PRACTICE AND PROCEDURE MANUAL
FOR JUDGES AND MAGISTRATE JUDGES
FOR THE MIDDLE DISTRICT OF TENNESSEE
(Judge Eli Richardson)

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I. NAME AND BRIEF BIOGRAPHY

Judge Eli Richardson

Federal Judicial Service:

U.S. District Court, Middle District of Tennessee

Nominated by Donald J. Trump on July 13, 2017, to a seat vacated by Todd J. Campbell;

Confirmed by the Senate on October 11, 2018, received commission on October 18, 2018, and entered into service on October 22, 2018.

Education:

Duke University, B.S.E. in electrical engineering, 1989

Vanderbilt Law School, J.D., 1992

Professional Career:

Private practice, Michigan, 1992-1993

Private practice, Georgia, 1993-1998

Special Agent, Federal Bureau of Investigation, New Jersey, 1998-2002

Assistant U.S. Attorney, District of New Jersey, 2002-2004

Assistant U.S. Attorney, Middle District of Tennessee, 2004-2009

Resident Legal Advisory, U.S. Embassy, Belgrade, Serbia, 2009-2010

Private practice, Tennessee, 2010-2018

II. PRELIMINARY GENERAL MATTERS

This Practice and Procedure Manual was compiled by the Federal Court Committee of the Nashville Bar Association. The Committee expresses thanks to all of the Judges and Magistrate Judges, and to the Clerk of the Court, for all of the input and guidance they provided in gathering this information.

In preparing the Manual, efforts were taken to avoid repeating or characterizing rules otherwise contained in the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Local Rules of Court, the Local Rules Governing Duties of and Proceedings before Magistrate Judges, or the Administrative Practices and Procedures for Electronic Case Filing. The Manual does not attempt to be an exhaustive guide for the practice of law. It is intended to provide information about judicial practices and preferences in this District that are not necessarily addressed in any set of rules.

To the extent that there is any conflict between this Manual and these other applicable rules, practices and procedures, the other applicable rules, practices and procedures control. **This Manual is primarily the work of the Nashville Bar Association, with modifications made by Judge Richardson. It is not an official statement of the Court. This Manual may not be cited as authority.**

A. Scheduling

Counsel should feel free to contact chambers regarding scheduling matters. For scheduling, the point of contact is Judge Richardson's courtroom deputy, Julie Jackson, who can be reached at (615) 736-5549. For all other matters, chambers can be contacted at 615-736-5291. There are no standard days or times for any particular matters, except for jury trials in Nashville, which begin on Tuesdays at 9:00 a.m.

B. Correspondence with the Court

Correspondence with the Court is discouraged. Written communication with the Court should be in the form of pleadings, motions, notices, memoranda, and briefs, as provided for in the Federal Rules of Civil Procedure and the Local Rules. In the rare instances when correspondence with the Court is permitted, directed or invited by the Court, a copy of the correspondence shall be served on opposing counsel, and all such correspondence will be filed with the Clerk of Court and is a matter of public record, unless otherwise directed by the Court as in the case of confidential settlement conference statements.

C. Telephone Conferences with the Court

The judges, upon request, generally will attempt to accommodate out-of-town counsel or other circumstances unique to the case by permitting joint telephone conferences with the Court. Judge Richardson is amenable to using telephone conferences as a way to reduce the cost and resource expenditure associated with litigation, and when feasible he may do so on his own initiative as well as on specific request of counsel.

The judges also may entertain telephone conferences regarding discovery disputes that arise during depositions. When called upon to rule on such matters, Judge Richardson requires joint telephone conferences with the Court prior to the filing of motions to compel or other discovery motions. Requests for participation in case management conferences or other conferences by telephone must be made in advance by written motion and are granted on a case-by-case basis.

