# LOCAL RULES OF PRACTICE

# UNITED STATES DISTRICT COURT

# DISTRICT OF NEVADA

# MAY 1, 2016

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

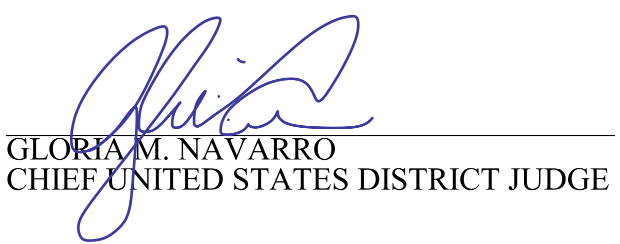
IN THE MATTER OF: THE LOCAL RULES OF PRACTICE FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

**GENERAL ORDER 2016-01**

**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; May 1, 2006; and August 1, 2011, are hereby further amended effective May 1, 2016.

DATED: April 28, 2016



GLORIA M. NAVARRO
CHIEF UNITED STATES DISTRICT JUDGE

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# LOCAL RULES OF PRACTICE
# FOR THE
# UNITED STATES DISTRICT COURT
# FOR THE DISTRICT OF NEVADA

## PART IA—INTRODUCTION

### LR IA 1-1. TITLE

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

**2016 Committee Note**

LR IA 1-1 is amended as part of the general restyling of the rules to make them more easily understood and to make style and terminology consistent throughout the rules. The parenthetical references to "Rules" and "Court" are deleted. Given that the full name of the rules and the court have been stated, subsequent references to the court and the rules are lowercased. LR IA 1-1 also is amended to reference new Part IC (Electronic Case Filing). It is also amended to reference new Part III (Patent Practice). Part III formerly contained the bankruptcy rules, which are now in a separate volume available at www.nvb.uscourts.gov. The patent rules formerly were located in Part II (Civil Practice).

*Style Updates*

Guidance in drafting, usage, and style was based on Bryan A. Garner, *Guidelines for Drafting and Editing Court Rules*, Administrative Office of the United States Courts (5th ed. 2007) (available at www.uscourts.gov/rules-policies/records-and-archives-rules-committees/style-resources) and Bryan A. Garner, *Garner's Dictionary of Legal Usage* (3d ed. 2011).

In applying Garner's *Guidelines*, the Local Civil and Criminal Rules Committees sought to avoid ambiguities and inconsistencies in the rules. The committees further sought to improve the rules' clarity and brevity by eliminating unnecessary words, using the active voice whenever possible, and inserting structural divisions when necessary to improve readability. The committees removed words and concepts that are outdated and redundant. Finally, the committees sought to promote stylistic integration between the different rules and different parts, which were drafted by different people at different times.

One of the most significant stylistic revisions was the committees' decision to replace "shall" with another word of authority, when appropriate. As Garner explains, "shall" can bear five to eight senses including "must," "may," or something else, depending on the context. Bryan A. Garner, *Garner's Dictionary of Legal Usage*, 952 (3d ed. 2011). Currently, "shall" is used more than 500 times in the rules, but it does not bear the same meaning throughout. The restyled rules replace "shall" with "must," "may," "will," or some other expression, depending on the context and the established interpretation of the rule. This style change was not intended to make changes in substantive meaning.

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

These rules are intended to supplement and complement the Federal Rules of Civil and Criminal Procedure. These rules must be applied, construed, and enforced to avoid inconsistency with other governing statutes and laws. Parts IA, IB, and IC apply to all actions and proceedings, except where Parts IA, IB, and IC may be inconsistent with rules or other laws specifically applicable to those types of actions or proceedings.

**LR IA 1-3. DEFINITIONS**

(a) Chief Judge. The Chief Judge of the United States District Court for the District of Nevada is the District Judge who has attained that position under 28 U.S.C. § 136. The current Chief Judge is identified on the court's website.

(b) Clerk or Clerk of Court. Unless otherwise clear from the context, "clerk" or "Clerk of Court" refers to the District Court Executive/Clerk of Court or a Deputy Clerk of Court.

(c) Court. Unless otherwise clear from the context, "court" refers to the United States District Court for the District of Nevada and to a judge, clerk, or deputy clerk acting on the court's behalf on a matter within the court's jurisdiction.

(d) General Order and Special Order. General and Special Orders are directives made by the Chief Judge or by the court relating to court administration and are available on the court's website.

(e) Judge. Unless otherwise clear from the context, "judge" refers to a United States District Judge, a United States Magistrate Judge, or a United States Bankruptcy Judge.

(f) Meet and Confer. Whenever used in these rules, to "meet and confer" means to communicate directly and discuss in good faith the issues required under the particular rule or court order. This requirement is reciprocal and applies to all participants. Unless these rules or a court order provide otherwise, this requirement may only be satisfied through direct dialogue and discussion in a face-to-face meeting, telephone conference, or video conference. The exchange

of written, electronic, or voice-mail communications does not satisfy this requirement.

(1) The requirement to meet and confer face-to-face or via telephonic or video conference does not apply in the case of an incarcerated individual appearing pro se, in which case the meet-and-confer requirement may be satisfied through written communication.

(2) A party who files a motion to which the meet-and-confer requirement applies must submit a declaration stating all meet-and-confer efforts, including the time, place, manner, and participants. The movant must certify that, despite a sincere effort to resolve or narrow the dispute during the meet-and-confer conference, the parties were unable to resolve or narrow the dispute without court intervention.

(3) In addition to any sanction available under the Federal Rules of Civil Procedure, statutes, or case law, the court may impose appropriate sanctions under LR IA 11-8 for a party's failure to comply with the meet-and-confer requirement.

(4) Failure to make a good-faith effort to meet and confer before filing any motion to which the requirement applies may result in denial of the motion.

**LR IA 1-4. 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 1-5. EFFECTIVE DATE**

These rules, as amended, take effect on May 1, 2016, and govern all proceedings in actions pending on or after that date.

**LR IA 1-6. COURT STRUCTURE AND 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 1-7. OFFICES OF THE CLERK

The Clerk of Court maintains offices in Las Vegas and Reno. 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. In an emergency, the clerk may transact public business at other times. The clerk may institute administrative procedures for filing pleadings and papers. The clerk's offices are located at:

Unofficial Southern Division:
United States District Court
333 Las Vegas Boulevard South
Room 1334
Las Vegas, NV 89101

Unofficial Northern Division:
United States District Court
400 South Virginia
Suite 301
Reno, NV 89501

## LR IA 1-8. PLACE OF FILING

(a) In civil actions filed by inmates proceeding pro se, the action must be filed in the unofficial division of the court in which the inmate is held when the complaint or petition is submitted for filing. If the inmate is not held in this district, then the action must be filed in the unofficial division of the court in which the events giving rise to a cause of action are alleged to have occurred. All other civil actions must be filed in the clerk's office for the unofficial division of the court in which the action allegedly arose.

(b) In criminal cases where the alleged offense was committed in more than one division, the government may file the indictment or information in either division.

(c) All filings must be made and proceedings had in the division of the court in which the case was originally filed, except that the presiding judge may direct that proceedings or trial take place in the division other than the division where filed.

## LR IA 2-1. INSPECTION, CONDUCT IN COURTROOM AND ENVIRONS, AND CONFISCATION

(a) All persons entering any United States federal building and courthouse in this district and all items carried by these persons are 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 to any person who refuses to cooperate in this screening or checking.

(b) All wireless communication devices must be turned off while in any United States courtroom or hearing room in this district, unless the presiding judge authorizes otherwise.

Wireless communication devices are electronic devices that are capable of either sending or receiving data such as sounds, text messages, or images, including, but not limited to, mobile phones, laptop computers, and tablets.

(c) Cameras and recording, reproducing, or transmitting equipment that 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 and may 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 confiscation of these devices.

(d) Unless provided by special court order, no person may 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 are exempt from this provision.

(e) The court may permit recording, transmitting, and broadcasting of federal court proceedings conducted in open court if it is authorized by the presiding judge and complies with applicable statutes, procedural rules, and Judicial Conference and Ninth Circuit Rules and guidelines.

## LR IA 3-1. CHANGE OF CONTACT INFORMATION

An attorney or pro se party must immediately file with the court written notification of any change of mailing address, email address, telephone number, or facsimile number. The notification must include proof of service on each opposing party or the party's attorney. Failure to comply with this rule may result in the dismissal of the action, entry of default judgment, or other sanctions as deemed appropriate by the court.

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

(a) A motion or stipulation to extend time must state the reasons for the extension requested and must inform the court of all previous extensions of the subject deadline the court granted. (Examples: "This is the first stipulation for extension of time to file motions." "This is the third motion to extend time to take discovery.") A request made after the expiration of the specified period will not be granted unless the movant or attorney demonstrates that the failure to file the motion before the deadline expired was the result of excusable neglect. Immediately below the title of the motion or stipulation there also must be a

statement indicating whether it is the first, second, third, etc., requested extension, i.e.:

**STIPULATION TO EXTEND TIME TO FILE MOTIONS**
**(First Request)**

(b) The court may set aside any extension obtained in contravention of this rule.

(c) A stipulation or motion seeking to extend the time to file an opposition or 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 subject motion or the date of the subject hearing.

(d) Motions to shorten time will be granted only upon an attorney or party's declaration describing the circumstances claimed to constitute good cause to justify shortening of time. The moving party must advise the courtroom administrator for the assigned judge that a motion for an order shortening time was filed.

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

A stipulation or ex parte or unopposed motion must 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 must not begin on a separate page; it must appear approximately 1 inch below the last typewritten matter on the right-hand side of the last page of the stipulation or ex parte or unopposed motion, and it must read as follows:

"IT IS SO ORDERED:

[UNITED STATES DISTRICT JUDGE,
UNITED STATES MAGISTRATE JUDGE,
UNITED STATES DISTRICT COURT CLERK (Whichever Is Appropriate)]

DATED: _________________"

## LR IA 7-1. CASE-RELATED CORRESPONDENCE

(a) An attorney or pro se party may send a letter to the court at the expiration of 90 days after any matter has been, or should have been, fully briefed if the court has not entered its written ruling. If this letter was sent and a written ruling still has not been entered 120 days after the matter was or should have been fully briefed, an attorney or pro se party may send a letter to the Chief Judge, who must inquire of the judge about the status of the matter. Copies of all such letters must be served on all other attorneys and pro se parties.

(b) Except as provided in subsection (a), an attorney or pro se party must not send case-related correspondence, such as letters, emails, or facsimiles, to the court. All communications with the court must be styled as a motion, stipulation, or notice, and must be filed in the court's docket and served on all other attorneys and pro se parties. The court may strike any case-related correspondence filed in the court's docket that is not styled as a motion, stipulation, or notice.

## LR IA 7-2. EX PARTE COMMUNICATIONS

(a) Ex Parte Defined. An ex parte motion or application is a motion or application that is filed with the court but is not served on the opposing or other parties.

(b) Neither party nor an attorney for any party may make an ex parte communication with the court except as specifically permitted by these rules or the Federal Rules of Civil Procedure.

## LR IA 7-3. CITATIONS OF AUTHORITY

(a) References to an act of Congress must include the United States Code citation, if available. References to federal regulations must include the Code of Federal Regulations' title, section, page, and year.

(b) When a Supreme Court decision is cited, only the citation to the United States Reports must 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 must be given. When a decision of a state appellate court has been reported in the West's National Reporter System, that citation must be given. All citations must include the specific page(s) on 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 will 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.

(d) References to documents filed in the court's electronic filing system must include the document number assigned by the court as follows: ECF No. 123 or the Bluebook-approved citation format.

(e) References to exhibits or attachments to documents must include citations to the specific page(s) being referenced.

(f) A decision by one judge in this district is not binding on any other district judge (unless the doctrines of law of the case, res judicata, or collateral estoppel otherwise apply) and does not constitute the rule of law in this district.

## LR IA 10-1. FORM OF PAPERS GENERALLY

(a) All filed documents must comply with the following requirements:

(1) Except for exhibits, quotations, the caption, the court title, and the name of the case, lines of text must be double-spaced. Lines of text must be numbered consecutively beginning with 1 on the left margin of each page with no more than 28 lines per page;

(2) Handwriting must be legible and on only one side of each page;

(3) Text must be size 12 font or larger;

(4) Quotations longer than 50 words must be indented and single spaced;

(5) All pages must be numbered consecutively; and

(6) Margins must be at least one inch on all four sides.

