IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

Honorable G. Patrick Murphy
Chief District Judge
United States District Court
East St. Louis, Illinois

Honorable J. Phil Gilbert
District Judge
United States District Court
Benton, Illinois

Honorable David R. Herndon
District Judge
United States District Court
East St. Louis, Illinois

Honorable Michael J. Reagan
District Judge
United States District Court
East St. Louis, Illinois

Honorable James L. Foreman
District Judge
United States District Court
Benton, Illinois

Honorable William L. Beatty
District Judge
United States District Court
East St. Louis, Illinois

Honorable William D. Stiehl
District Judge
United States District Court
East St. Louis, Illinois

Honorable Gerald B. Cohn
Magistrate Judge
United States District Court
East St. Louis, Illinois

Honorable Philip M. Frazier
Magistrate Judge
United States District Court
Benton, Illinois

Honorable Clifford J. Proud
Magistrate Judge
United States District Court
East St. Louis, Illinois

Norbert G. Jaworski
Clerk, United States District Court
East St. Louis, Illinois

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TIMETABLE AND DEADLINES UNDER NEW FEDERAL RULES AND CIVIL JUSTICE REFORM ACT	
Service of Complaint	Within 120 days after complaint filed. [Fed. R. Civ. P. 4(m)]
Answer	Within 20 days after actual service of summons and complaint; OR Within 60 days if service has been waived (90 days if defendant was addressed outside any judicial district of the U.S.) [Fed. R. Civ. P. 12(a)(1)]
Initial Disclosures	Within 20 days after first appearance of a defendant. [Local R. 26.1(a)(2)]
Initial Meeting of the Parties	Within 21 days after first appearance of a defendant and at least 14 days before scheduling conference. [Local R. 16.2(b)]
Report of the Parties	Within 7 days after the initial meeting. [Local R. 16.2(b)]
Scheduling Conference	Within 40 days after first appearance of a defendant. [Local R. 16.2(c)]
Discovery Cutoff	No later than 90 days before first day of presumptive trial month.
Notice of Motion Deadline (only when Local Rule 7.1(g) is applicable)	No later than 75 days before first day of presumptive trial month.
Dispositive Motion and Completed Motion Packet Deadline (See Local Rule 7.1(g))	No later than 45 days before first day of presumptive trial month.
Settlement Conference	No later than 60 days before the final pre-trial conference. [Local R. 16.3(b)]
Final Pre-trial Conference	No less than 7 days before presumptive trial date. [Local R. 16.2(d)]
Presumptive Trial Month	Track A: 8 to 10 months after first appearance of a defendant or default date. Track B: 11 to 14 months after first appearance of a defendant or default date. Track C: 15 to 18 months after first appearance of a defendant or default date. [Local R. 16.1(a)]

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF ILLINOIS

RULES

RULE 1.1 SCOPE OF RULES

(a) These rules shall be known as the Local Rules of the United States District Court for the Southern District of Illinois.

(b) These rules became effective on January 1, 2000.

(c) These rules shall apply in all proceedings in all of the Courts in this district.

(d) These rules supersede all previous rules and orders promulgated by this Court or any judge of this Court, and shall apply to all cases pending at the time these rules become effective regardless of when the case was filed.

RULE 3.1 PAYMENT OF FEES AND COSTS; *IN FORMA PAUPERIS*
(See 28 U.S.C. §§1911, 1915, 2254)

(a) Advance Payment of Fees

Except as may now or hereafter be required or permitted by law, by direction of the Judicial Conference of the United States, or by special order of the Court in exceptional circumstances, all fees, including those fees required by 28 U.S.C. §1914, shall be paid to the Clerk of this Court in advance of filing the document or documents involved.

(b) *In Forma Pauperis*

A petitioner or plaintiff who wishes to seek leave to file *in forma pauperis* under 28 U.S.C. §1915 shall submit an affidavit which sets forth information to establish that he or she is unable to pay the fees and costs, shall sign and verify an oath or affirmation, and shall answer such other or additional questions concerning his or her financial status as the Court may require. An example of such an affidavit is contained in the Appendix of Forms to the Rules Governing Section 2254 Cases in the United States District Courts in the **Model Form For Use in Applications for Habeas Corpus Under 28 U.S.C. §2254**. A blank copy of this affidavit as well as a form motion to proceed *in forma pauperis* may be obtained by sending a written request to the Clerk of Court at either the East St. Louis or Benton address listed in Local Rule 8.1. **A petitioner or plaintiff in custody must also submit a certified copy of his or her prison trust fund account statement for the six-month period preceding the filing of the complaint.**

All petitioners and plaintiffs are under a continuing obligation to keep the Clerk of the Court and each opposing party informed of any change in his or her location. This shall be done in writing and not later than seven (7) days after a transfer or other change in address occurs.

(c) Payment of Costs and Court Order Waiving Costs

(1) At the time application is made under 28 U.S.C. §1915 for leave to commence any civil action without being required to prepay fees and costs or give security for the same, the applicant and his or her attorneys will be deemed to have entered into a stipulation that the recovery, if any, secured in the action shall be paid to the Clerk of this Court, who shall pay therefrom all unpaid costs taxed against the plaintiff and remit the balance to the plaintiff. If notice is filed with the Clerk that an attorney's contingent fee contract has been entered into by plaintiff, the balance shall be paid to the plaintiff and his or her attorneys in accordance with the order of the Court.

(2) Any person seeking leave to proceed *in forma pauperis* shall submit sufficient copies of the complaint to effect service upon all defendants. The original of the complaint shall be retained by the Clerk of the Court for use by the Court. Upon good cause shown, this paragraph of the Local Rules may be waived by the Court at the time leave to proceed *in forma pauperis* is granted.

RULE 5.1 FILING: FORM AND STYLE
(See Fed.R.Civ.P. 5)

(a) General Format of Papers Presented for Filing

All pleadings, motions, documents, and other papers presented for filing shall be on 8½" x 11" 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.

This Rule does not apply to: (1) exhibits submitted for filing and (2) documents filed in removed actions prior to removal from the state courts.

(b) Place of Filing

If a pleading/document is not filed in the Clerk's Office where the proceeding is pending, counsel shall notify the Clerk of any emergency which would require the immediate transmittal of said documents to the appropriate divisional office.

(c) Facsimile or Electronic Filing

All pleadings, motions, and other papers shall be filed in person or via mail. Facsimile or electronic filing is not authorized.

RULE 7.1 MOTION PRACTICE
(See Fed.R.Civ.P. 7, 56, 78)

(a) All motions shall state with particularity the grounds therefor and shall set forth the relief or order sought. All motions shall be accompanied by a proposed order on a separate sheet of paper with the full style of the case.

(b) Each motion shall include or have attached to it a certification that a copy has been properly served upon each necessary party to such action as required by the Federal Rules of Civil Procedure and the Rules of Criminal Procedure.

(c) Motions to dismiss, for judgment on the pleadings, for summary judgment, and all post-trial motions shall be supported by a separate brief filed with the motion. Failure to file a brief with the motion constitutes grounds for denial of the motion. All briefs shall contain a short, concise statement of the party's position, together with citations of authority, if any. No brief shall be submitted which is longer than ten (10) double-spaced typewritten pages without special leave of the Court. An adverse party shall have ten (10) days after the service of the movant's brief in which to serve and file an answering brief. Failure to timely file an answering brief to a motion may, in the Court's discretion, be considered an admission of the merits of the motion. Reply briefs, if any, shall be filed within five (5) days of the filing of an answering brief. Reply briefs are not favored and should be filed only in exceptional circumstances. Under no circumstances will sur-reply briefs be accepted. Each party shall serve a copy of his or her brief upon the adverse party and file proof of such service at the time of the filing of his or her brief. **(When all parties are represented by counsel, see Rule 7.1(g) and (h) below regarding motions for summary judgment and for judgment on the pleadings.)**

(d) Any party opposing a motion for summary judgment shall, within ten (10) days from service of the motion, serve and file any affidavits or documentary material designated pursuant to Federal Rule of Civil Procedure 56 controverting the movant's position, together with an answering brief containing a concise statement of the genuine issues, setting forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated. **(When all parties are represented by counsel, see Rule 7.1(g) and (h) below regarding motions for summary judgment and for judgment on the pleadings.)**

(e) For all motions other than those listed in subsection (c) above, a supporting brief is not required. A party opposing such a motion shall have ten (10) days after service of the motion to file a written response. Failure to file a timely response to the motion may, in the Court's discretion, be considered an admission of the merits of the motion. A reply, if any, shall be filed within five (5) days of the filing of the response.

(f) Oral argument on motions in civil cases will be set only if ordered by the judicial officer to whom the motion is referred. If an oral argument is set, the judicial officer may, at the request of one of the parties, authorize a telephone hearing.

(g) **Motions for Summary Judgment and for Judgment on the Pleadings:** In any case in which all parties are represented by counsel, the parties may file motions for summary judgment and for judgment on the pleadings, along with supporting documents, **ONLY AFTER** the motion is fully briefed by all parties in compliance with the time limitations for an answering brief and reply as set forth in Local Rule 7.1(c). Motions for summary judgment or for judgment on the pleadings, the answering brief and reply, and all supporting documents relating to each, must first be served upon the opposing party. All of these documents shall later be filed with the Clerk of the Court by counsel for the moving party as a complete "motion packet." The moving party shall commence this process by filing a Notice of Motion with the Clerk of Court and by serving (but not filing) the motion for summary judgment or for judgment on the pleadings, related documents, and a copy of the Notice of Motion on all record counsel. The Notice of Motion **must** be filed no later than seventy-five (75) days before the first day of the presumptive trial month. Parties opposing the motion shall

then timely serve (but not file) their answering brief and related documents on all record counsel. Replies, if any, shall be similarly served. Failure of a party opposing the motion to serve an answering brief may, in the Court's discretion, be considered an admission of the merits of the motion as provided by Local Rule 7.1(c).

