PART IV—CRIMINAL PRACTICE

LCR 1-1. SCOPE AND PURPOSE

(a) These are the Local Rules of Criminal Practice for the United States District Court for the District of Nevada. These rules are promulgated under 28 U.S.C. § 2071 and Fed. R. Crim. P. 57 and apply to all criminal proceedings unless the court orders otherwise.

(b) The court expects a high degree of professionalism and civility from attorneys.

2019 Committee Note

LCR 1-1 is added as a new rule to identify the source of authority for promulgating the local rules. It is also added to highlight the need for professionalism and civility as a parallel to LR 1-1.

LCR 4-1. COMPLAINT, WARRANT, OR SUMMONS BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

(a) Discretion of the Court. The consideration of information related to a complaint, warrant, or summons communicated by telephone or other reliable electronic means is at the discretion of the court.

(b) Justification. The request to consider information related to a complaint, warrant, or summons communicated electronically must, to the extent applicable, include:

(1) The name, position or title, and physical location of the person providing the information;

(2) A brief description of the complaint, warrant, or summons; and

(3) A short, specific statement of the basis for the request that the information be considered by electronic means.

(c) Responsibility of the Requesting Party. It is the responsibility of the requesting party to:

(1) Have the testimony recorded verbatim by an electronic recording device, by a court reporter, or in writing;

(2) Have any recording or the reporter's notes transcribed, have the transcription certified as accurate, and file it;

(3) Sign any other written record, certify its accuracy, and file it; and

(4) File the exhibits.

LCR 7-1. NOTICING THE COURT ON RELATED CASES

The Government must promptly file a Notice of Related Cases whenever a criminal case previously filed and one or more complaints, informations, or indictments later filed:

(a) Arise out of the same conspiracy, common scheme, transaction, series of transactions or events; or

(b) Involve one or more defendants in common and would entail a substantial duplication of labor in pretrial, trial, or sentencing proceedings if heard by different judges.

The Notice of Related Cases must be filed and served in each case, must identify the related cases by number, and must set forth the reasons why counsel believes the cases are related. Whenever practicable, the United States Attorney shall file the Notice of Related Cases with the indictment or information and serve it upon opposing counsel promptly after that counsel has been ascertained.

If a Notice of Related cases is filed, the assigned judges will determine whether the actions will be assigned to a single district judge or magistrate judge.

2019 Committee Note

LCR 7-1 is added as a new rule in response to the need to provide a procedure by which the Government will alert the Court and Defendants to the existence of related cases, and thereby provides for the ability to streamline those proceedings in appropriate cases. This new rule largely tracks the provision governing related civil cases outlined in LR 42-1.

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 days before the date set for arraignment, the defendant and defense counsel sign and submit to the court a written waiver that contains the following declarations:

(1) The defendant has received and read a copy of the indictment or information and understands the nature of the charge(s);

(2) 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) Counsel has no reason to question the defendant's competence to assist in the defense of the case;

(4) Defendant has a right to be present at the arraignment and waives that right; and

(5) Defendant's plea to the charge(s) is not guilty; and

(b) The court accepts the waiver.

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

(a) Unless the court orders otherwise:

(1) Each party has 30 days from the arraignment to file and serve the pretrial motions and notices specified in subsection (b) of this rule;

(2) Responses to pretrial motions and notices must be filed and served within 14 days from the date of service of the motion; and

(3) A reply brief may be filed and served within ~~seven~~ 7 days from the date of service of the response. The reply brief must only address arguments made in the response.

(b) The following pretrial motions and notices must be filed within the time period in subsection (a) of this rule:

(1) Defenses and objections based on 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) Defenses and objections based on defects in the indictment or information (except objections based on a failure to show the court's jurisdiction or to charge an offense, which may 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 government 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 on 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 must provide a certification that the motion, response, or reply is filed timely. The certification must be identified and must be set forth separately as an opening paragraph in the motion, response, or reply.

(d) Fed. R. Crim. P. 45 governs the computation of time.

2019 Committee Note

The heading is amended to reflect that this rule applies to pretrial motions only.

