

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

LOCAL RULES OF PRACTICE

Effective April 15, 1997

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THE DISTRICT COURT OF GUAM**

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GENERAL RULES (“GR”)

GR 1.1 Title; Effective Date; Scope.

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

(b) **Effective Date; Transitional Provision.** These rules govern all actions and proceedings pending on or commenced after **April 15, 1997**. Where justice requires, a judge may order that an action or proceeding pending before the Court prior to that date be governed by the prior practice of the Court.

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

(d) **Definitions.**

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

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

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

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

GR 2.1 Sanctions and Penalties for Noncompliance.

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

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

- (1) Complete the necessary preparation for pretrial;
- (2) Appear at the scheduling conference or pretrial conference;
- (3) Be prepared for trial on the date set; or
- (4) Appear at any hearing where service of notice of the hearing has been given or waived.

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

GR 3.1 Stipulations.

(a) Stipulations will be recognized as binding only when made in open court or filed in the cause. Written stipulations shall not be effective unless approved by the Judge.

(b) A stipulation shall contain the words "Approved and So Ordered," and a blank line for the date and a designated signature line for the Judge. The Judge's signature line must appear on the same page as the signature of at least one of the attorneys entering into the stipulation.

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

GR 4.1 Citation of Authority.

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

(b) All citations shall be in the form found in A Uniform System of Citation (16th ed.), identifying the court cited, and enabling both the Court and opposing counsel to locate the cited work.

GR 5.1 Format and Filing.

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

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

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

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

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

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

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

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

- (C) a brief description of the nature of the document; and
- (D) mention of any notice of motion or affidavits or memorandum in support.

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

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

GR 6.1 Continuances.

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

GR 7.1 Clerk of Court.

(a) **Location and Hours.**

(1) The Office of the Clerk of this Court shall be located at 238 Archbishop Flores Street, Sixth Floor of the Pacific News Building, Room 603, in Agana, Guam. The mailing address is 238 Archbishop Flores Street, 6th Floor, Pacific News Building, Agana, Guam 96910. The regular hours shall be from 8:00 a.m. to 3:00 p.m. each day except Saturdays, Sundays, legal holidays and other days or at times so ordered by the Court. Nothing in this Rule precludes the filing of papers as provided in Rule 77, Federal Rules of Civil Procedure.

(2) Pleadings to be filed between 3:00 p.m. and 5:00 p.m. on a business day may be deposited with the Court Security Officer on duty. Documents submitted in this manner must be placed in a protective envelope. These documents will be reviewed each business day morning at 8:00 a.m. and will be stamp filed as of the prior business day date unless the required filing fee is not included. Filed copies will be available for pick up at the Clerk's Office the following business day morning after 9:30 a.m.

(b) **Court Calendar**. The clerk shall, not later than Friday of each week, distribute to all counsel of record and the Clerk of the Superior Court of Guam, and post on the bulletin board of the District Court, copies of the court's calendar for the following week.

GR 8.1 Deposits in Court - Responsibility of the Clerk.

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

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

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

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

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

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

IT IS FURTHER ORDERED that counsel presenting this order personally serve a copy thereof on the Clerk of Court or the Chief Deputy Clerk. Absent the aforesaid service, the Clerk of Court is hereby relieved from any personal liability relative to compliance with this order. (NOTE: To comply with this order, the clerk will determine the particular banking institution and type of account to be utilized. Generally, the account will be a passbook account.)

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

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

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

GR 9.1 Sessions of Court.

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

GR 10.1 Motion Day.

All civil and bankruptcy motions shall be called on Friday of each week at 9:30 a.m. and all criminal motions shall be called on Friday of each week at 1:30 p.m., unless the Court orders otherwise. If Friday is a legal holiday, the preceding Thursday will be that week's civil, bankruptcy, and criminal motion day.

GR 11.1 Fee Schedule.

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

GR 12.1 Correspondence and Communications with the Court.

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

GR 13.1 Court Library.

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

GR 14.1 Files; Custody and Withdrawal.

All files of the court shall remain in the custody of the clerk and no record or paper belonging to the files of the court shall be taken from the custody of the clerk without a special order of a judge

and a proper receipt signed by the person obtaining the record or paper. No such order will be made except in extraordinary circumstances.

GR 15.1 Pretrial and Trial Publicity.

(a) **Broadcasting, Televising, Recording or Photographing Judicial and Grand Jury Proceedings.** The taking of photographs, operation of tape recorders or radio or television broadcasting in the courtroom, grand jury room, and their environs (i.e., the sixth floor of the Pacific News Building; and the hallways and public areas leading to, and the hearing, waiting, or witness rooms utilized by the Grand Jury) during the progress of or in connection with any proceeding, including proceedings before a United States Grand Jury, whether or not actually in session, is prohibited.

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

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

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

GR 16.1 Security of the Court.

The Court, or the judges thereof, may from time to time make such orders or impose such requirements as may be reasonably necessary to assure the security of the Court and of all persons in attendance.

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

(a) **Admission to Practice.** Admission to and continuing membership in the bar of this Court is limited to attorneys of good moral character who are active members in good standing of

the Territorial Bar of Guam. All members admitted to practice before this Court must file an "Attorney Registration Statement" in a form attached hereto as **Attachment "GR 17.1A."**

(b) Procedure for Admission. Each applicant for admission shall present to the clerk a written petition for admission stating the applicant's full name, residence address, office address, the names of the courts before which the applicant is admitted to practice, and the respective dates of admission to those courts.

(1) The petition shall be accompanied by:

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

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

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

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

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

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

(A) sign the prescribed oath;

(B) sign the roll of attorneys; and

(C) pay an attorney admission fee of \$100.00 made payable to Clerk, District Court of Guam.

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

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

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

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

- (A) he resides in Guam,
- (B) he is regularly employed in Guam, or
- (C) he is regularly engaged in business, professional or other activities in Guam.

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

- (A) the attorney's residence and office addresses,
- (B) by what court he has been admitted to practice and the date of admission,
- (C) that he is in good standing and eligible to practice in said court,
- (D) that he is not currently suspended or disbarred in any other court, and

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

(3) The pro hac vice application shall also be accompanied by payment to the clerk of a \$100.00 fee, (payable to Clerk, District Court of Guam). If the pro hac vice application is denied, the Court may refund any or all of the fee or assessment paid by the attorney. If the application is granted, the attorney is subject to the jurisdiction of the Court with respect to his conduct to the same extent as a member of the bar of this Court.

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

(f) **Government of Guam Attorneys.** Any attorney employed by the Office of the Attorney General, Public Defender Service Corporation of Guam, or Guam Legal Services Corporation, who is not eligible under paragraph (b) hereof, may be temporarily admitted to practice in the District Court of Guam. Each applicant for temporary admission shall present to the clerk a written petition for temporary admission, stating the applicant's full name, residence address, office address, the names of the courts before which the applicant is admitted to practice, and the respective dates of admission to those courts.

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

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

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

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

(2) Upon qualification, the applicant must pay the Attorney Admission Fee of \$100.00 (payable to the Clerk, District Court of Guam) and the clerk or his authorized deputy shall administer the oath of admission set forth in paragraph (b)(2) hereof, and have the applicant sign the prescribed oath.

(3) Government of Guam Attorneys temporarily admitted to practice in this Court are subject to the jurisdiction of the Court with respect to their conduct to the same extent as members of the bar of this Court. Upon termination of employment with the Government of Guam, the government attorney so temporarily admitted shall notify, in writing, the clerk of the District Court of Guam of such termination. Once notified, the clerk shall strike the temporarily admitted government attorney from the roll of attorneys. If the temporarily admitted attorney meets the requirements for full admission while still employed as an attorney for the Government of Guam, and complies with all of the requirements set forth in subsection (b) herein, the \$100.00 permanent admission fee will be waived.

GR 18.1 Practice in this Court; Dress Code.

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

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

GR 19.1 Appearances, Substitutions and Withdrawal of Attorneys.

(a) **Appearances.** Whenever a party has appeared by an attorney, the party may not thereafter appear or act in his or her own behalf in the action, or take any step therein, unless an order of substitution shall first have been made by the Court, after notice to the attorney of such party, and to all other parties; provided, that the Court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared, or is represented by an attorney.

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

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

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

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

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

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

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

GR 21.1 Attorneys in Private Practice.

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

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

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

GR 22.1 Attorneys - Standard of Conduct and Disciplinary Enforcement.

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

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

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

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

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

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

(5) Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime," the Court may refer the matter to the Standing Committee on Discipline for whatever action the Committee may deem warranted, including

the institution of a disciplinary proceeding before the Court; provided, however, that the Court may in its discretion make no reference with respect to convictions for minor offenses.