(b) Documents filed electronically must be filed in a searchable Portable Document Format (PDF), except that exhibits and attachments to a filed document that cannot be imaged in a searchable format may be scanned.

(c) Documents filed manually must be flat, unfolded, firmly bound together at the top, and on 8 ½" x 11" paper.

(d) The court may strike any document that does not conform to an applicable provision of these rules or any Federal Rule of Civil or Criminal Procedure.

## LR IA 10-2. REQUIRED FORMAT FOR FILED DOCUMENTS

The first page of every document presented for filing must contain the following information in this format, with the attorney or pro se party's name beginning at least one inch below the top of the page:

[*If the party is represented by counsel:*]
Attorney's name
Attorney's Nevada State Bar number
Attorney's address
Attorney's phone number
Attorney's email address
Name of party/parties attorney represents

[*or, if appearing pro se:*]
Pro se party's name
Pro se party's address
Pro se party's phone number
Pro se party's email address (if any)

**UNITED STATES DISTRICT COURT**
**DISTRICT OF NEVADA**

| | |
|---|---|
| Name(s) of plaintiff(s),<br><br>Plaintiff(s)<br><br>v.<br><br>Name(s) of defendant(s),<br><br>Defendant(s) | Case Number<br>[*Example*: 2:16-CV-115-HDM-RAM]<br><br>Document Title<br>[*Example: Defendant Richard Roe's Motion in Limine to Exclude Expert Testimony*] |

## LR IA 10-3. EXHIBITS

All filed documents with exhibits or attachments must comply with the following requirements:

(a) Except for citations to authority or to documents that are part of the court record in the action, filed documents should make reference only to documents filed as exhibits or attachments to a document on file with the court;

(b) Copies of pleadings or other documents filed in the pending matter must not be attached as exhibits or made part of an appendix. Cases, statutes, or other legal authority must not be attached as exhibits or made part of an appendix unless they are not accessible on Westlaw or LexisNexis;

(c) Exhibits and attachments must be paginated, and page numbers must be referenced when an exhibit or attachment is cited;

(d) An index of exhibits must be provided;

(e) A cover sheet referencing the exhibit or attachment by number or letter must be the first page of each exhibit or attachment and must include a descriptor of the exhibit or attachment (e.g., "Exhibit 1 – Deed of Trust," not simply "Exhibit 1");

(f) Oversized exhibits must be reduced to 8 ½ by 11 inches, unless the reduction would destroy legibility or authenticity. An oversized exhibit that cannot be reduced must be filed separately with a captioned cover sheet identifying the exhibit and the document(s) to which it relates;

(g) Exhibits filed electronically must comply with LR IC 2-2(a)(3);

(h) Exhibits need not be typewritten and may be copies, but they must be clearly legible and not unnecessarily voluminous; and

(i) No more than 100 pages of exhibits may be attached to documents filed or submitted to the court in paper form. Except as otherwise ordered by the assigned judge, exhibits in excess of 100 pages must be submitted in a separately bound appendix. If an appendix exceeds 250 pages, the exhibits must be filed in multiple volumes, with each volume containing no more than 250 pages. The appendix must be bound on the left and must include a table of contents identifying each exhibit and, if applicable, the volume number. Each exhibit must be tabbed. *See* LR IC 2-2(g).

## LR IA 10-4. IN CAMERA SUBMISSIONS

Papers submitted for in camera inspection must not be filed with the court, but must be delivered to chambers of the appropriate judge. Papers submitted for in camera inspection must include a captioned cover sheet complying with LR IA 10-2 that indicates the document is being submitted in camera and must 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 must be filed.

## LR IA 10-5. SEALED DOCUMENTS

(a) Unless otherwise permitted by statute, rule, or prior court order, papers filed with the court under seal must be accompanied by a motion for leave to file those documents under seal. If papers are filed under seal under prior court order, the papers must state on the first page, directly under the case number: "FILED UNDER SEAL UNDER COURT ORDER (ECF No. ___)." All papers filed under seal will remain sealed until the court either denies the motion to seal or enters an order unsealing them.

(b) The court may direct the unsealing of papers filed under seal, with or without redactions, after notice to all parties and an opportunity to be heard.

(c) An attorney or pro se party who files a document under seal must include with the document either (i) a certificate of service certifying that the sealed document was served on the opposing attorneys or pro se parties, or (ii) an affidavit showing good cause why the document has not been served on the opposing attorneys or pro se parties.

(d) Documents filed under seal in a civil case must be served in accordance with LR IC 4-1(c).

## LR IA 11-1. ADMISSION TO THE BAR OF THIS COURT; ELIGIBILITY AND PROCEDURE

(a) Practice of Attorneys Admitted in Nevada and Maintaining Nevada Offices.

(1) An attorney who is admitted to practice before the Supreme Court of Nevada and of good moral and professional character may apply for admission to the bar of this court. Admission to practice before the Supreme Court of Nevada, in good standing, is a continuing condition of admission to the bar of this court.

(2) To apply, an applicant must:

(A) Submit a motion by a member of the bar of this court on the form provided by the clerk certifying that the applicant is a member of

the State Bar of Nevada and of good moral and professional character;

(B) Subscribe to the roll of attorneys and pay the clerk the admission fee fixed by the Judicial Conference of the United States, plus any additional amounts as the court may fix from time to time; and

(C) Take the following oath or affirmation after which the clerk must issue a certificate of admission to the applicant:

"I, ___________________, do solemnly swear (or affirm) that as an attorney and as a counselor of this court I will conduct myself uprightly and according to law, and that I will support the Constitution of the United States."

(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 does 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 must either (i) associate a licensed Nevada attorney maintaining an office in Nevada or (ii) designate a licensed Nevada attorney maintaining an office in Nevada for service of papers, process, or pleadings required to be served on the attorney, including service by hand delivery or facsimile transmission. An attorney who is admitted in Nevada but does not maintain a Nevada office as identified in subsection (b)(1) must, upon initial appearance, file a notice that (i) informs the court the attorney is appearing under subsection (b)(1) and (ii) identifies the name and contact information of the associated or designated Nevada attorney. The name and office address of the associated or designated attorney must be endorsed on the pleadings or papers filed in this court, and service on the associated or designated Nevada attorney will be deemed to be service on the out-of-state attorney.

## LR IA 11-2. ADMISSION TO PRACTICE IN A PARTICULAR CASE

(a) An attorney who has been retained or appointed to appear in a particular case but is not a member of the bar of this court may appear only with the court's permission. Applications must be by verified petition on the form furnished by the clerk. The attorney may submit the verified petition only 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 another jurisdiction of the United States; and

(5) The attorney associates an active member in good standing of the State Bar of Nevada as attorney of record in the action or proceeding.

(b) The verified petition must be accompanied by the admission fee set by the court. The petition must 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 admission;

(3) That the attorney is a member in good standing of the court or courts, along with an attached certification that the applicant's membership is in good standing from the state bar or from the clerk of the supreme court or highest admitting court of every state, territory, or insular possession of the United States in which the applicant has been admitted to practice law;

(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 last 3 years, the date of each application, and whether it was granted;

(8) That the attorney certifies that he or she will 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 will 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 must not take action in this case beyond filing the first pleading or motion. The first pleading or motion must state the attorney "has complied with LR IA 11-2" or "will comply with LR IA 11-2 within ___ days." Until permission is granted, the clerk must not issue summons or other writ.

(d) Unless the court orders otherwise, an attorney who is granted permission to practice under this rule must associate a resident member of the bar of this court as co-counsel. The attorneys must 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 runs from the date of service on the resident attorney. Unless the court orders otherwise, the resident attorney need not personally attend all proceedings in court.

(e) In civil cases, an attorney must comply with all provisions of this rule within 45 days of his or her first appearance.

(f) In criminal cases, an attorney must comply with all provisions of this rule within 14 days of his or her first appearance. In addition, the defendant(s) must execute designation(s) of retained counsel bearing the signature of both the attorney appearing pro hac vice and the associated resident attorney. The designation(s) must be filed and served within the same 14-day period.

(g) In bankruptcy cases, an attorney must comply with all provisions of this rule within 14 days of his or her first appearance.

(h) The court may grant or deny a petition to practice under this rule. The court may revoke the authority of the attorney permitted to appear under this rule. Absent special circumstances and a showing of good cause, repeated appearances by any attorney under this rule will be cause for denial of the attorney's verified petition.

(1) It is presumed in civil and criminal cases that more than 5 appearances by any attorney granted under this rule in a 3-year period is excessive use of this rule. It is presumed in bankruptcy cases that more than 2 documents filed or more than 10 proof of claims filed on behalf of creditor(s) by any attorney under this rule in a 1-year period is excessive use of this rule.

(2) The attorney has 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 must set forth the special circumstances and good cause in an affidavit attached to the original verified petition.

(i) 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. This permission is limited to the particular case. The clerk must not issue a certificate to practice.

(j) Failure to comply timely with this rule may result in the striking of any and all documents previously filed by the attorney, the imposition of other sanctions, or both.

## LR IA 11-3. GOVERNMENT ATTORNEYS

Unless the court orders otherwise, any 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 has occasion to appear in this court on behalf of the United States, is entitled to be permitted to practice before this court during the period of employment upon motion by the employing federal entity, the United States Attorney, the United States Trustee's Office, or the Federal Public Defender for this district or one of the assistants.

## LR IA 11-4. LIMITED ADMISSION OF EMERITUS PRO BONO ATTORNEYS

(a) Unless the court orders otherwise, in bankruptcy cases, an attorney who is certified as an emeritus pro bono attorney under Nevada Supreme Court Rule 49.2 may be admitted to practice before the bankruptcy court under the following conditions:

(1) The attorney is 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;

(2) The attorney provides the pro bono services through an approved Emeritus Attorney Pro Bono Program provider as defined in S.C.R. 49.2;

(3) The attorney only practices before the bankruptcy court during the period of the attorney's association with the provider; and

(4) The attorney satisfies all other requirements of this rule.

(b) An application for admission to practice under 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 30 days after the date of the renewal.

(d) Permission to practice under 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 will 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 occurs, the provider that sponsored the attorney's admission under subsection (b)(2) has five days to file a statement to that effect 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's fees arising from the emeritus pro bono attorney's representation.

(g) The clerk must not issue a certificate to practice or charge an admission fee.

(h) An approved Emeritus Attorney Pro Bono Program provider is subject to all local rules to which attorneys appearing before the bankruptcy court are subject, including, without limitation, all rules related to practice and discipline.

## LR IA 11-5. LAW STUDENTS

(a) The court may permit a law student acting under the supervision and presence of a member of the bar of this court to appear in court on behalf of any client.

(b) The supervising attorney must:

(1) Have been admitted to practice before the highest court of any state for 2 years or longer and be admitted to practice before this court;

(2) Appear with the student at all oral presentations before the court;

(3) Sign all documents filed with the court;

(4) Assume professional responsibility for the student's work in matters before the court;

(5) Assist and counsel the student in preparing matters before the court;

(6) Be responsible to supplement the student's presentation to ensure proper representation of the client; and

(7) Represent to the court 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 11-7(a), and all other rules of this court.

## LR IA 11-6. APPEARANCES, SUBSTITUTIONS, AND WITHDRAWALS

(a) A party who has appeared by attorney cannot while so represented appear or act in the case. This means that once an attorney makes an appearance on behalf of a party, that party may not personally file a document with the court; all filings must thereafter be made by the attorney. An attorney who has appeared for a party must be recognized by the court and all the parties as having control of the client's case, however, the court 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 the court after notice has been served on the affected client and opposing counsel.

(c) A stipulation to substitute attorneys must be signed by the attorneys and the represented client and be approved by the court. Except where accompanied by a request for relief under subsection (e) of this rule, the attorney's signature on a stipulation to substitute the attorney into a case constitutes an express acceptance of all dates then set for pretrial proceedings, trial, or hearings, by the discovery plan or any court order.

(d) Discharge, withdrawal, or substitution of an attorney will 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 will be approved if it will result in delay of discovery, the trial, or any hearing in the case. Where delay would result, the papers seeking leave of the court for the withdrawal or substitution must request specific relief from the scheduled discovery, trial, or hearing. If a trial setting has been made, an additional copy of the moving papers must be provided to the clerk for immediate delivery to the assigned district judge, bankruptcy judge, or magistrate judge.

## LR IA 11-7. ETHICAL STANDARDS, DISBARMENT, SUSPENSION, AND DISCIPLINE

(a) Model Rules. An attorney admitted to practice under any of these rules must 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 these standards may be modified by this court. An attorney who violates these standards of conduct, or who fails to comply with this court's rules or orders, may be disbarred, suspended from practice before this court for a definite time, reprimanded, or subjected to other discipline as the court deems proper. This subsection does not restrict the court's contempt power.

