Rules of Practice of the U. S. District Court for the District of Arizona

Effective December 1, 2013

RULES OF PRACTICE OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA EFFECTIVE DECEMBER 1, 2013

Foreword/Explanatory Note

These Rules of Practice of the United States District Court for the District of Arizona (Local Rules) are promulgated under the authority of Rule 83 of the Federal Rules of Civil Procedure (F.R.Civ.P.), Rule 57 of the Federal Rules of Criminal Procedure (F.R.Crim.P.), and Rule 47 of the Federal Rules of Appellate Procedure (FRAP).

The Local Rules of Civil Procedure may be cited as "LRCiv".

The Local Rules of Criminal Procedure may be cited as "LRCrim".

The Local Rules of Bankruptcy Appeal Procedure may be cited as “LRBankr”.

SUMMARY OF 2012-2013 LOCAL RULE AMENDMENTS

DISTRICT OF ARIZONA

Local Rule Amendment	Note/Explanation Regarding Amendment
LRCiv 7.2	**MOTIONS.** Subsections (b) and (c) amended to conform with the amendments to LRCiv 54.2(b); Subsection (d) amended to conform with exceptions provided by LRCiv 12.1 and LRCiv 56.1.
LRCiv 42.1	**RELATED CASES; CONSOLIDATION; FILING AND NOTICE; ASSIGNMENT.** Amends the rule to (1) identify the action in which the motion should be filed by directing the movant to file the motion in the case with the lowest case number in which the movant is a party; (2) address how the ECF system or the Clerk, for non-users of ECF, will trigger electronic filing in the moving party's case; (3) incorporate similar provisions in subsection (c) of the rule dealing with responsive and reply memoranda; (4) include a few other small housekeeping changes. *(Note: accompanying instructions will be included in the Court's ECF Administrative Policies and Procedures Manual.)*
LRCiv 54.2	**ATTORNEYS' FEES AND RELATED NON-TAXABLE EXPENSES.** Amendment leaves intact the deadline for filing a motion for attorneys' fees and non-taxable expenses not sought against the United States as 14 days after the entry of judgment; All other requirements and timelines are now subject to the conditions set forth in LRCiv 7.2.
LRCiv 72.1	**ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES.** Technical amendment to part (c) correcting the reference to LRCiv 3.4(b) and 3.5(c) by replacing it with LRCiv 3.7(e). Reference to "or by automated random selection" stricken from part (c) as it is redundant with LRCiv 3.7(e).
LRCrim 1.1	**REMOVAL TO FEDERAL COURT.** Technical amendment to correct the reference to Rule 3.7 by replacing it with Rule 3.6, Local Rules of Civil Procedure.
LRCrim 5.1	**ASSIGNMENT OF CASES AND MATTERS; CRIMINAL; JUVENILE.** Creates new part (g) to document the Court's routine practice of assigning changes of plea hearings to a Magistrate Judge. Renders General Orders 99-08 and 03-03 obsolete. Technical amendment to first sentence of part (b) to add a missing closed parenthesis.

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LOCAL RULES OF CIVIL PROCEDURE[1]

[1] The Local Rules of Civil Procedure may be cited as "LRCiv".

Title I. Scope of Rules; Form of Action

F.R.Civ.P. 1. Scope and Purpose

LRCiv 1.1

COURT CALENDAR MANAGEMENT

(a) Non-Trial Additions/Deletions to Calendars By Counsel or Unrepresented Parties. Any additions or deletions to the Court calendars other than for trials shall require two business days notice unless otherwise directed or scheduled by the Court.

(b) Notice of Conflict. Upon learning of a scheduling conflict between different courts within the District of Arizona, or between the United States District Court and the Arizona State Courts, counsel has a duty to promptly notify the Judges involved in order that the conflict may be resolved. Such notice shall be in writing, with a copy provided to all counsel and conflicted courts.

(c) Inter-Division Conflicts. Conflicts in scheduling between divisions of this Court may be governed by local rule or general order.

(d) Resolution of Conflicts. Upon being advised of a scheduling conflict, the Judges involved shall, if necessary, confer personally or by telephone in an effort to resolve the conflict. While neither the United States District Court nor any Arizona Court has priority in scheduling, the following factors should be considered in resolving the conflict:

(1) The nature of the cases as civil or criminal, and the presence of any speedy trial problems;

(2) the length, urgency, or relative importance of the matters;

(3) a case which involves out-of-town witnesses, parties or counsel;

(4) the age of the cases;

(5) the matter which was set first;

(6) any priority granted by rule or statute;

(7) any other pertinent factor.

F.R.Civ.P. 2. One Form of Action

(NO LOCAL RULE)

Title II. Commencement of Action; Service of Process, Pleadings, Motions, and Orders

F.R.Civ.P. 3. Commencing an Action

LRCiv 3.1

CIVIL COVER SHEET

(a) The Clerk is authorized and instructed to require a complete and executed AO form JS-44, Civil Cover Sheet, which shall accompany each civil case to be filed.

(b) Persons filing civil cases who are at the time of such filing in custody of Civil, State, or Federal institutions, and persons filing civil cases pro se, are exempted from the foregoing requirements.

LRCiv 3.2

DOCKETING

(a) Case Numbering. The Clerk must assign a number to each case. The number must include the designation "CR" for criminal cases and "CV" for civil cases, followed by the last two digits of the calendar year in which each case is filed; the number of the case in the order filed during each calendar year, followed by the designation of the division where filed, and ending with the initials of the Judge to whom the case is assigned. If the case is assigned to a District Judge and referred to a Magistrate Judge, the Magistrate Judge's initials must be indicated in parentheses. Cases must be designated according to divisional office, i.e., "PHX" for Phoenix cases, "PCT" for Prescott cases, and "TUC" for Tucson cases.

CV-11-0001-PHX-JAT	CR-11-8001-PCT-SRB
CV-11-0002-TUC-CRP	CR-11-0002-PHX-FJM
CV-11-8003-PCT-ROS (MHB)	CR-11-0003-TUC-RCC (BPV)

(b) Docketing Format. Each document which is separately filed by the Clerk in a particular case shall be sequentially numbered by the Clerk on the first page of the document and shall be docketed by that number.

LRCiv 3.3

ACTIONS *IN FORMA PAUPERIS*

(a) All actions sought to be filed *in forma pauperis*, pursuant to 28 U.S.C. § 1915, shall be accompanied by an affidavit of inability to pay costs or give security. This affidavit shall consist of a declaration in support of request to proceed *in forma pauperis*. This declaration shall contain the following:

(1) A statement as to current employment including the amount of wages or salary per month and the name and address of the current employer.

(2) A statement, if not currently employed, as to the date of last employment and the amount of wages or salary per month which was received.

(3) A statement as to any money received within the past twelve months from any of the following sources:

(A) Business, profession, or self-employment;

(B) Rent payments, interest, or dividends;

(C) Pensions, annuities, or life insurance payments;

(D) Gifts or inheritances; and

(E) Any other source.

The statement shall include a description of each source of money and the amount of money received from each source during the past twelve months.

(4) A statement as to any cash in possession and as to any money in a financial institution, including checking, savings, and any other accounts. The statement shall include any money available to the declarant.

(5) A statement as to any real estate, stocks, bonds, notes, automobiles, investments, or other valuable property (excluding ordinary household furnishings and clothing). The statement shall describe the property and state its approximate value.

(6) A statement as to all persons who depend upon the declarant for support. The statement shall include the relationship of the dependents and the amount contributed toward their support.

(7) A statement that, because of poverty, there is an inability to pay the costs of the proceeding or given security therefore, and the declarant's belief that the declarant is entitled to relief.

(b) In actions by persons who are incarcerated, this declaration must contain a certification, executed by an authorized officer of the institution, as to any amount contained in any of declarant's accounts at the institution.

This declaration shall be executed under penalty of perjury.

LRCiv 3.4

COMPLAINTS BY INCARCERATED PERSONS

All complaints and applications to proceed *in forma pauperis* by incarcerated persons must be signed and legibly written or typewritten on forms approved by the Court and in accordance with the instructions provided with the forms unless the assigned District Judge or Magistrate Judge, in his or her discretion, finds that the complaint or application is understandable and that it conforms with federal and local requirements for actions filed by incarcerated persons. Copies of the forms and instructions will be provided by the Clerk upon request. The assigned District Judge or Magistrate Judge may strike or dismiss complaints or applications which do not conform substantively or procedurally with federal and local requirements for actions filed by incarcerated persons.

LRCiv 3.5

WRITS OF HABEAS CORPUS AND MOTIONS PURSUANT TO 28 U.S.C. § 2255

(a) Filing Requirements. Petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2254 and 28 U.S.C. § 2241, motions to vacate sentence pursuant to 28 U.S.C. § 2255, and applications to proceed *in forma pauperis* must be signed and legibly written or typewritten on forms approved by the Court and in accordance with the instructions provided with the forms unless the assigned District Judge or Magistrate Judge, in his or her discretion, finds that the petition or motion is understandable and that it conforms with federal and local requirements for such actions. Copies of the forms and instructions will be provided by the Clerk upon request. The original and two (2) copies of the petition or motion must be sent or delivered to the Clerk. The assigned District Judge or Magistrate Judge may strike or dismiss petitions, motions or applications which do not conform substantively or procedurally with federal and local requirements for such actions.

(b) *In Forma Pauperis* Certification. If a habeas corpus petitioner desires to prosecute the petition *in forma pauperis*, the petitioner must file an application to proceed *in forma pauperis* on a form approved by the Court, accompanied by a certification of the warden or other appropriate officer of the institution in which the petitioner is confined as to the amount of money or securities on deposit to the petitioner's credit. If the petitioner has in excess of twenty-five dollars ($25) on deposit, leave to proceed *in forma pauperis* will be denied and the petitioner must pay the filing fee.

LRCiv 3.6

REMOVAL TO FEDERAL COURT

(a) Procedure. A defendant or defendants desiring to remove any civil action or criminal prosecution from a state court shall file a Notice of Removal, signed pursuant to Rule 11 of the Federal Rules of Civil Procedure. The notice must contain an affirmative statement that a copy of the notice has been filed with the clerk of the state court from which the action or prosecution has been removed. In addition to submitting the civil cover sheet (AO Form JS-44), the removing party must also submit a "Supplemental Civil Cover Sheet for Cases Removed from Another Jurisdiction."

(b) State Court Record. The removing party must file copies of all pleadings and other documents that were previously filed with the state court, accompanied by a verification from the removing party or its counsel that they are true and complete copies of all pleadings and other documents filed in the state court proceeding. Unless the removing party files a motion requesting an extension of time for good cause, the state court record must be filed when the notice of removal is filed.

(c) Pending Motions. If a motion is pending and undecided in the state court at the time of removal, the Court need not consider the motion unless and until a party files and serves a notice of pending motion. The notice must: (1) identify the motion by the title that appears in its caption; (2) identify any responsive or reply memoranda filed in connection with the motion, along with any related papers, such as separately filed affidavits or statements of fact; and (3) state whether briefing on the motion is complete, and, if not, it must identify the memoranda or other papers yet to be filed.

(d) Jury Trial Demand. In a case removed from state court, a party must comply with Federal Rule of Civil Procedure 81(c) to preserve any right to a trial by jury.

LRCiv 3.7

ASSIGNMENT OF CASES; CIVIL

(a) Assignment of Civil Cases.

(1) Generally. Unless otherwise provided in these Rules or ordered by the Court, the Clerk must assign civil cases to Judges within each division by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys will be able to make a deliberate choice of a particular Judge. The cases so assigned will remain with the Judge to whom assigned unless otherwise ordered by the Court. Unless otherwise ordered by the Court or set forth in these Rules, the Clerk must assign each civil case to a District Judge or a Magistrate Judge, except that when preliminary injunctive relief is requested in a separate motion the Clerk must assign the case to a District Judge.

(2) Refiling. If a civil action is voluntarily dismissed and a related civil action is later filed in this District, the filing party must file a separate notice with the party's complaint identifying the dismissed action by its complete case number, including the initials of the assigned Judge. The Clerk will assign the newly filed action to the Judge who was last assigned to the dismissed action. If that Judge is not available for assignment, the Clerk will randomly assign the newly filed action pursuant to this Rule. For the purposes of this Rule, a newly filed action is "related" to a dismissed action if both involve the same or similar claims and if both involve at least some of the same plaintiffs and at least some of the same defendants.

(b) Random Assignment to Magistrate Judges. When an action is assigned to a Magistrate Judge, each party must execute and file within fourteen (14) days of its appearance either a written consent to the exercise of authority by the Magistrate Judge under 28 U.S.C. § 636(c), or a written election to have the action reassigned to a District Judge. Each party must indicate his or her consent or election on the form provided by the Clerk. Prior to the completed consent or election forms being received by the Clerk of the Court, the assigned Magistrate Judge may act pursuant to 28 U.S.C. § 636(b)(1)(A). Any dispositive motion submitted by a party before that party has filed a

consent or election form may be stricken or deferred by the Court. If one or more parties elect to have a case heard by a District Judge, the Clerk must reassign it to a District Judge. After one or more consents to a Magistrate Judge have been filed with the Clerk and until such time as an election is made by any party for assignment to a District Judge, the Magistrate Judge may continue to act pursuant to 28 U.S.C. § 636(c)(1) even though all parties have not been served or have not filed their appearances. Consent to a Magistrate Judge's authority does not constitute a waiver of any jurisdictional defense unrelated to the grant of authority under 28 U.S.C. § 636(c).

(c) Assignment of Bankruptcy Matters. The Clerk of Court must randomly assign bankruptcy appeals and motions to withdraw the reference to a District Judge unless a matter arising out of the same or administratively consolidated bankruptcy case has been previously filed with the Court, in which case the matter must be assigned to the District Judge who presided over the related matter.

(d) Assignment of Capital Habeas Corpus Cases. The Clerk of Court must randomly assign capital habeas corpus cases to a District Judge.

(e) Assignment of Complaints Filed by Incarcerated Persons and Habeas Corpus Petitions. The Clerk of Court must randomly assign complaints filed by incarcerated persons and habeas corpus petitions to a District Judge and randomly refer them to a Magistrate Judge. Any future pleadings filed by the incarcerated person or habeas corpus petitioner must be directly assigned and referred to the same District Judge and Magistrate Judge to whom the earlier case was assigned and referred, unless otherwise ordered by the Court.

(f) Assignment of Miscellaneous Matters. The Clerk of Court must randomly assign civil miscellaneous matters to a District Judge. If contested, the Clerk of Court must assign the matter a regular civil case number and directly assign the case to the District Judge to whom the miscellaneous matter was assigned.

(g) Temporary Reassignment of Cases. A case assigned to a particular District Judge may be temporarily reassigned to another District Judge, if the District Judge to whom the case is assigned is unavailable and an exigency exists which requires

prompt action by the Court. The Clerk of Court must randomly make the reassignment to an available District Judge for the limited purpose of hearing or determining the matter that is the subject of the exigency.

F.R.Civ.P. 4. Summons

(NO LOCAL RULE)

F.R.Civ.P. 4.1. Serving Other Process

(NO LOCAL RULE)

F.R.Civ.P. 5. Serving and Filing Pleadings and Other Papers

LRCiv 5.1

PLACES FOR FILING

(a) Clerk's Offices; Place of Filing. Offices of the Clerk are maintained at Phoenix and at Tucson. All files and records of the Phoenix and Prescott divisions shall be kept at Phoenix, and all files and records of the Tucson division shall be kept at Tucson. Unless otherwise ordered by the Court, all filings for the Phoenix and Prescott divisions shall be made in Phoenix, and all filings for the Tucson division shall be made in Tucson. In cases where the cause of action has arisen in more than one county, the plaintiff may elect any of the divisions appropriate to those counties for filing and trial purposes, although the Court reserves the right to assign any cases for trial elsewhere in the District at its discretion.

(b) Writs of Habeas Corpus. Notwithstanding the requirements of Rule 77.1(c) of the Local Rules of Civil Procedure, petitions for writs of habeas corpus brought under 28 U.S.C. § 2254 by a person in State custody must be filed in the division which includes the County in which the judgment of conviction was entered, and not necessarily in the division where the person is presently held in custody.

LRCiv 5.2

FILING OF DISCOVERY AND DISCLOSURE NOTICES

A "Notice of Service" of the disclosures and discovery requests and responses listed in Rule 5(d) of the Federal Rules of Civil Procedure must be filed within a reasonable time after service of such papers.

LRCiv 5.3

STATUTORY COURT

Where, pursuant to law, an action must be heard by a District Court composed of three Judges, the procedure to be followed by counsel in filing pleadings and submitting briefs will be as follows:

(a) Pleadings Filed in Quadruplicate. All pleadings are to be filed with the Clerk in quadruplicate, the original becoming part of the file and the three copies to be distributed by the Clerk to the members of the statutory Court.

(b) Briefs Filed in Quadruplicate. Briefs are to be submitted in quadruplicate and, unless otherwise directed by the Court, they are to be delivered to the Clerk for distribution to the members of the statutory Court.

LRCiv 5.4

FILING; COPY FOR JUDGE

A clear, legible copy of a pleading or other document filed shall accompany each original pleading or other document filed with the Clerk for use by the District Judge or Magistrate Judge to whom the case is assigned and additional copies for each Judge in three-judge cases. This requirement applies to unrepresented parties and applies to electronic filings made pursuant to Rule 5.5 of the Local Rules of Civil Procedure, except as prescribed by the Court's Administrative Policies and Procedures Manual.

LRCiv 5.5

ELECTRONIC FILING

(a) Electronic Case Filing Administrative Policies and Procedures Manual. The Clerk of Court is authorized to develop, publish and implement an Electronic Case Filing Administrative Policies and Procedures Manual for the District of Arizona (Administrative Manual).

(b) Filing of Documents Electronically. The Court will accept for filing documents submitted, signed or verified by electronic means consistent with these rules and the Administrative Manual. Filing of documents electronically in compliance with these rules and the Administrative Manual will constitute filing with the Court for purposes of Rule 5(d)(3) of the Federal Rules of Civil Procedure.

(c) Scope of Electronic Filing. All cases filed in this Court will be maintained in the Electronic Case Filing (ECF) System in accordance with these rules and the Administrative Manual. Unless otherwise ordered by the Court or as provided by the Administrative Manual, electronic filing is mandatory for attorneys.

(d) Registered User Eligibility. Attorneys admitted to the bar of this Court and attorneys and certified students permitted to practice in this Court under Local Rule 83.1(b) are eligible to become Registered Users of the ECF system. Unless the Court orders otherwise, parties appearing without an attorney shall not file documents electronically.

(e) Registration. Applicants shall register to file electronically in a form prescribed by the Clerk of Court.

(f) Password Security. Registered Users shall protect the security of their passwords and shall immediately notify
the Clerk of Court if they learn that their password has been compromised.

(g) Signatures. The log-in and password required to submit documents to the ECF System constitute the Registered User's signature on all electronic documents filed with the Court for purposes of Rule 11 of the Federal Rules of Civil Procedure. Documents signed by an attorney shall be filed using that attorney's ECF log-in and

password and shall not be filed using a log-in and password belonging to another attorney. No person shall knowingly permit or cause to permit a Registered User's password to be used by anyone other than an authorized agent of the Registered User.

(h) Service of Electronic Filings. Registration as an ECF user constitutes consent to the electronic service of all documents through the Court's transmission facilities for purposes of Rule 5(b)(3) of the Federal Rules of Civil Procedure. Transmission of the Notice of Electronic Filing to a Registered User's e-mail address constitutes service of the hyperlinked document(s). Only the Notice of Electronic Filing, generated and transmitted by the ECF system, is sufficient to constitute electronic service of an electronically filed document. Non-registered users shall be provided notice of the filing by other means in accordance with the Federal Rules of Civil Procedure.

(i) Request for Electronic Notice by Nonparties. A Registered User may subscribe to receive Notices of Electronic Filing in an unsealed case in which the Registered User is not a party or counsel of record by filing a text-only Notice of Request for E-Notice event on the electronic docket. The subscriber must notify any unrepresented parties in the case of the subscription by letter. United States Attorney Victim Witness Personnel who are authorized subscription rights by the Court are exempt from the notice requirements of this rule. The Court may sanction any Registered User who subscribes to receive Notices of Electronic Filing without notifying the Court and the parties by filing and serving a Notice of Request for E-Notice.

LRCiv 5.6

SEALING OF COURT RECORDS IN UNSEALED CIVIL ACTIONS

(a) Order Required. No document may be filed under seal in an unsealed civil action except pursuant to an order by the Court as set forth in subpart (b) of this Rule. For the purposes of this Rule, the term "document" means any exhibit, record, filing or other item to be filed under seal with the Court.

(b) Procedure for Obtaining an Order to File a Document Under Seal. The Court may order the sealing of any document pursuant to a motion, stipulation, or the Court's own motion. The Court generally will not enter an order that gives advance authorization to file documents under seal that are designated for such treatment by parties under a protective order or confidentiality agreement. Any motion or stipulation to file a document under seal must set forth a clear statement of the facts and legal authority justifying the filing of the document under seal and must append (as a separate attachment) a proposed order granting the motion. The document or documents that are the subject of any such motion or stipulation must not be appended to the motion or stipulation, and must be lodged with the Court separately consistent with subpart (c) of this Rule.

(c) Lodging of Documents to Be Filed Under Seal.

(1) *Lodging in Electronic Form.* Generally, a document to be filed under seal must be lodged with the Court in electronic form. The Electronic Case Filing Administrative Policies and Procedures Manual ("the Administrative Manual") sets forth the circumstances in which such documents must be lodged electronically and the instructions for doing so.

(2) *Exceptions; Lodging in Paper Form.* A document to be submitted under seal by a party or counsel who is exempt from the requirement to file papers electronically must be lodged in paper form with a cover sheet prominently displaying the notation "DOCUMENT SUBMITTED UNDER SEAL" and clearly identifying:

(A) the document and the underlying motion to which it pertains;

(B) the number of pages submitted for lodging;

(C) the motion or stipulation seeking to have the document filed under seal; and

(D) the case number and title of the action in which the document is to be filed.

(d) Filing a Document Designated Confidential by Another Party. Unless otherwise ordered by the Court, if a party wishes to file a document that has been designated as confidential by another party pursuant to a protective order or confidentiality agreement, or if a party wishes to refer in a memorandum or other filing to information so designated by another party, the submitting party must confer with the designating party about the need to file the document (or proposed filing) under seal and whether the parties can agree on a stipulation seeking to have the document (or proposed filing) filed under seal. If the parties are unable to agree on these issues, the submitting party must lodge the document (or proposed filing) under seal and file and serve a notice of lodging summarizing the parties' dispute and setting forth the submitting party's position, accompanied by a certification that the parties have conferred in good faith and were unable to agree about whether the document (or proposed filing) should be filed under seal. Within fourteen (14) days after service of the notice, the designating party must file and serve either a notice withdrawing the confidentiality designation or a motion to seal and a supporting memorandum that sets forth the facts and legal authority justifying the filing of the document (or proposed filing) under seal. If the designating party seeks to have the document (or proposed filing) filed under seal, the motion must append (as a separate attachment) a proposed order granting the motion to seal. No response to the motion may be filed. If the designating party does not file a motion or notice as required by this subsection, the Court may enter an order making the document (or proposed filing) part of the public record.

(e) Denial of Request to File a Document Under Seal. If a request to file under seal is denied in part or in full, the lodged document will not be filed. If the request is denied in full, the submitting party may, within five (5) days of the entry of the order denying the request, resubmit the document for filing in the public record. If the

request is denied in part and granted in part, the party may resubmit the document in a manner that conforms to the Court's order and this Rule.

(f) Effect of Sealing. If the Court orders the sealing of any document, the Clerk shall file the order to seal and secure the sealed document from public access.

LRCiv 5.7

FILING OF COURT RECORDS IN SEALED CIVIL ACTIONS

Every document to be filed in a sealed action must be submitted to the Court in paper form with a cover sheet prominently displaying the notation "DOCUMENT SUBMITTED UNDER SEAL" and clearly identifying the document, the number of pages submitted, and the case number and title of the action in which the document is to be filed.

F.R.Civ.P. 5.1 Constitutional Challenge to a Statute – Notice, Certification, and Intervention

(NO LOCAL RULE)

F.R.Civ.P. 5.2 Privacy Protection For Filings Made with the Court

(NO LOCAL RULE)

F.R.Civ.P. 6. Computing and Extending Time; Time for Motion Papers

LRCiv 6.1

MOTIONS AND STIPULATIONS FOR EXTENSIONS OF TIME

Motions and stipulations for extensions of time are governed by Rule 7.3 of the Local Rules of Civil Procedure.

