LOCAL RULES OF CIVIL PROCEDURE[1]

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

Title I. Scope of Rules; Form of Action

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

LRCiv 1.1

COURT CALENDAR MANAGEMENT

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

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

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

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

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

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

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

(4) the age of the cases;

(5) the matter which was set first;

(6) any priority granted by rule or statute;

(7) any other pertinent factor.

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

(NO LOCAL RULE)

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

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

LRCiv 3.1

CIVIL COVER SHEET; PATENT, TRADEMARK, AND COPYRIGHT NOTICES

(a) Civil Cover Sheet. A pleading initiating a civil action must be accompanied by a completed JS 44 Civil Cover Sheet form.

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

(c) Patent, Trademark, and Copyright Notices. A pleading initiating an action that includes a patent, trademark, or copyright claim must be accompanied by a Notice of Filing—Copyright, Trademark or Patent Information and the appropriate completed AO 120 (patent and trademark) or AO 121 (copyright) form(s). If any other patent, trademark, or copyright is later included in the action by amendment, answer, or other pleading, the document must be accompanied by a supplemental Notice and the appropriate form(s).

LRCiv 3.2

DOCKETING

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

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

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

LRCiv 3.3

ACTIONS *IN FORMA PAUPERIS*

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

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

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

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

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

(B) Rent payments, interest, or dividends;

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

(D) Gifts or inheritances; and

(E) Any other source.

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

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

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

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

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

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

This declaration shall be executed under penalty of perjury.

LRCiv 3.4

COMPLAINTS BY INCARCERATED PERSONS

All complaints and applications to proceed *in forma pauperis* by incarcerated persons must be signed and legibly written or typewritten on forms approved by the Court and in accordance with the instructions provided with the forms unless the judge to whom the case is assigned 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 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. A petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 or 28 U.S.C. § 2241, or a motion to vacate sentence pursuant to 28 U.S.C. § 2255, and any accompanying 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 Court 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. If not filed electronically, the original and two (2) copies of the petition or motion must be sent or delivered to the Clerk. The Court may strike or dismiss petitions, motions or applications which do not conform substantively or procedurally with federal and local requirements for such actions.

(b) Page Limitation in Capital Cases. If the petitioner is under a sentence of death, a petition for writ of habeas corpus under 28 U.S.C. § 2254, motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255, or any response thereto may not exceed 200 pages, exclusive of attachments. A reply in support of a petition or motion may not exceed 100 pages, exclusive of attachments. The Court may grant leave to exceed the page limitation set forth in this paragraph if the party demonstrates good cause for doing so. A motion to exceed the page limitation must be filed on or before the filing deadline and the proposed filing must be lodged as an attachment to the motion. If the Court grants leave for the petition to exceed the page limitation, the length of the response to the petition will be increased by the same amount. If the Court denies leave to exceed the page limitation, the filer must submit a revised filing that complies with the page limitation within 14 days, unless otherwise ordered by the Court.

(c) *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* 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 more than twenty-five dollars ($25) on deposit, leave to proceed *in forma pauperis* will be denied and the petitioner must pay the filing fee.

LRCiv 3.6

REMOVAL TO FEDERAL COURT

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

(b) State Court Record. The removing party must file copies of all pleadings and other documents that were previously filed with the state court. The removing party must file and identify the following separate attachments to the Notice of Removal: (1) Supplemental Civil Cover Sheet; (2) most recent state court docket; (3) operative complaint; (4) service documents; (5) answers; (6) state court orders terminating or dismissing parties; (7) notices of appearance; (8) pending motions, responses, and replies; (9) remainder of state court record; and (10) verification of the removing party or its counsel that true and complete copies of all pleadings and other documents filed in the state court proceeding have been filed.

(c) Timing. The removing party must file the state court record when the Notice of Removal is filed unless the removing party files a motion for extension of time for good cause.

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

Office will refile the pending motion and any responsive and reply memoranda, along with any related papers, as of the date the notice is filed in this Court.

