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 judge to whom the case is 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 judge 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 judge to whom the case is 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~~ 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 3.7

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.

LRCiv 7.2

MOTIONS[1]

(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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[1] 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) Motions in Limine. No opposed motion in limine will be considered or decided unless moving counsel certifies therein that the movant has in good faith conferred or attempted to confer with the opposing party or counsel in an effort to resolve disputed evidentiary issues that are the subject of the motion. The moving party is not permitted to file a reply in support of its motion in limine.

(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.

(n) 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. Pending Motion Notifications filed in electronic form must be submitted according to the Administrative Policies and Procedures Manual.

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.

(c) Motions to Dismiss for Failure to State a Claim or for Judgment on the Pleadings. No motion to dismiss for failure to state a claim or counterclaim, pursuant to Federal Rule of Civil Procedure 12(b)(6), or motion for judgment on the pleadings on a claim or counterclaim, pursuant to Federal Rule of Civil Procedure 12(c), will be considered or decided unless the moving party includes a certification that, before filing the motion, the movant notified the opposing party of the issues asserted in the motion and the parties were unable to agree that the pleading was curable in any part by a permissible amendment offered by the pleading party. The movant may comply with this rule through personal, telephonic, or written notice of the issues that it intends to assert in a motion. A motion that does not contain the required certification may be stricken summarily.

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 alleged 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 established a Differentiated Case Management ("DCM") system to screen cases for complexity, assign cases to specific tracks based on that complexity, and manage cases to disposition according to predetermined milestones established for the 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 based on nature of suit, and are those that usually are resolved on the pleadings. Expedited Track cases include:

Bankruptcy appeals;

Social Security appeals;

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

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 will issue.

(2) Detainee Track.

(A) Assignment. All cases filed by criminal or civil detainees are assigned to this track and are administered by the Staff Attorneys' Office.

(B) Management.

(i) Habeas Corpus and Mandamus Actions. A service order will set the briefing schedule.

(ii) All Other Actions Filed by Pro Se Detainees. A service order will set the maximum date to effect service as the limit set in Rule 4(m) of the Federal Rules of Civil Procedure or sixty (60) days from filing of the service order, whichever is later. When the first defendant makes an appearance in the action, a scheduling order will issue setting:

(I) a discovery cutoff one-hundred fifty (150) days from the date the scheduling order issues; and

(II) a dispositive motion filing deadline one-hundred eighty (180) days from the date the scheduling order issues.

(iii) Detainee Actions Filed by an Attorney. After a screening order issues, the Court may assign these cases to the Standard Track.

(3) Standard Track.

(A) Assignment. Cases that do not meet the criteria of the Expedited or Detainee tracks, and are not determined to be complex, are assigned to this track.

(B) Management.

(i) A preliminary scheduling conference, pursuant to Rule 16 of the Federal Rules of Civil Procedure, will 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 will be so designated by the District Judge or Magistrate Judge, counsel, and parties.

(B) Management. A preliminary scheduling conference will be conducted before the assigned District Judge or Magistrate 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, will issue following the conference.

(C) Multidistrict litigation. An attorney filing a complaint, answer, or other pleading in a case that may involve multidistrict litigation (see 28 U.S.C. § 1407), must file with the pleading 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.

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~~ a 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. 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~~ plaintiff's counsel may make a statement of the case.

(2) The defendant or ~~his or her~~ defendant's 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.

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~~ an 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.

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.

(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.

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) Additional Statement of Facts. A controverting statement of facts may be filed with a reply memorandum only to address new facts raised in opposition to a motion for summary judgment which are alleged to create a genuine material issue of fact precluding summary judgment.

(~~c~~d) 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~~e) 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~~f) 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~~g) 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.

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, n~~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~~Where, by order of the Court, funds on deposit with the Court ~~will~~ are to be placed in some form of interest bearing account, or invested in a court approved, interest bearing instrument in accordance with Rule 67 of the Federal Rules of Civil Procedure~~. Unless otherwise ordered~~, the Court Registry Investment System ("CRIS"), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, shall be the only investment mechanism authorized.