Title III. Pleadings and Motions

F.R.Civ.P. 7. Pleadings Allowed; Form of Motions and Other Papers

LRCiv 7.1

FORMS OF PAPERS

(a) Title Page. The following information must be stated upon the first page of every document and may be presented for filing single-spaced[2]:

(1) The name, address, e-mail address, State Bar Attorney number, telephone number, and optionally the fax number, of the attorney appearing for the party in the action or proceeding and whether the attorney appears for the plaintiff, defendant, or other party - in propria persona - must be typewritten or printed in the space to the left of the center of the page and beginning at line one (1) on the first page. The space to the right of the center must be reserved for the filing marks of the Clerk.

(2) The title of the Court must begin on or below line six (6) of the first page.

(3) The title of the action or proceeding must be inserted below the title of the Court in the space to the left of the center of the paper. Party names must be capitalized using proper upper and lower case type.[3] If the parties are too numerous for all to be named on the first page, the names of the parties only may be continued on the second or successive pages. All parties named in the case caption must be separated by semicolons on any initial or amended complaint, petition, crossclaim, counterclaim, or third-party complaint. If the initial or amended complaint, petition, crossclaim, counterclaim, or third-party complaint applies to a consolidated action, the affected case number(s) must appear below the number of the established "lead", or lowest-numbered case. For all other papers filed in civil or criminal cases, it is sufficient to state the name of the first party on each side with an appropriate indication of the other parties, as provided by Rule 10(a), Federal Rules of Civil Procedure. In the space to the right of the

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[2] A sample form is provided in Appendix C.

[3] A sample of proper capitalization is provided in Appendix C.

center there must be inserted (A) the number of the action or proceeding, including the defendant's number if the paper is filed on behalf of a single defendant in a multi-defendant criminal case[4]; (B) a brief description of the nature of the document, including demand for trial by jury if made in the document; and (C) mention of any notice of motion or affidavits or memorandum in support.

(b) Pleadings and Other Papers.

(1) All pleadings and other papers shall be written in the English language, submitted in letter size (8 ½ inches by 11 inches) format and shall be signed as provided in Rule 11 of the Federal Rules of Civil Procedure. The body of all documents shall be typed double-spaced and shall not exceed 28 lines per page; they shall not be single-spaced except for footnotes and indented quotations. All pleadings, motions and other original documents filed with the Clerk shall be in a fixed-pitch type size no smaller than ten (10) pitch (10 letters per inch) or in a proportional font size no smaller than 13 point, including any footnotes. Pages of the document must be numbered. The left margin shall not be less than 1 ½ inches and the right margin shall not be less than ½ inch. All paper documents presented for filing shall be on unglazed paper stapled in the upper left-hand corner. Paper documents intended for filing shall be presented to the Clerk's Office without being folded or rolled and shall be kept in flat files. Paper documents which are too large for stapling should be bound with a metal prong fastener at the top, center of the document. Documents filed by incarcerated persons are exempt from the stapling and fastening requirements.

(2) In civil cases when a party requests specific relief, except for dismissal or summary judgment pursuant to Federal Rules of Civil Procedure 12(b) or 56, the party must lodge with the Clerk a separate proposed order.

(3) Proposed orders prepared for the signature of a United States District Judge or a Magistrate Judge must be prepared on a separate document containing the heading data required by subparagraphs (a)(2) and (3) above as appropriate, and must not

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[4] For example, "CR-11-0001-04-PHX-SRB (LOA)" indicates that the paper is filed only on behalf of defendant number four.

be included as an integral part of stipulations, motions, or other pleadings. The proposed order must not contain any information identifying the party submitting the order and must not incorporate by reference, but rather must set forth the relief requested or the terms of the parties' stipulation. Proposed orders submitted electronically must not contain a date or signature block. All other proposed orders must contain the following uniform signature block (Magistrate Judges should be adapted accordingly):

DATED this _____ day of _____, 20_____.

_____

(Judge's Name)

United States District Judge

(c) Electronic Documents. Documents submitted for filing in the ECF System shall be in a Portable Document Format (PDF). Documents which exist only in paper format shall be scanned into PDF for electronic filing. All other documents shall be converted to PDF directly from a word processing program (e.g., Microsoft Word® or Corel WordPerfect®), rather than created from the scanned image of a paper document.

(d) Attachments to Pleadings and Memoranda.

(1) Attachments. No copy of a pleading, exhibit or minute entry which has been filed in a case shall be attached to the original of a subsequent pleading, motion or memorandum of points and authorities.

(2) Incorporation by Reference. If a party desires to call the Court's attention to anything contained in a previous pleading, motion or minute entry, the party shall do so by incorporation by reference.

(3) Authorities Cited in Memoranda. Copies of authorities cited in memoranda shall not be attached to the original of any motion or memorandum of authorities.

(4) Attachments to Judge. Nothing herein shall be construed as prohibiting a party from attaching copies of pleadings, motions, exhibits, minute entries or texts of authorities to a copy of a motion or memorandum of points and authorities delivered to the District Judge or Magistrate Judge to whom the case has been assigned.

Any such attachments or authorities provided to the District Judge or Magistrate Judge must also be provided to all other attorneys.

(5) Sanctions. In addition to any other sanctions, for violation of this Local Rule, the Court may order the removal of the offending document and charge the offending party or counsel such costs or fees as may be necessary to cover the Clerk's costs of filing, preservation, or storage.

LRCiv 7.2

MOTIONS[5]

(a) Motions Shall be in Writing. All motions, unless made during a hearing or trial, shall be in writing and shall be made sufficiently in advance of trial to comply with the time periods set forth in this Local Rule and any Court order and to avoid any delays in the trial.

(b) Memorandum by Moving Party. Unless otherwise ordered by the court, upon any motion, the moving party shall serve and file with the motion's papers a memorandum setting forth the points and authorities relied upon in support of the motion.

(c) Responsive Memorandum. The opposing party shall, unless otherwise ordered by the Court and except as otherwise provided by Rule 56 of the Federal Rules of Civil Procedure, and Rules 12.1 and 56.1, Local Rules of Civil Procedure, have fourteen (14) days after service in a civil or criminal case within which to serve and file a responsive memorandum.

(d) Reply Memorandum. The moving party, unless otherwise ordered by the Court, and except as otherwise provided by Rules 12.1 and 56.1, Local Rules of Civil Procedure, shall have seven (7) days after service of the responsive memorandum to file a reply memorandum if that party so desires.

(e) Length of Motions, Memoranda and Objections.

(1) Unless otherwise permitted by the Court, a motion including its supporting memorandum, and the response including its supporting memorandum, may not exceed seventeen (17) pages, exclusive of attachments and any required statement of facts.

(2) Unless otherwise permitted by the Court, a reply including its supporting memorandum may not exceed eleven (11) pages, exclusive of attachments.

(3) Unless otherwise permitted by the Court, an objection to a Report and Recommendation issued by a Magistrate Judge shall not exceed ten (10) pages.

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[5] The time periods prescribed in the Local Rules are to be computed in accordance with Rule 6, Federal Rules of Civil Procedure.

(4) Attachments shall exclude materials extraneous to genuine issues of material fact or law.

(f) Oral Arguments. Unless otherwise directed by the Court, a party desiring oral argument must request it by placing "Oral Argument Requested" immediately below the title of a motion or the response to a motion. The Court may decide motions without oral argument. If oral argument is granted, notice will be given in a manner directed by the Court.

(g) Motions for Reconsideration.

(1) Form and Content of Motion. The Court will ordinarily deny a motion for reconsideration of an Order absent a showing of manifest error or a showing of new facts or legal authority that could not have been brought to its attention earlier with reasonable diligence. Any such motion shall point out with specificity the matters that the movant believes were overlooked or misapprehended by the Court, any new matters being brought to the Court's attention for the first time and the reasons they were not presented earlier, and any specific modifications being sought in the Court's Order. No motion for reconsideration of an Order may repeat any oral or written argument made by the movant in support of or in opposition to the motion that resulted in the Order. Failure to comply with this subsection may be grounds for denial of the motion.

(2) Procedure. No response to a motion for reconsideration and no reply to the response may be filed unless ordered by the Court, but no motion for reconsideration may be granted unless the Court provides an opportunity for response. Absent good cause shown, any motion for reconsideration shall be filed no later than fourteen (14) days after the date of the filing of the Order that is the subject of the motion.

(h) Telephone Argument and Conferences. The Court may, in its discretion, order or allow oral argument on any motion or other proceeding by speaker telephone conference call, provided that all conversations of all parties are audible to each participant and the Court. Upon request of any party, such oral argument may be recorded by court reporter or other lawful method under such conditions as the Court

shall deem practicable. Counsel shall request scheduling of such calls at a time convenient to all parties and the Court. The Court may direct which party shall pay the cost of the call.

(i) Briefs or Memoranda of Law; Effect of Non-Compliance. If a motion does not conform in all substantial respects with the requirements of this Local Rule, or if the unrepresented party or counsel does not serve and file the required answering memoranda, or if the unrepresented party or counsel fails to appear at the time and place assigned for oral argument, such non-compliance may be deemed a consent to the denial or granting of the motion and the Court may dispose of the motion summarily.

(j) Discovery Motions. No discovery motion will be considered or decided unless a statement of moving counsel is attached thereto certifying that after personal consultation and sincere efforts to do so, counsel have been unable to satisfactorily resolve the matter. Any discovery motion brought before the Court without prior personal consultation with the other party and a sincere effort to resolve the matter, may result in sanctions.

(k) Motions to Compel. With regard to motions to compel discovery brought pursuant to Rule 37(a)(3)(B) of the Federal Rules of Civil Procedure, see Rule 37.1, Local Rules of Civil Procedure.

(l) Pending Motions Notification. Whenever any motion or other matter has been taken under advisement by a District Judge or Magistrate Judge for more than one hundred and eighty (180) days, the attorneys of record in the case shall inquire of the Court, in writing, as to the status of the matter.

(m) Motions to Strike.

(1) Generally. Unless made at trial, a motion to strike may be filed only if it is authorized by statute or rule, such as Federal Rules of Civil Procedure 12(f), 26(g)(2) or 37(b)(2)(A)(iii), or if it seeks to strike any part of a filing or submission on the ground that it is prohibited (or not authorized) by a statute, rule, or court order.

(2) Objections to Admission of Evidence on Written Motions. An objection to (and any argument regarding) the admissibility of evidence offered in support of or opposition to a motion must be presented in the objecting party's responsive or reply memorandum and not in a separate motion to strike or other separate filing. If the underlying motion is a motion for summary judgment, an objection may be included in a party's response to another party's separate statement of material facts in lieu of (or in addition to) including it in the party's responsive memorandum, but any objection in the party's response to the separate statement of material facts must be stated summarily without argument. Any response to an objection must be included in the responding party's reply memorandum for the underlying motion and may not be presented in a separate responsive memorandum.

LRCiv 7.3

MOTIONS/STIPULATIONS FOR EXTENSIONS OF TIME

(a) A party moving for an extension of time, whether by motion or stipulation, must disclose the existence of all previous extensions which have been granted concerning the matter for which an extension is sought. A statement indicating whether the motion or stipulation is the first, second, third, etc. requested extension must be included below the title of the motion or stipulation, for example: "STIPULATION FOR EXTENSION OF TIME TO ANSWER (Second Request)." The party seeking the extension must lodge, separate from the party's motion or stipulation, a proposed form of order consistent with the relief requested, complying with Rule 7.1(b)(3) of the Local Rules of Civil Procedure.

(b) Except in all civil actions in which a party is an unrepresented prisoner, a party moving for an extension of time, whether by motion or stipulation, must state the position of each other party. If the moving party's efforts to determine the position of any other party are unsuccessful, a statement to that effect must be included in the motion or stipulation.

F.R.Civ.P. 7.1. Disclosure Statement

LRCiv 7.1.1

CORPORATE DISCLOSURE STATEMENT

The disclosure statement required by Rule 7.1 of the Federal Rules of Civil Procedure and Rules 12.4(a) of the Federal Rules of Criminal Procedure must be made on a form provided by the Clerk and must be supplemented if new information is obtained.

F.R.Civ.P. 8. General Rules of Pleading

(NO LOCAL RULE)

F.R.Civ.P. 9. Pleading Special Matters

(NO LOCAL RULE)

F.R.Civ.P. 10. Form of Pleadings

LRCiv 10.1

FORM OF PLEADINGS

The form of pleadings is governed by Rule 7.1 of the Local Rules of Civil Procedure.

F.R.Civ.P. 11. Signing Pleadings, Motions, and Other Papers; Representations to the Court; Sanctions

(NO LOCAL RULE)

F.R.Civ.P. 12. Defenses and Objections: When and How Presented; Motion for Judgment on the Pleadings; Consolidating Motions; Waiving Defenses; Pretrial Hearing

LRCiv 12.1

MOTIONS TO DISMISS

(a) Oral Arguments. With regard to oral arguments on motions filed pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, see Rule 7.2(f), Local Rules of Civil Procedure.

(b) Motions to Dismiss for Lack of Jurisdiction. If one or more of the grounds asserted in a motion to dismiss is a lack of personal or subject matter jurisdiction, the time schedule for filing and service of responsive and reply memoranda will be the same as for motions for summary judgment, as set forth in Rule 56.1, Local Rules of Civil Procedure. The Court may order a different briefing schedule.

F.R.Civ.P. 13. Counterclaim and Crossclaim

(NO LOCAL RULE)

F.R.Civ.P. 14. Third-Party Practice

(NO LOCAL RULE)

F.R.Civ.P. 15. Amended and Supplemental Pleadings

LRCiv 15.1

AMENDED PLEADINGS

(a) Amendment by Motion. A party who moves for leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the motion, which must indicate in what respect it differs from the pleading which it amends, by bracketing or striking through the text to be deleted and underlining the text to be added. The proposed amended pleading must not incorporate by reference any part of the preceding pleading, including exhibits. If a motion for leave to amend is granted, the party whose pleading was amended must file and serve the amended pleading on all parties under Rule 5 of the Federal Rules of Civil Procedure within fourteen (14) days of the filing of the order granting leave to amend, unless the Court orders otherwise.

(b) Amendment as a Matter of Course or by Consent. If a party files an amended pleading as a matter of course or with the opposing party's written consent, the amending party must file a separate notice of filing the amended pleading. The notice must attach a copy of the amended pleading that indicates in what respect it differs from the pleading which it amends, by bracketing or striking through the text that was deleted and underlining the text that was added. The amended pleading must not incorporate by reference any part of the preceding pleading, including exhibits. If an amended pleading is filed with the opposing party's written consent, the notice must so certify.

F.R.Civ.P. 16. Pretrial Conferences; Scheduling; Management

LRCiv 16.1

PROCEDURE IN SOCIAL SECURITY CASES

In all cases seeking judicial review of decisions by the Commissioner of Social Security pursuant to 42 U.S.C. § 405(g), the parties must observe the following briefing procedures, rather than filing motions/cross-motions for summary judgment:

(a) Opening Brief. Within sixty (60) days after the answer is filed, Plaintiff must file an opening brief addressing why the Commissioner's decision is not supported by substantial evidence or why the decision should otherwise be reversed or the case remanded. Plaintiff's opening brief must set forth all errors which Plaintiff contends entitle him or her to relief. The brief must also contain, under appropriate headings and in the order indicated below, the following:

(1) A statement of the issues presented for review, set forth in separate numbered paragraphs.

(2) A statement of the case. This statement should indicate briefly the course of the proceedings and its disposition at the administrative level.

(3) A statement of facts. This statement of the facts must include Plaintiff's age, education, and work experience; a summary of the physical and mental impairments alleged; a brief outline of the medical evidence; and a brief summary of other relevant evidence of record. Each statement of fact must be supported by reference to the page in the record where the evidence may be found.

(4) An argument. The argument, which may be preceded by a summary, must be divided into sections separately treating each issue. Each contention must be supported by specific reference to the portion of the record relied upon and by citations to statutes, regulations, and cases supporting Plaintiff's position. If any requested remand is for the purpose of taking additional evidence, such evidence must be described in the opening brief, and Plaintiff's argument must show that the additional evidence is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding. If such additional evidence is in the form

of a consultation examination sought at Government expense, Plaintiff's opening brief must make a proffer of the nature of the evidence to be obtained.

(5) A short conclusion stating the relief sought.

(b) Answering Brief. Defendant must file an answering brief within thirty (30) days after service of Plaintiff's opening brief. Defendant's brief must (1) respond specifically to each issue raised by Plaintiff and (2) conform to the requirements set forth above for Plaintiff's brief, except that a statement of the issues and a statement of the case and a statement of the facts need not be made unless Defendant is dissatisfied with Plaintiff's statement thereof.

(c) Reply Brief. Plaintiff may file a reply brief within fifteen (15) days after service of Defendant's brief.

(d) Length of Briefs. Unless otherwise ordered by the Court, the opening and answering briefs may not exceed twenty-five (25) pages, including any statement of facts, with the reply brief limited to eleven (11) pages. The case will be deemed submitted as of the date on which Plaintiff's reply brief is filed or due.

(e) Oral Argument. If either party desires oral argument, it must be requested in the manner prescribed by Rule 7.2(f) of the Local Rules of Civil Procedure upon the filing of the opening or answering brief. Whether to allow oral argument is at the discretion of the Court.

LRCiv 16.2

DIFFERENTIATED CASE MANAGEMENT

(a) Statement of Purpose and Scope of Authority. Pursuant to the Civil Justice Reform Act, 28 U.S.C § 471 et seq., the United States District Court for the District of Arizona has, effective December 1, 1993, established a Differentiated Case Management ("DCM") system, which screens cases for complexity, assigns cases to specific tracks based on that complexity, and manages cases to disposition according to predetermined milestones established for respective tracks.

(b) Tracks. Unless otherwise ordered by the assigned District Judge or Magistrate Judge, the type of cases identified in the following tracks must be assigned as follows:

(1) Expedited Track.

(A) Assignment.

(i) Cases are assigned to this track by the Clerk of Court based on nature of suit, and are those which usually are resolved on the pleadings. Expedited Track cases include:

Bankruptcy Appeals;

Social Security;

Student Loan, Veteran's Benefits, and other recovery;

Forfeiture/Penalty actions;

Freedom of Information Act (FOIA) actions;

Office of Navajo and Hopi Indian Relocation actions;

Summons and Subpoena Enforcement actions.

(ii) Other cases may be assigned to this track based on complexity. Such determination may be made either by the parties at filing, or by the Court at a preliminary scheduling conference.

(iii) A case in a nature of suit listed in (i) above, but which may have more complex issues or facts, may likewise be assigned to another track.

(B) Management. A preliminary scheduling conference is not required; however, a scheduling order shall be issued.

(2) Prisoner Pro Se Track.

(A) Assignment. Cases are assigned to this track by the Clerk of Court based on nature of suit and are administered by the District's Prisoner Pro Se Office. Natures of suit include General Habeas Corpus cases, Motions to Vacate Sentence, Mandamus Petitions, and Prisoner Civil Rights actions, which include civil rights complaints lodged or filed by prisoners challenging the conditions of their confinement pursuant to 42 U.S.C. § 1983, Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971), or otherwise, and all other civil rights claims relating to the investigation and prosecution of criminal matters or to correctional agencies and institutions in connection with their decisions or acts arising out of their custodial functions.

(B) Management. Prisoner Civil Rights Actions shall be managed according to the following deadlines. The service order shall include a scheduling order, setting:

(i) maximum date to effect service, pursuant to Rule 4 of the Federal Rules of Civil Procedure, or sixty (60) days from filing of service order, whichever is later;

(ii) discovery cutoff one-hundred fifty (150) days from the maximum service date determined according to (i) above; and

(iii) dispositive motion or proposed pretrial order filing deadline one-hundred eighty (180) days from the maximum service date determined according to (i) above.

(3) Standard Track.

(A) Assignment. Cases which do not meet the criteria of the Expedited or Prisoner/Pro Se tracks, and are not determined complex, are assigned to this track.

(B) Management.

(i) A preliminary scheduling conference, pursuant to Rule 16 of the Federal Rules of Civil Procedure, shall be scheduled within one-hundred eighty (180) days of filing, and conducted by the assigned District Judge or his or her designee, or the assigned Magistrate Judge.

(ii) If the assigned District Judge or Magistrate Judge is unable to try the case on the date set for trial, the case may be referred to the Chief Judge for reassignment to any available District Judge or Magistrate Judge.

(4) Complex Track.

(A) Assignment. Complex cases are those which require extensive judicial involvement, and shall be so designated by the District Judge, counsel, and parties.

(B) Management. A preliminary scheduling conference shall be conducted before the assigned District Judge for all cases on this Complex track, and an initial scheduling order, in accordance with Rule 16(b) of the Federal Rules of Civil Procedure, shall be issued following such conference.

(C) Multidistrict litigation. An attorney filing a complaint, answer, or other pleading involving a case which may involve multidistrict litigation (see 28 U.S.C. § 1407), shall, with the filing of the pleading, file in writing with the Clerk of the Court and the Judge to whom the case has been assigned, a paper describing the nature of the case listing the title(s) and number(s) of any other related case(s) filed in this or other jurisdictions.

Title IV. Parties

F.R.Civ.P. 17. Plaintiff and Defendant; Capacity; Public Officers

(NO LOCAL RULE)

F.R.Civ.P. 18. Joinder of Claims

(NO LOCAL RULE)

F.R.Civ.P. 19. Required Joinder of Parties

(NO LOCAL RULE)

F.R.Civ.P. 20. Permissive Joinder of Parties

(NO LOCAL RULE)

F.R.Civ.P. 21. Misjoinder and Nonjoinder of Parties

(NO LOCAL RULE)

F.R.Civ.P. 22. Interpleader

(NO LOCAL RULE)

F.R.Civ.P. 23. Class Actions

(NO LOCAL RULE)

F.R.Civ.P. 23.1. Derivative Actions

(NO LOCAL RULE)

F.R.Civ.P. 23.2. Actions Relating to Unincorporated Associations

(NO LOCAL RULE)

F.R.Civ.P. 24. Intervention

(NO LOCAL RULE)

F.R.Civ.P. 25. Substitution of Parties

(NO LOCAL RULE)

Title V. Disclosures and Discovery

F.R.Civ.P. 26. Duty to Disclose; General Provisions Governing Discovery

(NO LOCAL RULE)

F.R.Civ.P. 27. Depositions to Perpetuate Testimony

(NO LOCAL RULE)

F.R.Civ.P. 28. Persons Before Whom Depositions May Be Taken

(NO LOCAL RULE)

F.R.Civ.P. 29. Stipulations About Discovery Procedure

LRCiv 29.1

DISCOVERY; EXTENSIONS OF TIME

Pursuant to the provisions of Rule 29, Federal Rules of Civil Procedure, all stipulations submitted to the Court for an order to extend time provided in Rules 33, 34 and 36, Federal Rules of Civil Procedure, for responses to discovery, shall set forth the reasons for such stipulation, including a statement as to whether or not a time for completion of discovery has been ordered by the Court

F.R.Civ.P. 30. Depositions by Oral Examination

(NO LOCAL RULE)

F.R.Civ.P. 31. Depositions by Written Questions

(NO LOCAL RULE)

F.R.Civ.P. 32. Using Depositions in Court Proceedings

(NO LOCAL RULE)

F.R.Civ.P. 33. Interrogatories to Parties

LRCiv 33.1

FORM OF INTERROGATORIES

(a) The propounding party shall prepare interrogatories so that the responding party can provide his or her response in an adequate blank space.

(b) The responding party shall complete all copies of the set served upon him or her, attach a verification and certificate of mailing, and serve one (1) copy of the set upon each separate counsel representation in the action.

(c) All responses to interrogatories which are not completed in accordance with paragraphs (a) and (b) above, shall restate the interrogatory or request for admission immediately before stating the responses.

F.R.Civ.P. 34. Producing Documents, Electronically Stored Information, and Tangible Things, or Entering onto Land, for Inspection and Other Purposes

(NO LOCAL RULE)

F.R.Civ.P. 35. Physical and Mental Examinations

(NO LOCAL RULE)

F.R.Civ.P. 36. Requests for Admission

LRCiv 36.1

FORM OF REQUESTS FOR ADMISSIONS

The form of requests for admissions shall be the same as the form of interrogatories, as provided in Rule 33.1, Local Rules of Civil Procedure.