The moving party shall then file a Motion Packet Form and the completed "motion packet" with the Clerk of the Court and **must do so on or before the dispositive motion deadline set by the Court**.

The Notice of Motion filed with the Clerk of Court shall indicate the type of motion to be filed and shall contain a certificate of service indicating the date the motion for summary judgment or for judgment on the pleadings was served upon all record counsel. The Motion Packet Form shall indicate both the type of motion filed and whether the motion packet includes Responses, Replies and Exhibits. Notice of Motion and Motion Packet Forms are included in the Appendix to these Rules.

Answering briefs and replies shall be served upon opposing counsel in compliance with the time limitations set forth in Local Rule 7.1(c). If the answering brief and reply papers cannot be served within these time limitations, the parties may agree to a reasonable extension as provided for in Local Rule 26.1(c). Extensions of time to file the motion packet after the dispositive motion deadline will be granted **ONLY** in exceptional circumstances.

(h) **Statements of Fact Required in Summary Judgment Motion Packets:** In any case in which all parties are represented by counsel, any motion packet filed pursuant to Federal Rule of Civil Procedure 56 shall include a separate, concise, joint statement signed by all parties setting forth the uncontested material facts. All material facts set forth in the joint statement will be deemed admitted. Any contested facts shall be set forth with specificity and with reference to admissible evidence in a separate concise statement. The motion for summary judgment may be denied if the movant fails to include the statement of material facts in accordance with this Rule.

RULE 8.1 PLEADINGS FILED BY PRISONERS

(See 42 U.S.C. §1983; 28 U.S.C. §§1915, 2241, 2254, 2255; Fed.R.Civ.P. 1 through 15; Rules Governing Section 2254 Cases in the United States District Courts; Rules Governing Section 2255 Cases in the United States District Courts)

(a) Forms Available

(1) Civil Complaints and Habeas Corpus Pleadings

Prisoners who wish to file a civil complaint under 42 U.S.C. §1983, an application for writ of habeas corpus under 28 U.S.C. §2241, a petition under 28 U.S.C. §2254, or a motion under 28 U.S.C. §2255, may obtain forms and instructions by sending a written request to the Clerk of Court at the East St. Louis address listed below. Prisoners who wish to file a civil complaint are referred to the Federal Rules of Civil Procedure generally, and in particular, Rules 1 through 15. Prisoners who wish to file a petition under 28 U.S.C. §2254 or a motion under 28 U.S.C. §2255 are referred to the Rules Governing Section 2254 Cases in the United States District Courts and the Rules Governing Section 2255 Cases in the United States District Courts, respectively. The Court strongly urges plaintiffs to use the Court's complaint form.

(2) *In Forma Pauperis*

Prisoners who wish to proceed *in forma pauperis* - without prepayment of fees - may obtain forms and instructions by sending a written request to the Clerk of Court at the East St. Louis address listed below. For further information regarding *in forma pauperis* status, see 28 U.S.C. §1915 and Local Rule 3.1.

(b) General Pleading Requirements

A complaint, petition, or motion filed by a prisoner shall be in writing, signed, and verified. The original pleading must be submitted with enough copies for each defendant or respondent as required by Federal Rule of Civil Procedure 4. Upon receipt of a complaint, petition, or motion, the Clerk of Court shall determine that the pleadings have been properly completed and signed. The Clerk of Court will notify the Court of any pleadings which fail to comply with any filing requirement of the Federal Rules of Civil Procedure. The Court, in its discretion, may strike and direct the return of such defective pleadings.

All complaints, petitions, or motions, except motions under 28 U.S.C. §2255, shall be filed with the Clerk of Court at the East St. Louis address listed below. After initial processing, the cases which originate from the federal penitentiary in Marion, Illinois, will be assigned to the Benton Division for further proceedings. Motions under 28 U.S.C. §2255 shall be filed in the Clerk's Office in the city in which the criminal case was filed. Such motions shall be assigned to the sentencing judge, if possible.

(c) Court Addresses

Clerk of Court
750 Missouri Avenue
P. O. Box 249
East St. Louis, Illinois 62202
(618) 482-9371

Clerk of Court
301 West Main Street
Benton, Illinois 62812
(618) 438-0671

(d) Emergency Filings

If it is necessary to file a motion when the District Clerk's Office is closed, call the telephone number of the Clerk of Court in East St. Louis, Illinois. A telephone recording will give you a telephone number of a person designated to receive and file emergency motions. That person shall immediately advise the designated District Judge of the filing of the emergency motion or, in the absence of the designated District Judge, the Chief District Judge.

RULE 9.1 PLEADINGS IN ACTIONS FOR REVIEW OF ADMINISTRATIVE DECISIONS
(See Fed.R.Civ.P. 8, 9, 84; 28 U.S.C. §405)

(a) Any person seeking judicial review of a decision of the Commissioner of Social Security under Section 205(g) of the Social Security Act (42 U.S.C. §405(g)) shall provide, on a separate paper attached to the complaint served on the Commissioner of Social Security, the Social Security number of the worker on whose wage record the application for benefits was filed. The person shall also state in the complaint that the Social Security number has been attached to the copy of the complaint served on the Commissioner of Social Security. Failure to provide a Social Security number to the Commissioner of Social Security will not be grounds for dismissal of the complaint.

(b) In keeping with Rule 84 of the Federal Rules of Civil Procedure, and the Appendix of Forms to such rules, the following form of allegations in the complaint is considered sufficient for §405(g) review cases in this Court:

1. The plaintiff (whose Social Security No. is _____) is a resident of

_____ _____
City State

2. The plaintiff complains of a decision which adversely affects him. The decision has become the final decision of the Secretary for purposes of judicial review and bears the following caption:

In the Case of: Claim for:

_____ _____
Claimant

_____ _____
Wage Earner Social Security Number

3. The plaintiff has exhausted administrative remedies in this matter, and this Court has jurisdiction for judicial review pursuant to 42 U.S.C. §405(g).

(c) The respondent shall have sixty (60) days from the date of service of summons within which to file an answer and transcript of administrative proceedings.

(d) Within thirty (30) days after the filing of the answer and transcript, plaintiff shall file a brief which shall state with particularity which findings of the Commissioner are contrary to law. Within thirty (30) days thereafter, defendant shall file a brief which shall specifically respond to the plaintiff's assertions and arguments. The case may be set for oral hearing at the Court's discretion.

RULE 10.1 PLEADING BY REFERENCE
(See Fed.R.Civ.P. 10)

The Court strongly suggests that all parties set forth fully the allegations of each paragraph of his or her claim or answer. It is not recommended that any party adopt or incorporate by reference sentences, paragraphs, or counts within any claim for relief or answer. Failure to comply with this rule, however, will not result in a pleading being stricken.

RULE 11.1 SIGNING OF DOCUMENTS AND DISCLOSURE OF INTERESTED PARTIES/AFFILIATES

(See Fed.R.Civ.P. 11)

(a) Signing of Pleadings, Motions, and Other Papers

Any pleading, motion, document, or other paper filed with the Clerk of Court must be signed as Federal Rule of Civil Procedure 11(a) provides. The signature provided must be in original manuscript. A rubber stamp, facsimile signature, or signature by automatic signing machine is not a "signature" for the purpose of this rule.

(b) Disclosure of Interested Parties/Affiliates

To enable Judges and Magistrate Judges of the Court to evaluate possible disqualification or recusal, counsel for a private (non-governmental) party shall submit at the time of the initial pleading the name of any publicly-owned corporation, not a party to this case, that has a financial interest in the outcome of the case.

RULE 15.1 AMENDED PLEADINGS
(See Fed.R.Civ.P. 15)

Amended pleadings and supplemental pleadings shall contain all allegations which a party intends to pursue. All new material in the amended pleadings shall be underlined. The original of the amended pleading shall be attached to the motion to amend the pleading so that it may be filed if the motion to amend is granted.

RULE 16.1 EARLY, FIRM TRIAL DATES
(See 28 U.S.C. §473 (a)(2)(B))

(a) Presumptive Trial Date

After the first appearance of a defendant or default date, whichever occurs first, the judicial officer to whom a case is assigned for trial will, in his or her discretion, assign a presumptive trial date to the case based on the following tracks of cases:

Track "A". The presumptive trial date will be set between eight-ten months after the first appearance of a defendant or default date, whichever occurs first. Track "A" shall include all cases exempt from the requirements of pre-trial and settlement conferences by Local Rule 16.2(a). Prisoner habeas corpus petitions, prisoner civil rights cases, and any administrative review cases (i.e., Social Security) are not included in Track "A" assignments.

Track "B". The presumptive trial date will be set between eleven-fourteen months after the first appearance of a defendant or default date, whichever occurs first. (Examples are simple tort and contract cases.)

Track "C". The presumptive trial date will be set between fifteen-eighteen months after the first appearance of a defendant or default date, whichever occurs first. (Examples are multi-party or complex issue cases including products liability, malpractice, anti-trust and patent cases.)

The presumptive trial date, which shall be for a specific month, will be communicated to the parties and, for cases assigned to Tracks "B" and "C", shall be set forth in the notice to the parties of the date set for initial pre-trial and scheduling conference pursuant to Local Rule 16.2 and will also be incorporated into the initial pre-trial scheduling and discovery order.

(b) Firm Trial Date for Track "A" Cases

On or before the presumptive trial date of a case assigned to Track "A", the judicial officer to whom the case is assigned shall set a firm trial date, and the parties shall be informed of this date.

(c) Firm Trial Date for Track "B" and "C" Cases

For cases in Tracks "B" and "C", a firm trial date, which shall be for a specific week, shall be set at or before the final pre-trial conference and incorporated into the final pre-trial conference order.

