# LOCAL RULES OF COURT


## United States District Court
## Middle District of Tennessee

**August 14, 2018**

**1994 TO DATE**

1. Rule 1(f) was amended, effective June 1, 1994.
2. Rule 8(a)(6) was amended, effective June 1, 1994.
3. Rule 8(b)(7) was amended, effective March 1, 1994.
4. Rule 9(a)(2) was amended, effective July 21, 1997.
5. Rule 9(d)(5) was rescinded, effective June 1, 1994.
6. Rule 9(g) was adopted, effective July 21, 1997.
7. Rule 11 was amended, effective March 1, 1994.
8. Rule 12(c)(6)(c) was amended, effective June 1, 1994.
9. Rule 13(e) was amended, effective July 21, 1997.
10. Rules 20-27 were adopted as amendments to Rule 20 to establish Local Rules for an Alternative Dispute Resolution Program, effective December 15, 1997.
11. Rule 28 (originally Rule 21) was adopted, effective March 1, 1994.
12. Rules 1-13 and 20-28, and the Appendices were amended, effective January 1, 2001.
13. Rules 8, 9 and 11, and the Appendices were amended, effective February 15, 2001.
14. Rule 29 on electronic filing was adopted, effective July 5, 2005.
15. Rule 6(a) was amended, effective April 1, 2006.
16. All Rules were renumbered pursuant to Fed.R.Civ.P. 83 and Fed.R.Crim.P. 57, effective June 1, 2006.
17. Time periods in the Rules were revised to conform to amendments to Fed. R. Civ. P. 6 and Fed. R. Crim. P. 45 regarding calculating time periods, effective December 1, 2009. Rule 80.01 was amended, effective December 1, 2009. The previously separate Magistrate Judge Rules were incorporated into the Local Rules as LR 72.01 through 73.01 and LCrR 58.01 & 58.02, effective December 1, 2009.
18. Rule 40.01 was revised to assign Northeastern Division cases to a single judge and to relieve that judge from assignment to Columbia Division cases. Effective May 4, 2011.
19. Rule 40.01(a)(3) was revised to assign Columbia Division cases to a single District Judge as designated by Administrative Order of the Court. Effective April 19, 2012.
20. Rule 5.01 was modified to permit service of time-sensitive papers utilizing the CM/ECF system where documents are filed electronically. Rule 5.03 was modified to eliminate the requirement that civil complaints and removal cases be filed on paper. Rule 7.03 was modified to clarify that electronically filed documents need not be submitted on paper and that copies need not be provided. Rule 45.01(c) was amended to clarify that parties need not file a notice to take deposition unless they are seeking the issuance of a subpoena by the Clerk's Office. Rule 54.01 was modified to bring it into conformance with Federal Rule of Civil Procedure 54(d)(1) providing a fourteen (14) day period prior to the taxation of costs by the Clerk. Rule 67.01 was modified to require the use of the Court Registry Investment System (CRIS) for the deposit of registry and deposit funds and to eliminate the requirement that Social Security and taxpayer identification numbers be provided in publicly filed proposed disbursement orders. Non-substantive changes were made throughout the document to correct spelling, punctuation and symbol errors. Effective July 15, 2016.
21. The Local Civil and Criminal Rules were comprehensively revised as of June 19, 2018 to eliminate inconsistencies with the Federal Rules of Civil Procedure, to provide updates, and to make the rules more concise.

## Preface to the 2018 Amendments

It has been more than a decade, perhaps nearly two, since comprehensive amendments were last made to these Rules. The project of a complete review of the existing Rules was undertaken in an effort to eliminate duplication with the Federal Rules of Civil Procedure and Federal Rules of Criminal Procedure to the maximum extent possible, to streamline and simplify local procedures, and to end up with concise, workable, and clear rules for the benefit of the litigants, the bar, and the Court.

At the request of the Committee on Rules and Practice of the Judicial Conference of the United States, local rules dealing with civil practice are numbered to key them to the Federal Rules of Civil Procedure. For ease of reference, local rules dealing with criminal practice are also numbered to key them to the Federal Rules of Criminal Procedure. Accordingly, the numbering is not precisely sequential.

None of these local rules are applicable to the United States Bankruptcy Court for the Middle District of Tennessee since that court has its own rules.

## PURPOSE OF THESE RULES

These Rules are designed to make litigation in this District Court efficient, manageable, and predictable.

## ACKNOWLEDGMENT

Credit must be given to various United States District Courts throughout the nation, whose local rules provided a rich and useful source of ideas and models. The Judges of the Court take this opportunity to thank the attorneys who gave their time and advice regarding this project by their participation as working group members:

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|---|---|
| Michael G. Abelow | Martha B. Allard |
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Additional thanks are extended to the practicing bar in the Middle District of Tennessee, whose insightful comments and constructive suggestions greatly enhanced the final product.

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## LOCAL CIVIL RULES

### LR1.01 – LOCAL RULES

**(a) Deviation from Local Rules**. The Court may deviate from any provision of any Local Rule of this Court, when appropriate for the needs of the case and the administration of justice.

**(b) Reference to Local Rules.** These Local Civil Rules of Court shall be referred to as the "Local Rules" or as "LR."

**(c) Practice Manuals and Sample Orders**. For further guidance in construction and application of these Local Rules, lawyers should consult the practice and procedures manuals and sample orders available for each individual judge on the Court's website.

**(d) References to Administrative Orders**. References to Administrative Orders are by assigned order number as of the date of promulgation of these Rules, but shall refer to any amended, superseding, or renumbered order.

### LR3.01 – ADVANCE PAYMENT OF FILING FEES

**(a) Clerk to Require**. The Clerk may require advance payment of fees before any civil action or suit is filed (other than those authorized to be brought *in forma pauperis*) or other proceeding is initiated.

**(b) When Fee Not Included**. When a pleading is electronically filed or received for filing and is unaccompanied by either the required filing fee or an application to proceed *in forma pauperis*, or is accompanied by an application to proceed *in forma pauperis* that has not been acted upon by the Court, the Clerk shall issue a notice of deficiency instructing counsel or the party who submitted the pleading of the requirement for either payment of the filing fee or an order granting an application to proceed *in forma pauperis*.

**(c)** ***In Forma Pauperis***. In all cases in which the plaintiff or defendant has been allowed to proceed in this Court *in forma pauperis*, the party must, upon filing a notice of appeal, also file a new affidavit of poverty. In all proceedings brought pursuant to 28 U.S.C. § 2254 and 28 U.S.C. § 2255 and in all proceedings brought pursuant to 42 U.S.C. § 1983 by an inmate of a penal institution, the affidavit of poverty must be on forms supplied by the Clerk of the Court and approved by this Court. The Clerk may accept for filing a non-compliant affidavit, but the Clerk or the Court may require the refiling of the affidavit in the approved format.

### LR3.02 – CIVIL COVER SHEET

The filing attorney must prepare and file a civil cover sheet (Form JS-44) with each civil complaint filed. Civil cover sheets (Form JS-44) and instructions for the preparation thereof are available online and from the office of the Clerk of the Court.

### LR4.01 – SUMMONSES

**(a) Preparation of Summons**. With the filing of the complaint, third-party complaint or any other pleadings that require the issuance of a summons, the filing attorney must prepare and file as an attached exhibit a completed summons conforming to Fed.R.Civ.P. 4.

**(b) Issuance of Summons**. The Clerk shall issue the summons in accordance with the Federal Rules of Civil Procedure, and return the issued summons to the filing attorney.

**(c) *Pro Se* Cases**. In all cases in which the plaintiff is proceeding both *pro se* and *in forma pauperis*, the Clerk shall provide the plaintiff with blank summons and accompanying instructions for completion of the summons. Upon return of the completed summons by the plaintiff, the Clerk shall issue process for service by the Marshal.

**(d) Service of Process**. The United States Marshal will not serve a summons or other civil process unless so required by these Rules, the Federal Rules of Civil Procedure, or by order of the Court. Under appropriate circumstances when serving process, the Marshal may do so by certified or registered mail, in accord with Rule 4.04(10) and (11) of the Tennessee Rules of Civil Procedure, as incorporated into Fed.R.Civ.P. Rule 4(e)(1). The Marshal shall attach to the return on such process the return receipt from the Postal Service.

## LR5.01 – CERTIFICATE OF SERVICE

All things filed with the Court that are required to be served upon a party must include a certificate of service identifying by name the person (or counsel) served, what was served, method of service (either through CM/ECF or other means) and date of service. Procedures for certificates of service of electronically filed documents are provided for in LR 5.02 below.

## LR5.02 – ELECTRONIC FILING AND SERVICE

**(a) Filing of Documents by Electronic Means**. All attorneys practicing in the Middle District of Tennessee, including those admitted *pro hac vice* and those authorized to represent the United States, must, absent good cause shown, register as Filing Users of the Electronic Filing System and file their documents by electronic means as set forth in Administrative Order No. 167-1, Administrative Practices and Procedures for Electronic Case Filing (ECF). A document filed by electronic means constitutes a written paper for the purposes of the Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

**(b) Pleadings and Other Papers in Particular Cases**.

**(1) Actions by Incarcerated Individuals**. The Clerk shall provide form pleadings for use by incarcerated individuals filing *habeas corpus* petitions (2254 petitions) and civil rights actions (Section 1983 actions) if requested in writing from the Clerk's Office. These form pleadings are also available on the Court's website.

**(2) Paper Filing by Attorneys**. In exceptional circumstances, the Clerk may accept initial documents for paper filing by a party represented by counsel. An attorney requesting to file initial documents with the Clerk rather than through CM/ECF must contact the Clerk in advance and must otherwise comply with Administrative Order No. 167-1.

**(c) Electronic Service of Pleadings and Other Filed Documents**. Receipt of the Notice of Electronic Filing generated by the Court's Electronic Case Filing System (CM/ECF) shall constitute service of the electronically filed document on persons registered as Electronic Filing Users. Electronic service is complete upon transmission.

**(1) Certificate of Service**. A certificate of service in compliance with Local Rule 5.01 must be included with all electronically filed documents.

**(2) Initial Documents**. Initial documents, such as a complaint and summons in a civil case, must be served in accordance with Fed.R.Civ.P. 4 and not via the Court's CM/ECF. Charging documents in criminal cases must be filed with the Clerk rather than in CM/ECF.