LCR 12-2. TRIAL-RELATED MOTIONS

For trial-related motions outside the scope of LCR 12-1(b), such as motions in limine, such motions will not be considered unless the movant attaches a statement certifying that the parties have participated in the meet-and-confer process as defined by LR IA 1-3(f) and have been unable to resolve the matter without court action.

2019 Committee Note

LCR 12-2 is added as a new rule in response to concern that litigants may be filing trial-related motions that are unnecessary. This new rule ensures that only motions addressing issues that are genuinely in dispute will be presented for resolution by the court.

LCR 12-3. MOTION FOR REVIEW OF MAGISTRATE JUDGE'S RELEASE OR DETENTION ORDER

A motion under 18 U.S.C. § 3145(a) or (b) seeking review by a district judge of a magistrate judge's release or detention order must be titled "Motion for District Judge Review of Magistrate Judge's Release (or Detention) Order." Any such motion must be filed and served without undue delay. Any response thereto must be filed within 14 days of the filing of the motion. Replies will be allowed only with leave of the court. The briefing of such motions is subject to the page limits set forth in LCR 47-2.

2019 Committee Note

LCR 12-3 was previously located at LR IB 3-5 and is moved to the local criminal rules for ease of access for litigants. The previous version of the rule provided a deadline for filing a motion under this provision of 14 days from the date of the release or detention order. The amended rule provides added flexibility designed to account for scheduling issues that may arise from the staffing of cases within the Office of the Federal Public Defender. The timeliness of a motion can be determined by the district judge on a case-by-case basis by analyzing whether it was filed "without undue delay."

LCR 16-1. DISCOVERY

(a) Complex Cases

(1) At any time after arraignment, the court on its own motion or on motion by any party, and for good cause shown, may designate a case as complex.

(2) In all cases designated as complex, the parties must, within seven days after the designation, meet and confer to develop a proposed complex case schedule that addresses 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 the 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;

(E) Stipulations for the exclusion of time for speedy trial purposes under 18 U.S.C. § 3161; and

(F) Electronic exchange or storage of documents.

(3) The parties must file the proposed complex-case schedule within seven days after meeting and conferring under subsection 16-1(a)(2).

(4) As soon as practicable after the filing of the proposed complex-case schedule, the court must enter an order fixing the schedule for discovery, pretrial motions, and trial, and determining exclusions of time under 18 U.S.C. § 3161, or must conduct a pretrial conference to address

unresolved scheduling and discovery matters.

(b) Non-Complex Cases. In cases that are not designated as complex under subsection 16-1(a), the parties must meet and 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) The parties must meet and confer promptly to discuss the scope, timing, and method of the disclosures required by section 16-1(b)(1)(B) and any additional disclosures that the parties agree upon. The parties must file a joint discovery agreement within seven days after arraignment, unless the court orders otherwise. The joint discovery agreement must set forth the scope, timing, and method of the required disclosures and any additional disclosures that the parties agree upon.

(B) In cases that will be governed by a joint discovery agreement, the parties agree that:

(i) The government will disclose:

(a) All matters required by federal statute, rule, or the United States Constitution; and

(b) Any investigative reports that describe facts relating to charges in the indictment and any audio or video recordings that relate to the charges in the indictment, subject to any applicable work-product protections, law-enforcement privileges, or protective orders.

(ii) The defense will make any reciprocal disclosures required by federal statute, rule, or the United States Constitution.

(C) In cases governed by a joint discovery agreement:

(i) All parties will be deemed to have made all requests, demands, and reciprocal requests for discovery and any notices required by statute, rule, or the United States Constitution;

(ii) All discovery matters will be deemed to be governed by LCR 16-1(b) and the joint discovery agreement;

(iii) The government must make the disclosures required by

federal statute, rule, or the United States Constitution available within seven days after filing the joint discovery statement;

(iv) The government must make all other disclosures to which it has agreed available within the times set forth in the joint discovery agreement;

(v) The defense must make its reciprocal disclosures available to the government no later than 14 days before trial;

(vi) Both parties have a continuing duty to disclose; and

(vii) Neither party may 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 must describe the nature of the disclosure being withheld and the basis on 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 must file a disclosure statement. In these cases, within seven days after arraignment, the parties must meet and confer about 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 that the government will make.

