GR 1.1 **Title; Effective Date; Scope.**

(a) **Title.** These are the Local Rules of Practice for the District Court of Guam. They may be cited as "GR (General Rules), LR (Civil Rules), LAR (Local Admiralty Rules), LHCR (Local Habeas Corpus Rules), LTR (Local Tax Rules), and LBR (Local Bankruptcy Rules).

(b) **Effective Date; Transitional Provision. These** rules govern all actions and proceedings pending on or commenced after_____. Where justice requires, a judge may order that an action or proceeding pending before the Court prior to that date be governed by the prior practice of the Court.

(c) **Scope of the Rules: Construction.** These Rules supplement the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure and the National Bankruptcy Rules. These Rules shall be construed so as to be consistent with the Federal Rules and to promote the just, efficient and economical determination of every action and proceeding. The provisions of the General Rules shall apply to all actions and proceedings, including civil, tax, criminal, admiralty and bankruptcy, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

(d) **Definitions**.

(1) The word "Court" refers to the District Court of Guam, and not to any particular judge of the Court.

(2) The word "judge" refers to any United States District Judge or any designated judge exercising jurisdiction with respect to a particular action or proceeding in said court, or to a part-time or full-time United States Magistrate Judge, to whom such action or proceeding has been assigned for purposes relevant to the context in which such reference occurs.

(3) The word "clerk" means the Clerk for the District Court of Guam and deputy clerks, unless the context otherwise requires.

(4) The "Pacific Daily News", a newspaper of general circulation published in Hagåtña, Guam, is designated the official newspaper of the Court. Unless otherwise provided by order, every notice required to be published shall be published in the "Pacific Daily News."

GR 2.1 **Sanctions and Penalties for Noncompliance.**

(a) **Violation of Rule.** The violation of or failure to conform to any of these Local Rules, the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, Federal Rules of Appellate Procedure, the Admiralty Rules, and the Bankruptcy Rules shall subject the offending party or counsel to such penalties, including monetary sanctions and/or the imposition of costs and attorneys's fees to opposing counsel, as the Court may deem appropriate under the circumstances.

(b) **Failure to Appear or Prepare.** Failure of counsel for any party to take any of the following steps may be deemed an abandonment or failure to prosecute or defend diligently by the defaulting party:

(1) Complete the necessary preparation for pretrial;

(2) Appear at the scheduling conference or pretrial conference;

(3) Be prepared for trial on the date set; or

(4) Appear at any hearing where service of notice of the hearing has been given or waived.

Judgment may be entered against the defaulting party either with respect to a specific issue or on the entire case.

GR 3.1 **Stipulations**.

(a) Stipulations will be recognized as binding only when made in open court or filed in the cause of action. Unless otherwise permitted by Federal law or rule, written stipulations shall not be effective unless approved by separate Court Order.

(b) A proposed Court Order setting forth the nature of the stipulation shall be submitted in separate form to the Court. The Order shall be captioned "Order Re: Stipulation" and shall contain the words "the Stipulation filed on [fill in date of filing] is Hereby Approved and So Ordered" with a blank line for the date and a designated signature line for the Judge.

(c) Any stipulation which extends time or provides for a continuance shall contain the reason for the change of date.

GR .3.2 **Submission of Proposed Orders.**

(a) **Submission.** All proposed Orders shall be submitted separately. They shall not be integrated as part of the related moving documents. Orders shall be captioned "Order re: [e.g., Substitution of Counsel, Ex Parte Application, Award of Attorneys' Fees, etc.]"

(b) **Orders Requiring Judge's Signature Only.** Orders requiring only the Judge's signature may be submitted in electronic form, in a standard word processing format, such as Wordperfect® or Word®, which may be edited as necessary by the judge. The proposed order or other document may be submitted to chambers on removable media, or by email to chambers@gud.uscourts.gov.

(c) **Orders Requiring Additional Signatures.** Orders requiring the signatures of one or more parties in addition to that of the judge shall be submitted in paper form.**GR 3.3** **Service of Orders.**

If the court directs a party to prepare a proposed order or judgment, the drafting

party shall serve, as soon as practicable after notification of the entry of the order or judgment, a paper copy of the order on all parties who have not consented to service by electronic transmission. Conformed copies of orders and judgments will be available for collection at the clerk's office for parties not receiving electronic service.

GR 4.1 **Citation of Authority**.

(a) Parties shall provide this Court with a copy of any case or other authority which they cite or rely upon and which is unavailable in either this Court's library or the Guam Territorial Law Library.

(b) All citations shall be in the form found in A Uniform System of Citation identifying the court cited, and enabling both the Court and opposing counsel to locate **the cited work.**

GR 5.1 **Format and Filing**.

(a) **Form; Copy.** All papers presented for filing shall be on white opaque paper of good quality, eight and one-half inches by eleven inches (8 ½ x 11) in size, and shall be flat, unfolded (except where necessary for the presentation of exhibits), without back or cover and shall comply with all other applicable provisions of these Rules. All pages shall be numbered consecutively at the bottom and firmly bound at the upper left-hand corner. In addition to the original, a legible conformed copy of all documents, except certificates of service, summons, subpoenas and notices of depositions, shall be filed for the judge's use. Matter shall be presented by typewriting, printing, or other clearly legible reproduction process, and shall appear on one side of each sheet only. Facsimile reproductions are not acceptable. All papers shall be double-spaced except for the identification of counsel, title of the case, footnotes, quotations, and exhibits. No facsimile filings shall be accepted as the original for filing unless the party seeking to file by facsimile has secured the permission of the Court to file by facsimile by motion to the Court.

(b) **Format.** The title of the Court shall be centered and commence not less than three inches from the top of the page.

(c) **Title Page.** The first page of every document shall contain the following information which may be single spaced:

(1) The name, address and telephone number of the attorney appearing for a party in an action or individual appearing pro se and for whom the attorney appears shall be printed or typewritten in the upper left-hand corner. The space to the right of the page's center shall be reserved for the clerk's filing stamp.

(2) Below and to the left of the title of the Court, the title of the action or proceeding shall be inserted. In a complaint, the title of the proceeding shall contain the names of all parties and in the event that the parties are too numerous for all to be named on the first page, the names of the parties may be carried onto

successive page(s). In all papers other than a complaint, the title of the proceeding may be appropriately abbreviated.

(3) In the space to the right of the title of the action, the following shall appear:

(A) the file number of the action or proceeding;

(B) a designation of the action or proceeding as civil, criminal, bankruptcy, or adversary;

(C) a brief description of the nature of the document; and

(D) mention of any notice of motion or affidavits or memorandum in support.

(4) **Cover Sheets**. All documents initiating civil, criminal and adversary proceedings shall be accompanied by the appropriate cover sheet, which shall be fully completed and executed. Cover sheets are available upon request at the Clerk's Office. Persons in the custody of state or federal institutions and pro se litigants are exempt from the requirements of this subdivision.

(d) **Typed Names Below Signature Lines.** Names shall be typed below signatures on all pleadings and documents filed.

(e) **Court Automation Requirements.** The Court may issue guidelines on requirements for papers and pleadings as may be necessary to comply with court automation systems.

(f) **Electronic Filing**. The Court will accept for filing documents submitted, signed, verified or served by electronic means that comply with the Case Management/Electronic Case Files ("CM/ECF") Administrative Procedures established by the Court as set forth in General Order Nos. 04-0011 and 09-0007, and any amendments thereto as may be adopted from time to time. The electronic filing of a document in accordance with the CM/ECF Administrative Procedures constitutes the filing of the document and the entry of the document on the docket by the clerk under Fed. R. Bankr. P. 5003, Fed. R. Civ. P. 5, 58 and 79, Fed. R. Crim. P. 49 and 55 and the Local Rules of this court.

When a document has been filed electronically or filed in paper form and its image electronically recorded by the court, the official record is the electronic recording of the document as stored by the court. The clerk shall not be required to retain any documents after making an electronic recording thereof consistent with the technical standards, if any, established by the Judicial Conference of the United States and the requirements, if any, prescribed by the Administrative Office of the United States Courts. Paper case files will no longer be available to the public. Case documents may be viewed and downloaded from the internet on the Court's public access system ("PACER") at the current electronic public access rates, or viewed at no charge from one of the four public terminals located in the Clerk's Office. Certified copies of documents will continue to be available for a fee of $.10 per page if document is available on line,

otherwise $.50 if document is retrieved from a case file, plus a certification fee of $9.00 per document. Please not these charges are subject to change.

A judgment or order filed electronically by the court without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order or judgment. The electronic filing by the court of a judgment or order shall satisfy the requirements for the clerk to keep records under Fed. R. Bankr. P. 5003 and 9021, Fed. R. Civ. P. 79 and Fed. R. Crim. P. 55 and the Local Rules of this Court.

<<TEAM COMMENT>> Should we fold more language from the administrative procedures into the local rules (e.g. virtual documents) <<END TEAM COMMENT>>

GR 5.2 **Privacy and Public Access to Case Files.**

(a) In compliance with the policy of the Judicial Conference of the United States, and Fed. R. Bankr. P. 9037, Fed. R. Civ. P. 5.2, and Fed. R. Crim. P. 49.1, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the Court, including exhibits thereto, whether filed electronically or by paper, unless otherwise ordered by the Court, or required by statute, a federal rule of procedure, or the Official Bankruptcy Forms:

(1) **Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four digits of that number should be used (*i.e.,* XXX-XX-6789). However, in bankruptcy cases, the debtor(s) shall file a Statement of Social Security Number(s) (Form B21) at the time the petition is filedcase This document will be used for internal purposes only and will not be part of the public record. Failure to timely submit Form B21 may result in the dismissal of the case.

(2) **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used. In bankruptcy cases, on Schedule I of Official Bankruptcy Form 6, list the relationship and the age of the debtor's dependent(s), (i.e., son, age 6).

(3) **Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be used. In bankruptcy cases, on Schedule I of Official Bankruptcy Form 6, list the age of each of the debtor's dependents.

(4) **Financial account numbers**. If financial account numbers are relevant, only the last four digits of these numbers should be used. In bankruptcy cases, on Schedules D, E, and F of official Bankruptcy Form 6, debtors, if they choose, may include their full account numbers to assist the trustee and creditors.

(5) **Home addresses for criminal cases.** If a home address must be included in a pleading filed in a criminal case, only the city and state should be listed.

(b) In compliance with Fed. R. Bankr. P. 9037, Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1, a party wishing to file a document containing the personal data identifiers listed above may:

(1) file an unredacted version of the document in paper form under seal with the Clerk's Office; or

(2) file a reference list in paper form under seal with the Clerk's Office. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in their place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifiers. The reference list may be amended as of right.

The document or reference list must contain the following heading: "SEALED DOCUMENT PURSUANT TO E-GOVERNMENT ACT OF 2002." The unredacted version of the document or reference list shall be retained by the Court as part of the record until further order of the Court. The party must also file a redacted copy of the document for the public file.

(c) Because of remote electronic availability, caution should be exercised and the necessity to seal considered when filing documents that contain any of the following information:

(1) any personal identifying number, such as a driver's license number;

(2) medical records, treatment and diagnosis;

(3) employment history;

(4) individual financial information;

(5) proprietary or trade secret information;

(6) information regarding an individual's cooperation with the government.

(7) information regarding the victim of any criminal activity;

(8) national security information; and

(9) sensitive security information as described in 49 U.S.C. §114(s).

(d) Without a Court order, the following documents shall not be included in the public case file and should not be made available to the public at the courthouse or via remote electronic access:

(1) unexecuted summonses or warrants of any kind (e.g., search warrants, arrest warrants);

(2) pretrial bail or presentence investigation reports;

(3) statements of reasons in the judgment of conviction;

(4) juvenile records;

(5) documents containing identifying information about jurors or potential jurors;

(6) financial affidavits filed in seeking representation pursuant to the Criminal Justice Act;

(7) ex parte requests for authorization of investigative, expert or other services pursuant to the Criminal Justice Act; and

(8) sealed documents.

If the Court seals a document after it has already been included in the public file, the Clerk shall restrict viewing of the document from both the electronic and paper files as soon as the order sealing the document is entered.

(e) The responsibility for redacting personal data identifiers and properly filing documents to be sealed rests solely with counsel and the parties. The Clerk's Office will not review each pleading for compliance with this rule.

GR 6.1 **Continuances**.

No continuance shall be granted merely on the stipulation of the parties. If the Court is satisfied that counsel are preparing the case with diligence and additional time is required to comply with these Rules, the parties may move the Court to extend the dates for the obligations imposed under these Rules, upon submission of a timely stipulated motion signed by all counsel setting forth the reasons for the requested continuance. No continuance will be granted unless the stipulation has been lodged before the date upon which the act was to have been completed under this Rule.

GR 7.1 **Clerk of Court**.

(a) **Location and Hours.**

(1) The Office of the Clerk of this Court shall be located at 520 West Soledad Avenue, Fourth Floor of the U.S. Courthouse, Room 460, in Hagåtña,

Guam. The mailing address is 4th Floor, U.S. Courthouse, 520 West Soledad Avenue, Hagåtña, Guam 96910. The regular hours shall be from 8:00 a.m. to 3:00 p.m. each day except Saturdays, Sundays, legal holidays and other days or at times so ordered by the Court. Nothing in this Rule precludes the filing of papers as provided in Fed. R. Civ. P. 77, Fed. R. Crim. P. 56.

(2) Pleadings to be filed outside of the regular hours set forth in GR 7.1(a)(1) shall be filed electronically using the court's Case Management/Electronic Case Filing ("CM/ECF") System, pursuant to the court's published "Administrative Procedures for Filing, Signing, Verification and Service of Documents by Electronic Means in Civil and Criminal Cases" and "Administrative Procedures for Filing, Signing, Verification and Service of Documents by Electronic Means in Bankruptcy Cases."

(b) **Court Calendar.**The Clerk shall publish the court's calendar on the court's public website and shalno later than Friday of each week, publish the court's calendar for the following week on the bulletin board of the District Court.

GR 8.1 **Deposits in Court - Responsibility of the Clerk**.

(a) **Order of Deposit: Interest-Bearing Account.** Whenever the Court orders that money deposited into Court shall be deposited by the clerk in an interest-bearing account, the party seeking the order shall forthwith personally serve a copy of such order upon the Clerk of Court or the Chief Deputy Clerk.

(b) **Order of Deposit - Failure to Serve.** Failure of the party seeking an order of deposit to an interest-bearing account to personally serve the Clerk of Court or Chief Deputy Clerk with a copy of the order shall release the Clerk of Court from any liability for loss of interest upon the money subject to the order of deposit.

(c) **Deposit of Money - FDIC or FSLIC Institution.** Unless otherwise ordered by the Court, the clerk shall deposit money pursuant to an order of deposit in any institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. The clerk may also invest such money in United States treasury bills.

(d) **Prompt Deposit of Money.** The clerk shall deposit the money pursuant to an order of deposit as soon as practicable following service of a copy of the order by the party seeking the order.

(e) **Forms of Standard Orders of Deposit.** The following forms of standard orders shall be used for deposit of registry funds into interest-bearing accounts:

(1) IT IS ORDERED that the clerk deposit the amount of $_____ in an interest-bearing account, said funds to remain on deposit pending further order of the Court.

IT IS FURTHER ORDERED that counsel presenting this order personally serve a copy thereof on the Clerk of Court or the Chief Deputy Clerk.

Absent the aforesaid service, the Clerk of Court is hereby relieved from any personal liability relative to compliance with this order. (NOTE: To comply with this order, the clerk will determine the particular banking institution and type of account to be utilized. Generally, the account will be a passbook account.)

(2) IT IS ORDERED that the clerk deposit the amount of $_____ in a (specify type of account and term, i.e., sixty (60) day time certificate, treasury bill, passbook, etc.) at (name and address of bank or savings and loan) said funds to remain on deposit pending further order of the Court.

IT IS FURTHER ORDERED that [name(s) and address(es)] is/are the designated beneficiary or beneficiaries, and [name(s) and address(es)] is/are the custodian or custodians of the passbook or certificate of deposit. The form of additional collateral to be posted by the private institution in the event that the standard FDIC or FSLIC coverage is insufficient to insure the total amount of deposit is (state form of additional collateral).

IT IS FURTHER ORDERED that counsel presenting this order personally serve a copy thereof on the Clerk of Court or the Chief Deputy Clerk. Absent the aforesaid service, the Clerk of Court is hereby relieved of any personal liability relative to compliance with this order.

GR 9.1 **Sessions of Court.**

The District Court of Guam shall be in continuous session in Hagåtña, Guam.

GR 10.1 **Motion Day**.

GR 10.1 has been abrogated.

GR 11.1 **Fee Schedule**.

The Fee Schedule will be issued and updated by the Clerk of Court on a regular basis.

GR 12.1 **Correspondence and Communications with the Court**.

Attorneys or parties to any action or proceeding should refrain from writing letters to the judge, or otherwise communicating with the judge unless opposing counsel is present. All matters to be called to a judge's attention should be formally submitted as herein provided.

GR 13.1 **Court Library.**

The Court maintains a law library for the primary use of judges and personnel of the Court. In addition, attorneys and pro se litigants may use the library. The library is operated in accordance with such Rules and regulations as the Court may from time to time adopt.

GR 14.1 **Custody and Withdrawal.**

All files of the court shall remain in the custody of the clerk and no record or paper belonging to the files of the court shall be taken from the custody of the clerk without a special order of a judge and a proper receipt signed by the person obtaining the record or paper. No such order will be made except in extraordinary circumstances.

GR 15.1 Pretrial and Trial Publicity.

(a) Broadcasting, Televising, Recording or Photographing Judicial and Grand Jury Proceedings.

(1) The taking of photographs, operation of tape recorders or radio or television broadcasting in the grand jury room, and its environs (i.e., the second floor of the U.S. Courthouse; and the hallways and public areas leading to, and the hearing, waiting, or witness rooms utilized by the Grand Jury) or the public hallways and lobbies adjacent to the courtrooms during the progress of or in connection with any proceeding, including proceedings before a United States Grand Jury, whether or not actually in session, is prohibited.

(2) A judge may, however, permit (1) the use of electronic or photographic means for the presentation of the evidence or the perpetuation of a record by a court reporter, and (2) the broadcasting, televising, recording or photographing of investiture, ceremonial, or naturalization proceedings. Attorneys for the United States may use recording devices to present evidence to a grand jury.

(3) Coverage of certain civil proceedings in open court is permitted with the approval of the Chief Judge of this Court and the judge presiding over the hearing, unless prohibited by rule or statute.

(a) There shall be no recording, audio pickup or broadcast of conferences between attorneys and their clients, between co-counsel, or sidebar conversations.

(b) There shall be no recording or broadcast of jurors.

(c) No video or photographic recording will be made of any proceeding in a case without the consent of all parties. Consent to the recording of one proceeding in a case will not be construed as consent to any other proceeding in a case.

(4) The judge presiding over the hearing may limit or terminate video recording, or direct the removal of camera coverage personnel when necessary to protect the rights of the parties or to ensure the orderly conduct of the proceedings.

(5) Proceedings will be recorded by Court personnel only. No recordings by other entities or persons will be allowed. The Clerk of Court, or designee, shall identify the location in the courtroom for the camera equipment and operators.

(6) Equipment shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible. Motorized drives, moving lights, flash attachments, or sudden light changes shall not be used. Still cameras that do not operate quietly will not be used at any time when Court is in session.

(7) All equipment must be set up prior to the opening of the court session and may not be removed until after the conclusion of the court sessions, or during a court recess. Camera operators shall wear suitable attire in the courtroom.

(b) Publicity. The Court personnel, including but not limited to marshals, clerks and deputies, law clerks, secretaries, messengers, interpreters and court reporters, shall not disclose to any person information relating to any pending proceeding that is not part of the public records of the Court without specific authorization of the Court.

(c) Officers of this Court. In criminal cases or proceedings before any judge of this Court, prosecuting attorneys and defense counsel, as officers of this Court, and their associates, assistants, agents, enforcement officers and investigators, shall refrain from making, or advising or encouraging others to make to, for, or in the press, or on radio, television or other news media, statements concerning the parties, witnesses, merits of cases, probable evidence, or other matters which are likely to prejudice the ability of either the government or the defendant to obtain a fair trial.

GR 16.1 **Security of the Court**.

The United States Courthouse shall be open to the public between the hours of 8:00 a.m. and 3:00 p.m. Monday through Friday except Saturdays, Sundays, legal holidays and other days or at times so ordered by the Court.

All persons having business in the Courthouse shall be subject to search of their person and personal belongings.

Employees of the Court or employees of other tenants who have been granted 24 hour access to the building shall not be subject to search.

Employees of other law enforcement agencies shall be subject to search of their person and personal belongings.

Law enforcement personnel except for U.S. Marshals shall surrender all weapons to the Court Security Officers who shall hold said weapons in the first floor weapons locker.

Deputy United States Marshals, regardless of jurisdiction, will not be subject to search.

No cameras or recording devices shall be allowed in the building without prior approval of the judge.

No cellular phones or pagers will be allowed in the courtroom.