## LR5.03 − REQUESTS TO SEAL DOCUMENTS OR PORTIONS OF DOCUMENTS

**(a) Contents of Motion to Seal**. Any party requesting that documents or portions of documents be sealed must file a motion for leave to file the document(s) under seal in accordance with Section 5.07 of Administrative Order No. 167-1 (Administrative Practices and Procedures for Electronic Case Filing) and LR 7.01, which demonstrates compelling reasons to seal the documents and that the sealing is narrowly tailored to those reasons. The motion for leave to seal, even if unopposed, must specifically analyze in detail, document by document, the propriety of secrecy, providing factual support and legal citations. Generally, only trade secrets, information covered by a recognized privilege (such as the attorney-client privilege), and information required by statute to be maintained in confidence is typically enough to overcome the presumption of public access. Failure to comply with these procedures or to provide sufficiently compelling reasons may result in denial of the request to seal documents or portions of documents.

**(b) Use of Document by Party Not Designating Documents as Confidential**. It shall be the burden of the party intending to use information or documents designated as confidential to file a motion to seal under LR 7.01(a). However, the party who designated the materials as confidential retains the burden of meeting the requirements set out in LR 7.01(a).

**(c) Redacted Filing**. If practicable, the party requesting that some or all of a filing be sealed, shall also separately file a redacted version. If the filing of a redacted version is impracticable, the motion to seal must include an affirmative statement to that effect.

**(d) Protective Orders**. Proposed protective orders should not provide that documents produced in discovery and designated as "confidential" will be automatically sealed upon filing or if used at trial. Any such language in proposed protective orders will be stricken and may result in denial of the motion for entry of the proposed protective order.

## LR6.01 − COMPUTING AND EXTENDING TIMES

**(a) Extensions of Deadlines Generally**. Unless otherwise provided in a case management order or other order, a request for an extension of time not made in open court or at a case management or status conference must:

**(1)** Be made by written motion;

**(2)** State the original deadline and the requested deadline;

**(3)** Provide the reasons why an extension is requested; and

**(4)** If all parties are represented by counsel, either:

**(A)** State that there is no objection to the extension by counsel for any other party; or

**(B)** If counsel cannot be reached, describe all attempts made to confer with all other counsel and the results of such attempts.

**(b) Exception for Discovery Responses**. This requirement does not apply to deadlines for responding to discovery, which may be agreed to by the parties without the necessity of an order of the Court, provided such extension does not interfere with the case management schedule, other case deadlines, or scheduled hearings.

## LR7.01 – MOTIONS

**(a) Conference with Counsel, Filing, Response and Reply**

**(1) Conference with Counsel**. In cases in which all parties are represented by counsel, all motions, except motions under Rule 12, 56, 59, or 60, but including discovery motions, must state that counsel for the moving party has conferred with all other counsel, and whether or not the relief requested in the motion is opposed. In those instances where counsel for the moving party is unable to confer with all other counsel, the motion must describe all attempts made to confer with counsel and the results of such attempts.

**(2) Motion and Supporting Memorandum**. Except as otherwise provided herein, every motion that may require the resolution of an issue of law must be accompanied by a separately filed memorandum of law citing supporting authorities and, where allegations of fact are relied upon, affidavits, depositions, or other exhibits in support thereof. No memorandum shall exceed twenty-five (25) pages without leave of Court.

**(3) Response**. Except for motions for reconsideration (to which no response shall be filed unless ordered by the Court), any party opposing a motion must serve and file a memorandum of law in response, and, if necessary to support assertions of fact, affidavits and depositions, not later than fourteen (14) days after service of the motion, except, that in cases of a motion for summary judgment, that time shall be twenty-one (21) days after the service of the motion, unless otherwise ordered by the Court. The response shall not exceed twenty-five (25) pages without leave of Court. If a timely response is not filed, the motion shall be deemed to be unopposed, except for motions to reconsider for which no response shall be permitted unless ordered by the Court.

**(4) Reply**. An optional reply memorandum may be filed within seven (7) days after service of the response, and shall not exceed five (5) pages without leave of Court.

**(b) Action by Court**. The Court may act on the motion prior to the time allowed for response. In such event, the affected party may file a motion to reconsider the Court's ruling within fourteen (14) days after service of the order reflecting the action of the Judge. However, notwithstanding any other provisions of this rule, the prevailing party shall not respond to a motion to reconsider under this section unless the Court orders a response.

**(c) Motions to Ascertain Status of Case**. At any time, an attorney for any party or any *pro se* party may file a written motion inquiring as to the status of the case or to pending motions, and may include in said motion a statement of reasons why an expedited disposition of the case or motion is necessary or desirable.

**(d) Citations to Legal Authorities**.

**(1) United States Supreme Court Decisions**. Citations to United States Supreme Court decisions shall be to U.S. only, if therein, otherwise to S.Ct. or L.Ed., in that order of preference. For recent or unreported decisions, Westlaw or Lexis citations are acceptable.

**(2) State Cases**. Citations to reported state cases must include at least the official state reporter citation and the regional reporter citation where available. For recent or unreported decisions, Westlaw and Lexis citations are acceptable.

**(3) Federal and State Statutes**. Citations to federal statutes must include at least the title and section designation as the statute appears in the United States Code. Citations to state statutes must include at least the title and section designation as the statute appears in the state's official code.

**(4) Unreported Decisions or Administrative Opinions**. Citations to any unreported federal or state court decisions or administrative opinions must include Westlaw or Lexis citations.

**(5) Availability of Cited Authority**. If a cited authority is not available in any reporter or legal research database, a copy of the decision, order, statute, regulation, or other cited authority must be appended as an exhibit to the memorandum of law.

## LR7.02 – BUSINESS ENTITY DISCLOSURE STATEMENT

Any non-governmental business entity party must file a Business Entity Disclosure Statement, using the form located on the Court's website. A party must file the Business Entity Disclosure Statement as a separate document with its initial pleading, or other initial court filing, and must supplement the Business Entity Disclosure Statement within a reasonable time of any change in the information.

## LR7.03 – GENERAL FORM OF PAPERS

**(a) Form**. All pleadings, motions, briefs, and all other papers filed in CM/ECF or presented for filing must be formatted to 8-1/2" x 11" paper, with one-inch margins and at least 12-point font. Footnotes must also be at least 12-point font, but must be single-spaced. If the filing is made in paper format, the filing must also be one sided. All material, except quoted material, must be double spaced. Documents presented to the Clerk for filing must be typed, printed, or prepared by a clearly legible duplicating process and all pages must be numbered at the bottom. The name of the District Judge and the Magistrate Judge must be placed below the case number on all filings subsequent to the initial filing. All pleadings must be signed as required by Fed.R.Civ.P. Rule 11, and names must be typed or printed beneath all signature lines. Page limitations are exclusive of case caption, signature line(s), and certificate of service.

**(b) Jury Demand**. If demand for jury trial is made in the complaint or answer, the phrase "JURY DEMAND" must appear immediately opposite the style of the case on the first page of the pleading and all subsequent filings.

## LR15.01 − MOTIONS TO AMEND PLEADINGS

**(a) Supporting Papers**. A motion to amend a pleading must:

**(1)** Describe the reasons supporting the proposed amendments and the substance of the amendments sought, and include as an appended exhibit the signed proposed amended pleading; and

**(2)** In cases in which all parties are represented by counsel, state that counsel for the moving party has conferred with all opposing counsel about the proposed amendment and whether or not the motion to amend is opposed.

**(b) Form of Amended Pleading**. Amended pleadings must restate the entirety of the pleading with amendments incorporated, rather than merely reciting the amended sections.

## LR16.01 – CASE MANAGEMENT

**(a) Purpose of Case Management**. The purpose of case management is to provide mandatory, court-supervised, case management tailored to the individual needs of each case. Management of cases is primarily and ultimately the responsibility of the lawyers acting in the best interests of their clients.

**(b) Cases Subject to Mandatory Initial Case Management Conferences**.

**(1)** All civil cases not specifically exempted by section (c) of this Rule are subject to a mandatory initial case management conference and case management as determined appropriate by the Judge.

**(2)** The Judge to whom a case is assigned may subject any of the exempted cases to case management conferences and other case management by order or notice.

**(c) Cases Exempt from Mandatory Initial Case Management Conferences**.

**(1)** All actions in which one of the parties appears *pro se*;

**(2)** All prisoner petitions filed under 42 U.S.C. § 1983, or under 28 U.S.C. § 2254 and § 2255;

**(3)** 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, including without limitation, Social Security appeals;

**(4)** Bankruptcy appeals filed pursuant to 28 U.S.C. § 158 and bankruptcy cases in which an Article III Judge is required to review proposed findings of fact and conclusions of law of the Bankruptcy Judge in non-core proceedings, under 28 U.S.C. § 157; provided, however, that cases withdrawn from Bankruptcy Court, pursuant to 28 U.S.C. § 157(d), are not exempted from the customized case management plan;

**(5)** Proceedings for admission to citizenship or to cancel or revoke citizenship;

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

**(7)** Proceedings to compel testimony or production 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 testimony or production of documents in this District in connection with discovery or for the perpetuation of testimony for use in a matter pending or contemplated in a United States District Court of another District;

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

**(10)** Any proceedings assigned a "miscellaneous case" number; and

**(11)** Civil actions by Veterans Administration or other government agencies for recovery of erroneously paid educational assistance.

**(d) Discretionary Exclusions from Case Management**. Upon motion by any party, or *sua sponte*, the Court may exclude any case from an initial case management conference or other case management. The parties may not stipulate or agree to exclude a case from case management without Court approval.

**(e) Notice of the Initial Case Management Conference**.

**(1)** At the time of filing of the complaint or notice of removal, the Clerk shall give notice of the date of the initial case management conference to the filing party.

**(2)** The filing party (which in a removal case is the party removing the case) must serve the notice of the initial case management conference on all other parties.

**(f) Preparation for and Attendance at Initial Case Management Conference**. The parties are responsible for preparation for and attendance at the initial case management conference as directed in the notice of initial case management conference, and as otherwise provided for in the applicable practice and procedures manual and/or sample initial case management orders. If both the District Judge and the Magistrate Judge assigned to the case utilize a sample initial case management order, the parties must ensure that the proposed initial case management order incorporates the provisions of both sample orders.

**(g) Discovery Conference, Discovery Plan, and Stays of Discovery**. In preparation of their joint proposed initial case management order, as directed by the notice of initial case management conference, the parties must discuss, and if required by the Judge, provide in the proposed initial case management order for, the matters addressed in Fed.R.Civ.P. 26(f), including but not limited to matters related to e-discovery as outlined in Administrative Order 174-1. Unless otherwise directed by the Judge, it shall not however be necessary for the parties to file a discovery plan separate from their proposed initial case management order. Discovery is not stayed, including during the pendency of dispositive motions, unless specifically authorized by Fed.R.Civ.P. 26(d) or by order of the Court, or with regard to e-discovery, as outlined in Administrative Order 174-1.

