Local Rules of the United States District Court for the Eastern and Western Districts of Arkansas

Contents

LOCAL RULE 4.1
SERVICE OF PROCESS

(a) Counsel must prepare summons on the form provided by the Clerk. Counsel must prepare any process that will be served by the United States Marshal, such as a writ of execution, and present that document to the Clerk.

(b) After service of any pleading accompanied by a summons, counsel must promptly file proof of service using either the affidavit at the end of the Clerk's summons form or a separate affidavit of service. If service has been made by mail, counsel must attach the document showing receipt, such as the green card. When the United States Marshal serves any process, the Marshal must promptly file a return of service, including the document showing receipt if service was made by mail.

Adopted March 2, 1981, and effective May 1, 1981
Amended May 1, 1985
Amended January 2, 1990
Amended September 21, 2017

LOCAL RULE 4.2
COSTS AND BONDS

(a) Costs. Parties instituting any civil action, suit, or proceeding, whether by original action, removal or otherwise, shall pay to the Clerk the filing fee as required by the Judicial Conference of the United States. The Clerk will not accept for filing any tendered pleading for the institution of a civil action without advance payment of the filing fee, unless the court shall order otherwise.

(b) Bond for Costs. The Court, on motion or of its own initiative, may order any party plaintiff, either resident or nonresident, to file an original bond for costs or additional security for costs in such an amount and so conditioned as the Court by its Order may designate.

Adopted and effective May 1, 1980
Amended July 1, 1988
Amended January 2, 1990

LOCAL RULE 4.3
BONDSMEN

No officer of either District Court, employee of the Department of Justice, or attorney at law shall be accepted as surety on any bond or undertaking in any action or proceeding in either District Court.

Adopted and effective May 1, 1980

LOCAL RULE 5.1
FILING OF DOCUMENTS BY ELECTRONIC MEANS

A person represented by an attorney must file electronically, unless nonelectronic filing is allowed by the court for good cause.

Generally, the only exception to the mandatory electronic filing requirement are case initiating documents (complaints, petitions, notices of removal and indictments). Additional exceptions in the Eastern District are sealed records, Social Security Administrative Transcripts and any document that adds a party to an action.

A person not represented by an attorney is generally not allowed to electronically file and must submit paper for filing. Electronic filing is only permitted by court order.

Adopted and effective May 26, 2005
Amended December 1, 2018

LOCAL RULE 5.4
TIME FOR FILING UNDER FEDERAL RULES OF CIVIL PROCEDURE 5 (d)

Seven days is hereby construed to be a "reasonable time" after service within which papers shall be filed under the provisions of Federal Rules of Civil Procedure 5(d).

Adopted and effective May 1, 1980
Amended November 10, 2009

LOCAL RULE 5.5
PLEADINGS AND FILINGS

(a) The original of all pleadings, motions, and other papers, together with two copies thereof, shall be filed with the Clerk. All pleadings, motions, and other papers shall be typewritten, photocopied, mimeographed, or printed in type not less than elite, in double space, letter size, using only one side of the page, and shall be filed by the Clerk unfolded and without manuscript covers. Attorneys shall take notice of case numbers assigned to each case and shall note such numbers upon all pleadings, orders, and judgments.

(b) Pleadings, motions, and other papers are to be filed as follows:

(1) In the Eastern District, the Clerk maintains staffed offices at Little Rock, Pine Bluff, and Jonesboro. In the Western District, the Clerk maintains offices at Fort Smith, Fayetteville, El Dorado, Texarkana, and Hot Springs. In civil matters, pleadings, motions, and other papers should be filed in the office of the Clerk designated in Local Rule 77.1 for the Division in which the case is pending, but when a Clerk is unavailable, they may be filed in any office of the Clerk in the appropriate district.

(2) Criminal matters in the Eastern District. All pleadings, motions, and other papers in all criminal matters are to be filed in Little Rock.

(3) Criminal matters in the Western District. All pleadings, motions and other papers in criminal matters in the Harrison Division shall be filed in Fayetteville. Otherwise, all pleadings, motions, and other papers in criminal matters for a particular division are to be filed in that division.

(c) (1) Parties represented by counsel. Every pleading, motion, or other paper (except a pro se motion to discharge an attorney) filed in behalf of a party represented by counsel shall be signed by at least one attorney of record in his or her individual name, and the attorney's address, zip code, and telephone number, and Arkansas Supreme Court identification number, or other Supreme Court identification number, if applicable, shall be stated. It is the duty of each attorney to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address.

(2) Parties appearing *pro se.* It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

(d) At the time of filing a civil action, the plaintiff shall complete and submit a cover sheet statement on Federal Form No. JS44.

(e) A party who moves to amend a pleading shall attach a copy of the amendment to the motion. The motion must contain a concise statement setting out what exactly is being amended in the new pleading – e.g. added defendant X, adding a claim for X, corrected spelling. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must, except by

leave of Court, reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference. The party amending shall file the original of the amended pleading within seven (7) days of the entry of the order granting leave to amend unless otherwise ordered by the Court. The requirements for amending pleadings set forth in this subsection of Rule 5.5 shall not apply to parties proceeding *pro se.*

Proposed findings of fact and conclusions of law, trial briefs, and proposed jury instructions shall be submitted to the judge to whom the case is assigned, with copies served upon all other parties.

(a)(b) and (d) Adopted and effective May 1, 1980
(c) Adopted and effective March 14, 1984
(e) Adopted and effective July 16, 1980
(f) through (j) Adopted and effective June 26, 1981
(g) Amended October 27, 1986 Amended July 1, 1988
Amended January 2, 1990
Amended and effective December 1, 2000
Amended and effective April 30, 2007
Amended and effective September 20, 2007
Amended November 10, 2009

LOCAL RULE 6.2
EXTENSION OF TIME TO PLEAD

(a) If the time originally prescribed has not expired and if all counsel consent in writing, the Clerk may enter an order extending for not more than twenty-one (21) days the time to file a responsive pleading or to respond to discovery. The Court may suspend, alter, or rescind the order on its own motion or upon the motion of a party. All other extensions of time shall require approval by the Court, except that when the appropriate judge is not available, approval may be granted by another judge or a magistrate judge.

(b) In every motion for a continuance, every motion for any extension of time, or for leave to do any act out of time, the motion shall state that the movant has contacted the adverse party (or parties) with regard to the motion, and also state whether the adverse party opposes or does not oppose same. If any such motion does not contain the statements required by this rule or, alternatively, a statement setting forth extraordinary circumstances which make it impracticable to contact the adverse party (or parties), the motion may be dismissed summarily for failure to comply with this rule. Repeated failures to comply will be considered an adequate basis for the imposition of sanctions.

(a) Adopted and effective May 1, 1980
(b) Effective April 15, 1989
Amended November 10, 2009

LOCAL RULE 7.2
MOTIONS

(a) All motions except those mentioned in paragraph (d) shall be accompanied by a brief consisting of a concise statement of relevant facts and applicable law. Both documents shall be filed with the Clerk, and copies shall be served on all other parties affected by the motion.

(b) Within fourteen (14) days from the date of service of copies of a motion and supporting papers, any party opposing a motion shall serve and file with the Clerk a concise statement in opposition to the motion with supporting authorities. A party moving for summary judgment will have seven (7) days to file a reply in further support of the motion. A party seeking relief under 28 U.S.C. § 2254 or 28 U.S.C. § 2255 may file a reply within seven (7) days of the response. For cause shown, the court may by order shorten or lengthen the time for the filing of responses and replies. Fed. R. Civ. P. 6, including subparagraph 6(d), determines how the days are counted under this local rule, unless the court specifies otherwise.

(c) If a motion requires consideration of facts not appearing of record, the parties may serve and file copies of all photographs, documents, or other evidence deemed necessary in support of or in opposition to the motion, in addition to affidavits required or permitted by the Federal Rules of Civil Procedure.

(d) No brief is required from any party, unless otherwise directed by the Court, with respect to the following motions:

(1) To extend time for the performance of an act required or allowed to be done, provided request is made before the expiration of the period originally prescribed, or as extended by previous order.

(2) To obtain leave to file supplemental or amended pleadings.

(3) To appoint an attorney or guardian ad litem.

(4) To permit substitution of parties or attorneys.

(e) Pretrial motions for temporary restraining orders, motions for preliminary injunctions, and motions to dismiss, shall not be taken up and considered unless set forth in a separate pleading accompanied by a separate brief.

(f) The failure to timely respond to any nondispositive motion, as required by the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or by any local rule, shall be an adequate basis, without more, for granting the relief sought in said motion.

(g) All motions to compel discovery and all other discovery-enforcement motions and all motions for protective orders shall contain a statement by the moving party that the parties have conferred in good faith on the specific issue or issues in dispute and that they are not able to resolve their disagreements without the intervention of the Court. If any such motion lacks such a statement, that motion may be dismissed summarily for failure to comply with this rule. Repeated failures to comply will be considered an adequate basis for the imposition of sanctions.

(a) through (d) Adopted and effective May 1, 1980
(b) Amended to change to eleven days effective July 1, 1988
(e) Adopted and effective July 14, 1986

(f) Adopted and effective July 1, 1988
(g) Effective April 15, 1989
Amended January 2, 1990
Amended November 10, 2009
Amended May 20, 2010
Amended December 1, 2019

LOCAL RULE 7.3
COMMUNICATIONS WITH COURT

(a) Attorneys shall not communicate in writing with the Court concerning any pending case unless copies of the writing are served on all attorneys for all other parties in the case. Attorneys shall not furnish the Court copies of correspondence among themselves relating to matters in dispute which are not then before the Court for resolution. Such dispute should either be settled by counsel or made the subject of a formal motion. This rule has special application to correspondence relating to specific money demands and offers in settlement.

(b) Ex parte oral communications with the Court on substantive matters by counsel or a party concerning a pending action are prohibited except when permitted by Federal Rules of Civil or Criminal Procedure.

Adopted and effective May 1, 1980

LOCAL RULE 7.4
STIPULATIONS BY COUNSEL

The court will not recognize any agreement between counsel, if counsel differ as to its terms, unless the agreement has been reduced to writing.

Adopted and effective May 1, 1980

LOCAL RULE 7.5
CONTINUANCES

(a) No motion for continuance of any hearing will be granted except for good cause.

