# THE UNITED STATES DISTRICT COURT
# FOR THE NORTHERN DISTRICT OF OHIO

## LOCAL RULES

## January 1, 1992

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LOCAL CIVIL RULES
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

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## HISTORICAL NOTES

LR 1.1, formerly Local Rule 1:1.1 (effective 1/1/92); renumbered 4/7/97.

LR 1.2, formerly Local Rule 1:1.2 (effective 1/1/92); renumbered 4/7/97.

LR 3.1, formerly Local Rules 1:2.4 (effective 1/1/92; revised 12/15/92, 3/3/93, 5/5/93, 5/9/95), 6:1.1 (effective 1/1/92), 6:2.4 (effective 1/1/92), and 6:2.5 (effective 1/1/92; revised 3/3/93, 5/9/95); revised and renumbered 4/7/97; revised 1/15/98, 8/10/98, 5/25/99 and 7/12/12.

LR 3.2, formerly Local Rule 6:1.2 (effective 1/1/92; revised 5/9/95); renumbered 4/7/97.

LR 3.3, formerly Local Rule 6:1.3 (effective 1/1/92; revised 7/10/95); revised and renumbered 4/7/97; revised 1/15/98.

LR 3.4, formerly Local Rule 6:1.4 (effective 1/1/92; revised 7/10/95, 6/3/96); revised and renumbered 4/7/97.

LR 3.5, formerly Local Rule 6:1.5 (effective 1/1/92); renumbered 4/7/97.

LR 3.6, formerly Local Rule 6:2.2 (effective 1/1/92); renumbered 4/7/97.

LR 3.7, formerly Local Rule 6:2.3 (effective 1/1/92); renumbered 4/7/97.

LR 3.8, formerly Local Rule 2:1.2 (effective 1/1/92; revised 7/10/95); renumbered 4/7/97.

LR 3.9, formerly Local Rule 6:2.1 (effective 1/1/92); renumbered 4/7/97.

LR 3.10, formerly Local Rule 6:2.7 (effective 1/1/92); renumbered 4/7/97.

LR 3.11, formerly Local Rule 6:2.6 (effective 1/1/92); renumbered 4/7/97.

LR 3.12, formerly Local Rule 2:1.5 (effective 1/1/92); renumbered 4/7/97.

LR 3.13, formerly Local Rules 2:1.1 (effective 1/1/92) and 8:3.1 (effective 1/1/92; revised 6/9/92); revised and renumbered 4/7/97, revised 6/5/00, 12/4/00, 9/23/02 and 10/4/13.

LR 3.14, formerly Local Rule 6:1.6 (effective 1/1/92); revised and renumbered 4/7/97; revised 11/1/06.

LR 3.15, formerly Local Rule 5:1.4 (effective 1/1/92; revised 6/9/92); renumbered 4/7/97; revised 11/5/97.

LR 4.1, formerly Local Rule 2:1.6 (effective 1/1/92; revised 12/1/93); renumbered 4/7/97; revised 10/6/08.

LR 4.2, effective 8/10/98; revised 12/3/01, 12/3/07 and 2/1/10.

LR 5.1, formerly Local Rule 1:2.2 (effective 1/1/92); renumbered 4/7/97; revised 11/5/97, 5/4/01, 9/23/02, 3/1/04, 1/1/06 and 2/4/08.

LR 5.2, formerly Local Rule 1:2.6 (effective 10/2/95); renumbered 4/7/97; revised 2/2/09.

LR 5.3, formerly Local Rule 2:4.1 (effective 1/1/92; revised 8/10/93); renumbered 4/7/97; deleted 9/23/02.

LR 7.1, formerly Local Rules 2:2.1 (effective 1/1/92) and 8:8.1 (effective 1/1/92; revised 6/9/92, 12/15/92); renumbered 4/7/97; revised 1/15/98, 5/29/02, 9/23/02, 10/6/08 and 12/1/09.

LR 7.2, formerly Local Rule 8:8.2 (effective 1/1/92; revised 12/15/92); renumbered 4/7/97; revised 5/29/02.

LR 7.3, formerly Local Rule 8:8.3 (effective 1/1/92; revised 12/15/92); renumbered 4/7/97; revised 1/15/98 and 5/29/02.

L.R. 8.1, effective 12/3/01; revised 9/23/02 and 5/1/05.

LR 9.1, formerly Local Rule 2:2.2 (effective 1/1/92); renumbered 4/7/97, revised 6/7/04.

LR 10.1, formerly Local Rule 1:2.1 (effective 1/1/92; revised 6/9/92); renumbered 4/7/97; revised 1/1/00 and 6/5/06.

LR 10.2, formerly Local Rule 1:2.3 (effective 1/1/92); renumbered 4/7/97.

LR 16.1, formerly Local Rules 8:1.1 (effective 1/1/92; revised 6/9/92), 8:1.2 (effective 1/1/92; revised 12/15/92, 8/10/93, 12/1/93), 8:1.3 (effective 1/1/92) and 8:1.4 (effective 1/1/92); renumbered 4/7/97; revised 12/4/02 and 6/4/07.

LR 16.2, formerly Local Rules 8:2.1 (effective 1/1/92; revised 12/15/92) and 8:2.2 (effective 1/1/92); renumbered 4/7/97; revised 9/23/02; revised 1/1/13.

LR 16.3, formerly Local Rules 8:4.1 (effective 1/1/92; revised 12/15/92, 12/1/93), 8:4.2 (effective 1/1/92; revised 12/15/92, 12/1/93, 5/9/95), 2:1.3 (effective 1/1/92), 8:5.1 (effective 1/1/92; revised 12/15/92); 8:5.2 (effective 1/1/92; revised 12/15/92); and 2:4.3 (effective 1/1/92); renumbered 4/7/97; revised 11/5/97, 10/3/00, 9/23/02, 6/4/07 and 2/2/09.

LR 16.3.1, effective 1/1/13.

LR 16.4, formerly Local Rules 7:1.1 (effective 1/1/92), 7:1.2 (effective 1/1/92), 7:1.3 (effective 1/1/92), 7:1.4 (effective 1/1/92) and 8:6.1 (effective 1/1/92); renumbered 4/7/97; revised 1/15/98, 2/2/09, and 8/1/11.

LR 16.5, formerly Local Rules 7:2.1 (effective 1/1/92), 7:2.2 (effective 1/1/92), 7:2.3 (effective 1/1/92), 7:2.4 (effective 1/1/92), 7:2.5 (effective 1/1/92; revised 6/9/92), 7:2.6 (effective 1/1/92), 7:2.7 (effective 1/1/92; revised 6/9/92), and 7:2.8 (effective 1/1/92); renumbered 4/7/97; revised 1/15/98 and 8/1/11.

LR 16.6, formerly Local Rules 7:3.1 (effective 1/1/92), 7:3.2 (effective 1/1/92), 7:3.3 (effective 1/1/92; revised 6/9/92, 7/13/93), 7:3.4 (effective 1/1/92), 7:3.5 (effective 1/1/92, revised 6/9/92, 7/13/93), 7:3.6 (effective 1/1/92), 7:3.7 (effective 1/1/92; revised 6/9/92), and 7:3.8 (effective 1/1/92); renumbered 4/7/97; revised 1/15/98 and 8/1/11.

LR 16.7, formerly Local Rules 7:4.1 (effective 1/1/92), 7:4.2 (effective 1/1/92), 7:4.3 (effective 1/1/92, revised 7/13/93), 7:4.4 (effective 1/1/92), 7:4.5 (effective 1/1/92), 7:4.6 (effective 1/1/92), 7:4.7 (effective 1/1/92), 7:4.8 (effective 1/1/92), 7:4.9 (effective 1/1/92) and 7:4.10 (effective 1/1/92); renumbered 4/7/97, revised 6/7/04; deleted 8/1/11.

LR 16.8, formerly Local Rules 7:5.1 (effective 1/1/92), 7:5.2 (effective 1/1/92), and 7:5.3 (effective 1/1/92); renumbered 4/7/97; deleted 8/1/11.

LR 16.9, formerly Local Rules 7:6.1 (effective 1/1/92), 7:6.2 (effective 1/1/92), and 7:6.3 (effective 1/1/92); renumbered 4/7/97; deleted 8/1/11.

LR 16.7, formerly Local Rule 7:7.1 (effective 1/1/92); renumbered 4/7/97; formerly Local Rule 16.10 (effective 8/1/11).

LR 23.1, formerly Local Rule 2:3.1 (effective 1/1/92; revised 8/10/93); renumbered 4/7/97; revised 1/15/98.

LR 24.1, formerly Local Rule 2:3.2 (effective 1/1/92); revised and renumbered 4/7/97.

LR 26.1, formerly Local Rule 8:7.1 (effective 1/1/92; revised 12/1/93); renumbered 4/7/97; revised 9/23/02.

LR 26.2, formerly Local Rule 8:7.2 (effective 1/1/92; revised 12/15/92, 12/1/93, 5/9/95); renumbered 4/7/97; deleted 9/23/02.

LR 30.1, formerly Local Rule 2:4.7 (effective 1/1/92); renumbered 4/7/97; revised 7/9/97 and 9/23/02.

LR 32.1, formerly Local Rule 2:4.2 (effective 1/1/92; revised 8/10/93, 12/1/93); renumbered 4/7/97.

LR 33.1, formerly Local Rules 2:4.4 (effective 1/1/92) and 8:7.3 (effective 1/1/92); revised and renumbered 4/7/97; deleted 9/23/02.

LR 36.1, formerly Local Rule 2:4.4 (effective 1/1/92); revised and renumbered 4/7/97; deleted 9/23/02.

LR 37.1, formerly Local Rule 8:7.4 (effective 1/1/92; revised 6/9/92, 12/1/93); renumbered 4/7/97; revised 1/15/98 and 9/23/02.

LR 37.2, formerly Local Rule 2:4.6 (effective 1/1/92); renumbered 4/7/97; revised 1/15/98.

LR 38.1, formerly Local Rule 2:5.1 (effective 1/1/92); renumbered 4/7/97.

LR 39.1, formerly Local Rule 1:3.8 (effective 1/1/92); revised and renumbered 4/7/97.

LR 39.2, formerly Local Rule 2:4.3 (effective 1/1/92); revised and renumbered 4/7/97; revised 1/15/98.

LR 47.1, formerly Local Rule 1:3.1 (effective 1/1/92); renumbered 4/7/97.

LR 47.2, formerly Local Rule 1:3.3 (effective 1/1/92); renumbered 4/7/97.

LR 47.3, formerly Local Rule 1:3.4 (effective 1/1/92); renumbered 4/7/97.

LR 47.4, formerly Local Rule 1:3.5 (effective 1/1/92); revised and renumbered 4/7/97.

LR 48.1, formerly Local Rule 2:5.2 (effective 1/1/92); renumbered 4/7/97; revised 12/1/09.

LR 48.2, formerly Local Rule 1:3.6 (effective 1/1/92); renumbered 4/7/97.

LR 48.3, formerly Local Rule 1:3.7 (effective 1/1/92); renumbered 4/7/97.
LR 54.1, formerly Local Rule 1:3.2 (effective 1/1/92); renumbered 4/7/97.

LR 65.1.1, formerly Local Rule 2:6.1 (effective 1/1/92); renumbered 4/7/97.

LR 66.1, formerly Local Rule 2:6.2 (effective 1/1/92); renumbered 4/7/97.

LR 67.1, formerly Local Rule 1:6.1 (effective 1/1/92; revised 6/9/92, 8/10/93); revised and renumbered 4/7/97; revised 1/1/07; revised 9/14/11; revised 7/12/12.

LR 67.2, formerly Local Rule 1:6.2 (effective 1/1/92; revised 6/9/92, 8/10/93); renumbered 4/7/97; revised 5/1/05; revised 7/12/12.

LR 69.1, formerly Local Rule 2:1.4 (effective 1/1/92); renumbered 4/7/97.

LR 72.1, formerly Local Rule 5:1.1 (effective 1/1/92; revised 3/3/93; 8/10/93); revised and renumbered 4/7/97; revised 1/15/98.

LR 72.2, formerly Local Rule 5:1.2 (effective 1/1/92; revised 6/9/92); revised and renumbered 4/7/97.

LR 72.3, formerly Local Rule 5:3.1 (effective 1/1/92; revised 8/10/92); revised and renumbered 4/7/97; revised 2/1/99 and 12/1/09.

LR 72.4, formerly Local Rule 5:3.7 (effective 1/1/92); revised and renumbered 4/7/97.

LR 73.1, formerly Local Rule 5:2.1 (effective 1/1/92; revised 7/1/93); renumbered 4/7/97; revised 10/5/98.

LR 73.2, formerly Local Rule 5:2.2 (effective 1/1/92); revised and renumbered 4/7/97.

LR 77.1, formerly Local Rule 1:4.1 (effective 1/1/92); renumbered 4/7/97.

LR 79.1, formerly Local Rule 1:2.5 (effective 1/1/92); renumbered 4/7/97.

LR 80.1, formerly Local Rule 6:2.8 (effective 1/1/92); renumbered 4/7/97.

LR 83.1, formerly Local Rule 1:3.9 (effective 1/1/92); renumbered 4/7/97; revised 6/6/2011.

LR 83.2, formerly Local Rule 1:4.2 (effective 1/1/92); renumbered 4/7/97.

LR 83.3, formerly Local Rule 1:4.3 (effective 1/1/92); renumbered 4/7/97; revised 4/6/98.

LR 83.4, formerly Local Rule 1:4.4 (effective 1/1/92); renumbered 4/7/97.

LR 83.5, formerly Local Rule 1:5.1 (effective 1/1/92); revised and renumbered 4/7/97; revised 1/15/98, 6/4/01, 12/3/01, 3/1/04, 6/7/04, 11/1/06, 2/1/07, 8/31/09, 1/1/13, and 12/9/2013.

LR 83.6, formerly Local Rule 1:5.3 (effective 1/1/92); renumbered 4/7/97.

LR 83.7, formerly Local Rule 1:5.2 (effective 1/1/92); renumbered 4/7/97; revised 8/10/98, 6/5/00, 7/24/06, 2/1/07 and 4/4/11.

LR 83.8, formerly Local Rule 1:5.4 (effective 5/9/95); renumbered 4/7/97.

LR 83.9, effective 6/5/00.

LR 83.10, effective 2/5/07.

LSuppR C.1, formerly Local Rule 2:7.5 (effective 1/1/92); revised and renumbered 4/7/97; revised 10/22/09.

LSuppR C.2, formerly Local Rule 2:7.6 (effective 1/1/92); renumbered 4/7/97; eliminated 10/22/09.

LSuppR E.1, formerly Local Rule 2:7.1 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.2, formerly Local Rule 2:7.2 (effective 1/1/92); renumbered 4/7/97; revised 10/22/09.

LSuppR E.3, formerly Local Rule 2:7.3 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.4, formerly Local Rule 2:7.4 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.5, formerly Local Rule 2:7.5 (effective 1/1/92); revised and renumbered 4/7/97.

LSuppR E.6, formerly Local Rule 2:7.7 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.7, formerly Local Rule 2:7.9 (effective 1/1/92); renumbered 4/7/97.

LSuppR E.8, formerly Local Rule 2:7.10 (effective 1/1/92); renumbered 4/7/97.

LSuppR F.1, formerly Local Rule 2:7.11 (effective 1/1/92); renumbered 4/7/97; revised 10/22/09.

LSuppR F.2, formerly Local Rule 2:7.12 (effective 1/1/92); renumbered 4/7/97; revised 10/22/09.

## Rule 1.1 Scope and Citation

**(a) Scope of the Rules**. Pursuant to Fed. R. Civ. P. 83, the following Local Rules for the United States District Court, Northern District of Ohio, will hereafter control the conduct of civil proceedings in this Court. Nothing in these Rules shall be construed in a manner inconsistent with the Federal Rules of Civil Procedure.

**(b) Citation**. These Rules shall be cited as "Local Rules" or abbreviated as "LR". The Supplemental Local Rules for Certain Admiralty and Maritime Claims shall be cited as "Local Supplemental Rule" or abbreviated as "LSuppR".

**(c) Effective Date**. These Rules shall apply to all cases pending in this district on or after the effective date of January 1, 1992, except as modified by the provisions of Local Rule 16.1(c).

**(d) Construction of Rules**. These Rules shall be construed to achieve an orderly administration of the business of this Court; to govern the practice of attorneys before this Court; and to secure the just, speedy and inexpensive determination of all litigation coming before this Court.

(See LCrR 1.1) Last revised 4/7/97. See Historical Notes for full revision history.

**Rule 1.2 Definitions**

**(a)** "United States Attorney," unless otherwise indicated, shall also mean the Assistant United States Attorneys and Department of Justice Attorneys assigned to a case.

**(b)** Reference in these Rules to an "attorney" or "counsel" for a party is in no way intended to preclude a party from proceeding pro se, in which case reference to attorney or counsel applies to the pro se litigant.

**(c)** "Clerk" shall be interpreted to include the Clerk of the District Court and any Deputy Clerk. The Clerk of the Bankruptcy Court will be referred to as the "Bankruptcy Clerk."

**(d)** "Judicial Officer" is either a United States District Judge or a United States Magistrate Judge.

**(e)** "Judge" shall be interpreted to mean all Judicial Officers, including District Judges and Magistrate Judges, unless specifically limited or the subject is directed to one of these Judicial Officers.

**(f)** "Court" means any United States District Judge, United States Magistrate Judge, or Clerk of Court personnel to whom responsibility for a particular action or decision has been delegated by the Judges of the United States District Court for the Northern District of Ohio.

(See LCrR 1.2) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 3.1 Assignment of Cases; Related Cases, Refiled, Dismissed and Remanded Cases**

**(a) Assignment.** Subject to the latter provisions of this Rule, upon filing, each civil case shall be assigned by random draw to a District Judge. He or she shall continue in the case or matter until its final disposition. Any case received from the random draw may be transferred, with the concurrence of the receiving District Judge and the approval of the Chief Judge.

A motion to file a new civil case or complaint under seal shall be randomly assigned to a District Judge who will continue to preside over the case.

With regard to all civil proceedings in the Eastern Division of the Court, after each case is assigned by random draw to a District Judge, the Clerk shall immediately assign a Magistrate Judge to the case in accordance with orders of the Court.

**(b) Reassignment.** Cases shall be assigned other than by random draw only in the instances set forth in this paragraph. Such assignments shall be made by the Clerk in accordance with these Rules. When an additional assignment is thus made to a District Judge under any of the following sub-paragraphs, an electronic card for said District Judge shall be removed from the deck from the same category from which the case would have been drawn.

(1) Disqualification. Should a District Judge be disqualified from hearing a case assigned to him or her, the case shall be reassigned by random draw in the respective division. If the case had been on the docket of the disqualified judge more than three months, the newly assigned district judge may, within one month, transfer a case of the same general age and complexity to the disqualified judge in lieu of having an electronic case assignment card removed from the deck.

(2) Subsequent Proceedings. Subsequent proceedings in civil cases shall be assigned to the District Judge who heard the original case.

(3) Related Cases. A case may be re-assigned as related to an earlier assigned case with the concurrence of both the transferee and the transferor District Judges, with or without a motion by counsel.

(4) Refiled, Dismissed and Remanded Cases. If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State Court, and subsequently refiled, it shall be assigned to the same District Judge who received the initial case assignment without regard for the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such case to the attention of the Court by responding to the questions included on the Civil Cover Sheet.

When it becomes apparent to the District Judge to whom a case is assigned that the case was previously filed in this Court and assigned to another District Judge and was discontinued, dismissed without prejudice or remanded to a State Court, the two District Judges shall sign an order reassigning the case to the District Judge who had been assigned the earlier case.

(5) Transfer of Civil Actions. Any case received from the random draw may be transferred, with the concurrence of the receiving District Judge and the approval of the Chief Judge.

(See LCrR 57.9) Last revised 7/12/12. *See* Historical Notes for full revision history.

**<u>Rule 3.2</u> Procedure for Assignment of Cases**

The procedure for the assignment of cases shall be the same for the Eastern and Western Divisions. Each of the District Judges in the Eastern and Western Divisions shall be assigned an equal share of the cases filed in his or her division except that the Chief Judge shall be assigned a one-half (50 percent) share. This shall apply to civil cases and to the miscellaneous docket.

(See LCrR 57.10) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 3.3</u> Categories of Civil Cases**

Depending upon the nature of the claim (principal claim if more than one claim is in the complaint), each case shall be designated as within one of the following categories:

1. Regular Civil
2. Administrative Review/Social Security
3. Death Penalty Habeas Corpus

Immediately upon filing, each civil case shall be assigned to the appropriate category by the Clerk's Office.

(See LCrR 57.11) Last revised 1/15/98. *See* Historical Notes for full revision history.

**<u>Rule 3.4</u> Preparation of Assignment Decks**

For each of the Eastern Division Offices in Akron, Cleveland and Youngstown, the Clerk of Court shall cause to be created a separate electronic deck of case assignment cards for Civil Category 1. For all of the Eastern Division Offices, the Clerk of Court shall cause to be created a combined electronic deck of case assignment cards for Civil Category 2.

For the Western Division, the Clerk of Court shall cause to be created a separate electronic deck of case assignment cards for Civil Categories 1 and 2.

For all offices in both the Eastern and Western Divisions, the Clerk of Court shall cause to be created a single electronic deck of case assignment cards for Civil Category 3.

The electronic cards comprising each deck category will contain the category number and the name of a District Judge. The name of each District Judge shall appear on that number of cards in the electronic deck that corresponds to the share of cases assigned to that District Judge pursuant to Local Rule 3.2.

The cards making up a deck shall be electronically shuffled so that the sequence will be entirely by chance, and the cards shall be concealed so that the name of the District Judge will not be known until the card is drawn. Relying upon the indicated category of the case and selecting the appropriate deck depending upon the venue of the case (See Local Rule 3.8(a), the Assignment Clerk shall randomly select a card from the deck of that category and venue. The case shall be assigned to the District Judge whose name appears on the drawn card. New decks of cards shall be prepared by the Clerk from time to time, as herein described, unless otherwise instructed by the Court.

In the Western Division, decks for each category of civil cases shall be replenished as soon as the decks are depleted.

For the Eastern Division, decks for Civil Category 1 shall be replenished only after all Civil Category 1 decks for all offices in the Eastern Division are depleted. Thus, (1) if the Youngstown deck is depleted first, Youngstown cases will thereafter be assigned to District Judges from the Akron deck until that deck is depleted. When the Akron deck is depleted, both Youngstown and Akron cases will be assigned to District Judges from the Cleveland deck. (2) If the Akron deck is depleted first, Akron cases will thereafter be assigned to District Judges from the Youngstown deck until that deck is depleted. When the Youngstown deck is depleted, both Akron and Youngstown cases will be assigned to District Judges from the Cleveland deck. (3) If the Cleveland deck is depleted first, Cleveland cases will thereafter be assigned to District Judges from the Akron deck until that deck is depleted. When the Akron deck is depleted, both Cleveland and Akron cases will be assigned to District Judges from the Youngstown deck.

When all of the Civil Category 1 decks in the Eastern Division are depleted, all will be replenished and the assignment system herein described will start over.

The Assignment Clerk shall mark, on the first document of the case, the next consecutive number and the name of the District Judge to whom the case is assigned. A record of all assignments made shall be kept by said Clerk. Reports of case assignments shall be made available to the Court upon request.

(See LCrR 57.12) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 3.5</u> Duties of the Clerk as to Case Assignments**

The random electronic shuffling of the electronic assignment cards and the concealment of these cards in separate decks shall be administered by the Clerk. The Clerk shall not reveal the sequence of the electronic cards to anyone, unless ordered to do so in the presence of the District Judges at a regularly scheduled meeting.

(See LCrR 57.13) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 3.6</u> Assignments to Senior Judges**

The Chief Judge shall, upon the recommendation of the appropriate Committee of the Court and with the approval of a majority of the active District Judges, assign to each Senior Judge a substantial amount of the business of the District Court during the period in which each Senior Judge is duly authorized or designated to hear cases.

(See LCrR 57.14) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 3.7</u> Reassignment of Matters to Active Judges**

All newly filed motions or other matters requiring action by the Court in cases which were originally assigned to District Judges who are no longer serving on the District Court shall be reassigned by random draw to an active District Judge.

(See LCrR 57.15) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 3.8 Venue of Actions Within the District**

**(a) The Divisions of the Court.** The Northern District of Ohio is divided into two divisions.

The Eastern Division consists of the following counties, with three divisional offices, as follows:

Akron: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas, and Wayne.

Cleveland: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina, and Richland.

Youngstown: Columbiana, Mahoning, and Trumbull.

The Western Division consists of the following counties:

Toledo: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, and Wyandot.

**(b) Resident Defendant.** Except as otherwise provided by law, all actions brought against a resident of a county within the Eastern Division shall be filed at any of the offices within the Eastern Division. All actions brought against a resident of a county in the Western Division shall be filed at the divisional office in Toledo, Ohio. For the purposes of this Rule, a defendant that is a corporation shall be deemed to reside in any county in the district in which it is subject to personal jurisdiction at the time the action is commenced, and if there is no such county, the corporation shall be deemed to reside in the county within which it has the most significant contacts.

**(c) Multiple Defendants.** Except as otherwise provided by law, actions brought against persons who are residents of counties in more than one division or divisional office area shall be filed in the divisional office containing the county in which the claim arose. Except as otherwise provided by law, if the claim arose outside the district and no plaintiff resides in the district, the action may be filed in the divisional office containing any county in which any defendant resides.

Last revised 4/7/97. *See* Historical Notes for full revision history.

## Rule 3.9 Place of Holding Court

The Chief Judge, upon the recommendation of the appropriate Committee of the Court and with the approval of a majority of the active District Judges, may designate and assign any District Judge of the District to any place of holding court or division within the District whenever the business of such place or division so requires.

(See LCrR 57.16) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 3.10</u> Miscellaneous Docket**

Each District Judge in the Eastern and Western Divisions shall take charge of the miscellaneous docket in his or her division for a period of time and in such order or rotation as recommended by the appropriate Committee of the Court and approved by a majority of the active District Judges. A District Judge in charge of the miscellaneous docket who becomes unavailable shall arrange for another District Judge to take charge of the docket and notify the Clerk of Court in writing of the name of the District Judge who will take charge of the docket while the District Judge is unavailable. The miscellaneous docket shall include the following matters:

**(a)** Supervision of the Grand Jury and all matters, except for the impaneling, arising therefrom;

**(b)** Responsibility for all matters relating to naturalization;

**(c)** Admission of attorneys to the Bar of this Court; and

**(d)** Consideration of all other miscellaneous matters not otherwise provided for in these Rules.

(See LCrR 57.17) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 3.11</u> Unavailability of District Judge -- Urgent Cases**

Should it appear that any matter requires urgent and immediate attention and the District Judge to whom said case has been assigned, or in the usual course would be assigned, is not or will not be available and said District Judge has not arranged for an alternate to handle such matters in his or her absence, then the Clerk of Court shall refer the matter to the District Judge on miscellaneous duty rotation, if available, or to the next available District Judge on regular, active duty who has precedence.