(b) Conviction. For the purpose of this rule, "conviction" means a judgment by a jury verdict, bench trial, or entry of a guilty plea.

(c) If an attorney admitted to practice under these rules is subjected to professional disciplinary action or convicted of any felony or other misconduct that reflects adversely on the attorney's honesty, trustworthiness, or fitness as an attorney in Nevada or in another jurisdiction, the attorney must immediately inform the clerk in writing of the action. Failure to make this report is grounds for discipline under these rules.

(d) Upon the clerk's receipt of a copy of an order or judgment of suspension, disbarment, transfer to disability inactive status, or of a judicial declaration of incompetency or conviction of any felony or other misconduct that reflects adversely on an attorney's honesty, trustworthiness, or fitness as an attorney concerning a member of the bar of this court, or any other attorney admitted to practice before this court, the clerk must bring the order to the court's attention, and the court must enter the order under subsection (e), (f), or (g) of this rule.

(e) Reciprocal Discipline

(1) The court must enter an order to show cause why the court should not enter an order of suspension or disbarment if it receives 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.

(2) 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 Chief Judge must enter an order of suspension or disbarment on behalf of the court.

(3) If the attorney files a written response to the order to show cause within the time specified contesting the entry of an order of suspension or disbarment, then the Chief Judge or other district judge who may be assigned must determine whether an order of suspension or disbarment should be entered. If the attorney has been suspended or disbarred by another bar, or has resigned from another bar while the disciplinary proceedings were pending, in the response to the order to show cause the attorney 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 justify not accepting the other jurisdiction's conclusion(s). In addition, at the time the response is filed, the attorney must file 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.

(4) If an attorney admitted to practice under any of these rules is 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, the court must enter an order requiring the attorney to show cause why this court should not enter an order placing the attorney on disability inactive status.

(f) Conviction of Felony or Other Misconduct

(1) An attorney admitted to practice in this court who is convicted of any felony or other misconduct that reflects adversely on the attorney's

honesty, trustworthiness, or fitness as an attorney in any court of the United States, the District of Columbia, or of any state, territory, commonwealth, or possession of the United States, must report the conviction to this court within 14 days of its entry. Upon receiving notice of an attorney's conviction, regardless of whether sentencing has occurred, the court will immediately disbar the attorney from practice before this court. The Chief Judge must file the order.

(2) The Chief Judge will issue an order to show cause at the time of disbarment directing the disbarred attorney to demonstrate why the attorney should be reinstated to practice before the court during the pendency of any appeal of the conviction.

(3) If the attorney is permitted to practice before this court pending an appeal, within 14 days of the conviction becoming final, the attorney must again report the conviction and advise the court that it is now final. Once the court receives notice of the final conviction, the Chief Judge will issue an order to show cause directing the attorney to demonstrate why the court should not enter an order of disbarment.

(g) Original Discipline

(1) Initiation. When the clerk or a district, magistrate, or bankruptcy judge of this district believes an attorney's conduct may warrant disbarment, reprimand, or other discipline by this court, other than those matters addressed in sections (e) and (f), the clerk or judge may issue a written report and recommendation for the initiation of disciplinary proceedings (the "recommendation"). The Chief Judge, or another district judge if the Chief Judge is the judge recommending this action be taken (the "reviewing judge"), must review the recommendation to determine if clear and convincing evidence exists for the initiation of disciplinary proceedings. If the reviewing judge determines that disciplinary proceedings should be initiated, the reviewing judge must issue an order to show cause under this rule that identifies the basis for and nature of possible discipline.

(2) Response. An attorney against whom an order to show cause is issued under section (g)(1) has 30 days from the date of the order to file a response. The attorney may include in the response a request (i) to submit the matter on the recommendation, affidavits, briefs, and the record or (ii) for a hearing. The failure to request a hearing will be deemed a waiver of any right to a hearing. The failure to file a timely response may result in the imposition of discipline by the court without further notice.

(3) Hearing. If a hearing is requested by the attorney, the reviewing judge must conduct a hearing on the recommendation. If a hearing is not

requested, the matter will be determined by the reviewing judge on the record submitted. At any hearing under this rule, the attorney may be represented by counsel, who must file a notice of appearance with the reviewing judge and with any attorney appointed by the court to prosecute the matter.

(4) Appointment of Counsel to Prosecute Charges. In appropriate cases, the reviewing judge may appoint an attorney to prosecute charges of misconduct and must provide notice of that appointment to the attorney and his counsel, if any. The court may solicit recommendations from the Lawyer Representatives of the District of Nevada on an appropriate appointment. Actual out-of-pocket costs incurred by the attorney prosecuting the charges will be reimbursed from the non-appropriated fund after the court's review and approval.

(5) Determination and Entry of Order. Upon the completion of the hearing, if any, and the review of the record, the reviewing judge must provide a decision, either orally from the bench or in a written order, which will be entered as a final order.

(h) The clerk must distribute copies of any order of disbarment, transfer to disability inactive status, or other disciplinary order entered under 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 Executive Director, and to the American Bar Association's National Disciplinary Data Bank.

(i) Reinstatement. 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 the order as may be supported by good cause and the interests of justice. To be readmitted, a disbarred attorney must file a petition for reinstatement with the clerk. The petition must contain a concise statement of the circumstances of the disciplinary proceedings, the discipline imposed by the court, and the grounds that justify the attorney's reinstatement. If this court imposed reciprocal discipline under section (e) of this rule, and if the attorney was readmitted by the supervising court or the discipline imposed by the supervising court was modified or satisfied, the petition must explain the situation with specificity, including a description of any restrictions or conditions imposed on readmission by the supervising court. The petition will be referred to the Chief Judge or another district judge at the Chief Judge's discretion who will file a determination.

(j) 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 subject to appropriate punishment.

(k) Unless the court orders otherwise, the disciplined attorney must effect service of the notice of suspension or disbarment on all clients in all active cases, if any, before this court and must file proof of service of the notice in those cases, which must include the client's last known address. Further, the judge presiding over each individual case retains the discretion to take any action deemed appropriate.

(l) Nothing in this rule limits an individual judge's power to impose sanctions authorized under applicable law. Nothing in this rule is intended to limit the inherent authority of any judge of this court to suspend an attorney from practicing before that judge on a case-by-case basis after appropriate notice and an opportunity to be heard.

## LR IA 11-8. SANCTIONS

The court may, after notice and an opportunity to be heard, impose any and all appropriate sanctions on an attorney or party who:

(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.

## 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 under 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. These schedules may be modified from time to time with the court's prior approval.

### 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 under 18 U.S.C. § 3401; and

(b) Direct the court's probation service 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 to a magistrate judge a motion, petition, or application that a magistrate judge may not finally determine under 28 U.S.C. § 636 (b)(1)(B), the magistrate judge must review it, conduct any necessary evidentiary or other hearings, and file findings and recommendations for disposition by the district judge. Motions subject to this 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;

(k) Internal Revenue Service summons enforcements;

(l) Review of administrative proceedings; and

(m) Habeas corpus and criminal cases under 28 U.S.C. §§ 636(b)(1)(B), 2241, 2254, and 2255, except in death penalty cases.

## LR IB 1-5. SPECIAL MASTER REFERENCES

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

## LR IB 1-6. (RESERVED)

## LR IB 1-7. 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 judge, 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 promptly 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 under 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 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 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 under 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 under 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 under 28 U.S.C. § 636(c). In conducting those 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) Unless the court orders otherwise, the clerk must 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. The clerk must serve the notice on all parties at the time of the filing of the scheduling order required by LR 26-1(a). 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 must transmit the case and the consent forms to the district judge to whom the case has been assigned to consider referral of the case to a magistrate judge. If the case is referred to a magistrate judge, the magistrate judge will 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 judge.

## LR IB 3-1. REVIEW AND APPEAL—UNITED STATES MAGISTRATE JUDGE; REVIEW OF MATTERS THAT 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 under LR IB 1-3, when it has been shown the magistrate judge's order is clearly erroneous or contrary to law. Any party wishing to object to the magistrate judge's order on a pretrial matter must file and serve specific written objections. The deadline to file and serve any objections to a magistrate judge's order is 14 days after service of the order. The deadline to file and serve any responses to the objections is 14 days after service of the objection. Replies will be allowed only with leave of the court. Objections, responses, and replies are subject to the page limits in LR 7-3 and LCR 47-2.

(b) The district judge may affirm, reverse, or modify, in whole or in part, the magistrate judge's order. The district judge may also remand the matter to the magistrate judge with instructions.

## LR IB 3-2. REVIEW OF MATTERS THAT 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 a magistrate judge's findings and recommendations made under LR IB 1-4, IB 1-5, IB 1-6, and IB 1-7 must file and serve specific written objections with supporting points and authorities. The deadline to file and serve any objections to a magistrate judge's findings and recommendations is 14 days after service of the findings and recommendations. The deadline to file and serve any responses to objections is 14 days after service of the objection. Replies will be allowed only with leave of court. Objections, responses, and replies are subject to the page limits in LR 7-3 and LCR 47-2.

(b) The district judge must conduct a de novo review 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 magistrate judge's findings or recommendations. The district judge may also receive further evidence or remand the matter to the magistrate judge with instructions.

## LR IB 3-3. APPEAL FROM JUDGMENTS 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 14 days after entry of the judgment and by serving a copy of the notice on the United States Attorney. The scope of appeal will be the same as on an appeal from a judgment of this 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 28 U.S.C. § 636(c) and LR IB 2-1, an appeal by an aggrieved party may 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. REVIEW OF UNITED STATES MAGISTRATE JUDGE'S RELEASE AND DETENTION ORDERS

A motion under 18 U.S.C. § 3145(a) or (b) seeking review of a magistrate judge's release or detention order must be titled "Review of Magistrate Judge's Release (or Detention) Order." Any party seeking review of a release or detention order by a district judge must, within 14 days from the date of service of the release or detention order, file and serve a motion for review. Any party may, within 7 days, respond to the motion. Replies will be allowed only with leave of the court. Motions, responses, and replies are subject to the page limits set forth in LCR 47-2. The district judge must conduct a de novo review, and it may, but need not, hold an evidentiary hearing to make this determination.

## PART IC—ELECTRONIC CASE FILING

### LR IC 1-1. REQUIREMENTS FOR ELECTRONIC FILING OF COURT DOCUMENTS

(a) Effective November 7, 2005, the clerk is authorized to maintain the official files for all cases in electronic form. All cases and proceedings filed on or after January 1, 2006, will be assigned to the electronic filing system to the extent required under these rules.

(b) Filer Defined. A "filer" is a person who is issued a login and password to file documents in the court's electronic filing system.

(c) Unless the court orders otherwise, the following documents will not be filed electronically:

(1) Miscellaneous cases;

(2) Documents filed in open court, except that documents otherwise appropriate for electronic filing must be filed electronically after conclusion of the hearing or trial;

(3) Settlement Conference Statements;

(4) Early Neutral Evaluation Statements;

(5) Inmate Early Mediation Statements;

(6) Documents presented for in camera review;

(7) Consents to proceed before a magistrate judge;

(8) Documents pertaining to Grand Jury proceedings;

(9) Documents initiating a criminal case;

(10) Bond documents;

(11) Documents not susceptible to electronic filing, such as large maps, diagrams, photographs, and drawings described in LR IA 10-3(f); and

(12) Discovery documents under LR 26-8.

(d) Notice of Manual Filing. A "Notice of Manual Filing" must be filed electronically when a document or other item is filed in person at the clerk's office. The notice must include: (1) a description of the item, e.g., DVD, CD,

map, etc.; (2) the size of the item, e.g., number of pages, discs, maps, etc.; and (3) references to other documents filed in the case that the document or item supports. A copy of the electronically-filed notice must be attached to the item being manually filed in the clerk's office. If the filer wants a conformed copy of the notice, a second copy of the notice must be provided to the clerk.

(e) Electronic Record Is the Official Record. Electronic files consist of the images of documents filed in legal actions or proceedings and documents created and filed by electronic means. Together with the other records kept by the court, electronic files constitute the court's official record. The clerk will not maintain a hard copy of documents once the documents are electronically filed.

(f) Court Docket. The electronic filing of a document under these rules constitutes entry of that document on the docket kept by the clerk under Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 49 and 55 and must be deemed accepted for filing by the clerk.