**(h) Dispositive Motions and Target Trial Dates**.

**(1)** Proposed deadlines for any dispositive motions must be sufficiently in advance of the target trial date to allow for briefing and resolution of the dispositive motions in advance of trial. Absent court order, no dispositive motion deadline, including response and reply briefs, shall be later than ninety (90) days in advance of the target trial date.

**(2)** If the Magistrate Judge is responsible for case management, the Magistrate Judge shall enter an order giving notice to the District Judge and the parties of the filing of a dispositive motion.

## LR16.02 – ADR

**(a) Application and Purpose of Alternative Dispute Resolution (ADR)**. All cases filed in this District are potentially subject to alternative dispute resolution. The Court encourages parties in civil cases to consider utilization of ADR. The purpose of alternative dispute resolution is to provide a mechanism by which settlements can be facilitated to avoid the expense of protracted pretrial proceedings and of trial, and delay in adjudication.

**(b) Alternative Dispute Resolution Proceedings**.

**(1) Court Referral**. Upon motion of the parties or at the initiative of the Court, a Judge to whom the case is assigned may refer the case for mediation, a judicial settlement conference, or other nonbinding method of alternative dispute resolution provided by the Court, with or without the consent of the parties.

**(2) By Agreement**. The parties may also participate in mediation or other binding or non-binding ADR by agreement without an order of referral. Even in that event, however, the Court retains supervisory authority as provided in this rule.

**(c) Supervisory Power of the Court**. Notwithstanding any provision of this Rule, the Judge to whom a civil action is assigned retains full authority to supervise every action that is subject to this Rule consistent with Title 28 of the United States Code, the Federal Rules of Civil Procedure and Local Rules of Court.

**(d) Sanctions**. To ensure compliance with these Rules, the Court may impose sanctions upon the party or the party's counsel, including but not limited to the payment of reasonable attorney fees, ADR panel member's fees and costs incurred by the reason of the failure to comply with these Rules; contempt; or any other lawful sanction.

**(e) Adherence to Schedule**. Unless the case is settled at the conclusion of the referral to an ADR proceeding, the action shall proceed toward final disposition in accordance with the schedule provided for in applicable orders of the Court.

## LR16.03 – ADR: DEFINITIONS, PROCEDURES AND ADMINISTRATION

**(a) Definitions**. As used in these Rules, the following terms are defined as follows:

**(1)** "Judicial Settlement Conference" is ADR set by order of the Court in which a Judge of the Court facilitates the parties' effort to negotiate a settlement.

**(2)** "Mediation" is an informal process in which a neutral mediator conducts discussions among the disputing parties to facilitate a mutually acceptable agreement among themselves on all or any part of the issues in dispute.

**(b) Qualifications of ADR Panel Members**. An attorney may be approved to serve as an ADR panel member by order of the Court, if the attorney meets the following qualifications:

**(1)** Is licensed to practice in the State of Tennessee, and admitted to practice before the United States District Court for the Middle District of Tennessee;

**(2)** Has practiced law at least five years;

**(3)** Has had formal training, including at least forty (40) hours of formal ADR training as approved by the Court and such additional training as may be provided by the Court;

**(4)** Agrees to be available to conduct at least one (1) ADR proceeding per year without compensation;

**(5)** Commits to at least one (1) year of service on the ADR Panel;

**(6)** Agrees to participate in the reporting and research requirements of the ADR program as they may be developed, except that no reporting or research requirement shall require an ADR panel member to divulge any confidential information;

**(7)** Agrees to comply with the provisions of these Rules and any Standing Order that may be entered in any division of this Court for the purpose of implementing this Rule;

**(8)** Agrees to provide to the Court such biographical and other information as the Court may require; and

**(9)** Agrees to take the oath under 28 U.S.C. § 453 that is required of a judicial officer.

**(c) Selection of Non-Panel ADR Provider**. Unless otherwise directed by the Court, the parties may select an ADR provider who is not an ADR panel member to provide an ADR service for that case. Any lawyer who has been approved by a federal or state court of this state, for service as a qualified ADR neutral shall be deemed a qualified neutral for ADR proceedings in this District.

**(d) List of ADR Panel Members**. The Clerk shall maintain a list of court-approved panel members, which is available on the Court's website.

**(e) Compensation of ADR Panel Members**. All ADR Panel members shall be compensated at rates to be agreed upon by the parties and the ADR panel member or as set by the Court. Compensation for any panel member's services shall be shared equally by the parties to the ADR proceeding unless other arrangements are agreed to by the parties or are set by the Court.

## LR16.04 – ADR: JUDICIAL SETTLEMENT CONFERENCES

**(a) Settlement Judge**. Settlement conferences will ordinarily be conducted by a Magistrate Judge other than the Judge to whom the case is assigned, except when requested and agreed upon by the parties that the Magistrate Judge to whom the case is assigned should handle the settlement conference or the Magistrate Judge to whom the case is assigned deems it appropriate to preside over the settlement conference because of the exigencies of the case.

**(b) Scheduling Settlement Conferences**. A Judge who is assigned to the case may schedule a settlement conference as part of the case management order or as a result of discussions during a case management conference, with or without the consent of any or all parties. A party may file a motion requesting a settlement conference, if a settlement conference is not otherwise provided in the case management order.

## LR16.05 –ADR: MEDIATION

**(a) Mediation Procedures**. After a case has been referred for mediation or the parties have agreed to mediation, the mediation shall be conducted according to procedures directed by the mediator, or as directed by order of the Court. If the parties are unable to agree upon selection of a mediator, the Judge may designate a mediator or determine appropriate procedures for selection. Failure of the parties to comply with the required mediation procedures may result in sanctions.

**(b) Mediator's Report**. Within two (2) business days following the mediation, the mediator shall file a report on a form available on the Court's website indicating:

**(1)** The date on which the mediation occurred;
**(2)** Whether all required parties were present;
**(3)** Whether the case settled at the conclusion of the mediation;
**(4)** Whether the mediation was continued with the consent of the parties; and
**(5)** Whether the mediation was terminated without a settlement.

## LR26.01 – EDITABLE COPY OF DISCOVERY REQUESTS

When written discovery is served on a party, counsel for the requesting party must provide a copy of the discovery requests to opposing counsel in an editable electronic format. This requirement does not apply to *pro se* parties.

## LR33.01 – INTERROGATORIES

**(a) Answers**. When responding to interrogatories, the responding party must, as a part of the response, set forth immediately preceding the response, the interrogatory with respect to which response is made.

**(b) Number of Interrogatories**. Unless otherwise provided in a case management or other order, interrogatories pursuant to Fed.R.Civ.P. 33 shall be limited to twenty-five (25) such interrogatories. Subparts of a question shall be counted as additional questions for purposes of the overall number. Leave of court must be obtained to submit interrogatories in excess of twenty-five (25) in number. The twenty-five (25) interrogatories may be submitted in successive sets as long as the aggregate number does not exceed twenty-five (25). Requests

for leave must include copies or the text of such requested additional interrogatories, along with a statement of counsel as to the necessity for such information, its relevance, or likelihood to lead to relevant information, and that it cannot be obtained from other sources.

## LR37.01 – DISCOVERY MOTIONS

**(a) Good Faith Attempt at Resolution**. Unless provided otherwise in a case management order or other order, before filing any motion to compel discovery, to quash a subpoena, or for a protective order, counsel for the parties must confer in good faith in an effort to resolve by agreement the issues raised.

**(b) Joint Statement**. If the parties are not able to resolve the discovery issue, they must, in connection with any request for a discovery conference or a discovery motion, file a joint discovery dispute statement: (1) detailing their attempt at resolution; (2) setting forth exactly what discovery is in dispute (either by including the text of the discovery requests and responses or by attachment as exhibits); and, (3) detailing the parties' respective positions. This joint statement must be filed before any request for a telephonic discovery conference with the Judge is made, and must be attached to any filed discovery motion.

## LR39.01 – TRIAL PROCEDURES

**(a) Presence of Counsel**.

**(1) Duty of Counsel**. In all jury cases, all counsel must be present at all portions and phases of trial including the time during which the jury is considering its verdict unless excused by the Court.

**(2) Presumed Present**. Unless the contrary affirmatively appears of record, it will be presumed that the parties and their counsel are present at all stages of the trial, or if absent, that their absence was voluntary and constituted a waiver of their presence.

**(3) Decorum**.

**(A)** Only one (1) attorney representing each interest in the litigation may examine or cross-examine an individual witness, and not more than two (2) attorneys for each interest in the litigation may argue the merits of an action or proceeding, unless the Court otherwise permits.

**(B)** During court proceedings all attorneys must stand when speaking. All objections and comments thereon must be addressed to the Court. There shall be no colloquy between opposing counsel.

**(C)** During court proceedings neither counsel nor parties may leave the courtroom without prior approval of the Court.

**(b) Presence of Parties**. All parties, plaintiffs and defendants, must be present at any trial unless prior approval of the absence of a party is obtained from the Court.

**(c) Witnesses**.

**(1) Witness List**. At the beginning of the trial, counsel must deliver to the Courtroom Deputy Clerk a list in triplicate of all witnesses expected to testify in the case. In civil cases a copy of the list must also be furnished to opposing counsel. The list must contain an abbreviated statement of the connection of the witness to the litigation.

**(2) Background Information**. When a witness takes the stand, the examining attorney may read such background information as the attorney desires to give concerning the witness and the connection of the witness to the litigation, and then solicit a response

from the witness as to the correctness of the information read. The second question should address the issues in litigation.

**(3) Approaching the Witness**. During the testimony of a witness, the attorney may not approach the witness box without the Court's approval. All documents and objects to be shown to the witness shall be passed to the witness by the court officer.

**(4) Deposition Testimony**. In jury cases, when a deposition is to be used at trial as the basic testimony of a witness, all counsel offering the deposition must, at least fourteen (14) days prior to the trial date, unless directed otherwise by order of the Court, advise opposing counsel of those portions of the deposition to be read from a transcript, or played on video, to the jury. Such portions are to be designated by underlining or otherwise marking on the deposition transcript, and if such designations are made on the same copy of the deposition transcript by attorneys representing different interests in the litigation, contrasting colors shall be used. All repetitious and irrelevant questions and answers and all colloquies between counsel—including objections to questions, instruction to the deponent, and all remarks—must be deleted. All objections to portions of the depositions thus prepared must be filed, along with any videos, no later than seven (7) days before trial or as otherwise ordered by the Court. All such objections must be accompanied by a statement certifying that all counsel have conferred in a good faith effort to resolve by agreement the objections and that counsel have not been able to do so. If certain objections have been resolved by agreement, the statement must specify the objections remaining unresolved.

**(5) Expert and Character Witnesses**.

**(A) Limitation on Number of Experts**. No more than three (3) witnesses may be called by any party in a case to give expert testimony as to any subject, or to impeach or sustain the character of a witness, absent prior approval of the Court.