(See LCrR 57.18) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 3.12</u> Fees and Deposits for Costs**

Upon the commencement in this Court of any action, whether by original process, removal or otherwise, except when not required by law, fees and deposits for costs shall be paid as follows:

**(a)** Fees shall be paid to the Clerk in an amount and as provided in 28 U.S.C. § 1914 or any amendment thereto; and

**(b)** Deposit for costs shall be paid to the Marshal in an amount deemed sufficient by the Marshal to cover fees for services described in 28 U.S.C. § 1921(a) or any amendment thereto.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 3.13 Commencement of Action**

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

**(b) Corporate Disclosure Statement.**

(1) Information Disclosed. Any non-governmental corporate party to a case must file a corporate disclosure statement identifying the following:

(a) Any parent, subsidiary, or affiliate corporation;

(b) Any publicly held corporation that owns 10% or more of the party's stock; and

(c) Any publicly held corporation or its affiliate that has a substantial financial interest in the outcome of the case by reason of insurance, a franchise agreement or indemnity agreement.

A corporation is an affiliate for purposes of this rule if it controls, is under the control of, or is under common control with a publicly owned corporation.

(2) Time for Disclosure. A party must file the statement upon the filing of a complaint, answer, motion, response, or other pleading in this Court, whichever occurs first. The obligation to report any changes in the information originally disclosed continues throughout the pendency of the case. (See Appendix I for a sample form.)

**(c) Patent, Trademark and Copyright Cases.**

(1) Patent and Trademark. In all cases involving patent or trademark claims, a party filing a complaint, amended complaint, counterclaim or any other pleading that adds a new patent or trademark to the dispute must file an AO 120 Report on the Filing or Determination of an Action Regarding a Patent or Trademark Form identifying the patent and/or trademark number(s).

(2) Copyright. In all cases involving copyright claims, a party filing a complaint, amended complaint, counterclaim or any other pleading that adds a new copyright to the dispute must file an AO 121 Report on the Filing or Determination of an Action or Appeal Regarding a Copyright Form identifying the copyright registration number(s).

**<u>Rule 3.14</u> Procedure as to Initial Papers**

All initial papers in civil cases shall be first filed either electronically (which is the Court's preference) or in the Office of the Clerk. Upon receipt of the filing, the Office of the Clerk will assign a case number and District Judge. The numbering and assignment of each case shall be completed before processing of the next case is commenced.

(See LCrR 57.19) Last revised 11/1/06. *See* Historical Notes for full revision history.

**Rule 3.15 In Forma Pauperis Cases**

Applications to proceed in forma pauperis shall be given a civil docket number and assigned in accordance with Local Rule 3.1. Determinations on such applications may be made by either the randomly assigned district judge or magistrate judge.

Last revised 11/5/97. *See* Historical Notes for full revision history.

**Rule 4.1 Service of Actions Filed In Forma Pauperis**

**(a) Service**. Where a plaintiff has been granted leave to proceed in form a pauperis, the U.S. Marshal shall be directed to serve the summons and complaint, pursuant to 28 U.S.C. § 1915(d) and Fed. R. Civ. P. 4(c)(3), after the Court has first reviewed the complaint to determine whether sua sponte dismissal under section 1915(e)(2) is appropriate.

**(b) Waiver of Service**. The provision for waiver of service in Fed. R. Civ. P. 4(d) shall not apply in cases filed by plaintiffs proceeding in forma pauperis. In all such cases, the U.S. Marshal shall serve the summons and complaint upon the Court's direction to do so.

Last revised 10/6/08. *See* Historical Notes for full revision history.

**<u>Rule 4.2</u> Service of Process**

Fed. R. Civ. P. 4 provides for alternative methods of serving the summons and complaint in a civil action. Methods established by the Rule itself are preferred, particularly ***Rule 4(d) Waiver of Service; Duty to Save Costs of Service; Request to Waive,*** and should be attempted before service is attempted pursuant to the Ohio mail methods authorized by Fed. R. Civ. P. 4(e)(1).

Fed. R. Civ. P. 4(e)(1) authorizes service pursuant to the law of the state in which the district court is located for a summons or other like process upon the defendant in an action brought in the courts of general jurisdiction of Ohio. Rules 4.1 and 4.3(B) of the Ohio Rules of Civil Procedure provides for service by the Clerk mailing the summons and complaint by certified mail. An attorney who attempts to effect service in this Court pursuant to the law of Ohio must comply with the following procedure:

**(a)** Plaintiff's attorney shall address the envelope to the person to be served, shall enter as the return address the address of the issuing location for The Office of the Clerk, and shall place a copy of the summons and complaint or other document to be served in the envelope. Plaintiff's attorney shall also affix to the back of the envelope the domestic return receipt card, PS Form 3811, July 1983, (the "green card") showing the Name of Sender as "Clerk, United States District Court, Northern District of Ohio" at the appropriate address with the certified mail number affixed to the front of the envelope. The instructions to the delivering postal employee shall require the employee to show to whom delivered, date of delivery, and address where delivered. Plaintiff's attorney shall affix adequate postage to the envelope and deliver it to the Clerk who shall cause it to be mailed. The envelope should be unsealed when it is delivered to the Clerk so that the Clerk can verify the contents prior to mailing.

**(b)** The Clerk shall enter the fact of mailing on the appearance docket and make a similar entry when the return receipt is received. If the envelope is returned with an endorsement showing failure of delivery, the Clerk should forthwith electronically file a Return of Service Unexecuted which shall serve as notice to the attorney of record or if there is no attorney of record, the party at whose instance process was issued (who shall be copied by regular mail), that service was not obtained.

**(c)** If service of process is refused or was unclaimed, the Clerk shall forthwith electronically file a Return of Service Unexecuted which shall serve as notice to the attorney of record or if there is no attorney of record, the party at whose instance process was issued (who shall be copied by regular mail), that service was not obtained. If the attorney, or serving party, after notification by the Clerk, files with the Clerk a written request for ordinary mail service, and submits to the Clerk an envelope containing the summons and complaint or other document to be served, with adequate postage affixed to the envelope, the Clerk shall send the envelope to the defendant at the address set forth in the caption of the complaint, or at the address set forth in written instructions to the Clerk. The attorney or party at whose instance the mailing is sent shall also prepare for the Clerk's use a certificate of mailing which shall be signed by the Clerk or a Deputy

Clerk and filed at the time of mailing. The attorney or party at whose instance the mailing is sent shall also endorse the answer day (24 days after the date of mailing shown on the certificate of mailing) on the summons sent by ordinary mail.

If the ordinary mail is returned undelivered, the Clerk shall forthwith notify the attorney, or serving party, by mail.

The attorney of record or the serving party shall be responsible for determining if service has been made under the provisions of Rule 4 of the Ohio Rules of Civil Procedure and this Local Rule.

This Local Rule is confined to the domestic service of the summons and complaint in a civil action in this Court by certified mail or ordinary mail, pursuant to the law of Ohio, and is not intended to affect the procedure for other methods of service permitted by the Fed. R. Civ. P. or the Ohio Rules of Civil Procedure.

Effective 2/1/10. *See* Historical Notes for full revision history.

**<u>Rule 5.1</u> Filing by Facsimile or Electronic Means**

(a) The Clerk's Office will not accept any facsimile transmission unless ordered by the Court.

(b) Pursuant to Fed. R. Civ. P. 5(e), the Clerk's Office will accept papers filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A paper filed by electronic means in compliance with this Rule constitutes a written paper for the purposes of applying these Rules and the Federal Rules of Civil Procedure. All electronic filings shall be governed by the Court's Electronic Filing Policies and Procedures Manual and orders of the Court. (See Appendix B.)

(c) The Court requires attorneys to receive notice of filings electronically and to file documents electronically, absent a showing of good cause, unless otherwise excused by the rules, procedures or Orders of the Court. While parties and pro se litigants may register to receive "read only" electronic filing accounts so that they may access documents in the system and receive electronic notice, typically only registered attorneys, as Officers of the Court, will be permitted to file electronically. The Judicial Officer may, at his or her discretion, grant a pro se litigant who demonstrates a willingness and capability to file documents electronically permission to register to do so. Permission to file electronically may be revoked at any time.

(See LCrR 49.2) Last revised 2/4/08. *See* Historical Notes for full revision history.

**<u>Rule 5.2</u> Filing Documents Under Seal**

No document will be accepted for filing under seal unless a statute, court rule, or prior court order authorizes the filing of sealed documents. If no statute, rule, or prior order authorizes filing under seal, the document will not be filed under seal.

Materials to be sealed shall be filed electronically whenever possible pursuant to the Court's Electronic Filing Policies and Procedures Manual. Sealed documents which exceed the size limitations for electronic filing shall be presented in an envelope which shows the citation of the statute or rule or the filing date of the court order authorizing the sealing, and the name, address and telephone number of the person filing the documents.

If the sealing of the document purports to be authorized by court order, the electronically filed sealed document shall be linked to the order authorizing the sealing. For manually filed sealed documents, the person filing the documents shall include a copy of the order in the envelope. If the order does not authorize the filing under seal, or the electronic filing is not linked to the order, or in the case of manual filing no order is provided, the Clerk will unseal the documents. Before unsealing the documents, the Clerk will notify the electronic filer by telephone. If the document was manually filed, the Clerk will notify the person whose name and telephone number appears on the envelope in person (if he or she is present at the time of filing) or by telephone. The filer may withdraw the documents before 4:00 p.m. the day the Clerk notifies him or her of the defect. If not withdrawn, the documents will be unsealed.

After the entry of a final judgment or an appellate mandate, if appealed, the sealed record will be shipped to the Federal Records Center in accordance with the disposition schedule set forth in the guide to Judiciary Policies and Procedures.

(See LCrR 49.4) Last revised 2/2/09. *See* Historical Notes for full revision history.

**Rule 7.1 Motions**

**(a) Motions Governed by Case Management Plan.** All motions are governed by the Case Management Plan adopted pursuant to the Civil Justice Reform Act of 1990.

**(b) Motions to be in Writing**. All motions, unless made during a hearing or trial, must be in writing and must be made sufficiently in advance of the trial to avoid any delay in trial.

**(c) Memorandum by Moving Party**. The moving party must serve and file with its motion a memorandum of the points and authorities on which it relies in support of the motion.

**(d) Memorandum in Opposition**. Unless otherwise ordered by the Judicial Officer, each party opposing a motion must serve and file a memorandum in opposition within thirty (30) days after service of any dispositive motion and within fourteen (14) days after service of any non-dispositive motion. If a party opposing a motion was served with the motion under Fed. R. Civ. P. 5(b)(2)(C), (D), (E) or (F), three days shall be added to the prescribed period as provided in Fed. R. Civ. P. 6(d).

**(e) Reply Memorandum**. Unless otherwise ordered by the Judicial Officer, the moving party may serve and file a reply memorandum in support of any dispositive motion within fourteen (14) days after service of the memorandum in opposition and in support of any non-dispositive motion within seven (7) days after service of the memorandum in opposition. If the moving party was served with the memorandum in opposition under Fed. R. Civ. P. 5(b)(2)(C), (D), (E) or (F), three days shall be added to the prescribed period as provided in Fed. R. Civ. P. 6(d).

**(f) Length of Memoranda**. Without prior approval of the Judicial Officer for good cause shown, memoranda relating to dispositive motions must not exceed ten (10) pages in length for expedited cases, twenty (20) pages for administrative, standard and unassigned cases, thirty (30) pages for complex cases, and forty (40) pages for mass tort cases. Every memorandum related to a dispositive motion must be accompanied by a certification specifying the track, if any, to which the case has been assigned and a statement certifying that the memorandum adheres to the page limitations set forth in this section. In the event that the page limitations have been modified by order of the Judicial Officer, a statement to that effect must be included in the certification along with a statement that the memorandum complies with those modifications. Failure to comply with these provisions may be sanctionable at the discretion of the Judicial Officer. Memoranda relating to all other motions must not exceed fifteen (15) pages in length. All memoranda exceeding fifteen (15) pages in length, excepting those in Social Security reviews, must have a table of contents, a table of authorities cited, a brief statement of the issue(s) to be decided, and a summary of the argument presented. Appendices of evidentiary, statutory or other materials are excluded from these page limitations and may be bound separately from memoranda.

**(g) Hearings**. The Judicial Officer may rule on unopposed motions without hearing at any time after the time for filing an opposition has expired. The Judicial Officer may also rule on any opposed motion without hearing at any time after the time for filing a reply memorandum has elapsed.

**(h) Untimely Motions**. Any motion (other than motions made during hearings or at trial) served and filed beyond the motion deadline established by the Court may be denied solely on the basis of the untimely filing.

**(i) Sanctions for Filing Frivolous Motions or Oppositions.** Filing a frivolous motion or opposing a motion on frivolous grounds may result in the imposition of appropriate sanctions including the assessment of costs and attorneys' fees against counsel and/or the party involved.

**(j) Motions Control Program.** Pursuant to a motion adopted by the Sixth Circuit Judicial Council at its November 1, 1993 meeting which authorized the chief judge of each district to monitor the motions docket within the district and to implement a motions control program, the Court adopted the Motions Control Program for the Northern District of Ohio set forth in General Order No. 94-01 (see Appendix H)

Last revised 12/1/09. *See* Historical Notes for full revision history.

**Rule 7.2 Dispositive Motions**

**(a)** Motions that dispose of any claim or defense shall usually be heard and determined by the District Judge assigned to the case. When such Judge concludes that final adjudication of such motion will be expedited if it is referred to a Magistrate Judge for report and recommendation, such motion may be referred to the Magistrate Judge, whose report and recommendation shall be filed consistent with the provisions of Local Rule 7.3(b).

**(b)** In those cases in which a summary judgment motion is pending, the Judicial Officer may consider scheduling the case for oral argument.

Last revised 5/29/02. *See* Historical Notes for full revision history.

**<u>Rule 7.3</u> Ruling on Motions**

The Judicial Officer shall make every effort to rule on any nondispositive motion within thirty (30) days of the time the motion comes at issue, and to rule on any dispositive motion within sixty (60) days of the time the motion comes at issue or briefing is concluded on exceptions/objections to a recommended decision on such motion submitted by a Magistrate Judge.

Last revised 5/29/02. *See* Historical Notes for full revision history.

**<u>Rule 8.1</u> General Rules of Pleading**

(a) In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents filed with the Court, including exhibits thereto, whether filed electronically or on paper, unless otherwise ordered by the Court.

(1) **Social Security numbers**. If an individual's Social Security number must be included in a document, only the last four digits of that number should be used.

(2) **Names of minor children**. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(3) **Dates of birth**. If an individual's date of birth must be included in a document, only the year should be used.

(4) **Financial account numbers**. If financial account numbers are relevant, only the last four digits of these numbers should be in the document used.

(b) In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may

(1) file a redacted document in the public record and file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right, or

(2) file an unredacted version of the document under seal.

(c) The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.

(d) Exceptions: Transcripts of the administrative record in social security proceedings and state court records relating to habeas corpus petitions will be exempt

from these redaction provisions because those documents will not be made available online.

See LcrR 49.1.1

Effective 5/1/05. *See* Historical Notes for full revision history.

**<u>Rule 9.1</u> Social Security and Black Lung Cases**

In civil cases filed pursuant to section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for benefits under Titles II, XVI, and XVIII of the Social Security Act, or under Part B, Title IV of the Federal Coal Mine Health and Safety Act of 1969, in addition to what is required under Fed. R. Civ. P. 8(a), the last four digits of the social security number of the claimant or the worker on whose wage record the application for benefits was filed (who may or may not be the plaintiff) shall be provided in the complaint and the following additional information shall be provided:

> In cases involving claims for retirement, survivors, disability, health insurance, or social security benefits (including supplemental security income), the full social security number of the claimant, or the worker on whose wage record the application for benefits was filed (who may or may not be the plaintiff), shall be provided in a written disclosure statement to the United States Attorney's Office and to the Commissioner of Social Security. This disclosure must be made at the time of and with service of summons and complaint, regardless of how service is perfected, unless a different time is set by stipulation or court order. Notice of this disclosure shall be filed with the Court and may be made by separate filing or included as an allegation in the Complaint.

Last revised 6/7/04. *See* Historical Notes for full revision history.

**Rule 10.1 General Format of Papers Presented for Filing**

Attorneys are required to file documents electronically, absent a showing of good cause, unless otherwise excused by the rules, procedures or Orders of the Court, pursuant to LR 5.1. The formatting requirements described below apply to documents presented on paper. Documents that are filed electronically should follow the same formatting provisions, where applicable.

All pleadings, motions, and other documents presented for filing shall be on 8½ x 11 inch white paper of good quality, flat and unfolded and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process and double-spaced except for quoted material. Each page shall be numbered consecutively.

Only the original shall be filed. No duplicate of any document shall be accepted by the Clerk of Court, except upon written order of the Judicial Officer assigned to the case.

In instances wherein documents are being filed in consolidated or related cases, an additional copy shall be filed for each case number stated in the case caption. In the interest of completeness of the case files, the original document shall be placed in the lead case file and copies of the document shall be placed in each consolidated or related case file.

All documents presented for filing or lodging shall be pre-punched with two (2) normal-size holes (approximately 1/4 inch diameter), centered 2 3/4 inches apart, 1/2 to 5/8 inch from the top edge of the document.

The top margin of the first page of each document filed shall be three (3) inches for use by the Clerk to permit space for the file-stamp without stamping over case information. The title of the Court shall be centered below this 3-inch space.

Signatures on all documents submitted to the Court shall include the typewritten name, address, telephone number, facsimile number, e-mail address and the attorney's Ohio Bar Registration Number, if applicable.

This Rule does not apply to:

**(a)** Documents filed by pro se litigants, except that the signatures on all documents submitted by pro se litigants must include a typewritten or printed name, address, daytime telephone number, facsimile number and e-mail address, if available, or

**(b)** Documents filed in removed actions prior to removal from the state courts.

(See LCrR 49.1) Last revised 6/5/06. *See* Historical Notes for full revision history.

## Rule 10.2 Designation of District Judge and/or Magistrate Judge

After the filing of the complaint, all documents filed with the Clerk shall have the name of the District Judge and/or Magistrate Judge to whom the case has been assigned typed or printed immediately under the Court's docket number.

(See LCrR 49.3) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 16.1 Differentiated Case Management**

**(a) Purpose and Authority.** The United States District Court for the Northern District of Ohio ("Northern District") adopts Local Rules 16.1 to 16.3 in compliance with the mandate of the United States Congress as expressed in the Civil Justice Reform Act of 1990 ("CJRA" or "Act"). These Rules are intended to implement the procedures necessary for the establishment of a differentiated case management ("DCM") system.

The Northern District has been designated as a DCM "Demonstration District." The DCM system adopted by the Court is intended to permit the Court to manage its civil docket in the most effective and efficient manner, to reduce costs and to avoid unnecessary delay, without compromising the independence or the authority of either the judicial system or the individual Judicial Officer. The underlying principle of the DCM system is to make access to a fair and efficient court system available and affordable to all citizens.

**(b) Definitions.**

(1) "Differentiated case management" ("DCM") is a system providing for management of cases based on case characteristics. This system is marked by the following features: the Court reviews and screens civil case filings and channels cases to processing "tracks" which provide an appropriate level of judicial, staff, and attorney attention; civil cases having similar characteristics are identified, grouped, and assigned to designated tracks; each track employs a case management plan tailored to the general requirements of similarly situated cases; and provision is made for the initial track assignment to be adjusted to meet the special needs of any particular case.

(2) "Case Management Conference" is the conference conducted by the Judicial Officer where track assignment, Alternative Dispute Resolution ("ADR"), and discovery are discussed and where discovery and motion deadlines, deadlines for amending pleadings and adding parties, and the date of the Status Conference are set. Such conference shall, as a general rule, be conducted no later than thirty (30) days after the date of the filing of the last permissible responsive pleading, or the date upon which such pleading should have been filed, but not later than ninety (90) days from the date counsel for the defendant(s) has entered notice of appearance, regardless of whether a responsive pleading has been filed by that date.

The Court may, upon motion for good cause shown or sua sponte, order the conference to be held before such general time frame. Unless otherwise ordered, no Case Management Conference shall be held in any action in which the sole plaintiff or defendant is incarcerated and is appearing pro se.

(3) "Status Conference" is the mandatory hearing which is held at a time set by the judicial officer.

(4) "Case Management Plan" ("CMP") is the plan adopted by the Judicial Officer at the Case Management Conference and shall include the determination of track assignment, whether the case is suitable for reference to an ADR program, the type and extent of discovery, the setting of a discovery cut-off date, directions regarding the filing of discovery materials, deadline for filing motions, deadlines for amending pleadings and adding parties, and the date of the Status Conference.

(5) "Dispositive Motions" shall mean motions to dismiss pursuant to Fed. R. Civ. P. 12(b), motions for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c), motions for summary judgment pursuant to Fed. R. Civ. P. 56, or any other motion which, if granted, would result in the entry of judgment or dismissal, or would dispose of any claims or defenses, or would terminate the litigation.

(6) "Discovery cut-off" is that date by which all responses to written discovery shall be due according to the Federal Rules of Civil Procedure and by which all depositions shall be concluded. Counsel must initiate discovery requests and notice or subpoena depositions sufficiently in advance of the discovery cut-off date so as to comply with this rule, and discovery requests that seek responses or schedule depositions after the discovery cut-off are not enforceable except by order of the Court for good cause shown.

**(c) Date of DCM Application**. Local Rules 16.1 to 16.3 shall apply to all civil cases filed on or after January 1, 1992 and may be applied to civil cases filed before that date if the assigned Judge determines that inclusion in the DCM system is warranted and notifies the parties to that effect.

**(d) Conflicts with Other Rules.** In the event that Local Rules 16.1 to 16.3 conflict with other Local Rules adopted by the Northern District, Local Rules 16.1 to 16.3 shall prevail.

Last revised 6/4/07. *See* Historical Notes for full revision history.

**Rule 16.2 Tracks and Evaluation of Cases**

**(a) Differentiation of Cases**.

(1) Evaluation and Assignment. The Court shall evaluate and screen each civil case in accordance with subsection (b) of this Local Rule, and then assign each case to one of the case management tracks described in subsection (a)(2).

(2) Case Management Tracks. There shall be five (5) case management tracks, as follows:

(A) Expedited - Cases on the Expedited Track should be completed within nine (9) months or less after filing.

(B) Standard - Cases on the Standard Track should be completed within fifteen (15) months or less after filing.

(C) Complex -- Cases on the Complex Track should have the discovery cut-off established in the CMP and should have a case completion goal of no more than twenty-four (24) months.

(D) Administrative - Cases on the Administrative Track, except actions under 28 U.S.C. § 2254 and government collection cases in which no answer is filed, shall be referred by Court personnel directly to a Magistrate Judge for a report and recommendation. See Local Rule 72.2(b). Administrative Track cases shall be controlled by scheduling orders issued by the Judicial Officer. In actions for review of decisions by the Social Security Administration, such orders shall be pursuant to, and in accord with, the provisions of 16.3.1.

(E) Mass Torts -- Cases on the Mass Torts Track shall be treated in accordance with the special management plan adopted by the Court.

**(b) Evaluation and Assignment of Cases.** The Court shall consider and apply the following factors in assigning cases to a particular track:

(1) Expedited:
(A) Legal Issues: Few and clear
(B) Required Discovery: Limited
(C) Number of Real Parties in Interest: Few
(D) Number of Fact Witnesses: Up to five (5)
(E) Expert Witnesses: None
(F) Likely Trial Days: Less than five (5)
(G) Suitability for ADR: High
(H) Character and Nature of Damage Claims: Usually a fixed amount

(2) Standard:

(A) Legal Issues: More than a few, some unsettled
(B) Required Discovery: Routine
(C) Number of Real Parties in Interest: Up to five (5)
(D) Number of Fact Witnesses: Up to ten (10)
(E) Expert Witnesses: Two (2) or three (3)
(F) Likely Trial Days: five (5) to ten (10)
(G) Suitability for ADR: Moderate to high
(H) Character and Nature of Damage Claims: Routine

(3) Complex:

(A) Legal Issues: Numerous, complicated and possibly unique
(B) Required Discovery: Extensive
(C) Number of Real Parties in Interest: More than five (5)
(D) Number of Witnesses: More than ten (10)
(E) Expert Witnesses: More than three (3)
(F) Likely Trial Days: More than ten (10)
(G) Suitability for ADR: Moderate
(H) Character and Nature of Damage Claims: Usually requiring expert testimony

(4) Administrative: Cases that, based on the Court's prior experience, are likely to result in default or consent judgments or can be resolved on the pleadings or by motion.

(5) Mass Tort: Factors to be considered for this track shall be identified in accordance with the special management plan adopted by the Court.

Last revised 1/1/2013. *See* Historical Notes for full revision history.

**Rule 16.3 Track Assignment and Case Management Conference**

**(a) Notice of Track Recommendation and Case Management Conference.**

(1) The Court may issue a track recommendation to the parties in advance of the Case Management Conference, or may reserve such determination for the Case Management Conference. If the notice of Case Management Conference does not contain a track recommendation, counsel must confer to determine whether they can agree to a track recommendation, which shall be subject to the Judicial Officer's approval at the Case Management Conference. The track recommendation shall be made in accordance with the factors identified in Local Rule 16.2(b).

(2) In any action in which the defendant (or all defendants in any action with multiple defendants) is in default of answer, no track recommendation will be made and no Case Management Conference held so long as such default continues. In such a case the plaintiff shall go forward and seek default judgment within one hundred and twenty (120) days of perfection of service (or of sending of a request for a waiver of service under Fed. R. Civ. P. 4(d)), or show cause why the action should not be dismissed for want of prosecution. If such default occurs and the party/parties in default is/are thereafter granted leave to plead, issuance of a track recommendation and scheduling of the Case Management Conference shall proceed in accordance herewith, based upon the date set for the filing of the responsive pleading.

**(b) Case Management Conference.**

(1) The Judicial Officer shall conduct the Case Management Conference. Lead counsel of record must participate in the Conference and parties must attend unless, upon motion with good cause shown or upon its own motion, the Judicial Officer allows the parties to be available for telephonic communication. Counsel, upon good cause shown, may seek leave to participate by telephone.

(2) The agenda for the Conference shall include:

(A) Determination of track assignment;
(B) Determination of whether there is any impediment to putting the case in the Court's electronic filing system;
(C) Determination of whether the case is suitable for reference to an ADR program;
(D) Determination of whether the parties consent to the jurisdiction of a Magistrate Judge pursuant to 28 U.S.C. § 636(c);
(E) Disclosure of information that may be subject to discovery, including key documents and witness identification;
(F) Determination of the type and extent of discovery, including the discovery of electronically stored information. If the parties

have not agreed on how to conduct electronic discovery, the default standard for discovery of electronically stored information attached as Appendix K shall apply;

(G) Determination of a whether an order is necessary to protect confidential information. A form protective order is attached as Appendix L;

(H) Setting of a discovery cut-off date;

(I) Setting of a deadline for joining other parties and amending the pleadings;

(J) Setting of deadline for filing motions; and

(K) Setting the date of the Status Conference.

