UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LOCAL RULES AND APPENDICES as of [December 1, 2018][1]

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[1] These rules include amendments through General Order [18-10], which was filed on [October 25, 2018].

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LOCAL RULES

SECTION I: CIVIL RULES

LOCAL RULE CV-1 Scope and Purpose of Rules

(a) The rules of procedure in any proceeding in this court are those prescribed by the laws of the United States, the Federal Rules of Civil Procedure, these local rules, and any orders entered by the court. These local rules shall be construed as consistent with Acts of Congress and rules of practice and procedure prescribed by the Supreme Court of the United States and the United States Court of Appeals for the Fifth Circuit.

(b) **Admiralty Rules**. The Supplemental Rules for Certain Admiralty and Maritime Claims, as adopted by the Supreme Court of the United States, shall govern all admiralty and maritime actions in this court.

(c) **Patent Rules**. The "Rules of Practice for Patent Cases before the Eastern District of Texas" attached as Appendix B to these rules shall apply to all civil actions filed in or transferred to this court which allege infringement of a utility patent in a complaint, counterclaim, cross-claim, or third party claim, or which seek a declaratory judgment that a utility patent is not infringed, is invalid, or is unenforceable. Judges may opt out of this rule by entering an order.

LOCAL RULE CV-3 Commencement of Action

(a) **Habeas Corpus and 28 U.S.C. § 2255 Motions**. The clerk may require that petitions for a writ of habeas corpus and motions filed pursuant to 28 U.S.C. § 2255 be filed on a set of standardized forms approved by this court and supplied, upon request, by the clerk without cost to the petitioner. Petitioners who do not proceed *in forma pauperis* must pay a $5.00 filing fee. *See* 28 U.S.C. § 1914(a). There is no filing fee for Section 2255 motions filed by prisoners in federal custody.

(b) **Page Limitation for Petitions for a Writ of Habeas Corpus and 28 U.S.C. § 2255 Motions**. Absent leave of court, 28 U.S.C. §§ 2241 and 2254 habeas corpus petitions and 28 U.S.C. § 2255 motions and the initial responsive pleadings thereto, shall not exceed thirty pages in non-death penalty cases, and one hundred pages in death penalty cases, excluding attachments. Replies and sur-replies, along with all other motions and responses thereto, shall not exceed fifteen pages in length in non-death penalty cases and thirty pages in length in death penalty cases, excluding attachments. Documents that exceed ten pages in length must include a table of contents and table of authorities, with page references. Tables and certificates of service and conference are not counted against the applicable page limit.

(c) **Motions for Stay of Execution**. A motion for stay of execution filed on behalf of a petitioner challenging a sentence of death must be filed at least seven days before the petitioner's scheduled execution date or recite good cause for any late filing.

(d) **Page Limitations in Civil Rights Lawsuits**. Absent leave of court, complaints and the initial responsive pleadings thereto filed in civil rights proceedings shall not exceed thirty pages, excluding attachments. Documents that exceed ten pages in length must include a table of contents and table of authorities, with page references. Tables and certificates of service and conference shall not counted against the applicable page limit.

LOCAL RULE CV-4 Complaint, Summons, and Return

(a) At the commencement of the action, counsel shall prepare and file the civil cover sheet, Form JS 44, along with the complaint. When filing a patent, trademark, or copyright case, counsel is also responsible for electronically filing an AO Form 120 or 121 using the event Notice of Filing of Patent/Trademark Form (AO 120) or Notice of Filing of Copyright Form (AO 121).

If service of summons is not waived, the plaintiff must prepare and submit a summons to the clerk for each defendant to be served with a copy of the complaint. The clerk is required to collect the filing fee authorized by federal statute before accepting a complaint for filing.

(b) **Electronic Filing of Complaints**. Attorneys must electronically file a civil complaint upon opening a civil case in CM/ECF.

(c) On the complaint, all litigants shall type or print all party names contained in the case caption with the accurate capitalization and spacing for each party (e.g., Martha vanDerkloot, James De Borne). This procedure seeks to ensure that accurate computer party name searches can later be performed.

(d) Service of civil process shall not be executed by the United States Marshal except for government initiated process, extraordinary writ, or when ordered to do so by a judge. The party requesting service is responsible for preparing all process forms to be supplied by the clerk. When process is to be served by the United States Marshal, the party seeking service shall complete the required U.S. Marshal Form 285.

LOCAL RULE CV-5 Service and Filing of Pleadings and Other Documents

(a) **Electronic Filing Required**. Except as expressly provided or in exceptional circumstances preventing a Filing User from filing electronically, all documents filed with the court shall be electronically filed in compliance with the following procedures.

(1) **Exemptions from Electronic Filing Requirement**. The following are exempted from the requirement of electronic filing:

(A) In a criminal case, the charging documents, including the complaint, information, indictment, and any superseding indictment; affidavits in support of search and arrest warrants, pen registers, trap and trace requests,

wiretaps, and other related documentation; and *ex parte* documents filed in connection with ongoing criminal investigations;

(B) Documents filed by *pro se* litigants (prisoner and non-prisoner);

(C) Official administrative records or transcripts of prior court or administrative proceedings from other courts or agencies that are required to be filed by law, rule, or local rule; and

(D) Sealed civil complaints (these documents should be filed on a CD-ROM disk with the clerk along with a motion to seal the case). *See* Local Rule CV-5(a)(7)(A).

(2) **Registration for Electronic Filing**.

(A) The clerk shall register all attorneys admitted to the bar of this court, including those admitted pro hac vice, as Filing Users of the court's Electronic Filing System. Registration as a Filing User constitutes consent to electronic service of all documents as provided in these rules in accordance with the Federal Rules of Civil and Criminal Procedure. The clerk shall provide Filing Users with a user log-in and password once registration is completed. Filing Users agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised. After registration, attorneys are required to maintain their own account information, including changes in e-mail address. Documents sent from the court will be deemed delivered if sent to the last known e-mail address given to the court.

(B) With court permission, a *pro se* litigant may register as a Filing User in the Electronic Filing System solely for purposes of the action. If, during the course of the proceeding, the party retains an attorney who appears on the party's behalf, the attorney must advise the clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

(C) A Filing User may apply to the court for permission to withdraw from participation in the Electronic Filing System for good cause shown.

(3) **Significance of Electronic Filing**.

(A) Electronic transmission of a document to the Electronic Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes and constitutes entry of the document on the docket kept by the clerk. Receipt by the filing party of a Notice of Electronic Filing from the court is proof of service of the document on all counsel who are deemed to have consented to electronic service.

(B) When a document has been filed electronically, the official record is the

electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. A document filed electronically is deemed filed at the "entered on" date and time stated on the Notice of Electronic Filing from the court.

(C) Service is deemed completed at the "entered on" date and time stated on the Notice of Electronic Filing from the court, except that documents filed electronically after 5:00 p.m. Central Time shall be deemed served on the following day.

(D) Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight Central Time in order to be considered timely filed that day.

(4) **File Size Limitations**. No single electronic file, whether containing a document or an attachment, may exceed fifteen megabytes in size. Documents or attachments in excess of fifteen megabytes must be divided into multiple files and accurately described to the court. *See* Local Rule CV-7 (page requirements for motions and responses).

(5) **Signatures**. The user log-in and password required to submit documents to the Electronic Filing System serves as the Filing User's signature on all electronic documents filed with the court. The name of the Filing User under whose log-in and password the document is submitted must be preceded by either an image of the Filing User's signature or an "/s/" typed in the space where the signature would otherwise appear. *See* Local Rule CV-11(b) ("Signing the Pleadings").

(6) **Attachments and Exhibits**. Filing Users must submit and describe each exhibit or attachment with specificity as a separate PDF document, unless the court permits conventional filing. *See* Local Rules CV-5(a)(4) ("File Size Limitations"), CV-7(b) ("Documents Supporting Motions"), and CV-56(d) ("Proper Summary Judgment Evidence"). Non-documentary exhibits to motions (e.g., CD-ROM disks) should be filed with the clerk's office with a copy to the presiding judge.

(7) **Sealed Documents**.

(A) All sealed documents must state "Filed Under Seal" at the top of the document.

(B) Unless authorized by statute or rule, a document in a civil case shall not be filed under seal unless it contains a statement by counsel following the certificate of service that certifies that (1) a motion to seal the document has been filed, or (2) the court already has granted authorization to seal the document.

(C) A motion to file document(s) under seal must be filed separately and immediately before the document(s) sought to be sealed. If the motion to seal is granted, the document will be deemed to have been filed as of the

original date of its filing. If the motion is denied, the document will be struck. A motion to seal that is filed as a sealed document does not need to include the certification specified in Section (B) above. *See* Local Rule CR-49(b) (additional rules regarding the filing of sealed documents in criminal cases).

(D) Documents requested or authorized to be filed under seal or *ex parte* shall be filed in electronic form. Service in "electronic form" shall be of documents identical in all respects to the documents(s) filed with the court; service copies shall not include encryption, password security, or other extra steps to open or access unless the same are found in the document as filed. All sealed or *ex parte* documents filed with the court must comply with the file size and other form requirements of Local Rules CV-5(a) and CV-7. Counsel is responsible for serving documents under seal to opposing counsel and may do so in electronic form. Counsel is also responsible for complying with Local Rule CV-5(a)(9) regarding courtesy copies of filings. When a sealed order is entered by the court, the clerk will send by conventional mail a copy of the sealed order to the lead attorney only for each party who is responsible for distributing the order to all other counsel of record for that party. *See* Local Rule CV-11.