D. Telephone Conference with Law Clerks

Generally, telephone communication by counsel with the Court's law clerks is discouraged, if not prohibited. The merits of the case should never be discussed with the law clerks. Some of the judges permit telephone communications with their law clerks to discuss case administration matters with counsel.

Judge Richardson does not permit telephone conferences with his law clerks, except as to administrative or scheduling issues that on rare occasions might be fielded by one of his law clerks in the absence of other chambers staff who ordinarily address such issues. On rare occasions, Judge Richardson may have his law clerks initiate contact with counsel about an administrative or scheduling matter.

E. Pro Se Litigants

Pro se litigants are expected to follow the Local Rules and these guidelines, as are all parties represented by counsel.

F. Chamber Copies of Filings

Judge Richardson does not want chamber copies of filings, unless he requests them.

III. PRETRIAL MATTERS FOR CIVIL CASES

A. Case Management Conferences and Orders

Judge Richardson refers all new cases to the magistrate judges for case management purposes. Scheduling orders or changes thereto are addressed with the magistrate judge assigned to the case. After the initial case management conference is held by the magistrate judge, Judge Richardson will set the trial date.

B. Agreed Orders, Continuances and Extensions

Judge Richardson decides motions to continue the trial date. Judge Richardson will consider extensions of time upon agreement of the parties or for good cause shown. Judge Richardson expects requests for continuances and extensions to be made in writing. They will be decided on a case-by-case basis. Absent extraordinary circumstances, motions for extensions will not be granted if not filed before the deadline that is the subject of the motion.

C. Pretrial Motions

1. Referral to Magistrate Judge

Judge Richardson refers most discovery motions to a magistrate judge. Judge Richardson assigns pro se cases to a magistrate judge for case management.

2. Dispositive Motions

The district judges, with the exception of pro se cases, normally resolve dispositive motions without reference to a magistrate judge. District judges may refer specific dispositive motions to a

magistrate judge for a Report and Recommendation and will normally refer all dispositive motions in cases where at least one of the litigants is pro se.

3. Briefs

Judge Richardson believes briefs should be direct and to the point, favoring brevity over wordiness, although he realizes that brevity is not easily achieved in some cases given the factual or legal context involved.

4. Oral Argument

Judge Richardson grants requests for oral argument in relatively limited instances where he thinks it would be beneficial, although he believes that generally a party's position should be set forth adequately in the briefing alone without the need for oral argument. Judge Richardson may order oral argument even in the absence of a request from a party if he concludes that oral argument will be beneficial.

D. Discovery

1. Interrogatories

The number of interrogatories can be discussed at the case management conference or through written motion and proposed agreed order.

2. Telephone Depositions

Judge Richardson generally encourages telephonic depositions as a means to reduce the cost and resource allocation associated with litigation.

3. Discovery Disputes

The judges agree that every effort should be made by the attorneys to resolve discovery disputes before bringing them to the Court's attention. Judge Richardson's requirements for bringing a discovery motion are set forth in his sample initial case management order available on the Court's website under his name. For cases in which a magistrate judge is conducting case management, discovery disputes brought to the Court will be resolved by the magistrate judge.

4. Motions to Compel/Rule 37 Sanctions

Judge Richardson has no applicable comments regarding this section, other than to reiterate that discovery disputes should be resolved without the Court's intervention if at all possible.

E. Confidentiality Agreements and Protective Orders

Judge Richardson considers them on a case-by-case basis, provided that the requested agreement or order comply with applicable Sixth Circuit authority concerning such agreements and orders.

F. Expert Witnesses

Judge Richardson generally will not invoke the option provided for in LR39.01(c)(5)(E), regarding the presentation of expert testimony, whereby the trial judge may require that the testimony of an expert witness (other than a treating physician) be reduced to writing before trial and then read at trial as the expert's direct testimony. However, Judge Richardson will allow this procedure where all parties have agreed to it.

Motions *in limine* should be filed by any party seeking to challenge an expert's qualifications or to otherwise assert that the expert's proposed testimony is not admissible under Fed. R. Evid. 702.