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

(c) **Discipline Imposed by Other Courts.**

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

(2) Upon the filing of a certified or exemplified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another court, this Court shall forthwith issue a notice directed to the attorney containing:

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

(B) an order to show cause directing that the attorney inform this Court within thirty (30) days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in (c)(2)(D) hereof that the imposition of the identical discipline by the Court would be unwarranted and the reasons therefor.

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

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

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

(ii) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or

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

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

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

(3) In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this Court.

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

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

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

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

GR 22.3 Standards for Professional Conduct.

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

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

GR 22.4 Disciplinary Proceedings.

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

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

(c) To initiate formal disciplinary proceedings, the Committee shall submit its findings to this Court and upon a showing of probable cause the Court shall issue an order requiring the respondent-attorney to show cause within thirty (30) days after service of that order upon that attorney, personally or by mail, why the attorney should not be disciplined. The order to show cause shall include the form certification of all courts before which the respondent-attorney is admitted to practice, as specified in **Attachment "GR 22.4A"**.

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

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

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

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

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

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

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

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

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

GR 22.6 Reinstatement.

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

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

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

was predicated upon the complaint of the Judge of this Court, the hearing shall be conducted before a District Court Judge designated to hold court in the District Court of Guam or the Chief Judge of the Court of Appeals for the Ninth Circuit. The judge assigned to the matter shall within thirty (30) days after referral, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that his resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive of the public interest.

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

(e) **Deposit of Costs of Proceeding.** Petitions for reinstatement under this Rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the Court to cover anticipated costs of the reinstatement proceeding.

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

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

GR 22.7 Attorneys Specially Admitted.

Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (pro hac vice), the attorney shall be deemed thereby to have conferred disciplinary jurisdiction upon this Court for any alleged misconduct of that attorney arising in the course of or in the preparation for such proceeding.

GR 22.8 Service of Papers and Other Notices.

Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at the address shown in the most recent registration statement filed pursuant to General Rule 17.1 hereof. Service of any other papers or notices required by these Rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address shown on the most recent registration statement filed pursuant to General Rule 17.1 hereof; or to counsel or the respondent's attorney at the address indicated in the most recent pleading or other document filed by them in the course of any proceeding.

GR 22.9 Appointment of Counsel.

Whenever counsel is to be appointed pursuant to these Rules to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney, the Court shall notify the Standing Committee on Discipline to appoint as counsel one of its members. If all members of such disciplinary committee decline appointment, or such appointment is clearly inappropriate, this Court shall appoint as counsel one or more members of the Bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under this Rule, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed upon a showing of good cause. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

GR 22.10 Periodic Assessment of Attorneys; Registration Statements.

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

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

GR 22.11 Payment of Fees and Costs.

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

GR 22.12 Duties of the Clerk.

(a) Upon being informed that an attorney admitted to practice before this Court has been convicted of any crime, the clerk of this Court shall determine whether the Clerk of the Court in which such conviction occurred has forwarded a certificate of such conviction to this Court. If a

certificate has not been so forwarded, the clerk of this Court shall promptly obtain a certificate and file it with this Court.

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

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

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

GR 22.13 Jurisdiction.

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

GR 22.14 Confidentiality.

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

CIVIL RULES ("LR")

LR 1.1 **Scope.**

The provisions of the Civil Rules shall apply to all civil actions and proceedings, including tax, admiralty and bankruptcy adversary actions, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

LR 4.1 **Summons and Complaint.**

The issuance of a summons and the service of a summons and complaint are governed by Rule (4) of the Federal Rules of Civil Procedure.

LR 4.2 **Service of Other Process.**

Service of process other than a summons (F.R.Civ.P. 4) and subpoena (F.R.Civ.P. 45) (i.e., situations which require enforcement presence) is governed by Rule 4.1 of the Federal Rules of Civil Procedure.

LR 5.1 **Service and Filing of Other Documents Subsequent to Complaint.**

All documents after the complaint required to be served and filed pursuant to Rule 5 of the Federal Rules of Civil Procedure shall be (1) served on all parties to the action in accordance with F.R.Civ.P. 5; and (2) filed with the Court within a reasonable time after service, together with a certificate of service. (See F.R.Civ.P. 5.)

LR 5.2 **Representation of Service.**

When a member of the Bar of this Court applies to the clerk for the entry of a default, or of a default judgment, or for the certification of the record on appeal, or applies to the Court for an order or judgment, such application is a representation that due service has been made of all pleadings or papers required by the Federal Rules of Civil Procedure to be made a condition to the relief sought, and for which no acknowledgment or affidavit of service is on file. No other proof of service is required unless an adverse party raises a question of due notice.

LR 6.1 **Time Computation.**

Federal Rule of Civil Procedure 6(a) controls the manner for computing any period of time prescribed or allowed by these Rules in all civil proceedings.

LR 7.1 Motion Practice.

(a) **Applicability.** The provisions of this Rule shall apply to motions, applications, petitions, orders to show cause, and all other proceedings except a trial on the merits and applications for a temporary restraining order, unless otherwise ordered by the Court or provided by statute, the Federal Rules of Civil Procedure or the Local Rules.

(b) **Service of Motion and Accompanying Papers.** Every motion shall be presented in writing. The moving party must present a motion, which if oral argument is requested will contain the date on which the motion will be heard, as provided for in Local Rule 7.1(e)(2). The motion papers shall be served on each of the parties in accordance with Federal Rule of Civil Procedure 5(b) and filed with the clerk not later than twenty-one (21) days prior to the day on which oral argument is scheduled, unless the Court orders a shorter time.

(c) **Moving Papers.** There shall be served and filed with the motion:

(1) a memorandum in support thereof containing the points and authorities upon which the moving party relies;

(2) the evidence upon which the moving party relies;

(3) any affidavits permitted by the Federal Rules of Civil Procedure; and

(4) the Proposed Order granting the relief requested in the motion.

(d) **Opposition and Reply.**

(1) **Motions Set For Oral Argument:**

(A) If a motion is set for oral argument, the opposing party shall, not less than fourteen (14) days preceding the noticed date of oral argument, serve upon all parties and file with the clerk:

(i) a memorandum in support thereof containing the points and authorities upon which the opposing party relies;

(ii) if desired, the evidence upon which the opposing party relies;

(iii) any affidavits permitted by the Federal Rules of Civil Procedure.

(B) The moving party may, not more than seven (7) calendar days preceding the noticed date of oral argument, serve and file a reply to the opposing party's opposition.

(2) **Motions Not Set For Oral Argument:**

(A) If a motion is not set for oral argument, the opposing party shall have fourteen (14) days from the date of the filing of the Motion to serve and file an Opposition, consisting of:

(i) a memorandum in support thereof containing the points and authorities upon which the opposing party relies;

(ii) if desired, the evidence upon which the opposing party relies;

(iii) any affidavits required by the Federal Rules of Civil Procedure.

(B) The moving party may, not less than seven (7) calendar days after service of the opposition, serve and file a reply to the opposing party's opposition.

(e) **Oral Argument.**

(1) **Oral Argument Not Automatic.** Oral argument must be requested by the parties, and may be denied in the discretion of the judge, except where oral argument is required by statute or the Federal Rules of Civil Procedure.

(2) **Request For Oral Argument; Agreement of Oral Argument Date.** If either party requests oral argument, they must file an "**Agreement of Hearing Date**," in a form shown below in **Attachment "LR 7.1A."** It shall be the responsibility of the requesting party to contact the attorney for each party who has entered an appearance, or if the party(ies) are pro se, it is the requesting party's responsibility to contact the pro se party and propose a date for oral argument. Once the parties have agreed on a date for oral argument, the moving party shall clear the date with the clerk. When the date has been cleared with the clerk, that date shall be inserted in the "Agreement of Hearing Date." If the parties do not agree on a date for oral argument, the requesting party may submit the "Agreement of Hearing Date" to the Court with a notation that the non-requesting party does not agree, in which event the Court shall either determine the hearing date or determine that no oral argument shall be scheduled and the motion shall proceed to briefing and disposition under Local Rule 7.1(d)(2), in the Court's discretion.

(3) **Court's Cancellation of Oral Argument.** In cases where the parties have requested oral argument, such oral argument may be taken off calendar by Order of the

Court, in the discretion of the Court, and a decision rendered on the basis of the written materials on file.

(4) **Oral Argument Taken Off Calendar by the Court.** In cases where the Court cancels oral argument, as referred to in subsection (3) above, the Opposition is due to be served on the opposing party(ies) and filed with the Court fourteen (14) days prior to the originally scheduled date of oral argument, and the reply shall be served and filed seven (7) calendar days prior to the originally scheduled day of oral argument.