(d) Continuances After Firm Trial Date Is Set

When the demands of the Speedy Trial Act, the unanticipated length of a civil trial, or an emergency or other unanticipated situation prevent the judicial officer to whom the case is assigned for trial from adhering to the firm trial date, the case will be given priority for trial during the next month or given an accelerated trial date.

(e) Parties Informed of Case Status

The Court will, from time to time, keep the attorneys/parties apprised of the trial date status of a case.

RULE 16.2 PRE-TRIAL CONFERENCES
(See Fed.R.Civ.P. 16)

(a) General Rule

Disclosure prior to discovery, the initial meeting of the parties to plan for discovery, the pre-trial scheduling and discovery conference, settlement conference and final pre-trial conference shall be held in every civil action **EXCEPT** in the following categories of cases:

(1) prisoner habeas corpus petitions;

(2) prisoner civil rights cases;

(3) cases brought in which one of the parties appears pro se and is incarcerated;

(4) cases brought by the United States for collection on defaults of government loans, such as SBA, FHA and VA and all mortgage foreclosure default loans;

(5) land condemnation cases;

(6) cases brought by the United States for condemnation or forfeiture against vehicles, airplanes, vessels, contaminated foods, drugs, cosmetics, and the like;

(7) cases brought to review the decision of administrative agencies such as the Commissioner of Social Security;

(8) IRS enforcement actions;

(9) Freedom of Information Act cases;

(10) cases brought to collect civil penalties under the Federal Boat Safety Act of 1971;

(11) reviews of rulings of a Bankruptcy Judge or U.S. Magistrate Judge;

(12) suits to quash subpoenas;

(13) proceedings filed as civil actions for admission to citizenship or to cancel or revoke citizenship;

(14) labor cases arising out of collective bargaining agreements;

(15) ERISA cases except where a participant is claiming benefits under a plan;

(16) copyright cases.

Provided, however, that the judicial officer to whom the case is assigned for trial may order an initial, final pre-trial conference, or a settlement conference in a case falling in one of the excluded categories if the judicial officer determines that the complexity of the case or some unusual factor warrants more extensive pre-trial case management than is usually necessary for that type of case.

(b) Initial Meeting of the Parties; Submission of Report

Within twenty-one (21) days after the first appearance of a defendant (and at least fourteen (14) days before any scheduling conference set by the Court), the attorneys (and any unrepresented parties) must meet and candidly discuss the issues in the case and potential discovery needs in accordance with Rule 26(f) of the Federal Rules of Civil Procedure. Within seven (7) calendar days after the meeting, they must submit a jointly prepared report to the Magistrate Judge before whom the conference is set. The jointly prepared report shall contain the parties' recommendations for a scheduling order concerning discovery, disclosure of experts, pre-trial proceedings, and readiness for trial. The meeting should be viewed as an opportunity to foster cooperation in pre-trial proceedings that will reduce potential costs and delays of litigation.

All parties are jointly responsible for arranging and participating in this meeting by counsel or in person, and for submitting the jointly prepared report. Unless excused by Court order, this meeting and report are mandatory for all cases that may involve discovery except (1) those cases enumerated in Local Rule 16.2(a); (2) cases consolidated with other cases in which the parties have already met or in which a scheduling order has already been entered; or (3) cases subject to MDL Orders under 28 U.S.C. §1407. Attorneys and/or parties may agree to hold the meeting by telephone.

If a party or parties' attorney fails to participate in good faith in the development and submission of a proposed discovery plan as required pursuant to this Local Rule, the Court may impose sanctions in accordance with Rule 37(g) of the Federal Rules of Civil Procedure.

(c) Pre-trial Scheduling and Discovery Conference

A pre-trial scheduling and discovery conference shall be held in accordance with the provisions of Rule 16 of the Federal Rules of Civil Procedure to discuss the matters enumerated therein. The pre-trial scheduling and discovery conference shall be held within forty (40) days after the first appearance of a defendant, or with respect to removed and transferred cases, within forty (40) days of the removal or transfer to this District, at a time and place set by the judicial officer to whom the conference is assigned for hearing. In the discretion of the appropriate judicial officer, the conference may be heard by means of a telephone conference. Upon receipt of the jointly prepared report of the parties, the Magistrate Judge may, at his or her discretion, cancel the scheduling and discovery conference. The Magistrate Judge shall, in any event, enter a scheduling and discovery order. The action taken at this conference will be incorporated into a pre-trial scheduling and discovery order which shall be modified only by a District Judge or Magistrate Judge upon a showing of good cause. (Fed.R.Civ.P. 16(b)).

(d) Final Pre-trial Conference

(1) Except as otherwise provided in sub-section (a), a final pre-trial conference will be held before the judicial officer assigned to try the case not less than seven (7) days prior to the presumptive trial date (see Local Rule 16.1(a)).

(2) Lead trial counsel for each party with authority to bind the party shall be present at this conference.

(3) The following issues shall be discussed at the final pre-trial conference and shall be included in the final pre-trial order:

(i) the firm trial date (See Local Rule 16.1(c));

(ii) stipulated and uncontroverted facts;

(iii) list of issues to be tried;

(iv) disclosure of all witnesses;

(v) listing and exchange of copies of all exhibits;

(vi) pre-trial rulings, where possible, on objections to evidence;

(vii) disposition of all outstanding motions;

(viii) elimination of unnecessary or redundant proof, including limitations on expert witnesses;

(ix) itemized statements of all damages by all parties;

(x) bifurcation of the trial;

(xi) limits on the length of trial;

(xii) jury selection issues;

(xiii) any issue which, in the Judge's opinion, may facilitate and expedite the trial, for example, the feasibility of presenting testimony by a summary written statement;

(xiv) the date when proposed jury instructions shall be submitted to the Court and opposing counsel, which, unless otherwise ordered, shall be the first day of the trial.

(4) Trial briefs on any difficult, controverted factual or legal issue, including anticipated objections to evidence, shall be submitted to the Court at or before the final pre-trial conference.

RULE 16.3 ALTERNATE METHODS OF DISPUTE RESOLUTION
(28 U.S.C. §651, et seq.)

(a) Authorization of Alternative Methods of Dispute Resolution

To encourage and promote the use of alternative dispute resolution in this district, the parties shall use an early neutral evaluation in the form of a settlement conference in all civil cases except for the cases listed in Local Rule 16.2(a). The Court may, in its discretion, set any civil case for summary jury trial or other alternative method of dispute resolution which the Court may deem proper.

(b) Settlement Conference

(1) The parties may request a settlement conference at any time. Except for the cases listed in Local Rule 16.2(a), settlement conferences shall be held no later than 60 days prior to the Final Pretrial Conference. The Court encourages the parties to make early attempts at settlement and to request a settlement conference with the Court as early as possible.

(2) In addition to the lead counsel for each party, a representative of each party or the party's insurance company with authority to bind that party for settlement purposes shall be present in person.

(3) The notice of the settlement conference shall set forth the format of the conference, any requirement for information that must be submitted to the presiding judicial officer prior to the conference, and the types of documents or other information that must be brought to the conference.

(4) The statements or other communications made by any of the parties or their representatives in connection with the settlement conference shall remain confidential and shall not be admissible or used in any fashion in the trial of the case or any related case.

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 is drawn in 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 is drawn in question, the party raising the constitutional issue shall notify the Court of the existence of the question either by checking the appropriate box on the Civil Cover Sheet or by stating on the pleading, 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 any federal statute.

RULE 26.1 INITIAL DISCLOSURE PRIOR TO DISCOVERY; FILING OF DISCLOSURE AND DISCOVERY; COOPERATIVE DISCOVERY

(See 28 U.S.C. §473(a)(4) - (5); Fed.R.Civ.P. 26, 37)

(a) Initial Disclosure Prior to Discovery

(1) Duty of Self-Executing Disclosure

Unless otherwise directed by the Court, each party shall, without awaiting a discovery request, disclose to all other parties:

(i) the name and, if known, the address and telephone number of each individual likely to have discoverable information as described in Fed.R.Civ.P. 26(a)(1)(A);

(ii) a copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party as described in Fed.R.Civ.P. 26(a)(1)(B);

(iii) for inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. (Fed.R.Civ.P. 26(a)(1)(D)).

The Court has opted out of Rule 26(a)(1)(C) of the Federal Rules of Civil Procedure, and therefore, the parties are not required to provide a computation of damages as part of the initial disclosures, but may do so on agreement.

(2) Timing of Disclosures

This Court has opted out of Rule 26(a)(1) of the Federal Rules of Civil Procedure with respect to the timing of the initial disclosures.

Unless the Court otherwise directs, the disclosures required by Local Rule 26.1(a)(1) shall be made (i) by each plaintiff within twenty (20) days after a defendant enters an appearance; (ii) by each defendant within twenty (20) days after entering an appearance; and, in any event, (iii) by any party that has appeared in the case within twenty (20) days after receiving from another party a written demand for early disclosure accompanied by the demanding party's disclosures. A party shall make its initial disclosures based on the information then reasonably available to it and is not excused from the disclosures required by Local Rule 26.1(a)(1) because it has not fully completed its investigation of the case, or because it challenges the sufficiency of another party's disclosure, or, except with respect to the obligation under Local Rule 26.1(a)(1)(iii), because another party has not made its disclosures.

(3) Disclosure Prerequisite to Discovery

Except by leave of the Court, or upon agreement of the parties, a party may not seek discovery from any source until (a) the party seeking discovery has made the disclosures required under Local Rule 26.1(a)(1); and, further, until (b) the parties have met and conferred as required by Local Rule 16.2(b). A party may not seek discovery from another party before such disclosures have been made by, or are due from, such other party.

(4) Supplementation of Disclosures and Discovery

A party who has made a disclosure under Local Rule 26.1(a)(1) or responded to a request for discovery with a disclosure or response is under a duty to seasonably supplement or correct its disclosures or responses if the party obtains information on the basis of which it knows that the information disclosed was either incomplete or incorrect when made or is no longer complete or true. (Fed.R.Civ.P. 26(e)).