F.R.Civ.P. 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

LRCiv 37.1

MOTIONS TO COMPEL

(a) When a motion for an order compelling discovery is brought pursuant to Rule 37(a)(3)(B) of the Federal Rules of Civil Procedure, the moving party shall set forth, separately from a memorandum of law, the following in separate, distinct, numbered paragraphs:

(1) the question propounded, the interrogatory submitted, the designation requested or the inspection requested;

(2) the answer, designation or response received; and

(3) the reason(s) why said answer, designation or response is deficient.

(b) The foregoing requirement shall not apply where there has been a complete and total failure to respond to a discovery request or set of discovery requests.

Title VI. Trials

F.R.Civ.P. 38. Right to a Jury Trial; Demand

(NO LOCAL RULE)

F.R.Civ.P. 39. Trial by Jury or by the Court

LRCiv 39.1

PROCEDURE AT TRIALS

(a) Order of Trial by a Jury. The trial by a jury shall proceed in the following order unless the Court otherwise directs:

(1) The plaintiff or his or her counsel may make a statement of the case.

(2) The defendant or his or her counsel may make a statement of the case, or may defer making such statement until after the close of the evidence on behalf of the plaintiff.

(3) Other parties admitted to the action or their counsel may make a statement of their cases to the jury, or they may defer making such statement until after the close of the evidence on behalf of the plaintiff and defendant. The statement of such parties shall be in the order directed by the Court.

(4) The plaintiff shall then introduce evidence.

(5) The defendant shall introduce evidence.

(6) The other parties, if any, shall then introduce evidence in the order directed by the Court.

(7) The parties may then introduce rebutting evidence on each side in the respective order above set forth in this Local Rule.

(b) Opening Statement. The opening statement to the jury shall be confined to a concise and brief statement of the facts which the parties propose to establish by evidence on the trial. Any party may decline to make such statement.

(c) Prohibition Against Reading Pleadings. Unless the Court permits, no party may read his or her pleadings to the jury.

(d) Order of Arguments. The right to open and close the argument shall belong to the party who has the burden of proof as to the issues in the action. Where each of the parties has the burden of proof on one or more issues, the Court, in its discretion, shall determine the order of arguments. All arguments shall be subject to such time limitations as may be imposed by the Court.

(e) Limit on Examination/Cross-Examination. Only one (1) on each side may, unless the Court otherwise permits, examine or cross-examine a witness, argue a point, or make an argument to the jury

LRCiv 39.2

COMMUNICATIONS WITH TRIAL JURORS

(a) Before or During Trial. Absent an order of the Court and except in the course of in-court proceedings, no one shall directly or indirectly communicate with or cause another to communicate with a juror, prospective juror, or member of such juror's or prospective juror's family before or during a trial.

(b) After Trial. Interviews with jurors after trial by or on behalf of parties involved in the trial are prohibited except on condition that the attorney or party involved desiring such an interview file with the Court written interrogatories proposed to be submitted to the juror(s), together with an affidavit setting forth the reasons for such proposed interrogatories, within the time granted for a motion for a new trial. Approval for the interview of jurors in accordance with the interrogatories and affidavit so filed will be granted only upon the showing of good cause. See Federal Rules of Evidence, Rule 606(b). Following the interview, a second affidavit must be filed indicating the scope and results of the interviews with jurors and setting out the answers given to the interrogatories.

(c) Juror's Rights. Except in response to a Court order, no juror is compelled to communicate with anyone concerning any trial in which the juror has been a participant.

F.R.Civ.P. 40. Scheduling Cases for Trial

LRCiv 40.1

COURT CALENDAR MANAGEMENT

With regard to Court Calendar Management, see Rule 1.1, Local Rules of Civil Procedure.

LRCiv 40.2

CONTINUANCES AND NOTICE OF SETTLEMENT

(a) Cases Set for Trial. Cases that are set for trial on a day certain, but which are not reached on that day, shall retain their relative position on the calendar and shall be entitled to precedence on the next trial day over cases set for said last-mentioned day.

(b) No Continuance. After a case is set for pretrial or trial, it shall not be continued except as justice requires, and the Court may condition the continuance upon compliance with orders, including the payment of the expenses caused to the other parties and of jury fees incurred by the Court. A case may also be dismissed for want of prosecution if no showing is made that justice requires a continuance.

(c) Payment of Jury Fees. In the case of a civil jury trial where notice is not given in writing to the Clerk five (5) days before the trial is to begin that the case has been settled or otherwise disposed of, the Court may require the payment of one (1) days' jury fees by the party or parties responsible for the failure to give notice.

(d) Duty to Inform Regarding Settlement or Voluntary Resolution of Other Pending Matters. When a case set for trial is settled out of Court or any motion is pending before a District Judge or Magistrate Judge and is voluntarily resolved by the parties or their counsel, it shall be the duty of counsel to inform the Clerk and the chambers of such District Judge or Magistrate Judge immediately. In cases wherein a District Judge has referred a settlement conference, discovery or other matter to a Magistrate Judge, but not the entire case, counsel shall immediately provide a copy of any filed document relating to the referred matter to the chambers of the referred Magistrate Judge.

F.R.Civ.P. 41. Dismissal of Actions

LRCiv 41.1

DISMISSAL FOR WANT OF PROSECUTION

Unless otherwise ordered by the Court, cases which have had neither proceedings nor pleadings, notices, or other documents filed for six (6) or more months may be dismissed by the Court for want of prosecution. Notice must be given to the parties that such action is contemplated, and the parties must be given the opportunity to show cause why such action should not be taken. The Court may schedule a hearing on the issue.

F.R.Civ.P. 42. Consolidation; Separate Trials

LRCiv 42.1

TRANSFER OF CASES; FILING OF MOTIONS TO TRANSFER OR CONSOLIDATE; RESPONSIVE AND REPLY MEMORANDA; ASSIGNMENT

(a) Transfer of Cases. When two or more cases are pending before different Judges, a party in any of those cases may file a motion to transfer the case or cases to a single Judge on the ground that the cases: (1) arise from substantially the same transaction or event; (2) involve substantially the same parties or property; (3) involve the same patent, trademark, or copyright; (4) call for determination of substantially the same questions of law; or (5) for any other reason would entail substantial duplication of labor if heard by different Judges.

(b) Filing of a Motion to Transfer or Consolidate. A motion to transfer under subparagraph (a) or a motion to consolidate under Rule 42(a) of the Federal Rules of Civil Procedure must identify all the cases that are the subject of the motion by case name and case number. The movant must file the motion in a case in which the movant is a party. If the movant is a party in more than one of the affected cases, the movant must file the motion in the case with the lowest case number in which the movant is a party. The ECF System or (when the movant is not an ECF Registered User) the Clerk's Office will electronically file the motion in each affected case identified in the motion. The motion will be heard and decided in the case with the lowest case number that is assigned to a District Judge. If the affected cases are assigned only to Magistrate Judges, the Magistrate Judge assigned to the case with the lowest case number will hear and decide the motion.

(c) Responsive and Reply Memoranda. Any party in any case that is the subject of a motion to transfer or consolidate may file a responsive memorandum, and the movant may file a reply memorandum. Any responsive or reply memorandum must identify all the cases affected by the underlying motion. The filer must file the responsive or reply memorandum in a case in which the filer is a party. The ECF System or (when the filer is not an ECF Registered User) the Clerk's Office will electronically

file the responsive or reply memorandum in each affected case identified in the memorandum.

(d) Assignment. If a motion to transfer or consolidate is granted, the following factors may be considered in determining the Judge to whom the case or cases will be assigned: (1) whether substantive matters have been considered in a case; (2) which Judge has the most familiarity with the issues involved in the cases; (3) whether a case is reasonably viewed as the lead or principal case; or (4) any other factor serving the interest of judicial economy.

(e) Voluntary Judicial Reassignment of Cases. In any of the following circumstances, a Judge may transfer a case to another Judge with that Judge's consent and with notice to the Chief Judge:

(1) If the transferee Judge previously adjudicated a case that:

(A) arose from substantially the same transaction or event;

(B) involved substantially the same parties or property;

(C) involved the same patent, trademark, or copyright; or

(D) called for the determination of substantially the same questions of law;

(2) For any other reason which would entail substantial duplication of labor if heard by the transferor Judge; or

(3) For reasons of judicial economy and the availability of judicial resources.

F.R.Civ.P. 43. Taking Testimony

LRCiv 43.1

CONDUCT IN COURTROOM AND ENVIRONS

(a) Audio/video Recording.

(1) *Prohibited Activities.* All forms, means, and manner of capturing, recording, broadcasting, transmitting, and/or storing of anything by use of electronic, photographic, audio and/or visual means or devices are prohibited in all courtrooms and environs thereto during the course of, or in connection with, any judicial proceedings whether the Court is actually in session or not.

(2) *Exceptions.* A District, Magistrate, or Bankruptcy Judge may permit:

(A) the use of electronic or photographic devices for the presentation of evidence or the perpetuation of the record;

(B) the broadcasting, televising, recording or photographing of investitive, ceremonial, or naturalization proceedings; and

(C) subject to the prohibitions contained in paragraph (a)(1) above, the use of an unobtrusive hand-held dictating device by counsel or unrepresented parties for use in dictating notes or reminders during trial. It is not to be used to record any part of the proceedings.

(b) Computers, Cellular Phones, and Other Equipment. Unless otherwise ordered by the Court, counsel and unrepresented parties and their legal assistants may use laptop computers, personal digital assistants (PDAs), and pagers in the courtroom provided they emit no sound, and are not disruptive to the proceedings. Unless otherwise ordered by the Court, Internet access is permitted. Cellular phones are prohibited from use in the courtroom. However, unless otherwise ordered by the Court, cellular phones may be utilized in the hallways, lobbies, and other areas of the environs. Any device which has the potential to emit sound or be disruptive to Court proceedings must be turned off or set on silent mode in the courtroom. The use of this equipment is permissible within a judge's chambers at the discretion of the judge. The use of any

device described in this section or any other device for the purposes described in this Local Rule subsection (a)(1) is strictly prohibited.

(c) Environs Defined. Environs as used in this Local Rule means the Sandra Day O'Connor United States Courthouse in Phoenix including the entire building, parking lot and curtilage up to the edge of, but not including, the sidewalk; the Evo A. Deconcini United States Courthouse in Tucson including the entire building, parking lot and curtilage up to the edge of, but not including, the publicly dedicated sidewalk; the second floor, basement and that portion of the third floor occupied by the U.S. District Court in the United States Courthouse in Prescott; the entire first floor and that portion of the second floor occupied by the U.S. District Court and U.S. Pretrial Services in the AWD Professional Building, Flagstaff; the entire United States Courthouse in Yuma; the interior of the United States Courthouse at 230 N. First Avenue, Phoenix Arizona; and the interior of the James A. Walsh Courthouse, Tucson, Arizona. In addition to the foregoing, environs as used in this Local Rule also means any other building, parking lot, and curtilage up to the edge, but not including the publicly dedicated sidewalk, of any structure which is owned by the federal government and in which a United States District Court proceeding is held.

(d) Interiors of Offices. This Local Rule does not apply to the interiors of the following offices: U. S. Probation, U. S. Pretrial Services, Clerk's Office, U. S. Attorney's Office, the attorney lounges, and all private tenants.

(e) Exemption for Court Reporting and Recording. This Local Rule is not intended to prohibit recordings by a court reporter paid or appointed by the District Court or recordings prepared by Court personnel, where such recordings are for use as a court record only.

(f) United States Marshal Service and General Services Administration Duties. The United States Marshal Service (USMS) and the General Services Administration (GSA) will make reasonable efforts to promote safe and unobstructed public access to the courthouse during regular business hours. Whenever USMS or GSA in its discretion deems it necessary, or when they are ordered to do so by a Judge, USMS

and GSA shall create and maintain by the placement of stanchions an ingress/egress corridor extending from the front door of the courthouse to the sidewalk. The corridor shall include the wheelchair access ramp. The corridor shall be deemed an extension of the doorway and remain unobstructed. Notwithstanding the provisions of Paragraph (a), USMS or GSA may designate a "media access area" on outdoor courthouse property in which the use of cameras and other audio and video recording equipment is permitted.

F.R.Civ.P. 44. Proving an Official Record

(NO LOCAL RULE)

F.R.Civ.P. 44.1. Determining Foreign Law

(NO LOCAL RULE)

F.R.Civ.P. 45. Subpoena

(NO LOCAL RULE)

F.R.Civ.P. 46. Objecting to a Ruling or Order

(NO LOCAL RULE)

F.R.Civ.P. 47. Selecting Jurors

LRCiv 47.1

TRIAL JURIES

The jury in all civil cases shall be impaneled in accordance with Rules 47 and 48 of the Federal Rules of Civil Procedure. Each side shall exercise its peremptory challenges simultaneously and in secret. The Court shall then designate as the jury the persons whose names appear first on the list.

F.R.Civ.P. 48. Number of Jurors; Verdict; Polling

(NO LOCAL RULE)

F.R.Civ.P. 49. Special Verdict; General Verdict and Questions

(NO LOCAL RULE)

F.R.Civ.P. 50. Judgment as a Matter of Law in a Jury Trial; Related Motion for a New Trial; Conditional Ruling

(NO LOCAL RULE)

F.R.Civ.P. 51. Instructions to the Jury; Objections; Preserving a Claim of Error

LRCiv 51.1

JURY INSTRUCTIONS

(a) Proposed Jury Instructions. Proposed instructions for the jury shall be presented to the Court at the opening of the trial unless otherwise directed by the Court; but the Court, in its discretion, may at any time prior to the opening of the argument, receive additional requests for instructions on matters arising during the trial. The requested instructions shall be properly entitled in the cause, distinctly state by which party presented, and shall be prepared in accordance with Rule 7.1(b), Local Rules of Civil Procedure. They shall be numbered consecutively and contain not more than one (1) instruction per page. Each requested instruction shall be understandable, brief, impartial, free from argument, and shall embrace but one (1) subject, and the principle therein stated shall not be repeated in subsequent requests.

(b) Failure to Conform. A willful failure to conform to these requirements in the manner of proposing instructions will, in the discretion of the Court, be deemed sufficient ground for their refusal.

(c) Citations of Authorities. All instructions requested of the Court shall be accompanied by citations of authorities supporting the proposition of law stated in such instructions.

(d) Copies Served on Other Parties. At the time of presenting the instructions to the Court, a copy shall be served upon the other parties.

(e) Objections. Objections to an instruction for the jury, or a refusal to give as a part of such jury instructions requested in writing, shall be made out of the hearing of the jury and shall be noted by the Clerk in the minutes of the trial or by the reporter if one is in attendance.

F.R.Civ.P. 52. Findings and Conclusions by the Court; Judgment on Partial Findings

LRCiv 52.1

FINDINGS

In all actions in which findings are required, the prevailing party shall, unless the Court otherwise directs, prepare a draft of the findings and conclusions of law within seven (7) days after the rendition of the decision of the Court if the decision was in the presence of counsel, and otherwise within seven (7) days after notice of the decision. The draft of the findings and conclusions of law shall be filed with the Clerk and served upon the adverse party. The adverse party shall within seven (7) days thereafter file with the Clerk, and serve upon his or her adversary, such proposed objections, amendments, or additions to the findings as he may desire. The findings shall thereafter be deemed submitted and shall be settled by the Court and shall then be signed and filed. No judgments shall be entered in actions in which findings of fact and conclusions of law are required until the findings and conclusions have been settled and filed. A failure to file proposed findings of fact and conclusions of law and to take the necessary steps to procure the settlement thereof may be grounds for dismissal of the action for want of prosecution or for granting judgment against either party.

F.R.Civ.P. 53. Masters

LRCiv 53.1

DUTIES OF MAGISTRATE JUDGES; SPECIAL MASTER

Subject to the Constitution and laws of the United States, Magistrate Judges in the District of Arizona may serve as a Special Master in appropriate civil cases in accordance with 28 U.S.C. § 636 (b) (2) and Rule 53 of the Federal Rules of Civil Procedure. A Magistrate Judge may be designated by a District Judge to serve as a Special Master in any civil case in accordance with Rule 53 of the Federal Rules of Civil Procedure.

Title VII. Judgment

F.R.Civ.P. 54. Judgment; Costs

LRCiv 54.1

COSTS: SECURITY FOR, TAXATION, PAYMENT

(a) Procedure for Filing Bill of Costs. Costs shall be taxed as provided in Rule 54(d), Federal Rules of Civil Procedure. A party entitled to costs shall, within fourteen (14) days after the entry of final judgment, unless time is extended under Rule 6(b), Federal Rules of Civil Procedure, file with the Clerk of Court and serve upon all parties, a bill of costs on a form provided by the Clerk. This bill of costs shall include a memorandum of the costs and necessary disbursements, so itemized that the nature of each can be readily understood, and, where available, documentation of requested costs in all categories must be attached. The bill of costs shall be verified by a person acquainted therewith.

(b) Objections, Appearance Not Required. Within fourteen (14) days after service of the bill of costs, a party objecting to any cost item may file with the Clerk and serve itemized objections in writing, presenting any affidavits or other evidence he or she has in connection with the costs and the grounds for the objection. Once the fourteen (14) day objection period has expired, the Clerk shall have thirty (30) days to tax the costs and allow such items as are properly allowable. In exceptional cases a party may request, by written motion, that a taxation hearing with parties present be held before the Clerk. The Clerk, on his or her own motion, may also order the parties to appear for a taxation hearing. In the absence of objection, any item listed may be taxed in the discretion of the Clerk. The Clerk shall thereupon docket and include the costs in the judgment. Notice of the Clerk's taxation shall be given by mailing a copy of the taxation order to all parties in accordance with Rule 5, Federal Rules of Civil Procedure. The taxation of costs thus made shall be final unless modified on review by the Court on motion served within seven (7) days thereafter, pursuant to Rule 54(d), Federal Rules of Civil Procedure.

(c) Security. In every action in which the plaintiff was not a resident of the District of Arizona at the time suit was brought, or, having been so, afterwards removed

from this District, an order for security for costs may be entered upon application therefor within a reasonable time upon notice. In default of the entry of such security at the time fixed by the Court, judgment of dismissal shall be entered on motion.

(d) Prevailing Party Entitlement to Costs. The party entitled to costs shall be the prevailing party. Generally, a party in whose favor judgment is rendered is the prevailing party. The prevailing party need not succeed on every issue to be entitled to costs. Upon entry of judgment on a motion for summary judgment, the party requesting the summary judgment is the prevailing party. The Court will not determine the party entitled to costs in actions terminated by settlement; parties must reach agreement on taxation of costs, or bear own costs.

(e) Taxable items.

(1) Clerk's Fees and Service Fees. Clerk's fees (see 28 U.S.C. § 1920), and service fees are allowable by statute.

(2) Fees Incident to Transcripts - Trial Transcripts. The cost of the originals of transcripts of trials or matters prior or subsequent to trial, is taxable at the rate authorized by the judicial conference when either requested by the Court, or prepared pursuant to stipulation. Mere acceptance by the Court of a copy does not constitute a request. Copies of transcripts for counsel's own use are not taxable in the absence of a special order of the Court.

(3) Deposition Costs. The reporter's charge for an original and copy of a stenographic transcript of a deposition is taxable if it was necessarily obtained for use in the case whether or not the deposition was actually received into evidence or was taken solely for discovery purposes. The cost of obtaining a copy of a stenographic transcript of a deposition by parties in the case other than the one taking the deposition is also taxable on the same basis. The reasonable expenses of the deposition reporter and a notary presiding at the taking of the depositions are taxable, including travel and subsistence. Counsel fees and other expenses incurred in arranging for and attending a deposition are not taxable. Fees for the witness at the taking of a deposition are taxable at

the same rate as for attendance at trial. The witness need not be under subpoena. A reasonable fee for a necessary interpreter at the taking of a deposition is taxable.

Costs associated with a video recording are not taxable.

(4) Witness Fees, Mileage and Subsistence. The rate for witness fees, mileage and subsistence are fixed by statute (see 28 U.S.C. § 1821). Such fees are taxable even though the witness does not take the stand, provided the witness is in attendance at the Court. Such fees are taxable even though the witness attends voluntarily upon request and is not under subpoena. Taxable transportation expenses shall be based on the most direct route at the most economical rate and means reasonably available to the witness. Witness fees and subsistence are taxable only for the reasonable period during which the witness is within the district. No party shall receive witness fees for testifying in his or her own behalf, but this shall not apply where a party is subpoenaed to attend Court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than that statutorily allowable for ordinary witnesses. Allowance fees for a witness being deposed shall not depend on whether or not the deposition is admitted into evidence.

(5) Exemplification and Copies of Papers. The reasonable cost of copies of papers necessarily obtained from third-party records custodians is taxable. The reasonable cost of documentary exhibits admitted into evidence at hearing or trial is also taxable, including the provision of additional copies for the Court and opposing parties. The cost of copies submitted in lieu of originals because of the convenience of offering counsel or his or her client are not taxable. All other copy costs are not taxable except by prior order of the Court.

(6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The cost of maps and charts are taxable if they are admitted into evidence. The cost of photographs, 8" X 10" in size or less, are taxable if admitted into evidence, or attached to documents required to be filed and served on opposing counsel.

Enlargements greater than 8" X 10" are not taxable except by prior order of the Court. The cost of models is not taxable except by prior order of the Court. The cost of compiling maps, summaries, computations, and statistical comparisons is not taxable.

(7) Interpreter Fees. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable. The reasonable fee of a competent translator is taxable if the document translated is necessarily filed, or admitted into evidence, or is otherwise taxable.

(8) Docket Fees. Docket fees are taxable pursuant to 28 U.S.C. § 1923.

(9) Removed Cases. Fees paid to the Clerk of the State Court prior to removal are taxable in this Court.

(10) Other items may be taxed with prior Court approval.

LRCiv 54.2

ATTORNEYS' FEES AND RELATED NON-TAXABLE EXPENSES

(a) Scope. This Local Rule applies to claims for attorneys' fees and related non-taxable expenses made in cases assigned to the Standard Track or Complex Track of the local rule governing Differentiated Case Management. If a final judgment, including a judgment made under Rule 54(b), Federal Rules of Civil Procedure, does not determine the propriety and the amount of attorneys' fees authorized by statute or by contract, or if the court does not establish other procedures for determining such fees, the procedures set forth in this Local Rule apply. This Local Rule does not apply to claims for attorneys' fees and related non-taxable expenses which may be recoverable as an element of damages or to claims for attorneys' fees and related expenses for violations of the Federal Rules of Civil Procedure or under 28 U.S.C. § 1927. The provisions of this Local Rule also do not apply to any motion which may be filed after the entry of a default judgment or by court-appointed counsel in a habeas corpus matter.[6]

(b) Time for Filing the Motion and Responsive and Reply Memoranda.

(1) **Motions Seeking Fees from the United States.** When recovery of attorneys' fees and related non-taxable expenses are sought against the United States, the motion and supporting memorandum of points and authorities must be filed in accordance with the time limits set forth in 28 U.S.C. § 2412(d)(1)(B).

(2) **Motions Seeking Fees from Parties Other than the United States.** In all other cases, unless otherwise provided by statute or court order entered in an individual case, the party seeking an award of attorneys' fees and related non-taxable expenses must file and serve a motion for award of attorneys' fees and related non-taxable expenses (along with a supporting memorandum of points and authorities) within fourteen (14) days of the entry of judgment in the action with respect to which the services were rendered.

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[6] Although civil in nature, writs of habeas corpus are generally applicable to prior criminal proceedings.

(3) **Responsive and Reply Memoranda.** Unless otherwise ordered by the court, any responsive and reply memoranda must be filed in accordance with the deadlines set forth in Rule 7.2, Local Rules of Civil Procedure.

(c) Content of Memorandum in Support of Motion for Award of Attorneys' Fees and Related Non-Taxable Expenses. The memorandum of points and authorities in support of a motion for award of attorneys' fees and related non-taxable expenses shall include a discussion of the following matters with appropriate headings and in the order listed below:

(1) **Eligibility.** This section must specify the judgment and cite the applicable statutory or contractual authority upon which the movant seeks an award of attorneys' fees and related non-taxable expenses. This section also must set forth a description of the nature of the case and must identify the claims or defenses as to which the party prevailed and the claims or defenses as to which the party did not prevail. Counsel should cite the relevant legal authority governing the standard by which the court should determine eligibility.

(2) **Entitlement.** This section must discuss the applicable factors deemed relevant in determining whether attorneys' fees and related non-taxable expenses should be allowed, with citation(s) to the relevant legal authority. If the moving party claims entitlement to fees for preparing the motion and memorandum for award of attorneys' fees and related non-taxable expenses, such party also must cite the applicable legal authority supporting such specific request.

