

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**



LOCAL RULES OF PRACTICE

AUGUST 1, 2011

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

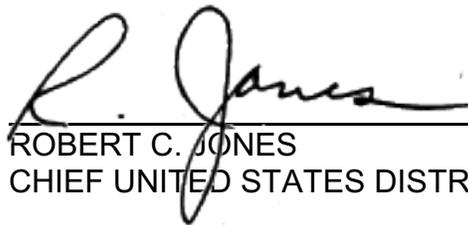
IN THE MATTER OF:)
)
THE LOCAL RULES OF)
)
PRACTICE FOR THE)
)
UNITED STATES DISTRICT)
)
COURT FOR THE DISTRICT)
)
OF NEVADA)
_____)

General Order 2011-02

ORDER ADOPTING AMENDMENTS TO THE LOCAL RULES OF PRACTICE

IT IS ORDERED that the Local Rules of Practice for the United States District Court for the District of Nevada effective June 1, 1995, as amended effective May 1, 1998; December 1, 2000 and May 1, 2006 are hereby further amended effective August 1, 2011.

Dated this 27th day of July, 2011.



ROBERT C. JONES
CHIEF UNITED STATES DISTRICT JUDGE

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OF THE
UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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End

LOCAL RULES OF PRACTICE
For the
UNITED STATES DISTRICT COURT
For the DISTRICT OF NEVADA

LOCAL RULES PART IA – INTRODUCTION

LR IA 1-1. TITLE.

These are the Local Rules of Practice (Rules) for the United States District Court for the District of Nevada (Court). These Rules are divided into the following parts: Part IA (Introduction); Part IB (United States Magistrate Judges); Part II (Civil); Part III (Bankruptcy); Part IV (Criminal); and Part V (Rules Applicable in Special Proceedings and Appeals). The Rules in Parts II, III, and IV are numbered to correspond to their Federal Rules of Civil, Bankruptcy or Criminal Procedure counterparts. The Rules in Parts IA through III may be cited as “LR___;” those in Part IV, as “LCR___;” and the Rules in Part V, as “LSR___.”

LR IA 2-1. SCOPE OF THE RULES; CONSTRUCTION.

These Rules shall be construed so as to be consistent with the Federal Rules of Civil, Bankruptcy and Criminal Procedure they supplement. The provisions of Parts IA and II apply to all actions and proceedings, including civil, criminal, bankruptcy and admiralty, except where they may be inconsistent with rules or provisions of law specifically applicable thereto. The provisions of Part IB apply to all actions and proceedings, excluding bankruptcy, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

LR IA 3-1. SUSPENSION OR WAIVER OF THESE RULES.

The Court may *sua sponte* or on motion change, dispense with, or waive any of these Rules if the interests of justice so require.

LR IA 4-1. SANCTIONS.

The Court may, after notice and opportunity to be heard, impose any and all appropriate sanctions on an attorney or party appearing in *pro se* who, without just cause:

- (a) Fails to appear when required for pretrial conference, argument on motion, or trial;
- (b) Fails to prepare for a presentation to the Court;
- (c) Fails to comply with these Rules; or,
- (d) Fails to comply with any order of this Court.

LR IA 5-1. EFFECTIVE DATE.

These Rules, as amended, shall take effect on August 1, 2011, and govern all proceedings in actions pending on or after that date.

LR IA 6-1. COURT STRUCTURE; DIVISIONS OF THE DISTRICT OF NEVADA.

The State of Nevada constitutes one judicial district. The district has two unofficial divisions:

Southern Division: Clark, Esmeralda, Lincoln and Nye Counties.

Northern Division: Carson City, Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe and White Pine Counties.

LR IA 7-1. OFFICES OF THE CLERK.

The Clerk of the Court (Clerk) maintains offices at Las Vegas for the Southern Division of the Court and at Reno for the Northern Division of the Court. The Clerk's offices are open to the public from 9:00 a.m. until 4:00 p.m., Monday through Friday, legal holidays excepted. The Clerk may institute administrative procedures for filing pleadings and papers, and in an emergency shall, on request, transact public business at other times.

LR IA 8-1. PLACE OF FILING.

- (a) Civil actions shall be filed in the Clerk's office for the division of the Court in which the action allegedly arose. However, in civil rights actions filed by inmates proceeding *pro se*, the action shall be filed in the division in which the inmate is held when the complaint is submitted for filing or, if the inmate is not held in this District, then in the division in which the events giving rise to a cause of action are alleged to have occurred.
- (b) In criminal cases where the alleged offense was committed in more than one division, the government may elect either division for filing the indictment or information.
- (c) The Court may, in its discretion, direct that proceedings or trial take place in the division other than the division where filed. Unless otherwise ordered, however, all filings shall be made and proceedings had in the division of the Court in which the case was originally filed.

LR IA 9-1. INSPECTION, CONDUCT IN COURTROOM AND ENVIRONS, AND FORFEITURE.

- (a) All persons entering any United States federal building and courthouse in this District and all items carried by such persons shall be subject to appropriate screening and checking by any United States Marshal or security officer of the General Services Administration. Entrance to the United States federal building and courthouse will be denied any person who refuses to cooperate in such screening or checking.
- (b) All wireless communication devices shall be turned off while in any United States courtroom or hearing room in this District. Wireless communication devices may be

used in a United States courtroom or hearing room in this District with the express permission of the judge presiding in that courtroom or hearing room.

Wireless communication devices are electronic devices that are capable of either sending or receiving data such as sounds, text messages, or images. Such devices shall include, but are not limited to, mobile phones, laptop computers and personal digital assistants (PDAs).

- (c) Cameras, recording, reproducing and transmitting equipment, which are not part of a wireless communication device as defined in (b) above, are prohibited in all United States courthouses in this District unless otherwise authorized. Cameras, recording, reproducing and transmitting equipment, which are part of a wireless communication device, shall not be used in any courtroom or hearing room without the express approval of the presiding judge or officer. Failure to abide by this Rule may result in the forfeiture of any such device.
- (d) Unless provided by special order of the Court, no person shall carry or possess firearms or deadly weapons in any United States courthouse in this District without the express approval of the presiding judge. The United States Marshal, any deputy marshal, and officers of the Federal Protective Service shall be exempt from this provision.
- (e) Video and audio recording, transmitting and broadcasting of federal court proceedings conducted in open Court is permissible, if it is authorized by the presiding judge and is in compliance with applicable statutes, procedural rules, and Judicial Conference and Ninth Circuit Rules and guidelines.

LR IA 10-1. ADMISSION TO THE BAR OF THIS COURT; ELIGIBILITY AND PROCEDURE.

- (a) Practice of Attorneys Admitted in Nevada and Maintaining Nevada Offices.
 - (1) In order to practice before the District or Bankruptcy Court, an attorney must be admitted to practice under the following provisions. An attorney who has been admitted to practice before the Supreme Court of Nevada, and who is of good moral and professional character, is eligible for admission to the Bar of this Court.
 - (2) A member of the Bar of this Court shall certify in a written motion on a form provided by the Clerk that the petitioner is a member of the State Bar of Nevada and of good moral and professional character.
 - (3) The applicant shall subscribe the roll of attorneys and pay the Clerk the admission fee fixed by the Judicial Conference of the United States, plus such additional amounts as the Court shall fix from time to time.
 - (4) The applicant must take the following oath or affirmation after which the Clerk shall issue a certificate of admission to the applicant:

“I solemnly swear (or affirm) that I will support the Constitution of the

United States; that I will bear true faith and allegiance to the Government of the United States; that I will maintain the respect due to the Courts of Justice and Judicial Officers, and that I will conduct myself as an attorney and counselor of this Court uprightly, so help me God.”

- (b) Practice of Attorneys Admitted in Nevada, but not Maintaining Nevada Offices.
 - (1) Application of Rule. This Rule applies to an attorney who is admitted to practice in Nevada, but who does not maintain an office in Nevada. A post office box or mail drop location shall not constitute an office under this Rule.
 - (2) Association or designation for service. Upon filing any pleadings or other papers in this Court, an attorney who is subject to this Rule shall either associate a licensed Nevada attorney maintaining an office in Nevada or designate a licensed Nevada attorney maintaining an office in Nevada, upon whom all papers, process, or pleadings required to be served upon the attorney may be so served, including service by hand-delivery or facsimile transmission. The name and office address of the associated or designated attorney shall be endorsed upon the pleadings or paper filed in the Courts of this State, and service upon the associated or designated attorney shall be deemed to be serviced upon the attorney filing the pleading or other paper.

LR IA 10-2. ADMISSION TO PRACTICE IN A PARTICULAR CASE.

- (a) An attorney who is not a member of the Bar of this Court, who has been retained or appointed to appear in a particular case, may do so only with permission of this Court. Application for such permission shall be by verified petition on the form furnished by the Clerk. The attorney may submit the verified petition if the following conditions are met:
 - (1) The attorney is not a member of the State Bar of Nevada;
 - (2) The attorney is not a resident of the State of Nevada;
 - (3) The attorney is not regularly employed in the State of Nevada;
 - (4) The attorney is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and,
 - (5) The attorney associates an active member in good standing of the State Bar of Nevada as counsel of record in the action or proceeding.
- (b) The verified petition required by the Rule shall be on a form furnished by the Clerk. The verified petition shall be accompanied by the admission fee set by the Court. The petition shall state:
 - (1) The attorney’s office address;

- (2) The court or courts to which the attorney has been admitted to practice and the date of such admission;
 - (3) That the attorney is a member in good standing of such court or courts, along with an attached certificate from the state bar or from the clerk of the supreme court or highest admitting court of each state, territory, or insular possession of the United States in which the applicant has been admitted to practice law certifying the applicant's membership is in good standing;
 - (4) That the attorney is not currently suspended or disbarred in any court;
 - (5) Whether the attorney is currently subject to any disciplinary proceedings by any organization with authority to discipline attorneys at law;
 - (6) Whether the attorney has ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law;
 - (7) The title and case number of any matter, including arbitrations, mediations, or matters before an administrative agency or governmental body, in which the attorney has filed an application to appear as counsel under this Rule in the preceding three (3) years, the date of each application, and whether it was granted;
 - (8) That the attorney certifies that he or she shall be subject to the jurisdiction of the courts and disciplinary boards of this State with respect to the law of this State governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; and,
 - (9) That the attorney understands and shall comply with the standards of professional conduct of the State of Nevada and all other standards of professional conduct required of members of the Bar of this Court.
- (c) An attorney whose verified petition is pending shall take no action in this case beyond filing the first pleading or motion. The first pleading or motion shall state that the attorney "has complied with LR IA 10-2" or "will comply with LR IA 10-2 within ___ days." Until permission is granted, the Clerk shall not issue summons or other writ.
- (d) Unless otherwise ordered by the Court, any attorney who is granted permission to practice pursuant to this Rule shall associate a resident member of the Bar of this Court as co-counsel. The attorneys shall confirm the association by filing a completed designation of resident counsel on the form provided by the Clerk. The resident attorney must have authority to sign binding stipulations. The time for performing any act under these Rules or the Federal Rules of Civil, Criminal and Bankruptcy Procedure shall run from the date of service on the resident attorney. Unless otherwise ordered by the Court, such resident attorney need not personally attend all proceedings in Court.

- (e) In civil cases, attorneys shall have forty-five (45) days after their first appearance to comply with all the provisions of this Rule.
- (f) In criminal cases, attorneys have fourteen (14) days after their first appearance to comply with all the provisions of this Rule. In addition, the defendant(s) shall execute designation(s) of retained counsel, which shall also bear the signature of both the attorney appearing *pro hac vice* and the associated resident attorney. Such designation(s) shall be filed and served within the same fourteen (14) day period.
- (g) In bankruptcy cases, attorneys shall have fourteen (14) days after their first appearance to comply with all of the provisions of this Rule.
- (h) The granting or denial of a petition to practice under this Rule is discretionary. The Court may revoke the authority of the person permitted to appear as counsel under this Rule to make continued appearances under this Rule. Absent special circumstances, repeated appearances by any attorney under this Rule shall be cause for denial of the verified petition of such attorney.
 - (1) It is presumed in civil and criminal cases, absent special circumstances, and only upon showing of good cause, that more than five (5) appearances by any attorney granted under this Rule in a three (3) year period is excessive use of this Rule. It is presumed in bankruptcy cases, absent special circumstances, and only upon showing of good cause, that more than ten (10) appearances by any attorney granted under this Rule in a one (1) year period is excessive use of this Rule.
 - (2) The attorney shall have the burden to establish special circumstances and good cause for an appearance in excess of limitations set forth in subsection (h)(1) of this Rule. The attorney shall set forth the special circumstances and good cause in an affidavit attached to the original verified petition.
- (i) The petitioner shall attach to the verified petition a certified list of the prior appearances of petitioner in this District.
- (j) When all the provisions of this Rule are satisfied, the Court may enter an order approving the verified petition for permission to practice in the particular case. Such permission is limited to the particular case and no certificate shall be issued by the Clerk.
- (k) Failure to comply timely with this Rule may result in the striking of any and all documents previously filed by such attorney, the imposition of other sanctions, or both.

LR IA 10-3. GOVERNMENT ATTORNEYS.

Unless otherwise ordered by the Court, any nonresident attorney who is a member in good standing of the highest court of any state, commonwealth, territory or the District of Columbia, who is employed by the United States as an attorney and, while being so employed, has occasion to appear in this Court on behalf of the United States, shall, upon motion of the United States Attorney or the Federal Public

Defender for this District or one of the assistants, be permitted to practice before this Court during the period of such employment.

LR IA 10-4. LIMITED ADMISSION OF *EMERITUS PRO BONO* ATTORNEYS

- (a) In bankruptcy cases, an inactive member of the State Bar of Nevada in good standing, or any active or inactive attorney in good standing in any other jurisdiction, who is certified as an *emeritus pro bono* attorney under Supreme Court Rule 49.2 to assist low-income clients through an approved Emeritus Attorney Pro Bono Program provider as defined in S.C.R. 49.2, may be admitted to practice before the Bankruptcy Court and for *pro bono* matters only during the period of that attorney’s association with the provider, subject to the conditions of this Rule, and unless otherwise ordered by the Court.
- (b) Application for admission to practice pursuant to this Rule must be filed with the Clerk and be accompanied by:
 - (1) Proof of the attorney’s certification as an *emeritus pro bono* attorney under S.C.R. 49.2; and,
 - (2) A statement signed by an authorized representative of the approved Emeritus Attorney Pro Bono Program provider that the attorney will be providing legal services under the auspices of the provider.
- (c) An *emeritus pro bono* attorney must file proof with the Clerk that the attorney’s certification as an *emeritus* attorney has been renewed under S.C.R. 49.2, no later than thirty (30) days after the date of the renewal.
- (d) Permission to practice pursuant to this Rule is limited to representing the clients of the “Emeritus Attorney Pro Bono Program” provider that sponsored the *emeritus* attorney’s admission under subsection (b)(2) of this Rule. The attorney may not receive personal compensation for the representation.
- (e) Admission to practice under this Rule shall terminate when:
 - (1) The attorney ceases to be certified as an *emeritus pro bono* attorney under S.C.R. 49.2;
 - (2) The *emeritus pro bono* attorney stops providing services for the provider that sponsored the attorney’s admission under subsection (b)(2); or,
 - (3) The provider that sponsored the attorney’s admission under subsection (b)(2) is no longer an approved “Emeritus Attorney Pro Bono Program” provider under S.C.R. 49.2.

If any of these events occur, a statement to that effect must be filed within five (5) days by the provider that sponsored the attorney’s admission under subsection (b)(2). The statement must be filed with both the Clerk of this Court and with the Clerk of the Bankruptcy Court.

- (f) An approved “Emeritus Attorney Pro Bono Program” provider is entitled to receive all court-awarded attorney fees arising from the *emeritus pro bono* attorney’s representation.
- (g) A certificate to practice shall not be issued by the Clerk and no admission fee is required.
- (h) An approved “Emeritus Attorney Pro Bono Program” provider shall be subject to all Local Rules to which attorneys appearing before the Bankruptcy Court are subject, including, without limitation, all Rules related to practicing and disciplining.

LR IA 10-5. LAW STUDENTS.

- (a) Upon leave of Court, an eligible law student acting under the supervision of a member of the Bar of this Court may appear before a United States district judge, bankruptcy judge, magistrate judge or in a meeting in the United States Bankruptcy Court pursuant to 11 U.S.C. § 341(a) on behalf of any client, including federal, state or local government bodies, if the client has filed written consent with the Court.
- (b) An eligible student must:
 - (1) Be enrolled and in good standing in a law school approved by the Court and have completed one-half (½) of the legal studies required for graduation or be a recent graduate of such school awaiting the results of a state bar examination;
 - (2) Have knowledge of the applicable Federal Rules of Procedure and Evidence, the Model Rules of Professional Conduct as set forth LR IA 10-7(a), and all other Rules of this Court;
 - (3) Be certified by the dean of the student’s law school as adequately trained to fulfill all responsibilities as a law student intern to the Court;
 - (4) Not accept compensation for any legal services directly from a client; and,
 - (5) File with the Clerk all documents required to comply with this Rule.
- (c) The supervising attorney shall:
 - (1) Have been admitted to practice before the highest court of any state for two (2) years or longer and be admitted to practice before this Court;
 - (2) Agree in writing to be the supervising attorney;
 - (3) Appear with the student at all oral presentations before the Court;
 - (4) Sign all documents filed with the Court;

- (5) Assume professional responsibility for the student's work in matters before the Court;
 - (6) Assist and counsel the student in preparing matters before the Court;
 - (7) Be responsible to supplement the student's oral or written work so as to ensure proper representation of the client; and,
 - (8) Certify in writing that the student has knowledge of the applicable Federal Rules of Procedures and Evidence, the Model Rules of Professional Conduct as set forth in LR IA 10-7(a), and all other Rules of this Court.
- (d) The dean's certification of the student shall be filed with the Clerk, and unless sooner withdrawn, shall remain in effect until publication of the results of the first bar examination following graduation. The dean may withdraw the certification by written notice to the Court.
- (e) Upon fulfilling the requirements of this Rule, the student may:
- (1) Assist in preparing briefs, motions and other documents pertaining to a case before the Court; or,
 - (2) Appear and make oral presentations before the Court when accompanied by the supervising attorney.
- (f) A student's eligibility to participate in activities under this Rule terminates automatically on the first anniversary of the Court's granting permission for the student's appearance.

LR IA 10-6. APPEARANCES, SUBSTITUTIONS AND WITHDRAWALS.

- (a) A party who has appeared by attorney cannot while so represented appear or act in the case. An attorney who has appeared for a party shall be recognized by the Court and all the parties as having control of the client's case. The Court in its discretion may hear a party in open Court even though the party is represented by an attorney.
- (b) No attorney may withdraw after appearing in a case except by leave of Court after notice has been served on the affected client and opposing counsel.
- (c) Any stipulation to substitute attorneys shall be by leave of Court and shall bear the signatures of the attorneys and of the client represented. Except where accompanied by a request for relief under subsection (e) of this Rule, the signature of an attorney to a stipulation to substitute such attorney into a case constitutes an express acceptance of all dates then set for pretrial proceedings, for trial or hearing, by the discovery plan, or in any Court order.
- (d) Discharge, withdrawal or substitution of an attorney shall not alone be reason for delay of pretrial proceedings, discovery, the trial, or any hearing in the case.

- (e) Except for good cause shown, no withdrawal or substitution shall be approved if delay of discovery, the trial or any hearing in the case would result. Where delay would result, the papers seeking leave of Court for the withdrawal or substitution must request specific relief from the scheduled trial or hearing. If a trial setting has been made, an additional copy of the moving papers shall be provided to the Clerk for immediate delivery to the assigned district judge, bankruptcy judge or magistrate judge.

LR IA 10-7. ETHICAL STANDARDS, DISBARMENT, SUSPENSION AND DISCIPLINE.

- (a) Model Rules. An attorney admitted to practice pursuant to any of these Rules shall adhere to the standards of conduct prescribed by the Model Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Nevada, except as such may be modified by this Court. Any attorney who violates these standards of conduct may be disbarred, suspended from practice before this Court for a definitive time, reprimanded or subjected to such other discipline as the Court deems proper. This subsection does not restrict the Court's contempt power.
- (b) Reciprocal Discipline.
 - (1) Upon receipt of reliable information that a member of the Bar of this Court or any attorney appearing *pro hac vice* (a) has been suspended or disbarred from the practice of law by the order of any United States Court, or by the Bar, Supreme Court of Nevada, or other governing authority of any state, territory or possession, or the District of Columbia, or (b) has resigned from the Bar of any United States Court or of any state, territory or possession, or the District of Columbia, while an investigation or proceedings for suspension or disbarment was pending, or (c) has been convicted of a crime, the elements or underlying facts of which may affect the attorney's fitness to practice law, this Court shall issue an order to show cause why this Court should not impose an order of suspension or disbarment.

If the attorney files a response stating that imposition of an order of suspension or disbarment from this Court is not contested, or if the attorney does not respond to the order to show cause within the time specified, then the Court shall issue an order of suspension or disbarment. The Chief Judge shall file the order.

If the attorney files a written response to the order to show cause within the time specified stating that the entry of an order of suspension or disbarment is contested, then the Chief Judge or other district judge who may be assigned shall determine whether an order of suspension or disbarment shall be entered. Where an attorney has been suspended or disbarred by another bar, or has resigned from another bar while the disciplinary proceedings were pending, the attorney in the response to the order to show cause must set forth facts establishing one or more of the following by clear and convincing evidence: (a) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (b) there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction

that the Court should not accept as final the other jurisdiction's conclusion(s) on that subject; (c) imposition of like discipline would result in a grave injustice; or, (d) other substantial reasons exist so as to justify not accepting the other jurisdiction's conclusion(s). In addition, at the time the response is filed, the attorney must produce a certified copy of the entire record from the other jurisdiction or bear the burden of persuading the Court that less than the entire record will suffice.

- (2) Should an attorney admitted to practice pursuant to any of these Rules be transferred to disability inactive status on the grounds of incompetency or disability by any court of the United States, the Supreme Court of Nevada, or the highest court of another state, commonwealth, territory, or the District of Columbia, an order shall be entered requiring the attorney to show cause why this Court should not enter an order placing the attorney on disability inactive status.
 - (3) An attorney who is the subject of an order of disbarment, suspension or transfer to disability inactive status may petition for reinstatement to practice before this Court or for modification of such order as may be supported by good cause and the interests of justice.
- (c) Upon receipt by the Clerk of a certified copy of an order or judgment of suspension, disbarment, transfer to disability inactive status, or of a judicial declaration of incompetency or conviction of a felony or a crime of moral turpitude concerning a member of the Bar of this Court, or any other attorney admitted to practice before this Court, the Clerk shall bring such order to the attention of the Court which shall enter the order provided for in subsections (b)(1) or (2) of this Rule.
 - (d) The Clerk shall distribute copies of any order of suspension, disbarment, transfer to disability inactive status or other disciplinary order entered pursuant to this Rule to the attorney affected, to all the judges in this District, to the Clerk of the Nevada Supreme Court, to the Nevada State Bar Counsel and to the American Bar Association's National Disciplinary Data Bank.
 - (e) On being subjected to professional disciplinary action or convicted of a felony or a crime of moral turpitude in Nevada or in another jurisdiction, an attorney admitted to practice pursuant to any of these Rules shall immediately inform the Clerk in writing of the action.
 - (f) An attorney who, before admission to practice before this Court, or during any period of disbarment, suspension or transfer to disability inactive status from such practice, exercises any of the privileges of an attorney admitted to practice before this Court, or who pretends to be entitled to do so, is guilty of contempt of Court and subjected to appropriate punishment.

LOCAL RULES PART IB – UNITED STATES MAGISTRATE JUDGES

LR IB 1-1. DUTIES UNDER 28 U.S.C. § 636(a).

Each United States magistrate judge in this District is authorized to:

- (a) Exercise all powers and duties conferred or imposed upon magistrate judges by 28 U.S.C. § 636(a);
- (b) Conduct extradition proceedings in accordance with 18 U.S.C. § 3184; and,
- (c) Establish schedules for the payment of fixed sums to be accepted in lieu of appearance and thereby terminate proceedings in petty offense cases. Such schedules may be modified from time to time with the prior approval of the Court.

LR IB 1-2. DISPOSITION OF MISDEMEANOR CASES – 18 U.S.C. § 3401.

A magistrate judge may:

- (a) Try persons accused of, and sentence persons convicted of, misdemeanors committed within this District in accordance with 18 U.S.C. § 3401; and,
- (b) Direct the probation service of the Court to conduct a presentence investigation and render a presentence report in any misdemeanor case.

LR IB 1-3. DETERMINATION OF PRETRIAL MATTERS – 28 U.S.C. § 636(b)(1)(A).

A magistrate judge may hear and finally determine any pretrial matter not specifically enumerated as an exception in 28 U.S.C. § 636(b)(1)(A).

LR IB 1-4. FINDINGS AND RECOMMENDATIONS – 28 U.S.C. § 636(b)(1)(B).

When a district judge refers a motion, petition or application that a magistrate judge may not finally determine in accordance with 28 U.S.C. § 636 (b)(1)(B) to a magistrate judge, the magistrate judge shall review it, conduct any necessary evidentiary or other hearings and file findings and recommendations for disposition by the district judge. Motions subject to such referral include, but are not limited to:

- (a) Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;
- (b) Motions for judgment on the pleadings;
- (c) Motions for summary judgment;
- (d) Motions to permit the maintenance of a class action;
- (e) Motions to dismiss;

- (f) Motions for review of default judgments;
- (g) Motions to dismiss or quash an indictment or information made by a defendant in a criminal case;
- (h) Motions to suppress evidence in a criminal case;
- (i) Applications for post-trial relief made by individuals convicted of criminal offenses;
- (j) Petitions by inmates challenging conditions of confinement; and,
- (k) Internal Revenue Service summons enforcements.

LR IB 1-5. JUDICIAL REVIEW OF ADMINISTRATIVE PROCEEDINGS.

A district judge may refer any civil action seeking judicial review of an administrative proceeding to a magistrate judge. The magistrate judge shall review the matter, conduct any necessary proceedings and file findings and recommendations for disposition by the Court.

LR IB 1-6. HABEAS CORPUS AND CRIMINAL CASES UNDER 28 U.S.C. §§ 636(b)(1)(B), 2241, 2254 and 2255.

A magistrate judge may perform any or all of the duties imposed upon a district judge by the Rules governing proceedings under 28 U.S.C. §§ 636(b)(1)(B), 2241, 2254 and 2255, except in death penalty cases. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearings or other appropriate proceedings, and shall file findings of fact and recommendations for disposition by the district judge.

LR IB 1-7. SPECIAL MASTER REFERENCES.

A magistrate judge may be designated by a district judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53.

LR IB 1-8. (RESERVED).

LR IB 1-9. OTHER DUTIES.

A magistrate judge is also authorized to:

- (a) Exercise general supervision of civil and criminal calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the district judges;
- (b) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil and criminal cases;

- (c) Preside over all initial appearances, preliminary examinations, and arraignments before the District Court, appoint counsel, accept pleas of not guilty, establish the times within which all pretrial motions will be filed and responded to, and fix trial dates. If a plea of guilty or *nolo contendere* is offered, the matter will be forthwith calendared before a district judge;
- (d) Preside when the Grand Jury reports and accepts for the Court any indictments returned, issue warrants and summonses as appropriate, establish the terms of release pending trial, and continue the same if previously fixed, or modify the terms of release;
- (e) Accept waivers of indictment pursuant to Fed. R. Crim. P. 7(b);
- (f) Accept petit jury verdicts in civil and criminal cases at the request of a district judge and fix dates for imposition of sentence;
- (g) Issue subpoenas, writs of *habeas corpus ad testificandum* or *prosequendum*, and other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;
- (h) Order the exoneration or forfeiture of bonds;
- (i) Fix the terms of release pending sentencing and appeal;
- (j) Have and exercise the powers of a district judge with respect to the issuance of warrants of removal and in the implementation and execution of the provisions of Fed. R. Crim. P. 40;
- (k) Conduct examinations of judgment debtors under Fed. R. Civ. P. 69;
- (l) Issue orders authorizing the installation and use of devices to register telephone numbers dialed or pulsed or directing communication common carriers, as defined in 18 U.S.C. § 2510(10), to furnish law enforcement agencies with information, facilities and technical assistance necessary to accomplish the installation and use of the registering device;
- (m) Decide petitions to enforce administrative summonses;
- (n) Preside over proceedings to enforce civil judgments;
- (o) Issue orders authorizing entries to effect levies;
- (p) Issue administrative inspection warrants;
- (q) Serve as a commissioner in land condemnation cases;
- (r) Conduct international prisoner transfer hearings;
- (s) Conduct hearings to determine mental competency pursuant to 18 U.S.C. § 4242,

et seq.;

- (t) Select petit juries in criminal and civil cases with the consent of the parties; and,
- (u) Perform any additional duty not inconsistent with the Constitution and laws of the United States.

LR IB 2-1. CONDUCT OF CIVIL TRIALS BY UNITED STATES MAGISTRATE JUDGES; CONDUCT OF TRIALS AND DISPOSITION OF CIVIL CASES UPON CONSENT OF THE PARTIES – 28 U.S.C. § 636(c).

The magistrate judges of this District are designated to exercise all jurisdiction in civil jury and non-jury cases pursuant to 28 U.S.C. § 636(c). Upon the written consent of the parties and a reference of a civil case by the district judge to a magistrate judge, a magistrate judge may conduct any or 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). In conducting such proceedings a magistrate judge may hear and determine any and all pretrial and post-trial motions filed by the parties, including case-dispositive motions.

LR IB 2-2. SPECIAL PROVISIONS FOR THE DISPOSITION OF CIVIL CASES BY A UNITED STATES MAGISTRATE JUDGE ON CONSENT OF THE PARTIES – 28 U.S.C. § 636(c).

- (a) Except as otherwise ordered by the Court, the Clerk shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be served by the Clerk upon all parties at the time of the filing of the scheduling order required by LR 26-1(b). Additional notices may be furnished to the parties at later stages of the proceedings and may be included with pretrial notices and instructions.
- (b) After consent forms have been executed and submitted by all parties, the Clerk shall transmit the case and the consent forms to the district judge to whom the case has been assigned for consideration of referral of the case to a magistrate judge. If the case is referred to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the Clerk to enter a final judgment in the same manner as if a district judge had presided.
- (c) Parties may consent to a trial by a magistrate judge up to the date of trial even though they may have previously declined to sign such a consent.
- (d) Parties may consent to have a magistrate judge hear all or any portions of a case pending before the District Court.

LR IB 3-1. REVIEW AND APPEAL – UNITED STATES MAGISTRATE JUDGE; REVIEW OF MATTERS WHICH MAY BE FINALLY DETERMINED BY A MAGISTRATE JUDGE IN CIVIL AND CRIMINAL CASES – 28 U.S.C. § 636 (b)(1)(A).

- (a) A district judge may reconsider any pretrial matter referred to a magistrate judge in a civil or criminal case pursuant to LR IB 1-3, where it has been shown that the magistrate

judge's ruling is clearly erroneous or contrary to law. Any party wishing to object to the ruling of the magistrate judge on a pretrial matter shall, within fourteen (14) days from the date of service of the magistrate judge's ruling, file and serve specific written objections to the ruling together with points and authorities in support thereof. The opposing party shall within fourteen (14) days thereafter file and serve points and authorities opposing the objections. Points and authorities filed in support of, or in opposition to, the objections are subject to the page limits set forth in LR 7-4 or LCR 47-7.

- (b) The district judge may affirm, reverse, or modify, in whole or in part, the ruling made by the magistrate judge. The district judge may also remand the same to the magistrate judge with instructions.

LR IB 3-2. REVIEW OF MATTERS WHICH MAY NOT BE FINALLY DETERMINED BY A UNITED STATES MAGISTRATE JUDGE IN CIVIL AND CRIMINAL CASES, ADMINISTRATIVE PROCEEDINGS, PROBATION REVOCATION PROCEEDINGS - 28 U.S.C. § 636(b)(1)(B).

- (a) Any party wishing to object to the findings and recommendations of a magistrate judge made pursuant to LR IB 1-4, IB 1-5, IB 1-6 and IB 1-7 shall, within fourteen (14) days from the date of service of the findings and recommendations, file and serve specific written objections together with points and authorities in support thereof. The opposing party shall within fourteen (14) days thereafter file and serve points and authorities opposing the objections. Points and authorities filed in support of, or in opposition to, the objections are subject to the page limits set forth in LR 7-4 or LCR 47-7.
- (b) The district judge shall make a *de novo* determination of those portions of the specified findings or recommendations to which objections have been made. The district judge may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district judge may also receive further evidence or remand the same to the magistrate judge with instructions.

LR IB 3-3. APPEAL FROM JUDGEMENTS IN MISDEMEANOR CASES – 18 U.S.C. § 3402.

A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case to a district judge by filing a notice of appeal within fourteen (14) days after entry of the judgment and by serving a copy of the notice upon the United States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals.

LR IB 3-4. APPEAL FROM JUDGMENTS IN CIVIL CASES DISPOSED OF ON CONSENT OF THE PARTIES – 28 U.S.C. § 636(c).

Upon the entry of judgment in any civil case disposed of by a magistrate judge on consent of the parties under authority of 28 U.S.C. § 636(c) and LR IB 2-1 supra, an appeal by an aggrieved party shall be taken directly to the Court of Appeals in the same manner as an appeal from any other judgment of this Court.

LR IB 3-5. APPEAL FROM UNITED STATES MAGISTRATE JUDGE'S RELEASE AND DETENTION ORDERS.

A motion under 18 U.S.C. § 3145(a) or (b) seeking revocation or amendment of a magistrate judge's release or detention order shall be entitled "Appeal from Magistrate Judge's Release (or Detention) Order."

LOCAL RULES PART II - CIVIL PRACTICE

LR 3-1. CIVIL COVER SHEET.

Except in actions initiated by inmates appearing in *pro se*, every civil action tendered for filing in this Court shall be accompanied by a properly completed civil cover sheet.

LR 4-1. SERVICE AND ISSUANCE OF PROCESS.

- (a) The United States Marshal is authorized to serve summons and civil process on behalf of the United States.
- (b) In those cases where service of process is authorized and sought pursuant to state and/or international procedure, counsel for the party seeking such service shall furnish the Clerk with all forms and papers needed to comply with the requirements of such practice.

LR 5-1. PROOF OF SERVICE.

- (a) All papers required or permitted to be served shall have attached, when presented for filing, a written proof of service. The proof shall show the day and manner of service and the name of the person served. Proof of service may be by written acknowledgment of service or certificate of the person who made service.
- (b) The Court may refuse to take action on any paper until a proof of service is filed. Either on its own initiative or on a motion by a party, the Court may strike the unserved paper or vacate any decision made on the unserved paper.
- (c) Failure to make the proof of service required by this Rule does not affect the validity of the service. Unless material prejudice would result, the Court may at any time allow the proof of service to be amended or supplied.

LR 5-2. FACSIMILE FILING.

Papers may be filed with the Clerk by means of telephone facsimile machine ("fax") only in cases involving the death penalty as hereinafter provided:

- (a) Documents that relate to stays of execution in death penalty cases may be transmitted directly to the fax machines in the Clerk's offices in Reno or Las Vegas for filing by the Clerk when counsel considers this will serve the interests of their clients.
- (b) Counsel must notify the Clerk before transmitting any document by fax. On receiving the transmitted document, the Clerk shall make the number of copies required and file the photocopies. Any document transmitted directly to the Court by fax must show service on all other parties by fax or hand delivery.

- (c) When a document has been transmitted by fax and filed pursuant to this Rule, counsel must file the original document and accompanying proof of service with the Clerk within seven (7) days of the date of the fax transmission.

LR 5-3. FILING OF DOCUMENTS BY ELECTRONIC MEANS.

Documents may be filed and signed by electronic means to the extent and in the manner authorized by Special Order of the Court. A document filed by electronic means in compliance with this Local Rule constitutes a written document for the purposes of applying these Local Rules and the Federal Rules of Civil Procedure.

LR 5-4. SERVICE OF DOCUMENTS BY ELECTRONIC MEANS.