**(B) Stipulation to Qualification as Expert**. To obviate the need for qualification of expert witnesses at trial, opposing counsel must, when possible, stipulate prior to trial that an individual who is to testify as an expert witness qualifies as an expert.

**(C) Expert Disclosures and Supplementation**. Expert witness disclosures must be made timely in accordance with any order of the Court, or if none, in accordance with Fed.R.Civ.P. 26(a)(2). Expert witness disclosure statements may not be supplemented after the applicable disclosure deadline, absent leave of Court. Expert witnesses may not testify beyond the scope of their expert witness disclosure statement. The Court may exclude the testimony of an expert witness, or order other sanctions provided by law, for violation of expert witness disclosure requirements or deadlines.

**(D) Rebuttal Experts**. No rebuttal expert witnesses shall be permitted at trial, absent timely disclosure in accordance with these Rules and leave of Court.

**(E) Presentation of Expert Testimony at Trial**. The court may require that the direct testimony of an expert witness, other than a treating physician, be reduced to writing and a copy thereof filed and served upon opposing counsel at least seven (7) days before trial or as otherwise provided by the Court. If so ordered, the following procedures shall apply. Such written statement must contain every material fact and opinion to which the witness would testify on direct examination if the witness were asked the appropriate questions. When the expert witness is called to testify at trial, the expert shall be sworn. After the expert witness is sworn

and seated, the qualifications as an expert shall be recited by the attorney who has called the expert witness. Thereafter, the attorney may interrogate the witness as to the specific qualifications of expertise that have direct bearing on the subject matter of the case. If objection to the witness's qualifications is raised, the objecting party may conduct a *voir dire* as to qualifications. Unless objection is raised to the qualifications of the witness as an expert, the witness shall then read the written statement aloud to the trier of facts. During the reading of the statement, the witness may refer to a mechanical device, drawing, chart, photograph, or other exhibit in order to explain the expert's testimony. After the witness has read the prepared statement, the attorney who called the witness may ask additional questions to further explain his opinion. However, the witness may not proffer any opinion not encompassed in the written statement. At the conclusion of the witness's direct examination in the manner described above, cross-examination and redirect will proceed as usual.

**(d) Exhibits**. All documentary exhibits on the exhibit list must be prepared in a sufficient number of copies to provide one copy each for the witness, the Court, each opposing counsel, and the examining attorney. The original exhibit shall be provided to the Courtroom Deputy Clerk.

**(e) Supplementation of Discovery Responses**. Unless provided otherwise in a pretrial or other order, discovery responses must be supplemented no later than thirty (30) days before trial. Failure to timely supplement precludes the proffer at trial of any evidence within the scope of the interrogatories or other responses that was not previously brought to the attention of opposing counsel, absent Court approval. A violation of this Rule, which expands the duty to supplement imposed by Fed.R.Civ.P. 26(e), may also result in the imposition of other sanctions, including taxing of costs to the culpable party for any delays caused.

**(f) Subpoena of Trial Witnesses**. Should an attorney deliver subpoenas for witnesses in civil cases to another individual for service, such subpoenas must be delivered along with an advance of such funds as may be required, and otherwise in accordance with the Federal Rules of Civil Procedure, at least fourteen (14) days prior to the trial date. If this requirement has not been met, a motion for continuance grounded upon failure of a witness to be served or to appear will not be granted except upon a showing of extenuating circumstances.

**(g) Jurors**.

**(1) Interactions with Jurors**. All attempts to curry favor with juries are unprofessional and disfavored. Suggestions of counsel regarding the comfort or convenience of jurors, including without limitation, propositions to dispense with argument or peremptory challenges for the convenience of the jury, must be made to the Court out of the jury's hearing. Before and during the trial, an attorney must avoid conversing or otherwise communicating with a juror on any subject, whether pertaining to the case or not, and must not make any attempt to identify with any juror.

**(2) Post-Verdict Interview of Jurors**. No attorney, party, or representative of either may interview a juror after the verdict has been returned without prior approval of the Court. Approval of the Court may be sought only by counsel orally in open court, or upon written motion that states the grounds and the purpose of the interview. If a post- verdict interview of one or more members of the jury is approved, the scope of the interview

and other appropriate limitations upon the interview will be determined by the Judge prior to the interview.

## LR41.01 – DISMISSAL OF INACTIVE CASES

**(a) Dismissal for Unreasonable Delay**. Civil suits that have been pending for an unreasonable period of time without any action having been taken by any party may be summarily dismissed, but the dismissal shall be without prejudice to refile or to move the Court to set aside the order of dismissal for just cause.

**(b) Dismissal for Failure of *Pro Se* Plaintiff to Keep Court Apprised of Current Address**. A party proceeding *pro se* must keep the Court and opposing parties apprised of the *pro se* party's current address and other contact information, such as telephone number and email address, if any. Failure of a *pro se* plaintiff to timely notify the Court and opposing parties of any change in address may result in dismissal of the action with or without prejudice.

**(c) Reinstatement**. If any action dismissed under this rule is reinstated, the Court may impose such sanctions as are just and reasonable under the circumstances of the case.

## LR45.01 − SUBPOENAS

**(a) Issuance of Subpoenas to *Pro Se* Parties**. The Clerk shall issue subpoenas to *pro se* parties pursuant to Fed.R.Civ.P. 45 only upon written motion made and order entered by the Court.

**(b) Service of Subpoenas by United States Marshal**. The United States Marshal will not serve subpoenas for witnesses in civil cases unless so required by these Rules, the Federal Rules of Civil Procedure, or by order of the Court.

**(c) Deposition Subpoenas**. A notice of deposition must be served under Fed.R.Civ.P. 30 prior to service of any subpoena of the deponent.

**(d) Timing of Subpoenas for Production of Documents**. Whenever a party issues a subpoena for the production of documents to a person not a party to the action pursuant to Fed.R.Civ.P. 45, the party issuing the subpoena must serve a copy of the subpoena by facsimile, electronically, or by hand delivery upon counsel for every other party to the action at least two (2) business days prior to service of the subpoena. Each party to the action in which such a subpoena is served shall have the right to inspect and copy documents produced pursuant to such a subpoena, absent an order of the Court to the contrary.

## LR54.01 – COSTS AND ATTORNEY'S FEES

**(a) Costs**. If counsel for the litigants in a civil case are able to agree on costs, they need not file a bill of costs with the Clerk. If counsel cannot agree, a bill of costs, with supporting documentation, must be filed by the prevailing party with the Clerk within thirty (30) days from the entry of the judgment in the case. A copy of said bill of costs must be served on opposing counsel. The filing of a bill of costs in the Court's CM/ECF system and the subsequent Notice of Electronic Filing (NEF) that is generated and emailed to case participants, or in the case of a paper filing the filing and service of a Bill of Costs by the filer, shall constitute the commencement of the 14-day notice period required under Fed.R.Civ.P. 54(d)(1)for the taxation of costs by the Clerk. Upon expiration of the 14-day

period, the Clerk shall tax costs as sought by the prevailing party unless an objection is filed by the opposing party. If objections are filed within the 14-day period, the Clerk shall review the objections and make a determination as to whether and in what amount the costs should be taxed. Notice of the proposed taxation shall be provided by the Clerk and any exceptions to the proposed taxation must be filed within fourteen (14) days from the filing of the Notice of Taxation. Following consideration of the exceptions the Clerk shall issue a Taxation of Costs assessing the costs. Any motion seeking court review of the Clerk's taxation must be filed within seven (7) days from the date of the filing of the Taxation of Costs by the Clerk.

**(b) Attorney's Fees**

**(1) After Entry of District Court Judgment**. Unless otherwise provided by statute or order of the Court, a motion for an award of attorney's fees and related nontaxable expenses must be filed within thirty (30) days from the District Court's entry of final judgment in the case.

**(2) After any Appeal**. Unless otherwise provided by statute or order of the Court, a motion for an award of attorney's fees and related nontaxable expenses for appellate and Supreme Court litigation in the case must be made within thirty (30) days of the entry of the Sixth Circuit mandate and, if applicable, thirty (30) days from the denial of a petition for certiorari or other final decision of the Supreme Court.

**(3) Social Security Appeals**.

**(A)** Any application for attorney's fees under 28 U.S.C. § 2412(d)(1)(A) must be filed within thirty (30) days of the order of remand or reversal, and must be accompanied by the supporting documents described in this rule.

**(B)** Any application for attorney's fees under 42 U.S.C §406(b) must be filed within thirty (30) days after plaintiff's federal court attorney has received all of the Notices of Award that are necessary to calculate the total amount of retroactive benefits payable. An application submitted beyond the 30-day period will be considered only upon a showing of good cause for the delay. In addition to the required supporting documents described in this rule, a copy of the Notice(s) of Award must accompany any application for fees under this section.

**(c) Requirement for Supporting Documents; Deadline for Objections**. A motion or application for an award of attorney's fees must be supported by a separately filed memorandum of law as to the authority of the Court to make such an award, and as to why the movant should be considered the "prevailing party," if such is required for the award. The motion must also be supported by an accompanying affidavit of counsel setting out in detail the number of hours spent on each aspect of the case, the rate customarily charged by counsel for such work, the prevailing rate charged in the community for similar services, and any other factors that the Court should consider in making the award. The party or parties against whom the award is requested must file any objections within fourteen (14) days of the filing of the motion. The objections must be accompanied by a memorandum setting forth the objecting party's contentions why the award is excessive, unwarranted, or unjust. Failure to file timely objections may be deemed to be no opposition to the requested fees.

## LR56.01 − MOTIONS FOR SUMMARY JUDGMENT

**(a) Time for Response**. Motions for summary judgment pursuant to Fed.R.Civ.P. 56 of the must be in accordance with that Rule except that the party opposing the motion shall have twenty-one (21) days after service of the motion in which to serve a response, unless otherwise ordered by the Court.

**(b) Statement of Undisputed Material Facts**. In order to assist the Court in ascertaining whether there are any material facts in dispute, any motion for summary judgment made pursuant to Fed.R.Civ.P. 56 must be accompanied by a separate, concise statement of the material facts as to which the moving party contends there is no genuine issue for trial. Each fact must be set forth in a separate, numbered paragraph. Each fact must be supported by specific citation to the record. After each paragraph, the word "response" must be inserted and a blank space provided that is reasonably calculated to allow the non-moving party sufficient space to respond to the assertion that the fact is undisputed. A copy of the statement of undisputed material facts must also be provided to opposing counsel in an editable electronic format. The requirement that a statement of undisputed material facts in the described format must accompany any motion for summary judgment applies to *pro se* parties. *Pro se* parties are excused from providing a copy of the statement of undisputed material facts to opposing counsel in an editable electronic format.