G. Settlement Conferences

1. Who Presides

All judges handle settlement conferences for each other. Most settlement conferences are done by magistrate judges who are not assigned to the case as case manager, although parties may request the case manager to preside. The selection of a judge to preside over a settlement conference is viewed as an appropriate use of forum shopping.

2. Procedure

The general procedure for settlement conferences in non-jury cases is as follows: The settlement judge will issue an order setting forth his or her requirements for a judicial settlement conference. Normally, the parties will be required to provide the settlement judge with a confidential evaluation of their case and their demands. **These confidential statements should be submitted directly to the settlement judge's courtroom deputy and not filed with the Court.** They do not become part of the case file.

This submission should include a description of the case, the amount of the offer, the party's evaluation of the case, the cost of litigation, and representation that these matters have been discussed with the client. Any information that is not to be communicated to the other side needs to be designated as such. All individual parties must be present with full settlement authority, and all corporate parties must be present with representatives having full settlement authority unless prior approval is otherwise obtained. The attorneys are requested to give a short opening statement in the courtroom with everyone present.

The settlement judge then meets with the parties separately, and will meet with the attorneys individually, out of the presence of their clients. If settlement is reached, it is preferred that a settlement agreement be executed before the parties leave the courthouse.

H. Pretrial Briefs

In jury cases, pretrial briefs are not routinely required. In some instances, Judge Richardson may request briefs on particular issues.

I. Pretrial Orders

Judge Richardson issues an order regarding the requirements for a pretrial order and the pretrial conference. Generally, counsel must submit a joint proposed pretrial order prior to the pretrial conference. The pretrial order must contain: (1) a recitation that the pleadings are amended to conform to the pretrial order and that the pretrial order supplants the pleadings; (2) a statement of the basis for jurisdiction of the Court; (3) a short summary of the plaintiff's theory (no more than one page); (4) a short summary of the defendant's theory (no more than one page); (5) a statement of the issues, including a designation of which issues are for the jury and which are for the Court; (6) a succinct statement of the relief sought; (7) a summary of any anticipated evidentiary disputes; and (8) an estimate of the anticipated length of trial.

J. Pretrial Conference

The requirements for pretrial filings are set out in Judge Richardson's standard order setting the case for trial. He usually will rule on motions *in limine* at the pretrial conference.

K. Temporary Restraining Orders

The clerk will notify the assigned judge when a TRO is being requested at the time the complaint is filed. The papers should state what efforts have been made to contact the other side. Hearings, if any, will be scheduled through the courtroom deputy of the district judge to whom the TRO application is assigned. The assignment of the TRO application and the assignment of the case are separate matters. The judge who decides the TRO may or may not be the judge who has been assigned to the case.

If a TRO matter is filed other than at the initiation of the case, counsel should advise the judicial assistant of the presiding judge.

Requests for expedited discovery will be considered upon written motions if good cause is shown.

IV. PRETRIAL MATTERS FOR CRIMINAL CASES

A. Initial Appearances, Detention Hearings and Preliminary Hearings

When a person is arrested on federal charges, the person ordinarily must be taken before a magistrate judge without unnecessary delay. Prior to this Initial Appearance, a pretrial services officer will provide the client with a financial affidavit if the defendant is seeking appointment of counsel, and will also provide a form called Important Notice to Defendant and Explanation of

Rights and Proceedings. At the Initial Appearance, the magistrate judge will review these documents, the charges, and the statutory maximum penalties with the defendant. Fed. R. Crim. P. 5 sets forth the requirements for Initial Appearances.

In addition to the Initial Appearance, a magistrate judge will conduct the Arraignments, Detention Hearings, and Preliminary Hearings when the defendant has been arrested pursuant to a complaint. See Fed. R. Crim. P. 5.1 (Preliminary Hearings); Fed. R. Crim. P. 10 (Arraignments); 18 U.S.C. § 3142 (Bail Reform Act).