(g) The clerk must enter all orders, decrees, judgments and proceedings of the court under the rules applicable to the electronic filing system.

(h) Notice of Electronic Filing. Upon the entry of a judgment or order generated by the court in a case assigned to the electronic filing system, the clerk promptly must transmit to filers a "Notice of Electronic Filing." The clerk must give notice in paper form to any person who has not consented to electronic service under the Federal Rules of Civil and/or Criminal Procedure and these rules.

(i) Public Access. Access to the documents and files maintained in electronic form is available free of charge in the clerk's office during regular business hours. Access also is available via the Internet through the Public Access to Court Electronic Records system (PACER), a web-based system that provides access to electronic federal case dockets and filings at the per-page fee established by the Judicial Conference of the United States.

  (1) Access in the Clerk's Office. Internet access to the documents filed on the electronic filing system and Internet access to the docket is available for viewing, without obtaining a PACER login and password, in the clerk's office during regular business hours.

  (2) Internet Access. Any person or organization may access the electronic filing system at the court's website, www.nvd.uscourts.gov, by obtaining a PACER login and password. Those who have PACER access but are not filers may retrieve docket sheets and documents, but may not file documents.

  (3) Limiting Electronic Filing or Access. Any person may move for an order limiting electronic access to, or prohibiting the electronic filing of, certain

specifically identified materials on the grounds that the materials are subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

(4) Prohibited Use. Information posted on the electronic filing system must not be used for any purpose inconsistent with the privacy concerns of any person or entity.

(5) Paper Copies of Electronically Filed Documents. Conventional paper copies and certified copies of electronically filed documents may be obtained from the clerk's office during regular business hours. The fee for copying and certification is established by the Judicial Conference for the United States in 28 U.S.C. § 1914.

## LR IC 2-1. ELECTRONIC FILING SYSTEM FILERS: REGISTRATION, TRAINING, AND RESPONSIBILITIES

(a) Required Filers. Attorneys who are admitted to the bar of this court, admitted to participate in a case pro hac vice under LR IA 11-2, authorized to represent the United States and its agencies under LR IA 11-3, or appearing by special appointment must register as a "filer" to file documents electronically and must file all documents electronically as set forth in these rules.

(b) A pro se litigant may request the court's authorization to register as a filer in a specific case.

(c) A litigant who is not registered as a filer must file documents by delivering originals of the documents to the clerk's office by hand delivery, U.S. Mail, or similar carrier service such as Federal Express.

(d) Registration. Any attorney or other applicant seeking to become a filer must submit a completed registration form available on the court's website at www.nvd.uscourts.gov.

(e) Filer Login and Passwords.

(1) Each filer will be issued a login and password to permit the filer to access and file documents in the electronic filing system.

(2) Change of Password. Filers are encouraged to change their passwords periodically for online security purposes.

(3) The clerk does not maintain a record of a filer's password.

(4) For login and password retrieval, the filer should access the court's website at www.nvd.uscourts.gov.

(f) Notice to Clerk's Office of Compromised Password. A filer is responsible for safeguarding his or her user login and password. If a filer believes the security of an existing password has been compromised, the filer must immediately notify the clerk of the apparent security breach.

(g) Updating Filer Account Information. It is the filer's responsibility to maintain and update his or her user account information, including his or her email address.

(h) Prohibited Use. The court deems the filer's login and password to be confidential. No person is permitted to use a filer's login and password unless specifically authorized by the filer.

(i) Signature. The filing of a document through the use of an authorized filer's login and password constitutes the "signature" of that attorney or party for purposes of Fed. R. Civ. P. 11.

(j) Each filer is responsible to monitor his or her email to ensure timely receipt of electronically filed and served documents.

(k) Training. The clerk may offer training for filers or prospective filers on a case by case basis.

**LR IC 2-2. FILER RESPONSIBILITIES WHEN ELECTRONICALLY FILING DOCUMENT**

(a) Form of Documents.

(1) PDF Format. To be filed in the electronic filing system, all documents must be in a searchable Portable Document Format (PDF), except that exhibits and attachments to a filed document that cannot be imaged in a searchable format may be scanned.

(2) Size of Documents. Documents must not be larger than the limit set forth in the electronic filing system. Documents that exceed the limit must be divided into separate documents.

(3) Exhibits and Attachments. All filed documents with exhibits or attachments must comply with the following requirements:

(A) Exhibits and attachments must not be filed as part of the base document in the electronic filing system. They must be attached as separate files; and

(B) Exhibits and attachments that must be separated due to size must be individually identified when they are filed in the court's

electronic filing system. (Example: "Affidavit of Joe Smith," pages 1–30; Affidavit of Joe Smith," pages 31–45, etc.")

(4) Legibility. Before filing a PDF document, a filer must verify its legibility. Illegible documents may be stricken.

(b) Document Events. The electronic filing system categorizes documents by the type of "event." The filer must select a type of "event" for each filed document based on the relief requested or the purpose of a document. For each type of relief requested or purpose of the document, a separate document must be filed and a separate event must be selected for that document. Examples: (i) separate documents must be filed for a response to a motion and a countermotion, with the appropriate event selected for each document, rather than filing a response and a countermotion in one document; (ii) separate documents must be filed for a motion to dismiss and a motion to sever, rather than filing a motion to dismiss and to sever in one document.

(c) Title of Docket Entry. The filer is responsible for designating the accurate title of a document filed in the electronic filing system. The filer must correct or complete the title of the document filed in the electronic filing system.

(d) Linking Documents. Electronically filed documents—such as responses, replies, and declarations—that pertain to a motion or other document must be linked properly to the document to which they pertain in the electronic filing system. This enables the establishment of a docket-entry relationship or proper setting or termination of scheduled deadlines.

(e) Hearing-Related Documents. Unless the court orders otherwise, a filer must electronically file documents required for court hearings. When these documents are filed in close proximity to the hearing, the filer must advise the courtroom administrator for the assigned district judge or magistrate judge that the documents were filed.

(f) Submission of Proposed Orders. A filer who submits a proposed order, judgment, findings of fact, or other document requiring a judge's signature may submit the proposed order electronically in a searchable PDF format. A judge may direct proposed documents be submitted by other means and in other formats.

(g) Paper Copies for Chambers. Unless the presiding judge orders otherwise, a filer must provide to chambers a paper copy of all electronically filed documents that exceed 50 pages in length, including exhibits or attachments. Paper copies must be appropriately tabbed. *See* LR IA 10-3(i).

## LR IC 3-1. TIME OF FILING AND CHANGES TO DEADLINES WHEN DOCUMENTS ARE ELECTRONICALLY SERVED AND FILED

(a) Filing Deadline When Document Is Electronically Filed. Unless the court orders otherwise, when a document is required to be filed by a deadline set by any rule or order, the deadline is 11:59 p.m. on the date due.

(b) Time Filed. An electronic document is deemed filed as of the date and time stated on the "Notice of Electronic Filing." The Notice of Electronic Filing is emailed to each filer and the date of filing is shown on the docket. The date and time stated in the Notice of Electronic Filing is determined by the date and time in the time zone in which the court is located. For transactions in which documents are filed under seal, only the filer who filed the document will receive a Notice of Electronic Filing that informs the filer that no electronic notice will be sent because the document was filed under seal.

(c) Technical Failures. A filer whose filing is made untimely because of a technical failure may seek appropriate relief from the court.

(d) Deadlines Contained in Notices of Electronic Filing. Filing deadlines listed in Notices of Electronic Filing are provided as a courtesy only. To the extent these deadlines conflict with a court order, the court order controls. In the absence of a court order, the applicable Federal Rules, statutes, or local rules govern computing and extending time for serving and filing of all documents notwithstanding any contrary deadline in a Notice of Electronic Filing.

## LR IC 4-1. SERVICE

(a) Participation in the court's electronic filing system by registration and receipt of a login and password constitutes consent to the electronic service of pleadings and other papers under applicable rules, statutes, or court orders.

(b) Except as otherwise set forth in this rule, electronic transmission of the Notice of Electronic Filing constitutes service of a document on filers. Parties and attorneys who are not filers must be served conventionally under applicable Federal Rules, statutes, or court orders.

(c) Paper Service. Service of documents in paper form is required in the following circumstances, even if the document is electronically filed:

(1) When the document is a summons, complaint, petition, or other document initiating a civil case, it must be served under applicable Federal Rules of Civil Procedure or court orders.

(2) When a document is a summons or warrant arising from an indictment, it must be served under applicable Federal Rules of Criminal Procedure.

(3) When a document is a subpoena, it must be served under applicable Federal Rules of Procedure.

(4) When a document is filed under seal. *See* LR IA 10-5.

(5) When a document is filed exclusively in paper form.

(6) When a document is served on non-filers.

(7) When the court orders otherwise.

(d) Proof of Service. Unless the face of the document demonstrates that all parties to the case have signed the document (e.g., a stipulation), a certificate of service, indicating how service was accomplished, must accompany all electronically filed documents.

## LR IC 5-1. SIGNATURES

(a) Electronic Signature Defined. An electronic signature may be either in the form of "/s/ [name]" or a facsimile of a handwritten signature.

(b) Filer Signature. A filer's electronic signature in the signature block of an electronic document constitutes a signature for all purposes under applicable rules, statutes, or court orders. The signatory must be the attorney or pro se party who electronically files the document.

(c) Non-Filers. An electronic signature in the signature block of an electronic document will constitute the signature of person who is not a filer for all purposes under applicable rules, statutes, or orders. The original signed document or any document confirming that the non-filer consented to the electronic signature must be maintained by the filer who filed the document for the duration of the case and any subsequent appeal.

(d) Multiple Electronic Signatures. Where a filer plans to electronically file a document containing signatures of more than one party or attorney, the filer must obtain either the original signature or consent to apply the "/s/[name]" signature of each party or attorney. The filer who files the document with the other parties' electronic signatures must maintain, for the duration of the case and any subsequent appeal, the document with the original signatures and/or proof that the other parties consented to the use of their "/s/[name]" signature. The filer's filing of a document containing the other parties' electronic signatures constitutes the filer's certification that the filer obtained the required consent of the other parties. The electronic signature in the signature block of an electronically filed document constitutes a signature for all purposes under applicable rules, statutes, or court orders.

(e) Review of Retained Documents. Upon request, the original document or written authorization must be provided to other parties or the court.

## LR IC 5-2. RETENTION REQUIREMENTS

(a) Time for Retention. Documents that are electronically filed and require original signatures other than that of the filer must be maintained in original paper form by the filer who made the filing for the duration of the case and any subsequent appeal.

(b) Review of Retained Documents. Upon request, the original document must be provided to other parties or the court for review.

## LR IC 6-1. REDACTION

(a) Parties must refrain from including—or must partially redact, where inclusion is necessary—the following personal-data identifiers from all documents filed with the court, including exhibits, whether filed electronically or in paper, unless the court orders otherwise:

(1) Social Security Numbers. If an individual's Social Security number must be included, only the last four digits of that number should be used.

(2) Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(3) Dates of Birth. If an individual's date of birth must be included, only the year should be used.

(4) Financial Account Numbers. If financial account numbers must be included, only the last four digits of these numbers should be used.

(5) Home Addresses. If a home address must be included, only the city and state should be listed.

(6) Tax Identification Number. If a tax identification number must be used, only the last four digits of that number should be used.

(b) A pro se party or attorney making a redacted filing also may file an unredacted copy under seal. The document must contain the following heading in the document: "SEALED DOCUMENT UNDER FED. R. CIV. P. 5.2" or "SEALED DOCUMENT UNDER FED. R. CRIM. P. 49.1," as appropriate. This document must be retained by the court as part of the record until further court order. But the court may still require the party to file a redacted copy for the public record.

(c) The responsibility for redacting these personal identifiers rests solely with attorneys and the parties. The clerk will not review each filing for compliance with this rule.

**LR IC 7-1. NONCOMPLIANT DOCUMENTS.**

The court may strike documents that do not comply with these rules.

# PART II—CIVIL PRACTICE

## LR 1-1. SCOPE AND PURPOSE

(a) These are the Local Rules of Civil 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. Civ. P. 83 and apply to all civil proceedings unless the court orders otherwise. These rules will be administered in a manner to secure the just, speedy, and inexpensive determination of every action and proceeding.

(b) The court is committed to assisting attorneys and parties in reducing costs in civil cases. It is the obligation of attorneys, as officers of the court, to work toward the prompt completion of each case and to minimize the costs of discovery. These rules provide the basic tools for management of civil cases, including discovery. Effective advocacy depends on cooperative use of these rules to manage cases in a cost-effective manner.