(B) Within seven days after the conference, but in no event more than 14 days after the date of arraignment, the government must file its disclosure statement, which must 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; ~~and~~

(iii) What, if any, disclosures the government has made identified by bates number and when those disclosures were made; and

(i~~i~~v) The scope, timing, and method of any additional disclosures that the government will make.

(c) Discovery Disputes. Before filing any motion for discovery, the attorney for the moving party must meet and confer with the opposing attorney in a good-faith effort to resolve the discovery dispute as defined by LR IA 1-3(f). Any motion for discovery must contain a statement by the moving party's attorney certifying that, after personal consultation with the attorney for the opposing party, he or she has been unable to resolve the dispute without court action.

2019 Committee Note

Subsection (2)(B)(iii) is added to ensure a clear record of the disclosures made.

LCR 17-1. ISSUANCE OF SUBPOENAS REQUESTED BY THE FEDERAL PUBLIC DEFENDER, APPOINTED COUNSEL, OR A PRO SE DEFENDANT.

(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 under the Criminal Justice Act, 18 U.S.C. §§ 3006A, et seq., the clerk must 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 must be paid as for witnesses subpoenaed on behalf of the United States. The United States Marshal must provide these witnesses with advance funds for the purpose of travel within this district and subsistence. This rule only applies to witnesses who reside or are served within the District of Nevada. Any subpoenas that must be served outside the District of Nevada require court approval under Fed. R. Crim. P. 17(b).

(b) A further showing of indigency or necessity will not be required after an order is entered under subsection (a) of this rule for subpoenas to be served within the District of Nevada.

(c) An attorney appointed under the Criminal Justice Act will be required to apply under Fed. R. Crim. P. 17(b) for the issuance of subpoenas, whether for service within or outside of the District of Nevada.

(d) A defendant who is acting pro se must apply under Fed. R. Crim. P. 17(b) for the issuance of subpoenas, whether for service within or outside of the District of Nevada.

(e) The subpoena or proposed subpoena must be in a form approved by the court.

2019 Committee Note

The heading is amended to reflect that the rule applies more broadly than previously stated.

LCR 32-1. SENTENCING

In all cases that are set for sentencing on a conviction for an offense, which occurred after November 1, 1987, the provisions of Fed. R. Crim. P. 32(b) and the following procedure apply unless the court orders otherwise:

(a) Unless waived by the defendant, the probation officer must furnish the presentence investigation report referenced in Fed. R. Crim. P. 32 to the defendant, the defendant's attorney, and the Attorney for the United States at least 35 days before the sentencing hearing.

(b) The parties must communicate in writing to each other and to the probation officer within 14 days after receiving the presentence investigation report any objections to the presentence investigation 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 it to the court. If a party later raises an objection that had not been identified as required by this subsection, the court may determine that this failure constitutes good cause to continue the sentencing hearing.

(c) The presentence investigation report and any addendum or revision must be submitted to the court at least seven business days before the sentencing hearing. All revisions and addenda must be provided to the parties.

(d) Any sentencing memorandum addressing unresolved objections to the presentence investigation report or other sentencing issues must be filed and served on opposing attorneys and the United States Probation Office at least five business days before the sentencing hearing, and any response to the sentencing memorandum must be filed and served at least three business days before the sentencing hearing.

(e) For purposes of this rule, a "business day" is any day that is not a Saturday, Sunday, legal holiday, or other day for which the Chief Judge has closed the courthouse in which the action is pending.

(f) Any motion for a forfeiture order must be filed and served on opposing attorneys no later than 28 days before the sentencing hearing, any response must be filed and served within 14 days from the date of service of the forfeiture motion, and any reply brief may be filed and served within seven days from the date of the service of the response.