All persons having business in the Courtroom shall dress in professional attire, i.e., no jeans or T-shirts will be permitted. Male lawyers shall wear shirt and tie. Female lawyers shall wear appropriate attire with due regard for modesty.

<<TEAM COMMENT>> I have drafted a general order that would allow electronic devices in the courtroom with strict limitations. We would need to discuss this with CJ though. cbw <<END COMMENT>>

GR 17.1 **Attorneys - Admission to the Bar of this Court - Duties**.

(a) **Admission to Practice**. Admission to and continuing membership in the bar of this Court is limited to attorneys of good moral character who are active members in good standing of the Territorial Bar of Guam **(b)** **Procedure for Admission.** Each applicant for admission shall present to the clerk a written petition for admission stating the applicant's full name, residence address, office address, the names of the courts before which the applicant is admitted to practice, and the respective dates of admission to those courts.

(1) The petition shall be accompanied by:

(A) a certificate from the Supreme Court of Guam evidencing the fact that the applicant is an active member in good standing of the Territorial Bar,

(B) a certificate of a member of the bar of this Court, stating that he knows the applicant and can affirm that he is of good moral character, and

(C) an order for admission to be signed by the judge. (Copies of the petition for admission and order of admission shall be supplied by the clerk upon request.)

(2) Upon qualification, the Clerk or his authorized deputy shall administer the following oath of admission to the applicant:

"I solemnly swear that I will support the Constitution of the United States, the Organic Act of Guam, the applicable statutes of the United States and the laws of the territory of Guam; That I will maintain the respect due to the Courts of Justice and Judicial Officers and that I will demean myself uprightly as an attorney at law; And to abide by the Code of Professional Responsibility of the American Bar Association."

(3) Before the clerk is authorized to issue a certificate of admission to the applicant, the applicant must:

(A) sign the prescribed oath;

(B) sign the roll of attorneys; and

(C) pay an attorney admission fee of $250.00 made payable to Clerk, District Court of Guam.

(4) Any attorney so admitted and any attorney previously admitted who would now be eligible for admission under subsection (a) of this Rule shall be deemed to be an active member of the Bar of this Court.

(c) **Attorneys for the United States.** Any attorney who is not eligible for admission under paragraph (b) hereof, but who is a member in good standing of, and eligible to practice before, the bar of any United States Court or of the highest court of any State, or of any Territory or Insular Possession of the United States and who is of good moral character, may practice in this Court in any matter in which he is employed or retained by the United States or its agencies and is representing the United States or any of its officers or agencies. Attorneys so permitted to practice in this Court are subject to the jurisdiction of the Court with respect to their conduct to the same extent as members of the bar of this Court.

(d) **Pro Hac Vice.** An attorney who is not eligible for admission under paragraph (b) hereof, but who is a member in good standing of, and eligible to practice before, the bar of any United States Court or of the highest court of any State or of any Territory or Insular Possession of the United States, who is of good moral character, and who has been retained to appear in this Court, may, upon written application and in the discretion of the Court, be permitted to appear and participate in a particular case.

(1) Unless authorized by the Constitution of the United States or Acts of Congress, an attorney is not eligible to practice pursuant to this paragraph (d) if any one or more of the following apply to him:

(A) he resides in Guam,

(B) he is regularly employed in Guam, or

(C) he is regularly engaged in business, professional or other activities in Guam.

(2) The pro hac vice application shall be presented to the clerk and shall state under penalty of perjury;

(A) the attorney's residence and office addresses,

(B) by what court he has been admitted to practice and the date of admission,

(C) that he is in good standing and eligible to practice in said court,

(D) that he is not currently suspended or disbarred in any other court, and

(E) if he has concurrently or within the year preceding his current application made any pro hac vice applications to this Court, the title and the number of each matter wherein he made application, the date of application, and whether or not his application was granted. He shall also designate in his application an active member in good standing of the bar of this Court as required by subsection (e) of this Rule, with whom the Court and opposing counsel may readily communicate regarding the conduct of the case and upon whom papers shall be served.

(3) The pro hac vice application shall also be accompanied by payment to the clerk of a $250.00 fee, (payable to Clerk, District Court of Guam). If the pro hac vice application is denied, the Court may refund any or all of the fee or assessment paid by the attorney. If the application is granted, the attorney is subject to the jurisdiction of the Court with respect to his conduct to the same extent as a member of the bar of this Court.

(e) Designation of Local Counsel. An attorney applying to practice before this Court under subsection (d) of this Rule, shall designate an attorney who is an active member in good standing of the Bar of this Court, who resides in and has an office in this District, as co-counsel. He shall file with such designation the address, telephone number, and written consent of such designee. The associated local attorney shall at all times meaningfully participate in the preparation and trial of the case with the authority and responsibility to act as attorney of record for all purposes. Any document required or authorized to be served on counsel by all Federal Rules or by these Rules, shall be served upon the associated local counsel. Service upon associated local counsel shall be deemed proper and effective service unless excused by the judge. Local counsel shall attend all proceedings related to the case before this Court for which counsel is associated unless excused by this court.

(f) Government of Guam Attorneys. Any attorney employed as a full time employee of the Government of Guam,, who is not eligible under paragraph (b) hereof, may be temporarily admitted to practice in the District Court of Guam. Each applicant for temporary admission shall present to the clerk a written petition for temporary admission, stating the applicant's full name, residence address, office address, the names of the courts

before which the applicant is admitted to practice, and the respective dates of admission to those courts.

(1) The petition for temporary admission shall be accompanied by:

(A) a certified copy of the applicant's order for temporary admission to practice law in the Territory of Guam;

(B) a certificate of a member of the bar of this Court, stating that he knows the applicant and can affirm that he is of good moral character, and

(C) an order for temporary admission to be signed by the judge.

(2) Upon qualification, the applicant must pay the Attorney Admission Fee of $250.00 (payable to the Clerk, District Court of Guam) and the clerk or his authorized deputy shall administer the oath of admission set forth in paragraph (b)(2) hereof, and have the applicant sign the prescribed oath.

(3) Government of Guam Attorneys temporarily admitted to practice in this Court are subject to the jurisdiction of the Court with respect to their conduct to the same extent as members of the bar of this Court. Upon termination of employment with the Government of Guam, the government attorney so temporarily admitted shall notify, in writing, the clerk of the District Court of Guam of such termination. Once notified, the clerk shall strike the temporarily admitted government attorney from the roll of attorneys. If the temporarily admitted attorney meets the requirements for full admission while still employed as an attorney for the Government of Guam, with no break in Government of Guam service, and complies with all of the requirements set forth in subsection (b) herein, the $250.00 permanent admission fee will be waived.

GR 18.1 **Practice in this Court; Dress Code**

(a) **Active Member.** Only an active member of the bar of this Court or an attorney otherwise authorized by these Rules to practice before this Court may enter appearances for a party, sign stipulations or receive payment or enter satisfaction of judgment, decree or order. Nothing in these Rules shall prohibit any individual appearing in propria persona.

(b) **Courtroom Attire**. All attorneys appearing in open court shall be suitably dressed. Minimum acceptable dress for male practitioners shall consist of a dress shirt, necktie, dress slacks, socks and shoes. The Court may refuse to hear attorneys whose appearance does not conform to this Rule. This Rule applies on all business days that the court is in session.

GR 19.1 **Appearances, Substitutions and Withdrawal of Attorneys.**

(a) **Appearances.** Whenever a party has appeared by an attorney, the party may not thereafter appear or act in his or her own behalf in the action, or take any step therein, unless an order of substitution shall first have been made by the Court, after notice

to the attorney of such party, and to all other parties; provided, that the Court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared, or is represented by an attorney.

(b) Substitutions. When an attorney of record for any reason ceases to act for a party, such party shall appear in person or appoint another attorney either:

(1) by a written substitution of attorney signed by the party, the attorney ceasing to act, and the newly appointed attorney; or

(2) by a written designation filed in the cause and served upon the attorney ceasing to act, unless said attorney is deceased, in which event the designation of a new attorney shall so state.

Until such substitution is approved by the Court, the authority of the attorney of record shall continue for all proper purposes.

(c) Withdrawals. An attorney may withdraw from an action or proceeding only by leave of court for good cause shown, and after serving written notice reasonably in advance to the client and to all other parties who have appeared in the case. Leave to withdraw may be granted subject to the condition that subsequent papers may continue to be served on counsel for forwarding purposes or on the clerk of the Court, as the judge may direct, unless and until the client appears by other counsel or in propria persona, and any notice to the client shall so state and any filed consent of the client shall so acknowledge. The authority and duty of counsel of record shall continue until relieved by order of a judge issued hereunder.

GR 20.1 Persons Appearing Without an Attorney - In Propria Persona.

Any person who is representing himself or herself without an attorney must appear personally for such purpose and may not delegate that duty to any other person, including husband or wife, or another party on the same side appearing without an attorney. Any person so representing himself or herself without an attorney is bound by these Rules, and by the Federal Rules. Failure to comply therewith may be grounds for dismissal or judgment by default. A corporation may not appear pro se in a case in this Court.

GR 21.1 Attorneys in Private Practice.

Any attorney in private practice who has set up a law firm shall, upon formation of his firm, file a statement with the clerk indicating the name of the firm, the names of all associates of the firm, the office and mailing address and telephone number. Similarly, those attorneys in private practice who form a partnership or corporation shall, upon formation of such partnership or corporation, file a statement with the clerk, indicating the name of the partnership or corporation, the names of all partners and associates of the firm, the office and mailing address and telephone number.

In the event a partner or associate shall withdraw, or a new partner or associate shall join a firm, or there shall be any change in the firm name, office or mailing address, a certificate shall thereupon be filed with the clerk setting forth the effective date of the

change, the name of all withdrawing or joining partners and associates, and the new firm name and address.

In the event of the dissolution of a law firm, a certificate shall be filed with the clerk setting forth the date of dissolution, and in the event that all partners withdraw from practice, the names and office addresses of the member or members of the Bar of this Court who are handling the termination of matters on behalf of the former firm.

GR 22.1 **Attorneys - Standard of Conduct and Disciplinary Enforcement.**

(a) **The Standing Committee on Discipline.** The Court will appoint from time to time, by an order, a "Standing Committee on Discipline" consisting of five members of the bar and will designate one of the members to serve as Chairman of the Committee. The members of the committee shall continue in office for a period of three years or until further order of the judge.

(b) **Attorneys Convicted of Crimes.**

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

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

(c) 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:

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

(B) an order to show cause directing that the attorney inform this Court within 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 (c)(2)(D) hereof that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor.

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

(D) Upon the expiration of thirty (30) days from service of the notice issued pursuant to the provisions of (c)(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.

(3) 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.

(4) This Court may at any stage refer the matter to the Standing Committee on Discipline for selection of counsel to prosecute the disciplinary proceedings.

GR 22.2 Suspension or Disbarment on Consent or Resignation in Other Courts.

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

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

GR 22.3 Standards for Professional Conduct.

(a) For misconduct defined in these Rules, and for good cause shown, and after notice and opportunity to be heard, any attorney admitted to practice before this Court

may be disbarred, suspended from practice before this Court, reprimanded or subjected to such other disciplinary action as the circumstances may warrant.

(b) Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Code of Professional Responsibility or Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. Every attorney admitted to practice before this Court shall familiarize himself or herself with and comply with the standards of professional conduct required of members of the Bar of Guam and contained in the American Bar Association Model Rules of Professional Conduct as adopted on August 2, 1983, and as thereafter amended or judicially construed.

GR 22.4 **Disciplinary Proceedings.**

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

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

(c) To initiate formal disciplinary proceedings, the Committee shall submit its findings to this Court and upon a showing of probable cause the Court shall issue an order 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. The order to show cause shall include the form certification of all courts before which the respondent-attorney is admitted to practice, as specified in Attachment "GR 22.4A".

(d) Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, this Court shall set the matter for prompt hearing before the Judge of this Court, provided however that if the disciplinary proceeding is predicated upon the complaint of the Judge of this Court, the hearing shall be conducted before a District Court Judge designated to hold court in the District Court of Guam or by the Chief Judge of the Court of Appeals for the Ninth Circuit. The respondent-attorney shall execute the certification of all courts

before which that respondent-attorney is admitted to practice, in the form specified, and file the certification with his or her answer.

GR 22.5 Disbarment on Consent While Under Disciplinary Investigation or Prosecution.

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

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

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

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

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

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

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

GR 22.6 Reinstatement.

(a) 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.

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

(c) Hearing on Application. Petitions for reinstatement by a disbarred or suspended attorney under this Rule shall be filed with the Judge of this Court. Upon receipt of the petition, the Judge shall promptly refer the petition to the Standing Committee on Discipline and shall assign the matter for prompt hearing before this Court,

provided however that if the disciplinary proceeding was predicated upon the complaint of the Judge of this Court, the hearing shall be conducted before a District Court Judge designated to hold court in the District Court of Guam or the Chief Judge of the Court of Appeals for the Ninth Circuit. The judge 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 has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

(d) Duty of the Standing Committee on Discipline. In all proceedings upon a petition for reinstatement, the petition shall be referred to the Standing Committee for investigation and recommendation. If it is determined by the Committee that the petition should be opposed, the Committee shall select one of its members to serve as counsel who shall be responsible for the cross-examination of the witnesses of the respondent-attorney and the submission of evidence, if any, in opposition to the petition.

(e) Deposit of 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.

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

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

GR 22.7 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.

GR 22.8 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 statement filed pursuant to General Rule 17.1 hereof. Service of any other papers or notices required by these Rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address shown on the most recent registration statement filed pursuant to General Rule 17.1 hereof; or to counsel or the respondent's attorney at the address indicated in the most recent pleading or other document filed by them in the course of any proceeding.

GR 22.9 **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, the Court shall notify the Standing Committee on Discipline to appoint as counsel one of its members. If all members of such disciplinary committee decline 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 this Rule, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed upon a showing of good cause. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

GR 22.10 **Periodic Assessment of Attorneys; Registration Statements.**

An attorney admitted to practice before this Court shall immediately notify the clerk of this Court of all additional courts such attorney has subsequently been admitted to practice before and the respective dates of admission to those courts.

(See **Attachment "GR 17.1A"** entitled "Attorney Registration Statement.") (Additional Registration Statements shall be supplied by the clerk upon request.)

GR 22.11 **Payment of Fees and Costs**.

The Court will make whatever order it deems necessary for the payment of fees and costs incurred in the course of a disciplinary investigation or prosecution.

GR 22.12 **Duties of the Clerk**.

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

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

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

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

GR 22.13 Jurisdiction.

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

GR 22.14 Confidentiality.

Any investigation or proceeding in accordance with this Local Rule shall not be public unless otherwise ordered by the Court or unless and until a disbarment, suspension or public reproval has been administered. However, any member against whom such charges are filed shall have a right to a public trial if he or she so requests.

GR 23 **Transcripts**

(a) Once an official transcript has been filed by the court reporter, the Clerk's Office shall issue a "Notice of Filing of Official Transcript" which shall be served on counsel or interested party in the case.

(b) Within seven (7) days of the filing of an official court transcript, each party wishing to redact a transcript shall inform the Court by filing with the Clerk's Office a "Notice of Intent to Redact." There is no obligation on the part of the Clerk's Office to perform any redaction. It is the responsibility of counsel to advise the court reporter what to redact, and the responsibility of the court reporter to perform the redaction. Redaction responsibilities apply to counsel, even if the requestor of the transcript is a judge or a member of the public or media. Unless otherwise ordered by the Court, counsel shall review the following portions of the transcript:

(1) opening and closing statements made on the party's behalf;

(2) statements of the party;

(3) the testimony of any witnesses called by the party;

(4) sentencing proceedings; and

(5) any other portion of the transcript as ordered by the Court.

(c) If a redaction is requested, unless the Court shall otherwise order, counsel shall submit to the court reporter or transcriber, a "Redaction Request" within twenty one (21) days of the transcript's delivery to the clerk, or longer if the Court so orders, a statement indicating where the personal data identifiers to be redacted. The court reporter or transcriber must redact the identifiers as directed by the party. This procedure is limited to the redaction of the specific personal data identifiers listed below:

(1) Social security numbers and taxpayer identification numbers to the last four digits;

(2) Financial account numbers to the last four digits;

(3) Dates of birth to the year;

(4) Names of minor children to the initials; and

(5) Home addresses to the city and state.

If counsel files a "Notice of Intent to Redact," but later determines that no redaction is necessary, counsel shall file a "Withdrawal of Notice of Intent To Redact." If counsel fails to timely file a Redaction Request or Motion to Extend Time or a Withdrawal of the Intent to Redact, the Clerk's Office shall issue an Order to Show Cause requiring the attorney to file the redaction request, a notice of withdrawal of the intent to redact, or show cause why the transcript should not be released to the public after ninety (90) calendar days from the date the original transcript was filed.

(d) The court reporter shall notify the Clerk's Office if additional copies of the transcript are purchased by other counsel of record. The Clerk's Office will provide electronic access to those additional attorneys during the ninety (90) day period.

(e) If a redaction is requested, the court reporter shall file the redacted transcript with the Clerk's Office within thirty one (31) days after the filing of the original transcript. The title page of the redacted transcript shall indicate that it is a redacted transcript by including "REDACTED TRANSCRIPT" immediately below the case caption and before the volume number and the name and title of the Judge.

(f) If a transcript is to be filed under seal, the court reporter shall submit that transcript clearly labeled as "SEALED." The Clerk's Office shall electronically file the PDF document with the appropriate restrictive setting. If only a portion of a transcript has been ordered sealed, the court reporter shall extract the sealed portions from the original transcript as a separate PDF document (clearly labeled as "SEALED"). The remaining public portion of the transcript shall be created and both PDF documents, clearly labeled,

submitted to the Clerk's Office for filing. Counsel shall review the remaining public portion of the transcript for any necessary redactions.

(g) Further redactions require the filing of a "Motion for Redaction of Electronic Transcript." Until the Court has ruled on any such motion, the transcript shall not be electronically available, even though the ninety (90) day restriction period may have expired.

DRAFT OF PROPOSED LOCAL CIVIL RULES

LR1.1 Scope.

These are the Local Rules of Practice before the District Court of Guam. They should be cited as "LR ____".

LR1.2 Effective Date; Transitional Provision

These rules govern all actions and proceedings pending on or commenced after _____. Where justice requires, the Chief Judge may order that an action or proceeding pending before the court prior to that date be governed by the prior practice of this court.

LR1.3 Scope of the Rules.

These rules supplement the Federal Rules of Civil Procedure and shall be construed so as to be consistent with those rules and to promote the just, efficient, and economical determination of every action and proceeding. The provisions of these Civil Rules shall apply to all actions, including criminal, admiralty, and actions and proceedings before a magistrate judge, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

LR 7.1 Motion Practice

The provisions of this Rule shall apply to motions, applications, petitions, orders to show cause, and all other requests for a ruling by the court, unless otherwise ordered by the court or provided by statute, the Federal Rules of Civil Procedure or the Local Rules.

LR 7.2 Motion Hearing Dates

All hearing dates for any matters on which a ruling is required shall be obtained from the law clerk of the judge hearing the motion.

LR 7.3 Computation of Time.

All legal holidays and computation of time shall be as provided in Rule 6 of the Federal Rules of Civil Procedure. Liberation Day, July 21, is added as an additional holiday.

LR 7.4 Argument and Submission.

a. Written and Oral Argument.
Motions shall be determined upon the moving papers referred to herein and oral argument. A judge may, in the judge's discretion, decide a motion without oral argument.

b. Waiver of Oral Argument.

1. A party willing to submit a motion for decision by the court without oral argument shall so indicate in the notice of motion accompanying the moving papers. In the alternative, a moving party may indicate a willingness to submit a motion for decision without oral argument, by including the statement "oral argument Not Required, " on the title page of the reply brief, just below the date and time set scheduled for hearing the motion.

2. A party opposing a motion shall indicate a willingness to submit the motion for decision without oral argument by including the statement: "Oral argument not required," on the title page of the opposing papers, just below the date and time scheduled for hearing the motion. Alternatively, such party may telephonically notify opposing counsel and the assigned judge's law clerk of any willingness to submit the motion on the briefs, not later than six (6) days before the scheduled hearing date of the motion.

3. If either party indicates a willingness to submit a motion for decision without oral argument, the adverse party shall promptly, but in any case not later than four (4) calendar days before the hearing date, notify the law clerk of the assigned judge, by telephone, whether or not there is concurrence in having the motion decided without oral argument. Is so, the matter may be removed from the judge's calendar, at the court's discretion, and the parties shall be so notified. If the adverse party does not concur in submission of the motion without oral argument, the matter may remain on the calendar, for such argument, if any, as the court may deem appropriate under the circumstances.

LR 7.5 Argument by telephonic conference.

At the discretion of the court, arguments concerning a noticed motion may be conducted through the use of a telephonic conference call, said call to be arranged, initiated, and paid for by the party proposing this method of oral argument. If such telephonic argument is approved by the court, the matter may be taken off calendar, and reset for a date and/or time more convenient to the court and the parties.