Documents may be served by electronic means to the extent and in the manner authorized by further Special Order of the Court. Transmission of the Notice of Electronic Filing (NEF) constitutes service of the filed document upon each party in the case who is registered as an electronic case filing user with the Clerk. Any other party or parties shall be served documents according to these Local Rules and the Federal Rules of Civil Procedure.

LR 6-1. REQUESTS FOR CONTINUANCE, EXTENSION OF TIME OR ORDER SHORTENING TIME.

- (a) Every motion requesting a continuance, extension of time, or order shortening time shall be “Filed” by the Clerk and processed as an expedited matter. *Ex parte* motions and stipulations shall be governed by LR 6-2.
- (b) Every motion or stipulation to extend time shall inform the Court of any previous extensions granted and state the reasons for the extension requested. A request made after the expiration of the specified period shall not be granted unless the moving party, attorney, or other person demonstrates that the failure to act was the result of excusable neglect. Immediately below the title of such motion or stipulation there shall also be included a statement indicating whether it is the first, second, third, etc., requested extension, i.e.:

**STIPULATION FOR EXTENSION OF TIME TO FILE MOTIONS
(First Request)**

- (c) The Court may set aside any extension obtained in contravention of this Rule.
- (d) A stipulation or motion seeking to extend the time to file an opposition or final reply to a motion, or to extend the time fixed for hearing a motion, must state in its opening paragraph the filing date of the motion.

LR 6-2. REQUIRED FORM OF ORDER FOR STIPULATIONS AND *EX PARTE* AND UNOPPOSED MOTIONS.

- (a) Any stipulations, *ex parte* or unopposed motions requesting a continuance, extension of time, or order shortening time, and any other stipulation requiring an order shall not initially be “Filed” by the Clerk, but shall be marked “Received.” Every such stipulation

or *ex parte* or unopposed motion shall include an “Order” in the form of a signature block on which the Court or Clerk can endorse approval of the relief sought. This signature block shall not be on a separate page, but shall appear approximately one inch (1”) below the last typewritten matter on the right-hand side of the last page of the stipulation or *ex parte* or unopposed motion, and shall read as follows:

“IT IS SO ORDERED:

[UNITED STATES DISTRICT JUDGE,
UNITED STATES MAGISTRATE JUDGE,
UNITED STATES DISTRICT COURT CLERK]

(whichever is appropriate)

DATED: _____”

- (b) Upon approval, amendment or denial, the stipulation or *ex parte* or unopposed motion shall be filed and processed by the Clerk in such manner as may be necessary.

LR 7-1. STIPULATIONS.

- (a) Stipulations relating to proceedings before the Court, except stipulations made in open Court that are noted in the Clerk’s minutes or the court reporter’s notes, shall be in writing, signed by the parties or counsel for the parties to be bound, and served on all parties who have appeared.
- (b) No stipulations relating to proceedings before the Court except those set forth in Fed. R. Civ. P. 29 shall be effective until approved by the Court. Any stipulation that would interfere with any time set for completion of discovery, for hearing of a motion, or for trial, may be made only with the approval of the Court.
- (c) A dispositive stipulation, which has been signed by fewer than all the parties or their counsel, shall be treated as a motion.
- (d) The Clerk has authority to approve the stipulations described in LR 77-1.

LR 7.1-1. CERTIFICATE AS TO INTERESTED PARTIES.

- (a) Unless otherwise ordered, in all cases except *habeas corpus* cases, counsel for private non-governmental) parties shall identify in the disclosure statement required by Fed. R. Civ. P. 7.1 all persons, associations of persons, firms, partnerships or corporations including parent corporations) which have a direct, pecuniary interest in the outcome of the case.

The Disclosure statement shall include the following certification:

“The undersigned, counsel of record for _____, certifies that the following have an interest in the outcome of this case: (here list the names of all such parties and

identify their connection and interests.) These representations are made to enable judges of the Court to evaluate possible disqualifications or recusal.

Signature, Attorney of Record for ____.”

- (b) If there are no known interested parties other than those participating in the case, a statement to that effect will satisfy this Rule.
- (c) A party must promptly file a supplemental certification upon any change in the information that this Rule requires.

LR 7-2. MOTIONS.

- (a) All motions, unless made during a hearing or trial, shall be in writing and served on all other parties who have appeared. The motion shall be supported by a memorandum of points and authorities.
- (b) Unless otherwise ordered by the Court, points and authorities in response shall be filed and served by an opposing party fourteen (14) days after service of the motion.
- (c) Unless otherwise ordered by the Court, reply points and authorities shall be filed and served by the moving party seven (7) days after service of the response.
- (d) The failure of a moving party to file points and authorities in support of the motion shall constitute a consent to the denial of the motion. The failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion.
- (e) The time for filing of a motion of summary judgment shall be governed by Federal Rules of Civil Procedure 56(b). A party opposing the motion must file a response within twenty-one (21) days after the motion is served or a responsive pleading is due, whichever is later. The movant may file a reply within fourteen (14) days after the response is served.
- (f) Any proposed order prepared by counsel at the Court’s request shall be served on all parties who have appeared in the action prior to submitting the proposed order to the Court.

LR 7-2.1 NOTICING THE COURT ON RELATED CASES.

Counsel who has reason to believe that an action on file or about to be filed is related to another action on file (whether active or terminated) shall file in each action and serve on all parties in each action a notice of related cases. This notice shall set forth the title and number of each possibly related action, together with a brief statement of their relationship and the reasons why assignment to a single district judge and/or magistrate judge is desirable.

An action may be considered to be related to another action when:

- (a) Both actions involve the same parties and are based on the same or similar claim;
- (b) Both actions involved the same property, transaction or event;
- (c) Both actions involve similar questions of fact and the same question of law and their assignment to the same district judge and/or magistrate judge is likely to effect a substantial savings of judicial effort, either because the same result should follow in both actions or otherwise; or,
- (d) For any other reason, it would entail substantial duplication of labor if the actions were heard by different district judges or magistrate judges. The assigned judges will make a determination regarding the consolidation of the actions.

LR 7-3. CITATIONS OF AUTHORITY.

- (a) References to an act of Congress shall include the United States Code citation, if available. When a federal regulation is cited, the Code of Federal Regulations' title, section, page and year shall be given.
- (b) When a Supreme Court decision is cited, the citation to the United States Reports shall be given. When a decision of a court of appeals, a district court, or other federal court has been reported in the Federal Reporter System, that citation shall be given. When a decision of a state appellate court has been reported in the West's National Reporter System, that citation shall be given. All citations shall include the specific page(s) upon which the pertinent language appears.
- (c) Electronically filed documents may contain hyperlinks to other portions of the same document and to a location on the Internet that contains a source document for a citation.
 - (1) Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document. The submitting party is responsible for the availability and functionality of any hyperlink.
 - (2) Neither a hyperlink nor any site to which it refers, shall be considered part of the official record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document. If a party wishes to make any hyperlinked material part of the record, the party must attach the material as an exhibit.
 - (3) The Court neither endorses nor accepts responsibility for any product, organization or content at any hyperlinked site, or at any site to which that site may be linked.

LR 7-4. LIMITATION ON LENGTH OF BRIEFS AND POINTS AND AUTHORITIES; REQUIREMENT FOR INDEX AND TABLE OF AUTHORITIES.

Unless otherwise ordered by the Court, pretrial and post-trial briefs and points and authorities in

support of, or in response to, motions shall be limited to thirty (30) pages including the motion but excluding exhibits. Reply briefs and points and authorities shall be limited to twenty (20) pages, excluding exhibits. Where the Court enters an order permitting a longer brief or points and authorities, the papers shall include a table of contents and table of authorities.

LR 7-5. EX PARTE AND EMERGENCY MOTIONS.

- (a) *Ex Parte* Definition.
An *ex parte* motion or application is a motion or application that is filed with the Court, but is not served upon the opposing or other parties.
- (b) All *ex parte* motions, applications or requests shall contain a statement showing good cause why the matter was submitted to the Court without notice to all parties.
- (c) Motions, applications or requests may be submitted *ex parte* only for compelling reasons, and not for unopposed or emergency motions.
- (d) Written requests for judicial assistance in resolving an emergency dispute shall be entitled “Emergency Motion” and be accompanied by an affidavit setting forth:
 - (1) The nature of the emergency;
 - (2) The office addresses and telephone numbers of movant and all affected parties; and,
 - (3) A statement of movant certifying that, after personal consultation and sincere effort to do so, movant has been unable to resolve the matter without Court action. The statement also must state when and how the other affected party was notified of the motion or, if the other party was not notified, why it was not practicable to do so. If the nature of the emergency precludes such consultation with the other party, the statement shall include a detailed description of the emergency, so that the Court can evaluate whether consultation truly was precluded. It shall be within the sole discretion of the Court to determine whether any such matter is, in fact, an emergency.

LR 7-6. EX PARTE COMMUNICATIONS.

- (a) Neither party nor counsel for any party shall make an *ex parte* communication with the Court except as specifically permitted by these Rules.
- (b) Any unrepresented party or counsel may send a letter to the Court at the expiration of sixty (60) days after any matter has been, or should have been, fully briefed if the Court has not entered its written ruling. If such a letter has been sent and a written ruling still has not been entered one hundred twenty (120) days after the matter has been or should have been fully briefed, any unrepresented party or counsel may send a letter to the Chief Judge, who shall inquire of the judge about the status of the matter.

)))
RICHARD ROE,)

Defendant.)

- (d) In the space to the right of center, there shall be inserted the docket number, which shall include a designation of the nature of the case (“CV” for civil), the division of the Court (“2 for Southern and “3” for Northern), and, except for the original pleading, the case number and the initials of the presiding district judge followed in parentheses by the initials of the magistrate judge if one has been assigned. This information shall be separated as follows: 3:05-CV-115-HDM-(RAM).
- (e) Immediately below the caption and the docket number there shall be inserted the name of the paper and whenever there is more than one defendant a designation of the parties affected by it, e.g., Defendant Richard Roe’s Motion for Disclosure of Confidential Informant.

LR 10-3. EXHIBITS.

- (a) Exhibits attached to documents filed with or submitted to the Court in paper form shall be tabbed with an exhibit number or letter at the bottom or side of the document. Exhibits need not be typewritten and may be copies, but must be clearly legible and not unnecessarily voluminous.
- (b) No more than 100 pages of exhibits may be attached to documents filed or submitted to the Court in paper form. Exhibits in excess of 100 pages shall be submitted in a separately bound appendix. Where an appendix exceeds 250 pages, the exhibits shall be filed in multiple volumes, with each volume containing no more than 250 pages. The appendix shall be bound on the left and must include a table of contents identifying each exhibit and, if applicable, the volume number.
- (c) Oversized exhibits shall be reduced to eight-and-one-half by eleven inches (8 ½” x 11”) unless such reduction would destroy legibility or authenticity. An oversized exhibit that cannot be reduced shall be filed separately with a captioned cover sheet identifying the exhibit and the document(s) to which it relates.
- (d) Copies of cases, statutes or other legal authority shall not be attached as exhibits or made part of an appendix.

LR 10-4. COPIES.

Counsel or persons appearing in *pro se* who wish to receive a file-stamped copy of any pleading or other paper must submit one (1) additional copy and if by mail, a self-addressed, postage paid envelope, except that persons granted leave to proceed *in forma pauperis* need not submit a self-addressed, postage paid envelope.

LR 10-5. IN CAMERA SUBMISSIONS AND SEALED DOCUMENTS.

- (a) Papers submitted for *in camera* inspection shall not be filed with the Court, but shall be delivered to chambers of the appropriate judge, and shall include a captioned cover sheet complying with LR 10-2 that indicates the document is being submitted *in camera* and shall be accompanied by an envelope large enough for the *in camera* papers to be sealed in without being folded. A notice of *in camera* submission shall be filed pursuant to the Court's electronic filing procedures.
- (b) Unless otherwise permitted by statute, rule or prior Court order, papers filed with the Court under seal shall be accompanied by a motion for leave to file those documents under seal, and shall be filed in accordance with the Court's electronic filing procedures. If papers are filed under seal pursuant to prior Court order, the papers shall bear the following notation on the first page, directly under the case number: "FILED UNDER SEAL PURSUANT TO COURT ORDER DATED _____." All papers filed under seal will remain sealed until such time as the Court may deny the motion to seal or enter an order to unseal them, or the documents are unsealed pursuant to Local Rule.
- (c) The Court may direct the unsealing of papers filed under seal, with or without redactions, within the Court's discretion, after notice to all parties and an opportunity for them to be heard.

LR 15-1. AMENDED PLEADINGS.

- (a) Unless otherwise permitted by the Court, the moving party shall attach the proposed amended pleading to any motion to amend, so that it will be complete in itself without reference to the superseding pleading. An amended pleading shall include copies of all exhibits referred to in such pleading.
- (b) After the Court has filed its order granting permission to amend, the moving party shall file and serve the amended pleading.

LR 16-1. SCHEDULING AND CASE MANAGEMENT; TIME AND ISSUANCE OF SCHEDULING ORDER.

- (a) In cases where a discovery plan is required, the Court shall approve, disapprove or modify the discovery plan and enter the scheduling order within thirty (30) days from the date the discovery plan is submitted.
- (b) In actions by or on behalf of inmates under 42 U.S.C. § 1983 or the principles of *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and in forfeiture and condemnation actions, no discovery plan is required. In such cases, a scheduling order shall be entered within thirty (30) days after the first defendant answers or otherwise appears.
- (c) The following categories of cases shall be governed by the entry of an order setting forth a briefing schedule and such other matters as may be appropriate:
 - (1) Actions for review on an administrative record;

- (2) Petitions for *habeas corpus* or other proceeding to challenge a criminal conviction of sentence;
 - (3) Actions brought without counsel by a person in custody of the United States, a state, or a state subdivision;
 - (4) Actions to enforce or quash an administrative summons or subpoena;
 - (5) Actions by the United States to recover benefit payments;
 - (6) Actions by the United States to collect on a student loan guaranteed by the United States;
 - (7) Proceedings ancillary to proceedings in other courts; and,
 - (8) Actions to enforce an arbitration award.
- (d) In all cases, the Court may order a conference of all the parties to discuss the provisions of the discovery plan, scheduling order, briefing order setting forth a briefing schedule, and such other matters as the Court deems appropriate.

LR 16.1-1. PATENT PRACTICE.

LR 16.1-1. TITLE.

These are the Local Rules of Practice for Patent Cases before the United States District Court for the District of Nevada.

LR 16.1-2. SCOPE AND CONSTRUCTION.

These Rules apply to all civil actions filed in or transferred to this Court, which allege infringement of a utility patent in a complaint, counterclaim, cross-claim or third party claim, or which seek a declaratory judgment that a patent is not infringed, is invalid or is unenforceable. The Local Rules of Civil Practice for this Court shall also apply to such actions, except to the extent that they are inconsistent with these Patent Local Rules.

LR 16.1-3. MODIFICATION OF RULES.

The Court may apply all or part of these Rules to any case already pending on the effective date of these Rules. The Court may modify the obligations and deadlines of these Rules based on the circumstances of any particular case, including, without limitation, the simplicity or complexity of the case as shown by the patents, claims, products, or parties involved. Modifications may be proposed by one or more parties at the mandatory Fed. R. Civ. P. 26 (f) meeting (“Initial Scheduling Conference”), and then submitted in the stipulated discovery plan and scheduling order. Modifications also may be proposed by request upon a showing of good cause. In advance of submission of any request for a modification, the parties shall meet and confer for purposes of reaching an agreement, if possible, upon any modification.

LR 16.1-4. CONFIDENTIALITY.

Discovery and initial disclosures under these Rules cannot be withheld on the basis of confidentiality absent Court order. Not later than fourteen (14) days after the Initial Scheduling Conference, the parties shall file a proposed protective order. Pending entry of a discovery confidentiality protective order, disclosures deemed confidential by a party shall be produced with a confidential designation (e.g., “Confidential—Attorneys Eyes Only”), and the disclosure of the information will be limited to each party’s outside counsel of record, including employees of outside counsel of record, and used only for litigation purposes.

LR 16.1-5. CERTIFICATION OF DISCLOSURES.

All statements, disclosures, or charts filed or served in accordance with these Rules shall be dated and signed by counsel of record. Counsel’s signature shall attest that, to the best of his or her knowledge, information, and belief, formed after an inquiry that is reasonable under the circumstances, the disclosure is made in good faith and the information contained in the statement, disclosure, or chart is correct at the time it is made, and provides a complete statement of the information presently known to the party. Disclosures required by these Rules are in addition to others required under the Federal Rules of Civil Procedure.

LR 16.1-6. INITIAL DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS.

Within fourteen (14) days after the Initial Scheduling Conference pursuant to Fed. R. Civ. P. 26(f), a party claiming patent infringement shall serve on all parties a “Disclosure of Asserted Claims and Infringement Contentions.” Separately for each opposing party, the Disclosure of Asserted Claims and Infringement Contentions shall contain the following information:

- (a) Each claim of each patent in suit that is allegedly infringed by each opposing party, including for each claim the applicable statutory subsections of 35 U.S.C. § 271 asserted;
- (b) Separately for each asserted claim, each accused apparatus, product, device, process, method, act or other instrumentality (“Accused Instrumentality”) of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus shall be identified by name or model number, if known. Each method or process shall be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;
- (c) A chart identifying specifically where each limitation of each asserted claim is found within each Accused Instrumentality, including for each limitation that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function;
- (d) For each claim which is alleged to have been indirectly infringed, an identification of any direct infringement and a description of the acts of the alleged indirect infringer that contribute to or are inducing that direct infringement. Insofar as alleged direct infringement is based on joint acts of multiple parties, the role of each such party in the direct infringement must be described;

- (e) Whether each limitation of each asserted claim is alleged to be literally present or present under the doctrine of equivalents in the Accused Instrumentality;
- (f) For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled;
- (g) If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that is own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party shall identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim; and,
- (h) If a party claiming patent infringement alleges willful infringement, the basis for such allegation.

16.1-7. DOCUMENT PRODUCTION ACCOMPANYING ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS.

With the Disclosure of Asserted Claims and Infringement Contentions, the party claiming patent infringement shall produce to each opposing party or make available for inspection and copying:

- (a) Documents (e.g., contracts, purchase orders, invoices, advertisements, marketing materials, offer letters, beta site testing agreements, and third party or joint development agreements) sufficient to evidence each discussion with, disclosure to, or other manner of providing to a third party, or sale of or offer to sell, or any public use of, the claimed invention prior to the date of application for the patent in suit. A party's production of a document as required herein shall not constitute an admission that such document evidences or is prior art under 35 U.S.C. § 102;
- (b) All documents evidencing the conception, reduction to practice, design and development of each claimed invention, which were created on or before the date of application for the patent in suit or the priority date identified pursuant to LR 16.1-6(f), whichever is earlier;
- (c) A copy of the file history for each patent in suit;
- (d) All documents evidencing ownership of the patent rights by the party asserting patent infringement; and,
- (e) If a party identifies instrumentalities pursuant to LR 6.1-6(g), documents sufficient to show the operation of any aspects or elements of such instrumentalities the patent claimant relies upon as embodying any asserted claims. The producing party shall separately identify by production number which documents correspond to each category.

LR 16.1-8. INITIAL DISCLOSURE OF NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY CONTENTIONS.

Within forty-five (45) days after service of the Initial Infringement Contentions, each party opposing a claim of patent infringement shall serve on all other parties “Non-Infringement, Invalidity and Unenforceability Contentions” which shall include:

- (a) A detailed description of the factual and legal grounds for contentions of non-infringement, if any, including a clear identification of each limitation of each asserted claim alleged not to be present in the Accused Instrumentality;
- (b) A detailed description of the factual and legal grounds for contentions of invalidity, if any, including an identification of the prior art relied upon and where in the prior art each element of each asserted claim is found. Each prior art patent shall be identified by its number, country of origin, and date of issue. Each prior art publication shall be identified by its title, date of publication, and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) shall be identified by providing the name of the person(s) from whom and the circumstances under which the invention or any part of it was derived. Prior art under 35 U.S.C. § 102(g) shall be identified by providing the identities of the person(s) or entities involved in and the circumstances surrounding the making of the invention before the patent applicant(s);
- (c) Whether each item of prior art anticipates each asserted claim or renders it obvious. If obviousness is alleged, an explanation of why the prior art renders the asserted claim obvious, including an identification of any combinations of prior art showing obviousness;
- (d) A chart identifying where specifically in each alleged item of prior art each limitation of each asserted claim is found, including for each limitation that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in each item of prior art that performs the claimed function;
- (e) A detailed statement of any grounds of invalidity based on 35 U.S.C. § 101, indefiniteness under 35 U.S.C. § 112(2) or failure of enablement, best mode, or written description requirements under 35 U.S.C. § 112(1); and,
- (f) A detailed description of the factual and legal grounds for contentions of unenforceability, if any, including the identification of all dates, conduct, persons involved, and circumstances relied upon for the contention, and where unenforceability is based upon any alleged affirmative misrepresentation or omission of material fact committed before the United States Patent and Trademark Office, the identification of all prior art, dates of the prior art, dates of relevant conduct, and persons responsible for the alleged affirmative misrepresentation or omission of material fact.

LR 16.1-9. DOCUMENT PRODUCTION ACCOMPANYING INVALIDITY CONTENTIONS.

At the time of service of the Non-Infringement, Invalidity, and Unenforceability Contentions, each party defending against patent infringement shall also produce to each opposing party or make available for inspection and copying:

- (a) Source code, specifications, schematics, flow charts, artwork, formulas, or other documentation sufficient to show the operation of any aspects or elements of an Accused Instrumentality identified by the patent claimant in its LR 16.1-6(c) chart; and,
- (b) A copy or sample of the prior art identified pursuant to LR 16.1-6(b), which does not appear in the file history of the patent(s) at issue. To the extent any such item is not in English, an English translation of the portion(s) relied upon shall be produced. The producing party shall separately identify by production number which documents correspond to each category.

LR 16.1-10. RESPONSE TO INITIAL NON-INFRINGEMENT, INVALIDITY AND UNENFORCEABILITY CONTENTIONS.

Within fourteen (14) days after service of the initial Non-Infringement, Invalidity and Unenforceability Contentions, each party claiming patent infringement shall serve on all other parties its response to Non-Infringement, Invalidity and Unenforceability Contentions. The response shall include a detailed description of the factual and legal grounds responding to each contention of non-infringement, invalidity, including whether the party admits to the identity of elements in asserted prior art and, if not, the reason for such denial; and unenforceability.

LR 16.1-11. DISCLOSURE REQUIREMENT IN PATENT CASES FOR DECLARATORY JUDGMENT OF INVALIDITY.

In all cases in which a party files a complaint seeking a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable, each party seeking a declaratory judgment shall serve on all other parties its initial Non-Infringement, Invalidity and Unenforceability Contentions and corresponding LR 16.1-9 document production within fourteen (14) days after the Initial Scheduling Conference. Within forty-five (45) days after service of the initial Non-Infringement, Invalidity and Unenforceability Contentions, each party opposing the declaratory judgment shall serve on all other parties its response to these initial contentions, and if the opposing party asserts a claim for patent infringement, its initial Disclosure of Asserted Claims and Infringement Contentions, including corresponding LR 16.1-7 document production. This LR 16.1-11 shall not apply to cases in which a request for a declaratory judgment that a patent is invalid is filed in response to a complaint for infringement of the same patent.

LR 16.1-12. AMENDMENT TO DISCLOSURES.

Amendment of initial disclosures required by these Rules may be made for good cause without leave of Court anytime before the discovery cut-off date. Thereafter, the disclosures shall be final and amendment of the disclosures may be made only by order of the Court upon a timely showing of good cause. Non-exhaustive examples of circumstances that may, absent undue prejudice to the non-moving party, support a finding of good cause, include: (a) a claim construction by the Court different from that proposed by the party seeking amendment; (b) recent discovery of material prior art despite earlier diligent search; and, (c) recent discovery of nonpublic information about the Accused Instrumentality

despite earlier diligent search. The duty to supplement discovery response does not excuse the need to obtain leave of Court to amend contentions.

LR 16.1-13. EXCHANGE OF PROPOSED TERMS FOR CONSTRUCTION.

Not later than ninety (90) days after the Initial Scheduling Conference pursuant to Fed. R. Civ. P. 26(f), each party shall serve on each other party a list of patent claim terms, which that the party contends should be construed by the Court, and identify any claim term which the party contends should be governed by 35 U.S.C. § 112(6). The parties shall thereafter meet and confer for the purposes of limiting the terms in dispute by narrowing or resolving differences and facilitating the ultimate preparation of a Joint Claim Construction and Prehearing Statement. The parties shall jointly identify the terms likely to be most significant to resolving the parties' dispute, including those terms for which construction may be case or claim dispositive.

LR 16.1-14. EXCHANGE OF PRELIMINARY CLAIM CONSTRUCTIONS AND EXTRINSIC EVIDENCE.

Not later than thirty (30) days after the exchange of lists pursuant to LR 16.1-13, the parties shall simultaneously exchange proposed constructions of each term identified by either party for claim construction. Each such "Preliminary Claim Construction" shall also, for each term which any party contends is governed by 35 U.S.C. § 112(6), identify the structure(s), act(s), or material(s) corresponding to that term's function.

At the same time the parties exchange their respective Preliminary Claim Constructions, each party shall also:

- (a) Identify all references from the specifications or prosecution history that support its proposed construction and designate any supporting extrinsic evidence including, without limitation, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses. Extrinsic evidence shall be identified by production number or by producing a copy if not previously produced. With respect to any supporting witness, percipient or expert, the identifying party shall also provide a description of the substance of that witness' proposed testimony that includes a listing of any opinions to be rendered in connection with claim construction; and,
- (b) Schedule a time for counsel to meet and confer for the purposes of narrowing the issues and finalizing preparation of a Joint Claim Construction and Prehearing Statement.

LR 16.1-15. JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT.

Not later than forty-five (45) days after the exchange of lists pursuant to LR 16.1-13, the parties shall prepare and submit to the Court a Joint Claim Construction and Prehearing Statement, which shall contain the following information:

- (a) The construction of those terms on which parties agree;
- (b) Each party's proposed construction of each disputed term, together with an identification of all references from the specification or prosecution history that support that construction, and an identification of any extrinsic evidence known to the party on

which it intends to rely either to support its proposed construction or to oppose any other party's proposed construction, including, but not limited to, as permitted by law, dictionary definitions, citations to learned treatises and prior art, and testimony of percipient and expert witnesses;

- (c) An identification of the terms whose construction will be most significant to the resolution of the case. The parties shall also identify any term whose construction will be case or claim dispositive;
- (d) The anticipated length of time necessary for the Claim Construction Hearing; and,
- (e) Whether any party proposes to call one or more witnesses at the Claim Construction Hearing, the identity of each such witness, and for each witness, a summary of his or her testimony including, for any expert, each opinion to be offered related to claim construction. Terms to be construed by the Court shall be included in a chart that sets forth the claim language as it appears in the patent with terms and phrases to be construed in bold and include each parties' proposed construction and any agreed proposed construction.

LR 16.1-16. CLAIM CONSTRUCTION BRIEFING.

Not later than thirty (30) days after submitting to the Court the Joint Claim Construction and Prehearing Statement, the party claiming patent infringement, or the party asserting invalidity if there is no infringement issue present in the case, shall serve and file an opening claim construction brief and any evidence supporting its claim construction.

Not later than fourteen (14) days after service upon it of an opening brief, each opposing party shall serve and file its responsive brief and supporting evidence.

Not later than seven (7) days after service upon it of a responsive brief, the party claiming patent infringement, or the party asserting invalidity if there is no infringement issue present in the case, shall serve and file any reply brief and any evidence directly rebutting the supporting evidence contained in an opposing party's response.

LR 16.1-17. CLAIM CONSTRUCTION HEARING.

The Court may conduct a claim construction hearing, if it believes a hearing is necessary for construction of the claims. A party may request a hearing at the time of its briefing pursuant to LR 16.1-16.

LR 16.1-18. AMENDING CLAIM CONSTRUCTION SCHEDULE.

The claim construction schedule under this Rule may be amended with leave of Court as circumstances warrant, including the Court's decision to adjudicate issues regarding patent validity, patent enforceability or both before claim construction is necessary.

LR 16.1-19. MANDATORY SETTLEMENT CONFERENCES FOR PATENT CASES.

Mandatory settlement conferences for patent cases shall be conducted by the magistrate judge assigned to the case as follows:

- (a) A Pre-Claim Construction Settlement Conference shall be held within thirty (30) days after the parties have submitted all initial disclosures and responses thereto as required under LR 16.1-6 through LR 16.1-12;
- (b) A Post-Claim Construction Order Settlement conference shall be held within thirty (30) days after entry of the claim construction order;
- (c) A Pretrial Settlement Conference shall be held within thirty (30) days after filing the Pretrial Order or further order of the Court.

LR 16.1-20. STAY OF FEDERAL COURT PROCEEDINGS.

The Court may order a stay of litigation pending the outcome of a reexamination proceeding before the United States Patent and Trademark Office that concerns a patent at issue in the federal court litigation. Whether the Court stays litigation upon the request of a party will depend on the circumstances of each particular case, including without limitation: (1) whether a stay will unduly prejudice or present a clear tactical disadvantage to the nonmoving party, (2) whether a stay will simplify the issues in question and the trial of the case, (3) whether discovery is complete, and (4) whether a trial date has been set.

LR 16.1-21. GOOD FAITH PARTICIPATION.

A failure to make a good faith effort to provide initial disclosures, narrow the instances of disputed claim construction terms, participate in the meet and confer process, or comply with any other of the obligations under these Rules may expose counsel to sanctions, including under 28 U.S.C. § 1927.

LR 16-2. PRETRIAL CONFERENCES.

Unless specifically ordered, the Court will not conduct pretrial conferences. A party may at any time make written request for a pretrial conference to expedite disposition of any case, particularly one which is complex or in which there has been delay. Pretrial conferences may be called at any time by the Court on its own initiative.

LR 16-3. PRETRIAL ORDER, MOTIONS *IN LIMINE*, AND TRIAL SETTING.

- (a) The scheduling order may set the date for submitting the joint pretrial order, if required by the Court.
- (b) Unless otherwise ordered by the Court, motions *in limine* are due thirty (30) days prior to trial. Oppositions shall be filed and served and the motion submitted for decision fourteen (14) days thereafter. Replies will be allowed only with leave of the Court.
- (c) Upon the initiative of counsel for plaintiff, counsel who will try the case and who are authorized to make binding stipulations shall personally discuss settlement and prepare and lodge with the Court a proposed joint pretrial order containing the following:

- (1) A concise statement of the nature of the action and the contentions of the parties;
 - (2) A statement as to the jurisdiction of the Court with specific legal citations;
 - (3) A statement of all uncontested facts deemed material in the action;
 - (4) A statement of the contested issues of fact in the case as agreed upon by the parties;
 - (5) A statement of the contested issues of law in the case as agreed upon by the parties;
 - (6) Plaintiff's statement of any other issues of fact or law deemed to be material;
 - (7) Defendant's statement of any other issues of fact or law deemed to be material;
 - (8) Lists or schedules of all exhibits that will be offered in evidence by the parties at the trial. Such lists or schedules shall describe the exhibits sufficiently for ready identification and:
 - (A) Identify the exhibits the parties agree can be admitted at trial; and,
 - (B) List those exhibits to which objection is made and state the grounds therefore. Stipulations as to admissibility, authenticity and/or identification of documents shall be made whenever possible;
 - (9) A statement by each party identifying any depositions intended to be offered at the trial, except for impeachment purposes, and designating the portions of the deposition to be offered;
 - (10) A statement of the objections, and the grounds therefore, to deposition testimony the opposing party has designated;
 - (11) A list of witnesses, with their addresses, who may be called at the trial. Such list may not include witnesses whose identities were not, but should have been revealed in response to permitted discovery unless the Court, for good cause and on such conditions as are just, otherwise orders; and,
 - (12) A list of motions *in limine* filed, if any.
- (d) Except when offered for impeachment purposes, no exhibit shall be received and no witnesses shall be permitted to testify at the trial unless listed in the pretrial order. However, for good cause shown, the Court may allow an exception to this provision.

LR 16-4. FORM OF PRETRIAL ORDER.

Unless otherwise ordered, the pretrial order shall be in the following form:

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

_____,)
Plaintiff,) CASE NO. _____
)
)
vs.)
)
_____,) PRETRIAL ORDER
Defendant.)
)
_____)

Following pretrial proceedings in this cause,

IT IS ORDERED:

I.

This is an action for: (State nature of action, relief sought, identification and contentions of parties.)

II.

Statement of jurisdiction: (State the facts and cite the statutes which give this Court jurisdiction of the Case.)

III.

The following facts are admitted by the parties and require no proof:

IV.

The following facts, though not admitted, will not be contested at trial by evidence to the contrary:

V.

The following are the issues of fact to be tried and determined upon trial.¹ (Each issue of fact must be stated separately and in specific terms.)

VI.

The following are the issues of law to be to be tried and determined upon trial.² (Each issue of law must be stated separately and in specific terms.)

- (a) The following exhibits are stipulated into evidence in this case and may be so marked by the Clerk:
 - (1) Plaintiff's exhibits.
 - (2) Defendant's exhibits.
- (b) As to the following additional exhibits the parties have reached the stipulations stated:
 - (1) Set forth stipulations as to plaintiff's exhibits.
 - (2) Set forth stipulations as to defendant's exhibits.
- (c) As to the following exhibits, the party against whom the same will be offered objects to their admission upon the grounds stated:
 - (1) Set forth objections to plaintiff's exhibits.
 - (2) Set forth objections to defendant's exhibits.
- (d) Depositions:
 - (1) Plaintiff will offer the following depositions: (Indicate name of deponent and identify portions to be offered by pages and lines and the party or parties against whom offered.)
 - (2) Defendant will offer the following depositions: (Indicate name of deponent and identify portions to be offered by pages and lines and the party or parties against who offered.)

¹ Should counsel be unable to agree upon the statement of issues of fact, the joint pretrial order should include separate statements of issues of fact to be tried and determined upon trial.

² Should counsel be unable to agree upon the statement of issues of law, the joint pretrial order should include separate statements of issues of law to be tried and determined upon trial.

(e) Objections to Depositions:

(1) Defendant objects to plaintiff's deposition as follows:

(2) Plaintiff objects to defendant's depositions as follows:

VIII.

The following witnesses may be called by the parties upon trial:

(a) State names and addresses of plaintiff's witnesses.

(b) State names and addresses of defendant's witnesses.

IX.

Counsel have met and herewith submit a list of three (3) agreed-upon trial dates:

It is expressly understood by the undersigned that the Court will set the trial of this matter on one (1) of the agreed-upon dates if possible; if not, the trial will be set at the convenience of the Court's calendar.

X.

It is estimated that the trial herein will take a total of _____ days.

APPROVED AS TO FORM AND CONTENT:

Attorney for Plaintiff

Attorney for Defendant

XI.

ACTION BY THE COURT

(a) This case is set down for Court/jury trial on the fixed/stacked calendar on _____.
Calendar call shall be held on _____.

(b) An original and two (2) copies of each trial brief shall be submitted to the Clerk on or before _____.

(c) Jury trials:

(1) An original and two (2) copies of all instructions requested by either party shall be submitted to the Clerk for filing on or before _____.

(2) An original and two (2) copies of all suggested questions of the parties to be asked of the jury panel by the Court on *voir dire* shall be submitted to the Clerk for filing on or before _____.

(d) Court trials:

Proposed findings of fact and conclusions of law shall be filed on or before _____.

The foregoing pretrial order has been approved by the parties to this action as evidenced by the signatures of their counsel hereon, and the order is hereby entered and will govern the trial of this case. This order shall not be amended except by order of the Court pursuant to agreement of the parties or to prevent manifest injustice.

DATED: _____.

UNITED STATES DISTRICT JUDGE or
UNITED STATES MAGISTRATE JUDGE

LR 16-5. SETTLEMENT CONFERENCE AND ALTERNATIVE METHODS OF DISPUTE RESOLUTION.

The Court may, in its discretion and at any time, set any appropriate civil case for settlement conference, summary jury trial, or other alternative method of dispute resolution.