(b) In no case will an agreement by counsel for a continuance be recognized except by consent of the Court.

(c) Cases set for trial but not reached on that day shall retain their relative position on the trial calendar to the extent practicable.

(d) The Court may condition a continuance upon the payment of the expenses caused to the other parties and of jury fees incurred by the Court.

Adopted and effective May 1, 1980

LOCAL RULE 9.1
COMPLAINT FORMS FOR ACTIONS BY INCARCERATED PERSONS

All actions under 42 U.S.C. §1983, 28 U.S.C. §2241, or 28 U.S.C. §2254 filed in this district by incarcerated persons shall be submitted on the court-approved forms supplied by the Court unless a district judge or magistrate judge, upon finding that the complaint is understandable and that it conforms with local rules and the Federal Rules of Civil Procedure, in his or her discretion, accepts for filing a complaint that is not submitted on the approved form.

Adopted and effective May 1, 1980
Revised and effective January 1-2, 1988
Revised and approved April 1, 1999

LOCAL RULE 16.1
INITIAL SCHEDULING ORDER

In all civil actions except those exempted by Local Rule 16.2, an Initial Scheduling Order will issue setting forth the date by which the parties must hold their Fed.R.Civ.P. 26(f) conference, the date by which the parties must submit their Fed.R.Civ.P. 26(f) report, a tentative date for a Fed.R.Civ.P. 16(b) conference, and a proposed trial date.

After the court receives the parties' 26(f) report and, if necessary, holds the 16(b) conference, the court will issue a Final Scheduling Order.

The requirements for the Fed.R.Civ.P. 26(f) report are set out in Local Rule 26.1.

The requirements for the Fed.R.Civ.P. 26(a)(3) pretrial disclosure sheet are set out in Local Rule 26.2.

Effective December 1, 2000.

LOCAL RULE 16.2
EXEMPT ACTIONS

The following categories of cases are exempt from the Fed.R.Civ.P. 16(b) Scheduling Order:

(1) Actions for review of an administrative record;
(2) Habeas corpus petitions;
(3) *Pro se* actions brought by persons in federal, state or local custody;
(4) Actions to enforce or quash administrative summons or subpoena;
(5) Actions by the United States to recover benefit payments or to collect on student loans;
(6) Proceedings ancillary to proceedings in other courts;
(7) Actions to enforce arbitration awards; and
(8) Eminent domain and foreclosure actions.

Effective December 1, 2000.
Amended and effective December 3, 2002.

LOCAL RULE 23.1
CLASS ACTIONS

Caption and Class Action Allegations. In any case sought to be maintained as a class action:

(1) The complaint shall bear the caption "Complaint - Class Action" next to, or under, the style of the case.

(2) The complaint shall contain a separate paragraph captioned "Class Action Allegations" which shall set forth, inter alia:

  (a) A reference to the portion or portions of Fed.R.Civ.P. 23 under which it is claimed that the suit is properly maintainable as a class action; and

  (b) Allegations in support of this claim, including, but not necessarily limited to:

    (i) the size (in numbers) or approximate size and definition of the alleged and proposed class;

    (ii) the basis upon which the plaintiff claims (a) to be an adequate representative of the class, or (b) if the class is composed of defendants, the basis upon which plaintiff claims that the named defendant (or defendants) is an adequate representative of the class;

    (iii) the specific questions of law and fact claimed to be common to any class alleged; and

    (iv) in actions claimed to be maintainable as class actions under Fed.R.Civ.P. 23(b)(3), allegations in support of the findings required by that subdivision.

(3) The deadline for filing a motion for class certification will be set in the Final Scheduling Order (see Local Rule 26.1(13)). The motion shall particularize the facts believed to warrant class or subclass certification and indicate if those facts have been established by stipulations, admissions, or discovery. If a hearing is believed necessary, the motion shall so state. The other parties shall respond to said motion within fourteen (14) days specifically admitting or denying the facts alleged and setting forth any additional or contrary facts believed pertinent to the class action determinations required. Such responses shall also state whether a hearing is believed necessary. Both the motion and responses shall be accompanied by a memorandum of law covering all issues relating to class certification. In ruling upon such a motion, the Court may allow the action to be so maintained, strike the class action allegations, or postpone the determination pending further discovery or other preliminary proceedings. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the Court for renewal of the motion.

Failure to move for class determination and certification by the deadline set in the Final Scheduling Order shall constitute and signify an intentional abandonment and waiver of all class action allegations contained in the complaint and same shall proceed as an individual, non-class action thereafter and shall be transferred by the Clerk from the Class Action Docket to the regular civil docket. If any motion for class determination or certification is filed after the deadline provided in the Final Scheduling Order, it shall not have the effect of reinstating the class allegations unless and until it is acted upon favorably by the Court upon a finding of excusable neglect and good cause.

(4) The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross-claim alleged to be brought for or against a class.

Adopted and effective May 1, 1980
Amended and effective May 1, 2002
Amended November 10, 2009

LOCAL RULE 26.1
OUTLINE FOR FED.R.CIV.P. 26(f) REPORT

The Fed.R.Civ.P. 26(f) report filed with the court must contain the parties' views and proposals regarding the following:

(1) Any changes in timing, form, or requirements of mandatory disclosures under Fed.R.Civ.P. 26(a).

(2) Date when mandatory disclosures were or will be made.

(3) Subjects on which discovery may be needed.

(4) Whether any party will likely be requested to disclose or produce information from electronic or computer-based media. If so:

  (a) whether disclosure or production will be limited to data reasonably available to the parties in the ordinary course of business;

  (b) the anticipated scope, cost and time required for disclosure or production of data beyond what is reasonably available to the parties in the ordinary course of business;

  (c) the format and media agreed to by the parties for the production of such data as well as agreed procedures for such production;

  (d) whether reasonable measures have been taken to preserve potentially discoverable data from alteration or destruction in the ordinary course of business or otherwise;

  (e) other problems which the parties anticipate may arise in connection with electronic or computer-based discovery.

(5) Date by which discovery should be completed.

(6) Any needed changes in limitations imposed by the Federal Rules of Civil Procedure.

(7) Any orders, e.g. protective orders, which should be entered.

(8) Any objections to initial disclosures on the ground that mandatory disclosures are not appropriate in the circumstances of the action.

(9) Any objections to the proposed trial date.

(10) Proposed deadline for joining other parties and amending the pleadings.

(11) Proposed deadline for completing discovery. (Note: In the typical case, the deadline for completing discovery should be no later than sixty (60) days before trial.)

(12) Proposed deadline for filing motions other than motions for class certification. (Note: In the typical case, the deadline for filing motions should be no later than sixty (60) days before trial.)

(13) Class certification: In the case of a class action complaint, the proposed deadline for the parties to file a motion for class certification. (Note: In the typical case, the deadline for filing motions for class certification should be no later than ninety (90) days after the Fed.R.Civ.P. 26(f) conference.)

Effective December 1, 2000.
Amended and effective May 1, 2002

LOCAL RULE 26.2
OUTLINE FOR FED.R.CIV.P. 26(a)(3) PRETRIAL DISCLOSURE SHEET

The Fed.R.Civ.P. 26(a)(3) Pretrial Disclosure Sheet filed with the court must contain:

(1) The identity of the party submitting information.

(2) The names, addresses, and telephone numbers of all counsel for the party.

(3) A brief summary of claims and relief sought.

(4) Prospects for settlement. (Note: The Court expects attorneys to confer and explore the possibility of settlement prior to answering these inquiries.)

(5) The basis for jurisdiction and objections to jurisdiction.

(6) A list of pending motions.

(7) A concise summary of the facts

(8) All proposed stipulations.

(9) The issues of fact expected to be contested.

(10) The issues of law expected to be contested.

(11) A list and brief description of exhibits, documents, charts, graphs, models, schematic diagrams, summaries, and similar objects which may be used in opening statement, closing argument, or any other part of the trial, other than solely for impeachment purposes, whether or not they will be offered in evidence. Separately designate those documents and exhibits which the party expects to offer and those which the party may offer.

(12) The names, addresses and telephone numbers of witnesses for the party. Separately identify witnesses whom the party expects to present and those whom the party may call. Designate witnesses whose testimony is expected to be presented via deposition and, if not taken stenographically, a transcript of the pertinent portion of the deposition testimony.

(13) The current status of discovery, a precise statement of the remaining discovery and an estimate of the time required to complete discovery.

(14) An estimate of the length of trial and suggestions for expediting disposition of the action.

(15) The signature of the attorney.

(16) Proof of service.

Effective December 1, 2000.

LOCAL RULE 33.1
INTERROGATORIES AND REQUESTS

(a) Parties answering interrogatories under Fed.R.Civ.P. 33, requests for production under Fed.R.Civ.P. 34, or requests for admissions under Fed.R.Civ.P. 36, shall repeat the interrogatories or requests being answered immediately preceding the answers.

(b) A blanket objection to a set of interrogatories, requests for admissions, or requests for production will not be recognized. Objections must be made to the specific interrogatory or request, or to a part thereof if it is compound. It is not sufficient to state that the interrogatory or request is burdensome, improper, or not relevant. The ground or grounds for the objection must be stated with particularity.

(c) Requests for admissions will not be combined with other discovery material or documents.

Adopted and effective May 1, 1980
(c) Amended May 1, 1985
Amended January 2, 1990
Amended and effective December 1, 2000
Amended and effective May 1, 2002

LOCAL RULE 40.1
ASSIGNMENT OF ACTIONS AND PROCEEDINGS

(a) All civil and criminal actions and proceedings shall be assigned by a random selection process as the judges from time to time direct.

(b) No person shall take any action designed to cause the assignment of any proceeding to a particular judge. The method of assignment shall assure that the identity of the assigned judge will not be disclosed by the Clerk, nor by any member of his staff, nor by any other person, until after filing. It shall also be designed to prevent any litigant from choosing the judge to whom an action or proceeding is to be assigned. Any attempt by any attorney to vary this intent shall constitute grounds for discipline, including disbarment.

(c) Voluntary Nonsuits. When the plaintiff takes a voluntary nonsuit in a case and subsequently refiles that same case, the Clerk will assign it to the judge who handled it at the time of the entry of the nonsuit order.