LR 7.6 Time for Hearing and Schedule for Filing Papers

a. The Twenty-eight Day Rule-Setting time for Hearing.
When there has been an adverse appearance, a written notice of matter requiring the court's ruling shall be necessary, unless otherwise provided by rule or court order. As provided above, all hearing dates shall be obtained from the law clerk of the hearing judge. **Unless the court shortens time** and unless as otherwise specified in local rules, any notice of motion of motion, application or notice of

other matter requiring the court's ruling, plus all necessary supporting documents, will require a minimum **of 28 days prior to the hearing of the motion.** (For example, the notice of motion and supporting documents for a motion to be heard on any particular day shall be served upon the other parties no later than 28 days prior to the said hearing date.

b. Time for filing opposition.
Except as otherwise provided in local rule, each party opposing a motion, application, or order to show cause shall file that opposition or statement of non-opposition with the clerk and to serve the movant or the movant's attorney not later than 14 days prior to the noticed hearing date. For example, for a motion which is to be heard on a Monday, the opposition papers must be filed and served no later than two Mondays prior to the noticed hearing date.

c. Reply Memorandum
Except as otherwise specified in the local rules, any reply memorandum must be filed and served not later than seven days prior to the day for which the matter is noticed, but if that filing day. is a holiday, the reply memorandum must be filed the working day before that holiday.

d. Applications for Orders shortening time.
All applications for orders shortening time under these rules shall be submitted ex parte, be accompanied by a proposed order, and served upon all parties.

e. Untimely Motions.
The clerk's office is directed not to file untimely motions and responses thereto without the consent of the judicial officer assigned thereto.

LR7.7 Contents of Papers Filed

a. Motions, notices, Statements of Facts
Each motion or other request for ruling by the court shall be accompanied by a separate motion and notice of motion and another document captioned "Memorandum of Points and Authorities" in support of the motion. Where appropriate, a separate statement of material facts shall be supplied.

b. Movant
In addition to the affidavits required or permitted by Fed. R. Civ. P. 6((d0 and 56, copies of all documentary evidence which the movant intends to submit in support of the motion, or other request for ruling by the court, shall be served and filed with the notice of motion.

A movant's failure to file any papers required under the local rules may be

deemed as a waiver of the motion, or other request for ruling by the court.

c. Opposing Party

Unless otherwise provided by rule or court order, a party opposing a motion, or other request for ruling by the court shall file a written opposition. If such party chooses not to oppose the motion, the party shall file a written statement that the party does not oppose the motion or other request for ruling by the court.

Opposing Party's papers and contents. Documentary evidence and points and authorities- the opposition shall contain a brief and complete statement of all the reasons in opposition to the position taken by the movant, an answering memorandum of points and authorities, and copies of all documentary evidence upon the party in opposition relies.

Waiver: If an opposition party fails to file the papers in the manner required by the LR 7.1 e2, that failure may constitute a consent to the granting of a motion or other request for ruling by the court.

LR7.8 Withdrawal, Continuance, Failure to Appear

a. Withdrawal

Any movant who does not intend to proceed with a motion or other request for a ruling by the court shall notify opposing counsel and the judge before whom the matter is pending as soon as possible.

b. Continuances

Any request for continuance of a noticed matter shall be made as soon as possible to the judge to whom the matter is assigned. Prior to seeking such continuance, the party seeking the continuance shall contact all opposing parties or their counsel to determine whether they would agree to such a continuance.

c. Failure to appear.

If no party appears to oppose a motion or other request for ruling, the movant shall relate the matter's material elements and the court may render its decision.

LR7.9 Length of Brief in Support of or in opposition to Motion.

Briefs or memoranda in support of or in opposition to all motions noticed for the same motion shall not exceed twenty-five (25) pages in length for all such motions without leave of the judge who will hear the motion. No reply memorandum shall exceed fifteen (15) pages without leave of the judge. Briefs and memoranda exceeding fifteen (15) pages in length shall includea table of contents and a table of authorities cited.

LR7.10 Applications for Reconsideration

Whenever any motion or application or petition for any order or other relief has been made to a judge and has been refused in whole or in part, or has been granted conditionally or on terms, and a subsequent motion or application or petition is made for the same relief in whole or in part upon the same or any alleged different state of facts, it shall be the continuing duty of each party

LR 9.1 Civil RICO Actions: Filing

A party shall file, with its complaint or counterclaim, based in whole or part on the Racketeer Influenced and Corrupt Organizations Act (RICO) codified at 18 U.S.C. § 1961 et seq., a RICO statement. This statement shall include facts upon which claimant relies to initiate its RICO claims, as a result of the reasonable inquiry required by Fed. R. Civ. P. 11. In particular, this statement shall be in a form using the umbers and letters set forth in the form entitled RICO Case Statement, and shall state in detail and with specificity the information requested in that form. When cases are removed to the District Court , the party asserting a claim or counterclaim based in whole or in part on RICO shall file a RICO statement as described above within fourteen (14) days of removal.

LR 9.2. Civil RICO Actions; Failure to Comply.

Failure to comply with LR9.1 subjects the RICO cause of action to dismissal.

LR 9.3. Civil RICO Actions; Service.

Counsel must serve a copy of the RICO Case statement on all parties.

LR10.1 Applicability of Rule on the Format of Papers; Effect of Noncompliance

The rule on the format of papers applies in all civil actions and proceedings, except where otherwise provided by rule governing the particular action or proceedings, and criminal proceedings to the extent that the provisions of the rule are pertinent. In the event of the failure to comply with the rule, the clerk may require the prompt refiling of the paper in proper form or bring the failure to comply to the attention of the filing party and the assigned judge.

LR10.2 Form of Paper; Copy.

(a) All papers presented for filing shall be on white opaque paper of good quality, eight and one-half inches by eleven inches in size, with one inch margins, and shall be flat, unfolded (except where necessary for the presentation of the exhibits), without back or cover, and firmly bound at the top, and shall comply with the other provisions of these rules. All typewriting including, including footnotes, shall be either (i) a proportionally spaced face that is 12-point or larger and that includes serifs (e.g., 12 point Times New Roman, CG Times, Charter BT, or Georgia), except that sans-serif type (e.g., 12 point Arial, CG Omega, or Universe) may be used in headings and captions, or (ii) a monospaced face that contains not more than10 and one-half characters per inch, (e.g., 12-point Courier or Courier New). All typewriting must be in a plain, Roman style, except that italics or boldface may be used for emphasis. In addition to the original, a legible conformed copy of all pleadings, except discovery pleadings, shall be filed for the judges's use. In a consolidated proceeding, the original pleading and a copy of each pleading for each numbered case shall be filed (in addition to a copy for the judge's use, as required above). Matter shall be presented by typewriting, printing, or other clearly legible reproduction process, and shall be double-spaced except for the identification of counsel, title of case, footnotes, quotations, and exhibits.

(b) Counsel Identification. The name, address, telephone number, facsimile number, and e-mail address of counsel (or, if *in propia persona*, of the party) and the specific identification of each party represented by the name and interest in the litigation (i.e., plaintiff, defendant, etc.) shall appear in the upper left-hand corner of the first page of each paper presented for filing, except that in multi-party actions or proceedings, reference may be made to the signature page for the complete list of parties represented.

(c) Caption and Title. Following the counsel identification there shall appear: (1) the title of the court; (2) the title of the action or proceeding; (3) the file number of the action or proceeding, whether it is civil or criminal; (4) a title describing the paper; and (5) any other matter required by this rule. If the case is a consolidated case, the words "Consolidated Case" shall appear on the first page of the document.

(d) Exhibits. All exhibits attached to papers shall show the exhibit number or letter at the bottom thereof. And shall have appropriate labeled tabs. Exhibits need not be typewritten and may be copies, but must be clearly legible and not unnecessarily voluminous. Counsel are required to reduce oversized exhibits to eight and one-half inches by eleven unless such reduction would destroy legibility or authenticity. An oversized exhibit that cannot be reduced shall be filed separately with a captioned cover sheet, identifying the exhibit and the document(s) to which

it relates.

(e) Fax signatures. When it is impracticable to submit an original signature on a declaration or an affidavit along with a filing, a party and/or attorney may submit a non-original signature (i.e., facsimile copy or scanned copy) and file the original signature within ten days.

(f) In camera submissions. Papers submitted for in camera inspection (except letters submitted in camera for settlement conferences) shall have a captioned cover sheet that indicates the document is being submitted in camera and shall include an envelope large enough for the in camera papers to be sealed without being folded.

(g) Application for a Temporary Restraining Order or Preliminary Injunction. An application for a temporary restraining order or preliminary injunction shall be made in a document separate from the complaint.

(h) Class Actions. In any action sought to be maintained as a class action, the complaint, and any counterclaim or cross-claim, shall bear below the title of the pleading the legend "Class Action".

(I) Three-Judge Court. If any party contends that a hearing before a three-Judge Court is required, the words "Three-Judge Court" shall be typed below the docket number on the first page of the complaint, answer, or other pleading making such allegation. The clerk shall forthwith notify the District Judge of such filing. In addition to the original filed, three copies of all papers, including briefs, shall be lodged with the clerk.

(j) Thickness of Pleading. The thickness of a pleading or papers presented for conventional filing, inclusive of all exhibits attached to the pleading, shall not exceed two inches. In the event a party desires to file thicker submissions, the pleading or papers shall be separated into two or ore parts such that the thickness of each part shall not exceed two inches. Multiple parts of a separated pleading or papers presented for conventional filing shall be identified, for example as being "1 of 3", "2 of 3", and "3 of 3".

(k) Fax or email filings. No document may be filed by faxing or emailing to the Clerk's Office unless the filing party has first obtained leave to do so from the judge to whom the matter is to be addressed, or if no judge has been assigned to a matter, from the Clerk of Court. Leave will be granted only for good cause.

LR10.3 Amended Pleadings.

Any party filing or moving to file an amended pleading shall reproduce the entire pleading as amended and may not incorporate any part of a prior pleading by reference, except with leave of court.

LR10.4 Stipulations.

A Stipulation requiring approval of the court shall contain the words "APPROVED AND SO ORDERED" and a designated signature line for the judge. The caption and title of the document must appear on the signature page.

LR11.1 Sanctions and Penalties for Noncompliance with the Rules.

Failure of counsel or of a party to comply with any provisions of these rules is a ground for imposition of sanctions. Sanctions may be imposed by the court *sua sponte*. Consistent with the Federal Rules of Civil Procedure, failure to comply with these rules may result in a fine, dismissal, or other appropriate sanction.

LR16.1 Counsel's duty of Diligence

All counsel shall proceed with diligence to take all steps necessary to bring an action to readiness for pretrial and trial.

LR16.2 Scheduling Conference

(a) Within one hundred twenty (120) days after an action or proceeding has been filed, the court shall set a scheduling conference. All parties receiving notice of the scheduling conference shall attend in person or by counsel and shall be prepared to discuss the following subjects:

1. Service of process on parties not yet served;

2. Jurisdiction and venue;

3. Anticipated motions, and deadlines as to the filing and hearing of motions;

4. Appropriateness and timing of motions for dismissal or for summary judgment under Fed. R. Civ. P. 12 or 56.

5. Deadlines to join other parties and to amend pleadings;

6. Anticipated or remaining discovery, including discovery cut-off.

7. The control and scheduling of discovery, including orders affecting disclosures and discovery pursuant to Fed. R. Civ. P. 26 and 29 through 37 and LR 26;

8. Further proceedings, including setting dates for pretrial and trial, and compliance with LR16;

9. Appropriateness of special procedures such as consolidation of actions for discovery or pretrial;

10. Modification of the standard pretrial procedures specified by this rule on account of the relative simplicity or complexity of the action or the proceeding;

11. Prospects for settlement, including participation in a mediation program or any other ADR process;

12. Any other matters that may be conducive to the just efficient, and economical determination of the action or proceeding, including the definition or limitation of the issues, or any of the other matters specified in Fed. R. Civ. P. 16©;

(b) Each party shall file with the court and serve on all parties a Scheduling Conference Statement no later than seven (7) calendar days prior to the Scheduling Conference. The Scheduling Conference Statement shall include the following:

1. A short statement of the nature of the case.

2. A statement of jurisdiction with cited authority for jurisdiction and s short description of the facts conferring venue;

3. Whether jury trial has been demanded;

4. A Statement addressing the appropriateness, extent, and timing of the disclosures pursuant to Fed. R. Civ. P. 26 and LR26 that are not covered by the reports filed pursuant to Fed. R. Civ. P. 26(f);

5. A list of discovery completed, discovery in progress, motions pending and hearing dates;

6. A statement addressing the appropriateness of any of the special procedures or other matters specified in Fed. R. Civ. P. 16© and LR 16

that are not covered by the joint report filed pursuant to Fed. R. Civ. P. 26(f);

7. Any statement identifying any related case known to be pending in any other court.

8. Additional matters at the option of counsel.

© Continuances of scheduling conferences shall be governed by LR40, unless otherwise ordered.

LR16.3 Scheduling Conference Order.

At the conclusion of the scheduling conference, the judge shall enter an order governing disclosures under Fed. R. Civ. P. 26(a) and LR26.1, the extent of discovery to be permitted, the discovery completion date, deadline for motions to be filed and heard, deadline to join other parties, and deadline to amend pleadings. Unless otherwise ordered, all discovery must be completed no later than thirty (30) days prior to the scheduled trial date. The order may include other matters that the judge deems appropriate, including provisions for initiation of pretrial proceedings and trial settings, and reference of the case to a mediation program or other ADR process.

LR16.5 Settlement Conference

(a) In General. In each civil case, a mandatory settlement conference shall be scheduled before the magistrate judge or such other judicial officer as the court may direct. Such conference may be held before the assigned judge, except that in a non-jury case, the written stipulation of counsel shall be necessary if the judge trying the case conducts the settlement conference. The judge conducting the settlement conference may require the parties or representatives of a party other than counsel who have authority to negotiate and enter into a binding settlement to be present at the settlement conference.

(b) Settlement Conference Before Magistrate Judge.

1. Confidential Settlement Conference Statement

At least five (5) court days before the settlement conference, each party shall deliver directly to the magistrate judge a confidential settlement conference statement, which should not be filed or served upon the other parties. The settlement conference statement shall be kept under seal and shall remain with the magistrate judge. The settlement conference statement will not be made a part of the record and information of a confidential nature will not

be disclosed to the other parties without the express authority from the party submitting the statement.

The confidential settlement conference statement shall indicate the date of the settlement conference and shall include the following:

(a) A brief statement of the case.

(b) A brief statement of the claims and defenses, i.e., statutory and other grounds upon which claims are founded; a forthright evaluation of the parties' likelihood of prevailing on the claims and defenses; and a description of the major issues in dispute, including damages.

(cc) A summary of the proceedings to date, including a statement as to the status of discovery.

(d) an estimate of the time to be expended for further discovery, pretrial proceedings and trial.

(e) A brief statement of present demands and offers and the history of past settlement discussions, offers and demands.

(f) A brief statement of the party's position on settlement.

2. Required Attendance at the Settlement Conference

Unless otherwise permitted in advance by the court, lead trial counsel and all parties appearing pro se shall appear at the settlement conference with full authority to negotiate and to settle the case on any terms at the conference. Unless otherwise ordered by the court, parties may be present at the settlement conference. However, all parties shall be available by telephone to their respective counsel during the settlement conference. The parties must be immediately available throughout the conference until excused regardless of time zone difference. Any other special arrangements desired in cases where settlement authority rests with a governing body, shall also be proposed to the court in advance of the settlement conference.

3. Sanctions.

Any failure of the trial attorneys, parties or persons with authority to attend the conference or to be available by telephone will result in sanctions to include the fees and costs expended by the other parties in preparing for and attending the conference. Failure to timely deliver a confidential settlement conference statement will also result in sanctions.

LR16.6 Contents of Pretrial Statement

At the time to be set by the scheduling conference order under LR16.3, or by stipulation of the parties approved by the assigned judge, the parties shall serve and file separate pretrial statements, which shall follow the form and contain the captions and information specified in this rule:

(a) **Party.** The name of the party or parties in whose behalf the statement is filed.

(b) **Jurisdiction and Venue.** The statutory basis of federal jurisdiction and venue, and a statement as to whether any party disputes jurisdiction or venue.

(c) **Substance of Action.** A brief description of the substance of the claims and defenses presented.

(d) **Undisputed Facts.** A plain and concise statement of all material facts not reasonably disputable. Counsel are expected to make a good faith effort to stipulate to all facts not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(e) **Disputed Factual Issues.** A plain and concise statement of all disputed factual issues.

(f) **Relief Prayed.** A detailed statement of the relief claimed, including a particularized itemization of all elements of damages claimed.

(g) **Points of Law.** A concise statement of each disputed point of law with respect to liability and relief, with reference to statutes and decisions relied upon. Extended legal argument is not to be included in the pretrial statement.

(h) **Previous Motions.** A list of all previous motions made in the action or proceeding and the disposition thereof.

(i) **Witnesses to be Called.** A list of all witnesses likely to be called at trial, except for impeachment or rebuttal, together with a brief statement following each name describing the substance of the testimony to be given.

(j) **Exhibits, Schedules, and Summaries.** A list of all documents and other items to be offered as exhibits at the trial, except for impeachment or rebuttal, with a brief statement following each, describing its substance or purpose and the identity of the sponsoring witness.

(k) **Further Discovery or Motions.** A statement of all remaining discovery or motions.

(l) **Stipulations.** A statement of stipulations requested or proposed for pretrial or trial purposes.

(m) **Amendments, Dismissals.** A statement of requested or proposed amendments to pleadings or dismissals of parties, claims, or defenses.

(n) **Settlement Discussions.** A statement summarizing the status of settlement negotiations and/or participation in any alternative dispute resolution process, indicating whether further participation or negotiations are likely to be productive.

(o) **Agreed Statement.** A statement as to whether presentation of the action of the action or proceeding, in whole or in part, upon an greed statement of facts is feasible and desired.

(p) **Bifurcation, Separate Trial of Issues.** A statement as to whether bifurcation or a separate trial of specific issues is feasible and desired.

(q) **Reference to Master or Magistrate Judge.** A statement whether reference of all or part of the action or proceeding to a master of magistrate judge is feasible and agreeable.

(r) **Appointment and Limitation of Experts.** A Statement whether the appointment by the court of an impartial expert witness and whether limitation of the number of expert witnesses, is feasible and desired.

(s) **Trial.** A statement of the scheduled or, if not scheduled, requested trial date, and if trial is to be by jury, that a timely request for a jury is on file in the action.

(t) **Estimate of Trial Time.** Am estimate of the number of court days expected to be required for the presentation of each party's case. Counsel are expected to make a good faith effort to reduce the time required for trial by all means reasonably feasible, including stipulations, agreed statements of facts, expedited means of presenting testimony and exhibits, and the avoidance of cumulative proof.

(u) **Claims of Privilege or Work Product.** A statement indicating whether any of the matters otherwise required to be stated by this rule is claimed to be covered by the work product or other privilege. Upon such indication, such materials may be omitted, subject to further order at the pretrial conference.

(v) **Miscellaneous.** Any other subjects relevant to the trial of the action or proceeding, or material to its just, efficient, and economical determination.

LR16.7 Pretrial Conference Agenda.

A pretrial conference shall be held on the date and at the time scheduled. The agenda for the pretrial conference shall consist of matters covered by Fed. R. Civ. P. 16, and LR16 and any other matter germane to the trial of the action or proceeding. Each party shall be represented at the pretrial conference by counsel having authority with respect to all matters on the agenda, including settlement of the action or proceeding.

LR16.8 Pretrial Order.

The judge may make such pretrial order or orders at or following the pretrial conference as may be appropriate, and such order shall control the subsequent course of the action or proceeding as provided in Fed. R. Civ. P. 16. Unless otherwise ordered, the parties shall complete the following not less than seven (7) days prior to the day on which the trial is scheduled to commence:

(a) Serve and file briefs on all significant disputed issues of law, including foreseeable procedural and evidentiary issues, setting forth briefly the party's position and the supporting arguments and authorities;

(b) In jury cases, serve and file proposed voir dire questions and forms of verdict at least seven days prior to the commencement of jury selection;

(c) In court cases, serve and file proposed findings of fact and conclusions of law;

(d) Serve and file statements designating excerpts from depositions (specifying the witness and page and the line references), from interrogatory answers, and from responses to requests for admission to be offered at the trial other than for impeachment or rebuttal.

(e) Exchange copies or, when appropriate, make available for summaries, diagrams, and charts to be used at the trial other than for impeachment or rebuttal. Each proposed exhibit shall be premarked for identification in a manner clearly distinguishing plaintiff's from defendant's exhibits. Upon request, a party shall make the original or the underlying documents of any exhibit available for inspection and copying.

LR16.9 Objections to Proposed Testimony and Exhibits; Motion in Limine.

(a) Promptly after receipt of the statements and exhibits pursuant to LR16, any party objecting to any proposed testimony or exhibit shall advise the opposing party of such objection. The parties shall confer with respect to any objections in advance of trial and attempt to resolve them.

(b) Motions in limine shall be filed and served not less than fourteen (14) days prior to the date of trial, unless leave of court is obtained shortening the time for filing. Any opposition to any motion in limine shall be filed and served not less than seven (7) days prior to the date of trial, unless leave of court is obtained shortening the time for filing.

