Fed R. Civ. P. 45).

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.

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 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. 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) Nothing within this LCrR requires the disclosure of any portion of the presentence report that is not permitted under Fed. R. Crim. P. 32.

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 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 cash, money order or cashier's check made payable to "Clerk, United States District Court", or VISA or MasterCard 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 Administrative Office of the United States Courts, after a competitive bidding process, entered into a nationwide contract with VISA and MasterCard on behalf of all U.S. Courts (see LCrR 46.1(b)(1)). Since no contract exists with any other credit card company, no other credit cards will be accepted.

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.

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.

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.

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.

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 (1) a judge who has retired from the court, or (2) a senior judge no longer receiving criminal cases, will be assigned to the judge who is appointed to fill the vacancy of that judge. If no judge has been appointed to fill that vacancy, the matter will be reassigned by random method under (a).

(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.

COMMENT: Because each place of holding court has its own sequential numbering system, 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)

**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.