

**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**



LOCAL COURT RULES

Revised as of May 10, 2016

THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

LOCAL COURT RULES

May 10, 2016

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOE HEATON, CHIEF JUDGE

VICKI MILES-LAGRANGE, DISTRICT JUDGE

TIMOTHY D. DEGIUSTI, DISTRICT JUDGE

LEE R. WEST, SENIOR DISTRICT JUDGE

DAVID L. RUSSELL, SENIOR DISTRICT JUDGE

ROBIN J. CAUTHRON, SENIOR DISTRICT JUDGE

TIM LEONARD, SENIOR DISTRICT JUDGE

STEPHEN P. FRIOT, SENIOR DISTRICT JUDGE

GARY M. PURCELL, MAGISTRATE JUDGE

SHON T. ERWIN, MAGISTRATE JUDGE

SUZANNE MITCHELL, MAGISTRATE JUDGE

CHARLES B. GOODWIN, MAGISTRATE JUDGE

BERNARD M. JONES, MAGISTRATE JUDGE

COUNTIES WITHIN THE WESTERN DISTRICT OF OKLAHOMA ARE:

Alfalfa	Comanche	Grant	Kiowa	Pottawatomie
Beaver	Cotton	Greer	Lincoln	Roger Mills
Beckham	Custer	Harmon	Logan	Stephens
Blaine	Dewey	Harper	Major	Texas
Caddo	Ellis	Jackson	McClain	Tillman
Canadian	Garfield	Jefferson	Noble	Washita
Cimarron	Garvin	Kay	Oklahoma	Woods
Cleveland	Grady	Kingfisher	Payne	Woodward

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William J. Holloway, Jr.
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Oklahoma City, OK 73102
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**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LOCAL COURT RULES

**LOCAL CIVIL RULES
AND
LOCAL CRIMINAL RULES**

PREAMBLE

AUTHORITY. These local rules of the United States District Court for the Western District of Oklahoma are promulgated under the authority of Title 28, United States Code, Section 2071; Rule 83 of the Federal Rules of Civil Procedure; and Rule 57 of the Federal Rules of Criminal Procedure. These local civil and criminal rules are promulgated to supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure with local court procedure.

UNIFORM NUMBERING. The Judicial Conference of the United States has required uniform numbering for all local court rules in conformity with the Federal Rules. They require a “.1” designation be added to the number of the Federal Rule of Civil or Criminal Procedure to indicate that the federal rule is being supplemented by a local civil or criminal court rule. For example, if Fed. R. Civ. P. 4 is being supplemented, the local civil rule is designated LCvR4.1; or if Fed. R. Crim. P. 5.1 is supplemented, it is designated LCrR5.1.1.

Joe Heaton, Chief Judge

May 10, 2016

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

LOCAL COURT RULES

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**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LOCAL CIVIL RULES

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

A. LOCAL CIVIL RULES

I. SCOPE OF RULES - ONE FORM OF ACTION.

LCvR1.1 Purpose and Scope of Rules.

These local civil rules are promulgated to supplement the Federal Rules of Civil Procedure with local court procedure. [Appendix I](#) contains a listing of General Orders which are available from the court clerk or on the court's website, www.okwd.uscourts.gov.

LCvR1.2 Rules of Procedure.

(a) The rules of procedure in any proceeding in this court shall be as prescribed by the laws of the United States, the rules of the Supreme Court of the United States, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, any applicable rules of the United States Court of Appeals for the Tenth Circuit, and these local rules.

(b) Where in any proceeding or in any instance there is no applicable rule of procedure, a judge may prescribe the same.

(c) The trial judge has discretion in any civil or criminal case to waive any requirement of these local rules when the administration of justice requires.

(d) These local rules shall be known as the Local Civil Rules of the United States District Court for the Western District of Oklahoma. They may be cited as "LCvR."

II. COMMENCEMENT OF ACTION AND SERVICE OF PROCESS.

LCvR3.1 Civil Cover Sheet and Format of Initiating Document.

Every document initiating a civil action in this court (e.g., complaint, petition, or notice of removal) shall be accompanied by a completed civil cover sheet, [Form JS-44](#), which

is available from the court clerk's office or on the court's website. Counsel and pro se litigants are required to number each party separately in the caption of the initiating document, plaintiffs consecutively and defendants consecutively. Pro se litigants are also required to complete the [form](#) furnished by the court for issuance of summons.

LCvR3.2 Advance Payment of Filing Fees.

Except as provided in LCvR3.3 or by order of the court in a specific case, the clerk of this court shall require payment of the filing fees before any civil action, suit, or proceeding is filed.

LCvR3.3 In Forma Pauperis Applications.

(a) An applicant who seeks leave to proceed without prepayment of the filing fees must, at the time of initiating the civil action, suit, or proceeding, submit an application to proceed in forma pauperis on [forms](#) approved by this court and supplied by the clerk upon request. Failure to use such form or to furnish the court with the equivalent information required by the form will result in the application being stricken.

(b) In the case of a prisoner, such [application](#) must also include a certificate executed by an authorized officer of the appropriate penal institution stating: (1) the amount of money or securities currently on deposit to the prisoner's credit in any institutional account; (2) the average monthly deposits to the prisoner's account for the 6-month period immediately preceding the filing of the action; and (3) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the action.

(c) In the event the prisoner has been in more than one penal institution during the 6-month period immediately preceding the filing of the action, the prisoner must obtain the required certificate from the appropriate official at each institution.

(d) Pending the court's ruling on the application, the civil action, suit, or proceeding will be deemed conditionally filed.

(e) In the event the application is granted, the formal filing of the pleadings will relate back to the date the pleadings were conditionally filed. In the event the application is denied, the filing party shall have 21 days, unless a different time is specified by the court, within which to pay the required filing fees. Upon payment of the filing fees within this period, the formal filing of the pleadings shall relate back to the date the pleadings were conditionally filed. Failure to pay the filing fees by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing by the date specified for payment shall be cause for dismissal of the action without prejudice to refileing.

LCvR3.4 Partial Filing Fees.

(a) Failure of any applicant to pay the initial partial filing fee or any other payment ordered by the court by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing by that date why the applicant cannot pay the fee shall be cause for dismissal of the action without prejudice to refileing. In no event, however, shall an applicant be prohibited from bringing a civil action for the reason that the applicant does not have any assets or present means to pay the initial partial filing fee.

(b) Unless otherwise directed by the court, service of process will not issue until the applicant has paid the initial partial filing fee ordered by the court.

LCvR3.5 In Forma Pauperis Applications by Persons Filing Habeas Corpus Actions Under 28 U.S.C. § 2241, § 2254, or § 2255.

In forma pauperis applications by persons filing habeas corpus actions under 28 U.S.C. §§ 2241, 2254, or 2255 are not governed by the Prison Litigation Reform Act and consequently will be addressed by the court in its discretion. Any order granting an in forma pauperis application by a person filing a habeas corpus action may include a requirement that the applicant pay a partial filing fee and/or periodic monthly payments as the court determines reasonable until the full filing fee is paid.

LCvR3.6 Copyright, Trademark, and Patent Cases.

Complaints filed in copyright, trademark, and patent cases shall cite therein the copyright registration number, trademark number, or patent number. If such number is unavailable at the time of filing, the complaint shall recite a serial number or other identification number obtained from the Registrar of Copyrights or the Commissioner of Patents and Trademarks.

LCvR3.7 Notice of Related or Companion Cases.

(a) Attorneys for the plaintiff and defendant, as well as any pro se litigant, shall file a written notice with the court if they are aware, after reasonable inquiry, of any companion or related case(s) filed in any court involving (1) common property, (2) common issues of fact or growing out of the same transaction, or (3) validity or infringement of the same patent, copyright, or trademark. The notice of related or companion case should provide the name of the court, the judge, and the case number(s) of the related or companion case(s).

(b) The term “companion case” includes: a case refiled after dismissal; a case involving the identical legal issue in the same or similar factual setting as one previously dismissed though now brought by different counsel with different parties; cases arising out of the same accident, incident, or transaction involving the same or similar proof; a case filed for recovery of judgment after an earlier case brought to perpetuate testimony; a case transferred to or refiled in this district following enforcement of a foreign subpoena in the case within this district; appeals arising out of the same bankruptcy proceeding; civil litigation arising out of a criminal activity where the criminal case has already been tried (including a motion filed pursuant to 28 U.S.C. §2255).

LCvR4.1 Appointment of Authorized Process Servers.

In addition to any judge or magistrate judge of this court, the clerk of this court or the chief deputy clerk is authorized to issue orders appointing any sheriff or deputy sheriff or

authorized process server in any state or territory of the United States to serve any civil process issued out of this court. A party requesting that a person be authorized to serve civil process should prepare a written request, stating the name of the person desired to be appointed, and an order for the clerk or chief deputy clerk to sign designating such person as the one authorized to serve process in any given case.

III. SERVING AND FILING PLEADINGS AND OTHER PAPERS.

LCvR5.1 Filing by Electronic Means.

Pursuant to [Fed. R. Civ. P. 5\(d\)\(3\)](#), the clerk will accept papers filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. Any paper filed by electronic means pursuant to these rules constitutes a written paper for the purposes of applying these rules and the Federal Rules of Civil Procedure. Papers filed by electronic means shall be governed by the court's [Electronic Case Filing Policies and Procedures Manual \(ECF Policy Manual\)](#) and orders of the court. Electronic case filing is mandatory except as specifically exempted in the ECF Policy Manual.

LCvR5.2 Format of Papers Presented for Filing.

(a) All papers presented to the clerk for filing by electronic means or in paper form shall be double-spaced, if typewritten, using only one side of the paper and a paper size of 8 1/2 inches wide by 11 inches long. All papers shall be clearly legible. All pleadings, motions, and briefs shall be formatted in accordance with [LCvR7.1\(c\), \(d\) & \(e\)](#).

(b) Anything that must be filed in paper rather than electronic format (as set forth in the ECF Policy Manual) shall be stapled or otherwise semi-permanently fastened without the use of paper clips, binder clips, or rubber bands. Unless otherwise stated in these local rules, only the original of papers presented to the clerk for filing in paper form shall be submitted.

(c) Certain papers filed by electronic means must be accompanied by a paper copy (courtesy copy) within the time provided, and as more fully set out, in the ECF Policy Manual. Courtesy copies must be bound at the left-hand margin in a manner that permits them to be opened flat.

LCvR5.2.1 Redaction of Official Transcripts Prior to Remote Electronic Availability.

(a) **Responsibility for Identifying Personal Data Identifiers to Be Redacted from Transcripts.** Once an official transcript is filed with the court clerk, the attorneys in the case and pro se parties are responsible for identifying the personal data identifiers that must be redacted from filings pursuant to [Fed. R. Civ. P. 5.2](#). Unless otherwise ordered by the court, the attorney for a party and each pro se party are responsible for identifying redactions required in the following portions of the transcript:

- (1) opening and closing statements made on that party's behalf;
- (2) statements of the party; and
- (3) the testimony of any witnesses called by the party.

The court may also direct that an attorney or pro se party be responsible for identifying redactions in other portions of an official transcript.

(b) **Redaction Request.** To request redaction of personal data identifiers from an official transcript, the attorney or pro se party must file a redaction request, using the form in [Appendix VII](#), within 21 days of the filing of the transcript. The request shall identify the redactions to be made with respect to:

- (1) Social Security numbers and taxpayer-identification numbers: use only the last four digits;
- (2) financial account numbers: use only the last four digits;
- (3) dates of birth: use only the year; and
- (4) a minor's name: redact in the manner that most effectively shields the identity of the minor in the context of the proceeding.

(c) **Request for Additional Redactions.** For any redactions to a transcript other than the personal data identifiers listed above, a separate Motion for Redaction must be filed within 21 days of the filing of the transcript, unless otherwise ordered by the Court.

LCvR5.3 Fax Filing.

- (a) Papers shall not be directly faxed to the clerk unless authorized by the court.
- (b) Electronically faxed or scanned papers, including the signature page, may be presented in paper form to the clerk for filing if they otherwise comply with the requirements stated in [LCvR5.2](#).

LCvR5.4 Change of Address; Proof of Service.

(a) All papers shall contain the name, mailing address, daytime telephone number, fax number, and e-mail address, if any, of the attorney or pro se litigant. If any of this information changes, the attorney or pro se litigant must notify the court by filing the [form](#) provided by the clerk and serving a copy on opposing counsel or pro se parties. Papers sent by the court will be deemed delivered if sent to the last known address given to the court.

(b) Proof of service of any papers required to be served shall be made by the certificate of any attorney of record or pro se litigant, or if made by any other person, the affidavit of such person.

(c) Pursuant to [Fed. R. Civ. P. 5\(b\)\(2\)\(E\)](#), receipt of the Notice of Electronic Filing generated by the court's Electronic Case Filing System shall constitute the equivalent of service of the paper identified in the notice on persons who have consented to electronic service and who have waived their right to service by personal service or first class mail.

LCvR5.5 Proposed Orders.

If a proposed order is submitted to the court, it must also be served on other counsel of record and pro se parties prior to, or contemporaneously with, the filing of the related motion.

LCvR6.1 Fixed Date Deadlines for Court Filings.

Unless the court orders otherwise, if a filing must be made by or on a particular date (e.g., “due on August 1”), and that date is a Saturday, Sunday, legal holiday, or day when the clerk’s office is inaccessible, then the time for filing is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday. In applying this rule, the terms used are to be given the same meaning as they have in the provisions of [Fed. R. Civ. P. 6\(a\)](#) governing deadlines that are expressed as periods of time to be computed.

LCvR6.2 Meaning of “Inaccessible.”