(c) the caption of a motion in limine or opposition to a motion in limine should reflect the general subject of the motion in limine.

LR16.10. Status Conference.

Status conferences may from time to time be scheduled in any action or proceeding . Such conference may be requested by any party and shall be called only as necessary to facilitate the progress of the case and shall not be held as a matter of routine. No pleading need be filed.

LR17.1 Actions Involving Minors or Incompetents.

(a) Appointment of Guardian Ad Litem. A Guardian Ad Litem for a minor or incompetent may be appointed ex parte, at any time upon the presentation to a judge of a sworn petition showing good cause for the appointment. A copy of the appointment order shall be filed with the petition.

(b) Order Required. No action by or on behalf of a minor or incompetent shall be settled, compromised, dismissed, discontinued or terminated without the approval of the court. When required by state or local law, court approval shall also be obtained from the appropriate state or local court having jurisdiction over such matters for any settlement or other disposition of litigation involving a minor or incompetent person.

LR23.1 Class Actions.

(a) In any action sought to be maintained as a class action, the complaint, and any counterclaim or cross-claim, shall bear, below the title of the pleading, the legend "Class Action."

(b) The complaint shall include a statement describing the class or classes on behalf of which the action is sought to be maintained.

LR26.1 Conference of Parties.

(a) Unless otherwise ordered by the court in a particular case, the conference must be

held no later than 21 days before any scheduling conference set by the court under Fed. R. Civ. P. 16(b).

(b) Unless otherwise agreed by the parties or ordered by the court, the plaintiff(s) shall prepare and file the report required by this rule no later than seven (7) days after the conference. The defendant(s) may file within seven (7) days thereafter a supplemental report if there are any objections to the report filed by plaintiff(s). Form 52 in the Fed. R. Civ. P. Appendix of Forms illustrates the type of report that is contemplated and may serve as a checklist for the meeting.

(c) In connection with their discussion pursuant to Fed. R. Civ. P. 26(f) of the possibilities for a prompt settlement or resolution of the case, the parties at the conference shall confer about alternative dispute resolution options, including without limitation, the option of participating in the court's mediation program. The parties shall discuss their settlement options at the Scheduling Conference.

LR26.2 Written Response to Discovery Requests

(a) Discovery requests served pursuant to Fed. R. Civ. P. 33, 34, and 36 shall be in a form providing sufficient space to respond following each request.

(b) Response to discovery requests pursuant to Fed. R. Civ. P. 33, 34, and 36 shall set forth the interrogatory or shall be followed by a statement of the reasons therefore.

(c) In a motion to compel discovery, only pertinent interrogatories, requests for production, or requests for admissions, and answers or objections shall be set forth.

(d) Whenever a claim or privilege is made in response to any discovery request pursuant to Fed. R. Civ. P. 33, 34, and 36, the materials or information claimed to be privileged shall be identified with reasons stated for the particular privilege claimed. No general claim of privilege shall be allowed.

LR37.1 Abuse of or Failure to Make Discovery: Sanctions

(a) Conference Required. The court will not entertain any motion pursuant to Fed. R. Civ. P. 26 through 37, including any request for expedited discovery assistance pursuant to LR37(c), unless counsel have previously conferred, either in person or by telephone, concerning all disputed issues, in a good faith effort to limit the disputed issues and, if possible, eliminate the necessity for a motion or expedited discovery assistance.

(b) Certificate of Compliance. When filing any motion with respect to Fed. R. Civ. P. 26 through 37, or a letter brief in accordance with LR37(c), counsel for the moving party shall certify compliance with this rule.

(c) Expedited Discovery Assistance

(1) Counsel may seek resolution of disputed discovery issues expeditiously and economically. This expedited procedure is intended to afford a swift but full opportunity for the parties to present their position through abbreviated, simultaneous briefing and, when appropriate, a conference. Counsel desiring such assistance shall contact opposing counsel to arrange a mutually agreeable deadline for the submission of letter briefs. Should counsel be unable to agree upon a deadline, counsel may contact the courtroom deputy of the magistrate judge who will assign a deadline for letter briefs. Counsel who obtains a deadline from the courtroom deputy shall inform opposing counsel of the assigned deadline.

(2) Letter briefs by all parties shall filed and served on opposing counsel by the deadline. The letter brief shall contain all relevant information, including: confirmation of the deadline for the submission of letter briefs; dates of discovery cut-off, and trial; and a discussion of the dispute. If a party opposes the use of this expedited procedure, such opposition should be included in the letter brief. Unless otherwise ordered by the court, the letters brief shall be five pages or less, inclusive of all exhibits.

(3) Upon receipt of the letter briefs, the magistrate judge shall determine a procedure for resolving the dispute. Should a conference be required, the courtroom deputy of the magistrate judge shall schedule such a conference and shall specify whether counsel must attend in person or by telephone.

(4) Any discovery order issued by the magistrate judge pursuant to such order may be appealed to the Chief Judge.

LR40.1 Trial Setting and Readiness Procedure

All civil and criminal trials shall be considered placed on a two-week readiness calendar. The week in which a case is set for trial shall be considered that case's primary week. The week prior to the week a case is set for trial shall be considered that case's standby week. As the calendar moves forward, cases will rotate from standby to primary week status, with the succeeding week's cases moving into standby status. Cases not tried during their primary week shall be reset for trial in accordance with court practice.

The court will consider all cases set on either the primary or standby calendar to be ready for trial, and any such case may be called for trial on one day's notice without further order of the court. Failure of a party to be ready to proceed to trial on any case set on the two-week readiness calendar may subject that party to sanctions as provided in LR11, which sanctions may include entry of adverse judgment or dismissal.

Cases not called to trial during their primary week shall be reset for trial at the earliest available date in accordance with court procedure.

LR40.2 Motion to Continue Trial.

Any motion to continue trial heard within thirty (30) days of the scheduled trial date shall be decided by the trial judge, unless the motion is referred to the magistrate judge. All other motions to continue trial shall be decided by the magistrate judge. Any motion to continue trial shall indicate that the client-party has consented to the continuance. Consent may be demonstrated by the client-party's signature on a motion to continue trial or by the personal appearance in court of the client-party.

LR40.3 Notice to the Court of Calendar Conflicts

Upon learning of a scheduling conflict between the District Court of Guam and the Guam territorial courts, counsel shall within forty-eight (48) hours notify the judges involved in order that they may confer and resolve the conflict.

LR40.4 Scheduling Conflicts

(a) Upon being advised of a scheduling conflict, the judges involved shall, if necessary, confer personally or by telephone in an effort to resolve the conflict. While neither the District Court of Guam or the Guam territorial courts have priority in scheduling, the following factors, which are not all-inclusive, may be considered in resolving the conflict.

1. Criminal cases versus civil cases and attendant Speedy Trial problems;

2. Out-of-town witnesses, parties, or counsel;

3. Age of cases;

4. Which matter was set first;

5. Any other factor which weighs in favor of one case over the other.

LR40.5 Voluntary Dismissal of Actions.

Any stipulation filed pursuant to Fed. R. Civ. P. 41(a)(1)(ii) shall be submitted to the trial judge for that judge to sign as "approved and so ordered."

LR48.1

In all civil actions in which a party is entitled to a jury trial, the jury shall be composed as

mandated by Fed. R. Civ. P. 48, as amended.

LR51.1 Jury Instructions

All proposed jury instructions are required to be filed and served at least seven (7) days before jury selection begins, except for an isolated one or two whose need could not have been foreseen. Jury instructions are to be submitted in the following format:

(a) The parties are required to jointly submit one set of agreed upon instructions. To this end, the parties are required to serve their proposed instructions upon each other no later than fourteen (14) days prior to trial. The parties should then meet, confer, and submit one complete set agreed upon instructions.

(b) If the parties cannot agree upon one complete set of instructions, they are required to submit one set of those instructions that have been agreed upon, and each party should submit a supplemental set of instructions which are not agreed upon.

(c) It is not enough for the parties to merely agree upon the general instructions, and then each submit their own set of substantive instructions. The parties are expected to meet, confer, and agree upon the substantive instructions for the case.

(d) These joint instructions and supplemental instructions must be filed seven (7) days prior to trial. Each party then should file, five (5) days before the trial, their objections to the non-agreed upon instructions proposed by the other party. Any and all objections shall be in writing and shall set forth the proposed instruction in its entirety. The objection should then specifically set forth the objectionable material in the proposed instruction. The objection shall contain citation to authority explaining why the instruction is improper and a concise statement of argument concerning the instruction. Where applicable, the objecting party shall submit an alternative instruction covering the subject or principle of law.

(e) The parties are required to submit the proposed joint set of instructions and proposed supplemental instructions in the following format:

(I) There must be two copies of each instruction;

(ii) The first copy should indicate the number of the proposed instruction, and the authority supporting the instruction; and

(iii) the second copy should contain only the proposed instruction – there should be no other marks or writings on the second copy except for a heading reading “Instruction No. ___” with the number left blank.

(iv) To the extent practicable, parties shall email the proposed instructions in a standard word processing format, which may be edited as necessary by the judge, to chambers@gud.uscourts.gov..

(f) On the day of the trial each party may submit a concise argument supporting the appropriateness of that party's supplemental instructions to which another party has objected.

(g) All instructions should be short, concise, understandable, and neutral statements of the law. Argumentative or formula instructions are improper, will not be given, and should not be submitted.

(h) Parties should note, in jointly agreeing upon instructions, that the court has designated a set of standard instructions, and otherwise generally prefers a Ninth Circuit Model Jury Instructions over all others.

(i) Parties should also note that any modifications of instructions from statutory, BAJI, Devitt and Blackmar (or any other form instructions) must specifically state the modifications made to the original form instruction and the authority supporting the modification.

(j) Failure to comply with any of the above instructions may subject the non-complying party and/or its attorneys to sanctions in accordance with LR11.

52.1 Settlement of Findings of Fact and conclusions of Law

Except as otherwise ordered by the judge, within seven (7) days after the announcement of the court awarding judgment in any action tried upon the facts without a jury, including actions in which a jury may have been called and may have acted only in an advisory capacity under Fed. R. Civ. P. 39(c), the prevailing party shall prepare a draft of the findings of facts and conclusions of law required by Fed. R. Civ. P. 52(a) and serve a copy thereof to each party who has appeared in the action and mail or deliver a copy to the judge and to the clerk. Any party receiving the proposed findings of fact and conclusions of law, shall, within seven (7) days thereafter, serve upon all other parties and mail or deliver to the judge and to the clerk a statement of any objection she or she may have to the proposed draft, the reasons therefor and a substitute proposed draft of the findings of fact and conclusions of law. The judge shall thereafter take such action as is necessary under the circumstances.

LR53.1. Magistrate Judges; Special Master References, Motions for Attorneys' Fees and Related Non-taxable Expenses.

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 Fed. R. Civ. P. 53. Upon the consent of the parties, a magistrate judge may be designated by a district judge to serve as special

master in any civil case, notwithstanding the limitations of Fed. R. Civ. P. 53(b).

Unless otherwise ordered by a district judge, the magistrate judge designated to handle non-dispositive matters in a civil case is, in accordance with 28 U.S.C. 636(b)(2) and Fed. R. Civ. P. 53, 54(d)(2)(A), and 54(d)(2)(D), designated to serve as special master to adjudicate any motion for attorneys' fees and related non-taxable expenses filed in the civil case. The motion for attorneys' fees and related non-taxable expenses shall be filed in accordance with LR54.3.

LR53.2. Magistrate Judges; Special Master Reports - 28 U.S.C. 636(b)(2).

Any party may seek review of, or action on, the special master's report filed by a magistrate judge in accordance with the provisions of Fed. R. Civ. P. 53(e).

LR53.3 Special Masters Appointment.

1. Appointment of Special Master. If all of the parties to an action stipulate in writing to the reference of the action to a special master, and if the special master and the court consent to the assignment, an order of reference shall be entered. If the parties cannot agree upon the selection of a special master but stipulate in writing that there be a reference to a special master, the court shall promptly designate a special master from the register and shall send notice of that designation to the special master and to all attorneys of record in the action.

2. Powers and Duties. The powers and duties of the special master and the effect of his report shall be as set forth in Fed. R. Civ. P. 53, except as the same may be modified or limited by agreement of the parties and incorporated in the order of reference.

3. Time and Place. The special master shall fix a time and place of hearing, and all adjourned hearings, which is reasonably convenient for the parties and shall give them at least fourteen (14) days written notice of the initial hearing.

4. Other Special Master Appointments. This rule shall not limit the authority of the court to appoint compensated special masters to supervise discovery or for other purposes, under the provisions of Fed. R. Civ. P. 53.

5. Register of Volunteer Attorneys.

(i) Selection Procedure. The Chief Judge shall establish and maintain a register of qualified attorneys who have volunteered to serve, without compensation, as special masters in civil cases in this court in order to facilitate disposition of civil actions. The attorneys so

registered shall be selected by the Chief Judge from lists of qualified attorneys at law, who are members of the bar of this court, and who are recommended to the Chief Judge by the Guam Bar Association.

(ii) Minimum Qualifications. In order to qualify for service as a special master under this rule, an attorney shall have the following minimum qualifications: (1) have been admitted to practice before the District Court of Guam for at least seven (7) years; (2) been admitted a member of the Guam Bar Association Bar: and (3) have had, or has, a substantial portion of his or her practice in Federal Court.

6. Criteria for Designations. In designating a special master, the Chief Judge or any district judge shall take into consideration the nature of the action and the nature of the practice of the attorneys on the register. When feasible, the Chief Judge or district judge shall designate an attorney who has had substantial experience in the type of action in which the attorney is to act as special master.

LR53.4. Settlement Masters Program

When settlement would be facilitated by the use of a settlement master, the court may designate a settlement master from a list of retired and/or senior litigators appointed to serve on a pro bono basis. The settlement master is authorized to conduct settlement discussions, require the parties to attend a settlement conference conducted by the settlement master and require the parties to exchange position statements concerning settlement and/or provide confidential position statements concerning settlement to the settlement master. The settlement master shall report to the court on the prospects for and progress toward settlement.

LR54.1. Jury Cost Assessment.

Where a civil case set for jury trial is settled or otherwise disposed of, notice of such agreement or disposition shall be filed in the clerk's office at least one (1) full business day before the date on which the case is set; otherwise juror costs, including service fees, mileage, and per diem, shall be assessed equally against the parties and their counsel or otherwise assessed as directed by the court, except for good cause shown. Where a continuance of a case is applied for on the day set for trial and granted by the court, the payment of juror costs by the party applying for the continuance may be one of the conditions of the continuance, unless the continuance was not due to any fault of the moving party.

LR54.2 Taxation of Costs

(a) Entitlement. Costs shall be taxed as provided in Rule 54(d)(1) of the Federal Rules of Civil Procedure. The party entitled to costs shall be the prevailing party in whose favor judgment is entered, or shall be the party who prevails in connection with a motion listed in LR54.2(b).

Unless otherwise ordered, the court will not determine the party entitled to costs in an action terminated by settlement; the parties must reach agreement regarding entitlement to taxation of costs, or bear their own costs.

(b) Time For Filing. Unless otherwise ordered by the court, a Bill of Costs shall be filed and served within thirty (30) days of the entry of judgment, the entry of an order denying a motion filed under Fed. R. Civ. P. 50(b), 52(b), or 59, or an order remanding to state court any removed action. Non-compliance with this time limit shall be deemed a waiver of costs.

(c) Contents. The Bill of Costs must state separately and specifically each item of taxable costs claimed. It must be supported by a memorandum setting forth the grounds and authorities supporting the request and an affidavit that the costs claimed are correctly stated, were necessarily incurred, and are allowable by law. The affidavit must also contain a representation that counsel met and conferred in an effort to resolve any disputes about the claimed costs, and the prevailing party shall state the results of such a conference, or that the prevailing party made a good faith effort to arrange such a conference, setting forth the reasons the conference was not held. Parties may use the Bill of Costs Form AO 133, which is available from the Clerk's Office and the Court's website. Any vouchers, bills, or other documents supporting the costs being requested shall be attached as exhibits.

(d) Objections.

1. Within fourteen (14) days after a Bill of Costs is served, the party against whom costs are claimed must file and serve any specific objections, succinctly setting forth the grounds and authorities for each objection. Upon the timely filing of any objections, the Clerk of Court will refer both the Bill of Costs and objections to the court for a determination of taxable costs. If no such memorandum is filed within the required time, the Clerk of Court may without notice or hearing tax all of the requested costs.

(e) Review. Taxation of costs may be reviewed by the court upon motion filed and served within seven (7) days after taxation by the Clerk, in accordance with Fed. R. Civ. P. 54(d)(1).

(f) Standards. Costs are taxed in conformity with 28 U.S.C. §§ 1821, 1920-1925, and other applicable statutes, with the following clarifications:

1. Fees for the service of process and service of subpoenas by someone other than the marshal are allowable, to the extent they are reasonably required and actually incurred.

2. The cost of a stenographic and/or video original and one copy of any deposition transcript necessarily obtained for use in the case is allowable. A deposition need not be introduced in evidence or used at trial, so long as, at the time it was taken, it could reasonably be expected that the deposition would be used for trial preparation, rather than mere discovery. The expenses of counsel for attending depositions are not allowable.

3. Per diem, subsistence, and mileage payments for witnesses are allowable to the extent reasonably necessary and provided for by 28 U.S.C. § 1821. Unless otherwise provided by law, fees for expert witnesses are not taxable in an amount greater than that statutorily allowable for ordinary witnesses.

4. The cost of copies necessarily obtained for use in the case is taxable provided the party seeking recovery submits an affidavit describing the documents copied, the number of pages copied, the cost per page, and the use of or intended purpose for the items copied. The practice of this court is to allow taxation of copies at $.15 per page or the actual cost charged by commercial copiers, provided such charges are reasonable. The cost of copies obtained for the use and/or convenience of the party seeking recovery and its counsel is not allowable.

5. Electronic or computer research costs are not taxable.

6. Fees paid to the clerk of the state court prior to removal are taxable in this court, unless the removed case is remanded back to state court.

LR54.3 Motion For Attorneys' Fees And Related Non-taxable Expenses

(a) Time For Filing. Unless otherwise provided by statute or ordered by the court, a motion for an award of attorneys' fees and related non-taxable expenses must be filed within fourteen (14) days of entry of judgment. Filing an appeal from the judgment does not extend the time for filing a motion.

(b) Statement of Consultation. The court will not consider a motion for attorneys' fees and related non-taxable expenses until moving counsel shall first advise the court in writing that, after consultation, or good faith efforts to consult, the parties are unable to reach an agreement with regard to the fee award or that the moving counsel has made a good faith effort, but has been unable, to arrange such a conference. The statement of consultation shall set forth the date of the consultation, the names of the participating attorneys, and the specific results achieved, or shall describe the efforts made to arrange such conference and explain the reasons why such conference did not occur. The moving party shall initiate this consultation after filing a motion for attorneys' fees and related non-taxable expenses. The statement of consultation shall be filed and served by the moving party within fourteen (14) days after the filing of the motion. If the parties reach an agreement, they may file an appropriate stipulation and request for an order.

(c) Contents. A motion for attorneys' fees and related nontaxable expenses shall specify the applicable judgment and statutory or contractual authority entitling the moving party to the requested award and the amount of attorneys' fees and related non-taxable expenses sought. In addition, the moving party shall file a memorandum in support and an affidavit of counsel.

(d) Memorandum in Support. The memorandum in support shall set forth the nature of the case; the claims as to which the moving party prevailed; the claims as to which the moving

party did not prevail; the applicable authority entitling the moving party to the requested award; a description of the work performed by each attorney and paralegal, broken down by hours or fractions thereof expended on each task; the attorney's customary fee for like work; the customary fee for like work prevailing in the attorney's community; any additional factors required by case law; a listing, in sufficient detail to enable the court to rule on the reasonableness of the request, of any expenditures for which reimbursement is sought; any additional factors that are required by case law; and any additional factors the moving party wishes to bring to the court's attention.

1. Itemization of Work Performed. Descriptions of work performed shall be organized by litigation phase[1] as follows: (A)case development, background investigation and c se administration (includes initial investigations, file setup, preparation of budgets, and routine communications with client, co-counsel, opposing counsel and the court); (B) pleadings; (C) interrogatories, document production, and other written discovery; (D) depositions; (E) motions practice; (F) attending court hearings; (G) trial preparation and attending trial; and (H) post-trial motions.

2. Description of Services Rendered. The party seeking an award of fees must describe adequately the services rendered, so that the reasonableness of the requested fees can be evaluated. In describing such services, counsel should be sensitive to matters giving rise to attorney-client privilege and attorney work product doctrine, but must nevertheless furnish an adequate non-privileged description of the services in question. If the time descriptions are incomplete, or if such descriptions fail to describe adequately the services rendered, the court may reduce the award accordingly. For example, time entries for telephone conferences must include an identification of all participants and the reason for the call; entries for legal research must include an identification of the specific issue researched and, if possible, should identify the pleading or document for which the research was necessary; entries describing the preparation of pleadings and other papers must include an identification of the pleading or other document prepared and the activities associated with such preparation.