(3) **Reasonableness of Requested Award.** This section should discuss, as appropriate, the various factors bearing on the reasonableness of the requested attorneys' fee award, including, but not limited to, the following:

(A) The time and labor required of counsel;

(B) The novelty and difficulty of the questions presented;

(C) The skill requisite to perform the legal service properly;

(D) The preclusion of other employment by counsel because of the acceptance of the action;

(E) The customary fee charged in matters of the type involved;

(F) Whether the fee contracted between the attorney and the client is fixed or contingent;

(G) Any time limitations imposed by the client or the circumstances;

(H) The amount of money, or the value of the rights, involved, and the results obtained;

(I) The experience, reputation and ability of counsel;

(J) The "undesirability" of the case;

(K) The nature and length of the professional relationship between the attorney and the client;

(L) Awards in similar actions; and

(M) Any other matters deemed appropriate under the circumstances.

(d) Supporting Documentation. Unless otherwise ordered, the following documentation shall be attached to each memorandum of points and authorities filed in support of a motion for award of attorneys' fees and related non-taxable expenses:

(1) **A Statement of Consultation.** No motion for award of attorneys' fees will be considered unless a separate statement of the moving counsel is attached to the supporting memorandum certifying that, after personal consultation and good faith efforts to do so, the parties have been unable to satisfactorily resolve all disputed issues relating to attorneys' fees or that the moving counsel has made a good faith effort, but has been unable, to arrange such conference. The statement of consultation shall set forth the date of the consultation, the names of the participating attorneys and the specific results or shall describe the efforts made to arrange such conference and explain the reasons why such conference did not occur.

(2) **Fee Agreement.** A complete copy of any written fee agreement, or a full recitation of any oral fee agreement, must be attached to the supporting

memorandum. If no fee agreement exists, then counsel must attach a statement to that effect.

(3) **Task-Based Itemized Statement of Fees and Expenses.** A task-based itemized statement of time expended and expenses incurred shall be prepared in accordance with paragraph (e) of this Local Rule and shall be attached to the supporting memorandum. Counsel may seek leave of court to file such statement under seal if deemed necessary to prevent the disclosure of information protected by the attorney-client privilege and attorney work-product doctrine.

(4) **Affidavit.** The supporting memorandum must be accompanied by an affidavit of moving counsel which, at a minimum, sets forth the following:

(A) **Background.** A brief description of the relevant qualifications, experience and case-related contributions of each attorney for whom fees are claimed.

(B) **Reasonableness of Rate.** A brief discussion of the terms of the written or oral fee agreement, if any. This section shall include a statement as to whether the client has paid any fees or expenses pursuant to any such fee agreement and, if so, a statement of the amount paid and a description of the nature of the services for which payment was made, the time involved in such services and the identity of the person performing such services. As appropriate, this section also should discuss the method by which the customary charges were established, the comparable prevailing community rate or other indicia of value of the services rendered for each attorney for whom fees are claimed.

(C) **Reasonableness of Time Spent and Expenses Incurred.** In this section the affiant must state that the affiant has reviewed and has approved the time and charges set forth in the task-based itemized statement and that the time spent and expenses incurred were reasonable and necessary under the circumstances. This section also must demonstrate that the affiant exercised "billing judgment." The affiant should identify all adjustments, if any, which may have been made, and specifically, should state whether the affiant has eliminated unnecessary, duplicative and excessive time, deleted

certain categories of time or expense entries and/or reduced the amount charged for a particular type of expense such as facsimile or photocopy charges.

(5) Any other affidavits or evidentiary matter deemed appropriate under the circumstances or required by law.

(e) Task-Based Itemized Statement of Attorneys' Fees and Related Non-Taxable Expenses. Unless otherwise ordered, the itemized account of the time expended and expenses incurred shall be in the format described in this Local Rule.

(1) **Format.** The itemized statement for legal services rendered shall reflect, in chronological order, the following information:

(A) The date on which the service was performed;

(B) The time devoted to each individual unrelated task performed on such day;

(C) A description of the service provided; and

(D) The identity of the attorney, paralegal, or other person performing such service.

(2) **Description of Services Rendered.** The party seeking an award of fees must adequately describe the services rendered so that the reasonableness of the charge can be evaluated. In describing such services, however, counsel should be sensitive to matters giving rise to issues associated with the attorney-client privilege and attorney work-product doctrine, but must nevertheless furnish an adequate nonprivileged description of the services in question. If the time descriptions are incomplete, or if such descriptions fail to adequately describe the service rendered, the court may reduce the award accordingly. Explanatory examples are set forth below.

(A) **Telephone Conferences.** This time entry must identify all participants and the reason for the telephone call.

Ex.: Telephone conference with J. Doe (attorney for Defendant Baker) re response to settlement proposal and further negotiations.

(B) **Legal Research.** This time entry must identify the specific legal issue researched and, if appropriate, should identify the pleading or document the preparation of which occasioned the conduct of the research. Time entries simply stating "research" or "legal research" are inadequate and the court may reduce the award accordingly.

Ex.: Work on motion for summary judgment including (1) legal research re statute of limitations applicable to Title VII cases and (2) factual investigation pertaining to claimed discrimination.

(C) **Preparation of Pleadings and Other Papers.** This time entry must identify the pleading, paper or other document prepared and the activities associated with its preparation.

Ex.: Prepare first amended complaint including factual investigation underlying newly asserted Lanham Act claim and legal research related to elements of such claim.

(D) **Travel Time.** Ordinarily air travel time should not be charged. If services were performed during such time, then describe such services rather than charging for the travel time.

(3) **Description of Expenses Incurred.** In a separate portion of the itemized statement, identify each related non-taxable expense with particularity. Counsel should attach copies of applicable invoices, receipts and/or disbursement instruments. Failure to itemize and verify costs may result in their disallowance by the court.

(f) Responsive Memorandum. The responsive memorandum of points and authorities in opposition to a motion for award of attorneys' fees and related non-taxable expenses shall identify with specificity all disputed issues of material fact and shall separately identify each and every disputed time entry or expense item. The respondent may attach controverting affidavits.

(g) Discovery. Discovery shall not be conducted in connection with a motion for award of attorneys' fees and related non-taxable expenses, unless ordered by the court upon motion and good cause shown.

(h) Evidentiary Hearing. The court in its discretion or upon motion may set an evidentiary hearing on a motion for award of attorneys' fees and related non-taxable expenses to resolve serious disputes involving material issues of fact that compromise the award. In all other cases, the court will determine the appropriate award, if any, of attorneys' fees and related non-taxable expenses without an evidentiary hearing.

(i) Class Action Settlements. Notice of the amount of any attorneys' fees and related non-taxable costs, or fair estimate thereof, to be sought in connection with any action certified as a class action pursuant to Rule 23, Federal Rules of Civil Procedure shall be given to all class members at the time, and in accordance with, the notice provided to the class members given pursuant to Rule 23(e), Federal Rules of Civil Procedure.

(j) Establishment of Fee Committee, Appointment of Special Master - Class Actions. This section addresses attorneys' fees to be awarded under the equitable or common fund doctrine, and in any action certified as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.

(1) In such cases, the court may appoint a Fee Committee, with such powers as the Court prescribes, to make recommendations on fees and expenses for all attorneys submitting an application for attorneys' fees. Members of the Fee Committee shall be paid for their services and expenses incurred out of the fund from which the attorneys' fees are to be paid, on such basis as may be ordered by the court.

(2) Alternatively, the court may, in its discretion, appoint a special master for this purpose, under and pursuant to the provisions of Rule 53 of the Federal Rules of Civil Procedure.

(3) The Fee Committee or Master may be appointed following:

(A) The court's preliminary approval of a proposed class settlement in accordance with Rule 23(e) of the Federal Rules of Civil Procedure; or

(B) The entry of a final judgment, or a judgment made final by Rule 54(b) of the Federal Rules of Civil Procedure; or

(C) The entry of an appealable order which gives rise to an entitlement to attorneys' fees.

(4) The membership of a Fee Committee appointed by the court shall consist of three persons, at least two of whom shall be attorneys. All attorneys appointed as members of a Fee Committee shall be members of the bar of this court. A committee member may not have either an interest in the outcome of the proceeding or have represented any party in the litigation.

(5) The Fee Committee or Master shall have authority to contact any attorney whose fee application is under consideration and may conduct hearings as the Fee Committee or Master may deem necessary.

(6) Every application for attorneys' fees in cases governed by this paragraph (j) shall include, at a minimum, the information required by paragraphs (c), (d) and (e) of this Local Rule and, in addition thereto, shall include the following:

(A) A narrative statement of the general contributions made by the applicant's firm to the prosecution of the litigation;

(B) An identification of any committees, task forces or other organizational groups formed in connection with the litigation upon which the applicant served, and a description of the role played by the applicant in the work of that committee or group; and

(C) Such supplemental information or data as shall be required by any Fee Committee or Master appointed by the court to review such application.

(7) At the conclusion of its work, the Fee Committee or Master shall submit a written report and recommendation to the court, setting forth, inter alia, the following:

(A) A description of the procedures employed by the Fee Committee or Master;

(B) A description of the standards adopted for reviewing applications for attorneys' fees, and for calculating recommended awards;

(C) A description of the pertinent factors involved in the litigation which were considered by the Fee Committee or Master in reviewing applications and arriving at recommendations to the court; and

(D) Specific recommendations as to the amount of fees to be awarded to each application.

(8) Unless otherwise ordered by the court, the recommendations of the Fee Committee or Master shall be recited in the notice provided to the class members advising of the court's preliminary approval of any proposed settlement, the date scheduled for any hearing on the award of attorneys' fees, costs and expenses, and the right of the class membership to participate in any such hearing.

(9) Following the hearing, the court shall enter its order adopting, modifying or rejecting, in whole or in part, the recommendation of the Fee Committee or the Master.

F.R.Civ.P. 55. Default; Default Judgment

(NO LOCAL RULE)

F.R.Civ.P. 56. Summary Judgment

LRCiv 56.1

MOTIONS FOR SUMMARY JUDGMENT

(a) Separate Statement of Facts. Any party filing a motion for summary judgment must file a statement, separate from the motion and memorandum of law, setting forth each material fact on which the party relies in support of the motion. The separate statement should include only those facts that the Court needs to decide the motion. Other undisputed facts (such as those providing background about the action or the parties) may be included in the memorandum of law, but should not be included in the separate statement of facts. Each material fact in the separate statement must be set forth in a separately numbered paragraph and must refer to a specific admissible portion of the record where the fact finds support (for example, affidavit, deposition, discovery response, etc.). A failure to submit a separate statement of facts in this form may constitute grounds for the denial of the motion.

(b) Controverting Statement of Facts. Any party opposing a motion for summary judgment must file a statement, separate from that party's memorandum of law, setting forth: (1) for each paragraph of the moving party's separate statement of facts, a correspondingly numbered paragraph indicating whether the party disputes the statement of fact set forth in that paragraph and a reference to the specific admissible portion of the record supporting the party's position if the fact is disputed; and (2) any additional facts that establish a genuine issue of material fact or otherwise preclude judgment in favor of the moving party. Each additional fact must be set forth in a separately numbered paragraph and must refer to a specific admissible portion of the record where the fact finds support.

(c) Alternative Procedure. As an alternative to filing a statement of facts and controverting statement of facts, the movant and the party opposing the motion may jointly file a stipulation signed by the parties setting forth a statement of the stipulated facts if the parties agree there is no genuine issue of any material fact. As to any stipulated facts, the parties so stipulating may state that their stipulations are entered into

only for the purpose of the motion for summary judgment and are not intended to be otherwise binding.

(d) Deadline for Responsive and Reply Memoranda. Notwithstanding the provisions of Rule 7.2 (c), (d), and (f), Local Rules of Civil Procedure, the opposing party may, unless otherwise ordered by the Court, have thirty (30) days after service within which to serve and file a responsive memorandum in opposition; the moving party, unless otherwise ordered by the Court, may have fifteen (15) days after service of the responsive memorandum within which to serve and file a reply memorandum. If oral argument is scheduled pursuant to Rule 7.2(f), Local Rules of Civil Procedure, the time of hearing must be set so as to give each party sufficient time to comply with these Local Rules and to allow the Court at least fourteen (14) days additional time prior to the hearing.

(e) Citations in Memoranda. Memoranda of law filed in support of or in opposition to a motion for summary judgment, including reply memoranda, must include citations to the specific paragraph in the statement of facts that supports assertions made in the memoranda regarding any material fact on which the party relies in support of or in opposition to the motion.

(f) Supporting Documents. A document referenced in the separate statement of facts or the controverting statement of facts does not need to be submitted in its entirety. Instead, an excerpt of the document may be submitted that includes the pages providing the evidentiary support for which the document is referenced.

LRCiv 56.2

ORAL ARGUMENTS; MOTIONS FOR SUMMARY JUDGMENT

With regard to oral arguments on motions for summary judgment, see Rule 7.2(f), Local Rules of Civil Procedure.

F.R.Civ.P. 57. Declaratory Judgment

(NO LOCAL RULE)

F.R.Civ.P. 58. Entering Judgment

LRCiv 58.1

JUDGMENTS

(a) Entry of Judgment. Judgments will be entered in accordance with Rule 58, Federal Rules of Civil Procedure. If the judgment is one which requires settling by the District Judge or Magistrate Judge, and if such judgment is approved as to form by opposing counsel, the judgments may thereupon be signed by the District Judge or Magistrate Judge. If the adversary does not approve the form, the matter shall proceed to final settlement as if it were a finding as specified in Rule 52.1, Local Rules of Civil Procedure. Any default judgment which requires the signature of the Court shall be submitted by the person obtaining the judgment.

(b) Interest on Award of Money. When a judgment provides for an award of money, the form of judgment prepared must provide a space wherein the rate of interest can be entered by the Court on the date of entry at the rate then authorized pursuant to 28 U.S.C. § 1961 (a). If a rate of interest other than provided for by 28 U.S.C. § 1961 (a) is required by contractual agreement, other statutory requirement, or by stipulation of the parties, the amount will be affirmatively stated in the judgment.

F.R.Civ.P. 59. New Trial; Altering or Amending a Judgment

(NO LOCAL RULE)

F.R.Civ.P. 60. Relief From a Judgment or Order

(NO LOCAL RULE)

F.R.Civ.P. 61. Harmless Error

(NO LOCAL RULE)

F.R.Civ.P. 62. Stay of Proceedings To Enforce a Judgment

(NO LOCAL RULE)

F.R.Civ.P. 62.1. Indicative Ruling on a Motion for Relief That is Barred by a Pending Appeal

(NO LOCAL RULE)

F.R.Civ.P. 63. Judge's Inability to Proceed

(NO LOCAL RULE)

Title VIII. Provisional and Final Remedies

F.R.Civ.P. 64. Seizing a Person or Property

(NO LOCAL RULE)

F.R.Civ.P. 65. Injunctions and Restraining Orders

LRCiv 65.1

EX PARTE RESTRAINING ORDERS

Ex parte restraining orders shall only issue in accordance with Rule 65, Federal Rules of Civil Procedure.

F.R.Civ.P. 65.1. Proceedings Against a Surety

LRCiv 65.1.1

SURETY BONDS AND UNDERTAKINGS

(a) Surety in Form Provided by State's Rules. Whenever by statute or rule of this Court surety is required to be given for any purpose by any party, such surety shall be in the form and manner provided for similar surety in the state courts under the statutes and rules of Arizona.

(b) Restrictions on Persons Accepted as Sureties. No Clerk, Marshal, member of the bar, or other officer of the Court, will be accepted as surety on any bond or undertaking in any action or proceeding in this Court.

(c) Acceptance of Cash, Bonds, or Notes. The Clerk may accept cash or, to the extent and in the manner permitted by 31 U.S.C. § 9303, use of Government obligations instead of surety bonds.

(d) Clerk's Authority to Approve. The Clerk is authorized to approve any surety required for any purposes unless the statute expressly requires the approval of the Court therefore.

F.R.Civ.P. 66. Receivers

(NO LOCAL RULE)

F.R.Civ.P. 67. Deposit into Court

LRCiv 67.1

INVESTMENT OF FUNDS ON DEPOSIT IN THE REGISTRY ACCOUNT

The following procedure shall govern the receipt, deposit and investment of registry funds:

(a) Receipt of Funds.

(1) Unless the statute requires the deposit of funds without leave of Court, no monies shall be sent to the Court or its officers for deposit into the Court's registry without a Court order signed by the presiding Judge in the case or proceeding.

(2) Unless provided for elsewhere in this Local Rule, all monies ordered to be paid into the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

(3) The party making the deposit or transferring funds to the Court's registry shall serve the order permitting the deposit or transfer on the Clerk or the Chief Deputy Clerk, and upon the Financial Deputy.

(4) Upon making the deposit, a "Notice of Deposit" must be filed with the Clerk.

(b) Investment of Registry Funds.

(1) All funds deposited into the registry of the Court will be placed in some form of interest bearing account. Unless otherwise ordered, the Court Registry Investment System (CRIS), administered by the Administrative Office of the United States Courts, shall be the only investment mechanism authorized.

(2) Under the CRIS, monies deposited in each case under (a)(1) will be "pooled" together with those on deposit with the Treasury to the credit of other courts in the Court Registry Investment System and used to purchase Government Account Series securities through the Bureau of Public debt, which will be held at the Treasury, in an account in the name and to the credit of the Director of the Administrative Office of the

United States Courts, hereby designated custodian for the Court Registry Investment System.

(3) An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment in the system. Income received from fund investments will be distributed to each case based on the ratio each account's principal and income total has to the aggregate principal and income total in the fund each week. Weekly reports showing the income earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

(c) Deductions of Fees.

(1) The custodian is authorized and directed by this Local Rule to deduct the registry fee for maintaining accounts in CRIS and the investment services fee for the management of investments. The proper registry fee is to be determined on the basis of the rates published by the Director of the Administrative Office of the United States Courts as approved by the Judicial Conference. The investment services fee is assessed from interest earning according to the Court's Miscellaneous Fee Schedule.

(2) If registry fees were assessed against the case under the old 45-day requirement prior to deposit in CRIS, no additional registry fee will be assessed.

F.R.Civ.P. 68. Offer of Judgment

(NO LOCAL RULE)

F.R.Civ.P. 69. Execution

LRCiv 69.1

EXECUTIONS

All executions issued by the Clerk of this Court shall, unless otherwise specially ordered, be returnable sixty (60) days from the date of such writ.

F.R.Civ.P. 70. Enforcing a Judgment for a Specific Act

(NO LOCAL RULE)

F.R.Civ.P. 71. Enforcing Relief For or Against a Nonparty

(NO LOCAL RULE)

Title IX. Special Proceedings

F.R.Civ.P. 71.1. Condemning Real or Personal Property

(NO LOCAL RULE)

F.R.Civ.P. 72. Magistrate Judges: Pretrial Order

LRCiv 72.1

ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

(a) Civil Cases. Upon the order of a District Judge, a civil case shall be referred by the Clerk of the Court to a Magistrate Judge by automated random selection for the conduct of such pretrial conferences as are necessary, and for the hearing and determination of any or all pretrial matters in accordance with 28 U.S.C. § 636 (b)(1). If the referral is for a determination of one of the eight categories of dispositive motions set forth in 28 U.S.C. § 636 (b)(1) or is one which a Magistrate Judge is prohibited from determining by the Constitution or laws of the United States, the Magistrate Judge shall file a written report and recommendation for final disposition by the referring District Judge.

(b) Supplementary Proceedings. The Clerk of the Court shall refer to a Magistrate Judge, in addition to the assignment made to a District Judge, any supplementary proceedings pursuant to Rule 69, Federal Rules of Civil Procedure, and post-judgment proceedings, such as garnishments and judgment-debtor examinations, unless: (1) the matter has already been referred by a District Judge to a Magistrate Judge pursuant to 28 U.S.C. § 636(b)(3), or (2) the matter has been assigned to a Magistrate Judge for final determination pursuant to the express written consent of the parties according to 28 U.S.C. § 636(c).

(c) Habeas Corpus, Other Post Conviction Petitions, and Prisoner and certain other Civil Rights Complaints. All petitions for writs of habeas corpus, applications for post trial relief made by individuals convicted of criminal offenses, civil rights complaints by state or federal prisoners challenging conditions of their confinement, and all other civil actions to which a District Judge has been assigned shall also be referred by the Clerk of the Court to a Magistrate Judge according to Local Rules of Civil Procedure, Rule 3.7(e). The referred Magistrate Judge shall proceed in accordance with the Rules Governing Section 2254 Cases In The United States District

Courts, or the Rules Governing Section 2255 Proceedings For The United States District Courts, as the case may be, and with 28 U.S.C. § 636 (b)(1)(A) and (B).

(d) Part-Time Magistrate Judges. The only limitations on the duties and responsibilities delegated to and performed by a part-time Magistrate Judge are those limitations specifically set forth in 28 U.S.C. § 636 or other applicable statute or General Order.

LRCiv 72.2

OTHER DUTIES OF MAGISTRATE JUDGES

(a) Other Duties. Subject to the Constitution and laws of the United States, Magistrate Judges in the District of Arizona shall perform the following duties:

(1) Assist the District Judges in the conduct of pretrial discovery proceedings in civil actions. A Magistrate Judge may hear and determine a procedural or discovery motion or other pretrial matter in a civil case other than the motions which are specified in 28 U.S.C. § 636 (b)(1)(A). As to such specified motions so assigned, a Magistrate Judge shall, upon designation by a District Judge, submit to that District Judge a report containing proposed findings of fact and recommendations for disposition by the District Judge. In any motion in which the parties are seeking the sanctions provided for in Rule 37(b)(2)(A), (B), or (c), Federal Rules of Civil Procedure, if the Magistrate Judge is inclined to grant such requests the Magistrate Judge shall be limited to filing a report and recommendation with the District Court; if the Magistrate Judge is inclined to deny any such request, he or she may enter an order thereon. A Magistrate Judge may, when designated by a District Judge, conduct any necessary hearings, including evidentiary hearings, or other proceedings arising in the exercise of the authority conferred by 28 U.S.C. § 636 and by these Local Rules.

(2) Review petitions for writs of habeas corpus, applications for post-trial relief made by individuals convicted of criminal offenses, and civil rights complaints lodged or filed by prisoners challenging conditions of their confinement pursuant to 42 U.S.C. § 1983, Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971), or otherwise, and all other civil rights claims relating to the investigation and prosecution of criminal matters or to correctional agencies and institutions in connection with their decisions or acts arising out of their custodial functions; make such orders as are necessary to obtain appropriate information which may be of assistance in determining the merits of any such writ or complaint; and submit reports and recommendations thereon to facilitate the decisions of the District Judge having jurisdiction over the case as to whether there should be a hearing. The authorization given the Magistrate Judge by

this Local Rule shall include, but is not limited to, the entry of appropriate orders directing answers to complaints and petitions assigned to the Magistrate Judge by the Clerk of the Court or by a District Judge, and the submission to a District Judge proposed findings of fact and recommendations for the disposition of such case. A Magistrate Judge is further authorized to conduct hearings preliminary to the submission of proposed findings of fact and recommendations to a District Judge.

(3) Issue subpoenas and writs of habeas corpus ad prosequendum and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings.

(4) Make determinations and enter appropriate orders pursuant to 28 U.S.C. § 1915 with respect to any suit, action, or proceedings in which a request is made to proceed *in forma pauperis* consistent with federal law except that a Magistrate Judge may not deny a request for *in forma pauperis* status unless the person requesting such status has expressly consented in writing to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c).

(5) Conduct pretrial conferences, settlement conferences, and related pretrial proceedings in civil cases.

(6) Conduct examinations of judgment debtors in accordance with Rule 69 of the Federal Rules of Civil Procedure.

(7) Issue orders and search warrants authorizing civil administrative and other examinations, inspections, searches, and seizures as permitted by law.

(8) Perform such additional duties as are not inconsistent with the Constitution and laws of the United States as may be referred by a District Judge pursuant to 28 U.S.C. § 636(b).

(9) Perform the duties set forth in Chapter 176 of Title 28, United States Code, as referred by a District Judge pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C. § 3008.

(10) Review and submit reports and recommendations on the following types of cases which come before the Court on a developed administrative record: (A)

actions to review administrative determinations under the Social Security Act and related statutes; (B) actions to review the administrative award of licenses and similar privileges; and (C) civil service cases involving such matters as adverse actions, retirement questions, and reduction in force.

(11) Review petitions and submit reports and recommendations to a District Judge in civil commitment cases arising under Title III of the Narcotic Rehabilitation Act 1966.