(5) Signing of Disclosures

Every disclosure or supplement made pursuant to Local Rule 26.1(a)(1) by a party represented by an attorney shall be signed by at least one attorney of record. A party who is not represented by an attorney shall sign the disclosure or supplement. The signature of the attorney or party constitutes a certification under, and is consequently governed by, the provisions of the Federal Rules of Civil Procedure and, in addition, constitutes a certification that the signer has read the disclosure, and to the best of signer's knowledge, information, and belief, formed after reasonable inquiry, the disclosure is complete as of the time it was made. (Fed.R.Civ.P. 26(g)).

(6) Filing of Disclosure and Discovery

This Court has opted out of Rule 26(a)(4) of the Federal Rules of Civil Procedure to the extent that the Rule requires the parties to file all disclosures with the Court. (See Local Rule 16.2)

Due to the considerable cost to the parties of furnishing discovery materials, and the serious problems encountered with storage, this Court adopts the following procedures with regard to the filing of discovery materials with the Court:

(i) Interrogatories under Rule 33, Federal Rules of Civil Procedure, and the answers thereto, requests for production or inspection under Rule 34, and depositions under Rules 30 and 31, shall be served upon other counsel or parties, but shall not be filed with the Court. The party responsible for service of the discovery material shall retain the original and become the custodian thereof. Requests for admissions under Rule 36 of the Federal Rules of Civil Procedure, and responses thereto, shall be served upon other counsel or parties and ***shall*** be filed with the Court.

(ii) Disclosures or discovery under Local Rule 26.1 and Rule 26(a) of the Federal Rules of Civil Procedure are to be filed with the Court only to the extent required by the final pre-trial order, other order of the Court, or if a dispute arises over the disclosure or discovery.

(iii) Any discovery motion filed pursuant to Rules 26 through 37 of the Federal Rules of Civil Procedure shall include, in the motion itself, or in an attached memorandum, verbatim recitation of each interrogatory, request, answer, response and objection which is the subject of the motion or a copy of the actual discovery document which is the subject of the motion.

(iv) If interrogatories, requests, answers, responses or depositions are to be used at trial or are necessary to a pre-trial motion which might result in a final order on any issue, the portions to be used shall be filed with the Clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated.

(v) When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order of this Court, or by stipulation of counsel, the necessary discovery papers shall be filed with the Clerk.

(vi) If a non-party requests to examine discovery materials, then on order of the Court, the parties will comply and make designated discovery material available for inspection.

(7) Duplicative Disclosure

At the time the duty to disclose arises, it may cover matters that have already been fully disclosed in the same civil action pursuant to an order of the Court, to a requirement of law, or otherwise. In that event, duplicative disclosure is not required, and a statement that disclosure has already been made discharges the obligation imposed under this section.

(8) Removed and Transferred Actions

In all actions removed to this Court from a state court, or transferred to this Court from another federal court, the disclosures required by Local Rule 26.1(a)(1) shall be made as prescribed in that paragraph, and if discovery was initiated prior to the action being removed or transferred to this Court, then the disclosures shall be made by all parties within twenty (20) days of the date of removal or transfer.

(b) Cooperative Discovery Arrangements

(1) Cooperative discovery arrangements in the interest of reducing delay and expense are mandated.

(2) The parties may, by stipulation, expand the scope of the initial disclosures required by Local Rule 26.1(a)(1).

(c) Stipulations Entered into by Parties

Rule 29 of the Federal Rules of Civil Procedure provides for stipulations regarding discovery procedure. If the parties to an action stipulate to deadlines or procedures other than those provided in the Federal Rules of Civil Procedure or those provided in the Local Rules or by order of the Court, the Court WILL NOT enforce any such stipulation unless it is in writing and signed by ALL of the parties or their representatives. In no event will the Court honor a stipulation that will change or delay a scheduled motion hearing date, dispositive motion filing date, date on which responses to motions are due, settlement conference date, final pre-trial conference date or trial date. (Fed.R.Civ.P. 29)

This stipulation shall not be filed with the Court.

RULE 30.1 NUMBER OF DEPOSITIONS

This Court has opted out of Federal Rule of Civil Procedure 30(a)(2)(A) which requires either leave of court or the written stipulation of the parties if a proposed deposition would result in more than ten depositions being taken under Rule 30 or Rule 31 by the plaintiff(s), or by the defendant(s), or by third-party defendant(s). In this District, there are no restrictions placed on the number or length of depositions unless ordered by the Court.

RULE 33.1 INTERROGATORIES
(See Fed.R.Civ.P. 33)

(a) Maximum Number

In all civil cases, the total number of interrogatories propounded to each party pursuant to Rule 33 of the Federal Rules of Civil Procedure shall be limited to twenty-five (25). Each subpart shall be counted as an individual interrogatory. Additional interrogatories may be propounded only with leave of Court.

If any party objects to the number of interrogatories submitted by opposing counsel, then that party shall serve objections upon the opposing counsel within fourteen (14) days of service of such interrogatories. Failure to serve objections within this time shall constitute a waiver of any objection as to compliance with this rule for that set of interrogatories. The party upon whom objections are served shall file a motion to compel, if at all, within fourteen (14) days after receipt of the objections.

(b) Form

Under Rule 33 of the Federal Rules of Civil Procedure, answers or objections to interrogatories other than for the reason set forth in Local Rule 33.1(a), shall set forth in full the interrogatory being answered or objected to immediately preceding the answer or objection. Objections shall be served upon opposing counsel as a separate document entitled "Objections to Interrogatories," within the time provided by Rule 33 of the Federal Rules of Civil Procedure. Objections shall be accompanied by citation of legal authority. Objections shall not be filed with the Court unless a motion to compel is submitted pursuant to Rule 37 of the Federal Rules of Civil Procedure.

(c) Copies Not Permitted

No photocopied or otherwise duplicated form containing interrogatories shall be served upon a party unless all interrogatories on such forms are consecutively numbered and applicable to the case in which the same are served. The intent and purpose of this rule is to prohibit the submission of photocopied or otherwise duplicated forms of "stock" interrogatories, except where the nature of the case or the number of the parties makes the use of such forms necessary and feasible.

(d) Sequential Numbering

All interrogatories served by a party, including supplemental interrogatories, shall be sequentially numbered. All subsequent sets of interrogatories shall be numbered commencing with the number immediately succeeding the one last used.

RULE 37.1 GOOD FAITH EFFORTS TO SETTLE DISCOVERY DISPUTES

To curtail undue delay in the administration of justice, the Court shall refuse to rule on any and all motions having to do with discovery under Rules 26 through 37 of the Federal Rules of Civil Procedure, unless moving counsel shall advise the Court in their motion that after personal consultation and a good faith effort to resolve differences, they are unable to reach an accord. This statement shall recite, in addition, the date, time, and place of such conference, and the names of all parties participating therein. If counsel for any party advises the Court in writing that opposing counsel has refused or delayed meeting and discussion of the problems covered in this Rule, then the Court may take such action as is appropriate to avoid delay.

RULE 38.1 JURY DEMAND

If a party demands a jury trial by endorsing it on a pleading, as permitted by Rule 38(b) of the Federal Rules of Civil Procedure, 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 an equivalent statement. This notation will serve as a sufficient demand under Rule 38(b). Failure to use this manner of noting the demand will not result in a waiver under Rule 38(d).

RULE 40.1 CASE ASSIGNMENT AND TRIAL CALENDARS

(See Fed.R.Civ.P. 40, 79)

Claims and causes of action which arise in the Illinois counties of Alexander, Clark, Clay, Crawford, Cumberland, Edwards, Effingham, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Massac, Perry, Pope, Pulaski, Richland, Saline, Union, Wabash, Wayne, White or Williamson shall be filed at the Clerk's Office in Benton. Those claims and causes of action which arise in the counties of Bond, Calhoun, Clinton, Fayette, Jersey, Madison, Marion, Monroe, Randolph, St. Clair or Washington shall be filed in the Clerk's Office in East St. Louis.

All actions will be assigned for trial to individual judges on an individual calendar basis at the direction of the Chief Judge.

For the convenience of parties and witnesses and/or in the interest of justice, the Court, in its discretion, may order any case set for trial at a place in the district where Court is held other than the place where the case is filed.

Cases removed from state court will be removed in accordance with 28 U.S.C. §§1332, 1441, and 1446.

RULE 48.1 JURIES
(See Fed.R.Civ.P. 48)

The Court shall seat a jury in accordance with Federal Rule of Civil Procedure 48.

RULE 48.2 JURY LISTS
(See 28 U.S.C. §1867; 18 U.S.C. §3432)

The names and addresses of jurors shall not be made available to any party or counsel in any case, except as provided by 18 U.S.C. §3432.

RULE 51.1 INSTRUCTIONS TO THE JURY
(See Fed.R.Civ.P. 49, 51; Fed.R.Crim.P. 30)

Whenever Illinois Pattern Jury Instructions (IPI) contain an instruction applicable in a civil case, and the Court determines, giving due consideration to the facts and the prevailing law, that the jury should be instructed on the subject, the IPI instructions should be used, unless the Court determines that an instruction, or instructions do not accurately state the law. Whenever IPI does not contain an instruction on a subject on which the Court determines that the jury should be instructed, the instruction given on that subject should be simple, brief, impartial, and free from judgment.

In criminal cases, instructions as may be recommended for use by the Seventh Circuit Court of Appeals shall be used, unless the Court determines that an instruction, or instructions do not accurately state the law.

In both civil and criminal cases, each instruction submitted to the Court shall be accompanied by a copy and a copy shall be delivered to opposing counsel. The copies shall be numbered and indicate which party suggests them. The original shall be on 8½" x 11" plain white paper without any designation or number. Jury instructions should be produced in a word processing program as set forth in the final pre-trial order.