(E) Except as otherwise provided by Local Rule CR-49, a party filing a document under seal must publicly file a version of that document with the confidential information redacted within two days, unless the entire document is confidential information. For purposes of this rule, "confidential information" is information that the filing party contends is confidential or proprietary in a pending motion to file under seal; information that has been designated as confidential or proprietary under a protective order or non-disclosure agreement; or information otherwise entitled to protection from disclosure under a statute, rule, order, or other legal authority.

(8) **Entry of Court Orders**.

(A) All orders, decrees, judgments, and court proceedings will be filed electronically by the court or court personnel in accordance with these rules, which will constitute entry on the docket kept by the clerk. Any order filed electronically has the same force and effect as if the judge had signed a paper copy of the order and it had been entered on the docket in a conventional manner.

(B) A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

(9) **Paper Copies of Lengthy Documents**. Unless otherwise ordered by the presiding judge, if a document to be filed electronically exceeds ten pages in length, including

attachments, a paper copy of the filed document must be sent contemporaneously to the presiding judge's chambers. A copy of the "Notice of Electronic Filing" must be attached to the front of the paper copy of the filed document. The paper copy should be sent directly to the judge's chambers and not to the clerk's office. *See* Local Rule CV-10(b) (regarding tabs and dividers for voluminous documents). Judges may opt out of this rule by entering an order. Such orders can be found on the court's website, located at www.txed.uscourts.gov.

(10) **Technical Failures**. A technical failure does not relieve a party from exercising due diligence to timely file and serve documents. A Filing User whose filing is made untimely as the result of a technical failure of the court will have a reasonable grace period to file from the time that the technical failure is cured. There will be a notice on the court's website indicating when the database was down and the duration of the grace period. A Filing User whose filing is made untimely as the result of a technical failure not attributable to the court may seek appropriate relief from the court.

(b) **Filing by Paper**. When filing by paper is permitted, the original pleadings, motions, and other papers shall be filed with the clerk.

(c) **Certificates of Service**. The certificate of service required by Fed. R. Civ. P. 5(d) shall indicate the date and method of service. Sealed documents in civil cases must indicate that the sealed document was promptly served by means other than the CM/ECF system (e.g., e-mail, conventional mail).

(d) **Service by Facsimile or Electronic Means Authorized**. Parties may serve copies of pleadings and other case related documents to other parties by facsimile or electronic means in lieu of service and notice by mail. Such service is deemed complete upon sending. Service after 5:00 p.m. Central Time shall be deemed served on the following day for purposes of calculating responsive deadlines.

(e) **Service of Documents Filed by *Pro Se* Litigants**. A document filed by a *pro se* litigant shall be deemed "served" for purposes of calculating deadlines under the Local Rules or Federal Rules of Civil Procedure on the date it is electronically docketed in the court's CM/ECF system.

LOCAL RULE CV-5.2 Privacy Protections for Filings Made with the Court

(a) **Electronic Filing of Transcripts by Court Reporters**. The following procedures apply to all court transcripts filed on or after May 19, 2008. The court reporter or transcriber shall electronically file all court transcripts,[2] including a completed version of the attached "Notice of Filing of Official Transcript." Upon request, the clerk shall make an electronic version of any transcript available for public inspection without charge at the clerk's office public terminal. *See* 28 U.S.C. § 753(b).

[2] Contract court reporters may either file court transcripts electronically in the CM/ECF database or submit an electronic PDF version of the transcript to the clerk, who will thereupon file it.

(b) **Availability of Transcripts of Court Proceedings**. Electronically-filed transcripts of court proceedings are subject to the following rules:

(1) A transcript provided to a court by a court reporter or transcriber will be available at the clerk's office for inspection for a period of ninety days after it is electronically filed with the clerk. During the ninety-day inspection period, access to the transcript in CM/ECF is limited to the following users: (a) court staff; (b) public terminal users; (c) attorneys of record or parties who have purchased the transcript from the court reporter or transcriber; and (d) other persons as directed by the court. During the ninety-day period, court staff may not copy or print transcripts for a requester and the transcript may not be printed from the public computer terminals in the clerk's office.

(2) During the ninety-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript will also be available within the court for internal use, and an attorney who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's CM/ECF system for purposes of creating hyperlinks to the transcript in court filings and for other purposes.

(3) Within seven days of the filing of the transcript in CM/ECF, each party wishing to redact a transcript must inform the court, by filing the attached "Notice of Intent to Request Redaction," of the party's intent to redact personal data identifiers from the transcript as required by Fed. R. Civ. P. 5.2. If no such notice is filed within the allotted time, the court will assume redaction of personal data identifiers from the transcript is not necessary.

(4) If redaction is requested, a party is to submit to the court reporter or transcriber and file with the court, within twenty-one days of the transcript's delivery to the clerk, or longer if a court so orders, a statement indicating where the personal data identifiers to be redacted appear in the transcript. The court reporter or transcriber must redact the identifiers as directed by the party. These procedures are limited to the redaction of the specific personal identifiers listed in Fed. R. Civ. P. 5.2. If an attorney wishes to redact additional information, he or she must make a motion to the court. The transcript will not be electronically available until the court has ruled on any such motion.

(5) The court reporter or transcriber must, within thirty-one days of the filing of the transcript, or longer if the court so orders, perform the requested redactions and file a redacted version of the transcript with the clerk. Redacted transcripts are subject to the same access restrictions as outlined above during the initial ninety days after the first transcript has been filed. The original unredacted electronic transcript shall be retained by the clerk as a restricted document.

(6) If, after the ninety-day period has ended, there are no redacted documents or motions linked to the transcript, the clerk will remove the public access restrictions and make the unredacted transcript available for inspection and copying in the

clerk's office and for download from the CM/ECF system.

(7) If, after the ninety-day period has ended, a redacted transcript has been filed with the court, the clerk will remove the access restrictions as appropriate and make the redacted transcript available for inspection and copying in the clerk's office and for download from the CM/ECF system or from the court reporter or transcriber.

LOCAL RULE CV-6 Computation of Time

Deficient or Corrected Documents. When a document is corrected or re-filed by an attorney following a deficiency notice from the clerk's office (e.g., for a missing certificate of service or certificate of conference), the time for filing a response runs from the filing of the corrected or re-filed document, not the original document.

LOCAL RULE CV-7 Pleadings Allowed; Form of Motions and Other Documents

(a) **Generally**. All pleadings, motions, and responses to motions, unless made during a hearing or trial, shall be in writing, conform to the requirements of Local Rules CV-5 and CV-10, and shall be accompanied by a separate proposed order in searchable and editable PDF format for the judge's signature. Each pleading, motion, or response to a motion must be filed as a separate document, except for motions for alternative relief (e.g., a motion to dismiss or, alternatively, to transfer). The proposed order shall be endorsed with the style and number of the cause and shall not include a date or signature block. Motions, responses, replies, and proposed orders, if filed electronically, shall be submitted in "searchable PDF" format and shall not contain restrictions or security settings that prohibit copying, highlighting, or commenting. All other documents, including attachments and exhibits, should be in "searchable PDF" form whenever possible.

(1) **Case Dispositive Motions**. Case dispositive motions shall not exceed thirty pages, excluding attachments, unless leave of court is first obtained. Likewise, responses to such motions shall not exceed thirty pages, excluding attachments, unless leave of court is first obtained. *See* Local Rule CV-56 (regarding attachments to motions for summary judgment and responses thereto). Any reply or sur-reply to an opposed case dispositive motion filed pursuant to Section (f) of this rule shall not exceed ten pages, excluding attachments.

Case dispositive motions shall contain a statement of the issues to be decided by the court. Responses to case dispositive motions must include a response to the movant's statement of issues.

(2) **Non-dispositive Motions**. Non-dispositive motions shall not exceed fifteen pages, excluding attachments, unless leave of court is first obtained. Likewise, responses to such motions shall not exceed fifteen pages, excluding attachments, unless leave of court is first obtained. Any reply or sur-reply brief to an opposed non-dispositive motion filed pursuant to Section (f) of this rule shall not exceed five pages, excluding attachments. Non-dispositive motions include, among others, motions to transfer venue, motions for partial summary judgment, and motions for new trial

pursuant to Fed. R. Civ. P. 59.

(3) **Total Page Limits for Summary Judgment Motions**. If a party files more than one summary judgment motion, the following additional limitations apply:

(A) A party's summary judgment motions shall not exceed sixty pages collectively, excluding attachments;

(B) A party's responses to summary judgment motions shall not exceed sixty pages collectively, excluding attachments;

(C) A party's reply briefing to summary judgment motions shall not exceed twenty pages collectively, excluding attachments; and

(D) A party's sur-reply briefing to summary judgment motions shall not exceed twenty pages collectively, excluding attachments.

(4) **Motions to Reconsider**. Motions to reconsider must specifically state the action and the docket sheet document number to be reconsidered in the title of the motion (e.g., "Motion to Reconsider Denial of Motion for Partial Summary Judgment (dkt # x)").

(b) **Documents Supporting Motions**. When allegations of fact not appearing in the record are relied upon in support of a motion, all affidavits and other pertinent documents shall be served and filed with the motion. The court strongly recommends that any attached materials have the cited portions highlighted or underlined in the copy provided to the court, unless the citation encompasses the entire page. The page preceding and following a highlighted or underlined page may be submitted if necessary to place the highlighted or underlined material in context. Only relevant, cited-to excerpts of attached materials should be attached to the motion or the response.