In felony cases where a defendant has been indicted, the defendant may submit a written Waiver of Personal Appearance at Arraignment and Entry of Plea of Not Guilty in lieu of an in-court arraignment.

In cases involving non-English speaking defendants, the Court will provide an interpreter to interpret during the court proceedings. If defense counsel requires an interpreter to converse with the client before the Initial Appearance, counsel should contact the interpreter directly to arrange the meeting. The name and phone number for the interpreter can be obtained from the Clerk's Office at (615) 736-5498.

B. Discovery and Pretrial Motions

In felony cases, the practice in the Middle District is for the district judges to hear all pre-trial matters, such as admissibility of confessions, suppression of evidence, motions to dismiss, etc. If a particular matter is referred to a magistrate judge, it will be handled on an expedited basis. For petty offenses, which do not require consent, and for misdemeanors where consent to proceed before the magistrate judge has been granted, the magistrate judge will conduct all pretrial matters.

All judges will schedule suppression hearings when necessary in a particular case. Generally, the judges will try to schedule suppression hearings well in advance of trial.

C. Status Conferences and Pretrial Conferences

In criminal cases, Judge Richardson generally schedules a status conference approximately forty-five days before the scheduled trial date and a pretrial conference approximately one week before the scheduled trial date.

D. Locating Incarcerated Clients

There are no federal detention facilities currently located in the Middle District of Tennessee. The United States Marshals Service contracts for space with a number of detention facilities. If a defendant is detained pending trial, defense counsel may contact the United States Marshal's Office at (615) 736-5417 to find out where their client is located. Defense counsel should then contact the facility directly concerning visitation and other rules of the particular facility where the client is located.

E. Service of Subpoenas for Criminal Proceedings

If defense counsel has been appointed by the Court, the United States Marshal will serve subpoenas on behalf of the defendant. Defense counsel must obtain an order from the district court judge that directs the United States Marshal to serve the subpoenas. This order should be obtained, and the list of subpoenas should be provided to the United States Marshal, well in advance of the criminal proceedings where the witnesses shall appear.

F. Requests for Continuances of Trials in Criminal Matters

To continue a criminal trial upon the motion of a defendant, Judge Richardson requires that a Waiver of Speedy Trial Rights, signed by the defendant, be filed contemporaneously with the motion to continue. In light of the particular requirements of the Speedy Trial Act, counsel should not assume that a trial will be continued automatically upon request of the parties.

G. Guilty Pleas

The Court has standard plea petition forms that must be completed and submitted by the defendant in felony and misdemeanor cases. These form petitions are available on the Court's website. Even in cases where the defendant has entered a plea agreement with the U.S. Attorney, the standard plea petition must be submitted as well.

Judge Richardson requests that counsel notify the courtroom deputy by phone or email immediately upon the determination that a guilty plea (with or without a plea agreement) will be entered and suggest a time frame for the taking of the guilty plea. A drafted written petition, plea agreement (if any), and prosecution statement of elements and penalties must be delivered to chambers before the guilty plea.

V. TRIAL PROCEDURES

A. Scheduling

Jury trials in Nashville usually begin on Tuesdays at 9:00 a.m. and continue until concluded. The court day generally runs from 9:00 a.m. to 5:00 p.m. with a one-hour lunch break. However, counsel should be prepared to arrive early or stay late in order to discuss matters outside the presence of the jury or when the jury wishes to deliberate past normal working hours.

Judge Richardson seeks to avoid having civil trials interrupted by other court proceedings.

B. Out-of-Town Parties, Witnesses or Attorneys

The judges will attempt to accommodate out-of-town parties, witnesses and attorneys to the extent possible, although local counsel is expected to be ready to try the case. In attempting to

accommodate out-of-town parties, witnesses and attorneys, the judges take into consideration potential hardship to other cases and the efficient administration of justice.

