

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

PROPOSED AMENDMENTS TO LOCAL RULES

REQUEST FOR COMMENT
PUBLIC COMMENT PERIOD OCTOBER 8 - NOVEMBER 9, 2009

ALL WRITTEN COMMENTS DUE BY CLOSE OF BUSINESS
NOVEMBER 9, 2009

Pursuant to 28 U.S.C. § 2071(b), Fed. R. Civ. P. 83(a)(1) and Fed. R. Crim. P. 57(a)(1), the United States District Court for the District of New Hampshire gives notice that the below proposed amendments to the Local Rules are being considered for adoption to be effective 12/1/09. New matter is underlined; matter to be stricken is crossed out. The ***** denotes omitted text before and/or after the pertinent rule section.

Input from the public and the bar is encouraged. Any written comments, in letter form and keyed to the specific rule/subsection, should be directed to the Clerk, U.S. District Court, Warren B. Rudman U.S. Courthouse, 55 Pleasant Street, Room 110, Concord, NH 03301-3941.

CIVIL RULES

1.1 General Rules

* * * * *

(b) **Effective Date.** Effective January 1, 1996, as amended ~~January~~ December 1, 2008~~09~~.

* * * * *

4.3 Pro Se Filings

* * * * *

(d) Responsibilities of Clerk's Office and Magistrate Judge.

(1) Nonincarcerated Plaintiffs and Removal Defendants.

(A) Filing Fee Paid. The clerk's office shall forward initial filings, including removed actions, to the magistrate judge for preliminary review to determine whether the court has subject matter jurisdiction. If the magistrate judge determines that the court lacks subject matter jurisdiction, the magistrate judge shall either recommend that the filings be dismissed or grant the party leave to file amended filings in accordance with the magistrate judge's directives.

(B) In Forma Pauperis. The clerk's office shall forward initial filings and any subsequent amendments to those filings, including removed actions, by persons granted in forma pauperis status to the magistrate judge for preliminary review. After the initial review, the magistrate judge may:

(i) report and recommend to the court that the filing be dismissed because the allegation of poverty is untrue, the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief under 28 U.S.C. § 1915(e)(2); or it fails to establish subject matter jurisdiction under Fed. R. Civ. P. 12(b)(1); or

(ii) grant the party leave to file an amended filing in accordance with the magistrate judge's directives; or

(iii) pursuant to Fed. R. Civ. P. 4(c)(3), appoint a person to effect service.

* * * * *

(e) Pleadings Filed by Represented Parties. Any litigant who is represented by an attorney may not file a pleading in a case unless:

(1) The court grants a motion for leave to file a pro se pleading; or

(2) The litigant is filing a motion related to the status of counsel.

Any pro se pleading that does not comply with this rule shall not be added to the court's docket or presented to a judicial officer and shall be returned to the filer.

7.5 Disclosure Statement

(a) **Form of Filing.** The disclosure statement referenced in Fed. R. Civ. P. 7.1 and this rule shall substantially conform to Civil Form 3, Sample Disclosure Statement.

(b) **Additional Information.** The disclosure statement shall also identify any publicly held corporation with which a merger agreement exists.

(c) **Partnerships and Limited Liability Companies.** When a partnership or a limited liability company (LLC) is a party to an action or proceeding, the partnership/LLC shall file a disclosure statement providing the information required in Fed. R. Civ. P. 7.1 and § (b) of this rule for any nongovernmental corporate entity that holds an interest in said partnership/LLC or state that there is no such corporate entity that holds an interest in the partnership/LLC.

* * * * *

9.4 Cases under § 502(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1132(a)(1)(B)

Unless otherwise ordered by the court, the following procedures shall govern all actions that include one or more claims under § 502(a)(1)(B), including removed cases in which an ERISA claim is pled and removed or diversity cases in which the court subsequently determines that ERISA preempts the state law claims.

* * * * *

(d) **Discovery and Trial.** Initial disclosure under Fed. R. Civ. P. 26(a) shall not be made, discovery shall not be permitted except as stated herein, and a trial date shall not be set prior to the court's ruling on the motions for judgment on the administrative record. Any party may move the court to permit limited discovery on issues of conflict of interest or bias as permitted by case authority.

67.3 Withdrawal of Deposit in Interest-Bearing Account

No funds may be paid out of the court's registry except by order of the court. Except as provided in Fed. R. Civ. P. 67, no funds may be disbursed until fourteen (14) days after the entry of judgment. ~~Upon conclusion of the case or proceeding involving investment of registry funds,~~ The authorized custodian shall disburse all registry principal and income, if applicable, less the registry fee assessment, pursuant to the court's order. Any such order shall distinctly set forth the funds in question and name the payee. Should the named payee be other than the depositor of the funds, that fact shall be reflected in the order. The party presenting such order shall comply with LR 67.2(a)(3). If the funds have been deposited in an interest-bearing account or an interest-bearing instrument, the party shall provide, on a separate filing attached to the motion seeking withdrawal of the funds, the social security number or employer identification number of the ultimate recipient of the funds. The clerk shall forward this separate filing directly to the institution holding the money.

