

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. If 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.

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(d) 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 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 include a 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 numbers 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 than 10 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 propria 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.
- © 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 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(c);
- (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 a 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(c) 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. Proposed dates for discovery cut-offs, expert disclosures, amendment of

pleadings and parties, pretrial and trial dates.

9. Additional matters at the option of counsel.

(c) Continuances of scheduling conferences shall be governed by LR40, unless otherwise ordered.

LR 16-2 Alternative Dispute Resolution

(a) Purpose and Scope.

(1) Purpose. Pursuant to the findings and directives of Congress in 28 U.S.C. § 651 *et seq.*, the primary purpose of this local rule is to provide parties to civil cases and proceedings in bankruptcy in this district with an opportunity to use alternative dispute resolution (ADR) procedures. This rule is intended to improve parties' access to the dispute resolution process that best serves their needs and fits their circumstances, to reduce the financial and emotional burdens of litigation, and to enhance the court's ability to timely provide traditional litigation services. Through this rule, the court authorizes and regulates the use of mediation and arbitration.

(2) Scope.

(A) Cases Pending Before a District Judge or Magistrate Judge.

This local rule applies to all civil cases pending before any district judge or magistrate judge in this district.

(B) Proceedings Pending Before a Bankruptcy Judge. Under 28 U.S.C. § 651 *et seq.*, and the court's inherent authority, proceedings pending before any bankruptcy judge in this district also may be afforded an opportunity to participate in mediation and arbitration.

(b) ADR Procedures and Rules.

(1) Judicial Settlement Conference.

(A) Definition. A Judicial Settlement Conference is a process in which a Settlement Conference Judge is made available in order to facilitate communication between the parties and assist them in their negotiations, *e.g.*, by clarifying underlying interests, as they attempt to reach an agreed settlement of their dispute. A Judicial Settlement Conference generally will be conducted by a Magistrate Judge, but in

some limited circumstances may be conducted by a Senior District Judge or a visiting federal judge. Whether a settlement results from a Judicial Settlement Conference and the nature and extent of the settlement are within the sole control of the parties.

(B) Initiation of a Judicial Settlement Conference. At any time after an action or proceeding is commenced, any party may request, or the assigned judge on his or her own initiative may order, a Judicial Settlement Conference. As a general rule, the judge assigned to try the matter will not conduct the Judicial Settlement Conference. Upon written stipulation of all parties, however, the assigned judge, in the exercise of his or her discretion, may conduct a Judicial Settlement Conference. None of the matters or information discussed during the conference will be communicated to any judge assigned to the action, unless all parties expressly stipulate to such communications.

(C) Procedure for Judicial Settlement Conference. After the initiation of the Judicial Settlement Conference process, the Settlement Conference Judge will issue an order governing the process and procedure utilized by that judge for the Judicial Settlement Conference.

(D) Report of Settlement Conference Judge. At the conclusion of a Judicial Settlement Conference, a docket entry order with the court will reflect whether settlement was or was not achieved.

(2) Mediation.

(A) Definition. Mediation is a process in which a private, impartial third party (the “Mediator”) is hired or retained by the parties to facilitate communication between them to assist in their negotiations, *e.g.*, by clarifying underlying interests, as they attempt to reach an agreed settlement of their dispute. Whether a settlement results from a Mediation and the nature and extent of the settlement are within the sole control of the parties.

(B) Initiation of a Mediation. At any time after an action or proceeding is at issue, any party may request, or the assigned judge on his or her own initiative may order, a Mediation. None of the matters or information discussed during the conference will be communicated to any judge assigned to the action.

(C) Selection of a Mediator. The parties may either select from the list of approved Mediators found on the court’s website or select someone

not on the court's list through mutual agreement. The parties may contact the court's ADR Coordinator for facilitation of the selection of a mediator from the court's list.

(D) Compensation. The list of approved Mediators on the court's website shall include a disclosure of the fee schedule to be charged by each Mediator. If appropriate in light of the circumstances of the dispute, a Mediator may opt to charge no fee. No party may offer or give the Mediator any gift or gratuity without consent of all parties.

(E) Payment. All terms and conditions of payment must be clearly communicated to the parties. Unless agreed otherwise, plaintiffs jointly and defendants jointly shall each be responsible for equal portions of the Mediator's fee. The parties may agree to pay the fee in other than equal portions. The parties must pay the Mediator directly, or the Mediator's law firm or employer, as directed by the Mediator. On a form questionnaire provided by the court, the mediator must promptly report to the court's ADR Coordinator the amount of any payment received.

(F) Report of Mediator. Within five days of the conclusion of a Mediation, the Mediator shall file a report with the court's ADR Coordinator indicating when mediation occurred and merely whether settlement was or was not achieved.

(3) Arbitration.

(A) Definition. Arbitration is a process whereby an impartial third party (the "Arbitrator") is hired or retained by the parties to hear and consider the evidence and testimony of the disputants and others with relevant knowledge and issues a decision on the merits of the dispute. The Arbitrator makes an award on the issue(s) presented for decision. The Arbitrator's award is binding or non-binding as the parties may agree in writing.