To assist the Court and the Clerk's office in carrying out the provision of this rule, the refiled complaint shall contain a brief paragraph identifying, by style and case number, the former proceeding in which the voluntary nonsuit was entered and the name of the judge handling the case at the time of the entry of said voluntary nonsuit order.

NOTE: Attorneys practicing in the Eastern District of Arkansas should consult General Order 39 (attached) for further details on the application of this rule in special situations.

(a) and (b) Adopted and effective May 1, 1980
(c) Adopted and effective July 16, 1980
Note Adopted and effective September 24, 1992

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

IN THE MATTER OF IMPLEMENTATION
OF LOCAL RULE 6 ON CASE ASSIGNMENTS
IN THE EASTERN DISTRICT OF ARKANSAS

GENERAL ORDER NO. 39

(a) All actions and proceedings shall be assigned by a random selection process, except as specifically set out in section (b) of this rule.

(b) Civil cases shall be assigned directly to a particular judge only in the following circumstances:

(1) Voluntary Nonsuit. When the plaintiff takes a voluntary nonsuit in a case and subsequently refiles that same case, the clerk will assign it to the judge who handled it at the time of the entry of the nonsuit order. The refiled complaint shall contain a brief paragraph identifying, by style and case number, the former proceedings in which the voluntary nonsuit was entered and the name of the judge handling the case when the voluntary nonsuit order was entered.

(2) Bankruptcy Jury Trials. When a party to a bankruptcy case demands a jury trial, the randomly drawn district judge who determines that there is a bona fide jury issue shall be assigned the case directly.

(3) Habeas Corpus Petitions. Once a habeas corpus petition has been randomly assigned, all successive petitions emanating from the same state criminal proceeding on which the first petition was based shall be assigned directly to the judge/magistrate who handled the first petition.

(4) Civil Cases Attacking Federal Sentence. Civil cases, filed pursuant to 28 U.S.C. § 2255, attacking a sentence imposed by a federal court shall be assigned directly to the sentencing judge in the criminal case.

(5) Related Cases. There may be rare situations in which a party believes a new civil case should be directly assigned to a particular judge because the new case is closely related to a prior closed case and the assignment thereof to a different judge would result in a significant waste of judicial time. If a plaintiff believes judicial economy requires such a direct assignment, he or she should so indicate by a separate pleading to be entitled "Notice of Related Case" to be filed contemporaneously with the complaint and served with the complaint upon the defendant(s).

The Notice of Related Case shall identify, by style and case number, the prior case and shall contain a brief statement setting out why judicial economy dictates direct assignment to a particular judge. When a plaintiff files such a pleading, the new case shall be tentatively assigned to the judge who handled the prior case. The adverse party(ies) shall have fourteen days after receiving the "Notice of Related Case" within which to file a brief statement opposing such "related case" assignment. After reviewing the cases and the submissions of the parties to determine whether the cases are closely related and whether such non-random assignment is likely to result in significant savings of judicial resources, the judge assigned the new case may, in his or her sole discretion, decide either to keep the new case or to notify the clerk to assign the new case by random

draw. The decision of the judge is final and not subject to review.

If a party other than the plaintiff believes a new case should be directly assigned to a judge who handled a prior closely related case, that party should file a "Notice of Related Case" with its first pleading and serve a copy thereof on all other parties. Such other parties shall have fourteen days after receiving such "Notice of Related Case" within which to file a brief statement opposing such "related case assignment. The clerk shall submit a copy of the complaint, the first pleading together with the Notice of Related Case and any responses thereto to the judge who presided over the prior case. After reviewing the cases and the submissions of the parties to determine whether they are closely related and whether such non-random assignment is likely to result in significant savings of judicial resources, the judge in the prior case may, in his or her sole discretion, notify the clerk to leave the random case assignment as it is, or to transfer the case to his or her docket as a related case. The decision of the judge is final and not subject to review.

(6) Civil Forfeiture. When a civil forfeiture action arises out of a previously filed criminal case, the clerk shall directly assign the civil forfeiture action to the judge who handled the criminal case.

(c) Consolidation of Civil Cases. Any party to a civil case may move for consolidation of pending cases. If such motion is granted, the consolidation cases will be assigned to the judge with the lower (lowest) case number.

(d) Criminal Cases. Criminal cases shall be assigned solely on a random election basis. In no event shall any criminal case or proceeding be directly assigned to a judge as a related case. However, any party to a criminal case may move for consolidation of pending cases. If such motion is granted, the consolidated cases will be assigned to the judge with the lower (lowest) case number.

(e) No person shall take any action designed to cause the assignment of any proceeding to a particular judge contrary to the provisions of this rule. The method of assignment shall assure the identity of the assigned judge will not be disclosed by the clerk, the clerk's staff, nor by any other person, until after filing. It shall also be designed to prevent any litigant from choosing the judge to whom an action or proceeding is to be assigned. Any attempt by any attorney to vary this intent shall constitute grounds for discipline, including disbarment. Any act by any employee of this Court done for the purpose of causing the assignment of any case or proceeding contrary to the provisions of this rule shall be considered a proper basis for immediate discharge.

It is hereby ORDERED this 4th day of May, 2001.

/s/ Susan Webber Wright SUSAN WEBBER WRIGHT, CHIEF JUDGE UNITED STATES DISTRICT COURT

Amended November 10, 2009

LOCAL RULE 41.1
NOTICE OF SETTLEMENT

When a case set for trial is settled out of court, it shall be the duty of counsel to so inform the Clerk and the Court as soon as practicable. In a civil case, the court may require counsel who violate this rule to pay the per diem of all jurors who attend court unnecessarily because of counsel's delay in notifying the Clerk of the settlement.

Adopted and effective May 1, 1980

LOCAL RULE 47.1
CONDITIONS FOR JUROR CONTACT

No juror shall be contacted without express permission of the Court and under such conditions as the Court may prescribe.

Previous Rule 25 adopted 1-2-81 is rescinded and this new Rule 47.1 is adopted effective July 1, 1988

LOCAL RULE 54.1
ATTORNEY'S FEES

(a) In any case in which an attorney's fees are recoverable under the law applicable to that case, a motion for attorney's fees shall be filed with the Clerk, with proof of service, within fourteen (14) days after the entry of judgment or an order of dismissal under circumstances permitting the allowance of attorney's fees. In the event a post-trial motion is filed, this 14-day period shall not commence until entry of the order granting or denying the post-trial motion. Objections to an allowance of fees must be filed within fourteen (14) days after service on the party against whom the award to attorney's fees is sought. A failure to present a timely petition for an award of attorney's fees may be considered by the Court to be a waiver of any claim for attorney's fees.

(b) On its own motion, the Court may grant an allowance of reasonable attorney's fees to a prevailing party in appropriate cases.

(c) The petitioner shall attach to his motion an affidavit setting out the time spent in the litigation and factual matters pertinent to the petition for attorney's fees. The respondent may, by counter affidavit, controvert any of the factual matters contained in the petition and may assert any factual matters bearing on the award of attorney's fees.

(d) The 14-day period set forth in subsection (a) shall not apply to cases wherein the statute creating the right to attorney's fees also provides its own limitation period for filing such motions.

Adopted and effective September 1, 1982
Amended January 2, 1990
Amended November 10, 2009

LOCAL RULE 56.1
SUMMARY JUDGMENT MOTION

In addition to the requirements set forth in Local Rule 7.2, the following requirements shall apply in the case of motions for summary judgment.

(a) Any party moving for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, shall annex to the notice of motion a separate, short and concise statement of the material facts as to which it contends there is no genuine dispute to be tried.

(b) If the non-moving party opposes the motion, it shall file, in addition to any response and brief, a separate, short and concise statement of the material facts as to which it contends a genuine dispute exists to be tried.

(c) All material facts set forth in the statement filed by the moving party pursuant to paragraph (a) shall be deemed admitted unless controverted by the statement filed by the non-moving party under paragraph (b).

(d) The time for filing a response and a reply is governed by Local Rule 7.2 (b).

Adopted and effective March 14, 1984
Amended May 20, 2010
Amended February 22, 2011

LOCAL RULE 58.2
SATISFACTION OF JUDGMENTS

(a) Satisfaction of a judgment shall be noted by the Clerk on the margin of the record of the civil judgment book upon the happening of any of the following:

(1) The filing with the Clerk of a written satisfaction of judgment executed by the judgment creditor or his attorney of record.

(2) The filing with the Clerk of a return to an execution by the United States Marshal showing the judgment collected by the Marshal.

(3) The payment of the judgment or the fine imposed into the Registry of the Court.

(b) A judgment creditor or his attorney of record may also note satisfaction of judgment on the margin of record of the civil judgment book. The Clerk shall attest such notation.

Adopted and effective May 1, 1980

LOCAL RULE 67.1
DEPOSIT OF REGISTRY FUNDS BY THE CLERK
IN INTEREST-BEARING ACCOUNTS

(a) All funds deposited in the Registry of this Court, pursuant to 28 U.S.C. §2041 shall be deposited with the Treasurer of the United States through the Federal Reserve Bank or a depository designated by him to receive the Registry funds. Thereafter the investment of any such funds in interest-bearing instruments in accordance with the following provisions shall be at the initiative of the interested party or parties through counsel of record. It is counsel's responsibility to see that the provisions of this rule are complied with.

(b) Pursuant to Rule 67, Fed.R.Civ.P., counsel shall apply to the judge to whom the case is assigned for an order directing the Clerk to accept the funds for deposit and to invest the funds in an interest-bearing instrument in a financial institution insured by the FDIC. The Order will include the following:

(1) The amount to be invested;

(2) The type of account or instrument in which funds are to be invested (i.e., certificate of deposit or treasury bills, etc.);

(3) The length of the term of investment; and

(4) Wording which directs the Clerk to deduct from the income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

(c) Whenever an Order is entered directing the investment of funds deposited in the Registry of the Court, it shall be the responsibility of counsel to cause a copy of such Order to be served personally upon the Clerk of the Court, or on the Chief Deputy Clerk, in the absence of the Clerk, AND on the Financial Deputy.

(d) The Clerk shall take all reasonable steps to assure that the funds are invested as quickly as the business of the Clerk's office will allow.