69.1 Writs of Execution; Related Proceedings

Except where stayed by a controlling statute or by rule or order of the court, plaintiff shall be entitled to request execution of the judgment ten (10) days after judgment has been entered. Every officer to whom a writ of execution is delivered shall make return thereon to the clerk's office unless the court otherwise directs. When a sale is made under any execution and no particular time for return is prescribed by order of the court or provision of law, the return shall be made within thirty (30) days after said sale. If no particular time is prescribed by order or law and no sale is made under the execution, return shall be made immediately after such execution occurs or, if not executed, within sixty (60) days after the writ of execution is issued.

* * * * *

72.1 Duties of Magistrate Judge

Any full-time United States magistrate judge is authorized to exercise all the powers and perform all duties conferred upon magistrate judges by United States Code, Title 28, Sections 636(a), (b), and (g), and to exercise the powers enumerated in Rules 5, 8, 9, and 10 of the Rules Governing Section 2254 and 2255 Proceedings.

* * * * *

77.4 Bankruptcy

* * * * *

(c) Appeals.

* * * * *

(2) Notice of Docketing and Briefing Order. Upon the filing of an appeal, the clerk's office shall issue a notice of docketing and briefing deadline. Parties shall file briefs in accordance with the deadlines established in B.R. 8009. Unless leave is granted to extend the deadlines, the case is submitted to the assigned judge fifty (50) days from the date of the notice.

(3) Failure to Comply with Briefing Deadlines Dismissal for Lack of Prosecution. If the appellant's brief is not received within the time specified by B.R. 8009, the court will dismiss may impose an appropriate sanction, which may include dismissal of the appeal for lack of prosecution.

* * * * *

83.1 Bar of District Court

* * * * *

(b) Procedure for Admission. Each applicant for admission to the bar of this court shall file with the clerk's office a completed Petition and Oath on Admission in duplicate on a form provided by the clerk's office. One copy shall be forwarded by the clerk's office to the United States Attorney for the District of New Hampshire who shall investigate each applicant's eligibility as is deemed necessary. Submission of a completed Petition and Oath on Admission to the bar of this court constitutes the applicant's consent to have a criminal background check performed by the United States Attorney's Office. If the United States Attorney determines that the applicant is eligible, a representative from that office shall move for the applicant's admission ~~in open court~~. If the United States Attorney is not satisfied, any member of the bar of this court may move for the applicant's admission, and the United States Attorney or an assistant may oppose the motion. If the United States Attorney files an objection, the clerk's office shall advise the applicant ~~at least one (1) day prior to the day for which admission is scheduled~~. Unless the applicant withdraws the application, the court shall conduct a hearing on the application ~~on the day scheduled for admission~~. The court may grant or deny the application for admission or may continue the matter for further proceedings.

Unless the United States Attorney files an objection, the applicant shall be admitted to the bar of this court ~~on the day for which admission has been scheduled by making the prescribed oath or affirmation before the presiding judge~~. Applicants for admission are expected to appear for an admission ceremony promptly. ~~Unless they appear within one year of the date of approval of their application, that~~ Applicants must be sworn in as members of the district's bar within one year of the date of their application is approval or their application will be deemed inactive and a new application will be required.

Upon payment of a \$180 fee made payable to the Clerk, United States District Court, which includes a fee for deposit to the United States District Court Library Fund, the applicant shall then be a member of the bar of this court.

* * * * *

(e) Continued Membership. Active membership in good standing in the any of the following is a precondition to continued membership in the bar of this court: The bar of the highest court of a state, the District of Columbia, the Commonwealth of Puerto Rico, the Territory of Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States.

83.2 Practice by Persons Not Members of the Bar of This Court

(a) Attorneys for the United States. An attorney who is in good standing as a member of the bar in every jurisdiction in which admitted to practice, who is not subject to pending disciplinary proceedings as a member of the bar in any jurisdiction, ~~and who is a member of the bar of any United States District Court~~, may appear and practice in this court as an attorney for the United States, or for any agency of the United States, or for an officer of the United States in an official capacity. The court may at any time revoke such permission for good cause without a hearing and any attorney appearing pursuant to this rule is subject to the disciplinary rules and jurisdiction of this court.