(f) **Failure to File Required Papers.** Papers not timely filed by a party including any memoranda or other papers required to be filed under this Rule will not be considered and such tardiness may be deemed by the Court as consent to the granting or denial of the motion, as the case may be.

(g) **Length of Briefs and Memoranda.** Each party may submit briefs or memoranda in support of or in opposition to any pending motion which shall not exceed a total of twenty (20) pages in length without leave of Court to file additional pages. The moving party may submit a reply brief or memoranda not in excess of ten (10) pages without leave of court. All briefs and memoranda in excess of fifteen (15) pages shall contain a table of authorities cited.

(h) **Advance Notice of Withdrawal or Non-Opposition; Continuances.**

(1) Any moving party who does not intend to press the motion or who intends to withdraw before the hearing date, any opposing party who does not intend to oppose the motion, and any party who intends to move for a continuance of the hearing of a motion shall, not later than five (5) working days preceding the oral argument date, notify opposing counsel and the court clerk in writing.

(2) Absent good cause shown, a deadline fixed by these rules and the "Agreement of Hearing Date" will not be extended.

(i) **Motion for Reconsideration.** A motion for reconsideration of the decision on any motion may be made only on the grounds of

(1) a material difference in fact or law from that presented to the Court before such decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of such decision, or,

(2) the emergence of new material facts or a change of law occurring after the time of such decision, or,

(3) a manifest showing of a failure to consider material facts presented to the Court before such decision.

No motion for reconsideration shall in any manner repeat any oral or written argument made in support of or in opposition to the original motion.

(j) **Ex Parte Applications.** Applications for ex parte orders shall be accompanied by a memorandum containing the name of counsel for the opposing party, if known, the reasons for the seeking of an ex parte order, and points and authorities in support thereof. There shall also be attached, within a separate cover, the proposed ex parte order. The proposed order shall bear the signature of the attorney presenting it preceded by the words, "presented by" on the left side of the last page.

(1) **Notice of Application.** It shall be the duty of the attorney so applying to

(A) make a good faith effort to advise counsel for all other parties, if known, of the date, time and substance of the proposed ex parte application, and

(B) advise the court in writing of efforts to contact other counsel and whether any other counsel, after such advice, opposes the application or has requested to be present when the application is presented to the court.

(2) **Waiver of Notice.** If the judge to whom the application is made finds that the interests of justice require that the ex parte application be heard without notice, the judge may waive the notice requirement of subpart (1) of this section.

(k) **Orders Shortening Time.** Applications for orders shortening the time permitted or required by these Local Rules or the Federal Rules of Civil Procedure for the filing of any paper or pleading or the doing of any act shall be supported by a certificate stating the reasons therefor. When the application is made ex parte, the certificate shall state the reasons why a stipulation could not be obtained or notice could not be given.

(l) **Sanctions.** The Court need not consider motions, oppositions to motions or briefs or memoranda that do not comply with this Rule. The presentation to the Court of frivolous motions or oppositions to motions or the failure to comply fully with this Rule subjects the offender at the discretion of the Court to the sanctions of General Rule 2.1.

LR 9.1 **Three-Judge Court.**

If a party contends that a hearing before a three-judge court is required pursuant to 28 U.S.C. §2284, the party shall type the words "Three-Judge Court" below the docket number on the first page of the pleading making the allegation. The clerk shall then notify the judge of the filing. In addition to the original filed, three copies of all papers, including briefs, shall be filed with the clerk.

LR 10.1 Jurisdiction.

(a) Each complaint, petition, counter-claim and cross-claim shall state in a separate paragraph entitled "jurisdiction" the statutory or other basis for jurisdiction and the facts supporting jurisdiction.

(b) If a party alleges diversity jurisdiction under 28 U.S.C. § 1332; the party shall indicate: (1) the amount in controversy; and (2) the citizenship of all parties for purposes of §1332; and (3) if a party is a corporation, the corporation's citizenship and principal place of business for purposes of §1332(c).

LR 10.2 Format and Filing.

See General Rule 5.1.

LR 15.1 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.

LR 16.1 Scheduling Order and Discovery Plan.

(a) **Applicability.** Unless otherwise ordered, this Rule is applicable to all civil cases and bankruptcy adversary cases pending in this district, except for the cases exempted by Local Rule 16.1(b). Counsel are expected to meet and confer as required by Rule 26(f) of the Federal Rules of Civil Procedure and Local Rule 16.2, prior to commencing discovery, unless the Court orders otherwise. Counsel are expected to complete pretrial discovery in the shortest time reasonably possible with the least expense.

(b) **Exempt Actions.** The following actions are exempt from compliance with these procedures unless otherwise directed by the Court:

(1) Any action filed by or on behalf of a convicted prisoner, a pretrial detainee, or any other person confined in a territorial or federal institution challenging the validity or the conditions of confinement.

(2) Any action challenging the validity of a criminal conviction or sentence.

(c) Meeting of Parties, Scheduling Order, Discovery Plan, Status Report and Scheduling Conference.

(1) **Meeting of Parties.** All parties are directed to confer in accordance with Local Rule 16.2 and Rule 26(f) of the Federal Rules of Civil Procedure and provide the Court with a Scheduling Order and separate Discovery Plan within seventy-five (75) days of the date of the filing of the complaint. The Scheduling Order shall be in substantially the same form as **Attachment "LR 16.1A"** and the Discovery Plan shall be drafted in accordance with subsection (d) hereof.

(2) **Initial Communication of Parties.** It is the responsibility of plaintiff's counsel to initiate the communication necessary to prepare the Scheduling Order. In the event that the plaintiff is proceeding pro se, the defendant shall contact the plaintiff and arrange a meeting to comply with this Rule in the appropriate time frame.

(3) **Time Limits - Scheduling Notice, Order and Conference and Discovery Plan.** The clerk of Court will schedule a Scheduling Conference to be held within ninety (90) days after the complaint is filed. The clerk shall mail, no later than forty (40) days after the complaint has been filed, a Scheduling Notice in the form set forth in **Attachment "LR 16.1B"** setting forth

(A) the date on which the Scheduling Order and Discovery Plan shall be filed by the parties, and

(B) the date for the Scheduling Conference.

It is the responsibility of plaintiff's counsel or the pro se plaintiff to serve a copy of the clerk's Scheduling Notice on all parties who may appear after the clerk's issuance of the Notice of Scheduling Conference.

(4) **Contents of Scheduling Order.**

The Scheduling Order to be submitted by the parties shall contain the following information:

(A) The nature of the case;

(B) The posture of the case including hearings, motions and discovery;

(C) (If the parties agree to the contents of the Discovery Plan as referred to in Local Rule 16.2 infra): the adoption and incorporation of the attached Discovery Plan as part of the Scheduling Order, **OR**

(D) (If the parties do not agree to the contents of the Discovery Plan referred to in Local Rule 16.2 infra):

(i) any modifications of the time for disclosures under Rules 26(a) and 26(e)(1) of the Federal Rules of Civil Procedure;

(ii) a description and schedule of all pretrial discovery each party intends to initiate prior to the close of discovery;

(E) The following dates:

(i) a proposed date limiting the joinder of parties and claims;

(ii) a proposed date limiting the filing of motions to amend the pleadings;

(iii) the assigned date for the required Scheduling Conference with the District Judge;

(iv) discovery cut-off dates (defined as the last day to file responses to discovery);

(v) discovery and dispositive motion cut-off dates (the last day to file motions);

(vi) pretrial conference dates;

(vii) dates for filing the trial brief, exhibit lists, witness lists, and the joint pretrial order as required by Local Rule 16.7, and

(viii) the trial date, and in no event shall the trial date be later than eighteen (18) months after the complaint is filed, unless the Court otherwise allows;

(F) The prospects for settlement;

(G) Whether the trial is jury or non-jury;

(H) The number of trial days required;

(I) The names of trial counsel;

(J) Whether the parties desire to submit the case early in the litigation to a settlement conference;

(K) Suggestions for shortening trial; and

(L) Any other issues affecting the status or management of the case.

(d) **Contents of Discovery Plan.** The Proposed Discovery Plan shall contain a description, including a schedule, of all pretrial discovery each party intends to initiate prior to the close of discovery, including time and length of discoverable events. The plan shall conform to the obligation to limit discovery under Rule 26(b) of the Federal Rules of Civil Procedure and shall address all matters set forth in Rule 26(f) of the Federal Rules of Civil Procedure.

(e) **Non-Appearance of Defendants - Status Report.** If on the due date of the Scheduling Order and Discovery Plan, the defendant(s) or respondent(s) have been served and no answer or appearance has been filed, or if service on the defendants has not been effected, counsel for the plaintiff or the pro se plaintiff shall file an independent status report setting forth the above information required in subsections A through L to the extent possible. The report shall also include the current status of the non-appearing parties.