For purposes of [Fed. R. Civ. P. 6\(a\)\(3\)](#) and LCvR6.1, the clerk’s office is “inaccessible” when it is not open for public business due to inclement weather or other conditions such as power outages or security lock-downs, notwithstanding that electronic filing procedures may still be available. If the clerk’s office is inaccessible for any part of a day under this rule, it is deemed to be inaccessible for the entire day. To the extent possible, the clerk’s office will post closings on the court’s website. This rule governs only the effect of physical inaccessibility of the clerk’s office, not technical failures of the court’s CM/ECF system, for which separate provision is made in the ECF Manual, Section II.F.1.

IV. PLEADINGS AND MOTIONS.

LCvR7.1 Motion Practice.

(a) **Filing.** No attached pleadings, motions, or other papers shall be removed for filing from an original motion or request. Nor shall pleadings, motions, or other papers be held by the clerk for filing, awaiting leave to do so.

(b) **Title of Motions and Briefs.** Each motion and brief shall be clearly titled to identify on whose behalf it is presented. Each brief shall be clearly titled to show whether it is opening, response, reply, or supplemental; the particular motion or proceeding to which it relates; and the party or parties on whose behalf it is presented. If there are multiple parties

or if there are cross-claimants or intervenors, references to them shall include the name (which may be abbreviated) of the particular party to whom reference is made.

(c) **Format of Motions.** Each motion filed shall be a separate document, except where otherwise allowed by law, these rules, or court order. A response to a motion may not also include a motion or a cross-motion made by the responding party. If a party responding to a motion files a cross-motion or other closely-related motion concurrently with the filing of the response, the brief in support of the cross-motion or other closely-related motion may be combined with the responsive brief.

(d) **Font Size and Margins.** For all pleadings, motions, and briefs the print style, including footnotes, shall not be less than 13-point type, and margins shall be a minimum of one inch on the top, bottom, and sides. Additionally, these documents shall comply with the format requirements in [LCvR5.2](#).

(e) **Length and Format of Opening and Response Briefs.** Briefs shall not, without leave of court, exceed 30 pages as to opening and response summary judgment briefs, and 25 pages as to all others. Motions for leave to file oversized briefs shall state the requested number of pages and shall be filed no later than one business day prior to the date the brief is due.

Cover page, table of contents, table of authorities, signature block, certificate of service, and exhibits do not count toward any page limitation prescribed herein. Quotations longer than two lines may be indented and single-spaced. Headings and footnotes may be single-spaced.

Briefs longer than 15 pages shall be accompanied by an indexed table of contents showing headings or sub-headings and an indexed table of statutes, rules, ordinances, cases, and other authorities cited.

(f) **Authority.** Any authority not readily available, including statutes foreign to the jurisdiction and ordinances which are relied upon by a party, shall be cited and quoted in or attached to the brief of the party.

(g) **Timing of Response Briefs.** Each party opposing a motion shall file a response within 21 days after the date the motion was filed. Any motion that is not opposed within 21 days may, in the discretion of the court, be deemed confessed. The court may shorten or lengthen the time in which to respond.

(h) **Requests for Extensions of Time.** All motions for extension of time shall state: (1) the date the act is due to occur without the requested extension; (2) whether previous motions for extensions have been made and the disposition of said requested extensions; (3) specific reasons for such requested extension to include an explanation why the act was not done within the originally allotted time; (4) whether the opposing counsel or party agrees or objects to the requested extension; (5) the impact, if any, on the scheduled trial or other deadlines; and (6) the precise relief requested by the motion. All such motions shall be accompanied by a proposed order for the court's use if such relief is granted. The proposed order, which shall not differ in any respect from the relief requested in the motion, shall state specifically the events being extended and the new dates for the deadlines.

(i) **Reply and Supplemental Briefs.** Reply briefs are optional and not encouraged. Unless otherwise prohibited by the court, a reply to new matter raised in the response may be filed within 7 days after the date the response was filed. Reply briefs shall not be used to reargue the points and authorities included in the opening brief. Reply briefs shall be limited to 10 pages in length unless otherwise authorized by the court and shall comply with the format requirements of [LCvR7.1\(e\)](#).

Supplemental briefs may be filed only upon motion and leave of court.

(j) **Factual Matters Not Part of the Record.** Factual statements or documents appearing only in briefs shall not be deemed to be a part of the record in the case, unless specifically permitted by the court.

(k) **Motions Not Requiring Briefs.** No brief is required by either movant or respondent unless otherwise directed by the court, with respect to the following motions: (1) motions for extension of time or a continuance of any proceeding before the court; (2) to amend pleadings; (3) to file supplemental pleadings; (4) to appoint next friend or guardian

ad litem; (5) for substitution of parties; (6) for motions to compel discovery responses when no response has been made; (7) to amend briefs; (8) to file supplemental motions, briefs, or other papers; and (9) to file an oversized brief in compliance with subsection (e) above. Said motions not requiring briefs shall state whether opposing counsel agrees or objects to the request, shall include as a separate section under the heading “Relief Requested” a statement of the precise relief requested by the motion, and shall be accompanied by a proposed order setting forth the relief requested which shall not differ in any respect from the relief requested in the motion. The proposed orders shall also be served in accordance with [LCvR5.5](#).

(l) **Motion and Brief as One Document.** A motion and brief in support may be filed as one document if identified as such in the title of the document.

(m) **Supplemental Authority.** If authority directly relevant to an issue raised in a pending motion is issued after a party’s final brief on that motion has been filed, the party may file a Notice of Supplemental Authority, attaching the new authority, without leave of court. The Notice of Supplemental Authority shall not contain any argument but may identify the proposition in filed briefs to which the authority is relevant. If a party desires to present argument regarding the new authority, the party must apply for leave to file a supplemental brief.

(n) **Exhibits, Attachments, and Appendices.** Unnecessarily voluminous exhibits, attachments, and appendices to filings should be avoided. A filer should submit as an exhibit or attachment only excerpts of documents that are relevant to the matter under consideration. Excerpted material must be clearly and prominently identified as such and, upon request, the filer must promptly provide to any requesting party, including the court, the full document from which the excerpt was taken. No response or reply brief shall include an exhibit or attachment that is already included with the motion under consideration; reference shall instead be made to the exhibit or attachment to the motion under consideration, using the ECF Document Number.

LCvR7.1.1 Disclosure Statement.

A party formed as a limited liability company (“LLC”) or partnership shall, concurrently with its first filing in the case, file a separate “Disclosure Statement Identifying Constituents of LLC or Partnership,” identifying the LLC’s members or the partnership’s partners, as applicable. If any party has invoked federal jurisdiction on the basis of diversity of citizenship with the LLC or partnership, the disclosure statement shall also affirmatively state whether any of the members or partners are citizens of the adversary’s alleged state of citizenship. The LLC or partnership must promptly file a supplemental statement if any required information changes. The court may relieve a party of some or all of the requirements of this rule for good cause.

LCvR7.2 Briefs for Bankruptcy Appeals.

(a) For a bankruptcy appeal, the appellant shall serve and file its brief within 21 days after the transmission of the record to the clerk of the district court. The appellee shall serve and file its brief within 21 days after service of the brief of the appellant. The appellant may serve and file a reply brief within 14 days after service of the brief of the appellee. Unless otherwise stated in this local rule, briefs for an appeal from the bankruptcy court are governed by the rules found at [LCvR7.1](#).

(b) Unless otherwise ordered by the court, oral argument as required by [Fed. R. Bankr. P. 8012](#) is excused.

LCvR9.1 Notice Requirement for 3-Judge Court.

In any action or proceeding which a plaintiff believes is required to be heard by a 3-judge court under [28 U.S.C. § 2284](#), the plaintiff shall file with the complaint a separate notice, or the equivalent thereto, to the court, stating that a 3-judge court is requested. If the plaintiff fails to give such notice, every other party shall file such notice, provided that as soon as a notice is filed by any party, all other parties are relieved of this obligation.

LCvR9.2 Actions Brought by Incarcerated Persons.

(a) **Use of Forms.** Petitions for writs of habeas corpus, motions to vacate sentence pursuant to [28 U.S.C. § 2255](#), and civil rights complaints pursuant to [42 U.S.C. § 1983](#) or [Bivens v. Six Unknown Named Agents](#), 403 U.S. 388 (1971), by persons in state or federal custody, shall be on forms provided by the clerk of this court upon request. Failure to use said forms or to supply the court with the equivalent information required by the forms will result in the pleading being ordered stricken.

(b) **Submission to the Court Clerk.** If tendered for filing by mail, petitions, motions, or complaints shall be addressed to the clerk of the court at an address designated by the clerk.

(c) **Responsive Pleading.** The filing of such petition, motion, or complaint shall not require an answer or other responsive pleading unless the court orders otherwise.

LCvR15.1 Amended and Supplemented Pleadings.

A party moving under Fed. R. Civ. P. 15(a)(2) to amend a pleading, or under Fed. R. Civ. P. 15(d) to supplement a pleading, must attach the proposed pleading as an exhibit to the motion. The motion shall state: (1) the deadline date established by the scheduling order, if any, and (2) whether any other party objects to the motion.

Unless the court orders otherwise, a party who has been granted leave to amend or supplement must file the new pleading - which shall not differ from the proposed pleading previously submitted to the court - within 7 days. The pleading must be served on each newly-added party in accordance with Fed. R. Civ. P. 4, and on each previously-served party in accordance with Fed. R. Civ. P. 5.

LCvR16.1 Pretrial Procedures.

(a) **Parties' Initial Conference and Preparation for Status and Scheduling Conference.**

(1) **Parties' Initial Conference.** In cases not exempt under subparagraph (b)(1) of this rule, counsel with authority to make appropriate decisions and any unrepresented parties shall confer, including as required by Fed. R. Civ. P. 26(f)(1), to discuss the issues set forth in: (A) Fed. R. Civ. P. 26(f)(2) and (3); (B) the form Joint Status Report and Discovery Plan provided as Appendix II to these rules; and (C) the form Scheduling Order provided as Appendix III to these rules, or, alternatively, any specialized scheduling order to be requested by the parties. Prior to this conference, counsel for any represented party shall discuss settlement and alternative dispute resolution procedures with his or her client.

(2) **Preparation and Submission of Joint Status Report and Discovery Plan.** It shall be the duty of the plaintiff to arrange the preparation and filing of a Joint Status Report and Discovery Plan, following the form provided as Appendix II, and the duty of all other parties to jointly participate in the preparation of that document and ensure its filing. Unless otherwise ordered by the court, the parties shall prepare, sign jointly, and file as a single document their Joint Status Report and Discovery Plan with the clerk of the court not later than 7 days prior to the status and scheduling conference.

(3) **Relief from Certain Requirements.** The court may order on its own motion, or at a party's request, relief from the timing requirements in Fed. R. Civ. P. 26(f)(1), (2) and/or LCvR 16.1(a)(2), if there is good cause for that relief.

(b) **Status and Scheduling Conference and Scheduling Order.**

(1) **Exempted Actions.** Unless specifically directed by the court, the requirements in Fed. R. Civ. P. 16(b) shall not apply in the following categories of cases: those cases exempted from initial disclosures under Fed. R. Civ. P. 26(a)(1)(B), social security appeals, bankruptcy appeals, and actions commenced by the United States for forfeiture and/or debt collection.

(2) **Timing.** In cases not exempt under subparagraph (b)(1) of this rule, and at the discretion of the assigned judge, upon the filing of an appearance by a defendant or notice that a defendant has been served, the case will be placed on a regular monthly docket

for the administration of a status and scheduling conference. Unless otherwise ordered, the conference will be held on a date that will allow the issuance of a scheduling order in accordance with the time limits of Fed. R. Civ. P. 16(b)(2).

(3) **Delay.** The court may order on its own motion, or at a party's request, delay of the status and scheduling conference and the scheduling order if there is good cause for the delay. Circumstances that may constitute good cause include but are not limited to: the existence of an unserved defendant in a multi-defendant case, a pending motion to join a party, and a pending motion under Fed. R. Civ. P. 12(b) that if granted would significantly alter the scope and duration of discovery and/or pretrial litigation in the case.

(4) **Required Attendance.** Counsel with authority to make appropriate decisions and any unrepresented parties shall attend any status and scheduling conference required by the court. When justified by the circumstances, the court may allow counsel or a party to participate in such conference by telephone. Counsel and any unrepresented parties shall be prepared to discuss all relevant matters enumerated in Fed. R. Civ. P. 16(b)(3) and (c)(2), as well as the parties' Joint Status Report and Discovery Plan.

(c) **Final Pretrial Report.**

(1) **Preparation and Submission of Final Pretrial Report.** It shall be the duty of the plaintiff to arrange the preparation and filing of a Final Pretrial Report, following the form provided as Appendix IV to these rules, and the duty of all other parties to jointly participate in the preparation of that document and ensure its filing. Unless otherwise ordered by the court, the parties shall prepare, sign jointly, and file as a single document their Final Pretrial Report with the clerk of court on or before the first day of the month that the case is scheduled for trial. Further, the parties shall submit, in accordance with the court's ECF procedures, a proposed order approving the Final Pretrial Report.

(2) **Approval.** When approved by the assigned judge, the Final Pretrial Report shall constitute an order of the court as to all matters contained therein.

(d) **Authorization of Alternative Dispute Resolution.** The court authorizes alternative dispute resolution methods, including mediation, judicial settlement conferences, and summary jury trials.

LCvR16.2 Judicial Settlement Conferences.

(a) **Scheduling.** Parties may individually or jointly request that a case be referred for a judicial settlement conference. The court may also refer the case for a judicial settlement conference with or without a request from a party. Whether a case will be automatically referred to a judicial settlement conference varies by district judge. The parties should refer to the rules and/or procedures of the district judge assigned to the case for more information.