83.11 Sealed Documents

* * * * *

(c) **Motions to Seal.** A motion to seal must be filed before the sealed material is submitted or, alternatively, the item to be sealed may be tendered with the motion and both will be accepted provisionally under seal, subject to the court’s subsequent ruling on the motion. The motion must explain the basis for sealing, specify the proposed duration of the sealing order, and designate whether the material is to be sealed at Level I or Level II. Departure motions based on substantial assistance need not contain a proposed seal duration and, unless extended upon motion for good cause shown, shall remain sealed for five (5) years or until the completion of any term of imprisonment, whichever occurs later. Any motion to seal, upon specific request, may also be sealed if it contains a discussion of the confidential material. If the court denies the motion to seal, any materials tendered under provisional seal will be returned to the movant.

83.13 Exhibits

* * * * *

(b) **Custody.** All exhibits received or offered in evidence at any proceeding shall be delivered to the clerk, who shall keep them in custody except that any sensitive exhibits or other exhibits which, because of their size or nature, require special handling shall remain in the possession of the party introducing same during the pendency of the proceedings and any appeal.

(c) **Disposition.** At the conclusion of the proceeding, all exhibits shall be retained by the clerk returned to the submitting parties who shall keep them available for the use of other parties, this court, or an appellate court until the expiration of any appeal period or the conclusion of any appeal, whichever occurs later. The court may, however, order that some or all exhibits be maintained by an attorney or party or otherwise stored at an off-site facility at the parties’ expense during the pendency of any appeal.

After the conclusion of any appeal or, if no appeal is taken, after the expiration of the appeal period, if any exhibits remain in court custody, the clerk may notify the parties that the exhibits should be removed within a specified period of time. If the exhibits are not removed or another arrangement made with the clerk within the time allowed, the exhibits may be destroyed or otherwise disposed of without further notice.

(d) **Appeals.** The parties shall attempt to file an agreed-upon designation of the exhibits necessary for the determination of the appeal within fourteen (14) ±0 days after service of the notice of appeal. In the absence of agreement, the appellant shall, not later than twenty-one (21) ±5 days after filing the notice of appeal, file a designation of the exhibits the appellant considers to be necessary. If the appellee considers other exhibits to be necessary, the appellee shall file a cross-designation within fourteen (14) ±0 days after service of appellant's designation.

It shall be the duty of the clerk, or any attorney or party having possession of an exhibit ~~designated pursuant to a court order this rule,~~ to send promptly such any designated exhibit(s) or a true copy thereof to the office of the clerk of the court of appeals to which the appeal has been taken.

Exhibits which have not been designated shall be retained by the clerk of the district court or other person authorized by court order ~~if the district court has authorized their retention by an attorney or party pursuant to subparagraph (c) of this rule, by such attorney or party.~~ Any such exhibit shall be transmitted to the clerk of the court of appeals on the request of that court, acting on the order of any judge thereof or on the motion of a party showing good cause for failure to include any such exhibit in the attorney's designation.

Pursuant to Fed. R. App. P. 11(b)(2), documents of unusual bulk or weight and physical exhibits other than documents shall remain in the custody of the attorney or party who produced them. The attorney or party retaining custody of the documents shall permit inspection of them by any other party and the court of appeals upon request.

(e) Photographs of Chalks. In order to make a record of a chalk, the court may permit a party to photograph or otherwise copy it, on such terms as are just.

CIVIL FORMS

Civil Form 2, Sample Discovery Plan

* * * * *

OTHER ITEMS

DISCLOSURE OF CLAIMS AGAINST UNNAMED PARTIES: If defendant(s) claim that unnamed parties are at fault on a state law claim (see DeBenedetto v. CLD Consulting Engineers, Inc., 153 N.H. 793 (2006)), defendant(s) shall disclose the identity of every such party and the basis of the allegation of fault no later than [no later than 30 days before the Joinder of Additional Parties deadline and 45 days before the Plaintiff's Expert Disclosure deadline]. Plaintiff shall then have 30 days from the date of disclosure to amend the complaint.

* * * * *

CRIMINAL RULES

1.1 General Rules

* * * * *

(b) **Effective Date.** Effective January 1, 1996, as amended ~~December~~ January 1, 200809.

* * * * *

(d) **Scope.** LCrR 1.1 - 58.1 shall govern the procedure in all criminal actions. Civil local rules shall apply insofar as they do not conflict with any statute, federal or local criminal rule, or individual order. The following civil/general local rules shall apply in criminal actions: Rules 1.1(c),(d) and (g), 1.2 - 1.3, , 4.3(e), 4.4 - 5.4, 7.1(a),(c), (d) and (e), 7.2(a),(c) and (e), 7.3, 39.1, 39.3, 40.2, 45.1 - 47.3, 54.1, 65.1.1, 67.2 - 67.4, 72.1, 72.2, 77.1, 77.3,77.5, 77.6, 80.1, 83.1, 83.2(a),(b) and (d), 83.3 - 83.5, 83.6(a)-(c), and (e), 83.7 -83.12, 83.13(b)-(e), 83.14.