For Judge Richardson, any specific request to accommodate the schedules of out-of-town parties, witnesses and attorneys should be made by written motion at the earliest available opportunity or discussed during a pretrial conference.

C. Motions *in Limine*

All of the judges encourage motions *in limine*. They alert the judges to evidentiary issues that will arise at trial and, when appropriate, may help narrow issues for trial. Judge Richardson realizes, however, that not all foreseen questions as to admissibility should be raised via a motion *in limine*. If a motion *in limine* is not decided until trial, the non-moving party should be careful to not go into a matter that is the subject of a motion *in limine*, whether in opening statements or with a witness, until a ruling has been made.

Judge Richardson requires that motions *in limine* be filed and responded to in advance of the pretrial conference and in compliance with the deadlines set out in the order setting the case for trial. Judge Richardson makes every effort to decide motions *in limine* at the pretrial conference.

D. *Voir Dire* and Jury Selection

All of the judges permit reasonable *voir dire* by the attorneys after initial questions by the Court. Counsel will not be permitted to argue their case or get too personal with the jury. Beyond this, there is some variation among the judges regarding how they handle *voir dire* as discussed below.

For Judge Richardson, after general *voir dire* by the Court, counsel for each party is given an opportunity to *voir dire* the prospective jurors, as part of the jury selection process described in the following paragraph.

Names of an appropriate number of potential jurors are randomly drawn, and these potential jurors are seated in the jury box and in chairs in front of the jury box so that all may be questioned at the same time. After counsel's *voir dire* of these potential jurors, each party makes any challenges for cause at the bench. After the challenges for cause are resolved, each party exercises its peremptory challenges on written forms at the same time as every other party; therefore, duplicate strikes are a possibility. After the exercise of all challenges, the remaining prospective jurors move "up" to fill the empty chairs (left by the stricken prospective jurors) in numerical order.

In a civil trial, the first 7–10 jurors (depending on the anticipated length of trial) will constitute the jury. Alternate jurors have been abolished in federal civil trials. Therefore, all jurors remaining when deliberation begins will retire to the jury room. The jury must be comprised of at least 6 members. In a criminal trial, the first 12 jurors constitute the jury, with an appropriate number of alternates (usually 2) following in numerical order**.**

Judge Richardson does not allow "back-striking." That is, once a juror has been seated pursuant to the procedure outlined above, he or she cannot be stricken.

E. Note-Taking by Jurors

All of the judges allow jurors to take notes and to take their notes into the jury room during deliberation. All of the judges instruct the jury regarding the use of notes.

F. Opening Statements

1. Length

Although the judges may consider a time limit on a case-by-case basis for good cause, there is no set time limit for opening statement by any of the judges. Also, the judges agree that opening statements should be direct and not contain arguments of counsel. Subject to the caveat that the judges all may make case-by-case determinations for good cause, some of the judges have provided additional guidelines regarding the expected length of opening statements.

2. Use of Exhibits

Counsel who wish to use exhibits or demonstrative aids in opening statement shall consult with opposing counsel in advance and attempt to resolve any objections. Counsel should also request permission from the judge to use exhibits or demonstrative aids in opening statements. As a general rule, exhibits or demonstrative aids to which no counsel has an objection will be allowed during opening statement, and contested exhibits or demonstrative aids will not be allowed without prior Court approval.

G. Courtroom Decorum and Witness Examination

Attorneys shall stand when speaking; all objections and comments thereon shall be addressed to the Court. There shall be no oral confrontation between opposing counsel, and neither counsel nor parties may leave the courtroom without prior approval of the judge.

There is some variation among the judges regarding where counsel should stand in the courtroom and regarding how documents are passed. Except as noted below, it is generally expected that counsel will remain behind, or within an arm's length, of the podium, ask permission to approach a witness, and that the judge's clerk or a courtroom officer will pass exhibits to the witness. In accordance with LR39.01(c)(2), attorneys may introduce a witnesses by reading, and then asking the witness to confirm, background information for the witness, although Judge Richardson does not require that procedure.