In addition, if service has not been effected, plaintiff's counsel or the pro se plaintiff must set forth the reasons why service has not been effected and what attempts at service have been made.

LR 16.2 Meeting of Counsel and Preparation of Proposed Scheduling Order and Discovery Plan.

(a) **Meeting of Counsel or Pro Se Litigants.** Within fifteen (15) days after the receipt of the clerk's Scheduling Notice, but no later than sixty (60) days after the filing of the complaint, counsel of record and all pro se litigants shall meet in person for the purposes set forth below:

(1) **Documents** - To exchange all documents then reasonably available to a party which are contemplated to be used in support of the allegations of the pleading filed by the party. Documents later shown to be reasonably available to a party and not exchanged may be subject to exclusion at the time of trial.

(2) **Discovery** - To exchange preliminary schedules of discovery; to arrange for the disclosures required by Local Rule 26.2 and Rule 26(a) of the Federal Rules of Civil Procedure; and to discuss all items set forth in Rule 26(f) of the Federal Rules of Civil Procedure.

(3) **Other Evidence** - To exchange any other evidence then reasonably available to a party to obviate the filing of unnecessary discovery motions.

(4) **List of Witnesses** - To exchange a list of witnesses then known to have knowledge of the facts supporting the material allegations of the pleading filed by the party. The parties will then be under a continuing obligation to advise the opposing party of other witnesses as they may become known.

(5) **Settlement** - To discuss settlement of the action.

(6) **Complicated Cases** - To discuss whether the action is sufficiently complicated so that all or part of the procedures of the Manual for Complex Litigation should be utilized. Counsel may propose to the Court modifications of the procedures in the Manual to facilitate the management of a particular action.

(7) **Proposed Scheduling Order** - To discuss the contents and preparation of the Proposed Scheduling Order.

(8) **Proposed Discovery Plan** - To discuss the contents and preparation of the Proposed Discovery Plan.

(b) **Preparation of the Proposed Scheduling Order.** After the meeting of counsel referred to in Local Rule 16.2(a) above, plaintiff's counsel, or if plaintiff is *pro se*, the plaintiff, shall prepare a draft of the proposed Scheduling Order required by this Rule. Plaintiff's draft shall be presented to all parties for amendments and modifications. If all parties do not agree on a proposed Scheduling Order, the parties shall sign and file, on the date that the Scheduling Order is due, a mutual statement re: Disagreement of Scheduling Order, stating that the parties have been unable to agree despite good faith efforts to do so. To this statement shall be attached each party's Proposed Scheduling Order. If a party disagrees but does not attach a Proposed Scheduling Order, that party will be considered to have not taken a position with respect to the dates and matters contained therein.

(c) **Preparation of the Proposed Discovery Plan.** After the meeting of counsel referred to in Local Rule 16.2(a) above, the attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for submitting to the Court a Proposed Discovery Plan required by this Rule. Areas of disagreement with respect to discovery shall be included and denoted as such in the Discovery Plan.

(d) **Scheduling Conference and Order.** All matters required to be taken care of by the Scheduling Order and Discovery Plan will be addressed at the Scheduling Conference, after which the final Scheduling Order will be entered.

LR 16.3 Failure to Cooperate - Sanctions.

The failure of a party or a party's counsel to participate in good faith in the framing of the proposed Scheduling Order and Discovery Plan required by this Rule, and Rules 16(b) and 26(f) of

the Federal Rules of Civil Procedure may result in the imposition of appropriate sanctions. See General Rule 2.1 and Rules 16(f) and 37(g), Federal Rules of Civil Procedure.

LR 16.4 **Filing of Motions Does Not Excuse Counsel from the Requirements of this Rule.**

Absent an order of the court to the contrary, the filing of a motion, including a discovery motion, a motion for summary judgment, or a motion to dismiss, will not excuse the parties from complying with this Rule and any Scheduling Order entered in the case.

LR 16.5 **Extension of Deadlines Fixed in Scheduling Order.**

A deadline established by a Scheduling Order will be extended only upon a good cause finding by the Court. In the absence of disabling circumstances, the deadline for completion of all discovery will not be extended unless there has been active discovery. Delayed discovery will not justify an extension of discovery deadlines. A motion to extend the deadline in a Scheduling Order must demonstrate a specific need for the requested extension, and should be accompanied by a detailed proposed amendment to the previously entered Scheduling Order. The date for completion of discovery will be extended only if the remaining discovery is specifically described and scheduled, e.g., the names of each remaining deponent and the date, time and place of each remaining deposition. The Court, in its discretion, may order that the client consent in writing to any continuance proposed by counsel.

LR 16.6 **Settlement Conference.**

(a) At any time after an action or proceeding has been filed, any party may file a request for a settlement conference. Such conference may be held before a neutral judge, or before the assigned judge. If the conference is held before the judge trying the case, a written stipulation of all counsel shall be necessary prior to the settlement conference. Each party attending such a conference shall be represented by counsel authorized to participate in settlement negotiations. The Court may require, by Order issued prior to the settlement conference, the client or its authorized representative to personally attend the conference.

(b) Each party appearing at all conferences shall have full authority with respect to all matters on the agenda, including settlement of the action or proceeding.

LR 16.7 **Preliminary and Final Pretrial Conference, Trial Brief, Witness & Exhibit Lists, Discovery Material Designations, and Pretrial Order.**

(a) **Applicability.** This Local Rule is applicable to all civil cases and bankruptcy adversary cases pending in this district, unless expressly waived in whole or in part by order of the Court pursuant to Local Rule 16.8.

(b) **Trial Brief - Thirty (30) Days prior to Trial.**

(1) Each party shall serve and file a Trial Brief thirty (30) days prior to the trial date, containing a summary of the party's basic factual contentions supported by legal authority in the form of a Legal Brief. The memorandum shall include the following:

(A) **Factual Contentions** - The memorandum shall contain a brief but full exposition of the party's theory of the case and a statement in narrative form of what the party expects to prove.

(B) **Legal Brief.**

(i) **Issue of Law** - The Memorandum shall include a legal brief discussing the issues of law necessary to the determination of the case with authorities cited in support thereof.

(ii) **Evidentiary Problems** - The legal brief shall identify and state the party's position on any anticipated evidentiary problems.

(C) **Attorney's Fees** - If either party claims that attorney's fees are recoverable by the prevailing party, the Memorandum shall discuss the factual and legal basis of such claim.

(D) **Abandonment of Issues** - The Memorandum shall state any issues in the pleadings which have been abandoned.

(E) **Length of Trial Brief** - No Trial Brief submitted under these Rules shall exceed twenty (20) pages in length.

(c) **Preliminary Pretrial Conference - Twenty-one (21) Days Prior to Trial.**

(1) A preliminary pretrial conference shall be held on the date and at the time set by a scheduling order under Local Rule 16.1. Such date and time shall be not later than twenty-one (21) days prior to the date of the trial, unless otherwise ordered by the Court.

The agenda for the pretrial conference shall consist of the matters covered by Rule 16, Federal Rules of Civil Procedure, and the matters set forth below. Each party shall be represented at the pretrial conference by counsel having authority with respect to all matters on the agenda, including settlement of the action or proceeding. The Court may require, by Order issued prior to the pretrial conference, the client or its authorized representative to personally attend the conference.

(2) At the preliminary pretrial conference, the parties shall discuss the following with the Court, which will be included in the Pretrial Order:

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

(B) **Jurisdiction and Venue**. The claimed statutory basis of federal jurisdiction and venue, or, if not a federal case, cite local statutory provisions vesting jurisdiction in the District Court, and a statement as to whether any party disputes jurisdiction or venue.

(C) **Substance of Action**. The substance of the claims and defenses presented.

(D) **Undisputed Facts**. 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**. All disputed factual issues.

(F) **Relief Prayed**. The relief claimed, including a particularized itemization of all elements of damages claimed.

(G) **Points of Law**. 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**. All previous motions made in the action or proceeding and the disposition thereof.

(I) **Further Discovery of Motions**. All remaining discovery or motions.

(J) **Stipulations**. All stipulations requested or proposed for pretrial or trial purposes.

(K) **Amendments, Dismissals**. Requested or proposed amendments to pleadings or dismissals of parties, claims or defenses.

(L) **Settlement Discussion**. A summary of the status of settlement negotiations and indicating whether further negotiations are likely to be productive.

(M) **Agreed Statement**. Whether presentation of the action or proceeding, in whole or in part, upon an agreed statement of facts is feasible and desired.