(2) Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a "Disputed Ownership Fund" (DOF), a taxable entity that requires tax

administration. Unless otherwise ordered by the Court, interpleader funds shall be deposited into the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements.

(3) The Director of the Administrative Office of the United States Courts is designated as custodian for all CRIS funds. The Director or the Director's designee shall perform the duties of custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.

(~~2~~4) ~~Under the CRIS, monies~~Money from each case deposited in ~~each case under (a)(1) will~~the CRIS must be "pooled" together with those on deposit with the Treasury to the credit of other courts in the ~~Court Registry Investment System~~CRIS 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.~~The pooled funds will be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.

(~~3~~5) An account ~~for each case~~ will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the deposit invested~~ment~~ in the ~~system~~fund. Income ~~received~~ generated from fund investments will be distributed to each case based on the ratio each account's principal and ~~income~~ earnings ~~total~~ has to the aggregate principal and income total in the fund ~~each week~~after the CRIS fee has been applied. ~~Weekly r~~Reports showing the ~~income~~ interest 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.

(6) For each interpleader case, an account shall be established in the CRIS Disputed Ownership Fund, titled in the name of the case giving rise to the deposit invested in the fund. Income generated from the fund investments will be distributed to each case after the DOF fee has been applied and tax withholdings have been deducted

from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account as directed by court order.

(c) ~~Deductions of~~ Fees and Taxes.

(1) The custodian is authorized and directed by this Local Rule to deduct the ~~registry fee for maintaining accounts in~~ CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, ~~and the investment services fee~~ for the management of investments in the CRIS. ~~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 a~~According to the Court's Miscellaneous Fee Schedule, ~~,~~ the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases.

(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.~~The custodian is authorized and directed by this rule to deduct the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. According to the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases. The custodian is further authorized and directed by this rule to withhold and pay federal taxes due on behalf of the DOF.

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; a Magistrate Judge may enter an order denying any such request ~~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.

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~~ is deemed 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 ex parte 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. 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 – Search Warrants, Orders on Pen Registers, Orders on Trap and Trace Devices, and Mobile Tracking Device Warrants. Unless otherwise ordered by the Court, any search warrant, order on pen register, order on trap and trace device, or mobile tracking device warrant ordered sealed by a magistrate judge in a criminal matter on or after December 1, 2014, will be unsealed 180 days after the file date of the search warrant or the expiration date of the pen/trap order or tracking warrant.

At least 60 days before the expiration of the sealing order, the Clerk of Court must notify the Criminal Chief at the Office of the United States Attorney, or ~~his or her~~ designee, of the date when the documents will be unsealed. Before the expiration of the sealing order, the government may move the court to extend the sealing order. A motion to extend a sealing order may be filed ex parte. Documents that have been unsealed may be destroyed when eligible under the Records Disposition Schedule in the *Guide to Judiciary Policy*.

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 83.4

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~~ the 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~~ the student's 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~~ a 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 83.8

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~~ an 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.

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 in the charging document is not the defendant's true name ~~by which he or she is charged is not his or her true name~~, the defendant must then declare ~~his or her~~ a true name or be proceeded against by the name in the charge.

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~~ the Defendant's 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 a motion setting forth objections, if any, which Defendant may have to the admissibility of such confessions, admissions, or statements. Upon request of the Defendant's attorney, the Court shall set a hearing to consider such objections and determine 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.

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~~ having 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 will file under seal the original (final) 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. 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~~ the defendant's 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~~ the defendant 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~~ the alleged neglect, the Court may direct the forfeiture to be discharged where justice so requires.

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~~ the accused's apprehension or to warn the public or any dangers the accused 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 a~~any~~ lawyer from replying to charges of misconduct that are publicly made against ~~him or her~~ the lawyer.

(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 57.6

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's ~~breaches his or her~~ bail conditions are breached 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.