LR 16-6. EARLY NEUTRAL EVALUATION.

(a) All employment discrimination actions filed in this Court must undergo early neutral evaluation as defined by this Rule. The purpose of the early neutral evaluation session is for the evaluating magistrate judge to give the parties a candid evaluation of the merits of their claims and defenses. For purposes of this Rule, "employment discrimination action" includes actions filed under the following statutes: Title VII of the Civil Rights Act of 1964, as amended; 42 U.S.C. § 2000, *et seq.*; Title I of the Americans With Disabilities Act, as amended, 42 U.S.C. 12101, *et seq.*; prohibition of employment discrimination under 42 U.S.C. § 1981; Age Discrimination in Employment Act, 29 U.S.C. § 626, *et seq.*; Equal Pay Act, 29 U.S.C. § 206; Genetic Information Non-Discrimination Act of 2008, 42 U.S.C. § 2000ff, *et seq.*; Vocational Rehabilitation Act of 1973, 29 U.S.C. § 794; and under 42 U.S.C. § 1983, if the complaint alleges discrimination in employment on the basis of race, color, gender, national origin, and/or religion.

- (b) In the event an action is not initially assigned to the Early Neutral Evaluation Program, an action must be assigned to the Program upon the filing by any party of a notice stating that action falls under one or more of the statutes listed in LR 16-6 (a).
- (c) Motions for relief from early neutral evaluation must be filed not later than seven (7) days after the appearance in the case of the moving party or entry of an order pursuant to LR 16-1(b). A response to the motion for relief from early neutral evaluation must be filed within fourteen (14) days after service of the original motion. No reply will be allowed. Motions filed under LR 16-6(c) are not subject to the requirements of LR 7-2. The evaluating magistrate judge shall have final authority to grant or deny any motion requesting exemption from early neutral evaluation and may exempt any case from early neutral evaluation on the judge's own motion. Such orders are not appealable.
- (d) Unless good cause is shown, the early neutral evaluation session shall be held by the Court not later than ninety (90) days after the first responding party appears in the case.
- (e) Unless excused by the evaluating magistrate judge, the parties with authority to settle the case and their counsel shall attend the early neutral session in person.
- (f) Parties shall submit to the chambers of the evaluating magistrate judge their written evaluation statements by 4:00 p.m. seven (7) days prior to the early evaluation hearing. The written evaluation statement shall not be filed with the Clerk or served on the opposing parties.
 - (1) Evaluation statements shall be concise and shall:
 - (A) Identify by name or status the person(s) with decision-making authority, who, in addition to counsel, will attend the early neutral evaluation session as representative(s) of the party, and persons connected with a party opponent (including an insurer representative) whose presence might substantially improve the utility of the early neutral evaluation session or the prospects of settlement;
 - (B) Describe briefly the substance of the suit, addressing the party's views on the key liability issues and damages;
 - (C) Address whether there are legal or factual issues whose early resolution would reduce significantly the scope of the dispute or contributes to settlement negotiations;
 - (D) Describe the history and status of settlement negotiations; and,
 - (E) Include copies of documents, pictures, recordings, etc. out of which the suit arose, or whose availability would materially advance the purposes of the evaluation session, (e.g., medical reports, documents by which special damages might be determined.)

- (2) Each evaluation statement shall remain confidential unless a party gives the Court permission to reveal some or all of the information contained within the statement.
- (g) Each evaluating magistrate judge shall:
- (1) Permit each party (through counsel or otherwise), orally and through documents or other media, to present its claims or defenses and to describe the principal evidence on which they are based;
 - (2) Assist the parties to identify areas of agreement and, where feasible, enter stipulations;
 - (3) Assess the relative strengths and weaknesses of the parties' contentions and evidence, and carefully explain the reasoning that supports these;
 - (4) When appropriate, assist the parties through private caucusing or otherwise, to explore the possibility of settling the case;
 - (5) Estimate, where feasible, the likelihood of liability and the range of damages;
 - (6) Assist the parties in devising a plan for expediting discovery, both formal and informal, in order to enter into meaningful settlement discussions or to position the case for disposition by other means;
 - (7) Assist the parties to realistically assess litigation costs; and,
 - (8) Determine whether some form of follow-up to the session would contribute to the case development process or to settlement.

LR 22-1. INTERPLEADER ACTIONS.

In all interpleader actions, no discharge will be granted and no plaintiff will be dismissed prior to the scheduling conference provided for in Local Rule 22-2.

LR 22-2. SCHEDULING CONFERENCES FOR INTERPLEADER ACTIONS.

In all interpleader actions, the plaintiff must file a motion requesting that the Court set a scheduling conference. The motion must be filed within thirty (30) days after the first defendant answers or otherwise appears. At the scheduling conference, the plaintiff will advise the Court as to the status of service on all defendants who have not appeared. In addition, the Court and parties will develop a briefing schedule or discovery plan and scheduling order for resolving the parties' competing claims. If the plaintiff fails to prosecute the interpleader action by failing to file the motion required by this Local Rule, the Court may dismiss the action.

LR 26-1. DISCOVERY PLANS AND MANDATORY DISCLOSURES.

- (a) [Repealed December 1, 2000. See Fed. R. Civ. P. 26(a).]

- (b) [Repealed December 1, 2000. See Fed. R. Civ. P. 26(g)(1).]
- (c) [Repealed December 1, 2000. See Fed. R. Civ. P. 26(e).]
- (d) Fed. R. Civ. P. 26(f) Meeting; Filing and Contents of Discovery Plan and Scheduling Order.

Counsel for plaintiff shall initiate the scheduling of the Fed. R. Civ. P. 26(f) meeting within thirty (30) days after the first defendant answers or otherwise appears. Fourteen (14) days after the mandatory Fed. R. Civ. P. 26(f) conference, the parties shall submit a stipulated discovery plan and scheduling order. The plan shall be in such form so as to permit the plan, on Court approval thereof, to become the scheduling order required by Fed. R. Civ. P. 16(b). If the plan sets deadlines within those specified in LR 26-1(e), the plan shall state on its face in bold type, "SUBMITTED IN COMPLIANCE WITH LR 26-1(e)." If longer deadlines are sought, the plan shall state on its face "SPECIAL SCHEDULING REVIEW REQUESTED." Plans requesting special scheduling review shall include, in addition to the information required by Fed. R. Civ. P. 26(f) and LR 26-1(e), a statement of the reasons why longer or different time periods should apply to the case or, in cases in which the parties disagree as to the form or contents of the discovery plan, a statement of each party's position on each point in dispute.

- (e) Form of Stipulated Discovery Plan and Scheduling Order, Applicable Deadlines. The discovery plan shall include, in addition to the information required by Fed. R. Civ. P. 26(f), the following information:
 - (1) Discovery Cut-Off Date. The plan shall state the date the first defendant answered or otherwise appeared, the number of days required for discovery measured from the date the first defendant answers or otherwise appears, and shall give the calendar date on which discovery will close. Unless otherwise ordered, discovery periods longer than one hundred eighty (180) days from the date the first defendant answers or appears will require special scheduling review;
 - (2) Amending the Pleadings and Adding Parties. Unless the discovery plan otherwise provides and the Court so orders, the date of filing motions to amend the pleadings or to add parties shall be not later than ninety (90) days prior to the close of discovery. The plan should state the calendar dates on which these amendments will fall due;
 - (3) Fed. R. Civ. P. 26(a)(2) Disclosures (Experts). Unless the discovery plan otherwise provides and the Court so orders, the time deadlines specified in Fed. R. Civ. P. 26(a)(2)(C) for disclosures concerning experts are modified to require that the disclosures be made sixty (60) days before the discovery cut-off date and that disclosures respecting rebuttal experts be made thirty (30) days after the initial disclosure of experts. The plan should state the calendar dates on which these exchanges will fall due;

- (4) Dispositive Motions. Unless the discovery plan otherwise provides and the Court so orders, the date for filing dispositive motions shall be not later than thirty (30) days after the discovery cut-off date. The plan should state the calendar dates on which these dispositive motions will fall due;
 - (5) Pretrial Order. Unless the discovery plan otherwise provides and the Court so orders, the joint pretrial order shall be filed not later than (30) days after the date set for filing dispositive motions. In the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after decision of the dispositive motions or further order of the Court;
 - (6) Fed. R. Civ. P. 26(a)(3) Disclosures. Unless the discovery plan otherwise provides and the Court so orders, the disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections thereof shall be included in the pretrial order; and,
 - (7) Form of Order. All discovery plans shall include on the last page thereof the words "IT IS SO ORDERED" with a date and signature block for the judge in the manner set forth in LR 6-2.
- (f) Unless otherwise ordered, Local Rule 26-1(d) and (e) do not apply to interpleader actions. The procedures in Local Rules 22-1 and 22-2 will govern all interpleader actions.

LR 26-2. TIME FOR COMPLETION OF DISCOVERY WHEN NO SCHEDULING ORDER IS ENTERED.

Unless otherwise ordered, in cases where no discovery plan is required, discovery shall be completed within one hundred eighty (180) days from the time the first defendant answers or otherwise appears.

LR 26-3. INTERIM STATUS REPORTS.

Not later than sixty (60) days before the discovery cut-off, the parties shall submit an interim status report stating the time they estimate will be required for trial, giving three (3) alternative available trial dates, and stating whether, in the opinion of counsel who will try the case, trial will be eliminated or its length affected by substantive motions. This status report shall be signed by counsel for each party or the party, if appearing in *pro se*.

LR 26-4. EXTENSION OF SCHEDULED DEADLINES.

Applications to extend any date set by the discovery plan, scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be supported by a showing of good cause for the extension. All motions or stipulations to extend a deadline set forth in a discovery plan shall be received by the Court no later than twenty-one (21) days before the expiration of the subject deadline. A request made after the expiration of the subject deadline shall not be granted unless the movant demonstrates that the failure to act was the result of excusable neglect. Any motion or stipulation to extend a deadline or to reopen discovery shall include:

- (a) A statement specifying the discovery completed;

- (b) A specific description of the discovery that remains to be completed;
- (c) The reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan; and,
- (d) A proposed schedule for completing all remaining discovery.

LR 26-5. RESPONSES TO WRITTEN DISCOVERY.

All responses to written discovery shall, immediately preceding the response, identify the number or other designation and set forth in full the text of the discovery sought.

LR 26-6. DEMAND FOR PRIOR DISCOVERY.

A party who enters a case after discovery has begun is entitled, on written request, to inspect and copy, at the requesting party's expense, all discovery provided or taken by every other party in the case. The request shall be directed to the party who provided the discovery or, if the discovery was obtained from a person not a party to the case, to the party who took such discovery.

LR 26-7. DISCOVERY MOTIONS.

- (a) All motions to compel discovery or for protective order shall set forth in full the text of the discovery originally sought and the response thereto, if any.
- (b) Discovery motions will not be considered unless a statement of the movant is attached thereto certifying that, after personal consultation and sincere effort to do so, the parties have been unable to resolve the matter without Court action.
- (c) Unless otherwise ordered, all emergency discovery disputes are referred to the magistrate judge assigned to the case. The movant may apply for relief by written motion or, where time does not permit, by a telephone call to the magistrate judge or district judge assigned to the case. Written requests for judicial assistance in resolving an emergency discovery dispute shall be entitled "Emergency Motion" and be accompanied by an affidavit setting forth:
 - (1) The nature of the emergency;
 - (2) The office addresses and telephone numbers of the movant and all affected parties;
 - (3) A statement of when and how the other affected parties were notified of the motion or, if not notified, why it was not practicable to do so.
- (d) It shall be within the sole discretion of the Court to determine whether any such matter is, in fact, an emergency.

LR 26-8. FILING OF DISCOVERY PAPERS.

Unless otherwise ordered by the Court, written discovery, including responses thereto, and deposition transcripts, shall not be filed with the Court. Originals of responses to written discovery requests shall be served on the party who served the discovery request and that party shall make such originals available at the pretrial hearing, at trial, or on order of the Court. Likewise, the deposing party shall make the original transcript of a deposition available at any pretrial hearing, at trial, or on order of the Court.

LR 26-9. EXEMPTIONS.

[Repealed December 1, 2000. See Fed. R. Civ. P. 26(a)(1)(E).]

LR 30-1. DEPOSITIONS UPON ORAL EXAMINATION.

[Repealed effective December 1, 2000. See Fed. R. Civ. P. 30.]

LR 30-2. REQUIREMENTS FOR TRANSCRIPTS.

Unless the Court orders otherwise, depositions shall be recorded by stenographic means.

LR 31-1. DEPOSITIONS UPON WRITTEN QUESTIONS.

[Repealed effective December 1, 2000. See Fed. R. Civ. P. 31.]

LR 32-1. USE OF DEPOSITIONS IN COURT PROCEEDINGS.

Unless the Court orders otherwise, deposition testimony shall be offered by stenographic means.

LR 33-1. INTERROGATORIES.

[Repealed effective December 1, 2000. See Fed. R. Civ. P. 33.]

LR 34-1. PRODUCTION OF DOCUMENTS.

[Repealed effective December 1, 2000. See Fed. R. Civ. P. 34.]

LR 36-1. REQUEST FOR ADMISSIONS.

[Repealed effective December 1, 2000. See Fed. R. Civ. P. 36.]

LR 38-1. JURY DEMAND.

When a jury trial is demanded in a pleading, the words "JURY DEMAND" shall be typed or printed in capital letters on the first page immediately below the name of the pleading.

LR 41-1. DISMISSAL FOR WANT OF PROSECUTION.

All civil actions that have been pending in this Court for more than two hundred seventy (270) days without any proceeding of record having been taken may, after notice, be dismissed for want of prosecution on motion of counsel or by the Court.

LR 43-1. INTERPRETERS/TAKING OF TESTIMONY.

A party who anticipates needing the services of an interpreter shall make arrangements therefore, at that party's expense, and file a written notice not later than fourteen (14) days prior to the proceeding in which the interpreter's services will be used. The notice shall include the name and credentials of the interpreter, the name of the witness or witnesses requiring such service, and the reason the service is needed.

LR 48-1. CONTACT WITH JURORS PROHIBITED.

Unless otherwise permitted by the Court, no party, attorney or other interested person shall communicate with or contact any juror until the jury concludes its deliberations and is discharged.

LR 54-1. BILL OF COSTS.

- (a) See 28 U.S.C. § § 1920, 1921, and 1923; and Fed. R. Civ. P. 54(d). Unless otherwise ordered by the Court, the prevailing party shall be entitled to reasonable costs. A prevailing party who claims such costs shall serve and file a bill of costs and disbursements on the form provided by the Clerk no later than fourteen (14) days after the date of entry of the judgment or decree.
- (b) See 28 U.S.C. § 1924. Every bill of costs and disbursements shall be verified and distinctly set forth each item so that its nature can be readily understood. The bill of costs shall state that the items are correct and that the services and disbursements have been actually and necessarily provided and made. An itemization and, where available, documentation of requested costs in all categories must attached to the bill of costs.
- (c) The Clerk shall tax the costs not later than fourteen (14) days after the filing of objections or when the time within which such objections may be filed has passed.

LR 54-2. CLERK'S, MARSHAL'S, PROCESS SERVER'S, AND DOCKET FEES.

Clerk's fees (see 28 U.S.C. § 1920), docket fees (see 28 U.S.C. § 1923) and marshal's fees (see 28 U.S.C. § 1921) are allowable by statute. Fees of authorized process servers are ordinarily taxable.

LR 54-3. FEES INCIDENT TO TRANSCRIPTS; TRIAL TRANSCRIPTS.

Transcripts of pretrial, trial, and post-trial proceedings are not taxable unless either requested by the Court or prepared pursuant to stipulation approved by the Court. Mere acceptance by the Court does not constitute a request. Copies of transcripts for counsel's own use are not taxable absent a prior special order of the Court.

LR 54-4. DEPOSITION COSTS.

The cost of a deposition transcript (either the original or a copy, but not both) is taxable whether taken solely for discovery or for use at trial. The reasonable expenses of a deposition reporter and the notary or other official presiding at the deposition are taxable, including travel, where necessary, and

subsistence. Postage costs, including registry, for sending the original deposition to the Clerk for filing are taxable if the Court has ordered the filing of said deposition. Counsel's fees, expenses in arranging for taking a deposition, and expenses in attending the deposition are not taxable, except as provided by statute or by the Federal Rules of Civil Procedure. Fees for the witness at the taking of a deposition are taxable at the same rate as for attendance at trial. The witness need not be under subpoena. A reasonable fee for a necessary interpreter at the taking of a taxable deposition is taxable.

LR 54-5. WITNESS FEES, MILEAGE, AND SUBSISTENCE.

- (a) The rate for witness fees, mileage, and subsistence are fixed by statute (see 28 U.S.C. § 1821). Such fees are taxable even though the witness did not testify if it is shown that the attendance was necessary, but if a witness is not used, the presumption is that the attendance was unnecessary. Such fees are taxable even though the witness attends voluntarily and not under subpoena. Costs may be taxed for each day the witness is necessarily in attendance and are not limited to the actual day the witness testified. Fees will be limited, however, to the days of actual testimony and the days required for travel if no showing is made that the witness necessarily attended for a longer time.
- (b) Subsistence to the witness under 28 U.S.C. § 1821 is allowable if the mileage fees for the witness to travel from the witness' residence to Court and back each day exceed the applicable subsistence fees.
- (c) No party shall receive witness fees for testifying in that party's own behalf, but this shall not apply where a party is subpoenaed to attend Court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than statutorily allowable for ordinary witnesses unless authorized by contract or specific statute.
- (d) The reasonable fee of a competent interpreter is taxable if the fee of the witness for whom the interpreting services were required is taxable. The reasonable fee of a competent translator is taxable if the document translated is necessarily filed or admitted into evidence.

LR 54-6. EXEMPLIFICATION AND COPIES OF PAPERS.

- (a) An itemization of costs claimed pursuant to this section shall be attached to the cost bill. The cost of copies of an exhibit necessarily attached to a document required to be filed and served is taxable. Cost of one (1) copy of a document is taxable when the copy is admitted into evidence in lieu of an original because the original is either not available or is not introduced at the request of opposing counsel. The cost of copies submitted in lieu of originals because of the convenience of offering counsel or counsel's client is not taxable. The cost of reproducing copies of motions, pleadings, notices and other routine case papers is not allowable. The cost of copies obtained for counsel's own use is not taxable. The fee of an official for certification or proof regarding non-existence of a document is taxable. Notary fees are taxable if actually incurred, but only for documents which are required to be notarized and which are necessarily filed. Costs incurred for

reducing documents to comply with the paper size requirement of these Rules are taxable.

- (b) The cost of patent file wrappers and prior art patents are taxable at the rate charged by the patent office. Expenses for services of persons checking patent office records to determine what should be ordered are not taxable.

LR 54-7. MAPS, CHARTS, MODELS, PHOTOGRAPHS, SUMMARIES, COMPUTATIONS, AND STATISTICAL SUMMARIES.

The cost of maps and charts is taxable if they are admitted into evidence. The cost of photographs, eight by ten inches (8" x 10") in size or less, is taxable if admitted into evidence or attached to documents required to be filed and served on opposing counsel. The cost of enlargements greater than eight by ten inches (8" x 10") models, summaries, computations, and statistical comparisons are not taxable except by prior order of the Court.

LR 54-8. FEES OF MASTERS, RECEIVERS, AND COMMISSIONERS.

Unless otherwise ordered by the Court, fees of masters, receivers, and commissioners are taxable as costs.

LR 54-9. PREMIUMS ON UNDERTAKINGS AND BONDS.

Premiums paid on undertakings and bonds are ordinarily taxable where the same have been furnished by reason of express requirement of law, on order of the Court, or to enable the party to secure some right in the action or proceeding.

LR 54-10. REMOVED CASES.

In a removed case, costs incurred in the state court before removal are taxable in favor of the prevailing party. Such costs include but are not limited to:

- (a) Fees paid to the clerk of the state court;
- (b) Fees for service of process in the state court;
- (c) Costs of exhibits necessarily attached to documents required to be filed in the state court; and,
- (d) Fees for witnesses attending depositions before removal, unless the Court finds that the witness was deposed without reason or necessity.

LR 54-11. COSTS AGAINST THE GOVERNMENT.

See 28 U.S.C. § 2412.

LR 54-12. COSTS NOT ORDINARILY ALLOWED.

Unless substantiated by reference to statute or decision, the following costs will not ordinarily be allowed:

- (a) Accountant's fees incurred for investigation;
- (b) The purchase of infringing devices in patent cases;
- (c) The physical examination of an opposing party;
- (d) Courtesy copies of exhibits furnished to opposing counsel without request; and,
- (e) Motion pictures.

LR 54-13. METHOD OF TAXATION OF COSTS.

- (a) Any objections to a bill of costs shall be filed and served no later than fourteen (14) days after service of the bill of costs. Such objections shall specify each item to which objection is made and the grounds therefore, and shall include, if appropriate, supporting affidavits or other material.
- (b) On the date set for the taxation neither the parties nor their attorneys shall appear.
 - (1) If no objection has been filed, the Clerk may enter the bill of costs as submitted and shall make an insertion of the costs into the docket and the judgment, if appropriate. The Clerk's taxation of costs shall be final unless modified on review as provided in these Rules. If no objection to a cost bill is filed, such failure may constitute a consent to the award of all costs included, but does not prevent a party from filing a motion to retax as provided in LR 54-14, subject to the Court's consideration of the party's failure to file an objection.
 - (2) If the costs are sought against the United States, its officers and agencies, the Clerk shall proceed to tax such costs as are properly chargeable and shall make an insertion of the costs into the docket and the judgment, if appropriate. The Clerk's taxation of costs shall be final unless modified on review as provided in these Rules.
 - (3) If an objection to a cost bill is filed, the cost bill shall be treated as a motion and the objection shall be treated as a response thereto. The Clerk or deputy clerk may prepare sign and enter an order disposing of a cost bill, subject to a motion to re-tax as provided in LR 54-14. The Clerk's taxation of costs shall be final unless modified on review as provided in these Rules.
- (c) Notice of the Clerk's taxation of costs shall be given by serving a copy of the bill as approved by the Clerk to all parties in accordance with the Fed. R. Civ. P. 5.

LR 54-14. REVIEW OF COSTS.

- (a) A party may obtain review of the Clerk's taxation of costs by motion to retax under

Fed. R. Civ. P. 54(d), accompanied by points and authorities. Any motion to retax costs shall be filed and served within seven (7) days after receipt of the notice provided for in LR 54-13(c).

- (b) A motion to retax shall particularly specify the ruling of the Clerk excepted to, and no others will be considered by the Court. The motion shall be decided on the same papers and evidence submitted to the Clerk.

LR 54-15. APPELLATE COSTS.

The District Court does not tax or retax appellate costs. The certified copy of the judgment or the mandate of the Court of Appeals, without further action by the District Court, is sufficient basis to request the Clerk of the District Court to issue a writ of execution to recover costs taxed by the appellate court.

LR 54-16. MOTIONS FOR ATTORNEY'S FEES.

- (a) Time for Filing. When a party is entitled to move for attorney's fees, such motion shall be filed with the Court and served within fourteen (14) days after entry of the final judgment or other order disposing of the action.
- (b) Content of Motions. Unless otherwise ordered by the Court, a motion for attorney's fees must, in addition to those matters required by Fed. R. Civ. P. 54(d)(2)(B), include the following:
 - (1) A reasonable itemization and description of the work performed;
 - (2) An itemization of all costs sought to be charged as part of the fee award and not otherwise taxable pursuant to LR 54-1 through 54-15;
 - (3) A brief summary of:
 - (A) The results obtained and the amount involved;
 - (B) The time and labor required;
 - (C) The novelty and difficulty of the questions involved;
 - (D) The skill requisite to perform the legal service properly;
 - (E) The preclusion of other employment by the attorney due to acceptance of the case;
 - (F) The customary fee;
 - (G) Whether the fee is fixed or contingent;
 - (H) The time limitations imposed by the client or the circumstances;

- (I) The experience, reputation, and ability of the attorney(s);
 - (J) The undesirability of the case, if any;
 - (K) The nature and length of the professional relationship with the client;
 - (L) Awards in similar cases; and,
- (4) Such other information as the Court may direct.
- (c) Attorney Affidavit. Each motion must be accompanied by an affidavit from the attorney responsible for the billings in the case authenticating the information contained in the motion and confirming that the bill has been reviewed and edited and that the fees and costs charged are reasonable.
 - (d) Failure to provide the information required by LR 54-16(b) and (c) in a motion for attorneys' fees constitutes a consent to the denial of the motion.
 - (e) Opposition. If no opposition is filed, the Court may grant the motion. If an opposition is filed, it shall set forth the specific charges that are disputed and state with reasonable particularity the basis for such opposition. The opposition shall further include affidavits to support any contested fact.
 - (f) Hearing. If either party wishes to examine the affiant, such party must specifically make such a request in writing. Absent such a request, the Court may decide the motion on the papers or set the matter for evidentiary hearing.

LR 56-1. MOTIONS FOR SUMMARY JUDGMENT.

Motions for summary judgment and responses thereto shall include a concise statement setting forth each fact material to the disposition of the motion, which the party claims is or is not genuinely in issue, citing the particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission, or other evidence upon which the party relies.

LR 65.1-1. QUALIFICATION OF SURETY.

Except for bonds secured by cash or negotiable bonds or notes of the United States as provided for in LR 65.1-2, every bond must have as surety:

- (a) A corporation authorized by the United States Secretary of the Treasury to act as surety on official bonds under 31 U.S.C. §§ 9304 through 9306;
- (b) A corporation authorized to act as surety under the laws of the State of Nevada, which corporation shall have on file with the Clerk a certified copy of its certificate of authority to do business in Nevada, together with a certified copy of the power of attorney appointing the agent authorized to execute the bond;

- (c) One or more individuals each of whom owns real or personal property sufficient to justify the full amount of the suretyship; or,
- (d) Such other security as the Court shall order.

LR 65.1-2. DEPOSIT OF MONEY OR UNITED STATES OBLIGATION IN LIEU OF SURETY.

Upon order of the Court, there may be deposited with the Clerk in lieu of surety:

- (a) Lawful money accompanied by an affidavit that identifies the legal owner thereof; or,
- (b) Negotiable bonds or notes of the United States accompanied by an executed agreement as required by 31 U.S.C. § 9303(a)(3) authorizing the Clerk to collect or sell the bonds or notes in the event of default.

LR 65.1-3. APPROVAL.

Unless approval of the bond or the individual sureties is endorsed thereon by opposing counsel or the party, if appearing in *pro se*, the party offering the bond shall apply to the Court for approval. The Clerk is authorized to approve bonds unless approval by the Court is expressly required by law.

LR 65.1-4. PERSONS NOT TO ACT AS SURETIES.

Neither officer of this Court nor any member of the Bar of this Court nor any nonresident attorney specially admitted to practice before this Court nor their office associates or employees shall act as surety in this Court.

LR 65.1-5. JUDGMENT AGAINST SURETIES.

Regardless of what may be otherwise provided in any security instrument, every surety who provides a bond or other undertaking for filing with this Court thereby submits to the jurisdiction of the Court and irrevocably appoints the Clerk as agent upon whom any paper affecting liability on the bond or undertaking may be served. Liability shall be joint and several and may be enforced summarily without independent action. Service may be made upon the Clerk who shall forthwith mail a copy to the surety at the last known address.

LR 65.1-6. FURTHER SECURITY OR JUSTIFICATION OF PERSONAL SURETIES.

At any time and upon reasonable notice to all other parties, a party for whose benefit a bond is presented or posted may apply to the Court for further or different security or for an order requiring personal sureties to justify.

LR 66-1. RECEIVERS IN GENERAL.

In the exercise of the authority vested in the District Courts by Fed. R. Civ. P. 66, the Rules in this part are promulgated for the administration of estates by receivers or other similar officers appointed by the Court. The Federal Rules of Civil Procedure and these Rules govern any civil action in which the

appointment of a receiver or other similar officer is sought or which is brought by or against such an officer.

LR 66-2. NOTICE; TEMPORARY RECEIVER.

A receiver shall not be appointed except after hearing, preceded by at least fourteen (14) days' notice to the party sought to be subjected to receivership and to all known creditors, except that a temporary receiver may be appointed without notice upon adequate showing provided by Fed. R. Civ. P. 65(b).

LR 66-3. REVIEW OF APPOINTMENT OF TEMPORARY RECEIVER.

On being appointed, the temporary receiver shall give the notice required in LR 66-2, and at the hearing the Court shall determine whether a receiver shall be appointed and the receivership continued or terminated in the same manner as though no temporary receiver had been appointed.

LR 66-4. REPORTS OF RECEIVERS.

- (a) At the hearing provided for in LR 66-3, the temporary receiver shall file with the Court a summary report of the temporary receivership.
- (b) Within sixty (60) days of being appointed, a permanent receiver shall file a verified report and account of the receiver's administration, which shall be heard upon fourteen (14) days' notice to all parties and known creditors of the party subject to receivership. The report and account shall contain the following:
 - (1) A summary of the operations of the receiver;
 - (2) An inventory of the assets and their appraised value;
 - (3) A schedule of all the receiver's receipts and disbursements;
 - (4) A list of all known creditors with their addresses and the amounts of their claims; and,
 - (5) The receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.
- (c) At the hearing, the Court shall approve or disapprove the receiver's report and account, determine whether the receivership may continue, and fix the time for further regular reports by the receiver, if applicable.

LR 66-5. NOTICE OF HEARINGS.

Unless the Court otherwise orders, the receiver shall give all interested parties and creditors at least fourteen (14) days' notice of the time and place of hearings of:

- (a) All further reports of the receiver;

- (b) All petitions for approval of the payment of dividends to creditors;
- (c) All petitions for confirmation of sales of real or personal property;
- (d) All applications for fees of the receiver, or of any attorney, accountant, or investigator;
- (e) Any application for the discharge of the receiver; and,
- (f) All petitions for authority to sell property at private sale.

LR 66-6. EMPLOYMENT OF ATTORNEYS, ACCOUNTANTS, AND INVESTIGATORS.

A receiver shall not employ an attorney, accountant, or investigator without first obtaining an order of the Court authorizing such employment. The compensation of such persons shall be fixed by the Court, after hearing, upon the applicant's verified application setting forth in reasonable detail the nature of the services. The application shall state under oath that the applicant has not entered into any agreement, written or oral, express or implied, with any other person concerning the amount of compensation paid or to be paid from the assets of the estate, or any sharing thereof.

LR 66-7. PERSONS PROHIBITED FROM ACTING AS RECEIVERS.

Except as otherwise allowed by statute or ordered by the Court, no party in interest, attorney, accountant, employee or representative of a party in interest shall be appointed as a receiver or employed by the receiver.

LR 66-8. DEPOSIT OF FUNDS.

All funds received by a receiver shall be deposited in a depository designated by the Court in an account entitled "Receiver's Account," together with the name of the action.

LR 66-9. UNDERTAKING OF RECEIVER.

A receiver shall not act as such until a sufficient undertaking in an adequate amount as determined by the Court is filed with the Clerk.

LR 66-10. ADMINISTRATION OF ESTATES.

In all other respects or as ordered by the Court, the receiver or similar officer shall administer the estate as nearly as may be in accordance with the practice in the administration of estates in Chapter 11 bankruptcy cases.

LR 67-1. DEPOSIT AND INVESTMENT OF FUNDS IN THE REGISTRY ACCOUNT; CERTIFICATE OF CASH DEPOSIT.

- (a) Cash tendered to the Clerk for deposit into the Registry Account of this Court shall be accompanied by a written statement titled "Certificate of Cash Deposit," which shall be signed by counsel or party appearing in *pro se*. The certificate shall contain the following information:

- (1) The amount of cash tendered for deposit;
- (2) The party on whose behalf the tender is being made;
- (3) The nature of the tender, e.g., interpleader funds deposit, cash bond in lieu of corporate surety in support of temporary restraining order, etc.;
- (4) Whether the cash is being tendered pursuant to statute, rule, or Court order;
- (5) The conditions of the deposit signed and acknowledged by the depositor;
- (6) The name and address of the legal owner to whom a refund, if applicable, shall be made; and,
- (7) A signature block whereon the Clerk can acknowledge receipt of the cash tendered. Said signature block shall not be set forth on a separate page, but shall appear approximately one inch (1") below the last typewritten matter on the left-hand side of the last page of the Certificate of Cash Deposit and shall read as follows:

"RECEIPT

Cash as identified herein is hereby
acknowledged as being received this date.

Dated: _____

CLERK, U.S. DISTRICT COURT

By: _____

Deputy Clerk"

- (b) The Clerk may refuse cash tendered without the Certificate of Cash Deposit required by this Rule.

LR 67-2. INVESTMENT OF FUNDS ON DEPOSIT.

- (a) Funds on deposit in the Registry Account of the Court pursuant to 28 U.S.C. § 2041 will be invested in an interest bearing account established by the Clerk in the absence of an order by the Court.
- (b) All motions or stipulations for an order directing the Clerk to invest Registry Account funds in an account other than the Court's standard interest bearing account shall contain the following:
 - (1) The name of the bank or financial institution where the funds are to be invested;
 - (2) The type of account or instrument and the terms of investment where a timed instrument is involved; and,

- (3) Language that either:
 - (A) Directs the Clerk to deduct from income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office; or,
 - (B) States affirmatively the investment is being made for the benefit of the United States and, therefore, no fee shall be charged.
- (c) Counsel obtaining an order under these Rules shall cause a copy of the order to be served personally upon the Clerk or the chief deputy and the financial deputy. A supervisory deputy clerk may accept service on behalf of the Clerk, chief deputy or financial deputy in their absence.
- (d) The Clerk shall take all reasonable steps to deposit funds into interest bearing accounts or instruments within, but not more than, fourteen (14) days after having been served with a copy of the order for such investment.
- (e) Any party who obtains an order directing investment of funds by the Clerk shall, within fourteen (14) days after service of the order on the Clerk, verify that the funds have been invested as ordered.
- (f) Failure of the party or parties to personally serve the Clerk, the chief deputy and financial deputy, or in their absence a supervisory deputy clerk with a copy of the order, or failure to verify investment of the funds, shall release the Clerk from any liability for the loss earned interest on such funds.
- (g) It shall be the responsibility of counsel to notice the Clerk regarding disposition of funds at maturity of a timed instrument. In the absence of such notice funds invested in a timed instrument subject to renewal will be reinvested for a like period of time at the prevailing interest rate. Funds invested in a timed instrument not subject to renewal will be re-deposited by the Clerk into the Registry Account of the Court, which is a non-interest bearing account.
- (h) Service of notice by counsel as required by LCR 46-8(g) shall be made as provided in LCR 46-8(c) not later than fourteen (14) days prior to maturity of the timed instrument.
- (i) Any change in terms or conditions of an investment shall be by Court order only and counsel will be required to comply with LCR 46-8(b) and (c).

LR 77-1. JUDGMENTS AND ORDERS GRANTABLE BY THE CLERK.

- (a) The Clerk is authorized, without further direction by the Court, to sign and enter any order permitted to be signed by the Clerk under the Federal Rules of Civil Procedure and the following:
 - (1) Orders specially appointing persons to serve process;

- (2) Orders withdrawing exhibits under LR 79-1;
- (3) Orders on stipulations:
 - (A) Satisfying judgments;
 - (B) Noting satisfaction of orders for the payment of money;
 - (C) Withdrawing stipulations;
 - (D) Annulling bonds; or,
 - (E) Exonerating sureties.
- (b) The Clerk may also:
 - (1) Enter judgments on verdicts or decisions of the Court in circumstances authorized in Fed. R. Civ. P. 58;
 - (2) Enter default for failure to plead or otherwise defend, as provided in Fed. R. Civ. P. 55;
 - (3) Enter judgments by default in the circumstances authorized in Fed. R. Civ. P. 55(b)(1);
 - (4) Enter judgments pursuant to acceptance of an offer of judgment in the circumstances authorized in Fed. R. Civ. P. 68;
 - (5) When ordered by the Court in the particular case or in all cases assigned to a particular judge, enter orders under LR IA 10-2 granting permission to an attorney to practice in a particular case and orders under granting leave of Court for substitution of counsel; and,
 - (6) Enter any other order which, under Fed. R. Civ. P. 77(c) does not require special direction by the Court.