(b) **Required Attendance.**

(1) **Named Parties.** Each named party shall attend the conference, regardless of the availability of insurance. If any party is not a natural person, a representative of that party with knowledge of the relevant facts shall attend the settlement conference.

(2) **Governmental Body.** If approval by a Governmental Body is required by law to authorize settlement, attendance of at least one current member of the Governmental Body is required. “Governmental Body” as used in this subsection (b)(2) means a governmental board of directors, trustees, commissioners, managers, or other similar officers.

(3) **Insurers and/or Subrogors.** Insurers and/or subrogors of any party shall attend the conference. Counsel for any such party is responsible for notifying the insurer and/or subrogor of this requirement.

(4) **Lead Trial Counsel.** Lead trial counsel for each named party shall attend the conference.

(c) **Required Settlement Authority.** Except as otherwise provided in [LCvR16.2\(b\)\(2\)](#), each party must attend with full settlement authority, as defined in the settlement conference order. That authority may not be delegated to outside counsel.

(d) **Settlement Conference Statements.** Unless otherwise ordered, each party shall submit a settlement conference statement to the assigned settlement judge and serve counsel for all other parties at least 3 business days before the conference. A cover sheet in the form prescribed in [Appendix VI](#) shall be submitted with the statement. The statement shall not exceed 5 pages double-spaced and shall set forth the relevant positions of the parties concerning factual issues, legal issues, and relief requested. The statement and cover sheet shall not be filed in the case or made part of the court file.

(e) **Required Discussions Prior to the Settlement Conference.** Prior to the settlement conference, the attorneys shall discuss settlement and other forms of alternative dispute resolution with their respective clients and opposing counsel (or pro se parties). The history of the negotiations shall be stated in the cover sheet to the settlement conference statement.

(f) **Confidentiality and Limitations of Use of Settlement Information.** All communications made in connection with a settlement conference, other than as stated below, shall be considered confidential. Unless otherwise permitted under [Fed. R. Evid. 408](#) or any other provision of federal law, communications made in connection with a judicial settlement conference may not be used by any party in the trial of the case. Any motion by counsel or reports by the settlement judge, including those concerning noncompliance with the local rules, shall not violate confidentiality.

(g) **Requests for Relief.** A request for relief from any aspect of this rule shall be made to the settlement judge in the manner set forth in the settlement conference order.

(h) **Sanctions.** Failure to comply with any provision of this rule or the settlement conference order may result in the imposition of sanctions.

LCvR16.3 Court-Ordered Mediation.

(a) **Selection of the Mediator.** In a mediation ordered by the court, the parties may select any mediator that they agree upon. If the parties are unable to agree, they may contact the court's ADR coordinator for assistance in the selection of a mediator.

(b) **Required Attendance.** Unless otherwise directed by the designated mediator, the following shall attend any mediation ordered by the court:

(1) **Named Parties.** Each named party shall attend the mediation, regardless of the availability of insurance. If any party is not a natural person, a representative of that party with knowledge of the relevant facts shall attend the mediation.

(2) **Governmental Body.** If approval by a Governmental Body is required by law to authorize settlement, attendance of at least one current member of the Governmental Body is required. "Governmental Body" as used in this subsection (b)(2) means a governmental board of directors, trustees, commissioners, managers, or other similar officers.

(3) **Insurers and/or Subrogors.** Insurers and/or subrogors of any party shall attend the mediation. Counsel for any such party is responsible for notifying the insurer and/or subrogor of this requirement.

(4) **Lead Trial Counsel.** Lead trial counsel for each named party shall attend the mediation.

(c) **Required Settlement Authority.** Unless otherwise directed by the designated mediator, each party must attend a court-ordered mediation with full settlement authority.

(1) **Definition of "Full Settlement Authority" for the Plaintiff.** For a plaintiff, such representative must have final settlement authority, in the representative's discretion, to authorize dismissal of the case with prejudice or to accept a settlement amount down to the defendant's last offer.

(2) **Definition of "Full Settlement Authority" for the Defendant.** For a defendant, the term "full settlement authority" requires the defendant to have final

settlement authority to commit the party to pay, in the representative's discretion, an amount up to the plaintiff's prayer or up to the plaintiff's last demand, whichever is lower.

(d) **Mediation Statements.** Unless otherwise directed by the designated mediator in a court-ordered mediation:

(1) each party shall submit a mediation statement to the assigned mediator and serve counsel for all other parties at least 3 business days before the mediation, and

(2) the statement shall not exceed 5 pages double-spaced and shall set forth the relevant positions of the parties concerning factual issues, legal issues, and relief requested.

(e) **Mediator Report.** Unless otherwise ordered, the parties shall ensure the filing of the mediator's report in a court-ordered mediation. The filing shall be on the [form](#) approved by the court no later than 7 days after completion of the mediation.

(f) **Confidentiality.** All communications made in connection with a court-ordered mediation, other than as stated below, shall be considered confidential. Unless otherwise permitted under [Fed. R. Evid. 408](#) or any other provision of federal law, communications made in connection with a court-ordered mediation may not be used by any party in the trial of the case. Any motion by counsel or reports by the designated mediator, including those concerning noncompliance with the local rules, shall not violate confidentiality.

(g) **Sanctions.** In a court-ordered mediation, failure to comply with any provision of this Rule may result in the imposition of sanctions.

V. PARTIES.

LCvR17.1 Parties Who Are Not Natural Persons.

Parties who are not natural persons may not appear pro se.

LCvR21.1 Notice of Bankruptcy Filing.

In the event a party to a civil case files bankruptcy, or an involuntary bankruptcy proceeding is commenced against a party, counsel or the party, if pro se, shall notify the court

within 7 days of the filing of said bankruptcy by filing a formal notice in the civil case, with proof of service to all parties.

VI. DEPOSITIONS AND DISCOVERY.

LCvR26.1 Discovery Plans.

The discovery plan required by [Fed. R. Civ. P. 26\(f\)](#) shall be included in the Joint Status Report and Discovery Plan referenced in [LCvR16.1](#).

LCvR26.2 Impact on Discovery From Removal.

For procedures addressing the impact of removal on discovery, see [LCvR81.2\(c\)](#).

LCvR26.3 Discovery to Begin When Case Is at Issue Unless the Parties Agree or the Court Orders Otherwise.

(a) Subject to the exceptions set forth in subsections (b) and (c) of this rule, if a motion has been made pursuant to Fed. R. Civ. P. 12(b), no party may seek discovery from any source before that motion has been decided and all moving parties have filed an answer or been dismissed from the case.

(b) The parties may stipulate that discovery is permitted prior to the time period set forth in subsection (a) of this rule, either generally or with respect to a specific subject, party, or nonparty.

(c) Any party may move that discovery be permitted prior to the time period set forth in subsection (a) of this rule. Such request shall be made by written motion in accordance with [LCvR7.1](#) and [LCvR37.1](#). While the motion may be made at any time, it is generally contemplated that it will be filed at the time of submission of the parties' Discovery Plan and addressed during the Status and Scheduling Conference.

LCvR30.1 Depositions.

(a) Subject to an order of the court entered for cause shown enlarging or shortening the time:

(1) A subpoena to compel a witness to attend a deposition as contemplated by [Fed. R. Civ. P. 30\(a\)\(1\)](#) shall be served on the witness at least 14 days prior to the date of the deposition; and

(2) Reasonable notice to parties as contemplated by [Fed. R. Civ. P. 30\(b\)\(1\)](#) for the taking of depositions shall be 14 days.

(b) No deposition shall extend beyond 5:00 p.m. or be taken on a weekend or holiday without an agreement in writing signed by all interested attorneys or acknowledged on the record by all interested attorneys or an order of the court. Extensions of this time limitation shall be freely given in the event of obstructive or uncooperative conduct on the part of the witness or opposing counsel, or otherwise in the interests of justice.

LCvR33.1 Interrogatories.

Each answer to an interrogatory shall be immediately preceded by the interrogatory being answered.

LCvR36.1 Admissions.

Without leave of court or written stipulation of the parties, the number of requests for admissions for each party is limited to 25.

LCvR37.1 Informal Conference to Settle Discovery Disputes.

With respect to all motions or objections relating to discovery pursuant to [Fed. R. Civ. P. 26 through 37 and 45](#), this court shall refuse to hear any such motion or objection unless counsel for movant first advises the court in writing that counsel personally have met and conferred in good faith and, after a sincere attempt to resolve differences, have been unable to reach an accord. However, no personal conference shall be required where the movant's counsel represents to the court in writing that movant's counsel has conferred with opposing counsel by telephone and (1) the motion or objection arises from failure to timely make a discovery response, or (2) distance between counsels' offices renders a

personal conference infeasible. When the locations of counsels' offices, which will be stated with particularity by movant, are in the same city or within 30 miles of each other, a personal conference is always deemed feasible as to distance.

VII. TRIALS.

LCvR39.1 Opening Statements and Closing Arguments.

The court will determine specific time limits for opening statements and closing arguments on a case-by-case basis.

LCvR39.2 Courtroom Decorum.

Each judge will direct parties, either orally or by written statement, regarding appropriate and proper courtroom decorum.

LCvR39.3 Use of Electronic Devices, Photographs, or Tape Recorders at Trial.

(a) The taking of photographs and operation of tape recorders and radio or television broadcasting in the courthouse during the progress of or in connection with judicial proceedings, including proceedings before a United States Magistrate Judge, whether or not court is actually in session, is prohibited.

(b) A judge may, however, permit the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.

(c) The court prohibits the use of cellular telephones, pagers, or other electronic communication devices in the courtroom. Such devices may be carried on the person within a courtroom only if the device is turned off or non-auditory.

LCvR39.4 Use of Exhibits at Trial.

(a) **Marking and Disclosure.** Unless otherwise ordered, all exhibits and documents which are to be introduced in evidence are to be marked for identification, which

shall include the case number, and physically exchanged or exhibited to opposing counsel at least 3 business days before submission of the pretrial report.

(b) **Withdrawal.** Unless otherwise ordered by the court, all exhibits introduced in evidence in the trial of the case shall be withdrawn at the close of trial and remain in the custody of the party introducing the evidence. The court may order the party introducing exhibits which are bulky, heavy, firearms, or controlled substances to retain custody of such exhibits during the trial. Any such order shall provide for preservation of the exhibit as justice may require.

(c) **Photographs for Appeal.** Exhibits, diagrams, charts, and drawings on a blackboard may, under the supervision of the court, be photographed for use on appeal or otherwise.

LCvR40.1 Assignment of Cases for Trial.

The placing of actions upon the trial calendar will be as announced at status and scheduling conference, unless trial setting is not required.

LCvR43.1 List of Witnesses and Exhibits in Civil Cases.

At the commencement of the trial of a civil case or any civil proceeding in which witnesses and exhibits are utilized, the attorneys shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list, on the [form](#) provided by the clerk, of the witnesses they expect to call in their case in chief and the exhibits they intend to introduce.

LCvR45.1 Subpoenas to Nonparties to Produce Documents.

(a) **Seven Days Advance Notice to Other Parties.** The notice required by Fed. R. Civ. P. 45(a)(4), with the attached subpoena, shall be filed at least 7 days before the subpoena is served on the person to whom it is directed.

(b) **Motion for Protective Order.** Within 7 days from the filing of the notice provided in LCvR45.1(a), any party may file a motion to preclude service of the subpoena, in whole or in part, on any ground for which a protective order may be sought. If a motion

under this rule is timely filed, the subpoena shall not be served on the person to whom it is directed until the motion is determined.

(c) **Other Remedies Unaffected.** Failure to file a motion under LCvR45.1(b) does not preclude any party or person from invoking other remedies, such as a subsequent motion for protective order or a motion to quash or to modify the subpoena under Fed. R. Civ. P. 45(d).

LCvR47.1 Attorney Communication with Jurors.

At no time, including after a case has been completed, may attorneys approach or speak to jurors regarding the case unless authorized by the court, upon written motion.

VIII. JUDGMENT.

LCvR54.1 Costs.

A prevailing party who seeks to recover costs against an unsuccessful party pursuant to [28 U.S.C. § 1920](#) shall file a bill of costs on the [form](#) provided by the clerk and support the same with a brief. The bill of costs and brief shall be filed not more than 14 days after entry of judgment. Any request shall be a separate document from a motion for legal fees.

The verified bill of costs shall have endorsed thereon proof of service upon the opposing party. The prevailing party shall provide either receipts, documents, or an affidavit in support of the requested itemized costs. Objections to the bill of costs, with supporting brief, must be filed within 14 days from the date the bill of costs was filed. After consideration of the bill of costs and any objections, the clerk will make a disposition and ruling on the bill of costs allowing or disallowing the items in whole or in part. If a bill of costs is properly and timely filed and no written objection thereto is filed within the time herein specified, the claimed costs may be allowed in full.

LCvR54.2 Civil Attorney's Fees.

A motion for recovery of legal fees with brief shall be a separate document from the bill of costs and its brief. The brief should be accompanied by an affidavit stating the amount of time spent on the case, the hourly fee claimed by the attorney, the hourly fee usually charged by the attorney if this differs from the amount claimed in the case, and any other pertinent factors. Objections to the allowance of attorney's fees must be filed within 14 days from the date the motion for attorney's fees is filed.

LCvR54.3 Non-Binding Arbitration or Other ADR of Attorney's Fee Disputes.

After the court determines that the prevailing party is entitled to recover attorney's fees against the unsuccessful party, the court may refer the matter to arbitration regarding the reasonable amount of attorney's fee awardable in the case when the parties consent to referral of the issue to arbitration.

Arbitration proceedings under this rule shall be conducted according to the procedures set forth in [28 U.S.C. § 651](#), *et seq.*, including the provisions regarding arbitration awards and judgments and trial de novo. In the event either party demands a trial de novo, the court may take evidence in any manner the court deems proper including, in its discretion and notwithstanding any rule to the contrary, review of any transcripts of the arbitration proceeding.