(c) **Briefing Supporting Motions**. The motion and any briefing shall be contained in one document. The briefing shall contain a concise statement of the reasons in support of the motion and citation of authorities upon which the movant relies. Briefing is an especially helpful aid to the judge in deciding motions to dismiss, motions for summary judgment, motions to remand, and post-trial motions.

(d) **Response and Briefing**. The response and any briefing shall be contained in one document. A party opposing a motion shall file the response, any briefing and supporting documents within the time period prescribed by Subsection (e) of this rule. A response shall be accompanied by a proposed order conforming to the requirements of Subsection (a) of this rule. Briefing shall contain a concise statement of the reasons in opposition to the motion and a citation of authorities upon which the party relies. A party's failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.

(e) **Time to File Response**. A party opposing a motion has fourteen days (twenty-one days for

summary judgment motions) from the date the motion was served in which to file a response and any supporting documents, after which the court will consider the submitted motion for decision. Any party may separately move for an order of this court lengthening or shortening the response period.

(f) **Reply Briefs**. Unless otherwise directed by the presiding judge, a party who has filed an opposed motion may serve and file a reply brief responding to the issues raised in the response within seven days from the date the response is served. A sur-reply responding to issues raised in the reply may be served and filed within seven days from the date the reply is served. The court need not wait for the reply or sur-reply before ruling on the motion. Absent leave of court, no further submissions on the motion are allowed.

(g) **Oral Hearings**. A party may in a motion or a response specifically request an oral hearing, but the allowance of an oral hearing shall be within the sole discretion of the judge to whom the motion is assigned.

(h) **"Meet and Confer" Requirement**. The "meet and confer" motions practice requirement imposed by this rule has two components, a substantive and a procedural component.

For opposed motions, the substantive component requires, at a minimum, a personal conference, by telephone or in person, between an attorney for the movant and an attorney for the non-movant. In any discovery-related motion, the substantive component requires, at a minimum, a personal conference, by telephone or in person, between the lead attorney and any local counsel for the movant and the lead attorney and any local counsel for the non-movant.

In the personal conference, the participants must give each other the opportunity to express his or her views concerning the disputes. The participants must also compare views and have a discussion in an attempt to resolve their differing views before coming to court. Such discussion requires a sincere effort in which the participants present the merits of their respective positions and meaningfully assess the relative strengths of each position.

In discovery-related matters, the discussion shall consider, among other things: (1) whether and to what extent the requested material would be admissible in a trial or is reasonably calculated to lead to the discovery of admissible evidence; (2) the burden and costs imposed on the responding party; (3) the possibility of cost-shifting or sharing; and (4) the expectations of the court in ensuring that parties fully cooperate in discovery of relevant information.

Except as otherwise provided by this rule, a request for court intervention is not appropriate until the participants have met and conferred, in good faith, and concluded, in good faith, that the discussions have conclusively ended in an impasse, leaving an open issue for the court to resolve. Good faith requires honesty in one's purpose to discuss meaningfully the dispute, freedom from intention to defraud or abuse the discovery process and faithfulness to one's obligation to secure information without court intervention. For opposed motions, correspondence, e-mails, and facsimile transmissions do not constitute compliance with the substantive component and are not evidence of good faith. Such materials, however,

may be used to show bad faith of the author.

An unreasonable failure to meet and confer violates Local Rule AT-3 and is grounds for disciplinary action. A party may file an opposed motion without the required conference only when the non-movant has acted in bad faith by failing to meet and confer.

The procedural requirement of the "meet and confer" rule is one of certification. It appears in Section (i) of this rule, entitled "Certificates of Conference."

(i) **Certificates of Conference**. Except as specified below, all motions must be accompanied by a "certificate of conference" at the end of the motion following the certificate of service. The certificate must state: (1) that counsel has complied with the meet and confer requirement in Local Rule CV-7(h); and (2) whether the motion is opposed or unopposed. Opposed motions shall include a statement in the certificate of conference, signed by the movant's attorney, that the personal conference or conferences required by this rule have been conducted or were attempted, the date and manner of such conference(s) or attempts, the names of the participants in the conference(s), an explanation of why no agreement could be reached, and a statement that discussions have conclusively ended in an impasse, leaving an open issue for the court to resolve. In discovery-related motions, the certificate of conference shall be signed by the lead attorney and any local counsel. In situations involving an unreasonable failure to meet and confer, the movant shall set forth in the certificate of conference the facts believed to constitute bad faith.

Neither the "meet and confer" nor the "certificate of conference" requirements are applicable to *pro se* litigants (prisoner or non-prisoner) or to the following motions:

(1) to dismiss;

(2) for judgment on the pleadings;

(3) for summary judgment, including motions for partial summary judgment;

(4) for judgment as a matter of law;

(5) for new trial;

(6) issuance of letters rogatory;

(7) objections to report and recommendations of magistrate judges or special masters;

(8) for reconsideration;

(9) for sanctions under Fed. R. Civ. P. 11, provided the requirements of Fed. R. Civ. P. 11(c)(2) have been met;

(10) for writs of garnishment, and

(11) any motion that is joined by, agreed to, or unopposed by, all the parties.

(j) **Re-urged Motions in Transferred/Removed Cases**. Except in prisoner cases, any motions pending in another federal or state court made by any party will be considered moot at the time of transfer or removal unless they are re-urged in this court. *See* Local Rule CV-81(d).

(k) **Motions for Leave to File**. Motions for leave to file a document should be filed separately and immediately before the document for which leave is sought. If the motion for leave to file is granted, the document will be deemed to have been filed as of the original date of its filing. If the motion is denied, the document will be struck or, in the case of motions to file a document exceeding page limitations, the excess pages and attachments cited only therein will not be considered by the court. The time for filing any responsive documents will run from the date of the order on the motion for leave.

(l) **Emergency Motions**. Emergency motions are only those necessary to avoid imminent, irreparable harm such that a motion pursuant to LOCAL RULE CV-7(e) to shorten the period for a response is inadequate. Counsel filing an emergency motion should ensure that: (1) the caption of the motion begins with the word "emergency;" (2) the motion is electronically filed using the CM/ECF drop down menu option entitled "emergency;" (3) the motion clearly states the alleged imminent, irreparable harm and the circumstances making proceeding under LOCAL RULE CV-7(e) inadequate; and (4) the chambers of the presiding judge is notified, either by telephone, e-mail, or fax, that an emergency motion has been filed.

(m) **Motions *in Limine***. Motions *in limine* should be contained within a single document subject to the page limitations of Local Rule CV-7(a)(2) for non-dispositive motions.

LOCAL RULE CV-10 Form of Pleadings

(a) **Generally**. When offered for filing, all documents, excluding preexisting documentary exhibits and attachments, shall:

(1) be endorsed with the style and number of the action;

(2) have a caption containing the name and party designation of the party filing the document and a statement of the character of the document clearly identifying it (e.g., Defendant John Doe's Answer; Defendant John Doe's Motion to Dismiss under Rule 12(b)(6)). *See* Local Rule CV-38(a) (cases involving jury demands); *see also* Local Rule CV-7(a) (each motion must be filed as a separate document, except when the motion concerns a request for alternative relief);

(3) be signed by the lead attorney or with his or her permission;

(4) when filed by paper, be plainly written, typed, or printed, double-spaced, on $8^{1/2}$ inch by 11-inch white paper; and

(5) be double spaced and in a font no smaller than 12-point type.

(b) **Tabs and Dividers**. When filed by paper, original documents offered for filing shall not

include tabs or dividers. The copy of the original that is required to be filed for the court's use, if voluminous, should have dividers or tabs, as should all copies sent to opposing counsel. *See* Fed. R. Civ. P. 5(a).

(c) **Covers**. "Blue backs" and other covers are not to be submitted with paper filings.

(d) **Deficient Pleadings/Documents**. The clerk shall monitor documents for compliance with the federal and local rules as to format and form. If the document sought to be filed is deficient as to form, the clerk shall immediately notify counsel, who should be given a reasonable opportunity, preferably within one day, to cure the perceived defect. If the perceived defect is not cured in a timely fashion, the clerk shall refer the matter to the appropriate district or magistrate judge for a ruling as to whether the documents should be made part of the record.

(e) **Hyperlinks**. Electronically filed documents may contain the following types of hyperlinks:

(1) Hyperlinks to other portions of the same document;

(2) Hyperlinks to CM/ECF that contains a source document for a citation;

(3) Hyperlinks to documents already filed in any CM/ECF database;

(4) Hyperlinks between documents that will be filed together at the same time;

(5) Hyperlinks that the clerk may approve in the future as technology advances.

Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document. A hyperlink, or any site to which it refers, will not be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document. The court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site, or at any site to which that site might be linked. The court accepts no responsibility for the availability or functionality of any hyperlink.

LOCAL RULE CV-11 Signing of Pleadings, Motions, and Other Documents

(a) **Lead Attorney**.

(1) **Designation**. On the first appearance through counsel, each party shall designate a lead attorney on the pleadings or otherwise.

(2) **Responsibility**. The lead attorney is responsible in that action for the party. That individual attorney shall attend all court proceedings or send a fully informed attorney with authority to bind the client.

(b) **Signing the Pleadings**. Every document filed must be signed by the lead attorney or by an attorney of record who has the permission of the lead attorney. Requests for postponement of the trial shall also be signed by the party making the request.