(3) Except in categories of proceedings exempted from initial disclosure under Fed. R. Civ. P. 26(a)(1)(E), the parties must confer before the Fed. R. Civ. P. 16(b) conference. In addition to discussing the items identified in Fed. R. Civ. P. 26(f), counsel for all parties are directed to engage in meaningful discussions regarding any track recommendation issued by the Court and each of the other agenda items established by the Court. This discussion shall also be generally guided by the provisions of Fed. R. Civ. P. 26(f). The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference. The parties must submit a report on their discussion at least seven days before the Fed. R. Civ. P. 16(b) conference. The Court shall provide forms to counsel for all parties for indicating the parties' positions regarding all such agenda items when it issues its track recommendation.

(4) At the conclusion of the Case Management Conference, the Judicial Officer shall prepare, file, and issue to the parties an order containing the Case Management Plan governing the litigation.

**(c) Notification of Complex Litigation.**

(1) Definitions.

(A) As used in this Rule, "Complex Litigation" has one or more of the following characteristics:

(i) it is related to one or more other cases;

(ii) it arises under the antitrust laws of the United States;

(iii) it involves more than five (5) real parties in interest;

(iv) it presents unusual or complex issues of fact;

(v) it involves problems which merit increased judicial supervision or special case management procedures.

(B) As used in this Rule, a "case" includes an action or a proceeding.

(C) As used in this Rule, a case is "related" to one or more other cases if:

(i) they involve the same parties and are based on the same or similar claims;

(ii) they involve the same property, transaction or event or the same series of transactions or events; or

(iii) they involve substantially the same facts.

(2) Notice Identifying Complex Litigation. An attorney who represents a party in Complex Litigation, as defined above, must, with the filing of the complaint, answer, motion, or other pleading, serve and file a statement which briefly describes the nature of the case, identifies by title and case number all other related case(s) filed in this and any other jurisdiction (federal or state) and identifies, where known, counsel for all other parties in the action who have not yet entered an appearance.

(3) Manual For Complex Litigation. Counsel for each of the parties receiving notice of a Case Management Conference must become familiar with the principles and suggestions contained in the most recent edition of the Manual for Complex Litigation.

(4) Case Management Conference. (See subsection (b)). In preparation for the Case Management Conference, at least seven (7) days prior to the date of the conference counsel for each party must file and serve a proposed agenda of the matters to be discussed at the conference. At the Case Management Conference, counsel for each party must be prepared to discuss preliminary views on the nature and dimensions of the litigation, the principal issues presented, the nature and extent of contemplated discovery, and the major procedural and substantive problems likely to be encountered in the management of the case. Coordination or consolidation with related litigation should be considered. Counsel should be prepared to suggest procedures and timetables for the efficient management of the case.

(5) Determination By Order Whether Case to be Treated as Complex Litigation. At the conclusion of the Case Management Conference, the Court shall prepare, file, and issue an order containing the Case Management Plan which shall set forth whether the case thereafter shall be treated as Complex Litigation pursuant to orders entered by the Court consistent with the principles

and suggestions contained in MCL 2d. An order under this subdivision may be conditional and may be altered and amended as the litigation progresses.

(6) Subsequent Proceedings.

(A) Once the Court has determined by order that an action shall be treated as Complex Litigation, thereafter the Court shall take such actions and enter such orders as the Court deems appropriate for the just, expeditious and inexpensive resolution of the litigation. Measures should be taken to facilitate communication and coordination among counsel and with the Court.

(B) Throughout the pendency of a case which has been determined to be treated as Complex Litigation, counsel for the parties are encouraged to submit suggestions and plans designed to clarify, narrow and resolve the issues and to move the case as efficiently and expeditiously as possible to a fair resolution.

**(d) Status Conference**. The parties, each of whom will have settlement authority, and lead counsel of record must participate in the Status Conference. The parties must participate in person unless, upon motion with good cause shown or upon its own motion, the Judicial Officer allows the parties to be available for telephonic communication. Counsel, upon good cause shown, may seek leave to participate by telephone. When the United States of America or any officer or agency thereof is a party, the federal attorney responsible for the case shall be deemed the authorized representative for the purpose of the Status Conference. At the Status Conference the Judicial Officer will:

(1) review and address:

(A) settlement and ADR possibilities;

(B) any request for revision of track assignment and/or of the discovery cut-off or motion deadlines; and

(C) any special problems which may exist in the case;

(2) assign a Final Pretrial Conference date, if appropriate; and

(3) discuss setting a firm trial date.

If, for any reason, the assigned Judicial Officer is unable to hear the case within one week of its assigned trial date, the case shall be referred to the Chief Judge for reassignment to any available District Judge or, upon consent of the parties, Magistrate Judge for prompt trial.

**(e) Final Pretrial Conference**. A Final Pretrial Conference, if any, may be scheduled by the Judicial Officer at the Status Conference. The parties and lead counsel of record must be present at the conference. When the United States of America or any officer or agency thereof is a party, the federal attorney responsible for the case shall be deemed the authorized representative for the purpose of the Final Pretrial Conference. The Final Pretrial Conference shall be scheduled as close to the time of trial as reasonable under the circumstances. The Judicial Officer may, in the Judicial Officer's discretion, order the submission of pretrial memoranda.

**(f) Video and Telephone Conferences**. The use of telephone conference calls and, where appropriate, video conferencing for pretrial and status conferences is encouraged. The Court, upon motion by counsel or its own instance, may order pretrial and status conferences to be conducted by telephone conference calls. In addition, upon motion by any party and upon such terms as the Court may direct, the Court may enter an order in appropriate cases providing for the conduct of pretrial and status conferences by video conference equipment.

Last revised 2/2/09. *See* Historical Notes for full revision history.

**Rule 16.3.1 Review of Decisions by the Commissioner of Social Security**

Pursuant to this Court's authority to issue scheduling orders controlling Administrative Track cases, as provided in Local Rule 16.2(a)(2)(D), and to issue orders governing the powers and duties of Magistrate Judges, as provided in Local Rule 72.1, the following rules should govern the briefing and disposition of reviews of decisions by the Commissioner of Social Security brought under 42 U.S.C. § 405(g).

(a) Form of Review. A civil action brought to review a decision of the Commissioner of Social Security, pursuant to 42 U.S.C. § 405(g), shall be adjudicated as an appeal pursuant to this rule.

(b) Summons and Complaint. The plaintiff shall cause the summons and complaint to be served upon the defendant in the manner specified by Fed.R.Civ.P.4(i), within twenty-one (21) days of the date of filing the complaint with the Clerk of Court. Special disclosure requirements set forth in Local Rule 9.1 must also be followed when applicable.

(c) Answer and Transcript. The defendant shall serve an answer on plaintiff, and file the answer, together with a certified copy of the transcript of the administrative record, within sixty (60) days of service of the complaint.

(d) Plaintiff's Brief. The plaintiff shall file a brief, and serve it upon defendant within thirty (30) days of service of defendant's answer

(e) Defendant's Brief. Within thirty (30) days after plaintiff's brief is filed, defendant shall file a brief which responds specifically to each issue raised by plaintiff, and shall serve it upon the plaintiff.

(f) Reply Brief. The plaintiff may file a brief in reply to the brief of defendant, and serve it upon defendant within fourteen (14) days of the filing of defendant's brief.

(g) Length of Briefs. The brief for the plaintiff shall not exceed twenty-five (25) pages. The brief for the defendant shall not exceed twenty-five (25) pages. The reply brief shall not exceed ten (10) pages.

(h) Report and Recommendations.

(1) In any case assigned to a Magistrate Judge pursuant to Local Rule 72.2(b)(1), the Magistrate Judge should issue a Report and Recommendation within two hundred and eighty-five (285) days of the filing of the answer and transcript.

(2) The District Judge assigned to the case should adopt, modify, or overrule the Report and Recommendation of the Magistrate Judge within one hundred and five (105) days of its issuance.

(3) Whenever possible, a quicker resolution is encouraged in order to provide faster relief to the parties and to avoid rendering the case reportable under the Guide to Judiciary Policy Vol. 18, Statistics, Ch. 5, § 540.50.

(i) Magistrate Consent Cases.

(1) In any case where the parties have consented to have a Magistrate Judge decide the case, the Magistrate should issue an opinion deciding the case within two hundred and eighty-five (285) days of the filing of the answer and transcript.

Effective 1/1/2013.

**Rule 16.4 Alternative Dispute Resolution**

**(a) Purpose**. The Court adopts Local Rules 16.4 to 16.7 to make available to the Court and the parties a program of court-annexed dispute resolution processes designed to provide alternatives to traditional litigation.

It is not contemplated that these processes will be suitable for every case. Rather, the Judges of the Court believe that the careful selection of processes to fit the cases will result in the efficient preparation and resolution of those cases, to the benefit of the parties, their counsel, and the Court.

**(b) Definitions.**

(1) The "assigned Judge" is the Judge to whom the case is assigned. If the Judge has referred the matter to a Magistrate Judge, the Magistrate Judge is the assigned Judge under Local Rules 16.4 to 16.10 with respect to actions or decisions which are to be made by the assigned Judge.

(2) "Early Neutral Evaluation" ("E.N.E.") is a pre-trial process involving a neutral who meets with the parties early in the course of the litigation to help them focus on the issues, organize discovery, work expeditiously to prepare the case for trial, and, if possible, settle all or part of the case. The neutral evaluator provides the parties with an evaluation of the legal and factual issues, to the extent possible, at that early stage of the case. The evaluation process described in Local Rule 16.5 is court-annexed.

(3) "Mediation" is a non-binding settlement process involving a neutral who helps the parties to overcome obstacles to effective negotiation. The mediation process described in Local Rule 16.6 is court-annexed.

**(c) The ADR Administrator**. The "ADR Administrator" is the person appointed by the Court with full authority and responsibility to direct the programs described in this Section. The ADR Administrator shall be a person with training and experience in the administration of ADR Programs. The ADR Administrator shall:

(1) Administer the selection, training, and use of the Federal Court Panel;

(2) Collect and maintain biographical data with respect to members of the Federal Court Panel to permit assignments commensurate with the experience, training, and expertise of the panelists and make the list of panelists and the biographical data available to parties and counsel;

(3) Prepare applications for funding of the ADR Program by the United States government and other parties;

(4) Prepare reports required by the United States government or other parties with respect to the use of funds in the operation and evaluation of the program;

(5) Develop and maintain such forms, records, docket control, and data as may be necessary to administer and evaluate the program;

(6) Periodically evaluate, or arrange for outside evaluation of, the ADR Program and report on that evaluation to the Court, making recommendations for changes in these Rules, if needed; and

(7) Develop, and make available upon request, lists of private or extra-judicial ADR providers.

Decisions of the ADR Administrator, acting within the authority conferred in these Rules, shall be orders of the Court for purposes of enforcement and sanctions.

**(d) Federal Court Panel**. There is hereby authorized the establishment of a Federal Court Panel consisting of persons who, by experience, training, and character, are qualified to act as neutrals in one or more of the processes provided for in these Rules.

(1) Appointment to the Panel. The Federal Court Panel shall consist of persons nominated by the Court's Advisory Group and confirmed by the Judges of the Court.

(2) Qualifications and Training.

(A) Panelists shall be lawyers who have been admitted to the practice of law for at least five (5) years and are currently either members of the bar of the United States District Court for the Northern District of Ohio or members of the faculty of an accredited Ohio law school. The Court may waive these requirements to appoint other qualified persons with special expertise in particular substantive fields or experience in dispute resolution processes.

(B) All persons selected as panelists shall:

(i) Undergo such dispute resolution training as the Court may prescribe;

(ii) Take the oath set forth in 28 U.S.C. § 453; and

(iii) Agree to follow the provisions of these Rules.

Each person shall be appointed as a Federal Court Panelist for a period of three (3) years. Appointment may be renewed upon a demonstration of continued qualification.

(3) Compensation of Panelists.

(A) The maximum hourly rate that may be charged by the panelist for court-annexed services shall be $275.00 per hour. Unless otherwise agreed, the panelist's charge shall be split equally between the plaintiffs and the defendants.

(B) No compensation shall be provided for preparation time.

(C) If the Court determines that a party does not have the financial resources to pay the panelist's charge, the Court may assign a panelist who will provide four and one half (4 ½) hours of neutral service, in addition to any necessary preparation time, without charge. No panelist will be required to provide more than four and one half (4 ½) hours of free service per year.

(4) Immunity. All persons serving as Court appointed neutrals in the court-annexed ADR program are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

**(e) Referral to ADR**. Parties are encouraged to use ADR for the resolution of their disputes, and the Judicial Officer shall guide the parties to an appropriate ADR process when, in the judgment of the Judicial Officer, such referral is warranted, and shall make the parties aware that a neutral may be selected through this Court's ADR Program. In the event it is a case referred to a Magistrate Judge for case management only, any reference to ADR may be made only with the approval of the District Judge to whom the case was assigned. Without leave of Court, neither the parties nor the neutral may modify the time allowed for completing an ADR process.

**(f) Private ADR**. If all parties advise the Court that they would prefer to use a private ADR process, the Court may permit them to do so at the expense of the parties subject to:

(1) The submission to the Court of an agreement, executed by the parties, providing for the conduct of the ADR process including, without limitation, confirming their agreement to use and pay for a private ADR process and explaining how a neutral will be selected;

(2) The filing with the Court, within ten (10) days of the completion of the ADR process, of a written report signed by the neutral or by the parties if no neutral was used.

Last revised 8/1/2011. *See* Historical Notes for full revision history.

**Rule 16.5 Early Neutral Evaluation (E.N.E.)**

**(a) Eligible Cases**. Any civil case may be referred to E.N.E.

**(b) Selection of Cases**. A case may be selected for E.N.E.:

(1) By the Court at the Case Management Conference (See Local Rule 16.1(b)(2)); or

(2) At any time:

(A) By the Court on its own motion, in consultation with the parties;

(B) By the Court, on the motion of one of the parties; or

(C) By stipulation of all parties.

**(c) Administrative Procedure.**

(1) Upon notice that a case has been referred for court-annexed E.N.E., the ADR Administrator will promptly provide the parties with a Notice of Referral, listing of available panelists who are qualified to deal with the subject matter of the lawsuit. The parties shall confer with each other within ten (10) days after receiving the written Notice of Referral and provide the ADR Administrator with an agreed list of three proposed evaluators, ranked in order of preference. In the event of multiple parties not united in interest, the parties shall add the name of one proposed evaluator for each such additional party.

If the parties fail to provide the ADR Administrator with an agreed list of at least three proposed evaluators, the ADR Administrator shall select from the list of available panelists provided to the parties an evaluator who is qualified to deal with the subject matter of the lawsuit. The ADR Administrator shall make a preliminary determination that the proposed evaluator has no conflicts of interest and that the proposed evaluator can serve.

Nothing in this Rule shall limit the right of the parties, with consent of the Court, to select a person of their own choosing to act as an evaluator hereunder.

(2) The ADR Administrator shall contact the proposed evaluator(s), in the order of preference provided by the parties, concerning potential conflicts of interest and scheduling. Once a determination has been made that a proposed evaluator can serve, the ADR Administrator shall provide written Notice of Designation (which shall include the name, address and telephone number of the chosen panelist, hereafter, the "Evaluator") to counsel for all parties (or to parties not yet represented by counsel) and to the Evaluator. If, after Notice of

Designation is given or sent, a new party is joined in the action, the ADR Administrator shall promptly send that new party a copy of the Notice of Designation.

(3) Promptly after receiving the Notice of Designation, the Evaluator shall schedule the evaluation session which, unless otherwise ordered by the Court, shall be not more than thirty (30) days from the date of the written Notice of Designation. The Evaluator shall send written notice to all parties and to the ADR Administrator advising them as to the date, time and location of the evaluation session.

(4) Without leave of Court, neither the parties nor the neutral may modify the time allowed for completing an ADR process.

**(d) Neutrality of Evaluator**. If at any time the Evaluator becomes aware of or a party raises an issue with respect to the Evaluator's neutrality because of some interest in the case or because of a relationship or affiliation with one of the parties, the Evaluator shall disclose the facts with respect to the issue to all of the parties. If a party requests that the Evaluator withdraw because of the facts so disclosed, the Evaluator may withdraw and request that the ADR Administrator appoint another evaluator. If the Evaluator determines that withdrawal is not warranted, the Evaluator may elect to continue. The objecting party may then request the ADR Administrator to remove the Evaluator. The ADR Administrator may remove the Evaluator and choose another from the Federal Court Panel. If the ADR Administrator decides that the objection is unwarranted, the evaluation session shall proceed as scheduled, or, if delay was necessary, as soon after the scheduled date as possible.

**(e) Written Submissions to the Evaluator.**

(1) No later than five (5) days before the evaluation session, each party shall submit to the Evaluator and serve on all other parties a written evaluation statement. The statement shall not exceed ten (10) pages and shall conform to this Rule. The statement shall:

(A) Identify the person, in addition to counsel, who will attend the session as a representative of the party with decision making authority;

(B) Identify any legal or factual issues whose early resolution might reduce the scope of the dispute or contribute to settlement;

(C) Describe discovery which is contemplated; and,

(D) Include as exhibits copies of all pleadings filed by the party submitting the written statement.

The statement may include any other information the party believes useful in preparing the Evaluator and other parties for a productive session. The statement may identify individuals connected to another person (including a representative of an insurer) whose presence would be helpful or necessary to make the session productive. The Evaluator shall determine whether any person so identified should be requested to attend and may make such request.

(2) Written evaluation statements shall not be filed and shall not be shown to the Court.

(3) In addition to submitting the written evaluation statement, the parties shall prepare to respond fully and candidly in a private caucus to questions by the Evaluator concerning:

(A) The estimated costs to that party of litigating the case through trial, including legal fees;

(B) Witnesses (both lay witnesses and experts);

(C) Damages, including the method of computation and the proof to be offered; and

(D) Plans for discovery.

**(f) <u>Attendance at the Evaluation Conference</u>.**

(1) All parties shall be present, except that when a party is other than an individual or when a party's interests are being represented by an insurance company, an authorized representative of such party or insurance company, with full authority to act and to settle, shall attend. Willful failure of a party to attend the evaluation conference shall be reported by the Evaluator to the ADR Administrator for transmittal to the assigned Judge, who may impose appropriate sanctions.

(2) Each party shall be represented at the session by the attorney expected to be primarily responsible for handling the trial of the case.

**(g) <u>Procedure at Evaluation Conferences</u>.**

(1) Each E.N.E. conference shall be informal. The Evaluator shall conduct the process in order to help the parties to focus the issues and to work efficiently and expeditiously to make the case ready for trial or settlement.

(2) At the initial conference, and at additional conferences as the Evaluator deems appropriate, the Evaluator shall:

(A) Permit each party to make a brief oral presentation of its position, without interruption, through counsel or otherwise;

(B) Help the parties to identify areas of agreement and, if feasible, enter stipulations;

(C) Determine whether the parties wish to negotiate, with or without the Evaluator's assistance, before evaluation of the case;

(D) Help the parties identify issues and assess the relative strengths and weaknesses of the parties' positions;

(E) Help the parties to agree on a plan for exchanging information and conducting discovery which will enable them to prepare expeditiously for the resolution of the case by trial, settlement, or dispositive motion;

(F) Help the parties to assess litigation costs realistically;

(G) Determine whether one or more additional conferences would assist in the settlement or case development process and, if so, schedule the conference and direct the parties to prepare and submit any additional written materials needed for the conference;

(H) At the final conference (which may be the initial conference), give an evaluation of the strengths and weaknesses of each party's case and of the probable outcome if the case is tried, including, if feasible, the dollar value of each claim and counterclaim;

(I) Advise the parties, if appropriate, about the availability of ADR processes that might assist in resolving the dispute; and

(J) Report to the ADR Administrator in writing within ten (10) days of the close of the E.N.E. conference: the fact that the E.N.E. process was completed, any agreements reached by the parties, and the Evaluator's recommendation, if any, as to future ADR processes that might assist in resolving the dispute.

(3) The Evaluator may, subject to the requirements stated in this Rule:

(A) Determine how to structure the evaluation conference;

(B) Hold separate, private caucuses with any party or counsel but may not, without the consent of that party or counsel, disclose the contents of that discussion to any other party or counsel; and

(C) Act as a mediator or otherwise assist in settlement negotiations either before or after presenting the evaluation called for in subsection (g)(2)(H) of this Rule.

**(h) <u>Confidentiality</u>**. The entire E.N.E. process is confidential, and privileged to the extent provided under Ohio Rev. Code Ch. 2710 and Sixth Circuit law. The parties and the Evaluator shall not disclose information regarding the process, including settlement terms, to the Court or to third persons unless all parties otherwise agree. Parties, counsel, and evaluators may, however, respond to confidential inquiries or surveys by persons authorized by the Court to evaluate the E.N.E. program. Information provided in such inquiries or surveys shall remain confidential and shall not be identified with particular cases.

The E.N.E. process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The Evaluator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the E.N.E. process.

Last revised 8/1/2011. *See* Historical Notes for full revision history.

**Rule 16.6 Mediation**

**(a) Eligible Cases**. Any civil case may be referred to mediation.

**(b) Selection of Cases.**

(1) When Selected. A case may be selected for mediation:

(A) When the status of discovery is such that the parties are generally aware of the strengths and weaknesses of the case; or

(B) At any earlier time by agreement of the parties and with the approval of the Court.

(2) How Selected. A case may be selected for mediation:

(A) By the Court on its own motion, in consultation with the parties;

(B) By the Court, on motion of one of the parties; or

(C) By stipulation of all parties.

(3) Objection to Mediation.

(A) For good cause, a party may object to the referral to mediation by the Court on its own motion by filing a written request for reconsideration within ten (10) days of the date of the Court's order.

(B) Mediation processes shall be stayed pending decision on the request for reconsideration, unless otherwise ordered by the Court.

**(c) Administrative Procedure.**

(1) Upon notice that a case has been referred to Mediation, the ADR Administrator will promptly provide the parties with a Notice of Referral, listing of available panelists who are qualified to deal with the subject matter of the lawsuit. The parties shall confer with each other within ten (10) days after receiving the written Notice of Referral and provide the ADR Administrator with an agreed list of three proposed mediators, ranked in order of preference. In the event of multiple parties not united in interest, the parties shall add the name of one proposed mediator for each such additional party.

If the parties fail to provide the ADR Administrator with an agreed list of at least three proposed mediators, the ADR Administrator shall select from the list of available panelists provided to the parties a mediator who is qualified to deal with the subject matter of the lawsuit. The ADR Administrator shall make a

preliminary determination that the proposed mediator has no conflicts of interest and that the proposed mediator can serve.

Nothing in this Rule shall limit the right of the parties, with consent of the Court, to select a person of their own choosing to act as a mediator hereunder.

(2) The ADR Administrator shall contact the proposed mediator(s), in the order of preference provided by the parties, concerning potential conflicts of interest and scheduling. Once a determination has been made that a proposed mediator can serve, the ADR Administrator shall provide written Notice of Designation (which shall include the name, address and telephone number of the chosen panelist, hereafter, the "Mediator") to counsel for all parties (or to parties not yet represented by counsel) and to the Mediator. If, after Notice of Designation is given or sent, a new party is joined in the action, the ADR Administrator shall promptly send that new party a copy of the Notice of Designation.

(3) Promptly after receiving the Notice of Designation, the Mediator shall schedule the mediation conference which, unless otherwise ordered by the Court, shall not be more than thirty (30) days from the date of written Notice of Designation. The Mediator shall send written notice to all parties and to the ADR Administrator advising them as to the date, time and location of the mediation conference.

(4) Without leave of Court, neither the parties nor the neutral may modify the time allowed for completing an ADR process.

**(d) <u>Neutrality of Mediator</u>**. If at any time the Mediator becomes aware of or a party raises an issue with respect to the Mediator's neutrality because of some interest in the case or because of a relationship or affiliation with one of the parties, the Mediator shall disclose the facts with respect to the issue to all of the parties. If a party requests that the Mediator withdraw because of the facts so disclosed, the Mediator may withdraw and request that the ADR Administrator appoint another mediator. If the Mediator determines that withdrawal is not warranted, the Mediator may elect to continue. The objecting party may then request the ADR Administrator to remove the Mediator. The ADR Administrator may remove the Mediator and choose another from the Federal Court Panel. If the ADR Administrator decides that the objection is unwarranted, the mediation conference shall proceed as scheduled or, if delay was necessary, as soon after the scheduled date as possible.

**(e) <u>Written Submissions to Mediator</u>.**

(1) At least five (5) days before the mediation conference, the parties shall submit to the Mediator:

(A) Copies of relevant pleadings and motions;

(B) A short memorandum stating the legal and factual positions of each party respecting the issues in dispute; and

(C) Such other material as each party believes would be beneficial to the Mediator.

(2) Upon reviewing such material, the Mediator may, at his or her own discretion or on the motion of a party, schedule a preliminary meeting with counsel.

(3) Written mediation memoranda shall not be filed and shall not be shown to the Court.

**(f) Attendance at Mediation Conference.** The attorney who is primarily responsible for each party's case shall personally attend the mediation conference and shall be prepared and authorized to discuss all relevant issues, including settlement. The parties shall also be present, except that when a party is other than an individual or when a party's interests are being represented by an insurance company, an authorized representative of such party or insurance company, with full authority to settle, shall attend. Willful failure of a party to attend the mediation conference shall be reported by the Mediator to the ADR Administrator for transmittal to the assigned Judge, who may impose appropriate sanctions.

**(g) Procedure at Mediation Conference.**

(1) The mediation conference, and such additional conferences as the Mediator deems appropriate, shall be informal. The Mediator shall conduct the process in order to assist the parties in arriving at a settlement of all or some of the issues involved in the case.

(2) The Mediator may hold separate, private caucuses with any party or counsel but may not, without the consent of that party or counsel, disclose the contents of that discussion to any other party or counsel.

(3) If the parties have failed, after reasonable efforts, to develop settlement terms, or if the parties request, the Mediator may submit to the parties a final settlement proposal which the Mediator believes to be fair. The parties will carefully consider such proposal and, at the request of the Mediator, will discuss the proposal with him or her. The Mediator may comment on questions of law at any appropriate time.

(4) The Mediator may conclude the process when:

(A) A settlement is reached; or

(B) The Mediator concludes, and informs the parties, that further efforts would not be useful.

(5) Within ten (10) days of the close of the mediation conference, the Mediator shall report in writing to the ADR Administrator that the mediation was held, whether the mediation has resulted in a settlement and;.

(A) If a settlement agreement is reached, the Mediator shall report the time frame within which the parties will submit an agreed entry to the Court concluding the matter or, if required, seeking the Court's approval of the settlement terms.

(B) If a settlement agreement is not reached, the Mediator shall report in writing to the ADR Administrator any agreements reached by the parties, and the Mediator's recommendation, if any, as to future processing of the case.

**(h) Confidentiality.** The entire mediation process is confidential and privileged to the extent provided under Ohio Rev. Code ch. 2710 and Sixth Circuit Law. The parties and the Mediator may not disclose information regarding the process, including settlement terms, to the Court or to third persons unless all parties otherwise agree. Parties, counsel, and mediators may, however, respond to confidential inquiries or surveys by persons authorized by the Court to evaluate the mediation program. Information provided in such inquiries or surveys shall remain confidential and shall not be identified with particular cases.

The mediation process shall be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and state rules of evidence. The Mediator is disqualified as a witness, consultant, attorney, or expert in any pending or future action relating to the dispute, including actions between persons not parties to the mediation process.