Counsel may also stipulate in writing to waiver of the right to trial de novo following the award, and elect to proceed in voluntary binding arbitration. Any other ADR process may be selected and agreed to by the parties, if appropriate.

LCvR55.1 Application for Default Judgment.

No application for a default judgment shall be entertained absent an affidavit in compliance with the Servicemembers Civil Relief Act, [50 App. U.S.C. § 521](#).

LCvR56.1 Summary Judgment Procedure.

(a) Absent leave of court, each party may file only one motion under [Fed. R. Civ. P. 56](#).

(b) The brief in support of a motion for summary judgment (or partial summary judgment) shall begin with a section stating the material facts to which the movant contends no genuine dispute exists. The facts shall be set forth in concise, numbered paragraphs.

(c) The brief in opposition to a motion for summary judgment (or partial summary judgment) shall begin with a section responding, *by correspondingly numbered paragraph*, to the facts that the movant contends are not in dispute and shall state any fact that is disputed. Separately, the brief in opposition may, in concise, numbered paragraphs, state any additional facts the nonmovant contends preclude judgment as a matter of law. The nonmovant shall not present facts that are not material to an issue raised by the movant.

(d) Each individual statement by the movant or nonmovant pursuant to subparagraph (b) or (c) of this rule shall be followed by citation, with particularity, to any evidentiary material that the party presents in support of its position pursuant to Fed. R. Civ. P. 56(c).

(e) All material facts set forth in the statement of material facts of the movant may be deemed admitted for the purpose of summary judgment unless specifically controverted by the nonmovant using the procedures set forth in this rule.

LCvR62.1 Stays Pending Disposition of Motions After Judgment.

Unless otherwise directed by the court, all proceedings to enforce a judgment are stayed pending the disposition of the following motions:

- (a) new trial or to alter or amend a judgment made pursuant to [Fed. R. Civ. P. 59](#);
- (b) relief from judgment or order made pursuant to [Fed. R. Civ. P. 60](#);
- (c) judgment as a matter of law made pursuant to [Fed. R. Civ. P. 50](#); or
- (d) to amend the findings or for additional findings made pursuant to [Fed. R. Civ. P. 52\(b\)](#).

LCvR62.2 Supersedeas Bonds and Other Security.

(a) **Scope of Rule.** Whenever a security, bond, or undertaking is required by federal statute, the Federal Rules of Civil Procedure, or by an order of the court, and the form or amount thereof is not otherwise specified in or determined by the statute, rule, or order, the amount and form thereof shall be as provided by this local rule.

(b) **Security for Costs.** On its own motion or upon motion of a party in interest, the court may at any time order any party to give security, bond, or undertaking in such amount as the court may order for the payment of costs or for performance of other conditions or requirements imposed in an action or proceeding.

(c) **Corporate Surety.** No security, bond, or undertaking with corporate surety shall be accepted or approved unless (1) the corporate surety is in compliance with the provisions of [31 U.S.C. §§ 9301-09](#), and (2) there is on file with the clerk a duly authenticated power of attorney appointing the agents or officers executing such obligation to act on behalf of the corporate surety. If an agent or officer so appointed is removed, resigns, dies, or becomes disabled, the corporate surety shall notify the court in writing.

(d) **Cash or Negotiable Bonds of the United States.** In lieu of corporate surety, a party may deposit with the clerk the required amount in lawful money or negotiable bonds of the United States accompanied by a written instrument, to be approved by the court, executed and acknowledged by the party and setting forth the conditions upon which the deposit is made. Where the true owner is other than the party making the deposit, the instrument shall so state and shall also be executed and acknowledged by the true owner. Upon exoneration of the deposit, it may be returned by the clerk to the named true owner, after application to claims of the United States in the proceedings and to proper fees of the marshal and clerk.

(e) **Submission to Jurisdiction - Agent for Service of Process.** Notwithstanding any provision of a security instrument to the contrary, every surety or depositor of security is subjected to the jurisdiction of this court. The clerk of the court is irrevocably appointed agent upon whom any papers affecting the surety's or depositor's liability may be served, and

consents that liability shall be joint and several, that judgment may be entered in accordance with the obligation simultaneously with judgment against the principal, and that execution may thereupon issue against the appropriate property.

(f) **Further Security for Justification of Personal Sureties.** Upon reasonable notice to the party presenting the security, any other party for whose benefit it is presented may apply to the court at any time for further or different security or for an order requiring personal sureties to justify.

(g) **Court Officers Not Allowed as Sureties.** Unless a party to the action, no clerk, marshal, member of the bar, or other officer of this court will be accepted as surety, either directly or indirectly, on any bond or undertaking in any action or proceeding in this court.

IX. PROVISIONAL AND FINAL REMEDIES.

LCvR67.1 Deposit and Withdrawal of Funds in Court.

In cases where a party depositing funds with the clerk desires that the funds be invested with a named institution, the order shall so specify but, in the absence of specific directions to the contrary, all registry funds will be invested in a general interest-bearing account in the bank selected for that period through appropriate bidding procedures.

LCvR67.2 Disbursement of Registry Funds.

All checks drawn by the clerk of this court on deposits made in the registry of the court shall be made payable to the order of the payee or payees as the name or names thereof shall appear in the orders of this court providing for distribution.

Disbursements from the registry of the court shall be made immediately upon receipt of the order for disbursement and after the Social Security or tax identification number of the payee has been orally communicated to the court clerk financial administrator, except in cases where it is necessary to allow time for a check or draft to clear or in cases where an order is appealable and must be held until the time for appeal has expired.

X. SPECIAL PROCEEDINGS.

LCvR73.1 Magistrate Judges - Consent Authority.

(a) With the consent of the parties, each full-time United States Magistrate Judge appointed by this court is specifically designated to exercise the authority and jurisdiction provided by [28 U.S.C. § 636\(c\)](#) and [Fed. R. Civ. P. 73](#) to conduct any or all proceedings in a jury or non-jury civil matter and to order the entry of judgment in the case.

(b) The parties may consent to Magistrate Judge jurisdiction at any time during the pendency of a case.

(c) The joint [form of consent](#) shall be executed by the parties unless one of the parties is a pro se prisoner, in which case separate consent forms may be submitted.

(d) After the consent form has been executed and filed, the clerk shall transmit it to the assigned district judge for approval and reference of the case to the assigned Magistrate Judge for all further proceedings.

XI. DISTRICT COURTS AND CLERKS.

LCvR78.1 Oral Arguments.

Oral arguments or hearings on motions or objections will not be conducted unless ordered by the court.

XII. GENERAL PROVISIONS.

LCvR81.1 Removed Actions - Demand for Jury Trial.

Unless demanded in the state court, trial by jury is waived in any case removed from a state court unless a demand for a jury trial is filed and served within 14 days after the notice of removal is filed if the party is the one who filed the removal, or if not the one who filed the removal, within 14 days after receiving service of the notice of removal.

LCvR81.2 Removed Actions - Documents to Be Filed; Status of Pending Motions.

(a) **Filing of State Court Docket Sheet.** In addition to the items required by [28 U.S.C. § 1446](#), which must be submitted with a notice of removal, the removing party shall include a copy of the state court docket sheet.

(b) **Motions Pending in State Court at the Time of Removal.** Any motion pending at the time of removal will be considered withdrawn unless, within 30 days of removal, the moving party files a notice of pending motion and attaches copies of: (1) the original motion filed in state court, and (2) all responses, replies, or other papers filed in state court that are necessary to adjudicate the motion. The court may require that any such motion, response, reply, or other paper be refiled in conformity with the Federal Rules of Civil Procedure or the Local Civil Rules.

(c) **Pending Discovery Request Following Removal.** In the absence of a contrary stipulation or court order, discovery pending in state court at the time of removal is considered void.

LCvR81.3 Removed Actions - Bankruptcy.

A notice of removal from state court filed pursuant to [Fed. R. Bankr. P. 9027](#) shall be filed with the bankruptcy clerk. All such removed claims and causes of action are hereby referred to the appropriate bankruptcy judge to be heard and, unless withdrawn by a district judge, such bankruptcy judge shall enter appropriate orders and judgments, subject to review by a district judge or appeal to a district judge as appropriate under [28 U.S.C. §§ 157](#) and [158](#) and the [Federal Rules of Bankruptcy Procedure](#).

LCvR81.4 Bankruptcy Cases.

(a) **Matters Referred to the Bankruptcy Judges.**

(1) Pursuant to [28 U.S.C. § 157\(a\)](#), all cases under Title 11 of the United States Code and any and all proceedings arising under Title 11 or arising in or related to a case under Title 11 shall be and are hereby referred to the bankruptcy judges for this district.

(2) The bankruptcy judges shall hear and determine all cases under Title 11 and all core proceedings arising under Title 11 or arising in a case under Title 11, and may enter appropriate orders and judgments, subject to review under [28 U.S.C. § 158](#); provided, however, that personal injury tort and wrongful death claims shall be tried in the district court in accordance with [28 U.S.C. § 157\(b\)\(5\)](#).

(3) The bankruptcy judges may hear a proceeding that is not a core proceeding but that is related to a case under Title 11. Resolution of such matters shall be governed by [28 U.S.C. § 157\(c\)](#).

(b) **Motions to Abstain or for Withdrawal of the Reference.**

(1) Motions to abstain from hearing a particular proceeding pursuant to [28 U.S.C. § 1334\(c\)](#) shall be first presented to and heard by the bankruptcy judge and shall be governed by [Fed. R. Bankr. P. 5011](#) and [9014](#).

(2) Motions for withdrawal of the reference of a bankruptcy case, adversary proceeding, or contested matter (collectively, a “Bankruptcy Proceeding”) shall be filed with the clerk of the bankruptcy court, along with the required filing fee, and shall be governed by [Fed. R. Bankr. P. 5011](#) and [9014](#). The motion shall address the authority of the bankruptcy court to adjudicate the claims asserted in the Bankruptcy Proceeding, including: (i) whether the Bankruptcy Proceeding is a core proceeding under [28 U.S.C. § 157\(b\)](#) or a proceeding that is otherwise related to a case under Title 11, and (ii) whether the bankruptcy court has the constitutional authority to enter a final order and judgment on the claims asserted in the Bankruptcy Proceeding.

(3) To be timely under [28 U.S.C. § 157\(d\)](#), motions for withdrawal of the reference of a bankruptcy case shall be filed and served within 14 days after the first meeting of creditors is concluded in the case, and motions for withdrawal of the reference of an adversary proceeding or a contested matter shall be filed and served within 30 days of the time the movant files its first pleading. Failure to timely move for withdrawal of the reference of a Bankruptcy Proceeding shall constitute a waiver of any right to trial by jury of the claims asserted in the Bankruptcy Proceeding and, in light of the opportunity to refuse occasioned by

§ 157 and this rule, a knowing and voluntary consent to the adjudication of those claims in the bankruptcy court.

(4) Responses to motions for withdrawal shall be filed with the bankruptcy clerk within 14 days from filing of the motion. Replies shall be filed within 7 days of the filing of any response.

(5) Upon receipt of any motion for withdrawal of the reference of a Bankruptcy Proceeding and any response thereto, the bankruptcy judge, within a time period reasonable under the circumstances of the matter, shall issue a written recommendation on the motion to the District Court.

(c) **Appeals.** All appeals from final judgments, orders, and decrees of bankruptcy judges and, with appropriate leave, from interlocutory orders and decrees of bankruptcy judges shall be taken in the manner prescribed by [28 U.S.C. § 158](#) and Part VIII of the [Federal Rules of Bankruptcy Procedure](#).

(d) **Matters Referred to the Bankruptcy Judges Prior to Transfer to the District Court or Bankruptcy Appellate Panel.** The bankruptcy judges shall hear and enter appropriate orders on all motions related to appeals prior to the entry of the appeal on the docket in the district court or bankruptcy appellate panel, and shall hear all motions related to a motion for withdrawal of the reference prior to the entry of the certificate of transmittal of such motion for withdrawal on the docket of the bankruptcy court. Any orders entered by the bankruptcy judges during these time periods are subject to appropriate review or appeal pursuant to [28 U.S.C. §§ 157 and 158](#) and the [Federal Rules of Bankruptcy Procedure](#).

(e) **Submission of Papers, Records, or Files by the Bankruptcy Court.** The bankruptcy clerk shall submit the papers, records, or file of a case or proceeding to the district clerk or bankruptcy appellate panel clerk under the following circumstances: (1) after the expiration of the time for filing objections pursuant to [Fed. R. Bankr. P. 9033\(b\)](#); (2) upon receipt of an order by a district judge pursuant to [28 U.S.C. § 157\(d\)](#); (3) upon issuance of a recommendation by the bankruptcy judge on a motion for withdrawal; (4) upon the determination by a bankruptcy judge that a proceeding is one in which a personal injury tort

or wrongful death claim is to be tried in the district court pursuant to [28 U.S.C. § 157\(b\)\(5\)](#); or (5) when the record is complete for purposes of appeal pursuant to [Fed. R. Bankr. P. 8007\(b\)](#).

(f) **Assignment of District Judges.** The district court clerk shall assign a district judge to the submitted matter or proceeding in accordance with the usual system for assigning civil cases, unless a prior assignment of a related matter requires assignment of the newly submitted matter or proceeding to a particular district judge.

(g) **Jury Trials.** In accordance with [28 U.S.C. § 157\(e\)](#), if the right to a jury trial applies in a proceeding that may be heard by a bankruptcy judge, each of the bankruptcy judges for this district is hereby specially designated to exercise such jurisdiction and to conduct such jury trials.

LCvR83.1 Committee on Local Civil Rules.