(1) **Required Information**. Under the signature, the following information shall appear:

(A) attorney's individual name;

(B) state bar number;

(C) office address, including zip code;

(D) telephone and facsimile numbers; and

(E) e-mail address.

(c) **Withdrawal of Counsel**. Attorneys may withdraw from a case only by motion and order under conditions imposed by the court. Change of counsel will not be cause for delay.

(d) **Change of Address**. Notices will be sent only to an e-mail and/or mailing address on file. A *pro se* litigant must provide the court with a physical address (i.e., a post office box is not acceptable) and is responsible for keeping the clerk advised in writing of his or her current physical address. *Pro se* litigants must also advise the court of the case numbers of all pending cases in which they are participants in this district.

(e) **Request for Termination of Electronic Notice**. If an attorney no longer desires to receive electronic notification of filings in a particular case due to settlement or dismissal of his or her client, the attorney may file a request for termination of electronic notice.

(f) **Sanctions Concerning Vexatious *Pro Se* Litigants**. The court may make orders as are appropriate to control the conduct of a vexatious *pro se* litigant. *See* Local Rule CV-65.1(b).

LOCAL RULE CV-12 Filing of Answers and Defenses

An attorney may request that the deadline be extended for a defendant to answer the complaint or file a motion under Fed. R. Civ. P. 12(b). Unless otherwise ordered by the court, where the requested extension: (1) is not opposed; and (2) is not more than thirty days and does not result in an overall extension of the defendant's deadline exceeding forty-five days, the request shall be by application to the clerk, not motion. The application shall be acted upon with dispatch by the clerk on the court's behalf, and the deadline to answer or otherwise respond is stayed pending action by the clerk.

LOCAL RULE CV-26 Provisions Governing Discovery; Duty of Disclosure

(a) **No Excuses**. Absent a court order to the contrary, a party is not excused from responding to discovery because there are pending motions to dismiss, to remand, or to change venue. Parties asserting the defense of qualified immunity may submit a motion to limit discovery to those materials necessary to decide the issue of qualified immunity.

(b) **Disclosure of Expert Testimony**.

(1) When listing the cases in which the witness has testified as an expert, the disclosure shall include the styles of the cases, the courts in which the cases were pending, the cause numbers, and whether the testimony was in trial or by deposition.

(2) By order in the case, the judge may alter the type or form of disclosures to be made with respect to particular experts or categories of experts, such as treating physicians.

(c) **Notice of Disclosure**. The parties shall promptly file a notice with the court that the disclosures required under Fed. R. Civ. P. 26(a)(1) and (a)(2) have taken place.

(d) **Relevant to Any Party's Claim or Defense**. The following observations are provided for counsel's guidance in evaluating whether a particular piece of information is "relevant to any party's claim or defense:"

(1) it includes information that would not support the disclosing parties' contentions;

(2) it includes those persons who, if their potential testimony were known, might reasonably be expected to be deposed or called as a witness by any of the parties;

(3) it is information that is likely to have an influence on or affect the outcome of a claim or defense;

(4) it is information that deserves to be considered in the preparation, evaluation, or trial of a claim or defense; and

(5) it is information that reasonable and competent counsel would consider reasonably necessary to prepare, evaluate, or try a claim or defense.

(e) **Discovery Hotline (903) 590-1198**. The court shall provide a judge on call during business hours to rule on discovery disputes and to enforce provisions of these rules. Counsel may contact the duty judge for that month by dialing the hotline number listed above for any case in the district and get a hearing on the record and ruling on the discovery dispute, including whether a particular discovery request falls within the applicable scope of discovery, or request to enforce or modify provisions of the rules as they relate to a particular case.

LOCAL RULE CV-30 Depositions Upon Oral Examination

In cases where there is a neutral non-party witness or a witness whom all parties must examine, the time limit shall be divided equally among plaintiffs and defendants. Depositions may be taken after 5:00 p.m., on weekends, or holidays with approval of a judge or by agreement of counsel. Unless permitted by Fed. R. Civ. P. 30(c)(2), a party may not instruct a deponent not to answer a question. Objections to questions during the oral deposition are limited to "Objection, leading" and "Objection, form." Objections to testimony during the oral deposition are limited to "Objection, nonresponsive." These objections are waived if not stated as phrased during the oral deposition.

All other objections need not be made or recorded during the oral deposition to be later raised with the court. The objecting party must give a clear and concise explanation of an objection if requested by the party taking the oral deposition, or the objection is waived.

LOCAL RULE CV-34 Production of Documents and Things

Authorizations. At any time after the parties have conferred as required by Fed. R. Civ. P. 26(f), a party may request medical records, wage and earning records, or Social Security Administration records of another party as follows:

(a) Where a party's physical or mental condition is at issue, that party shall provide to the opposing counsel either the party's medical records or a signed authorization so that records of health care providers which are relevant to injuries and damages claimed may be obtained. If additional records are desired, the requesting party must show the need for them.

(b) Where lost earnings, lost earning capacity, or back pay is at issue, the party making such claims shall furnish signed authorizations to the opposing party's counsel so that wage and earning records of past and present employers and the Social Security Administration records may be obtained.

(c) Copies of any records obtained with authorizations provided pursuant to Sections (1) or (2) above shall be promptly furnished to that party's counsel. Records obtained shall remain confidential. The attorney obtaining such records shall limit their disclosure to the attorney's client (or, in the case of an entity, those employees or officers of the entity necessary to prepare the defense), the attorney's own staff, and consulting and testifying experts who may review the records in connection with formulating their opinions in the case.

LOCAL RULE CV-38 Right to a Jury Trial; Demand

(a) **Jury Demand**. A party demanding trial by jury pursuant to Fed. R. Civ. P. 38(b) is encouraged to do so by electronically filing a separate document styled as a "jury demand." If the jury demand is included in a pleading, that pleading must bear the word "jury" at the top, immediately below the case number. *See* Fed. R. Civ. P. 38(b)(1).

(b) **Taxation of Jury Costs for Late Settlement**. Except for good cause shown, whenever the settlement of an action tried by a jury causes a trial to be postponed, canceled, or terminated before a verdict, all juror costs, including attendance fees, mileage, and subsistence, may be imposed upon the parties unless counsel has notified the court and the clerk's office of the settlement at least one day prior to the day on which the trial is scheduled to begin. The costs shall be assessed equally against the parties and their counsel unless otherwise ordered by the court.

LOCAL RULE CV-42 Consolidation; Separate Trials Consolidation of Actions.

(a) **Duty to Notify Court of Collateral Proceedings and Re-filed Cases**. Whenever a civil matter commenced in or removed to the court involves subject matter that either comprises

all or a material part of the subject matter or operative facts of another action, whether civil or criminal, then pending before this or another court or administrative agency, or previously dismissed or decided by this court, counsel for the filing party shall identify the collateral proceedings or re-filed case(s) on the civil cover sheet filed in this court. The duty to notify the court and opposing counsel of any collateral proceeding continues throughout the pendency of the action.

(b) **Consolidation—Multiple Judges Involved**. Upon the assignment of related actions to two or more different judges with the district, the affected judges may, in their discretion, agree to assign the related actions to one judge.

LOCAL RULE CV-43 Taking of Testimony

Interpreters in Civil Cases Not Instituted by the United States. The presiding judge shall approve the utilization of interpreters in all civil cases not instituted by the United States. Absent a judicial order to the contrary, the presiding judge shall encourage the use of certified interpreters, or when no certified interpreter is reasonably available, "otherwise qualified" interpreters. *See* 28 U.S.C. § 1827(b). The presiding judge may approve the use of an interpreter who is not certified or "otherwise qualified" if no certified or "otherwise qualified" interpreter is reasonably available. Upon request, the clerk shall make lists of certified and otherwise qualified interpreters available to parties.

LOCAL RULE CV-47 Selecting Jurors

Communication with Jurors.

(a) No party or attorney for a party shall converse with a member of the jury during the trial of an action.

(b) After a verdict is rendered, an attorney must obtain leave of court to converse with members of the jury.

LOCAL RULE CV-50 Judgment as a Matter of Law in a Jury Trial

Total Page Limits for Motions for Judgment as a Matter of Law. The total page limits imposed by Local Rule CV-7(a)(3) on motions for summary judgment shall also apply to motions for judgment as a matter of law pursuant to Fed. R. Civ. P. 50.

LOCAL RULE CV-54 Judgments; Costs

(a) A party awarded costs by final judgment or by judgment that a presiding judge directs be entered as final under Fed. R. Civ. P. 54(b) must apply to the clerk for taxation of such costs by filing a bill of costs. Unless otherwise provided by statute or by an order of the presiding judge, the bill of costs must be filed with the clerk and served on any party entitled to such service no later than fourteen days after the clerk enters the judgment on the docket.

(b) **Procedure for Contested Bill of Costs**. Before filing a bill of costs, a party must:

(1) submit the proposed bill of costs to opposing counsel for review in light of the applicable law; and

(2) if there are any areas of disagreement, meet and confer with opposing counsel in an effort to submit an agreed bill of costs to the court. If the parties have a legitimate dispute on which they cannot agree, the parties have the option of filing either (A) a joint motion indicating the areas of agreement and the areas of disagreement to be resolved by the court or (B) a motion by the party requesting costs indicating the areas of agreement and the areas of disagreement to be resolved by the court, to which the opposing party may file a response. Either type of motion must contain a certificate confirming compliance with the conference requirements of this rule.

LOCAL RULE CV-56 Summary Judgment

Procedure.