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

LRCiv 3.7

ASSIGNMENT OF CASES; CIVIL

(a) Assignment of Civil Cases.

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

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

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

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

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

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

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

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

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

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

F.R.Civ.P. 4. Summons

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 5.1

PLACES FOR FILING

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

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

LRCiv 5.2

FILING OF DISCOVERY AND DISCLOSURE NOTICES

A "Notice of Service" of the disclosures and discovery requests and responses listed in Rule 5(d)(1)(A) of the Federal Rules of Civil Procedure must be filed within a reasonable time after service of such papers.

LRCiv 5.3

STATUTORY COURT

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

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

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

LRCiv 5.4

FILING; COPY FOR JUDGE

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

LRCiv 5.5

ELECTRONIC FILING

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

(b) Filing of Documents Electronically. The Court will accept for filing documents submitted, signed or verified by electronic means consistent with these rules and the Administrative Manual.

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

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

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

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

(g) Signatures. The log-in and password required to submit documents to the ECF System constitute the Registered User's signature on all electronic documents filed with the Court for purposes of Rule 11 of the Federal Rules of Civil Procedure. Documents signed by an attorney shall be filed using that attorney's ECF log-in and password and shall not be filed using a log-in and password belonging to another

attorney. No person shall knowingly permit or cause to permit a Registered User's password to be used by anyone other than an authorized agent of the Registered User.

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

LRCiv 5.6

SEALING OF COURT RECORDS IN UNSEALED CIVIL ACTIONS

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

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

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

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

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

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

(B) the number of pages submitted for lodging;

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

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

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

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

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

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

LRCiv 5.7

FILING OF COURT RECORDS IN SEALED CIVIL ACTIONS

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 6.1

MOTIONS AND STIPULATIONS FOR EXTENSIONS OF TIME

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

Title III. Pleadings and Motions

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

LRCiv 7.1

FORMS OF PAPERS

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

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

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

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

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2 A sample form is provided in Appendix C.

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

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

(b) Pleadings and Other Papers.

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

(2) In civil cases when a party requests specific relief, except for dismissal or summary judgment pursuant to Federal Rules of Civil Procedure 12(b) or 56, the party must submit a proposed order as an attachment to the motion or stipulation.

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

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

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

DATED this _____ day of _____, 20_____.

_____

(Judge's Name)

United States District Judge

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

(d) Attachments to Pleadings and Memoranda.

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

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

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

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

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

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

LRCiv 7.2

MOTIONS[5]

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

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

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

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

(e) Length of Motions, Memoranda and Objections.

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

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

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

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

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

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

(g) Motions for Reconsideration.

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

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

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

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

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

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

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

(l) 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 Motions Notifications filed in electronic form must be submitted according to the Administrative Policies and Procedures Manual.

LRCiv 7.3

MOTIONS/STIPULATIONS FOR EXTENSIONS OF TIME

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

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

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

LRCiv 7.1.1

CORPORATE DISCLOSURE STATEMENT

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 10.1

FORM OF PLEADINGS

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

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

(NO LOCAL RULE)

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

LRCiv 12.1

MOTIONS TO DISMISS

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

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

(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. 13. Counterclaim and Crossclaim

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 15.1

AMENDED PLEADINGS

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

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

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

LRCiv 16.1

PROCEDURE IN SOCIAL SECURITY CASES

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

(a) Opening Brief. Within sixty (60) days after the answer is filed, Plaintiff must file an opening brief addressing why the Commissioner's decision is not supported by substantial evidence or why the decision should otherwise be reversed or the case remanded. Plaintiff's opening brief must set forth all alleged errors. 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 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.