Last revised 8/1/2011. *See* Historical Notes for full revision history.

**Rule 16.7 Other ADR Procedures**

A Judge may utilize other methods of court-annexed alternative dispute resolution procedures, including Summary Jury Trials, Summary Bench Trials, and Arbitration, or recommend or facilitate the use of any extrajudicial procedures for dispute resolution not otherwise provided for by these Local Rules.

In the event a reference to extrajudicial procedures is made, all further court-annexed case management procedures may be stayed and an administrative closing of the case may be made pursuant to Administrative Office guidelines for cases in which all presently contemplated proceedings have been completed. (See Guide to Judiciary Policies and Procedures, Volume XI, Chapter 5, Subsection III, H, p. 26).

If the case is resolved extrajudicially, then the administrative closing order may be supplemented with a terminal dispositive order. If the case is not resolved extrajudicially, the case may be returned to a court-annexed case management protocol for processing and ultimate disposition.

Last revised 8/1/2011. *See* Historical Notes for full revision history.

**Rule 23.1 Class Actions**

**(a) Designation.** In any case sought to be maintained as a class action, the complaint, or other pleading asserting a class action, shall include, next to its caption, the legend "Class Action."

**(b) Class Action Allegations.** The complaint, or other pleading asserting a class action, shall contain, under a separate heading styled "Class Action Allegations," the following:

(1) 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

(2) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:

(A) the size (or approximate size) and definitions of the alleged class;

(B) the bases upon which the party or parties maintaining the class action or other parties claiming to represent the class are alleged to be an adequate representative(s) of the class;

(C) the alleged questions of law and fact claimed to be common to the class; and

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

**(c) Class Action Determination.** Unless the Court otherwise orders, the party or parties asserting a class action shall, within ninety (90) days after the filing of a pleading asserting the existence of a class or within such other period of time mandated by controlling statute, move for a determination under Fed. R. Civ. P. 23(c)(1), whether the action is to be maintained and, if so, the membership of the class. As soon as practicable after the motion papers for and against class action determination have been submitted, the Court shall enter an order determining whether the action shall be so maintained. Nothing in this Rule shall preclude any party from moving to strike the class action allegations.

Last revised 1/15/98. *See* Historical Notes for full revision history.

## Rule 24.1 Procedure for Notification of Any Claim of Unconstitutionality

**(a)** In any action, suit, or proceeding in which the United States or any agency, officer, or employee thereof is not a party and in which the constitutionality of an Act of Congress affecting the public interest is drawn into question, or in any action, suit, or proceeding in which a state or any agency, officer, or employee thereof is not a party, and in which the constitutionality of any statute of that state affecting the public interest is drawn into question, the party raising the constitutional issue shall notify the Court of the existence of the question by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality" or the equivalent.

**(b)** Failure to comply with this Rule will not be grounds for waiving the constitutional issue or for waiving any other rights the party may have. Any notice provided under this Rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirement set forth in the Federal Rules of Civil Procedure or in statutes.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 26.1</u> Discovery - General**

The parties are encouraged to cooperate with each other in arranging and conducting discovery, including discovery involved in any ADR program. Discovery must be conducted according to limitations established at the Case Management Conference and confirmed in the Case Management Plan. Absent leave of court, the parties have no authority to modify the limitations placed on discovery by court order. Attorneys serving discovery requests must review them to ascertain that they are applicable to the facts and contentions of the particular case. Form discovery pleadings containing requests that are irrelevant to the facts and contentions of the particular case must not be used.

Last revised 9/23/02. *See* Historical Notes for full revision history.

**Rule 30.1 Conduct at Depositions**

**(a)** Witnesses, parties, and counsel must conduct themselves at depositions in a temperate, dignified, and responsible manner.

**(b)** The following guidelines for the taking of depositions emphasize the expectations of the Court as to certain issues; they are intended to supplement Fed. R. Civ. P. 26 and 30.

(1) Scheduling. Counsel are expected to make a timely and good faith effort to confer and agree to schedules for the taking of depositions. Unless counsel otherwise agree, depositions must be conducted during normal business hours. Except where good cause exists, no Notice of Deposition or Subpoena can issue prior to a scheduling conference with opposing counsel. Counsel for the deponent must not cancel a deposition without stipulation of the examining counsel or order of the Court.

(2) Decorum. Opposing counsel and the deponent must be treated with civility and respect. Ordinarily the deponent must be permitted to complete an answer without interruption by counsel.

(3) Objections. Objections must be limited to (a) those that would be waived if not made pursuant to Fed. R. Civ. P. 32(d)(3) and (b) those necessary to assert a privilege, enforce a limitation on evidence directed by the Court or present a motion under Fed. R. Civ. P. 30(d)(3). No other objections can be raised during the course of the deposition. In the event privilege is claimed, examining counsel may make appropriate inquiry about the basis for asserting the privilege.

(4) Speaking Objections. Speaking objections that refer to the facts of the case or suggest an answer to the deponent are improper and must not be made in the presence of the deponent.

(5) Witness Preparation. Preparation of the deponent must be completed prior to the taking of the deposition. While a question is pending, counsel for the deponent and the deponent must not confer, except for the purpose of deciding whether to assert a privilege.

(6) Documents. Examining counsel must provide counsel for the deponent with copies of all documents shown to the deponent during the deposition.

(7) Disputes. Counsel must comply with Local Rule 37.1 as to any disputes arising in connection with the taking of a deposition.

Last revised 9/23/02. *See* Historical Notes for full revision history.

**Rule 32.1 Videotape Depositions**

**(a) General.** The use at trial of videotape depositions in civil cases is encouraged. Insofar as possible, the technology of videotape equipment should be utilized to enable the jury to obtain the same factual presentation as would be obtainable if the witness were to appear live in the courtroom. Counsel may, if desired, use multiple cameras and be videotaped while interrogating the deponent or appear with the deponent during all or part of the interrogation.

**(b) Guidelines.**

(1) Objective. The objective of each videotape deposition shall be to provide a visual and audio record that will, as nearly as possible, approximate the live appearance of the deponent before the trier of fact.

(2) Deposition Officer. The officer presiding at a videotape deposition shall be independent of any of the parties or the counsel of any of the parties. The deposition officer shall be a person authorized under the law to administer an oath to the witness. The deposition officer may also be either the stenographer recording the proceeding or the camera person recording the proceeding by videotape.

(3) The Camera Person or Persons. Counsel for the party noticing the deposition shall be responsible for providing the camera person or persons to record the deposition by videotape. If such camera person or persons is other than the deposition officer, such person may be anyone selected by the counsel noticing the deposition, including an employee of counsel. It will be the obligation of the counsel seeking the deposition to determine that matters of staging and technique such as the placement of the camera(s) and any microphone(s), lighting, camera angles, and backgrounds, as well as the use of any demonstrations or exhibits do fairly, accurately and objectively reproduce and record the testimony. Any objections as to any of the proceedings in the taking of the deposition shall be accurately recorded and timely interposed so that the opposing counsel, insofar as possible, may take corrective action. The Court shall ultimately rule on all objections and make such orders as the Court deems appropriate for the editing of any videotape deposition to prevent prejudice to any of the parties to the action.

(4) Use of Date/Time Generator. There shall be employed at the deposition a date/time generator to create on the videotape a continuous record of the date and time.

(5) Commencing the Deposition. The deposition officer shall commence the deposition by stating on the videotape record his or her name and business address; the name and business address of the officer's employer; the date, time, and place; the name of the deponent and the caption of the action; the identity of

the party on whose behalf the deposition is being taken; and the names of all persons present in the deposition room. The deposition officer shall also swear, on the videotape record, that he or she will record the deposition accurately and abide by all provisions of this Rule. The deponent shall be sworn on the videotape record by a person authorized to administer oaths.

(6) Going "Off Camera". The deposition officer shall not stop the videotape recorder after the deposition commences until it concludes, except, however, that any party may request such cessation, which request will be honored unless another party objects. Each time the tape is stopped or started, the deposition officer shall announce the time on the record.

(7) Changing Tapes. If the deposition requires the use of more than one tape, the end of each tape and the beginning of the next shall be announced orally on the videotape record by the deposition officer. In addition, at the beginning of each tape, the deposition officer shall repeat the officer's name and business address, the date, time, and place of the deposition, and the name of the deponent. At the end of the deposition, the deposition officer shall state on the record that the deposition is complete.

(8) Availability of Monitor. There shall be available to counsel throughout the deposition a monitor on which they can view the videotape record as it is being made.

(9) Exhibitions and Demonstrations. A deponent shall be permitted to conduct demonstrations or experiments or reenact physical events during the course of a videotape deposition. Likewise, a party shall be entitled to utilize with the deponent any visual aids or exhibits in such manner as though the witness were appearing live in Court. Counsel may appear with the deponent in the videotape. Any opposing counsel may interpose any objection which he or she deems appropriate to the use of such demonstrations, experiments, or reenactments or visual aids or exhibits, and the Court shall ultimately rule upon such objections and determine whether or not the matter objected to is to be shown to the jury or edited out of the videotape.

(10) Need to Object Timely. Wherever objections are permitted by this Rule, such objections must be timely raised so as to give the opposing party an opportunity to correct the condition which is the subject of the objection.

(11) Recording. The party taking the deposition shall state in the notice the method by which the testimony shall be recorded. Unless the Court orders otherwise, it may be recorded by sound, sound-and-visual, or stenographic means, and the party taking the deposition shall bear the cost of the recording. Any party may arrange for a transcription to be made from the recording of a deposition taken by nonstenographic means.

(12) Discrepancies Between Videotape and Stenographic Records. In the event of any material discrepancy between the videotape record and the stenographic transcript, the Court shall determine which record shall be submitted to the trier of fact.

(13) Examination and Correction of Deposition Record. If requested by the deponent or a party before completion of the deposition, after the stenographic transcript of the deposition is completed and available for inspection, the deposition officer shall notify the deponent of such availability. The deponent shall be given thirty (30) days from receipt of such notice to review the original videotape and stenographic transcript of the deposition and to request in writing (or on the videotape record if it is still open) any changes or corrections in such records.

(14) Waiver of Execution. Forty-five (45) days after the notice of availability described in subsection (b)(13) is received by all parties, the original of the videotape and stenographic reporting (together with all requests for changes or corrections theretofore received) shall be filed with the Clerk, where it shall have the same force and effect as a duly executed original stenographic transcript of the deponent's testimony. The Clerk shall release the original videotape for viewing only upon order of the Court.

(15) Certification of the Videotape Record. No later than ten (10) days before trial, the deposition officer and any other technician employed at the deposition shall file with the Clerk their sworn statements that the videotape is an accurate and complete record of the deposition and that they have complied with all provisions of this Rule and the Federal Rules of Civil Procedure applicable to a stenographic reporter or the deposition officer. The certification shall indicate whether any review of the record was requested and, if so, shall append any changes made by the deponent during the period allowed. Counsel for a party, however, if in custody of the videotape record, may file the videotape record and prepare the sworn statement and sign it as counsel. The sworn statement called for by this section shall be served upon all of the parties.

(16) Custody of the Tape. The deposition officer shall maintain custody of the original tape until it is filed with the Court. Parties may view the tape while it is in the officer's custody, but only under conditions that make impossible the erasure or alteration of the tape. The parties may agree that counsel for the party noticing the deposition retain custody of the tape in which event it will be the responsibility of such counsel to file the sworn statement called for under subsection (b)(15) of this Rule.

(17) Editing the Tape. If any party desires to offer any portion of the videotape record at trial, such party shall, no later than five (5) days before trial, advise all other parties of the portions of the tape it wishes to offer. Any party who believes that the portion so designated contains objectionable material may,

by motion, seek the Court's ruling on its admissibility in advance of trial. An edited tape, eliminating material found by the Court to be objectionable, shall be prepared at the expense of the party responsible for the original inclusion of that material, unless the parties provide, or the Court orders, another method for the suppression of the objectionable material or allocation of cost. Nothing in this paragraph is intended to supersede the Local Rules concerning premarking of exhibits for trial.

(18) Rulings on Admissibility. The Court, prior to voir dire, shall make rulings as they relate to any videotape deposition filed in accordance with subsection (b)(17) of this Rule, which rulings will include any orders that may require editing of the videotape prior to its being shown to the jury. It will be the responsibility of counsel proffering the videotape deposition to ascertain that the final form of the videotape deposition as shall be shown to the jury conforms to all such rulings. The purpose of such rulings prior to voir dire is to advise the parties prior to voir dire and opening statements so that the parties will know what evidence will be forthcoming from the videotape deposition.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 37.1 Discovery Disputes**

**(a)** In the absence of a Judicial Officer establishing an alternative procedure for handling discovery disputes, the following procedure shall apply.

(1) Discovery disputes shall be referred to a Judicial Officer only after counsel for the party seeking the disputed discovery has made, and certified to the Court the making of, sincere, good faith efforts to resolve such disputes.

(2) The Judicial Officer may attempt to resolve the discovery dispute by telephone conference.

(3) In the event the dispute is not resolved by the telephone conference, the parties shall outline their respective positions by letter and the Judicial Officer shall attempt to resolve the dispute without additional legal memoranda.

(4) If the Judicial Officer still is unable to resolve the dispute, the parties may file their respective memoranda in support of and in opposition to the requested discovery by a date set by the Judicial Officer, who may schedule a hearing on the motion to compel.

**(b)** No discovery dispute shall be brought to the attention of the Court, and no motion to compel may be filed, more than ten (10) days after the discovery cut-off date.

Last revised 9/23/02. *See* Historical Notes for full revision history.

**<u>Rule 37.2</u> Form of Discovery Motions**

Upon motion for an order pursuant to Fed. R. Civ. P. 37, compelling an answer or production of documents or authorizing an inspection, the moving party shall include in his or her brief in support of said motion, immediately preceding the discussion and authorities relevant thereto, the interrogatory, document request, deposition question or request for admission in full and any response thereto alleged to be evasive or incomplete; the request for inspection; or the deposition notice, as may be appropriate. Multiple items may precede a single argument if they present common or related issues of fact and law. If there has been no response to the request for discovery or request for admission, or a complete failure to comply with such request, the moving party may append a copy of the interrogatories, document request, request for admission or deposition notice as an exhibit to the brief in lieu of copying the same in the body of the brief.

Last revised 1/15/98. *See* Historical Notes for full revision history.

**<u>Rule 38.1</u> Notation of Jury Demand in the Pleading**

If a party demands a jury trial by endorsing it on a pleading, as permitted by Fed. R. Civ. P. 38(b), a notation shall be placed on the front page of the pleading, immediately following the title of the pleading, stating "Demand for Jury Trial" or equivalent statement. This notation will serve as a sufficient demand under Fed. R. Civ. P. 38(b). Failure to use this manner in noting the demand will not result in a waiver under Fed. R. Civ. P. 38(d).

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 39.1 Models, Exhibits, Etc.**

**(a) Lodging of Exhibits.** Neither the index of exhibits nor any exhibit, model, etc. which has been lodged with the Office of the Clerk shall be considered public record until admitted into evidence at the trial.

**(b) Marking of Exhibits.** All exhibits must bear the official case number and shall be marked before trial with official exhibit stickers which are available upon request from the Clerk. The plaintiff shall mark exhibits with numbers and the defendant shall mark exhibits with letters, unless otherwise ordered by the Court. Joint exhibits shall be marked with numbers. If there are multiple defendants, letters shall be used followed by the party's last name. If the defendant has more than 26 exhibits, double letters shall be used.

Where a multiple-page exhibit is introduced, multiple pages should be numbered consecutively.

An index of the exhibits to be used at trial, along with a brief description of such exhibits, shall be filed with the Court and served upon opposing counsel no later than one week before the final pretrial.

**(c) Retention and disposal of exhibits.**

(1) Retention of exhibits by counsel. All models, diagrams, and exhibits of material filed or placed in the custody of the Clerk of Court for inspection of the Court on the hearing of a cause shall be taken by the party presenting the model, diagram, or exhibit at the conclusion of the hearing unless a party should object and request that the item be retained by the Clerk of Court and the Clerk is so ordered by the Court in writing. It shall be the responsibility of the party offering the model, diagram, or exhibit to maintain the offered or accepted exhibits until after the entry of final judgment or final judgment on appeal on matters appealed, whichever is later, unless directed otherwise by the Court. Upon motion of either party and/or the Court's order, when a demonstrative exhibit is retained by counsel, a picture or other paper record must be substituted for the exhibit.

(2) Disposal of exhibits by the Clerk. When an exhibit is retained in the custody of the Clerk of Court, it shall be removed by counsel within two (2) months after entry of final judgment or final judgment on appeal. All exhibits not removed by counsel shall be disposed of by the Clerk as waste at the expiration of the withdrawal period.

(See LCrR 23.2) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 39.2</u> Video and Telephone Conferences, Trials and Hearings**

Upon motion of any party, or sua sponte, and upon such terms as the Court may direct, the Court may enter an order in appropriate cases providing for the taking of testimony by video conferencing equipment at a trial or other hearing.

Last revised 1/15/98. *See* Historical Notes for full revision history.

## Rule 47.1 Venire Selection

The random selection of grand and petit jurors for service in this Court is provided for in a plan adopted by the Court in compliance with the requirements and provisions of the Jury Selection and Service Act of 1968, 28 U.S.C. § 1861, et seq. The plan is available for inspection at the office of the Clerk.

(See LCrR 6.2) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 47.2 Jury Questionnaires**

**(a)** The Court may distribute to all prospective jurors a questionnaire, in the form attached as Appendix C. If utilized, the questionnaire shall be sent to the jurors with their notice to report and shall be completed and returned by them.

**(b)** Upon motion for good cause shown, or upon the Court's own motion, the Court may distribute another juror questionnaire designed specifically for the case at issue.

**(c)** Unless otherwise ordered, both questionnaires referred to in this Rule shall be made available for all counsel on the last business day before the trial.

**(d)** (1) Questionnaires will be available to counsel for the limited purpose of assisting their preparation for voir dire. They are not otherwise to be used, copied, or disclosed without Court order. Upon selection of a jury, all questionnaires shall be returned to the Clerk. Contact prior to trial by any counsel, party, or any person acting on behalf of any counsel or party with any prospective juror is absolutely forbidden. Noncompliance with this directive or any other limitation imposed with reference to the disclosure or use of the questionnaires will lead to contempt of Court citation and other appropriate sanction.

(2) The language contained in subsection (d)(1) above must appear prominently on the first page of any questionnaire governed by this Rule.

(See LCrR 24.1) Last revised 4/7/97. *See* Historical Notes for full revision history.

## Rule 47.3 Voir Dire of Jurors

**(a)** The Court shall conduct the initial examination of all prospective jurors touching upon their qualifications to serve as jurors in the pending proceeding. The parties may submit written questions to be included in the Court's examination, subject to the Court's discretion.

**(b)** In all trials, civil and criminal, counsel for the plaintiff and counsel for the defendant each may be allowed such period of time as approved by the Court to conduct voir dire examinations of prospective jurors. In cases involving more than one plaintiff and/or defendant, the time for voir dire shall be divided by counsel for the parties and additional time shall not be allowed, except that the Court in its discretion may allow additional time. Except where otherwise ordered by the Court, the jurors shall be examined collectively.

(See LCrR 24.2) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 47.4 Jury Selection**

**(a) Exercise of Peremptory Challenges.** Except where the Judge has directed prior to the commencement of the examination of trial jurors that a different procedure shall be followed, peremptory challenges to which each party may be entitled under 28 U.S.C. § 1870, shall be exercised in the following manner:

| PLAINTIFF | DEFENDANT |
|---|---|
| 1 | 1 |
| 1 | 1 |
| 1 | 1 |

In cases where there are multiple parties, the exercise of peremptory challenges shall be left to the discretion of the Court, according to the provisions of 28 U.S.C. § 1870.

**(b) Effect of Passing a Peremptory Challenge.** In all cases, if either party passes a peremptory challenge, the pass shall be treated as if the challenge had been exercised, but shall not constitute a waiver of subsequent challenges to the jurors, including those impanelled ("in the box") prior to the pass. However, in the event all parties consecutively pass the use of a peremptory challenge, the jury as then constituted will be sworn as the jury for the case.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 48.1</u> Number of Jurors**

In all civil trials, juries shall begin with at least six (6) and no more than twelve (12) members, and each juror must participate in the verdict unless excused under Fed. R. Civ. P. 47(c).

Last revised 12/1/09. *See* Historical Notes for full revision history.

## <u>Rule 48.2</u> Juror Note-Taking

Jurors may be permitted to take notes, in the discretion of the Judicial Officer. If allowed to take notes, the Court will provide jurors with the necessary materials.

(See LCrR 23.1) Last revised 4/7/97. *See* Historical Notes for full revision history.

## <u>Rule 48.3</u> Jury Charge

At the conclusion of the evidence, the charge given to the jury at that time may be reduced to writing and provided to the jurors.

(See LCrR 30.1) Last revised 4/7/97. *See* Historical Notes for full revision history.

## Rule 54.1 Assessment of Jury Costs

All counsel in civil cases must seriously discuss the possibility of settlement a reasonable time prior to trial. The Court may, in its discretion, assess the parties or counsel with the cost of one day's attendance of the jurors if a case is settled after the jury has been summoned or during trial, the amount to be paid to the Clerk of Court. For the purpose of interpreting this paragraph, a civil jury is considered summoned for a trial as of noon the business day prior to the designated date of trial.

(See LCrR 24.4) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 65.1.1 Security; Proceedings Against Sureties**

**(a) Bonds.** The Court, on motion or its own initiative, may order any party to file an original bond or additional security for costs in such amount and so conditioned as the Court by its order may designate.

**(b) Sureties.** Every bond under this Rule must be secured by either:

(1) a cash deposit equal to the amount of the bond, or

(2) a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under the Act of August 13, 1894 (28 Stat. 279), as amended, 6 U.S.C. §§ 1-13.

**(c) Persons Who May Not Be Sureties.** No Clerk, Marshal, member of the Bar, or other officer of this Court shall be accepted as surety on any bond or undertaking in any action or proceeding in this Court.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 66.1 Receiverships**

**(a) Inventories.** Unless the Court otherwise orders, a receiver or similar officer, as soon as practicable after appointment and not later than sixty (60) days after he or she has taken possession of the estate, shall file an inventory of all the property and assets in the receiver's possession, or in the possession of others who hold possession as his or her agent, and in a separate schedule an inventory of the property and assets of the estate not reduced to possession by the receiver but claimed and held by others.

**(b) Reports.** Within one month after the filing of inventory and at regular intervals of one month thereafter until discharged, or at such times as the Court may direct, the receiver or other similar officer shall file reports of his or her receipts and expenditures and of acts and transactions in an official capacity.

**(c) Compensation of Receivers, Attorneys, and Others.** The compensation of receivers or similar officers, their counsel and all those who may have been appointed by the Court to aid in the administration of the estate, the conduct of its business, the discovery and acquisition of its assets, the formation of reorganization plans, and the like, shall be ascertained and awarded by the Court in its discretion. Such an allowance shall be made only on such notice to creditors and other persons in interest as the Court may direct. The notice shall state the amount claimed by each applicant. Application shall be made in accordance with appropriate Bankruptcy Rules.

**(d) Administration of Estates.** In all other respects the receiver or similar officer shall administer the estate as nearly as may be in accordance with the practice in the administration of estates in bankruptcy, except as otherwise ordered by the Court.

Last revised 4/7/97. *See* HistoricalNotes for full revision history.

**Rule 67.1 Deposits**

Whenever a party seeks a court order for money to be deposited by the Clerk into an interest-bearing account, the party shall attach to the motion a proposed "Order of Deposit and Investment," in the form provided in Appendix D, which directs the Clerk to invest the funds in Government Account Series securities through the Court Registry Investment System by the Bureau of Public Debt. Prior to filing the proposed order in Cleveland, the party should contact a Financial Deputy and in Toledo, Akron or Youngstown, contact the Deputy-in-Charge, who will review the proposed order for compliance with this rule and prepare for the efficient transfer of funds.

Any order obtained by a party or parties in an action to deposit funds into the registry of the Court, as set forth in Appendix D, Order of Deposit and Investment, pursuant to 28 U.S.C. § 2041 shall include the following:

**(a)** the amount to be invested;

**(b)** the name of the depository approved by the Treasurer of the United States as a depository in which funds may be deposited;

**(c)** a designation of the type of account or instrument in which the funds shall be invested; and,

**(d)** wording which directs the Clerk to deduct a registry fee as a percentage of the income earned on the investment, not to exceed 10%, and prior to any distribution of funds invested.

Last revised 7/12/12. *See* Historical Notes for full revision history.

**Rule 67.2 Disbursements**

Whenever a party seeks a court order for the distribution of funds which have been invested by the Court, the party will again deliver a proposed order in Cleveland, to the Clerk of Court or Financial Deputy, or in Toledo, Akron or Youngstown, to the Deputy-in-Charge, who will inspect the order for proper form and compliance with this Rule prior to signature by the Judge for whom the order is prepared.

The order for distribution shall include wording which directs the Clerk to disburse funds remaining after the deduction of the ten percent (10%) registry fee from the interest earned through CRIS. The order for distribution shall specify the amount of principal and interest to be disbursed to each party (see Appendix E). Attached to the order of distribution will be a signed IRS Form W9 that shall include the name, address and tax identification for all individuals receiving any portion of the distribution. The IRS Form W9 is to be provided to the Clerk of Court or Financial Deputy and shall not be filed electronically or scanned into the Court's electronic filing system.

Upon signature by the Judicial Officer, the Courtroom Deputy shall electronically notify the Financial Deputy.

Last revised 7/12/12. *See* Historical Notes for full revision history.

**<u>Rule 69.1</u> Preparation of Documents**

Counsel shall prepare and file a completed form of summons, any warrants of seizure and monition, subpoenas to alleged bankrupts, certificates of judgment, writs of execution, and/or orders of sale. Counsel shall prepare all process in garnishment or other aid in execution and present same, together with the requisite written request for issuance, at the Office of the Clerk for signature and sealing. Upon request to the Clerk, subject to current availability, reasonable supplies of blank official forms of process shall be available to any attorney admitted to practice in this Court.

Last revised 4/7/97. *See* Historical Notes for full revision history.

## Rule 72.1 Duties of United States Magistrate Judges

Each United States Magistrate Judge appointed by this Court is authorized to exercise all powers and perform all duties conferred expressly or by implication upon Magistrate Judges by, and in accordance with, procedures now or hereafter set forth in the United States Code, rules promulgated by the Supreme Court, the local rules of this Court, and the orders of this Court. Upon consent of the parties, all Magistrate Judges are specifically designated within the meaning of 28 U.S. C. § 636(c)(1) to conduct any and all proceedings in jury or non-jury civil matters, to order entry of judgment and to adjudicate any post-judgment matters.

(See LCrR 5.1) Last revised 1/15/98. *See* Historical Notes for full revision history.

**Rule 72.2 Assignment and Referral of Matters to Magistrate Judges**

**(a) General.** The method for assignment of duties to a Magistrate Judge and for the allocation of duties among the several Magistrate Judges of this Court shall be made in accordance with orders of the Court or by special designation of a District Judge.