(12) Conduct voir dire examinations and select juries as referred by a District Judge in civil cases with the express written consent of the parties.

(13) With the express written consent of the parties pursuant to 28 U.S.C. § 636(c), a Magistrate Judge may hear and determine all motions, conduct the trial, and enter findings of fact, conclusions of law, and final judgments when the case is either randomly assigned by the Clerk to a Magistrate Judge upon the filing of the case or when a case is initially assigned to a District Judge and thereafter the case is reassigned to a Magistrate Judge with the District Judge's approval.

(14) Accept petit jury verdicts in civil cases upon request of a District Judge with the express written consent of the parties.

(15) Conduct proceedings for the collection of civil penalties of not more than two hundred dollars ($200) assessment under the Federal Boat Safety Act of 1971 in accordance with 46 U.S.C. §§ 4311(d) and 12309(c).

(16) Hold hearings and issue orders or reports and recommendations as may be appropriate in connection with garnishment and other post-judgment proceedings pursuant to 28 U.S.C. § 636(b)(3).

(b) All Magistrate Judges in the District of Arizona shall perform the duties authorized by 28 U.S.C § 636.

F.R.Civ.P. 73. Magistrate Judges: Trial by Consent; Appeal

LRCiv 73.1

CONSENT OF PARTIES TO TRY CASES BEFORE A U.S. MAGISTRATE JUDGE

(a) Consent to Exercise Jurisdiction by a United States Magistrate Judge. Upon filing a complaint, the Clerk shall furnish the plaintiff a "Consent to Exercise of Jurisdiction by a United States Magistrate Judge" and sufficient additional copies of the Consent to be attached to the complaint for service by the plaintiff on each defendant.

(b) Filing. At such time as all parties have executed and filed a consent with the Clerk and the District Judge has determined that the case should be reassigned to a Magistrate Judge, an order of reassignment will be signed, unless the case has already been assigned to a Magistrate Judge.

(c) Magistrate Judge Initials in Case Number. The Clerk, by appropriate designation, will indicate on the civil docket that the matter has been reassigned to a particular Magistrate Judge. When a case has been reassigned to a Magistrate Judge, all further pleadings and other documents will bear the Magistrate Judge's initials.

(d) Assignment of Cases by Automated Random Selection. The parties may not consent to trial before a particular Magistrate Judge. Cases will be assigned within each division equally among the Magistrate Judges of the division by the Clerk (or by the deputy designated by the Clerk) by automated random selection and in such a manner so that neither the Clerk nor any parties or their attorneys shall be able to make a deliberate choice for a particular case. The cases so assigned shall remain with the Magistrate Judge to whom assigned unless otherwise ordered by the Court.

F.R.Civ.P. 74. (Abrogated.)

(NO LOCAL RULE)

F.R.Civ.P. 75. (Abrogated.)

(NO LOCAL RULE)

F.R.Civ.P. 76. (Abrogated.)

(NO LOCAL RULE)

Title X. District Courts and Clerks: Conducting Business; Issuing Orders

F.R.Civ.P. 77. Conducting Business; Clerk's Authority; Notice of an Order or Judgment

LRCiv 77.1

LOCATIONS; HOURS OF CLERK'S OFFICES

(a) Locations. The District covers the entire State of Arizona. However, for convenience the District is divided into three divisions, each named and comprising counties as follows:

Phoenix Division: Maricopa, Pinal, Yuma, La Paz, and Gila counties.

Prescott Division: Apache, Navajo, Coconino, Mohave, and Yavapai counties.

Tucson Division: Pima, Cochise, Santa Cruz, Graham, and Greenlee counties.

(b) Schedule of Hearings. The Court shall be open permanently at Phoenix and at Tucson and will sit at Prescott and such other places when and as the Court shall designate.

(c) Place of Trial. Unless otherwise ordered by the Court, all civil and criminal cases founded on causes of action (1) arising in the Phoenix division shall be tried in Phoenix, (2) arising in the Prescott division shall be tried in Prescott, and (3) arising in the Tucson division shall be tried in Tucson. All civil and criminal cases founded on causes of action arising on the Tohono O'Odham Indian Reservation shall be tried in Tucson, unless otherwise ordered by the Court. All civil and criminal cases founded on causes of action arising on the San Carlos Indian Reservation shall be tried in Phoenix, unless otherwise ordered by the Court.

(d) Hours of Clerk's Offices. The offices of the Clerk shall be open during regular business hours, as designated and posted by the Clerk of Court, on each day except Saturdays, Sundays, and legal holidays enumerated in Federal Rules of Civil Procedure 6(a)(6) and 77(c)(1), when the offices are closed unless otherwise ordered by the Court.

LRCiv 77.2

ORDERS AND JUDGMENTS GRANTABLE OF COURSE BY THE CLERK

(a) Authority. The Clerk or any deputy authorized by the Court under standing order is authorized to sign and enter any order permitted to be signed by a Clerk under the Federal Rules of Civil Procedure, and particularly the following orders, without further direction by the Court:

(1) Orders specially appointing persons to serve process under the Federal Rules of Civil Procedure.

(2) Orders on stipulation of all counsel, approved in writing by the client being represented, for the substitution of attorneys.

(3) Orders withdrawing exhibits under Rule 79.1, Local Rules of Civil Procedure.

(4) Orders in stipulation noting satisfaction of an order for the payment of money, or withdrawing stipulations, or annulling bonds, or exonerating sureties, or setting aside a default.

(5) Entering judgments or verdicts or decisions of the Court in circumstances authorized in Rule 58, Federal Rules of Civil Procedure; entering judgments by default in the circumstances authorized in Rule 55(b)(1), Federal Rules of Civil Procedure; and entering judgments pursuant to offers of judgment and acceptances thereof in the circumstances authorized in Rule 68, Federal Rules of Civil Procedure.

(6) Any other order which, under Rule 77(c) of the Federal Rules of Civil Procedure, does not require special direction by the Court.

(7) Orders authorizing the filing, without payment of fees, of prisoner civil complaints and habeas corpus petitions providing the affidavit *in forma pauperis* of the complainant or petitioner conforms to the requirements of Local Rules of Civil Procedure Rules 3.4(a) or 3.5(b) as appropriate.

(b) Suspension, Altered, or Rescinded by the Court. Any order so entered may be suspended, altered, or rescinded by the Court for cause shown, upon such terms and within such time limits as may be established by any applicable rule or procedure.

(c) Attachment and Garnishment. The Clerk may issue a writ of attachment and garnishment in the circumstances and in the manner provided by the laws of the State of Arizona.

LRCiv 77.3

FEES FIXED BY THE CLERK

(a) Payment and Schedule of Fees. No act shall be performed by the Clerk for which a fee is required except on payment thereof.

(b) Fee Deposit. Where services are required to be performed by the Clerk for which fees cannot be definitely fixed in advance, the Clerk may require a fee deposit in such amount as in his or her opinion will be necessary to cover the anticipated expense.

LRCiv 77.4

NOTICE OF ORDERS

(a) Notification of Adversary. It shall be the duty of counsel obtaining any order in the absence of his or her adversary, except in cases of default by the adversary, to notify that adversary of the substance of the order, and, unless otherwise ordered by the Court, any order obtained where notice thereof is required shall be inoperative until such notice is given.

(b) Waiver of Requirement. When an order is made pursuant to a written stipulation of the parties or their attorneys or when an order is made in open court in the presence of the parties or their attorneys, if no request is made that notice of the entry of the order be mailed by the Clerk, the mailing of such notice as required by Rule 77(d), Federal Rules of Civil Procedure, shall be deemed waived by such parties.

F.R.Civ.P. 78. Hearing Motions; Submission on Briefs

(NO LOCAL RULE)

F.R.Civ.P. 79. Records Kept by the Clerk

LRCiv 79.1

CUSTODY AND DISPOSITION OF NON-ELECTRONICALLY SUBMITTED EXHIBITS, ADMINISTRATIVE RECORDS, AND SEALED DOCUMENTS

(a) Retained by Party or Attorney. All non-electronically submitted exhibits offered by any party in civil or criminal proceedings, whether or not received as evidence, shall be retained after trial by the party or attorney offering the exhibits, unless otherwise ordered by the Court. All non-electronically submitted administrative records offered by any party, whether or not received into evidence, in Social Security cases and other cases reviewed under the Administrative Procedure Act will be returned to counsel at the conclusion of the action, including any appeal, unless otherwise ordered by the Court.

(b) Transmitted on Appeal. In the event an appeal is prosecuted by any party, each party to the appeal shall promptly file with the Clerk any non-electronically submitted exhibits to be transmitted to the appellate court as part of the record on appeal. Those exhibits not transmitted as part of the record on appeal shall be retained by the parties who shall make them available for use by the appellate court upon request.

(c) Notice to Remove Non-electronically Submitted Exhibits and Administrative Records. If any party, having received notice from the Clerk concerning the removal of non-electronically submitted exhibits or administrative records, fails to do so within thirty (30) days from the date of such notice, the Clerk may destroy or otherwise dispose of those exhibits or administrative records.

(d) Sealed Documents - Generally. Unless otherwise ordered by the Court, any sealed document, paper, case file or thing in any action where final judgment or final disposition occurred in 1990 or thereafter, will be subject to the custody and disposition processes according to (e) or (f), below, as applicable.

(e) Sealed Documents - Actions in Which No Trial Commenced. Unless otherwise ordered by the Court, any document, paper, case file or thing filed under seal in any action for which no trial commenced shall be eligible for destruction no less than 23

years from the date of entry of final judgment or final disposition. The seal will be vacated without further action by the Court at the time of destruction.

(f) Sealed Documents - Actions in Which the Case Was Terminated During or After Trial. Unless otherwise ordered by the Court, any document, paper, case file or thing filed under seal in any action for which a trial commenced shall be unsealed without further action by the Court 23 years from the date of entry of final judgment or final disposition, and will remain stored as a permanent record. This Local Rule further applies to all cases consolidated pursuant to Rule 65(a), Federal Rules of Civil Procedure.

Cases filed pursuant to 18 U.S.C. § 3509 and juvenile cases, unless the record has been expunged, are exempt from this paragraph.

F.R.Civ.P. 80. Stenographic Transcript as Evidence

(NO LOCAL RULE)

Title XI. General Provisions

F.R.Civ.P. 81. Applicability of the Rules in General; Removed Actions

(NO LOCAL RULE)

F.R.Civ.P. 82. Jurisdiction and Venue Unaffected

(NO LOCAL RULE)

F.R.Civ.P. 83. Rules by District Courts; Judge's Directives

LRCiv 83.1

ATTORNEYS

(a) Admission to the Bar of this Court. Admission to and continuing membership in the bar of this Court is limited to attorneys who are active members in good standing of the State Bar of Arizona.

Attorneys may be admitted to practice in this District upon application and motion made in their behalf by a member of the bar of this Court.

Every applicant must first file with the Clerk a statement on a form provided by the Clerk setting out the applicant's place of birth, principal office address and city and state of principal residence, the courts in which the applicant has been admitted to practice, the respective dates of admissions to those courts, whether the applicant is active and in good standing in each, and whether the applicant has been or is being subjected to any disciplinary proceedings.

Motions for admission will be entertained upon the convening of the Court at the call of the law and motion calendar. The applicant must be personally present at the time and, if the motion is granted, will be admitted upon being administered the following oath by the Clerk, Magistrate Judge, or a District Judge:

> "I solemnly swear (or affirm) that I will support the Constitution of the United States; that I will bear true faith and allegiance to the Government of the United States; that I will maintain the respect due to the courts of justice and judicial officers; and that I will demean myself as an attorney, counselor, and solicitor of this Court uprightly."

Thereafter, before a certificate of admission issues, the applicant must pay an admission fee to the Clerk, U.S. District Court. The amount of the fee is available on the District Court's website.

(b) Practice in this Court. Except as herein otherwise provided, only members of the bar of this Court may practice in this District.

(1) U.S. Government Attorneys. Any attorney representing the United States Government in an official capacity, or who is employed by the office of the Federal Public Defender in an official capacity, and is admitted to practice in another U.S. District Court may practice in this District in any matter in which the attorney is employed or retained by the United States during such period of federal service. Attorneys so permitted to practice in this Court are subject to the jurisdiction of this Court to the same extent as members of the bar of this Court.

(2) *Pro Hac Vice.* An attorney who is admitted to practice in another U.S. District Court, and who has been retained to appear in this Court may, upon written application and in the discretion of the Court, be permitted to appear and participate in a particular case. Unless authorized by the Constitution of the United States or an Act of Congress, an attorney is not eligible to practice pursuant to this subparagraph (b)(2) if any one or more of the following apply: (i) the attorney resides in Arizona, (ii) the attorney is regularly employed in Arizona, or (iii) the attorney is regularly engaged in the practice of law in Arizona. The pro hac vice application must be presented to the Clerk and must state under penalty of perjury (i) the attorney's principal office address and city and state of principal residence as well as current telephone number, facsimile number and electronic mailing address, if any, (ii) by what courts the attorney has been admitted to practice and the dates of admissions, (iii) that the attorney is in good standing and eligible to practice in those courts, (iv) that the attorney is not currently suspended, disbarred or subject to disciplinary proceedings in any court, and (v) if the attorney has concurrently or within the year preceding the current application made any other pro hac vice applications to this Court, the title and number of each action in which such application was made, the date of each application, and whether each application was granted. The pro hac vice application must also be accompanied by payment of a pro hac vice fee to the Clerk, U.S. District Court and a current, original certificate of good standing from a federal court. The amount of the fee is available on the District Court's website. If the pro hac vice application is denied, the Court may refund any or all of the fee paid by the attorney. If the application is granted, the attorney is subject to the

jurisdiction of the Court to the same extent as a member of the bar of this Court. Attorneys admitted to practice pro hac vice must comply with the Rules of Practice of the United States District Court for the District of Arizona.

(3) Tribal Attorneys. An attorney who represents a tribal government entity in a full time official capacity may apply to appear pro hac vice under subparagraph 2 above in any matter in which the attorney is employed or retained by the tribal government entity during such period of tribal service notwithstanding the attorney's residence in, regular employment in, or regular practice in Arizona.

(4) Certified Students. Students certified to practice under Rule 83.4, Local Rules of Civil Procedure, may practice in this District as provided in that Rule.

(c) Subscription to Court Electronic Newsletters. Registered users of the Court's Electronic Case Filing (ECF) system must subscribe to the USDC District of Arizona News (at www.azd.uscourts.gov/subscribe) to receive email notices relating to new or updated local rules, general orders, and electronic case filing procedures.

(d) Association of Local Counsel. Nothing herein shall prevent any judicial officer from ordering that local counsel be associated in any case.

(e) Disbarment or Suspension. An attorney who, before admission or permission to practice pro hac vice has been granted, unless specially authorized by one of the judges, or during disbarment or suspension exercises any of the privileges of a member of this bar, or who pretends to be entitled to do so, is subject to appropriate sanctions after notice and opportunity to be heard.

(f) Sanctions for Noncompliance with Rules or Failure to Appear.

(1) When Appropriate. After notice and a reasonable opportunity to be heard, the Court upon its own initiative may impose appropriate sanctions upon the party, attorney, supervising attorney or law firm who without just cause:

(A) violates, or fails to conform to, the Federal Rules of Civil or Criminal Procedure, the Local Rules of Practice for the District, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules and/or any order of the Court; or

(B) fails to appear at, or be prepared for, a hearing, pretrial conference or trial where proper notice has been given.

The Court may impose sanctions against a supervising attorney or law firm only if the Court finds that such supervising attorney or law firm had actual knowledge, or reason to know, of the offending behavior and failed to take corrective action.

(2) Sanctions; Generally. The Court may make such orders as are just under the circumstances of the case, and among others the following:

(A) An order imposing fines;

(B) An order imposing costs, including attorneys' fees;

(C) An order that designated matters or facts shall be taken to be established for the purposes of the action;

(D) An order refusing to allow the failing party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters or facts in evidence;

(E) An order striking, in whole or in part, pleadings, motions or memoranda filed in support or opposition thereto; and

(F) An order imposing sanctions as permitted by Rule 83.2, Local Rules of Civil Procedure, Disbarment, for violations of the applicable ethical rules, incorporated into these Local Rules by Rule 83.2(d), Local Rules of Civil Procedure. The Court may also refer the matter to the relevant bar association(s) for appropriate action. For violations of form, sanctions will be limited generally to fines, costs or attorneys' fees awards. Local rules governing the form of pleadings and other papers filed with the Court include, but are not limited to, the provision of Rule 7.1, Local Rules of Civil Procedure. Attorneys' fees may only be assessed for a violation of a Local Rule when the Court finds that the party, attorney, supervising attorney or law firm has acted in bad faith or has willfully disobeyed Court orders or rules.

(3) Sanctions; Repeated Violations in Civil Cases. If, in a civil case, the Court finds that an attorney, party, supervising attorney or law firm has committed repeated serious violations without just cause, such finding may result in the imposition

of more serious sanctions, including but not limited to, increased fines, fines plus attorneys' fees and costs, contempt, or the entry of judgment against the offending party on the entire case. Judgment against the offending party will not be entered unless the Court also finds there are no other adequate sanctions available.

(4) Scope; Enforcement. Nothing in this Local Rule is intended to modify, or take the place of, the Court's inherent powers, contempt powers or the sanctions provisions contained in any applicable federal rule or statute. Further, nothing in this Local Rule is intended to confer upon any attorney or party the right to file a motion to enforce the provisions of this Local Rule. The initiation of enforcement proceedings under this Local Rule is within the sole discretion of the Court.

LRCiv 83.2

ATTORNEY DISCIPLINE

(a) Authority. Any attorney admitted or otherwise authorized to practice before this Court may be disbarred, disciplined, or have the order of appointment revoked after such hearing as the Court may in each particular instance direct.

(b) Report of Action in Any Other Jurisdiction. Any attorney admitted or otherwise authorized to practice before this Court who is disbarred or subjected to other disciplinary action in any other jurisdiction shall promptly report the matter to this Court.

(c) Discipline in Another Jurisdiction. If an attorney admitted or otherwise authorized to practice before this Court has been suspended or disbarred from practice by any court of competent jurisdiction, the Court (by the Chief Judge, or his or her designee) may enter an order directing the attorney to show cause as to why the attorney should not be suspended or disbarred from practice before this Court. Unless otherwise ordered by the Court, the attorney must respond in writing to the order within fourteen (14) days after the date on which a notice of the order is sent to the attorney. After considering any response the attorney may submit and undertaking any other inquiry the Court deems appropriate, the Court will decide whether any further action should be taken. If the facts warrant such action, the Court may disbar the attorney from practice in this Court or impose other appropriate limitations or conditions on the attorney, including the suspension of the attorney for a fixed period of time. Notice of such action, and all other notices required under this Rule, will be sent to the attorney at the address shown in the Clerk's records.

(d) Notice to Clients. Within seven (7) days of the date of the sending of a notice of suspension or a notice of other action by the Court, the attorney must file in each action pending before this Court in which the attorney currently is counsel of record a notice (1) setting forth the client's full name and last known mailing address and telephone number and (2) certifying that:

(1) the attorney has notified the attorney's client involved in the action in writing of (A) the specific limitations or conditions the Court has imposed upon the

attorney, including suspension or disbarment; (B) the status of the action, including the dates and times of any hearings or trial settings, existing deadlines set forth in Court Orders and the possibility of sanctions for failure to comply with those deadlines; and (C) if applicable, the attorney's inability to provide continuing representation in the action because the attorney has been suspended or disbarred; or

(2) the attorney's client cannot be located or for whatever other reason cannot be provided notice as required by this Local Rule.

(e) Arizona Rules of Professional Conduct. The "Rules of Professional Conduct," in the Rules of the Supreme Court of the State of Arizona, shall apply to attorneys admitted or otherwise authorized to practice before the United States District Court for the District of Arizona.

LRCiv 83.3

APPEARANCE BY ATTORNEY OR PARTY; NAME AND ADDRESS CHANGES; CONTROL OF CAUSE

(a) Attorney of Record; Duties of Counsel. Except as provided below, no attorney shall appear in any action or file anything in any action without first appearing as counsel of record. In any matter, even if it has gone to judgment, there must be a formal substitution or association of counsel before any attorney, who is not an attorney of record, may appear. An attorney of record shall be deemed responsible as attorney of record in all matters before and after judgment until the time for appeal expires or until there has been a formal withdrawal from or substitution in the case.

(b) Withdrawal and Substitution. No attorney shall be permitted to withdraw or be substituted as attorney of record in any pending action except by formal written order of the Court, supported by written application setting forth the reasons therefor together with the name, last known residence and last known telephone number of the client, as follows:

(1) Where such application bears the written approval of the client, it shall be accompanied by a proposed written order and may be presented to the Court *ex parte*. The withdrawing attorney shall give prompt notice of the entry of such order, together with the name, last known residence and last known telephone number of the client, to all other parties or their attorneys.

(2) Where such application does not bear the written approval of the client, it shall be made by motion and shall be served upon the client and all other parties or their attorneys. The motion shall be accompanied by a certificate of the attorney making the motion that (A) the client has been notified in writing of the *status* of the case including the dates and times of any court hearings or trial settings, pending compliance with any existing court orders and the possibility of sanctions, or (B) the client cannot be located or for whatever other reason cannot be notified of the pendency of the motion and the status of the case.

(3) No attorney shall be permitted to withdraw as attorney of record after an action has been set for trial, (A) unless there shall be endorsed upon the application therefore, either the signature of an attorney stating that the attorney is advised of the trial date and will be prepared for trial, or the signature of the client stating that the client is advised of the time and date and has made suitable arrangements to be prepared for trial, or (B) unless the Court is otherwise satisfied for good cause shown that the attorney should be permitted to withdraw.

(4) Notwithstanding the provisions of paragraph (b) of this Local Rule, a governmental law office or a private or public law firm that has appeared as counsel of record may substitute or associate an attorney who is a member of, associated with, or otherwise employed by that office or firm by timely filing a notice of substitution or association with the Court. The notice shall state the names of the attorneys who are the subjects of the substitution or association and the current address and e-mail address of the attorney substituting or associating. An occasional court appearance or filing of a pleading, motion or other document as associate counsel at the request of an attorney of record shall not require the filing of a notice of association. Counsel substituted or associated pursuant to this paragraph must also comply with (b)(3) above.

(c) Applicability of Rules.

(1) Anyone appearing before the court is bound by these Local Rules. Any reference in these Local Rules to 'attorney' or 'counsel' applies to parties not represented by an attorney unless the context requires otherwise.

(2) Appearance by Represented Party. Whenever a party has appeared by an attorney, that party cannot thereafter appear or act in that party's own behalf in the cause, or take any steps therein, unless an order of substitution shall first have been made by the Court after notice to the attorney of each such party, and to the opposite party. The attorney who has appeared of record for any party shall represent such party in the cause and shall be recognized by the Court and by all the parties to the cause as having control of the client's case, in all proper ways, and shall, as such attorney, sign all papers which are to be signed on behalf of the client, provided that the Court may in its discretion hear

a party in open court, notwithstanding the fact that that party has appeared or is represented by an attorney.

(d) Notice of Name and Address Changes. An attorney or unrepresented party must file a notice of a name or address change, and an attorney must also file a notice of a change of firm name or e-mail address. The notice must be filed no later than fourteen (14) days before the effective date of the change, except that an unrepresented party who is incarcerated must submit a notice within seven (7) days after the effective date of the change. A separate notice must be filed in each active case.

(e) *Ex Parte* Presentations; Duty to Court. All applications to a District Judge or Magistrate Judge of this Court for *ex parte* orders shall be made by an attorney of this Court or by an individual on that individual's own behalf. In the event that any *ex parte* matter or default proceeding has been presented to any District Judge, Magistrate Judge or judicial officer and the requested relief is denied for any reason, such matter shall not be presented to any other District Judge or Magistrate Judge or judicial officer without making a full disclosure of the prior presentation. Counsel should be governed by the provisions of ER 3.3 of the Rules of Professional Conduct, Rule 42, Rules of the Supreme Court of Arizona. For a failure to comply with the provisions of this Local Rule, the order or judgment made on such subsequent application may be vacated at any time as a fraud upon the Court.

(f) Waiver of Service of Documents. A party who has been terminated from a case by judgment, order, or stipulation of dismissal, and for whom the time to appeal the termination has expired, may waive service of any further documents in the case by filing a Notice of Waiver of Service. An attorney may waive service of documents on associated attorneys by naming them and by certifying that the attorney is authorized to waive service of documents on their behalf. A waiver of service does not effect a withdrawal of an attorney from the case under paragraph (b) of this rule.