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

(O) **Depositions**. Marking of depositions for use at trial pursuant to Local Rule 32.1; and

(P) **Reference to Master**. Whether reference of all or a part of the proceeding to a master is feasible and agreeable.

(Q) **Appointment and Limitation of Experts**. Whether it is feasible and desirable for the judge to appoint an impartial expert witness or to limit the number of expert witnesses.

(R) **Trial**. The scheduled or requested trial date and, if trial is to be a jury, that a timely request for a jury is on file in the proceeding.

(S) **Estimate of Trial Time**. The number of court days anticipated 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, but not limited to, stipulations, agreed statements of facts, expedited means of presenting testimony and exhibits, and the avoidance of cumulative proof.

(T) **Claims of Privilege or Work Product**. Whether any of the matters otherwise required to be stated by this Rule are claimed to be covered by the work product or other privilege. Upon such indication, such matters may be omitted subject to further order at the pretrial conference.

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

(d) **Witness Lists, Discovery Material Designations, and Exhibit Lists — Fourteen (14) Days Prior to Trial.**

(1) **Witness List**. Fourteen (14) days prior to trial, each party shall serve and file under separate cover, a list of witnesses to be called at trial other than those contemplated to be used for impeachment or rebuttal. The Witness List shall also contain the address and telephone number of each witness. The Witness List shall also contain a statement that the witness lists were exchanged pursuant to Federal Rule of Civil Procedure 26(a)(3)(A). Witness names which were not exchanged thirty (30) days prior to trial pursuant to Federal Rule of Civil Procedure 26(a)(3) may not be contained on the Witness List absent leave of

court, which shall be sought by motion. The obligation of listing such witnesses is a continuing one, and except for good cause shown the testimony of any such witness proffered at trial who is not listed upon a party's witness list shall be precluded.

(2) **Discovery Material Designations.** Fourteen (14) days prior to trial, each party shall serve and file under separate cover, a designation of (A) those witnesses whose testimony is expected to be presented by means of a deposition, and if not taken stenographically, a transcript of the pertinent portions of the deposition testimony; (B) statements designating excerpts from interrogatory answers to be offered at trial other than for impeachment or rebuttal; (C) statements designating excerpts from responses to requests for admission to be offered at trial other than for impeachment or rebuttal. The Discovery Material Designation shall also contain a statement that the deposition designations were exchanged pursuant to Federal Rule of Civil Procedure 26(a)(3)(B). Deposition designations which were not exchanged thirty (30) days prior to trial pursuant to Federal Rule of Civil Procedure 26(a)(3) may not be contained on the Deposition Designation absent leave of court, which shall be sought by motion.

(3) **Exhibit List.** Fourteen (14) days prior to trial, each party shall serve and file an Exhibit List under separate cover setting forth a list of exhibits each party expects to offer at trial other than those to be used for impeachment or rebuttal, with a description of each exhibit sufficient for identification. Exhibits which were not exchanged thirty (30) days prior to trial pursuant to Federal Rule of Civil Procedure 26(a)(3) may not be contained on the Exhibit List absent leave of court, which shall be sought by motion. The Plaintiff's exhibits shall be listed in numerical order and the Defendant's exhibits shall be listed in alphabetical order.

The exhibit list shall be substantially in the form indicated by the following example:

Case Title: _____ Case No. _____

Plaintiff's Exhibits

<u>No. of Exhibit</u>	<u>Description</u>	<u>Date Identified</u>	<u>Date Admitted</u>
1	1/30/80 letter from Doe to Roe		
2	\$500 check dated 2/3/82 drawn on Roe payable to Doe		
3	Handwritten notes of Doe dated 1/16/80		

Defendant's Exhibits

- A 4/5/80 letter from
 Roe to Doe
- B \$3,000 check dated
 5/4/81 drawn on
 Doe payable to Roe
- C Typed notes of Roe
 dated 1/30/80

Each party shall provide every other party and the Court with one copy of all exhibits, charts, schedules, summaries and diagrams and other similar documentary materials to be used at the trial other than for impeachment or rebuttal, together with a completed list of all such exhibits in the form specified in this Rule . In addition, each party shall prepare two (2) three-ring binders each containing a copy of each exhibit marked for identification and lodge both binders with the Court. Voluminous exhibits shall be reduced by elimination of irrelevant portions or by the use of summaries (Rule 1006, Federal Rules of Evidence). Exhibit identification tags are available from the Clerk's Office.

(e) **Pretrial Order -- Fourteen (14) Days Prior to Trial.** Fourteen (14) days prior to trial, plaintiff shall serve and file with the clerk a proposed Pretrial Order, signed by each party or the attorney for each party, approved as to form and substance by the attorneys for all parties appearing in the case. The Pretrial Order shall address all matters discussed in the Preliminary Pretrial Conference held twenty-one (21) days prior to trial, as set forth supra. The form shall be substantially as follows:

(Caption)

(Title of Case)

CIVIL NO. _____

PRETRIAL ORDER

Following Pretrial proceedings, pursuant to Rule 16, Federal Rules of Civil Procedure and Local Rule 16.7,

IT IS ORDERED:

1. (a) This is an action for: (State the nature of the action).
- (b) The parties are: (List)

Each of these parties has been served and has appeared. All other parties named in the pleadings and not identified in the preceding paragraph are now dismissed.

(c) The pleadings which raise the issues are: (List)

2. Jurisdiction and venue are invoked upon the grounds: (Concise statement of facts necessary to confer federal jurisdiction and venue; if not a federal case, cite local statutory provisions vesting jurisdiction in the District Court. State whether the facts requisite to federal jurisdiction are denied or admitted.)

3. The following facts are admitted and require no proof: (Set forth each admitted fact, including jurisdictional facts.)

4. The reservations as to the facts recited in Paragraph 3, above, are as follows: (Set forth any objection reserved by any party as to the admissibility in evidence of any admitted fact and, if desired by any party, limiting the effect of any issue of fact as provided by Rule 36(b), Federal Rules of Civil Procedure, as the case may be.)

5. The following facts, though not admitted, are not to be contested at the trial by evidence to the contrary: (Set forth)

6. The following issues of facts, and no others, remain to be litigated at the trial: (Set forth facts to be litigated, a mere general statement will not suffice. State only ultimate facts. Only facts susceptible to conflicting proof should be within this category.)

7. The following issues of law, and no others, remain to be litigated at the trial: (Set forth a concise statement of each.)

(N.B. Counsel are urged to reach agreement as to the issues of fact and law and how to state them. Where agreement is impossible, the Pretrial Conference Order should set forth the proposed issues with the parenthetical notation as to which party wishes it so stated and which party disagrees. Separate proposed pretrial conference orders will not be accepted. Issues in third-party pleadings should be stated separately and so identified.)

8. All discovery is complete. (If discovery is not complete only that discovery reserved in the Pretrial Conference Order will be allowed.)

9. The Exhibit Lists of the parties have been filed with the Court as required by Local Rule 16.7. The parties anticipate the following objections to the exhibits listed below:

10. Witness lists of the parties have heretofore been filed with the Court as required in Local Rule 16.7. (Except for good cause shown, only the witnesses identified in the list will be permitted to testify other than for impeachment or rebuttal.)

11. Each party intending to present evidence by way of deposition testimony has marked such depositions in accordance with Local Rule 32.1. For this purpose, the following depositions shall be lodged with the clerk as required by Local Rule 32.1: (List)

12. The following law and motion matters are pending or contemplated: (State "none" or list.)

13. The trial is to be a jury (non-jury) trial.

(If a jury trial, add): At least seven (7) days prior to the trial date counsel shall serve on all parties and lodge with the Court proposed voir dire questions, if any; the forms of verdict; and joint proposed jury instructions as required by Local Rule 16.7(f) and Local Rule 51.1.

(If non-jury trial, and requested by the Court, add): At least seven (7) days prior to the trial date each counsel shall serve on all parties and lodge with the Court proposed findings of fact and conclusions of law.

14. The trial is estimated to take ____ trial days. (Where counsel cannot agree, set forth each side's estimate.)

15. The Final Pretrial Conference shall be held on the ____ day of ____, 19__, at ____ o'clock.

16. The trial of this cause will be held on the ____ day of ____, 19__, at ____ o'clock.

17. The foregoing admissions having been made by the parties, and the parties having specified the foregoing issues of fact and law remaining to be litigated, this Pretrial Conference Order shall supersede the pleadings and govern the course of the trial of this cause, unless modified to prevent manifest injustice.

DATED this ____ day of _____, 19__.

(NAME OF JUDGE)
Judge, District Court of Guam

APPROVED AS TO FORM
AND CONTENT:

Attorney for Plaintiff

Attorney for Defendant

Attorney for (indicate party
represented)

(f) Proposed Jury Instructions, Voir Dire Questions, Forms of Verdicts, Objections -- Seven (7) Days prior to Trial.