**(b) Automatic Reference.** The Clerk shall refer all cases in the following categories to a Magistrate Judge for a Report and Recommendation as provided in Local Rule 72.1:

(1) Petitions for review of administrative decisions (including Social Security, Black Lung and Civil Service);

(2) Pro se petitions for habeas corpus filed under 28 U.S.C. § 2254, provided such petition has first been reviewed by the Court pursuant to 28 U.S.C. § 1915(d) and Rule 4 of the Rules Governing § 2254 Cases and a decision has been made to require a response to the petition.

(3) Administrative Cases under Local Rule 16.2(a).

(See LCrR 5.2) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 72.3 Review and Appeal**

**(a) Appeal of Non-Dispositive Matters - Fed. R. Civ. P. 72(a).** Any party may appeal from a Magistrate Judge's order determining a motion or matter made pursuant to Fed. R. Civ. P. 72(a) within fourteen (14) days after service of the Magistrate Judge's order. Such party shall file with the Clerk of Court, and serve on the Magistrate Judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. The District Judge to whom the case was assigned shall consider the appeal and shall set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. The District Judge may also consider sua sponte any matter determined by a Magistrate Judge under this Rule.

**(b) Review of Dispositive Motions and Prisoner Litigation - Fed. R. Civ. P. 72(b).** Any party may object to a Magistrate Judge's proposed findings, recommendations or report made pursuant to Fed. R. Civ. P. 72(b) within fourteen (14) days after being served with a copy thereof, and failure to file timely objections within the fourteen (14) day period shall constitute a waiver of subsequent review, absent a showing of good cause for such failure. Such party shall file with the Clerk of Court, and serve on the Magistrate Judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations, or report to which objection is made and the basis for such objections. Any party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. The District Judge to whom the case was assigned shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. The District Judge need conduct a new hearing only in such District Judge's discretion or where required by law, and may consider the record developed before the Magistrate Judge, making a determination on the basis of the record. The District Judge may also receive further evidence, recall witnesses or recommit the matter to the Magistrate Judge with instructions.

(See LCrR 5.3) Last revised 12/1/09. *See* Historical Notes for full revision history.

## Rule 72.4 Appeals from Other Orders of a Magistrate Judge

Appeals from any other decisions and orders of a Magistrate Judge not provided for in these Rules shall be taken as provided by governing statute, rule, or decisional law.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 73.1 Conduct of Trials and Disposition of Civil Cases by Magistrate Judges Upon Consent of the Parties - 28 U.S.C. § 636(c)**

**(a) General.** Upon the consent of the parties, a Magistrate Judge may conduct any or all proceedings in any civil case which is filed in this Court, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c). In the course of conducting such proceedings upon consent of the parties, a Magistrate Judge may hear and determine any and all pretrial and post-trial motions which are filed by the parties, including case-dispositive motions. (See Appendix F.)

**(b) Recusal, Resignation or Death of Magistrate Judge.** Where there is a general assignment or a referral to a Magistrate Judge pursuant to LR 3.1 or LR 72.2 and the Magistrate Judge thereafter recuses, resigns or dies, the Clerk shall immediately assign another Magistrate Judge to the case in accordance with orders of the Court. Where the parties have consented to the transfer of a civil case to a Magistrate Judge under section (a) above, if the Magistrate Judge thereafter recuses, resigns or dies, the case shall be returned to the District Judge. The Clerk shall immediately assign another Magistrate Judge by the random draw and notify the parties of such new assignment. Within ten (10) days after such notification by the Clerk, the parties shall indicate their consent, or lack thereof, to transferring the case to the newly-assigned Magistrate Judge under 28 U.S.C. § 636(c). If the parties consent, section (a) above shall control. If the parties do not consent to the transfer, the case shall remain with the District Judge.

Last revised 10/5/98. *See* Historical Notes for full revision history.

**<u>Rule 73.2</u> Appeal from Judgments in Civil Cases Disposed of by Magistrate Judge on Consent of the Parties - 28 U.S.C. § 636(c)**

Upon entry of judgment in any civil case disposed of by a Magistrate Judge on consent of the parties under authority of 28 U.S.C. § 636(c), an aggrieved party shall appeal directly to the United States Court of Appeals for this Circuit in the same manner as an appeal from any other judgment of this Court.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 77.1</u> Hours for Filing**

The Court shall be in continuous session for transacting judicial business on all business days throughout the year.

The Office of the Clerk shall be open for filing from nine o'clock a.m. to four o'clock p.m., Monday through Friday, at the locations of court, which are: Cleveland, Akron, Youngstown, and Toledo.

Emergency filings before or after the normal business hours will be permitted. The attorney of record for any party needing to make emergency filings between five o'clock p.m. and eight o'clock a.m., on weekends or on holidays may telephone the Court's Security Office which will contact a deputy clerk on duty. The number to call is (216) 522-2150.

(See LCrR 56.1) Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Rule 79.1</u> Withdrawal of Paper**

No paper on file in this Court shall be temporarily withdrawn from the files for any purpose, unless by order of the Court, except for printing the Record on Appeal by a local printer. The Court may, in its discretion, prohibit any original papers from being taken from the files for the purpose of printing, and may require copies of such original papers be made for such purpose.

No paper shall be permanently withdrawn from the files except upon written order of the Court and the filing with the Clerk of (1) a duly certified copy of the paper so withdrawn and (2) a duly signed receipt of the party receiving the same. The party receiving such paper shall pay the fees for such certified copy and for the entry of the order.

(See LCrR 55.2) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 80.1 Orders for Transcripts from Official Court Reporters**

**(a)** All requests for transcripts from any proceeding held in the United States District Court for the Northern District of Ohio shall be in writing and addressed to the court reporter who took the proceeding, with a copy of such request filed with the Clerk of Court. (See Appendix G.)

**(b)** Transcripts provided for parties proceeding under the Criminal Justice Act and to parties granted leave to proceed in forma pauperis in habeas corpus proceedings are to be paid for from funds appropriated for this purpose. A CJA 24 form, available from the Clerk's Office, must be used to obtain these transcripts.

**(c)** A copy of a transcript shall not be represented as an official transcript of a Court proceeding unless it has been certified by a court reporter or electronic court reporter operator of the Northern District of Ohio.

**(d)** Rates charged for transcripts will be those charged by the Judicial Conference of the United States. The schedule of rates is posted in the Office of the Clerk.

(See LCrR 57.20) Last revised 4/7/97. *See* Historical Notes for full revision history.

## Rule 83.1 Photography, Radio, and Television

**(a) General Provisions.** The taking of photographs in the courtroom or its environs, radio or television broadcasting, and the use of equipment incident to radio or television broadcasting from the courtroom or its environs, during the progress of and in connection with judicial proceedings, both civil and criminal, whether or not court is actually in session, including proceedings before a Magistrate Judge or a session of the Grand Jury, are prohibited, except that there is a limited exception to the ban on recording and publication of district court civil proceedings as set forth in this section for district judges participating in a pilot program established by the Judicial Conference of the United States in September 2010 to study the use of cameras in district courtrooms. Any recording and broadcasting conducted pursuant to the pilot program must comply with the program guidelines issued by the Judicial Conference Committee on Court Administration and Case Management, pursuant to the pilot program (available at www.uscourts.gov).

**(b) Definitions.** The term "environs" as used herein is defined as including certain property of the United States in the Northern District of Ohio, to wit: the "United States Court House and Federal Office Building" in Akron, Ohio; the "United States Courts and Customs House" in Cleveland, Ohio; the "United States Court House and Post Office" in Youngstown, Ohio; and the "United States Court House and Customs House" in Toledo, Ohio. Included in this definition are the buildings and all driveways and entrances into and exits from the said buildings, as well as the offices of the Clerk of Court, Probation offices, Pretrial Services, and offices of the United States Marshal, and all corridors, offices, rooms and other areas within these buildings. Not included within the definition of "environs" are the sidewalks adjacent to said buildings and a "press room" to be selected and designated by the Chief Judge, when requested, subject further to the supervision of the Judges of this Court, and then only upon the consent of the person or persons to be interviewed or photographed.

**(c) Recordings.** This Rule shall not prohibit recordings by a court reporter or other Court-designated representative; provided, however, no court reporter or any other person shall use or permit to be used any part of any recording of a court proceeding on, or in connection with, any radio or television broadcast of any kind. The Court may permit photographs of exhibits to be taken by, or under the direction of, the Court and counsel.

**(d) Proceedings Other Than Judicial Proceedings.** Proceedings other than judicial proceedings, designed and conducted as ceremonies, such as administering oaths of office to appointed officials of the Court, naturalization ceremonies, presentation of portraits and similar ceremonial occasions, may be photographed in, or broadcast, or televised from the courtroom with the permission and under the supervision of the Court.

**(e) Enforcement.** The United States Marshal is charged with the responsibility of taking necessary steps to enforce this Rule.

## Rule 83.2 Duties of Court Personnel

All courtroom and courthouse personnel, including but not limited to Marshals, Deputy Marshals, Court Clerks, Court Reporters, Probation Officers, Pretrial Service Officers, and other personnel, shall not disclose to any person, without authorization by the Court, information relating to a pending criminal case or matters pending before the Grand Jury if such information or matters are not a part of the public record of the Court.

(See LCrR 57.2) Last revised 4/7/97. *See* HistoricalNotes for full revision history.

## Rule 83.3 Courtroom and Courthouse Decorum

**(a)** No loitering, sleeping, or disorderly conduct is permitted in any Court buildings.

**(b)** No food, drink, cards, placards, signs or banners are permitted in any courtroom or adjoining areas, except as permitted by the Court.

(See LCrR 57.3) Last revised 4/6/98. *See* Historical Notes for full revision history.

**Rule 83.4 Security in the Courthouse**

**(a)** The United States Marshal, the Federal Protective Service and any other federal security force are authorized to require all persons entering any United States District Court in the Northern District of Ohio to pass through an electronic metal detector before gaining access to the building or the corridors leading to the Judges' chambers. Whenever any person who activates the detector wishes to gain access to these areas, such person must submit to a reasonable, limited search of his or her person and property in order to determine the existence, if any, of explosive or dangerous weapons that might cause injury to persons or property.

**(b)** All packages, bags, parcels, and brief cases shall be submitted for magnetometer, x-ray, and/or manual inspection upon entry into any United States District Court in the Northern District of Ohio. Any person who refuses to allow such inspection shall be denied entrance.

**(c)** Except for the United States Marshal, the Marshal's deputies and designees, no one shall have an explosive, incendiary, deadly, or dangerous weapon on or about his or her person while inside any United States District Court in the Northern District of Ohio, unless such person is a federal law enforcement officer, or is a law officer of another jurisdiction who receives approval of the United States Marshal. This approval shall be accomplished by signing a register in the office of the United States Marshal on each day that the person enters the courthouse with a weapon. Such register will record the date, signature of the person carrying the weapon, destination in the courthouse, and a brief description of the weapon.

**(d)** The United States Marshal and any other federal security force authorized by law are directed to enforce this Rule and to take into custody any person violating its provisions. Such persons who commit any violation of this Rule while outside the confines of a courtroom or in a courtroom outside the presence of the Judge or Judges of such Court shall be brought before a Magistrate Judge without any unnecessary delay. Such persons who commit any violation of this Rule while within the confines of a courtroom in the presence of a Judge or Judges shall be brought before the Judge or Judges as directed without unnecessary delay.

(See LCrR 57.4) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 83.5 Admission of Attorneys to Practice in the Northern District of Ohio**

**(a) Roll of Attorneys.** The Bar of this United States District Court for the Northern District of Ohio consists of those admitted to practice before this Court who have taken the oath prescribed by the Rules in force when they were admitted.

No person shall be permitted to practice in this Court or before any officer thereof as an attorney or to commence, conduct, prosecute, or defend any action, proceeding, or claim in which such person is not a party concerned, either by using or subscribing his or her own name or the name of any other person, unless he or she has been previously admitted to the Bar of this Court.

**(b) Bar Admission.** It shall be requisite to the admission of attorneys to practice in this Court that they shall have been admitted to practice in the highest court of any state, territory, the District of Columbia, an insular possession, or in any district court of the United States, that they are currently in good standing with such court and that their private and professional characters appear to be good. All attorneys admitted to practice in this Court shall be bound by the ethical standards of the Ohio Rules of Professional Conduct adopted by the Supreme Court of Ohio, so far as they are not inconsistent with federal law.

**(c) Local Office Requirement.** Unless otherwise ordered by the Court, it shall not be necessary for any attorney entitled to practice before the District Court or permitted to appear and participate in a case or proceeding to associate with or to designate an attorney with an office in this district upon whom notices, rulings, and communications may be served.

**(d) Admission by Clerk.** Each applicant shall file with the Clerk (1) a certificate from the presiding Judge or Clerk of the proper court evidencing the applicant's admission to practice there and that he or she is presently in good standing, (2) the applicant's personal statement, on the form approved by the Court and furnished by the Clerk, which shall be endorsed by two members of the Bar of this Court who are not related to the applicant, (3) Oath or Affirmation of Admission, and (4) evidence of attendance at a Northern District of Ohio federal district court practice seminar.

If the documents submitted by the applicant demonstrate that he or she possesses the necessary qualifications, the Clerk shall so notify or advise the applicant, and he or she may be admitted without appearing in Court.

**(e) Admission Upon Motion to the Court.** If the applicant so elects, rather than filing with the Clerk the certificate and statement required by subsection (d), he or she may be admitted by the Court on oral motion by a member of the Bar, provided that it appears from the motion or the statement of the applicant to the Court that he or she has satisfied the requirements of admission.

**(f) Oath or Affirmation.** Each applicant shall subscribe or take the following oath or affirmation, viz.:

I, __[Name]_____ , do solemnly swear (or affirm) that as an attorney of this Court I will conduct myself uprightly, according to the law and the ethical standards of the Ohio Rules of Professional Conduct adopted by the Supreme Court of Ohio, so far as they are not inconsistent with Federal Law, and that I will support the Constitution and laws of the United States.

**(g) Admission and Fees.** All attorneys admitted to practice in this Court under this Rule shall pay to the Clerk the admission fee prescribed by the Judicial Conference of the United States and such other fees as may from time to time be required by General Order of this Court (such as a library fee).

**(h) Permission to Participate in Particular Case.** The Court's strong preference is that attorneys seek permanent admission to the Bar of this Court, however, any member in good standing of the Bar of any court of the United States or of the highest court of any state may, upon written or oral motion and payment of the pro hac vice admission fee (which is $120.00), be permitted to appear and participate in a particular case, or in a group of related cases. An attorney must pay the pro hac vice admission fee each time he or she seeks pro hac vice status. A certificate of good standing not older than 30 days from the aforementioned court(s) or an affidavit swearing to applicant's current good standing must accompany the motion for admission pro hac vice along with a check for the pro hac vice admission fee payable to: Clerk, U.S. District Court. In addition to showing proof of current good standing, any attorney moving for admission pro hac vice must contemporaneously provide his or her typewritten name, address, telephone number, facsimile number, e-mail address, highest state court admitted, highest state court admission date, highest state court bar registration number, a statement, including specific details, indicating whether the attorney has ever been disbarred or suspended from practice before any court, department, bureau or commission of any State or the United States, or has ever received any reprimand from any such court, department, bureau or commission pertaining to conduct or fitness as a member of the bar.

**(i) Change of Address**. All attorneys admitted to practice in this Court are required to submit a written notice of a change of business address and/or email address to the Clerk upon the change in address.

**(j) Continuing Maintenance of Good Standing**. It shall be requisite to the continuing eligibility of attorneys to practice in this Court that they are currently in good standing with the highest court of any state, territory, the District of Columbia, an insular possession, or in any district court of the United States, and that their private and professional characters appear to be good. All attorneys admitted to practice in this Court are deemed by their signature on any pleading, written motion, and other paper to certify that they are currently in good standing of the Bar of a Court of the United States or of the highest court of any state. Should the status of an attorney change so that they are no

longer in good standing in such court, they shall notify the Clerk of Court of this Court in writing no later than 10 days from the change in status.

**(k) Attorneys Funded from Judiciary Appropriations and Attorneys for the United States of America.** Attorneys funded from judiciary appropriations and attorneys for the United States are permitted to appear upon filing the applicant's personal statement, on the form approved by the Court and furnished by the Clerk, and the Oath or Affirmation of Admission. The admission fee required by subsection (g) is waived.

**(l) Southern District of Ohio Reciprocity Agreement**. The Northern District of Ohio has agreed, pursuant to General Order 2003-44, to waive the requirements that an attorney provide evidence of attendance at a federal district court seminar and that the applicant's personal statement be endorsed by two members of the bar of the Court, so long as the applicant submits a certificate of good standing from the Southern District of Ohio showing that the attorney has been admitted to practice for at least the past two years, or that this Court can readily verify the same, and the applicant complies with all other Northern Ohio admission requirements, including the payment of fees.

**(m) Waiver of Attendance at a Northern District of Ohio Federal District Court Practice Seminar**. Applicant may be granted reciprocity if applicant resides outside the State of Ohio and is admitted to the Bar of a U.S. District Court located outside the State of Ohio, and has taken a federal court practice seminar other than the Northern District of Ohio federal district court practice seminar. Applicant must also certify that he/she is familiar with the principles of the Civil Justice Reform Act of 1990, case management planning, the Federal Rules of Civil Procedures, the local rules of the Northern District of Ohio, in their entirety, with specific attention to Section 16.4, et seq. Alternative Dispute Resolution (ADR) and Section 16.1, et seq. Differentiated Case Management (DCM), the latter which includes the concepts of track assignment and case management conferences. Applicant must file with applicant's personal statement the *Certificate of Applicant & Waiver of Attendance at a Northern District of Ohio Federal District Court Seminar* along with a certificate of attendance at a federal district court practice seminar. Applicant shall comply with all other Northern Ohio admission requirements, including the payment of fees.

(See LCrR 57.5) Last revised 12/9/13. *See* Historical Notes for full revision history.

**Rule 83.6 Appearance and Practice by Law Students**

Under the supervision of an attorney licensed to practice before this Court, a student who (1) is enrolled in a school of law accredited by the American Bar Association or holding membership in the Association of American Law Schools, and (2) has completed one-half of the credit hours required for graduation may, with the consent of the trial judge, participate as though he or she were a duly-licensed attorney in causes pending before this Court, to the extent authorized by this Rule. Such student participation shall be limited to the following situations:

**(a)** In all cases, parties to the litigation shall have advised the Court that they agree to the student's participation and that full explanation has been made of the student's status.

**(b)** In all cases, the student shall receive no compensation, directly or indirectly, for participation, other than the award of academic credit by the student's law school. This Rule shall not preclude a person who is salaried by a nonprofit agency (e.g., Legal Aid Office) from engaging in a student practice pursuant to this Rule.

**(c)** In civil matters, a student may participate as requested by attorneys employed by or associated with a legal services program or law school clinical program in matters arising from such employment or association.

**(d)** In habeas corpus and post-conviction cases, a student may participate as requested by attorneys for petitioners; a student may participate on behalf of respondents as requested by respondent's counsel.

The term "supervision" as used in this Rule means the presence in Court during the student's participation of the attorney requesting his or her services, unless such attorney's absence is expressly authorized by the party whom he or she represents, the student, and the Judge.

The Judge before whom a student is participating may, at any time and with or without cause and for any reason, revoke the authorization established by this Rule.

(See LCrR 57.6) Last revised 4/7/97. *See* Historical Notes for full revision history.

**Rule 83.7 Professional Conduct and Attorney Discipline**

**(a) Standards for Professional Conduct.** Attorneys admitted to practice in this Court shall be bound by the ethical standards of the Ohio Rules of Professional Conduct adopted by the Supreme Court of the State of Ohio, so far as they are not inconsistent with federal law (see LR 83.5(b) and (f)).

**(b) Failure to Comply.**

(1) For misconduct defined in this Rule, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this Court may be subjected to such disciplinary action as the circumstances warrant.

(2) 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 Ohio 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.

**(c) Attorneys Specially Admitted.** Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged professional misconduct of that attorney.

**(d) Disciplinary Proceedings.**

(1) When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court come to the attention of a Judge of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by this Rule, the Judge shall refer the matter to the Court's Committee on Complaints and Policy Compliance ("the Committee"), with notification to the Clerk of Court, for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as is appropriate.

(2) If the Committee concludes after investigation, review and findings that a formal disciplinary proceeding should not be initiated against the respondent-attorney, the Committee shall make a written recommendation to the Court for disposition of the matter by dismissal, admonition, referral, or otherwise.

(3) To initiate formal disciplinary proceedings, the Committee shall issue by regular U.S. mail an order of this Court requiring the respondent-attorney to show cause as noticed why the attorney should not be disciplined.

(4) 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, the matter shall be set for hearing before the Committee, provided, however, that if the disciplinary proceeding is predicated upon the complaint of a judge of this Court who is a member of the Committee, that judge shall not participate in such hearing or in any action of this Court relative to said respondent-attorney.

(5) After a disciplinary proceeding, the Committee shall make a written recommendation to
the Court for disposition, including, but not limited to, suspension from practice before this Court, reprimand, censure, restitution of funds, satisfactory completion of educational programs, compliance with treatment programs, assignment of a mentor, and community service.

(6) Counsel appointed pursuant to the authority set forth in section (f) of this Rule, *Discipline Imposed By Other Courts*, shall have the authority to investigate, prosecute before the Committee and otherwise assist the Committee in any matters involving a respondent-attorney.

**(e) <u>Attorneys Convicted of, Pleading Guilty or Nolo Contendere to Crimes</u>.**

(1) Serious Crimes

(a) If an attorney admitted to practice before this Court is found guilty by verdict at trial in any Court of record, or enters a plea of guilty or nolo contendere, to a serious crime, as herein after defined, the Chief Judge, on behalf of this Court, shall immediately enter an order of interim suspension of that attorney, 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 be served upon the attorney by regular U.S. mail. Upon good cause shown, the Court may set aside such order when it appears in the interest of justice to do so.

(b) The Court shall, in addition to ordering an interim suspension of that attorney, refer the matter to the Committee on Complaints and Policy Compliance for the institution of a disciplinary proceeding on behalf of the Court. The sole issue to be determined shall be the extent of the final discipline to be imposed. A disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

(2) Other Crimes

If an attorney admitted to practice before this Court is found guilty by verdict at trial in any Court of record, or enters a plea of guilty or nolo contendere

to a crime not constituting a serious crime, the Court may refer the matter to the Committee on Complaints and Policy Compliance for whatever action the Committee deems warranted, including the institution of a disciplinary proceeding.

(3) The term "serious crime" shall include, but not be limited to, 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, tax evasion, 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."

(4) A certified copy of an official document from any Court of record indicating that the Court has found an attorney guilty by verdict or trial, or has accepted a plea of guilty or nolo contendere, for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney.

(5) An attorney suspended under the provisions of this Rule will be reinstated upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed. However, the reinstatement will not terminate any disciplinary proceeding then pending against the attorney.

**(f) <u>Discipline Imposed By Other Courts</u>.**

(1) Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other Court of record, promptly inform the Clerk of this Court of such action. If the Committee becomes aware of any public discipline to which any attorney admitted to practice before this Court is subjected, the Committee shall inform the Clerk of this Court.

(2) 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 issue by regular U.S. mail a notice directed to the attorney containing:

(A) a copy of the judgment or order from the other Court; and

(B) 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 (3) hereof that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor. If any issue of fact is raised, the matter shall be set for hearing before the Committee.

(3) This Court shall impose the identical discipline unless this Court finds that from the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:

(A) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(B) 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 the conclusion on that subject; or

(C) that the imposition of the same discipline by this Court would result in grave injustice.

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

(4) 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 this Court.

(5) This Court, acting through the Committee, may at any stage appoint counsel to prosecute the disciplinary proceedings.

**(g) Disbarment on Consent or Resignation in Other Courts.**

(1) Any attorney admitted to practice before this Court who is disbarred on consent or resigns from the bar of any other Court of record while an investigation into allegations of misconduct is pending shall be stricken from the roll of attorneys admitted to practice before this Court upon the filing of a certified or exemplified copy of the judgment or order or upon notification by the attorney.

(2) It is the duty of any attorney admitted to practice before this Court who is disbarred on consent, or resigns from the bar of any other Court of record while an investigation into allegations of misconduct is pending, to notify the Clerk of this Court of such disbarment.

**(h) Disciplinary Action on Consent While Under Disciplinary Investigation or Prosecution.**

(1) 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 disciplinary action, but only by delivering to the Clerk of this Court an affidavit stating that the attorney desires to consent to disciplinary action and that:

(A) the attorney's consent is freely and voluntarily given; the attorney is not being subjected to coercion or duress; the attorney is fully aware of the implications of so consenting;

(B) the attorney is aware that there is presently pending an investigation or proceeding involving allegations that grounds exist for the attorney's discipline, the nature of which the attorney shall specifically set forth;

(C) the attorney acknowledges that the material facts alleged are true; and

(D) the attorney 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 or herself.

(2) Upon receipt of such affidavit, this Court shall enter an order striking the attorney from the roll of attorneys admitted to practice before this Court.

**(i) Reinstatement.**

(1) After Suspension. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon filing with the Clerk of Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months may not resume practice until reinstated by order of this Court.

(2) Time of Application. A person who has been stricken from the roll of attorneys admitted to practice before this Court due to disbarment may not apply for reinstatement until the expiration of at least five years from the effective date of being removed from the roll of attorneys.

(3) Hearing on Application. Applications for reinstatement under this Rule shall be filed with the Clerk of Court. The attorney's application must include an affidavit stating that the jurisdiction which entered the order of discipline on which this Court based its discipline has reinstated the attorney. Upon receipt of a properly filed application, the Clerk shall refer the application to the Committee which shall schedule a hearing. At the hearing the attorney shall have the burden of demonstrating by clear and convincing evidence that he/she has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his/her 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. If the disciplinary proceeding which led to the suspension and/or removal from the roll of attorneys

was predicated upon the complaint of a Judge of this Court who is a member of the Committee, that Judge shall not participate in such hearing or in any action of this Court relative to said attorney.

(4) Duty of Counsel. In all proceedings upon an application for reinstatement, cross-examination of the witnesses of the attorney and the submission of evidence, if any, in opposition to the application shall be conducted by members of the Committee, unless the Committee has appointed counsel in which case such cross-examination shall be conducted by that counsel.

(5) Conditions of Reinstatement. If the attorney is found unfit to resume practice in this Court, the application shall be dismissed. If the attorney is found fit to resume practice in this Court, the judgment shall reinstate him/her, provided that the judgment may make reinstatement conditional upon the making of partial or complete restitution to parties harmed by the attorney whose conduct led to the disciplinary action. In addition, if the attorney has been suspended and/or removed from the roll of attorneys for two years or more, reinstatement is conditioned upon the attendance of the attorney at a Federal Court Practice Seminar. If the attorney has been suspended and/or removed from the roll of attorneys for five years or more, reinstatement may be conditioned upon furnishing 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.

(6) Successive Applications. No application for reinstatement under this Rule shall be filed within one year following an adverse judgment upon an application for reinstatement filed by or on behalf of the same attorney.

**(j) Appointment of Counsel.** Whenever counsel is to be appointed pursuant to this Rule to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement application filed by a disciplined attorney, this Court or the Committee may appoint as counsel the disciplinary agency of the Supreme Court of Ohio or other state or local disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or if the Committee determines it more appropriate, the Committee may appoint as counsel one or more members of the Bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under this Rule, 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.