Attorneys shall make their objections, or responses thereto, without speeches or coaching the witness. Attorneys should not repeat or attempt to re-characterize a witness's answers during an examination.

H. Side Bar Conferences

Side bar conferences are allowed, but requests for them should be kept to a minimum and used only for matters that can be resolved quickly. One of the reasons to keep side bar conferences to a minimum is that, due to the size of some of the courtrooms, it is not always possible to prevent the jury from hearing such conversations.

In addition to the general statement above, Judge Richardson prefers that matters that need to be discussed out of the presence of the jury, other than side bar conferences appropriate for addressing pending evidentiary objections, be raised during recesses.

I. Videotaped or Audiotaped Testimony

Videotaped or audiotaped testimony is allowed. Attorneys should edit the tape to remove irrelevant and objectionable material. Opposing counsel should be allowed to view the tape before it is presented so that appropriate objections, if any, can be made. The use of videotaped testimony should be discussed at the pretrial conference so appropriate equipment can be made available at the trial.

J. Deposition Reading

Reading a deposition into the record is allowed. Depositions read at trial should be edited so that only testimony relating to the witness's background, the issues in the case and credibility is read. It is permissible to have co-counsel or a paralegal read the answers of the witness from the witness box when a deposition is to be read at trial.

If a transcript is lengthy and it is a non-jury trial, counsel may ask the Court if it would prefer to just have the transcript submitted rather than read into the record.

K. Exhibits

When offering an exhibit, counsel should always show it to opposing counsel first or be able to represent that opposing counsel already has a copy specifically marked as an exhibit, and counsel should have an extra copy available for the Court. Copies of each party's exhibit list shall be provided to the Court, the courtroom deputy, court reporter, and opposing counsel on or before the first day of trial.

Pre-marked: Judge Richardson wants exhibits to be pre-marked. Judge Richardson covers this topic in his order setting the case for trial and during the pretrial conference.

Copies of exhibits for each juror: Judge Richardson will allow copies of an exhibit to be given to each juror after it has been admitted into evidence, but requests advance notice of the intent to do so and prefers that exhibits instead be displayed by audio-visual means when feasible.

Stipulation as to admissibility and authenticity: The parties should stipulate as to the admissibility and authenticity of as many exhibits as possible prior to trial. Judge Richardson realizes, however, that stipulations as to admissibility may necessarily be rarer than stipulations as to authenticity.

L. Witness Lists

Witness lists should be provided to the Court, the courtroom deputy, the court reporter, and opposing counsel at or before the beginning of the trial.

M. Courtroom Technology

Use of courtroom evidence presenter with camera and screen/visual aids: All of the courtrooms have wireless internet connectivity. All judges expect counsel who plan to use courtroom technology to learn how to use it prior to trial so they can accomplish what is intended without assistance from the courtroom staff during trial and without delaying trial.

N. Motions for Judgment as a Matter of Law or for Acquittal

Motions for judgment as a matter of law in civil cases: If a party can anticipate this motion, it should give the Court advance notice and file a brief in support of the motion. Otherwise, it will be heard on oral motion and argument. In many cases a ruling will be delayed until after a jury verdict.

Motions for judgment of acquittal in criminal cases under Fed. R. Crim. P. 29: Judge Richardson will accept a written brief in support of this motion, but he does not require one and realizes that in practice, often one is not submitted. Counsel are reminded that in order to preserve the potential denial of such motion for appeal, the motion must be made at the close of the prosecution's case-in-chief and, if the defense presents any evidence, also at the close of all of the evidence.