**(c) Response to Statement of Facts**. Any party opposing the motion for summary judgment must respond to each fact set forth by the movant by either:

**(1)** Agreeing that the fact is undisputed;

**(2)** Agreeing that the fact is undisputed for the purpose of ruling on the motion for summary judgment only; or

**(3)** Demonstrating that the fact is disputed. Each disputed fact must be supported by specific citation to the record.

The response must be made on the document provided by the movant or on another document in which the non- movant has reproduced the facts and citations verbatim as set forth by the movant. In either case, the non-movant must make a response to each fact set forth by the movant immediately below each fact set forth by the movant. Such response must be filed with the papers in opposition to the motion for summary judgment. In addition, the non-movant's response may contain a concise statement of any additional facts that the non-movant contends are material and as to which the non-movant contends there exists a genuine issue to be tried. Each such disputed fact must be set forth in a separate, numbered paragraph with specific citations to the record supporting the contention that such fact is in dispute. A copy of the statement of additional undisputed facts must also be provided to opposing counsel in an editable electronic format. *Pro se* parties are excused only from providing a copy of the statement of additional undisputed material facts to opposing counsel in an editable electronic format, and such *pro se* parties must otherwise comply with the requirements of this section.

**(d) Reply Statement**. If the non-moving party has asserted additional facts, the moving party must respond to these additional facts by filing a reply statement in the same manner and form as specified in section (b) and (c) above. The reply of the moving party must be filed within fourteen (14) days of the filing of the response of the non-moving party.

**(e) Definition of Record**. For purposes of this Rule, the term "record" shall include deposition transcripts, answers to interrogatories, affidavits, requests for admissions, and documents filed in support of or in opposition to the motion or documents otherwise in the court file.

**(f) Failure to Respond**. If a timely response to a moving party's statement of material facts, or a non-moving party's statement of additional facts, is not filed within the time periods provided by these rules, the asserted facts shall be deemed undisputed for purposes of summary judgment.

## LR65.01 – APPLICATIONS FOR TEMPORARY RESTRAINING ORDER

**(a) Written Motion**. Any request for a Temporary Restraining Order (TRO) must be made by written motion separate from the complaint commencing the case.

**(b) Written Complaint and Memorandum**. Each motion for a TRO must be accompanied by a separately filed affidavit or verified written complaint, a memorandum of law, and a proposed order.

**(c) Fed.R.Civ.P. 65**. A motion for a TRO must be made in strict compliance with Fed.R.Civ.P. 65. If the movant is not represented by counsel, the *pro se* moving party must certify in writing the efforts made to give notice of the request for a TRO and the reasons why notice should not be required.

**(d) Request for a Hearing**. If an emergency hearing is requested in connection with a motion for a TRO, counsel for the moving party must contact the Clerk in advance of the filing of the motion to request the scheduling of a hearing.

**(e) Disposition of Motion for TRO**. A motion for a TRO is presented to the District Judge assigned to the case if that Judge is available. If the assigned District Judge is not available, the motion for a TRO may be disposed of by some Judge other than the Judge assigned to the case. If the motion for a TRO is decided by a District Judge other than the Judge assigned to the case, the District Judge deciding the motion for a TRO may, in that Judge's discretion, keep the case or return it to the assigned Judge for all further matters.

## LR67.01 – DEPOSIT IN COURT

**(a) Acceptance by Clerk**. Except with respect to garnishments, litigation in which the United States is a party, or matters on the Central Violations Bureau ("CVB") docket (as provided for in LCrR 58), the Clerk shall not, unless authorized by order of the Court, accept payment of judgments.

**(b) Certificate of Receipt of Judgment by Counsel**. Counsel shall upon receipt of payment of a judgment, file a certificate of receipt of payment and satisfaction of judgment.

**(c) Deposit or Registry Fund Orders**. All orders presented to the Court with reference to the deposit or registry funds must contain the following provisions:

> IT IS ORDERED that counsel presenting this order serve a copy thereof on the Clerk of this Court or his Chief Deputy personally. Absent the aforesaid service, the Clerk is hereby relieved of personal liability relative to compliance with this order.
>
> IT IS FURTHER ORDERED that all funds received shall be deposited in the Court Registry Investment System (CRIS) administered by the Administrative Office of the United States Courts pursuant to 28 U.S.C. § 2045.

IT IS FURTHER ORDERED that counsel designate the name and address of the individual, or individuals, who are to receive the monies in the order of disbursement of funds. Social Security numbers shall not be included in documents to be filed but shall be provided to the Clerk's Office upon request. Corporations, associations and all others will supply the employer identification number with the correct title and address upon request of the Clerk's Office.

## LR69.01 – EXECUTION OF JUDGMENTS

**(a) Execution Forms**. Judgment creditors must follow the instructions and use the forms for execution of judgments found on the Court's website under Forms – Execution Packet.

**(b) Garnishments**. Garnishment procedure conforms with Tennessee state law. It shall be the duty of the United States Marshal serving the garnishment summons to obtain on the United States Marshal Form 285 an acknowledgement of service of the garnishment summons signed by the employer garnishee, if a corporation, company or business entity. If the employer garnishee or officer refuses to sign the Form 285, the Marshal shall sign and return to the Court a sworn statement on the Form 285 that the summons was duly served but the employer garnishee refused to sign an acknowledgement of service.

## LR72.01 – MAGISTRATE JUDGES – NONDISPOSITIVE MATTERS

**(a) Objections to Orders of Magistrate Judges on Nondispositive Matters**. Objections to decisions of Magistrate Judges on nondispositive matters in civil cases under Fed.R.Civ.P. 72(a) must be formatted and styled as a "Motion for Review of Nondispositive Order of Magistrate Judge." Such motion must be in writing, must state with particularity that portion of the Magistrate Judge's order for which review is sought, and must be accompanied by sufficient documentation including, affidavits, pertinent exhibits, and transcripts of the record to apprise the District Judge of the bases for the objections. A separately filed memorandum of law, not exceeding twenty-five (25) pages, must accompany the motion for review.

**(b) Response.** Any response to the objections raised in the motion for review and accompanying memorandum of law must be filed within fourteen (14) days after service of the motion for review, and may not exceed twenty-five (25) pages.

**(c) Stay of Order**. There shall be no stay of an order entered by a Magistrate Judge, absent a stay granted by the Magistrate Judge or the District Judge.

## LR72.02 − MAGISTRATE JUDGES – DISPOSITIVE MATTERS

**(a) Objections to a Report and Recommendation of a Magistrate Judge**. Objections to a report and recommendation of a Magistrate Judge on a dispositive motion must be made within fourteen (14) days after service of the report and recommendation in accordance with Fed.R.Civ.P. 72(b). Such objections must be written, must state with particularity the specific portions of the Magistrate Judge's report or proposed findings or recommendations to which an objection is made, and must be accompanied by sufficient documentation including, but not limited to, affidavits, pertinent exhibits, and if necessary, transcripts of the record to apprise the District Judge of the bases for the objections. A separately filed

supporting memorandum of law, not exceeding twenty-five (25) pages, must accompany the objections.

**(b) Response**. Any response to the objections raised in the motion for review and accompanying memorandum of law must be filed within fourteen (14) days after service of the objections, and may not exceed twenty-five (25) pages.

## LR72.03 – WAIVER UNDER THIS RULE

Failure of a party to file a timely motion for review of non-dispositive matters or to timely object to a report and recommendation of a Magistrate Judge in dispositive matters may constitute a waiver of any right to raise the matter in further proceedings.

## LR72.04 – TRANSCRIPTION OF THE RECORD FOR PURPOSES OF REVIEW

If transcripts are necessary for a review under this rule, the moving party must, within fourteen (14) days from the service upon opposing counsel of the motion for review, arrange for the transcription of so much of the record as the parties shall designate. The District Judge may direct any other portions of the record to be transcribed.

## LR 73.01 – CONDUCT OF TRIALS AND DISPOSITION OF CIVIL CASES BY MAGISTRATE JUDGES UPON CONSENT OF THE PARTIES

**(a) Consent**. Upon the consent of the parties and the entry of an order of transfer by a District Judge, Magistrate Judges are hereby specifically designated, pursuant to 28 U.S.C. § 636(c), to conduct trials and otherwise dispose of any civil case that is filed in this Court. If all parties consent to referral of the case to a Magistrate Judge, all parties should complete the Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form available on the court's website under the link to forms. The Notice form should be completed only if all parties consent, and one completed form should be filed via CM/ECF. After an order of reference is entered in a case, a Magistrate Judge may conduct any and all proceedings in the case, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment in accordance with 28 U.S.C. § 636(c), and Fed.R.Civ.P. 73. In the course of conducting such proceedings, a Magistrate Judge may hear and determine any pre- trial and post-trial motions, including case-dispositive motions.

**(b) Vacating an Order of Reference**. Once an order of reference has been entered, no party may withdraw consent. An order of reference may be vacated by a District Judge upon the Judge's own motion, for good cause shown, or upon motion of a party who can demonstrate extraordinary circumstances.

**(c) Additional Party After Reference**.

**(1)** In the event an additional party is brought in or joined in a civil action referred to a Magistrate Judge, the party bringing in or joining an additional party must additionally cause a copy of the consent form to be served on each additional party. Counsel for all parties must then confer and must file a new consent form, if all parties agree. The new form must be filed within thirty (30) days after the appearance of such additional party.

**(2)** If the parties fail to timely file a form consenting to further proceedings before the Magistrate Judge, the Magistrate Judge shall return the case file to the referring District Judge for the entry of an order vacating the order of reference. If all parties consent to

further proceedings before the Magistrate Judge, then the order of reference previously entered remains valid and binding without the necessity of entry of another order by the District Judge.

## LR77.01 – DIVISIONS OF COURT

**(a) Three Divisions**. The Middle District of Tennessee consists of three (3) divisions as set forth in 28 U.S.C. § 123.

**(b) Civil Cases**. All civil cases shall be tried in the division where the case is filed unless the parties consent to trial in another division, with the Court's approval.

## LR77.02 – LEGAL ADVICE

The Clerk and the employees of the Clerk's Office desire to be of help to litigants and attorneys. However, interpreting the rules of procedure and giving legal advice are not permitted functions. Notice is hereby given to litigants and attorneys that the Clerk and the Clerk's employees assume no responsibility for information respecting applicable procedural rules, substantive law, or interpretation of Local Rules of Court.

## LR78.01 – MOTION DAY

There shall be no motion day. All motions must be in writing and will be decided by the Court without oral hearings unless otherwise ordered by the Court.