2019 Committee Note

LCR 32-1 is amended in several ways. First, subsection (b) is amended to make clear that any delay caused by a failure to raise objections may result in the continuance of the sentencing hearing. Second, subsection (e) is added to clarify the calculation of the deadlines set out in the preceding subsections in the event that the courthouse is closed for reasons other than a weekend or holiday, such as being closed due to inclement weather. Third, subsection (f) was added to provide a clear procedure and timetable for the adjudication of forfeiture requests.

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 court documents and are not available for public inspection. They are not to be reproduced or distributed to other agencies or other individuals without permission of the determining official or when 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) Disclosure of the Presentence Investigation Report and Confidential Materials for Sentencing Purposes.

(1) When a copy or draft of a presentence investigation report is provided to the parties, the Probation Office will advise the parties in writing that (A) defense counsel is responsible for providing the defendant with a copy of the report, (B) the report is not a public record, and (C) the contents of the report may not be further disclosed to unauthorized persons.

(2) If the presentence investigation report (A) contains information or material that includes diagnostic opinions that might seriously disrupt a program of rehabilitation, (B) identifies a source of information obtained upon a promise of confidentiality, or (C) contains any other information that, if disclosed, might result in harm, physical or otherwise, to the defendant or another person, the information must be excluded from the presentence investigation report and included in an addendum or attachment that must not be distributed to the defendant's attorney or the attorney for the government. Attorneys must be notified in writing that sensitive or confidential materials have been delivered to the court under this provision. This procedure constitutes compliance with Fed. R. Crim. P. 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) The presentence investigation report, supporting documents, and supervision records may be disclosed for purposes other than sentencing of the defendant only upon written application accompanied by an affidavit describing the records sought, explaining their relevance to the proceedings, and stating the reasons the information contained in the records is not readily available from other sources or by other means. If the request does not comply with this rule, the determining official may deny the request or request additional information.

(2) The written application must be provided to the determining official at least 14 days before the production of records is required. Failure to meet this deadline constitutes a sufficient basis for denial of the request.

(3) The determining official may waive the 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 must satisfy subsection (c) of this rule.

(e) Either party may examine materials provided to the Probation Office upon request to the Probation Office.

2019 Committee Note

Subsection (e) is added to make clear that materials may be reviewed by any party upon request to the Probation Office.

LCR 35-1. MOTIONS AND RESPONSES UNDER FED. R. CRIM. P. 35

When a defendant files a motion for modification of sentence under Fed. R. Crim. 35, the defendant must serve the motion on the government; the government then has 21 days from the date of service of the motion to file and serve a response. *See also* 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 Court.

LCR 44-2. DESIGNATION OF RETAINED COUNSEL

Except for the Federal Public Defender and attorneys appointed by the court, no attorney will be considered by the court as an attorney of record for a defendant in a criminal case until a written designation of retained counsel, signed by the defendant and the attorney, is filed. A copy of the designation of retained counsel must be served on the government.

LCR 44-3. CONTINUITY OF REPRESENTATION ON APPEAL

An attorney in a criminal case, whether retained by the defendant or appointed by the district court, must ascertain whether the defendant wishes to appeal and must file a notice of appeal upon the defendant's request, regardless of any waivers in the plea agreement. An attorney must continue to represent the defendant on appeal until the attorney is relieved and replaced by a substitute attorney or by the defendant acting pro se under Ninth Circuit Rule 4-1.

(a) When an attorney was retained for trial:

(1) If the defendant is not indigent for purposes of appeal, the attorney must continue to represent the defendant until relieved by the district court before the filing of the notice of appeal or by the Court of Appeals after the filing of the notice of appeal.

(2) If the defendant is indigent for purposes of appeal, the attorney must submit to the district court a financial affidavit (Form CJA 23) completed by the defendant, along with an application for appointment of counsel. If a notice of appeal is 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 under Ninth Circuit Rule 4-1.

(b) When an attorney was appointed for trial:

(1) If the attorney was appointed by the district court under 18 U.S.C. § 3006A and a notice of appeal has been filed, the attorney's appointment automatically continues on appeal.