(1) In jury cases, unless the judge otherwise orders, the parties shall, not less than seven (7) calendar days prior to the date on which the trial is scheduled to commence, serve and lodge proposed jury instructions and proposed verdict forms. If desired, each party may also submit proposed voir dire questions. The parties shall meet and confer sufficiently in advance of trial and formulate a list of joint proposed jury instructions, if possible. Those instructions upon which agreement cannot be reached shall be submitted in a separate packet. Each proposed instruction shall be numbered, set forth in full on a separate page, embrace only one subject or principle of law, indicate which party presents it, and indicate at the bottom of the instruction the source from which it was derived, i.e., Ninth Circuit Model Jury Instructions, case law with case citations, etc. The Court may at any time prior to instructing the jury receive requests for additional instructions.

(2) **Objections to Opposing Party's Witness and Exhibit Lists and Discovery Material Designations.** Seven (7) days prior to trial, a party may serve and file any objections to another party's Witness List, Discovery Material Designations, and Exhibit List. Objections not so made shall be deemed waived. The parties are referred to Local Rule 32.1 for the use of depositions at trial.

(g) **Motions in Limine - Seven (7) Days Prior to Trial.** At least seven (7) calendar days before trial is scheduled to commence, each counsel may serve and file a motion in limine with respect to anticipated evidentiary problems, which may contain:

- (1) A concise statement of the evidence which it is anticipated that opposing counsel will seek to introduce;
- (2) The objection to such evidence; and
- (3) A short summary of the points of law involved, citing authorities in support thereof.

(h) **Final Pretrial Conference -- Seven (7) Days Prior to Trial.** The parties shall have a Final Pretrial Conference with the Court seven (7) days prior to trial for the purpose of ensuring that all pretrial preparation is complete, and to discuss mechanical aspects of trial, such as starting and stopping times, etc. If all pretrial preparation, as required by this Rule, is complete, and if the parties have no matters to discuss with the Court, the parties may stipulate to continue the Final Pretrial Conference until the morning of trial.

LR 16.8 **Waiver of Pretrial.**

At the time of the Scheduling Conference held pursuant to Local Rule 16.1, the parties may advise the Court that the matter should not be subject to the pretrial rule of this Court (Local Rule 16.7) and file a request with the Court to order a waiver. The request shall contain the reasons that counsel requests the waiver and shall be signed by all counsel. An order of waiver to be signed by the judge shall be prepared on a separate document.

(a) **Procedure on Waiver.** If the Court orders that the case should not be subject to the pretrial rule, the Proposed Discovery Plan prepared by counsel pursuant to Local Rule 16.2 shall contain a comprehensive discovery schedule that will permit the trial to be set within six (6) months of the date of the filing of such Proposed Discovery Plan.

(b) **Preparation for Trial.** If the case is approved by the Court for Waiver of Pretrial preparation, the attorneys for the parties shall meet thirty (30) days before the date set for commencement of the trial and each party shall file not less than fourteen (14) days before the date set for commencement of the trial:

- (1) a succinct statement of the factual and legal issues;
- (2) in non-jury cases, detailed narrative statements of witnesses to be used at trial as the direct testimony of the witnesses, subject to cross-examination at trial by the opposing party;
- (3) a witness list; (See Federal Rule of Civil Procedure 26(a)(3) and Local Rule 16.7(d));
- (4) an exhibit list; (See Federal Rule of Civil Procedure 26(a)(3) and Local Rule 16.7(d));
- (5) depositions to be used at trial marked as required by Federal Rule of Civil Procedure 26(a)(3) and Local Rule 32.1; and
- (6) a trial brief which provides the theory of the case and statutory or precedential support for the theory, together with any unusual evidentiary or legal questions which may be anticipated at trial.

(c) **Waiver - Limitation.** Waiver of pretrial shall apply only to cases that are realistically estimated to consume no more than two (2) trial days.

LR 17.1 Guardians Ad Litem.

(a) **Appointment Procedure.** Guardians Ad Litem may be appointed ex parte, at any time upon the presentation to the judge of a sworn petition showing good cause for the appointment. The petition shall be filed with the appointment order.

(b) **Person Ineligible to be a Guardian Ad Litem.** No person shall be appointed guardian ad litem if the person has an interest adverse to that of the infant, or if the person is connected in business with an adverse party or with the attorney of the adverse party; or if the person has insufficient pecuniary ability to answer to the infant for any injury which the infant may sustain as a result of the person's negligence or misconduct.

(c) **Bond of Guardian Ad Litem.** No bond shall ordinarily be necessary from a guardian ad litem; provided, that no guardian shall receive any money or other property of the infant until the guardian has filed with the clerk a bond in an amount fixed by the judge, conditioned for the faithful performance of the guardian's duties. If the guardian does not desire to receive any money or property of the infant, the money or property shall be paid or delivered to the clerk or to a person directed by the Court. Under these circumstances, the payment or delivery of the money or property to the clerk shall have the same effect as if the money or property had been paid or delivered to the guardian.

(d) **Order of Judgment Required.** No action by or on behalf of a minor or incompetent shall be settled, compromised, dismissed, discontinued or terminated without the Court's approval. When required by Territorial law, Court approval shall also be obtained from the appropriate Territorial Court having jurisdiction over the matter for any settlement or other disposition of litigation involving a minor or incompetent.

LR 23.1 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."

LR 26.1 Discovery Documents - Nonfiling and Disclosure.

(a) **Nonfiling of Discovery Documents and Proof of Service.** The following discovery documents and proofs of service thereof shall not be filed with the clerk until there is a proceeding in which the document or proof of service is in issue:

- (1) Transcripts of depositions upon oral examination;

- (2) Transcripts of depositions upon written questions;
- (3) Interrogatories;
- (4) Answers or objections to interrogatories;
- (5) Requests for the production of documents or to inspect tangible things;
- (6) Responses or objections to requests for the production of documents or to inspect tangible things;
- (7) Requests for admission;
- (8) Responses or objections to requests for admission; and
- (9) Disclosures made under F.R.Civ.P. 26 and Local Rule 26.2.

When required in a proceeding, only that part of the document which is in issue shall be filed. All such discovery documents shall be held by the attorney pending use pursuant to this Rule for the period specified in Local Rule 79.1 for the retention of exhibits, unless otherwise ordered by the Court.

(b) Discovery Documents - Disclosure. During the pendency of any civil proceeding, any person may, after written notice is served on all parties to the action, obtain a copy of any deposition or discovery document not on file with the Court upon payment of the expense of the copy and upon

- (1) approval by the clerk, if no objection is filed with the clerk by any party to the action within five (5) days after service of such written notice, or
- (2) leave of Court, if an objection is filed with the clerk by any party to the action within five (5) days after service of such written notice.

LR 26.2 Prediscovery Disclosure.

Before any party initiates discovery, that party must submit to the opponent **(a)** the identity of all persons known or believed to have substantial discoverable information about the claims or defenses, together with a summary of that information; **(b)** a description, including the location, of all documents that are reasonably likely to bear substantially on the claims or defenses; **(c)** a computation of any damages claimed; **(d)** the substance of any insurance agreement that may cover any resulting judgment; and **(e)** a copy of any report of an expert who may be called at trial. The disclosure obligation is reciprocal and continues throughout the case.

LR 30.1 Depositions.

(a) **Depositions - Original.** The original transcript of a deposition shall, unless otherwise stipulated to on the record at the deposition, after signing and correction, or waiver of the same, be sent to the attorney noticing the deposition.

(b) **Depositions: Attorneys' Duty as to Time & Location.** Attorneys will make every reasonable effort to stipulate to the exact times and places for the commencement and resumption of all depositions.

(c) **Depositions: Recorded by Videotape.**

(1) A party may notice depositions utilizing videotape or a similar recording method provided that:

(A) the notice clearly indicates that the deposition will be recorded on videotape or by a similar recording method; and

(B) reasonable advance notice is given to all parties; and

(C) a written record of the questions and answers is taken at the time of the taking of the deposition.

(2) A party who objects to the notice of deposition utilizing videotape or a similar recording method may file a motion for protective order under Rule 26(c), Federal Rules of Civil Procedure.

(d) **Depositions for Use in Foreign Judicial Proceedings.** Application may be made ex parte for the designation, pursuant to 28 U.S.C. §1782, of an officer to take the deposition of a person within this district for use in a judicial proceeding pending in the court of a foreign country. If the court in which the proceeding is pending has appointed a person to take the deposition, that person will be designated, unless there is good cause for refusing such designation.