3. Description of Expenses Incurred. In addition to identifying each requested non-taxable expense, the moving party shall set forth the applicable authority entitling the moving party to such expense and should attach copies of invoices and receipts, if possible.

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[1]"In general, preparation time should be reported under the category to which it relates. For example, time spent preparing for a court hearing should be recorded under the category "court hearings." Factual investigation should also be listed under the specific category to which it relates. For example, time spent with a witness to obtain an affidavit for a summary judgment motion or opposition should be indicated under the category "motions practice." Similarly, a telephone conversation or a meeting with a client held for the purpose of preparing interrogatory answers should be included under the category "interrogatories, document production, and other written discovery."

(e) Affidavit of Counsel. The affidavit of counsel shall include: (1) a brief description of the relevant qualifications, experience and case-related contributions of each attorney and paralegal for whom fees are claimed, as well as any other factors relevant to establishing the reasonableness of the requested rates; (2) a statement that the affiant has reviewed and approved the time and charges set forth in the itemization of work performed and that the time spent and expenses incurred were reasonable and necessary under the circumstances; and (3) a statement identifying all adjustments, if any, made in the course of exercising "billing judgment." .

(f) Responsive and Reply Memoranda. Unless otherwise ordered by the court, any opposing party may file a responsive memorandum within seven (7) days after service of the statement of consultation. The responsive memorandum in opposition to a motion for attorneys' fees and related non-taxable expenses shall identify with specificity all disputed issues of law and fact, each disputed time entry, and each disputed expense item. The moving party, unless otherwise ordered by the court, may file a reply memorandum within seven (7) days after service of the responsive memorandum. Thereafter, unless otherwise ordered by the court, the motion and supporting and opposing memoranda will be taken under advisement and a ruling will be issued without a hearing.

LR56.1. Motions for Summary Judgment.

(a) Motion Requirements. A motion for summary judgment shall be accompanied by a supporting memorandum and separate concise statement detailing each material fact as to which the moving party contends that there are no genuine issues to be tried that are essential for the court's determination of the summary judgment motion (not the entire case).

(b) Opposition Requirements. Any party who opposes the motion shall file and serve with his or her opposing papers a separate document containing a concise statement that:

1. Accepts the facts set forth in the moving party'sconcise statement; or

2. Sets forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated.

(c) Focus of the Concise Statement. When preparing the separate concise statement, a party shall reference only the material facts which are absolutely necessary for the court to determine the limited issues presented in the motion for summary judgment (and no others) and each reference shall contain a citation to a particular affidavit, deposition, or other document which supports the party's interpretation of the material fact.
Documents referenced in the concise statement shall not be filed in their entirety. Instead, the filing party shall extract and highlight only the relevant portions of each referenced document. Photocopies of extracted pages, with appropriate identification and highlighting will be adequate.

(d) Limitation. The concise statement shall be no longer than five (5) pages, unless it contains no more than 1500 words. When a concise statement is submitted pursuant to the foregoing word limitation, the number of words shall be computed in accordance with LR7.5(d), and the concise statement shall include the certificate provided for in LR7.5(e).

(e) Format. A separate concise statement may utilize a single space format for the presentation of the facts and evidentiary support when set out in parallel columns.

(f) Scope of Judicial Review. When resolving motions for summary judgment, the court shall have no independent duty to search and consider any part of the court record not otherwise referenced in the separate concise statements of the parties.

(g) Admission of Material Facts. For purposes of a motion for summary judgment, material facts set forth in the moving party's concise statement will be deemed admitted unless controverted by a separate concise statement of the opposing party.

(h) Affidavits or declarations setting forth facts and/or authenticating exhibits, as well as exhibits themselves, shall only be attached to the concise statement.

LR56.2. Notice to Pro Se Prisoner Litigants Re Motions for Summary Judgment.

In all cases where summary judgment motions are filed against pro se prisoner litigants, the moving party shall either file a separate notice using the court's preapproved form or lodge for the magistrate judge's review and signature, and then file, a separate notice, which in ordinary, understandable language advises the prisoner: (1) of the contents of Fed. R. Civ. P. 56 and LR56.1; (2) that the prisoner has the right to file counter-affidavits or other admissible evidence in opposition to the motion, and that failure to respond might result in the entry of summary judgment against the prisoner; and (3) that if the motion for summary judgment is granted, the prisoner's case will be over. The moving party shall serve the prisoner with the notice simultaneously with the summary judgment motion. A preapproved form of the notice is provided at the end of these rules.

LR58.1. Entry of Judgments and Orders.

(a) Orders will be noted in the civil docket immediately after the judge has signed them. The clerk may require any party obtaining a judgment or order which does not require approval as to form by the judge to supply him with a draft thereof.

(b) No judgment or order, except orders grantable by the clerk pursuant to authorization by the court and judgments which the clerk is authorized by the Federal Rules of Civil Procedure to enter without direction of the court will be noted in the civil docket until the clerk has received from the court a specific direction to enter it. Unless the court's direction is given to the clerk in open court and noted in the minutes, it should be evidenced by the signature initials of the judge on the form of judgment or order.

(c) Every order and judgment shall be filed in the clerk's office, and if the clerk so requests, a copy shall also be delivered to the clerk for insertion in the civil order book.

(d) Attorneys shall endeavor to notify the clerk in advance of substantial sums to be deposited as registry account funds, to ensure that the depository has pledged sufficient collateral under Treasury regulations; otherwise, funds will be retained in a non-interest-bearing account pending verification of such pledge. All orders for the deposit of registry account funds in interest-bearing accounts shall contain the following provisions:

1. IT IS FURTHER ORDERED that counsel presenting this order shall serve a copy thereof on the clerk of this court or the chief deputy, personally, at the time the money is deposited with the clerk's office. Absent the aforesaid service, the clerk is hereby relieved of any personal liability relative to compliance with this order.

2. IT IS FURTHER ORDERED that the clerk shall deduct from the income earned on the account, a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

(e) Orders distributing registry funds which have accumulated interest income in the amount of $10.00 or more shall contain the name, address, and social security or taxpayer's identification number of the party or parties entitled thereto.

LR58.2. Settlement of Judgments and Orders by the Court.

(a) Except as otherwise ordered by the judge, within seven (7) days after the announcement of the decision of the court awarding any judgment or order which requires settlement and approval as to form by the judge, the prevailing party shall prepare a draft of the order or judgment embodying the court's decision and serve a copy thereof upon each party who has appeared in the action and mail or deliver a copy to the judge and to the clerk. Any party receiving the proposed draft of judgment or order shall within five (5) days thereafter serve upon all other parties and mail or deliver to the judge and to the clerk a statement of any objection he or she may have to the proposed draft, the reasons therefor, and a substitute proposed draft. Thereafter, the judge shall take such further action as is necessary under the circumstances.

(b) The judgment or order shall be signed or initialed by the judge and shall be the direction to the clerk to enter it.

(c) Judgments and orders prepared by the court or clerk shall be served by the clerk on all

parties appearing in the action. Judgments and orders prepared by a party shall be served by that party on all other parties appearing in the action immediately upon receipt of a copy of the judgment or order signed by the judge.

LR60.1. Motions for Reconsideration.

Motions for reconsideration of interlocutory orders may be brought only upon the following grounds:

(a) Discovery of new material facts not previously available;

(b) Intervening change in law;

(c) Manifest error of law or fact.

Motions asserted under Subsection (c) of this rule must be filed not more than fourteen (14) days after the court's written order is filed.

LR65.1.1. When a Bond or Security is Required.

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

LR65.1.2. Qualifications of Surety.

Subject to approval of the court, every bond for costs under this rule must have as surety either: (1) a cash deposit equal to the amount of the bond; or (2) a corporation authorized by the Secretary of the Treasury of the United States, to act as surety on official bonds pursuant to 31 U.S.C. §§ 9301-09; or (3) a resident of the district, who owns real or personal property within the district sufficient in value above any encumbrances to justify the full amount of the suretyship; or (4) any insurance, surety or bonding company licensed to do business in the Territory of Guam.

LR65.1.3. Suits as Poor Persons.

At the time application is made, under the Acts of Congress providing for suits by poor persons, for leave to commence any civil action without being required to prepay fees and costs or give security for them, the applicant shall file a written consent that the recovery, if any, in the action, to such amounts as the court may direct, shall be paid to the clerk who may pay therefrom all unpaid fees and costs taxed against the plaintiff and, to plaintiff's attorney, the amount which the court allows or approves as compensation for the attorney's services.

LR66.1. Receiverships.

In the exercise of the authority vested in the district courts by Fed. R. Civ. P. 66, this rule is promulgated for the administration of estates by receivers or by the other similar officers appointed by the court. Except in the administration of the estate, any civil action in which the appointment of a receiver or other similar officer is sought, or which is brought by or against such an officer, is governed by the Federal Rules of Civil Procedure and by these rules.

(a) Inventories. Unless the court otherwise orders, a receiver or similar officer as soon as practicable after his or her appointment and not later than thirty (30) days after he or she has taken possession of the estate, unless such time shall be extended by the court for good cause shown, shall file an inventory of all the property and assets in the receiver's possession or in the possession of others who hold possession as his or her agent, and in a separate schedule, an inventory of the property and assets of the estate not reduced to possession by the receiver but claimed and held by others.

(b) Reports. Within thirty (30) days after the filing of the inventory, and at regular intervals of three months thereafter until discharged, or at such other times as the court may direct, the receiver or other similar officer shall file reports of his or her receipts and expenditures and of the receiver's acts and transactions in his or her official capacity.

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

(d) Administration of Estates. In all other respects, receivers or similar officers shall administer the estate as nearly as possible in accordance with the practice in the administration of estates in bankruptcy, except as otherwise ordered by the court.

LR72.1. Magistrate Judges; Jurisdiction Under 28 U.S.C.§ 636(a).

Each magistrate judge of this court is authorized to perform the duties prescribed by 28 U.S.C. 636(a), and may:

(a) Exercise all the powers and duties conferred or imposed on magistrate judges by

law and the Federal Rules of Criminal Procedure;

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

(c) Conduct extradition proceedings, in accordance with 18 U.S.C. 3184.

LR72.2. Procedures Before the Magistrate Judge.

In performing duties for the court, a magistrate judge shall conform to all applicable provisions of federal statutes, rules, and to the general procedural rules of this court.

LR72.3. Magistrate Judges; Determination of Non-Dispositive Pretrial Matters - 28 U.S.C. 636(b)(1)(A).

Unless otherwise ordered, a magistrate judge shall hear and determine any pretrial motions, including discovery motions, in a civil or criminal case, other than the motions which are specified in LR72.4.

LR72.4. Magistrate Judges; Determination of Case-Dispositive Pretrial Matters - 28 U.S.C. 636(b)(1)(B).

(a) The Chief Judge or a district judge may designate a magistrate judge to hear and determine, and to submit to a district judge of the court proposed findings of fact and recommendations for disposition by a district judge, the following pretrial motions in civil and criminal cases:

1. Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

2. Motions for judgment on the pleadings;

3. Motions for summary judgment;

4. Motions to dismiss or permit the maintenance of a class action;

5. Motions to dismiss for failure to state a claim upon which relief may be granted;

6. Motions to dismiss an action involuntarily;

7. Motions made by a defendant to dismiss or quash an indictment or information;

8. Motions to suppress evidence in a criminal case.

(b) A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this subsection.

LR72.5. Magistrate Judges; Prisoner Cases Under 28 U.S.C. §§ 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 district courts under 28 U.S.C. §§ 2254 and 2255. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and shall submit to a district judge a proposed order containing findings of fact and recommendations for disposition of the petition by the district judge. Any order disposing of the petition may only be made by a district judge.

LR72.6. Magistrate Judges; 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 proceeding 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.

LR72.7. Magistrate Judges; Civil Cases.

(a) Upon filing, civil cases shall be assigned by the clerk to the Chief Judge or any district judge and the magistrate judge. The magistrate judge shall hear and determine pretrial motions made pursuant to LR72.3.

(b) Where designated by the Chief Judge or district judge, the magistrate judge may conduct additional pretrial conferences and hear the motions and perform the duties set forth in LR72.4 through 72.6.

(c) Where the parties consent to trial and disposition of a case by a magistrate judge under LR73.1, such case shall be set before the magistrate judge for the conduct of all further proceedings and the entry of judgment.

LR72.8. Magistrate Judges; Authority of Chief Judge or District Judges.

Nothing in these rules shall preclude the Chief Judge or a district judge from reserving any proceedings for conduct by a district judge, rather than a magistrate judge. The court, moreover, may by general order modify the method of assigning proceedings to a magistrate judge as changing conditions may warrant.

LR73.1. Magistrate Judge; 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, the magistrate judge may conduct any or all proceedings in a jury or non-jury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he or she serves. Upon the consent of the parties, pursuant to their specific written request, any other magistrate judge may exercise such jurisdiction, if such magistrate judge meets the bar membership requirements set forth in 28 U.S.C. § 631(b)(1) and the chief district judge of the district court certifies that a full-time magistrate judge is not reasonably available in accordance with guidelines established by the judicial council of the circuit.

A magistrate judge is also authorized to:

(a) Exercise general supervision of the civil calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the district judge;

(b) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil cases;

(c) Conduct voir dire and select petit juries for the court;

(d) Accept petit jury verdicts in civil cases in the absence of a district judge;

(e) Issue subpoenas or other orders necessary to obtain the presence of parties, witnesses or evidence needed for court proceedings;

(f) Order the exoneration or forfeiture of bonds;

(g) Conduct proceedings for the collection of civil penalties of not more than $200.00 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. § 1484(d);

(h) Conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

(i) Conduct naturalization hearings, but all orders from any naturalization hearing other than change of names shall be submitted to the Chief Judge for approval;

(j) Grant motions to dismiss in civil cases when authorized by statute or rule and when such dismissal is within the jurisdiction of the magistrate judge;

(k) All those other duties assigned to the magistrate judge under General Order 04-00016, not specifically referenced herein;

(l) Perform any additional duty not inconsistent with the Constitution and Laws of the United States, and any other duty assigned by the Chief Judge.

LR73.2. Magistrate Judges; Special Provisions for the Disposition of Civil Cases by a Magistrate Judge on Consent of the Parties - 28 U.S.C. § 636(c)(2).

(a) Notice. The clerk 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 representative at the time an action is filed and to other parties as attachments to copies of the complaint and summons when served. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

(b) Execution of Consent. The clerk shall not accept a consent form unless it has been

signed by all the parties or their respective counsel in a case. The plaintiff shall be responsible for securing the execution of a consent form by the parties and for filing such form with the clerk. No judicial officer or other court official may compel any party to consent to the reference of any civil matter to a magistrate judge.

LR73.3. Magistrate Judges; Appeal from Judgments in Civil Cases Disposed of on Consent of the Parties 28 U.S.C. § 636(c).

Appeal to the Court of Appeals. Subject to provisions of 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 LR73.1, an aggrieved party may appeal directly to the United States Court of Appeals for the Ninth Circuit in the same manner as an appeal from any other judgment of this court.

LR74.1. Magistrate Judges; Appeal of Non-Dispositive Matters 28 U.S.C. § 636(b)(1)(A).

A magistrate judge may hear and determine any pretrial matter pending before the court, except those motions delineated in LR72.4(a). Any party may move for reconsideration before the magistrate judge pursuant to LR60.1. A reconsideration motion shall toll the time in which any appeal must be taken from the magistrate judge's order. Any party may appeal from a magistrate judge's order determining a motion or matter under LR72.3, or, if a reconsideration order has issued, the magistrate judge's reconsideration order, within fourteen (14) days from the entry of the order. The clerk shall serve on the parties the magistrate judge's non-dispositive order and any reconsideration order, unless the order and/or reconsideration order has been prepared by counsel, in which event counsel responsible for such preparation shall be responsible for service of the order(s) so prepared. The appealing party shall file with the clerk, and serve on the magistrate judge and all parties, a written statement of appeal which shall specifically designate the order, or part thereof, appealed from after having been served with a copy thereof. Any party in interest may file a response within fourteen (14) days after service thereof. Each of the above periods of fourteen (14)days may be altered by the magistrate judge or a district judge. Oral argument will not be scheduled unless requested by the court. A district judge shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. The district judge may also reconsider sua sponte any matter determined by a magistrate judge under this rule. Any cross-appeal shall be filed within seven (7) days of the filing of an appeal or within fourteen (14) days after the filing of the magistrate judge's order, whichever is later. Any opposition to a cross-appeal shall be filed within fourteen (14) days of service of the cross-appeal. No reply in support of an appeal or cross-appeal shall be filed without leave of court.

LR74.1. Magistrate Judges; Review of Recommendations for Disposition - 28 U.S.C. § 636(b)(1)(B).

Any party may object to a magistrate judge's case dispositive order, findings, or recommendations under LR72.4, 72.5, and 72.6 within fourteen (14) days after the entry of the magistrate judge's order, findings, or recommendations. Any party may move for reconsideration before the magistrate judge pursuant to LR60.1. A reconsideration motion shall toll the time in which objections must be filed to the magistrate judge's order, findings, or recommendations; objections must be filed within fourteen (14) days from entry of the order disposing of the reconsideration motion. The clerk shall serve on the parties the magistrate judge's order, findings, and recommendations and any reconsideration order, unless the order, findings, and recommendations, and/or any reconsideration order has been prepared by counsel, in which event counsel responsible for such preparation shall be responsible for service of the order, findings, recommendations, and/or reconsideration order so prepared. The objecting party shall file with the clerk, and serve on the magistrate judge and all parties, written objections that specifically identify the portions of the order, findings, or recommendations to which objection is made and the basis for such objections. Any party in interest may file a response within fourteen (14) days after service thereof. Each of the above periods of fourteen (14) days may be altered by a magistrate judge or a district judge. A district judge shall make a de novo determination of those portions of the report or specified 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, will not conduct a new hearing unless 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 exercise discretion to receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions. Crossobjections shall be filed within seven (7) working days of the filing of an objection or within fourteen (14) days after the filing of the magistrate judge's order. Any opposition to a cross-objection shall be filed within fourteen (14) days of service of the original objection. No reply in support of objections or cross-objections to a magistrate judge's case dispositive proposed order, findings, or recommendations shall be filed without leave of court.

LR74.3. Magistrate Judges; Appeals from Other Orders of a Magistrate Judge.

Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by governing statute, rule or decisional law.

LR77.1. Sessions of the Court.

The court shall be in continuous regular session in Hagatña, Guam and in special session at other locations when ordered by the Chief Judge or the Chief Judge's designee.

LR77.2. Clerk's Office; Location and Hours.

The offices of the clerk of this court shall be at the 4th Floor, U.S. courthouse, 520 West Soledad Avenue, Hagatña, Guam, 96910, facsimile number: (671) 473-9152. The regular filing hours shall be from 8:00 a.m. to 3:00 p.m. each day, except Saturdays, Sundays, legal holidays and other days or times so ordered by the court.

LR79.1. Disposition of Exhibits and Depositions.

(a) Custody of Exhibits and Depositions. Unless otherwise ordered by the court, each exhibit offered in evidence and all depositions and transcripts shall be held in the custody of the clerk. Unless reason exists for retaining originals, the judge will, upon application, order them returned to the party to whom they belong upon the filing of copies thereof approved by counsel for all parties concerned. All exhibits received in evidence that are in the nature of narcotic drugs, illegal or counterfeit money, firearms, or contraband of any kind shall be entrusted to the custody of the arresting or investigative agency of the government pending disposition of the action and for any appeal period thereafter.

(b) Delivery to Person Entitled. In all cases in which final judgment has been entered and the time for filing a motion for new trial or rehearing and for appeal has passed, any party or person may withdraw any exhibit or deposition originally produced by him, without court order, upon fourteen (14) days written notice to all parties, unless within that time another party or person files notice of claim thereto with the clerk. In the event of competing claims, the court shall determine the person entitled and order delivery accordingly. For good cause shown, the court may allow withdrawal or determine competing claims in advance of the time above specified.

(c) Unclaimed Exhibits. If exhibits and depositions are not withdrawn within forty (40) days after the time when notice may first be given under subdivision (b) of this rule, the clerk may destroy them or make other disposition as he or she sees fit.

PROPOSED LOCAL CRIMINAL RULES

Rule 1: Scope & Definitions

Proposed LR: **1 Title and Citation**
These are the Criminal Local Rules of Practice, which govern the procedure in all criminal proceedings before the District Court of Guam. They should be cited as "Crim. L.R. __."

Other Districts: Patterned after corresponding rules from AK, N.D. CA, S.D. CA and W.D. WA

Rule 2: Interpretation

Proposed LR: **2 Purpose and Construction**
These rules are promulgated pursuant to Fed. R. Crim. P. 57. They supplement the Federal Rules of Criminal Procedure and shall be construed so as to be consistent with those rules.

Other Districts: Patterned after corresponding rules from AK, N.D. CA, S.D. CA and W.D. WA

Rule 3: The Complaint

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 4: Arrest Warrant or Summons on a Complaint

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 5: Initial Appearance

Proposed LR: **5 Initial Appearance**
(a) It shall be the duty of all federal agencies and others who arrest any person as a federal prisoner in this district to give prompt notice without unnecessary delay to the Clerk's Office and the U.S. Pretrial Services Office for this district.