(a) **Motion**. Any motion for summary judgment must include: (1) a statement of the issues to be decided by the court; and (2) a "Statement of Undisputed Material Facts." If the movant relies upon evidence to support its motion, the motion should include appropriate citations to proper summary judgment evidence as set forth below. Proper summary judgment evidence should be attached to the motion in accordance with Section (d) of this rule.

(b) **Response**. Any response to a motion for summary judgment must include: (1) a response to the statement of issues; and (2) a response to the "Statement of Undisputed Material Facts." The responsive brief should be supported by appropriate citations to proper summary judgment evidence as set forth below. Proper summary judgment evidence should be attached in accordance with Section (d) of this rule.

(c) **Ruling**. In resolving the motion for summary judgment, the court will assume that the facts as claimed and supported by admissible evidence by the moving party are admitted to exist without controversy, except to the extent that such facts are controverted in the responsive brief filed in opposition to the motion, as supported by proper summary judgment evidence. The court will not scour the record in an attempt to unearth an undesignated genuine issue of material fact.

(d) **Proper summary judgment evidence**. As used within this rule, "proper summary judgment evidence" means excerpted copies of pleadings, depositions, documents, electronically stored information, answers to interrogatories, admissions, affidavits or declarations, stipulations (including those made for purposes of the motion only), and other admissible evidence cited in the motion for summary judgment or the response thereto. "Appropriate citations" means that any excerpted evidentiary materials that are attached to the motion or the response should be referred to by page and, if possible, by line. Counsel are strongly encouraged to highlight or underline the cited portion of any attached evidentiary materials, unless the citation encompasses the entire page. The page preceding and following a highlighted page may be submitted if necessary to place the highlighted material in context. Only relevant, cited-to excerpts of evidentiary materials should be attached to the motion or the response.

LOCAL RULE CV-62 Stay of Proceedings to Enforce a Judgment

(a) **Bond or Other Security**. Unless otherwise ordered by the presiding judge, a bond or other security staying execution of a money judgment shall be in the amount of the judgment, plus 20% of that amount to cover interest and any award of damages for delay, plus $250.00 to cover costs. The parties may waive the requirement of a bond or other security by stipulation.

The bond shall:

(1) confirm whether the security provider is on the Treasury Department's list of certified companies, unless the court orders otherwise (a link to this list may be found on the court's website); and

(2) confirm the underwriting limitation, if applicable for the type of security.

(b) **Electronic Filing Requirement for Bonds**. When a bond or other security is posted for any reason, it must be electronically filed in the case by the posting party. The paper original of the security shall be retained by the posting party unless otherwise directed by the court.

LOCAL RULE CV-63 Inability of a Judge to Proceed, Reassignment of Actions after Recusal or Disqualification.

(a) **Single-Judge Divisions**.

(1) Upon the disqualification or recusal of a judge from participation in an action or proceeding pending in a division wherein actions are assigned to only one judge, a reassignment of the action or matter shall be made in accordance with an order of the chief judge of the district.

(2) When the chief judge is the only judge who is assigned actions in a particular division and is disqualified or recuses himself in an action or proceeding pending in that division, the action or matter systematically shall be reassigned to the judge in active service, present in the district and able and qualified to act as chief judge, who is senior in precedence over the remaining judges in the district. Such action or matter may be reassigned by such acting chief judge as provided in Section (a)(1) above.

(b) **Multi-Judge Divisions**. Upon the disqualification of a judge from participation in an action or proceeding pending in a division wherein the caseload is divided between two judges, the action or matter systematically shall be reassigned and transferred to the other judge sitting in that division. Where the caseload in the division is divided between more than two judges, the action or matter systematically shall be randomly reassigned and transferred to a judge in the division who is not disqualified. The clerk shall randomly assign another case to the recusing/disqualified judge in place of the case he or she recused in or was disqualified in. In instances where each judge in a two-judge or a multi-judge division recuses himself or herself or is disqualified, the action or matter systematically

shall be reassigned and transferred in accordance with an order of the chief judge of the district to any judge in active service, in another division, who is not disqualified.

(c) **All Judges Disqualified**. If all judges in the district recuse themselves or are disqualified to preside over a particular civil or criminal action or matter, the clerk shall, without delay, so certify to the chief judge of the United States Court of Appeals for the Fifth Circuit, in order that he may re-assign such action or matter to a suitable judge.

(d) **Recusal When Former Judge of this District Appears as Counsel**. For a period of one year after the retirement or resignation of a former federal judge of this district, the judges of this court shall recuse themselves in any case in which the former colleague appears as counsel. *See* 28 U.S.C. § 455; Committee on Codes of Conduct Advisory Opinion No. 70.

LOCAL RULE CV-65 Injunctions

An application for a temporary restraining order or for a preliminary injunction shall be made on an instrument separate from the complaint.

LOCAL RULE CV-65.1 Security; Proceedings Against Sureties

(a) **No Attorneys, Clerks, or Marshals as Sureties**. No attorney, clerk, or marshal, or the deputies of any clerk or marshal shall be received as security on any cost, bail, attachment, forthcoming or replevy bond, without written permission of a judge of this court.

(b) **Vexatious Litigants; Security for Costs**. On its own motion or on motion of a party and after an opportunity to be heard, the court may at any time order a *pro se* litigant to give security in such amount as the court determines to be appropriate to secure the payment of any costs, sanctions, or other amounts which may be awarded against a vexatious *pro se* litigant.

LOCAL RULE CV-72 Magistrate Judges

(a) **Powers and Duties of a United States Magistrate Judge in Civil Cases**. Each United States magistrate judge of this court is authorized to perform the duties conferred by Congress or applicable rule.

(b) **Objections to Non-dispositive Matters — 28 U.S.C. § 636(b)(1)(A)**. An objection to a magistrate judge's order made on a non-dispositive matter shall be specific. Any objection and response thereto shall not exceed five pages. A party may respond to another party's objections within fourteen days after being served with a copy; however, the court need not await the filing of a response before ruling on an objection. No further briefing is allowed absent leave of court.

(c) **Review of Case Dispositive Motions and Prisoner Litigation — 28 U.S.C. § 636(b)(1)(B)**. Objections to reports and recommendations and any response thereto shall not exceed eight pages. No further briefing is allowed absent leave of court.

(d) **Assignment of Matters to Magistrate Judges**. The method for assignment of duties to a

magistrate judge and for the allocation of duties among the several magistrate judges of the court shall be made in accordance with orders of the court or by special designation of a district judge.

(e) **Disposition of Civil Cases by Consent of the Parties - 28 U.S.C. § 636(c)**.

(1) The clerk of court shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

(2) The clerk shall not file consent forms unless they have been signed by all the parties or their respective counsel in a case. No consent form will be made available, nor will the contents be made known to any judge, unless all parties have consented to the reference to a magistrate judge. *See* Fed. R. Civ. P. 73(b); 28 U.S.C. § 636(c)(2).

LOCAL RULE CV-77 District Courts and Clerks

Notice of Orders, Judgments, and Other Filings. The clerk may serve and give notice of orders, judgments, and other filings by e-mail in lieu of service and notice by conventional mail to any person who has signed a filed pleading or document and provided an e-mail address with his/her pleadings as specified in Local Rule CV-11(b)(1)(E). Any other attorney who wishes to receive notice of judicial orders, judgments, and other filings must file a notice of appearance of counsel with the court.

By providing the court with an e-mail address, the party submitting the pleadings is deemed to have consented to receive service and notice of judicial orders and judgments from the clerk by e-mail. Lead attorneys who wish to be excluded from receiving judicial notices by e-mail may do so by filing a motion with the court; non-lead attorneys who wish to be excluded from e-mail noticing may do so by filing a notice with the court.

Notice of judicial orders, judgments, and other filings is complete when the clerk obtains electronic confirmation of the receipt of the transmission. Notice by e-mail by the clerk that occurs after 5:00 p.m. on any day is deemed effective as of the following day.

LOCAL RULE CV-79 Records Kept by the Clerk

(a) **Submission of Hearing/Trial Exhibits**.

(1) The parties shall not submit exhibits to the clerk's office prior to a hearing/trial without a court order. The clerk shall return to the party any physical exhibits not complying with this rule.

(2) Exhibits shall be properly marked but not placed in binders. Multiple-paged documentary exhibits should be properly fastened. Additional copies of exhibits may be submitted in binders for the court's use.

(3) The parties shall provide letter-sized copies of any documentary, physical, or

oversized exhibit to the court prior to the conclusion of a hearing/trial. At the conclusion of a hearing/trial, the parties shall provide the courtroom deputy with PDF copies of all exhibits that were admitted by the court, unless otherwise ordered. Oversized exhibits will be returned at the conclusion of the trial or hearing. If parties desire the oversized exhibits to be sent to the appellate court, it will be their responsibility to send them.

(b) **Disposition of Exhibits by the Clerk**. Thirty days after any direct appeal has been exhausted or the time for taking that appeal has lapsed and no further action is required by the trial court, the clerk is authorized to destroy any sealed or unsealed exhibits which have not been previously claimed by the attorney of record for the party offering the same in evidence at the hearing/trial.

(c) **Hazardous Documents or Items Sent to the Court**. Prisoners and other litigants shall not send to this court (including the district clerk, any judges, and any other court agency) documents or items that constitute a health hazard as defined below:

(1) The clerk is authorized to routinely and immediately dispose of, without seeking a judge's permission, any papers or items sent to the court by prisoners or other litigants that are smeared with or contain blood, hair, food, feces, urine, or other body fluids. Although "[t]he clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice," Fed. R. Civ. P. 5(d), papers or other items containing or smeared with excrement or body fluids are excepted from this rule on the ground that they constitute a health hazard and can be refused by the clerk for that reason, which is a reason other than improper form.