(e) The party obtaining the Order directing the investment of funds at interest will verify that the Clerk has invested the funds as directed.

(f) Failure of the party to personally serve a copy of the Order to invest funds as specified in this Rule, or failure to verify that the funds have been invested pursuant to this Rule, shall release the Clerk and any of his deputies from any liability for loss of interest which could have been earned on the funds.

(g) Early withdrawal of funds from interest-bearing instruments which result in a loss of interest penalty will be the sole responsibility of counsel making the request.

(h) Under no circumstances shall counsel purchase an interest-bearing instrument in his own name or in the name of the Clerk for subsequent deposit into the Registry. This is the sole responsibility of the Clerk of the Court or his designated deputy.

(i) Interest-bearing instruments shall not, under any circumstances, be endorsed by the Clerk of the Court to a payee. Prior to disbursement, interest-bearing instruments must be converted to a cashier's check and deposited with the Treasurer of the United States for subsequent payment.

(j) Funds deposited in the Registry Account by personal or corporate check, whether or not the funds are to be invested in an interest-bearing account, shall be received subject to collection. Said monies shall not be paid from the Registry for a period of three (3) weeks after receipt therefor.

(k) Pursuant to 28 U.S.C. §2042, disbursement of funds held in the Registry of the Court will be made only upon Order of the Court.

(l) The Clerk shall be allowed seven (7) business days following receipt of an order for disbursement of funds from the Registry Account, subject to the above paragraph (j).

(m) Pursuant to notice published in the October 24, 1990, edition of the Federal Register, the Clerk of the district court is required to assess a fee for handling funds deposited with the court in criminal and non-criminal proceedings held in interest-bearing accounts. The fee will be a charge of 10% of the income earned regardless of the nature of the case underlying the investment. The fee is effective with deposit of funds received on or after December 1, 1990.

The Clerks of the United States District Court for the Eastern and Western Districts of Arkansas shall deduct the 10% fee[1] on interest earned prior to any distribution without further order of the Court for subsequent deposit to the Treasurer of the United States.

Adopted and effective July 14, 1986
Amended March 26, 1992
Amended November 10, 2009

[1] Interpleader funds under 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 in the DOF established within the Courts Registry Investment System (CRIS) and administered by the Administrative Office of the United States Courts (Director is the Custodian). The Custodian is responsible for meeting all DOF tax administration requirements and, effective December 1, 2016, is authorized to deduct a fee of 20 basis points on assets on deposit in the DOF, assessed from interest earnings. See District Court Miscellaneous Fee Schedule.

LOCAL RULE 71A.1
LAND CONDEMNATION PROCEEDINGS

(a) For each trial unit (that is, an ownership or economic unit for which just compensation is required by substantive law to be separately determined in a single sum), there shall be a separate civil action. The condemning authority shall make the initial determination of the identity of such trial units but this determination shall be subject to revision by the Court as the interests of justice and the convenient administration of this business of the Court may require. A single declaration of taking, complaint, or notice of condemnation may include one or more tracts, trial units or ownerships. Where a complaint, declaration of taking and notice of condemnation including more than one trial unit are filed, the Clerk shall establish a civil action file for each trial unit and shall file the initial pleadings in the lowest numbered civil action file. Higher numbered civil action files shall bear a notation indicating the place where such documents are filed. Any pleading, motion, order, or other document filed at the time of or after the filing of the complaint, notice of condemnation or declaration of taking which affects all trial units may be filed by the Clerk in such file only, but the condemning authority may, and at the direction of the Court shall, furnish to the Clerk additional copies for filing in the other civil action files. Condemnation civil action files shall be numbered consecutively in the same sequence with other civil actions. The complaint and notice of condemnation shall indicate, by tabulation or otherwise, what lands are included in each civil action. When a condemnation complaint, declaration of taking and notice of condemnation involve more than one civil action, all of the civil action numbers involved shall be included in the captions of those documents.

(b) At the request of the attorney for the condemning authority, upon the filing of a declaration of taking, the Clerk shall forthwith assign civil action numbers as may be required for each trial unit, and the condemning authority shall proceed to file the complaint, notice of condemnation, and other initial pleadings expeditiously and in any event within seven days.

(c) Pleadings and other documents in a condemnation case need not be typed but may be produced by any process which produces documents substantially equivalent in size and legibility to typewriter ribbon copy prepared in conformity with Rule 5.5 of these rules. When a pleading so produced is filed, the original shall be signed by the attorney for the party filing it and the signed original shall be labeled as such on its face in some conspicuous manner.

(d) When a condemnation case involving more than one civil action is filed, each civil action shall be assigned randomly to a judge in the manner of assignment of ordinary civil actions; but any motion affecting all or several of such civil actions may be presented to the judge to whom is assigned the first of such civil actions affected, or in the absence of that judge to the judge to whom the second is assigned, and so on until a judge is available.

(e) Civil actions in condemnation cases may be set for trial of the issue of just compensation, or for hearings or trials of other issues, singly or in groups as may be convenient to the Court and parties. When set in groups, no consolidation is required, but the Court shall give such instructions, require such forms or numbers of verdicts, and make such findings and orders as shall preserve the

rights of all the parties under substantive law.

Adopted and effective May 1, 1980
Revised effective August 3, 1981
Amended November 10, 2009

LOCAL RULE 72.1
UNITED STATES MAGISTRATE JUDGES

The duties and jurisdiction of United States Magistrate Judges shall be as provided for in 28 U.S.C. Sec. 636 and in Rules 5 and 5.1 of the Federal Rules of Criminal Procedure.

I. MISDEMEANOR JURISDICTION

Under the conditions required by law, the full-time Magistrate Judges are designated to try persons accused of, and to sentence persons convicted of, misdemeanors as defined by U.S.C. Sec. 3401. They are authorized to direct the United State Probation Office to conduct presentence investigations, render reports, and provide other necessary services. The Clerk shall automatically refer all misdemeanor cases that are initiated by information or indictment or are transferred to this district under Rule 20 of the Federal Rules of Criminal Procedure to a Magistrate Judge for plea and arraignment. If the defendant in such cases consents to the Magistrate Judge's jurisdiction, further proceedings shall be conducted before the Magistrate Judge. All part-time Magistrate Judges in both districts are also designated to try misdemeanor cases. In the Eastern District, the part-time Magistrate Judges shall exercise this jurisdiction when specifically referred a case by a District Judge or a full-time Magistrate Judge.

II. FORFEITURE OF COLLATERAL

The full-time Magistrate Judge shall oversee the Forfeiture of Collateral system. (Also, see a general order of the Court of each district for more details.)

III. COMMITMENT TO ANOTHER DISTRICT

The Magistrate Judge shall conduct proceedings pursuant to Federal Rules of Criminal Procedure 40.

IV. CRIMINAL PRETRIAL

A Magistrate Judge may conduct post-indictment arraignments. In felony cases, he shall accept not guilty pleas and refer pleas of guilty to a District Judge, or if no District Judge is immediately available, the Magistrate Judge shall enter a not guilty plea for the defendant and schedule a time for the defendant to appear before a District Judge and enter a change of plea.

V. SUBPOENAS AND WRITS

A Magistrate Judge may issue subpoenas, writs of habeas corpus ad testificandum or ad prosequendum or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings, either civil or criminal.

VI. MOTIONS TO DISMISS

A Magistrate Judge may hear and decide motions by the government to dismiss an indictment, information or complaint without prejudice to further proceedings.

VII. REFERENCE OF NON-DISPOSITIVE MATTERS

A. Reference

When designated by a District Judge, and as limited by 28 U.S.C. Sec. 636(b)(1)(A), a Magistrate Judge may hear and determine any pretrial matters pending before the Court, including, but not limited to, procedural and discovery motions, pretrial conferences, omnibus hearings, docket calls, settlement conferences, and related proceedings.

B. Appeal

In all matters delegated under authority of 28 U.S.C. Sec. 636(b)(1)(A), a Magistrate Judge's

decision is final and binding and is subject only to a right of appeal to the District Judge to whom the case has been assigned. A party may appeal the Magistrate Judge's ruling by filing a motion within fourteen (14) days of the Magistrate Judge's decision unless a shorter period is set by the District Judge or Magistrate Judge. Copies shall be served on all other parties and the Magistrate Judge from whom the appeal is taken. The motion shall specifically state the rulings excepted to and the basis for the exceptions. The Court may reconsider any matter sua sponte. The District Judge shall affirm the Magistrate Judge's findings unless he finds them to be clearly erroneous or contrary to law. In all matters referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(c) (consent jurisdiction), an aggrieved party may appeal only to the Court of Appeals in the same manner as on appeal from any other judgment of a district court.

VIII. DISPOSITIVE MATTERS

A. Reference - General

A District Judge may designate a Magistrate Judge to conduct hearings, including evidentiary hearings, and to submit proposed findings of fact and recommendations for the resolution of any dispositive matters, including, but not limited to, the following:

1. Motions by the defendant to dismiss or quash an indictment or information;
2. Motions to suppress evidence;
3. Applications to revoke probation, including the conduct of the "final" probation revocation hearing;
4. Motions for temporary restraining orders and preliminary injunctions;
5. Motions to dismiss for failure to state a claim upon which relief may be granted;
6. Motions to dismiss an action and to review default judgment;
7. Motions to dismiss or to permit the maintenance of a class-action;
8. Motions for judgment on the pleadings or for summary judgment;
9. Cases involving the granting of benefits to claimants under the Social Security Act and the "black lung" benefit laws;
10. Cases involving the adjudication by the Civil Service Commission of adverse employee actions, retirement eligibility and benefits questions; and the rights of employees in situations such as reductions in force.

B. Reference - Prisoner Petitions

A Magistrate Judge shall have the following responsibilities with regard to prisoner petitions:

1. Review of prisoner correspondence and petitions concerning 28 U.S.C. Sec. 2241, 28 U.S.C. Sec. 2254 and 42 U.S.C. Sec. 1983 matters;
2. Review of prisoner correspondence and petitions concerning conditions of confinement which are submitted by federal prisoners;
3. Preparation and distribution of forms required by the Rules Governing Sec. 2254 Cases (28 U.S.C. Sec. 2254);
4. Entry of orders authorizing the petitioner to proceed in forma pauperis without the prepayment of costs or fees;
5. Issuance of all necessary orders to answer or to show cause or any other necessary orders or writs to obtain a complete record;

6. Taking of depositions, conducting pretrial conferences, and conducting evidentiary hearings or other necessary proceedings in order to obtain a complete record.