LR 78-2. ORAL ARGUMENT.

All motions may, in the Court's discretion, be considered and decided with or without a hearing.

LR 79-1. FILES AND EXHIBITS: CUSTODY AND WITHDRAWAL.

- (a) All files and records of the Court shall remain in the custody of the Clerk, and no record or paper belonging to the files of the Court shall be taken from the custody of the Clerk without written permission of the Court, and then, only after a receipt has been signed by the person obtaining the record or paper.

- (b) The Clerk shall mark and have safekeeping responsibility for all exhibits marked and identified at trial or hearing. Unless there is some special reason why the originals should be retained, the Court may order exhibits to be returned to the party who offered the same upon the filing of true copies thereof in place of the originals.
- (c) Unless otherwise ordered by the Court, the Clerk shall continue to have custody of the exhibits until the judgment has become final and the time for filing a notice of appeal and motion for a new trial has passed, or appeal proceedings have terminated.
- (d) Where no appeal is taken, after final judgment has been entered and the time for filing a notice of appeal and motion for a new trial has passed, or upon the filing of a stipulation waiving the right to appeal and to a new trial, any party may upon twenty-one (21) days' prior written notice to all parties withdraw any exhibit originally produced by it unless some other party or person files prior notice with the Clerk of a claim to the exhibit. If such a notice of claim is filed, the Clerk shall not deliver the exhibit except with the written consent of both the party who produced it and the claimant, or until the Court has determined the person entitled thereto.
- (e) If exhibits are not withdrawn within twenty-one (21) days after notice of the Clerk to the parties to claim the same, the Clerk shall upon order of the Court, destroy or make such other disposition of the exhibits as the Court may direct.

LOCAL RULES PART III - BANKRUPTCY PRACTICE

LR 1001. TITLE AND SCOPE OF RULES.

- (a) Title. These are the Local Rules of Bankruptcy Practice of the United States District Court for the District of Nevada. This part governs cases and proceedings before the United States Bankruptcy Court of this District. These Rules may be cited as LR __.
- (b) Applicability of Local Bankruptcy and District Court Rules.
 - (1) All cases and proceedings within the bankruptcy jurisdiction of the Courts are referred to the bankruptcy judges.
 - (2) The Federal Rules of Bankruptcy Procedure and these Local Rules govern procedure in all bankruptcy cases and proceedings in the District of Nevada. Except for those matters contained in Part IA of the Local Rules of Practice for the United States District Court for the District of Nevada, no other Local Rules apply unless they are specifically adopted by reference in these Bankruptcy Local Rules.
 - (3) Except as provided in LR 8001, *et seq.*, these Rules do not apply to bankruptcy proceedings in the District Court.
 - (4) These Rules supplement or, as permitted, modify the Federal Rules of Bankruptcy Procedure and are to be construed to be consistent with the Federal Rules of Bankruptcy Procedure and to promote the just, efficient and economic determination of every action and proceeding.
 - (5) These Rules are effective starting December 1, 2009 and govern all actions and proceedings pending or begun on or after that date.
- (c) General and administrative orders, guidelines, and policy statements.
 - (1) These Rules may be amended by general order of the District Court or by administrative order of the Bankruptcy Court. There may be matters relating to internal Bankruptcy Court administration that, in the discretion of the Bankruptcy Court *en banc*, may be accomplished by administrative orders.
 - (2) The Clerk will maintain copies of orders, guidelines, and policy statements that relate to practice before this Court and will make copies available:
 - (A) On request and the payment of a nominal charge; and,
 - (B) On the Court's website, www.nvb.uscourts.gov.

- (3) Once adopted, these Rules supersede all existing administrative orders. All future administrative orders will be designated consecutively according to the year of their adoption, e.g., 2009-1, 2009-2, 2009-3, etc.
- (d) Procedures outside the Rules. These Rules are not intended to limit the discretion of the Court. The Court may, on a showing of good cause, waive any of these Rules, or make additional orders as it may deem appropriate and in the interests of justice.
- (e) Sanctions for noncompliance with Rules. Failure of counsel or of a party to comply with these Rules, with the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, or any Court order may be grounds for imposing sanctions, including, without limitation, monetary sanctions.
- (f) United States Trustee guidelines. The United States Trustee may, from time to time, issue guidelines regarding all matters in or relating to cases under Title 11 of the United States Code. The guidelines reflect the position of the United States Trustee on the matters they address as well as actions that the United States Trustee may take in accordance with those positions. Copies of the guidelines will be available from the United States Trustee upon request or through the Court's website.
- (g) Links to other websites. Bankruptcy trustees and governmental entities, appointees, or agents, including but not limited to the United States Attorney, the United States Trustee, and the Internal Revenue Service, may submit proposed links for inclusion on the Court's website to the Court Clerk.
- (h) Meaning of terms. Unless otherwise specifically stated, throughout these Rules, the word "debtor" means the debtor, the debtor's attorney, or anyone else who speaks for or represents the debtor. Similarly, the word "trustee" means the trustee, the trustee's attorney, or anyone else who speaks for or represents the trustee. The same understanding applies to all other parties.

LR 1002. PETITION - GENERAL.

- (a) Number of copies.
 - (1) For documents that are not electronically filed by parties under the provisions of LR 5005, the Clerk will maintain a list of requirements that specify the minimum number of copies that must be submitted. The Clerk may from time to time revise the list of copy requirements. When the requirements are revised, the Clerk will reissue them with a notation of the effective date of the revision. The Clerk will make copies of the list available upon request, and will post them on the Court's website.
 - (2) Notwithstanding this Rule, if the Clerk asks a filer for a copy of a document or for additional copies, the filer must comply.

- (b) Additional documents. When a voluntary petition is filed by a corporation, there must be attached to it a true copy of the resolution of the corporation's board of directors authorizing the filing.
- (c) Duty to notice other courts of the filing of bankruptcy petition. Within fourteen (14) days after filing a bankruptcy petition, the debtor must file a notice of the bankruptcy case in any proceeding where any claim or cause of action is pending against, or on behalf of, the debtor. The debtor must file evidence of service of the notice with the Bankruptcy Court within seven (7) days after service is completed.

LR 1002.1. PETITION - PARTNERSHIP.

When a partnership files a voluntary petition, evidence of the consent of all general partners must be attached to the petition unless a written partnership agreement permits other than unanimous consent. If that is the case, a declaration to that effect must be attached to the petition.

LR 1003. JOINDER OF PETITIONERS IN INVOLUNTARY CASE.

If a debtor files an answer averring the existence of twelve (12) or more creditors, the creditor(s) filing the involuntary petition must serve a copy of the petition, the answer, and a notice to all creditors. The notice must state that the creditor may join in the petition before the hearing date.

LR 1005. PETITION - CAPTION.

The first and/or second page(s) of every petition presented for filing must include the following:

(1) the name of all attorneys appearing for the petitioner, their Nevada or other state bar number, address, telephone number, fax number, and email address; or, for a party appearing *pro se*, the party's name, address, and telephone number; and (2) in all cases, the chapter of the Bankruptcy Code under which the case is filed.

LR 1006. PAYMENT OF FILING FEE IN INSTALLMENTS; DENIAL OF PETITIONS UNDER 28 U.S.C. § 1930(f).

- (a) Applications for permission to pay filing fees in installments by individuals must provide that an initial payment will be made within thirty (30) days after filing the petition, and the balance of the filing fee will be paid in accordance with the order approving payment of filing fee in installments. The bankruptcy fee schedule is posted on the Court's website, and will have a breakdown of the authorized installment payment amounts. If a request is made to make payments differently, it must be supported by an affidavit describing special circumstances.
- (b) If a petition under 28 U.S.C. § 1930(f) is denied, the debtor will be deemed to have applied for installment payments under section (a) above as of the date of denial.

LR 1007. LISTS, SCHEDULES, AND STATEMENTS; MAILING LIST.

- (a) Number of copies. See LR 1002(a).

- (b) Master mailing list.
- (1) The debtor must prepare and file a master mailing list in a format approved by the Clerk.
 - (2) The master mailing list must include the following information:
 - (A) The names and addresses of creditors, either alphabetically or alphabetically by category, including those parties to pending lawsuits indicated on the debtor's statement of financial affairs, and those additional parties and governmental entities specified in LR 2002;
 - (B) Zip codes for all postal addresses; and,
 - (C) The names and addresses of all general partners or corporate officers for any debtor that is a partnership or corporation, and any managers of any limited liability company.
 - (3) The Clerk will maintain requirements for a master mailing list that specify the format of a list to be submitted for filing. This may include the requirement that the list be submitted electronically. The Clerk may from time to time revise the requirements. When revised, the Clerk will reissue the requirements with a notation of the effective date of the revision. Copies of the requirements for the format of a master mailing list will be available from the Clerk and will be posted on the Court's website.
 - (4) If the debtor fails to timely prepare and file a master mailing list in a format that conforms to the Clerk's requirements for a master mailing list, the attorney for the debtor or the debtor in proper person will be required to mail the Notice of Chapter __ Bankruptcy Case, Meeting of Creditors, & Deadlines and the Discharge of Debtor to all creditors and parties in interest pursuant to LR 2002(a).
 - (5) Amendment.
 - (A) If any amended schedule of creditors is filed, a supplement to the master list must be submitted. The supplement must not repeat those creditors on the prior master list, and must list only the following information:
 - (i) The complete names and addresses of additional creditors and corrections to the master list, together with the bankruptcy case number;
 - (ii) The complete name and address of any party requesting special notice together with the bankruptcy case number; and,

- (iii) The complete name and address of the most recent addition of any creditor that is either scheduled or has filed a proof of claim.
 - (B) Besides the notice of the amendment required by Fed. R. Bankr. P. 1009(a), upon filing an amendment, the debtor must send a copy of the Notice of Chapter__Bankruptcy Case, Meeting of Creditors, & Deadlines issued in the bankruptcy case to the added creditors, and must file evidence of sending the notice.
- (6) The debtor is responsible for the accuracy and completeness of the master list and any supplement. The Clerk will not compare the names and addresses of the creditors listed in the schedules with the names and addresses shown on the master list or supplement.
- (7) A party serving notice is responsible for determining the appropriate address pursuant to, among other Rules, Fed. R. Bankr. P. 2002(g).
- (c) Special notice list. The debtor may prepare and file a special notice list including the names and addresses of those entities listed in LR 2002(b), all secured creditors or their counsel, the twenty (20) largest unsecured creditors or their counsel, all professionals employed in the case, and any entities who have filed a request for notice.
- (d) Extension of Time. Any motion to extend the time to file lists, schedules, and statements must be filed within the time period provided by Fed. R. Bankr. P. 1007. The motion will be set on a hearing date of not less than fourteen (14) days' notice.
- (e) Pay stubs. As authorized by 11 U.S.C. § 521(a)(1)(B), the Court hereby exempts any debtor who is an individual from the filing requirements of 11 U.S.C. § 521(a)(1)(B)(iv). However, information and documents may still be required by the trustee, or requested by any creditor.

LR 1013. HEARING AND DISPOSITION OF PETITION IN INVOLUNTARY CASES.

- (a) Setting trial of involuntary cases. Unless the Clerk sets a status hearing when an involuntary petition is filed, the petitioning creditor must obtain a hearing date from the Clerk for the trial of a contested petition and must immediately notify the debtor of the hearing date along with any creditors identified in the debtor's answer.
- (b) Effect of default. If an answer or responsive pleading is not filed as required by Fed. R. Bankr. P. 1011, the petitioning creditor must within seven (7) days after the default, submit an order for relief to the Court or a notice of voluntary dismissal. If the petitioning creditor fails to file an order or notice, the Court may dismiss the case without prejudice.

LR 1015. RELATED CASES; CONSOLIDATION OR JOINT ADMINISTRATION.

- (a) Notice of related cases. Counsel or a debtor who is aware that a case on file, or about to be filed, is related to another case that is pending or that was pending within the preceding two (2) years, must file a notice of related cases, setting forth the title, number and filing date of each related case, together with a brief statement of the relationship.
- (b) Cases deemed related. Cases deemed to be related within the meaning of this Rule include the following:
 - (1) The debtors are the same entity;
 - (2) The debtors are husband and wife;
 - (3) The debtors are partners;
 - (4) The debtor in one (1) case is a general partner or majority shareholder of the debtor in the other case;
 - (5) The debtors have the same partners or substantially the same shareholders; or,
 - (6) The debtors are affiliated as that term is defined under 11 U.S.C. §101(2).
- (c) Reservation of judicial discretion to deem case as related. Without limiting the foregoing, the Court may deem the case to be so related that it should be treated as related.
- (d) Assignment to judges. Unless the Court directs otherwise, related cases filed at the same time will be assigned to the same judge. Whenever the Clerk is apprised of related cases, after consulting with the assigned judge and the proposed judge, the Clerk will reassign the second case to the judge to whom the first case was assigned, unless the Court orders otherwise.
- (e) Nonlimitation of applicability. A judge may assign any case or adversary proceeding to another judge.
- (f) Trustee assignment. If a debtor files a Chapter 7 or 13 bankruptcy case within one (1) year of a prior dismissed Chapter 7 or 13 case, the U.S. Trustee's Office will request that the new case be assigned to the trustee that administered the prior case, with the exception of a change in venue.
- (g) Joint administration. A motion seeking to jointly administer two (2) or more cases will, if granted, result in the joint administration of such cases unless otherwise ordered by the Court.
 - (1) A motion to jointly administer two (2) or more cases must be filed in all cases listed in the motion, and the hearing on the joint administration will be held by the judge in the first assigned case.

- (2) The party which obtained the order for joint administration must, within fourteen (14) days of the entry of the order, file with the Court a combined matrix constituting a total mailing list of all interested parties in all the jointly administered cases without duplication.
- (h) Assignment of jointly administered or consolidated cases. Unless otherwise ordered, jointly administered cases will be assigned to the lowest number of the cases. Subsequent filings of papers must be filed only in the lead case.
- (i) Caption of jointly administered or consolidated cases. The caption of jointly administered or consolidated cases must include the name of each debtor entity, a list of each case number and a note specifying "Jointly Administered" [or Consolidated] under Case No. BK-X-XX-XXXX."

LR 1016. NOTIFICATION OF DEATH OR INCOMPETENCY.

If a debtor dies or is deemed incompetent, the debtor's executor, administrator, or guardian must file a statement of that fact with the Court and must immediately serve the statement on the trustee if there is one, or on the United States Trustee if no trustee has been appointed.

LR 1070. JURISDICTION.

- (a) Any case, contested matter, or adversary proceeding that is referred either automatically or otherwise to a particular bankruptcy judge may be heard by any other bankruptcy judge or by a bankruptcy judge designated and assigned temporarily to this District.
- (b) Judges assigned to either division of this Court may hear cases in any official duty station in the District.

LR 1071. DIVISIONS - BANKRUPTCY COURT.

- (a) The State of Nevada is one (1) judicial district and is divided into two (2) unofficial divisions as follows:
 - (1) Southern Division: Clark, Esmeralda, Lincoln, and Nye Counties.
 - (2) Northern Division: Carson City, Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe, and White Pine Counties.
- (b) Petitions must be filed in the division in which venue is based. If a petition is filed in the wrong division, the Court may, on its own, transfer it to the appropriate division or retain the case.

LR 2002. NOTICES TO CREDITORS AND OTHER INTERESTED PARTIES.

- (a) Notices to parties in interest; proof of service.

- (1) Any person who files a pleading, written motion or other document that requires notice to another party is responsible for serving all parties who must be served. Unless the Court directs otherwise, the Clerk will not serve those notices.
 - (2) Unless otherwise ordered or provided by applicable rule or statute, service, other than by electronic means, must be completed within two (2) business days after the filing of any paper.
 - (3) Proof of service made in accordance with LR 2002(a)(1) must be filed within seven (7) days after the filing of the papers and pleadings required or permitted to be served. The proof must show the date of service, the name of the person served, and the manner of service. A certificate of service must be included with all documents filed electronically, indicating that service was accomplished through the notice of electronic filing for parties and counsel who are filing users and indicating how service was accomplished on any party or counsel who is not a filing user. A "filing user" is one who has completed a registration form to file papers in the electronic filing system. Proof of service is deemed sufficient if it complies with the Court's certificate of service form, which is available on the Court's website. Failure to file the proof of service required by this Rule does not affect the validity of service. Unless material prejudice would result, the Court may at any time allow the proof of service to be amended or supplied.
 - (4) Notice to added creditors. If an amendment is filed adding creditors in accordance with Fed. R. Bankr. P. 1009(a), the debtor must send each added creditor a copy of the Notice of Chapter __ Bankruptcy Case, Meeting of Creditors, & Deadlines.
- (b) Notices to governmental units and certain taxing authorities. Any document that is required to be served or noticed on all parties must also be served or noticed on the federal and state governmental units listed in the Register of Mailing Addresses of Federal and State Governmental Units kept by the Clerk in accordance with Fed. R. Bankr. P. 5003(e) and LR 5003(c). Additional service requirements may be found in Fed. R. Bankr. P. 2002(j).
 - (c) Notice of First Meeting of Creditors in certain cases involving over 200 creditors. For Chapter 9, 11, and 12 cases with more than 200 creditors and parties in interest listed, the debtor is directed to give the trustee, if any, all creditors, and other parties in interest at least twenty-one (21) days' notice by mail of the Notice of Chapter __ Bankruptcy Case, Meeting of Creditors, & Deadlines entered by the Court in each bankruptcy case.
 - (d) Creditor's designation of preferred address. If a creditor has designated a person or organizational subdivision in accordance with 11 U.S.C. § 342(f), the Court's CM/ECF system will ordinarily replace any nonconforming address for that creditor on the mailing matrix, with the designated address noted with the symbol "(p)" next to the

address. However, it is the duty of the creditor to review the matrix and, if its designated address does not appear, to file a request for notice in the particular case.

- (e) Amended or incomplete filings. If an amendment is filed adding creditors or creditor addresses, the debtor must comply with LR 1007(b)(5).
- (f) Extension of time to serve notice. If the Court issues an order granting an extension of time to serve the notice required by LR 2002(c), the original creditors' meeting must be continued and a new date for the meeting must be set. Any motion or request to extend the time to serve the notice will be deemed to waive the deadlines that run from the first date for the meeting of creditors and to stipulate that the deadlines run from the renoticed meeting date.
- (g) Notice to creditors whose claims have been filed. After a claims bar date expires in a Chapter 7 case, all notices required by Fed. R. Bankr. P. 2002(a) may be served only on the debtor, the trustee, all indenture trustees, creditors that hold claims for which proofs of claim have been filed with the Clerk and to creditors, if any, that are permitted to file claims by reason of an extension granted under Fed. R. Bankr. P. 3002(c).
- (h) Clerk's notice to United States Trustee and trustees. The Clerk may serve the United States Trustee and all trustees by transmitting a copy of any document electronically using the Court's electronic case filing system. Service must be made in accordance with the electronic filing procedures described in LR 5005.
- (i) Clerk's notice to attorneys.
 - (1) The Clerk may serve any attorney or any party represented by an attorney who is not a regular filer in the Court's electronic case filing system, as that term is defined by LR 5005(a), by transmitting a copy of any document electronically in accordance with the procedures described in LR 5005.
 - (2) The Clerk may serve any attorney or any party represented by an attorney who is not a regular filer in the electronic case filing system by placing a copy of document in a designated location in the Clerk's office. The Clerk will prescribe the conditions for pickup, which may be changed from time to time at the Clerk's discretion. The Clerk's deposit of a document in the designated location is deemed to be receipt of it and will be made only to the submitting attorney shown in the caption of the document. In accordance with LR 9022, the attorney must serve all other parties.
- (j) Certain notices in Chapter 15 cases. In a Chapter 15 case, the notice requirements under Fed. R. Bankr. P. 2002(q)(1) and (2) are delegated to the foreign representative.

LR 2003. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

A motion to waive the appearance of the debtor must state that the United States Trustee and the trustee in a Chapter 7, 12 or 13 case have been contacted, and whether there is an objection to the waiver.

LR 2004. EXAMINATIONS.

- (a) Request for examination. All requests for orders under Fed. R. Bankr. P. 2004 must be made by motion and must be accompanied by a proposed order.
- (b) Order for examination. The Clerk may sign orders for examination if the date set for examination is more fourteen (14) days from the date the motion is filed. If examination is requested on less than fourteen (14) days' notice, the motion must state whether the examination date has been agreed on, or if there is no agreement, why examination on less than fourteen (14) days' notice is requested.
- (c) Production of documents. Production of documents may be obtained via subpoena as provided by Fed. R. Civ. P. 45(a)(1)(C), as adopted by Fed. R. Bankr. P. 9016. A list of documents must not be included in the order for examination pursuant to this Rule.
- (d) Securing attendance of witness. Securing the attendance of a witness or the production of documents must be done in accordance with LR 9016 and Fed. R. Bankr. P. 9016.

LR 2010. TRUSTEES' BONDS.

- (a) Blanket bond coverage. Trustees covered by the blanket bond applicable to the United States Trustee Region 17 and the District of Nevada must pro rate the cost of the annual bond premium for those asset estates held by the trustee at the time the bond premium is due and must pay the *pro rata* share from each estate.
- (b) Increase in bond premium. If the amount of the bond required in an individual case results in an increase in the bond premium for that case, the trustee must pay the increased premium from the assets of that case.
- (c) Payment of bond premiums. The trustee must pay all bond premiums on or before the due date.
- (d) Maintenance of original bonds. An original bond must be filed with the Court and a duplicate original bond must be submitted to the United States Trustee.

LR 2014. ATTORNEYS OF RECORD.

- (a) Appearances. An attorney who appears in a case on behalf of a party is the attorney of record for the party for any and all purposes except adversary proceedings until an order is entered permitting the withdrawal of the attorney or the case is closed or dismissed.
 - (1) An attorney approved as special counsel for the bankruptcy estate and/or the debtor under 11 U.S.C. § 327(e) (or any other applicable code section) is attorney of record for that special purpose only. The attorney is attorney of record for the special purpose until an order is entered permitting the withdrawal of the attorney or the case is closed or dismissed.

- (2) Unless the Court orders otherwise or further appearance is made in an adversary proceeding, an attorney who has appeared for a party only in the main bankruptcy case is not automatically the attorney of record for the party in the adversary proceeding.
- (b) Substitution of Counsel. A stipulation and order permitting substitution of counsel may be submitted *ex parte* if (i) the substitution is signed by the client, the withdrawing counsel and the substituting counsel; and (ii) the substituting counsel acknowledges responsibility for all pending dates and deadlines. Notwithstanding this provision, the Court may require that requests for substitution of counsel be set on noticed hearing.
- (c) Withdrawals. See LR IA 10-6 of the Local Rules of Practice for the United States District Court for the District of Nevada.

LR 2015. REQUIRED PAYMENTS TO GOVERNMENT ENTITIES.

Without altering the priorities established under 11 U.S.C. § 507, or creating a superpriority, a trustee or debtor who operates a business must pay all post-petition taxes, fees, charges, or other required payments to governmental entities on a timely basis, except where otherwise ordered.

LR 2015.3. REPORTS OF FINANCIAL INFORMATION ON ENTITIES IN WHICH A CHAPTER 11 ESTATE HOLDS A CONTROLLING OR SUBSTANTIAL INTEREST; USE OF OFFICIAL FORM REQUIRED; EFFECT OF FAILURE TO TIMELY FILE.

- (a) Periodical financial reports. Unless the Court has entered an order pursuant to Fed. R. Bankr. P. 2015.3(d) or (e), the trustee or debtor in possession in every Chapter 11 case filed on or after December 1, 2008, is to file all periodic financial reports identified in Fed. R. Bankr. P. 2015.3(a) within the time for filing established by Fed. R. Bankr. P. 2015.3(b).
- (b) Official Form 26. In order to comply with the periodic financial reporting requirements identified in Fed. R. Bankr. P. 2015.3(a) and this Local Rule, the trustee or debtor in possession is to complete Official Form 26, and timely file it with the Court. Use of Official Form 26 is mandatory.
- (c) Failure to file report. Unless the Court has entered an order pursuant to Fed. R. Bankr. P. 2015.3(d) or (e), failure to file one or more of the periodic financial reports identified in Fed. R. Bankr. P. 2015.3(a) within fourteen (14) days after the due date for filing under Fed. R. Bankr. P. 2015.3(b) may constitute cause for dismissal or conversion pursuant to 11 U.S.C. § 1112(b)(4)(F).

LR 2016. COMPENSATION OF PROFESSIONALS.

Local guidelines relating to applications for compensation and reimbursement of expenses may be published from time to time and will be posted on the Court's website. The guidelines should be read in conjunction with applicable statutes, rules, and the United States Trustee's Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330.

LR 3001. CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL.

- (a) Form and Content. Each proof of claim must state the chapter of the Bankruptcy Code under which the case is pending at the time the claim is filed.
- (b) Transferred Claims.
 - (1) Each proof of claim for a transferred claim must state on the face of the claim form, immediately adjacent to the bankruptcy case number, that the claim has been "transferred other than for security" or that the claim has been "transferred for security," whichever applies.
 - (2) Each claimant who files a proof of claim for a transferred claim must prepare and provide to the Clerk, together with the proof of claim, the notice that is required to be sent by Fed. R. Bankr. P. 3001(e)(2), 3001(e)(3), or 3001(e)(4).
- (c) Jointly administered cases. In cases which are jointly administered, but not substantively consolidated, claims must be filed only in the case to which claim relates, and such filing does not constitute the filing of a claim in any other jointly administered case.
- (d) Substantively consolidated cases. In cases which have been substantively consolidated, all claims must be filed only in the lead case, and the claims register will be maintained in the lead case.

LR 3002. FILING A PROOF OF CLAIM.

- (a) Copies and Service. If a creditor has not filed its proof of claim electronically and wishes to receive a file-stamped copy of it, the creditor must submit an additional copy to be returned. A request for return by mail must include a self-addressed, stamped envelope. If the debtor is not represented by an attorney, the creditor must serve a copy of the proof of claim on the debtor.
- (b) Claim arising from rejection of executory contract or unexpired lease. A proof of claim arising from the rejection of an executory contract or unexpired lease of the debtor under 11 U.S.C. § 365(d) must be filed not later than ninety (90) days after the first date set for the meeting of creditors held under 11 U.S.C. § 341(a), unless the Court orders otherwise.
- (c) Proof of claim form. A proof of claim should be filed with the Court using the most current Official Form B10, as prescribed by the Judicial Conference of the United States.

LR 3003. FILING PROOF OF CLAIM OR EQUITY INTEREST IN CHAPTER 11 REORGANIZATION CASE.

Unless the Court orders otherwise, a proof of claim in a Chapter 11 case must be filed within ninety (90) days after the date first set for the meeting of creditors under 11 U.S.C. § 341(a). The notice setting the date for the first meeting of creditors must also provide a bar date for filing claims.

LR 3007. CLAIMS - OBJECTIONS.

- (a) Form of objection. In an objection to claim, the following procedures apply:
 - (1) The objection must identify the holder of the claim, the amount of the claim, the date the claim was filed, and the number assigned to the claim on the claims docket;
 - (2) The objection must contain a statement of the grounds for the objection;
 - (3) Unless grounds are stated for objecting to the entire claim, the objection must state the amount of the claim that is not in dispute; and,
 - (4) A copy of the first page of the proof of claim must be attached to the objection.
- (b) Responses to objection to claims. The time for filing a response to an objection to a claim and of the filing of any reply to such a response, is governed by the time limits set out in LR 9014(d)(1) and (2). A response to an objection is sufficient if it states that written documentation in support of the proof of claim has already been provided to the objecting party and that the documentation will be provided at any evidentiary hearing or trial on the matter.
- (c) Hearing on objections. If a written response is not timely filed and served, the Court may grant the objection without calling the matter and without receiving arguments or evidence. If a response is timely filed and served, the Court may treat the initial hearing as a status and scheduling hearing if the Court determines that further evidence must be taken to resolve a material factual dispute. Unless the Court orders otherwise or for good cause, live testimony will not be presented at the first date set for hearing. The judge may order a further hearing at which oral evidence and exhibits will be received, or may, as appropriate, order that all evidence be presented by affidavit or declaration.
- (d) Bar date for filing objections to claims in Chapter 11 cases. Unless otherwise extended by Court order, all objections to claims in a Chapter 11 case must be filed within sixty (60) days after entry of an order confirming the Chapter 11 plan.
- (e) Service. In addition to any other service required, the objection must be served on the creditor at the address shown in the proof of claim as the notice address.

LR 3011. UNCLAIMED FUNDS.

- (a) Procedure for requesting payment.
 - (1) Any entity seeking payment of unclaimed funds must file with the Clerk a written application on forms prescribed by the Clerk and available from the Court's website and pay the prescribed fee. The applicant must disclose the following:

- (A) The service(s) rendered by any asset recovery firm or fund locator;
 - (B) Any agreement of commission, fees, compensation or reimbursement of expenses; and,
 - (C) The amount(s) requested.
- (2) In no event may any commission, fee, compensation or reimbursement of expenses exceed fifty percent (50%) of the claim.
- (b) Order. The Clerk will not process a payment from the unclaimed funds' account without receiving a written Court order and the prescribed fee.

LR 3012. VALUATION OF SECURITY.

If a plan proposes to pay a secured creditor in accordance with 11 U.S.C. § 1325(a)(5)(B), the debtor must file a motion to value the collateral under Fed. R. Bankr. P. 3012 to be heard on or before the hearing on confirmation of the Chapter 13 plan. The motion must be served in accordance with the provisions of Fed. R. Bankr. P. 7004 and LR 7004.

LR 3015. CHAPTER 13 PLAN AND CONFIRMATION.

- (a) Standard form of Chapter 13 plans and orders confirming Chapter 13 plans. Each Chapter 13 standing trustee may issue a form Chapter 13 plan and a form order for confirming a plan. Unless the Court orders otherwise, the format prescribed by the trustee must be observed. The standing trustees may, from time to time, revise the form plans and orders. The trustees will reissue any revised form plans and orders with a notation of the effective date of the revision.
- (b) Chapter 13 plan guidelines. Each Chapter 13 standing trustee may issue guidelines for the administration of Chapter 13 plans. The guidelines will set forth positions that the trustee will generally follow in administering plans. The guidelines may also set procedures for scheduling confirmation hearings, filing objections to confirmation, and submitting orders confirming Chapter 13 plans. The standing trustees may, from time to time revise the guidelines. The trustees will reissue any revised guidelines with a notation of the effective date of the revision.
- (c) Copies of forms and guidelines. Copies of the form plan, the form order confirming a Chapter 13 plan, and guidelines will be available from each trustee. If there are revisions to the form plan, the standing trustee will post the revisions on the respective trustee's website and advise the Clerk of the Bankruptcy Court of any changes.
- (d) Extension of time. A motion to extend the time to file a plan must be filed within the fourteen (14) day time period provided by Fed. R. Bankr. P. 3015(b), and will be set on a hearing date of not less than fourteen (14) days' notice.
- (e) Direct payments to lessors and creditors. As authorized by 11 U.S.C. § 1326(a)(1), all payments that the debtor is obligated to make under Section 1326(a)(1)(B) or

1326(a)(1)(C) must be made to the lessor or creditor only if the debtor's plan so provides. In all other cases, the payments must be made to the Chapter 13 trustee together with all payments made to the trustee under Section 1326(a)(1)(A). Chapter 13 trustees must separately account to each lessor or creditor for all payments received either (i) in the same way that they account for all other payments received under Section 1326(a); or (ii) as the Court approves in accordance with separate agreements with each lessor or creditor.

- (1) Payments tendered to the trustee that are intended as lease or adequate protection payments pursuant to the express terms of the debtor's proposed Chapter 13 plan or that are deemed to be lease or adequate protection payments pursuant to 11 U.S.C. 1326(a)(1)(B) and (C) may be disbursed to the applicable lessor or secured creditor by the trustee prior to confirmation of the debtor's Chapter 13 plan along with the trustee's regular monthly disbursements and the trustee may retain his or her applicable percentage fee on these preconfirmation disbursements in the same manner as if the disbursements were made after plan confirmation.
- (2) Payments tendered to the trustee that are intended as lease or adequate protection payments pursuant to the express terms of the debtor's proposed Chapter 13 plan or that are deemed to be lease or adequate protection payments must be impressed with a lien in favor of the secured creditor, and must be distributed to the secured creditor pursuant to subsection (e)(1). Such payments received by the trustee will not be refunded to the debtor upon conversion or dismissal of the Chapter 13 case. The filing of an amended Chapter 13 plan may not recharacterize any lease or adequate protection payment received by the trustee prior to the date the amended plan was filed.

LR 3015.1. DESTRUCTION OF ORDERS CONFIRMING, AMENDING, MODIFYING CHAPTER 13 PLANS.

Notwithstanding LR 9004(c)(1)(D), LR 5005(a)(3) and the Court's electronic filing procedures, any original order confirming a Chapter 13 plan, amended plan, modified plan, or trustees' modified plan may be appropriately destroyed by shredding twenty-eight (28) weeks after the entry of the order unless there is an appeal of such order. In the event the order becomes subject matter of a dispute for any reason after its destruction, the electronic image on file with the Clerk is the equivalent of the original.

LR 3016. FILING OF CHAPTER 11 PLANS; HEARINGS.

In a Chapter 11 case, an original plan must be submitted along with copies as required by LR 1002(a) and LR 9004(d). If a Chapter 11 plan has not been filed or approved within six (6) months after commencement of the case, the debtor in possession must file a report with the Court explaining why a plan has not been filed or approved and setting forth a schedule for filing and hearing the disclosure statement and plan confirmation. Thereafter, the report must be updated quarterly.

LR 3017. EXPEDITED CONFIRMATION PROCEDURES; CONDITIONAL APPROVAL OF DISCLOSURE STATEMENTS.

- (a) Expedited plan confirmation procedures. A motion filed pursuant to this Rule may request entry of an order implementing expedited confirmation procedures, including but not limited to:
 - (1) Early deadlines for submitted plans and disclosure statements;
 - (2) Conditional approval of disclosure statements without hearing;
 - (3) Scheduling a combined hearing on the conditionally approved disclosure statement and confirmation of plan; and,
 - (4) Submission of a combined plan and disclosure statement.
- (b) Application to all Chapter 11 cases. In any Chapter 11 case, including small business Chapter 11 cases, the Court may, on application of the plan proponent or on its own initiative, conditionally approve a disclosure statement.
- (c) Procedure for conditional approval. The plan proponent may file an *ex parte* motion for conditional approval of the disclosure statement seeking a combined hearing on the conditionally approved disclosure statement and confirmation of the plan. The application must be accompanied by the proposed disclosure statement and by a certificate of counsel stating: (i) the circumstances that favor the preliminary approval of the disclosure statement; (ii) the total number of creditors, value of assets, and amount of claims as reflected in the debtor's schedules; and (iii) that the proposed disclosure statement contains the information required by Official Form 25B. The notice of the combined hearing on the conditionally approved disclosure statement and confirmation of the plan must clearly provide that creditors and parties in interest may object to the conditionally approved disclosure statement as permitted by Fed. R. Bankr. P. 3017.1, at the combined hearing.
- (d) Non-small business cases. Except as otherwise provided herein, Fed. R. Bankr. P. 3107.1 shall apply to all non-small business cases.

LR 3018. BALLOTS - VOTING ON CHAPTER 11 PLANS.

- (a) Filing of ballot summary. The proponent of a Chapter 11 plan must:
 - (1) File a Certification of Acceptance and Rejection of Chapter 11 Plan (ballot summary) no later than one (1) business day before the hearing on plan confirmation. The ballot summary must be signed by the plan proponent and must certify to the Court the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interests of each class accepting or rejecting the plan; and,
 - (2) Have all of the original ballots available at the hearing for inspection and review by the Court and any interested party.

- (b) Amended ballot summary. In addition to the above requirements, the Court may order an amended ballot summary to be filed, with the original ballots attached.
- (c) Duty of plan proponent. The plan proponent must:
 - (1) Tabulate the ballots of those accepting and rejecting the plan; and,
 - (2) If the original ballots are not filed with the Court by the voting claimant(s), to maintain those original ballots for a period of not less than the time required for the retention of originally signed documents in the electronic filing procedures described in LR 5005 .