LRCiv 83.4

STUDENT PRACTICE RULE

(a) Purpose. The following Student Practice Rule is designed to encourage law schools to provide clinical instruction in litigation of varying kinds, and thereby enhance the training of lawyers in federal practice in this District.

(b) Student Requirements. An eligible student must:

(1) Be duly enrolled in an American Bar Association (ABA) accredited law school;

(2) Have successfully completed at least three (3) semesters of legal studies, or the equivalent;

(3) Have knowledge of the Federal Rules of Civil and Criminal Procedure, Evidence, the Code of Professional Responsibility, and the Local Rules of Practice of this Court;

(4) Be enrolled for credit in a law school clinical program at an ABA accredited law school which has been certified by the Court;

(5) Be certified by the Dean of the Law School, or the Dean's designee, as being of good character and sufficient legal ability, and as being adequately trained, in accordance with subparagraphs 1-4 above, to fulfill his or her responsibilities as a legal intern to both client and the Court; and

(6) Not accept personal compensation for legal services from a client or other source.

(c) Program Requirements. The program:

(1) Must be a law school clinical practice program for credit in which a law school student obtains academic and practice advocacy training, utilizing law school faculty or adjunct faculty for practice supervision, including experienced federal government attorneys or private practitioners;

(2) Must be certified by the Court;

(3) Must be conducted in such a manner as not to conflict with normal Court schedules;

(4) May accept compensation other than from a client, such as Criminal Justice Act (CJA) payments; and

(5) Must be a program which is either (A) subject to the provisions of Ariz. Rev. Stat. § 41-621 on insurance or self-insurance by the State of Arizona, or (B) has other malpractice coverage satisfactory to the Court.

(d) Supervisor Requirements. A supervising attorney must:

(1) Be a member of the State Bar of Arizona whose service as a supervising lawyer is approved by the dean of that law school in which the student is enrolled.

(2) Be admitted to practice in the Court in which the student is certified;

(3) Be present with the student at all times in Court, and at other proceedings in which testimony is taken, except as permitted in subparagraph (f)(4) of this Local Rule;

(4) Co-sign all pleadings or other documents filed with the Court;

(5) Supervise concurrently no more than ten (10) students carrying clinical practice as their entire academic program, with a proportionate increase in the number of students as their percentage of time devoted to clinical practice may be less;

(6) Assume full personal professional responsibility for student's guidance in any work undertaken and for the quality of a student's work, and be available for consultation with represented clients;

(7) Assist and counsel the student in activities mentioned in this Local Rule, and review such activities with the student, all to the extent required for the proper practical training of the student, and the protection of the client; and

(8) Be responsible to supplement oral or written work of the student as necessary to ensure proper representation of the client.

(e) Certification of Student, Program, and Supervisor.

(1) Students.

(A) Certification by the Law School Dean shall be filed with the Clerk of the Court and, unless it is sooner withdrawn, shall remain in effect until expiration of eighteen (18) months.

(B) Certification to appear generally, or in a particular case, may be withdrawn by the Court at any time, in the discretion of the Court, and without any showing of cause.

(2) Program.

(A) Certification of a program by the Court shall be filed with the Clerk of the Court and shall remain in effect indefinitely unless withdrawn by the Court.

(B) Certification of a program may be withdrawn by the Court at the end of any academic year without cause, or at any time, provided notice stating the cause for such withdrawal is furnished to the Law School Dean and supervisor.

(3) Supervisor.

(A) Certification of a supervisor must be filed with the Clerk of the Court, and shall remain in effect indefinitely unless withdrawn by the Court.

(B) Certification of a program may be withdrawn by the Court at the end of any academic year without cause, or at any time upon notice and a showing of cause.

(C) Certification of a supervisor may be withdrawn by the dean by mailing of notice to that effect to the Clerk of the Court.

(f) Permitted Student Activities. A certified student may, under the personal supervision of his or her supervisor:

(1) Represent any client including federal, state, or local government bodies and engage in the activities permitted hereunder only if the client has approved in writing such representation. In the case of criminal matters, the consent necessary for a certified student to appear on behalf of the federal government or an agency thereof may be executed by the United States Attorney or authorized representative.

(2) Except as permitted in subparagraph (f)(4) of this Local Rule, a certified student may engage in the following activities on behalf of the office of the

Federal Public Defender or private counsel in the defense of felonies only with the approval and under the direct and immediate supervision and in the personal presence of the supervising attorney or such attorney's designee:

(A) appearing at or taking depositions on behalf of the client, and

(B) appearing on behalf of the client in any trial, hearing, or other proceeding, before any District Judge or Magistrate Judge of the United States District Court for the District of Arizona, but only to the extent approved by such District Judge or Magistrate Judge;

(3) Engage in connection with matters of this Court, in other activities on behalf of his or her client in all ways that a licensed attorney may under the general supervision of the supervising lawyers; however, a student may make no binding commitments on behalf of a client absent prior client and supervisor approval;

(4) Engage in the following acts on behalf of a government agency as a representative of that agency without the personal appearance of the supervising attorney, but only if the supervising attorney or such attorney's designee is available by telephone or otherwise to advise the certified student.

(A) Appear in any action on behalf of a government agency or on behalf of the office of the Federal Public Defender or private counsel in the prosecution or defense of misdemeanors, but only subject to approval by the District Judge or Magistrate Judge presiding at hearing or trial in such action and upon written consent of the client. Documents or papers filed with the Court must be signed and read, approved, and co-signed by the supervising lawyer. The Court retains the authority to establish exceptions to such activities.

(B) Appear in any proceeding in actions brought solely under 42 U.S.C. § 405(g) and § 1395ff to review a final decision of the Secretary of Health and Human Services;

(C) Appear in any proceeding in actions to enforce collection on promissory notes involving federally insured loans and direct federal loans in which the prayer for relief is less than $25,000.

(5) In all instances in which, under these Local Rules, a certified student is permitted to appear in any trial, hearing, or other proceeding before any District Judge or Magistrate Judge of the United States District Court for the District of Arizona, the certified student shall, as a condition to such appearance, cause the filing of written consent or present such written consent for filing to the District Judge or Magistrate Judge.

(6) Certified students whose supervising attorneys are not government attorneys or attorneys acting full time on behalf of the office of the Federal Public Defender shall satisfy not only the requirements of this Local Rule, but also the requirements imposed by the State Bar of Arizona rules governing the practical training of law students, as those rules may be amended from time to time.

LRCiv 83.5

PROHIBITION OF BIAS

Litigation, inside and outside the courtroom, in the United States District Court for the District of Arizona, must be free from prejudice and bias in any form. Fair and equal treatment must be accorded all courtroom participants, whether judges, attorneys, witnesses, litigants, jurors, or court personnel. The duty to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias toward another on the basis of categories such as gender, race, ethnicity, religion, disability, age, or sexual orientation.

LRCiv 83.6

SUSPENSION OF RULES

Upon application, or upon the Court's own motion, any Judge of this Court may suspend any of these Local Rules for good cause shown.

LRCiv 83.7

STIPULATIONS OF COUNSEL

No agreement between parties or attorneys is binding, if disputed, unless it is in writing signed by the attorney of record or by the unrepresented party, or made orally in open court and on the record; provided, however, that in the interests of justice the Court shall have the discretion to reject any such agreement.

LRCiv 83.8

CONDUCT OF ATTORNEYS

(a) Prohibition of Extrajudicial Statements. A lawyer or law firm associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, which a reasonable person would expect to be disseminated by means of public communication, if there is a reasonable likelihood that such dissemination will interfere with a fair trial and which relates to:

(1) evidence regarding the occurrence or transaction involved;

(2) the character, credibility, or criminal record of a party, witness or prospective witness;

(3) the performance or results of any examination or tests or the refusal or failure of a party to submit to such;

(4) his or her opinion as to the merits of the claims or defenses of a party except as required by law or administrative rules; or

(5) any other matter reasonably likely to interfere with a fair trial of the action.

(b) Reference to Rule 57.2(f), Local Rules of Criminal Procedure. In a widely publicized or sensational case, the Court, on motion of either party or on its own motion, may issue a special order similar to that provided for by Rule 57.2(f), Local Rules of Criminal Procedure.

LRCiv 83.9

AMENDMENT OF THE RULES OF PRACTICE

(a) Rules of Practice Advisory Committee.

(1) Appointment. The Chief Judge shall appoint members of a Rules of Practice Advisory Committee (Committee) to serve such terms as the Chief Judge designates. The Chief Judge will appoint a District Judge as the Chair of the Committee (Chair).

(2) Responsibilities. The Committee shall make reports and recommendations to the Court regarding the following matters:

(A) The consistency of the Rules of Practice (Local Rules) with the United States Constitution, Acts of Congress, the Federal Rules and General Orders of the Court; and

(B) Proposed amendments to the Local Rules.

(b) Procedures.

(1) Submission of Proposals. Any person or organization may propose an amendment to the Local Rules. Proposals should be submitted to the Clerk of Court, marked to the attention of the Committee. Guidelines for submission of proposals are available from the Clerk of Court and are posted on the District's Internet website. For a proposal to become effective on December 1 of a given year, it must be submitted to the Clerk of Court by August 31 of the preceding year.

(2) Initial Consideration of Proposals. The Chair will convene the first meeting of the Committee in September to consider proposals. The Committee will review proposals for rejection, deferral or recommendation to the Court for consideration. The Chair will assign drafting responsibility to a Committee member of those proposals that will be forwarded to the Court. The Committee will forward the final proposed amendments to the Court by February 28. The Court will decide whether to approve the proposed amendments for circulation to the bar and the public by April 30.

(3) Comment by the Bar and the Public. Proposed amendments approved by the Court will be distributed to the State Bar of Arizona and the local

chapters of the Federal Bar Association, published in a local legal publication, made available to the public at each courthouse in the District, and posted on the District's Internet website. Comments from the bar and the public shall be submitted by June 30 to the Clerk of Court, marked to the attention of the Committee. The Committee will forward the comments, an evaluation of the comments and the final proposed amendments to the Court by August 15.

(4) Final Adoption. The Court will adopt, modify or reject the final proposed amendments by September 30. An amendment is effective as to all cases filed on or after December 1 of the year in which the amendment was adopted and may apply to pending cases to the extent it is practical and fair.

(5) Alteration of Timing and Procedure. For cause, the Court may alter the timing or procedures set forth in this Local Rule by General Order.

(c) Emergency Amendments. When the Court or the Committee determines there is an immediate need to implement an amendment, including a technical, clarifying or conforming amendment, the amendment may be adopted by the Court without prior comment by the bar or the public. The effective date of an emergency amendment is the date set forth by the Court in the General Order adopting the amendment. Amendments adopted under this subsection will thereafter be circulated to the bar and the public for comment and reevaluated by the Committee and the Court for possible revision according to the deadlines set forth in sections (b)(3) and (b)(4) of this Local Rule.

LRCiv 83.10

DISPUTE RESOLUTION

As early as the scheduling conference held under Rule 16(b) of the Federal Rules of Civil Procedure, or at any time requested by the parties, the court may offer or parties may request to refer the action to a magistrate judge for the purpose of holding a timely settlement conference (mediation), minitrial, summary jury trial, early neutral evaluation, or other form of dispute resolution. The court may require the parties to participate in alternative dispute resolution, but only with respect to mediation and early neutral evaluation. Alternative dispute resolution shall not be offered as a reason to delay the processing of the case as established in the Rule 16 scheduling order. This Local Rule is promulgated pursuant to 28 U.S.C. § 651(b) and 28 U.S.C. § 652(a).

F.R.Civ.P. 84. Forms

(NO LOCAL RULE)

F.R.Civ.P. 85. Title

(NO LOCAL RULE)

F.R.Civ.P. 86. Effective Dates

(NO LOCAL RULE)

LOCAL RULES OF CRIMINAL PROCEDURE[7]

[7] The Local Rules of Criminal Procedure may be cited as “LRCrim”.

Title I. Applicability

F.R.Crim.P. 1. Scope; Definitions

LRCrim 1.1

REMOVAL TO FEDERAL COURT

With regard to removal of a criminal prosecution from a state court, see Rule 3.6, Local Rules of Civil Procedure.

F.R.Crim.P. 2. Interpretation

(NO LOCAL RULE)

Title II. Preliminary Proceedings

F.R.Crim.P. 3. The Complaint

(NO LOCAL RULE)

F.R.Crim.P. 4. Arrest Warrant or Summons on a Complaint

(NO LOCAL RULE)

F.R.CRIM.P. 4.1. Complaint, Warrant, or Summons by Telephone or Other Reliable Electronic Means

(NO LOCAL RULE)

F.R.Crim.P. 5. Initial Appearance

LRCrim 5.1

ASSIGNMENT OF CASES AND MATTERS; CRIMINAL; JUVENILE

(a) Assignment of Criminal Cases. Unless otherwise provided in these Rules or ordered by the Court, the Clerk must assign criminal cases to District Judges within each division by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys will be able to make a deliberate choice of a particular Judge. At the conclusion of the preliminary hearing and detention hearing in Tucson, or at the conclusion of the grand jury return in Phoenix, the Clerk must randomly refer the criminal case to a Magistrate Judge. The cases so assigned or referred will remain with the Judges to whom assigned or referred unless otherwise ordered by the Court. With the exception of defense counsel, any officer of the Court who determines that a new charge has been filed against a defendant who is under federal Court supervision must immediately notify the presiding judge before whom the new case is pending.

(1) New Cases in Which the Defendant is on Supervised Release or Probation. The Clerk of Court must directly assign new cases in which the defendant is already on probation or supervised release to the judge to whom the probation or supervised release case is assigned, except as provided in subsections (A), (B), and (C) below.

(A) If the judge to whom the probation or supervised release case is assigned is on Senior Status and does not want both cases, the Clerk of Court must randomly assign both the new case and the petition to revoke probation or supervised release to a District Judge, except as provided in subsections (B) and(C) below.

(B) If the new case and the probation or supervised release case are in different divisions, the new case will remain in its division, and the petition to revoke probation or supervised release must be reassigned to that division's judge, unless the judge to whom the probation or supervised release case is assigned wants to keep the petition.

(C) In the case of a consolidated plea agreement which resolves both a new felony illegal reentry after deportation, and a probation or supervised release violation for illegal reentry, alien smuggling, or drug trafficking, the judge to whom the new offense is assigned must also decide the request for unsuccessful termination of supervision, unless the judge to whom the supervised release violation is assigned objects, in which case both the new case and the supervised release case must be assigned to the objecting judge. In all such cases, defense counsel must be assigned to handle the entire consolidated proceeding, the sentencing and disposition must be consolidated, and the clerk must file the minutes in both cases.

(2) Inter-District Probation and Supervised Release Transfer Cases. The Clerk of Court must randomly assign probation or supervised release cases transferred from another district to a District Judge in accordance with these rules, except that if a criminal case involving the same defendant has been filed in this district, the transferred case must be assigned to the same District Judge.

(b) Assignment of Juvenile Matters and Related Cases. Except as provided in subsection (1) below, the Clerk of Court must assign juvenile matters to the District Judges within each division by automated random selection and in a manner so that neither the Clerk nor any parties or their attorneys will be able to make a deliberate choice of a particular Judge. The cases so assigned will remain with the Judge to whom assigned unless otherwise ordered by the Court.

(1) Upon filing an indictment against an adult or an information against a juvenile(s) for conduct that arises from substantially the same event as a case already pending against a juvenile or an adult, the United States Attorney must file a Notice of Related Case in all affected cases. The judicial officer to whom the lowest numbered case is assigned will make a determination as to reassignment of these cases based on the factors set forth in LRCiv 42.1(a) and (d) and, if appropriate, direct the Clerk to reassign the cases accordingly.

(2) If there are multiple juveniles charged with conduct that arises from substantially the same event, the United States Attorney must file a Notice of Related

Case with each juvenile information. The judicial officer to whom the lowest numbered case is assigned will make a determination as to reassignment of these cases based on the factors set forth in LRCiv 42.1(a) and (d) and, if appropriate, direct the Clerk to reassign the cases accordingly.

(3) If the government moves to transfer a juvenile to adult status and the motion to transfer is granted, the Clerk of Court must reassign the case and any related cases by automated random selection to one District Judge upon return of an indictment by the grand jury.

(c) Assignment of Misdemeanor Cases. All misdemeanor cases filed by indictment, complaint, or information must be assigned to a Magistrate Judge who will proceed in accordance with 18 U.S.C. § 3401 and Rule 58 of the Federal Rules of Criminal Procedure. Class A misdemeanor cases filed by indictment or information must be assigned to a Magistrate Judge by automated random selection, with the exception of cases brought before the Magistrate Judges sitting in Flagstaff and in Yuma, which must be directly assigned such cases. In the Phoenix Division, Class B and C misdemeanors must be assigned to the Magistrate Judge who signed the complaint. In the Tucson Division, misdemeanors initiated by complaint must be assigned to the Magistrate Judge who signed the complaint but may be heard by any Magistrate Judge designated to try misdemeanors. Any Magistrate Judge may act in the absence or unavailability of the assigned Magistrate Judge. In the case of a Class A misdemeanor, if the defendant does not waive trial, judgment, and sentencing before a District Judge of the District Court and does not consent to those proceedings before the Magistrate Judge, the case will be promptly referred to the Clerk of Court for assignment to a District Judge and the defendant will be directed to appear before the assigned District Judge.

(d) Temporary Reassignment of Cases. With regard to temporary reassignment of cases above, see Rule 3.8(g) of the Local Rules of Civil Procedure.

(e) Cases Refiled After Dismissal. With regard to cases refiled after dismissal, see Rule 3.8(a)(2) of the Local Rules of Civil Procedure.

(f) Voluntary Judicial Reassignment of Cases. With regard to voluntary judicial reassignment of cases, see Rule 42.1(e) of the Local Rules of Civil Procedure.

(g) Assignment of Judge to Changes of Plea Hearings. All changes of plea are automatically referred to an available United States Magistrate Judge who shall, provided that the defendant and government consent in writing, thereafter conduct plea proceedings and make findings and recommendations pursuant to Rule 11, Federal Rules of Criminal Procedure.

LRCrim 5.2

RELATED CASES; CONSOLIDATION; SERVICE; ASSIGNMENT

With regard to transfer of related cases assigned to different Judges to a single judge, consolidation, service, and assignment, see Rule 42.1, Local Rules of Civil Procedure.

F.R.Crim.P. 5.1. Preliminary Hearing

(NO LOCAL RULE)

Title III. The Grand Jury, the Indictment, and the Information

F.R.Crim.P. 6. The Grand Jury

(NO LOCAL RULE)

F.R.Crim.P. 7. The Indictment and the Information

(NO LOCAL RULE)

F.R.Crim.P. 8. Joinder of Offenses or Defendants

(NO LOCAL RULE)

F.R.Crim.P. 9. Arrest Warrant or Summons on an Indictment or Information

LRCrim 9.1

ARREST ON INDICTMENT, ORDER OF COURSE

On the filing of an indictment found by the Grand Jury against a person not in custody or on bail, an order shall be entered for an arrest warrant, a bench warrant, or summons to be issued under the seal of the Court.

Title IV. Arraignment and Preparation for Trial

F.R.Crim.P. 10. Arraignment

LRCrim 10.1

COPIES OF INDICTMENTS AND INFORMATIONS

At the time of the preparation of each indictment or information, the United States Attorney shall prepare sufficient copies and deliver them to the Clerk with the original so that a copy may be delivered to each defendant as required by Rule 10 of the Federal Rules of Criminal Procedure.

LRCrim 10.2

STATED TRUE NAME TO BE GIVEN

When the defendant receives an initial appearance or is arraigned, the defendant shall be informed that if the name by which he or she is charged is not his or her true name, the defendant must then declare his or her true name or be proceeded against by the name in the charge.

F.R.Crim.P. 11. Pleas

(NO LOCAL RULE)

F.R.Crim.P. 12. Pleadings and Pretrial Motions

LRCrim 12.1

MOTIONS, MEMORANDA AND OBJECTIONS

(a) Forms of Papers and Motions. With regard to Forms of Papers and Motions and Memoranda, see Rules 7.1 and 7.2 of the Local Rules of Civil Procedure.

(b) Motions/Stipulations for Extensions of Time. With regard to Motions/Stipulations for Extensions of Time, see Rule 7.3 of the Local Rules of Civil Procedure.

(c) Objections to a Magistrate Judge's Report and Recommendation. With regard to objections to a Report and Recommendation issued by a Magistrate Judge, see Rule 7.2(e)(3) of the Local Rules of Civil Procedure.

LRCrim 12.2

EXCLUDABLE TIME AND MOTIONS - SPEEDY TRIAL ACT

(a) Content of Motions. Any motion submitted for filing in a criminal case, other than in a petty offense case, must contain a statement as follows:

"Excludable delay under 18 U.S.C. s 3161(h)____ will occur as a result of this motion or of an order based thereon." (In the blank space provided, the counsel will insert the specific subparagraph involved, e.g., (1)(A), competency examination of defendant; (3)(A), absence or unavailability of defendant or essential witness.)

(b) Content of Orders. Except in a petty offense case, any proposed or signed written order must contain the following final paragraph or statement:

"The Court finds excludable delay under 18 U.S.C. § 3161(h)____ from ____ to ____ ."

(c) Content of Minute Entries. All minute orders relating to disposition of criminal motions ruled upon in open court, other than in a petty offense case, shall contain a statement comparable to that outlined in (b) above.

(d) Waiver of Statement. In any case, or in the case of a defendant proceeding pro per, the Court may, in the interest of justice, waive the necessity of a statement of excludable time.

(e) Motions for Joinder of Motions. Any motion for joinder must specifically identify the motions to be joined, and motions for joinder of motions to be filed in the future will not be considered.

LRCrim 12.3

MOTIONS/STIPULATIONS TO EXTEND TIME FOR TRIAL

If a defendant is not in custody, any motion or stipulation for an extension of the trial date must include, below the title of the motion or stipulation, the following statement: "Defendant Not In Custody".

F.R.Crim.P. 12.1. Notice of an Alibi Defense

(NO LOCAL RULE)

F.R.Crim.P. 12.2. Notice of an Insanity Defense; Mental Examination

(NO LOCAL RULE)

F.R.Crim.P. 12.3. Notice of a Public-Authority Defense

(NO LOCAL RULE)

F.R.Crim.P. 12.4. Disclosure Statement

LRCrim 12.4.1

CORPORATE DISCLOSURE STATEMENT

With regard to the disclosure statement required by Rule 12.4(a)(1) and (2) of the Federal Rules of Criminal Procedure, see Rule 7.1.1., Local Rules of Civil Procedure.

F.R.Crim.P. 13. Joint Trial of Separate Cases

(NO LOCAL RULE)

F.R.Crim.P. 14. Relief from Prejudicial Joinder

(NO LOCAL RULE)

F.R.Crim.P. 15. Depositions

(NO LOCAL RULE)

F.R.Crim.P. 16. Discovery and Inspection

LRCrim 16.1

CONFESSIONS AND ADMISSIONS

(a) Written Notice of Statements to be Used. Consistent with Rule 16(a)(1) of the Federal Rules of Criminal Procedure, unless otherwise ordered, the United States Attorney shall give written notice to the Defendant through his or her attorney of any and all written or oral confessions, admissions, or statements of the Defendant which the government intends to use during the course of the trial.

(b) Objections to Above. The Defendant's attorney shall, unless otherwise ordered, file with the Clerk and notify the United States Attorney of the objections, if any, which Defendant may have to such confessions, admissions, or statements. Upon request of the Defendant's attorney, the Court shall fix a time and place for hearing such objections and determining the admissibility of the alleged confessions, admissions, or statements. However, no evidentiary hearing or oral argument need be set or held unless the Defendant’s moving papers allege facts sufficient to enable the Court to conclude that contested issues of fact or law exist.

LRCrim 16.2

COMPLEX CASES

(a) Declaration of Complex Case. On motion of any party or at the Court's own initiative, the Court may treat the case as unusual or complex within the meaning of 18 U.S.C. § 3161(h)(7)(B)(ii). If the Court determines the case to be complex, a status conference will be held within twenty-one days to determine a schedule for discovery, motions and any other pretrial case management issues.

(b) Duty to Confer. Before any status conference in a complex case to discuss discovery and disclosure issues, counsel shall confer in good faith to determine what discovery issues can be resolved by agreement. If the parties cannot agree on the scope, manner, or time of discovery, counsel for the parties shall file a joint report setting forth the issues agreed upon and those in dispute.