## LR79.01 – RETRIEVAL OF EXHIBITS

After final determination of any action, including all appeals, counsel or parties shall have thirty (30) days within which to retrieve exhibits. In the event the exhibits are not retrieved, the Clerk may, without notice, destroy or otherwise dispose of the exhibits.

## LR81.01 − BANKRUPTCY APPEALS – SUMMARY AFFIRMANCE

Failure by an appellant to comply with the provisions of any of Rules 8009, 8010, or 8018 of the Federal Rules of Bankruptcy Procedure will result in summary affirmance of the decision of the Bankruptcy Judge. (These are the bankruptcy rule numbers in effect as of the adoption of these Local Rules. If the Bankruptcy Rules are renumbered, the references shall be to the new numbers.)

## LR83.01 – ATTORNEYS

**(a) Eligibility and Procedure for Admission**.

**(1)** To be eligible for admission to the bar of this Court, an attorney must be a member in good standing of the bar of the State of Tennessee, any other State or Territory of the United States, or the District of Columbia. If the applicant is not a member of the bar of Tennessee, the applicant must be a member in good standing of a United States District Court or a United States appellate court.

**(2)** Each applicant for admission to the bar must file with the Clerk a written application, on the form provided by the Clerk, setting forth the attorney's residence and office addresses, general and legal education, and the other courts to which the attorney has been admitted to practice. The application must be signed by two members in good standing of the bar of this Court who recommend the attorney's admission.

**(3)** The Clerk will examine the application and the accompanying recommendation, and, if in compliance with this rule, the application will then be presented to a Judge of this Court. The applicant will make suitable arrangements thereafter with the Clerk for the applicant's appearance and admission in open court or in chambers in accordance with this rule.

**(4)** When an application is called, one of the members of the bar of this Court must move the admission of the petitioner.

**(5)** The applicant, after taking the required oath, must then sign the roll of attorneys and must pay to the Clerk the prescribed enrollment fee.

**(6)** Any attorney applying for admission to practice must be introduced to the Court, and admitted to practice, within six (6) months from the date on which the attorney's application is approved. After that time, a new application, in accordance with this rule, must be completed and approved before the attorney may be admitted.

**(7)** Any attorney employed in the offices of the United States Attorney or the Federal Public Defender who is admitted to the bar of any State or Territory of the United States or the District of Columbia may be admitted to practice in this Court and entered on the roll of the Court without the necessity of either an application for admission or payment of any admission fee. However, prior to entry on the roll of the Court, the attorney must provide a certificate of admission or other confirmation of admission to the bar of a State or Territory of the United States or the District of Columbia. The fee waiver extended under this rule is effective only during the attorney's employment with the specified office. When an attorney admitted under this section discontinues employment with the specified office, the attorney must pay the fee for admission then in effect and be otherwise eligible to practice before the Court to remain on the roll of the Court.

**(8)** Law clerks in the employ of the United States Courts may be admitted to practice in this Court through the normal application process if such law clerk is admitted to the bar of any State or Territory of the United States or the District of Columbia. The law clerk must provide with the application a certificate of admission or other confirmation of admission to the bar of a State or Territory of the United States or the District of Columbia. The admission fee is waived for law clerks in the employ of this Court, or otherwise as the Chief District Judge may determine to be appropriate.

**(b) Admission *Pro Hac Vice***. Any member in good standing of the bar of any other District Court of the United States who is not a resident of this District and who does not maintain an office in this District for the practice of law, may be permitted to appear and participate in a particular case in this Court subject to the following provisions:

**(1)** No later than the first pleading filed in this Court, the attorney must certify the attorney's good standing as a member of the bar of another United States District Court or a United States appellate court. In cases where an attorney enters an appearance subsequent to the first pleading filed, the certification of good standing must be filed no later than the first filing upon which the attorney's name appears. Certification of

good standing must be made by filing a certificate of good standing from a United States District Court or a United States appellate court. The non- resident attorney will be admitted to practice in a particular case on written motion made and order entered by the Court, after payment of the required fee.

**(2)** The applicant attorney must state under oath whether disciplinary proceedings by any disciplinary authority or any court or any criminal charges have been instituted against the attorney, and if so, must disclose full information about the proceeding or charges and the outcome thereof.

**(3)** When an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (*pro hac vice*), the attorney is deemed thereby to have:

**(A)** Acknowledged the attorney's responsibility for compliance with all rules of this Court; and

**(B)** Conferred disciplinary jurisdiction upon this Court for any alleged misconduct of that attorney arising in the course of the proceeding. In addition to visiting counsel, local counsel, if any, remains responsible to the Court at all stages of the proceedings.

**(4)** All business entities must be represented by an attorney duly admitted or authorized to practice before this Court.

**(c) Disbarment and Discipline**.

**(1)** Except as provided below, any member of the bar of this Court may, for good cause shown, and after an opportunity to be heard has been given, be disbarred, suspended from practice for a definite time, reprimanded, or subjected to such other discipline as the Court may deem proper.

**(2)** Whenever any member of the bar of this Court has been disbarred or suspended from practice by law, or has been convicted of any crime involving moral turpitude, the attorney will be summarily suspended from practice before this Court, and unless good cause to the contrary is shown within 28 days from the date of such suspension, the Court may impose such further discipline as it deems proper.

**(3)** Except as otherwise provided by these Rules, any person who, before admission to the bar of this Court or during any disbarment or suspension proceedings, exercises in this Court any of the privileges as a member of the bar of this Court, or pretends to be entitled to do so, is guilty of contempt and subject to appropriate punishment.

**(4)** The standard of professional conduct of the members of the bar of this Court shall include the current Tennessee Rules of Professional Conduct. A violation of any of the Rules of Professional Conduct in connection with any matter pending before this Court will subject the offending attorney to appropriate disciplinary action. The Court may appoint a grievance committee to investigate complaints of professional misconduct by an attorney in connection with that attorney's practice in this Court. In such case the committee appointed will operate under the directions of the Court and may take such actions as directed by the Court. In the alternative, such complaints may be forwarded by the Court to the appropriate disciplinary authority. This Rule shall not apply to RPC 3.6 (Trial Publicity), which is superseded as a rule of this District by LR 83.04 and LCrR2.01.

**(d) Local Co-Counsel in Civil Proceedings**.

**(1) General requirement**. Unless counsel appearing on behalf of a party in a civil case is both a member of the Tennessee bar and admitted to the bar of this Court, local co-counsel must be retained.

**(2) Exception for U.S. Government Attorneys**. An attorney representing the United States government or any department or agency thereof, or an attorney with the office of the Federal Public Defender, may appear and participate on behalf of a party, provided the attorney is a member of the bar of a District Court of the United States.

**(3) Notification of Tennessee Bar Status**. Any attorney who is a member of the Tennessee bar and admitted to practice in this Court but whose principal office is outside the state of Tennessee, must include in the signature line on all filings a notation that they are a member of the Tennessee bar and provide their Tennessee Board of Professional Responsibility number.

**(4) Non-Compliance**. Any filings made on behalf of a party that fail to comply with this rule in retention of local counsel or notification of Tennessee bar status may be stricken or other penalties imposed by the Court, either upon motion or upon the Court's own initiative.

**(5) Discretion of Court**. A Judge assigned to the case has discretion to require, upon notice, that an attorney who resides outside the District designate as local counsel an attorney who is admitted to practice in this Court and maintains a law office in this District, who shall be prepared to present and argue the party's position at any hearing or status conference.

**(e) Appearance by Attorney**.

**(1) Representation of Parties in Civil Cases**. Any attorney representing a party in any civil action must file a separate Notice of Appearance, except that an attorney who has signed the original complaint, petition, or notice of removal is not required to file a Notice of Appearance. The Notice of Appearance must be filed by the attorney promptly upon undertaking the representation and before or contemporaneously with the filing of any paper, other than a complaint, petition, or notice of removal, by such attorney. Each attorney who intends to participate in a case is responsible for ensuring that attorney is reflected as counsel of record on the electronic case docket, which may require the filing of a Notice of Appearance if the attorney's participation is not reflected as a result of any other filing.

**(2) Representation of Witnesses in Civil Actions**. An attorney representing a witness in any civil action must file a separate Notice of Appearance with the Clerk of the Court. The Notice must be filed by the attorney promptly upon undertaking the representation and prior to the attorney's appearance on behalf of the witness client at any hearing. For the purposes of this rule, an attorney shall be deemed to be appearing for and representing a witness if the attorney is present within the courthouse and advising such witness in connection with the witness's testimony.

**(3) Action by Represented Party**. Whenever an attorney has entered an appearance for a party or individual, that party or individual may not thereafter appear or act in their own behalf in the action or proceeding.

**(f) Notice of Tennessee Office Address**. Any attorney who has an office address in Tennessee but whose official mailing address is located outside Tennessee, must include the Tennessee address as a physical location address in addition to the official mailing address.

**(g) Withdrawal as Attorney of Record**. Any attorney desiring to withdraw as the attorney of record for a party must file a motion to withdraw, which must set forth the reasons for the withdrawal request and must certify that such attorney has given written notice to the client of the attorney's intention to withdraw from the case. A copy of the notice must be appended as an exhibit to the motion to withdraw. Such notice to the client must be given at least fourteen (14) days prior to the filing of the motion to withdraw. Ordinarily counsel will not be allowed to withdraw if such withdrawal will delay trial or other pending matters in the case. If the party represented by the withdrawing attorney is still being represented by another attorney of record from the same law firm, the withdrawing attorney need only file a Notice of Withdrawal.

**(h) Substitution of Counsel**. Any attorney substituting as counsel of record for a party must promptly file a motion for substitution of counsel. The substituting attorney's signature on the motion constitutes a certification that the substitution is made with the party's consent and agreement.

## LR83.02 – LAW STUDENT PRACTICE

Law students who are enrolled in a law school's legal clinic or an externship placement with a legal aid organization or government entity through a law school externship program may be allowed to appear on behalf of an indigent person or a government entity under the direct supervision of an attorney admitted to practice in this Court and pursuant to the requirements of Administrative Order 155-1.

## LR 83.03 − PHOTOGRAPHY, BROADCASTING, AND ELECTRONIC DEVICES

**(a) General Prohibition**.

**(1)** No photography, video or audio broadcasting (other than by General Services Administration personnel, Federal Protective Services personnel and United States Marshals Service personnel), or video or audio recording (other than by Court personnel) will be permitted on the floors of the courthouse occupied by the Court (including inside any petit jury room or grand jury room), or of any conference calls conducted by the Court, except by court order. This prohibition also includes photography, video or audio broadcasting, and video or audio recording by remote means.

**(2)** No electronic devices, including without limitation, cellular telephones, pagers, laptop or notebook computers, and tablets, will be allowed inside any petit jury room or grand jury room.