C. Objection

When a Magistrate Judge files proposed findings or recommendations with the Court, he shall mail a copy to all parties. Within fourteen (14) days after being served with a copy, any party may serve and file written objections to such proposed findings, recommendations or order. The District Judge must make a de novo determination of any matters which have been specifically objected to by the litigants, but this does not necessarily require the Judge to conduct a hearing on contested issues. In some instances, it may be necessary for the District Judge to modify or reject the findings of the Magistrate Judge, to take additional evidence, recall witnesses, or recommit the matter to the Magistrate Judge for further proceedings.

D. Statement of Necessity

A party objecting to the Magistrate Judge's proposed findings and recommendations who desires to submit new, different, or additional evidence and to have a hearing for this purpose before the District Judge will file a "statement of necessity" at the time he files his written objections, and which shall state:

1. why the record made before the Magistrate Judge is inadequate;
2. why the evidence to be proffered (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge; and
3. the details of any testimony desired to be introduced in the form of an offer of proof, and a copy, or the original, of any documentary or other non- testimonial evidence desired to be introduced.

From this submission, the District Judge shall determine the necessity for an additional evidentiary hearing, either before the Magistrate Judge or before the District Judge.

IX. MASTER REFERENCES

When designated by a District Judge, a Magistrate Judge may:

A. serve as a special master in accordance with the provisions of Rule 53 of the Federal Rules of Civil Procedure, or, upon consent of the parties, without regard to the provisions of Rule 53. He may also hear testimony and submit a report and findings on complicated issues in jury and non-jury cases;

B. conduct evidentiary hearings and prepare findings in employment discrimination cases as a master under 42 U.S.C. Sec. 2000(e)(5); and

C. conduct hearings and resolve specific issues in patent, antitrust and other complex cases where there are a great many issues, claims and documents, or in multiple disaster and class-action cases where there are numerous claimants and diverse claims.

X. CIVIL CONSENT JURISDICTION

A. Special Designation

The full-time Magistrate Judges of both districts are specially designated by the District Court to conduct any or all proceedings in jury or non-jury civil matters upon the consent of the parties.

B. Reference

(1) Notice. The clerk shall give the plaintiff notice of the Magistrate Judge's

consent jurisdiction, in a form approved by the Court, when a civil suit is filed. The Clerk shall also attach the same notice to the summons for service on the defendant.

(2) Consent. Any party may obtain a "Consent to Magistrate Judge's Jurisdiction" form from the Clerk's office.

The Clerk shall furnish the party with Consent Form A, which shall provide that any appeal in the case shall be taken directly to the Circuit Court of Appeals.

(3) Transfer. Once the completed forms have been returned to the Clerk, he shall then draw by lot the name of the Magistrate Judge and forward the Consent forms for final approval to the District Judge to whom the case is assigned. When the District Judge has approved the transfer and returned the Consent forms to the Clerk's office for filing, the Clerk shall forward a copy of the Consent forms to the Magistrate Judge to whom the case is assigned. The Clerk shall also indicate on the file that the case has been assigned to the Magistrate Judge.

C. Appeal

Appeal to the Court of Appeals. The final judgment, although ordered by the Magistrate Judge, is deemed a final judgment of the District Court and will be entered by the Clerk under Rule 58 Fed.R.Civ.P. Any appeal shall be taken to the Court of Appeals in the same manner as an appeal from any other judgment of the District Court.

XI. OTHER REVIEWABLE MATTERS

Rulings, orders, or other actions by a Magistrate Judge in the District, review of which is not otherwise specifically provided for by law or these rules, shall, nevertheless, be subject to review by the District Court as follows:

A. Any party may file and serve, not later than fourteen (14) days thereafter an application for review of the Magistrate Judge's action by the District Judge having jurisdiction. Copies of such application shall be served promptly upon the parties, the District Judge, and the Magistrate Judge.

B. After conducting whatever further proceedings he or she deems appropriate, the District Judge may adopt or reject, in whole or in part, the action taken by the Magistrate Judge, or take such other action he or she deems appropriate.

XII. REFERRALS

Notwithstanding any provision in this Local Rule, the District Court may by General Order authorize referral to Magistrate Judges of any matters consistent with 28 U.S.C. § 636.

Note: Attorneys practicing in the Western District of Arkansas should consult General Order 40 for instructions for the acceptance of guilty pleas by magistrate judges.

I through X Adopted and effective May 1, 1980
XI Adopted and effective June 26, 1981
VIII (B)(6) Adopted and effective October 1, 1982
X Revised and effective January 1-2, 1988
Amended January 2, 1990
VIII (B)(1) Revised and approved April 1, 1999

Amended effective November 10, 2009
Amended effective August 5, 2010
Amended effective November 1, 2012

LOCAL RULE 77.1
LOCATION AND OFFICE HOURS OF CLERKS' OFFICES,
AND DESIGNATION OF FILING OFFICES

EASTERN DISTRICT OF ARKANSAS

Division	**Court Held**	***Office Hours***	**Filing Office**	**Telephone**
Eastern	Helena	Unstaffed	600 West Capitol Ave., Room A-149 Little Rock, AR 72201	870-338-6321
Western	Little Rock	8:00 - 5:00	600 West Capitol Ave., Room A-149 Little Rock, AR 72201	501-604-5351
Northern	Batesville	Unstaffed	600 West Capitol Ave., Room A-149 Little Rock, AR 72201	870-793-4330
Pine Bluff	Pine Bluff*	8:00 - Noon 1:00 - 5:00	100 East 8th St., Room 3103 Pine Bluff, AR 71611-8307	870-536-1190
Jonesboro	Jonesboro*	8:00 - Noon 1:00 - 5:00	615 South Main St., Room 312 Jonesboro, AR 72401	870-972-4610

WESTERN DISTRICT OF ARKANSAS

Division	**Court Held**	***Office Hours***	**Filing Office**	**Telephone**
Fort Smith	Fort Smith	8:00 - 5:00	30 South Sixth Street, Room 1038 Fort Smith, AR 72901-2437	479-783-6833
Harrison	Harrison	Unstaffed	34 East Mountain, Room 510 Fayetteville, AR 72701-5354	479-521-6980
Texarkana	Texarkana	8:00 - Noon 12:30 - 4:30	500 North State Line Ave., Room 302 Texarkana, AR 71854-5961	870-773-3381
El Dorado	El Dorado	8:00 - Noon 12:30 - 4:30	101 South Jackson Ave., Room 205 El Dorado, AR 71730-6133	870-862-1202
Fayetteville	Fayetteville	8:00 - 5:00	35 East Mountain, Room 510 Fayetteville, AR 72701-5354	479-521-6980
Hot Springs	Hot Springs	8:00 - Noon 12:30 - 4:30	100 Reserve St., Room 347 Hot Springs, AR 71901-4141	501-623-6411

*All Clerks' offices are closed for legal holidays (see Fed.R.Civ.P.77(c)). The offices noted by an asterisk may be temporarily closed for vacations or due to unexpected absences.

Amended July 1, 1988
Amended effective April 15, 1989
Amended effective November 10, 2009

Amended effective August 5, 2010

LOCAL RULE 79.1
REMOVAL OF FILES OR WITHDRAWAL OF PAPERS AND EXHIBITS

(a) Temporary Removal. No record or material may be removed from the Clerk's office without written leave of the Court previously obtained except by a master, auditor, or other person to whom the record or material has been referred. Any person withdrawing any record or material shall give to the Clerk at the time of withdrawal a receipt specifying the items withdrawn, the date of withdrawal and the date the item is to be returned.

(b) Permanent Withdrawal. The Court may by prior order permit a document or exhibit to be permanently withdrawn from the file maintained by the Clerk, but the party requesting the same shall furnish the Clerk a receipt and an appropriate replacement for the original. The replacement shall then be filed in lieu of the withdrawn original.

(c) Judge's Files. In no event shall the Judge's files be removed or examined without order of the Court.

(d) Custody of Exhibits.

(1) All exhibits offered in evidence, whether admitted or excluded, shall be held in the custody of the Clerk until the trial of the cause is completed. Exhibits offered at trial shall be marked for identification by the Clerk. During the course of the trial, the Court may permit counsel to withdraw or substitute exhibits. At the end of the trial the Clerk or the courtroom deputy acting for the Clerk is directed to return to respective counsel all exhibits introduced during the trial, and to obtain a receipt therefor from counsel. The exhibits are to be retained by counsel until the time for filing notice of appeal has expired.

(2) Upon the filing of a notice of appeal, or at any other time, counsel shall, upon request by the Clerk, return the exhibits to the Clerk within 24 hours after such request is made. Sensitive exhibits such as firearms, explosive devices, untaxed whiskey, counterfeit money, and narcotics are excluded from this portion of the order pertaining to returning exhibits to the Clerk. During the trial of a cause the sensitive exhibits named above shall be retained by the United States Attorney or the representative of the agency of the United States involved in that particular cause.

(3) Upon the return of a not guilty verdict in a case in which a sensitive exhibit has been introduced and it is questionable whether the exhibit should be returned to the defendant, the Clerk is directed to take custody of the exhibit pending an order from the Court for its disposition.

(4) In the event of a mistrial, it shall be the responsibility of counsel to preserve and protect the exhibits which will be needed for the retrial.

(5) If a case is taken under advisement by the Court and the Court is of the opinion that the exhibits will be needed in preparing its findings of fact and conclusions of law, or in the writing of its memorandum opinion, the Court shall then direct that the exhibits be retained by the courtroom deputy.

(a) through (c) adopted and effective May 1, 1980
(d) Adopted and effective November 22, 1982

LOCAL RULE 83.1
UNITED STATES BANKRUPTCY JUDGES

I. REFERENCES

All cases and proceedings arising under Title 11 of the United States Code or arising in or related to a case under Title 11, brought pursuant to 28 U.S.C.§1334, §1412, or §1452, except personal injury or wrongful death tort claims, are referred to the bankruptcy judges for this district as provided in 28 U.S.C. §157(a).

