

## **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.