LR 3019. MODIFICATIONS TO CHAPTER 11 PLANS.

At the hearing on confirmation of a Chapter 11 plan, the Court may consider modifications to the plan, which may be incorporated in the order confirming the plan. Any notice of a confirmation hearing under Fed. R. Bankr. P. 2002(b) must include notice that modifications may be considered at the hearing.

LR 3019.1 MODIFICATIONS OF ACCEPTED PLAN AFTER CONFIRMATION IN A CHAPTER 11 CASE INVOLVING AN INDIVIDUAL DEBTOR.

- (a) Required Information. A proponent requesting the post-confirmation modification of a Chapter 11 plan involving an individual debtor must file the modified plan, together with a motion seeking confirmation of the modified plan which specifies the changes sought by the modification including, but not limited to, the following:
 - (1) The purpose of, or the necessity for, the modification together with sufficient information regarding such circumstances that would enable a hypothetical investor to make an informed judgment regarding the modification;
 - (2) The proposed changes to the plan payments, the term of the plan, the proposed distribution to any class, or any other substantive provision; and,
 - (3) A comparison of the modified plan language to the original plan language.
- (b) Procedure. Plan modifications must be made by motion filed pursuant to LR 9014.

LR 3021. CHAPTER 13 TRUSTEE'S NOTICE OF PROPOSED DISTRIBUTION.

After the claims bar dates have passed and all claims have been reviewed by the Chapter 13 standing trustee, the trustee may file and serve a notice of Chapter 13 trustee's proposed distribution. The notice will list all claims as reflected on the Court's claims docket and describe how each claim will be treated. The notice will be served on all creditors listed in the case, whether or not the creditor has filed a claim. Creditors will be advised to review the notice to ensure that the proposed distribution is accurate and that their claim is properly listed. Should a claim be missing or inaccurate, the creditor will be required to file a written objection to the proposed distribution with the Court within twenty-one (21) days of the date of the notice and serve it on the Chapter 13 standing trustee. If the creditor fails to timely file an

objection, the creditor will be deemed to have accepted the trustee's proposed treatment of the claim. If a timely objection is filed, the trustee will take no further action until the objection is resolved by the Court after hearing. The creditor or trustee must schedule a hearing on the objection, if the objection cannot be resolved, and provide a minimum of twenty-one (21) days' notice of the hearing.

LR 3022. CHAPTER 11 FINAL DECREE.

Unless otherwise provided in the plan or by Court order, or unless there are pending contested matters or adversary proceedings, a case is deemed fully administered one hundred eighty (180) days after plan confirmation, and the Clerk may then enter a final decree without further notice.

LR 4001. MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY; USE OF CASH COLLATERAL OR OTHER RELIEF; EMERGENCY ORDERS.

- (a) Motions for relief from automatic stay.
 - (1) Section 362 information sheet.
 - (A) A form of § 362 cover sheet is available from the Clerk's office or on the Court's website.
 - (B) All motions for relief from the automatic stay and any oppositions to it must have attached as a cover sheet a properly filled out § 362 information sheet, which must be signed by counsel and/or the moving or opposing party.
 - (C) Unless the Court orders otherwise, a properly completed § 362 information sheet will satisfy the requirements for a statement of facts and legal memorandum in cases under Chapters 7 and 13.
 - (2) Parties are directed to communicate in good faith regarding resolution of the motion before filing a motion for relief from stay (including, as appropriate, communication with any trustee appointed in the case), and the Court may refuse to entertain a motion or opposition if the parties do not comply with this Rule. The Court may award, deny, or adjust fees of counsel for noncompliance. Compliance with this subsection is not required for motions for relief from stay relating to property identified by the debtor as being surrendered in the schedules, statements, or the proposed plan of reorganization.
 - (3) When, in accordance with a prior Court order, an *ex parte* order is submitted regarding relief from stay, the order must be accompanied by evidence (which may be in the form of a declaration or affidavit) establishing each of the following:
 - (A) The identification of the prior order of the Court authorizing the *ex parte* relief;
 - (B) The facts and circumstances of default under the prior order;

- (C) The method of service of notice of default;
 - (D) The time period for cure; and,
 - (E) The failure to cure within that time.
- (b) Applications for use of cash collateral or postpetition financing.
 - (1) The Court and its individual judges may provide guidelines for applications seeking to approve the use of cash collateral and/or postpetition financing. The guidelines will be posted on the Court’s website.
 - (2) Motions for using cash collateral or obtaining credit to be heard on less than twenty-one (21) days’ notice must be accompanied by separately filed affidavits or declarations setting forth the nature and extent of the immediate and irreparable harm that will result if the request is not granted, and must conform with the requirements to obtain an order shortening time under LR 9006.
- (c) Agreements.
 - (1) In Chapter 7 and Chapter 13 cases, the Court may approve an agreement or stipulation under Fed. R. Bankr. P. 4001(d) without a hearing if it is signed by the debtor, the creditor, and the trustee. The signature of the trustee is not required in the case of exempt property.
 - (2) As to all other agreements or stipulations under Fed. R. Bankr. P. 4001(d), upon the filing of a declaration attesting that no objections have been timely filed within fourteen (14) days of the filing and service of the agreement or stipulation and notice thereof, the Court may enter an order approving the agreement or stipulation. Nothing contained herein precludes the Court from *sua sponte* setting a hearing with regard to such an agreement or stipulation.
 - (3) Every agreement or stipulation must begin with the concise statement as described in Fed. R. Bankr. P. 4001(d)(1)(B) and include each provision of the type listed in Fed. R. Bankr. P. 4001(c)(1)(B).
- (d) Procedures for receiving rent deposits. Upon filing the petition, if a debtor claims an exception to the limitation of the automatic stay under 11 U.S.C. § 362(1), the debtor must submit to the Clerk of Court a certified check or money order payable to the lessor of any rent that would become due during the thirty (30) day period after the filing of the petition.
- (e) Emergency administrative orders.
 - (1) This subsection applies to applications for emergency administrative orders, which are generally requested by a motion filed on an expedited basis after the commencement of a case.

- (2) The Court may issue guidelines for emergency administrative orders, which will be available from the Clerk's office or the Court's website.
 - (3) Notice must be served in a way designed to provide the maximum notice reasonably possible, and except in exigent circumstances, in no case less than two (2) hours before the hearing. Service may be by personal delivery, email, facsimile, or any other method reasonably calculated to give actual notice. Notice must, at a minimum, be served on the parties required to be served under LR 4001, as well as on the Office of the United States Trustee. All moving papers must be served as soon as possible on any party requesting a copy, in addition to service as required by Fed. R. Bankr. P. 2002 and 4001.
 - (4) Each motion must be filed, and courtesy copies must be provided to chambers, at least two (2) hours before the hearing, except in exigent circumstances.
 - (5) One or more affidavits or declarations must be filed that provide an evidentiary basis for the relief requested and that explain why emergency or expedited relief is needed. One omnibus affidavit or declaration may be used.
- (f) Except as otherwise set forth above, LR 9014 applies to motions contemplated by this subsection.

LR 4002. DUTIES OF CHAPTER 13 DEBTORS BEFORE COMPLETING THEIR PLAN.

- (a) Transfers of property and new debt. Debtors are prohibited from transferring, selling, or otherwise disposing of any nonexempt personal property with a value of \$1,000 or more or nonexempt real property with a value of \$5,000 or more other than in the regular course of their financial or business affairs without Court approval. Except as provided in 11 U.S.C. § 364 and § 1304, debtors may not incur aggregate new debt exceeding \$1,000 without Court approval.
- (b) Insurance. Debtors must maintain insurance as required by any law, contract, or security agreement.
- (c) Support payments. Debtors must maintain direct ongoing child or spousal support payments.
- (d) Compliance with applicable nonbankruptcy law. While operating under Chapter 13, debtors must conduct their financial and business affairs in accordance with applicable nonbankruptcy law. This duty includes, but is not limited to, filing tax returns and paying taxes.
- (e) Wage orders. If during the life of the plan a debtor becomes delinquent on making plan payments, then, on the request of the trustee, the debtor must provide a wage order directing his or her employer to make the payments to the Chapter 13 trustee. If the debtor fails to voluntarily give the trustee a wage order within thirty (30) days of the request, the trustee may in his or her discretion, lodge with the Court on an *ex parte*

basis a proposed wage order along with a declaration regarding the debtor's default and the trustee's unsuccessful attempt to obtain a voluntary wage order from the debtor.

LR 4002.1. FRAUDULENT STATEMENTS.

In any case in which the Court finds that there may be materially fraudulent statements in any schedule filed under 11 U.S.C. § 521, the Court will promptly refer the matter for further action to the individual designated for the District of Nevada under 18 U.S.C. § 158(a).

LR 4003. EXEMPTIONS.

- (a) Amendments to Claim of Exemptions. An amendment to a claim of exemptions under Fed. R. Bankr. P. 1009 and 4003 must be filed and served by the debtor on the trustee, the United States Trustee, and all creditors listed.
- (b) Objections to Claim of Exemptions. Objections to exemptions must specifically state the grounds for the objection.
- (c) Hearing. The objecting party must set a hearing on not less than thirty (30) days' notice to the debtor, the debtor's attorney, and the trustee or the local Office of the United States Trustee in a Chapter 11 case.
- (d) Procedure. LR 9014 applies to objections to exemptions.

LR 4009. CREDITOR'S DESIGNATION FOR RECEIVING NOTICE.

- (a) If a creditor has designated a person or organizational subdivision in accordance with 11 U.S.C. § 342(g), the creditor must file with the Court a document that (i) identifies the person or subdivision so designated, and (ii) describes the procedures it is using to ensure that the designated person or subdivision receives all properly addressed notices.
- (b) If a creditor is not an individual and does not file a document substantially complying with subsection (a) above, or does not maintain any formal procedures for receiving notices, then notice to the creditor will be deemed effective if it would satisfy the provisions of Nev. Rev. Stat. § 104.1202.

LR 5001. CLERK'S OFFICE LOCATION AND HOURS.

- (a) Clerk's office. The Clerk maintains offices in Las Vegas for the unofficial Southern Division and in Reno for the unofficial Northern Division of the Court. The offices are open for business from 9 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Clerk may institute administrative procedures for filing pleadings and papers. If necessary, the Clerk may, on request, transact business at other times. The current mailing addresses and locations of the office of the Clerk are posted on the Court's website. On the effective date of these Rules, the mailing addresses and locations are:

- (1) Unofficial Southern Division:

Clerk, U.S. Bankruptcy Court
The Foley Federal Building and U.S. Courthouse
300 Las Vegas Blvd. South, Suite 4-242
Las Vegas, Nevada 89101

(2) Unofficial Northern Division:

Clerk, U.S. Bankruptcy Court
The C. Clifton Young Federal Building and U.S. Courthouse
300 Booth Street, Room 1109
Reno, Nevada 89509

- (b) After-hours filing drop box. If a filer who is not required to file electronically by LR 5005 uses any after-hours filing drop box provided by the Clerk and wants the filed document to be docketed as of the date it was put in the box, the filer must place the drop box file stamp on the original document before putting it in the box. The drop box is available during the building's business hours. Only original documents bearing the drop box file stamp that the Clerk picks up from the box on the same date or the next business date will be docketed as of the date they were deposited.

LR 5003. COURT RECORDS.

(a) Files and records.

- (1) All files and records of the Court will remain in the Clerk's custody and will not be taken from the Clerk's custody without the Court's written permission and only after the person obtaining the file or record signs a receipt for it.
- (2) In cases filed on or after January 2, 2002, electronic files consisting of the images of documents filed in cases and proceedings and documents filed electronically are designated as and constitute the official record of the Court, together with the other records kept by the Court. Documents filed electronically have the same status for all purposes as documents filed on paper. Filing a document electronically constitutes entry of that document on the docket kept by the Clerk. The Clerk is not required to establish or maintain paper files for cases or proceedings filed on or after January 2, 2002.

(b) Exhibits.

- (1) The Clerk will have custody of all exhibits marked for identification or admitted into evidence during any proceeding.
- (2) The Court may order original exhibits returned to the party who offered them if the originals are replaced with true copies.
- (3) Unless the Court orders otherwise, the Clerk will retain custody of the exhibits until the judgment has become final and the time for filing a notice of appeal or

motion for a new trial has passed, or until appeal proceedings have ended, whichever is greater.

- (4) After the time to take an appeal from any appealable order or judgment has expired, any party may, upon twenty-one (21) days' written notice to all parties, withdraw any exhibit originally produced by it unless another party or person files notice with the Clerk of a claim to the exhibit. If a notice of claim is filed, the Clerk will not deliver the exhibit except with the written consent of the party who produced it and the claimant, or until the Court has determined who is entitled to it.
 - (5) After the time to appeal any appealable order or judgment has expired, any party may, upon twenty-one (21) days' written notice to all parties, destroy any exhibit not claimed by the parties. When the case is closed, if no timely request is made for returning the exhibits, the Clerk may destroy or make other disposition of them.
- (c) Register of mailing addresses of federal and state governmental units and certain taxing authorities. Copies of the register of mailing addresses of federal and state government units and certain taxing authorities required to be kept under Fed. R. Bankr. P. 5003(e) are available from the Clerk and are posted on the Court's website.
 - (d) Notice of address under 11 U.S.C. § 342(f). A creditor's notice of preferred address to be used in all cases under Chapters 7 and 13 pursuant to 11 U.S.C. § 342(f) should be submitted directly to the National Creditor Registration Service ("NCRS"). A request for notice under 11 U.S.C. § 342(f) must be made using the NCRS form, available from the National Creditor Registration Service's website. Registration of a preferred address with NCRS will constitute the filing of a notice under 11 U.S.C. § 342(f) with the Court.

LR 5004. DISQUALIFICATION: DISCLOSURE OF INTERESTED PARTIES OR AFFILIATES.

- (a) Unless otherwise ordered, when counsel for a nongovernmental party enters an adversary proceeding, the counsel must file a certificate listing all persons, associations of persons, firms, partnerships, or corporations known to have an interest in the outcome of the case including the names of any parent, subsidiary, affiliate or insider of the named nonindividual parties, as follows:

"Number and Caption of Case "

"Number and Caption of Adversary Proceeding "

"Certificate Required by LR 5004"

"The undersigned, counsel of record for _____, certifies that the following have an interest in the outcome of this adversary proceeding:

(List the names of all such parties including the names of all parent, subsidiary, affiliate, and/or insider of the named nonindividual parties, and identify their interests.)

"These representations are made to enable judges of the Court to evaluate possible recusal.

"Attorney of Record for _____."

- (b) If there are no known interested parties other than those participating in the adversary proceeding, a statement to that effect will satisfy this Rule.
- (c) There is a continuing obligation to update this information in accordance with this Rule.

LR 5005. ELECTRONIC FILING, SERVICE, AND TRANSMITTAL OF PAPERS.

- (a) Electronic filing is mandatory.
 - (1) Except as provided below, all filings made by regular filers must be made electronically. "Regular filers" means any entity, including any attorney (without regard to whether he or she is admitted generally to practice before the Court) who:
 - (A) Made more than two (2) filings with the Clerk in any calendar year after 2002; or,
 - (B) Is employed by a law firm, or has an interest as a partner, shareholder, or member of a law firm, that made more than two (2) filings with the Clerk in any calendar year after 2002; or,
 - (C) Is employed by a governmental unit (as that term is defined in 11 U.S.C. § 101) that made more than two (2) filings with the Clerk in any calendar year after 2002.
 - (2) All regular filers must complete a CM/ECF registration form, complete training, and obtain a password in order to file electronically. Information concerning these requirements can be found on the Court's website.
 - (3) Filing documents submitted, signed, and verified by electronic means is authorized subject to administrative orders and procedures as issued by the Court. Documents to be filed electronically must be filed in compliance with the electronic filing procedures, except where otherwise stated in these Rules, and which are available on the Court's website and may be revised from time to time.
 - (4) The following classes of filings are exempt from the electronic filing requirement:
 - (A) A proof of claim filed by a creditor not represented by an attorney in the case in which the proof of claim is filed, if that creditor has filed no more than ten (10) proofs of claim with the Clerk during the current calendar year;

- (B) A proof of interest filed by any equity security holder not represented by an attorney in the case in which the proof of interest is filed, if that equity security holder has filed no more than ten (10) proofs of interest with the Clerk during the current calendar year;
 - (C) A request to be admitted to the Bar of this Court for purposes of practicing in a particular case filed under LR IA 10-2 of the Local Rules of Practice for the United States District Court for the District of Nevada;
 - (D) Any filing made by an attorney in the course of representing an individual without charge as part of a recognized *pro bono* or other public interest program designed to assist unrepresented individuals, so long as that attorney, but for similar filings, would not be a regular filer; and,
 - (E) Any filing made by an individual who is not otherwise registered in the CM/ECF system who appears without counsel (also known as a *pro se* litigant).
- (5) If exceptional or emergency circumstances prevent a person from filing electronically, the person may ask the Clerk to accept the filing under the Exceptional Circumstances Rule as set forth below.
- (A) If an attorney or individual asks the Clerk to accept a filing on paper because of exceptional or emergency circumstances, the Clerk will accept the filing, digitize and index it, and transmit a copy of the filing to the appropriate bankruptcy judge.
 - (B) Unless the Court directs otherwise, a person filing on paper under exceptional or emergency circumstances must, either concurrently with the filing or within two (2) business days after making it, submit an exceptional circumstances motion. If the motion is not made within the time limit, the Clerk will strike the paper filing from the docket. The exceptional circumstances motion must be accompanied by:
 - (i) A declaration or affidavit detailing the exceptional or emergency circumstances that precluded an electronic filing. The declaration must include the number of previous exceptional circumstances motions made by the office or firm that employs the person making the affidavit or declaration; and,
 - (ii) A proposed order that the Court may use in granting the exceptional circumstances motion.
 - (C) Exceptional circumstances include the unpreventable unavailability of Internet services available to the person presenting the filing. Filings

that assert this ground of exceptional circumstances must detail the extent and nature of the unavailability and what steps (if any) will be taken to ensure that the unavailability will not recur. Exceptional circumstances do not include an inability to file because of a failure to receive the training necessary to access the Court's electronic filing system. In deciding whether to grant the exceptional circumstances motion and allow a paper filing, the Court may consider the number and extent of prior motions made by the moving party for exceptions to the electronic filing requirement.

- (6) If the Court finds that there are exceptional or emergency circumstances that warrant an exception to the electronic filing requirement, it will grant the motion. In addition, if the Court has not affirmatively denied the motion within three (3) business days after the Clerk receives it, the Clerk will consider the motion granted and will not strike the filing. But if the Court denies the motion, the Clerk must strike the filing from the Court's records, and the filing will be treated as if it had not occurred.

- (b) Signature. The user log-in and password that are required to submit documents to the electronic filing system serve as the filing user's (as that term is defined in LR 2002(a)(3)) signature on all electronic documents filed with the Court. The user log-in and password may not be used as an accommodation for any other party. They also serve as a signature for purposes of Fed. R. Bankr. P. 9011, the other Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and any other purpose for which a signature is required in connection with proceedings before the Court.

- (c) Electronic service.
 - (1) Parties are authorized to serve documents under Fed. R. Civ. P. 5(b)(2)(E) through the Court's transmission facilities, subject to the electronic filing procedures, which may be revised from time to time.

 - (2) Electronic transmission of the notice of electronic filing constitutes service or notice of the filed document on any person who is a registered participant in the electronic filing system, except for service under Fed. R. Bankr. P. 7004, and for other exceptions in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules.

 - (3) Generally, only attorneys and trustees are registered participants in the electronic filing system. The notice of electronic filing is sent electronically to:
 - (A) All registered participants in the system who have entered an appearance in the particular case or proceeding by filing a document or requesting notice in the case;

 - (B) The case trustee in cases (but not in adversary proceedings); and,

 - (C) The United States Trustee in cases (but not in adversary proceedings).

- (4) Service or notice on an attorney does not constitute service on a client of that attorney or an entity unless the attorney is authorized to accept service by the client, by law, or by Court order.
- (d) Change of attorney mailing address or email address.
- (1) If attorneys change their mailing address or email address, a notice of change of address of attorney must be filed for every case and adversary proceeding for which the attorney is the attorney of record in order to maintain a current mailing matrix. The form is available on the Court's website. As a separate requirement, the attorney must also update the CM/ECF System. Substitutions of counsel must be obtained for all cases and proceedings for which the attorney will not remain the counsel of record. Attorneys must notify the Court's ECF Department in writing of the change of address, and of any orders of substitution, by sending a letter to:
- United States Bankruptcy Court
The Foley Federal Building and U.S. Courthouse
300 Las Vegas Blvd. South, Suite 4-242
Las Vegas, Nevada 89101
Attn: CM/ECF Department
- or,
- United States Bankruptcy Court
The C. Clifton Young Federal Building and U.S. Courthouse
300 Booth Street, Suite 1109
Reno, Nevada 89509
Attn: CM/ECF Department
- (2) If attorneys fail to update their mailing address or email address as required by this Rule, service made to their address of record will be deemed good service, unless the Court orders otherwise.
- (e) Waiver. By executing a written waiver when they register for the electronic filing system, participants consent to service by electronic transmission as provided below.
- (1) The signed waiver constitutes waiver of the following:
- (A) The right to receive notice by first class mail;
- (B) The right to receive service by personal service or first class mail; and,
- (C) The right to receive service and notice by first class mail of the notice of entry of an order and judgment under Fed R. Bankr. P. 9022.

- (2) The signed waiver is also consent to receive notice electronically for all matters for which the attorney is entitled to notice, and consent to receive electronic service for all matters for which the attorney is entitled to service except with regard to those matters listed in LR 7004.
 - (3) The signed waiver constitutes a written request for notice by electronic transmission under Fed. R. Bankr. P. 9036.
 - (4) Waiver does not constitute an agreement by an attorney to accept service or notice on behalf of a client.
- (f) Paper copies. Parties are entitled to receive a paper copy of any electronically filed document from the filer in circumstances where conventional service is required or where parties are not registered in the electronic filing system.
- (g) Filing papers. Cases must be filed with the Clerk of the United States Bankruptcy Court for the District of Nevada at Las Vegas or Reno in accordance with LR 1071. Once filed, cases will be administered, papers and pleadings will be docketed, and open files will be retained in the place where the case was filed, unless the Court orders otherwise.
- (h) No effect on deadlines. Nothing in this Rule will affect the Rules regarding the timing or timeliness of any filing under the Local Rules or under the Federal Rules of Bankruptcy Procedure.

LR 5007. RECORD OF PROCEEDINGS AND TRANSCRIPTS.

Ordering daily transcripts. Any party ordering transcripts of proceedings must notify the Clerk of the need for daily transcripts at least seven (7) days prior to the hearing.

LR 5009. CHAPTER 13 DISCHARGE AND CLOSING CASE.

- (a) For Cases Filed on or Before October 16, 2005.
 - (1) In a completed case, within fourteen (14) days after the final distribution to the creditors, the trustee must file with the Court the Chapter 13 final account and report which must provide at least thirty-five (35) days' notice to all creditors and set a date to object to the report.
 - (A) If no objection is timely filed to the report, a discharge may be issued if the debtor is otherwise eligible to receive a discharge.
 - (B) If an objection to the Chapter 13 final account and report is timely filed, the trustee will schedule a hearing and provide at least twenty-one (21) days' notice to the objecting creditor. The discharge of the debtor may be withheld until the Court resolves the matter.

- (2) A hardship discharge is requested through a motion for hardship discharge filed by the debtor under 11 U.S.C. Section 1328(b). Upon the filing of the motion, the Clerk will enter an order under Fed. R. Bankr. P. 4007(d) fixing the time to file a complaint to determine the dischargeability of any debt under Section 523(c) and give no less than thirty (30) days' notice to all creditors of the time fixed to file an objection in the manner provided in Fed. R. Bankr. P. 2002. If no objection is filed to the motion for hardship discharge, the Court may enter a hardship discharge. If an objection to the motion for hardship discharge is filed, the objection must be resolved before the granting of a hardship discharge.
- (b) For Cases Filed On or After October 17, 2005.
- (1) In a completed case, within fourteen (14) days after the final disbursement to the creditors, the trustee must file with the Court the trustee's final account and report which must be noticed to all creditors. The final account and report must provide at least thirty-five (35) days' notice to object to the report.
 - (A) If no objection is filed to the report, a discharge may be issued if the debtor is otherwise eligible to receive a discharge.
 - (B) If an objection to the report is timely filed, the trustee will schedule a hearing and provide at least twenty-one (21) days' notice to the objecting creditor. The discharge may be withheld until the Court resolves the matter.
 - (C) Any debtor seeking entry of a discharge under 11 U.S.C. § 1328, in a case filed on or after October 17, 2005, must complete and file the local certificate of compliance form within thirty (30) days after receiving the Court's notice of the requirement to file the certificate of compliance. This notice will be sent to the debtor after the objection period to the trustee's final account & report has passed. The certificate of compliance form is available on the Court's website. In a joint case, both debtors must complete this form.
 - (i) Upon the filing of the certificate of compliance with the Court, it will be noticed through the Bankruptcy Noticing Center (BNC) to all creditors.
 - (ii) If no objection is filed within twenty-one (21) days after the service of the certificate of compliance, a discharge may be issued if the debtor is otherwise eligible to receive a discharge.
 - (iii) If an objection is timely filed to the certificate of compliance, the discharge may be withheld until the objection is resolved by the Court.
 - (iv) If the debtor fails to timely file certificate of compliance, the case may be closed without entry of a discharge.

- (2) A hardship discharge is requested through a motion for hardship discharge filed by the debtor under 11 U.S.C. Section 1328(b). Upon the filing of the motion, the Clerk will enter an order under Fed. R. Bankr. P. 4007(d) fixing the time to file a complaint to determine the dischargeability of any debt under Section 523(a)(6) and give no less than thirty (30) days' notice to all creditors of the time fixed to file an objection in the manner provided in Fed. R. Bankr. P. 2002. If no objection is filed to the motion for hardship discharge, the debtor is eligible for hardship discharge subject to the conditions set forth in subsection (B) below.
- (A) If an objection to the motion for hardship discharge is filed, the objection must be resolved before the granting of a hardship discharge.
- (B) When the motion for a hardship discharge is filed under 11 U.S.C. § 1328(b), the debtor must complete and file the local certificate of compliance form. This form is available on the Court's website. In a joint case, both debtors must complete this form.
- (i) Upon the filing of the certificate of compliance form with the Court, it will be noticed through the Bankruptcy Noticing Center (BNC) to all creditors.
- (ii) If no objection is filed within fourteen (14) days after the service of the certificate of compliance, a discharge may be issued if the debtor is otherwise eligible to receive a discharge.
- (iii) If an objection is timely filed to the certificate of compliance, it may be considered at the hearing on the debtor's motion for hardship discharge.

LR 5010. REOPENING CASES.

- (a) Disclosure of payment or nonpayment of fees. Anyone filing a motion to reopen a bankruptcy case must disclose the payment or nonpayment of any fee owed in the original case, including any filing fee or administrative fee prescribed by 28 U.S.C. § 1930(a) and by the Judicial Conference of the United States.
- (b) Payment of fees. Unless the Court orders otherwise, anyone filing a motion to reopen a bankruptcy case must pay any filing or administrative fees due to the Clerk and any other fees remaining unpaid in the original case as required by 28 U.S.C. § 1930(a) and by the Judicial Conference of the United States. Payment of the fees is due immediately on filing the motion. The bankruptcy fee schedule is posted on the Court's website.

LR 5011. WITHDRAWAL OF THE REFERENCE.

- (a) Form of request and place for filing. A request for withdrawal of the reference in whole or in part of a matter referred to the bankruptcy judge, other than a request by the

Bankruptcy Court on its own or the automatic withdrawal as provided in a jury case by LR 9015(e) must be by motion filed timely with the Clerk of the Bankruptcy Court. All such motions must conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."

- (b) Time for filing. A motion to withdraw the reference of a bankruptcy case in whole or in part must be served and filed at or before the time first scheduled for the meeting of creditors held under 11 U.S.C. § 341(a). A motion to withdraw the reference of an adversary proceeding, in whole or in part, must be served and filed on or before the date on which an answer, reply, or motion under Fed. R. Bankr. P. 7012 or 7015 is first due. A motion to withdraw the reference of a contested matter must be served and filed not later than fourteen (14) days after the motion, application or objection is served initiating the contested matter. However, a motion to withdraw the reference may be served and filed no later than fourteen (14) days after service of any pleading containing the basis for the motion to withdraw the reference. A stipulation to extend the time to answer or otherwise respond to the complaint or other pleading does not extend the time for filing the motion for withdrawal.
- (c) Responses to motion to withdraw the reference; reply. Opposing parties must file with the Clerk of the Bankruptcy Court, and serve on all parties to the withdrawal of the reference matter, their written opposition to the motion to withdraw the reference within fourteen (14) days after the motion is served. If the moving party consents to the motion being heard by the Bankruptcy Court, the opposition must state whether consent is given to the motion being heard by the Bankruptcy Court. The moving party may serve and file a reply within fourteen (14) days after a response is served.
- (d) Designation of the record.
 - (1) When the moving party files and serves the motion to withdraw the reference, it must designate the portions of the record of the Bankruptcy Court proceedings that it believes will reasonably be pertinent to the District Court's consideration of the motion. Within fourteen (14) days after service of the designation of record, any other party may serve and file a designation of additional portions of the record.
 - (2) If the record designated by any party includes a transcript or part of a transcript of any proceeding, that party must, immediately after filing the designation, order the transcript and arrange to pay for it, and file a copy of the transcript order with the District Court.
 - (3) Unless otherwise ordered, it is each parties' responsibility to file or append relevant portions of the designated record (including transcripts) of the Bankruptcy Court in connection with its filings.
 - (4) If the issues involve only questions of law, the parties may submit an agreed statement of facts of the parts of the record that are relevant to the questions of law, unless the district judge considering the motion directs otherwise.

- (e) Transmittal to and proceedings in United States District Court. When the record is complete except for transcripts, the Bankruptcy Court Clerk will promptly send to the District Court Clerk the motion and any related pleadings filed prior to the opening of a docket with the District Court. After a docket is opened in District Court, documents pertaining to the matter under review must be filed with the District Court Clerk, but all documents relating to other matters in the bankruptcy case, adversary proceeding, or contested matter must continue to be filed with the Clerk of the Bankruptcy Court. Any motion and any request by the Bankruptcy Court on its own to withdraw the reference must be referred to the Chief District Judge or the Chief District Judge's designee for decision in the District Court. But if the matter is withdrawn it must be assigned to a district judge in accordance with the Court's usual system for assigning civil cases, unless the Chief District Judge determines that exceptional circumstances warrant special assignment to a district judge. If the District Court requests, the bankruptcy judge will determine, in accordance with 28 U.S.C. § 157(b)(3), whether any proceeding in which withdrawal of the reference is sought, in whole or in part, is a core proceeding, and the bankruptcy judge may make findings and recommendations. The District Court may, in its discretion, grant or deny the motion to withdraw the reference, in whole or in part. If the reference is withdrawn, the District Court may retain the entire matter or may refer part or all of it back to the bankruptcy judge with or without instructions for further proceedings.

LR 5075. CLERK - DELEGATED FUNCTIONS.

- (a) United States Bankruptcy Court Clerk.
- (1) The Clerk of the Bankruptcy Court has the same rights and powers, may perform the same functions and duties, and is subject to the same provisions of 28 U.S.C. § 751 as a Clerk of the District Court. Under 28 U.S.C. § 956, the judges of this Court further assign the following powers and duties to the Clerk of the Bankruptcy Court:
- (A) Assignment of cases and proceedings commenced under Title 11, United States Code, in accordance with the provisions of 28 U.S.C. § 157, including the reassignment of a case to another bankruptcy judge of the District, on the oral or written directive of the judge assigned to the case; and,
- (B) Signing and entering all orders and process specifically allowed to be signed by the Clerk under Title 28, United States Code, and the Federal Rules of Civil Procedure as modified by the Federal Rules of Bankruptcy Procedure. If the Federal Rules of Civil Procedure delegate a duty of the Court to the Clerk, a Bankruptcy Court Clerk may perform the same type of duty specified in the Federal Rules of Bankruptcy Procedure.
- (2) Specific duties assigned to the Clerk. Unless the Court orders otherwise, the Clerk is authorized to sign and enter the following orders, which are deemed to be ministerial:

- (A) Orders specifically appointing persons to serve process in accordance with Fed. R. Civ. P. 4;
- (B) Orders on stipulation:
 - (i) Noting satisfaction of a judgment;
 - (ii) Approving and annulling bonds filed or to be released by Court order and exonerating sureties; and,
 - (iii) Setting aside a default;
- (C) Orders and notices that establish meeting and hearing dates required or requested by a party in interest under Title 11, United States Code, including orders that fix the last dates for filing objections to discharge and confirmations of plans, complaints to determine the discharge-ability of debts and proofs of claim;
- (D) Orders and notices regarding duties of debtors and debtors in possession;
- (E) Orders discharging a debtor in a Chapter 7 case if there is no pending motion to dismiss under 11 U.S.C. § 707(b), and if there has not been a timely filed objection to discharge of the debtor or a waiver by the debtor of the debtor's discharge;
- (F) Orders discharging a debtor in a Chapter 13 case as provided in 11 U.S.C. § 1328 if an objection to discharge of the debtor has not been filed or a waiver by the debtor of its discharge;
- (G) Orders closing cases and discharging the trustee in all cases in which the trustee has filed a final account and certified that the case has been fully administered under Fed. R. Bankr. P. 5009, and orders entering final decrees in Chapter 11 cases under Fed. R. Bankr. P. 3022;
- (H) Orders under LR IA 10-2 of the Local Rules of Practice for the United States District Court for the District of Nevada, granting permission to an attorney to practice in a particular case, and orders under LR IA 10-4, when ordered by the Court in the particular case or in all cases assigned to a particular judge;
- (I) Orders on all motions and applications of the type specified in Fed. R. Civ. P. 77(c), except as provided for by LR 7055;
- (J) Orders permitting installment payment of filing fees and fixing the number, amount, and date of payment of each installment filed under LR 1006. A request for an extension beyond one hundred twenty (120)

days, or a request that is received after entry of the first order entered by the Clerk must be in writing and will be considered only by a judge;

- (K) Orders reopening bankruptcy cases for administrative purposes;
 - (L) Orders authorizing examinations to be taken under Fed. R. Bankr. P. 2004 if the date set for examinations is set on not less than fourteen (14) days' notice and the request for examination does not include a request for production of documents. Orders that do not meet these requirements and orders under Fed. R. Bankr. P. 2004(d), must be signed by a judge;
 - (M) Reaffirmation orders under 11 U.S.C. § 524(c), if:
 - (i) The debtor is represented by an attorney; or
 - (ii) The Court has approved the reaffirmation agreement after notice and hearing. If the debtor is not represented by an attorney, the Clerk will forward the order to a judge for determination and entry;
 - (N) Orders withdrawing exhibits under LR 5003;
 - (O) Judgments on verdicts or decisions of the Court in circumstances authorized in Fed. R. Civ. P. 58 as incorporated by Fed. R. Bankr. P. 9021;
 - (P) Orders to assess, deduct and withdraw a fee from the Court's registry account under 28 U.S.C. §§ 2041 and 2042 and LR 7067(f);
 - (Q) Orders to remove a name from the email service list;
 - (R) Orders under Fed. R. Bankr. P. 4007(d);
 - (S) Orders to refund fees for filing a duplicate document or opening a duplicate case in error, if the filer has filed a motion requesting a refund of fees within two (2) business days of the filing. A motion requesting a refund of fees that is filed beyond two (2) business days will be considered only by a judge;
 - (T) Orders to redact information specified in Fed. R. Bankr. P. 9037(a). Orders to redact information outside the scope of Fed. R. Bankr. P. 9037(a) must be signed by a judge; and,
 - (U) Any other orders that under applicable Rule or statute do not require special direction by the Court.
- (3) A judge may for good cause suspend or rescind any action taken by the Clerk in connection with the powers and duties described in this Rule.