Title IV. Parties

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

F.R.Civ.P. 22. Interpleader

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

F.R.Civ.P. 24. Intervention

(NO LOCAL RULE)

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

(NO LOCAL RULE)

Title V. Disclosures and Discovery

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 29.1

DISCOVERY; EXTENSIONS OF TIME

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 33.1

FORM OF INTERROGATORIES

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

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

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 36.1

FORM OF REQUESTS FOR ADMISSIONS

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

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

LRCiv 37.1

MOTIONS TO COMPEL

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

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

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

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

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

Title VI. Trials

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

(NO LOCAL RULE)

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

LRCiv 39.1

PROCEDURE AT TRIALS

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

(1) The plaintiff or plaintiff's counsel may make a statement of the case.

(2) The defendant or 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 pleadings to the jury.

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

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

LRCiv 39.2

COMMUNICATIONS WITH TRIAL JURORS

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

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

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

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

LRCiv 40.1

COURT CALENDAR MANAGEMENT

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

LRCiv 40.2

CONTINUANCES AND NOTICE OF SETTLEMENT

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

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

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

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

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

LRCiv 41.1

DISMISSAL FOR WANT OF PROSECUTION

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

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

LRCiv 42.1

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

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

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

(c) Responsive and Reply Memoranda. Any party in any case that is the subject of a motion to transfer or consolidate may file a responsive memorandum, and the movant may file a reply memorandum. Any responsive or reply memorandum must identify all the cases affected by the underlying motion. The filer must file the responsive or reply memorandum in a case in which the filer is a party. The ECF System

or (when the filer is not an ECF Registered User) the Clerk's Office will electronically file the responsive or reply memorandum in each affected case identified in the memorandum.

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

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

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

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

(B) involved substantially the same parties or property;

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

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

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

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

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

LRCiv 43.1

CONDUCT IN COURTROOM AND ENVIRONS

(a) Audio/video Recording.

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

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

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

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

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

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

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

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

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

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

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

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

F.R.Civ.P. 45. Subpoena

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 47.1

TRIAL JURIES

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 51.1

JURY INSTRUCTIONS

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

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

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

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

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

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

LRCiv 52.1

FINDINGS

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

F.R.Civ.P. 53. Masters

LRCiv 53.1

DUTIES OF MAGISTRATE JUDGES; SPECIAL MASTER

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

Title VII. Judgment

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

LRCiv 54.1

COSTS: SECURITY FOR, TAXATION, PAYMENT

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

(b) Objections, Appearance Not Required. Within fourteen (14) days after service of the bill of costs, a party objecting to any cost item may file with the Clerk and serve itemized objections in writing, presenting any affidavits or other evidence 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 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, including private process servers' fees, are taxable. Fees for admission *pro hac vice* are not taxable.

(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, 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 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.

LRCiv 54.2

ATTORNEYS' FEES AND RELATED NON-TAXABLE EXPENSES

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

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

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

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

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

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

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

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

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

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

(A) The time and labor required of counsel;

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

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

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

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

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

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

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

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

(J) The "undesirability" of the case;

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

(L) Awards in similar actions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) A description of the service provided; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(NO LOCAL RULE)

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

LRCiv 56.1

MOTIONS FOR SUMMARY JUDGMENT

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

(b) Controverting Statement of Facts. Any party opposing a motion for summary judgment must file a statement, separate from that party's memorandum of law, setting forth: (1) for each paragraph of the moving party's separate statement of facts, a correspondingly numbered paragraph indicating whether the party disputes the statement of fact set forth in that paragraph and a reference to the specific admissible portion of the record supporting the party's position if the fact is disputed; and (2) any additional facts that establish a genuine issue of material fact or otherwise preclude judgment in favor of the moving party. Each additional fact must be set forth in a separately numbered paragraph and must refer to a specific admissible portion of the record where the fact finds support. No reply statement of facts may be filed.

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

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

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

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

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

(g) Modification by Court. The Court may modify the foregoing procedures in its discretion.