**(3)** Excluded from this provision are employees of the United States Courts, the United States Probation Office, the Federal Public Defender's Office, the United States Attorney's Office, the United States Trustee's Office, federal law enforcement officers, and Court Security Officers.

**(b) Electronic Devices**.

**(1)** All electronic devices, including without limitation, cellular telephones, pagers, laptop or notebook computers, and tablets, are subject to x-ray screening and any other visual inspection by designated security officers at the entrances to the federal building.

**(2)** Electronic devices may not be used for photography, video or audio broadcasting, or video or audio recording on the floors of the courthouse occupied by the Court.

**(3)** Electronic devices may be used in the courtroom by an attorney, and the attorney's paralegals and assistants under the supervision of the attorney, if necessary to the proceeding, including without limitation, for presentation of evidence during the course of trial, provided that the attorney ensures that such device is not used for voice communication, is operated silently, is not used in any manner that will disrupt any courtroom proceeding, and is not used to photograph, record, or broadcast any aspect of any proceeding. The presiding Judge retains authority and sole discretion to disallow use of electronic devices at any time.

**(c) Proceedings Other Than Judicial Proceedings**. Proceedings other than judicial proceedings, designed and conducted as ceremonies, such as administering oaths of office to appointed officials of the court, naturalization ceremonies, presentation of portraits and similar ceremonial occasions, may be photographed in, or broadcast, or televised from the courtroom with the permission of the Court.

**(d) Enforcement**.

**(1)** The United States Marshal may take necessary steps to enforce this rule.

**(2)** Each attorney of record in a case is responsible for notifying the attorney's staff, client and any witnesses of the requirements of this rule and for reasonably ensuring compliance with the rule.

**(3)** Violations of this rule may result in the violator being required to remove the electronic device from the courthouse or confiscation of the device and the violator being reported to a judicial officer for appropriate action or other sanction.

## LR83.04 − RELEASE OF INFORMATION CONCERNING CIVIL PROCEEDINGS

**(a) By Attorneys Concerning Civil Proceedings**.

**(1) Limitation on Extrajudicial Statements**. A lawyer who is participating in or has participated in the investigation or litigation of a matter, either directly or indirectly, must not make any extrajudicial statement (other than a quotation from or reference to public records) that the lawyer knows or reasonably should know will be disseminated by public communication and will have substantial likelihood of materially prejudicing an adjudicative proceeding in the matter, including especially that will interfere with a fair trial.

**(2) Comments More Likely Than Not to Have Material Prejudicial Effect**. Comment relating to the following matters is more likely than not to have a material prejudicial effect on a proceeding, and the burden is upon the person commenting upon such matters to show that the comment did not pose such a threat:

**(A)** Evidence regarding the occurrence or transaction involved;

**(B)** The character, credibility, or criminal record of a party, witness, or prospective witness; or

**(C)** The performance or results of any examinations or tests or the refusal or failure of a party to submit to an examination or test.

**(D)** Information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence at trial or that would, if disclosed, create a substantial risk of prejudicing an impartial trial.

**(3) Optional Lawyer Statement**. Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer

or the lawyer's client. A statement made pursuant to this paragraph must be limited to such information as is necessary to mitigate the recent adverse publicity.

**(4) Application to Law Firms and Agencies**. The provisions of this rule concerning lawyers apply to the law firm and government agencies or offices, and the partners and employees of such firms, government agencies or offices, with which the lawyer is associated.

**(b) Provision for Special Orders in Widely Publicized and Sensational Cases**. In widely publicized cases the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of a party to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters that the Court may deem appropriate for inclusion in such an order.

## LR83.05 − COURT REPORTERS, AUDIO RECORDINGS, AND TRANSCRIPTS

**(a) Payment for Transcripts**. Any attorney ordering a transcript of testimony or other court proceeding, whether for appeal or otherwise, is personally obligated for the payment of the fee to the court reporter for the transcription, as provided for in Administrative Order 27. However, this does not apply when the fees are to be paid by the United States of America pursuant to legislative authority. The court reporter may require prepayment for a transcript ordered by an attorney.

**(b) Certified Daily Transcripts** - Notice Required. Any party requesting to obtain a certified daily transcript of a court proceeding must provide notice to the Court at least fourteen (14) days prior to the scheduled date of the proceeding. Notice must be provided by the filing of a Notice of Request for Certified Daily Transcript. The Clerk's office will notify the appropriate court reporter following the filing of such a notice and the party will then be contacted by the court reporter to make arrangements for the production of the certified daily transcript.

**(c) Audio Recordings**.

**(1) Copies**. Copies of audio recordings may be requested from the Clerk. The party requesting the copy must comply with the Clerk's procedures, including payment of any fees.

**(2) Transcripts**. Any party requesting a transcript of an audio recording must contact the Clerk, and comply with procedures set by the Clerk, including payment of any fees.

**(3) Judicial Discretion**. Recording of telephonic conferences and other conferences is within the discretion of the assigned Judge. If an audio recording is made of a telephonic or other conference, availability of a copy or transcript of that recording is within the discretion of the assigned Judge.

## LR83.06 – PRODUCTION OF PRISONERS

All motions and orders to produce prisoners for testimony, must be filed with the Clerk at least fourteen (14) days prior to the date of the hearing. Relief from this rule may be obtained by an order of the Court.

## LR83.07 – DESTRUCTION OF FILINGS

Unless prohibited by order of the Court, all documents filed manually in a case, either as paper documents or on data storage devices, may be destroyed by the Clerk, without notice, any time after thirty (30) days following final determination, including appeals.

## LR83.08 – AMENDMENTS

These Rules may be amended, supplemented or deleted, in whole or in part, at any time by appropriate action.

## LOCAL CRIMINAL RULES

### LCrR1.01 – LOCAL CRIMINAL RULES

**(a) Deviation from Local Rules**. The Court may deviate from any provision of any Local Rule, when appropriate for the needs of the case and the administration of justice.

**(b) Reference to Local Rules**. These Local Criminal Rules of Court shall be referred to as the "Local Criminal Rules" or as "LCrR".

**(c) Practice Manuals and Sample Orders**. For further guidance in construction and application of these Local Rules, lawyers should consult the practice and procedures manuals and sample orders available for each individual judge on the Court's website.

**(d) References to Administrative Orders**. References to Administrative Orders are by assigned order number as of the date of promulgation of these Rules, but shall refer to any amended, superseding, or renumbered order.

### LCrR2.01 – RELEASE OF INFORMATION CONCERNING CRIMINAL PROCEEDINGS

**(a) By Attorneys**

**(1) Limitation of Extrajudicial Statements.** A lawyer who is participating or has participated in the investigation or litigation of a matter either directly or indirectly must not make an extrajudicial statement (other than a quotation from or reference to public records) that the lawyer knows or reasonably should know will be disseminated by public communication, and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter, including especially that will interfere with a fair trial.

**(2) Comments More Likely Than Not to Have a Material Prejudicial Effect Even if Included in the Public Record.** A comment relating to the following matters is more likely than not to have a material prejudicial effect on a proceeding, even if included in the public record, and the burden is upon the person commenting upon such matters to show that the comment did not pose such a threat:

**(A) Grand Jury and Pending Investigations**. Any extrajudicial statement outside the limitations under (a)(1), including the character, credibility, reputation, or criminal record of a suspect in a criminal investigation except such statement as is necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise seek the public's aid in the investigation;

**(B) Following Formal Charges Through Adjudication**. After formal charges have been initiated (meaning an arrest, issuance of an arrest warrant, or the filing of a complaint, information or indictment in any criminal matter), until the conclusion of trial or the disposition without trial, any extrajudicial statement outside the limitations under (a)(1) relating to the matter and concerning:

**(i)** The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the attorney or law firm may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been

apprehended, an attorney associated with the prosecution may release any information necessary to aid in apprehension or to warn the public of any dangers presented;

**(ii)** The possibility of a plea of guilty to the offenses charged or to a lesser offense, the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

**(iii)** The performance of any examination or tests or the accused's refusal or failure to submit to an examination or test;

**(iv)** The character, credibility, reputation, or criminal record of a party or the identity, testimony, or credibility of prospective witnesses, except that the attorney may announce the identity of the victim if the announcement is not otherwise prohibited by law;

**(v)** The identity or nature of physical evidence expected to be presented;

**(vi)** The fact that an accused has been charged with a crime, unless there is included therein a statement that the charge is merely an accusation and that the accused is presumed innocent unless and until proven guilty;

**(vii)** Any opinion as to the accused's guilt or innocence, or as to the evidence in the case; or

**(viii)** Information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial or that would, if disclosed, create a substantial risk of prejudicing an impartial trial.

The foregoing shall not be construed to preclude the prosecution or defense attorney during this period, in the proper discharge of their official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of physical evidence other than a confession, admission, or statement, that is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge including a brief description of the offense charged; from quoting or referring without comment to public records of the Court in the case; from requesting assistance in obtaining evidence; or from announcing (without further comment) that the accused denies the charges, maintains their innocence and looks forward to their day in court.

**(3) Statements Necessary to Protect a Client from Substantial Undue Prejudice**. Notwithstanding paragraphs (a)(1) and (a)(2), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph must be limited to such information as is necessary to mitigate the recent adverse publicity.

**(4) Applications to Law Firms and Agencies**. The provisions of this rule concerning lawyers apply to the law firm and government agencies or offices, and the partners and employees of such firms, government agencies or offices, with which the lawyer is associated.

**(b) Additional Restrictions by the Court**. Nothing in this rule is intended to preclude the formation or application of more restrictive rules, upon motion of any party or by the Court on its own, related to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative or investigative bodies, to address the seating and conduct of spectators and media representatives, to preclude any attorney from replying to charges of misconduct that are publicly made against that attorney, or to address any other matters that the Court may deem appropriate for inclusion.

**(c) By Courthouse Personnel**. All courthouse personnel, including but not limited to, employees of the Clerk's office, employees of the Court (including judicial chambers staff), employees of the Probation and Pretrial Services office, and the United States Marshals Service employees including Court Security Officer(s), are prohibited from disclosing to any person, without authorization by the Court, information relating to a pending criminal proceeding that is not part of the public record of the Court. This Rule specifically forbids the divulging of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

## LCrR12.01 – MOTIONS

**(a) Discovery Motions**. Motions relating to discovery matters are governed by LCrR 16.01.

**(b) Pretrial Motions**.

**(1)** All pretrial motions must be filed in accordance with the Court's filing deadline, unless an extension is granted by the Court.

**(2)** Each pretrial motion requiring a determination of law must be accompanied by a separately-filed memorandum of law or incorporated memorandum of law. The memorandum of law should not be appended as an exhibit to the motion. If the memorandum of law is incorporated, the filing must be clearly titled as a Motion and Memorandum of Law. No conference with opposing counsel is required prior to filing such motions.