F.R.Crim.P. 17. Subpoena

(NO LOCAL RULE)

F.R.Crim.P. 17.1. Pretrial Conference

(NO LOCAL RULE)

Title V. Venue

F.R.Crim.P. 18. Place of Prosecution and Trial

LRCrim 18.1

LOCATIONS

With regard to locations of court, schedule of hearings, and place of trial, see Rule 77.1, Local Rules of Civil Procedure and Rule 57.6, Local Rules of Criminal Procedure.

F.R.Crim.P. 19. (Reserved)

(NO LOCAL RULE)

F.R.Crim.P. 20. Transfer for Plea and Sentence

LRCrim 20.1

CONSENT OF DEFENDANT

With regard to referral of misdemeanor charges to a Magistrate Judge, see Rule 57.6(c), Local Rules of Criminal Procedure.

F.R.Crim.P. 21. Transfer for Trial

(NO LOCAL RULE)

F.R.Crim.P. 22. (Transferred)

(NO LOCAL RULE)

Title VI. Trial

F.R.Crim.P. 23. Jury or Nonjury Trial

LRCrim 23.1

PROCEDURE AT TRIALS

With regard to procedure at trials, see Rule 39.1, Local Rules of Civil Procedure.

F.R.Crim.P. 24. Trial Jurors

LRCrim 24.1

CRIMINAL JURIES

In criminal cases, peremptory challenges by the government and the defense shall be exercised simultaneously unless otherwise directed by the Court. In all other respects the procedures for the selection of trial jurors shall be as set forth in Rule 24, Federal Rules of Criminal Procedure.

LRCrim 24.2

COMMUNICATIONS WITH TRIAL JURORS

With regard to communications with trial jurors, see Rule 39.2, Local Rules of Civil Procedure.

F.R.Crim.P. 25. Judge's Disability

(NO LOCAL RULE)

F.R.Crim.P. 26. Taking Testimony

(NO LOCAL RULE)

F.R.Crim.P. 26.1. Foreign Law Determination

(NO LOCAL RULE)

F.R.Crim.P. 26.2. Producing a Witness's Statement

(NO LOCAL RULE)

F.R.Crim.P. 26.3. Mistrial

(NO LOCAL RULE)

F.R.Crim.P. 27. Proving an Official Record

(NO LOCAL RULE)

F.R.Crim.P. 28. Interpreters

(NO LOCAL RULE)

F.R.Crim.P. 29. Motion for a Judgment of Acquittal

(NO LOCAL RULE)

F.R.Crim.P. 29.1. Closing Argument

(NO LOCAL RULE)

F.R.Crim.P. 30. Jury Instructions

LRCrim 30.1

JURY INSTRUCTIONS

The provisions and requirements of Rule 51.1, Local Rules of Civil Procedure, are applicable to and will be followed in all criminal jury trials except that Local Rules of Civil Procedure, Rule 51.1(e) objections must follow Rule 30, Federal Rules of Criminal Procedure.

F.R.Crim.P. 31. Jury Verdict

(NO LOCAL RULE)

Title VII. Post-Conviction Procedures

F.R.Crim.P. 32. Sentencing and Judgment

LRCrim 32.1

SENTENCING - PRESENTENCE INVESTIGATIONS

(a) Presentence Investigation. Upon conviction by trial or plea, a court shall order that defendant not leave the District of Arizona without prior authorization until he or she has been interviewed by a Probation Officer.

(b) Appeals. In all cases where a defendant has been sentenced to a period of probation, and files a notice of appeal, the period of probation and supervision shall begin on the date of judgment, notwithstanding the pendency of the appeal.

(c) Petition for Disclosure of Presentence or Probation Records. No confidential records of this Court maintained by the Probation Office, including presentence and probation supervision records, shall be sought by any applicant except pursuant to the provisions under General Order 05-12, Testimony of Judiciary Personnel and Production of Judiciary Records in Legal Proceedings.

(d) Preparation and Use of Presentence Reports.

(1) Plea agreements, whether a public record or sealed by order of the Court, shall be made available to the Probation Office for the District of Arizona, for the limited use of the Probation Officer preparing the presentence report and exercising probation supervision.

(2) Unless the Court directs otherwise, the Probation Officer shall disclose the sentencing recommendation as part of the initial and final presentence reports. The Probation Office shall disclose the initial and final presentence reports to the defendant's attorney or to the defendant, if pro per, and to the United States Attorney. The defendant's attorney may provide a copy to the defendant.

(3) The Probation Office, after sentencing, will retain the original copy of the presentence report on behalf of the Clerk of the Court. When a request is made to the Clerk's Office to view a copy of the presentence report, the request shall be referred to the Probation Office. If appropriate, the Probation Office shall prepare for the

requestor a copy of the presentence report exclusive of the Rule 32(d)(3), Fed.R.Crim.P., information.

(4) Nothing in this Local Rule shall prohibit the Probation Office from disclosing the presentence report to an Arizona Superior Court Probation Office if that office agrees in writing, on a form approved by the Chief Judge of this Court, to maintain confidentiality of matters so specified by this Court.

F.R.Crim.P. 32.1. Revoking or Modifying Probation or Supervised Release

(NO LOCAL RULE)

F.R.Crim.P. 32.2. Criminal Forfeiture

LRCrim 32.2.1

NOTICE OF ARREST

(a) Notice of Arrest of Probation and Parolee Violators. As soon as practicable after taking into custody any person charged with a violation of probation or parole, the Marshal shall give written notice to the Clerk of the Court and the Probation Officer of the date and fact of such arrest, and the place of confinement of such alleged violator, and shall mail two (2) copies of such notice to the United States Attorney, who shall in turn mail a copy to any attorney who may appear of record for such alleged violator.

(b) Notice of Arrest by Federal Agencies and Others. It shall be the duty of the Marshal to require all federal agencies and others who arrest any person as a federal prisoner in this district and all jailers who incarcerate any such person in any jail or place of confinement in this district, to give the Marshal notice of such arrest or incarceration forthwith.

As soon as practicable after receiving notice or other knowledge of any such arrest or incarceration anywhere within the district, the Marshal shall notify Pretrial Services and shall give written notice to the Clerk of the Court and to the United States Attorney of the date and fact of such arrest and the place of confinement of such federal prisoner.

F.R.Crim.P. 33. New Trial

(NO LOCAL RULE)

F.R.Crim.P. 34. Arresting Judgment

(NO LOCAL RULE)

F.R.Crim.P. 35. Correcting or Reducing a Sentence

(NO LOCAL RULE)

F.R.Crim.P. 36. Clerical Error

(NO LOCAL RULE)

F.R.Crim.P. 37. (Reserved)

(NO LOCAL RULE)

F.R.Crim.P. 38. Staying a Sentence or a Disability

(NO LOCAL RULE)

F.R.Crim.P. 39. (Reserved)

(NO LOCAL RULE)

Title VIII. Supplementary and Special Proceedings

F.R.Crim.P. 40. Arrest for Failing to Appear in Another District or for Violating Conditions of Release Set in Another District

(NO LOCAL RULE)

F.R.Crim.P. 41. Search and Seizure

(NO LOCAL RULE)

F.R.Crim.P. 42. Criminal Contempt

(NO LOCAL RULE)

Title IX. General Provisions

F.R.Crim.P. 43. Defendant's Presence

(NO LOCAL RULE)

F.R.Crim.P. 44. Right to and Appointment of Counsel

(NO LOCAL RULE)

F.R.Crim.P. 45. Computing and Extending Time

LRCrim 45.1

MOTIONS/STIPULATIONS FOR EXTENSIONS OF TIME

With regard to motions and stipulations for extension of time, see Rule 7.3, Local Rules of Civil Procedure.

F.R.Crim.P. 46. Release from Custody; Supervising Detention

LRCrim 46.1

BAIL

(a) Bonds Taken by Magistrate Judges. Unless otherwise ordered by the Court, all bonds in criminal cases for appearance before this Court shall be taken by Magistrate Judges and must be immediately forwarded to the Clerk's office by the Magistrate Judge taking such bond and must have endorsed thereon his or her approval. Bond monies will be deposited into the registry of the Court as provided by LRCiv 67.1.

(b) Continuing Bonds. All bonds must be continuing bonds, obligating the defendant to appear before the Court for judgment and sentence upon conviction.

(c) Release on Bond. Each defendant applying for release upon his or her own recognizance or for such other release as provided for by the terms of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.) shall support his or her request as provided in 18 U.S.C. § 3142 (f). When a release is obtained under the terms of the Bail Reform Act of 1984, such release shall be effective only upon the execution of an order and in accordance with its terms and upon forms supplied by the Clerk and signed by the defendant and the Magistrate Judge or the Judge granting the release.

(d) Release on Bond Pending Appeal or Self-Surrender. When a defendant is released on bond pending appeal or self-surrender, the defendant will be ordered to report to the Pretrial Services Office, and, unless otherwise directed, shall comply with such reasonable rules and regulations as the Pretrial Officer shall prescribe during pendency of the appeal or while awaiting the self-surrender date, subject to modification by the LRCiv 46Court for cause shown.

(e) Justification of Sureties. In all cases in which individuals are sureties they must justify before the officer taking the bond, and their justification must be endorsed thereon.

LRCrim 46.2

CASH BOND AND FORFEITURE OF BOND

(a) Exoneration of Bail. If the defendant has given bail, he or she may at any time before the forfeiture of the recognizance, in like manner, deposit the sum mentioned in such recognizance, in compliance with Rule 46(d), Federal Rules of Criminal Procedure, and, upon the deposit of that sum, the bail shall be exonerated.

(b) Application to Fine and Costs. When money, government notes, or bonds have been deposited by the defendant, then, if it remains on deposit at the time of a judgment for the payment of a fine or fine and costs, the Clerk shall, under the direction of the Court, apply the money, notes, or bonds in satisfaction thereof, and, after satisfying the fine and costs, shall refund the surplus, if any, to the defendant.

(c) Forfeiture of Bonds. Forfeitures of bonds shall be declared by this Court in conformity with Rule 46(f), Federal Rules of Criminal Procedure. If, at any time after such forfeiture is declared by this Court, the defendant appears and satisfactorily excuses his or her neglect, the Court may direct the forfeiture to be discharged where justice so requires.

LRCrim 46.3

BOND REQUIRED

All Magistrate Judges, when holding persons or corporations charged with a crime and ordered to appear before this Court, shall require such persons or corporations to give bond or recognizance for their appearance in the division of the Court in which the case arose, in accordance with the orders and directions of the Court, or commit them to the custody of the United States Marshal. The Marshal shall confine the prisoners in such jail available for detention of federal prisoners as is situated most conveniently to the division in which the case arose.

F.R.Crim.P. 47. Motions and Supporting Affidavits

LRCrim 47.1

FORMS OF PAPERS AND MOTIONS

With regard to Forms of Papers and Motions, see Rules 7.1 and 7.2 of the Local Rules of Civil Procedure.

F.R.Crim.P. 48. Dismissal

LRCrim 48.1

DISMISSAL FOR WANT OF PROSECUTION

Cases which have had no proceedings for six (6) or more months may be dismissed by the Court for want of prosecution. Notice shall be given to the parties that such action is contemplated, and a status hearing shall be scheduled where the parties may show good cause why such action should not be taken.

F.R.Crim.P. 49. Serving and Filing Papers

LRCrim 49.1

PLACES FOR FILING

With regard to places of filing, including petitions for writs of habeas corpus by a person in State custody under 22 U.S.C. § 2254, see Rule 5.1, Local Rules of Civil Procedure.

LRCrim 49.2

FILING; COPY FOR JUDGE

With regard to presenting copies of pleadings and documents filed with the Clerk, see Rule 5.4, Local Rules of Civil Procedure.

LRCrim 49.3

ELECTRONIC FILING AND SERVICE

With regard to electronic filing and service, see Rule 5.5 of the Local Rules of Civil Procedure.

LRCrim 49.4

SEALING OF COURT RECORDS IN NON-SEALED CRIMINAL CASES

(a) Order Required. No document may be filed under seal in non-sealed criminal cases except pursuant to an order by the Court as set forth in subpart (b) of this Rule and except for a response or reply to a criminal sealed motion or memorandum. For the purposes of this Rule, the term "document" means any filing, including a motion, memorandum, notice, exhibit, record, or other item to be filed under seal with the Court. The motion seeking leave to file a proposed document under seal, however, will automatically be filed under seal without need for a Court order.

(b) Procedure for Obtaining an Order to File a Document Under Seal. Any motion or stipulation seeking leave to file a document under seal must set forth a clear statement of the facts and legal authority justifying the filing of the document under seal and must append (as a separate attachment) a proposed order granting the motion. Any motion seeking leave to file a document under seal or requesting the entire case be sealed, will automatically be filed under seal in criminal cases. The document or documents that are subject of any such motion or stipulation must not be appended to the motion or stipulation, and must be lodged with the Court separately consistent with subpart (c)of this Rule.

(c) Lodging of Documents to Be Filed Under Seal.

(1) Lodging in Electronic Form. Generally, a document to be filed under seal must be lodged with the Court in electronic form. The Electronic Case Filing Administrative Policies and Procedures Manual ("the Administrative Manual") sets for the circumstances in which such documents must be lodged electronically and the instructions for doing so.

(2) Exceptions: Lodging in Paper Form. A party or counsel who has been exempted from the requirements to file papers electronically must lodge a document to be submitted under seal with the Court in paper form, with a cover sheet prominently displaying the notation "DOCUMENT SUBMITTED UNDER SEAL" and clearly identifying:

(A) the document and the underlying motion to which it pertains;

(B) the number of pages submitted for lodging;

(C) the motion or stipulation seeking to have the document filed under seal; and

(D) the case number and title of the case in which the document is to be filed.

(d) Denial of Request to File a Document Under Seal. If a request to file under seal is denied in part or in full, the lodged document will not be filed. If the request is denied in full, the submitting party may, within five (5) days of the entry of the order denying the request, resubmit the document for filing in the public record. If the request is denied in part and granted in part, the party may re-submit the document in a manner that conforms to the Court's order and this Rule.

(e) Effect of Sealing. If the Court orders the sealing of any document, the Clerk shall file the order to seal and secure the sealed document from public access.

LRCrim 49.5

FILING OF COURT RECORDS IN SEALED CRIMINAL CASES

Every document filed under seal in sealed criminal cases must be submitted to the court in paper form with a cover sheet prominently displaying the notation "DOCUMENT SUBMITTED UNDER SEAL" and clearly identifying the document, the number of pages submitted, and the case number and title of the case in which the document is to be filed. For juvenile case filings, refer to the Court's Administrative Policies and Procedures Manual.

F.R.Crim.P. 49.1. Privacy Protection for Filings Made with the Court

(NO LOCAL RULE)

F.R.Crim.P. 50. Prompt Disposition

(NO LOCAL RULE)

F.R.Crim.P. 51. Preserving Claimed Error

(NO LOCAL RULE)

F.R.Crim.P. 52. Harmless and Plain Error

(NO LOCAL RULE)

F.R.Crim.P. 53. Courtroom Photographing and Broadcasting Prohibited

LRCrim 53.1

CONDUCT IN COURTROOM AND ENVIRONS

With regard to conduct in the courtroom and environs, see Rule 43.1, Local Rules of Civil Procedure.

F.R.Crim.P. 54. (Transferred)

(NO LOCAL RULE)

F.R.Crim.P. 55. Records

(NO LOCAL RULE)

F.R.Crim.P. 56. When Court Is Open

LRCrim 56.1

HOURS OF CLERK'S OFFICES

With regard to hours of Clerk's offices, see Rule 77.1(d) of the Local Rules of Civil Procedure.

F.R.Crim.P. 57. District Court Rules

LRCrim 57.1

PRETRIAL SERVICES

Pursuant to the Pretrial Services Act of 1982 (18 U.S.C. § 3152-3155), the Court establishes an independent Pretrial Services Office for the District of Arizona.

Upon notification that a defendant has been arrested, pretrial service officers will conduct a prerelease interview as soon as practicable. The judicial officer setting bail or reviewing a bail determination shall receive and consider all reports submitted by pretrial service officers.

A copy of the pretrial service report shall be provided to and may be retained by the attorneys for the accused and the Government, and shall be used only for the purpose of fixing conditions of release, including bail determinations. In addition, all supplemental reports prepared prior to the defendant's initial release will be provided to and may be retained by counsel. When a copy is provided, it will have a header on the first page advising the attorneys that (a) the report is not to be copied, (b) the report is not a public record, and (c) that the content may not be disclosed to unauthorized individuals. Otherwise, the reports shall remain confidential, as provided in 18 U.S.C. § 3153, subject to the expectations provided therein.

Pretrial service officers shall supervise persons released on bail at the discretion of the judicial officer granting the release or modifications of the release.

LRCrim 57.2

FREE PRESS - FAIR TRIAL DIRECTIVES

These guidelines are proposed as a means of balancing the public's right to be informed with the accused's right to a fair trial before an impartial jury. While it is the right of a free press to report what occurs in a public proceeding, it is also the responsibility of the bench to take appropriate measures to insure that the deliberations of the jury are based upon what is presented to it in Court. It is the duty of the lawyer or law firm not to release or authorize the release of information or opinion which a reasonable person would expect to be disseminated by any means of public communication in connection with pending or imminent criminal litigation with which a lawyer or a law firm is associated, there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

(a) Prior to Arrest. With respect to a Grand Jury (consistent with the provisions of Rule 6, Federal Rules of Criminal Procedure) or other pending investigation of any criminal matter, a lawyer participating in or associated with the investigation shall refrain from making any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication that goes beyond the public record or that is not necessarily to inform the public that the investigation is under way, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

(b) From Time of Arrest. From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer or law firm associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement which a reasonable person would expect to be disseminated by any means of public communication relating to that matter and concerning:

(1) The prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer or law firm may in their discretion make a factual statement of the accused's name, age,

residence, occupation, and family status, and, if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his or her apprehension or to warn the public or any dangers he or she may present;

(2) The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(3) The performance of any examinations or tests, or the accused's refusal or failure to submit to an examination or test;

(4) The identity, testimony, or credibility of prospective witnesses, except that the lawyer or law firm may announce the identity of the victim, if the announcement is not otherwise prohibited by law;

(5) The possibility of a plea of guilty to the offense charged or a lesser offense; or

(6) Any opinion as to the accused's guilt or innocence, or as to the merits of the case or the evidence in the case.

The foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of any official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement at the time of the seizure of any physical evidence other than a confession, admission, or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the Court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him or her.

(c) During the Trial. During the jury trial of any criminal matter, including the period of selection of the jury, no lawyer or law firm associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the

trial or the parties or issues in the trial which a reasonable person would expect to be disseminated by means of public communication if there is a reasonable likelihood that such dissemination will interfere with a fair trial, except that the lawyer or law firm may quote or refer without comment to public records of the Court in the case.

(d) Other Information. Nothing in this Local Rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies or to preclude any lawyer from replying to charges of misconduct that are publicly made against him or her.

(e) Disclosure by Others. All Court personnel, including, among others, Marshals, Deputy Marshals, Court Clerks, Bailiffs, Court Reporters, and employees or subcontractors retained by a Court-appointed official reporter, are prohibited from disclosing to any person without authorization by the Court, information relating to a pending Grand Jury or criminal case that is not part of the public records of the Court. The divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public is also forbidden.

(f) Duty of Court in Special Cases. In a widely publicized or sensational criminal case, the Court on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses likely to interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such order. Such a special order might be addressed to some or all of the following subjects:

(1) A proscription of extrajudicial statements by participants in the trial (including lawyers, parties, witnesses, jurors, and court officials) which might divulge prejudicial matters not of public record in the case.

(2) Specific directives regarding the clearing of entrances to and hallways in the courthouse and respecting the management of the jury and witnesses during the course of the trial, to avoid their mingling with or being in the proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom or courthouse and during recesses in the trial.

(3) A specific direction that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone during the trial and from communicating with others in any matter during their deliberations.

(4) Sequestration of the jury on motion of either party or by the Court, without disclosure of the identity of the movant.

(5) Direction that the names and addresses of jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the Court.

(6) Insulation of witnesses during the trial.

(7) Specific provisions regarding the seating of spectators and representatives of news media, including:

(A) an order that no member of the public or news media representative be at any time permitted within the bar railing;

(B) the allocation of seats to news media representatives in cases where there are an excess of requests, taking into account any pooling arrangement that may have been agreed to among the news reporters.

The Court may also consider making more extensive use of techniques to insure an impartial jury, to include use of change of venue, sequestration of jurors, sequestration of witnesses, individual voir dire of prospective jurors, cautionary instructions to the jury, the sealing of pretrial motion papers and pleadings, and the holding of sidebar conferences between the Judge and the attorneys during trial in order to rule upon legal and evidentiary issues without being overheard by the jury.

(g) Closure of Pretrial Proceedings. Unless otherwise provided by law, all preliminary criminal proceedings, including preliminary examinations and hearings on pretrial motions, shall be held in open court and shall be available for attendance and observation by the public; provided that, upon motion made or agreed to by the defense, the Court, in the exercise of its discretion, may order a pretrial proceeding be closed to the public in whole or in part on the grounds:

(1) that there is a reasonable likelihood that the dissemination of information disclosed at such proceeding would impair the Defendant's right to a fair trial; and

(2) that reasonable alternatives to closure will not adequately protect defendant's right to a fair trial.

If the Court so orders, it shall state for the record its specific findings concerning the need for closure.

(h) No Direct Restraints on Media. No rule of Court or judicial order should be promulgated by a United States District Court which would prohibit representatives of the news media from broadcasting or publishing any information in their possession relating to a criminal case.

LRCrim 57.3

ATTORNEY OF RECORD; CRIMINAL CASES

No attorney, unless specially appointed by the Court, shall be considered by the Court as the attorney of record for a defendant in a criminal case until after that attorney shall have filed with the Clerk a written appearance, giving the name and address of both the attorney and the client. A copy of the written appearance shall be served upon the United States Attorney.

LRCrim 57.4

HABEAS CORPUS, OTHER POST CONVICTION PETITIONS, AND PRISONER AND CERTAIN OTHER CIVIL RIGHTS COMPLAINTS

With regard to habeas corpus, other post conviction petitions, and prisoner and certain other civil rights complaints, see Rule 72.1(b), Local Rules of Civil Procedure.

LRCrim 57.5

WRITS OF HABEAS CORPUS AND MOTIONS PURSUANT TO 28 U.S.C. § 2255

With regard to filing requirements, *in forma pauperis* certification, and assignment of judicial officer, see Rules 3.5 and 5.1, Local Rules of Civil Procedure.

LRCrim 57.6

UNITED STATES MAGISTRATE JUDGES

(a) Duties Prescribed. All Magistrate Judges in the District of Arizona shall perform the duties prescribed by 28 U.S.C. § 636. The only limitations on the duties and responsibilities delegated to and performed by a part-time Magistrate Judge are those limitations specifically set forth in 28 U.S.C. § 636 or other applicable statute or General Order.

(b) Duty Stations. The Magistrate Judges maintaining official stations at Grand Canyon National Park, Phoenix, Yuma, Flagstaff, Page, Kingman, and Tucson, are each specifically designated pursuant to 18 U.S.C. § 3401 to try persons accused of, and sentence persons convicted of misdemeanors. Any Magistrate Judge may accept a forfeiture of collateral or may enter judgment in a misdemeanor case based on a plea of guilty or *nolo contendere*. A Magistrate Judge trying a defendant charged with a misdemeanor shall do so in the manner prescribed by Rule 58 of the Federal Rules of Criminal Procedure.

(c) Consent of Defendant. Upon the transfer, under Rule 20 of the Federal Rules of Criminal Procedure, of any information, complaint, or indictment charging a misdemeanor, the case shall be referred without unnecessary delay to a Magistrate Judge who may take a plea and impose sentence in the manner prescribed by Rule 58 of the Federal Rules of Criminal Procedure.

(d) Other Duties. Subject to the Constitution and laws of the United States, the full-time Magistrate Judges in the District of Arizona shall perform the following duties:

(1) Assist the District Judges in the conduct of pretrial discovery proceedings in criminal actions. A Magistrate Judge may hear and determine a procedural or discovery motion or other pretrial matter in a criminal case other than the motions which are specified in 28 U.S.C. § 636(b)(1)(A). As to such specified motions so assigned, a Magistrate Judge shall, upon designation by a District Judge, submit to that

District Judge a report containing proposed findings of fact and recommendations for disposition by the District Judge.

(2) Conduct voir dire examinations and select juries in criminal cases by express consent of all parties.