- (b) Authorization to issue notices or orders to show cause. The Clerk and deputy clerks of the Court are authorized to issue notices or orders to show cause for failure of a party to comply with the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, these Local Rules, or any order of this Court.

LR 6004. SALE AND SALE PROCEDURE MOTIONS IN CHAPTER 11 CASES.

- (a) Applicability of Rule. Except as otherwise provided in these Local Rules, this Rule applies to motions filed in Chapter 11 cases to sell property of the estate under 11 U.S.C. § 363(b) (“sale motions”) and motions seeking approval of sale, bid or auction procedures in anticipation of or in conjunction with a sale motion.
- (b) Sale Motions. Except as otherwise provided in these Local Rules, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or an order of the Court, all sale motions must include the following information, or include a declaration of counsel stating why such information has not been provided:
 - (1) A copy of the proposed purchase agreement, or a form of such agreement substantially similar to the one the debtor reasonably believes it will execute in connection with the proposed sale;
 - (2) A list of all lien holders with an interest in the property to be sold under the sale motion;
 - (3) A copy of a proposed form of sale order;
 - (4) A request, if necessary, for the appointment of a consumer privacy ombudsman under 11 U.S.C. § 332.
 - (5) The sale motion must highlight material terms, and shall indicate the location of any such provision in the proposed form of order or purchase agreement.
 - (6) In any non-individual Chapter 11 case, subsections (A) through (O) are presumptively material.
 - (A) If the proposed sale is to an insider, as defined in 11 U.S.C. § 101, the sale motion must:
 - (i) Identify the insider; and,
 - (ii) Describe the insider’s relationship to the debtor.
 - (B) If a proposed buyer has discussed or entered into any agreements with management or key employees regarding compensation or future employment, the sale motion must disclose the material terms of any such agreements.

- (C) The sale motion must highlight any provisions pursuant to which an entity is being released or claims against any entity are being waived or otherwise satisfied.
- (D) The sale motion must disclose whether an auction is contemplated, and highlight any provision in which the debtor has agreed not to solicit competing offers for the property subject to the sale motion or to otherwise limit the marketing of the property.
- (E) The sale motion must highlight any deadlines for the closing of the proposed sale or deadlines that are conditions to closing the proposed transaction.
- (F) The sale motion must highlight whether the proposed purchaser has submitted or will be required to submit a good faith deposit and, if so, the conditions under which the deposit may be forfeited.
- (G) The sale motion must highlight any provision pursuant to which a debtor is entering into any interim agreements or arrangements with the proposed purchaser, such as interim management arrangements (which, if out of the ordinary course, also must be subject to notice and a hearing under 11 U.S.C. § 363(b)), and the terms of the agreements.
- (H) The sale motion must highlight any provision pursuant to which a debtor proposes to release sale proceeds on or after the closing without further Court order, or to provide for a definitive allocation of sale proceeds.
- (I) The sale motion must highlight any provision seeking to have the sale declared exempt from taxes under 11 U.S.C. § 1146(a), and the type of tax (e.g., recording tax, stamp tax, use tax, or capital gains tax) for which the exemption is sought. It is not sufficient to refer simply to “transfer” taxes and the state or states in which the affected property is located.
- (J) If the debtor proposes to sell substantially all of its assets, the sale motion must highlight whether the debtor will retain, or have reasonable access to, its books and records to enable it to administer its bankruptcy case.
- (K) The sale motion must highlight any provision pursuant to which the debtor seeks to sell or otherwise limit any rights to pursue avoidance claims under Chapter 5 of Title 11 of the United States Code.
- (L) The sale motion must highlight any provision limiting the proposed purchaser's successor liability.
- (M) The sale motion must highlight any provision by which the debtor seeks to sell property free and clear of a possessory leasehold interest, license or other right.

- (N) The sale motion must highlight any terms with respect to credit bidding pursuant to 11 U.S.C. § 363(k).
- (O) The sale motion must highlight any provision whereby the debtor seeks relief from the fourteen (14) day stay imposed by Fed. R. Bankr. P. 6004(h).

LR 6006. DEBTOR'S ABILITY TO ASSUME A CONTRACT AFTER ESTATE REJECTS.

Notwithstanding the requirements of LR 2002, if an individual debtor elects to assume a contract under 11 U.S.C. § 365(p)(2), the only notice that he or she must give under either Section 365(p)(2)(A) or 365(p)(2)(B) is notice to the nondebtor party or parties to the contract being assumed, and to the trustee, or if there is no trustee, to the Office of the United States Trustee. No additional notice is required. The Court may enter an order on a stipulation signed by all these parties without holding a hearing.

LR 7003. COVER SHEET FOR ADVERSARY PROCEEDINGS.

All adversary proceedings in Bankruptcy Court filed on paper must be accompanied by a properly completed bankruptcy adversary proceeding cover sheet, Form B104. Adversary proceedings filed electronically do not require a cover sheet.

LR 7004. LIMITS OF ELECTRONIC SERVICE.

Electronic transmission of the notice of electronic filing does not constitute service or notice of the following documents, which must be served on paper:

- (a) Service of a summons and complaint under Fed. R. Bankr. P. 7004;
- (b) Service of a subpoena under Fed. R. Bankr. P. 9016; except as provided in LR 9016 when service is made on counsel;
- (c) Service of a petition under Fed. R. Bankr. P. 1010; and
- (d) Where conventional service is otherwise required under the Federal Rules of Bankruptcy Procedure, the Local Rules, or by Court order.

LR 7005. CERTIFICATE OF SERVICE (ADVERSARY PROCEEDINGS).

- (a) Certificate of service. A proof of service, preferably using the Court's certificate of service form, must be filed within seven (7) days for all papers and pleadings required or permitted to be served. The proof must show the date of service, the name of the person served, and the manner of service (e.g., electronically or by mail). Proof of service is deemed sufficient if it complies with the Court's certificate of service form, which is available on the Court's website.
- (b) Failure to file a proof of service. The Court may refuse to take action on any papers or pleadings until a proof of service is filed. If an affidavit or certificate of service is

attached to the original pleading, it must be attached so that the character of the pleading is easily discernible. Failure to file the proof of service does not affect the validity of the service, and the Court may at any time allow the proof of service to be amended or supplied unless it clearly appears that doing so would result in material prejudice to the substantial rights of any party.

LR 7007.1. CORPORATE OWNERSHIP STATEMENT.

The Corporate Ownership Statement required under Fed. R. Bankr. P. 7007.1 must also be filed by any party to an adversary proceeding, other than a debtor or a governmental entity, that is a non-individual entity including a general or limited partnership, joint venture, LLC, or LLP.

LR 7010. GENERAL REQUIREMENTS OF FORM.

- (a) Form of papers. After notice and hearing, any paper or pleading filed that does not conform to an applicable provision of these Rules or any Federal Rule of Bankruptcy Procedure may be stricken by the Court on its own motion. Whenever there are more than five (5) plaintiffs or defendants in the caption of a complaint or third party complaint, the filing party must at the same time file an alphabetical list of the parties.
- (b) Caption, title of Court and name of case. In addition to the requirements of LR 9004, the caption must include the caption of the adversary proceeding as well as the caption of the case, including the adversary proceeding number. If a scheduling conference has been set, the complaint and answer must indicate that date in the space for hearing date and time, like this:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:	)	BK-S-95-00123-MKN
	)	CHAPTER 7
JOHN DOE,)	
	)	ADVERSARY NO: BK-S-95-2001-MKN
Debtor.)	
)	
JOHN DOE,	)	DEFENDANT'S ANSWER TO
	)	COMPLAINT TO DETERMINE
Plaintiff,	)	DISCHARGEABILITY OF DEBT
)	
v.	)	Hearing Date (Scheduling conf.):
	)	Hearing Time:
RICHARD ROE,	)	Estimated Time:
)	
Defendant.)	

- (c) Copies. The Clerk maintains a list of copy requirements that specifies the number of copies to be submitted. The copy requirements may be revised from time to time, and

when they are revised, the list of copy requirements will be reissued in full with a notation of the effective date of the revision. The list of copy requirements is available from the Clerk and is posted on the Court's website.

- (1) Unless otherwise required, counsel or persons appearing *pro se* must submit the original pleadings, summons, orders, or other papers and the required number of copies.
- (2) If anyone filing a document wishes to receive a file-stamped copy of it, the filer must submit one (1) additional copy. Filers who wish to have the file-stamped copy returned by mail must include a self-addressed stamped envelope.

LR 7015. AMENDED AND SUPPLEMENTAL PLEADINGS.

- (a) Any motion to amend the pleadings must have a copy of the proposed amended pleading included as an exhibit. Unless the Court permits otherwise, every amended pleading must be reprinted and filed so that it will be complete in itself, including exhibits, without reference to the superseded pleading.
- (b) If the motion is granted, the moving party has fourteen (14) days from the entry of the order approving the motion to file and serve an original amended pleading.

LR 7016. PRETRIAL PROCEDURES.

- (a) Actions exempt from scheduling order. Except as the Court orders, the following categories of cases are exempt from the requirements of Fed. R. Civ. P. 16(b) as adopted by Fed. R. Bankr. P. 7016:
 - (1) Contested matters under Fed. R. Bankr. P. 9014; and
 - (2) Other actions or categories of actions as the Court orders.
- (b) Time and issuance for scheduling order.
 - (1) The plaintiff must serve the standard discovery plan form, which may be obtained from the Clerk, at the time a summons is issued. The parties must use the standard form.
 - (2) Within thirty (30) days after the first defendant has answered or otherwise appeared, the parties must meet as required by Fed. R. Bankr. P. 7026 and LR 7026. No later than fourteen (14) days after the meeting, the parties must complete and submit the information required by the discovery plan or request for waiver, and, if required by a judge, a form order.
 - (3) If the parties agree to the standard deadlines or fail to submit the discovery plan, the standard deadlines will govern.

- (4) If the parties have agreed to different deadlines, cannot agree on deadlines, or wish to seek a waiver of the requirement for a discovery plan, they must say so on the front page of the discovery plan.
 - (5) Unless they are excused, the parties must appear at any scheduling conference.
 - (6) After the first scheduling conference, the Court will approve, disapprove, or modify the discovery plan, enter other orders as appropriate, and issue an order regarding pretrial and trial. The Court may order a status hearing or a conference of all the parties at any time.
- (c) Time limits for filing certain motions. Unless the Court orders otherwise, the following time periods govern filing certain motions:
- (1) All motions to amend the pleadings under Fed. R. Bankr. P. 7015(a) or for the joinder of parties must be filed in time to be heard no later than the close of discovery. If the amendment or joinder is allowed, unless the Court orders otherwise, discovery will be extended for forty-five (45) days for the limited purposes of conducting discovery on the amendments or joinders;
 - (2) Unless otherwise ordered, all potentially dispositive motions on any issues must be filed by the close of discovery; and,
 - (3) Motions *in limine* must be filed at the time of the pretrial conference, and any responses must be filed no less than seven (7) days before the start of trial. No reply will be permitted unless the Court requests one.
- (d) Pretrial order and trial setting.
- (1) The Order Regarding Pretrial and Trial may set the date for filing a joint or separate trial statement(s). The Court may, however, order a joint pretrial order at any time. Unless otherwise ordered, the parties must use the prescribed pretrial order and standard trial statement, both of which may be obtained from the Clerk or the Court's website.
 - (2) The Court may set a trial date in the order regarding pretrial and trial or by separate written or oral order. Continuances are disfavored.
- (e) Settlement conference and alternative methods of dispute resolution. The Court may set any adversary proceeding for settlement conference, summary jury trial, or other alternative method of dispute resolution.

LR 7026. DISCOVERY - GENERAL.

- (a) Disclosures. Unless the Court orders otherwise, the disclosures required by Fed. R. Civ. P. 26(a)(2), as adopted by Fed. R. Bankr. P. 7026, must be made no later than thirty (30) days before the close of discovery by the party bearing the burden of proof on the issue in question and no later than fourteen (14) days before the close of discovery by the

opposing party. Written reports by experts, unless otherwise stipulated by the parties or ordered by the Court, are due no later than the time the identity of experts is to be disclosed.

- (b) Exemptions from the provisions of Fed. R. Civ. P. 26(f).
 - (1) Exemption of an action from Fed. R. Civ. P. 26(f), not otherwise exempted by Fed. R. Civ. P. 26(a)(1)(B), may be obtained by Court order after a motion noticed to all parties to the action or by stipulation of all parties before the date any meeting under this Rule is to be held. The parties obtaining an exemption under this subsection do not have to file a discovery plan.
 - (2) LR 7016 and 7026(c) govern the requirements for discovery plans. The parties to an action not exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under subsection (b)(1) of this Rule may seek a limited exemption from Fed. R. Civ. P. 26(f) insofar as the Rule requires filing a discovery plan. In cases in which the parties certify that no formal discovery is required, they may request a waiver of the requirement for a discovery plan. Trial may proceed one hundred twenty (120) days from the date a discovery plan would have been due. The parties may request the waiver by so indicating on the standard discovery plan/scheduling form and by completing all information requested on that form.
- (c) Discovery conference and plan.
 - (1) Unless exempted, the parties must meet and confer no later than thirty (30) days after the first defendant has answered or otherwise appeared.
 - (2) No later than fourteen (14) days after the meeting, the parties must submit the discovery plan or request for waiver and order. If the parties fail to submit a discovery plan, they may be subject to sanctions. In addition, if they have not requested and been granted a waiver from the requirement to file a discovery plan, the deadlines set forth in the standard form will apply, even if the parties have not submitted a plan.
 - (3) The Court may conduct a scheduling conference to consider the submitted discovery plan and to issue an order regarding pretrial and trial.
 - (4) The Court may alter the standard form, including the deadlines it contains. Counsel must use the format then in use, and the deadlines set forth in the standard form will apply unless the Court orders different deadlines.
 - (5) If the parties agree to different deadlines, or cannot agree on deadlines, they must so indicate on the face of the standard discovery plan, and they must attach their proposed plan using Form 35 of the Federal Rules of Civil Procedure or other form as the Court may direct.
- (d) Discovery limitations.

- (1) Unless the Court orders otherwise, in cases in which a discovery plan is required, all discovery must begin in time to be completed by one hundred twenty (120) days after the answer or first appearance by the first defendant.
 - (2) Unless the Court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under subsection (b)(l) of this Rule may begin discovery on the commencement of the action.
 - (3) The Court will approve, disapprove, or modify the discovery plan and enter other orders as appropriate after the first scheduling conference. At any time, on request of a party or on its own, the Court may order a conference of all the parties to discuss the provisions of the discovery plan or scheduling order.
- (e) Extension of discovery time.
- (1) Unless the Court orders otherwise, an extension of the discovery deadline will not be allowed without a showing of good cause as to why all discovery was not completed within the time allotted. The Court must receive all motions or stipulations to extend discovery at least twenty-one (21) days before the date fixed for completion of discovery, or at least twenty-one (21) days before the expiration of any extension that the Court may have approved. The motion or stipulation to extend time or to reopen discovery must include:
 - (A) A statement of the discovery that the parties have completed as of the date of the motion or stipulation;
 - (B) A specific description of the discovery remaining to be completed;
 - (C) The reasons why the remaining discovery was not completed within the time limit of the existing discovery plan; and,
 - (D) A proposed schedule for completing all remaining discovery.
 - (2) Counsel must ensure that all discovery is initiated so it can be completed by the end of the period set out in the discovery plan. No additional discovery will be permitted after that, except as provided above.
- (f) Demand for prior discovery. Whenever a party makes a written demand for discovery that took place before that person or entity became a party to the action, each party who has previously responded to a request for admission or production or answered interrogatories must furnish to the demanding party: (1) the documents containing the discovery responses in question for inspecting and copying; (2) a list identifying each document by title; or (3) on further demand, at the expense of the demanding party, a copy of any listed discovery response specified in the demand. If there are requests for production, a party must make available for inspection by the demanding party all documents and things previously produced. Further, each party who has taken a

deposition must make a copy of the transcript available to the demanding party for copying at the demanding party's expense.

- (g) Filing discovery papers. Notices of deposition, depositions, interrogatories, requests for production or inspection, requests for documents, requests for admissions, answers and responses, and proof of service should not be filed with the Court unless the Court orders filing on its own motion or on motion of a party. Originals of responses to requests for admissions or production and answers to interrogatories must be served on the party who made the request or propounded the interrogatories, and that party must make the originals available at the time of any pretrial hearing or at trial for use by any party. Likewise, the deposing party must make the original transcript of a deposition available at the time of any pretrial hearing or at trial for use by any party or filing with the Court if so ordered.
- (h) Contested matters under Fed. R. Bankr. P. 9014. Unless the Court orders otherwise, Fed. R. Bankr. P. 7026 and LR 7026 do not apply to contested matters filed under Fed. R. Bankr. P. 9014.

LR 7030. DEPOSITIONS UPON ORAL EXAMINATION.

- (a) Commencement of discovery. Unless the Court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under LR 7026(b)(1) may begin discovery on commencement of the action.
- (b) Commencement of discovery by deposition.
 - (1) Normally, depositions may be taken without leave of Court in an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under LR 7026(b)(1). But if the plaintiff seeks to take the deposition within thirty (30) days after service of the summons and complaint, Court approval is required. However, if a defendant in the adversary proceeding has served a notice of taking deposition or otherwise sought discovery, leave of Court is not required.
 - (2) Depositions may be taken without leave of Court unless the party in an adversary proceeding seeks to take a deposition before the parties confer in accordance with Fed. R. Civ. P. 26(f).
- (c) Requirements for transcripts. Unless the parties stipulate or the Court orders otherwise, depositions must be recorded by stenographic means.

LR 7031. DEPOSITIONS UPON WRITTEN QUESTIONS.

- (a) Commencement of discovery. Unless the Court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under LR 7026(b)(1) may begin discovery on the commencement of the action.
- (b) Commencement of discovery by deposition upon written questions. Except as provided in Fed. R. Civ. P. 31(a)(2)(A)(ii):

- (1) After commencement of an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under LR 7026(b)(1), any party may take the testimony of any person, including a party, by deposition upon written questions.
 - (2) Depositions may be taken upon written questions without leave of Court unless the party in an adversary proceeding seeks to take a deposition before the parties confer in accordance with Fed. R. Civ. P. 26(f).
- (c) Requirements for transcripts. Unless the parties stipulate or the Court orders otherwise, depositions must be recorded by stenographic means.

LR 7032. USE OF DEPOSITIONS IN ADVERSARY PROCEEDINGS.

- (a) Applicability. This Rule does not apply in matters that are tried by a jury. In a jury trial, a party may ask to read into the record a deposition or other transcribed statement taken under oath.
- (b) Designation. Any party intending to offer deposition testimony or other transcribed statements made under oath (such as at a 341 meeting of creditors or at a 2004 examination) must prepare a statement clearly identifying the name of the deponent or person otherwise examined, the date of the deposition or other type of examination taken under oath, and the specific portions of the deposition or transcribed statement, by page and line numbers, that will be offered as evidence. The party must also include as an exhibit a copy of the entire transcribed record.
- (c) Exchange of statements and objections. Unless the Court orders otherwise, copies of all statements and objections must be furnished to opposing counsel and lodged with the Court. Cross reference is made to the procedural rules for filing oppositions, replies and other responses, and to LR 9017.
 - (1) The plaintiff or movant must submit all statements to opposing counsel at least fourteen (14) days before the trial or the hearing on the contested matter, with the opposition to the contested matter.
 - (2) The defendant or respondent must submit all statements or objections to opposing counsel with a reply served in accordance with LR 9014.
 - (3) Two (2) business days before trial or the hearing on a contested matter each party must lodge with the courtroom deputy clerk or the judge to whom the matter is assigned one (1) copy of all statements intended to be offered as evidence by that party, and an original and one (1) copy of that party's written objections to the admission of any deposition testimony or transcribed statement taken under oath of an opposing party.

LR 7033. INTERROGATORIES TO PARTIES.

- (a) Commencement of discovery. Unless the Court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(l)(E) or by order obtained under LR 7026(b)(l) may begin discovery on the commencement of the action.
- (b) Number of interrogatories permitted; commencement of discovery by interrogatories.
 - (1) Unless the Court orders otherwise or it is stipulated by the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under LR 7026(b)(1), after commencement of the action, any party may serve on any other party not more than twenty-five (25) interrogatories, including all discrete subparts. A defendant in an adversary proceeding is not required to serve answers or objections to interrogatories within forty-five (45) days after service of the summons and complaint.
 - (2) Interrogatories may be served under Fed. R. Civ. P. 33 without leave of Court unless the party in an adversary proceeding seeks to serve interrogatories before the parties confer in accordance with Fed. R. Civ. P. 26(f).

LR 7034. PRODUCTION OR INSPECTION OF DOCUMENTS AND THINGS.

- (a) Commencement of discovery. Unless the Court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained pursuant to LR 7026(b)(1) may begin discovery on the commencement of the action.
- (b) Requests for production or inspection.
 - (1) Unless the Court orders otherwise or it is stipulated by the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under LR 7026(b)(1), any party may serve on any other party a request for production or inspection after commencement of the action. A defendant in an adversary proceeding is not required to respond within forty-five (45) days after service of the summons and complaint.
 - (2) Requests for production or inspection may be served under Fed. R. Civ. P. 34 without leave of Court unless a party in an adversary proceeding requests production or inspection before the parties confer in accordance with Fed. R. Civ. P. 26(f).
- (c) Responses to discovery sought. All responses to discovery sought must, immediately preceding the response, identify the number or other designation and set forth in full the text of the discovery sought.

LR 7035. PHYSICAL AND MENTAL EXAMINATIONS OF PERSONS.

Whenever a party in the pleadings filed with the Court places any party's present, past or future physical or mental condition in issue, that party may not prevent discovery of information concerning such physical or mental condition or prior history related thereto by asserting any physician-patient privilege

provided by state law against discovery or information concerning such physical or mental condition or prior history directly related thereto.

LR 7036. REQUESTS FOR ADMISSION.

- (a) Commencement of discovery. Unless the Court orders otherwise, after the commencement of an action, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under LR 7026(b)(1) may begin discovery.
- (b) Requests for admissions.
 - (1) Unless the Court orders otherwise or it is stipulated by the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(B) or by order obtained under LR 7026(b)(1), after commencement of the action, any party may serve a request for admission on any other party. A defendant in an adversary proceeding is not required to serve answers or objections to requests for admissions within forty-five (45) days after service of the summons and complaint.
 - (2) Requests for admission may be served under Fed. R. Civ. P. 36 without leave of Court unless a party in an adversary proceeding seeks to request admission before the parties confer in accordance with Fed. R. Civ. P. 26(f).

LR 7037. DISCOVERY MOTIONS.

- (a) All motions to compel discovery or for protective orders must, in addition to the discovery being sought or enjoined in the motion, set forth in full the text of the discovery originally sought or enjoined and the response made to it, if any, and comply with Fed. R. Civ. P. 26(c), as adopted by Fed. R. Bankr. P. 7026.
- (b) Discovery motions will not be considered unless a statement of moving counsel is attached certifying that, after consultation or effort to do so, the parties have been unable to resolve the matter without court action.
- (c) Any attorney or party appearing *pro se* may make written application to, or, where time does not permit, may telephone the Court, to request judicial assistance in resolving an emergency discovery dispute. The attorney or party seeking emergency relief must endorse on the face of any written application the words, "Request for Emergency Relief."

LR 7041. DISMISSAL FOR LACK OF PROSECUTION.

Any proceeding that has been pending in this Court for more than one (1) year without any activity of record may, after notice, be dismissed for want of prosecution on motion of counsel, any party, or by the Court. In addition, in appropriate circumstances, the Court may issue an order to show cause why a proceeding should not be dismissed regardless of how long it has been pending.

LR 7054. COSTS –TAXATION/PAYMENT.

The requirements of LR 54-1 through LR 54-14 of Part II of the Local Rules of Civil Procedure for the United States District Court for the District of Nevada are adopted in full.

LR 7055. DEFAULTS AND DEFAULT JUDGMENTS

Defaults and default judgments are governed by Fed. R. Bankr. P. 7055. A properly requested default may be entered by the Clerk. A default judgment may only be entered by the Court. Any procedures for obtaining a default judgment are available on the Court's website.

LR 7056. SUMMARY JUDGMENT.

- (a) Motions. Each motion for summary judgment must be accompanied by a separately filed "Statement of Undisputed Facts" which must specify each of the material facts relied upon in support of the motion, and which cites to the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission or other document relied upon to establish that fact. The moving party must file as an exhibit to the statement all of the evidentiary documents that are cited in the moving papers.

- (b) Stipulated Facts. All parties in interest may jointly file a stipulation setting forth a statement of stipulated facts to which all parties in interest agree. As to any stipulated facts, the parties so stipulating may state that their stipulations are entered into only for the purposes of the motion for summary judgment and are not intended to be otherwise binding.

- (c) Opposition. Any party opposing a motion for summary judgment must reproduce the itemized facts in the statement of undisputed facts and admit those facts which are undisputed and deny those which are disputed, including with each denial a citation to the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission or other document relied upon in support of that denial. The opposing party may also file a separate concise statement of disputed facts, and the source thereof in the record, of all additional material facts as to which there is a genuine issue precluding summary judgment. The opposing party must file as an exhibit to its statement all evidentiary documents that are cited in the opposing papers. If a need for discovery is asserted as a basis for denial of the motion, the party opposing the motion must provide a description of the particular facts on which discovery is to be had or the issues on which discovery is necessary.

Unless the Court orders otherwise, an opposing party has twenty-one (21) days after service of the moving party's points and authorities to file and serve a memorandum of points and authorities in opposition to the motion.

- (d) Reply memorandum. Unless the Court orders otherwise, the moving party has fourteen (14) days after service of the opposition to file and serve a reply memorandum of points and authorities. Unless otherwise ordered, there is no reply to a countermotion under subsection (e)(1).

- (e) Countermotion.

- (1) A countermotion for summary judgment that relates to the same claim or partial claim may be filed against the movant(s) within the time allowed for the opposition to the motion for summary judgment.
 - (2) Any party seeking summary judgment on a different claim or part of a claim, or against a non-movant, must notice the motion in accordance with subsection (f)(1) and may not, without the consent of the moving party, the party against who judgment is sought, and the Court, set it on the date set in the first motion for summary judgment. If the movant does not consent, the counter movant may seek an order shortening time in accordance with LR 9006.
- (f) Hearings on motions for summary judgment.
- (1) The party moving for summary judgment must obtain a hearing date from the Clerk for hearing the motion. Unless the Court shortens the time for hearing, the date will not be less than forty-two (42) days from the date the motion was filed.
 - (2) Unless the Court orders otherwise, the countermotion filed under subsection (e)(1) will be heard at the same time as the original motion

LR 7062. SUPERSEDEAS BONDS ON STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT.

Unless the Court orders otherwise, a supersedeas bond must conform to the provisions of LR 7065.

LR 7064. SERVICE OF PROCESS.

- (a) Service by the United States Marshal. The United States Marshal is authorized to serve civil process on behalf of the United States government without a Court order.
- (b) Service of process under state procedure.
 - (1) In cases or proceedings where the Federal Rules of Civil Procedure or the Federal Rules of Bankruptcy Procedure authorize the service of process to be made in accordance with Nevada state practice; counsel for the party seeking the service must comply with the requirements of state practice, together with specific instructions for administering service.
 - (2) Pursuant to Nev. Rev. Stat. § 31.270(1), service of writs of garnishment may be made via any method of service authorized for service of summons pursuant to Fed. R. Bankr. P. 7004 and LR 7004.

LR 7065. INJUNCTIONS.

- (a) Qualification of surety. Except for bonds secured by cash, negotiable bonds, or notes of the United States as provided for in LR 7065(b), every bond must have as surety:

- (1) A corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under 31 U.S.C. §§ 9304 through 9306;
 - (2) A corporation authorized to act as surety under the laws of the State of Nevada, which must have on file with the Clerk a certified copy of its certificate of authority to do business in Nevada, together with a certified copy of the power of attorney appointing the agent authorized to execute the bond;
 - (3) One (1) or more individuals each of whom owns real or personal property sufficient to justify the full amount of the suretyship; or,
 - (4) Any other security that the Court may order.
- (b) Deposit of money or United States obligation in lieu of surety. With Court approval, there may be deposited with the Clerk in lieu of surety:
- (1) Lawful money accompanied by an affidavit that identifies its legal owner; or
 - (2) Negotiable bonds or notes of the United States accompanied by an executed agreement as required by 31 U.S.C. § 9303(a)(3) authorizing the Clerk to collect or sell the bonds or notes in the event of default.
- (c) Approval. Unless approval of the bond or the individual sureties is endorsed by the opposing counsel or a party appearing in *pro se*, the party offering the bond must apply to the Court for approval. The Clerk may approve bonds unless Court approval is expressly required by law.
- (d) Persons not to act as sureties. No officer of this Court, or any member of the Bar of this Court, or any nonresident attorney specially admitted to practice before this Court, or their office associates or employees may act as surety in this Court.
- (e) Judgment against sureties. Every surety who provides a bond or other undertaking with the Court submits to the jurisdiction of the Court regardless of what may otherwise be provided in any security instrument. The surety who provides the bond or other undertaking irrevocably appoints the Clerk as agent upon whom any paper affecting liability on the bond may be served. Liability will be joint and several and may be enforced summarily without independent action. Service may be made on the Clerk, who will serve a copy as soon as possible to the surety at the last known address.
- (f) Further security or justification of personal sureties. At any time, on reasonable notice to all other parties, any party for whose benefit a bond is presented or posted may apply to the Court for further or different security or for an order requiring personal sureties to justify.

LR 7067. REGISTRY FUNDS.

- (a) Deposit of registry funds.

- (1) No money will be sent to the Court or the Clerk for deposit into the Court's registry without a Court order.
 - (2) The order must be prepared by the party seeking the order of deposit. The order must state the exact amount to be deposited, that the funds are to be deposited into an interest-bearing account, and that the funds will remain on deposit until further order of the Court. Additionally, the order must contain the following provision:

"IT IS ORDERED that the Clerk is directed to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office, whenever such income becomes available for deduction in the investment so held and without further order of the Court."
 - (3) The funds must be submitted to the Clerk by check or money order made payable to "U. S. Bankruptcy Court" in the exact amount specified in the Court order.
- (b) Notice to Clerk. Whenever the Court orders that money deposited into Court must be deposited by the Clerk in an interest-bearing account, the party seeking the order must, within fourteen (14) days, personally serve a copy of the order upon the Clerk. Failure of the party seeking an order of deposit to an interest-bearing account to serve the Clerk or chief deputy with a copy of the order will release the Clerk from liability for loss of interest upon the money subject to the order of deposit.
 - (c) Authorized depositories. Unless otherwise ordered by the Court, the Clerk must deposit money pursuant to an order of deposit in any institution authorized by the Court. The Clerk may also invest such money in United States Treasury bills.
 - (d) Timing of deposit. The Clerk must deposit the money pursuant to an order of deposit within fourteen (14) days following service of a copy of the order by the party seeking the order.
 - (e) Fees charged on registry funds. All funds deposited on or after December 1, 1990, and invested as registry funds will be assessed pursuant to the guidelines established by the Judicial Conference. Fees may be deducted periodically without further order and will be subject to any subsequent exceptions or adjustments by the directive of the Administrative Office of the United States Courts.
 - (f) Disbursements of registry funds.
 - (1) The Clerk will disburse funds on deposit in the registry of the Court only pursuant to Court order.
 - (2) The disbursement order must contain a provision relieving the Clerk from liability for loss of interest, if any, for early withdrawal of the funds. The order must state the name and taxpayer identification number for each party who is

to receive funds, the mailing address of each party, and the amount of percentage of the principal each is to receive. The order must also state the percentage of the interest each party is to receive. Funds will be disbursed only after the time for appeal of the related judgment or order has expired, or upon approval by the Court of a written stipulation signed by all parties.

- (g) Non-cash collateral. Pursuant to a Court order, bonds or other types of non-cash collateral can be accepted by the Clerk. These instruments can be released with a Court order.

LR 8001. NOTICE OF APPEAL; ELECTION TO HAVE APPEAL HEARD BY DISTRICT COURT INSTEAD OF BANKRUPTCY APPELLATE PANEL.

- (a) Order being appealed. The appellant must attach to the notice of appeal filed in Bankruptcy Court and a copy of the entered judgment, order or decree from which the appeal is taken.

- (b) Bankruptcy appellate panel. In accordance with 28 U.S.C. § 158(b)(6), a bankruptcy appellate panel is authorized to hear and determine appeals from judgments, orders and decrees entered by bankruptcy judges from this District, subject to the limitations set forth in subsections (b) and (c) of this Rule.

- (1) The bankruptcy appellate panel may hear and determine only those appeals in which there has not been timely filed a "statement of election to have appeal heard by District Court instead of bankruptcy appellate panel" in accordance with 28 U.S.C. § 158(c)(1) and Fed. R. Bankr. P. 8001(e).

- (2) With leave of the bankruptcy appellate panel, the panel will hear appeals from interlocutory orders and decrees entered by bankruptcy judges.

- (3) The bankruptcy appellate panel may hear and determine appeals from judgments, orders and decrees entered by bankruptcy judges after July 10, 1984, and appeals transferred to the District Court from the previous Ninth Circuit bankruptcy appellate panel by Section 115(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353. The bankruptcy appellate panel may not hear or determine appeals from judgments, orders and decrees entered by bankruptcy judges between December 25, 1982, and July 10, 1984, under the Emergency Bankruptcy Rule of this District.

- (c) Time for election.

- (1) When a notice of appeal is filed with the Clerk of the Bankruptcy Court, the appeal will be referred to the bankruptcy appellate panel, unless the appellant files at the time of filing the appeal a statement of election under 28 U.S.C. § 158(c)(1) in a separate writing under Fed. R. Bankr. P. 8001 (e) that the appeal be heard by the District Court. All parties to the appeal must be notified of the filing and reference within the time and in the manner provided for in LR 8004.

- (2) The appellee party has thirty (30) days after service of the notice of appeal to file with the Clerk of the bankruptcy appellate panel a written statement of election in accordance with 28 U.S.C. § 158(c)(1) and Fed. R. Bankr. P. 8001(e) that the appeal be heard by the District Court. If the statement of election is not timely filed, the bankruptcy appellate panel will hear the appeal.

LR 8004. SERVICE OF NOTICE OF APPEAL.

- (a) Service. Not later than three (3) business days after filing a notice of appeal, the Clerk of the Bankruptcy Court will serve a copy of the notice of appeal on all parties to the appeal. A copy of the notice of appeal will also be sent to the Clerk of the bankruptcy appellate panel, unless the appellant has filed a "statement of election to have the appeal heard by the District Court instead of the bankruptcy appellate panel" under 28 U.S.C. § 158(c)(1) and Fed. R. Bankr. P. 8001(e).
- (b) Notification of bankruptcy appellate panel procedures. When the Clerk of the bankruptcy appellate panel receives the notice of appeal, the Clerk will notify the parties of the procedures and requirements relating to practice before the bankruptcy appellate panel.

LR 8006. DESIGNATION OF RECORD - APPEAL.

- (a) Reproduction of record on appeal.
 - (1) In cases filed before January 1, 2002, which are on paper, if there is an appeal to the District Court or other appellate court, the original pleadings will remain in the custody of the Bankruptcy Court, unless a bankruptcy judge has issued an order allowing the original case file to be forwarded to the District Court. Pleadings in cases filed on or after January 1, 2002, are in electronic format, and electronic copies can be made and forwarded as necessary.
 - (2) In addition to the excerpts of the record required by LR 8009, the District Court or other appellate court may require that a copy of pleadings from the Court's official case/adversary file, as designated, be transmitted to the District Court or other appellate court. The Clerk of the Bankruptcy Court will request copies from the party or parties designating the record on appeal. The copies must be tendered to the Clerk in chronological order in conformity with LR 9004(c) within thirty (30) days of the Clerk's request or within a shorter time if ordered by the District Court or other appellate court. When the Clerk receives the copies, the Clerk will tender a receipt for all items designated. If any party fails to give the Clerk copies of designated items before the deadline, the Clerk may make copies at the designating party's expense.
- (b) Designation and preparation of reporter's and recorder's transcripts.
 - (1) When designating transcripts on appeal, the party filing the notice of appeal, or other moving party, must specify the date(s), time(s), and type of hearing(s) and identify by name the court reporter or recorder.