A Committee on Local Civil Rules comprised of members of the bar and judiciary of this court and the court clerk or the court clerk's designee shall be appointed by the court. Such committee shall accept comments and recommendations regarding the local civil rules from any member of the bar of this court or any other interested person.

LCvR83.2 Attorneys.

(a) **Roll of Attorneys.** The bar of this court shall consist of those attorneys admitted to practice before this court who have taken the prescribed oath and who have signed the roll of attorneys of this judicial district.

(b) **Committee on Admissions and Grievances.** There is hereby constituted a Committee on Admissions and Grievances, consisting of 5 members of the bar of this court, who shall be appointed by the judges of this court.

(c) **Procedure for Admission.** Every applicant for admission shall file with the clerk, on a form prescribed by the court, a written [petition for admission](#), which shall be referred immediately to the Committee on Admissions and Grievances for investigation into

the applicant's qualifications and fitness to be admitted to the bar of this court. The Committee shall report its recommendations in writing to the clerk of this court. Upon a favorable report of the Committee, the applicant may be admitted. Twice each year, following the Oklahoma State Bar Association Swearing-In Ceremonies before the Supreme Court of Oklahoma, an admission ceremony will be scheduled by this court. All applicants are directed to attend the admissions ceremony, unless excused by the court. Individual judges may, from time to time, in emergency situations and upon special request, admit individual lawyers who have been approved by the committee.

(d) **Eligibility.** Any member of the bar of the Supreme Court of the United States, or of any United States Court of Appeals, or of any District Court of the United States, or a member in good standing of the bar of the highest court of any state of the United States, is eligible for admission to the bar of this court.

(e) **Reciprocity.** Any attorney who shall have been admitted to practice in any other Federal District Court of Oklahoma may be admitted to practice in this district upon the motion of a member of the bar, in open court, without the filing of a formal motion.

(f) **Attorneys for the United States.** Attorneys who are employed or retained by the United States or its agencies may practice in this court in all cases or proceedings in which they represent the United States, an agency or corporation of the United States, or an officer or employee of the United States.

(g) **Admission Pro Hac Vice.** Any attorney who is eligible for admission to the bar of this court may, in the discretion of a judge of this court, be granted temporary admission to practice in a pending case. Attorneys requesting such admission are required to attach to their motion a completed Request for Admission Pro Hac Vice form provided by the court clerk's office along with the required fee. Counsel admitted pro hac vice shall submit an [ECF Registration Form](#) and, upon activation, electronically file an [entry of appearance](#) consistent with [LCvR83.4](#).

LCvR83.3 Association of Local Counsel.

(a) **Responsibilities of Non-Resident Counsel.** When representing a party in this court, any attorney who is not a resident of, and does not maintain an office in, Oklahoma shall show association with an attorney who is personally appearing in the action and who is a resident of Oklahoma and maintains a law office within the State of Oklahoma, and who has been duly and regularly admitted to practice in this court.

(b) **Responsibilities of Local Counsel.** It is the responsibility of local counsel appearing in any civil case to file the motion of the non-resident attorney to be admitted pro hac vice and to certify in the motion that the non-resident attorney is a member in good standing of the bar of the highest court of the state where the non-resident attorney resides or is licensed. The local attorney shall sign the first pleading filed and shall continue in the case unless other local counsel is substituted. Any notice, pleading, or other paper may be served upon the local attorney with the same effect as if personally served on the non-resident attorney.

(c) **Relief from this Rule.** Relief from this rule is within the court's discretion upon motion establishing financial hardship, special qualifications of non-resident counsel, or other good cause, provided that out-of-state counsel certifies familiarity with the local civil court rules.

LCvR83.4 Appearance of Counsel.

An attorney appearing for a party in a civil case shall enter an appearance by signing and filing an entry of appearance on the [form](#) prescribed by the clerk of this court. This entry of appearance shall include a certification that the attorney is admitted to practice in this court. In addition, the entry of appearance shall state whether the attorney is registered in this Court's Electronic Case Filing System.

In the event a party should change counsel or add counsel, the new or additional counsel for such party shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the clerk of this court.

LCvR83.5 Attorney Withdrawal From Case.

In civil cases, attorneys of record shall not withdraw from the case except by leave of the judge to whom the case is assigned, upon reasonable notice to the client and all other parties who have appeared in the case. Withdrawal of counsel may be granted subject to the conditions stated by the court, including the condition that subsequent papers may continue to be served upon counsel for forwarding purposes or upon the clerk of the court, as the court may direct, unless and until the client appears by other counsel or pro se, and any notice to the client shall so state and any filed consent of the client shall so acknowledge.

LCvR83.6 Discipline by the Court.

(a) **Discipline by Other Courts; Criminal Convictions.** Whenever it appears to the court that any member admitted to practice in this court, including those persons admitted pro hac vice, has been suspended, disbarred, or resigned pending disciplinary proceedings from the practice of law by the Supreme Court of Oklahoma or by any other court of competent jurisdiction or has been convicted of a felony or any crime involving moral turpitude in any court, such disbarment, suspension, or conviction shall operate as an automatic disbarment of the attorney's right to practice in this court, and an order of disbarment shall be issued by the court. The order of disbarment shall remain in effect unless, within 30 days from the date of the order of disbarment, the attorney has, by motion to the court, shown good cause as to why disbarment should not be imposed.

(b) **Standard Governing Attorney Conduct.** The court adopts the Oklahoma Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Oklahoma as the standard governing attorney conduct in this court.

(c) **Misconduct.** Complaints of professional misconduct, including those referred by judges, shall be submitted to the Chief Judge in writing and shall state with particularity the circumstances out of which the charges arose. Complaints submitted by counsel are subject to [Fed. R. Civ. P. 11](#). All other complaints of professional misconduct, except those submitted by judicial officers of this court, shall be under oath.

Upon receipt of a complaint regarding the professional conduct of an attorney, the Chief Judge or the designee of the Chief Judge shall determine whether:

(1) The inquiry should be terminated because the question raised is unsupported or insubstantial;

(2) The alleged professional misconduct justifies further inquiry and, for members of the Oklahoma Bar Association, the matter should be referred to the Office of the General Counsel of the Oklahoma Bar Association for investigation and prosecution by that Office, if warranted;

(3) The alleged professional misconduct warrants consideration of prompt disciplinary action by this court regarding the attorney's right to practice before the Court, and the matter should be referred to the Court's Committee on Discipline for investigation, notwithstanding concurrent reference of the matter to the Office of the General Counsel of the Oklahoma Bar Association;

(4) The alleged professional misconduct of an attorney not a member of the Oklahoma Bar Association justifies further inquiry by the court and should be referred to a committee on discipline appointed by the court for investigation. Any attorney whose conduct in this court is under investigation by the Committee on Discipline shall not be admitted pro hac vice until the pending investigation is concluded.

Upon determination that an action is appropriate under subsections (c)(2), (3), or (4) above, the Chief Judge or the designee of the Chief Judge shall provide a copy of the written allegations to the attorney whose conduct is the subject of the complaint. Nothing herein contained in this rule shall limit the right of an individual judge to refer a matter to any bar association for disciplinary action or otherwise address the matter.

(d) **Right to a Hearing.** Except as provided in subsection (a) above, this court shall not impose any disciplinary action affecting an attorney's right to practice before the court until after a hearing on the matter has been held before a 3-judge panel as designated by the Chief Judge and upon a showing of good cause. In no instance shall a judge who referred the charge of misconduct sit on the 3-judge panel. The attorney may waive the right to a hearing. At the

hearing, the attorney whose conduct is the subject of the complaint shall be afforded an opportunity to appear in person and/or by counsel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing. If not called by the attorney whose conduct is being investigated, it is within the discretion of the 3-judge panel to call the complaining party to appear at the hearing. This rule shall not apply to sanctions, penalties, or other restrictions imposed by a judge which are applicable only to a particular case pending before that judge.

(e) **Sanctions.** Discipline by this court may include disbarment, suspension from practice for a definite time, reprimand, or other discipline which the court deems proper. Referral of a complaint to the Office of the General Counsel of the Oklahoma Bar Association for investigation shall not constitute such discipline as to entitle the attorney to a hearing in this court on the propriety of the referral.

(f) **Committee on Discipline.** The Committee on Admissions and Grievances shall act as the Committee on Discipline. The Committee shall have the power to investigate all charges of professional misconduct referred to it by the Chief Judge. At the request of the Committee, the clerk shall issue subpoenas and subpoenas duces tecum as may be required by the investigation.

The Committee shall complete its investigation within 8 weeks from the date of referral from the Chief Judge. Upon good cause shown, the Committee may obtain extensions of time for investigation.

At the close of the investigation, the Committee shall make a written report to the Chief Judge stating the discipline or other action recommended by the Committee. All disciplinary proceedings shall be in camera unless the 3-judge panel shall direct otherwise.

(g) **Contempt of Court.** Disciplinary proceedings under this rule shall not affect or be affected by any proceeding for contempt under [Title 18](#) of the United States Code or under [Fed. R. Crim. P. 42](#).

(h) **Unauthorized Practice.** Any person who, before admission to the bar of this court, or who, during disbarment or suspension, exercises any of the privileges bestowed upon members of this bar, or who pretends to be entitled to such privileges, shall be guilty of contempt of this court and shall be subject to punishment therefor and shall be subject to any other discipline which the court may impose.

(i) **Reinstatement.** Persons disbarred from practice before this court may not petition for reinstatement within 3 years following disbarment or within 2 years following an adverse decision upon a previous petition for reinstatement; provided, however, that a person disbarred under subsection (a) may apply for reinstatement at any time upon being reinstated by the Oklahoma Bar Association. Persons suspended indefinitely must satisfy all conditions to reinstatement imposed by the court at the time of suspension.

**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

LOCAL CRIMINAL RULES

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

B. LOCAL CRIMINAL RULES

I. SCOPE, PURPOSE, AND CONSTRUCTION.

LCrR1.1 Purpose and Scope of Rules.

These local criminal rules are promulgated to supplement the Federal Rules of Criminal Procedure with local court procedure not to be inconsistent with the federal rules. These rules shall apply to all proceedings in criminal actions. The numbering scheme of the local criminal rules tracks the numbers and supplements the content of the Federal Rules of Criminal Procedure. [Appendix I](#) of the Local Court Rules contains a listing of General Orders which are available from the court clerk on request. These orders are issued by the Court to establish procedures on administrative matters and less routine matters that do not affect the majority of practitioners before this court. [Appendix V](#) contains the form for Joint Statement of Discovery Conference.

LCrR1.2 Rules of Procedure.

(a) The rules of procedure in any criminal proceeding in this court shall be as prescribed by the Constitution and the laws of the United States, the rules of the Supreme Court of the United States, the Federal Rules of Criminal Procedure, any applicable rules of the United States Court of Appeals for the Tenth Circuit, and these local criminal court rules.

(b) Where in any proceeding or in any instance there is no applicable rule of procedure, a judge may prescribe the same.

(c) The trial judge has discretion in any criminal case to waive any requirement of these local rules when the administration of justice requires.

(d) These rules supersede all previous criminal court rules promulgated by this court or any judge of this court. They shall govern all applicable criminal proceedings brought in this court after they take effect. They also shall apply to all criminal proceedings pending at the time they take effect, except to the extent that, in the opinion of the court, the application thereof would not be feasible or would work an injustice.

(e) These local criminal rules shall be known as the Local Criminal Rules of the United States District Court for the Western District of Oklahoma. They may be cited as “LCrR____.”

LCrR1.3 Applicability of Local Civil Rules.

To avoid unnecessary repetition, where local rules are equally applicable to both criminal and civil practice, specific reference is made herein to the appropriate local civil rule. Where appropriate in a criminal context, the following local civil rules are also deemed applicable to criminal cases: [LCvR62.2](#) Supersedeas Bonds and Other Security; [LCvR67.1](#) Deposit and Withdrawal of Funds; [LCvR67.2](#) Disbursement of Registry Funds.

II. PRELIMINARY PROCEEDINGS.

LCrR3.1 Criminal Case Cover Sheet.

A completed criminal case cover sheet, as provided by the court clerk’s office, shall accompany every criminal case initiated in this court.

LCrR4.1 Sealing of Warrants and Complaints.

Upon written motion of the government, search warrants, criminal complaints, arrest warrants, and supporting affidavits may be sealed by order of a judicial officer. Seal orders shall automatically expire upon return being made on a search warrant or the initial appearance of any named defendant. The court may extend a seal order for good cause shown by the government in either the original or a subsequent motion. This rule shall apply to requested

sealing of warrants, summons, affidavits, etc. under [Fed. R. Crim. P. 9](#) and [41](#). (*See also* [LCrR12.3](#) for Motions to Seal.)

LCrR5.1 Timing of Initial Appearances.

(a) Unless otherwise specifically set, initial appearances will be conducted by the duty magistrate judge at 3:00 p.m. each business day. The following procedures are implemented to facilitate this docket:

(1) The government shall present complaints to the duty magistrate judge as early as possible, but no later than noon of each business day, absent exceptional circumstances;

(2) The arresting agency shall present a defendant in custody to the U.S. Marshal for processing no later than noon on the day of the defendant's first court appearance; and

(3) A written pretrial services report shall be presented to the duty magistrate judge and made available to defense counsel and the government by 2:30 p.m. on the day of the defendant's first court appearance. Pretrial services reports are confidential, subject to the limitations and exceptions of [18 U.S.C. § 3153\(c\)](#), and must be returned to the pretrial services officer at the close of any hearing. Defense counsel and the attorney for the government may, however, retain the criminal history attachment of the pretrial services report.

(b) In the event an arrest occurs during regular business hours but at such time that the government is unable to comply with subsection (a)(1), the government shall promptly present the complaint to the duty magistrate judge, who shall schedule any necessary court appearance.