RULE 54.1 ASSESSMENT OF JURY COSTS

Whenever a civil case which has been set for jury trial is disposed of or settled by the parties, counsel shall so inform the chambers of the Judge before whom the case is pending by 3:00 p.m. on the last full Court business day prior to the date the trial is scheduled. If for any reason attributable to counsel or the parties, including settlement or disposition of the matter, the Court is unable to commence a jury trial as scheduled, and a panel of prospective jurors has reported for service, or a selected jury has reported to hear the case, ALL COSTS INCURRED with respect to the jury, including per diem and mileage, may be assessed by the Court against all parties equally or against one or more of the parties, if it appears that that party was, or the parties were, responsible for the failure to notify the Court as required, or otherwise caused the Court's inability to proceed.

All money collected as a result of any assessment under this rule shall be paid to the Clerk of the Court, who shall promptly remit said money to the Treasury of the United States of America.

RULE 54.2 TAXATION OF COSTS
(*See 28 U.S.C. §1914, §1920, §1828)*

(a) Allowable Costs

Only those items authorized by law may be taxed as costs. Not all trial expenses are taxable as costs. Costs shall be taxed in accordance with Federal Rule of Civil Procedure 54(d) and 28 U.S.C. 1920. Items taxable as costs include the following:

(1) Fees of the Clerk and Marshal, 28 U.S.C. §§ 1914, 1920(1) and 1921;

(2) Court Reporter fees, 28 U.S.C. §1920(2);

(3) Witness fees including travel and subsistence if the witness testifies; 28 U.S.C. §1920(3);

(4) Printing, copying and exemplification fees when necessary for use in the case, 28 U.S.C. §1920(4);

(5) Docket fees, 28 U.S.C. §§1920(5) and 1923;

(6) Deposition fees when used at trial and, in the Court's discretion, other deposition fees when reasonably necessary to the case, 28 U.S.C. §1920(2),(3),(6); and

(7) Interpreter and court appointed expert fees, 28 U.S.C. §§1828 and 1920(6).

(b) Procedure for Claiming Costs

(1) Time. The prevailing party may file and serve on all other parties a bill of costs within ten (10) days after entry of final judgment or final disposition of an appeal. This period may be extended by the Court for good cause shown by motion filed within this ten-day period. Failure to file within this ten-day period may constitute a waiver of costs.

(2) Bill of Costs. Administrative Office Form 133 requesting costs shall be made available by the clerk. The bill of costs shall itemize the costs claimed and shall be supported by an affidavit that the costs claimed are correctly stated, that they are allowable by law and that they were necessarily incurred.

(3) Objections to Bill of Costs. The party against whom costs are claimed may file specific objections to the bill with a statement of reasons for the objections. Objections must be filed within ten (10) days from the date of service of the bill of costs.

(4) Taxation of Costs. After the expiration of ten (10) days from the service of the bill of costs, the clerk shall tax and enter costs if no objection is filed. The clerk shall tax only those costs permitted by law. However, in the absence of a timely objection, any item may be taxed within the discretion of the clerk. If objections are filed, the clerk will submit the matter to the Court for a decision.

(5) Review of Clerk's Determination. The action of the clerk taxing and entering costs may be reviewed by the Court on motion filed and served within five (5) days after notice of taxing costs has been served.

RULE 54.3 CONTINUANCES

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

RULE 72.1 AUTHORITY OF UNITED STATES MAGISTRATE JUDGES

(28 U.S.C. §636, et seq; 28 U.S.C. §§1331, 2241, 2254, 2255; 18 U.S.C. §3401; 42 U.S.C. §1983)

(a) Duties Under 28 U.S.C. §636(a)

Each United States Magistrate Judge of this Court is authorized to perform the duties prescribed by 28 U.S.C. §636(a), and may:

(1) exercise all the powers and duties conferred or imposed upon United States Commissioners by law and the Federal Rules of Criminal Procedure;

(2) administer oaths and affirmations, impose conditions of release under 18 U.S.C. §3146, and take acknowledgments, affidavits, and depositions; and

(3) conduct extradition proceedings in accordance with 18 U.S.C. §3184.

(b) Disposition of Misdemeanor Cases - 18 U.S.C. §3401

A Magistrate Judge may, either upon automatic reference pursuant to Local Rule 72.2(a) or upon specific reference by the assigned U.S. District Judge:

(1) try persons accused of, and sentence persons convicted of, misdemeanors committed within this District in accordance with 18 U.S.C. §3401;

(2) direct the probation service of the Court to conduct a pre-sentence investigation in any misdemeanor case; and

(3) conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States.

(c) Determination of Non-Dispositive Pre-trial Matters - 28 U.S.C. §636(b)(1)(A)

A Magistrate Judge may hear and determine any procedural or discovery motion or other pre-trial matter in a civil or criminal case, other than the motions which are specified in sub-section 72.1(d), infra, of these rules. See also Local Rule 72.2(a)(1).

(d) Recommendations Regarding Case-Dispositive Motions - 28 U.S.C. §636(b)(1)(B)

(1) A Magistrate Judge may submit to a District Judge of the Court a report containing proposed findings of fact and recommendations for disposition by the District Judge of the following pre-trial motions in civil and criminal cases:

(i) motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

(ii) motions for judgment on the pleadings;

(iii) motions for summary judgment;

(iv) motions to dismiss or permit the maintenance of a class action;

(v) motions to dismiss for failure to state a claim upon which relief may be granted;

(vi) motions to involuntarily dismiss an action;

(vii) motions for review of default judgments;

(viii) motions to dismiss or quash an indictment or information made by a defendant; and

(ix) motions to suppress evidence in a criminal case.

(2) A Magistrate Judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceedings arising in the exercise of the authority conferred by this sub-section.

(e) Prisoner Cases Under 28 U.S.C. §§1331, 2241, 2254 and 2255

A Magistrate Judge may perform any or all of the duties imposed upon a District Judge by the rules governing proceedings in the United States District Courts under §1331, §2241, §2254 and §2255 of Title 28, United States Code. In so doing, a Magistrate Judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and shall submit to a District Judge a report containing proposed findings of fact and recommendations for disposition of the petition by the Judge. Any order disposing of the petition may only be made by a Judge, unless the parties otherwise consent as provided by 28 U.S.C. §636(c) and Local Rule 72.1(h).

(f) Prisoner Cases Under 42 U.S.C. §1983

A Magistrate Judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceedings and shall submit to a District Judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners challenging the conditions of their confinement.

(g) Special Master References

A Magistrate Judge may be designated by a District Judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. §636(b)(2) and Rule 53 of the Federal Rules of Civil Procedure. Upon the consent of the parties, a Magistrate Judge may be designated by a District Judge to serve as a special master in any civil case, notwithstanding the limitations of Rule 53(b) of the Federal Rules of Civil Procedure.

(h) Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties - 28 U.S.C. §636(c)

Upon the consent of the parties, a full-time 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 pre-trial and post-trial motions which are filed by the parties, including case-dispositive motions.

(i) Other Duties

A Magistrate Judge is also authorized to:

(1) exercise general supervision of civil and criminal calendars and conduct calendar and status calls on behalf of a District Judge;

(2) conduct pre-trial conferences, settlement conferences, omnibus hearings, and related pre-trial proceedings in civil and criminal cases;

(3) conduct arraignments in criminal cases not triable by the Magistrate Judge and take "not guilty" pleas in such cases;

(4) receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure;

(5) accept waivers of indictment, pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure;

(6) conduct voir dire and select civil petit juries for the Court;

(7) accept petit jury verdicts in civil cases in the absence of a District Judge;

(8) conduct necessary proceedings leading to the potential revocation of probation;

(9) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(10) order the exoneration or forfeiture of bonds;

(11) conduct proceedings for the collection of civil penalties of not more than $200 assessed in accordance with 46 U.S.C. §4311(d) and 46 U.S.C. §12309(c);

(12) conduct examinations of judgment debtors in accordance with Rule 69 of the Federal Rules of Civil Procedure;

(13) conduct proceedings for initial commitment of narcotic addicts under Title III of the Narcotic Addict Rehabilitation Act; and

(14) perform the functions specified in 18 U.S.C. §§4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;

(15) conduct examination of claims for attorneys' fees and related nontaxable expenses in accordance with Rule 54(d)(2)(D) of the Federal Rules of Civil Procedure.

RULE 72.2 ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

(See 28 U.S.C. §636, et seq.; Fed.R.Civ.P. 72, 73)

(a) Automatic References

The Clerk of the Court shall refer the following matters to a Magistrate Judge upon filing:

(1) all pre-trial motions for hearing and determination in accordance with the provisions of Rule 72 of the Federal Rules of Civil Procedure, with the exception of motions for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss, to remand, to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, to involuntarily dismiss an action, motions in limine regarding evidentiary matters, and for extensions of time with regard to matters pending before a District Judge. Upon entry of a pre-trial order, all motions thereafter served shall be submitted to the assigned trial judge;

(2) all so-called "prisoner petitions" (e.g., petitions or complaints filed pursuant to 28 U.S.C. §1331, §2241 and §2254 or 42 U.S.C. §1983), which are filed by inmates during confinement;

(3) all requests for judicial review of a decision of the Commissioner of Social Security under Section 205(g) of the Social Security Act (42 U.S.C. § 405(g));

(4) all misdemeanor offenses occurring within the Southern District of Illinois which are prosecuted by criminal complaint;

(5) all petty offenses and all offenses involving Central Violations Bureau (CVB), which are offenses occurring on government property or reservations.

(b) Selected References

All other civil or criminal matters will be referred by a District Judge to a Magistrate Judge on a case by case basis.

RULE 72.3 PROCEDURES BEFORE THE MAGISTRATE JUDGE

(See 28 U.S.C. §636, et seq.; Fed.R.Civ.P. 72, 73)

(a) In General

In performing duties for the Court, a Magistrate Judge shall conform to all applicable provisions of federal statutes and rules, to the general procedural rules of this Court, and to the requirements specified in any order of reference from a District Judge. All practice before a Magistrate Judge shall be in accordance with the Local Rules of the Southern District of Illinois.