(b) When an arrested person is not represented by counsel and requests to be represented by a court-appointed attorney as an indigent, the federal arresting agency shall so inform the Office of the Federal Public Defender of Guam without unnecessary delay or, in the event of a conflict of interest, the Clerk's Office, who will thereafter provide the name of the next available counsel on the court's [Criminal Justice Act] "CJA"] Panel.

(c) Except where otherwise ordered by a district judge, all initial appearances in criminal proceedings shall be conducted by the magistrate judge.

Other Districts: Only AK, the N.D. CA, HI and W.D. WA have corresponding local rules.

Rule 5.1: Preliminary Hearing

Proposed LR: *none*

Other Districts: Only W.D. WA has a corresponding local rule.

Rule 6: The Grand Jury

Proposed LR: **6 The Grand Jury**
Grand juries are impaneled and in attendance at such times and places in each year as, in the discretion of the court, the business of the court requires or permits. Any district judge or magistrate judge is authorized to impanel a grand jury, take the returns, and discharge the grand jury upon completion of its service.

Other Districts: Only N. D. CA, MT, and W.D. WA have corresponding local rules. The proposed version is taken from MT's CR 6.1(a).

Rule 7: The Indictment and the Information

Proposed LR: *none*

Other Districts: Only the C.D. CA has a corresponding rule

Rule 8: Joinder of Offenses or Defendants

Proposed LR: *none*

Other Districts: Only the N.D. CA has a corresponding rule (Crim. L.R. 8-1) which requires the filing of notices of related criminal or civil actions, so as to permit re-assignment if the cases are assigned to different judges.

Rule 9: Arrest Warrant or Summons on an Indictment or Information

Proposed LR: *none*

Other Districts: Only the C.D. CA has a corresponding rule

Rule 10: Arraignment

Proposed LR:

10 Arraignment

(a) Except where otherwise ordered by a district judge, arraignments in criminal proceedings shall be conducted by the magistrate judge.

(b) A trial date, based upon the requirements of the Speedy Trial Act (18 U.S.C. §3161 *et seq.*) shall be set at the time of arraignment. Requests for change of a trial date shall be addressed to the judge assigned to the case.

(c) Duty of Defendant to Disclose True Name. At arraignment, the defendant shall be informed that if the name by which he is indicted or charged is not his true name, he must then declare his true legal name. The proceedings shall continue against the defendant under the name in the indictment or information, unless the defendant declares a different true name. If the defendant declares a different true name, the court shall order that the caption of the indictment or information be changed accordingly, and the court's records shall show the true name of the defendant and the alias name under which the defendant was indicted or charged.

Other Districts: Part (a) based on S.D. CA. Part (b) based in part on W.D. WA. Part (c) is taken from C.D. CA.

Rule 11: Pleas

Proposed LR:

11 Felony Pleas Before Magistrate Judge

(a) The magistrate judge is authorized to accept waivers of indictment and take guilty pleas in felony cases with the written consent of the defendant, the defendant's attorney, and the Assistant U.S. Attorney. The magistrate judge shall administer the allocution pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The magistrate judge shall make written findings as to each of the subjects set forth in Fed. R. Crim. P. 11, the voluntariness of the guilty plea, and the sufficiency of the factual basis establishing each of the essential elements of the offense. The magistrate judge is also authorized to order the preparation of a presentence report pursuant to Fed. R. Crim. P. 32 concerning any defendant who pleads guilty to felony charges.

(b) The magistrate judge shall also make a written recommendation to the district judge as to whether or not the district judge should accept the defendant's plea of guilty. A copy of the magistrate judge's written findings and recommendation shall be served on all parties. Objections to the magistrate judge's findings and recommendation shall be filed within fourteen (14) days after having been served with a copy thereof. Any party desiring to oppose such objections shall have seven (7) days thereafter within which to file and serve a written response. The district judge shall conduct a *de novo* review of the magistrate judge's findings and recommendations if, but only if, one or both parties file objections to the findings and recommendations.

(c) Sentencing shall take place before the district judge to whom the case has been assigned. The district judge shall schedule the sentencing hearing if he accepts the defendant's guilty plea.

(d) This rule in no way precludes any district judge from reserving the function of conducting the proceedings required by Fed. R. Crim. P. 11 in any or all cases assigned to the district judge.

Other Districts: Based in part on Gen. Ord. 04-00016 and W.D. WA local rule.

Rule 12: Pleadings and Pretrial Motions

Proposed LR: 1**2** **Pleadings and Pretrial Motions**

(a) Motion Deadline. At the arraignment or as soon afterward as practicable, the court shall set a deadline for the parties to file pretrial motions, including discovery and *in limine* motions, along with deadlines for the filing of responses and replies thereto. These dates shall be strictly adhered to unless an extension of time is granted by the court upon good cause shown.

(b) Extensions of Time. No continuance shall be granted merely on the stipulation of the parties. If a party is unable to comply with the established schedule despite its diligence, that party shall move the assigned judge for a reasonable extension of time, specifically setting forth the basis for the requested extension. Such motion shall be made as soon as practicable but, in any event, not later than the date upon which the act was to have been completed.

(c) Motions - Required Pleadings. Every motion shall be filed and served with a memorandum in support thereof, affidavits, if appropriate, and copies of all documentary evidence that the moving party intends to submit in support of the motion. Additionally, all motions and each response or opposition thereto shall contain a statement whether an evidentiary hearing is requested and an estimate of the time required for the presentation of evidence and/or arguments. The reply brief shall contain a re-estimate of the time or a statement that the original estimate is unchanged.

(d) Non-dispositive Motions in Felony Cases. In felony cases, the magistrate judge shall hear and determine any pretrial motion, including discovery motions, other than case-dispositive motions.

(e) Dispositive Motions in Felony Cases. All dispositive motions, such as a motion to dismiss or quash an indictment or information, or to suppress evidence, shall be heard by the district judge, unless specifically referred to the magistrate judge. In any dispositive motion referred to the magistrate judge, the magistrate judge shall file a written report and recommendation.

(f) Any party may appeal from any pretrial non-dispositive matter assigned to a magistrate judge or file an objection to any portion of the magistrate judge's report and recommendation on dispositive pretrial matters. Such appeal or objection shall be filed within fourteen (14) days after the filing of the magistrate judge's written order or after being served with a copy of the report and recommendation. Any party in interest may file a response to the appeal or objection within seven (7) days after having

been served with a copy thereof. Oral argument will not be scheduled unless ordered by the District Judge.

(g) Each joinder to a motion shall specifically identify the particular motion(s) to which the joinder applies and the basis for the defendant's standing to raise or join in such motion, where necessary.

Other Districts: The above proposed rule is based in part on Gen. Ord. 04-00016 and the corresponding local rules of C.D. CA, E.D. CA, and W.D. WA.

Rule 12.1: Notice of an Alibi Defense

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 12.2: Notice of an Insanity Defense; Mental Examinations

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 12.3: Notice of Public-Authority Defense

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 12.4: Disclosure Statement

Proposed LR: *none*

Other Districts: Only the N.D. CA has a corresponding rule

Rule 13: Joint Trial of Separate Cases

Proposed LR: *none*

Other Districts: Only the W.D. WA has a corresponding rule which discusses the procedure employed if there are related criminal cases assigned to different judges.

Rule 14: Relief from Prejudicial Joinder

Proposed LR: *none*

Other Districts: no other district has a corresponding rule

Rule 15: Depositions

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 16: Discovery and Inspection

Proposed LR:

16 Discovery and Inspection

(a) Standing Order for Routine Discovery. The government and the defendant shall make available discovery materials pursuant to Fed. R. Crim. P. 16 and 26.2 and 18 U.S.C. § 3500, which are within their possession, custody, or control, the existence of which is known, or by the exercise of due diligence may become known to the attorneys as hereinafter provided. This local rule shall not be construed as obligating the government or the defendant to disclose materials protected from disclosure by 18 U.S.C. § 3500 or Fed. R. Crim. P. 16 or 26.2.

(1) The Government's Duty. A request for discovery set out in this paragraph and in Fed. R. Crim. P. 16 is entered for the defendant to the government by this rule so that the defendant need not make a further request for such discovery. If the defendant does not request such discovery, he or she shall file a notice to the government that he or she does not request such discovery within seven (7) days after arraignment. If such a notice is filed, the government is relieved of any discovery

obligations to the defendant imposed by this paragraph or Fed. R. Crim. P. 16. If the defendant does not file such a notice within seven (7) days after arraignment, unless otherwise ordered by the court or promptly upon subsequent discovery, the government shall permit the defendant to inspect and copy or photograph, or, in the case of the defendant's criminal record, shall furnish a copy, and provide the information listed in the subparagraphs enumerated immediately below:

(A) Any relevant written or recorded statements made by the defendant, or copies thereof, within the possession, custody, or control of the government, the existence of which is known, or by the exercise of due diligence may become known, to the attorney for the government;

(B) The substance of any oral statement that the government intends to offer in evidence at the trial made by the defendant whether before or after the arrest in response to interrogation by any person then known to the defendant to be a government agent;

(C) Recorded testimony of the defendant before a grand jury that relates to the offense charged;

(D) A copy of the defendant's prior criminal record, if any, which is within the possession, custody, or control of the government;

(E) All books, papers, documents, photographs, tangible objects, buildings, or places, or copies of portions thereof, that are within the possession, custody, or control of the government, and that are material to the preparation of the defense or are intended for use by the government as evidence in chief at trial, or were obtained from or belong to the defendant;

(F) Any results or reports of physical or mental examinations, and of scientific tests or experiments, or copies thereof that are material to the preparation of the defense or are intended for use by the government as evidence in chief at the trial;

(G) Brady material, as it shall be presumed that defendant has made a general Brady v. Maryland, 373 U.S. 83 (1963) request. Specific requests shall be made in writing to the government or by motion;

(H) Photographs used in any photograph line-up, show-up, photospread, or any other identification proceeding, or if no such photographs can be produced, the government shall notify the

defendant whether any such identification proceeding has taken place and the results thereof;

(I) Any search warrants and supporting affidavits that resulted in the seizure of evidence that is intended for use by the government as evidence in chief at trial or that was obtained from or belongs to the defendant; and

(J) A statement as to whether the defendant was the subject of any electronic eavesdrop, wiretap, or any other communications of wire or oral interception as defined by 18 U.S.C. § 2510, et seq., in the course of the investigation of the case.

Upon providing the information required in the enumerated subparagraphs above, the government shall file and serve notice of compliance with discovery mandated under this subparagraph.

(2) The Defense Duty. Unless the defendant has filed notice that he does not request discovery under paragraph (1) of this rule or Fed. R. Crim. P. 16, or unless otherwise ordered by the court, within 14 (14) days after the filing of the government's notice of compliance with discovery under paragraph (1) above, or promptly on subsequent discovery, the defendant shall: (i) inform the government if any of the following exists; and (ii) shall permit the government to inspect and copy or photograph the information listed in the subparagraphs enumerated immediately below.

(A) All books, papers, documents, photographs, tangible objects, or copies or portions thereof, that are within the possession, custody or control of the defendant and that the defendant intends to introduce as evidence in chief at the trial;

(B) Any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession or control of the defendant, that the defendant intends to introduce as evidence in chief at the trial; and

(C) If a defendant intends to rely upon the defense of insanity at the time of the alleged crime, or intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether the defendant had the mental state required for the offense charged, the defendant shall give written notice thereof to the government and file a copy of such notice with the clerk.

Upon providing the information required in the enumerated

subparagraphs above, the defendant shall file and serve notice of compliance with discovery mandated under this subparagraph.

(b) Continuing Duty to Disclose. The duty of the government and the defendant to provide discovery under this rule is a continuing one. Failure to so comply may subject the offending party to appropriate sanctions.

(c) All motions for discovery must contain a certification that the parties have met and conferred in good faith and that the issues set out for decision in the motion are genuinely in dispute between the parties.

(d) Exchange of Witness Lists, Exhibit Lists, and Exhibits. No later than fourteen (14) days before trial, the parties shall exchange a list of the names of witnesses each intends to call in its case-in-chief at trial, and a list of exhibits and copies of the documentary exhibits each intends to introduce during the presentation of their respective cases-in-chief.

Other Districts: Based in part on corresponding local rules from AK, HI and W.D. WA.

Rule 17: Subpoena

Proposed LR: *none*

Other Districts: Only the C.D. CA, N. D. CA, S.D. CA, MT, NV, and W. D. WA have corresponding local rules.

Rule 17.1: Pretrial Conference

Proposed LR: *none*

Other Districts: Districts with corresponding local rules are AK, N.D. CA, HI, MT, NMI, and W.D. WA.

[Comment: I'm wondering if we should add this rule.]

Rule 18: Place of Prosecution and Trial

Proposed LR: *none*

Other Districts: Only the N.D. CA and the W.D. WA has a corresponding rule, but this is because these districts have more than one intradistrict location.

Rule 19: [Reserved]

Proposed LR: *none*

Rule 20: Transfer for Plea and Sentence

Proposed LR: *none*

Other Districts: Only N.D. CA has a corresponding rule

Rule 21: Transfer for Trial

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 22: [Transferred] - the substance of this former rule has been transferred to Fed. R. Crim. P. 21(d)

Proposed LR: *none*

Rule 23: Jury or Non-jury Trial

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 24: Trial Jurors

Proposed LR: **24 Trial Jurors**

(a) Examination. No later than fourteen (14) days prior to trial, each party shall file and serve any suggested questions which he desires the court to propound to the jurors during *voir dire*. The assigned judge has the sole discretion of determining which questions it considers proper and may, in

his discretion, permit the attorneys for the parties to examine prospective jurors.

(b) Peremptory Challenges. Peremptory challenges to which each party may be entitled shall be exercised in the manner directed by the assigned judge. If a party passes a peremptory challenge it shall be counted as if exercised. If the opposing party also passes, the jury shall be deemed selected. If the opposing party exercises a challenge, the party who previously passed may exercise any unused challenge.

(c) The magistrate judge is authorized to conduct *voir dire* and select petit juries for the district judge in felony cases with the consent of the parties.

Other Districts: Only MT, W.D. WA, N.D. CA and C.D. CA have corresponding rules

Rule 25: Judge's Disability

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 26: Taking Testimony

Proposed LR: *none*

Other Districts: Only the W.D. WA has a corresponding rule

Rule 26.1: Foreign Law Determination

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 26.2: Producing a Witness's Statement.

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 26.3: Mistrial

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 27: Proving an Official Record

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 28: Interpreters

Proposed LR: *none*

Other Districts: only S.D. CA and ID have corresponding rules

Rule 29: Motion for Judgment of Acquittal

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 29.1: Closing Argument

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 30: Jury Instructions

Proposed LR: **30 Jury Instructions**
No later than fourteen (14) days prior to trial, each party shall file and serve proposed written jury instructions with source(s) cited together with additional supporting authority. Objections to requested instructions may be made either in writing or orally as time permits. Additional requested instructions and objections may be received by the court, in its discretion, at any time prior to counsels' [final] arguments to the jury.

Other Districts: The proposed rule was based on current practices and the corresponding rule from S.D. CA.

Rule 31: Jury Verdict

Proposed LR: **31 Jury Verdict**
No later than fourteen (14) days prior to trial, each party shall file and serve a proposed verdict form(s).

Other Districts: Only the W.D. WA has a corresponding rule

Rule 32: Sentencing and Judgment

Proposed LR: **32 Sentencing and Judgment**

(a) Disclosure of Report and Objections. Unless a different time is ordered, the presentence report shall be prepared and disclosed according to the deadlines set forth in Fed. R. Crim. P. 32(e) and (g), and written objections thereto shall be prepared and served as set forth in Fed. R. Crim. P. 32(f).

(b) Effect of Rescheduling of Sentencing on Deadlines. Unless otherwise stated, if the assigned judge grants a motion to change the date for sentencing, the deadlines set in Fed. R. Crim. P. 32(e)-(g) shall automatically adjust and be calculated from the new sentencing date.

Other Districts: Based in part on N.D. CA's corresponding rule

Rule 32.1: Revoking or Modifying Probation or Supervised Release

Proposed LR: The magistrate judge shall conduct all probation or supervised release revocation proceedings as to a defendant originally sentenced by the magistrate judge. In revocation proceedings relating to defendants sentenced by a district judge, initial appearances and any preliminary hearings shall be conducted by the magistrate judge, unless otherwise ordered by the assigned district judge; and with the consent of the defendant and to the extent consistent with applicable law, any evidentiary hearing shall be conducted by the magistrate judge, unless otherwise ordered by the assigned district judge. Thereafter, the magistrate judge shall submit to and file with the district court, proposed findings of fact, a copy of which shall be promptly provided to all the parties. Said submission shall include a listing of all the alleged violations that were found to be established by a preponderance of the evidence, and all the alleged violations that were not so established; and may include comments and/or recommendations as to disposition. Within fourteen (14) days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations. The district court judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A district judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or resubmit the matter to the magistrate judge with instructions.

Other Districts: Based in part on Gen. Ord. 04-00016 and W.D. WA corresponding rule

Rule 32.2: Criminal Forfeiture

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 33: New Trial

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 34: Arresting Judgment

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 35: Correcting or Reducing a Sentence

Proposed LR: *none*

Other Districts: Only HI and NV have corresponding rules

Rule 36: Clerical Error

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 37: [Reserved]

Proposed LR: *none*

Rule 38: Staying a Sentence or a Disability

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 39: [Reserved]

Proposed LR: *none*

Rule 40: Arrest for Failing to Appear in Another District or for Violating Conditions of Release Set in Another District

Proposed LR: *none*

Other Districts: Only N.D. CA has a corresponding rule.

Rule 41: Search and Seizure

Proposed LR: **41 Search and Seizure**

(a) Search Warrant Applications. Each new application for a search and/or seizure warrant shall be assigned a magistrate judge ("MJ") case number. The application and the warrant issued thereon shall be sealed and not made publicly available.

(b) Unsealing of Search and/or Seizure Warrant Applications. It is this court's intent that all filings be publically accessible in all regards. This right of access yields only when the Government can demonstrate that sealing is necessary and essential to preserve the integrity of an ongoing investigation or case. Accordingly, upon return of the search and/or seizure warrant, the warrant and any other document contained in the file shall thereafter be unsealed unless the government files a separate written motion in the assigned case requesting that the matter remain sealed. For good cause shown, the court shall grant said motion, and the warrant and all other documents on file shall remain sealed. The government shall promptly file a motion to unseal the warrant and other documents when the justification for sealing said records no longer exists.

Other Districts: Only the N.D. Ca and W.D. WA have corresponding rules. The above was based on Gen. Ord. 08-00002.

Rule 42: Criminal Contempt

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 43: Defendant's Presence

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 44: Right to and Appointment of Counsel

Proposed LR:

44 Right to and Appointment of Counsel

(a) Retained Counsel. In all criminal actions, counsel retained to represent a defendant and appearing in a criminal case must promptly file with the clerk a formal written appearance.

(b) If a defendant requests appointment of counsel by the court, the court shall promptly appoint counsel in accordance with the plan of this court adopted pursuant to the Criminal Justice Act of 1964 on file with the Clerk.

(c) Duration of Representation. Whether retained or appointed, an attorney wishing to withdraw must file a motion to withdraw, showing good cause for allowing the attorney to withdraw. Failure of the defendant to pay agreed compensation may not necessarily be deemed good cause. Unless such leave is granted by the court, the attorney shall continue to represent the defendant until the case is dismissed, or the defendant is acquitted, or, if convicted, until the expiration of the time for making post-trial motions and for filing notice and appeal. If counsel has not obtained permission to withdraw by the district court prior to the filing of the notice of appeal, the motion to withdraw must be addressed to the Circuit Court of Appeals.

Other Districts: Based on the corresponding rules of AK, N.D. CA, S.D. CA, and NV.

Rule 45: Computing and Extending Time

Proposed LR:

45 Computing and Extending Time

A request to continue a trial date, whether by motion or stipulation, will not be considered unless it sets forth in detail the reason(s) why a continuance is necessary and the relevant statutory citations regarding excludable periods of delay, if any.

Other Districts: Only the W.D. WA and NV have corresponding rules. The proposed rule is based on NV's local rule.

Rule 46: Release from Custody; Supervising Detention

Proposed LR:

46 Release from Custody; Supervising Detention

(a) The magistrate judge has the authority to fix or modify bail and conduct detention hearings and issue release and detention orders; provided, however, that the magistrate judge shall not modify or approve a modification of any bail previously fixed by order of a district judge other than upon the grand jury return, except upon specific authorization from the district judge.

(b) The magistrate judge has the authority to: (i) set bail for material witnesses; (ii) exonerate or forfeit bonds, set aside forfeitures, and reinstate bail in proceedings pending before the Magistrate Judge; and (iii) approve personal and corporate surety bonds and bonds requiring personal sureties.