Attorneys and litigants should consider the following non-exhaustive means for reducing costs: (1) limiting and phasing discovery; (2) using the assigned magistrate judge to resolve discovery disputes by telephone or informal conference; (3) using pre-discovery alternative dispute resolution, including, if appropriate, a pre-discovery early settlement conference with a magistrate judge; (4) consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73; and (5) use of the Short Trial Program, General Order 2013-1. The court will support the utilization of these tools and, if necessary, impose them when appropriate and helpful to reduce costs or more effectively manage and resolve civil cases.

(c) The court expects a high degree of professionalism and civility from attorneys. There should be no difference between an attorney's professional conduct when appearing before the court and when engaged outside it, whether in discovery or any other phase of a case.

## LR 3-1. CIVIL COVER SHEET

Except in actions initiated by inmates appearing pro se, every civil action tendered for filing in this court must 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 cases where service of process is authorized and sought under state or international procedure, the attorney for the party seeking service must furnish the clerk with all forms and papers needed to comply with the requirements of the state or international procedure.

## LR 5-1. PROOF OF SERVICE

(a) All papers required or permitted to be served must have attached, when presented for filing, a written proof of service. The proof must 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 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, must be in writing and signed by all parties who have appeared or their attorneys.

(b) No stipulations relating to proceedings before the court, except those set forth in Fed. R. Civ. P. 29, are effective until approved by the court.

(c) A stipulation that has been signed by fewer than all the parties or their attorneys will be treated—and must be filed—as a joint motion.

(d) The clerk has authority to approve the stipulations described in LR 77-1.

(e) Stipulations must be in the form required by LR IA 6-2.

## LR 7.1-1. CERTIFICATE OF INTERESTED PARTIES

(a) Unless the court orders otherwise, in all cases except habeas corpus cases, pro se parties and attorneys for private non-governmental parties must identify in the disclosure statement all persons, associations of persons, firms, partnerships or corporations (including parent corporations) that have a direct, pecuniary interest in the outcome of the case.

The disclosure statement must include the following certification:

The undersigned, pro se party or attorney of record for **_________**, certifies that the following may have a direct, pecuniary 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, Pro Se Party or 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 file its disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court. 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—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 LR 7-3.

(b) Unless the court orders otherwise, the time for filing a motion for summary judgment is governed by Fed. R. Civ. P. 56(b). The deadline to file and serve any points and authorities in response to a motion for summary judgment is 21 days after service of the motion. The deadline to file and serve any reply in support of the motion is 14 days after service of the response. For all other motions, the deadline to file and serve any points and authorities in response to the motion is 14 days after service of the motion. The deadline to file and serve any reply in support of the motion is seven days after service of the response. Surreplies are not permitted without leave of court; motions for leave to file a surreply are discouraged.

(c) Motions for summary judgment are also governed by LR 56-1. Motions for reconsideration of interlocutory orders are also governed by LR 59-1.

(d) The failure of a moving party to file points and authorities in support of the motion constitutes a consent to the denial of the motion. The failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to the granting of the motion.

(e) The procedure for requesting oral argument on a motion is set forth in LR 78-1.

(f) If the court instructs a prevailing party to file a proposed order, the prevailing party must serve the proposed order on all opposing parties or attorneys for approval as to form. The opposing parties (or, if represented by counsel, their attorneys) then have three days after service of the proposed order to notify the prevailing party of any reason for disapproval; failure to notify the prevailing party within three days of any reason for disapproval will be deemed an approval. The prevailing party must then file the order with the word PROPOSED in the title and must certify to the court that it served the proposed order and that three days have passed and state any reasons for disapproval received (or that none were received). Opposing parties who have timely served reasons for disapproval may file a competing proposed order within three days of being served with notice that the prevailing party filed its proposed order.

(g) Supplementation prohibited without leave of court. A party may not file supplemental pleadings, briefs, authorities, or evidence without leave of court granted for good cause. The judge may strike supplemental filings made without leave of court.

## LR 7-3. PAGE LIMITS

(a) Motions for summary judgment and responses to motions for summary judgment are limited to 30 pages, excluding exhibits. Replies in support of a motion for summary judgment are limited to 20 pages.

(b) All other motions, responses to motions, and pretrial and post-trial briefs are limited to 24 pages, excluding exhibits. All other replies are limited to 12 pages, excluding exhibits.

(c) The court looks with disfavor on motions to exceed page limits, so permission to do so will not be routinely granted. A motion to file a brief that exceeds these page limits will be granted only upon a showing of good cause. A motion to exceed these page limits must be filed before the motion or brief is due and must be accompanied by a declaration stating in detail the reasons for, and number of, additional pages requested. The motion must not be styled as an ex parte or emergency motion and is limited to three pages in length. Failure to comply with

this subsection will result in denial of the request. The filing of a motion to exceed the page limit does not stay the deadline for the underlying motion or brief. In the absence of a court order by the deadline for the underlying motion or brief, the motion to exceed page limits is deemed denied. If the court permits a longer document, the oversized document must include a table of contents and a table of authorities.

## LR 7-4. EMERGENCY MOTIONS

(a) Written requests for judicial assistance in resolving an emergency dispute must be titled "Emergency Motion" and be accompanied by a declaration 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 participation in the meet-and-confer process to resolve the dispute, the movant has been unable to resolve the matter without court action. The statement also must state when and how the other affected people or entities were notified of the motion or, if not notified, why it was not practicable to do so. If the nature of the emergency precludes a meet and confer, the statement must include a detailed description of the emergency, so the court can evaluate whether a meet and confer truly was precluded.

(b) Emergency motions should be rare. A party or attorney's failure to effectively manage deadlines, discovery, trial, or any other aspect of litigation does not constitute an emergency. This rule's provisions are not intended for requests for procedural relief, e.g., a motion to extend time to file a brief or for enlargement of page limits.

(c) The court may determine whether any matter submitted as an "emergency" is, in fact, an emergency. Failure to comply with the requirements for submitting an emergency motion may result in denial of the motion.

(d) Concurrent with the emergency motion, or promptly after it is filed, the moving party must advise the courtroom administrators for the assigned district judge and magistrate judge that the motion was filed.

## LR 8-1. PLEADING JURISDICTION

The first allegation of any complaint, counterclaim, cross-claim, third-party complaint, or petition for affirmative relief must state the statutory or other basis of claimed federal jurisdiction and the facts to support it.

## LR 10-1. COPIES

An attorney or pro se party who wishes to receive a file-stamped copy of any pleading or other paper must submit one additional copy and, if by mail, a self-addressed, postage-paid envelope. A party who is granted leave to proceed in forma pauperis need not submit a self-addressed, postage-paid envelope.

## LR 15-1. AMENDED PLEADINGS

(a) Unless the court orders otherwise, the moving party must attach the proposed amended pleading to a motion seeking leave of the court to file an amended pleading. The proposed amended pleading must be complete in and of itself without reference to the superseded pleading and must include copies of all exhibits referred to in the proposed amended pleading.

(b) If the court grants leave to file an amended pleading, and unless the court orders otherwise, the moving party must then 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 must approve, disapprove, or modify the discovery plan and enter the scheduling order within 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 those cases, a scheduling order must be entered within 30 days after the first defendant answers or otherwise appears.

(c) The following categories of cases are governed by the entry of an order establishing a briefing schedule and other appropriate matters:

(1) Actions for review on an administrative record;

(2) Petitions for habeas corpus or other proceedings to challenge a criminal conviction of sentence;

(3) Actions brought without an attorney 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 the parties to meet and confer to discuss a discovery plan, scheduling order, briefing schedule, or any other matters the court deems appropriate.

**LR 16-2. PRETRIAL CONFERENCES**

Unless the court orders otherwise, the court will not conduct pretrial conferences. A party may at any time make a written request for a pretrial conference to expedite disposition of any case, particularly one that is complex or in which there has been delay.

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

(a) Motions in limine will not be considered unless the movant attaches a statement certifying that the parties have participated in the meet-and-confer process and have been unable to resolve the matter without court action. Motions in limine must identify the particular evidence or argument to be excluded and state the constitutional, statutory, or regulatory reasons why the evidence is inadmissible or the argument is inappropriate. Unless the court orders otherwise, motions in limine must be filed 30 days before trial. Responses must be filed and served no later than 14 days after service of the motion. Replies will be allowed only with leave of the court.

(b) Upon the initiative of a pro se plaintiff or plaintiff's attorney, the attorneys or parties who will try the case and who are authorized to make binding stipulations must personally discuss settlement and prepare and file a proposed joint pretrial order containing the following:

(1) A concise statement of the nature of the action and the parties' contentions;

(2) A statement of the basis for this court's jurisdiction 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. The lists or schedules must 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 for the objection. Stipulations on admissibility, authenticity, and/or identification of documents should be made whenever possible;

(9) A statement by each party of whether they intend to present evidence in electronic format to jurors for purposes of jury deliberations. Parties should consult the court's website or contact the assigned judge's courtroom administrator for instructions on how to prepare evidence in electronic format and other requirements;

(10) 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;

(11) A statement of the objections, and the grounds for them, to deposition testimony the opposing party has designated;

(12) A list of witnesses, with their addresses, who may be called at the trial. The 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, orders otherwise; and

(13) A list of motions in limine filed, if any.

(c) Unless offered for impeachment purposes, no exhibit will be received and no witnesses will 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 the court orders otherwise, the pretrial order must be in the following format:

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

| | | |
|---|---|---|
| ____________________, | ) | |
| Plaintiff | ) | CASE NO. |
| | ) | |
| | ) | |
| Vs. | ) | |
| | ) | |
| ____________________, | ) | PRETRIAL ORDER |
| Defendant | ) | |
| | ) | |
| ________________________ | ) | |

After pretrial proceedings in this case,

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 that 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 at 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 at 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 on plaintiff's exhibits.

(2) Set forth stipulations on defendant's exhibits.

(c) As to the following exhibits, the party against whom the same will be offered objects to their admission on the grounds stated:

[1] Should the attorneys or parties be unable to agree on 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 the attorneys or parties be unable to agree on 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.

(1) Set forth the plaintiff's exhibits and objections to them.

(2) Set forth the defendant's exhibits and objections to them.

(d) Electronic evidence: [State whether the parties intent to present electronic evidence for purposes of jury deliberations.]

(e) 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.]

(f) Objections to Depositions:

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

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

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

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

VII.

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

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

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

VIII.

The attorneys or parties have met and jointly offer these three trial dates:

____________________ ____________________ ____________________

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

IX.

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

APPROVED AS TO FORM AND CONTENT:

___________________________________________
Signature of Attorney for Plaintiff or Pro Se Plaintiff

______________________________________________
Signature of Attorney for Defendant or Pro Se Defendant

X.

ACTION BY THE COURT

This case is set for court/jury trial on the fixed/stacked calendar on ___________. Calendar call will be held on _______________________________________________.

This pretrial order has been approved by the parties to this action as evidenced by their signatures or the signatures of their attorneys hereon, and the order is hereby entered and will govern the trial of this case. This order may not be amended except by court order and based upon the parties' agreement 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 set any appropriate civil case for settlement conference or other alternative method of dispute resolution (ADR) and may propose that the parties participate in the Short Trial Program (General Order 2013-01).

The court's ADR process is confidential. Unless otherwise agreed by the parties or ordered by the court, no disclosure may be made to anyone, including the judicial officer to whom the case is assigned, of any confidential dispute-resolution communication that reveals the parties' dispute-resolution positions or the evaluating magistrate judge's advice or opinions. Confidential dispute-resolution communications will not be admissible in any subsequent proceeding except as permitted by the Federal Rules of Evidence. In the event of a dispute to enforce a settlement agreement, the court may order the disclosure of confidential information.

## 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. § 2000e, *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, or religion.

(b) If 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) A motion for exemption from the Early Neutral Evaluation Program must be filed no later than seven days after entry of an order scheduling the early neutral evaluation session. A response to the motion for exemption must be filed within 14 days after service of the original motion. A reply will not be allowed. The evaluating magistrate judge has final authority to grant or deny any motion requesting exemption from the program and may exempt any case from early neutral evaluation on the judge's own motion. These orders are not appealable.

(d) Unless good cause is shown, the early neutral evaluation session must be held by the court not later than 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 attorneys must attend the early neutral session in person.

(f) Parties must submit their written evaluation statements to the chambers of the evaluating magistrate judge by 4:00 p.m. seven days before the session. The written evaluation statement must not be filed with the clerk or served on the opposing parties.