(c) This rule does not change the current procedure whereby the government may, when necessary, contact the duty magistrate judge or other available magistrate judge after regular business hours, or weekends and holidays.

III. INDICTMENT AND INFORMATION.

LCrR7.1 Related Cases

(a) Where an information or indictment is filed, and (1) that information or indictment arises out of the same transaction or series of transactions involved in a presently pending information or indictment in this District, or (2) that information or indictment involves the same defendant who has a presently pending information or indictment in this District, or (3) that information or indictment was dismissed and later refiled, or (4) there are other reasons that would entail substantial duplication of labor if heard by a different judge, the government shall notify the court clerk in writing and the matter shall be assigned to the judge having the low-numbered indictment or information, subject to the approval of the judges who would be affected by such assignment. The written notice by the government shall be on a form approved by the court.

(b) The United States Probation Office shall notify the court clerk in writing when (1) a Transfer of Jurisdiction of a term of supervised release or probation is received for a person who is currently subject to supervision in this District or (2) a complaint, information, or indictment is filed involving a person who is subject to supervision in this District. The written notice by the United States Probation Office shall be on a form approved by the court.

(c) Immediately upon receipt of a related case notice, the court clerk shall notify the judge or judges assigned to the cases. Thereafter, the judges will determine whether the pending cases should be transferred to conserve judicial time and promote efficiency.

LCrR9.1 Sealing of Warrants or Summonses upon Indictment or Information.

See [LCrR4.1](#) and [LCrR12.3](#) for procedure of sealing documents under this Rule.

IV. ARRAIGNMENT AND PREPARATION FOR TRIAL.

LCrR10.1 Timing of Arraignments.

Unless otherwise specifically set, arraignments will be conducted by the duty magistrate judge at 3:00 p.m. each business day.

LCrR10.2 Setting of Trial Date at Arraignment.

After a plea of not guilty is entered in this District, the magistrate judge conducting the arraignment shall set a trial date on the first day of the trial docket following the 30-day period prescribed by the Speedy Trial Act, provided that trial settings must be consistent with the Constitution and the statutes of the United States.

LCrR11.1 Combined Plea and Sentence.

In order to obtain a plea and sentence at the same time, it is the responsibility of the party seeking the combined proceeding to submit a motion and proposed order to the assigned judge. A judge may, but need not, accept an oral motion and may waive presentation of a proposed order.

LCrR11.2 Identified Victims and Restitution.

In cases involving identified victims and potential restitution, counsel for the government will, to the extent practicable at the change of plea hearing or no later than 14 days thereafter, provide to the United States Probation Officer and defense counsel the names, addresses, and telephone numbers of all victims known to the government at the time of the plea who are entitled to restitution, and the amount allegedly due each victim. If the victim is a government agency or business entity, counsel for the government shall provide the Probation Officer and defense counsel with the agency or business name, address, telephone number, name of contact person, applicable account number(s) or claim number(s), and the amount of loss alleged to have been sustained.

LCrR11.3 Plea Agreements.

All plea agreements shall be accompanied by a sealed document titled "Plea Supplement," the contents of which shall be limited to describing any agreement for cooperation. The Plea Supplement will be electronically filed under seal and shall be filed in all cases regardless of whether a cooperation agreement exists.

LCrR12.1 Pretrial Motions.

(a) **Time for Filing Pretrial Motions.** Unless otherwise ordered by the court or addressed elsewhere by these rules, all pretrial motions, including requests for rulings on any contested matter of discovery, shall be filed and served within 21 days from the date a plea of not guilty is entered.

(b) **Response Time.** The party opposing the motion shall file and serve a response within 9 days after the motion is filed.

(c) **Motions in Writing.** Motions in criminal cases shall be in writing and state with particularity the grounds therefor and the relief or order sought. All motions and other pleadings shall conform to the requirements of [LCrR49.2](#).

(d) **Concise Brief Required.** All motions and responses thereto must be accompanied by a concise brief citing all authorities upon which the movant or respondent relies. Briefs shall conform to [LCvR7.1\(c\)-\(e\)](#). A motion and the brief in support may be presented to the court as one document if clearly stated in the caption of the pleading.

(e) **Extensions of Time and Continuances.** All motions for extension of time or continuance shall state:

(1) the event and date that activated the time limits of the Speedy Trial Act (*e.g.*, “defendant arrested April 1, 2010, indictment or information due within 30 days”; “defendant appeared before United States Magistrate Judge May 1, 2010, jury trial to commence within 70 days”);

(2) the date the act is due to occur without the requested extension or continuance;

(3) whether previous motions for extensions or continuances have been made, the disposition of the motions, and, for any motion that was granted, whether the court found the period of delay resulting from that extension or continuance to be excludable under the Speedy Trial Act;

(4) whether the delay resulting from the requested extension or continuance is excludable under the Speedy Trial Act;

(5) specific reasons for the requested extension or continuance, including why the act cannot be done within the originally allotted time;

(A) If the reason given for the extension is that other litigation presents a scheduling conflict, the motion must also:

(i) identify the litigation by caption, case number, and court;

(ii) describe the action taken in the other litigation, if any, to request a continuance or deferment;

(iii) state the reasons why the other litigation should receive priority;

(iv) state reasons why other associated counsel cannot handle the case in which the extension is being sought or the other litigation; and

(v) recite any other relevant circumstances.

(B) If an extension is requested due to the complexity of the case, including voluminous discovery, the motion must include specific facts demonstrating such complexity.

(C) If the motion is sought due to some type of personal hardship that counsel or the client will suffer if an extension is not granted, the motion must state the specific nature of that hardship and when the hardship might be resolved.

(D) If the motion would require divulging trial strategy or information of a highly personal nature, including medical data, the movant may seek leave to file the motion under seal. If trial strategy would be revealed, the motion and request for leave may be presented *ex parte*.

(6) whether opposing counsel objects to the requested extension or continuance;

(7) the impact, if any, on the scheduled trial or other deadlines; and

(8) the precise relief requested by the motion.

All such motions shall be accompanied by a proposed order for the court's consideration. The proposed order, which shall not differ in any respect from the relief requested in the motion,

shall state specifically the deadline(s) being extended and the new date(s) for the deadline(s) and shall include the findings required under the Speedy Trial Act.

LCrR12.2 Motions to Seal.

Any party requesting that any pleading, document, or other matter be filed under seal (such as ex parte or in camera motions, including in camera motions for downward departure of a sentence, if desired) shall file an application and proposed order with the assigned judge. A clearly identified envelope for sealing the matter shall be furnished at the time of filing the request. Responses to sealed matters may likewise be filed under seal. A separate request to seal such a response is not necessary.

LCrR12.3 Motions in Limine.

Any motion in limine shall be filed and served at least 7 days prior to the commencement of the scheduled trial docket. Any objections shall be filed 4 days prior to the commencement of the scheduled trial docket.

LCrR12.3.1 Notice of Defenses.

Notice of any of the defenses stated in [Fed. R. Crim. P. 12.1, 12.2 or 12.3](#), shall be provided at the discovery conference or within 14 days from the date a plea of not guilty is entered.

LCrR16.1 Discovery Conference.

(a) **Time for Discovery Conference.** Counsel for the parties shall meet and confer at a discovery conference within 14 days after a plea of not guilty is entered. For electronic discovery of documentary materials, see the Court's Best Practices for Electronic Discovery of Documentary Materials in Criminal Cases:

<http://www.okwd.uscourts.gov/files/genorders/genord09-5.pdf>

(b) **Joint Statement.** Within 7 days following completion of the required discovery conference, the parties shall file a joint statement memorializing the discovery conference. (The Joint Statement of Discovery Conference shall conform to the form provided herein as [Appendix V.](#))

(c) **Discovery Material Not to Be Filed.**

Depositions, requests for documents, and answers and responses thereto, shall not be filed with the clerk unless on order of the court or unless they are attached to a motion, response thereto, or are needed for use in a trial or hearing.

LCrR16.2 Disputed Discovery Matters.

Under [Rule 16](#) of the Federal Rules of Criminal Procedure, it is expected the parties will complete discovery themselves, and that the necessity of filing discovery motions is eliminated except when disputes arise. Discovery orders are hereby eliminated except when irreconcilable disputes arise. The court shall not hear any such motion unless counsel for the movant certifies in writing to the court that the opposing attorneys have conferred in good faith and have been unable to resolve the dispute.

V. TRIAL.

LCrR24.1 Voir Dire.

Requested voir dire, if any, shall be filed and served at least 7 days prior to the commencement of the scheduled trial docket. Any objections shall be filed at least 4 days prior to the commencement of the scheduled trial docket.

LCrR24.2 Summary of the Indictment at Trial.

The parties shall submit an agreed summary of the indictment to the court prior to the trial or the entire indictment may be read to the jury.

LCrR26.1 Lists of Witnesses and Exhibits at Trial.

(a) **Lists of Witnesses and Exhibits.** At the commencement of the trial, counsel for the government shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list of the witnesses expected to be called in the approximate order they are to be called, as well as a typewritten list of the exhibits intended to be introduced, with their designated trial exhibit numbers.

(b) **Stipulations and Exhibits at Trial.** Consistent with the applicable Federal Rules of Criminal Procedure and whenever it can be done without jeopardizing the constitutional rights of the defendant in a criminal case, stipulations should be made with respect to the undisputed facts and the authenticity of documents. Each instrument expected to be offered in evidence by either side (or copies of such instrument, if agreeable), shall be marked with an exhibit number and a case number prior to trial. Forms for marking exhibits may be obtained in the court clerk's office.

(c) **Withdrawal of Exhibits.** Unless otherwise ordered by the court, all exhibits introduced in evidence in the trial of the case shall be withdrawn at the close of trial and remain in the custody of the party introducing the evidence. The court may order the party introducing exhibits that are bulky, heavy, or are firearms or controlled substances to retain custody of such exhibits during the trial. Any such order shall provide for preservation of the exhibit as justice may require.

(d) **Photographs for Appeal.** Exhibits, diagrams, charts and drawings on a blackboard may, under the supervision of the court, be photographed for use on appeal or otherwise.

LCrR30.1 Jury Instructions.

All requested jury instructions must be supported by appropriate authority and shall be filed and served at least 7 days prior to the commencement of the scheduled trial docket. Any objections to requested jury instructions shall be filed at least 4 days prior to the commencement of the scheduled trial docket. In addition to filing any written requested jury

instructions, the parties shall submit their proposed jury instructions in WordPerfect format to the clerk via the mailbox designated in the [ECF Policy Manual](#) for the assigned judge.

LCrR32.1 Confidentiality of Pre-Sentence Reports.

(a) Pre-sentence reports contain confidential information and recommendations. For security purposes, pre-sentence reports may not remain in the possession of an incarcerated defendant or be disseminated beyond the members of the prosecution or defense team.

(b) Any pre-sentence report filed with the court is a restricted document, that is, access to the document is restricted to counsel for the government, counsel for the specific defendant, the United States Probation Office, and court staff. In the event any party wishes to make substantial reference to the contents of the pre-sentence report in any motion, brief, memoranda of law or other document, the party shall apply to the court for an order authorizing the clerk to file the motion, brief, memorandum or other document under seal.

(c) The Probation Office may release relevant portions of a pre-sentence report prepared in this District (1) to a federal Probation Office in another District for use by that Office in preparing a pre-sentence report on the same person or (2) to a vendor who is providing sex offender, mental health, or substance abuse treatment if the Probation Officer determines release of relevant portions of the pre-sentence report is critical to the offender's treatment needs.

LCrR32.2 Sentencing Memoranda and Motions.

All sentencing memoranda and motions must be filed within 14 days after receipt of the presentence report containing any final addendum or revisions. Any response to a sentencing memorandum or motion must be filed within 14 days thereafter.

VI. SUPPLEMENTARY AND SPECIAL PROCEEDINGS.

LCrR41.1 Sealing of Warrants for Search and Seizure Proceedings.

See [LCrR4.1](#) and [LCrR12.3](#) for procedure for sealing of warrants, etc., under this Rule.

VII. GENERAL PROVISIONS.

LCrR43.1 Issuance of Writs for Defendants.

It is the responsibility of the government to prepare writs for appearance of defendants in custody.

LCrR44.1 Plan Pursuant to the Criminal Justice Act for the Representation of Indigent Defendants.

The Federal Public Defender Organization, supervised by the Federal Public Defender, shall assist in the administration of the Court's Criminal Justice Act Plan and maintain a panel(s) of eligible attorneys. (See [General Order 09-03](#), General Order Regarding the Plan of the United States District Court for the Western District of Oklahoma for the Implementation of the Criminal Justice Act, [18 U.S.C. § 3006A](#).)

LCrR44.2 Claims for Compensation Regarding Indigent Defense Fees.

All Criminal Justice Act (CJA) vouchers shall be submitted within 45 days after a case is dismissed or after a defendant is sentenced. Any voucher submitted beyond 45 days and less than 1 year after the case is dismissed or after a defendant is sentenced shall be accompanied by a letter demonstrating good cause why the voucher should be paid. Any application, letter or voucher submitted more than 1 year after the case is dismissed or after a defendant is sentenced shall be summarily denied.

LCrR46.1 Issuance of Writs for Witnesses in Custody.

It is the responsibility of the party calling the witness to prepare writs for appearance of witnesses in custody.

LCrR47.1 Motion Practice.

- (a) For pre-trial motion practice, see [LCrR12.1](#).
- (b) For post-trial and post-conviction motions, with the exception of a motion filed pursuant to [28 U.S.C. § 2255](#), a response shall be filed within 21 days after the motion is filed.

For motions filed pursuant to [28 U.S.C. § 2255](#), no response is necessary unless ordered by the court.

LCrR49.1 Filing by Electronic Means.