II. PROCEEDINGS

(a) The bankruptcy judge shall hear and determine all cases under Title 11 and all core proceedings arising under Title 11, or arising in a case under Title 11, which are referred under this Rule and shall enter appropriate orders and judgments.

(b) If the bankruptcy judge determines that a matter is a related proceeding as provided in 28 U.S.C. § 157(c)(1), the bankruptcy judge shall hear all proceedings therein and submit proposed findings of fact and conclusions of law for determination and entry of any final order or judgment by a district judge, unless the parties consent to the entry of a final order by the bankruptcy judge pursuant to Bankruptcy Rule 7012(b).

(c) All papers in bankruptcy cases and proceedings which are referred under this Rule shall be filed with the Bankruptcy Clerk for this district. Motions to withdraw a reference filed with the Bankruptcy Clerk shall be forwarded to the Clerk of the District Court for a determination by the District Court pursuant to Bankruptcy Rule 5011.

(d) Bankruptcy Appeals. Bankruptcy appeals to the district court are governed by the bankruptcy rules, particularly Bankruptcy Rules 8001 through 8019. Pursuant to the authority granted by Rule 8018, the rules governing appeals to district court are supplemented as follows:

A. The Bankruptcy Court is authorized to dismiss an appeal filed after the time provided by the applicable rules and any appeal in which the appellant has failed to file a designation of the items for the record, or the transcript designated for inclusion in the record or a statement of the issues as required by the applicable rules. Bankruptcy Court orders entered under this subsection shall be reviewed by the district court on motion filed within fourteen days after entry of the order sought to be reviewed.

Amended July 1, 1988
Revised and effective November 1, 1996
Amended November 10, 2009

LOCAL RULE 83.2
PHOTOGRAPHING, BROADCASTING, TELEVISING, AND RECORDING IN COURTROOM AND ENVIRONS

(a) The taking of photographs, the recording by any means other than the official court reporter or the radio or television broadcasting (or making of audio or video tapes) in any courtroom or its environs, utilized by either United States District Court in Arkansas during the progress of or in connection with any judicial proceedings, including proceedings before a United States Magistrate Judge, is PROHIBITED, except as hereinafter provided, and regardless whether such hearing or proceeding takes place on public or private property or in the office or chambers of a judge or magistrate judge or otherwise.

(b) The taking of photographs, still or motion pictures, and audio and video tapes, of ceremonies and interviews, including administration of oaths of applicants for citizenship and to executive and judicial officers, may be permitted with leave of the Court or the officer in charge thereof; provided that the ceremonies and interviews are not connected with any judicial proceedings. "Judicial proceedings", as used herein, shall include all judicial proceedings, whether civil or criminal, and whether pending, on appeal, or terminated.

(c) "Environs", as used in this Rule, shall include the part of any Federal Building with the District set apart for the United States District Court and its facilities, including chambers of the Court, other facilities of court officials and adjacent hallways.

(d) Exception for Media Representatives to make Audio Tapes. Duly identified and authorized representatives of the print, radio, and television media may unobtrusively make audio tapes during trials and hearings in open court solely for the purpose of assuring the accuracy of reports. The only official record of such proceedings shall continue to be that made by the official court reporter and the Clerk in accordance with law. Proper prior arrangements for the making of such audio tape recordings shall be made where necessary to avoid any interruption or interference with such proceedings. Audio tape recordings made pursuant to this exception may not be broadcast or rebroadcast to the public, transferred or sold, or used as such for commercial purposes.

Adopted and effective May 1, 1980
Subparagraph (d) adopted and effective September 1, 1986

LOCAL RULE 83.3
WEAPONS IN COURTROOMS

The possession of firearms or other weapons in any federal courtroom in the state of Arkansas is prohibited. This prohibition shall apply to all federal courtrooms or places where federal court proceedings are conducted wherever located and, including without limitation, all federal district courtrooms, U. S. Magistrate Judges' courtrooms, and U. S. Bankruptcy courtrooms. PROVIDED HOWEVER this prohibition shall not apply to the U. S. Marshal, any deputy U. S. Marshal, or any state or federal law enforcement officer or guard specifically excepted by the U. S. Marshal from the provisions of this rule. And PROVIDED FURTHER, this rule shall not apply to federal law enforcement officers having the custody of a person or persons who must come before the Court for an initial appearance. And PROVIDED FURTHER, any federal judge, bankruptcy judge, or U. S. magistrate judge may make such further exceptions to this rule with respect to matters coming before him or her as said judge may determine appropriate.

Effective April 15, 1989

LOCAL RULE 83.4
MANDATE OF AN APPELLATE COURT

When a cause is remanded by an appellate court and further proceedings are not required, the order of the appellate court shall be the order of the District Court and shall be entered by the Clerk.

Adopted and effective May 1, 1980

LOCAL RULE 83.5
ATTORNEYS

(a) Bar of the Court. The Bar of the Arkansas district court shall consist of those persons admitted to practice in either district.

(b) Eligibility.

1. All persons who are on the roll of attorneys for either district of Arkansas upon the effective date of these Rules shall continue to be enrolled.
2. Any person is eligible for enrollment who is licensed to practice in the jurisdiction where that person's principal law office is located and where that person principally practices law. In the case of a nonresident of Arkansas, an applicant also must previously have been authorized to practice in another United States District Court.
3. Any attorney who is enrolled in the United States District Court for either district of Arkansas is automatically enrolled in the other district.

(c) Procedure for Admission.

1. Each applicant for admission to the Bar of this Court shall file with the Clerk a written petition setting forth his residence and office address and telephone numbers, his legal education, any criminal record other than traffic offenses the applicant may have, and the courts to which he has been admitted to practice. The petition shall be accompanied by a current certificate of good standing from the clerk of the highest court in the state where the applicant principally practices law.
2. The Clerk shall examine the petition and accompanying certificates and, if these comply with this Rule, the petition shall be presented to a judge of these courts who shall determine its sufficiency. If approved, the applicant shall make suitable arrangements thereafter with the Clerk for his appearance and admission.

(d) Special or Limited Appearance (Pro Hac Vice). Any attorney who is a member in good standing of the Bar of any United States District Court, or of the highest court of any state or territory or insular possession of the United States, but is not admitted to practice in the District Courts in Arkansas, may, upon oral or written application, be permitted to appear and participate in a particular case.

The application shall designate a member of the Bar of these Courts who maintains an office in Arkansas for the practice of law with whom the court and opposing counsel may readily communicate regarding the conduct of the case. There shall also be filed with such application the address and telephone number of the named designee.

Notwithstanding these provisions, the Court, upon written motion, may waive these requirements of this designation and permit the non-enrolled attorney to proceed without designating local counsel, for the limited purposes of the pending litigation. In support of the motion, non-enrolled counsel must affirm to these Local Rules and to the jurisdiction of the Court in matters of discipline.

Appearances under this provision are limited and may be withdrawn by the presiding judge. Pleadings tendered to the Clerk for filing by an attorney who is not admitted to practice shall be

accepted and filed by the Clerk and the Clerk shall call this Rule to the attention of the attorney. After the rule has been called to the attention of an attorney and a period of 30 days has elapsed, any additional pleadings tendered by the attorney shall not be accepted and filed by the Clerk until the requirements of this Rule are met. The Rule shall not apply to any attorney for the United States appearing in his official capacity.

(e) Disbarment and Discipline. All persons enrolled as attorneys in either of these courts or appearing pro hac vice under the provisions of Rule 83.5(d), shall be subject to the Uniform Federal Rules of Disciplinary Enforcement, which are hereby adopted and included in the Appendix to these rules.

(f) Withdrawal. No attorney shall withdraw from an action or proceeding except by leave of Court after reasonable notice has been given to the client and opposing counsel.

Adopted and effective May 1, 1980
Amended effective January 2, 1990
Amended and effective December 3, 2002
Amended May 20, 2010
Amended January 9, 2012

LOCAL RULE 83.6
ASSESSMENT FOR OUT-OF-POCKET EXPENSES
COLLECTION OF BIENNIAL ASSESSMENT SUSPENDED UNTIL FURTHER NOTICE

Rule XI(A) of the Appendix to these rules is hereby amended as follows:

(1) The $5.00 assessment fee authorized in Rule XI(A) may be used to establish a "Library Fund" to reimburse attorneys for out-of-pocket expenses when the attorney has been appointed under Title 28, United States Code, Section 1915. These funds shall be used to pay only those expenses where no funds are available from other sources to cover the out-of-pocket expenses.

(2) It shall be the sole discretion of the judges if the fund collected shall be deposited to the "Appendix Rule XI(A) Fund" or to the "Library Fund." There will be a separate "Library Fund" maintained for the Eastern and Western Districts of Arkansas. Funds will be divided between the districts following each assessment. The manner for deciding the division of funds will be based upon the residence of attorneys in the court's database. Additional funds may be transferred from one district to another based upon the demonstration of need. Those fees which have been heretofore collected pursuant to Rule XI(A) of the Appendix have been deposited to the "Appendix Rule XI(A) Fund" and shall remain so deposited in an interest bearing account, to be used exclusively for the payment of costs incurred in attorney discipline matters.

(3) Until otherwise ordered by the Court, the Clerk for the Eastern District of Arkansas shall collect the $5.00 assessment fee from attorneys and deposit it into an interest bearing checking account for the reimbursement of unusual expenses of appointed attorneys in actions where counsel was appointed under 28 U.S.C. Sec. 1915, or for transfer to the "Library Fund" for the Western District of Arkansas.

(4) CUSTODIAN.

The custodian of the "Appendix Rule XI(A) Fund" shall be the Clerk for the Eastern District of Arkansas. The custodians of the "Library Fund" shall be the Clerk for each respective district, whose responsibilities shall be those set out in the Accounting Standards established by these courts. A copy of the Accounting Standards shall be maintained on file in the Clerk's office in each district.

(5) APPLICATION AND DISBURSEMENT.

(a) Application. Application for disbursement from this fund shall be made in accordance with the policies and guidelines (which is Exhibit A to this Rule) established by these courts. The application will contain the information prescribed in paragraph 3 of policy guidelines.