LRCiv 56.2

ORAL ARGUMENTS; MOTIONS FOR SUMMARY JUDGMENT

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

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

(NO LOCAL RULE)

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

LRCiv 58.1

JUDGMENTS

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

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

Title VIII. Provisional and Final Remedies

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

(NO LOCAL RULE)

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

LRCiv 65.1

EX PARTE RESTRAINING ORDERS

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

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

LRCiv 65.1.1

SURETY BONDS AND UNDERTAKINGS

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

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

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

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

F.R.Civ.P. 66. Receivers

(NO LOCAL RULE)

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

LRCiv 67.1

INVESTMENT OF FUNDS ON DEPOSIT IN THE REGISTRY ACCOUNT

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

(a) Receipt of Funds.

(1) 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) Where, by order of the Court, funds on deposit with the Court 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, 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.

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

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

(1) The custodian is authorized and directed by this Local Rule to deduct the CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in the CRIS. 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) 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.

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

(NO LOCAL RULE)

F.R.Civ.P. 69. Execution

LRCiv 69.1

EXECUTIONS

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

Title IX. Special Proceedings

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

(NO LOCAL RULE)

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

LRCiv 72.1

ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

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

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

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

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

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

LRCiv 72.2

OTHER DUTIES OF MAGISTRATE JUDGES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

LRCiv 73.1

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

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

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

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

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

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

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

LRCiv 77.1

LOCATIONS; HOURS OF CLERK'S OFFICES

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

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

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

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

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

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

(d) Hours of Clerk's Offices. The offices of the Clerk shall be open during regular business hours, as designated and posted by the Clerk of Court, on each day except Saturdays, Sundays, and legal holidays enumerated in Federal Rules of Civil

Procedure 6(a)(6) and 77(c)(1), when the offices are closed unless otherwise ordered by the Court.

LRCiv 77.2

ORDERS AND JUDGMENTS GRANTABLE OF COURSE BY THE CLERK

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

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

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

(3) Orders regarding exhibits and the administrative record under Rule 79.1, Local Rules of Civil Procedure.

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

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

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

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

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

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

LRCiv 77.3

FEES FIXED BY THE CLERK

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

(b) Fee Deposit. Where services are required to be performed by the Clerk for which fees cannot be definitely fixed in advance, the Clerk may require a fee deposit in such amount as 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, 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 is required shall be inoperative until such notice is given.

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

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

(NO LOCAL RULE)

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

LRCiv 79.1

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

(a) Retention 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 until time for appeal expires or the mandate on appeal issues, 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 the party or attorney when the time for appeal expires or the mandate on appeal issues, unless otherwise ordered by the Court.

(b) Sensitive Exhibits. Sensitive exhibits, whether or not received as evidence, shall remain in the custody of the arresting or investigating agency or its designee throughout the proceedings, unless otherwise ordered by the Court. Sensitive exhibits include drugs and drug paraphernalia, guns and other weapons, money, and any other exhibit designated as sensitive by the Court.

(c) Transmission on Appeal. If requested by the Court of Appeals, each party or attorney is responsible for transmitting non-electronic exhibits to the appellate court as part of the record on appeal.

(d) Notice to Remove Non-electronically Submitted Exhibits and Administrative Records. Upon thirty (30) days' notice, the Clerk may destroy or otherwise dispose of any non-electronically submitted exhibits or administrative records when the time for appeal expires or the mandate on appeal issues, unless otherwise ordered by the Court.

(e) 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 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*.

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

(NO LOCAL RULE)

Title XI. General Provisions

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

(NO LOCAL RULE)

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

(NO LOCAL RULE)

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

LRCiv 83.1

ATTORNEYS

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

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

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

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

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

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

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

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

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

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

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

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

(c) Subscription to Court Electronic Newsletters. Registered users of the Court's Electronic Case Filing (ECF) system must subscribe to the USDC District of Arizona News (at www2.azd.uscourts.gov/subscribe) to receive email notices relating to new or updated local rules, general orders, and electronic case filing procedures.