16.1 Routine Discovery

The parties shall disclose the following information without waiting for a demand from the opposing party.

(a) **Criminal Record Report.** Prior to or during the course of the initial appearance, the United States Probation and Pretrial Service Office shall, to the extent in their possession, provide the government with two (2) copies of the defendant's criminal record report. Upon receipt, the government shall provide a copy of that report to counsel for the defendant, it being presumed that defense counsel has made a request for this information pursuant to Fed. R. Crim. P. 16(a)(1)(D).

(ab) Material Discoverable Pursuant to Fed. R. Crim. P. 16.

(1) By the Government. The government shall disclose information described in Fed. R. Crim. P. 16(a)(1) within fourteen (14) days after the arraignment unless the parties agree on a different date or unless the defendant notifies the government within that time period and prior to receipt of such information that the defendant declines to receive that information.

(2) By the Defendant. The defendant shall disclose the information described in Fed. R. Crim. P. 16(b) within thirty (30) days after the arraignment unless the parties agree on a different date or unless the defendant has timely notified the government pursuant to LCrR 16.1(a)(1) that the defendant declines reciprocal discovery.

(bc) Electronic Communications. The government shall disclose any evidence suggesting that the government has intercepted the defendant's wire or electronic communications, as defined in 18 U.S.C. § 2510, within fourteen (14) days after the arraignment.

(ed) Exculpatory and Impeachment Material. The government shall disclose any evidence material to issues of guilt or punishment within the meaning of Brady v. Maryland, 373 U.S. 83 (1963), and related cases, and any impeachment material as defined in Giglio v. United States, 405 U.S. 150 (1972), and related cases, at least ~~twenty (20)~~ twenty-one (21) days before trial. For good cause shown, the government may seek approval to disclose said material at a later time.

(de) Witness Statements. The government shall disclose any witness statements, as defined in Fed. R. Crim P. 26.2(f) and 18 U.S.C. § 3500, at least seven (7) days prior to the commencement of the proceeding at which the witness is expected to testify unless the government determines that circumstances call for later disclosure as allowed by Rule 26.2 and 18 U.S.C. § 3500.

(ef) Fed. R. Evid. 404(b) Material. The government shall disclose the general nature of any evidence that it intends to introduce pursuant to Fed. R. Evid. 404(b) at least seven (7) days prior to trial.

(fg) Exhibits. The parties shall exchange and file exhibit lists at least seven (7) days prior to trial. Exhibits intended to be used solely for impeachment need not be listed. Objections to exhibit lists shall be filed on the day of trial. The parties shall deliver their exhibits to the clerk's office and a copy to each other at least one day before the start of evidence.

(gh) Witness Lists. The parties shall exchange and file witness lists at least seven (7) days prior to trial. For good cause shown, either party may seek court approval to exchange witness lists at a later date.

32.1 Guideline Sentencing

* * * * *

(i) Deviations. Any party requesting a departure under the sentencing guidelines and/or a variance under United States v. Booker, 543 U.S. 220 (2005) and its progeny, must file a motion specifying the grounds for relief and legal authority for the departure and/or variance. This motion shall be filed no later than four (4) days prior to the scheduled sentencing, and a copy shall be served upon opposing counsel and the probation officer.

LOCAL RULE AMENDMENTS RELATED TO REVISIONS TO FEDERAL RULES OF PROCEDURE TIME COMPUTATION RULES

Effective December 1, 2009, the time computation rules contained in Civil Rule 6 and Criminal Rule 45 will change. The current time computation rules exclude intermediate weekends and holidays when the time period is 11 days or less. Fed. R. Civ. P. 6 (a)(2); Fed. R. Crim. P. 45 (a)(2). The amended rules eliminate this exclusion and count all days in any time period. The purpose of this amendment is to create a consistent and simple mechanism for counting days - namely that "days are days" and every day in a period will count.

To maintain consistency with the national rules and to avoid confusion, the Judicial Conference Committee on Rules of Practice and Procedure (JCCRPP) asked courts to review their local rules and make necessary adjustments. The JCCRPP recommended that, to the extent consistent with the spirit and intent of a specific local rule, any 5-day period should be lengthened to 7 days, any 10-day period should be lengthened to 14 days; and periods of less than 30 days should be revised to be a multiple of 7 days. (i.e., 15 day deadlines moved to 14 days and 20 day deadlines moved to 21 days). While not all of the district's local rules will be amended consistent with the JCCRPP's recommendation, the proposed amendments below reflect changes to local rule deadlines that accommodate both the JCCRPP's recommendation and the purpose and spirit of the local rule in question.