Pursuant to [Rule 49\(e\)](#) of the Federal Rules of Criminal Procedure, the clerk will accept papers filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. Any paper filed by electronic means pursuant to these rules constitutes a written paper for the purposes of applying these rules and the Federal Rules of Criminal Procedure. Papers filed by electronic means shall be governed by the Court's *Electronic Case Filing Policies and Procedures Manual* ([ECF Policy Manual](#)) and orders of the court.

LCrR49.1.1 Redaction of Official Transcripts Prior to Remote Electronic Availability.

(a) **Responsibility for Identifying Personal Data Identifiers to be Redacted from Transcripts.** Once an official transcript is filed with the court clerk, the attorneys in the case and pro se parties are responsible for identifying the personal data identifiers that must be redacted from filings pursuant to [Fed. R. Crim. P. 49.1](#). Unless otherwise ordered by the court, the attorney for a party and each pro se party are responsible for identifying redactions required in the following portions of the transcript:

- (1) opening and closing statements made on that party's behalf;
- (2) statements of the party;
- (3) the testimony of any witnesses called by the party; and
- (4) sentencing proceedings.

The court may also direct that an attorney or pro se party be responsible for identifying redactions in other portions of an official transcript.

(b) **Redaction Request.** To request redaction of personal data identifiers from an official transcript, the attorney or pro se party must file a redaction request, using the form in

[Appendix VII](#), within 21 days of the filing of the transcript. The request shall identify the redactions to be made with respect to:

- (1) Social Security numbers and taxpayer-identification numbers: use only the last four digits;
- (2) financial account numbers: use only the last four digits;
- (3) dates of birth: use only the year;
- (4) a minor's name: redact in the manner that most effectively shields the identity of the minor in the context of the proceeding; and
- (5) home address: use only the city and state.

(c) **Request for Additional Redactions.** For any redactions to a transcript other than the personal data identifiers listed above, a separate Motion for Redaction must be filed within 21 days of the filing of the transcript, unless otherwise ordered by the court.

(d) **Stand-By Counsel.** An attorney appointed as “stand-by” counsel for a party is responsible for identifying and requesting on behalf of that party any redactions of personal data identifiers in the transcript, as required by this Rule.

LCrR49.2 Format of Papers Presented for Filing.

(a) All papers presented to the clerk for filing by electronic means or in paper form shall be double-spaced, if typewritten, using only one side of the paper, and a paper size of 8½ inches wide by 11 inches long. All papers shall be clearly legible.

(b) Papers presented to the clerk in paper form for conversion and filing in electronic form shall not be stapled or permanently bound.

(c) Papers that are required by the court to be retained or filed in paper form as set forth in the [ECF Policy Manual](#) shall be stapled or otherwise semi-permanently fastened at the top of the page without the use of paper clips, binder clips, or rubber bands. If the document is too large to staple, it should be two-hole punched at the top and secured with metal prongs. Unless otherwise stated in these local rules, only the original of papers presented to the clerk for filing in paper form shall be submitted.

LCrR49.3 Fax Filing.

Papers shall not be directly faxed to the clerk unless authorized by the court.

LCrR49.4 Change of Address; Proof of Service.

(a) All papers shall contain the name, mailing address, daytime telephone number, fax number, and e-mail address, if any, of the attorney or pro se litigant. If any of this information changes, the attorney or pro se litigant must notify the court by filing the [form](#) provided by the clerk and serving a copy on opposing counsel or pro se parties. Papers sent by the court will be deemed delivered if sent to the last known address given to the court.

(b) Proof of service of any papers required to be served shall be made by the certificate of any attorney of record or pro se litigant, or if made by any other person, the affidavit of such person.

(c) Pursuant to [Federal Rule of Criminal Procedure 49\(b\)](#), receipt of the Notice of Electronic Filing generated by the Court's Electronic Case Filing System shall constitute the equivalent of service of the paper identified in the notice on persons who have consented to electronic service and who have waived their right to service by personal service or first class mail.

LCrR50.1 Plan for Achieving Prompt Disposition of Criminal Cases.

This Plan was adopted by the court to minimize undue delay and to further the prompt disposition of criminal cases and certain juvenile proceedings. It requires certain procedures, specifies certain time limits, imposes specific duties and responsibilities on counsel and fosters compliance with the Speedy Trial Act. (See [General Order 98-2](#), In Re: Plan for Achieving Prompt Disposition of Criminal Cases.)

LCrR53.1 Courtroom Decorum.

[LCvR39.2](#) applies to criminal cases.

LCrR53.2 Use of Electronic Devices, Photographs, or Tape Recorders at Trial.

[LCvR39.3](#) applies to criminal cases.

LCrR53.3 Attorney Communication with Jurors.

[LCvR47.1](#) applies to criminal cases.

LCrR57.1 Committee on Local Criminal Court Rules.

The court hereby constitutes a committee on local criminal rules comprised of 5 members of the bar of this court whose practice is primarily criminal, including as permanent members, the U.S. Attorney and the Federal Public Defender of this District, or their designees. The court clerk or the clerk's designee shall also be a permanent member of the committee. The Chief Judge shall appoint committee members for terms of no more than 3-years.

This committee is established for the purpose of receiving comments and recommendations from any member of the bar of this court or any other interested person, as well as updating these rules on a regular basis. The committee shall meet annually or as necessary.

LCrR57.2 Attorneys.

(a) **Applicability of Civil Rules.** The provisions of [LCvR83.2\(a\)](#) Roll of Attorneys, (b) Committee on Admissions and Grievances, (c) Procedure for Admission, (d) Eligibility, and (e) Reciprocity; [LCvR83.5](#) Attorney Withdrawal from Case; and [LCv83.6](#) Discipline by the Court, are applicable to these local criminal rules and are not repeated. Certain other provisions are repeated for emphasis.

(b) **Attorneys for the United States.** Attorneys who are employed or retained by the United States or its agencies may practice in this court in all cases or proceedings in which they represent the United States or such agencies.

(c) **Admission Pro Hac Vice.** Any attorney who is eligible for admission to the Bar of this Court may, in the discretion of a judge of this court, be granted temporary admission

to practice in a pending case. Attorneys requesting such admission are required to attach to their motion a completed Request for Admission Pro Hac Vice form provided by the court clerk's office along with a required fee. Counsel admitted pro hac vice shall submit an ECF Registration Form and upon activation, electronically file an entry of appearance consistent with LCvR83.4.

LCrR57.3 Association of Local Counsel.

(a) **Responsibilities of Non-Resident Counsel.** When representing a party in this court, any attorney who is not a resident of, and does not maintain an office in, Oklahoma shall show association with an attorney who is personally appearing in the action and who is a resident of the State and maintains a law office within the State of Oklahoma, and who has been duly and regularly admitted to practice in this court.

(b) **Responsibilities of Local Counsel.** It is the responsibility of local counsel appearing in any criminal case to file the motion of the non-resident attorney to be admitted pro hac vice and to certify in the motion that the non-resident attorney is a member in good standing of the Bar of the highest court of the state where the non-resident attorney resides or is licensed. The local attorney shall sign the first pleading filed and shall continue in the case unless other local counsel is substituted. Any notice, pleading, or other paper may be served upon the local attorney with the same effect as if personally served on the non-resident attorney.

(c) **Relief from this Rule.** Relief from this Rule is within the court's discretion upon motion establishing financial hardship, special qualifications of non-resident counsel, or other good cause, provided that out-of-state counsel certifies familiarity with the local court rules.

LCrR57.4 Appearance of Counsel.

(a) **Entry of Appearance Form.** An attorney appearing for either the government or the defense in a criminal case shall enter an appearance by signing and filing an entry of appearance on a form prescribed by the clerk of this court.

(b) **Change of Counsel.** In the event the government or any defendant should change counsel or add additional counsel, the new or additional counsel for such party shall enter an appearance by signing and filing an entry of appearance on the [form](#) prescribed by the clerk of this court.

(c) **Limited or Special Appearances.** Limited or special appearances in criminal cases may be permitted by the judicial officer. The minute of the proceedings shall reflect the name of the attorney who actually appears at the proceeding.

LCrR58.1 Magistrate Judges - Misdemeanor Authority.

Each full-time, recalled, and part-time United States magistrate judge appointed by this court is specifically designated to exercise the authority and jurisdiction provided by [18 U.S.C. § 3401\(a\)](#) to try persons accused of, and sentence persons convicted of, misdemeanors committed within this district.

LCrR58.2 Forfeiture of Collateral in Lieu of Appearance.

As provided in [Fed. R. Crim. P. 58\(d\)\(1\)](#), a person who is charged with a petty offense as defined in [18 U.S.C. § 19](#), may in lieu of appearance, post collateral in the amount indicated for the offense and consent to forfeiture of collateral. The offense for which collateral may be posted and forfeited in lieu of appearance by the person charged, together with the amounts of collateral to be posted, are generally stated on the charge (violation notice) and are contained in written schedules approved by this court and on file with the court clerk.

**THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

**APPENDICES
TO
LOCAL COURT RULES**

APPENDIX I

GENERAL ORDERS

[Reference: LCvR1.1; LCrR1.1]

The following General Orders will be provided by the clerk upon request or can be obtained from the court's website, www.okwd.uscourts.gov:

- G.O. 96-3** General Order Regarding Land Condemnation Cases Filed by the United States (2-26-96)
- G.O. 96-4** General Order Authorizing the Use of the Bankruptcy Appellate Panel to Hear and Determine Bankruptcy Appeals Originating in this District (5-3-96)
- G.O. 96-7** General Order Regarding Presiding Judge Authorization Over Interceptions of Wire or Oral or Other Forms of Communications or Investigatory Matters Arising Under Chapter 119 of Title 18 and Matters Under Investigation by the Grand Jury; Applications for Pen Registers and Other Forms of Communications Under Chapter 206 of Title 18; Motions to Reconsider or Overrule (2-26-96)
- G.O. 98-2** General Order Regarding the Plan for Achieving Prompt Disposition of Criminal Cases (5-1-98)
- G.O. 98-4** General Order Regarding Guidelines for Resolving Scheduling Conflicts with Oklahoma Federal Courts and State Courts (9-24-98)
- G.O. 03-4** General Order Regarding Disclosure of Information and Testimony of Probation Officers (6-6-03)
- G.O. 05-1** General Order Identifying Miscellaneous Files (2-16-05)
- G.O. 08-2** General Order Regarding Service of Summons in Pro Se Cases (10-3-08)
- G.O. 08-3** General Order Regarding Policy on Electronic Availability of Transcripts (10-7-08)
- G.O. 09-1** General Order Regarding Establishing a Court-Assisted Recovery Effort Program (1/23/09)

- G.O. 09-2** General Order Regarding Random Selection of Grand and Petit Jurors (3/04/09)
- G.O. 09-5** General Order Regarding Best Practices for Electronic Discovery of Documentary Materials in Criminal Cases (8/20/09)
- G.O. 11-1** General Order Regarding Assignment of Cases and Transfer of Related or Companion Cases (10/11/11)
- G.O. 11-2** General Order Regarding Attorney Admissions Fees (10/21/11)
- G.O. 12-2** General Order Regarding ADR Advisory Committee and ADR Panel (6/06/12)
- G.O. 12-4** General Order Regarding the Local Rules for the United States Bankruptcy Court for the Western District of Oklahoma (12/04/12)

- G.O. 12-7** General Order Regarding Authorizing Reimbursement of Expenses from the Non-Appropriated Fund (12/4/12)
- G.O. 13-2** General Order Regarding Establishing a Court-Assisted Recovery Effort Program - Nunc Pro Tunc General Order (3/27/13)
- G.O. 13-8** General Order Regarding Authorization for U.S. Probation Officers to Discontinue Collection of Monthly Report Forms (Standard Conditions of Supervision #2) on Cases Sentenced Prior to October 4, 2011 (12/18/13)
- G.O. 13-10** General Order Regarding Court Reporters Plan for Management of Court Reporting Services (12/17/13)
- G.O. 14-2** General Order Regarding Electronic Payments Via Pay.Gov (2/6/14)
- G.O. 14-5** General Order Regarding Random Selection of Grand and Petit Jurors (6/16/14)
- G.O. 14-6** General Order Regarding Plan of the U.S. District Court for the Western District of Oklahoma for the Implementation of the Criminal Justice Act (9/11/14)
- G.O. 14-8** General Order Regarding Motions for Reduction of Sentence Pursuant to Amendment 782 to the Sentencing Guidelines (12/01/14)
- G.O. 15-3** General Order Regarding Plan of the U.S. District Court for the Western District of Oklahoma for the Implementation of the Criminal Justice Act (9/23/15)
- G.O. 15-4** General Order Regarding Electronic Filing Policies & Procedures Manual (11/30/15)
- G.O. 16-1** General Order Regarding Implementation of eVoucher (4/05/16)

5. **APPLICABILITY OF FED. R. CIV. P. 5.1 AND COMPLIANCE.**

Do any of the claims or defenses draw into question the constitutionality of a federal or state statute where notice is required under 28 U.S.C. § 2403 or Fed. R. Civ. P. 5.1?

Yes No

6. **MOTIONS PENDING AND/OR ANTICIPATED** (include date of filing, relief requested, and date responsive brief to be filed).

7. **COMPLIANCE WITH RULE 26(a)(1).** Have the initial disclosures required by Fed. R. Civ. P. 26(a)(1) been made? Yes No
If “no,” by what date will they be made? _____

8. **PLAN FOR DISCOVERY.**

A. The discovery planning conference (Fed. R. Civ. P. 26(f)) was held on _____.

B. The parties anticipate that discovery should be completed within ____ months.

C. In the event ADR is ordered or agreed to, what is the minimum amount of time necessary to complete necessary discovery prior to the ADR session?
_____.