(3) Conduct all detention hearings, including juvenile hearings pursuant to 18 U.S.C. § 5034, and hearings to amend, modify or revoke conditions of release under the Bail Reform Act of 1984, as amended. All Magistrate Judges are specifically authorized to conduct detention hearings on alleged probation and supervised release violations unless the assigned District Judge directs otherwise.

(4) Review and submit recommendations to a District Judge on all petitions for revocation of probation and supervised release and conduct necessary proceedings leading to the potential revocation of probation and supervised release and, upon the express consent of the parties and order of referral from a District Judge, take all admissions to violations of probation or supervised release conditions.

(5 Conduct arraignments, accept not guilty pleas, and set deadlines for filing of motions and responses thereto in criminal cases.

(6) Receive the return of indictments by the Grand Jury and issue bench warrants when necessary for defendants named in the indictments.

(7) Dismiss indictments on motion of the United States Attorney and with the consent of the defendants.

(8) Enter orders for examination to determine mental competency; hold hearings and conduct examinations to determine mental competency; and enter orders determining mental competency except any motion to involuntarily medicate a defendant in an effort to restore competency.

(9) Conduct preliminary proceedings incident to transfer of cases pursuant to Rule 20, Federal Rules of Criminal Procedure.

(10) Issue subpoenas and writs of habeas corpus ad prosequendum and writs of habeas corpus ad testificandum or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings.

(11) Enter orders forfeiting bail where a defendant breaches his or her bail conditions in petty offense cases or Class A misdemeanor cases wherein all parties have consented to a Magistrate Judge pursuant to Rule 58 of the Federal Rules of Criminal Procedure.

(12) Hear and adjudge objections to notice of the Government's intention to destroy all but samples of controlled substance seizures and any hazardous chemical substance. Such determinations may include ex parte consideration by the Magistrate Judge if exigent circumstances reasonably require such.

(13) Issue orders upon appropriate application for disclosure of Grand Jury information pursuant to Rule 6(e)(3)(E) of the Federal Rules of Criminal Procedure.

(14) Make determinations of indigency based upon a signed and completed financial affidavit or upon oath or affirmation of a defendant pursuant to 18 U.S.C. § 3006A(b).

(15) Conduct extradition proceedings in accordance with 18 U.S.C. § 3184 and 18 U.S.C. § 4108 regarding fugitives or offenders from a foreign country to the United States.

(16) Direct the probation service of the Court to conduct a presentence investigation in any misdemeanor case or felony case referred to the Magistrate Judge for taking of a guilty plea.

(17) Conduct a jury trial in a Class A Misdemeanor case upon the express written consent of all the parties and any petty offense case where the parties request a jury trial and are entitled to trial by jury under the Constitution and laws of the United States.

(18) In cases assigned to the Magistrate Judge, make determinations and enter appropriate orders pursuant to the Speedy Trial Act, unless otherwise indicated by the Act.

(19) Conduct pretrial conferences, settlement conferences, and related pretrial proceedings in criminal cases upon the referral of a District Judge.

(20) Accept waivers of indictment pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure.

(21) Accept petit jury verdicts in criminal cases with consent of the parties and upon the referral of a District Judge.

(22) Perform the functions specified in 18 U.S.C. § 4107 and § 4109 regarding the transfer of an offender from the United States to a foreign country, conduct recorded proceedings for verification of the offender's voluntary consent to transfer from the United States and appoint counsel therein pursuant to 18 U.S.C. § 3006A.

(23) Issue orders authorizing the installation and use of a pen register or a trap and trace device pursuant to 18 U.S.C. §§ 3122-23, and related orders directing the furnishing of information, facilities and technical assistance necessary to accomplish the installation of the pen register or trap and trace device as well as orders and search warrants pursuant to 18 U.S.C. § 2701 through 2710 for subscriber or customer information and for contents of electronic communications, as provided by law.

(24) Issue orders and search warrants authorizing civil administrative and other examinations, inspections, searches, and seizures as permitted by law.

(25) Conduct felony guilty plea proceedings pursuant to Rule 11, Federal Rules of Criminal Procedure upon referral of such proceedings by a District Judge with the consent of the parties, or upon the filing of an information prior to assignment of a District Judge after waiver of indictment in open court before a Magistrate Judge in compliance with Rule 7(b), Federal Rules of Criminal Procedure, with the express written consent of the parties. The Magistrate Judge shall make findings with respect to the voluntariness of the plea and the defendant's understanding of other matters as required by Rule 11(b), Federal Rules of Criminal Procedure, the presence of a factual basis for the plea, and shall make a recommendation whether the guilty plea should be accepted by the District Judge.

(26) Perform such additional duties as are not inconsistent with the Constitution and laws of the United States as may be assigned by the Court pursuant to 28 U.S.C. § 636(b).

(e) Waiver of Appearance. A person who is charged with a misdemeanor, as defined in 18 U.S.C. 3559(a)(6)-(9), may, in lieu of appearance, post collateral in the amount indicated by the offense, waive appearance before a Magistrate Judge, and consent to forfeiture of collateral to the United States.

(f) Amount of Collateral Set. A Schedule of Collateral for all violations signed by this Court shall be maintained in the office of the Clerk of the Court in Phoenix and Tucson, and the office of each Magistrate Judge. The Schedule shall be available for examination by the public upon request. Schedules may be amended from time to time by order of the Court. The Magistrate Judge may increase or decrease the amount of collateral, but if increased, the collateral may not exceed the maximum fine which could be imposed upon conviction.

(g) Violation of Release. Nothing contained in paragraph (e), of this Local Rule, shall prohibit a law enforcement officer from arresting any person for the commission of any offense, including any offense for which collateral may be posted and forfeited. Upon such arrest, a law enforcement officer shall take without unnecessary delay the arrested person before a Magistrate Judge, or require the person charged to make a mandatory appearance before a Magistrate Judge. In the event a Magistrate Judge is not readily available, an arrested person may post bail in the amount set for the offense in the Schedule of Collateral or if no amount is set then five hundred dollars ($500.00), unless the person is taken without unnecessary delay before a state or local judicial officer authorized by the 18 U.S.C. 3041, who may then set bail and/or other conditions of release, if appropriate, pursuant 18 U.S.C. 3142.

LRCrim 57.7

COURT CALENDAR MANAGEMENT

With regard to court calendar management, see Rule 1.1, Local Rules of Civil Procedure.

LRCrim 57.8

DOCKETING

With regard to docketing, see Rule 3.2, Local Rules of Civil Procedure.

LRCrim 57.9

CONDUCT IN COURTROOM AND ENVIRONS

With regard to conduct in the courtroom and its environs, see Rule 43.1, Local Rules of Civil Procedure.

LRCrim 57.10

LOCATIONS

With regard to locations of courts, see Rule 77.1, Local Rules of Civil Procedure.

LRCrim 57.11

CUSTODY AND DISPOSITION OF EXHIBITS AND SEALED DOCUMENTS

With regard to custody and disposition of exhibits and sealed documents, see Rule 79.1, Local Rules of Civil Procedure.

LRCrim 57.12

ATTORNEYS

With regard to attorneys, admission to the bar of this Court, practice, association of local counsel, disbarment or suspension, sanctions for noncompliance with rules or failure to appear, see Rule 83.1, Local Rules of Civil Procedure.

LRCrim 57.13

ATTORNEY DISCIPLINE

With regard to attorney discipline, see Rule 83.2, Local Rules of Civil Procedure.

LRCrim 57.14

APPEARANCE BY ATTORNEY OR PARTY; NAME AND ADDRESS CHANGE; CONTROL OF CAUSE

With regard to an appearance by an attorney or a party, name and address changes, and control of cause, see Rule 83.3, Local Rules of Civil Procedure.

LRCrim 57.15

STUDENT PRACTICE RULE

With regard to student practice, see Rule 83.4, Local Rules of Civil Procedure.

LRCrim 57.16

PROHIBITION OF BIAS

With regard to prohibition of bias, see Rule 83.5, Local Rules of Civil Procedure.

LRCrim 57.17

SUSPENSION OF RULES

With regard to suspension of these Local Rules, see Rule 83.6, Local Rules of Civil Procedure.

LRCrim 57.18

AMENDMENT OF THE RULES OF PRACTICE

With regard to amendment of the Rules of Practice of the United States District Court for the District of Arizona, see Rule 83.9, Local Rules of Civil Procedure.

F.R.Crim.P. 58. Petty Offenses and Other Misdemeanors

LRCrim 58.1

ASSIGNMENT OF MISDEMEANORS TO MAGISTRATE JUDGES

With regard to the assignment of misdemeanor cases to Magistrate Judges, see Rule 5.1 of the Local Rules of Criminal Procedure.

LRCrim 58.2

APPEAL FROM JUDGMENTS OF MAGISTRATE JUDGES IN MISDEMEANOR CASES (18 U.S.C. § 3402)

(a) Notice of Appeal; Service. A defendant may appeal a judgment of conviction by a Magistrate Judge in a misdemeanor case by filing a notice of appeal with the Clerk of the Court within fourteen (14) days after entry of the judgment, and by serving a copy of the notice upon the United States Attorney. The scope of appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals.

(b) Record on Appeal. The record on appeal to a District Judge shall consist of the original papers and exhibits filed with the Court and the transcript or tape recording of proceedings before the Magistrate Judge, if any.

(c) Opening Memorandum. The appellant shall, within thirty (30) days of the filing of the notice of appeal, file a typewritten memorandum with the Clerk of the Court. The memorandum shall include the following: (1) a statement of the issues presented for review and a statement of the nature of the case; (2) the course of proceedings; and (3) its disposition. There shall follow a statement of the facts relevant to the issues presented for review. The memorandum shall also include any argument which shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefore, with citations to the authorities and statutes relied on. The argument shall be followed by a short conclusion stating the precise relief sought.

(d) Answering Memorandum. The appellee shall file an answering memorandum within twenty-one (21) days of the filing and service of the appellant's memorandum. The memorandum shall follow a format similar to the appellant's memorandum, except that a statement of the issues presented for review, a statement of the case, and a conclusion shall be optional.

(e) Reply Memorandum. The appellant may file a reply memorandum within fourteen (14) days of the date of service of the appellee's memorandum.

(f) Request for Oral Argument. Either party may request oral argument by placing "Oral Argument Requested" immediately below the title of their memorandum. If oral argument is granted, notice shall be given in a manner directed by the Court.

(g) Extension of Time Limits; Dismissal of Appeal. The Court may extend the time limits set in this Local Rule upon a showing of good cause made by the party requesting the extension. Such good cause may include reasonable delay in the preparation of any necessary transcript. If an appellant fails to file a memorandum within the time provided by this Local Rule, or an extension thereof, the Court may dismiss the appeal.

F.R.Crim.P. 59. Matters Before a Magistrate Judge

(NO LOCAL RULE)

F.R.Crim.P. 60. Victim's Rights

(NO LOCAL RULE)

F.R.Crim.P. 61. Title

(NO LOCAL RULE)

LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE[8]

[8] The Local Rules of Bankruptcy Appeal Procedure may be cited as “LRBankr”.

9th Cir. BAP R. 8001(a)-1. Notice of Appeal

LRBankr 8001-1

NOTICE OF APPEAL

Order Being Appealed. The appellant shall attach to the notice of appeal filed in bankruptcy court a copy of the entered judgment, order or decree from which the appeal was taken. If a 28 U.S.C. Sec. 158(c) election to have the appeal heard by the district court is filed by the appellant at the time of filing the notice of appeal, the bankruptcy court clerk shall transmit the appeal to the district court clerk. If such an election is filed by any other party with the clerk of the bankruptcy appellate panel within thirty days after service of the notice of appeal, the clerk of the bankruptcy appellate panel shall transfer the appeal to the district court. If the notice of appeal is filed before entry of the order being appealed, it is the appellant's duty to transmit to the district court clerk a copy of the judgment or order immediately upon entry.

Committee Notes: Generally, the Local Rules of Bankruptcy Appeal Procedure track the content and the numbering of the local rules of the Ninth Circuit Bankruptcy Appellate Panel.

9th Cir. BAP R. 8001(e)-1. Election to Transfer Appeal to District Court

LRBankr 8001-2

ELECTION PROCEDURE FOR MOTION FOR LEAVE TO APPEAL

If the appellant moves for leave to appeal pursuant to FRBP 8003 and fails to file a separate notice of appeal concurrently with filing the motion for leave, the motion for leave will be treated as if it were a notice of appeal for purposes of calculating the time period for filing an election to transfer the appeal to the district court.

9th Cir. BAP R. 8006-1. Transcripts

LRBankr 8006-1

TRANSCRIPTS

Any party submitting excerpts of the record shall include all transcripts necessary for adequate review in light of the standard of review applicable to the issues before the district court. The district court is required to consider only those portions of the transcript included in the excerpts of the record. If findings of fact and conclusions of law were made orally on the record, a transcript of those findings is mandatory.

9th Cir. BAP R. 8007(b)-1. Docketing Appeal and Appellate Record

LRBankr 8007-1

DOCKETING APPEAL AND APPELLATE RECORD

As soon as the statement of issues, designation of record, and any designated transcripts are filed with the bankruptcy court, the bankruptcy court clerk, upon exercise of the 28 U.S.C. Sec. 158(c) election to have the appeal heard by the district court, shall transmit to the district court clerk a certificate that the record is complete and shall notify the parties of that transmittal unless the certificate has been filed with the bankruptcy appellate panel. The date the bankruptcy court clerk transmits the certificate that the record is complete shall constitute the date of entry of the appeal on the docket of the district court. The bankruptcy court clerk shall retain the record. The district court clerk may request a copy of the record from the bankruptcy court clerk.

9th Cir. BAP R. 8008(a)-1. Communications

(NO LOCAL RULE)

9th Cir. BAP R. 8008(a)-3. Fax Filing

(NO LOCAL RULE)

9th Cir. BAP R. 8009(a)-1. Briefs; Number of Copies; Extensions of Time

LRBankr 8009-1

BRIEFS – TIME LIMITS AND NUMBER

(a) Scheduling Order. Upon entry of the appeal on the docket, the district court shall issue a scheduling order regarding submission of briefs. Parties shall file briefs within the time limits set forth in the scheduling order rather than the time limits set forth in FRBP 8009(a)(1), (2), and (3).

(b) Number. Upon the filing of a brief, a party shall also provide one paper copy for use by the District Judge to whom the case is assigned, bound separately from the excerpts of the record. At the direction of the district court, the parties may be required to provide additional copies.

(c) Motion for Extension of Time for Filing Brief.

(1) Requirements. A motion for extension of time to file a brief shall be filed within the time limit prescribed by these rules for the filing of such brief and shall be accompanied by a proof of service. The motion shall be supported by a declaration stating:

1. When the brief was initially due;
2. How many extensions of time, if any, have been granted;
3. Reasons why this extension is necessary;
4. The specific amount of time requested; and
5. The position of the opponent(s) with respect to the motion or why the moving party has been unable to obtain a statement of such position(s).

(2) Consequences. Appellant's failure to file a brief timely may result in the dismissal of the appeal. A brief received after the due date will not be accepted for filing unless it is accompanied by a motion for an extension of time and the motion is granted. The district court has no obligation to consider a late brief. Sanctions may be imposed, such as the waiver of oral argument, monetary sanctions or dismissal.

9th Cir. BAP R. 8009(b)-1. Appendix (Excerpts of the Record)

LRBankr 8009-2

BRIEFS AND EXCERPTS OF THE RECORD

(a) Number and Form. Upon the filing of any excerpts of the record, a party shall also provide one paper copy for use by the District Judge to whom the case is assigned, bound separately from the briefs. The copy shall be reproduced on white paper by any duplicating process capable of producing a clearly legible image and be bound with a white cover. The cover of the excerpts shall contain the caption information specified by LRBankr 8010-1(a).

(b) Organization of Appendix. Documents in the excerpts shall be divided by tabs in the paper copy provided for use by the Judge. The pages of the excerpts shall be continuously paginated. The excerpts shall contain a complete table of contents listing the documents and identifying both the tab and page number where each document is located. If the excerpts have more than one volume, the table of contents shall also identify the volume in which each document is located.

9th Cir. BAP R. 8010(a)-1. Form of Briefs and Certification Requirements

LRBankr 8010-1

BRIEFS – FORM AND CERTIFICATION REQUIREMENTS

(a) Form. Briefs shall comply with the form requirements of LRCiv 7.1 and shall contain the following cover information:

Name of Court;

Case numbers (District Court, Bankruptcy Court, and if applicable, adversary number(s));

Name of debtor;

Names of appellant(s) and appellee(s);

Title of document; and

Name, address, telephone number, email address, and bar number of counsel filing document.

(b) Certification as to Interested Parties. To enable the district judge to evaluate possible disqualification or recusal, all parties, other than governmental parties, shall attach to the inside back cover of their initial briefs, a list of all persons, associations of persons, firms, partnerships and corporations that have an interest in the outcome of the case. The certification should be in substantially the following form:

Certification Required by Local Bankruptcy Rule 8010-1(b)

[DISTRICT COURT CASE NUMBER, DEBTOR'S NAME]

The undersigned certifies that the following parties have an interest in the outcome of this appeal. These representations are made to enable the district judge to evaluate possible disqualification or recusal [list the names of all such parties and identify their connection and interest]:

_____ _____

Signed Dated

(c) Certification of Related Cases. The appellant shall attach as the last page of each copy of the opening brief a statement of all known related cases and appeals before the United States Court of Appeals, the BAP, or the district court. Appellee's answering brief shall contain appellee's certification of related cases. A related case is defined as one which involves substantially the same litigants, substantially the same factual pattern or legal issues, or arises from a case previously heard by the district court. The certification should be in substantially the following form:

Certification Required by Local Bankruptcy Rule 8010-1(c)

[DISTRICT COURT NUMBER, DEBTOR'S NAME]

The undersigned certifies that the following are known related cases and appeals [list the case name, court and status of all related cases and appeals]:

_____ _____

Signed Dated

Committee Notes: Rule 8010-1 tracks 9th Circuit BAP Rule 8010(a)-1, except that the form requirements of LRCiv 7.1 are adopted over the differing form requirements of the BAP Rule, and colored brief covers are not required.

9th Cir. BAP R. 8010(c)-1. Length of Briefs

LRBankr 8010-2

LENGTH OF BRIEFS

Except with leave of the district court, the appellant's and appellee's initial briefs may not exceed seventeen (17) pages, and reply briefs may not exceed eleven (11) pages, exclusive of pages containing the table of contents, tables of citations and any addendum containing statutes, rules, regulations or similar materials.

Committee Notes: The page limits are those set by LRCiv 7.2(e) for civil motions generally and differ from those in the Ninth Circuit BAP.

9th Cir. BAP R. 8011(d)-1. Emergency Motions

LRBankr 8011-1

EMERGENCY MOTIONS

(a) Form and Number. An emergency motion must have a cover page bearing the legend "Emergency Motion" in large, bold type. Upon filing the motion, one paper copy must be provided for use by the District Judge to whom the case is assigned.

(b) Contents. The motion and supporting declaration(s) must set forth the facts showing the existence and nature of the alleged immediate and irreparable harm.

(c) Appendix. An emergency motion must be accompanied by an appendix containing: (1) a conformed copy of the notice of appeal, and (2) a copy of the entered judgment, order or decree from which the appeal was taken. If the emergency motion concerns a stay pending appeal, the appendix must also contain: (1) a conformed copy of the bankruptcy court's order denying or granting the stay and any explanation by the bankruptcy court of its ruling, or a declaration explaining why such a copy is unavailable; and (2) copies of all documents regarding the stay filed in bankruptcy court.

(d) Service. The motion and appendix must be accompanied by a proof of service showing service on all parties.

9th Cir. BAP R. 8011(e)-1. Delegation of Authority to Act on Motions

(NO LOCAL RULE)

9th Cir. BAP R. 8012-1. Oral Argument

LRBankr 8012-1

ORAL ARGUMENT

Unless otherwise directed by the district court, a party desiring oral argument shall request it by placing "Oral Argument Requested" immediately below the title of the brief. If oral argument is granted, notice will be given in a manner directed by the district court.

9th Cir. BAP R. 8012-2. En Banc Hearing and Determination of Appeals

(NO LOCAL RULE)

9th Cir. BAP R. 8013-1. Disposition of Appeal

(NO LOCAL RULE)

9th Cir. BAP R. 8014-1. Costs

LRBankr 8014-1

COSTS

Costs under FRBP 8014 are taxed by filing a bill of costs with the bankruptcy court clerk.

9th Cir. BAP R. 8018(b)-1. Silence of Local Rules

LRBankr 8018-1

SILENCE OF LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE

In cases where these Local Rules of Bankruptcy Appeal Procedure and the FRBP are silent as to a particular matter of practice relating to a bankruptcy appeal, the District Court may apply the Rules of the United States Court of Appeals for the Ninth Circuit, the Federal Rules of Appellate Procedure and/or this Court's Local Rules of Civil Procedure including, but not limited to, the General Provisions, LRCiv 81-86, thereof.

9th Cir. BAP R. 8018-2. Citation to Rules

LRBankr 8018-2

CITATION TO LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE

Parties shall cite these Local Rules of Bankruptcy Appeal Procedure as: "LRBankr".

LRBankr 8019-1

SUSPENSION OF LOCAL RULES OF BANKRUPTCY APPEAL PROCEDURE

Upon application, or upon the district court's own motion, any judge of the district court may suspend any of these Local Rules of Bankruptcy Appeal Procedure for good cause shown.

9th Cir. BAP R. 8070-1. Dismissal for Failure to Prosecute

LRBankr 8020-1

DISMISSAL FOR FAILURE TO PROSECUTE

When an appellant fails to file an opening brief timely, or otherwise fails to comply with rules or orders regarding processing the appeal, the district court, after notice, may enter an order dismissing the appeal.

9th Cir. BAP R. 9001-1. Definitions

(NO LOCAL RULE)

9th Cir. BAP R. 9010-1. Attorneys-Duties, Withdrawal, Substitution

(NO LOCAL RULE)

9th Cir. BAP R. 9010-2. Pro Se Parties

(NO LOCAL RULE)

APPENDIX A. -- MOTIONS TIME CHART

CATEGORY ONE ..... ALL MOTIONS (except Motions for Summary Judgment and Motions to Dismiss for Lack of Jurisdiction)

Authority ..... Rule 6 of the Federal Rules of Criminal Procedure and Rules 7.2 and 7.3, Local Rules of Civil Procedure

Type of Motion	Response Time (to previous action)	Mailing Time	Notice Time
Motion and Memorandum by Moving Party	(Initiating Action)	3 days	37 days from filing of the Motion, then the following Monday
Responsive Memorandum	14 days	3 days	
Reply Memorandum	7 days	3 days	
Court Review Time	7 days		

CATEGORY TWO ..... Motions for Summary Judgment and Motions to Dismiss for Lack of Jurisdiction

Authority..... Rule 6 of the Federal Rules of Criminal Procedure and Rules 12.1 and 56.1, Local Rules of Civil Procedure

Type of Motion	Response Time (to previous action)	Mailing Time	Notice Time
Motion, Memorandum and Statement of Facts	(Initiating Action)	3 days	68 days from filing of the Motion, then the following Monday
Responsive Memorandum	30 days	3 days	
Reply Memorandum	15 days	3 days	
Court Review Time	14 days		

APPENDIX B. -- U.S. DISTRICT COURT LEGAL HOLIDAYS

New Year's Day	January 1*
Martin Luther King Day	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4*
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veteran's Day	November 11*
Thanksgiving Day	4th Thursday in November
Christmas Day	December 25*

*In accordance with 5 U.S.C. § 6103, whenever a holiday occurs on Sunday, the following Monday is treated as a holiday and whenever a holiday occurs on Saturday, the Friday immediately before is treated as a legal holiday.

APPENDIX C. -- LRCiv 7.1 FORM[***]

(Attorney's name)[†††]
(Attorney's address)
State Bar No. 012345
(Attorney's facsimile number, if any)
(Attorney's e-mail address)
(Attorney's telephone number)

Attorney for Plaintiffs Doe

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

John Doe and Jane Doe, husband and wife, Plaintiffs, v. ABC Corporation, a Delaware corporation, Defendant.	No. CV-04-1-PHX-NVW FIRST AMENDED COMPLAINT

DATED this _____day of _____, 20_____.

_____
(Attorney's Name)
Attorney for Plaintiffs Doe[‡‡‡]

[***] This form is intended for illustrative purposes only.

[†††] A proposed order must not contain any information identifying the party submitting the order.

[‡‡‡] The name and title of the Judge assigned to the matter should be adapted accordingly when submitting a proposed order.