CIVIL RULES

4.2 In Forma Pauperis Applications

* * * * *

(d) Objections. Objections to any filing fee ordered by the court shall be filed with the clerk's office within fourteen (14) ~~fifteen (15)~~ days of that order and shall demonstrate factors, such as lack of ability, which justify not paying the required fee.

6.1 Computation of Time

Wherever in these rules reference is made to filing, time periods shall be determined in accordance with Fed. R. Civ. P. 6(a). All time periods running from the date of service shall be determined in accordance with Fed. R. Civ. P. 6(a) and (d). Rule 6(d) does not apply to time periods calculated from the date of filing. ~~Saturdays, Sundays, and legal holidays shall be included when calculating time added pursuant to Fed. R. Civ. P. 6(d).~~

7.1 Motions

* * * * *

(b) Time for Response. Except as otherwise required by law or order of the court, every objection, except objections to summary judgment motions, shall be filed within fourteen (14) ~~ten (10)~~ days from the date the motion is served. Objections to summary judgment motions shall be filed within thirty (30) days from the date the motion is served. The court shall deem waived any objection not filed in accordance with this rule.

* * * * *

(e) Reply or Surreply Memorandum.

(1) Dispositive Motions. Within fourteen (14) ~~ten (10)~~ days of the service of an objection or opposition to a dispositive motion, the party filing the dispositive motion may file a reply memorandum not to exceed ten (10) pages restricted to rebuttal of factual and legal arguments raised in the objection or opposition memorandum. Written or oral notice of an intention to file a reply memorandum shall be provided to the court and opposing counsel within three (3) days of the service of the objection or opposition to the dispositive motion. Absent notice, the dispositive motion shall be deemed ripe when the objection or opposition to the dispositive motion is filed.

(2) Nondispositive Motions. A memorandum in reply to an objection or opposition to a nondispositive motion shall not be permitted without prior leave of court. Any motion for leave to file such a reply shall be filed within fourteen (14) ~~ten (10)~~ days of the service of the objection or opposition to which the reply would respond and shall attach the proposed reply, which will be limited to five (5) pages, as an exhibit. Written or oral notice of an intention to move for leave to file a reply memorandum shall be provided to the court and opposing counsel within three (3) days of the service of the objection or opposition to the nondispositive motion. Absent notice, the nondispositive motion shall be deemed ripe when the objection or opposition to the nondispositive motion is filed.

(3) Surreply Memorandum. A surreply memorandum shall not be permitted without prior leave of court. Any motion for leave to file a surreply shall be filed within fourteen (14) ~~ten (10)~~ days of the service of the reply memorandum to which the surreply would respond and shall attach the proposed surreply, which will be limited to five (5) pages, as an exhibit. Written or oral notice of an intention to move for leave to file a surreply memorandum shall be provided to the court and opposing counsel within three (3) days of the service of the reply to the objection. Absent notice, the motion shall be deemed ripe when the reply to the objection is filed. Motions for leave to file a surreply will only be granted under extraordinary circumstances.

7.2 Specified Motions

* * * * *

(c) **Motions to Strike.** Any motion to strike material offered in support of or in opposition to a motion must be filed within fourteen (14) ~~ten (10)~~ days of the service of the motion or objection to which the objected-to material is attached.

* * * * *

(e) **Motions for Reconsideration.** A motion to reconsider an interlocutory order of the court, meaning a motion other than one governed by Fed. R. Civ. P. 59 or 60, shall demonstrate that the order was based on a manifest error of fact or law and shall be filed within fourteen (14) ~~ten (10)~~ days from the date of the order unless the party seeking reconsideration shows cause for not filing within that time. Cause for not filing within fourteen (14) ~~ten (10)~~ days from the date of the order includes newly available material evidence and an intervening change in the governing legal standard.

When a motion to reconsider a ruling by the magistrate judge is directed to the magistrate judge, an objection pursuant to Federal Rule of Civil Procedure 72 or 28 U.S.C.A. § 636(b)(1) shall be filed within fourteen (14) ~~ten (10)~~ days after being served with a copy of the magistrate judge's ruling on the motion to reconsider.

7.5 Disclosure Statement

* * * * *

(d) **Time for Filing in Removal Actions.** In removal actions, a nongovernmental corporate plaintiff or a partnership plaintiff must file a disclosure statement within twenty-one (21) ~~twenty (20)~~ days from the date the notice of removal is filed or with its first appearance, pleading, petition, motion, response, objection, or request, whichever is filed sooner.