(2) If the attorney is unable to, or should not, represent the defendant on appeal, the attorney must at the sentencing hearing request to be relieved as attorney and for the appointment of an attorney for the appeal. After the notice of appeal has been filed, this relief must be sought from the Court of Appeals.

LCR 45-1. STIPULATIONS—GENERALLY

All stipulations (except those made on the record) must be filed on the docket and will not be effective until approved by the court.

LCR 45-2. CONTINUANCE OF TRIAL DATE—SPEEDY TRIAL ACT

(a) A request to continue a trial date, whether by motion or stipulation, will not be considered unless it sets forth in detail the reasons a continuance is necessary and the relevant statutory citations for 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.

(b) Any request to extend the motions deadline to a date within 75 days of the current trial date must also include a request to continue the trial date or must provide an explanation why the trial date need not be continued in the event the motion deadline is extended.

2019 Committee Note

Subsection (b) is added to ensure that requests for extension of the motions deadline that are likely to impact trial provide a sufficient basis on which to evaluate that request.

LCR 46-1. APPEARANCE BONDS

Any person admitted to bail will 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 under 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;

(b) A corporation authorized to act as surety under the laws of the State of Nevada and that has 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 who own real or personal property sufficient to justify the full amount of the suretyship; or

(d) Any other security the court may order.

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

When ordered by the court, there may be deposited with the clerk in lieu of surety:

(a) Lawful money accompanied by an affidavit that identifies the money's legal owner; or

(b) Negotiable bonds or notes of the United States accompanied by an executed agreement required by 31 U.S.C. § 9303(a)(3) that authorizes 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 requires a judicial officer's approval. An approved appearance bond must be immediately forwarded to the clerk for filing with any money deposited with the judicial officer as security.

LCR 46-5. PERSONS NOT TO ACT AS SURETIES

Officers of this court, members of the bar of this court, nonresident attorneys specially admitted to practice before this court, and their office associates or employees may not 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 court's jurisdiction and irrevocably appoints the clerk as agent on whom any paper affecting liability on the bond or undertaking 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 must immediately mail a copy to the surety at the last known address.

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

At any time, and with 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.

LCR 46-8. DEPOSIT AND INVESTMENT OF FUNDS IN THE REGISTRY ACCOUNT; CERTIFICATE OF CASH DEPOSIT

(a) Cash tendered to the clerk for deposit into the court's Registry Account must be accompanied by a written statement titled "Certificate of Cash Deposit," which must be signed by the depositor. The certificate must 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., cash bond in support of appearance bond and order setting conditions of release);

(4) The court order permitting the deposit;

(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, should be made; and

(7) A signature block on which the clerk can acknowledge receipt of the cash tendered. The signature block must not be on a separate page, but must appear approximately one inch below the last typewritten line on the left-hand side of the last page of the certificate and must 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 depositing party must attach a copy of the order permitting the deposit.

(c) The clerk may refuse cash tendered without the Certificate of Cash Deposit required by this rule.

2019 Committee Note

LCR 46-8 is a new rule designed to provide a clear mechanism by which deposits can be made in relation to criminal cases, and to provide the legal authority by which the Clerk's Office can accept and handle those deposits. The new rule is similar to LR 67-1, which governs deposits made in relation to civil cases.

LCR 46-~~8~~9. INVESTMENT OF FUNDS ON DEPOSIT

(a) Unless the court orders otherwise, funds on deposit in the court's Registry Account under 28 U.S.C. § 2041 will be invested in an interest-bearing account established by the clerk.

(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 must 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 that the investment is being made for the benefit of the United States and, therefore, no fee may be charged.

(c) An attorney or pro se party obtaining an order under these rules must cause a copy of the order to be served personally on (1) the clerk or (2) 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 must take all reasonable steps to deposit funds into interest-bearing accounts or instruments within 14 days after service of the order for the investment.

(e) An attorney or pro se party who obtains an order directing investment of funds by the clerk must, within 14 days after service of the order on the clerk, verify the funds were invested as ordered.