D. Have the parties discussed issues relating to disclosure or discovery of electronically stored information, including the form or forms in which it should be produced, pursuant to Fed. R. Civ. P. 26(f)(3)(C)?

Yes No

E. Have the parties discussed issues relating to claims of privilege or of protection as trial-preparation material pursuant to Fed. R. Civ. P. 26(f)(3)(D)?

Yes No

To the extent the parties have made any agreements pursuant to Fed. R. Civ. P. 26(f)(3)(D) and Fed. R. of Evid. 502(e) regarding a procedure to assert claims of privilege/protection after production and are requesting that the court include such agreement in an order, please set forth the agreement in detail below and submit a proposed order adopting the same.

F. Identify any other discovery issues which should be addressed at the scheduling conference, including any subjects of discovery, limitations on discovery, protective orders needed, or other elements (Fed. R. Civ. P. 26(f)) which should be included in a particularized discovery plan.

9. **ESTIMATED TRIAL TIME:** _____

10. **BIFURCATION REQUESTED:** Yes No

11. **POSSIBILITY OF SETTLEMENT:** Good Fair Poor

12. **SETTLEMENT AND ADR PROCEDURES:**

A. Compliance with LCvR16.1(a)(1) - ADR discussion: Yes No

B. The parties request that this case be referred to the following ADR process:

Court-Ordered Mediation subject to LCvR16.3

Judicial Settlement Conference

Other _____

None - the parties do not request ADR at this time.

13. **Parties consent to trial by Magistrate Judge?** Yes No

14. **Type of Scheduling Order Requested.** Standard - Specialized (If a specialized scheduling order is requested, counsel should include a statement of reasons and proposal.)

Submitted this _____ day of _____.

Counsel for Plaintiff

Counsel for Defendant

APPENDIX III
[Reference LCvR16.1(b)]

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

_____,)
Plaintiff,)
vs.) Case No. CIV-_____
_____,)
Defendant.) _____ TRIAL DOCKET

SCHEDULING ORDER

Date _____ Judge _____ Clerk _____

Appearing for Plaintiff _____

Appearing for Defendant _____

JURY TRIAL DEMANDED - NON-JURY TRIAL

THE FOLLOWING DEADLINES ARE SET BY THE COURT

1. Motions to join additional parties to be filed by _____. testimony where a witness has not already been deposed, by _____.* Defendant to file a final list of witnesses (as described above) 14 days thereafter.*
2. Motions to amend pleadings to be filed by _____.
3. Plaintiff to file a final list of expert witness(es) in chief and submit expert reports to defendant by _____.* Defendant to file a final list of expert witness(es) in chief and submit expert reports to plaintiff _____ days thereafter.*
4. Plaintiff to file a final list of witnesses, together with addresses and brief summary of expected
5. Plaintiff to file a final exhibit list by _____.* Defendant to file objections to plaintiff's final exhibit list, under Fed. R. Civ. P. 26(a)(3)(B), by _____.
Defendant to file a final exhibit list 14 days thereafter.* Plaintiff to file objections to defendant's final exhibit list, under Fed. R. Civ. P. 26(a)(3)(B), by _____.

***The listing of witnesses and exhibits shall separately state those expected to be called or used and those which may be called or used if the need arises. Except for good cause shown, no witness will be permitted to testify and no exhibit will be admitted in any party's case in chief unless such witness or exhibit was included in the party's filed witness or exhibit list.**

6. Discovery to be completed by _____.
7. All dispositive and *Daubert* motions to be filed by _____.

If the deadline for dispositive motions and *Daubert* motions precedes the discovery deadline, the parties are expected to conduct any discovery necessary for such motions in advance of the motion deadline.

8. Trial docket _____.**

****Trial dockets generally begin the second Tuesday of each month. However, this practice varies, particularly during holidays. The published trial docket will announce the trial setting.**

The interval between the dispositive motion deadline and the trial docket is relatively inflexible. An extension of time to file or respond to a motion for summary judgment will likely affect the trial setting.

9. Designations of deposition testimony to be used at trial to be filed by _____.

_____. Objections and counter-designations to be filed by _____.
Objections to counter-designations to be filed by _____.

10. Motions in limine to be filed by _____.
11. Requested voir dire to be filed by _____.
12. Trial briefs (optional unless otherwise ordered) to be filed by _____.
13. Requested jury instructions to be filed on or before _____.

14. Proposed findings and conclusions of law to be filed no later than _____.

*****In addition to filing, the parties are encouraged, but not required, to submit their proposed jury instructions or findings of fact and conclusions of law in WordPerfect format to the clerk via the court's designated mail box: last name of judge-orders@okwd.uscourts.gov.**

15. Any objection or responses to the trial submissions referenced in 10, 11, 12, 13 or 14 to be filed 14 days thereafter.
16. The Final Pretrial Report, approved by all counsel, and in full compliance with Local Rules (see Appendix IV), together with a proposed order approving the report, to be submitted to the court by _____.

17. This case is referred to ADR:

- Mediation by agreement of the parties, exempt from LCvR16.3.
- by Order of the court:
 - Court-Ordered Mediation subject to LCvR16.3
 - Judicial Settlement Conference
 - Other _____

If the court orders mediation, the process shall be completed and a report filed with the court by the parties, stating whether the case settled, not later than _____.

18. The parties consent to trial by a Magistrate Judge.

19. Initial disclosures pursuant to Fed. R. Civ. P. 26 have been made ; are excused ; or shall be made no later than _____.

20. Other: _____

Dated this _____ day of _____.

BY ORDER OF THE COURT
CARMELITA REEDER SHINN
CLERK OF COURT

By: _____
Deputy Clerk

Copies to all parties.

APPENDIX IV
[Reference LCvR16.1(b)]

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

)	
	Plaintiff,)	
v.)	Case No. _____
)	
)	_____ Trial Docket
	Defendant.)	

FINAL PRETRIAL REPORT

All counsel who will appear at trial:

Appearing for Plaintiff: _____

Appearing for Defendant: _____

Jury Trial Demanded - Non-Jury Trial

1. **BRIEF PRELIMINARY STATEMENT.** State briefly and in ordinary language the facts and positions of the parties (appropriate for use during jury selection in jury cases).

2. **JURISDICTION.** State the basis on which the jurisdiction of the court is invoked.

3. **STIPULATED FACTS.** List stipulations as to all facts that are not disputed, including jurisdictional facts.

4. **LEGAL ISSUES.** State separately, and by party, each disputed legal issue and the authority relied upon.

5. **CONTENTIONS AND CLAIMS FOR DAMAGES OR OTHER RELIEF SOUGHT.**
 - A. **Plaintiff**

 - B. **Defendant**

6. EXHIBITS. The following exclusionary language **MUST** be included:

Unlisted exhibits will not be admitted unless, by order of the court, the final pretrial order is amended to include them.

A. Plaintiff:

<u>Number</u> (Premarked for trial and exchanged as required under LCvR39.4(a))	<u>Title/Description</u>	<u>Objection</u>	<u>Federal Rule of Evidence Relied Upon</u>
--	--------------------------	------------------	---

B. Defendant:

<u>Number</u>	<u>Title/Description</u>	<u>Objection</u>	<u>Federal Rule of Evidence Relied Upon</u>
(Premarked for trial and exchanged as required under LCvR39.4(a))			

7. WITNESSES: The following exclusionary language **MUST** be included:

Unlisted witnesses in chief will not be permitted to testify unless, by order of the court, the final pretrial order is amended to include them.

A. Plaintiff:

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
-------------	----------------	---------------------------

B. Defendant:

<u>Name</u>	<u>Address</u>	<u>Proposed Testimony</u>
-------------	----------------	---------------------------

8. ESTIMATED TRIAL TIME:

A. Plaintiff's Case: _____

B. Defendant's Case: _____

9. BIFURCATION REQUESTED: Yes _____ No _____

10. POSSIBILITY OF SETTLEMENT:

Good _____ Fair _____ Poor _____

All parties approve this report and understand and agree that this report supersedes all pleadings, shall govern the conduct of the trial, and shall not be amended except by order of the court.

Counsel for Plaintiff

Counsel for Defendant

APPENDIX V
[Reference LCrR16.1(b)]

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)	
Plaintiff,)	
)	CR- _____
v.)	
)	
Defendant(s).)	

JOINT STATEMENT OF DISCOVERY CONFERENCE

This joint statement is submitted pursuant to LCrR16.1(b).

1. Date Conference Held: _____, within 14 days of the appearance before Magistrate Judge _____ where a plea of not guilty was entered.

2. Names of the attorneys who attended the conference:

U.S. Attorney/AUSA _____

Defense Attorney _____

Retained ___; Appointed: Federal Public Defender/Assistant FPD ___ or Panel Member ___

Counsel met for purposes of exchanging discovery materials in accordance with the Federal Rules of Criminal Procedure as supplemented by the Local Criminal Court Rules and any orders of this court and, as a result of the conference, the undersigned counsel report the following:

3. The specific time, date and place at which the offense(s) charged is/are alleged to have been committed:

4. (a)(1) Any contested issues of discovery and inspection raised by counsel for plaintiff:

(2) Any contested issues of discovery and inspection raised by counsel for defendant:

(b) Any additional discovery or inspection desired by either party:

5. The fact of disclosure of all materials favorable to the defendant or the absence thereof within the meaning of Brady v. Maryland and related cases:

Counsel for plaintiff expressly acknowledges continuing responsibility to disclose any material favorable to defendant within the meaning of Brady that becomes known to the Government during the course of these proceedings.

6. The fact of disclosure of the existence or nonexistence of any evidence obtained through electronic surveillance or wiretap:
7. The fact of disclosure of the contemplated use of the testimony of an informer. (Include only the fact an informer exists and not the name or testimony thereof):
8. The fact of disclosure of the general nature of any evidence of other crimes, wrongs, or acts the government intends to introduce at trial pursuant to Fed. R. Evid. 404(b):
9. The fact of disclosure of the prior felony convictions of any witness the government intends to call in its case-in-chief:
10. The resolution, if any, of foundational objections to documentary evidence to be used by both parties (except for the purpose of impeachment):
11. The resolution, if any, of chain-of-custody matters (where at issue):
12. The resolution, if any, of the admissibility of any reports containing scientific analysis without requiring the expert's attendance at trial:
13. The parties will provide each other with the opportunity to inspect any demonstrative evidence, representational exhibits or charts.

Counsel for both parties state that presently there are no additional matters of discovery presently known.

Counsel expressly acknowledges the obligation to produce these item(s) as soon as practicable, but in no event later than 14 days prior to the trial of this cause. Counsel also expressly acknowledges continuing obligation to disclose any materials that become known to counsel during the course of the pretrial investigation of this cause.

- 14. Notice of Alibi:

- 15. Notice of Insanity Defense or Expert Testimony of Defendant's Mental Condition:

- 16. Notice of Defense Based on Public Authority:

At the conclusion of this conference, counsel conferred concerning the contents of this joint statement.

Respectfully submitted,

United States Attorney

Assistant U.S. Attorney
(address)
(telephone number)

Counsel for Defendant
(address)
(telephone number)

APPENDIX VI
[Reference LCvR16.2]
CONFIDENTIAL
SETTLEMENT CONFERENCE STATEMENT
COVER SHEET

Each party is required to attach this cover sheet to the party's settlement conference statement. Neither the cover sheet nor the settlement conference statement is to be filed of record in the case.

CASE NO. AND STYLE OF CASE: _____

STATEMENT SUBMITTED ON BEHALF OF: _____

TYPE OF CASE: _____

PERSONS WHO WILL ATTEND THE CONFERENCE:

[See requirements of LCvR16.2(b) and (c).]

Party(ies) or Party Representative(s): _____

Insurers and Subrogors: _____

Lead Trial Counsel: _____

Other Counsel or Legal Staff: _____

HISTORY OF SETTLEMENT DISCUSSIONS PRIOR TO CONFERENCE:

[Pre-conference settlement discussions are required. See LCvR16.2(e).]

Provide a brief summary of prior settlement discussions with counsel for the opposing party(ies), including any specific demands and offers that may have been conveyed: _____

ATTORNEYS' FEES AND COSTS: Counsel should be prepared to identify and discuss the costs and attorneys' fees incurred up to the settlement conference as well as the anticipated costs and fees that will be incurred if the case proceeds to trial.

Will the prevailing party in a trial of this case be entitled to an award of attorneys' fees? _____

If so, provide authority for the award of attorneys' fees: _____

APPENDIX VII

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

_____)	
)	
Plaintiff(s),)	
v.)	Case No. _____
)	
_____)	
)	
Defendant(s).)	

REDACTION REQUEST – TRANSCRIPT

Pursuant to LCvR5.2.1/LCrR49.1.1, _____ Plaintiff/Defendant, requests that the following personal data identifiers be redacted from the transcript [Doc. # ____].

Page	Line	Identifier*	Redaction Request

***Describe the “identifier” by type: Social Security number; taxpayer ID number; date of birth; minor’s name; financial account number; or, in a criminal case, home address. Do not insert the actual information you seek to redact (i.e. use “Social Security number” not “123-45-6789”).**

NOTE: Any additional redaction to a transcript, other than the personal data identifiers listed in the federal rules, requires court approval. A separate Motion for Redaction requesting the additional redactions must be filed within 21 days of the filing of the transcript, unless otherwise ordered by the court.

s/ _____
Attorney for (Plaintiff or Defendant)
Address: _____

_____ I hereby certify that on (date) _____, I electronically transmitted the attached document to the clerk of court using the ECF System. Based on the records currently on file, the clerk of court will transmit a Notice of Electronic Filing to the following ECF registrant: (insert names)

_____ I hereby certify that on (date) _____, I served the attached document by (service method) _____ on the following, who are not registered participants of the ECF System: (insert names and addresses)

s/ _____
Attorney Name

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