9.1 Social Security Cases

* * * * *

(c) The defendant shall inform the plaintiff within fourteen (14) ~~fifteen (15)~~ days of any proposed additions or deletions to the joint statement. If the parties are unable to agree on a proposed fact to be included in the joint statement, the parties shall attach a list of disputed facts to the joint statement identifying the party who proposes inclusion of each disputed fact and the record support for each proposed inclusion.

* * * * *

9.3 Individuals with Disabilities Education Act (IDEA) Cases

* * * * *

(b) Filing of the Administrative Record. The plaintiff shall obtain and file a copy of the administrative record within thirty (30) days after the complaint is filed. If a portion of the administrative hearing required to resolve the case has not been transcribed by the date that the administrative record is filed, the plaintiff shall order a transcript of that portion of the hearing within fourteen (14) ~~ten (10)~~ days after the administrative record is filed, and file the transcript as soon as it becomes available. When the plaintiff determines that the administrative record is complete, the plaintiff shall serve on the defendant a proposed certificate of completion listing the documents and portions of the transcript comprising the administrative record. If the defendant agrees that the administrative record is complete, the defendant shall promptly file the certificate of completion. Alternatively, if the defendant determines that a transcript of additional portions of the administrative hearing or additional documents comprising the record will be required, the defendant shall notify the Court of its intent to supplement the administrative record within fourteen (14) ~~ten (10)~~ days of being served with the proposed certificate of completion. The defendant shall then order the supplemental transcript within fourteen (14) ~~ten (10)~~ days after the notice of intent to supplement the administrative record is filed. The defendant shall file the supplemental transcript, any additional documents and a certificate of completion as soon as the supplemental transcript becomes available.

(c) Evidentiary Hearings. Within fourteen (14) ~~ten (10)~~ days after the answer or the certificate of completion is filed, whichever is later, any party seeking an evidentiary hearing shall file a motion for evidentiary hearing and a supporting memorandum. The motion and the supporting memorandum shall identify with specificity any evidence that will be produced at the evidentiary hearing and shall explain why such evidence is necessary to the resolution of the case. Any objection to a motion for evidentiary hearing shall be filed together with a supporting memorandum within fourteen (14) ~~ten (10)~~ days after the motion is filed. An evidentiary hearing will not be held unless ordered by the court.

(d) Joint Statement of Material Facts. Within thirty (30) days after the answer or a certificate of completion is filed, whichever is later, the plaintiff shall serve on the defendant a proposed joint statement of material facts. This statement shall be in narrative form, contain record citations, summarize all procedural developments, and describe all facts pertinent to the resolution of the case. Within fourteen (14) ~~fifteen (15)~~ days after the proposed joint statement of material facts is filed, the defendant shall inform the plaintiff of any proposed additions or deletions to the joint statement. Within fourteen (14) ~~fifteen (15)~~ days of receipt of the defendant's proposed additions and deletions, the plaintiff shall file a joint statement of material facts containing all agreed-upon facts and record citations. If any material facts remain in dispute, the parties shall each file a list of disputed facts including record citations within fourteen (14) ~~fifteen (15)~~ days after the joint statement of material facts is filed by the plaintiff.

(e) Decision Memoranda. Unless the court orders an evidentiary hearing, the parties shall file Decision Memoranda within thirty (30) days after the joint statement of material facts is filed. Each party shall then have fourteen (14) ~~ten (10)~~ days to file a reply to the other party's Decision Memorandum. The reply shall not exceed ten (10) pages.

9.4 Cases under § 502(a)(1)(B) of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1132(a)(1)(B)

* * * * *

(a) The Administrative Record. The defendant shall serve and file a copy of the administrative record with its answer. In those cases in which the court determines ERISA preempts state law claims and orders the plaintiff to file an amended complaint setting forth an ERISA claim, the defendant shall serve and file the administrative record with its answer to the amended complaint. The administrative record shall consist of all relevant plan documents and any documents submitted, considered, or generated in the course of making the benefit determination. Any motion to modify the administrative record shall be served and filed within fourteen (14) ~~ten (10)~~ days after the administrative record is served.

(b) Joint Statement of Material Facts. Within thirty (30) days after the filing of the administrative record or the court's ruling on any motion to modify the administrative record, whichever is later, the plaintiff shall serve on the defendant a proposed joint statement of material facts. This statement shall be in narrative form, contain record citations, summarize all procedural developments, and describe all facts pertinent to the resolution of the case. Within fourteen (14) ~~fifteen (15)~~ days after the proposed joint statement of material facts is served, the defendant shall inform the plaintiff of any proposed additions or deletions to the joint statement. Within fourteen (14) ~~fifteen (15)~~ days after service of the defendant's proposed additions and deletions, the plaintiff shall serve and file a joint statement of material facts containing all agreed-upon facts and record citations. If any material facts remain in dispute, the parties shall each file a list of disputed facts, including record citations, within fourteen (14) ~~fifteen (15)~~ days after the joint statement of material facts is filed by the plaintiff.