(B) Cases Eligible for ADR Arbitration. No civil action, or proceeding in bankruptcy, shall be referred to Arbitration as the parties' ADR method, except upon written consent of all parties. Additionally, no matter will be referred to arbitration if the court finds that:

- (i) the action is based upon an alleged violation of a right secured by the Constitution of the United States;
- (ii) jurisdiction is based in whole or in part on 28 U.S.C.

§ 1343;

(iii) the relief sought includes money damages in an amount greater than \$150,000.00; or

(iv) the objectives of arbitration would not be realized for any other reason.

(C) Initiation of an Arbitration. At any time after an action or proceeding is at issue, any party may request an Arbitration. Both parties must, consent in a writing, signed by all parties and their counsel, before an Arbitration will be ordered by the judge assigned to the matter.

(D) Selection of an Arbitrator. The parties may select from the list of approved Arbitrators found on the court's website. The parties, for good cause, may select an Arbitrator not on the court's approved Panel of Arbitrators only with the approval of the judge assigned to the case.

(E) Procedure for Arbitration. After the initiation of Arbitration, the Arbitrator will issue to the parties a document setting forth the process and procedure utilized and to be followed.

(F) Award. At the conclusion of an Arbitration, the Arbitrator shall issue to the parties a written Award.

(c) Selection of ADR Procedure.

(1) Mandated Early ADR Selection Process.

(A) The Parties' Duty to Consider ADR, Confer and Report. Prior to the Rule 16 scheduling conference, unless otherwise ordered, in every case to which this rule applies, the parties must meet and confer about (i) whether they might benefit from participating in some ADR process; (ii) which type of ADR process is best suited to the specific circumstances in their case; and (iii) when the most appropriate time would be for the ADR session to be held. In their Scheduling conference Statement, the parties must report their shared or separate views about the utility of ADR, which ADR procedure would be most appropriate, and when the ADR session should occur.

(B) Designation of Process. After considering the parties' submissions, the court may order the parties, on appropriate terms and in conformity with this rule, to participate in ADR. The court may refer the

case to Judicial Settlement Conference, Mediation or, with written consent of all parties, to an ADR procedure which, by stipulation of all parties, has been tailored to meet the specific needs of the parties and the case.

(2) Referral to ADR during Pretrial Period. Notwithstanding the provisions of paragraph (c)(1) above regarding the early selection process, at any time before entry of final judgment, the court may, on its own motion or at the request of any party, order the parties to participate in a Judicial Settlement Conference or Mediation or, with the written consent of all parties, Arbitration.

(3) Protection Against Unfair Financial Burdens. Assigned judges shall take appropriate steps to assure that no referral to ADR results in an imposition on any party of an unfair or unreasonable economic burden.

(4) Right to Secure ADR Services Outside the Programs Sponsored by the Court. Nothing in this rule precludes the parties from agreeing to seek ADR services outside the court's program. Parties remain free to use any form of ADR and any neutral they choose. To the extent resources permit, court staff may assist mediators outside of the court's ADR program.

(d) Process Administration.

(1) ADR Coordinator. The ADR Coordinator is responsible for implementing, administering, overseeing and evaluating, along with the judges, the ADR program and procedures covered by this local rule. The ADR Coordinator may be contacted through the court's website: www.gud.uscourts.gov or as follows:

District Court of Guam
ADR Coordinatator
4th Floor, U.S. Courthouse
520 W. ~~S~~Wolodad Avenue
Hagatna, GU 96910
(671) 473-9100 (telephone)
(671) 473-9152 (facsimile)

(2) ADR Resources. The ADR Coordinator maintains the requirements for, and roster of, available neutrals and information regarding the ADR process and procedures set forth in this rule.

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 shall also include other trial matters, 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.
- (c) 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 agreed 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.** An 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 Conferences Agenda.

A pretrial conference shall be held on the dates and at the times scheduled. The agenda for the pretrial conferences shall consist of matters covered by Fed. R. Civ. P. 16, and LR16.6 and any other matter germane to the trial of the action or proceeding. Each party shall be represented at all scheduled pretrial conferences 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) business 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) business 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 35 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©, 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©, 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 be 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 requested within fourteen (14) 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(cc), 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) business 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.

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

(a) 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.

(b) 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 phase¹ as follows: (A) case development, background investigation and case 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.

(c) 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

¹In 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."

identifying all adjustments, if any, made in the course of exercising "billing judgment." .

(d) 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's concise 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 © of this rule must be filed not more than fourteen (14) business 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©.

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©.

Appeal to the Court of Appeals. Subject to provisions of 28 U.S.C. 636©, 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© 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) calendar 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) calendar 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 two (2) working days of the filing of an appeal or within fourteen (14) calendar days after the filing of the magistrate judge's order, whichever is later. Any opposition to a cross-appeal shall be filed within eleven (11) calendar 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) calendar 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) calendar 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) calendar days after the filing of the magistrate judge's order. Any opposition to a cross-objection shall be filed within fourteen (14) calendar 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.