**(c) Certification of Counsel**. All motions seeking relief other than a determination of law (such as a matter of timing or administrative matters) must be accompanied by a certification that counsel for the moving party conferred with opposing counsel in a good faith effort to resolve by agreement the subject matter of the motion. *Ex parte* motions do not require conference with opposing counsel.

## LCrR16.01 – DISCOVERY AND INSPECTION

**(a) Discovery in Criminal Cases**.

**(1) Discovery Conference**: No later than fourteen (14) days after the arraignment, the attorneys for the government and the defendant must confer in an effort to agree on a timetable and procedures for pretrial disclosure under Fed.R.Crim.P. 16. The parties shall memorialize any agreement in writing.

**(2) Modification of Discovery**: After the discovery conference, one or both parties may ask the court to determine or modify the timing, manner, or other aspects of disclosure to facilitate preparation for trial.

**(3) Preservation**: The government must advise its agents and officers involved in the case to preserve all rough notes in whatever form.

**(4) Aggrieved Person**. The government must state whether the defendant was an aggrieved person, as defined in 18 U.S.C. § 2510(11), of electronic surveillance, and if so, must set forth in detail the circumstances thereof.

**(5) Independent Chemical Analysis**. The government must, upon request, deliver to any chemist selected by the defense, who is presently registered with the Attorney General in compliance with 21 U.S.C. §§ 822 and 823, and 21 C.F.R. §3101, a sufficient representative sample of any alleged contraband which is the subject of the indictment, to allow independent chemical analysis of such sample with appropriate safeguards for the preservation of evidence.

**(6) Inspection**. Upon request, the government must permit the defendant, his counsel, and any experts selected by the defense to inspect any automobile, vessel, or aircraft in the custody or control of the government and allegedly utilized in the commission of any offenses charged. Government counsel must, if necessary, assist defense counsel in arranging such inspection at a reasonable time and place, by advising the government authority having custody of the thing to be inspected that such inspection has been ordered by the Court.

**(7) Independent Expert Examination**. Upon request, the government must provide the defense, for independent expert examination, copies of all latent fingerprints or palm prints, and any DNA evidence, that have been identified by a government expert as that of the defendant.

**(8) Stipulations**. The parties must make every possible effort in good faith to stipulate to all facts or points of law the truth and existence of which is not contested and the early resolution of which will expedite the trial.

**(b) Discovery Motions**: Discovery motions shall not be filed unless the parties are unable to reach an agreement after good faith conference between counsel. Motions regarding discovery under Fed.R.Crim.P. 16 or LCrR 16.01(a), must be filed within fourteen (14) days after a discovery request is denied or the discovery is otherwise due pursuant to LCrR 16.01, Fed.R.Crim.P. 16 or order of the Court. Each discovery motion must include the certification required by LCrR 12.01(d). A response must be filed within seven (7) days after the motion is filed and served, unless the Court orders otherwise.

## LCrR18.01 – PLACE OF TRIAL

All criminal cases in the District will be tried in the Nashville Division unless the Trial Judge transfers the case to another division.

## LCrR32.01 – SENTENCING

**(a) Initial Disclosure**. Upon a finding of guilt or at the conclusion of the hearing on the petition to enter a plea, a sentencing hearing date shall be set at least eighty (80) days from the finding of guilt or hearing on the petition to enter a plea.

**(b) Presentence Interview and Presentence Report**.

**(1)** After a finding of guilt, the Probation Officer shall give notice and a reasonable opportunity to the defense counsel to attend any interview initiated by the Probation Office with the defendant.

**(2)** The attorneys must confer with the Probation Officer during the presentence investigation process with a view toward resolving any disputed facts or factors. All

parties must communicate in a timely manner so that errors can be corrected and disputed issues fairly addressed.

**(3)** When the Presentence Report is completed, the United States Probation Office must furnish a copy of the report to the attorneys of record. The defendant's attorney must review the Presentence Report with the defendant in-person. If an in-person review is not reasonably possible, the defendant's attorney must seek leave of court to review the Presentence Report with the defendant by some other means.

**(4)** Absent an order by the Court, Presentence Reports provided to the attorneys may be retained by them.

**(c) Objections to the Presentence Report**.

**(1)** Within fourteen (14) days after receiving the Presentence Report, the defendant's attorney and the attorney for the government must communicate in writing to the Probation Office, and to each other, any objections to material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the Presentence Report.

**(2)** After receiving objections, the Probation Officer may meet with the defendant, defense counsel, and attorney for the government to discuss the objections. The Probation Officer may also conduct a further investigation and revise the Presentence Report as appropriate.

**(3)** Within seven (7) days of receiving the objections, the Probation Officer must disclose to all parties any changes or unresolved factual disputes or objections to the report.

**(4)** At least seven (7) days prior to sentencing, the defendant's attorney and the attorney for the government must file (not under seal unless ordered by the Court upon motion) with the Clerk, with a copy to the United States Probation Office and opposing counsel, their respective "Position of the (Government or Defendant) Regarding Presentence Report" containing only unresolved matters previously raised with all parties in writing.

**(d) Final Disclosure**. The United States Probation Office must transmit to the sentencing Judge at least seven (7) days before the sentencing date the Presentence Report with guideline computations, an addendum indicating any unresolved factual disputes or objections by the parties with respect to the application of the guidelines, the Probation Officer's recommendations on disputed matters. Such material must also be furnished to the defense counsel and the attorney for the government.

**(e) Section 3553(a) Factors**. Notwithstanding limitations in plea agreements to the contrary, by no later than three (3) days before the sentencing hearing, unless ordered otherwise by the Court, counsel must file a statement identifying any relevant factors that may be applicable at sentencing pursuant to 18 U.S.C. § 3553(a).

**(f) Other Sentencing Filings**. All other sentencing related filings must be filed by no later than three (3) days before the sentencing hearing or as otherwise ordered or permitted by the Court.

**(g) Sentencing Hearing**. The Judge, before imposing sentence, will conduct such hearing as may be deemed necessary to resolve any disputed factors or facts and may allow the attorney for the government and the defense attorney reasonable opportunity to comment either orally or in writing upon the Probation Officer's determination and on other matters relating to the appropriate sentence.

**(h) Special Assessments**. The Clerk must accept payment of special assessments without requiring that a judgment and commitment order be entered.

## LCrR53.01 – PHOTOGRAPHY, BROADCASTING, AND ELECTRONIC DEVICES

The provisions of LR 83.03 apply to all proceedings in criminal cases, with the additional inclusion that electronic devices may also be used in the courtroom by experts, investigators, and law enforcement agents, subject to the attorney supervision provided for in LR 83.02(b)(3) and further orders of the presiding Judge.

## LCrR57.01 – ATTORNEYS

**(a) Applicability of Local Rule 83.01**. The provisions of LR 83.01 apply generally to all proceedings in criminal cases, except as modified by this rule.

**(b) Local Co-Counsel in Criminal Proceedings**. Unless required by the presiding Judge, local co-counsel is not required in criminal cases or criminal proceedings. If local co-counsel is required, the provisions of LR 83.01(d) apply.

**(c) Counsel of Record**. Each attorney who intends to participate in a case is responsible for ensuring that attorney is reflected as counsel of record on the electronic case docket, which may require the filing of a Notice of Appearance if the attorney's participation is not reflected as a result of any other filing.

**(d) Substitution or Withdrawal as Attorney of Record**.

**(1) Substitution of Counsel**. Any attorney substituting as counsel for a defendant must promptly file a motion to be substituted as counsel of record.

**(2) Motion to Withdraw**. Any attorney desiring to withdraw as the attorney of record must file a motion to withdraw, which must set forth the reasons for the withdrawal request and must certify that the attorney has given reasonable notice to the client of the attorney's intention to withdraw from the case. Ordinarily, counsel will not be allowed to withdraw if such withdrawal will delay trial or other pending matters in the case.

**(3) Notice of Withdrawal by AUSA**. If a prosecuting attorney finds it necessary to withdraw, and another Assistant United States Attorney is already an attorney of record, the withdrawing attorney may file a Notice of Withdrawal. Otherwise, a motion for substitution of counsel must be filed.

## LCrR57.02 – CJA PLAN

Representation of criminal defendants pursuant to the Criminal Justice Act shall proceed as detailed in the CJA Plan found in Administrative Order 38.

## LCrR57.03 − COURT REPORTERS AND TRANSCRIPTS

The provisions of LR 83.05 apply to all proceedings in criminal cases.

## LCrR57.04 – PRODUCTION OF PRISONERS

All motions and orders to produce prisoners for testimony, must be filed with the Clerk at least fourteen (14) days prior to the date of the hearing. Relief from this rule may be obtained by an order of the Court.

## LCrR 57.05 – RETENTION OF PRETRIAL SERVICES OR BAIL REVIEW REPORT

Absent an order by the Court, Pretrial Services or Bail Review Reports provided to the attorneys may be retained by them.

## LCrR57.06 – DESTRUCTION OF FILINGS

All documents filed manually in a case, either as paper documents or on data storage devices, may be destroyed any time after thirty (30) days following final determination of any action, including appeals, without notice to the parties, unless prohibited by order of the Court.

## LCrR57.07 − AMENDMENTS

These Rules may be amended, supplemented or deleted, in whole or in part, at any time by appropriate action.

## LCrR58.01 − SCOPE OF MAGISTRATE JUDGE DUTIES – CRIMINAL MATTERS

Magistrate Judges are authorized and designated to exercise all of the powers and duties prescribed by 28 U.S.C. § 636(a) in criminal matters. Trials of criminal cases before the Magistrate Judges shall be in accordance with Fed.R.Crim.P.58.

## LCrR58.02 – FINES IN PETTY OFFENSE CASES

Fines imposed by Magistrate Judges in petty offense cases (those on the Central Violations Bureau docket) may be presented for payment to the Clerk of the Court, when accompanied by a written notice of the amount of the fine signed by a Magistrate Judge.

## LCrR58.03 – APPEALS IN CRIMINAL MATTERS

**(a) Misdemeanor and Petty Offenses**. Appeals of actions taken by Magistrate Judges in misdemeanor and petty offense cases must be made to the District Judge within fourteen (14) days of entry of judgment and must be in accordance with Fed.R.Crim.P. 58(g)(2) for misdemeanors and petty offenses handled by the Magistrate Judge.

**(b) Release and Detention Orders**. Review and appeals of release or detention orders must be in accordance with 18 U.S.C. § 3145.

**(c) Waiver**. Failure of a party to timely file an appeal may constitute a waiver of any right to further pursue the matter or to raise the matter in further proceedings.