(c) Special Release Services. In addition to the pretrial services furnished under 18 U.S.C. § 3152, *et seq*., counsel for a defendant may request special release services from ~~form~~ the court's pretrial services office. If such a request is made, counsel must provide pretrial services and opp~~9~~osing counsel with a written request no less than 72 hours prior to any court hearing at which the results of that serve are to be considered. Examples of special services that require this notice include: (i) request for third-party investigations; (ii) home confinement and electronic monitoring investigations; (iii) residential treat program investigations; and (iv) any other non-routine investigations deemed necessary by the court. Counsel requesting special service is also responsible for requesting that any bail review hearing on the service be set on the court's calendar.

(d) Third Party Request. No person will be considered for approval as a third-party custodian unless: (i) proposing counsel certifies that the proposed custodian has been interviewed by the pretrial services office; (ii) the proposed third-party custodian has completed a third-party application form and questionnaire as provided by the pretrial services office; and (iii) the completed application and questionnaire forms have been served on pretrial services and opposing counsel not less than 72 hours prior to the hearing at which the matter is to be addressed.

Other Districts: Based on rules from AK and C.D. CA. Also based on Gen. Ord. 04-00016.

Rule 47: Motions and Supporting Affidavits

Proposed LR: *none* - provisions contained in proposed Crim. L.R. 12

Other Districts: Only the N.D. CA, S.D. CA, and NV have corresponding rules

Rule 48: Dismissal

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 49: Serving and Filing Papers

Proposed LR: **49 Serving and Filing Papers**
The serving and filing of papers in all criminal proceedings shall comply with the Administrative Procedures for the Electronic Filing, Signing, Verifying, and Servicing of Civil and Criminal Documents adopted by this court and on file with the Clerk, to the extent that said administrative procedures are not otherwise inconsistent with these rule and the Federal Rules of Criminal Procedure or other federal law.

Other Districts: Only AK, S.D. CA, and NV have corresponding rules

Rule 49.1: Privacy Protection for Filings Made with the Court

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 50: Prompt Disposition

Proposed LR: *none*

Other Districts: Only AK and C.D. CA have corresponding rules

Rule 51: Preserving Claimed Error

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 52: Harmless and Plain Error

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 53: Courtroom Photographing and Broadcasting Prohibited.

Proposed LR: *none*

Other Districts: no district has a corresponding rule

Rule 54: [Transferred] - to Fed. R. Crim. P. 1

Rule 55: Records

Proposed LR: Excepting contraband, firearms and other sensitive items, or unless the assigned judge otherwise orders, the procedures set forth in Civ. L.R. 79.1 shall govern the custody and disposition of exhibits in criminal proceedings before the court.

Other Districts: Only the N.D. CA has a corresponding rule

Rule 56: When Court is Open

Proposed LR: *none*

Other Districts: Only HI has a corresponding rule

Rule 57: District Court Rules

Proposed LR: *none*

Other Districts: Only the N.D. CA, S.D. Ca, HI, and ID have corresponding rules

District Court of Guam
Local Rules for Habeas Corpus Petitions

Rule 1 Scope

(a) All petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2254 and motions pursuant to 28 U.S.C. § 2241 or § 2255 shall be subject to the provisions of these Local Rules for Habeas Corpus Petitions (LRHC) unless otherwise ordered by the court.

(b) These rules are intended to supplement the "Rules Governing Section 2254 Cases in the United States District Courts" and the "Rules Governing Section 2255 Proceedings for the United States District Courts" as adopted and amended by the United States Supreme Court.

(c) These rules are effective _____ and shall govern habeas corpus actions pending or commenced on or after that date.

Rule 2 Form and Content

(a) The petition or motion, signed under penalty of perjury, shall be filed on the form supplied by the Clerk of Court, completed in legible printing or typewriting. The clerk shall make this form available free of charge. Alternatively, the petition or motion may be in a typewritten, word-processed or other legible written form which contains all the information required by the court's form.

(b) A petitioner represented by counsel shall file the original and one (1) copy of the petition or motion. A pro se petitioner, or a petitioner seeking in forma pauperis status, may file only the original.

(c) If filed by a territorial prisoner, the petition shall be accompanied by all territorial court opinions and judgments in the case, and a petitioner who is unable to provide opinions and judgments shall state why they are unavailable. If not provided by the petitioner, the respondent shall provide the territorial court opinions and judgments or state why they have not been provided.

Rule 3 Proceeding Pro Se

A petition filed by persons appearing pro se shall be on a form established for that purpose by the court and shall be completed in conformity with the instructions approved by the court. Copies of the forms, instructions, and the District Court of Guam Local Rules for Habeas Corpus Petitions shall be provided to pro se petitioners by the Clerk upon request. Additionally, they may be provided by the Clerk upon the filing of papers which appear to be a request by a person appearing pro se for relief which should be presented by habeas petition or motion.

Rule 4 Requests to Proceed In Forma Pauperis

Persons unable to pay the filing fees may seek leave of court to proceed in forma pauperis. The application shall be made on the form established for that purpose by the court, including a financial affidavit. Copies of the application form and instructions shall be supplied to applicants by the Clerk upon request.

Rule 5 Service

If a petition or motion is filed pro se or in forma pauperis, the Clerk shall serve a copy on the United States Attorney, or the Office of the Attorney General, or the respondent named in the

petition.

Rule 6 Assignment to Magistrate Judge

(a) Pursuant to 28 U.S.C. § 636(b)(1)(B), a magistrate judge may be designated by the court to perform all duties under these rules.

(b) The magistrate judge shall file proposed findings of fact and recommendations for disposition, and a copy shall be provided to all parties. Within the time period set forth in the report and recommendations, but no less than fourteen (14) days, any party may serve and file written objections to the proposed findings and recommendations. The party objecting shall file a proof of service showing the objections were served on the opposing party.

(c) The district judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which an objection was made. A district judge may accept, reject, seek clarification, or modify in whole or in part any findings or recommendations made by the magistrate judge.

Rule 7 Discovery

No discovery shall be conducted without leave of the court.

Rule 8 Response

The court shall promptly conduct an initial review of the petition. If it plainly appears from the motion, exhibits and record that the moving party is not entitled to relief, the judge shall dismiss and direct the clerk to notify the moving party. If the motion is not dismissed, the judge shall order that an answer, motion or other response be filed no later than sixty (60) days from the date of the order. The petitioner may file and serve a reply no later than thirty (30) days after having been served with the respondent'sanswer.

Rule 9 Evidentiary hearing

(a) The court may hold an evidentiary hearing on its own motion or the motion of any party. A request for an evidentiary hearing shall include a specification of which factual issues require a hearing and a summary of what evidence the party proposes to offer. An opposition to the request for an evidentiary hearing shall be filed no later than thirty (30) days from the filing of the request.

(b)

(c) The court may order the preparation of a transcript of the evidentiary hearing.

Rule 10 Rulings

The court's ruling shall be in the form of a written decision and order which will be filed. The Clerk shall serve a copy of the ruling on all parties.

DISTRICT COURT OF GUAM
LOCAL ADMIRALTY RULES ("LAR")[1]

LAR A. AUTHORITY AND SCOPE

(1) Authority. The local admiralty rules of the District Court of Guam are promulgated as authorized by and subject to the limitations of Federal Rule of Civil Procedure 83.

(2) Scope. The local admiralty rules apply only to civil actions that are governed by Supplemental Rule A of the Supplemental Rules for Certain Admiralty and Maritime Claims (Supplemental Rule or Rules). All other general and local rules are applicable in these cases, but to the extent that another rule is inconsistent with the applicable local admiralty rules, the local admiralty rules shall govern.

(3) Citation. The local admiralty rules may be cited as Adm. L.R. ~~by the letters "LAR"~~ and the capital letter and numbers in parentheses that appear in each section (e.g. Adm. L.R. A(1) , Adm. L.R. A(2) ~~"LAR A(1)", "LAR A(2)"~~ and so forth.). The capital letter is intended to associate with the local admiralty rule with the Supplemental Rule that bears the same capital letter.

(4) Definitions. As used in the local admiralty rules, the word "Rule" followed by a numeral, e.g., Rule 12, means a Federal Rule of Civil Procedure; the word "Rule" followed by a capital letter, e.g., Rule C, means a Supplemental Rule for Certain Admiralty and Maritime Claims; the word "Court" means the District Court of Guam; the term "judicial officer" means a United States District Judge, District Court of Guam Judge or a United States Magistrate Judge; the word "Clerk" means the Clerk of the District Court of Guam and includes deputy clerks of court; the word "state" includes the territory of Guam; the word "Marshal" means the United States Marshal and includes deputy marshals; the word "keeper" means any person or entity appointed by the Marshal to take physical custody of and maintain the vessel or other property under arrest or attachment; and the term "substitute custodian" means the individual who or entity that, upon motion and order of the Court, assumes the duties of the Marshal
or keeper with respect to the vessel or other property that is arrested or attached.

LAR B. MARITIME ATTACHMENT AND GARNISHMENT.

(1) Use of State Procedures. When the plaintiff invokes a state procedure in order to attach or garnish as permitted by the Rules or the Supplemental Rules, the process of attachment or

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[1] These "Model Rules" were unanimously approved by the Committee on Practice and Procedure on April 30, 2008, and were approved without dissent by resolution of the Maritime Law Association of the United States on May 2, 2008. The District Court for the Northern Mariana Islands adopted them in May 2009. I have modified them where appropriate (.e.g. to take into consideration the District Court of Guam, etc.).

garnishment shall identify the state law upon which the attachment or garnishment is based.

LAR C. ACTIONS IN REM; SPECIAL PROVISIONS.

(1) Intangible Property. The summons issued pursuant to Rule C(3)(c) shall direct the person having control of intangible property to show cause no later than fourteen (14) days after service why the intangible property should not be delivered to the Court to abide the judgment. A judicial officer for good cause shown may lengthen or shorten the time. Service of the summons has the effect of an arrest of the intangible property and brings it within the control of the Court Service of the summons to show cause requires a garnishee wishing to retain possession of the property to establish grounds for doing so, including specification of the measures taken to segregate and safeguard the intangible property arrested. The person who is served may deliver or pay over to the Marshal the intangible property proceeded against to the extent sufficient to satisfy the plaintiff's claim. If such delivery or payment is made, the person served is excused from the duty to show cause. A person who asserts a right of possession or ownership may show cause as provided in Rule C(6)(a) why the
property should not be delivered to the Court.

(2) Publication of Notice of Action and Arrest. The notice required by Rule C(4) shall be published once in a newspaper named in the local rules, and plaintiff's attorney shall file with the Clerk a copy of the notice as it was published. The notice shall contain:

(a) The court, title, and number of the action;

(b) The date of the arrest;

(c) The identity of the property arrested;

(d) The name, address, and telephone number of the attorney for plaintiff;

(e) A statement that the claim of a person who is entitled to possession or who claims an interest pursuant to Rule C(6)(a) must be filed with the Clerk and served on the attorney for plaintiff within fourteen (14) days after publication;

(f) A statement that an answer to the complaint must be filed and served within twenty-eight (28) days after publication, and that otherwise, default may be entered and condemnation ordered;

(g) A statement that applications for intervention under Rule 24 by persons claiming maritime liens or other interests shall be filed within the time fixed by the Court; and

(h) The name, address, and telephone number of the Marshal, keeper or substitute custodian.

(3) **Default in Actions *in Rem***.

(a) Notice Required. A party seeking a default judgment in an action *in rem* must satisfy the Court that notice of the action and arrest of the property has been given:

(1) by publication as required in Adm. L.R. ~~LAR~~ C(2),

(2) by service upon the Marshal, keeper, substitute custodian, master, or other person having custody of the property, and

(3) by mailing notice to every other person who has not appeared in the action and is known to have an interest in the property.

(b) Persons with Recorded Interests

(1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all persons named in the United States Coast Guard certificate of ownership.

(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, plaintiff must attempt to notify the persons named in the records of the issuing authority.

(3) If the defendant property is of such character that there exists a governmental registry of property interests and/or security interests, the plaintiff must attempt to notify all persons named in the records of each such registry.

(4) **Entry of Default and Default Judgment.** After the time for filing an answer has expired, the plaintiff may apply for entry of default under ~~Federal~~ Rule 55(a). Default will be entered upon showing that:

(a) Notice has been given as required by Adm. L.R. ~~Local Admiralty Rule~~ C.4.(a), and

(b) Notice has been attempted as required by Adm. L.R. ~~Local Admiralty Rule~~ C.4.(b), where appropriate, and

(c) The time to answer by claimants of ownership to or possession of the property has expired, and

(d) No answer has been filed or no ~~on~~ one has appeared to defend on behalf of the property.

Judgment may be entered under ~~Federal~~ Rule 55(b) at any time after default has been entered.

LAR D. POSSESSORY, PETITORY AND PARTITION ACTIONS.

(1) Return Date. In a possessory action under Rule D, a judicial officer may order that the statement of right or interest and answer be filed on a date earlier than twenty-one (21) days after arrest. The order may also set a date for expedited hearing of the action.

LAR E. ACTIONS *IN REM* AND QUASI *IN REM*; GENERAL PROVISIONS.

(1) Itemized Demand for Judgment. The demand for judgment in every complaint filed under Rule B or C shall allege the dollar amount of the debt or damages for which the action was commenced. The demand for judgment shall also allege the nature of other items of damage. The amount of the special bond posted under Rule E(5)(a) may be based upon these allegations.

(2) Salvage Action Complaint. In an action for a salvage reward, the complaint shall alleged the dollar value of the vessel, cargo, freight, and other property salved, and the dollar amount of the reward claimed.

(3) Verification of Pleadings. Every complaint in Rule B, C, and D actions shall be verified upon oath or solemn affirmation, or in the form provided by 28 U.S.C. § 1746, by a party or by an authorized officer of a corporate party. If no party or authorized corporate officer is present within the district, verification of a complaint may be made by an agent, attorney in fact, or attorney of record, who shall state the sources of the knowledge, information and belief contained in the complaint; declare that the document verified is true to the best of that knowledge, information, and belief; state why verification is not made by the party or an authorized corporate officer; and state that the affiant is authorized so to verify. A verification not made by a party or authorized corporate officer will be deemed to have been made by the party as if verified personally. If the verification was not made by a party or authorized corporate officer, any interested party may move, with or without requesting a stay, for the personal oath of a party or an authorized corporate officer, which shall be procured by commission or as otherwise ordered.

(4) Review by Judicial Officer. Unless otherwise required by the judicial officer, the review of complaints and papers called for by Rules B(1) and C(3) does not require the affiant party or attorney to be present. The applicant for review shall include a form of order to the Clerk which, upon signature by the judicial officer, will direct the arrest, attachment or garnishment sought by the applicant. In exigent circumstances, the certification of the plaintiff or his attorney under Rules B and C shall consist of an affidavit or a declaration pursuant to 28 U.S.C. § 1746 describing in detail the facts that establish the exigent circumstances.

(5) Return of Service. The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the Marshal. A person specially appointed by the Court under Rules B or C who has served process of maritime attachment and garnishment

or a warrant of arrest that seized property shall promptly file a verified return showing the name of the individual on whom the process or warrant was served, the identity of the person or entity on whom service was made, the documents served, the manner in which service was completed (e.g., personal delivery), and the address, date and time of service.

(6) Property in Possession of United States Officer. When the property to be attached or arrested is in the custody of an employee or officer of the United States, the Marshal will deliver a copy of the complaint and warrant of arrest or summons and process of attachment or garnishment to that officer or employee if present, and otherwise to the custodian of the property. The Marshal will instruct the officer or employee or custodian to retain custody of the property until ordered to do otherwise by a judicial officer.

(7) Security for Costs. In an action under the Supplemental Rules, a party may move upon notice to all parties for an order to compel an adverse party to post security for costs with the Clerk pursuant to Rule E(2)(b). Unless otherwise ordered, the amount of security shall be $500. The party so ordered shall post the security within seven (7) days after the order is entered. A party who fails
to post security when due may not participate further in the proceedings except by order of Court. A party may move for an order increasing the amount of security for costs.

(8) Adversary Hearing. The adversary hearing following arrest or attachment or garnishment that is called for in Rule E(4)(f) shall be conducted by a judicial officer promptly. The person(s) requesting the hearing shall notify all persons known to have an interest in the property of the time and place of the hearing.

(9) Appraisal. An order for appraisal of property so that security may be given or altered will be entered upon motion. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give one (1) business day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the Clerk and serve it upon counsel of record. The appraiser's fee normally will be paid by the moving party, but it is a taxable cost of the action.

(10) Security Deposit for Seizure of Vessels. The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit $5,000.00 with the Marshal to cover the expenses of the Marshal including, but not limited to, dockage, keepers, maintenance, and insurance. The Marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time, at the Marshal's request, to cover estimated expenses. A party who fails to advance such additional sums may not participate further in the proceedings except by order of the Court. The Marshal may, upon notice to all parties, petition the Court for an order to release the vessel if additional sums are not advanced within seven (7) days after the request.

(11) Intervenors' Claims.

(a) Presentation of Claim. When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or substitute custodian, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint and obtain a warrant of arrest, and not by filing an original complaint, unless otherwise ordered by a judicial officer. No formal motion is required. The intervening party shall serve a copy of the intervening complaint and warrant of arrest upon all parties to the action and shall forthwith deliver a conformed copy of the complaint and warrant of arrest to the Marshal, who shall deliver the copies to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal for seizure of a vessel as required by Adm. L.R. ~~LAR~~ (E)(10).

(b) Sharing Marshal's Fees and Expenses. An intervenor shall owe a debt to any party that has previously advanced funds to cover the expenses of the Marshal, enforceable on motion, consisting of the intervenor's share of the Marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims. If a party plaintiff permits the vacation of an arrest, attachment, or garnishment, the remaining plaintiffs will share the responsibility to the Marshal for fees and expenses in proportion to the remaining claims and for the duration of the Marshal's custody because of each claim.

(12) Custody of Property.

(a) Safekeeping of Property. When a vessel or other property is brought into the Marshal's custody by arrest or attachment, the Marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. A substitute custodian in place of the Marshal may be appointed by order of the Court. Notice of the application to appoint a substitute custodian must be given to all parties and the Marshal. The application must show the name of the proposed substitute custodian, the location of the vessel during the period of custody, and the proposed insurance coverage.

(b) Insurance. The Marshal may procure insurance to protect the Marshal, keepers, and substitute custodians from liabilities assumed in arresting and holding the vessel, cargo, or other property, in performing protective services, and in maintaining the Court's custody. The party who applies for arrest or attachment shall reimburse the Marshal for premiums paid for the insurance and shall be an added insured on the policy. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the Marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.

(c) Cargo Handling, Repairs, and Movement of the Vessel

(1) Following arrest or attachment of a vessel, cargo handling shall be permitted to commence or continue unless otherwise ordered by the Court. No repairs to or movement of the vessel shall take place without order of the Court. The applicant for an order shall give notice to the Marshal and to all parties of record.

(2) If an applicant shows adequate insurance to indemnify the Marshal for liability, the Court may order the Marshal to permit cargo handling, repairs, or movement of the vessel, cargo, or other property. The costs and expenses of such activities shall be borne as ordered by the Court. Any party of record may move for an order to dispense with keepers or to remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian, or for similar relief. Notice of the motion shall be given to the Marshal, keeper or substitute custodian, and to all parties of record. The judicial officer will require that adequate insurance on the property will be maintained by the successor to the Marshal, before issuing the order to change arrangements.

(d) Claims by Suppliers for Payment of Charges. A person who has furnished supplies or services to a vessel, cargo, or other property in custody of the Court, who has not been paid, and who claims the right to payment as an expense of administration, shall submit an invoice to the Clerk in the form of a verified claim at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims individually or schedule a single hearing for all claims.

(13) <u>Sale of Property</u>.

(a) Notice of sale of arrested or attached property shall be published in one or more newspapers to be specified in the order for sale. Unless otherwise ordered by a judge upon a showing of urgency or impracticality, or unless otherwise provided by law, such notice shall be published for at least seven (7) consecutive before the date of sale

(b) Payment of Bid. These provisions apply unless otherwise ordered in the order of sale:

(1) The person whose bid is accepted shall immediately pay the Marshal the full purchase price if the bid is $1,000 or less.

(2) If the bid exceeds $1,000, the bidder shall immediately pay the Marshal a deposit of at least $1,000 or 10% of the bid, whichever is greater, and shall

pay the balance within seven (7) days.

(3) If an objection to the sale is filed within the period in Adm. L.R. ~~LAR~~ E(13)(b)(2), the bidder is excused from paying the balance of the purchase price until 7 after the sale is confirmed.

(4) Payment shall be made in cash, by certified check, or by cashier's check.

(c) Late Payment. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall pay the Marshal the cost of keeping the property from the due date until the balance is paid, and the Marshal may refuse to release the property until this charge is paid.

(d) Default. If the successful bidder does not pay the balance of the purchase price within the time allowed, the bidder shall be in default, and the judicial officer may accept the second highest bid or may arrange a new sale. The defaulting bidder's deposit shall be forfeited and applied to any additional costs incurred by the Marshal because of the default, and the balance shall be retained in the registry of the Court awaiting its order.

(e) Report of Sale by Marshal. At the conclusion of the sale, the Marshal shall forthwith file a written report with the Court setting forth the notice given; the fact of the sale; the date of the sale; the names, addresses, and bid amounts of the bidders; the price obtained; and any other pertinent information.