(b) Special Provisions for the Disposition of Civil Cases by a Magistrate Judge on Consent of the Parties - 28 U.S.C. §636(c)

(1) Notice

The Clerk of the Court shall notify the parties in all civil cases that they may consent to have a Magistrate Judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be handed or mailed to the plaintiff or his or her representative at the time an action is filed and to other parties as soon as practicable after service upon the defendants. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pre-trial notices and instructions.

(2) Execution of Consent

The Clerk shall supply, with the notice provided in sub-section 72.3(b)(1), a form consent which may be used by the parties. The contents of the consent forms shall not be known to any District Judge or Magistrate Judge, unless all parties have consented to the reference to a Magistrate Judge. No Magistrate Judge, District Judge, or other court official may attempt to persuade or induce any party to consent to the reference of any matter to a Magistrate Judge. This rule, however, shall not preclude a District Judge or Magistrate Judge from informing the parties that they may have the option of referring a case to a Magistrate Judge.

(3) Reference

After the consent form has been executed and filed, the Clerk shall transmit it to the District Judge to whom the case has been assigned for approval and referral of the case to a Magistrate Judge. Once the case has been assigned to a Magistrate Judge, the Magistrate Judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the Clerk of Court to enter a final judgment in the same manner as if a District Judge had presided.

RULE 73.1 REVIEW AND APPEAL OF MAGISTRATE JUDGES' ORDERS OR RECOMMENDATIONS

(See 28 U.S.C. §636, et seq.; Fed.R.Civ.P. 72, 73)

(a) Appeal of Non-Dispositive Matters - 28 U.S.C. §636(b)(1)(A)

Any party may file for reconsideration of a Magistrate Judge's order determining a motion or matter under Local Rule 72.1(c) within ten (10) days after issuance of the Magistrate Judge's order, unless a different time is prescribed by the Magistrate Judge or a District Judge. Such party shall file with the Clerk of the Court, and serve on the Magistrate Judge and all parties, a written request for reconsideration which shall specifically designate the order, or part thereof, that the parties wish the court to reconsider. A District Judge of the Court shall reconsider the matter 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 reconsider *sua sponte* any matter determined by a Magistrate Judge under this rule.

(b) Review of Case-Dispositive Motions and Prisoner Litigation - 28 U.S.C. §636(b)(1)(B)

Any party may object to a Magistrate Judge's proposed findings, recommendations or reports under Local Rule 72.1(d), (e), and (f) within ten (10) days after being served with a copy thereof. Such party shall file with the Clerk of the Court, and serve on the Magistrate Judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or reports to which objection is made and the basis for such objections. Any party may respond to another party's objections within ten (10) days after being served with a copy thereof. A District Judge 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, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the Magistrate Judge, making his or her own determination on the basis of that record. The District Judge may also receive further evidence, recall witnesses or recommit the matter to the Magistrate Judge with instructions.

(c) Special Master Reports - 28 U.S.C. §636(b)(2)

Any party may seek review of, or action on, a special master report filed by a Magistrate Judge in accordance with the provisions of Rule 53(e) of the Federal Rules of Civil Procedure.

(d) Appeal from Judgments in Misdemeanor Cases - 18 U.S.C. §3402

A defendant may appeal a judgment of conviction by a Magistrate Judge in a misdemeanor case by filing a notice of appeal with the District Court within ten (10) days after entry of the judgment, and by serving a copy of the notice upon the United States Attorney. The scope of the appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals.

(e) Appeal from Judgments in Civil Cases Disposed of on Consent of the Parties - 28 U.S.C. §636(c)

Upon the 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) and Local Rule 72.1(h), an aggrieved party may 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.

RULE 79.1 CUSTODY AND DISPOSITION OF EXHIBITS

(a) During Trial

Unless the Court orders otherwise, exhibits received into evidence at any trial or hearing shall be retained in the custody of the clerk for the duration of the proceeding.

(b) After Trial

Unless the Court orders otherwise, exhibits shall not be retained by the clerk at the conclusion of the proceeding, but shall be retained in the custody of the respective attorneys who produced them in court. A detailed receipt shall be given to the clerk. Any exhibits not so removed may be destroyed or otherwise disposed of as the Clerk may deem appropriate after thirty (30) days' notice to counsel.

(c) Appeal

If an appeal is taken, parties shall make available all of the exhibits in that party's possession in order to prepare the record on appeal. The attorney who has custody of the exhibit shall comply with Rule 10 of the Circuit Rules for the United States Court of Appeals for the Seventh Circuit and must ensure that exhibits to be included in the record which are not in the possession of the District Court Clerk are furnished to the Clerk within ten days after the filing of the notice of appeal.

RULE 80.1 OFFICIAL TRANSCRIPTS
(See Fed.R.App.P. 10; 7th Cir.R. 10, 11)

Before producing a transcript, the official reporters of this Court shall first obtain written requests and commitments on "Seventh Circuit Transcript Information Sheet" pursuant to Rule 10(b) of the Federal Rules of Appellate Procedure and Rule 10(c) of the Circuit Rules, for any official transcript of any part of the record in any proceeding that they record. In addition, such written request shall contain the following pertinent data:

(a) a commitment of the party and his or her attorney to pay therefor;

(b) the commitment of the party and his or her attorney that they will not, directly or indirectly, furnish such transcript or a copy thereof to any other party or attorney in the action; and

(c) any other pertinent matter that is necessary for a clear understanding of the terms of the contract between the reporter and the ordering party and his or her attorney.

RULE 83.1 ATTORNEYS

(a) Admission of Attorneys

Any attorney licensed to practice law in any state of the United States or the District of Columbia shall be admitted to practice generally in this Court on written motion of a member in good standing of the bar of this Court and upon payment of a fifty-five dollar fee as required by law.

(b) Pro Hac Vice Admissions

Any attorney licensed to practice law in any state of the United States or the District of Columbia who does not wish to be admitted generally but wishes to be admitted for the purposes of a specific case only may, upon submission of a Motion to Appear Pro Hac Vice which contains a verified statement setting forth the bar(s) of which the movant is a member in good standing and the required filing fee, be permitted to appear of record and participate pro hac vice. Pro hac vice admissions are not required for attorneys appearing in criminal cases.

(c) Government Representation

Any attorney representing any governmental entity, whether federal, state or municipal, may appear and participate in particular cases in his or her official capacity without the necessity of a motion for admission. The requirements of sub-paragraph (d) below, concerning non-resident counsel, shall apply.

(d) Non-Resident Counsel

It shall not be necessary for parties appearing by non-resident counsel to retain local counsel to represent them. At any time for good cause, upon its own motion, the Court may require that a non-resident attorney obtain local counsel to assist in the conduct of the case.

(e) Representation in Cases

In all cases filed in, removed to, or transferred to this Court, all parties, except governmental agencies or those appearing pro se, must be represented of record by a member of the bar of this Court. Service of notice upon such attorney shall constitute service upon all other counsel appearing of record for such party. Unless otherwise excepted by this Rule, pleadings or other documents submitted by a party who is not represented by a member of the bar of this Court shall not be accepted by the Clerk.

(f) Appearances

In all cases filed in, removed to, or transferred to this Court, all attorneys, including government attorneys, shall file a written entry of appearance before addressing the Court.

(g) Withdrawals

An attorney may not withdraw an entry of appearance for a party without leave of Court and notice to all parties of record.

(1) Notice to Court.

The motion for leave to withdraw shall be in writing and, unless another attorney is substituted, shall state the last known address of the party represented. The Court may deny the motion if granting it would delay the trial of the case, or would otherwise be inequitable.

(2) Notice to Parties.

Unless another attorney is substituted, a withdrawing attorney must give reasonable notice of the time and place of the presentation of the motion for leave to withdraw to the party being represented at the party's last known business or residential address, by personal service or by certified mail. Such notice shall advise the party being represented that he should retain other counsel and that within 21 days of the entry of the order of withdrawal, the party or the new counsel shall file with the Clerk of Court a supplementary appearance that provides an address at which the party and/or the new counsel may receive service of documents related to the case.

If the motion for withdrawal is granted, the withdrawing attorney shall serve a copy of the order of withdrawal within three days upon all counsel of record and upon unrepresented parties.

(h) Conduct

Conduct of attorneys admitted of record is further controlled by Rules of Disciplinary Enforcement as provided in Local Rule 83.4.

(i) Duty of Attorneys to Accept Appointments

In testimonial proceedings arising out of matters pending before this Court, every member of the bar of this Court as defined in sub-paragraph (a) of this rule, shall be available for appointment by the Court to represent or assist in the representation of those who cannot afford to hire an attorney. Appointments under this Rule shall be made in such a manner that no member of the bar of this Court shall be required to accept more than one appointment during any twelve-month period.

(j) Representation by Supervised Senior Law Students

A student in a law school who has been certified by the Administrative Director of Illinois Courts to render services in accordance with Rule 711 of the Rules of the Illinois Supreme Court may, upon approval of the Judge before whom the case is pending, perform such services in this Court under like conditions and under the supervision of a member of the trial bar of this Court. In addition to the agencies specified in paragraph (b) of said Rule 711, the law school student may render such services with the United States Attorney for this District, the legal staff of any agency of the United States government, or the Federal Defender Program for this District including any of its staff or panel attorneys.

RULE 83.2 AUDIO-VISUAL REPRODUCTIONS OF JUDICIAL PROCEEDINGS PROHIBITED

(See Fed.R.Crim.P. 53; 18 U.S.C. §1508; see also 7th Cir.R. 55)

The taking of photographs, sound recordings (except by the official court reporters in the performance of their duties), and broadcasting by radio, television, or other means, in connection with any judicial proceeding on or from the same floor on which a courtroom is located are prohibited.