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

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

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

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

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

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

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

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

(A) An order imposing fines;

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

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

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

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

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

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

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

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

LRCiv 83.2

ATTORNEY DISCIPLINE

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

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

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

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

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

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

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

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

LRCiv 83.3

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

(a) Attorney of Record; Duties of Counsel. Except as provided below, no attorney shall appear in any action or file anything in any action without first appearing as counsel of record. An attorney of record shall be deemed responsible as attorney of record in all matters before and after judgment until the time for appeal expires or until there has been a formal withdrawal from or substitution in the case.

(b) Withdrawal and Substitution. With the exception of a change of counsel within the same law firm or governmental law office, no attorney shall be permitted to withdraw or be substituted as attorney of record in any pending action except by formal written order of the Court, supported by written application setting forth the reasons therefor together with the name, last known residence and last known telephone number of the client, as follows:

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

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

(3) No attorney shall be permitted to withdraw as attorney of record after an action has been set for trial, (A) unless there shall be endorsed upon the

application therefore, either the signature of an attorney stating that the attorney is advised of the trial date and will be prepared for trial, or the signature of the client stating that the client is advised of the time and date and has made suitable arrangements to be prepared for trial, or (B) unless the Court is otherwise satisfied for good cause shown that the attorney should be permitted to withdraw.

(4) Where there has been a change of counsel in the same law firm or governmental law office, an order of substitution or association is not required; the new attorney must file a notice of substitution or association. The notice shall state the names of the attorneys who are the subjects of the substitution or association and the current address and e-mail address of the attorney substituting or associating. An occasional court appearance or filing of a pleading, motion or other document at the request of an attorney of record shall not require the filing of a notice of substitution or association. Counsel substituted or associated pursuant to this paragraph must also comply with (b)(3) above.

(c) Applicability of Rules.

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

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

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

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

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

LRCiv 83.4

STUDENT PRACTICE RULE

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

(b) Student Requirements. An eligible student must:

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

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

(3) Have knowledge of the Federal Rules of Civil and Criminal Procedure, Evidence, the Code of Professional Responsibility, and the Local Rules of Practice and Procedure 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 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 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 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 83.5

PROHIBITION OF BIAS

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

LRCiv 83.6

SUSPENSION OF RULES

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

LRCiv 83.7

STIPULATIONS OF COUNSEL

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

LRCiv 83.8

CONDUCT OF ATTORNEYS

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

(1) evidence regarding the occurrence or transaction involved;

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

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

(4) 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.

LRCiv 83.9

AMENDMENT OF THE RULES OF PRACTICE AND PROCEDURE

(a) Rules of Practice and Procedure Advisory Committee.

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

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

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

(B) Proposed amendments to the Local Rules.

(b) Procedures.

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

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

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

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

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

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

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

LRCiv 83.10

DISPUTE RESOLUTION

(a) Consideration of Alternative Dispute Resolution. Litigants in all civil cases must consider the use of alternative dispute resolution (ADR) at an appropriate stage in the litigation. As early as the scheduling conference held under Rule 16(b) of the Federal Rules of Civil Procedure, or at any time requested by the parties, the court may offer or parties may request to refer the action to a magistrate judge for the purpose of holding a timely settlement conference (mediation), minitrial, summary jury trial, early neutral evaluation, or other form of ADR. The court may require the parties to participate only in mediation or early neutral evaluation.

(b) Confidentiality. All participants in a settlement conference or other form of neutral evaluation referred to and presided over by a magistrate judge must maintain the confidentiality of the proceedings, unless ordered otherwise by the presiding judge or magistrate judge. This confidentiality shall not apply to orders setting and regulating the ADR process.

(c) Disqualification. The provisions of 28 U.S.C. § 455 apply to any magistrate judge to whom an action has been referred for ADR.

(d) No Delay in Case Processing. No party may offer ADR as a reason to delay the processing of the case as established in the Rule 16 scheduling order.

F.R.Civ.P. 84. Forms

(NO LOCAL RULE)

F.R.Civ.P. 85. Title

(NO LOCAL RULE)

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

(NO LOCAL RULE)