The officer shall certify and mail the deposition to the foreign court in accordance with the provisions of Rules 30(f) or 31(b), Federal Rules of Civil Procedure, and file proof of mailing with the clerk of this Court.

LR 32.1 Depositions - Use at Trial.

Deposition transcripts to be used at trial shall be the original transcripts, shall be lodged with the clerk at least seven (7) days before trial, and shall be marked as follows:

(a) Identify on the original transcript to be lodged the testimony that the party intends to offer at trial by bracketing the questions and answers in the margins. The opposing party shall likewise countermark any testimony that it plans to offer. The parties shall agree between themselves on a separate color to be used by each party which shall be consistently used by that party for all depositions marked in the case.

(b) Each party shall mark objections to the proffered evidence in the margins of the deposition by briefly stating the grounds for the objection.

(c) In appropriate cases and when ordered by the Court, the parties shall jointly prepare a deposition summary to be used in lieu of question and answer reading of a deposition at trial.

At the same time that the party lodges the deposition as required above, such party shall also serve and file with the clerk a "Notice of Portions of Deposition Marked and Countermarked." (See Local Rule 16.7(f)(2).)

LR 33.1 Interrogatories and Requests for Admission.

(a) **Limitation on Number of Interrogatories and Requests for Admission.** No party shall serve more than one set of interrogatories or requests for admission on any other party without leave of court. Interrogatories or requests for admission shall not exceed twenty-five (25) in number, counting any subparts or subquestions as individual questions. Subparts or subquestions of any interrogatory shall relate directly to the subject matter of the interrogatory. Any party desiring to serve additional interrogatories shall submit to the Court a written memorandum setting forth the proposed additional interrogatories or requests for admission and the reasons establishing good cause for their use.

(b) **Answers and Objections to Interrogatories and Requests for Admission.** The party answering or objecting to interrogatories or requests for admission shall quote each interrogatory or request in full immediately preceding the statement of any answer or objection thereto.

(c) **Interrogatories, Requests for Admission and Requests for Production of Documents - Original.** The original of the interrogatories, requests for admission or requests for the production of documents or to inspect tangible things served on the opposing party shall be held by the attorney propounding the interrogatories or requests pending use. (See Local Rule 26.1(a).)

LR 36.1 Requests for Admission.

See Local Rule 33.1.

LR 37.1 Discovery Motions.

(a) Prior to the filing of any motion relating to a discovery dispute, counsel for the parties shall meet in person in a good faith effort to eliminate the necessity for hearing the motion or to eliminate as many of the disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for the conference.

(b) If counsel are unable to settle their differences, they shall formulate a written stipulation specifying separately and with particularity each issue that remains to be determined at the hearing and the contentions and points and authorities of each party. The stipulation shall not refer the Court to other documents in the file.

By way of example only, if the sufficiency of an answer to an interrogatory is in issue, the stipulation shall contain verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated. The stipulation shall be served and filed with the notice of motion. In the absence of such stipulation, or a declaration of counsel of non-cooperation by the opposing party, the Court will not consider any discovery motion unless otherwise ordered upon good cause shown.

(c) Briefing and oral argument of all discovery motions shall be scheduled pursuant to Local Rule 7.1.

(d) If the discovery disputes are found to be frivolous or based on counsel's failure to cooperate with each other in good faith, sanctions will be imposed at the discretion of the Court.

LR 41.1 Call of the Docket - Status Hearings.

Status hearings shall be scheduled by the clerk in all cases pending with no action taken in the preceding three (3) months. Notice shall be given in writing to each attorney of record in every case to be called, stating the date and time for such hearing. If good and sufficient reasons are not presented by counsel for failure to have taken appropriate action in any such case, the Court may dismiss the action or enter such other order as may be proper.

LR 51.1 Proposed Jury Instructions, Voir Dire Questions and Verdict Forms.

In jury cases, the parties shall not less than seven (7) calendar days prior to the date on which the trial is scheduled to commence, serve and lodge proposed voir dire questions, if desired, and proposed jury instructions and verdict forms. (See Local Rule 16.7(f).)

LR 52.1 **Proposed Findings of Fact and Conclusions of Law.**

In non-jury cases, if ordered by the Court, the parties shall not less than seven (7) calendar days prior to the date on which the trial is scheduled to commence, serve and lodge proposed findings of fact and conclusions of law.

LR 54.1 **Taxation of Costs.**

(a) **Application to the Clerk.** Within eleven (11) days after the entry of a judgment allowing costs the prevailing party shall serve on the attorney for the adverse party and file with the clerk an application for the taxation of costs. The application shall be on a Bill of Costs form prescribed by the Court which shall be furnished by the clerk upon request. If an application for costs is received which is not on the appropriate form, the clerk shall promptly notify the party seeking costs, shall forward the correct form, and shall extend the time for filing the amended claim for a period not to exceed ten (10) days. The application shall contain an itemized schedule of the costs in a sworn statement signed by the attorney for the applicant that the schedule is correct, that the costs were necessarily incurred in the case, and that the services for which fees have been charged were actually and necessarily performed. The application shall be heard by the Clerk not less than eleven (11) nor more than sixteen (16) days after it is served, and written notice of the time of hearing shall be given to all parties by the Clerk of Court.

A failure to comply with this Rule waives the right to recover all costs, other than the clerk's costs, which may be inserted in the judgment without application. At the option of the Clerk, the hearing may be held by telephone conference call.

(b) **Items Taxable As Costs.**

- (1) **Filing fees** - The clerk's filing fees.
- (2) **Fees for Service of Process** - Fees for service of process (whether served by the United States Marshal or other persons authorized by Rule 4, Federal Rules of Civil Procedure.)
- (3) **United States Marshal's Fees** - Fees and charges paid to the United States Marshal pursuant to 28 U.S.C. § 1921.
- (4) **Reporter's Transcripts** - The cost of the original and one copy of all or any part of a trial transcript, daily transcript or a transcript of matters occurring before or after trial, if requested by the Court or prepared pursuant to stipulation.
- (5) **Depositions** - Costs incurred in connection with taking depositions, including:

(A) the cost of the original and one copy of all depositions necessarily obtained for use in the case;

(B) the reasonable fees of the deposition reporter, the notary, and any other persons required to report or transcribe depositions which were necessarily obtained for use in the case;

(C) reasonable witness fees paid to a deponent, including fees actually paid to an expert witness deponent pursuant to Rule 26(b)(4)(C), Federal Rules of Civil Procedure.

(D) reasonable fees paid to an interpreter when necessary to the taking of the deposition; and

(E) the cost of copying or reproducing exhibits used at the deposition and made a part of the deposition transcript.

(6) **Witness Fees** - Fees paid to witnesses, including:

(A) per diem, mileage, subsistence and attendance fees as provided in 28 U.S.C. §1821 paid to witnesses subpoenaed and/or actually attending the proceeding;

(B) witness fees for a party if required to attend by opposing party; and

(C) witness fees for officers and employees of a corporation if they are not parties in their individual capacities.

(7) **Interpreter's and Translator's Fees** - Fees paid to interpreters and translators, including:

(A) The salaries, fees, expenses and costs of an interpreter as provided by 28 U.S.C. § 1827 and 1828; and,

(B) Fees for translation of documents received in evidence, used as part of the proceeding or when otherwise reasonably necessary to the preparation of the case.

(8) **Docket Fees** - Docket fees as provided by 28 U.S.C. § 1923.

(9) **Masters, Commissioners, and Receivers** - The reasonable fees and expenses of masters, commissioners, and receivers.

(10) Certification, Exemplification and Reproduction of Documents - Document preparation costs for documents necessarily obtained for use in the case, including:

(A) the cost of copies of an exhibit attached to a document necessarily served and filed;

(B) the cost of copies of documents admitted into evidence when the original is not available or the copy is substituted for the original at the request of an opposing party;

(C) fees for an official certification of proof respecting the non-existence of a document or record;

(D) notary fees incurred in notarizing a document when the cost of the document is taxable; and

(E) fees for necessary copies and necessary certification or exemplification of any documents.

(11) Premiums on Undertakings and Bonds - Premiums paid on undertakings, bonds, security stipulations, or substitutes therefor where required by law, court order, or where necessary to enable a party to secure a right granted in the proceeding.

(12) Other Costs - Upon order of the Court, the following items may be taxed as costs:

(A) summaries, computations, polls, surveys, statistical comparisons, maps, charts, diagrams and other visual aids reasonably necessary to assist the jury or the Court in understanding the issues at the trial;

(B) photographs, if admitted in evidence or attached to documents necessarily served upon the opposing party and filed; and

(C) the cost of models if ordered by the Court in advance of or during trial.