- (2) The party filing the notice of transcript must include in the notice:
 - (A) All transcripts listed in the designation of record, if any;
 - (B) Notation of the date of filing, if any; and,
 - (C) The estimated time of filing, whether expedited or in the ordinary course of transcription.
- (c) Procedure for requesting preparation of transcript. A transcript order form (AO 435) must be submitted to the Clerk and must specify which portions of the designated transcript a particular court reporter or recorder will transcribe. If a court reporter was present, the Clerk may arrange for the transcription of the record at the requesting party's expense.

LR 8007. TRANSMISSION OF RECORD ON APPEAL.

When the record, including any transcript, is complete for purposes of appeal, the Clerk will transmit a certificate of record to the District Court or other appellate court and will notify the parties of the date that the certificate of record was filed. The Clerk will retain the record until the District Court or other appellate court requests it.

LR 8009. BRIEFS AND APPENDIX.

- (a) Excerpts of record. The parties must file excerpts of record to the District Court in the same manner as required by Fed. R. Bankr. P. 8009(b) for appeals to the bankruptcy appellate panel. A party filing excerpts of record with the District Court must file two (2) copies to be bound separately from the briefs. A party filing excerpts of record with the bankruptcy appellate panel must file the number of copies required by the Ninth Circuit Bankruptcy Appellate Panel.
- (b) Transcripts. The excerpts of record must include the transcripts necessary for adequate review in light of the standard of review to be applied to the issues before the District Court or other appellate court.

LR 8018. LOCAL RULES OF CIRCUIT, JUDICIAL COUNCIL, OR DISTRICT COURT.

Practice in bankruptcy appeals that may come before the District Court will be governed by Part VIII of the Federal Rules of Bankruptcy Procedure, except as provided in LR 8070 or in Rules that the District Court adopts.

LR 8070. DISMISSAL OF APPEAL FOR NONPROSECUTION.

The Court may dismiss the appeal, impose sanctions, or both under circumstances indicated below. This Rule may be invoked on motion of a party or by the Court on its own motion after notice to the parties:

- (a) When an appellant fails to timely file a designation of the reporter's transcript, designation of record, statement of issues and/or brief; file the excerpts of record; or otherwise comply with Rules and orders governing the processing of bankruptcy appeals; or,
- (b) When an appellee fails to timely file a designation of reporter's transcript, designation of record or brief; or otherwise comply with Rules and orders governing the processing of the bankruptcy appeals.

LR 9004. REQUIRED FORM OF FILED PAPERS.

- (a) Form of papers.
 - (1) The papers filed with the Bankruptcy Court must be legibly printed on eight-and-one-half by eleven inch (8½ " x 11 ") paper, with copies reproduced by any method resulting in clear copy. Unless the Court orders otherwise, all printing and handwriting must be double-spaced and each printed line consecutively numbered in the left margin on each page.
 - (2) The format described above does not apply to:
 - (A) Exhibits, footnotes and quotations, the identification of counsel, caption, title of the court and the name of the case; and,
 - (B) The title page, which must begin at least one-and-one-half inches (1½") from the top of the page.
- (b) Print requirements. Printing that uses proportional fonts or equivalent (such as most computer fonts) must be at least twelve (12) points. Monospaced fonts (such as on a typewriter) may not have more than ten (10) characters per linear inch. All quotations longer than fifty (50) words must be indented. All pages of each pleading or other papers filed with the Court (except exhibits) must be numbered consecutively. All pages of each pleading or other papers filed with the Court (including exhibits) must be printed only on one (1) side of the paper.
- (c) Signatures generally. All pleadings and non-evidentiary documents must be signed by the individual attorney for the party presenting them, or by the party involved if that party is appearing *pro se*. Affidavits and certifications must be signed by the affiant or declarant. The name of the person signing the document must be typed underneath the signature.
 - (1) Signatures on documents submitted electronically.
 - (A) The user log-in and password required to access the electronic filing system must serve as the filing user's signature on all electronic documents filed with the Court. They serve as a signature for purposes of Fed. R. Bankr. P. 9011, the other Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and any other purpose for

which a signature is required in connection with proceedings before this Court. Unless the electronically filed document has been scanned and shows the filing user's original signature or bears a software-generated electronic signature thereof, an "/s/" and the filing user's name must be typed in the space where the signature would otherwise appear.

- (B) Signatures of persons other than the registered user may be indicated by either:
 - (i) Submitting a scanned copy of the originally signed document, or;
 - (ii) Attaching a scanned copy of the signature page(s) to the electronic document.
 - (C) The use of "/s/Name" or a software generated electronic signature on documents constitutes the filing user's representation that an originally signed copy of the document exists or that the electronic signature has been authorized, and is in the filing user's possession at the time of filing.
 - (D) Original signed documents must be maintained in paper form by the filing user for the later of five (5) years or the maximum allowable time necessary to complete the appellate process, and upon request, the original document must be provided to other parties or to the Court for review. The failure to do so may result in the imposition of sanctions on the Court's own motion, or upon motion of the case trustee, the United States Trustee, the United States Attorney, or other party.
- (2) Documents directly faxed to the Clerk or to chambers of the Court will not be filed, lodged, received, returned, or acknowledged unless previously authorized by the Court.
- (d) Number of copies. See LR 1002(a).
 - (e) Exhibits.
 - (1) All courtesy copies of exhibits attached to papers must have indexing tabs at the bottom to show the exhibit number or letter. If exhibits are electronically filed, they must be separated by pages inserted and labeled with the exhibit numbers for movants and exhibit letters for respondents. Filers must reduce oversize exhibits by xerographic or other similar means to eight-and-one-half by eleven inches (8½ "x 11 ") unless the reduction would destroy legibility or authenticity. An oversize exhibit that cannot be reduced must be filed separately with a captioned cover sheet identifying the exhibit(s) and the document(s) to which it refers. Electronically filed exhibits must be docketed by designating the exhibit numbers or letters by a single exhibit or group of exhibits.

- (2) If affidavits or declarations are used, they must be filed at the same time as the paper they refer to, but as separately captioned documents.
- (f) Caption, title of Court, name and number of case, description, and date and time of hearing.
- (1) The top left corner of the first page of every paper presented for filing must show the name, Nevada or other state bar number, address, telephone number, fax number, and email address of the attorney and any associated attorney(s) appearing for the party filing the petition, or the name, address, and telephone number of a party appearing *pro se*.
- (2) Below the identifying information described above, the remainder of the caption on the first page must look like this:

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

IN RE:	)	BK-S-00123-MKN [applicable case number]
	)	CHAPTER 7 [applicable bankruptcy title]
)	
Debtors,)	
	)	Adversary Proceeding: BK-S-05-2345-MKN
	)	[if applicable]
)	
Plaintiff(s)	)	MOTION TO DISMISS
	)	[description]
)	
Vs	)	Hearing Date:
	)	Hearing Time:
Defendant(s).	)	Estimated Time for hearing:
)	

- (g) 11 U.S.C. § 362 pleadings/cover sheet. A properly completed § 362 information cover sheet, on colored paper (unless electronically filed), must be attached as Exhibit A to a motion for relief from the automatic stay under 11 U.S.C. § 362 or opposition to such a motion. Failure to comply with any of these provisions may result in sanctions, denial of the motion, or other adverse ruling.

LR 9006. ORDERS SHORTENING TIME.

- (a) Affidavit in support of motion for order shortening time. Unless the Court permits otherwise, every motion for an order shortening time must be accompanied by an affidavit explaining why an expedited hearing is required along with a copy of the

motion for which an expedited hearing is sought and an "Attorney Information Sheet For Proposed Order Shortening Time," or similar statement indicating the following:

- (1) Whether opposing counsel and other interested parties and persons were consulted regarding the proposed order shortening time;
 - (2) Whether opposing counsel or other persons consent to a hearing on shortened time;
 - (3) The date counsel or other persons were consulted;
 - (4) How the consultation was accomplished or, if counsel or other persons were not consulted, how the moving party attempted to consult with that person or persons; and,
 - (5) The estimated time for the hearing.
- (b) Format of proposed order shortening time. Parties must include language in the proposed order shortening time so that the following can be easily inserted by the judge:
- (1) The date and time for the hearing on the motion;
 - (2) The date for filing any objections to the motion;
 - (3) The date for filing any response to any objection; and,
 - (4) The date by which service of the order shortening time will be completed.
- (c) Deadlines where dates not specified. Where an order shortening time does not otherwise specify, any opposition must be filed no later than two (2) business days before the hearing, and any reply must be filed no later than one (1) business day before the hearing. Unless it otherwise provides, where an order shortening time is entered on less than three (3) business days' notice, a written opposition is not required.
- (d) Submission of proposed order shortening time. A proposed order shortening time must be electronically submitted to the Court's electronic order program in a format prescribed by the Court that will allow the electronic entry of dates for hearing and deadlines and the signing of the order by the judge.
- (e) Service of order shortening time. If the motion is granted, the notice of the entry of the order shortening time together with a copy of the motion must be served in the most expeditious manner possible (e.g., email, facsimile, or hand delivery) within one (1) business day after the order is entered, unless the Court orders otherwise.

LR 9009. LOCAL FORMS.

In addition to the official forms prescribed by the Judicial Conference of the United States, the Court may provide additional forms, copies of which are available from the Clerk and on the Court's website, the use of which may be designated by these Rules or the Court as either permissive or mandatory.

LR 9010. REPRESENTATION AND APPEARANCES.

Any corporation, partnership, or other business entity, except when acting as a bankruptcy trustee for a corporation or partnership, must be represented by an attorney.

LR 9014. MOTION PRACTICE AND CONTESTED MATTERS - BRIEFS AND MEMORANDA OF LAW.

- (a) Hearings and Court calendars.
- (1) All motions which are required to be set for hearing, whether by statute, Rule, or Court order, shall be set no earlier than twenty-eight (28) days after the motion was filed.
 - (2) A party may request a hearing on less than twenty-eight (28) days' notice in accordance with LR 9006.
 - (3) A party who is entitled to have a hearing held within a time frame specified by statute or Rule, and sets that hearing after the period has expired or fails to seek an order shortening time is deemed to have waived the benefits of the statute which require the hearing to be held within that period.
 - (4) Unless the Court directs otherwise, all hearings (including motions in adversary proceedings, objections and other matters for which a hearing is necessary) must be set by counsel or persons acting *pro se* on the calendar of the judge to whom the case is assigned. The Court may set any matter for hearing whether or not a hearing is required by statute or Rule.
 - (5) Each judge will maintain a motion calendar and may adopt specific Court procedures which will be posted on the Court's website. The times and dates of each judge's calendar and respective procedures may be obtained from the Clerk or from the website.
 - (6) The judge may deem the first date set for the hearing to be a status and scheduling hearing if the judge determines that further evidence must be taken to resolve a material factual dispute. Unless the Court orders otherwise or for good cause, live testimony will not be presented at the first date set for hearing. The judge may order a further hearing at which oral evidence and exhibits will be received, or may, as appropriate, order that all evidence be presented by affidavit or declaration.
- (b) Notice of hearing and service of motion and notice.

(1) The movant must obtain a hearing date, and the notice of hearing must be filed with the motion and must, in addition to the requirements of Fed. R. Bankr. P. 2002(c), include the following:

- (A) The date, time, and place of the hearing;
- (B) A brief description of the relief sought;
- (C) A statement of the time for filing and serving objections or oppositions in accordance with LR 9014(d); and,
- (D) This statement:

“If you object to the relief requested, you *must* file a **WRITTEN** response to this pleading with the Court. You *must* also serve your written response on the person who sent you this notice.

If you do not file a written response with the Court, or if you do not serve your written response on the person who sent you this notice, then:

- The Court may *refuse to allow you to speak* at the scheduled hearing; and,
- The Court may *rule against you* without formally calling the matter at the hearing. “

- (i) Individuals representing themselves are not exempt from this Rule.
- (ii) To ensure compliance with this Rule, the Court may deny any motion or request for an order that does not contain the above notice.

(E) If a hearing has been set by an order shortening time, service of the motion and the order shortening time will constitute notice of the hearing.

(2) Service of the motion and notice of it must be made in accordance with these Rules and the Federal Rules of Bankruptcy Procedure.

(A) The proof of service must show the date and manner of service and the name of the person served. Proof of service may be by written acknowledgment of service or certificate of the person who made service. The Court may decline to take action on any papers until proper proof of service is filed. An acknowledgment or certificate of service, if any, must be attached at the end of the paper presented for filing. The

notice and accompanying proof of service must be filed not more than seven (7) days after the motion is filed.

- (B) Failure to make the proof of service required by this Rule does not affect the validity of the service. Unless material prejudice would result, the Court may at any time allow the proof of service to be amended or supplied.

(c) Contents of motion; affidavits and declarations. See LR 7032 and LR 9017.

- (1) The motion must state the facts on which it is based and must contain a legal memorandum. If factual issues are contested, the Court will not grant the contested relief unless admissible evidence is offered in support of the relief requested.
- (2) If affidavits or declarations are submitted, they must be filed separately, and they must reference the underlying motion or paper. Affidavits and declarations failing to comply substantially with all of the requirements of subsection (c) of this Rule may be stricken in whole or in part on the request of an opposing party or on the Court's initiative. Affidavits and declarations must be made under penalty of perjury and must:
 - (A) Identify the affiant, the party on whose behalf the affidavit is submitted, and the motion to which it pertains;
 - (B) Contain only nonhearsay factual evidentiary matter or expert opinion, conform as far as possible to the requirements of Fed. R. Civ. P. 56(e), and avoid mere general conclusions or arguments;
 - (C) Identify and authenticate documents and exhibits offered in support of the motion or opposition, unless the documents are already authenticated in the record or have been previously admitted into evidence by the Court and are specifically referred to and identified in the motion or opposition; and,
 - (D) If an appraisal, include a statement of the qualifications of the appraiser, and either be made under penalty of perjury or be included by reference into an affidavit or declaration of the appraiser.

(d) Opposition, response, and reply.

- (1) Except as set out in subsection (3) below, any opposition to a motion must be filed, and service of the opposition must be completed on the movant, no later than fourteen (14) days preceding the hearing date for the motion. The opposition must set forth all relevant facts and any relevant legal authority. An opposition must be supported by affidavits or declarations that conform to the provisions of subsection (c) of this Rule.

- (2) Except as set out in subsection (3) below, any reply memorandum must be filed and served no later than seven (7) days preceding the hearing date.
 - (3) Subsections (d)(1) and (2) do not apply to:
 - (A) Motions for summary judgment brought in any adversary proceeding;
 - (B) Motions for which an order shortening the time for the hearing date has been obtained; and,
 - (C) Motions or contested matters for which the Court has set a separate briefing schedule either in open Court or by separate order.
 - (4) For motions sought to be heard on shortened time, including when such motions are brought in an adversary proceeding, responses and replies will be due as set forth in the order granting the request that the motion be heard on shortened time or as provided in LR 9006.
- (e) Limitation on length of briefs and points and authorities; requirement for index and table of authorities; courtesy copies.
- (1) Unless the Court orders otherwise, prehearing and posthearing briefs and points and authorities in support of, or in response to, motions are limited to twenty (20) pages including the motion but excluding exhibits. Reply briefs and points and authorities are limited to fifteen (15) pages, excluding exhibits. Where the Court enters an order permitting a longer brief or points and authorities, the papers must include an index, a table of contents, and table of authorities.
 - (2) Unless the Court orders otherwise, courtesy copies of all papers filed with the Court for matters set for hearing must be delivered to the Clerk's office no later than two (2) business days after filing; except for matters set on shortened time, which must be delivered to the Court at least one (1) business day after filing.
- (f) Stipulations.
- (1) Stipulations of counsel relating to proceedings before the Court must be in writing, signed by the parties to the stipulation, and served on all other parties who have appeared.
 - (2) Stipulations between the parties relating to proceedings before the Court, except stipulations pursuant to Fed. R. Bankr. P. 7029, are not effective until approved by the Court and entered on the Court's docket. The party submitting the stipulation must submit a separate order approving the stipulation for consideration by the Court, except that a proposed stipulation and order to substitute counsel under LR 2014(b) may be presented in one document.

- (3) A dispositive stipulation will be treated as a motion unless the stipulation is approved in writing by all counsel who have appeared for the parties and any party appearing *pro se*.
 - (4) Whenever any written stipulation contains a provision for continuing a hearing or a provision for vacating a pending hearing, a separate notice of continuance of hearing or notice vacating hearing must be clearly set forth in the caption. Any notice of continuance of hearing must contain the previous hearing date and time and the new date and time. Any notice vacating hearing must contain the vacated date and time.
- (g) Compliance with LR 9021. In Chapter 7 and 13 cases, LR 9021 may be waived for the purposes of circulating the order if a proposed order is served with the motion and it is granted. If the proposed order is not served with the motion, or if there is a change from the proposed order after the hearing, then LR 9021 is applicable. The proposed order must be attached as an exhibit and may not be separately filed.

LR 9014.1. NEGATIVE NOTICE PROCEDURE FOR CHAPTER 7 OR 13 CASES.

- (a) In Chapter 7 or 13 cases, the following motions, objections, and other matters may be considered by the Court without an actual hearing under the negative notice procedure described in this Rule, if no party in interest requests a hearing:
- (1) Motions to approve agreements relating to relief from the automatic stay, motions prohibiting or conditioning the use, sale, or lease of property, motions providing adequate protection, and motions for the use of cash collateral pursuant to Fed. R. Bankr. P. 4001(d);
 - (2) Motions to sell personal property, except for sales of all or substantially all of the debtor's assets, under 11 U.S.C. § 363. A copy of the proposed order must be sent along with the negative notice;
 - (3) Motions to avoid liens on exempt property pursuant to 11 U.S.C. § 522(f);
 - (4) Notices of abandonment pursuant to Fed. R. Bankr. P. 6007(a);
 - (5) Motions to pay auctioneers' commissions and fees; and,
 - (6) Other motions, objections, and matters if permitted in advance by the Court.
- (b) Motions, objections, and other matters filed pursuant to this negative notice procedure must:
- (1) Be served in the manner and on the parties as required by these Rules and the Federal Rules of Bankruptcy Procedure or any order of the Court. A proof of service must be filed in accordance with LR 2002.

- (2) To the extent permitted under the Federal Rules of Bankruptcy Procedure, these Rules, or any other order of the Court, a filing user may use these negative notice procedures by serving motions, objections, and other papers by electronic means to any other filing user or party who consents to receive service by electronic means.
- (3) A negative notice legend must be prominently displayed on the face of the first page of the paper. The negative notice legend must be in a form substantially as follows:

“NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING”

“Pursuant to LR 9014.1, the Court will consider this motion, objection, or other matter without further notice of hearing unless a party in interest files an objection within twenty-one (21) days from the date of service of this paper. If you object to the relief requested in this paper, you may file your objection at the Bankruptcy Clerk’s office located in Las Vegas at the United States Bankruptcy Court, 300 Las Vegas Blvd. South, Las Vegas, Nevada 89101, or in Reno at the United States Bankruptcy Court, 300 Booth Street, Reno, NV 89509, and serve a copy on the movant’s attorney and any other appropriate persons.

It is the duty of the objecting party to timely set the objection for a hearing and properly notice all parties in interest. If you do not file an objection within the time permitted, an order granting the requested relief may be entered by the Court without further notice or hearing.”

- (c) In the event a party in interest files an objection within the time permitted in the negative notice legend, the objecting party must schedule a hearing on the motion, objection, or other matter upon notice to the movant’s attorney, the objecting party or parties, and others as may be appropriate. The objecting party must not give less than fourteen (14) days’ notice of the hearing.
- (d) The movant must submit the proposed order not later than fourteen (14) days after the expiration of the objection period. In the event the movant fails to submit a proposed form of order within this time, the Court may enter an order denying the matter without prejudice for lack of prosecution. In addition to any other requirements, the movant must recite in a separate affidavit that:
 - (1) The motion, objection, or other matter was served upon all interested parties with the negative notice legend informing the parties of their opportunity to object within the appropriate number of days of the date of service; and,
 - (2) No party filed an objection within the time permitted.
- (e) In the event no party in interest files a timely objection, the Court may consider the matter without further notice or hearing upon the submission by the movant of a proposed form of order granting the relief.

- (f) Nothing in this Rule is intended to preclude the Court from conducting a hearing on the motion, objection, or other matter even if no objection is filed within the time permitted in the negative notice legend.

LR 9015. JURY TRIALS.

- (a) Designation to conduct jury trials. The bankruptcy judges of this District are designated to exercise all jurisdiction in civil jury cases under 28 U.S.C. § 157(e). Consent of the parties may be made in writing or orally on the record and, unless the Court orders otherwise, must be given at least thirty (30) days before the date first set for trial.
- (b) Demand for jury trial. Fed. R. Civ. P. 38 applies in adversary proceedings where there is a right to trial by jury.
- (c) Form of demand. A demand for a jury trial must appear immediately following the title of the complaint or answer containing the demand, or in another document as may be permitted by Fed. R. Civ. P. 38(b). Any notation on an adversary proceeding cover sheet filed under LR 7003 concerning whether a jury trial is, or is not, demanded does not constitute a demand for a jury trial under these Local Rules.
- (d) Procedure. In any proceeding in which a demand for jury trial is made, the Court will, on a motion of one (1) of the parties or on the Court's own motion, determine whether the demand was timely made and whether the demanding party has a right to a jury trial. Even if all the parties have consented to a jury trial, the Court may, on its own motion, determine that there is no right to a jury trial in a proceeding.
- (e) Consent and withdrawal. Upon the Court's determination that the demand was timely made and the party has a right to a jury trial, and if all parties have not filed a written consent to a jury trial in the Bankruptcy Court, the Bankruptcy Court will certify the matter to the District Court. Upon certification, the District Court shall open a new civil matter, and shall assign a date for trial. Unless the assigned judge orders otherwise, all proceedings will continue in the Bankruptcy Court until the matter is ready for trial.
- (f) Nonjury determination. If the Court determines that a jury demand was not timely made, or the demanding party is not entitled to a jury trial, the proceeding will be heard as a nonjury proceeding before the Court.
- (g) Certification to United States District Court. If, on timely motion of a party or on the Court's own motion, the Court determines that a claim is a personal injury tort or wrongful death claim requiring trial by a District Court judge, the proceeding will be certified to the District Court based on that fact in accordance with 28 U.S.C. § 157(b)(5).

LR 9016. SERVICE OF SUBPOENA.

When attendance at an examination in accordance with Fed. R. Bankr. P. 2004, or when the production of documents is required in connection with such an examination, the subpoena may be served on a party who has appeared in the bankruptcy case through any method of service appropriate for service

of a summons under Fed. R. Bankr. P. 7004 and LR 7004. When the party has appeared through counsel, service on counsel will constitute service on the party.

LR 9017. USE OF ALTERNATE DIRECT TESTIMONY AND EXHIBITS AT TRIALS.

- (a) Purpose. The purpose of this procedure is to facilitate pretrial preparation and to streamline the introduction of direct testimony at trials of adversary proceedings and hearings on contested matters. This procedure is known as the "alternate direct testimony procedure." Counsel is encouraged to use the alternate direct testimony procedure whenever possible.
- (b) Stipulation for use. If all parties stipulate and the Court approves, or if the Court orders it, the alternate direct testimony procedure may be used in all trials of adversary proceedings or contested matters. The stipulation must be filed with the Court no later than the time of the pretrial conference required by LR 7016 and 7026.
- (c) Preparation of direct testimony and exhibits. Unless the Court orders otherwise, each attorney must prepare a written declaration or affidavit of the direct testimony of each witness to be called, except hostile or adverse witnesses. The declaration or affidavit must be executed by the witness under penalty of perjury. Each statement of fact or opinion must be set forth in separate sequentially numbered paragraphs and must contain only matters that are admissible under the Federal Rules of Evidence. Declarations and affidavits must conform to the provisions of LR 9014(c).
- (d) Submission of declarations, exhibits, and objections. Unless the Court orders otherwise, copies of all declarations of witnesses and exhibits that are intended to be presented at trial or at the hearing on a contested matter must be furnished to opposing counsel and lodged with the Court as follows:
 - (1) The plaintiff or movant must submit to opposing counsel all declarations and exhibits in its case in chief not less than fourteen (14) business days before the trial or the hearing on the contested matter;
 - (2) The defendant or respondent must submit all declarations and exhibits in its case seven (7) business days before the trial or the hearing on the contested matter;
 - (3) Two (2) business days before trial or the hearing on a contested matter each party must lodge with the courtroom deputy clerk of the judge to whom the matter is assigned, one (1) copy of all declarations and exhibits that the party intends to present at trial, and an original and one (1) copy of that party's written objections to the admission of any of the declarations or exhibits of an opposing party. Copies of exhibits lodged with the Clerk must be premarked by counsel, and must be accompanied by a cover sheet index containing a brief description of each exhibit; and,
 - (4) Unless otherwise stipulated by the parties with approval of the Court, the declarants must be made available for cross-examination at the trial.

- (e) Use of live testimony. All cross-examination, rebuttal, and surrebuttal must be by live testimony unless stipulated by the parties and approved by the Court. Notwithstanding the provisions of this Rule, the Court, in its discretion, may allow the live direct examination of any witness.

LR 9018. SECRET, CONFIDENTIAL, SCANDALOUS, OR DEFAMATORY MATTER.

- (a) Motion to file under seal. No paper will be filed under seal without first obtaining approval of the Court. If a filing under seal is requested, a motion (but not the documents themselves) must be filed electronically, unless prohibited by law or unless the filing is exempt or excepted from the requirement of electronic filing. If the motion itself contains confidential information, the movant must serve and file a redacted version clearly marked as such, and submit an unredacted version *in camera*. The movant must deliver paper copies of the documents proposed to be filed under seal to the presiding judge, and designate it as such, for *in camera* review.
- (b) Order. The Court will review the *in camera* submission and enter an appropriate order directing that all or part of it be filed under seal, be made part of the official public file, or be permitted to be withdrawn. If the Court orders the document sealed, the moving party must submit an order in compliance to LR 9021, which will be docketed by the Clerk. The Court order authorizing filing documents under seal will be filed electronically, unless prohibited by law.
- (c) Form. If the Court grants the motion, in whole or in part, the movant must deliver to the Clerk of the Court a paper copy of the documents to be filed under seal. Papers submitted for the Court's *in camera* inspection must be accompanied by a captioned cover sheet complying with LR 9004, indicating that they are being submitted *in camera*. Counsel must provide to the Court an envelope large enough for the *in camera* papers to be sealed without being folded. A copy of the sealing order on paper must be attached to the sealed documents.
- (d) Filing sealed documents. Unless the Court orders otherwise, the Clerk will file any documents ordered to be filed under seal on paper and not electronically.

LR 9019. SETTLEMENTS AND AGREED ORDERS; ALTERNATIVE DISPUTE RESOLUTION.

- (a) Settlement conferences or other alternative dispute resolution.
 - (1) On its own initiative or at the request of any party in interest, the Court may at any time order that a contested matter or adversary proceeding be set for settlement conference or other alternative method of dispute resolution.
 - (2) The Court may, by separate order stay the contested matter or adversary proceeding in whole or in part for a specified time or until further order of the Court to facilitate the settlement process. If a settlement conference is held, there is no stay or postponement of any calendared matter without prior order of the Court.

- (b) Notice to Court of outcome of settlement conference or other alternative dispute resolution. The plaintiff or moving party must promptly advise the Court in writing when any adversary proceeding or contested matter is settled or when the parties have failed to reach a settlement.
- (c) Notice of compromise. Unless the Court orders otherwise, when any party gives notice of a motion for the approval of a compromise, that party must either include in the notice a summary of the essential terms of the compromise or serve a copy of the compromise with the notice.

LR 9021. ENTRY OF JUDGMENTS AND ORDERS.

- (a) Preparation of entry of orders and judgments.
 - (1) Unless otherwise ordered, the attorney for the prevailing party must prepare all proposed findings of fact, conclusions of law, judgments, and orders (collectively, for purposes of this Rule, “Orders”), formatted in accordance with the Court’s electronic filing procedures described in LR 5005.
 - (2) All proposed Orders must accurately reflect the Court’s ruling.
 - (3) Unless otherwise ordered, any proposed order must be submitted to the Court promptly after the conclusion of the hearing, but in no event later than twenty-eight (28) days after the hearing is concluded.
 - (4) Unless otherwise ordered, if no proposed order is submitted within twenty-eight (28) days after the date upon which the matter was heard, any party in interest may submit a proposed order in a manner that complies with this Rule.
 - (5) Unless otherwise ordered, if no order is submitted within thirty-five (35) days of a hearing, the motion or other matter will be deemed withdrawn, without prejudice, subject to a motion under Fed. R. Bankr. P. 9024.
- (b) Transmission; approval and disapproval; objections.
 - (1) Counsel preparing documents listed in subsection (a) above must transmit them by hand delivery, facsimile, email, overnight delivery, or United States Mail to all counsel or unrepresented parties who appeared at the hearing or filed and served objections, and to any trustee appointed in the case.
 - (2) Unless the Court orders otherwise, parties will have three (3) business days from receiving proposed orders to communicate their approval or disapproval to the transmitting counsel.
 - (A) If disapproved, the disapproving party will have five (5) business days from receiving the document to serve and file with the Court a

detailed statement of objections and an alternate proposal for the document.

(B) Any response to the objection must be filed within five (5) business days after the objection is lodged.

(3) Approval indicates only that the document accurately reflects the ruling of the Court and does not constitute agreement with the ruling or waiver of any rights of appeal.

(c) Certification language.

(1) Documents listed in subsection (a) above must be submitted to the Court with the following certification from the submitting counsel:

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

The Court has waived the requirement of approval under LR 9021.

This is a Chapter 7 or 13 case, and either with the motion, or at the hearing, I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

This is a Chapter 9, 11, or 15 case, and I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

I certify that I have served a copy of this order with the motion, and no parties appeared or filed written objections.

(2) No language other than “approved” or “disapproved” may appear above opposing counsel’s signature; and,

(3) Unless the Court orders otherwise, “opposing counsel” means any attorney who appeared at the hearing regarding the matter that is the subject of the order or who filed objections.

(4) Variation from the certification language indicated in paragraph (c)(1) may be cause for returning the draft order unsigned by the Court.

- (d) Orders on applications or motions for which no hearing is held and no objections are received. If a party requests an order on an application or motion, but did not schedule a hearing on the motion or application, relying instead on the absence of any objection to the requested relief, the party must also submit, with the proposed order, a declaration or affidavit containing the following:
- (1) A summary of why a hearing is not necessary in the matter;
 - (2) A statement of how and when notice of the application or motion was served, and a list of those entities served; and,
 - (3) A statement that the declarant or affiant has not received relief and knows of no objections to the relief requested as of the time the proposed order was submitted.

LR 9022. NOTICE OF JUDGMENT OR ORDER.

- (a) Notice by the Clerk. Immediately after the entry of a judgment or order prepared by a bankruptcy judge or by the Clerk under the delegation of LR 5075, the Clerk will:
- (1) Transmit a notice of electronic filing to registered e-filers. Electronic transmission of the notice of electronic filing constitutes the notice required by Fed. R. Bankr. P. 9022;
 - (2) Give notice on paper to a person who is exempt or excepted from electronic filing in accordance with the Federal Rules of Bankruptcy Procedure.
- (b) Notice by an attorney or *pro se* party. Unless the Court orders otherwise, any attorney or *pro se* party who prepares and submits a judgment or order to the Court must, upon entry of the order or judgment, immediately serve notice of entry of the order on the opposing counsel as defined in LR 9021(c)(3) or on other entities as the Court directs. The notice of entry must include a copy of the document and the date it was entered.

LR 9037. PRIVACY- REDACTIONS.

- (a) Procedure to redact protected private information from transcripts. To promote electronic access to transcripts while also protecting personal privacy, the Court has adopted procedures regarding the electronic availability of transcripts in accordance with the Judicial Conference's privacy policy and with Fed. R. Bankr. P. 9037. These procedures are available on the Court's website.
- (b) Procedure to redact protected private information from documents other than transcripts. If a document other than a transcript is filed that discloses protected private information, a party seeking to redact that information from the publicly accessed electronic docket may file an *ex parte* motion to redact. When the order is submitted, a redacted copy of the document must be attached to the order.

PART IV - LOCAL RULES OF CRIMINAL PRACTICE

LCR 10-1. WRITTEN WAIVER OF DEFENDANT'S APPEARANCE AT ARRAIGNMENT.

A defendant who is charged by indictment or misdemeanor information may waive his or her right to be present for an arraignment if:

- (a) At least seven (7) days prior to the date set for arraignment the defendant and defense counsel sign and submit to the Court a written waiver that contains the following:
 - (1) An acknowledgment that the defendant has received and read a copy of the indictment or information, and understands the nature of the charge(s);
 - (2) A declaration that the defendant understands that he or she has the right to remain silent, the right to trial by jury, the right to compulsory process, and the right to the assistance of counsel;
 - (3) A declaration that counsel has no reason to question the defendant's competence to assist in the defense of the case;
 - (4) An acknowledgement of the defendant's right to present at the arraignment, and an expressed waiver of that right; and,
 - (5) A declaration that the defendant's plea to the charge(s) is not guilty; and,
- (b) The Court accepts the waiver.

LCR 12-1. TIME FOR FILING MOTIONS, RESPONSES AND REPLIES.

- (a) Unless otherwise specified by the Court;
 - (1) Each party shall have thirty (30) days from the time of arraignment within which to file and serve the pretrial motions and notices specified in subsection (b) of this Rule;
 - (2) Responses to such motions shall be filed and served within fourteen (14) days from the date of service of the motion; and,
 - (3) A reply brief may be filed and served within three (3) days from the date of service of the response. The reply brief shall only address arguments made in response to the motion.
- (b) The following pretrial motions and notices must be filed within the time period set forth in subsection (a) of this Rule;

- (1) Defenses and objections based upon defects in the institution of the prosecution, except challenges to the composition of the grand or petit jury, which are governed by 28 U.S.C. § 1867;
 - (2) Defense and objections based upon defects in the indictment or information (other than failure to show jurisdiction in the Court or to charge an offense, which shall be noticed by the Court at any time during the pendency of the proceedings);
 - (3) Motion for bill of particulars, Fed. R. Crim. P. 7(f);
 - (4) Motion to sever, Fed. R. Crim. P. 14;
 - (5) Written demand by the Attorney for the United States for notice of an alibi defense, Fed. R. Crim. P. 12.1;
 - (6) Notice of insanity defense or expert evidence of a mental condition, Fed. R. Crim. P. 12.2;
 - (7) Notice of defense based upon public authority, Fed. R. Crim. P. 12.3; and,
 - (8) Motion to suppress evidence, Fed. R. Crim. P. 41(h).
- (c) Any party filing pretrial motions, responses to motions, or replies pursuant to the time schedule set forth in subsection (a) of this Rule, or within any time period ordered by the Court, shall provide a certification that the motion, response, or reply is being filed timely. The certification shall be so identified and shall be set forth separately as an opening paragraph on any such motion, response, or reply.
- (d) Fed. R. Civ. P. 6 shall govern the computation of time.

LCR 16-1. DISCOVERY.