(2) In the event the clerk receives weapons or drugs that are intended to be filed as exhibits, the clerk shall notify the judge assigned to the case of that fact, or in the event that no case has been filed, the chief judge.

(3) The clerk shall maintain a log of the items that are disposed of pursuant to General Order 96-6. The log shall contain the case number and style, if any, the name of the prisoner or litigant who sent the offending materials, and a brief description of the item disposed of. The clerk also shall notify the prisoner/litigant and, if applicable, the warden or other supervising official of the appropriate correctional facility that the item in question was destroyed and that sanctions may be imposed if the prisoner continues to forward papers, items, or physical exhibits in violation of General Order 96-6.

LOCAL RULE CV-81 Removed Actions

Parties removing cases from state court to federal court shall comply with the following:

(a) File with the clerk a notice of removal which reflects the style of the case exactly as it was styled in state court;

(b) If a jury was requested in state court, the removed action will be placed on the jury docket

of this court provided the removing party or parties file a separate jury demand pursuant to Local Rule CV-38(a);

(c) The removing party or parties shall furnish to the clerk the following information at the time of removal:

(1) a list of all parties in the case, their party type (e.g., plaintiff, defendant, intervenor, receiver, etc.) and current status of the removed case (e.g., pending, dismissed);

(2) a civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action (e.g., complaints, amended complaints, supplemental complaints, petitions, counter-claims, cross-actions, third party actions, interventions, etc.); all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court as required by 28 U.S.C. § 1446(a);

(3) a complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number, and party or parties represented by that attorney;

(4) a record of which parties have requested jury trial (this information is in addition to filing a separate jury demand pursuant to Local Rule CV-38(a)); and

(5) the name and address of the court from which the case was removed.

(d) Any motions pending in state court will be considered moot at the time of removal unless they are re-urged in this court.

LOCAL RULE CV-83 Rules by District Courts; Judge's Directives

(a) **Docket Calls**. Traditional docket calls are abolished. Each judge shall endeavor to set early and firm trial dates which will eliminate the need for multiple-case docket calls.

(b) **Transferred or Remanded Cases**. Absent an order to the contrary, no sooner than the twenty-first day following an order of the court transferring or remanding a case, the clerk shall transmit the case file to the directed court. Where a case has been remanded to state court, the clerk shall mail: (1) a certified copy of the court's order and docket sheet directing such action; and (2) all pleadings and other documents on file in the case. Where a case has been transferred to another federal district court, the electronic case file shall be transferred to the directed court. If a timely motion for reconsideration of the order of transfer or remand has been filed, the clerk shall delay mailing or transferring the file until the court has ruled on the motion for reconsideration.

(c) **Standing Orders**. Any standing order adopted by a judge pursuant to Fed. R. Civ. P. 83(b) must conform to any uniform numbering system prescribed by the Judicial Conference of the United States and must be filed with the clerk. The court will periodically review all standing orders for compliance with Rule 83(b) and for possible inclusion in the local rules. This subsection does not apply to provisions in scheduling or other case-specific orders.

(d) **Courtroom Attire and Conduct**. All persons present in a courtroom where a trial, hearing, or other proceeding is in progress must dress and conduct themselves in a manner demonstrating respect for the court. The presiding judge has discretion to establish appropriate standards of dress and conduct.

(e) **Alternative Dispute Resolution**. – Consistent with 28 U.S.C. § 651, the use of alternative dispute resolution processes in all civil actions, including adversary proceedings in bankruptcy, is authorized. Litigants in all civil actions shall consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. This consideration shall include, but is not limited to, mediation as provided in the Court-Annexed Mediation Plan set forth on the court's website (per General Order 14-06) which is incorporated herein by reference.

SECTION II: CRIMINAL RULES

LOCAL RULE CR-1 Scope

The rules of procedure in any criminal proceeding in this court are those prescribed by the laws of the United States, the Federal Rules of Criminal Procedure, these local rules, and any orders entered by the court. These rules shall be construed as consistent with acts of Congress and rules of practice and procedure prescribed by the Supreme Court of the United States and the United States Court of Appeals for the Fifth Circuit.

LOCAL RULE CR-6 The Grand Jury

(a) **Selection of Grand Jurors**. Grand jurors shall be selected at random in accordance with a plan adopted by this court pursuant to applicable federal statute and rule.

(b) **Grand Jury Subpoenas**. Sealed grand jury subpoenas shall be kept by the clerk for three years from the date the witness is ordered to appear. After that time, the clerk may destroy the subpoenas.

(c) **Signature of the Grand Jury Foreperson**. The grand jury foreperson shall sign the indictment with initials rather than his or her whole name. The foreperson will continue to sign the concurrence of the grand jury using his or her whole name.

LOCAL RULE CR-10 Arraignments

In the interest of reducing delays and costs, judges and magistrate judges may conduct the arraignment at the same time as the post-indictment initial appearance.

LOCAL RULE CR-24 Trial Jurors

(a) **Communication with Jurors**.

(1) No party or attorney for a party shall converse with a member of the jury during the trial of an action.

(2) After a verdict is rendered, an attorney must obtain leave of court to converse with members of the jury.

(b) **Signature of the Petit Jury Foreperson**. The petit jury foreperson shall sign all documents or communications with the court using his or her initials.

LOCAL RULE CR-47 Motions

(a) **Form and Content of a Motion**. All motions and responses to motions, unless made during a hearing or trial, shall be in writing, conform to the requirements of Local Rules CV-5 and CV-10, and be accompanied by a separate proposed order for the judge's signature. The proposed order shall be endorsed with the style and cause number and shall not include a date or signature block. Dispositive motions—those which could, if granted,

result in the dismissal of an indictment or counts therein or the exclusion of evidence—shall contain a statement of the issues to be decided by the court. Responses to dispositive motions must include a response to the movant's statement of issues. All motions, responses, replies, and proposed orders, if filed electronically, shall be submitted in "searchable PDF" format. All other documents, including attachments and exhibits, should be in "searchable PDF" form whenever possible.

(1) **Page Limits**.

(A) **Dispositive Motions**. Dispositive motions shall not exceed thirty pages, excluding attachments, unless leave of court is first obtained. Likewise, responses to such motions shall not exceed thirty pages, excluding attachments, unless leave of court is first obtained. Any reply brief shall not exceed ten pages, excluding attachments.

(B) **Non-dispositive Motions**. Non-dispositive motions shall not exceed fifteen pages, excluding attachments, unless leave of court is first obtained. Likewise, responses to such motions shall not exceed fifteen pages, excluding attachments, unless leave of court is first obtained. Any reply brief shall not exceed five pages, excluding attachments.

(2) **Briefing Supporting Motions and Responses**. The motion and any briefing shall be contained in one document. The briefing shall contain a concise statement of the reasons in support of the motion and citation of authorities upon which the movant relies. Likewise, the response and any briefing shall be contained in one document. Such briefing shall contain a concise statement of the reasons in opposition to the motion and a citation of authorities upon which the party relies.

(3) **Certificates of Conference**. Except as specified below, all motions must be accompanied by a "certificate of conference." It should be placed at the end of the motion following the certificate of service. The certificate must state: (1) that counsel has conferred with opposing counsel in a good faith attempt to resolve the matter without court intervention; and (2) whether the motion is opposed or unopposed. Certificates of conference are not required of *pro se* litigants (prisoner or non-prisoner) or for the following motions:

(A) motions to dismiss;

(B) motions for judgment of acquittal;

(C) motions to suppress;

(D) motions for new trial;

(E) any motion that is joined, by, agreed to, or unopposed by all the parties;

(F) any motion permitted to be filed *ex parte*;

(G) objections to report and recommendations of magistrate judges;

(H) motions for reconsideration; and

(I) dispositive motions.

(b) **Timing of a Motion**.

(1) **Responses**. A party opposing a motion has fourteen days from the date the motion was served in which to serve and file a response and any supporting documents, after which the court will consider the submitted motion for decision. Any party may separately move for a court order lengthening or shortening the period within which a response may be filed.

(2) **Reply Briefs and Sur-Replies**. Unless otherwise directed by the presiding judge, a party who has filed an opposed motion may serve and file a reply brief responding to issues raised in the response within seven days from the date the response is served. A sur-reply responding to issues raised in the reply may be served and filed within seven days from the date the reply is served. The court need not wait for the reply or sur-reply before ruling on the motion. Absent leave of court, no further submissions on the motion are allowed.

(c) **Affidavit Supporting a Motion**. When allegations of fact not appearing in the record are relied upon in support of a motion, all affidavits and other pertinent documents shall be served and filed with the motion. It is strongly recommended that any attached materials have the cited portions highlighted or underlined in the copy provided to the court, unless the citation encompasses the entire page. The page preceding and following a highlighted or underlined page may be submitted if necessary to place the highlighted or underlined material in context. Only relevant, cited-to excerpts of attached materials should be attached to the motion or the response.

LOCAL RULE CR-49 Service and Filing

(a) **Generally**. All pleadings and documents submitted in criminal cases must conform to the filing, service, and format requirements contained in Local Rules CV-5, CV-10, and CV-11.