**(k) Service.** Service of orders, notices or any other papers shall be made by regular U.S. mail addressed to the respondent-attorney at the last known office address of the respondent-attorney. Any attorney admitted to practice before this Court who fails to comply with LR 83.5(i) and LCrR 57.5(i), which require the submission of a written

notice of a change of business address and/or email address to the Clerk upon a change of address, makes the Clerk of Court his or her agent for the service of any notice provided in any disciplinary matter proceeding before this Court.

**(l) Public Record.** The general order imposing disciplinary action or reinstating an attorney shall be a matter of public record. All other records pertaining to attorney disciplinary action(s), which are not already public records, shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

**(m) Jurisdiction.** Nothing contained in this Rule 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.

**(n) Applicability.** This Rule shall apply only to disciplinary actions initiated on or after April 4, 2011.

(See LCrR 57.7) Last revised 4/4/11 *See* Historical Notes for full revision history.

**Rule 83.8 Judicial Misconduct and Disability**

**(a)** 28 U.S.C. § 372(c) provides a way for any person to complain about a Judge who the person believes "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts" or "is unable to discharge all the duties of office by reason of mental or physical disability." It also permits the judicial councils of the circuits to adopt rules for the consideration of these complaints. The Judicial Council of the Sixth Circuit has adopted "Rules of the Judicial Council of the Sixth Circuit Governing Complaints of Judicial Misconduct or Disability" under the authority of 28 U.S.C. § 372(c). A copy of these rules is on file with the Office of the Clerk.

**(b)** Pursuant to the rules adopted by the Judicial Council of the Sixth Circuit, complaints shall be filed with the Circuit Executive for the Sixth Circuit Court of Appeals on a form that can be obtained from that office.

(See LCrR 57.8) Last revised 4/7/97 *See* Historical Notes for full revision history.

**<u>Rule 83.9</u> Withdrawal of Counsel**

The attorney of record may not withdraw, nor may any other attorney file an appearance as a substitute for the attorney of record, without first providing written notice to the client and all other parties and obtaining leave of Court. Attorneys from the same firm may file and serve a notice of appearance or substitution for the attorney of record without obtaining leave of Court.

Last revised 2/5/00. *See* Historical Notes for full revision history.

**<u>Rule 83.10</u> Assignment of Pro Bono Counsel**

At the discretion of the judicial officer, counsel may be assigned to represent a pro se litigant in a civil case pursuant to the Court's Pro Bono Civil Case Protocol. (See Appendix J.) Assignment of counsel is not a right of a pro se litigant but may be utilized in those limited cases where the judicial officer believes such an assignment is warranted. Pursuant to the Protocol, a judicial officer may instruct the Clerk's Office to select counsel with experience in the subject matter of the case from the list of attorneys who have volunteered to provide Pro Bono services. The Court will reimburse assigned counsel, pursuant to the Pro Bono Civil Case Protocol, for certain expenses incurred in providing representation up to $1,500.

Last Revised 2/5/07. *See* Historical Notes for full Revision History

**Supplemental Rule C.1 Publication**

**(a)** The notice required by Rule C(4) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure shall be published at least once and shall contain the fact and date of the arrest, the title of the cause, the nature of the action, the amount demanded, the name of the Marshal, and the name and address of the attorney for the plaintiff. The notice shall also contain a statement that any person who asserts a right of possession or any ownership interest in the property that is the subject of the action must file a verified statement of right or interest with the Clerk of Court within ten (10) days of the date of publication, in compliance with Rule C(6) and must serve their answers within twenty (20) days after the filing of their statements of right or interest. The notice shall also state that all interested persons should file statements of right or interest and answers within the times so fixed; otherwise default will be noted and condemnation ordered.

**(b)** When the property remains in the custody of the Marshal, the cause will not be heard until after publication of notice of arrest is made in that cause or in some other pending cause in which the property is held in custody. No final judgment shall be entered ordering the condemnation and sale of the property, not perishable, arrested under process in rem unless publication of notice of arrest in that cause shall have been duly made.

Last revised 10/22/09. *See* Historical Notes for full revision history.

**Supplemental Rule E.1 Property in Possession of Officer or Employee of the United States**

**(a)** In proceedings in rem on behalf of the United States, when the property is in the custody of an officer or employee of the United States, the Clerk, at the instance of the United States Attorney, may omit the attachment clause in the monition.

**(b)** In such suits and also in other suits in rem, when the property is in the custody of an officer or employee of the United States under authority of any law of the United States, it shall be sufficient service of the monition and warrant, in such other suits in the first instance, to leave a copy thereof with said officer or employee of the United States with notice of attachment of the property therein described, and requiring such officer or employee to detain such property in custody until the further order of the Court; and in case the officer or employee is not found within the District, then to leave also such copy and notice with the custodian of the property within the District, with notice also, except in customs seizure cases, to the owner or the owner's agent, if found within the District, subject, however, to such further special order as the Court may make.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Supplemental Rule E.2</u> Summary Release from Arrest or Attachment**

Where property is arrested or attached, any person claiming an interest in the property arrested or attached, may, upon a showing of any improper practice or a manifest want of equity on the part of the plaintiff, be entitled to an order requiring the plaintiff to show cause forthwith why the arrest or attachment should not be vacated or other relief granted consistent with these Rules.

Last revised 10/22/09. *See* Historical Notes for full revision history.

**<u>Supplemental Rule E.3</u> Security**

Any party having an interest in the subject matter of the suit may, at any time on three (3) days' notice, move the Court on special cause shown for greater or better security. Any order made thereon may be enforced by attachment or otherwise.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**<u>Supplemental Rule E.4</u> Appraisement and Appraisers**

Orders for the appraisement of property under arrest or attachment at the suit of a private party may be entered as of course by the Clerk, at the instance of any party interested or upon the consent of the attorneys for the respective parties. Only one appraiser is to be appointed, unless otherwise ordered; and, if the respective parties do not agree in writing upon the appraiser to be appointed, the Court shall forthwith name an appraiser.

Appraisers, before executing their trust, shall be sworn or affirmed to its faithful discharge before the Clerk or the Clerk's deputy and shall give three (3) days' notice of the time and place of making the appraisement, by notifying the attorneys in the cause and by affixing the notice in a conspicuous place, where the Marshal usually affixes notices, to the end that all persons concerned may be informed thereof. The appraisement, when made, shall be returned to the Clerk's Office.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Supplemental Rule E.5 Sale**

**(a)** Unless otherwise ordered as provided by law, notice of sale of the property after condemnation in suits in rem shall be published daily for at least six (6) days before sale.

**(b)** No sale of the property shall be ordered by interlocutory judgment before the sum chargeable thereon is fixed by the Court, except by consent of the parties or by order of the Court.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Supplemental Rule E.6 Custody of Vessel**

**(a)** Upon the seizure by the Marshal of a vessel by arrest or attachment in any suit in personam, in rem, or both, the Marshal shall appoint as keeper or custodian of the vessel so seized, the vessel's master or other officer upon such master's or other vessel officer's acceptance of the responsibilities and liabilities incidental to the appointment, unless the Marshal shall receive permission of the Court for the appointment of any other person.

**(b)** Upon proper motion of any party having an interest in the vessel so seized, and upon proof of responsibility satisfactory to the Court, the Court shall appoint at any time during the seizure a keeper or custodian as substitute for any keeper or custodian so appointed by the Marshal.

**(c)** Upon seizure of the vessel, the Marshal, keeper or custodian shall not impede the conduct of the loading and discharging of cargo or other operations normal to the vessel unless deemed necessary for the safe custody of the seized vessel.

**(d)** Upon proper motion of any party having an interest in the seized vessel, upon proof satisfactory to the Court of adequate insurance protection covering the seized vessel, and upon at least one (1) day's notice to the Marshal, keeper or custodian, the Court shall order the cancellation of any insurance placed upon the seized vessel on behalf of the Marshal, keeper or custodian, save only such insurance as may be necessary to protect against liability in such capacity, and subject to such provision as the Court may require for the continuing maintenance of adequate insurance protection.

**(e)** Upon proper motion of any party having an interest in the vessel, and upon the filing of a stipulation or other form of undertaking satisfactory to the Court guaranteeing the payment of any sums found legally payable to the plaintiff by judgment of the Court or by settlement, and upon at least one (1) day's notice to the plaintiff, the Court shall order the release of the vessel so seized subject to the further order of the Court.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Supplemental Rule E.7 Accounting by Marshal**

Upon the return of any process of sale, the Marshal shall file with the Clerk an account of all property sold and pay over to the Clerk all monies received with a bill of the Marshal's charges. The Clerk shall tax the charges and pay them to the Marshal out of such monies.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Supplemental Rule E.8 Claims After Sale, How Limited**

In proceedings in rem, after a sale of the property under a final decree, claims upon the proceeds of sale, except for seamen's wages, will not be admitted on behalf of lienors filing complaints or claims after the sale, to the prejudice of lienors under claims filed before the sale, but shall be limited to the remnants and surplus, unless for cause shown it shall otherwise be ordered.

Last revised 4/7/97. *See* Historical Notes for full revision history.

**Supplemental Rule F.1 Election to Transfer Owner's Interest in Vessel to a Trustee**

Whenever a complaint for limitation of liability elects to transfer to a trustee the owner's interest in the vessel and shows any prior paramount lien, lienors, or creditors, and the vessel is so surrendered, no final decree exempting from liability will be made until all such liens or claims as may be admitted or proved, prior to such final decree, to be superior to the liens of the claims limited shall be paid or secured independently of the property surrendered. The monition in cases of election to transfer the owner's interest in the vessel shall cite all persons having any claim upon the vessel to appear on the return day or be defaulted, as in ordinary process in rem.

Last revised 10/22/09. *See* Historical Notes for full revision history.

**<u>Supplemental Rule F.2</u> Complaint Seeking Appraisement**

If an appraisement of the vessel ~~thereof~~ is sought for the purpose of giving a stipulation for value, notice of the proceedings to appraise the vessel shall be given to such lienors and creditors as are stated in the complaint or known to the plaintiff, as the Court shall direct.

Last revised 10/22/09. *See* Historical Notes for full revision history.

CM/ECF Requirements

JS 44 (Rev. 09/11)

# CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

## I. (a) PLAINTIFFS

**(b)** County of Residence of First Listed Plaintiff _____
*(EXCEPT IN U.S. PLAINTIFF CASES)*

**(c)** Attorneys *(Firm Name, Address, and Telephone Number)*

## DEFENDANTS

County of Residence of First Listed Defendant _____
*(IN U.S. PLAINTIFF CASES ONLY)*

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

## II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ❒ 1 U.S. Government Plaintiff
- ❒ 3 Federal Question *(U.S. Government Not a Party)*
- ❒ 2 U.S. Government Defendant
- ❒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

## III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff) and One Box for Defendant)*
*(For Diversity Cases Only)*

| | PTF | DEF | | PTF | DEF |
|---|---|---|---|---|---|
| Citizen of This State | ❒ 1 | ❒ 1 | Incorporated *or* Principal Place of Business In This State | ❒ 4 | ❒ 4 |
| Citizen of Another State | ❒ 2 | ❒ 2 | Incorporated *and* Principal Place of Business In Another State | ❒ 5 | ❒ 5 |
| Citizen or Subject of a Foreign Country | ❒ 3 | ❒ 3 | Foreign Nation | ❒ 6 | ❒ 6 |

## IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

**CONTRACT**
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

**REAL PROPERTY**
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

**TORTS**

**PERSONAL INJURY**
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Med. Malpractice

**PERSONAL INJURY**
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

**PERSONAL PROPERTY**
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

**CIVIL RIGHTS**
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

**PRISONER PETITIONS**
- ❒ 510 Motions to Vacate Sentence

**Habeas Corpus:**
- ❒ 530 General
- ❒ 535 Death Penalty
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

**FORFEITURE/PENALTY**
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

**LABOR**
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Mgmt. Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Empl. Ret. Inc. Security Act

**IMMIGRATION**
- ❒ 462 Naturalization Application
- ❒ 463 Habeas Corpus - Alien Detainee (Prisoner Petition)
- ❒ 465 Other Immigration Actions

**BANKRUPTCY**
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

**PROPERTY RIGHTS**
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

**SOCIAL SECURITY**
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

**FEDERAL TAX SUITS**
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**
- ❒ 375 False Claims Act
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ❒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

## V. ORIGIN *(Place an "X" in One Box Only)*

- ❒ 1 Original Proceeding
- ❒ 2 Removed from State Court
- ❒ 3 Remanded from Appellate Court
- ❒ 4 Reinstated or Reopened
- ❒ 5 Transferred from another district *(specify)*
- ❒ 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

❒ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

**DEMAND $**

CHECK YES only if demanded in complaint:
**JURY DEMAND:** ❒ Yes ❒ No

## VIII. RELATED CASE(S) IF ANY

*(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Print | Save As... | Reset

# UNITED STATES DISTRICT COURT
# NORTHERN DISTRICT OF OHIO

**I.** Civil Categories: (Please check one category only).

1. ☐ General Civil
2. ☐ Administrative Review/Social Security
3. ☐ Habeas Corpus Death Penalty

*If under Title 28, §2255, name the SENTENCING JUDGE: _____

CASE NUMBER: _____

**II.** **RELATED OR REFILED CASES**. See LR 3.1 which provides in pertinent part: "If an action is filed or removed to this Court and assigned to a District Judge after which it is discontinued, dismissed or remanded to a State court, and subsequently refiled, it shall be assigned to the same Judge who received the initial case assignment without regardfor the place of holding court in which the case was refiled. Counsel or a party without counsel shall be responsible for bringing such cases to the attention of the Court by responding to the questions included on the Civil Cover Sheet."

This action is ☐ **RELATED** to another **PENDING** civil case. This action is ☐ **REFILED** pursuant to **LR 3.1**.

**If applicable, please indicate on page 1 in section VIII, the name of the Judge and case number.**

**III.** In accordance with Local Civil Rule **3.8**, actions involving counties in the Eastern Division shall be filed at any of the divisional offices therein. Actions involving counties in the Western Division shall be filed at the Toledo office. For the purpose of determining the proper division, and for statistical reasons, the following information is requested.

ANSWER ONE PARAGRAPH ONLY. ANSWER PARAGRAPHS 1 THRU 3 IN ORDER. UPON FINDING WHICH PARAGRAPH APPLIES TO YOUR CASE, ANSWER IT AND STOP.

(1) **Resident defendant.** If the defendant resides in a county within this district, please set forth the name of such county

**COUNTY:**

Corporation **For the purpose of answering the above, a corporation is deemed to be a resident of that county in which it has its principal place of business in that district.**

(2) **Non-Resident defendant.** If no defendant is a resident of a county in this district, please set forth the county wherein the cause of action arose or the event complained of occurred.

**COUNTY:**

(3) **Other Cases**. If no defendant is a resident of this district, or if the defendant is a corporation not having a principle place of business within the district, and the cause of action arose or the event complained of occurred outside this district, please set forth the county of the plaintiff's residence.

**COUNTY:**

**IV.** The Counties in the Northern District of Ohio are divided into divisions as shown below. After the county is determined in Section **III**, please check the appropriate division.

**EASTERN DIVISION**

☐ **AKRON** **(Counties: Carroll, Holmes, Portage, Stark, Summit, Tuscarawas and Wayne)**

☐ **CLEVELAND** **(Counties: Ashland, Ashtabula, Crawford, Cuyahoga, Geauga, Lake, Lorain, Medina and Richland)**

☐ **YOUNGSTOWN** **(Counties: Columbiana, Mahoning and Trumbull)**

**WESTERN DIVISION**

☐ **TOLEDO** **(Counties: Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca VanWert, Williams, Wood and Wyandot)**

# INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

**II. Jurisdiction**. The basis of jurisdiction is set forth under Rule 8(a), F.R.CP., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit**. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin**. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action**. Report the civil statute directly related to the cause of action and give a brief description of the cause **Do not cite jurisdictional statutes unless diversity**. Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint**. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases**. This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature**. Date and sign the civil cover sheet.

# UNITED STATES DISTRICT COURT
# NORTHERN DISTRICT OF OHIO

# ELECTRONIC FILING

# POLICIES AND PROCEDURES MANUAL

**July 26, 2011**

## Introduction

The U.S. District Court for the Northern District of Ohio requires attorneys in civil and criminal cases to file documents with the Court electronically over the Internet thru its Case Management/Electronic Case Files (CM/ECF) system. The Court requires attorneys to file documents electronically, absent a showing of good cause, unless otherwise excused by the procedures set forth below or by Order of the Court. While parties and pro se litigants may register to receive "read only" electronic filing accounts so that they may access documents in the system and receive electronic notice, typically only registered attorneys, as Officers of the Court, will be permitted to file electronically. The Judicial Officer may, at his or her discretion, grant a pro se litigant who demonstrates a willingness and capability to file documents electronically permission to register to do so. Permission to file electronically may be revoked at any time.

## 1. Authorization for Electronic Filing

Pursuant to Fed. R. Civ. P. 5(d), Fed. R. Crim. P. 49(b) and (c), LR 5.1(b) and LCrR 49.2, the following policies and procedures govern electronic filing in this district unless, due to extraordinary circumstances in a particular case, a judicial officer determines that these policies and procedures should be modified in the interest of justice.

## 2. Definitions and Instructions

The following definitions and instructions will apply to these Policies and Procedures for Electronic Filing:

2.1 The term "document" shall include pleadings, motions, exhibits, declarations, affidavits, memoranda, papers, orders, notices, and any other filing by or to the Court.

2.2 The term "party" shall include counsel of record and a pro se litigant.

2.3 All hours stated shall be Ohio time.

## 3. Application of Rules and Orders

Unless modified by approved stipulation or order of the Court or a judicial officer, all Federal Rules of Civil and Criminal Procedure, Local Rules, and orders of the Court will continue to apply to cases filed electronically.

## 4. Applicable Cases

Electronic filing will be expected in all civil and criminal cases unless otherwise ordered by the Court. The parties will begin filing electronically in a case immediately.

## 5. Social Security Review and Immigration Cases

Unless otherwise ordered by the Court, in an action for benefits under the Social Security Act, and in an action or proceeding relating to an order of removal, relief from removal, or immigration benefits or detention, access to an electronic file is authorized as follows:

(1) the parties and their attorneys may have remote electronic access to any part of the case file, including the administrative record;

(2) any other person may have electronic access to the full record at the courthouse, but may have remote electronic access only to:

(A) the docket maintained by the Court; and

(B) an opinion, order, judgment or other disposition of the Court, but not any other part of the case file or the administrative record.

Social security transcripts that are available from the Social Security Administration in electronic format should be filed electronically. Social security transcripts that are filed electronically may exceed the 15 megabyte limitation set forth in Section 15 in order to take advantage of the index and hyperlinks within those documents. Social security transcripts that are not available electronically will be filed and served on paper in the traditional manner since scanning that set of documents, and filing or retrieving them electronically, is impractical at this time. Typically, social security transcripts filed manually will not be scanned by the Clerk's Office, but will be maintained in a paper case file.

## 6. System Requirements

While the system requirements may be set forth more completely in a User's Manual or other Court publication, it is expected that the following hardware and software will be needed to electronically file, view and retrieve documents in the electronic filing system:

- A personal computer running a standard platform such as Windows or Macintosh.
- A PDF-compatible word processor like Macintosh or Windows-based versions of WordPerfect or Word.
- Internet service.
- A CM/ECF-compatible web browser.
- Software to convert documents from a word processor format to portable document format (PDF).
- Adobe Acrobat Reader, which is available for free, is needed for viewing PDF documents.
- A scanner may be necessary to create electronic images of documents that are not in your word processing system.

## 7. Fees in the District Court

A. On-Line Payment of Fees. All ECF transactions that require a payment shall be paid on-line on the same day that the transaction is docketed.

B. Acceptable Credit Cards. Only VISA, MASTERCARD, AMERICAN EXPRESS, DISCOVER and DINERS CLUB credit cards will be accepted. Debit cards from the above mentioned providers that do not require a "PIN" code will also be accepted.

## 8. Filing of Case Initiating Documents / Payment of Filing Fee / Service of Summons

Civil case initiating documents (e.g. Complaints, Notices of Removal) can be filed electronically if filer is using a credit card for payment of the required fee. Summons will be issued electronically for parties to perfect service. Criminal case initiating documents (e.g. Informations, Indictments, Complaints) will be filed on paper rather than electronically.

## 9. General Format of Documents to be Filed Electronically

Electronically filed documents must meet the requirements of Fed. R. Civ. P. 10 (Form of Pleadings), LR 10.1 and LCrR 49.1 (General Format of Papers Presented for Filing), and LR 10.2 and LCrR 49.2 (Designation of District Judge and/or Magistrate Judge) as if they had been submitted on paper. Documents filed electronically are also subject to any page limitations set forth by Court order or by LR 7.1(g) (Length of Memoranda).

## 10. Filing Documents Electronically

Electronic transmission of a document consistent with the procedures adopted by the Court will, upon the complete receipt of the same by the Clerk of Court, constitute filing of the document for all purposes of the Federal Rules of Civil and Criminal Procedure and the Local Rules of this Court, and will constitute entry of that document onto the docket maintained by the Clerk pursuant to Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 55.

A receipt acknowledging that the document has been filed will immediately appear on the filer's screen. Parties can also verify the filing of documents by inspecting the Court's electronic docket sheet. The Court may, upon the motion of a party or upon its own motion, strike any inappropriately filed document.

Documents filed electronically must be submitted in the Adobe Acrobat PDF format. Documents created on a computer should be converted directly to PDF without scanning. Documents requiring an original signature or documents that cannot be converted directly should be scanned into PDF.

Filing documents electronically does not alter any filing deadlines. All electronic transmissions of documents must be completed (*i.e.,* received completely by the Clerk's Office) prior to midnight in order to be considered timely filed that day. Although parties can

file documents electronically 24 hours a day, attorneys and parties are strongly encouraged to file all documents during normal working hours of the Clerk's Office (8:00 a.m. to 4:45 p.m.) when assistance is available.

## 11. Civil and Criminal Dockets

Upon the filing of a document, a docket entry will be created using the information provided by the filing party. The Clerk of Court will, where necessary and appropriate, modify the docket entry description to comply with quality control standards.

## 12. System Availability

The Court's system is designed to provide service 24 hours a day. The parties, however, are encouraged to file documents in advance of filing deadlines and during normal business hours.

The Clerk's Office has established a Help Desk (1-800-355-8498) to respond to questions regarding the electronic filing system and the registration process and to receive voice mail messages. The Help Desk will be staffed business days from 8:00 a.m. to 4:45 p.m., and will be available at all other times to record voice mail messages.

If a party is unable to file electronically and, as a result, may miss a filing deadline, the party must contact the Help Desk to inform the Clerk of Court of the difficulty. If a party misses a filing deadline due to an inability to file electronically, the party may submit the untimely filed document, accompanied by a declaration, as a separate document, stating the reason(s) for missing the deadline. The document and declaration must be filed no later than 12:00 noon of the first day on which the Court is open for business following the original filing deadline. A model form is provided in Appendix A.

## 13. Registration

In order to effectively use the electronic filing system, users will need both a CM/ECF account and a PACER (Public Access to Court Electronic Records) account.

a. CM/ECF Account: A party seeking to file documents electronically must submit a completed Electronic Filing System Registration form (Appendix B) prior to being assigned a CM/ECF user identification name and password that will serve as that party's signature for all purposes, including Fed. R. Civ. P. 11. Online registration is also available through the Court's web site (www.ohnd.uscourts.gov). Additionally, attorneys seeking to file electronically must be admitted to practice in the U.S. District Court for the Northern District

of Ohio. The completed Registration Form must be signed by the registrant and addressed to:

Ms. Geri M. Smith, Clerk
United States District Court
Attention: Electronic Filing System Registration
801 W. Superior Avenue
Cleveland, OH 44113-1830

Once registration is completed, the party will receive notification by U.S. mail as to his/her user identification name and password.

Parties agree to protect the security of their passwords and immediately notify the Clerk of Court if they learn that their password has been compromised. Parties may be subject to sanctions for failure to comply with this provision.

b. PACER Account: In order to retrieve documents from the CM/ECF system over the Internet, users, including members of the public, must have a PACER account. PACER is a national billing system that provides case information from nearly all federal courts. Users who do not have a PACER account will be unable to view or retrieve docket sheets or documents over the Internet, but may access that information, unless otherwise restricted, at the court house. PACER accounts can be established through the PACER Service Center:

http://pacer.psc.uscourts.gov

PACER Service Center
P.O. Box 780549
San Antonio, TX 78278
(800) 676-6856
(210) 301-6440

Under the PACER system, parties and counsel of record are entitled to one free copy of each document filed in their cases, so long as they retrieve the document within 15 days of filing. Subsequent access to those documents, or access to documents in other cases, are subject to PACER billing fees. See the PACER web site for current rates and details.

## 14. Service of Electronically Filed Documents

By participating in the electronic filing process, the parties consent to the electronic service of all documents pursuant to Fed. R. Civ. P. 5(b)(3) and 5(b)(2)(E), and must make available electronic mail addresses for service. (Instructions to set up e-mail notification are available at www.ohnd.uscourts.gov/Electronic_Filing/electronic_filing.html.) Upon the filing of a document by a party, an e-mail message will be automatically generated by the

electronic filing system and sent via electronic mail to the e-mail addresses of all parties in the case. In addition to receiving e-mail notifications of filing activity, the parties are strongly encouraged to sign on to the electronic filing system at regular intervals to check the docket in their case.

A certificate of service must be included with all documents filed electronically. Such certificate will indicate that service was accomplished pursuant to the Court's electronic filing procedures. The party effectuates service on all parties by filing electronically. Service by electronic mail will constitute service pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Fed. R. Crim. P. 49(b) and will entitle the party being served to the additional 3 days provided by Fed. R. Civ. P. 6(d) and Fed. R. Crim. P. 49(c).

The following is a suggested certificate of service for electronic filing:

**Certificate of Service**

> I hereby certify that on [date], a copy of foregoing [name of document] was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's system.
>
> s/ [Name of Password Registrant]
> Name of Password Registrant
> Address
> City, State, Zip Code
> Phone: (xxx) xxx-xxxx
> Fax: (xxx) xxx-xxxx
> E-mail: xxx@xxx.xxx
> [attorney bar number, if applicable]

It is the responsibility of the filing party to ensure that all other parties are properly served. Fed. R. Civ. P. 5(b)(3) notes that service by electronic means is not effective if the party making service learns that the attempted service did not reach the person to be served. If a party requiring service is not listed on the electronic filing receipt as having been sent an electronic notice of the filing, the filing party must serve that party by other appropriate means.

## 15. Electronic Filings

A key objective of the electronic filing system is to ensure that as much of the case as possible is filed and made available electronically. To facilitate electronic filing and retrieval, documents to be filed electronically are to be reasonably broken into their separate component parts. By way of example, most filings include a foundation document (*e.g.,* motion) and other supporting items (*e.g.*, memorandum and exhibits). The foundation document as well as the supporting items will each be deemed a separate component of the filing, and each component must be uploaded separately in the filing process. Any

component having an electronic file size that exceeds 15 megabytes, with the exception of social security transcripts as noted in Section 5, should not be filed electronically. Where an individual component is not included in the electronic filing, the filer must electronically file the prescribed Notice of Manual Filing in place of that component and the excluded component must be filed with the Clerk's Office within any deadlines and no later than one business day after the rest of the submission was filed electronically. A model form is provided as Appendix C .