(b) Disbursement. The custodians of the "Library Fund" shall make disbursement from the respective Funds in accordance with the policies and guidelines (Exhibit A) established by these courts. Disbursement shall be made only upon order of the proper court in the form attached hereto as Exhibit B.

(6) All other provisions pertaining to the collection of this fee pursuant to Rule XI(A) of the Appendix are made applicable to the collection of the fee for the "Library Fund."

(7) CRITERIA FOR OTHER USES FOR THE FUND.

When the "Library Fund" or the "Appendix Rule XI(A) Fund" exceeds $50,000.00, the portion in each fund in excess of that figure may be used, to the extent specifically authorized by the Court for the advancement of the courts of the United States, the legal profession, jurisprudence, or other aspects of the systems of justice in the United States. Upon the approval of a majority of the judges from the district holding the funds, an order may be entered on behalf of the Courts by the Chief District Judge directing the Clerk of Court to disburse such excess funds for such purposes.

Adopted and effective July 1, 1985

(7) Amended and approved November 8, 1990 Amended and approved April 30, 2007

EXHIBIT A TO LOCAL RULE 83.6
REIMBURSEMENT OF OUT-OF-POCKET EXPENSES OF APPOINTED COUNSEL
POLICY GUIDELINES

This Court has determined that monies derived from the annual fees paid by attorneys admitted to practice before this Court may be used to reimburse attorneys appointed pursuant to 28 U.S.C. Sec. 1915 for out-of-pocket expenses and to pay any court-appointed experts when necessary. With respect to these purposes, the following guidelines are established:

(1) The Clerk of Court for each respective district shall monitor the fund and make a written report of the use of the fund and the fund balance to the Judges and Magistrate Judges of their district by the fourteenth day in each month.

(2) Before an attorney expends an amount above $500.00, for which that attorney intends to seek reimbursement from the fund, written approval must be obtained from a District Court Judge or a Magistrate Judge.

(3) Before any single expenditure from the fund in excess of $500.00 is authorized, or approval of a request by an attorney to expend in excess of $500.00, the District Court Judge or Magistrate Judge shall inquire of the Clerk of Court for the respective district as to the impact of that expenditure on the fund.

(4) All requests by attorneys for disbursements or requests for approval of expenditures shall be by written application, containing the following information:
   (a) The date of the application;
   (b) The caption of the cause of action;
   (c) The name and address of the attorney requesting the disbursement or approval of expenditure;
   (d) A detailed itemization of all costs and expenses for which the disbursement or expenditure is requested; and
   (e) A brief explanation of how the requested disbursement or expenditure complies with the guidelines and policies established by the Court for disbursements from the fund.

(5) All disbursements, pursuant to requests by attorneys, from the fund shall be made only by order of a United States District Judge or a United States Magistrate Judge in the form attached as Exhibit B.

Revised and effective February 22, 1994
Revised and effective April 30, 2007
Amended November 10, 2009

EXHIBIT B TO
LOCAL RULE 83.6

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

_____		
Plaintiff	)	
v.	)	
_____	)	
Defendant	)	Case No. _____

ORDER

Pending before the Court is the Application of _____[Date]_____by____[Attorney]__ for the reimbursement of out-of-pocket expenses. Having considered the application pursuant to the guidelines and policies of the Library Fund, the Court orders that the Clerk of the Court disburse money from the Library Fund in the amount of_____($_____) and distribute it to the named applicant. A copy of this Order, together with the application, shall be placed in the Library Fund file maintained by the Clerk of the Court.

IT IS SO ORDERED this ____ day of ____, 20__.

_____
UNITED STATES DISTRICT JUDGE OR
UNITED STATES MAGISTRATE JUDGE

Revised and effective January 1-2, 1988
Revised and effective April 30, 2007

LOCAL RULE 83.7
APPOINTMENT OF COUNSEL

In those civil cases in which the Court deems it necessary to appoint counsel to represent a party proceeding in forma pauperis (see 28 U.S.C. §1915), such appointment shall be accomplished by random selection from a list of all actively practicing private attorneys enrolled in the District in which the case is pending. Prospective appointees will be informed by telephone of their selection, when possible, so as to avoid appointment of an attorney who is not actively engaged in the private practice of law. However, in the event an enrolled attorney not actively engaged in the private practice of law is appointed, such attorney may request leave to withdraw within twenty-one (21) days of such appointment. The Court will depart from this random appointment procedure when the extraordinary nature or exigency of the circumstances suggests that an alternate means of selection is necessary. These appointments shall be mandatory.

The original attorney appointed may arrange for substitute counsel to appear in behalf of the party, but such substitution must be made in writing and filed with the Court not later than twenty- one (21) days after the entry of the original appointment order. This substitution will not relieve the substituted counsel from serving as appointed counsel in any subsequent case when he/she would otherwise be selected at random.

Upon written application filed within twenty-one (21) days of the original appointment order, an attorney may request leave of the Court to withdraw if he/she represents (1) that he/she has actively participated in furnishing pro bono legal services (e.g., membership in a pro bono legal organization); and (2) that he/she has, in the last twelve (12) months, actually represented a pro bono client(s) in either (a) litigation, or (b) a non-litigation matter which the attorney can certify required the expenditure of a minimum of twenty (20) hours of time.

If, after interviewing the client, investigating the facts, and researching the applicable law, an appointed attorney is convinced that the party's legal position is non-meritorious, the appointed attorney may petition the Court for leave to withdraw. Such petition to withdraw must be filed within sixty (60) days of the appointment order. If the attorney is allowed to withdraw, his/her name may be restored to the list of enrolled attorneys subject to future appointment.

For good cause shown (e.g., geographic, time, or expertise factors), an appointed attorney may request the Court to select an additional attorney to serve as co-counsel in an investigative or trial capacity.

In the event attorneys enrolled in the Eastern and Western Districts of Arkansas desire to volunteer their services prior to receiving notification of an actual appointment, they may do so by writing the Clerk's Office, 600 W. Capitol Avenue, Room A-149, Little Rock, Arkansas, 72201- 3325, or the Clerk's Office, P. O. Box 1547, Fort Smith, Arkansas, 72902-1547, and notifying the Court of their willingness to have their names advanced on the list of attorneys to be appointed. Attorneys volunteering in this manner will be exempt from future appointments under this Local Rule for two years from the date of any actual appointment received.

Adopted and effective May 5, 1987
Amended November 10, 2009

LOCAL RULE 83.8
COMMUNICATIONS BY UNITED STATES ATTORNEY REGARDING PERSONS SENTENCED BY THIS COURT

The United States Attorney and his staff shall not communicate in writing with the United States Bureau of Prisons, the United States Parole Commission, or the United States Probation Office concerning any person remanded to the custody of the Attorney General by this court following the sentencing of that person unless the United States Attorney shall furnish copies of the communication to the sentencing judge. If the United States Attorney communicates orally with the Bureau of Prisons, the Parole Commission, or the Probation Office concerning such a person, he shall reduce the substance of the communication to writing and furnish copies to the sentencing judge. The sentencing judge shall then determine whether such communications should also be transmitted to the defendant and/or his attorney.

Adopted and effective February 1, 1982
Revised September 1, 1982

APPENDIX
Model Federal Rules
of Disciplinary Enforcement

The United States District Courts for the Eastern and Western Districts of Arkansas, in furtherance of their inherent power and responsibility to supervise the conduct of attorneys who are admitted to practice before it, or admitted for the purpose of a particular proceeding (pro hac vice), promulgate the following Rules of Disciplinary Enforcement superseding all of its other Rules pertaining to disciplinary enforcement heretofore promulgated.

RULE I

Attorneys Convicted of Crimes.

A. Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any Court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined, the Court shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.

B. The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft or an attempt or a conspiracy or solicitation of another to commit a "serious crime".

C. A certified copy of a judgment of conviction of any attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

D. Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall, in addition to suspending that attorney in accordance with the provisions of this Rule, also refer the matter to counsel for the institution of a disciplinary proceeding before the Court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

E. Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime", the Court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding before the Court; provided, however, that the Court may in its discretion make no reference with respect to convictions for minor offenses.

F. An attorney suspended under the provisions of this Rule will be reinstated immediately upon the

filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

RULE II

Discipline Imposed By Other Courts.

A. Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other Court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth or possession of the United States, promptly inform the Clerk of this Court of such action.

B. Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another Court, this Court shall forthwith issue a notice directed to the attorney containing:

   1. A copy of the judgment or order from the other court; and
   2. An order to show cause directing that the attorney inform this Court within 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in (D) hereof that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor.

C. In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed in this Court shall be deferred until such stay expires.

D. Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of (B) above, this Court shall impose the identical discipline unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated it clearly appears:

   1. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
   2. that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final conclusion on that subject;or
   3. that the imposition of the same discipline by this Court would result in grave injustice; or
   4. that the misconduct established is deemed by this Court to warrant substantially different discipline.

   Where this Court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

E. In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in the Court of the United States.

F. This Court may at any stage appoint counsel to prosecute the disciplinary proceedings.

RULE III

Disbarment on Consent or Resignation in Other Courts

A. Any attorney admitted to practice before this Court who shall be disbarred on consent or resign from the bar of any other Court of the United States or the District of Columbia, or from the Bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of a certified or exemplified copy of the judgment or order accepting such disbarment on consent or resignation, cease to be permitted to practice before this Court and be stricken from the roll of attorneys admitted to practice before this Court.

B. Any attorney admitted to practice before this Court shall, upon being disbarred on consent or resigning from the Bar of any other Court of the United States or the District of Columbia, or from the Bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this Court of such disbarment on consent or resignation.

RULE IV

Standards for Professional Conduct.

A. For misconduct defined in these Rules, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this Court may be disbarred, suspended from practice before this Court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

B. Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Code of Professional Responsibility or Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Code of Professional Responsibility or Rules of Professional Conduct adopted by this Court is the Code of Professional Responsibility or Rules of Professional Conduct adopted by the highest court of the state in which this Court sits, as amended from time to time by that state court, except as otherwise provided by specific Rule of this Court after consideration of comments by representatives of bar associations within the state.

RULE V

Disciplinary Proceedings.