Provided, however, that incidental to naturalization proceedings, or ceremonial proceedings, a judge of this Court may, in his or her discretion, permit the taking of photographs and broadcasting by radio and television within the area of his or her chambers or courtroom.

RULE 83.3 FAIR TRIAL, FREE PRESS
(See Fed.R.Crim.P. 6, 12.1, 16, 32, 53; 18 U.S.C. §3322; 28 U.S.C. §§566, 751, 753, 755, 956)

(a) Duties of Lawyers

It is the duty of the lawyer not to release or authorize the release of information or opinion for dissemination by any means of public communication, in connection with pending or imminent criminal litigation with which he or she is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice.

With respect to a grand jury or other pending investigation of any criminal matter, a lawyer participating in the investigation shall refrain from making any extrajudicial statement for dissemination by any means of public communication that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

From the time of arrest, issuance of an arrest warrant or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement for dissemination by any means of public communication relating to that matter and concerning:

(1) the prior criminal record (including arrests, indictments, or other charges of crime), or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his or her apprehension or to warn the public of any dangers he or she may present;

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

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

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

(5) the possibility of a plea of guilty or innocence or as to the merits of the case or the evidence in the case;

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

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

During the trial of any criminal matter, including the period of selection of the jury, no lawyer associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial for dissemination by any means of public communication, except that the lawyer may quote from, or refer without comment to, public records of the Court in the case.

After the completion of a trial or disposition without trial of any criminal matter, and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

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

(b) Duties of Court Personnel

No personnel connected in any way with this Court or its operation, including, among others, marshals, deputy marshals, court clerks or deputies, bailiffs, secretaries and court reporters, shall disclose to any person, without specific authorization by the Judge, any information relating to a pending criminal or civil case that is not a part of the public records of the Court. This prohibition applies specifically to the divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

(c) Special Order in Certain Cases

In a widely publicized or sensational case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses which might interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such an order.

(d) Specific Directives of Order of the Court May Include:

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

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

(3) Sequestration of the jury on motion of any party or the Court, without disclosure of the identity of the movant.

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

(5) Insulation of witnesses from news interviews during the trial period.

(6) Specific provisions regarding the seating of spectators and representatives of news media.

RULE 83.4 RULES OF DISCIPLINARY ENFORCEMENT

The Court, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys admitted to practice before it, or admitted for the purpose of a particular proceeding (pro hac vice), promulgates the following Rules of Disciplinary Enforcement superseding all of its other Rules pertaining to disciplinary enforcement.

(a) Disciplinary Rule I - Attorneys Convicted of Crimes

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

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

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

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

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

(6) An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of proof demonstrating that the underlying conviction of a serious crime has been reversed, but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

(b) Disciplinary Rule II - Discipline Imposed by Other Courts

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

(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 forthwith issue a notice directed to the attorney containing:

(i) a copy of the judgment or order from the other court; and

(ii) an order to show cause directing that the attorney inform this Court within thirty (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 (4) below that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor.

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

(4) Upon the expiration of thirty (30) days from service of the notice issued pursuant to the provisions of (2) above, this Court shall impose the identical discipline unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:

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

(ii) 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

(iii) that the imposition of the same discipline by this Court would result in grave injustice; or

(iv) that the misconduct established is deemed by this Court to warrant substantially different discipline.

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

(5) 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.

(6) This Court may at any stage appoint counsel to prosecute the disciplinary proceedings.

(c) Disciplinary Rule III - Disbarment on Consent or Resignation in Other Courts

(1) Any attorney admitted to practice before this Court who shall be disciplined on consent or resign from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of a certified or exemplified copy of the judgment or order accepting such discipline on consent or resignation, be subject to the same action by this Court.

(2) Any attorney admitted to practice before this Court shall, upon being disciplined on consent or resigning from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the Clerk of this Court of such discipline on consent or resignation.

(d) Disciplinary Rule IV - Standards for Professional Conduct

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

(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 Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Rules of Professional Conduct adopted by this Court are the Rules of Professional Conduct adopted by the Supreme Court of Illinois as amended from time to time, except as otherwise provided by specific rule of this Court.

(e) Disciplinary Rule V - 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, shall come to the attention of a Judge of this Court, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these rules, the Judge shall refer the matter to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

(2) Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney, the disposition of which, in the judgment of the counsel, should be awaited before further action by this Court is considered, or for any other valid reason, counsel shall file with the Court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise setting forth the reasons therefor.

(3) To initiate formal disciplinary proceedings, counsel shall obtain an order of this Court, upon a showing of probable cause, requiring the respondent-attorney to show cause within thirty (30) days after service of that order upon that attorney, personally or by mail, 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, this Court shall set the matter for prompt hearing before one or more Judges of this Court, provided, however, that if the disciplinary proceeding is predicated upon the complaint of a Judge of this Court the hearing shall be conducted before a panel of other Judges of this Court appointed by the Chief Judge.

(f) Disciplinary Rule VI - Disbarment 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 discipline, but only by delivering to this Court an affidavit stating that the attorney desires to consent

to such discipline and that:

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

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

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

(iv) the attorney so consents because the attorney knows that if the charges were predicated upon the matters under investigation, or if the proceedings were prosecuted, the attorney could not successfully defend himself.

(2) Upon receipt of the required affidavit, this Court shall enter an order of such discipline.

(3) The order disciplining the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

(g) Disciplinary Rule VII - Reinstatement

(1) After Disbarment or Suspension

An attorney suspended for three (3) months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the Court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three (3) months or disbarred may not resume practice until reinstated by order of this Court.

(2) Time of Application Following Disbarment

A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five (5) years from the effective date of the disbarment.

(3) Hearing on Application

Petitions for reinstatement by a disbarred or suspended attorney under this rule shall be filed with the Chief Judge of this Court. Upon receipt of the petition, the Chief Judge shall promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more Judges of this Court, provided, however, that if the disciplinary proceeding was predicated upon the complaint of a Judge of this Court, the hearing shall be conducted before a panel of the remaining Judges of this Court appointed by the Chief Judge. The Judge or Judges assigned to the matter shall, within thirty (30) days after referral, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his or 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.

(4) Duty of Counsel

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

(5) Deposit for Costs of Proceeding

Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Court to cover anticipated costs of the reinstatement proceeding.

(6) Conditions of Reinstatement

If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate him, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings, and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. Provided further, that if the petitioner has been suspended or disbarred for five (5) years or more, reinstatement may be conditioned, in the discretion of the Judge or Judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

(7) Successive Petitions

No petition for reinstatement under this rule shall be filed within one (1) year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(h) Disciplinary Rule VIII - 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 misconduct of that attorney arising in the course of, or in the preparation for, such proceeding.

(i) Disciplinary Rule IX - Service of Papers and Other Notices

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

(j) Disciplinary Rule X - Appointment of Counsel

Whenever counsel is to be appointed pursuant to these rules to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney, this Court shall appoint as counsel the disciplinary agency of the highest Court of the State of Illinois

where the Court sits, or the attorney maintains his or her principal office in the case of the Courts of Appeal or other disciplinary agency having jurisdiction. If no such disciplinary agency exists or such disciplinary agency declines appointment, or such appointment is clearly inappropriate, this Court shall appoint as counsel one or more members of the bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these rules, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

(k) Disciplinary Rule XI - Registration Fee

(1) Every attorney admitted to practice before this Court, including those on a pro hac vice basis, shall pay to the Clerk of the Southern District of Illinois a fee of fifty-five dollars ($55.00). The amount of fifty dollars ($50.00) collected from every attorney admitted to practice, except those on a pro hac vice basis, shall be deposited in the Treasury of the United States.

(2) The amount of five dollars ($5.00) collected from every attorney admitted pursuant to sub-paragraph (1) above and the entire fee for those admitted on a pro hac vice basis shall be used to pay the costs of disciplinary administration and enforcement under these rules in addition to such other uses of the fund as set forth in this Court's *Plan for the Administration of the District Court Fund*.

(l) Disciplinary Rule XII - Payment of Fees and Costs

At the conclusion of any disciplinary investigation and prosecution, if any, under these rules, counsel may make application to this Court for an order awarding reasonable fees and reimbursing costs expended in the course of such disciplinary action or prosecution. Any such order shall be submitted to the Chief Judge of the Southern District of Illinois, who may order payment of such amounts from the funds collected pursuant to Rule XI hereof, as he or she may deem reasonable and just under the circumstances of each case.

(m) Disciplinary Rule XIII - Duties of the Clerk

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

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

(3) Whenever it appears that any person convicted of any crime or disbarred or suspended, censured, or disciplined on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, the Clerk of this Court shall, within ten (10) days of that conviction, disbarment, suspension, censure, or discipline on consent, transmit to the disciplinary authority in such other jurisdiction, or for such other court, a certificate of the conviction or a certified exemplified copy of the judgment or order of disbarment, suspension, censure, or discipline on consent, as well as the last known office and residence addresses of the defendant or respondent.

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

(n) Disciplinary Rule XIV - Jurisdiction

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

RULE 83.5 DEATH PENALTY CASES
(See 28 U.S.C. §2261, et seq.)

(a) Operation, Scope and Priority

(1) This rule applies to post-conviction proceedings in all cases involving persons under sentence of capital punishment.

(2) The judge to whom a case is assigned will handle all matters pertaining to the case, including certificates of appealability, stays of execution, consideration of the merits, second or successive petitions when authorized by the court of appeals under 28 U.S.C. §§ 2244(b)(3), 2255 ¶8, remands from the court of appeals or Supreme Court of the United States, and associated procedural matters. This rule does not limit a district judge's discretion to designate a magistrate judge, under 28 U.S.C. §636, to perform appropriate tasks. An emergency judge may act when the designated district judge is unavailable.