(f) Time and Procedure for Objection to Sale. An interested person may object to the sale by filing a written objection with the Clerk within seven (7) days following the sale, serving the objection on all parties of record, the successful bidder, and the Marshal, and depositing a sum with the Marshal that is sufficient to pay the expense of keeping the property for at least seven (7) calendar days. Payment to the Marshal shall be in cash, certified check, or cashier's check. The Court shall hold a hearing on the confirmation of the sale.

(g) Confirmation of Sale. If no objection to the sale has been filed, the sale shall be confirmed by order of the Court no sooner than seven (7) days after the sale and no later than fourteen (14) days after the sale. The Marshal shall transfer title to the purchaser upon the order of the Court

(h) Disposition of Deposits

(1) If the objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining shall be returned to

the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

(2) If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed, and any balance remaining will be returned to the objector forthwith.

(14) Presentation of Matters. If the judge to whom a case has been assigned is not readily available, any matter under the Local Admiralty Rules may be presented to any other federal judge in the district without reassigning the case.

LAR F LIMITATION OF LIABILITY

(1) Security for Costs. The amount of security for costs under Rule F(1) shall be $1,000 and security for costs may be combined with security for value and interest unless otherwise ordered.

(2) Order of Proof at Trial. In an action where vessel interests seek to limit their liability, the damage claimants shall offer their proof first, whether the right to limit arises as a claim or as a defense.

Suggestion: Add a section on definitions, then we can refer to Revenue and Taxation as "the Department" and the Director of Revenue and Taxation as "the Director." The current draft does not have any definition of Director.

LTR 1 Filing of Petition for Redetermination.

(a) The taxpayer may file a petition with this Court for a redetermination of a deficiency or liability within ninety (90) days after the notice of deficiency or liability is mailed, or one hundred fifty (150) days if the notice is mailed to a person outside the Territory of Guam (not counting Saturday, Sunday, or a legal holiday in Guam as the last day). (See 11 GUAM CODE ANN. § 36101.)

(b) Ordinarily, a separate petition shall be filed with respect to each notice of deficiency or each notice of liability. However, a single petition may be filed seeking a redetermination with respect to all notices of deficiency or liability directed to one person alone or to him and one or more other persons or to a husband and a wife individually, except that the Court may require a severance and a separate case to be maintained with respect to one or more of such notices. Where the notice of deficiency or liability is directed to more than one person, each such person desiring to contest it shall file a petition, either separately or jointly with any such other person, and each such person must satisfy all the requirements of this Rule in order for the petition to be treated as filed by or such person.

(c) The petition shall be complete, so as to enable ascertainment of the issues intended to be presented. No telegram, cablegram, radiogram, telephone call, electronically transmitted copy, or similar communication will be recognized as a petition. Failure of the petition to satisfy applicable requirements may be grounds for dismissal of the case.

LTR 2 Content of Petition in Deficiency or Liability Actions.

The petition in a deficiency or liability action shall contain:

(a) In the case of a petitioner who is an individual, the petitioner's name and State or Territory of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address, identification number (e.g., the Social Security Number or Employer Identification Number), and the office of the Department of Revenue and Taxation, Government of Guam, with which the tax return for the period in controversy was filed. The mailing address, State or Territory of legal residence, principal place of business, or principal office or agency shall be stated as of the date of filing the petition.. In the event of a variance between the name set forth in the notice of deficiency or liability and the correct name, a statement of the reasons for such variance shall be set forth in the petition. (See Attachment Tax L.R. "~~LTR~~ 2A" entitled "Petition in Tax Cases.")

(b) The date of mailing of the notice of deficiency or liability, or other proper allegations showing jurisdiction in the Court, and the city of the Office of the Department of Revenue and Taxation, Government of Guam, which issued the notice.

(c) The amount of the deficiency or liability, as the case may be, determined by the Director; the nature of the tax; the year or years or other periods for which the determination was made; and, if different from the Director's determination, the approximate amount of taxes in controversy.

(d) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Director in the determination of the deficiency or liability. The assignments of error shall include issues in respect of which the burden of proof is on the Director. Any issue not raised in the assignment of errors shall be deemed to be conceded. Each assignment of error shall be separately lettered.

(e) Clear and concise lettered statements of the facts, on which petitioner bases the assignment of error, except with respect to those assignments of error as to which the burden of proof is on the Director.

(f) A prayer setting forth relief sought by the petitioner.

(g) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's District Court and/or Guam bar number(s).

(h) A copy of the notice of deficiency or liability, as the case may be, which shall be appended to the petition, and with which there shall be included so much of any statement accompanying the notice as is material to the issues raised by the assignments of error. If the notice of deficiency or liability or accompanying statement incorporates by reference any prior notices or other material furnished by the Department of Revenue and Taxation, such parts thereof as are material to the issues raised by the assignments of error likewise shall be appended to the petition.

LTR 3 Filing Fee, Number Filed and Entry on Docket.

For each petition filed, there shall be a signed original together with one conformed copy. The fee for filing a petition shall be $60.00, payable at the time of filing. Upon receipt of the petition by the Clerk, the case will be entered upon the docket and assigned a number, and the parties will be notified thereof by the Clerk. The docket number shall be placed by the parties on all papers thereafter filed in the case, and shall be referred to in all correspondence with the Court.

LTR 4 Answer.

(a) Time to Answer or Move. The Director shall have sixty (60) days from the date of service of the petition within which to file an answer, or forty-five (45) days from that date within which to move with respect to the petition. With respect to an amended petition or amendments to the petition, the Director shall have like periods from the date of service of those papers within which to answer or move in response thereto, except as the Court may otherwise direct.

(b) Form and Content. The answer shall be drawn so that it will advise the petitioner and the Court fully of the nature of the defense. It shall contain a specific admission or denial of each

material allegation in the petition; however, should the Director be without knowledge or information sufficient to form a belief as to the truth of an allegation, then the Director shall so state, and such statement shall have the effect of a denial. If the Director intends to qualify or to deny only a part of an allegation, then the Director shall specify so much of it as is true and shall qualify or deny only the remainder. In addition, the answer shall contain a clear and concise statement of every ground, together with the facts in support thereof on which the Director relies and has the burden of proof. Paragraphs of the answer shall be designated to correspond to those of the petition to which they relate.

(c) Effect of Answer. Every material allegation set out in the petition and not expressly admitted or denied in the answer shall be deemed to be admitted.

LTR 5 Reply.

(a) Time to Reply or Move. The petitioner shall have forty-five (45) days from the date of service of the answer within which to file a reply, or thirty (30) days from that date within which to move with respect to the answer. With respect to an amended answer or amendments to the answer, the petitioner shall have like periods from the date of service of those papers within which to reply or move in response thereto, except as the Court may otherwise direct.

(b) Form and Content. In response to each material allegation in the answer and the facts in support thereof on which the Director has the burden of proof, the reply shall contain a specific admission or denial; however, should the petitioner be without knowledge or information sufficient to form a belief as to the truth of an allegation, then the petitioner shall so state, and such statement shall have the effect of a denial. In addition, the reply shall contain a clear and concise statement of every ground, together with the facts in support thereof, on which the petitioner relies affirmatively or in avoidance of any matter in the answer on which the Director has the burden of proof. In other respects the requirements of pleading applicable to the answer provided in Tax L.R. ~~LTR~~ 4(b) shall apply to the reply. The paragraphs of the reply shall be designated to correspond to those of the answer to which they relate.

(c) Effect of Reply or Failure Thereof. Where a reply is filed, every affirmative allegation set out in the answer and not expressly admitted or denied in the reply, shall be deemed to be admitted. Where a reply is not filed, the affirmative allegations in the answer will be deemed denied unless the Director, within forty-five (45) days after expiration of the time for filing the reply, files a motion that specified allegations in the answer be deemed admitted. That motion will be served on the petitioner and may be granted unless the required reply is filed within the time directed by the Court.

(d) New Material. Any new material contained in the reply shall be deemed to be denied.

LTR 6 Discovery, Discovery Plan and Scheduling Order.

Local Civil Rules 16.1 - 16.6 are applicable to tax cases. The parties are required to include in their Scheduling Order a pretrial conference date, a trial date and the date the Stipulation required by Local Tax Rule 7 is to be filed.

LTR 7 Stipulations for Trial.

(a) Stipulations required.

(1) General - The parties are required to stipulate, to the fullest extent to which complete or qualified agreement can or fairly should be reached, all matters not privileged which are relevant to the pending case, regardless of whether such matters involve fact or opinion or the application of law or fact. Included in matters required to be stipulated are all facts, all documents and papers or contents or aspects thereof, and all evidence which fairly should not be in dispute. Where the truth or authenticity of facts or evidence claimed to be relevant by one party is not disputed, an objection on the grounds of materiality or relevance may be noted by any other party but is not to be regarded as just cause for refusal to stipulate. The requirement of stipulation applies under this Rule without regard to where the burden or proof may lie with respect to the matters involved. Documents or papers or other exhibits annexed to or filed with the stipulation shall be considered to be part of the stipulation.

(2) Stipulations to be Comprehensive - The fact that any matter may have been obtained through discovery or requests for admission or through any other authorized procedure is not grounds for omitting such matter from the stipulation. Such other procedures should be regarded as aids to stipulation, and matter obtained through them which is within the scope of subparagraph (1), must be set forth comprehensively in the stipulation, in logical order in the context of all other provisions of the stipulation.

(b) Form. Stipulations required under this Rule shall be in writing, signed by the parties thereto or by their counsel, and shall observe the requirements of Gen. L.R. ~~General Rule~~ 5.1 as to form and style of papers, except that the stipulation shall be filed with the Court in duplicate and only one set of exhibits shall be required. Documents or other papers, which are the subject of stipulation in any respect and which the parties intend to place before the Court, shall be annexed to or filed with the stipulation. The stipulation shall be clear and concise. Separate items shall be stated in separate paragraphs, and shall be appropriately lettered or numbered. Exhibits attached to a stipulation shall be numbered serially, i.e., 1, 2, 3, etc.. The exhibit number shall be followed by "P" if offered by the petitioner, e.g., 1-P; "R" if offered by the respondent, e.g., 2-R; or "J" if joint, e.g., 3-J.

(c) Filing. Executed stipulations prepared pursuant to this Rule, and related exhibits, shall be filed by the parties at least five (5) working days before the scheduled pretrial conference, unless the Court in the particular case shall otherwise specify. A stipulation when filed need not be offered formally to be considered in evidence.

(d) Objections. Any objection to all or any part of a stipulation should be noted in the stipulation, but the Court will consider any objection to a stipulated matter made at the commencement of the trial or for good cause shown made during the trial.

(e) Binding Effect. A stipulation shall be treated, to the extent of its terms, as a conclusive admission by the parties to the stipulation, unless otherwise permitted by the Court or agreed

upon by those parties. The Court will not permit a party to a stipulation to qualify, change, or contradict a stipulation in whole or in part, except that it may do so where justice requires. A stipulation and the admissions therein shall be binding and have effect only in the pending case and not for any other purpose, and cannot be used against any of the parties thereto in any other case or proceeding.

(f) Noncompliance by a Party.

(1) Motion to Compel Stipulation - If, after the issuance of a scheduling order in a case, a party has refused or failed to confer with his adversary with respect to entering into a stipulation in accordance with this Rule, or a party has refused or failed to make such a stipulation of any matter within the terms of this Rule, the party proposing to stipulate may, at a time not later than forty-five (45) days prior to the trial date, file a motion with the Court for an order directing the delinquent party to show cause why the matters covered in the motion should not be deemed admitted for the purposes of the case. The motion shall (i) show with particularity and by separately numbered paragraphs each matter which is claimed for stipulation; (ii) set forth in express language the specific stipulation which the moving party proposes with respect to each such matter and annex thereto or make available to the Court and the other parties each document or other paper as to which the moving party desires a stipulation; (iii) set forth the sources, reasons, and basis for claiming, with respect to each such matter, that it should be stipulated; (iv) show that opposing counsel or the other parties have had reasonable access to those sources or basis for stipulation and have been informed of the reasons for stipulation; and (v) show proof of service of a copy of the motion on opposing counsel or the other parties.

(2) Procedure - Upon the filing of such a motion, an order to show cause as moved shall be issued forthwith, unless the Court shall direct otherwise. The order to show cause will be served by the Clerk, with a copy thereof sent to the moving party. Within twenty-one (21) ~~(20)~~ days of the service of the order to show cause, the party to whom the order is directed shall file a response with the Court, with proof of service of a copy thereof on opposing counsel or the other parties, showing why the matter set forth in the motion papers should not be deemed admitted for purposes of the pending case. The response shall list each matter involved on which there is no dispute, referring specifically to the numbered paragraphs in the motion to which the admissions relate. Where a matter is disputed only in part, the response shall show the part admitted and the part disputed. Where the responding party is willing to stipulate in whole or in part with respect to any matter in the motion by varying or qualifying a matter in the proposed stipulation, the response shall set forth the variance or qualification and the admission which the responding party is willing to make. Where the response claims that there is a dispute as to any matter in part or in whole, or where the response presents a variance or qualification with respect to any matter in the motion, the response shall show the sources, reasons and basis on which the responding party relies for that purpose. The Court, where it is found appropriate, may set the order to show cause for a hearing or conference at such time as the Court shall determine.

(3) Failure of Response - If no response is filed within the period specified with respect to any matter or portion thereof, or if the response is evasive or not fairly directed to the proposed stipulation or portion thereof, that matter or portion thereof will be deemed stipulated for purposes of the pending case, and an order will be issued accordingly.

(4) Matters Considered - Opposing claims of evidence will not be weighed under this Rule unless such evidence is patently incredible. Nor will a genuinely controverted or doubtful issue of fact be determined in advance of trial. The Court will determine whether a genuine dispute exists, or whether in the interests of justice a matter ought not be deemed stipulated to.

LTR 8 Pretrial Conferences.

(a) General. The Court will undertake to confer with the parties in pretrial conferences with a view of narrowing issues, stipulating to facts, simplifying the presentation of evidence, or otherwise assisting in the preparation for trial or possible disposition of the case in whole or in part without trial.

(b) Cases Calendared. The parties will set a pretrial conference date in their Scheduling Order. (See Local Civil Rule 16.7(h).)

(c) Orders. The Court may, in its discretion, issue appropriate pretrial orders.

LTR 9 Decisions Without Trial: Judgment on the Pleadings.

(a) General. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. The motion shall be filed and served in accordance with Local Civil Rule 7.1. Such motions shall be disposed of before trial unless the Court determines otherwise.

(b) Matters Outside Pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment, and shall be disposed of as provided in Tax L.R. ~~LTR~~ 10, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Tax L.R. ~~LTR~~ 10.

LTR 10 Decisions Without Trial: Summary Judgment.

(a) General. Either party may move, with or without supporting affidavits, for a summary adjudication in the moving party's favor upon all or any part of the legal issues in controversy. Such motion may be made at any time commencing thirty (30) days after the pleadings are closed but within such time as not to delay the trial.

(b) Motion and Proceedings Thereon. The motion shall be filed and served in accordance with the requirements otherwise applicable. See Civ. L.R. ~~LR~~ 7.1 and Gen. L.R. ~~GR~~ 5.1. An opposing written response, with or without supporting affidavits, shall be filed within such period as the Court may direct. A decision shall thereafter be rendered if the pleadings, answers to interrogatories, depositions, admissions, and any other acceptable materials, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that a decision may be rendered as a matter of law. A partial summary adjudication may be made which does not dispose of all the issues in the case.

(c) Case Not Fully Adjudicated on Motion. If, on motion under this Rule, decision is not rendered upon the whole case or for all the relief asked and a trial is necessary, the Court may ascertain, by examining the pleadings and the evidence before it and by interrogating counsel, what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It may thereupon make an order specifying the facts that appear to be without substantial controversy, including the extent to which the relief sought is not in controversy, and directing such further proceedings in the case as are just. Upon the trial of the case, the facts so specified shall be deemed established, and the trial shall be concluded accordingly.

(d) Form of Affidavits; Further Testimony; Defense Required. Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or filed therewith. The Court may permit affidavits to be supplemented or opposed by answers to interrogatories, depositions, further affidavits, or other acceptable materials, to the extent that other applicable conditions in these Rules are satisfied for utilizing such procedures. When a motion for summary judgment is made and supported as provided in this Rule, an adverse party may not rest upon the mere allegations or denials of such party's pleading, but such party's response, by affidavits or as otherwise provided in this Rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, then a decision, if appropriate, may be entered against such party.

(e) When Affidavits Are Unavailable. If it appears from the affidavits of a party opposing the motion that such party cannot for reasons stated present by affidavit facts essential to justify such party's opposition, then the Court may deny the motion or may order a continuance to permit affidavits to be obtained or other steps to be taken or may make such other order as is just. If it appears from the affidavits of a party opposing the motion that such party's only legally available method of contravening the facts set forth in the supporting affidavits of the moving party is through cross-examination of such affiants or the testimony of third parties from whom affidavits cannot be secured, then such a showing may be deemed sufficient to establish that the facts set forth in such supporting affidavits are genuinely disputed.

(f) Affidavits Made in Bad Faith. If it appears to the satisfaction of the Court at any time that any of the affidavits presented pursuant to this Rule are presented in bad faith or for the purpose of delay, then the Court may order the party employing them to pay to the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur,

including reasonable counsel's fees, and any offending party or counsel may be adjudged guilty of contempt or otherwise disciplined by the Court.

LTR 11 Submission Without Trial.

(a) General. Any case not requiring a trial for the submission of evidence (as, for example, where sufficient facts have been admitted, stipulated, established by deposition, or included in the record in some other way), may be submitted at any time by motion of the parties filed with the Court. The parties need not wait for the case to be calendared for trial and need not appear in Court. The Court will thereafter fix a time for filing briefs or for oral argument.

(b) Burden of Proof. The fact of submission of a case, under paragraph (a) of this Rule, does not alter the burden of proof, or the requirements otherwise applicable with respect to adducing proof, or the effect of failure of proof.

LTR 12 Default and Dismissal.

(a) Default. When any party has failed to plead or otherwise proceed as provided by these Local Rules or as required by the Court, such party may be held in default by the Court either on motion of another party or on the initiative of the Court. Thereafter, the Court may enter a decision against the defaulting party, upon such terms and conditions as the Court may deem proper, or may impose such sanctions pursuant to Gen. L.R. ~~eral Rule~~ 2.1 as the Court may deem appropriate. The Court may, in its discretion, conduct hearings to ascertain whether a default has been committed, to determine the decision to be entered or the sanctions to be imposed, or to ascertain the truth of any matter.

(b) Dismissal. For failure of a petitioner properly to prosecute or to comply with these Local Rules or any order of the Court or for other cause which the Court deems sufficient, the Court may dismiss a case at any time and enter a decision against the petitioner. The Court may, for similar reasons, decide against any party any issue as to which such party has the burden of proof, and such decision shall be treated as a dismissal for purposes of paragraphs (c) and (d) of this Rule.

(c) Setting Aside a Default or Dismissal. For reasons deemed sufficient by the Court and upon motion expeditiously made, the Court may set aside a default or dismissal or the decision rendered thereon.

(d) Effect of Decision on Default or Dismissal. A decision rendered upon a default or in consequence of a dismissal, other than a dismissal for lack of jurisdiction, shall operate as an adjudication on the merits.

LTR 13 Computation by Parties for Entry of Decision.

(a) Agreed Computations. Where the Court has filed or orally stated its opinion determining the issues in a case, it may withhold entry of its decision for the purpose of permitting the parties to submit computations pursuant to the Court's determination of the issues, showing the correct amount of the deficiency, liability, or overpayment to be included in the decision. If the parties are in agreement as to the amount of the deficiency or overpayment to be included in the decision pursuant to the findings and conclusions of the Court, they, or either of them, shall file promptly with the Court an original and two copies of a computation showing the amount of the deficiency, liability, or overpayment and that there is no disagreement that the figures shown are in accordance with the findings and conclusions of the Court. The Court will then enter its decision.

(b) Procedure in Absence of Agreement. If, however, the parties are not in agreement as to the amount of the deficiency, liability, or overpayment to be included in the decision in accordance with the findings and conclusions of the Court, either of them may file with the Court a computation of the deficiency, liability, or overpayment believed by such party to be in accordance with the Court's findings and conclusions. The Clerk will serve upon the opposite party a notice of such filing accompanied by a copy of such computation. If the opposite party fails to file within seven (7) days, an objection, accompanied or preceded by an alternative computation, the Court may enter decision in accordance with the computation already submitted. If in accordance with this Rule computations are submitted by the that which differ as to the amount to be entered as the decision of the Court, the parties may, at the Court's discretion, be afforded an opportunity to be heard in argument thereon and the Court will determine the correct deficiency, liability, or overpayment and will enter its decision accordingly.

(c) Limit on Argument. Any argument under this Rule will be confined strictly to consideration of the correct computation of the deficiency, liability, or overpayment resulting from the findings and conclusions made by the Court, and no argument will be heard upon or consideration given to the issues or matters disposed of by the Court's findings and conclusions or to any new issues. This Rule is not to be regarded as affording an opportunity for retrial or reconsideration.