* * * * *

37.1 Motions to Compel; Motions for Protective Order

* * * * *

(b) Procedure Following Resolution of Objections. When the parties resolve a dispute over discovery, they shall agree upon a date by which responses must be served, unless the discovery request is withdrawn. When the court rules on a discovery motion, the discovery requested or relief sought shall be provided within fourteen (14) ~~ten (10)~~ days of the court order, unless the order specifies a different time.

45.2 Witnesses in Cases Proceeding In Forma Pauperis

(a) In General. If a party who has been authorized to proceed in forma pauperis desires the attendance of any witness by subpoena or writ, that party shall file a motion containing the name, address, and, if applicable, the inmate number, and a brief statement of the expected testimony of

each witness not later than twenty-one (21) ~~twenty (20)~~ days before the trial, hearing, or deposition where the witness is expected to testify. If a witness's stated testimony is not material or is repetitive, the court may, in its discretion, decline to order the procurement of the witness.

* * * * *

54.1 Bill of Costs

(a) **In General.** Unless otherwise ordered by the court, the prevailing party shall be entitled to costs other than attorney's fees. The party in whose favor a judgment or decree for costs is awarded or allowed by law, and who claims costs, shall within twenty-one (21) ~~twenty (20)~~ days after the time for appeal has expired or within twenty-one (21) ~~twenty (20)~~ days after the issuance of the mandate of the appellate court serve on the attorney for the adverse party and file with the clerk a bill of costs. Failure to comply with these time limitations shall constitute a waiver of costs, unless the court otherwise orders or counsel are able to agree on the payment of costs. In the latter case, no bill of costs need be filed.

* * * * *

(c) **Objections.** Within fourteen (14) ~~ten (10)~~ days after service by any party of a bill of costs, any other party may serve and file specific objections in writing to any item(s), setting forth the specific grounds therefore.

If no objections are filed, the clerk shall tax the costs which appear properly claimed. The clerk may hold an ex parte hearing to resolve issues regarding an unopposed bill of costs.

Not less than twenty-one (21) ~~twenty (20)~~ days after receipt of a party's bill of costs and after consideration of any objections thereto, the clerk shall tax costs and serve copies of the bill of costs as allowed, or an order thereon, on all parties.

(d) **Hearing.** No hearing on a bill of costs will be conducted unless granted by the clerk. If the clerk grants such a hearing, the clerk shall give notice of the time of hearing to respective counsel at least three (3) days prior to such hearing. At the option of the clerk, the hearing may be held by telephone.

* * * * *

(f) **Review.** The taxation of costs by the clerk shall be final unless modified on review by the court on motion served within seven (7) ~~five (5)~~ days thereafter pursuant to Fed. R. Civ. P. 54(d)(1). The court shall conduct its review based upon the same filings and evidence submitted to the clerk.

72.2 Response to Objection to Magistrate Judge Order on Nondispositive Matter

A party may respond to another party's objection to the order of a magistrate judge on a nondispositive matter within fourteen (14) ~~ten (10)~~ days after being served with a copy of the objection.

73.1 Assignment of Cases to Magistrate Judge

* * * * *

(b) Methods of Assignment.

* * * * *

(2) Initial Assignment by the Clerk. The chief judge may authorize the clerk to initially assign cases to the magistrate judge on a random basis.

* * * * *

(B) Consent. A case initially assigned to the magistrate judge pursuant to this subsection shall be reassigned to a district judge unless all parties either affirmatively consent to the assignment or waive their right to object to the assignment. A party may object to the assignment by filing an objection within twenty-one (21) ~~twenty (20)~~ days after receiving notice of the initial assignment. The failure of a party to file an objection as required by this rule constitutes a waiver of the party's right to object to the assignment.

* * * * *

77.1 Clerk's Office

(a) Office Hours. The clerk's office will be open from 8:30 a.m. until 4:30 p.m. each day except Saturday, Sunday, and legal holidays. A representative from the clerk's office will be available to consult with parties in trial from 8 a.m. to 5 p.m. each day except Saturday, Sunday, and legal holidays. As used in this rule, "legal holiday" is defined in Fed. R. Civ. P. 6(a)~~(4)~~.

77.4 Bankruptcy

* * * * *

(c) Appeals.

(1) Bankruptcy Court Authorization. The bankruptcy court is authorized and directed to dismiss an appeal filed after the time specified in B.R. 8002 and an appeal in which the appellant has failed to file a designation of items as required by B.R. 8006.