(1) **Defendant Number**. In multi-defendant cases, each defendant receives a "defendant number." The numbers are assigned in the order in which defendants are listed on the complaint or indictment. When filing documents with the court, parties shall identify by name and number each defendant to whom a document applies.

(2) **Sealed Indictments**. In multi-defendant cases involving one or more sealed indictments, the government should, at the time the sealed indictment is filed, provide the clerk with appropriately redacted copies of the indictment for each defendant. The goal of this procedure is to protect the confidential aspect of the sealed indictment with regard to any defendants not yet arrested.

(b) **Public Access to Criminal Case Documents Generally**. In order to serve the legal presumption of openness in criminal case proceedings, pleadings in this court are generally to be filed unsealed. Except for the documents listed in Section (c) of this rule, decisions as to whether to seal a particular pleading are made on a case-by-case basis by the court, with findings specific enough that a reviewing court can determine whether the sealing or closure was properly entered.

(1) Absent specific court findings to the contrary, all documents other than those specifically listed in paragraph (c) below and those submitted with a motion to seal in accordance with Local Rules CV-5(a)(7) and CR-49(a) are to remain unsealed.

(c) **Authorization to Routinely Seal Particular Types of Criminal Case Documents**. Despite the general rule cited in Section (b) above, there is an overriding interest in routinely sealing certain types of criminal case documents, because public dissemination of the documents would substantially risk endangering the lives or safety of law enforcement officers, United States Marshals, agents, defendants, witnesses, cooperating informants, judges, court employees, defense counsel, prosecutors, or their respective family members, and could jeopardize continuing criminal investigations. The documents that trigger this overriding interest are:

(1) unexecuted summonses or warrants (e.g., search warrants, arrest warrants);

(2) pen register or a trap and trace device applications pursuant to either 18 U.S.C. § 3121 *et seq.* or 18 U.S.C. § 2516 *et seq.*;

(3) pretrial bail or presentence investigation reports and any addenda and objections thereto;

(4) the statements of reasons in the judgment of conviction;

(5) plea agreements,[3] which are governed by Section (d) below;

(6) addenda to plea agreements described in Section (e) below;

(7) motions for downward departure for substantial assistance, and responsive pleadings and orders granting or denying the same;

(8) motions pursuant to Section 5K1.1 of the United States Sentencing Guidelines, memoranda in support thereof, responsive pleadings and orders granting or denying the same;

(9) motions for reduction of sentence under Fed. R. Crim. P. 35(b), memoranda in support thereof, responsive pleadings and orders granting or denying the same;

[3] The plea agreement does not include the factual basis of the offense and stipulation or the elements of the offense, which are separate documents typically filed at the same time as the plea agreement.

(10) amended judgments pursuant to a grant of a Fed. R. Crim. P. 35(b) motion; and

(11) orders restoring federal benefits filed in conjunction with item 10 above.

The documents listed above shall be filed under seal without need of a motion to seal or a certification by counsel. Other than plea agreements, the documents shall remain sealed unless otherwise ordered by the court.

(d) **Sealing and Unsealing of Plea Agreements**

(1) Until it is accepted by the court, a plea agreement is in the nature of an unaccepted offer of terms between parties. In addition to the findings of Section (c) above, making a plea agreement public before it has been accepted may lead to publicity that would tend to prejudice a defendant who decides to exercise his right to trial by making it more difficult to select jurors who have not formed an opinion about the case. Such publicity may also provide details of the case pertinent to co-defendants who have not pled, thus prejudicing them. Therefore, plea agreements shall be filed under seal.

(2) The plea agreement shall be unsealed when the terms and conditions of the plea agreement are accepted absent a further court order finding that there is an overriding policy interest in keeping that particular plea agreement sealed and providing findings specific enough that a reviewing court can determine whether the sealing or closure was properly entered. The routine unsealing of sealed plea agreements is intended to serve the right of public access to criminal case documents.

(e) **Sealed Addendums to Plea Agreements**. Every plea agreement in this court shall have an addendum that is sealed (*see* Section (c) 4 above). The addendum will either state "no provisions are included in this addendum," or it will contain specific provisions dealing with possible reductions in sentence in return for the defendant's substantial assistance to the government. This will allow each plea agreement to be unsealed upon sentencing without prejudicing or endangering a cooperating defendant or the defendant's family or other informants and defendants.

(f) In those instances where the court orders an entire criminal case sealed, case documents shall be e-mailed to the following addresses for filing by the relevant divisional clerk's office:

Beaumont	bmtcrimdocs@txed.uscourts.gov
Lufkin	lufcrimdocs@txed.uscourts.gov
Marshall	marcrimdocs@txed.uscourts.gov
Sherman	shrcrimdocs@txed.uscourts.gov
Texarkana	texcrimdocs@txed.uscourts.gov
Tyler	tylcrimdocs@txed.uscourts.gov

(g) Defendants proceeding *pro se* shall submit all sealed criminal case documents in paper format to the clerk's office for filing.

(h) Unless otherwise ordered by the presiding judge, counsel filing a document under seal must send a paper copy of that document to the presiding judge's chambers. The paper copy should be sent directly to the judge's chambers, not to the clerk's office.

LOCAL RULE CR-49.1 Privacy Protection for Filings Made with the Court

(a) **Electronic Filing of Transcripts by Court Reporters**. Any transcript of criminal proceedings in this court filed by a court reporter or transcriber shall be filed electronically, including a "Notice of Filing of Official Transcript." The clerk will post a "model notice" for the court reporter or transcriber's use on the court's web site. Upon request, the clerk shall make an electronic version of any unsealed transcript available for public inspection without charge at the clerk's office. *See* 28 U.S.C. § 753(b).

(b) **Availability of Transcripts of Court Proceedings**. Electronically-filed transcripts of criminal court proceedings are subject to the following rules:

(1) A transcript provided to a court by a court reporter or transcriber will be available at the clerk's office for inspection for a period of ninety days after it is electronically filed with the clerk. During the ninety-day inspection period, access to the transcript in CM/ECF is limited to the following users: (a) court staff; (b) public terminal users; (c) attorneys of record or parties who have purchased the transcript from the court reporter or transcriber; and (d) other persons as directed by the court. Court staff may not copy or print transcripts for a requester during the ninety-day inspection period.

(2) During the ninety-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference. The transcript will also be available within the court for internal use, and an attorney who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's CM/ECF system for purposes of creating hyperlinks to the transcript in court filings and for other purposes.

(3) Within seven days of the filing of the transcript in CM/ECF, each party wishing to redact a transcript must inform the court, by filing the attached "Notice of Intent to Request Redaction," of the party's intent to redact personal data identifiers from the transcript as required by Fed. R. Crim. P. 49.1. If no such notice is filed within the allotted time, the court will assume redaction of personal data identifiers is not necessary.

(4) If redaction is requested, a party is to submit to the court reporter or transcriber and file with the court, within twenty-one days of the transcript's delivery to the clerk, or longer if a court so orders, a statement indicating where the personal data identifiers to be redacted appear in the transcript. The court reporter or transcriber must redact the identifiers as directed by the party. These procedures are limited to the redaction of the specific personal identifiers listed in Fed. R. Crim. P. 49.1(a).

If an attorney wishes to redact additional information, he or she may make a motion to the court. The transcript will not be electronically available until the court has ruled on any such motion.

(5) The court reporter or transcriber must, within thirty-one days of the filing of the transcript, or longer if the court so orders, perform the requested redactions and file a redacted version of the transcript with the clerk. Redacted transcripts are subject to the same access restrictions as outlined above during the initial ninety days after the first transcript has been filed. The original unredacted electronic transcript shall be retained by the clerk as a restricted document.

(6) If, after the ninety-day period has ended, there are no redaction documents or motions linked to the transcript, the clerk will remove the public access restrictions and make the unredacted transcript available for inspection and copying in the clerk's office and for download from the CM/ECF system.

(7) If, after the ninety-day period has ended, a redacted transcript has been filed with the court, the clerk will remove the access restrictions as appropriate and make the redacted transcript available for inspection and copying in the clerk's office and for download from the CM/ECF system or from the court reporter or transcriber.

LOCAL RULE CR-55 Records

(a) **Submission of Hearing/Trial Exhibits**. The parties shall not submit exhibits to the clerk's office prior to a hearing/trial without a court order. The clerk shall return to the party any physical exhibits not complying with this rule. Exhibits shall be properly marked, but not placed in binders. Multiple-paged documentary exhibits should be properly fastened. Additional copies of trial exhibits may be submitted in binders for the court's use.

(b) **Post-trial/hearing Exhibit Procedures**. The parties shall provide letter-sized copies of any documentary, physical, or oversized exhibit to the court prior to the conclusion of a hearing/trial. At the conclusion of a hearing/trial, the parties shall provide the courtroom deputy with PDF copies of all exhibits that were admitted by the court, unless otherwise ordered. Oversized exhibits will be returned at the conclusion of the trial or hearing. If parties desire the oversized exhibits to be sent to the appellate court, it will be their responsibility to send them.

LOCAL RULE CR-59 Matters Before a Magistrate Judge

(a) **Powers and Duties of a United States Magistrate Judge in Civil Cases**. Each United States magistrate judge of this court is authorized to perform the duties conferred by Congress or applicable rule.

(b) **Objections to Non-dispositive Matters — 28 U.S.C. § 636(b)(1)(A)**. An objection to a magistrate judge's order made on a non-dispositive matter shall be specific. Any objection and response thereto shall not exceed five pages. A party may respond to another party's objections within fourteen days after being served with a copy; however, the court need not await the filing of a response before ruling on an objection. No further briefing is

allowed absent leave of court.