(1) Evaluation statements must be concise and must:

(A) Identify by name or status the person(s) with decision-making authority who, in addition to the attorney, 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 and damages issues;

(C) Address whether there are legal or factual issues whose early resolution would reduce significantly the scope of the dispute or contribute to settlement negotiations;

(D) Describe the history and status of settlement negotiations;

(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);

(F) Discuss the strongest and weakest points of your case, both factual and legal, including a candid evaluation of the merits of your case;

(G) Estimate the costs (including attorney's fees and costs) of taking this case through trial;

(H) Describe the history of any settlement discussions and detail the demands and offers that have been made and the reason settlement discussions have been unsuccessful; and

(I) Certify that the party has made initial disclosures under Fed. R. Civ. P. 26(a)(1) and that the plaintiff has provided a computation of damages to the defendant under Fed. R. Civ. P. 26(a)(1)(A)(iii).

(2) Each evaluation statement must remain confidential unless a party gives the court permission to reveal some or all of the information in the statement during the session. The parties should consider whether it would be beneficial to exchange non-confidential portions of the evaluation statement.

(g) Each evaluating magistrate judge must:

(1) Permit each party (through an attorney 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 them;

(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 to devise a plan for expediting discovery, both formal and informal, 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 promote settlement.

(h) The early neutral evaluation process is subject to the confidentiality provision of LR 16-5.

## LR 22-1. 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 30 days after the first defendant answers or otherwise appears. At the scheduling conference, the plaintiff must advise the court about 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 rule, the court may dismiss the action. No discharge will be granted and no plaintiff will be dismissed before the scheduling conference takes place.

## LR 26-1. DISCOVERY PLANS AND MANDATORY DISCLOSURES

(a) Fed. R. Civ. P. 26(f) Meeting; Filing and Contents of Discovery Plan and Scheduling Order.

The pro se plaintiff or plaintiff's attorney must initiate the scheduling of the conference required by Fed. R. Civ. P. 26(f) to be held within 30 days after the first defendant answers or otherwise appears. Fourteen days after the mandatory Fed. R. Civ. P. 26(f) conference, the parties must submit a stipulated discovery plan and scheduling order. The plan must be formatted to permit the plan, once the court approves it, 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(b), the plan must state on its face in bold type, "SUBMITTED IN COMPLIANCE WITH LR 26-1(b)." If longer deadlines are proposed, the plan must state on its face "SPECIAL SCHEDULING REVIEW REQUESTED." Plans requesting special scheduling review must include, in addition to the information required by Fed. R. Civ. P. 26(f) and LR 26-1(b), a statement of the reasons why longer or different time periods should apply to the case or, in cases in which the parties disagree on the form or contents of the discovery plan, a statement of each party's position on each point in dispute.

(b) Form of Stipulated Discovery Plan and Scheduling Order; Applicable Deadlines. The discovery plan must include, in addition to the information required by Fed. R. Civ. P. 26(f), the following information:

(1) Discovery Cut-Off Date. The plan must state the date the first defendant answered or otherwise appeared, the number of days required for discovery measured from that date, and the calendar date on which discovery will close. Unless the court orders otherwise, discovery periods longer than 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 deadline for filing motions to amend the pleadings or to add parties is 90 days before the close of discovery. The plan must state the calendar date on which these amendments are due;

(3) Fed. R. Civ. P. 26(a)(2) Disclosures (Experts). Unless the discovery plan otherwise provides and the court so orders, the deadlines in Fed. R. Civ. P. 26(a)(2)(D) for expert disclosures are modified to require that the disclosures be made 60 days before the discovery cut-off date and that rebuttal-expert disclosures be made 30 days after the initial disclosure of experts. The plan must state the calendar dates on which these exchanges are due;

(4) Dispositive Motions. Unless the discovery plan otherwise provides and the court so orders, the deadline for filing dispositive motions is 30 days after the discovery cut-off date. The plan must state the calendar date on which dispositive motions are due;

(5) Pretrial Order. Unless the discovery plan otherwise provides and the court so orders, the deadline for the joint pretrial order is 30 days after the dispositive-motion deadline. If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order;

(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 to them must be included in the joint pretrial order;

(7) Alternative Dispute Resolution. The parties must certify that they met and conferred about the possibility of using alternative dispute-resolution processes including mediation, arbitration, and if applicable, early neutral evaluation;

(8) Alternative Forms of Case Disposition. The parties must certify that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-01);

(9) Electronic Evidence. In cases in which a jury trial has been demanded, the parties must certify that they discussed whether they intend to present evidence in electronic format to jurors for the purposes of jury deliberations. The plan must state any stipulations the parties reached regarding providing discovery in an electronic format compatible with the court's electronic jury evidence display system. Parties should consult the court's website or contact the assigned judge's courtroom administrator for instructions about how to prepare evidence in an electronic format and other requirements for the court's electronic jury evidence display system; and

(10) Form of Order. All discovery plans must include on the last page of the plan the words "IT IS SO ORDERED" with a date and signature block for the judge in the manner set forth in LR IA 6-2.

(c) Unless the court orders otherwise, subsections (a) and (b) do not apply to interpleader actions. The procedures in LR 22-1 govern all interpleader actions.

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

Unless the court orders otherwise, in cases where no discovery plan is required, discovery must be completed within 180 days from the time the first defendant answers or otherwise appears.

## LR 26-3. INTERIM STATUS REPORTS

Not later than 60 days before the discovery cut-off, the parties must file an interim status report stating the time they estimate will be required for trial, giving 3 alternative available trial dates, and stating whether, in the opinion of the attorneys or pro se parties who will try the case, trial will be eliminated or its length affected by substantive motions. The parties must certify that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, use of the Short Trial Program (General Order 2013-01), and the use of alternative dispute-resolution processes including mediation, arbitration, and early neutral evaluation. This status report must be signed by the attorney for each party or by the party if appearing pro se.

## LR 26-4. EXTENSION OF SCHEDULED DEADLINES

A motion or stipulation to extend any date set by the discovery plan, scheduling order, or other order must, in addition to satisfying the requirements of LR IA 6-1, be supported by a showing of good cause for the extension. A motion or stipulation to extend a deadline set forth in a discovery plan must be received by the court no later than 21 days before the expiration of the subject deadline. A request made within 21 days of the subject deadline must be supported by a showing of good cause. A request made after the expiration of the subject deadline will not be granted unless the movant also demonstrates that the failure to act was the result of excusable neglect. A motion or stipulation to extend a discovery deadline or to reopen discovery must 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 must, 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 in the case by any other party. The request must 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 the discovery.

## LR 26-7. DISCOVERY MOTIONS

(a) Unless the court orders otherwise, all discovery disputes are referred to the magistrate judge assigned to the case.

(b) All motions to compel discovery or for a protective order must set forth in full the text of the discovery originally sought and any response to it.

(c) Discovery motions will not be considered unless the movant (1) has made a good-faith effort to meet and confer as defined in LR IA 1-3(f) before filing the motion, and (2) includes a declaration setting forth the details and results of the meet-and-confer conference about each disputed discovery request.

(d) In the event of an emergency discovery dispute, the movant may apply for relief by written motion or, when time does not permit, by a telephone call to the magistrate judge assigned to the case. The court may determine whether a discovery dispute is an emergency. Written requests for judicial assistance to resolve an emergency discovery dispute must satisfy LR 7-4.

## LR 26-8. FILING OF DISCOVERY PAPERS

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

## LR 38-1. JURY DEMAND

When a party demands a jury trial in a pleading under Fed. R. Civ. P. 38(b), the words "JURY DEMAND" must be typed or printed in capital letters on the first page immediately below the title of the pleading.

## LR 41-1. DISMISSAL FOR WANT OF PROSECUTION

All civil actions that have been pending in this court for more than 270 days without any proceeding of record having been taken may, after notice, be dismissed for want of prosecution by the court sua sponte or on the motion of an attorney or pro se party.

## LR 42-1. NOTICING THE COURT ON RELATED CASES; CONSOLIDATION OF CASES

(a) Related Cases. A party 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) must file in each action and serve on all parties in each action a notice of related cases. This notice must set forth the title and case number of each possibly related action, together with a brief statement of their relationship and the reasons why assignment to a single district judge or magistrate judge is desirable.

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

(1) Both actions involve the same parties and are based on the same or similar claim;

(2) Both actions involved the same property, transaction, or event;

(3) Both actions involve similar questions of fact and the same question of law, and their assignment to the same district judge or magistrate judge is likely to effect a substantial savings of judicial effort;

(4) Both actions involve the same patent, trademark, or copyright, and one of the factors identified in (1), (2), or (3) above is present; or

(5) For any other reason, it would entail substantial duplication of labor if the actions were heard by different district judges or magistrate judges.

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.

(b) Consolidation of Cases. Under Fed. R. Civ. P. 42(a), if actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.

The court may make a determination to consolidate actions sua sponte. A party may file a motion for consolidation as soon as it reasonably appears the actions involve common questions of law or fact and consolidation would aid in the efficient and economic disposition of an action. A party seeking consolidation must file and serve the motion in each of the pending lawsuits the party seeks to have consolidated. If the party seeking to consolidate actions is not a party to an action it seeks to have consolidated, it may file a motion for leave to intervene in that action for the limited purpose of seeking consolidation of actions. The party must include the proposed motion for consolidation as an exhibit to the motion for leave to intervene.

A motion to consolidate must identify all actions that are the subject of the motion by case name and number and must address in detail the asserted common questions of law or fact in the actions the party seeks to consolidate.

The motion to consolidate will be decided by the judge to whom the earliest-filed action is assigned. If the actions are consolidated, they will be transferred to the judge to whom the earliest-filed action is assigned. A joint order signed by all judges in the cases to be consolidated will be filed in each of the pending cases.

## LR 43-1. USE OF INTERPRETERS IN COURT PROCEEDINGS

A party who anticipates needing the services of an interpreter in a court proceeding must make the necessary arrangements at its own expense and file a written notice at least 14 days before the proceeding in which the interpreter's services will be used. The notice must include the name and credentials of the interpreter, the name of the witness or witnesses requiring the interpreter, and the reason the interpreter is needed. Any party anticipating the need for an American Sign Language interpreter must contact the assigned judge's courtroom administrator at least 14 days before the proceeding.

## LR 48-1. CONTACT WITH JURORS PROHIBITED

Unless the court permits otherwise, no party, attorney, or other interested person may communicate with or contact any juror until the jury concludes its deliberations and is discharged.

## LR 54-1. COSTS OTHER THAN ATTORNEY'S FEES

(a) Unless the court orders otherwise, the prevailing party is entitled to reasonable costs. A prevailing party who claims costs must file and serve a bill of costs and disbursements on the form provided by the clerk no later than 14 days after the date of entry of the judgment or decree. *See* 28 U.S.C. §§ 1920, 1921, and 1923; Fed. R. Civ. P. 54(d)(1).

(b) A bill of costs and disbursements must be supported by an affidavit and distinctly set forth each item so that its nature can be readily understood. An itemization and, where available, documentation of requested costs in all categories must be attached to the bill of costs. *See* 28 U.S.C. § 1924.

(c) The deadline to file and serve any objection to a bill of costs is 14 days after service of the bill of costs. An objection must specify each item to which objection is made and the grounds for the objection and, if appropriate, must include supporting declarations or other material. The deadline to file and serve any response to an objection is seven days after service of the objection.

(d) If no objection is filed, the clerk must enter the bill of costs as submitted. Failure to object to a bill of costs may constitute a consent to the award of all costs included, but it does not prevent a party from filing a motion to re-tax as provided in LR 54-12, subject to the court's consideration of the party's failure to file an objection.

(e) If an objection is filed, once a response to the objection is filed or the deadline for doing so has passed, the clerk may prepare, sign, and enter an order disposing of a bill of costs, subject to a motion to re-tax under LR 54-12. The clerk's taxation of costs is final, unless modified on review as provided in these rules.

(f) Notice of the clerk's taxation of costs must be given by serving a copy of the bill of costs approved by the clerk on all parties in compliance with Fed. R. Civ. P. 5.

(g) Neither the parties nor their attorneys may appear on the date set for the taxation of costs.

**LR 54-2. PROCESS SERVER'S FEES**

An authorized process server's fees are ordinarily taxable.

**LR 54-3. TRANSCRIPTS OF COURT PROCEEDINGS**

The cost of transcripts of pretrial, trial, and post-trial proceedings is not taxable unless the transcripts are (1) requested by the court or (2) prepared under a stipulation approved by the court. Mere acceptance of the transcripts by the court does not constitute a request. The cost of copies of transcripts for an attorney or party's own use is not taxable absent a prior court order.