The bankruptcy court is also authorized and directed under B.R. 8002(c) and 9006(b) to hear motions to extend deadlines and to consolidate appeals which present similar issues from a common record. Bankruptcy court orders entered under this subsection may be reviewed by the district court on motion filed within fourteen (14) ~~ten (10)~~ days after entry of the order sought to be reviewed.

* * * * *

(d) Cases and Proceedings Withdrawn by District Judge. A reference under this rule may be withdrawn in whole, or in part, by a district court judge sua sponte or on timely motion of a party. The district court refers motions for withdrawal of reference to the bankruptcy court for a report and recommendation as to disposition.

Motions for withdrawal of reference shall be filed with the clerk of the bankruptcy court. The bankruptcy judge shall issue and file a report and recommendation and file it with the clerk of the bankruptcy court. Copies of the report and recommendation shall be sent to the parties. The parties shall have fourteen (14) ~~ten (10)~~ days from the date of the report and recommendation to file any objections thereto with the bankruptcy court. Upon expiration of the period for objection, the bankruptcy court shall forward the necessary documents along with the recommendations and any objections thereto to the district court. The district judge may accept, reject, or modify, in whole or in part, the recommendation of the bankruptcy judge and determine the disposition of the motion.

* * * * *

81.1 Removal Actions

(a) Answer. Defendant(s) shall file an answer or present other defenses or objections available under the Federal Rules of Civil Procedure within twenty-one (21) ~~twenty (20)~~ days from the date of the filing of the notice of removal or, if any defendant is served after removal, within the time frame established by Rule 81(c) of the Federal Rules of Civil Procedure . If such answer has previously been filed in State Court, it shall be refiled separately from other State Court pleadings and captioned "Answer".

* * * * *

(c) Certified Copy of State Court Record. The removing party shall file with the clerk's office a certified or attested copy of the state court record within fourteen (14) ~~ten (10)~~ days of the filing of the notice of removal.

* * * * *

83.5 Disciplinary Rules

DR-10 Duties of the Clerk.

* * * * *

(c) Whenever it appears that any person convicted of any crime or disbarred or suspended or censured or disbarred on consent by this court is admitted to practice law in any other jurisdiction or before any other court, the clerk of this court shall, within fourteen (14) ~~ten (10)~~ days of that conviction, disbarment, suspension, censure, or disbarment on consent, transmit to the other court a certificate of the conviction or a certified exemplified copy of the judgment or order of disbarment suspension, censure, or disbarment on consent, as well as the last known office and residence addresses of the defendant or respondent.

83.13 Exhibits

* * * * *

(d) **Appeals.** The parties shall attempt to file an agreed-upon designation of the exhibits necessary for the determination of the appeal within fourteen (14) ~~10~~ days after service of the notice of appeal. In the absence of agreement, the appellant shall, not later than twenty-one (21) ~~15~~ days after filing the notice of appeal, file a designation of the exhibits the appellant considers to be necessary. If the appellee considers other exhibits to be necessary, the appellee shall file a cross-designation within fourteen (14) ~~10~~ days after service of appellant's designation.

* * * * *

CRIMINAL RULES

10.3 Post-Arrest Meeting

Counsel shall confer in order to discuss discovery matters within seven (7) ~~five (5)~~ days after the arraignment.

12.1 Motion Practice

* * * * *

(e) **Objections.** Unless the Federal Rules of Criminal Procedure or these local rules provide otherwise, an objection and memorandum in opposition to a motion shall be filed within fourteen (14) ~~ten (10)~~ days from the date the motion is served. Unless an objection is filed within the time

established by this rule, the party opposing the motion shall be deemed to have waived objections, and the court may act on the motion.

16.1 Routine Discovery

The parties shall disclose the following information without waiting for a demand from the opposing party.

* * * * *

(c) Exculpatory and Impeachment Material. The government shall disclose any evidence material to issues of guilt or punishment within the meaning of Brady v. Maryland, 373 U.S. 83 (1963), and related cases, and any impeachment material as defined in Giglio v. United States, 405 U.S. 150 (1972), and related cases, at least ~~twenty-one (21)~~ twenty (20) days before trial. For good cause shown, the government may seek approval to disclose said material at a later time.

* * * * *

45.1 Computation of Time

Wherever in these rules reference is made to filing, time periods shall be determined in accordance with Fed. R. Crim. P. 45(a). All time periods running from the date of service shall be determined in accordance with Fed. R. Crim. P. 45(a) and (c). Rule 45(c) does not apply to time periods calculated from the date of filing. ~~Saturdays, Sundays, and legal holidays shall be included when calculating time added pursuant to Fed. R. Crim. P. 45(c).~~