The following example illustrates the application of this section.

> *A party seeks to file a motion, a supporting memoranda, and four exhibits (A, B, C and D). The motion is a text document that after conversion to Adobe PDF has a size of 5kb. The supporting memoranda is a text document that after conversion to PDF has a size of 45kb. Attachment A is a scanned image of a one page document that after conversion to PDF has a size of 200kb. Attachment B is a scanned image of a 60 page document that after conversion to PDF has a size of 17mb. Attachment C is a scanned image of a 10 page document that after conversion to PDF has a size of 1.2mb. Attachment D represents an object that cannot be converted to digital format.*
>
> *Each document should be kept as a separate component (PDF file) rather than being merged together as one file in order to facilitate easy retrieval of any individual component. Each of the components, except for Attachments B and D, should be filed electronically in one submission by filing the motion and attaching the memoranda and exhibits through the electronic filing system. Attachment B, at 17mb, exceeds the 15mb file size standard for conveniently creating, filing and retrieving documents. Attachment D cannot be scanned. In the electronic submission, Attachments B and D should each be replaced by a Notice of Manual Filing form. Attachment B should then be manually filed with the Court on paper, along with a copy of the attachment on disk, and served upon the parties in the traditional, non-electronic manner. Attachment D should be treated as it would if a traditional filing system were being used.*

## 16. Manual Filings

Parties otherwise participating in the electronic filing system may be excused from filing a particular component electronically under certain limited circumstances, such as when the component cannot be reduced to an electronic format or exceeds the file size limit described in Section 14. Such component must not be filed electronically, but instead must be manually filed with the Clerk of Court and served upon the parties in accordance with the applicable Federal Rules of Civil and Criminal Procedure and the Local Rules for filing and service of non-electronic documents. A party may seek to have a component excluded from electronic filing pursuant to Fed. R. Civ. P. 26(c).

Whenever a party makes an electronic filing which excludes a component that will be filed manually, the electronic filing must include a Notice of Manual Filing in place of that

component. A model form is provided as Appendix C.

If the entire filing, including all components, is made manually, a Notice of Manual Filing should not be filed, either electronically or manually.

Whenever it is practical, the Clerk's Office will scan manual filings and enter them into the electronic filing system. Once a document is scanned into the system, Section 22 below provides that the electronic version becomes the official record of the Court and permits the Clerk of Court to retain, return or discard the original. If a party believes that retention of the original is warranted, a copy of the document should be filed with the Court and the party should retain the original. A party may also request at the time of filing or within 10 days thereafter, through a separate document, that the original be returned, rather than discarded, should the Clerk's Office ever determine it is no longer needed by the Court.

The pages of all documents filed manually should be one-sided in order to facilitate scanning by Court staff.

## 17. Retention of Originals of Documents Requiring Scanning

Originals of documents requiring scanning to be filed electronically must be retained by the filing party and made available, upon request, to the Court and other parties for a period of one year following the expiration of all time periods for direct appeals.

## 18. Signature Block

The party identification name and password will constitute the party's signature for Fed. R. Civ. P. 11 purposes. All documents filed electronically must include a signature block in compliance with the appropriate Local Civil or Criminal Rule (LR 10.1 or LCrRrR 49.1) and include the typewritten name, address, telephone number, facsimile number, e-mail address and the attorney's Ohio Bar Registration Number, if applicable.

In addition, the name of the password registrant under whose password the document is submitted should be preceded by a "s/" and typed in the space where the signature would otherwise appear.

s/ [Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Fax: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

Documents requiring signatures of more than one party must be filed either by submitting

a scanned document containing all necessary signatures or by listing all of the names of the signatories on the document by means of a “s/[name] (consent)” signature block for each. By submitting such a document, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has been authorized to submit the document on their behalf. Physical, facsimile or electronic signatures may be used to satisfy the requirements of this provision.

## 19. Sealed Documents

The filing of documents under seal is governed by LR 5.2 and LCrR 49.4, which permits such filings only with prior leave of the judicial officer. Sealed documents may be filed electronically using the events Sealed Motion or Sealed Document. The Court’s electronic filing system will not serve sealed documents. Therefore, all sealed documents must be manually served upon the parties in accordance with the applicable Federal Rules of Civil and Criminal Procedure and the Local Rules for filing and service of non-electronic documents. The Clerk will enter a notice of the filing on the docket for manually filed sealed documents. Accordingly, the party filing a sealed document should not file a Notice of Manual Filing, electronically or on paper.

## 20. Trial Exhibits

Exhibits “lodged” with the Clerk of Court pursuant to LR 39.1 or LCrR 23.2 will not be filed electronically. Such documents will not be placed into the electronic filing system unless and until they are admitted as part of the official public record. The party submitting the “lodged” exhibits may be required to resubmit the documents in electronic format once they are admitted into the public record.

## 21. Filing of Discovery Materials

In civil cases, the filing of discovery depositions, interrogatories, requests for production of documents, requests for admissions, and answers and responses thereto will be governed by the Case Management Plan defined in LR 16.1(b)(4), and the determination of whether such materials will be filed electronically or manually will be made by the judicial officer after consulting with the parties. In general, the Court prohibits the filing of discovery material unless it is done in support of a motion.

In criminal cases, no material subject to discovery under Fed. R. Crim. P. 16 should be filed unless otherwise ordered by the Court, pursuant to LCrR 16.1.

## 22. Official Record

The official Court record will be the electronic file maintained on the Court’s servers. The official record will also include, however, any conventional documents or exhibits filed in accordance with these provisions that have not been otherwise entered into the system because it was impractical to do so. The Clerk’s Office will retain all original indictments and plea agreements after they are scanned and uploaded into the system. The Clerk’s Office may retain, return or discard all other original documents filed with the Court on paper after

they have been scanned into the system, at the discretion of the Clerk of Court, subject to any limitations imposed by statute, judiciary policy or orders of this Court.

## 23. Remote Public Access

In accordance with the E-Government Act of 2002 and policies set forth by the Judicial Conference (which governs the administration of the U.S. Courts), the Court strives to provide public Internet access to case related documents to the same extent that those documents are available at the court house, with some limitations. Current Judicial Conference policy prohibits, with few exceptions, courts from providing remote public electronic access to documents in criminal cases. While documents in criminal cases can be obtained by members of the public at the court house, remote Internet access to those documents may only be provided to Court staff and counsel of record on the particular case at this time. The Court also places similar access restrictions on social security review, government collection and ERISA cases because of the sensitive personal data identifiers that appear in many of the documents in those cases. It should be noted that the Judicial Conference policy prohibiting remote public access to criminal case documents has changed, but will not become effective until the Judicial Conference determines an implementation strategy. An exception to the prohibition against providing Internet access to criminal case documents is that in those high-profile criminal cases where demand for the documents will impose extraordinary demands on the Court's resources, the Court is authorized to provide Internet access to the documents if the trial judge finds that such access is warranted and if all parties consent.

## 24. Privacy

The E-Government Act of 2002 and the Judicial Conference of the United States Courts' Policy on Privacy and Public Access to Electronic Case Files set forth rules and provide guidance to protect privacy and security concerns relating to the electronic filing of documents and the public availability of documents filed electronically. In accordance with the Act, the following Model Notice has been provided to Courts using the CM/ECF system:

> The Office of the Clerk is now accepting electronically filed pleadings and making the content of these pleadings available on the Court's Internet website via WebPACER. Any subscriber to WebPACER will be able to read, download, store and print the full content of electronically filed documents. The Clerk's Office will not make electronically available documents that have been sealed or otherwise restricted by Court order.
>
> Do not include sensitive information in any document filed with the Court unless such inclusion is necessary and relevant to the case. Remember that any personal information not otherwise protected will be made available over the Internet via WebPACER. If sensitive information must be included, the following personal data identifiers must be partially redacted from the pleading, whether it is filed traditionally or electronically:
>
> 1) Social Security numbers: If an individual's Social Security number

must be included in a document, only the last four digits of that number should be used;

2) Names of minor children: If the involvement of a minor child must be mentioned, only the initials of that child should be used.
3) dates of birth: If an individual's date of birth must be included in a document, only the year should be used.
4) Financial account numbers: If financial account numbers are relevant, only the last four digits of these numbers should be used.
5) (In criminal cases only) Home addresses: If a home address must be included, only the city and state should be listed.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers specified above may:

(a) file a redacted document in the public record and file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its(their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right, or

(b) file an unredacted version of the document under seal.

The Court may, however, still require the party to file a redacted copy for the public file.

In addition, exercise caution when filing documents that contain the following:

1) Personal identifying number, such as driver's license number;
2) medical records, treatment and diagnosis;
3) employment history;
4) individual financial information; and
5) proprietary or trade secret information.

Counsel are strongly urged to share this notice with all clients so that an informed decision about the inclusion, redaction and/or exclusion of certain materials may be made. If a redacted document is filed, it is the sole responsibility of counsel and the parties to be sure that all documents comply with the rules of this Court requiring redaction of personal data identifiers. The Clerk's Office will not review documents for compliance with this rule, seal on its own motion documents containing personal data identifiers, or redact documents containing personal identifiers, whether filed electronically or on paper.

The privacy provisions adopted by the Court are set forth under the General Rules of

Pleading in LR 8.1 and LCrR 49.1.1.

## 25. Additional Information

Additional information regarding electronic filing can be obtained by visiting the Court's web site (www.ohnd.uscourts.gov), calling the help desk at 1-800-355-8498 or by writing to:

Ms. Geri M. Smith, Clerk
United States District Court
Attention: Electronic Filing System Registration
801 W. Superior Avenue
Cleveland, OH 44113-1830

**Appendix A**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

| | | |
|---|---|---|
| | ) | |
| | ) | |
| Plaintiff | ) | Case No. |
| | ) | |
| v. | ) | Judge |
| | ) | |
| Defendant | ) | Declaration that Party was Unable to |
| | ) | File in a Timely Manner |
| | ) | Due to Technical Difficulties |
| | ) | |

Please take notice that [Plaintiff/Defendant, Name of Party] was unable to file the [Title of Document] in a timely manner due to technical difficulties. The deadline for filing the [Title of Document] was [Filing Deadline Date]. The reason(s) that I was unable to file the [Title of Document] in a timely manner and the good faith efforts I made prior to the filing deadline to both file in a timely manner and to inform the Court and the other parties that I could not do so are set forth below.

[Statement of reasons and good faith efforts to file and to inform (including dates and times)]

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

Respectfully submitted,

s/ [Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Fax: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

## Appendix B

**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF OHIO**
***ELECTRONIC FILING ATTORNEY REGISTRATION FORM***

This form is used to register for an account on the United States District Court for the Northern District of Ohio Electronic Filing System (the system). Registered attorneys will have privileges to electronically submit documents and to view the electronic docket sheets and documents. Once your registration is complete, a user id and password will be sent to you via email. Please call the Electronic Filing Help Desk at 1-800-355-8498 with any questions.

# PLEASE TYPE

Mr. Mrs. Ms.

First Name: _____ Middle Name: _____

Last Name: _____ If appropriate check one: Senior Junior II III IV

Highest state court admitted: _____ Bar ID Number: _____

Are you currently in good standing? Yes No

Firm Name: _____

Address: _____

_____

City: _____ State: _____ Zip Code: _____

Have you relocated to this address within the past year? Yes No

Voice Telephone Number: (_____)_____ Fax Number: (_____) _____

Internet Mail Address: _____

---

***Attorneys seeking to file documents electronically must be admitted to practice in the United States District Court for the Northern District of Ohio pursuant to LR 83.5 and LCrR 57.5.***

Date admitted to practice in the U.S. District Court for the Northern District of Ohio: _____

**If you are not admitted to practice in this court, please complete which applies:**

- Attorney for the United States? Yes No
  Date Applicant's Personal Statement & Oath submitted pursuant to LR 83.5(k) & LCrR 57.5(k): _____

- Date motion to be admitted pro hac vice *granted*: _____ in case number: _____

  Pro hac vice admission fee receipt number: _____

- If Attorney of Record in an MDL action in this court indicate case number: _____

---

*A PACER account is required to view documents on the system. For information regarding PACER call 1-800-676-6856 or visit the website at www.pacer.psc.uscourts.gov*

**I agree to abide by all Court rules, orders and policies and procedures governing the use of the electronic filing system and consent to receiving notice of filings pursuant to Fed. R. Civ. P. 5(b) and 77(d) and Fed. R. Crim. P. 49(b)-(d) via the Court's electronic filing system. The combination of user id and password will serve as the signature of the attorney filing the document(s). Attorneys must protect the security of their password and immediately notify the Court if they learn that their password has been compromised by an unauthorized user.**

_____ _____
Signature of Attorney Date

Submit completed Registration Form to:

Geri M. Smith, Clerk
United States District Court
Attention: Electronic Filing System Registration
801 West Superior Avenue
Cleveland, OH 44113-1830

Revised 8/28/08

**Appendix C**

**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF OHIO**

| | | |
|---|---|---|
| | ) | |
| | ) | |
| Plaintiff | ) | Case No. |
| | ) | |
| v. | ) | Judge |
| | ) | |
| Defendant | ) | Notice of Manual Filing |
| | ) | |
| | ) | |

Please take notice that [Plaintiff/Defendant, Name of Party] has manually filed the following document or thing

[Title of Document or Thing]

This document has not been filed electronically because

the document or thing cannot be converted to an electronic format
the electronic file size of the document exceeds 15 megabytes (30-60 scanned pages)
[Plaintiff/Defendant] is excused from filing this document or thing by court order.

The document or thing has been manually served on all parties.

Respectfully submitted,

s/ [Name of Password Registrant]
Name of Password Registrant
Address
City, State, Zip Code
Phone: (xxx) xxx-xxxx
Fax: (xxx) xxx-xxxx
E-mail: xxx@xxx.xxx
[attorney bar number, if applicable]

U.S. DISTRICT COURT, NORTHERN DISTRICT OF OHIO
JUROR QUESTIONNAIRE No. _____

PLEASE COMPLETE BOTH SIDES OF THE FOLLOWING QUESTIONNAIRE USING INK. PLEASE PRINT YOUR ANSWERS. RETURN TO THE COURT IMMEDIATELY IN THE ENCLOSED ENVELOPE.

Please be assured that the information in this questionnaire will be used only for the purpose of jury selection. Pursuant to Local Rule LR 47.2 and LCrR 24.1, "Questionnaires will be available to counsel for the limited purpose of assisting their preparation for voir dire (questioning of potential jurors). They are not otherwise to be used, copied, or disclosed without court order. Upon selection of a jury, all questionnaires shall be returned to the Clerk. Contact prior to trial by any counsel, party, or any person acting on behalf of any counsel or party with any prospective juror is absolutely forbidden. Noncompliance with this directive or any other limitation imposed with reference to the disclosure or use of the questionnaires will lead to contempt of Court citation and other appropriate sanction."

Date: _____

Name: _____ Spouse's Name: _____

Names and Ages of your children:

1. Please indicate the employers for whom you have worked, your occupations, and periods of employment (including military service, if any):

2. If your spouse is or has been employed, please indicate employers, occupations, and periods of employment (including military service, if any):

3. Please indicate the employers and occupations of your parents or guardians:

4. If your children or any other adult member of your household is employed, please indicate employers, occupations, and periods of employment:

5. If you are a member of a trade union, professional association, or other work-related organization, please indicate:

6. Please indicate whether you own, are buying, or rent your home (circle one).

7. Please list previous residences by city and state, indicating the approximate period of residence at each location:

8. How far did you go in school? _____ If you attended college or graduate school, or received other post-high school training, please indicate areas of study and instruction:

(OVER)

9. How far did your spouse go in school? _____ Please indicate areas of study and instruction in any post-high school training:

10. If any of your children are currently in college or graduate school or are receiving any post-high school training or instruction, please indicate:

11. Have you, or has any member of you family ever been involved in any way in a civil lawsuit as a claimant, defendant, witness, or otherwise? _____ If so, please describe:

12. Have you, or has any member of your family ever been involved in any way in criminal litigation, as a defendant, victim, witness, or otherwise? _____ If so, please describe:

13. Have you, or has any member of your family or a close friend ever been a victim of a crime? If so, please describe:

14. Do you have any physical problems with hearing, vision, or otherwise which would affect your service as a juror? If so, please describe:

15. Are you or is anyone in your family currently having any health problems which would make it difficult for you to serve as a juror? If so, please describe:

16. Have you ever served as a juror before? _____ If so, please indicate when, in what courts, the types of cases, and the outcomes (if you can recall):

17. Do you have a relative who is an attorney? _____ If so, please give name and indicate relationship:

18. Do you have any objection to sitting as a juror in a criminal case? _____ If so, please explain:

19. Is there anything with reference to your ability to serve as a fair and impartial juror of which you think the Court should be aware? _____ If so, please describe:

**LR - APPENDIX D**

(Sample Order - Opening Investment)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

| | | |
|---|---|---|
| Plaintiff(s), | ) | CASE NO.:_____ |
| | ) | |
| v. | ) | JUDGE:___ _____ |
| | ) | |
| Defendant(s). | ) | |

ORDER OF DEPOSIT AND INVESTMENT

On this day came to be heard _____'s request to deposit funds into the registry of the Court. Said funds shall be placed in interest-bearing Government Account Series securities via the Court Registry Investment System (CRIS) administered by the Administrative Office of the United States Courts; it is therefore,

ORDERED that the Clerk accept and deposit into the registry of the Court the deposit made by _____ in this cause of action in the amount of $_____; it is further

ORDERED that the Clerk promptly and properly invest those funds into Government Accounting Series securities through the Court Registry Investment System and deduct a registry fee as a percentage of the income earned on the investment over the period such sums remain deposited and invested, not to exceed ten percent (10%).

_____
United States District Judge

**LR - APPENDIX E**

(Sample Order of Disbursing of Funds)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

| | | |
|---|---|---|
| Plaintiff(s), | ) | CASE NO.:_____ |
| | ) | |
| v. | ) | JUDGE:___ _____ |
| | ) | |
| Defendant(s). | ) | |

ORDER OF DISBURSEMENT

On_____, _____deposited $_____ with the Court pending the outcome of this action. This Court subsequently ordered the Clerk of Court to deposit said funds in interest-bearing Government Account Series securities via the Court Registry Investment System (CRIS) administered by the Administrative Office of the United States Courts.

Pursuant to this Court's Memorandum and opinion dated_____ the Clerk is hereby authorized and directed to withdraw the $_____ principal plus all interest accrued. The Clerk is further ordered to deduct a registry fee as a percentage of interest earned on the investment, not to exceed ten percent (10%), and disburse remaining funds to:

[Insert name and amount.]

**The address and tax identification number of the recipient(s) has been provided to the Court**.

_____
United States District Judge

**UNITED STATES DISTRICT COURT**
**Northern District of Ohio**

Plaintiff

v.

Defendant

CONSENT TO EXERCISE OF JURISDICTION
BY A UNITED STATES MAGISTRATE JUDGE
AND ORDER OF REFERENCE

Case Number:

**CONSENT TO EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of 28 U.S.C. 636(c) and Fed. R. Civ. P. 73, the parties in this case hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including the trial, and order the entry of a final judgment.

| Signatures | Party Represented | Date |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

## ORDER OF REFERENCE

IT IS HEREBY ORDERED that this case be referred to _____ United States Magistrate Judge, for all further proceedings and the entry of judgment in accordance with 28 U.S. C. 636(c), Fed.R.Civ.P. 73 and the foregoing consent of the parties.

*Date*

*United States District Judge*

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ***ONLY IF*** ALL PARTIES HAVE CONSENTED ***ON THIS FORM*** TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

# UNITED STATES DISTRICT COURT
# Northern District of Ohio

NOTICE & ORDER

Pursuant to 28 U.S.C. §636(c)(1) and LR 73.1, a Magistrate Judge of the Northern District of Ohio may, upon consent of all parties to an action, and entry of an order of reference by the Judge, exercise trial jurisdiction in civil actions, both jury and non-jury, and enter final judgment therein.

If all parties to this action consent and an order of reference is entered, the case will be assigned to a Magistrate Judge pursuant to LR 73.1. If all parties do not consent, or if an order of reference is not entered, the action will remain with the Judge to whom it is assigned. The decision of counsel on this matter of consent is entirely voluntary. Your response is joint, and disclosure of individual decisions is not required.

Pursuant to Local Civil Rule 73.1, Recusal, Resignation or Death of Magistrate Judge, where the parties have consented of the transfer of a civil case to a Magistrate Judge under section (a) above, if the Magistrate Judge thereafter recuses, resigns or dies, the case shall be returned to the District Court Judge. The Clerk shall immediately assign another Magistrate Judge by the random draw and notify the parties of such new assignment. Within ten (10) days after such notification by the Clerk, the parties shall indicate their consent, or lack thereof, to transferring the case to the newly-assigned Magistrate Judge under 28 U.S.C. §636(c). If the parties do not consent to the transfer, the case shall remain with the District Court Judge.

At the time the last appearance of counsel is made on behalf of the named defendant, the parties are to communicate with each other on this matter. ***It is the responsibility of plaintiff's counsel to initiate such consultation. The response is to be returned within ten (10) days of the last appearance.*** The response must contain the signatures of all counsel.

Pursuant to 28 U.S.C. §636(c)(3) all appeals relating to magistrate consent cases must be heard only in the court of appeals.

Please file the proposed consent electronically using the civil event "Notice". Parties representing themselves should sign and send form to the Clerk's Office. If an order of reference is entered by the Court, you will be advised by the Clerk as to which Magistrate Judge the has been assigned for further proceedings.

**Geri M. Smith,**
**Clerk of Court**

*(See form on the reverse side)*

United States District Court
Northern District of Ohio

# Non-Appeal Transcript Order

To Be Completed by Ordering Party

| | | | |
|---|---|---|---|
| Court Reporter | | Judicial Officer | |
| Requested by: | | Phone | |
| Case Name | | | |
| Case Number | | Date(s) of Proceedings | |
| Today's Date | | Requested Completion Date | |

**Financial Arrangements must Be Made with the Court Reporter Before Transcript Is Prepared. If the Method of Payment Is Authorized under CJA, Attach CJA Form 24 and Check Here**

| | | |
|---|---|---|
| Email Address | | |
| | | Signature of Ordering Party |

**Maximum Rate Per Page**

| **Transcript Type** | **Original** | **First Copy to each party** | **Each add'l Copy** |
|---|---|---|---|
| **Ordinary:** A transcript to be delivered within thirty (30) days after receipt of order. | $3.65 | $ 0.90 | $0.60 |
| **14-Day Transcript:** A transcript to be delivered within fourteen (14) calendar days after receipt of an order. | $4.25 | $ 0.90 | $0.60 |
| **Expedited:** A transcript to be delivered within seven (7) days after receipt of order. | $4.85 | $ 0.90 | $0.60 |
| **Daily:** A transcript to be delivered following adjournment and prior to the normal opening hour of the court on the following morning whether or not it actually is a court day. | $6.05 | $ 1.20 | $0.90 |
| **Hourly:** A transcript of proceedings ordered under unusual circumstances to be delivered within two (2) hours. | $7.25 | $ 1.20 | $0.90 |
| **Realtime Unedited Transcript**: a draft transcript produced by a Certified Realtime Reporter (CRR) as a byproduct of realtime to be delivered electronically during the proceedings or immediately following adjournment. | One feed, $3.05 per page; two to four feeds, $2.10 per page; five or more feeds, $1.50 per page. | | |

Local Civil Rule 80.1 of the Northern District of Ohio requires transcript requests to be addressed to the court reporter who took the proceeding and filed with the Clerk of Court. Please electronically file the form and the appropriate court reporter and court staff will receive notification of the filing.

GENERAL ORDER NO. 94-01

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

| | | |
|---|---|---|
| Motions Control Program | ) | |
| for the Northern District | ) | ORDER NO. 94-01 |
| of Ohio | ) | |

The Northern District of Ohio, pursuant to a vote of the majority of the judges of this Court and in response to the mandate of the Sixth Circuit Judicial Council adopted at its November 1, 1993 meeting in which it stated:

> As the minutes of the November 1, 1993 meeting of the Sixth Circuit Judicial Council indicate, the Council considered the summary report on motions and bench trials pending over six months for the semi-annual period ending September 30, 1993. In response to the figures contained in the summary report on motions, the following motion was adopted by majority vote of the Council:
>
> (1) that the Council establish a goal that no district judge should have more than 20 motions under advisement for more than six months by the end of the next semi-annual reporting period on March 31, 1994;
>
> (2) that in order to achieve the goal, the council should authorize the chief judge of each district to monitor the motions docket of each district judge within the district and to implement a motions control program to effectively manage the motions docket; and

(3) that each chief district judge should report to the council by June 30, 1994 on steps taken to implement the motions control program and to achieve the goal.

The Court hereby adopts the following plan to achieve the goal.

1. The clerk of this Court is directed to supply each judge with respect to his or her docket by the 10th day of the month, a list of all cases on that judge's docket in which dispositive and non-dispositive motions have been "pending"[1] 30 days after the date of filing as of the last day of the preceding month. The list shall state the number of days the motion has been pending. In the event the judge disagrees with the accuracy of the report, the courtroom deputy clerk shall provide the docket clerk supervisor with written notice of the discrepancy. The lists provided to each judge and magistrate judge shall also be provided to the chief judge.

2. The list shall identify those cases with dispositive and non-dispositive motions pending for more than 30 days that have been referred to a magistrate judge and shall identify the magistrate judge.

3. In those cases where a dispositive motion has been pending in excess of 120 days, the judge or magistrate judge to whom the case is assigned shall provide the chief judge of this Court a written report by the 15th day of the month indicating the status of the case with an estimate of when the judge or magistrate judge expects to resolve the motion by

---

[1] For Civil Justice Reform Act reporting purposes, "pending" is defined as "30 days after the date of filing."

either a dispositive ruling or, in the case of a magistrate judge to whom the case has been referred for a Report and Recommendation, when the R & R will be filed.

4. The judge shall also advise the chief judge whether he or she needs assistance due to other demands of the Court's docket or for any other just reason.

5. In those cases where a judge or magistrate judge certifies that he or she needs assistance, the chief judge shall first determine if another judge or magistrate judge of this district has the time and energy to assist the certifying judge or magistrate judge. In the event the chief judge is unable to find another judge or magistrate judge to assist the certifying judicial officer, the chief judge shall notify the chief judge of the Circuit and request the assignment of a judge or judges to assist the certifying judge.

6. In the event the above procedures for providing District or Circuit assistance fails to achieve compliance with the Circuit Council resolution, the chief judge, upon concurrence of a majority of the judges of the Court, shall reassign such number of motions and/or cases from the docket of the judge as may be necessary to achieve compliance with the Circuit Council resolution.

7. In order to expedite the resolution of dispositive motions, the following procedures shall apply:

A. <u>Dispositive Motion Practice Involving Oral Argument</u>

In those cases in which a summary judgment motion has

been pending for more than 90 days, the judge or magistrate judge shall consider scheduling the case for oral argument within the next 30 days. When oral argument is scheduled, and unless otherwise ordered, the following procedure shall apply:

(i) The clerk will notify counsel of record as to the date for the oral argument.