- (a) Complex Cases.
- (1) At any time after arraignment, the Court on its own motion or upon motion by any party, and for good cause shown, may designate a case as complex.
 - (2) In all cases designated as complex, the parties shall, not later than seven (7) days following such designation, confer to develop a proposed complex case schedule, addressing the following:
 - (A) The scope, timing, and method of the disclosures required by federal statute, rule, or the United States Constitution, and any additional disclosures that will be made by the government;
 - (B) Whether the disclosures should be conducted in phases, and the timing of such disclosures;

- (C) Discovery issues and other matters about which the parties agree or disagree, and the anticipated need, if any, for motion practice to resolve discovery disputes;
 - (D) Proposed dates for the filing of pretrial motions and for trial; and,
 - (E) Stipulations with regard to the exclusion of time for speedy trial purposes under Title 18, U.S.C. § 3161.
- (3) The parties shall file the proposed complex case schedule no later than seven (7) days after conferring under Section 16-1(a)(2).
- (4) As soon as practicable after the filing of the proposed complex case schedule, the Court shall enter an order fixing the schedule for discovery, pretrial motions, and trial, and determining exclusions of time under Title 18, U.S.C. § 3161, or shall conduct a pretrial conference to address unresolved scheduling and discovery matters.
- (b) Non-Complex Cases. In cases which are not designated as complex under section 16-1(a), the parties shall confer to designate whether discovery in the case will be governed by a joint discovery agreement or a government disclosure statement.
- (1) Joint Discovery Agreement.
- (A) In cases that will be governed by a joint discovery agreement, the parties agree the government will (A) disclose all matters required by Federal Statute, Rule, or the United States Constitution, and (B) subject to any applicable work product protections, law enforcement privileges, or protective orders, voluntarily disclose (a) any investigative reports describing facts relating to charges in the indictment and (b) any audio or video recordings relating to the charges in the indictment. The defense will make any reciprocal disclosures required by Federal Statute, Rule, or the United States Constitution.
 - (B) The parties shall confer promptly to discuss the scope, timing, and method of the disclosures required under section 16-1(b)(1)(i) and any additional disclosures upon which the parties agree. The parties shall file a joint discovery agreement within seven (7) days after arraignment, except upon leave of Court.
 - (C) The joint discovery agreement shall set forth the scope, timing, and method of the required disclosures and any additional disclosures upon which the parties agree.
 - (D) In cases governed by a joint discovery agreement:

- (i) All parties shall be deemed to have made all requests or demands, and reciprocal requests, for discovery or any notices required by statute, rule, or the United States Constitution;
- (ii) All matters concerning discovery shall be deemed to be governed by this section and the joint discovery agreement;
- (iii) The government shall make the disclosures required by federal statute, rule, or the United States Constitution available within seven (7) days of filing the joint discovery statement;
- (iv) The government shall make all other disclosures to which it has agreed available within the times set forth in the joint discovery agreement;
- (v) The defense shall provide the government with its reciprocal disclosures no later than fourteen (14) days before trial;
- (vi) Both parties shall have a continuing duty to disclose; and,
- (vii) Neither party shall withhold a disclosure subject to this Rule or the joint discovery agreement without providing the other party with notice of the intention to withhold the disclosure. The notice shall describe the nature of the disclosure being withheld and the basis upon which it is being withheld in sufficient detail to permit the opposing party to file a discovery motion.

(2) Government Disclosure Statement.

- (A) In cases in which the parties have not entered into a joint discovery agreement, the government shall file a disclosure statement. In such cases, within seven (7) days of arraignment, the parties shall confer regarding the timing, scope, and method of the disclosures and reciprocal disclosures required by federal statute, rule, or the United States Constitution, and any additional disclosures which will be made by the government.
- (B) Within seven (7) days of the conference, but in no event more than fourteen (14) days after the date of arraignment, the government shall file its disclosure statement, which shall include the following information:
 - (i) The date on which the parties discussed the disclosure statement, or an explanation of why a discussion has not occurred;

- (ii) The scope, timing, and method of the government's disclosures required by federal statute, rule or the United States Constitution; and,
 - (iii) The scope, timing, and method of any additional disclosures which will be made by the government.
- (c) Discovery Disputes. Before filing any motion for discovery, the moving party shall confer with opposing counsel in a good faith effort to resolve the discovery dispute. Any motion for discovery shall contain a statement of counsel for the moving party certifying that, after personal consultation with counsel for the opposing party, counsel has been unable to resolve the dispute without Court action.

LCR 17-1. ISSUANCE OF SUBPOENAS REQUESTED BY THE FEDERAL PUBLIC DEFENDER.

- (a) When a finding of indigency is made in a criminal case and the Court orders the appointment of the Office of the Federal Public Defender pursuant to the Criminal Justice Act 18 U.S.C. §§ 3006A, *et seq.*, the Clerk shall issue subpoenas upon oral request and submission of prepared subpoenas by the attorneys of the Office of the Federal Public Defender. The cost of process, fees, and expenses of witnesses subpoenaed shall be paid as for witnesses subpoenaed on behalf of the United States. The United States Marshal shall provide said witnesses with advance funds for the purpose of travel within this District and subsistence. This Rule shall only apply to witnesses who reside or are served within the District of Nevada. Any subpoenas which must be served outside the District of Nevada shall require approval of the Court as provided in Fed. R. Crim. P. 17(b).
- (b) A further showing of indigency or necessity shall not be required after an order is entered pursuant to subsection (a) of this Rule for subpoenas to be served within the District of Nevada.
- (c) Counsel appointed pursuant to the Criminal Justice Act shall be required to make application pursuant to Fed. R. Crim. P. 17(b) for the issuance of subpoenas, whether for service within or without the District of Nevada.
- (d) A defendant who is acting *pro se* shall in all cases make application pursuant to Fed. R. Crim. P. 17(b) for the issuance of subpoenas, whether for service within or without the District of Nevada.
- (e) The order of appointment shall be in a form approved by the Court.

LCR 30-1. INSTRUCTIONS TO JURY.

Counsel shall submit jury instructions in accordance with the order regarding pretrial procedure filed in each case.

LCR 32-1. SENTENCING.

In all cases which are set for sentencing upon a conviction for an offense, which occurred after November 1, 1987, the provisions of Fed. R. Crim. P. 32(b) and the following procedure shall apply except as otherwise ordered by the Court:

- (a) Unless waived by the defendant, not less than thirty-five (35) days before the date set for sentencing, the probation officer must furnish the pre-sentence report referenced in Fed. R. Crim. P. 32 to the defendant, the defendant's counsel, and the Attorney for the United States.
- (b) Within fourteen (14) days after receiving the pre-sentence report, the parties shall communicate in writing with each other and to the probation officer any objections to the pre-sentence report that will affect the probation officer's recommendation to the Court. After receiving the objections, the probation officer may meet with the parties and revise the report before submitting the report to the Court;
- (c) The pre-sentence report and any addenda and revision(s) shall be submitted to the Court not later than seven (7) Court days before the sentencing hearing. Any revision or addenda shall also be provided to the parties.
- (d) A sentencing memorandum addressing any unresolved objections to the pre-sentence report or other sentencing issues shall be filed by either party and served upon opposing counsel and the United States Probation Office not later than five (5) Court days before the sentencing hearing. Any response by the parties to the sentencing memorandum must be filed and served not later than three (3) Court days prior to the date set for sentencing.

LCR 32-2. DISCLOSURE OF PRESENTENCE INVESTIGATION REPORTS, SUPERVISION RECORDS OF THE UNITED STATES PROBATION OFFICE, AND TESTIMONY OF THE PROBATION OFFICER.

- (a) Confidentiality.

The presentence investigation report, supporting documents, and supervision records are confidential documents of the Court and are not available for public inspection. They are not to be reproduced or distributed to other agencies or other individuals unless permission is granted by the determining official or as mandated by statute. The determining official authorized to make disclosure decisions under this Rule is a district judge, magistrate judge, or Chief Probation Officer (after consultation with the Chief Judge) of the District of Nevada.
- (b) Release of the Presentence Investigation Report and Confidential Materials for Purposes of Sentencing.
 - (1) When a copy of a presentence investigation report is released for sentencing purposes, the Probation Office will advise the parties of the release in writing that (i) defense counsel is responsible for providing the defendant with a copy of the report, (ii) the report is not a public record, and (iii) the contents of the report may not be further disclosed to unauthorized persons.

- (2) If the presentence investigation report (i) contains information or material that includes diagnostic opinions which might seriously disrupt a program of rehabilitation, (ii) identifies a source of information obtained upon a promise of confidentiality, or (iii) contains any other information which, if disclosed, might result in harm, physical or otherwise, to the defendant or another person, such information will be excluded from the presentence investigation report and included in an addendum or attachment, which shall not be distributed to the defendant's counsel or the attorney for the government. Counsel shall be notified in writing that such materials have been delivered to the Court. This procedure shall constitute compliance with Federal Rules of Criminal Procedure 32(d)(3) and 32(i)(1)(B).
- (c) Application for Disclosure of Presentence Investigation Reports or Supervision Records for Purposes Other Than Sentencing.
- (1) Disclosure of the presentence investigation report, supporting documents, or supervision records, for purposes other than sentencing of the defendant, shall be made only upon written application accompanied by an affidavit setting forth a description of the records sought, an explanation of their relevance to the proceedings, and statement of the reasons why the information contained in the records is not readily available from other sources or by other means. Where the request does not comply with this Rule, the determining official may deny the request or request additional information.
 - (2) The written application shall be provided to the determining official at fourteen (14) days in advance of the time the production of records is required. Failure to meet this requirement shall constitute a sufficient basis for denial of the request.
 - (3) The determining official may waive the fourteen (14) day requirement upon a showing of a good faith attempt to comply with this Rule.
- (d) Testimony of a Probation Officer.

A request for testimony of a probation officer shall comply with the requirement set forth in subsection (c) of this Rule.

LCR 35-1. MOTIONS AND REPSONSES PURUANT TO FED. R. CRIM. P. 35.

When a defendant files a motion for modification of sentence pursuant to Fed. R. Crim. 35, the defendant shall serve the same upon the United States, and the United States shall be required to file and serve a response within twenty-one (21) days thereafter. In regard to such motions, reference is also made to LSR 4-1.

LCR 44-1. APPOINTMENT OF COUNSEL.

For procedures governing appointment of counsel, see the Plan for Administration of the Criminal Justice Act of 1964, as amended, which has been adopted by the District of Nevada. A copy of the Plan may be obtained from the Clerk of the Court.

LCR 44-2. DESIGNATION OF RETAINED COUNSEL.

Except for the Federal Public Defender and attorneys appointed by the Court, no attorney shall be considered by the Court as an attorney of record for a defendant in a criminal case until after there shall be filed with the Clerk a written designation of retained counsel, signed by the defendant and the attorney. A copy thereof shall be served upon the United States Attorney.

LCR 44-3. CONTINUITY OF REPRESENTATION ON APPEAL.

Counsel in criminal cases, whether retained or appointed by the District Court, shall ascertain whether the defendant wishes to appeal and file a notice of appeal upon the defendant's request regardless of any waivers in the plea agreement. Counsel shall continue to represent the defendant on appeal until counsel is relieved and replaced by substitute counsel or by the defendant *pro se* in accordance with Rule 4-1 of the Ninth Circuit Rules.

- (a) When counsel was retained for trial:
 - (1) If the defendant is not indigent for purposes of appeal, trial counsel shall continue to represent the defendant until relieved by the trial court prior to the filing of the notice of appeal or by the Circuit Court of Appeals after the filing of the notice of appeal.
 - (2) If the defendant is indigent for purposes of appeal, retained counsel shall submit a financial affidavit (Form CJA 23) completed by the defendant along with an application for appointment of counsel to the District Court at the time of sentencing. If a notice of appeal has been filed before the application for appointment of counsel is filed, the application for appointment of counsel and the financial affidavit must be filed with the Court of Appeals pursuant to Ninth Circuit Rule 4-1.
- (b) When counsel was appointed for trial:
 - (1) If counsel was appointed by the District Court pursuant to 18 U.S.C. § 3006A and a notice of appeal has been filed, counsel's appointment automatically shall continue on appeal.
 - (2) In the event that counsel is unable to, or should not represent the defendant on appeal, counsel shall request to be relieved as counsel and for the appointment of counsel on appeal at the time of sentencing. After the notice of appeal has been filed, such relief must be sought from the Court of Appeals.

LCR 45-1. REQUESTS FOR CONTINUANCE, EXTENSION OF TIME OR ORDER SHORTENING TIME.

- (a) Every motion requesting a continuance, extension of time, or order shortening time shall be "Filed" by the Clerk and processed as an expedited matter. *Ex parte* motions and stipulations shall be governed by LCR 45-3.
- (b) Every motion or stipulation to extend time shall inform the Court of any previous extensions granted and state the reasons for the extension requested. A request made after the expiration of the specified period shall not be granted unless the moving party, attorney, or other person demonstrates that the failure to act was the result of excusable neglect. Immediately below the title of such motion or stipulation there shall also be included a statement indicating whether it is the first, second, third, etc., requested extension, i.e.:

STIPULATION FOR EXTENSION OF TIME TO FILE MOTIONS (*First Request*)

- (c) The Court may set aside any extension obtained in contravention of this Rule.
- (d) A stipulation or motion seeking to extend the time to file an opposition or final reply to a motion, or to extend the time fixed for hearing a motion, must state in its opening paragraph the filing date of the motion.

LCR 45-2. STIPULATIONS - GENERALLY.

All stipulations except those made on the record shall be served on all other parties who have appeared and shall not be effective until approved by the Court.

LCR 45-3. REQUIRED FORM OF ORDER FOR STIPULATIONS AND *EX PARTE* MOTIONS.

- (a) Any stipulation or *ex parte* motion requesting a continuance, extension of time, or order shortening time, and any other stipulation requiring an order shall not initially be "Filed" by the Clerk, but shall be marked "Received." Every such stipulation or *ex parte* motion shall include an "Order" in the form of a signature block on which the Court can endorse approval of the relief sought. This signature block shall not be on a separate page, but shall appear approximately one inch (1") below the last typewritten matter on the right-hand side of the last page of the stipulation or *ex parte* motion, and shall read as follows:

"IT IS SO ORDERED:

[UNITED STATES DISTRICT JUDGE,
UNITED STATES MAGISTRATE JUDGE,
(whichever is appropriate)]

DATED: _____"

- (b) Upon approval, amendment or denial, the stipulation or *ex parte* motion shall be filed and processed by the Clerk in such manner as may be necessary.

LCR 45-4. CONTINUANCE OF TRIAL DATE - SPEEDY TRIAL ACT.

A request to continue a trial date, whether by motion or stipulation, will not be considered unless it sets forth in detail the reasons why a continuance is necessary and the relevant statutory citations regarding excludable periods of delay, if any, under the Speedy Trial Act, 18 U.S.C. § 3161(h). The request must be accompanied by a proposed order that contains factual findings and relevant statutory citations, if any.

LCR 46-1. APPEARANCE BONDS.

Any person admitted to bail shall be required to execute an appearance bond in a form approved by the Court.

LCR 46-2. QUALIFICATION OF SURETY.

Except for personal recognizance bonds and bonds secured by cash or negotiable bonds or notes of the United States as provided for in LCR 46-3, every bond must have as surety:

- (a) A corporation authorized by the United States Secretary of the Treasury to act as surety on official bonds under 31 U.S.C. §§ 9304 through 9306; or,
- (b) A corporation authorized to act as surety under the laws of the State of Nevada, which corporation shall have on file with the Clerk a certified copy of its certificate of authority to do business in the State of Nevada, together with a certified copy of the power of attorney appointing the agent authorized to execute the bond;
- (c) One or more individuals each of whom owns real or personal property sufficient to justify the full amount of the suretyship; or,
- (d) Such other security as the Court shall order.

LCR 46-3. DEPOSIT OF MONEY OR UNITED STATES OBLIGATION IN LIEU OF SURETY.

Upon order of the Court, there may be deposited with the Clerk in lieu of surety:

- (a) Lawful money accompanied by an affidavit that identifies the legal owner thereof; or
- (b) Negotiable bonds or notes of the United States accompanied by an executed agreement as required by 31 U.S.C. § 9303(a)(3) authorizing the Clerk to collect or sell the bonds or notes in the event of default.

LCR 46-4. APPROVAL BY THE COURT.

An appearance bond shall require the approval of a judicial officer. An approved appearance bond shall be immediately forwarded to the Clerk for filing together with any money deposited with that judicial officer as security.

LCR 46-5. PERSONS NOT TO ACT AS SURETIES.

Neither an officer of this Court nor any member of the Bar of this Court nor any nonresident attorney specially admitted to practice before this Court nor their office associates or employees shall act as surety in this Court.

LCR 46-6. JUDGMENT AGAINST SURETIES.

Regardless of what may be otherwise provided in any security instrument, every surety who provides a bond or other undertaking for filing with this Court thereby submits to the jurisdiction of the Court and irrevocably appoints the Clerk as agent upon whom any paper affecting liability on the bond or undertaking may be served. Liability shall be joint and several and may be enforced summarily without independent action. Service may be made upon the Clerk who shall forthwith mail a copy to the surety at the last known address.

LCR 46-7. FURTHER SECURITY OR JUSTIFICATION OF PERSONAL SURETIES.

At any time, upon reasonable notice to all other parties, any party for whose benefit a bond is presented may apply to the Court for further or different security or for an order requiring personal sureties to justify.

LCR 46-8. INVESTMENT OF FUNDS ON DEPOSIT.

- (a) Funds on deposit in the Registry Account of the Court pursuant to 28 U.S.C. § 2041 will be invested in an interest bearing account established by the Clerk in the absence of an order by the Court.
- (b) All motions or stipulations for an order directing the Clerk to invest Registry Account funds in an alternative account other than the Court's standard interest bearing account shall contain the following:
 - (1) The name of the bank or financial institution where the funds are to be invested;
 - (2) The type of account or instrument and the terms of investment where a timed instrument is involved; and,
 - (3) Language that either:
 - (A) Directs the Clerk to deduct from income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office; or,
 - (B) States affirmatively the investment is being made for the benefit of the United States and, therefore, no fee shall be charged.
- (c) Counsel obtaining an order under these Rules shall cause a copy of the order to be served personally upon the Clerk or the chief deputy and the financial deputy. A supervisory deputy clerk may accept service on behalf of the Clerk, chief deputy or financial deputy in their absence.

- (d) The Clerk shall take all reasonable steps to deposit funds into interest bearing accounts or instruments within, but not more than fourteen (14) days after having been served with a copy of the order for such investment.
- (e) Any party who obtains an order directing investment of funds by the Clerk shall, within fourteen (14) days after service of the order on the Clerk, verify that the funds have been invested as ordered.
- (f) Failure of the party or parties to personally serve the Clerk, the chief deputy and financial deputy, or in their absence a supervisory deputy clerk with a copy of the order, or failure to verify investment of the funds, shall release the Clerk from any liability for the loss of earned interest on such funds.
- (g) It shall be the responsibility of counsel to notice the Clerk regarding disposition of funds at maturity of a timed instrument. In the absence of such notice funds invested in a timed instrument subject to renewal will be reinvested for a like period of time at the prevailing interest rate. Funds invested in a timed instrument not subject to renewal will be re-deposited by the Clerk on the Registry Account of the Court, which is a non-interest bearing account.
- (h) Service of notice by counsel as required by LCR 46-8(g) shall be made as provided in LCR 46-8(c) not later than fourteen (14) days prior to maturity of the time instrument.
- (i) Any change in terms or conditions of an investment shall be by Court order only and counsel will be required to comply with LCR 46-8 (b) and (c).

LCR 46-9. EXONERATION OF BONDS.

- (a) Upon exoneration of any bond involving the deposit of cash bail funds in the Court's Registry Account, the Clerk shall make refund of such funds solely to the person denominated legal owner at the time the funds were deposited with and received by the Clerk.
- (b) No assignment of any deposited cash bail funds in the Court's Registry Account shall be effective for refund purposes by the Clerk unless the person denominated legal owner of such fund at the time of deposit, as assignor, files with the Clerk an executed, notarized acknowledgement of the assignment of any such funds.
- (c) Upon order of the Court, the Clerk shall apply any cash bail funds of which the defendant is legal owner of record, whether invested or on deposit in the Registry Account, to the payment and satisfaction of any Court-imposed fine. Said payment shall take place before either making refund of the remainder of such cash bail funds, if any, to said defendant or to any extent honoring a defendant's assignment of such funds.

LCR 47-1. MOTIONS.

All motions, unless made during a hearing or trial, shall be in writing and served on all other parties who have appeared.

LCR 47-2. EX PARTE MOTIONS.

- (a) All *ex parte* motions, applications or requests shall contain a statement showing good cause why the matter was submitted to the Court without notice to all parties; and,
- (b) All *ex parte* matters shall state the efforts made to obtain a stipulation and why a stipulation was not obtained.

LCR 47-3. EX PARTE COMMUNICATIONS.

- (a) Neither party nor counsel for any party shall make an *ex parte* communication with the Court except as specifically permitted by these Rules.
- (b) Any party, counsel or those acting in *pro se*, may submit and serve a letter to the Court at the expiration of sixty (60) days after any matter has been, or should have been, submitted to the Court for decision if the Court has not entered its written ruling.

LCR 47-4. IN CAMERA SUBMISSIONS AND SEALING OF DOCUMENTS.

Papers submitted for *in camera* inspection shall have a captioned cover sheet complying with LCR 47-6 that indicates the document is being submitted *in camera* and shall be accompanied by an envelope large enough for the *in camera* papers to be sealed in without being folded.

LCR 47-5. FORM OF PAPERS - GENERALLY.

- (a) Any paper filed that does not conform to an applicable provision of these Rules or any Federal Rule of Criminal Procedure may be stricken.
- (b) Papers presented for filing shall be flat, unfolded, firmly bound together at the top, pre-punched with two (2) holes, centered two-and-three-fourth inches ($2\frac{3}{4}$ ") apart, one-half inch to five-eighths of an inch ($\frac{1}{2}$ " to $\frac{5}{8}$ ") from the top edge of the paper and on eight-and-one-half inches by eleven inch ($8\frac{1}{2}$ " x 11") paper. Except for exhibits, quotations, the caption, title of the Court and the name of the case, lines of typewritten text shall be double-spaced, and except for the title page, shall begin at least one-and one-half inches ($1\frac{1}{2}$ ") from the top of the page. All handwriting shall be legible, and all typewriting shall be of a size which is either not more than ten (10) characters per linear inch or not less than twelve (12) points for proportional spaced fonts or equivalent. All quotations longer than one (1) sentence shall be indented. All pages of each pleading or other paper filed with the Court (exclusive of exhibits) shall be numbered consecutively.

LCR 47-6. CAPTION, TITLE OF COURT AND NAME OF CASE.

The following information shall be stated upon the first page of every paper presented for filing, single-spaced:

- (a) The name, address, telephone number, fax number and Nevada State Bar number, if any, of the attorney and any associated attorney filing the paper, whether such attorney appears for the plaintiff, defendant or other party, or the name, address and telephone number of a party appearing in *pro se*. This information shall be set forth in the space to the left of center of the page beginning at the top of the first page. The space to the right of center shall be reserved for the filing marks of the Clerk.
- (b) The title of the Court shall appear at the center of the first page at least one inch (1") below the information required by subsection (a) of this Rule, as follows:

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

- (c) The name of the action or proceeding shall appear below the title of the Court, in the space to the left of center of the paper, i.e.:

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
RICHARD ROE,)
)
Defendant.)

- (d) In the space to the right of center, there shall be inserted the docket number which shall include a designation of the nature of the case ("CR" for criminal), the Division of the Court ("2" for Southern and "3" for Northern), and, except for the original pleading, the case number and the initials of the presiding district judge followed in parentheses by the initials of the magistrate judge if one has been assigned. This information shall be separated as follows: 3:05-CR-115-HDM (RAM).
- (e) Immediately below the caption and the docket number there shall be inserted the name of the paper and whenever there is more than one defendant a designation of the parties affected by it, e.g., Defendant Richard Roe's Motion for Disclosure of Confidential Informant.

LCR 47-7. LIMITATION ON LENGTH OF BRIEFS AND POINTS AND AUTHORITIES, AND REQUIREMENT FOR INDEX AND TABLE OF AUTHORITIES.

Unless otherwise ordered by the Court, pretrial and post-trial briefs and points and authorities in support of, or in response to, motions shall be limited to thirty (30) pages including the motion but excluding exhibits. Reply briefs and points and authorities shall be limited to twenty (20) pages, excluding exhibits. Where the Court enters an order permitting a longer brief or points and authorities, the papers shall include an index and table of authorities.

LCR 47-8. CITATIONS OF AUTHORITY.

- (a) References to an act of Congress shall include the United States Code citation, if available. When a federal regulation is cited, the Code of Federal Regulations title, section, page, and year shall be given.
- (b) When a Supreme Court decision is cited, the citation of the United States Reports shall be given. When a decision of a court of appeals, a district court, or other federal court has been reported in the Federal Reporter System, that citation shall be given. When a decision of a state appellate court has been reported in West's National Reporter System, that citation shall be given. All citations shall include the specific page or pages upon which the pertinent language appears.

LCR 47-9. FAILURE TO FILE POINTS AND AUTHORITIES.

The failure of a moving party to file points and authorities in support of the motion shall constitute a consent to the denial of the motion. The failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion.

LCR 47-10. EXHIBITS.

All exhibits attached to papers shall show the exhibit number at the bottom thereof. Exhibits need not be typewritten and may be copies, but must be clearly legible and not unnecessarily voluminous. Counsel must reduce oversized exhibits to eight-and-one-half by eleven inches (8 ½ " x 11") unless such reduction would destroy legibility or authenticity. An oversized exhibit that cannot be reduced shall be filed separately with a captioned cover sheet, identifying the exhibit and the document(s) to which it relates.

LCR 47-11. PROOF OF SERVICE.

- (a) All papers required or permitted to be served shall, at the time they are presented for filing, be accompanied by written proof of service. The proof shall show the day and manner of service and may be by written acknowledgment of service or written certificate by the person who served the papers. The Court will not take action on any papers until proof of service is filed. If an acknowledgment or certificate of service is attached to a paper presented for filing, it shall be attached underneath.
- (b) Failure to make the proof of service required by this Rule does not affect the validity of the service. Unless material prejudice would result, the Court may at any time allow the proof of service to be amended or supplied.

LCR 47-12. SUBMISSION OF MOTIONS TO THE COURT.

After all motion papers are filed or the time period therefore has expired, all motions shall be submitted by the Clerk to the Court for decision unless the party who made the motion files a written withdrawal of the motion.

LCR 55-1. FILES AND EXHIBITS - CUSTODY AND WITHDRAWAL.

- (a) All files and records of the Court shall remain in the custody of the Clerk, and no record or paper belonging to the files of the Court shall be taken from the custody of the Clerk without written permission of the Court, and then only after a receipt has been signed by the person obtaining the record or paper.
- (b) The Clerk shall mark and have safekeeping responsibility for all exhibits marked and identified at trial or hearing. Unless there is some special reason why the originals should be retained, the Court may order exhibits to be returned to the party who offered the same upon the filing of true copies thereof in place of the originals.
- (c) Unless otherwise ordered by the Court in a particular case, the Clerk shall continue to have custody of the exhibits until the judgment has become final and the time for filing a notice of appeal and motion for new trial has passed, or appeal proceedings have terminated, but in no event sooner than two (2) years after the mandate issues or the appeal is otherwise terminated.
- (d) Where no appeal is taken, after final judgment has been entered and the time for filing a notice of appeal and motion for a new trial has passed, or upon the filing of a stipulation waiving the right to appeal and to a new trial, any party may upon twenty-one (21) days' prior written notice to all parties withdraw any exhibit originally produced by it unless some other party or person files prior notice with the Clerk of a claim to the exhibit. If such a notice of claim is filed, the Clerk shall not deliver the exhibit except with the written consent of both the party who produced it and the claimant or until the Court has determined the person entitled thereof.
- (e) If exhibits are not withdrawn within twenty-one (21) days after notice by the Clerk to the parties to claim the same, the Clerk shall, upon order of the Court, destroy or make their disposition as the Court may direct of any such exhibits.

PART V - LOCAL RULES OF SPECIAL PROCEEDINGS AND APPEALS

LSR 1-1. MOTIONS FOR LEAVE TO PROCEED IN *FORMA PAUPERIS*; APPLICATION STANDARD FORM.

Any person, who is unable to prepay the fees in a civil case, may apply to the Court for authority to proceed in *forma pauperis*. The application shall be made on the form provided by the Court and shall include a financial affidavit disclosing the applicant's income, assets, expenses and liabilities.

LSR 1-2. INMATES: ADDITIONAL REQUIREMENTS.

An application to proceed in *forma pauperis* received from an incarcerated or institutionalized person shall be accompanied by a certificate from the institution certifying the amount of funds currently held in the applicant's trust account at the institution and the net deposits in the applicant's account for the six (6) months preceding the submission of the application. If the applicant has been at the institution for less than six (6) months, the certificate shall show the account's activity for such period.

LSR 1-3. STANDARD FOR DENIAL OF IN *FORMA PAUPERIS* MOTION.

- (a) A motion to proceed in *forma pauperis* may be denied, in the absence of exceptional circumstances, if the applicant's assets exceed the amount set by order of the Court.
- (b) If the applicant has money or assets in an amount less than the minimum set by the Court pursuant to this Rule, the Court may require the payment of a partial filing fee.
- (c) If a partial filing fee is required, the applicant may, in the discretion of the Court, be granted additional time to pay the filing fee. Installment payments will not be accepted. In a civil rights action the applicant must pay the full partial filing fee before the Court will order service of process. If the case is a petition or motion for post-conviction relief, the applicant shall be allowed to proceed in *forma pauperis* during the interim period before the partial filing fee is paid. The failure of the applicant to pay the fee before the expiration of the time granted shall be cause for dismissal of the case.

LSR 1-4. APPLICANT NEED ONLY FILE ORIGINAL COMPLAINT, PETITION, OR MOTION.

A plaintiff seeking in *forma pauperis* status shall submit to the Clerk only the original of any petition or motion for post-conviction relief or civil rights complaint on forms approved by the Court. Upon filing, the Clerk shall make copies of the petition or motion for post-conviction relief or civil rights complaint, and the motion for leave to proceed in *forma pauperis*, in order to provide a file-stamped copy of each document to the petitioner, movant or plaintiff and all respondents or defendants. No answer or responsive pleading is required unless ordered by the Court.

LSR 1-5. REVOCATION OF LEAVE TO PROCEED IN *FORMA PAUPERIS*.

The Court may, either on the motion of a party or *sua sponte*, after affording an opportunity to be heard, revoke leave to proceed in *forma pauperis* if the party to whom leave was granted becomes

capable of paying the complete filing fee or the applicant has willfully misstated information in the motion and affidavit for leave to proceed in *forma pauperis*.

LSR 1-7. ABUSE OF PRIVILEGE TO PROCEED IN FORMA PAUPERIS.

The Court may limit an applicant's use of in *forma pauperis* if the Court finds that the applicant has abused the privilege to so proceed.

LSR 1-8. EXPENSES OF LITIGATION.

The granting of an application to proceed in *forma pauperis* does not waive the applicant's responsibility to pay the expenses of litigation which are not covered by 28 U.S.C. § 1915.

LSR 2-1. CIVIL RIGHTS COMPLAINT PURSUANT TO 42 U.S.C. § 1983; PRO SE PLAINTIFF TO USE STANDARD FORM.

A civil rights complaint filed by a person who is not represented by counsel shall be on the form provided by this Court.

LSR 2-2. CHANGE OF ADDRESS.

The plaintiff shall immediately file with the Court written notification of any change of address. The notification must include proof of service upon each opposing party or the party's attorney. Failure to comply with this Rule may result in dismissal of the action with prejudice.

LSR 3-1. PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §§ 2241 AND 2254.

A petition for writ of *habeas corpus*, filed by a person who is not represented by an attorney, shall be on the form provided by this Court. If a petition for writ of *habeas corpus* is filed by an attorney on behalf of a person seeking relief, it shall be on the form supplied by the Court or shall contain all of the information required in the model form for use in applications for *habeas corpus* under 28 U.S.C. § 2254 in the Appendix of Forms to the Rules Governing Section 2254 Cases in the United States District Courts.

LSR 3-2. STATEMENT OF AVAILABLE GROUNDS FOR RELIEF.

A petition for writ of *habeas corpus* must include all grounds for relief which are available to the petitioner. A second or successive petition may be dismissed if the judge finds that:

- (a) It fails to allege new or different grounds for relief and a prior determination was on the merits; or,
- (b) If new and different grounds are alleged and the judge finds that the failure of the petitioner to assert those grounds in a prior petition constituted an abuse of the writ.

LSR 4-1. MOTION ATTACKING SENTENCE PURSUANT TO 28 U.S.C. § 2255; MOTION TO CORRECT OR REDUCE SENTENCE PURSUANT TO Fed. R. Crim. P. 35; PETITION FORM.

A motion to vacate sentence pursuant to 28 U.S.C. § 2255 or a motion to correct or reduce sentence pursuant to Fed. R. Crim. P. 35, filed by a person who is not represented by an attorney, shall be on the form provided by this Court. If the motion for post-conviction relief is filed by an attorney, it shall be on the form supplied by the Court or shall contain all of the information required in the model form for motions under 28 U.S.C. § 2255 in the Appendix of Forms to Rules Governing Section 2255 Proceedings in the United States District Courts.

LSR 4-2. STATEMENT OF ALL AVAILABLE GROUNDS FOR RELIEF.

A motion for post-conviction relief must include all grounds for relief which are available to the movant. A second or successive motion may be dismissed if the judge finds that:

- (a) It fails to allege new or different grounds for relief and a prior determination was on the merits; or,
- (b) If new and different grounds are alleged and the judge finds that the failure of the movant to assert those grounds in a prior motion constituted an abuse of the motion.

LSR 5-1. DEATH PENALTY CASE; CAPTION; FACSIMILE FILING.

- (a) In a death penalty case, the caption to any motion for leave to proceed *in forma pauperis*, petition for writ of *habeas corpus* or motion for post conviction relief must include below the title of the document the following caption: "DEATH PENALTY CASE."
- (b) Papers may be filed with the Clerk by means of telephone facsimile machine ("fax") only in cases involving the death penalty as hereinafter provided:
 - (1) Documents that relate to stays of execution in death penalty cases may be transmitted directly to the fax machines in the Clerk's offices in Reno or Las Vegas for filing by the Clerk when counsel considers this will serve the interests of their clients;
 - (2) Counsel must notify the Clerk before transmitting any document by fax. On receiving the transmitted document, the Clerk shall make the number of copies required and file the photocopies. Any document transmitted directly to the Court by fax must show service on all other parties by fax or hand delivery; and,
 - (3) When a document has been transmitted by fax and filed pursuant to this Rule, counsel must file the original document and accompanying proof of service with the Clerk within seven (7) days of the date of the fax transmission.

LSR 5-2. ADDITIONAL INFORMATION: SCHEDULED EXECUTION DATE.

In a death penalty case, the date of any scheduled execution must be included at the beginning of any motion for leave to proceed *in forma pauperis*, petition for writ of *habeas corpus* or motion for post-conviction relief.

LSR 5-3. EVIDENTIARY HEARING: TRANSCRIPT.

In a death penalty case, the Court shall order a transcript of any evidentiary hearing for purposes of appellate review.

LSR 6-1. APPEAL BOND; NINTH CIRCUIT OR OTHER APPELLATE COURTS.

The appellant will not be required to file a bond or provide other security to ensure payment of costs on appeal in a civil case unless the Court, on a motion or *sua sponte*, orders such bond or security and fixes the amount thereof.

LSR 6-2. DESIGNATION AND PREPARATION OF REPORTER'S AND RECORDER'S TRANSCRIPTS.

It shall be the responsibility of the party filing the notice of appeal to identify by name the court reporter or recorder (or the tape number when proceedings before the magistrate judge are taped without the presence of a reporter or recorder) when designating transcripts on appeal. If more than one (1) court reporter or recorder reported matters designated, a separate transcript designation and ordering form must be completed for each court reporter or recorder and each such form shall specify which portions of the designated transcript a particular court reporter or recorder shall be responsible for transcribing. The Clerk shall arrange for the transcription of any designated tapes of a magistrate judge's proceedings.

LSR 6-3. CLERK'S RECORD ON APPEAL, DESIGNATION AND COSTS OF REPRODUCTION.

- (a) The Court has delegated to the Clerk of Court the authority to determine when the original Clerk's record or any part thereof is required to be kept for use in the District Court. When the Clerk of Court determines that some or all of the record will be retained, the Clerk will provide notice to all parties, and will provide the parties with an opportunity to designate which parts of the record should be reproduced for transmission to the Court of Appeals.
- (b) The appellant will pay the costs of reproducing the designated documents, unless:
 - (1) The appellant is authorized to appeal *in forma pauperis*; or,
 - (2) A cross appeal is filed and the Court transmits a "joint" record. The cross of reproduction shall be borne equally by the appellant(s) and cross appellant(s).

END

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