**LR 54-4. DEPOSITION COSTS**

(a) The following are taxable deposition costs:

(1) The cost of a deposition transcript, either the original or a copy, but not both, whether taken solely for discovery or for use at trial;

(2) Reasonable costs of a deposition reporter and the notary or other official presiding at the deposition including travel, where necessary, and subsistence;

(3) Reasonable costs for videography;

(4) Witness fees at the same rate as the rate for attendance at trial. The witness need not be under subpoena; and

(5) Reasonable costs for a necessary interpreter at the taking of a taxable-cost deposition.

(b) The following are not taxable deposition costs:

(1) Attorney'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;

(2) Postage, handling, and delivery fees for deposition transcripts; and

(3) Condensed, ASCII, or other special formatting or production of deposition transcripts.

## 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. These fees are taxable even if the witness did not testify when it is shown that the attendance was necessary. But if a witness is not used, the presumption is that the attendance was unnecessary. The witness need not be 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 unless a showing is made that the witness necessarily attended for a longer time.

(b) No party may receive witness fees for testifying on that party's own behalf, unless the party is subpoenaed to 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.

(c) 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, COPIES OF PAPERS, AND DISBURSEMENTS FOR PRINTING

(a) The following are taxable costs for exemplification, copies of papers, and disbursements for printing:

(1) The cost of copies of an exhibit necessarily attached to a filed document;

(2) The costs of copies of trial exhibits for the judge and opposing parties;

(3) An official's fee for certification or proof regarding the non-existence of a document;

(4) Notary fees, but only for documents that are required to be notarized and that are necessarily filed; and

(5) The cost of patent file wrappers and prior art patents at the rate charged by the United States Patent and Trademark Office.

(b) The following costs are not taxable:

(1) The cost of reproducing copies of motions, pleadings, notices, and other routine case papers;

(2) The costs and page fees for electronic access to court records;

(3) The cost of copies obtained for an attorney's own use; and

(4) Expenses for services of persons checking patent office records to determine what should be ordered.

(c) An itemization of costs claimed under subsection (a) must be attached to the bill of costs with a detailed description of the specific nature of the costs and, when available, documentation to support the costs.

**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, 8" x 10" in size or less, is taxable if the photographs are admitted into evidence or attached to documents required to be filed and served on opposing parties. The cost of enlargements greater than 8" x l0," models, summaries, computations, and statistical comparisons are not taxable except by prior court order.

**LR 54-8. FEES OF RECEIVERS AND COMMISSIONERS**

Unless the court orders otherwise, fees of receivers and commissioners are taxable costs.

**LR 54-9. PREMIUMS ON UNDERTAKINGS AND BONDS**

Premiums paid on undertakings and bonds are ordinarily taxable when they were furnished by reason of express requirement of law, when they were ordered by the court, or when they were provided 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.

## LR 54-11. COSTS NOT ORDINARILY ALLOWED

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, except as provided in LR 54-6(a)(2);

(e) Motion pictures;

(f) Pro hac vice admission fees;

(g) Computer research fees;

(h) Expert witness fees;

(i) Fees for investigative or paralegal services;

(j) Fees for general office overhead; and

(k) An attorney's travel expenses.

## LR 54-12. REVIEW OF COSTS

(a) A party may obtain review of the clerk's taxation of costs by filing a motion to re-tax under Fed. R. Civ. P. 54(d), accompanied by points and authorities. A motion to re-tax costs must be filed and served within seven days after receipt of the notice under LR 54-1(f).

(b) A motion to re-tax must specify the particular portions of the clerk's ruling to which the party objects, and only those portions of the clerk's ruling will be considered by the court. The motion to re-tax will be decided on the same papers and evidence submitted to the clerk.

## LR 54-13. APPELLATE COSTS

The district court does not tax or re-tax 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 Court of Appeals.

## LR 54-14. MOTIONS FOR ATTORNEY'S FEES

(a) Time for Filing. When a party is entitled to move for attorney's fees, the motion must be filed with the court and served within 14 days after entry of the final judgment or other order disposing of the action.

(b) Content of Motions. Unless the court orders otherwise, a motion for attorney's fees must include the following in addition to those matters required by Fed. R. Civ. P. 54(d)(2)(B):

(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 under LR 54-1 through 54-13;

(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

(M) Any other information the court may request.

(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 was reviewed and edited and that the fees and costs charged are reasonable.

(d) Failure to provide the information required by subsections (b) and (c) in a motion for attorney's fees may be deemed a consent to the denial of the motion.

(e) Opposition. If no opposition is filed, the court may grant the motion after independent review of the record. If an opposition is filed, it must set forth the specific charges that are disputed and state with reasonable particularity the basis for the opposition. The opposition must include affidavits to support any contested fact.

(f) Hearing. If either party wishes to examine the affiant, the party must specifically make that 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 must include a concise statement setting forth each fact material to the disposition of the motion that 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 on which the party relies. The statement of facts will be counted toward the applicable page limit in LR 7-3.

## LR 59-1. MOTIONS FOR RECONSIDERATION OF INTERLOCUTORY ORDERS

(a) Motions seeking reconsideration of case-dispositive orders are governed by Fed. R. Civ. P. 59 or 60, as applicable. A party seeking reconsideration under this rule must state with particularity the points of law or fact that the court has overlooked or misunderstood. Changes in legal or factual circumstances that may entitle the movant to relief also must be stated with particularity. The court possesses the inherent power to reconsider an interlocutory order for cause, so long as the court retains jurisdiction. Reconsideration also may be appropriate if (1) there is newly discovered evidence that was not available when the original motion or response was filed, (2) the court committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.

(b) Motions for reconsideration are disfavored. A movant must not repeat arguments already presented unless (and only to the extent) necessary to explain controlling, intervening law or to argue new facts. A movant who repeats arguments will be subject to appropriate sanctions.

## LR 65.1-1. QUALIFICATION OF SURETY

Except for bonds secured by cash or negotiable bonds or notes of the United States governed by 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 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;

(c) One or more individuals each of whom owns real or personal property sufficient to justify the full amount of the suretyship; or

(d) Any other security the court may require by order.

## LR 65.1-2. 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 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 pro se, the party offering the bond must apply to the court for approval. The clerk is authorized to approve bonds unless court approval is expressly required by law.

## LR 65.1-4. 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.

## 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 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.

## 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.

## LR 66-1. RECEIVERS IN GENERAL

Rules 66-1 through 66-9 are promulgated under Fed. R. Civ. P. 66 for the administration of estates by receivers or other similar officers appointed by the court.

## LR 66-2. NOTICE; TEMPORARY RECEIVER

A receiver must not be appointed except after hearing, preceded by at least 14 days' notice to the party sought to be subjected to receivership and to all known creditors, but 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

Upon being appointed, a temporary receiver must give the notice required in LR 66-2, and at the hearing the court must determine whether a receiver should 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 must file with the court a summary report of the temporary receivership.

(b) Within 60 days of being appointed, a permanent receiver must file a verified report and account of the receiver's administration, which must be heard on 14 days' notice to all parties and known creditors of the party subject to receivership. The report and account must contain the following:

(1) A summary of the receiver's operations;

(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 must 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 orders otherwise, the receiver must give all interested parties and creditors at least 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 must not employ an attorney, accountant, or investigator without first obtaining a court order authorizing the employment. The compensation of an attorney, accountant, or investigator will be fixed by the court, after hearing, upon the receiver's verified application setting forth in reasonable detail the nature of the services. The application must state under oath that the receiver 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 of it.

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

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

## LR 66-8. DEPOSIT OF FUNDS

All funds received by a receiver must 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 must not act as such until a sufficient undertaking in an adequate amount as determined by the court is filed with the clerk.

## 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 court's Registry Account must be accompanied by a written statement titled "Certificate of Cash Deposit," which must be signed by the attorney or pro se party. 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., interpleader funds deposit, cash bond in lieu of corporate surety in support of temporary restraining order, etc.);

(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.

**LR 67-2. INVESTMENT OF FUNDS ON DEPOSIT**

(a) Unless the court orders otherwise, funds on deposit in the court's Registry Account under to 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 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 such 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 such notice, funds invested in a timed instrument subject to renewal must 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 court's Registry Account, which is a non-interest-bearing account.

(h) Service of notice by an attorney or pro se party required by LR 67-2(g) must be made as provided in LR 67-2(c) not later than 14 days before maturity of the timed instrument.

(i) Any change in terms or conditions of an investment must be only by court order, and an attorney or pro se party must comply with LR 67-2(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 must:

(1) Enter judgments on verdicts or decisions of the court in circumstances authorized by Fed. R. Civ. P. 58(b)(1);

(2) Enter default for failure to plead or otherwise defend under Fed. R. Civ. P. 55(a);

(3) Enter judgments by default in the circumstances authorized by Fed. R. Civ. P. 55(b)(1);

(4) Enter judgments after acceptance of an offer of judgment in the circumstances authorized by Fed. R. Civ. P. 68(a);

(5) When ordered by the court in the particular case or in all cases assigned to a particular judge, enter orders under LR IA 11-2 granting permission to an attorney to practice in a particular case and orders under LR IA 11-6 granting leave of the court for substitution of counsel; and

(6) Enter any other order that, under Fed. R. Civ. P. 77(c)(2)(D), does not require special direction by the court.

(c) For the purposes of subsection (b)(3), "sum certain or a sum that can be made certain by computation" means an amount that appears in, or can be simply calculated from, the complaint and supporting affidavits. If the complaint and supporting affidavits leave doubt about the amount to which a plaintiff is entitled as a result of the defendant's default, the claim is not for a sum certain.

## LR 78-1. ORAL ARGUMENT

All motions may be considered and decided with or without a hearing. Any party making or opposing a motion who believes oral argument may assist the court and wishes to be heard may request a hearing by inserting the words ORAL ARGUMENT REQUESTED below the title of the document on the first page of the motion or response. Parties must not file separate motions requesting a hearing.

## LR 79-1. 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 in 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 the exhibits 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 a new trial have passed, or appeal proceedings have terminated.

(d) If no appeal is taken, after final judgment has been entered and the deadline 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.

## LR 81-1. REMOVED ACTIONS

All pending motions and other requests directed to the state court are automatically denied without prejudice upon removal, and they may be refiled in this court. Motions refiled in this court must include citation to all relevant federal law and must be revised as necessary to comply with this court's rules.

## PART III—PATENT PRACTICE

### LPR 1-1. TITLE

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

### LPR 1-2. SCOPE AND CONSTRUCTION

These rules apply to all civil actions filed in or transferred to this court that allege infringement of a utility patent in a complaint, counterclaim, cross-claim, or third-party claim, or that seek a declaratory judgment that a patent is not infringed, is invalid, or is unenforceable. The Local Rules of Civil Practice in Part II also apply to these actions, except to the extent that they are inconsistent with these Patent Local Rules. For the purposes of these rules, citations to Title 35 of the United States Code refer to pre-America Invents Act statutes.

### LPR 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. Before submitting any request for a modification, the parties must meet and confer for purposes of reaching an agreement, if possible, on any modification.

### LPR 1-4. CONFIDENTIALITY

Discovery and initial disclosures under these rules cannot be withheld on the basis of confidentiality absent court order. Not later than 14 days after the Initial Scheduling Conference, the parties must file a proposed protective order. Pending entry of a discovery confidentiality protective order, disclosures deemed confidential by a party must 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 attorney of record, including employees of outside attorney of record, and used only for litigation purposes.

### LPR 1-5. CERTIFICATION OF DISCLOSURES

(a) All statements, disclosures, and charts filed or served under these rules must be dated and signed by the attorney of record. The attorney's signature must 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.

(b) The parties must file with the court a notice certifying that all disclosures required under LPR 1-6 through 1-11 have been timely provided. The parties must file the notice within seven days after the deadline for service of the disclosures required under LPR 1-10. Any variation from these deadlines requires court approval.

## LPR 1-6. INITIAL DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS

Within 14 days after the Initial Scheduling Conference under Fed. R. Civ. P. 26(f), a party claiming patent infringement must 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 must 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 must be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must 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 that 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. If alleged direct infringement is based on joint acts of multiple parties, the role of each 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 its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must 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 the allegation.