(3) The judge must give priority to cases within the scope of this rule, using the time limitations in 28 U.S.C. §2266(b) as guidelines when that section is not directly applicable.

(4) The judge may make changes in the procedures established by this rule when justice so requires.

(b) Notices and Required Documents

(1) A petition or motion within the scope of this rule must:

(A) Include all possible grounds for relief;

(B) Inform the Court of the execution date, if one has been set; and

(C) In an action under 28 U.S.C. §2254, inform the Court how each issue raised was presented to the state tribunal and, if it was not presented, why the contention nonetheless should be treated as (i) exhausted, and (ii) not forfeited.

(2) As soon as a case is assigned to a judge, the district clerk must notify by telephone the judge, counsel for the parties, and the representatives designated under the next subsection. The district clerk also must inform counsel of the appropriate procedures and telephone numbers for emergency after-hours motions.

(3) The Attorney General of states with persons under sentence of death, and the United States Attorneys of districts with persons under sentence of death, must designate representatives to receive notices in capital cases in addition to, or in lieu of, the government's assigned counsel, and must keep the court informed about the office and home telephone numbers of the designated representatives.

(4) The district clerk must notify the circuit clerk of the filing of a case within the scope of this rule, of any substantial development in the case, and of the filing of a notice of appeal. In all cases within the scope of this rule, the district court clerk must immediately transmit the record to the court of appeals following the filing of a notice of appeal. A supplemental record may be sent later if items are not currently available.

(5) Promptly after the filing of a case within the scope of this rule, the district clerk must furnish to petitioner or movant a copy of this rule, together with copies of Federal Rule of Appellate Procedure 22 and Seventh Circuit Rules 22 and 22.2.

(6) In all cases within the scope of this rule, the petitioner or movant must file, within 10 days after filing the petition or motion, legible copies of the documents listed below. If a required document is not filed, the petitioner or movant must explain the omission.

(A) Copies of all state or federal court opinions, memorandum decisions, orders, transcripts of oral statements of reasons, and judgments involving any issue presented by the petition or motion, whether these decisions or opinions were rendered by trial or appellate courts, on direct or collateral review. If a decision or opinion has been published, a citation may be supplied in lieu of a copy.

(B) Copies of prior petitions or motions filed in state or federal court challenging the same conviction or sentence.

(C) If a prior petition has been filed in federal court, either (i) a copy of the court of appeals' order under 28 U.S.C. §2244(b)(3) or §2255 ¶8 permitting a second or successive collateral attack, or (ii) an explanation why prior approval of the court of appeals is not required.

(D) Any other documents that the judge requests.

(c) Preliminary Consideration

(1) The district judge will promptly examine a petition or motion within the scope of this rule and, if appropriate, order the respondent to file an answer or other pleading or take such other action as the judge deems appropriate.

(2) If the judge determines that the petition or motion is a second or successive collateral attack for which prior approval of the court of appeals was required but not obtained, the judge will immediately dismiss the case for want of jurisdiction.

(3) If the court of appeals granted leave to file a second or successive collateral attack, the district judge must promptly determine in writing whether the criteria of 28 U.S.C. §2244(b)(4) have been satisfied.

(d) Appointment of Counsel

Pursuant to 18 U.S.C. §3006A, 21 U.S.C. §848(q), 28 U.S.C. §2254(h), and 28 U.S.C. §2255 ¶7, counsel will be appointed for any person under a sentence of death who is financially unable to obtain representation, requests that counsel be appointed, and does not already have counsel appointed by a state under 28 U.S.C. §2261.

(e) Stay of Execution

(1) A stay of execution is granted automatically in some cases, and forbidden in others, by 28 U.S.C. §2262. All requests with respect to stays of execution over which the court possesses discretion, or in which any party contends that §2262 has not been followed, must be made by motion under this rule.

(2) Parties must endeavor to file motions with the court in writing and during normal business hours. Parties having emergency motions during nonbusiness hours must proceed as instructed under part (b)(2).

(3) A motion must be accompanied by legible copies of the documents required by part (b)(6), unless these documents have already been filed with the Court or the movant supplies a reason for their omission. If the reason is lack of time to obtain or file the documents, then the movant must furnish them as soon as possible thereafter.

(4) If the attorney for the government has no objection to the motion for stay, the Court must enter an order staying the execution.

(5) If the district judge concludes that an initial petition or motion is not frivolous, a stay of execution must be granted.

(6) An order granting or denying a stay of execution must be accompanied by a statement of the reasons for the decision.

(7) If the district court denies relief on the merits and an appeal is taken, then:

(A) if the judge denies a certificate of appealability, any previously issued stay must be vacated, and no new stay of execution may be entered; but

(B) if the judge issues a certificate of appealability, a stay of execution pending appeal must be granted.

(f) Clerk's List of Cases

The clerk will maintain a list of cases within the scope of this rule.

Cr32.1 CONFIDENTIAL PROBATION RECORDS

(See Fed.R.Crim.P. 32; 18 U.S.C. §3552)

(a) Presentence Interview

The attorney for the defendant will receive notice and a reasonable opportunity to attend any presentence investigation interview by the probation officer with the defendant. The defense counsel has the burden of responding as promptly as possible to enable timely completion of the presentence report. If an undue delay is caused by defense counsel's unavailability, the probation officer will consult with the Court about proceeding with the interview without counsel.

(b) Presentence Report

The presentence report shall be mailed or otherwise provided to the defendant's attorney and the attorney for the government at least thirty-five (35) days prior to the sentencing hearing in accordance with Federal Rule of Criminal Procedure 32. The defendant may waive the thirty-five (35) day disclosure rule. The attorney for the government, attorney for the defendant and the defendant shall acknowledge receipt of the presentence report on the Probation Form which is provided with the pre-sentence report. The parties shall indicate whether the report is acceptable or that there are objections to the report. The Probation Form shall be filed with the Clerk of the Court within fourteen (14) days after receiving the presentence report. The Clerk's Office will provide a file-marked copy to the Probation Office.

Either party wishing to file objections to the presentence report must do so with the Clerk of the Court within fourteen (14) days after receiving the presentence report. The party filing objections must provide a copy to the Probation Office and opposing party. All responses to the objections must be served on the opposing party and the Probation Office. The probation officer must submit the presentence report to the Court no later than seven (7) days prior to disposition. The probation officer will also submit to the Court an addendum setting forth any unresolved objections and the officer's response to the objections. At the same time, the officer will furnish to the defendant and counsel for both parties the revisions of the presentence report and the addendum.

The probation officer's recommendation shall not be disclosed to either party and shall be sealed separate from the presentence report following disposition.

(c) Stipulation of Facts (Guilty Plea)

Counsel for the defendant and the attorney for the government may submit a written stipulation of facts pursuant to U.S.S.G. §6B.1 that accompanies the plea agreement.

(d) Submission of Offense Conduct

The attorney for the defendant and the attorney for the government may each file, with the Clerk of the Court, a written version of the offense conduct not more than ten (10) days after a guilty verdict. Each attorney shall provide a copy of their version to opposing counsel and to the Probation Office.

(e) Subpoena of Records and Testimony

When probation records, presentence reports or testimony by a probation officer are requested by subpoena or other judicial process, the probation officer shall file a petition seeking instruction from the sentencing Court for such disclosure. No disclosure will be authorized except upon an order issued by the sentencing Court.

Cr50.1 DISPOSITION OF CRIMINAL CASES; SPEEDY TRIAL
(See Fed.R.Crim.P. 50; 18 U.S.C. §3161 et seq.; 18 U.S.C. §§5036, 5037)

(a) The disposition of criminal cases shall be handled and disposed of in accordance with the District's *"Plan for Achieving Prompt Disposition of Criminal Cases."*

(b) The *"Plan for Achieving Prompt Disposition of Criminal Cases,"* also called the Speedy Trial Plan, places special requirements on both the Government and the defendant regarding time which may be excluded from the time allowed by Speedy Trial Plan, including an obligation for both parties to review the Clerk's records of excludable time for completeness and accuracy.

(c) The Clerk shall enter judicial determinations of excludable time on the docket and in such other records as the Court may direct.

APPENDIX B
BANKRUPTCY CASES AND PROCEEDINGS
(See 28 U.S.C. §157, 28 U.S.C. §158, et seq.; 28 U.S.C. §§1334(c), 1452(b), 1412)

Br1001.1 MATTERS DETERMINED BY THE BANKRUPTCY JUDGES

All cases under Title 11 of the United States Code, and any or all proceedings arising under Title 11 or arising in or related to a case under Title 11 are referred to the Bankruptcy Judge. It is the intention of this Court that the Bankruptcy Judges be given the broadest possible authority to administer cases properly within their jurisdiction, and this rule shall be interpreted to achieve this end.

Motions for abstention, 28 U.S.C. 1334(c); remand, 28 U.S.C. 1452(b); transfer of venue, 28 U.S.C. 157(b)(5); change of venue, 28 U.S.C. 1412; withdrawal of reference, 28 U.S.C. 157(d); and removal of cases under 28 U.S.C. 1452(a) shall be filed with the Clerk of the Bankruptcy Court.

Br9015.1 JURY TRIAL

If the right to a jury trial applies in a proceeding that may be heard under Section 157 of Title 28 United States Code by a Bankruptcy Judge, the Bankruptcy Judge for the Southern District of Illinois, as well as those Bankruptcy Judges sitting in this District by designation of the Circuit Council, are hereby specially designated to exercise such jurisdiction.

Br9029.1 ADOPTION OF LOCAL BANKRUPTCY RULES

The rules governing practice and procedure in all cases and proceedings within the District Court's bankruptcy jurisdiction shall be the Local Rules of the United States Bankruptcy Court for the Southern District of Illinois, adopted by unanimous action of the Judges of the District Court taken on the 1st day of February, 1989, in their present form or as hereafter amended or supplemented by the United States Bankruptcy Court in this District.

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