A. When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court shall come to the attention of a Judge of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these Rules, the Judge shall refer the matter to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

B. Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney, the disposition of which in the

judgment of the counsel should be awaited before further action by this Court is considered or for any other valid reason, counsel shall file with the Court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral or otherwise setting forth the reasons therefor.

C. To initiate formal disciplinary proceedings, counsel shall obtain an order of this Court upon a showing of probable cause requiring the respondent-attorney to show cause within 30 days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined. The order to show cause shall include the form certification of all courts before which the respondent-attorney is admitted to practice, as specified in Form A appended to these Rules.

D. Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, this Court shall set the matter for prompt hearing before one or more Judges of this Court, provided however that if the disciplinary proceeding is predicated upon the complaint of a Judge of this Court the hearing shall be conducted before a panel of three other Judges of this Court appointed by the Chief Judge, or, if there are less than three Judges eligible to serve or the Chief Judge is the complainant, by the Chief Judge of the Court of Appeals for this Circuit. The respondent-attorney shall execute the certification of all courts before that respondent-attorney is admitted to practice, in the form specified, and file the certification with his or her answer.

RULE VI

Disbarment on Consent While Under Disciplinary Investigation or Prosecution.

A. Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may consent to disbarment, but only by delivering to this Court an affidavit stating that the attorney desires to consent to disbarment and that:

1. the attorney's consent is freely and voluntarily rendered; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implication of so consenting;
2. the attorney is aware that there is a presently pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline the nature of which the attorney shall specifically set forth;
3. the attorney acknowledges that the material facts so alleged are true, and
4. the attorney so consents because the attorney knows that if charges were predicated upon the matters under investigation, or if the proceeding were prosecuted, the attorney could not successfully defend himself.

B. Upon receipt of the required affidavit, this Court shall enter an order disbarring the attorney.

C. The order disbarring the attorney on consent shall be a matter of public record. However, the affidavit required under the provision of this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

RULE VII

Reinstatement.

A. After Disbarment or Suspension. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this Court, except as provided in Rule

XI(H).

B. Time of Application Following Disbarment. A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

C. Hearing on Application. Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Chief Judge of this Court. Upon receipt of the petition, the Chief Judge shall promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more judges of this Court, provided however that if the disciplinary proceeding was predicated upon the complaint of a Judge of this Court the hearing shall be conducted before a panel of three other Judges of this Court appointed by the Chief Judge, or if there are less than three Judges eligible to serve or the Chief Judge was the complainant, by the Chief Judge of the Court of Appeals for this Circuit. The Judge or Judges assigned to the matter shall within 30 days after referral schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

D. Duty of Counsel. In all proceedings upon a petition for reinstatement, cross-examination of the witness of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel.

E. Deposit for Cost of Proceeding. Petitions for reinstatement under this Rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Court to cover anticipated costs of the reinstatement proceeding. (On October 15, 2009, the Court set the deposit amount at $5,000.)[2]

F. Conditions of Reinstatement. If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate him, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned, in the discretion of the Judge or Judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

G. Successive Petitions. No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

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[2] On October 15, 2009 the Judges of the Eastern District unanimously voted that the amount of advance cost deposit should be $5,000 in our District.

RULE VIII

Attorneys Specifically Admitted

Whenever an attorney applies to be admitted or is admitted to this Court for purpose of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

RULE IX

Service of Papers and Other Notices.

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address shown in the most recent registration filed pursuant to Rule XI(F) hereof. Service of any other papers or notices required by these Rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address shown on the most recent registration statement filed pursuant to Rule XI(F) hereof, or to counsel or the respondent's attorney at the address indicated in the most recent pleading or other document filed by them in the course of any proceeding.

RULE X

Appointment of Counsel.

Whenever counsel is to be appointed pursuant to these Rules to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney this Court shall appoint as counsel the disciplinary agency of the Supreme Court of Arkansas, wherein this Court sits, or the attorney maintains his principal office in the case of the Courts of Appeal or other disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or such appointment is clearly inappropriate, this Court shall appoint as counsel one or more members of the Bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these Rules, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

RULE XI

Periodic Assessment of Attorneys; Registration Statements.

A. Every attorney admitted to practice before this Court shall pay to the Clerk of the United States District Court an annual fee of $5 for each fiscal year. The first payment will be due October 1, 1980. Said fee shall be used to pay the cost of disciplinary administration and enforcement under these Rules, (but only by those courts which have adopted these rules and have required registration and assessment) or as provided in Rule 83.6 of these Local Rules.

B. An attorney admitted to practice before this Court as well as one or more other courts of the United States shall be required to make only a single payment of the fee prescribed hereunder in any fiscal year regardless of the number of Courts of the United States to which he may be admitted.

C. Any attorney who fails to pay the fee required under (A) above within 90 days shall be summarily suspended, provided a notice of delinquency has been forwarded to him by certified mail, return

receipt requested, addressed to his last known business address at least 30 days prior to such suspension.

D. Any attorney suspended under the provisions of (D) above shall be reinstated without further order upon payment of all arrears and a penalty of $15.00 per year from the date of his last payment to the date of his request for reinstatement.

E. To facilitate the collection of the annual fee provided for in (A) above, every person required by this Rule to pay an annual fee shall, on or before January 1st of every year, commencing January 1, 1981, file with the Clerk of the United States District Court a registration statement, on a form prescribed by the Clerk of the United States District Court setting forth his current residence and office addresses; the bars of all states, territories, districts, commonwealths or possessions or other Courts of the United States to which the attorney is admitted. In addition to such statement, every attorney subject to these Rules shall file with the Clerk, United States District Court, a supplemental statement of any change in the information previously submitted within 30 days of such change. All persons first becoming subject to these Rules by admission to practice before this Court after October 1, 1980, shall file the statement required by this Rule at the time of admission and shall pay the fee prescribed by (A) and (C) above for the fiscal year then in effect without proration.

F. Within 30 days of the receipt of a statement and payment or a supplement thereto filed by an attorney in accordance with the provisions of (A) and (F) above, the Clerk of the United States District Court shall acknowledge receipt thereof, on a form prescribed for that purpose, in order to enable the attorney on request to demonstrate compliance with the requirements of (A) and (F) above.

G. Any attorney who fails to file the statement or supplement thereto in accordance with the requirements of (F) above shall be summarily suspended, provided a notice of delinquency has been forwarded to him by certified mail, return receipt requested, addressed to his last known business address at least 30 days prior to such suspension. He shall remain suspended until he shall have complied therewith, whereupon he shall become reinstated without further order.

H. An attorney who has retired or is not engaged in the practice of law before a Court of the United States may advise the Clerk of the United States District Court in writing that he desires to assume inactive status and discontinue the practice of law before the Courts of the United States. Upon the filing of such notice, the attorney shall no longer be eligible to practice law in this Court. An attorney who is retired or on inactive status shall not be obligated to pay the annual fee imposed by this Rule upon active practitioners.

I. Upon the filing of a notice to assume inactive status, the attorney shall be removed from the roll of those classified as active until and unless he requests and is granted reinstatement to the active rolls. Reinstatement shall be granted (unless the attorney is subject to an outstanding order of suspension of disbarment or has been on inactive status for five years or more) upon the payment of any assessment in effect for the year the request is made and any arrears accumulated prior to the transfer to inactive status. Attorneys who have been suspended or on inactive status for over five years before filing a petition for reinstatement to active status may be required in the discretion of this Court, to establish proof of competency and learning in the law. The proof may include evidence that the attorney has continued to engage in the practice of law in good standing in another jurisdiction or before any other court or certification by the Bar Examiners of a state or other jurisdiction in which the attorney is admitted to practice, or his successful completion of an examination for admission to practice subsequent to the date of suspension or transfer to inactive status.

J. The Clerk of Court for the Eastern District shall monitor the fund and make a written report of the use of the fund and the fund balance remaining to the judges and magistrate judges of the Eastern and

Western Districts by the fourteenth day of each month.

RULE XII

Payment of Fees and Costs.

At the conclusion of any disciplinary investigation or prosecution, if any, under these Rules, counsel may make application to this Court for an order awarding reasonable fees and reimbursing costs expended in the course of such disciplinary investigation or prosecution. Any such order shall be submitted to the Clerk, United States District Court, which shall pay the amount required thereunder from the funds collected pursuant to Rule XI(A) hereof.

RULE XIII

Duties of the Clerk.

A. Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the Clerk of this Court shall determine whether the clerk of the court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a certificate has not been so forwarded, the Clerk of this Court shall promptly obtain a certificate and file it with this Court.

B. Upon being informed that an attorney admitted to practice before this Court has been subjected to discipline by another court, the Clerk of this Court shall determine whether a certified or exemplified copy of the disciplinary judgment or order has been filed with this Court, and, if not, the Clerk shall promptly obtain a certified or exemplified copy of the disciplinary judgment or order and file it with this Court.

C. Whenever it appears that any person convicted of any crime or disbarred or suspended or censured or disbarred on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, the Clerk of this Court shall, within fourteen (14) days of that conviction, disbarment, suspension, censure or disbarment on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified exemplified copy of the judgment or order of disbarment, suspension, censure or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

D. The Clerk of this Court shall, likewise, promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney admitted to practice before this Court.

RULE XIV

Jurisdiction.

Nothing contained in these Rules shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure.

RULE XV

Pending Proceedings.

Any formal disciplinary proceeding pending before this Court on the effective date of these Rules shall be concluded under the procedure existing prior to the effective date of these Rules.

Rule XI(A) Revised July 1, 1985
Adopted and effective May 1, 1980
Rule XI(E) Amended March 26, 1992
Amended November 10, 2009

Form A

DECLARATION OF ADMISSIONS TO PRACTICE

In Re_____ Disciplinary No. _____

I,_____, am the attorney who has been served with an order to show cause why disciplinary action should not be taken in the above captioned matter.

I am a member of the bar of this court.

I have been admitted to practice before the following state and federal courts, in the years, and under the license record numbers shown below:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ _____

Date Signature

_____

(Full name - typed or printed)

_____

(Address of Record)

_____

This declaration must be signed, and delivered to the Court with the attorney's answer to the order to show cause or any waiver of an answer. Failure to return this declaration may subject an attorney to further disciplinary action. Under 28 U.S.C. Sec. 1746, this declaration under penalty of perjury has the same effect as a sworn declaration made under oath.