(ii) The moving party shall file a certificate at least five working days before the hearing declaring that there is no genuine issue as to any material fact. Failure to file the certificate will constitute just cause for denying the motion.

(iii) The party opposing the motion for summary judgment shall file a certificate within three working days of the oral hearing identifying the genuine issues as to any material fact and identify the documents in the record in the context of Fed. R. Civ. P. 56(e) that support the claim of a material fact in dispute.

(iv) In those cases where the parties agree that there is no genuine issue as to any material fact, but rather that the issue is one of law on the undisputed facts, the parties shall file a certificate summarizing the undisputed facts and identify the questions of law. That certificate shall be filed at least three working days before the scheduled hearing. Failure to comply with the

provisions of paragraph seven of this order will be deemed sanctionable at the discretion of the Court.

B. Dispositive Motion Memoranda Page Limits As Established by Local Rule 8:8.1(f).

(i) In recognition of the increasing tendency of the parties to file briefs in support of and in opposition to dispositive motions that exceed the page limits established by Local Rule 8:8.1(f), every memoranda related to a dispositive motion shall be accompanied by an affidavit specifying the track, if any, to which the case has been assigned and a statement certifying that the memoranda adheres to the page limitations set forth in Local Rule 8:8.1(f). In the event that the page limitations have been modified by order of the judicial officer, a statement to that effect shall be included in the affidavit along with a statement that the memoranda complies with those modifications. Failure to comply with these provisions may be sanctionable at the discretion of the Court.

C. The Duty of the Court Reporter to File a Transcript of the Court's Oral Ruling Resolving a Dispositive Motion.

(i) The Court recognizes that an impediment to a prompt resolution of dispositive motions is the preference of the judges of the Sixth Circuit for a written opinion that sets forth the Court's

reasoning when it grants the dispositive motion so as to assist in appellate review. The Court also recognizes that a written opinion where the motion is denied is of assistance to the parties. However, the Northern District of Ohio is faced with a judicial emergency that has lasted for approximately 18 months in that there are only seven active judges in the Northern District of Ohio despite the Congressional mandate for 12 active judges.

(ii) In order to expedite the resolution of dispositive motions, the Court has previously adopted Local Rule 8:8.1 and Local Rule 8:8.3(a) which provides a streamlined approach to oral hearings by permitting the judicial officer to announce a preliminary ruling and rationale or grounds for such a decision and limiting the oral argument to the reasons why the preliminary ruling is correct or incorrect. Whenever the Court announces a decision on such a motion from the bench, a brief order or marginal entry shall issue. The court reporter is directed to prepare and file a transcript of the Court's announcement of its oral decision within 30 days of the decision.

(iii) The clerk is directed to monitor the production of transcripts and report to the chief judge those cases where the assigned court reporter has failed

to prepare and file the transcript within 30 days.

IT IS SO ORDERED.

FOR THE COURT

Thomas D. Lambros
Chief Judge
United States District Court

AMENDED GENERAL ORDER NO. 94-01

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

| | | |
|---|---|---|
| Amended-Motions Control Program for the Northern District of Ohio | ) ) ) | ORDER NO. 94-01 |

At the regular monthly meeting of judges on December 6, 1994, it was agreed that Administrative Order 94-01 is amended to the extent that the clerk is now required to compile the list of cases in which motions have been pending 30 days or longer on a quarterly, rather than a monthly, basis. This action was taken in recognition of the reduction in the number of long pending motions achieved in this district during the past year and in order to reduce the demands on computer resources and to avoid duplication of effort in monitoring the status of pending motions.

IT IS SO ORDERED.

FOR THE COURT

Thomas D. Lambros
Chief Judge
United States District Court

**SECOND AMENDED GENERAL ORDER NO. 94-01**

**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF OHIO**

| | | |
|---|---|---|
| MOTIONS CONTROL PROGRAM<br>FOR THE NORTHERN DISTRICT<br>OF OHIO | )<br>)<br>) | SECOND AMENDED<br>GENERAL ORDER NO. 94-01 |

The Motions Control Program for the Northern District of Ohio was adopted in response to the mandate of the Sixth Circuit Judicial Council to manage the pending motions docket.

Amended General Order No. 94-01, requires the Clerk to compile a list of cases in which motions have been pending 30 days or longer on a quarterly basis, reducing the frequency from a monthly basis as required in General Order No. 94-01. This reduction was taken in recognition of the reduction in the number of long pending motions as well as to reduce the demands on computer resources and to avoid duplication of effort in monitoring the status of pending motions. In light of the continuing reduction in the number of long pending motions, effective immediately, the Clerk's Office is no longer required to produce the quarterly pending motions report.

IT IS SO ORDERED.

For the Court

George W. White
Chief Judge
United States District Court

**LR - Appendix I**

**UNITED STATES DISTRICT COURT**
**NORTHERN DISTRICT OF OHIO**

| | | |
|---|---|---|
| | ) | |
| | ) | |
| | ) | Case No. |
| v. | ) | |
| | ) | Corporate Disclosure Statement |
| | ) | in a Civil Case |
| | ) | |

Pursuant to the Corporate Disclosure Statement provisions in Local Civil Rule 3.13(c): Any non-governmental corporate party to a case must file a corporate disclosure statement identifying the following: (a) Any parent, subsidiary, or affiliate corporation; (b) Any publicly held corporation that owns 10% or more of the party's stock; and (c) Any publicly held corporation or its affiliate that has a substantial financial interest in the outcome of the case by reason of insurance, a franchise agreement or indemnity agreement. A corporation is an affiliate for purposes of this rule if it controls, is under the control of, or is under common control with a publicly owned corporation. A party must file the statement upon the filing of a complaint, answer, motion, response, or other pleading in this Court, whichever occurs first. The obligation to report any changes in the information originally disclosed continues throughout the pendency of the case.

In compliance with those provisions, this Corporate Disclosure Statement is filed on behalf of:

_____.

1. Is said party a parent, subsidiary or other affiliate of a publicly owned corporation?
_____ Yes _____ No.

If the answer is Yes, list below the identity of the parent, subsidiary or other affiliate corporation and the relationship between it and the named party:

2. Is there a publicly owned corporation, not a party to the case, that has a financial interest in the outcome? _____ Yes _____ No.

If the answer is Yes, list the identity of such corporation and the nature of the financial interest:

_____ _____
(Signature of Counsel) (Date)

# NORTHERN DISTRICT OF OHIO
# PRO BONO CIVIL CASE PROTOCOL

A. The Court encourages members of the bar of the Northern District of Ohio to represent parties in civil actions who the presiding judicial officer determines cannot afford legal counsel. To further this policy, the Court has adopted a plan for expense reimbursement as set forth below.

B. Upon a judicial officer's request, a case shall be referred to the Clerk's Office for the appointment of legal counsel. The Clerk's Office shall select an attorney with experience in the subject matter of the case from the list of volunteer attorneys and shall provide the name of the attorney to the judicial officer who will check for any conflicts of interest. If there are no conflicts, the Clerk's Office will contact the attorney to determine if the attorney is available and to ensure the attorney has no conflicts of interest with the parties. The Clerk's Office will also provide the attorney with the docket and filings. If the attorney is available, the Clerk's Office will notify the judicial officer and the attorney will be assigned the case.

C. Applications for reimbursement of pro bono expenses shall be submitted to the Clerk every six months for review and recommendation by the judicial officer to whom the case was assigned. Forms requesting reimbursement (attached) are available at Clerk Office locations in the District or on line.

D. The Fund may not be used to reimburse expenses associated with the evaluation, preparation and presentation of an appeal to the United States Court of Appeals or the United States Supreme Court. A lawyer's responsibility to a client continues through the entry of judgment and the filing of a notice of appeal if the client wishes to appeal.

E. The maximum amount that may be disbursed from the Fund in any case is One Thousand

Five Hundred Dollars ($1,500.00). Requests for reimbursement beyond that amount must be accompanied by an explanation and must be approved by the Chief Judge. All requests for reimbursement must be accompanied by proof that the expenses were actually incurred.

F. Reimbursement is limited to the following allowable expenses:

1. Mileage and Travel. Mileage at the current rate authorized for federal employees as well as out-of-pocket expenses for other travel expenses (airfare, taxis, etc.).

2. Photocopies and Telephone Calls. Out-of-pocket expenses incurred for photocopying or photographs used in the case and long distance calls necessary to the preparation of the case. Copy costs may not exceed 15 cents per page.

3. Depositions and Transcripts. Court reporter attendance fees for depositions of essential witnesses and transcription fees for such depositions. Transcript costs may not exceed the page rate for ordinary transcripts established in the District.

4. Investigative or Expert Services. Investigative or expert services which are necessary to the preparation of the case if approved in advance by the judicial officer to whom the case is assigned.

5. Service of Process Fees. Fees for service of papers and the appearance of lay witnesses at depositions and their mileage fees.

6. Interpreter Services. The cost of interpreter services if approved in advance by the judicial officer to whom the case is assigned.

7. Expert Fees. The cost of expert fees if approved in advance by the judicial officer to whom the case is assigned.

8. Computerized Legal Research. Fees charged by third-party vendors for computerized legal research. Costs associated with access to the Internet or maintenance of

computers are not allowable.

G. Request for final reimbursement from the Fund must be filed within thirty(30) days of entry of judgment. If the lawyer has withdrawn or been dismissed prior to the entry of judgment, the request must be filed within thirty (30) days of withdrawal or dismissal.

H. Amounts reimbursed must be repaid to the Fund, in whole or in part, if the case is settled with the payment of money, if fees and costs are awarded under 42 U.S.C. §1988 or any other fee-shifting statute, or if the party is awarded monetary damages. The amount of the reimbursement shall be determined by the presiding judicial officer.

**LR - APPENDIX K**

UNITED STATES DISTICT COURT
NORTHERN DISTRICT OF OHIO

DEFAULT STANDARD FOR DISCOVERY OF
ELECTRONICALLY STORED INFORMATION ("E-DISCOVERY")

**1. Introduction.** The court expects the parties to cooperatively reach agreement on how to conduct e-discovery. In the event that such agreement has not been reached by the time of the Fed. R. Civ. P. 16 scheduling conference, the following default standards shall apply until such time, if ever, the parties reach agreement and conduct e-discovery on a consensual basis.

**2. Discovery conference.** Parties shall discuss the parameters of their anticipated e-discovery at the Fed. R. Civ. P. 26(f) conference, as well as at the Fed. R. Civ. P. 16 scheduling conference with the court, consistent with the concerns outlined below.

Prior to the Rule 26(f) conference, the parties shall exchange the following information:

a. A list of the most likely custodians of relevant electronically stored information ("identified custodians"), including a brief description of each person's title and responsibilities (see ¶ 7).

b. A list of each relevant electronic system that has been in place at all relevant times[1] and a general description of each system, including the nature, scope, character, organization, and formats employed in each system. The parties should also include other pertinent information about their electronically stored information and whether that electronically stored information is of limited accessibility. Electronically stored information of limited accessibility may include those created or used by electronic media no longer in use, maintained in redundant electronic storage media, or for which retrieval involves substantial cost.

c. The name of the individual designated by a party as being most knowledgeable regarding that party's electronic document retention policies ("the retention coordinator"), as well as a general description of the party's electronic document

[1] For instance, in a patent case, the relevant times for a patent holder may not only be the time of the alleged infringement, but may also be the date the patent(s) issued or the effective filing date of each patent in suit.

retention policies for the systems identified above (see ¶ 6).

d. The name of the individual who shall serve as that party's "e-discovery coordinator" (see ¶ 3).

e. Provide notice of any problems reasonably anticipated to arise in connection with e-discovery.

To the extent that the state of the pleadings does not permit a meaningful discussion of the above by the time of the Rule 26(f) conference, the parties shall either agree on a date by which this information will be mutually exchanged or submit the issue for resolution by the court at the Rule 16 scheduling conference.

**3.** **E-discovery coordinator.** In order to promote communication and cooperation between the parties, each party to a case shall designate a single individual through which all e-discovery requests and responses are coordinated ("the e-discovery coordinator"). Regardless of whether the e-discovery coordinator is an attorney (in-house or outside counsel), a third party consultant, or an employee of the party, he or she must be:

a. Familiar with the party's electronic systems and capabilities in order to explain these systems and answer relevant questions.

b. Knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues.

c. Prepared to participate in e-discovery dispute resolutions.

The Court notes that, at all times, the attorneys of record shall be responsible for responding to e-discovery requests. However, the e-discovery coordinators shall be responsible for organizing each party's e-discovery efforts to insure consistency and thoroughness and, generally, to facilitate the e-discovery process. The ultimate responsibility for complying with e-discovery requests rests on the parties. Fed. R. Civ. P. 37(f).

**4.** **Timing of e-discovery.** Discovery of relevant electronically stored information shall proceed in a sequenced fashion.

a. After receiving requests for document production, the parties shall search their documents, other than those identified as limited accessibility electronically stored information, and produce relevant responsive electronically stored information in accordance with Fed. R. Civ. P. 26(b)(2).

b. Electronic searches of documents identified as of limited accessibility shall not be conducted until the initial electronic document search has been completed. Requests for information expected to be found in limited accessibility documents must be narrowly focused with some basis in fact supporting the request.

c. On-site inspections of electronic media under Fed. R. Civ. P. 34(b) shall not be permitted absent exceptional circumstances, where good cause and specific need have been demonstrated.

**5.** **<u>Search methodology</u>.** If the parties intend to employ an electronic search to locate relevant electronically stored information, the parties shall disclose any restrictions as to scope and method which might affect their ability to conduct a complete electronic search of the electronically stored information. The parties shall reach agreement as to the method of searching, and the words, terms, and phrases to be searched with the assistance of the respective e-discovery coordinators, who are charged with familiarity with the parties' respective systems. The parties also shall reach agreement as to the timing and conditions of any additional searches which may become necessary in the normal course of discovery. To minimize the expense, the parties may consider limiting the scope of the electronic search (*e.g.*, time frames, fields, document types).

**6.** **<u>Format</u>.** If, during the course of the Rule 26(f) conference, the parties cannot agree to the format for document production, electronically stored information shall be produced to the requesting party as image files (*e.g.*, PDF or TIFF). When the image file is produced, the producing party must preserve the integrity of the electronic document's contents, *i.e.*, the original formatting of the document, its metadata and, where applicable, its revision history. After initial production in image file form at is complete, a party must demonstrate particularized need for production of electronically stored information in their native format.

**7.** **<u>Retention</u>.** Within the first thirty (30) days of discovery, the parties should work toward an agreement (akin to the standard protective order) that outlines the steps each party shall take to segregate and preserve the integrity of all relevant electronically stored information. In order to avoid later accusations of spoliation, a Fed. R. Civ. P. 30(b)(6) deposition of each party's retention coordinator may be appropriate.

The retention coordinators shall:

a. Take steps to ensure that relevant e-mail of identified custodians shall not be permanently deleted in the ordinary course of business and that relevant electronically stored information maintained by the individual custodians shall not be altered.

b. Provide notice as to the criteria used for spam and/or virus filtering of e-mail and attachments; e-mails and attachments filtered out by such systems shall be deemed non-responsive so long as the criteria underlying the filtering are reasonable.

Within seven (7) days of identifying the relevant document custodians, the retention coordinators shall implement the above procedures and each party's counsel shall file a statement of compliance as such with the court.

**8.** **Privilege.** Electronically stored information that contains privileged information or attorney-work product shall be immediately returned if the documents appear on their face to have been inadvertently produced or if there is notice of the inadvertent production within thirty (30) days of such. In all other circumstances, Fed. R. Civ. P. 26(b)(5)(B) shall apply.

**9.** **Costs.** Generally, the costs of discovery shall be borne by each party. However, the court will apportion the costs of electronic discovery upon a showing of good cause.

# FORM PROTECTIVE ORDER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

| | | |
|---|---|---|
| | ) | |
| | ) | CASE NO. |
| Plaintiff | ) | |
| | ) | |
| v. | ) | |
| | ) | [STIPULATED][1] PROTECTIVE ORDER |
| | ) | |
| Defendant ) | | |

**[if by stipulation]** The parties to this Stipulated Protective Order have agreed to the terms of this Order; accordingly, it is ORDERED:

**[if not fully by stipulation]** A party to this action has moved that the Court enter a protective order. The Court has determined that the terms set forth herein are appropriate to protect the respective interests of the parties, the public, and the Court. Accordingly, it is ORDERED:

**1. Scope.** All documents produced in the course of discovery, including initial disclosures, all responses to discovery requests, all deposition testimony and exhibits, other materials which may be subject to restrictions on disclosure for good cause and information derived directly therefrom (hereinafter collectively "documents"), shall be subject to this Order concerning confidential information as set forth below. As there is a presumption in favor of open and public judicial proceedings in the federal courts, this Order shall be strictly construed

[1] Counsel should include or delete language in brackets as necessary to the specific case.

in favor of public disclosure and open proceedings wherever possible. The Order is also subject to the Local Rules of this District and the Federal Rules of Civil Procedure on matters of procedure and calculation of time periods.

**2. Form and Timing of Designation.** A party may designate documents as confidential and restricted in disclosure under this Order by placing or affixing the words "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" on the document in a manner that will not interfere with the legibility of the document and that will permit complete removal of the CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER designation. Documents shall be designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER prior to or at the time of the production or disclosure of the documents. The designation "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" does not mean that the document has any status or protection by statute or otherwise except to the extent and for the purposes of this Order.

**3. Documents Which May be Designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER.** Any party may designate documents as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER upon making a good faith determination that the documents contain information protected from disclosure by statute or that should be protected from disclosure as confidential personal information, medical or psychiatric information, trade secrets, personnel records, or such other sensitive commercial information that is not publicly available. Public records and other information or documents that are publicly available may not be designated as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER.

**4. Depositions.** Deposition testimony shall be deemed CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER only if designated as such. Such designation shall be specific as to

the portions of the transcript or any exhibit to be designated as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER. Thereafter, the deposition transcripts and any those portions so designated shall be protected as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER, pending objection, under the terms of this Order.

**5. Protection of Confidential Material.**

**(a) General Protections.** Documents designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER under this Order shall not be used or disclosed by the parties, counsel for the parties or any other persons identified in ¶ 5(b) for any purpose whatsoever other than to prepare for and to conduct discovery and trial in this action [adversary proceeding],including any appeal thereof.

**(b) Limited Third-Party Disclosures.** The parties and counsel for the parties shall not disclose or permit the disclosure of any CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER documents to any third person or entity except as set forth in subparagraphs (1)-(5). Subject to these requirements, the following categories of persons may be allowed to review documents that have been designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER:

**(1) Counsel.** Counsel for the parties and employees and agents of counsel who have responsibility for the preparation and trial of the action;

**(2) Parties.** Parties and employees of a party to this Order.[2]

[2] **NOTE:** If the CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER documents contain highly sensitive trade secrets or other highly sensitive competitive or confidential information and disclosure to another party would result in demonstrable harm to the disclosing party, then the parties may stipulate or move for the establishment of an additional category of protection that prohibits disclosure of such documents or information to category (2) or that limits disclosure only

**(3) Court Reporters and Recorders.** Court reporters and recorders engaged for depositions;

**(4) Consultants, Investigators and Experts.** Consultants, investigators, or experts (hereinafter referred to collectively as "experts") employed by the parties or counsel for the parties to assist in the preparation and trial of this action or proceeding, but only after such persons have completed the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound; and

**(5) Others by Consent.** Other persons only by written consent of the producing party or upon order of the Court and on such conditions as may be agreed or ordered. All such persons shall execute the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound.

**(c) Control of Documents.** Counsel for the parties shall take reasonable and appropriate measures to prevent unauthorized disclosure of documents designated as CONFIDENTIAL pursuant to the terms of this Order. Counsel shall maintain the originals of the forms signed by persons acknowledging their obligations under this Order for a period of 1 year after dismissal of the action, the entry of final judgment and/or the conclusion of any appeals arising therefrom.

**(d) Copies.** Prior to production to another party, all copies, electronic images, duplicates, extracts, summaries or descriptions (hereinafter referred to collectively as

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to specifically designated in-house counsel or party representative(s) whose assistance is reasonably necessary to the conduct of the litigation and who agree to be bound by the terms of the order.

"copies") of documents designated as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER under this Order, or any individual portion of such a document, shall be affixed with the designation "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" if the word does not already appear on the copy. All such copies shall thereafter be entitled to the protection of this Order. The term "copies" shall not include indices, electronic databases or lists of documents provided these indices, electronic databases or lists do not contain substantial portions or images of the text of confidential documents or otherwise disclose the substance of the confidential information contained in those documents.

**(e) Inadvertent Production.** Inadvertent production of any document or information without a designation of "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER" shall be governed by Fed. R. Evid. 502.

**6. Filing of CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER Documents Under Seal.** The Court highly discourages the manual filing of any pleadings or documents under seal. To the extent that a brief, memorandum or pleading references any document marked as CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER, then the brief, memorandum or pleading shall refer the Court to the particular exhibit filed under seal without disclosing the contents of any confidential information

**(a)** Before any document marked as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER is filed under seal with the Clerk, the filing party shall first consult with the party that originally designated the document as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER to determine whether, with the consent of that

party, the document or a redacted version of the document may be filed with the Court not under seal.

**(b)** Where agreement is not possible or adequate, before a CONFIDENTIAL –SUBJECT TO PROTECTIVE ORDER document is filed with the Clerk, it shall be placed in a sealed envelope marked "CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER DOCUMENTS", displaying the case name, docket number, a designation of what the document is, the name of the party in whose behalf it is submitted, and name of the attorney who has filed the documents on the front of the envelope. A copy of any document filed under seal shall also be delivered to the judicial officer's chambers.

**(c)** To the extent that it is necessary for a party to discuss the contents of any confidential information in a written pleading, then such portion of the pleading may be filed under seal with leave of Court. In such circumstances, counsel shall prepare two versions of the pleadings, a public and a confidential version. The public version shall contain a redaction of references to CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER documents. The confidential version shall be a full and complete version of the pleading and shall be filed with the Clerk under seal as above. A copy of the unredacted pleading also shall be delivered to the judicial officer's chambers.

**(d)** If the Court or a particular judicial officer has developed an alternative method for the electronic filing of documents under seal, then the parties shall follow this alternative method and shall not file any documents or pleadings manually with the Clerk of Court.

**7. Challenges by a Party to Designation as Confidential.** Any CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER designation is subject to challenge by any party or non-party with standing to object (hereafter "party"). Before filing any motions or objections to a confidentiality designation with the Court, the objecting party shall have an obligation to meet and confer in a good faith effort to resolve the objection by agreement. If agreement is reached confirming or waiving the CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER designation as to any documents subject to the objection, the designating party shall serve on all parties a notice specifying the documents and the nature of the agreement.

**8. Action by the Court.** Applications to the Court for an order relating to any documents designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER shall be by motion under Local Rule 7.1 and any other procedures set forth in the presiding judge's standing orders or other relevant orders. Nothing in this Order or any action or agreement of a party under this Order limits the Court's power to make any orders that may be appropriate with respect to the use and disclosure of any documents produced or use in discovery or at trial.

**9. Use of Confidential Documents or Information at Trial.** All trials are open to the public. Absent order of the Court, there will be no restrictions on the use of any document that may be introduced by any party during the trial. If a party intends to present at trial CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER documents or information derived therefrom, such party shall provide advance notice to the other party at least five (5) days before the commencement of trial by identifying the documents or information at issue as specifically as possible (i.e., by Bates number, page range, deposition transcript lines, etc.) without divulging the actual CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER documents or

information.. The Court may thereafter make such orders as are necessary to govern the use of such documents or information at trial.

**10. Obligations on Conclusion of Litigation.**

**(a) Order Remains in Effect.** Unless otherwise agreed or ordered, this Order shall remain in force after dismissal or entry of final judgment not subject to further appeal.

**(b) Return of CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER Documents.** Within thirty days after dismissal or entry of final judgment not subject to further appeal, all documents treated as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER under this Order, including copies as defined in ¶ 5(d), shall be returned to the producing party unless: (1) the document has been offered into evidence or filed without restriction as to disclosure; (2) the parties agree to destruction in lieu of return; or (3) as to documents bearing the notations, summations, or other mental impressions of the receiving party, that party elects to destroy the documents and certifies to the producing party that it has done so. Notwithstanding the above requirements to return or destroy documents, counsel may retain attorney work product, including an index which refers or relates to information designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER, so long as that work product does not duplicate verbatim substantial portions of the text or images of confidential documents. This work product shall continue to be CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER under this Order. An attorney may use his or her work product in a subsequent litigation provided that its use does not disclose or use CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER documents.

**(c) Return of Documents Filed under Seal.** After dismissal or entry of final judgment not subject to further appeal, the Clerk may elect to return to counsel for the parties or, after notice, destroy documents filed or offered at trial under seal or otherwise restricted by the Court as to disclosure.

**11. Order Subject to Modification.** This Order shall be subject to modification by the Court on its own motion or on motion of a party or any other person with standing concerning the subject matter. Motions to modify this Order shall be served and filed under Local Rule 7.1 and the presiding judge's standing orders or other relevant orders.

**12. No Prior Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating discovery. Nothing herein shall be construed or presented as a judicial determination that any documents or information designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER by counsel or the parties is subject to protection under Rule 26(c) of the Federal Rules of Civil Procedure or otherwise until such time as the Court may rule on a specific document or issue.

**13. Persons Bound.** This Order shall take effect when entered and shall be binding upon all counsel and their law firms, the parties, and persons made subject to this Order by its terms.

***So Ordered.***

Dated:

_____

U.S. District Judge
U.S. Magistrate Judge
U.S. Bankruptcy Judge

**[Delete signature blocks if not wholly by consent]**

**WE SO MOVE/STIPULATE** **WE SO MOVE/STIPULATE**

**and agree to abide by the terms of this Order**

_____
Signature

Counsel for:_____

Dated:

**and agree to abide by the terms of this Order**

_____
Signature

Counsel for:_____

Dated:

**FORM PROTECTIVE ORDER**
**ATTACHMENT A**

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

| | | |
|---|---|---|
| | ) | |
| | ) | Civil No. |
| Plaintiff | ) | |
| | ) | |
| | ) | |
| | ) | |
| Defendant ) | | |

**ACKNOWLEDGMENT**
**AND**
**AGREEMENT TO BE BOUND**

The undersigned hereby acknowledges that he/she has read the Protective Order dated _____ in the above-captioned action and attached hereto, understands the terms thereof, and agrees to be bound by its terms. The undersigned submits to the jurisdiction of the United States District Court for the Northern District of Ohio in matters relating to the Protective Order and understands that the terms of the Protective Order obligate him/her to use documents designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER in accordance with the Order solely for the purposes of the above-captioned action, and not to disclose any such documents or information derived directly therefrom to any other person, firm or concern.

The undersigned acknowledges that violation of the Protective Order may result in penalties for contempt of court.

Name: _____

Job Title: _____

Employer: _____

Business Address: _____

_____

_____

Date:_____ _____
Signature