(c) **Review of Case Dispositive Motions and Prisoner Litigation — 28 U.S.C. § 636(b)(1)(B)**. Objections to reports and recommendations and any response thereto shall not exceed eight pages. No further briefing is allowed absent leave of court.

(d) **Assignment of Matters to Magistrate Judges**. The method for assignment of duties to a magistrate judge and for the allocation of duties among the several magistrate judges of the court shall be made in accordance with orders of the court or by special designation of a district judge.

SECTION III: ATTORNEYS

LOCAL RULE AT-1 Admission to Practice

(a) An attorney who has been admitted to practice before the Supreme Court of the United States, a United States Court of Appeals, a United States District Court, or the highest court of a state, is eligible for admission to the bar of this court. He or she must be of good moral and professional character and must be a member in good standing of the state and federal bars in which he or she is licensed.

(b) Each applicant shall file an application on a form prescribed by the court. If the applicant has previously been subject to disciplinary proceedings, full information about the proceedings, the charges, and the result must be given.

(1) A motion for admission made by a member in good standing of the State Bar of Texas or the bar of any United States District Court shall accompany the completed admission form. The movant must state that the applicant is competent to practice before this court and is of good personal and professional character.

(2) The applicant must state in the application that he or she has read Local Rule AT-3, the "Standards of Practice to be Observed by Attorneys," and the local rules of this court and that he or she will comply with the standards of practice adopted in Local Rule AT-3 and with the local rules.

(3) The applicant must provide with the application form an oath of admission signed in the presence of a notary public on a form prescribed by the court. The completed application for admission, motion for admission, and oath of admission shall be submitted to the court, along with the admission fee required by law and any other fee required by the court. Upon investigation of the fitness, competency, and qualifications of the applicant, the completed application form may be granted or denied by the clerk subject to the oversight of the chief judge.

(c) The clerk shall maintain a complete list of all attorneys who have been admitted to practice before the court.

(d) An attorney who is not admitted to practice before this court may appear for or represent a party in any case in this court only upon an approved application to appear pro hac vice. When an attorney who is not a member of the bar of this court appears in any case before this court, he or she shall first submit electronically an application to appear pro hac vice with the clerk. The applicant must read and comply with Local Rule AT-3, the "Standards of Practice to be Observed by Attorneys," and the local rules of this court. The application shall be made using the form that is available on the court's website and must be signed by the applicant personally. Detailed instructions on how to e-file the application appear on the court's website, located at www.txed.uscourts.gov. Such application also shall be accompanied by a $100.00 local fee, which must be paid electronically. Any attachments to pro hac vice applications will be handled as electronic sealed documents by the clerk's office. The application shall be acted upon with dispatch by the clerk on the court's behalf. The clerk shall notify the applicant as soon as possible after the application is acted upon.

(e) **Federal Government Attorneys**. No bar admission fees shall be charged to attorneys who work for the United States government, including Assistant United States Attorneys, Assistant Federal Public Defenders, and CJA Panel attorneys. Bar admission fees cannot be waived for federal law clerks, however, as they do not appear in court on behalf of the United States but instead perform job duties that do not require admission to practice in the court. The clerk's office has no authority to waive bar admission fees for attorneys who work for state, county, or city governments.

LOCAL RULE AT-2 Attorney Discipline

(a) **Generally**. The standards of professional conduct adopted as part of the Rules Governing the State Bar of Texas shall serve as a guide governing the obligations and responsibilities of all attorneys appearing in this court. It is recognized, however, that no set of rules may be framed which will particularize all the duties of the attorney in the varying phases of litigation or in all the relations of professional life. Therefore, the attorney practicing in this court should be familiar with the duties and obligations imposed upon members of this bar by the Texas Disciplinary Rules of Professional Conduct, court decisions, statutes, and the usages customs and practices of this bar.

(b) **Disciplinary Action Initiated in Other Courts**.

(1) Except as otherwise provided in this subsection, a member of the bar of this court shall automatically lose his or her membership if he or she loses, either temporarily or permanently, the right to practice law before any state or federal court for any reason other than nonpayment of dues, failure to meet continuing legal education requirements, or voluntary resignation unrelated to a disciplinary proceeding or problem.

(2) When it is shown to the court that a member of its bar has lost his or her right to practice as described in subsection (1) above, the court shall issue an order directing the attorney to show cause within thirty days why the imposition of the identical discipline in this district should not be imposed, and imposing that identical discipline if no response is filed. If the attorney files a response, the court will consider the following defenses in determining whether the identical discipline is warranted in this court: that the procedure followed in the other jurisdiction deprived the attorney of due process; that the proof was so clearly lacking that the court determines it cannot accept the final conclusion of the other jurisdiction; that the imposition of the identical discipline would result in a grave injustice; that the misconduct established by the other jurisdiction warrants substantially different discipline in this court; that the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute professional misconduct in this State or in this court. If the attorney fails to establish one or more of the defenses listed above, the court shall enter the identical discipline to the extent practicable. If the attorney establishes one or more of these defenses, the court may impose whatever discipline it deems necessary and just.

(3) A member of this bar who has lost the right to practice law before any state or

federal court, either permanently or temporarily, must advise the clerk of that fact within thirty days of the effective date of the disciplinary action. The clerk will thereafter proceed in accordance with this rule.

(c) **Conviction of a Crime**. A member of the bar of this court who is convicted of a felony offense in any state or federal court will be immediately and automatically suspended from practice and thereafter disbarred upon final conviction.

(d) **Disciplinary Action Initiated in this Court**.

(1) **Grounds for Disciplinary Action**. This court may, after an attorney has been given an opportunity to show cause to the contrary, take any appropriate disciplinary action against any attorney:

(A) for conduct unbecoming a member of the bar;

(B) for failure to comply with these local rules or any other rule or order of this court;

(C) for unethical behavior;

(D) for inability to conduct litigation properly; or

(E) because of conviction by any court of a misdemeanor offense involving dishonesty or false statement.

(2) **Disciplinary Procedures**.

(A) When it is shown to a judge of this court that an attorney has engaged in conduct which might warrant disciplinary action involving suspension or disbarment, the judge receiving the information shall bring the matter to the attention of the chief judge, who will poll the full court as to whether disciplinary proceedings should be held. If the court determines that further disciplinary proceedings are necessary, the disciplinary matter will be assigned to the chief judge, or a judge designated by the chief judge, who will notify the lawyer of the charges and give the lawyer opportunity to show good cause why he or she should not be suspended or disbarred. Upon the charged lawyer's response to the order to show cause, and after a hearing before the chief judge or a judge designated by the chief judge, if requested, or upon expiration of the time prescribed for a response if no response is made, the chief judge or a judge designate by the chief judge, shall enter an appropriate order.

(B) At any hearing before the chief judge or a judge designated by the chief judge, the charged lawyer shall have the right to counsel and at least fourteen days' notice of the time of the hearing and charges. Prosecution of

the charges may be conducted by an attorney specially appointed by the court. Costs of the prosecutor and any fees allowed by the court shall be paid from the attorney admission fee fund.

(e) **Notification of Disciplinary Action**. Upon final disciplinary action by the court, the clerk shall send certified copies of the court's order to the State Bar of Texas, the United States Court of Appeals for the Fifth Circuit, and the National Discipline Data Bank operated by the American Bar Association.

(f) **Reinstatement**. Any lawyer who is suspended by this court is automatically reinstated to practice at the end of the period of suspension, provided that the bar membership fee required by Local Rule AT-1(b)(3) has been paid. Any lawyer who is disbarred by this court may not apply for reinstatement for at least three years from the effective date of his or her disbarment. Petitions for reinstatement shall be sent to the clerk and assigned to the chief judge for a ruling. Petitions for reinstatement must include a full disclosure concerning the attorney's loss of bar membership in this court and any subsequent felony convictions or disciplinary actions that may have occurred in other federal or state courts.

LOCAL RULE AT-3 Standards of Practice to be Observed by Attorneys

Attorneys who appear in civil and criminal cases in this court shall comply with the following standards of practice in this district:[4]

(a) In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.

(b) A lawyer owes candor, diligence, and utmost respect to the judiciary.

(c) A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.

(d) A lawyer unquestionably owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.

(e) Lawyers should treat each other, the opposing party, the court, and court staff with courtesy and civility and conduct themselves in a professional manner at all times.

(f) A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.

(g) In adversary proceedings, clients are litigants and though ill feeling may exist between

[4] The standards enumerated here are set forth in the *en banc* opinion in *Dondi Props. Corp. v. Commerce Sav. & Loan Ass'n.*, 121 F.R.D. 284 (N.D. Tex. 1988).

clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor ward opposing lawyers.

(h) A lawyer should not use any form of discovery or the scheduling of discovery as a means of harassing opposing counsel or counsel's client.

(i) Lawyers will be punctual in communications with others and in honoring scheduled appearances and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.

(j) If a fellow member of the bar makes a just request for cooperation or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent. The court is not bound to accept agreements of counsel to extend deadlines imposed by rule or court order.

(k) Effective advocacy does not require antagonistic or obnoxious behavior, and members of the bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.

(l) The court also encourages attorneys to be familiar with the Codes of Pretrial and Trial Conduct promulgated by the American College of Trial Lawyers, which can be found on the court's website, located at www.txed.uscourts.gov, and to conduct themselves accordingly.