(f) An attorney or pro se party's failure to personally serve (1) the clerk or (2) the chief deputy and the financial deputy, or in their absence a supervisory deputy clerk, with a copy of the order, or failure to verify investment of the funds, will release the clerk from any liability for lost earned interest on the funds.

(g) An attorney or pro se party must notify the clerk regarding disposition of funds at maturity of a timed instrument. In the absence of this 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 must be re-deposited by the clerk in the court's Registry Account, which is a non-interest-bearing account.

(h) Service of notice by an attorney or pro se party under LCR 46-8(g) must be made as directed in LCR 46-8(c) at least 14 days before the timed instrument matures.

(i) No term or condition of an investment may be changed without court order, and an attorney or pro se party must comply with LCR 46-8(b) and (c).

LCR 46-10~~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 must refund the 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 will be effective for refund purposes by the clerk unless the person denominated legal owner of the funds, as assignor, files with the clerk an executed, notarized acknowledgement of the assignment of the funds.

(c) Upon court order, the clerk must 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. This payment must take place before either making refund of the remainder of the cash bail funds, if any, to the defendant or, to any extent, honoring a defendant's assignment of the funds.

LCR 47-1. MOTIONS

All motions—unless made during a hearing or trial—must be in writing and served on all other parties who have appeared. The motion must be supported by a memorandum of points and authorities. The motion and supporting memorandum of points and authorities must be combined into a single document that complies with the page limits in LCR 47-2.

LCR 47-2. PAGE LIMITS FOR BRIEFS AND POINTS AND AUTHORITIES; REQUIREMENT FOR INDEX AND TABLE OF AUTHORITIES

Unless the court orders otherwise, pretrial and post-trial briefs, motions, and responses to motions are limited to 30 pages, excluding exhibits. Replies in support of a motion are limited to 20 pages, excluding exhibits. If the court enters an order permitting a party to exceed these page limits, the document must include an index and table of authorities.

LCR 47-3. FAILURE TO FILE POINTS AND AUTHORITIES

The failure of a moving party to include points and authorities in support of the motion constitutes a consent to denying the motion. The failure of an opposing party to include points and authorities in response to any motion constitutes a consent to granting the motion.

LCR 47-4. PROOF OF SERVICE

(a) All papers required or permitted to be served must, at the time they are presented for filing, be accompanied by written proof of service. The proof must 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. For requirements for proof of service of electronically filed documents, see LR IC 4-1.

(b) Failure to provide 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 49-1. SERVICE OF DOCUMENTS BY ELECTRONIC MEANS

Documents may be served by electronic means to the extent and in the manner authorized by Part IC of these rules. Transmission of the Notice of Electronic Filing (NEF) constitutes service of the filed document on each party in the case who is registered as an electronic case filing user with the clerk. All others must be served documents according to these rules, the Federal Rules of Criminal Procedure, and the Federal Rules of Civil Procedure.

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

(a) All files and records of the court must remain in the custody of the clerk, and records or papers belonging to the court's files may not be taken from the clerk's custody without the court's written permission, and then only after a receipt has been signed by the person obtaining the record or paper.

(b) The clerk must 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 them upon the filing of true copies of the exhibits in place of the originals.

(c) Unless the court orders otherwise, the clerk must continue to have custody of the

exhibits until the judgment has become final and the deadlines for filing a notice of appeal and motion for new trial have passed, or appeal proceedings have terminated, but in no event sooner than 2 years after the mandate issues or the appeal is otherwise terminated.

(d) If no appeal is taken, after final judgment has been entered and the deadlines for filing a notice of appeal and a motion for a new trial have passed, or upon the filing of a stipulation waiving the right to appeal and to a new trial, any party may, upon 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 a notice of claim is filed, the clerk must not deliver the exhibit unless both the party who produced it and the claimant consent in writing, or until the court has determined who is entitled to the exhibit.

(e) If exhibits are not withdrawn within 21 days after the clerk notifies the parties to claim the exhibits, the clerk must destroy or otherwise dispose of the exhibits as ordered by the court.