## LPR 1-7. DOCUMENT PRODUCTION ACCOMPANYING ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS

With the Disclosure of Asserted Claims and Infringement Contentions, the party claiming patent infringement must 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 before the date of application for the patent in suit. A party's production of a document required herein does not constitute an admission that the 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 under LPR 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 under LPR 1-6(g), documents sufficient to show the operation of any aspects or elements of such instrumentalities the patent claimant relies on as embodying any asserted claims. The producing party must separately identify by production number the documents that correspond to each category.

## LPR 1-8. INITIAL DISCLOSURE OF NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY CONTENTIONS

Within 45 days after service of the Initial Infringement Contentions, each party opposing a claim of patent infringement must serve on all other parties Non-Infringement, Invalidity, and Unenforceability Contentions that must 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 must be identified by its number, country of origin, and date of issue. Each prior-art publication must be identified by its title, date of publication, and where feasible, author and publisher. Prior art under 35 U.S.C. § 102(b) must 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 who made the use or made and received the offer, or the person or entity who made the information known or to whom it was made known. Prior art under 35 U.S.C. § 102(f) must 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) must 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 specifically where in each alleged item of prior art each limitation of each asserted claim is found, including for each limitation that a 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 on for the contention, and when unenforceability is based on 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.

## LPR 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 must 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 LPR 1-6(c) chart; and

(b) A copy or sample of the prior art identified under LPR 1-6(b) that does not appear in the file history of the patent(s) at issue. To the extent the item is not in English, an English translation of the portion(s) relied on must be produced. The producing party must separately identify by production number the documents that correspond to each category.

## LPR 1-10. RESPONSE TO INITIAL NON-INFRINGEMENT, INVALIDITY, AND UNENFORCEABILITY CONTENTIONS

Within 14 days after service of the initial Non-Infringement, Invalidity, and Unenforceability Contentions, each party claiming patent infringement must serve on all other parties its response to Non-Infringement, Invalidity, and Unenforceability Contentions. The response must 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 denial); and unenforceability.

## LPR 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 must serve on all other parties its initial Non-Infringement, Invalidity, and Unenforceability Contentions and corresponding LPR 1-9 document production within 14 days after the Initial Scheduling Conference. Within 45 days after service of the initial Non-Infringement, Invalidity, and Unenforceability Contentions, each party opposing the declaratory judgment must 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 LPR 1-7 document production. LPR 1-11 does 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.

## LPR 1-12. AMENDMENT TO DISCLOSURES

Amendment of initial disclosures required by these rules may be made for good cause without leave of the court anytime before the discovery cut-off date. Thereafter, the disclosures are final and amendment of the disclosures may be made only by court order upon a timely showing of good cause. Non-exhaustive examples of circumstances that may, absent undue prejudice to the nonmoving 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 responses does not excuse the need to obtain leave of the court to amend contentions.

## LPR 1-13. EXCHANGE OF PROPOSED TERMS FOR CONSTRUCTION

Not later than 90 days after the Initial Scheduling Conference under Fed. R. Civ. P. 26(f), each party must serve on each other party a list of patent claim terms that the party contends should be construed by the court, and identify any claim term that the party contends should be governed by 35 U.S.C. § 112(6). The parties must 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 must 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.

## LPR 1-14. EXCHANGE OF PRELIMINARY CLAIM CONSTRUCTIONS AND EXTRINSIC EVIDENCE

Not later than 14 days after the exchange of lists under LPR 1-13, the parties must simultaneously exchange proposed constructions of each term identified by either party for claim construction. Each Preliminary Claim Construction must also, for each term that 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 must 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 must 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 also must provide a description of the substance of that witness's proposed testimony that includes a list 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.

## LPR 1-15. JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

Not later than 14 days after the exchange of Preliminary Claim Constructions and Extrinsic Evidence under LPR 1-14, the parties must prepare and submit to the court a Joint Claim Construction and Prehearing Statement, which must 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 must 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 those witnesses, 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 must 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 party's proposed construction and any agreed proposed construction.

## LPR 1-16. CLAIM CONSTRUCTION BRIEFING

Not later than 21 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) must serve and file an opening claim construction brief and any evidence supporting its claim construction.

Not later than 21 days after service of the opening brief, each opposing party must serve and file its responsive brief and supporting evidence.

Not later than seven days after service on 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, must serve and file any reply brief and any evidence directly rebutting the supporting evidence contained in an opposing party's response.

**LPR 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 under LPR 1-16.

**LPR 1-18. AMENDING CLAIM CONSTRUCTION SCHEDULE**

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

**LPR 1-19. MANDATORY SETTLEMENT CONFERENCES FOR PATENT CASES**

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

(a) A Pre-Claim Construction Settlement Conference must be held within 30 days after the parties have submitted all initial disclosures and responses thereto as required under LPR 1-6 through LPR 1-12;

(b) A Post-Claim Construction Order Settlement conference must be held within 30 days after entry of the claim construction order;

(c) A Pretrial Settlement Conference must be held within 30 days after filing the Pretrial Order or further order of the court.

**LPR 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.

## LPR 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 obligations under these rules may expose an attorney to sanctions, including under 28 U.S.C. § 1927.

## LPR 1-22. USE OF COURT APPOINTED MASTERS

In a patent case, the court may appoint a master under Fed. R. Civ. P. 53.

## LPR 1-23. FORM OF DISCOVERY PLAN AND SCHEDULING ORDER

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

| | | |
|---|---|---|
| ________________________, | ) | |
| Plaintiff, | ) | Case No. |
| | ) | |
| vs. | ) | [SAMPLE] DISCOVERY PLAN AND |
| | ) | SCHEDULING ORDER |
| __________________________, | ) | |
| Defendant. | ) | SPECIAL SCHEDULING REVIEW |
| | ) | REQUESTED FOR A PATENT CASE |
| ______________________________ | ) | |

Under Fed. R. Civ. P. 26(f), Local Rule 26-1, and Patent Local Rules 16.1-1 et seq., the respective parties conducted a discovery-planning conference on **January __, 20__**, and hereby submit to the court the following proposed Discovery Plan and Scheduling Order:

| | |
|---|---|
| 1. Discovery Cut-Off | **October __, 20__ (270 days)** |
| 2. Joint Protective Order | **January __, 20__** [14 days after discovery-planning conference] |
| 3. Disclosure of Rule 26(a) Initial Disclosures, Asserted Claims, and Infringement Contentions | **January __, 20__** |
| 4. Disclosure of Non-Infringement, Invalidity, and Unenforceability Contentions | **March __, 20__** [45 days later] |
| 5. Response to Non-Infringement Contentions | **March __, 20__** [14 days later] |
| 6. Three Proposed Dates for Pre-Claim Construction Settlement Conference | **April __, 20__; April __, 20__; April __, 20__** [3 proposed dates that are within 30 days after the completion of the Initial Disclosures and Responses] |

| | |
|---|---|
| 7. Motion to Amend Pleadings/Parties | **July __, 20__** [90 days to close of discovery] |
| 8. Expert Designations | **August __, 20__** [60 days to close of discovery, or as the parties may stipulate after claim construction order issued by court] |
| 9. Rebuttal Expert Designations | **September __, 20__** [30 days to close of discovery] |
| 10. Interim Status Report | **August __, 20__** [60 days to close of discovery] |
| 11. Exchange of Proposed Terms of Construction | **April __, 20__** [90 days from Scheduling Conference] |
| 12. Exchange of Preliminary Claim Construction | **April __, 20__** [14 days later] |
| 13. Submit Joint Claim Construction and Prehearing Statement | **April __, 20__** [14 days later] |
| 14. Opening Claim Construction Brief | **May __, 20__** [21 days later] |
| 15. Response to Claim Construction Brief | **June __, 20__** [21 days later] |
| 16. Reply Claim Construction Brief and Matter Submitted to court for Hearing | **June __, 20__** [7 days later] |
| 17. Claim Construction Tutorials, Hearing, and Order from the court | **July __, 20__** [within 28 days after the Reply brief is filed, the court will complete its hearing and issue its order. If the court is unable to issue its order within 28 days after submission of the Reply brief, the court may reset expert disclosure deadlines as requested by a party or stipulation.] |
| 18. Dispositive Motion Deadline | **November __, 20__** [30 days after discovery closes] |

IT IS ORDERED that within **30 days** after Initial Disclosures and Responses are complete, the parties must submit to a Pre-Claim Construction Settlement Conference as set by the court.

IT IS FURTHER ORDERED that within **30 days** after the court enters a claim construction order, the parties must submit to a Post-Claim Construction Settlement Conference as set by the court.

IT IS FURTHER ORDERED that any extension of the discovery deadline will not be allowed without a showing of good cause for the extension. All motions or stipulations to extend discovery must be received by the court at least **21 days before the expiration of the subject deadline.** A request made after this date will not be granted unless the movant demonstrates that the failure to act was the result of excusable neglect. The motion or stipulation must include:

(a) A statement specifying the discovery completed by the parties as of the date of the motion or stipulation;

(b) A specific description of the discovery that remains to be completed;

(c) The reasons why the remaining discovery was not completed within the time limit of the existing discovery deadline; and

(d) A proposed schedule for the completion of all remaining discovery.

IT IS FURTHER ORDERED that, if no dispositive motions will be filed within the time specified in this order, then the parties must file a written, joint proposed pretrial order within 30 days of the dispositive motion cutoff, on or before **December __, 20__**. If dispositive motions are filed, then the parties must file a written, joint proposed pretrial order within 30 days of the date the court enters a ruling on the dispositive motions. Within 30 days of the entry of a pretrial order, or as further ordered by the court, the parties must submit to a pretrial settlement conference.

IT IS SO ORDERED.

______________________________________
UNITED STATES MAGISTRATE JUDGE
DATED: ______________________.

## PART IV—CRIMINAL PRACTICE

### 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 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 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 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.

## 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) 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. 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.

**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 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.

## 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.

(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.

## 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.

## 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 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.

## 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. 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 46-9. 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.

## PART V—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 must be made on the form provided by the court and must include a financial affidavit disclosing the applicant's income, assets, expenses, and liabilities.

### LSR 1-2. INMATES: ADDITIONAL REQUIREMENTS

When submitting an application to proceed *in forma pauperis*, the incarcerated or institutionalized person must simultaneously submit 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 months prior to the date of submission of the application. If the applicant has been at the institution for fewer than six months, the certificate must show the account's activity for this shortened 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 court order.

(b) If the applicant has money or assets in an amount less than the minimum set by the court under this rule, the court may require the payment of a partial filing fee.

(e) If a partial filing fee is required, the court may grant additional time to pay it. Installment payments of a partial filing fee 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 must be allowed to proceed *in forma pauperis* during the interim period before the partial filing fee is paid. An applicant's failure to pay the fee before the expiration of the time granted will 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 must 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. 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 1-6. ABUSE OF PRIVILEGE TO PROCEED *IN FORMA PAUPERIS*

The court may limit an applicant's use of *in forma pauperis* status if the court finds that the applicant has abused the privilege to proceed in this manner.

## LSR 1-7. EXPENSES OF LITIGATION

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

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

A civil-rights complaint filed by a person who is not represented by counsel must be submitted on the form provided by this court.

## LSR 2-2. CHANGE OF ADDRESS

The plaintiff must immediately file with the court written notification of any change of address. The notification must include proof of service on 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 UNDER 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 must 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 must be on the form supplied by the court or must 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 that 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) New and different grounds are alleged and 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 UNDER 28 U.S.C. § 2255; MOTION TO CORRECT OR REDUCE SENTENCE UNDER Fed. R. Crim. P. 35; PETITION FORM

A motion to vacate sentence under 28 U.S.C. § 2255 or a motion to correct or reduce sentence under Fed. R. Crim. P. 35, filed by a person who is not represented by an attorney, must be on the form provided by this court. If the motion for post-conviction relief is filed by an attorney, it must be on the form supplied by the court or must 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 that 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) New and different grounds are alleged and 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

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 the following caption below the title of the document: “DEATH PENALTY CASE.”

## 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 must 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 a cost bond or security and fixes its amount.

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

The party filing the notice of appeal must identify by name the court reporter or recorder (or the recording number when proceedings before the magistrate judge are recorded without the presence of a reporter or recorder) when designating transcripts on appeal. If more than one court reporter or recorder reported matters designated, an ordering form must be completed for each court reporter or recorder and each form must specify which portions of the designated transcript a particular court reporter or recorder are responsible for transcribing. The clerk must arrange for the transcription of any designated recordings 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 of it is required to be kept for use in the district court. When the clerk determines that some or all of the record will be retained, the clerk will provide notice to all parties and give them 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 costs of reproduction must be borne equally by the appellant(s) and cross appellant(s).

END