O. Proposed Jury Instructions and Verdict Forms

Counsel should confer in good faith and agree on a verdict form and as many jury instructions as possible by the deadline set at the pretrial conference if not before in a pretrial order. Counsel are to file an agreed set of jury instructions and email a copy to Judge Richardson's Courtroom Deputy, one instruction per page, with heading at the top. By the same deadline, each counsel should file additional instructions about which there is not agreement, with citations to authority, in the same manner as set forth above. The standard introductory and concluding instructions given by the Court in every trial do not need to be submitted by counsel.

P. Proposed Findings of Fact and Conclusions of Law

Proposed findings of fact and conclusions of law are to be submitted by the deadline in the order setting the case for bench trial.

Q. Offers of Proof

Offers of proof are allowed and encouraged where necessary to preserve an evidentiary ruling for appeal. Judge Richardson realizes that there are various ways to make an offer of proof, with its own advantages and disadvantages. Most frequently, an offer of proof will take place outside the presence of the jury, usually during a break, at lunch, or at the end of the day.

R. Closing Argument

Counsel may not express personal opinions or beliefs (such as statements that begin with "I believe…"), or make personal references to other lawyers. Counsel may argue any inferences from the proof that are logical and supported by the evidence. There is no set length for closing argument.

S. Jury Deliberation

1. Copies of Instructions

One copy of the jury instructions is sent to the jury room with the jurors when they retire to deliberate.

2. Access to Exhibits

Absent any objections, and subject to Item 3 below, jurors are given access to exhibits admitted at trial. Exhibits are sent to the jury room at the beginning of deliberation.

3. Access to Transcript of Testimony or Videotaped Testimony

Due to the concern that access tends to give undue emphasis to testimony which is transcribed or videotaped, this is discouraged and not frequently allowed. However, the judges will make determinations on a case-by-case basis.

4. Availability of Counsel

Counsel will not be required to remain at the courthouse during jury deliberations, but they must advise the courtroom deputy of a phone number where they can be reached on short notice. Counsel must be available to appear in court without unreasonable delay while the jury is deliberating.

5. Taking the Verdict and Special Interrogatories

The judge will read the verdict form and special interrogatories.

6. Polling the Jury

Judge Richardson will poll the jury in every case.

7. Interviewing the Jury

LR39.01(g)(2) controls requests for post-verdict interviewing of jurors. Permission to interview jurors will only be granted in exceptional circumstances.

T. Requests for Attorney's Fees

All requests for attorney's fees should be made by filing an application in writing supported by detailed affidavits and time records.

VI. SENTENCING IN CRIMINAL CASES

LCrR 32.01 sets forth the timetable to be followed before a sentencing hearing, and the following paragraphs in part track that local rule.

The Court will schedule a sentencing hearing at least 80 days after a finding of guilt by a jury, or after the submission of a guilty plea by a defendant.

Shortly after the finding of guilt or submission of guilty plea, a probation officer will contact defense counsel to arrange a presentence interview with the defendant and counsel. Both parties are expected to confer with the probation officer during the presentence investigation process with a view toward resolving any disputed facts or factors.

Fed. R. Crim. P. 32 requires the probation office to disclose the presentence report to the defendant at least 35 days before sentencing. LCrR 32.01 then requires both parties, within 14 days of receiving the presentence report, to provide written objections concerning the contents of the presentence report. The objections should be provided both to the probation office and opposing counsel.

Within seven days of receiving the parties' objections, the probation office must disclose any changes or unresolved factual disputes or objections that remain in the presentence report. At least seven days prior to sentencing, the parties shall file with the clerk, and with a copy to probation and opposing counsel, a pleading entitled "Position of the (Government or Defendant) With Respect To Presentence Report" containing only unresolved matters previously raised with all parties in writing.

With consent of the parties or when the interests of justice require, the Court may on a case-by-case basis modify the requirements set forth in LCrR 32.01 in order to carry out prompt and fair sentencing.

VII. MEDIA COMMUNICATIONS

The Court speaks through its orders and memorandum opinions.