(13) Removed Cases - Costs incurred in territorial court prior to removal which are recoverable under territorial statutes shall be recoverable by the prevailing party in this Court.

(14) **Costs on Appeal** - Costs on appeal taxable in the District Court shall be governed by FRAP 39(e). Such costs bill is to be filed within fifteen (15) days of the filing and spreading of the mandate of the Court of Appeals in the district court.

(15) **Items of Costs Not Specifically Mentioned in This Rule** shall be taxed by the Clerk in accordance with the laws of the United States.

(c) **Objections to Bill of Costs - Response**. Any party may file and serve written objections to any item specified in a Bill of Costs. The grounds for objections shall be specifically stated. The objections shall be served and filed no later than five (5) days before the date noticed for the hearing. A written response may be served and filed no later than three (3) days before the date noticed for the hearing.

(d) **Clerk's Determination - Finality**. After considering any objections to the Bill of Costs and any responses thereto, the Clerk shall tax costs to be included in the judgment. The Clerk's determination shall be final unless modified by the Court upon review pursuant to subsection (e) hereof.

(e) **Review of Clerk's Determination**. A dissatisfied party may appeal to this Court upon written motion served within five (5) days of the Clerk's decision, as provided in Federal Rule of Civil Procedure 54(d). The motion shall specify all objections to the Clerk's decision and the reasons for the objections. Appeals shall be heard upon the same papers and evidence submitted to the Clerk.

(f) **Clerk's Duty**. As soon as practicable after the taxation of costs becomes final, the Clerk shall insert the amount of costs taxed into the blank left in the taxation of costs form and the judgment, and shall enter a similar notation on the docket sheet.

(g) **Writ of Execution for Costs**. The clerk shall, upon request, issue a writ of execution to recover costs or attorney's fees included in the judgment:

(1) Upon presentation of a certified copy of the final judgment in the District Court; or

(2) Upon presentation of a mandate of the Court of Appeals to recover costs taxed by the Appellate Court.

LR 54.2 Sanctions for Late Notification of Settlement, Postponement or Other Disposition of Civil Jury Trial.

Whenever any civil action scheduled for jury trial is required to be postponed, or settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, all juror costs shall be assessed equally against the parties and their counsel or otherwise assessed as directed

by the Court, unless the Court and the Clerk's Office are notified at least one full business day prior to the day on which the action is scheduled for trial.

LR 54.3 Filing Date for Attorney's Fees.

Any motion or application for attorney's fees shall be served and filed within fourteen (14) days after the entry of judgment or other final order, unless otherwise ordered by the Court. Such motions and their disposition shall be governed by Local Rule 7.1 and Rule 54(d)(2) of the Federal Rules of Civil Procedure.

LR 58.1 Judgments.

(a) **Judgment.** The Judgment shall be set forth on a separate document as required by Rule 58, Federal Rules of Civil Procedure. The Judgment shall follow, as nearly as possible, Federal Rules of Civil Procedure Official Forms No. 31 or No. 32.

(b) **Entry of Judgments and Orders.**

(1) In all cases, the notations of judgments and orders in the civil docket by the clerk will be made at the earliest practicable time. The notations of judgment will not be delayed pending taxation of costs, but there may be inserted in the judgment a clause reserving jurisdiction to tax and apportion the costs by subsequent order.

(2) Orders under subdivision (a) of this Rule will be noted in the civil docket immediately after the clerk has signed them.

(3) No judgment or order, except orders granted by the Clerk under Local Rule 77.1 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 judge's signature or initials on the judgment or order.

(4) Every order and judgment shall be filed in the Clerk's Office, and if the clerk so requests, a copy shall be inserted in the civil order book.

LR 65.1 Temporary Restraining Orders and Preliminary Injunctions.

(a) **Application for 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.

(b) **Preliminary Injunctions.** When a temporary restraining order ("TRO") is not sought, an application for a preliminary injunction shall be made by motion and not by order to show

cause. When a TRO is sought, application for a preliminary injunction shall be made by order to show cause. If the TRO is granted, the hearing on the order to show cause will be set within ten (10) days after the entry of the TRO unless otherwise agreed by the parties. If the TRO is denied, the Court may set the hearing on the order to show cause re: preliminary injunction without regard to the requirements of Local Rule 7.1.

LR 65.1.1 Bonds and Sureties.

(a) Security for Costs.

(1) Nonresidents. Every nonresident filing a complaint shall, within ten (10) days after demand of an adverse party, file with the complaint a bond for costs in the sum of \$500.00, unless for good cause, on motion, which may be made *ex parte*, the Court dispenses with the bond or fixes a different amount. The bond shall have sufficient surety and shall be conditioned to secure the payment of all costs of the action which the party may ultimately be required to pay to any other party. After the bond is filed, any opposing party may raise objections to its form or to the sufficiency of the surety for determination by the Clerk. If the bond is found to be insufficient, the Court may order the filing of a sufficient bond within a specified time. If the order is not complied with, the Clerk shall enter dismissal of the action as in the case of dismissal for want of prosecution.

(2) Other Parties. On its own motion or a party's motion, the Court may order any party to file a bond for costs in an amount and under conditions designated by the Court.

(b) Qualifications of Surety. Every bond for costs under these Rules must have as surety either **(1)** a cash deposit, certified check or bank check equal to the amount of the bond or **(2)** a corporation authorized by the Secretary of the Treasury of the United States to act as surety on official bonds under Title 31 U.S.C. §§ 9301-9309, or **(3)** two individual residents of the Territory of Guam, each of whom owns real or personal property within the Territory of Guam sufficient in value above encumbrances to justify the full amount of the suretyship, or **(4)** any insurance, surety or bonding company licensed to do business in the Territory Guam.

(c) Court Officers as Surety. No clerk, marshal or other employee of the Court, nor any member of the bar representing a party in the particular action or proceeding, will be accepted as surety on any bond or other undertaking in any action or proceeding in this Court. Cash deposits on bonds may be made by members of the bar on certification that the funds are the property of a specified person who has signed as surety on the bond. Upon exoneration of the bond, such monies shall be returned to the owner and not to the attorney, unless the Court orders otherwise.

(d) Bond for Removal. Where a bond is required to secure costs in proceedings for removal of an action from a territorial court, it shall be in the sum of \$250.00.

(e) **Suits by Indigent Persons.** At the time an application is made, under Acts of Congress providing for suits by indigent persons, for leave to commence any civil proceeding 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 proceeding, to the amount 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.

(f) **Deposit of Money or United States Obligations in Lieu of Surety.** In lieu of surety in any civil case, there may be deposited with the clerk of the Court lawful money or negotiable bonds or notes of the United States. The depositor shall execute a suitable bond, and, if negotiable bonds or notes of the United States are deposited, shall also execute the agreement required by 31 U.S.C. § 9303, authorizing the clerk to collect or sell the bonds or notes in the event of default.

(g) **Examination of Sureties.** Any party may apply for an order requiring any opposing party to show cause why it should not be required to furnish further or different security, or requiring personal sureties to justify.

LR 66.1 Receivers.

(a) **Appointment of Receivers.** Application for the appointment of a receiver may be made after the complaint has been filed and the summons issued.

(1) **Temporary Receivers.** A temporary receiver may be appointed without notice to the party sought to be subjected to a receivership in accordance with the requirements and limitations of the Federal Rules of Civil Procedure.

(2) **Permanent Receivers.** A permanent receiver may be appointed after notice and hearing upon an order to show cause. This order shall be issued by a judge upon appointment of a temporary receiver or upon application of the plaintiff and shall be served on all parties. The defendant shall provide the temporary receiver (or, if there is no temporary receiver, the plaintiff) within five (5) days, with a list of the defendant's creditors, and their addresses. Not less than five (5) days before the hearing, the temporary receiver (or, if none, the plaintiff) shall mail to the creditors listed, a notice of hearing, and file a proof of mailing.

(3) **Bond.** A judge may require any receiver appointed to furnish a bond in an amount which the judge deems reasonable.

(b) **Employment of Experts.** The receiver shall not employ an attorney, accountant or investigator without an order of a judge. The compensation of all such employees shall be fixed by the judge.

(c) **Application for Fees.** All applications for fees for services rendered in connection with a receivership shall be made by petition setting forth in reasonable detail the nature of the services and shall be heard in open court.

(d) **Deposit of Funds.** A receiver shall deposit all funds received in a depository designated by the judge, entitling the account with the name and number of the action. At the end of each month, the receiver shall deliver to the clerk a statement of account and the canceled checks.

(e) **Reports.** Within thirty (30) days of appointment, a permanent receiver shall file with the Court a verified report and petition for instructions. The petition shall be heard on ten (10) days notice to all known creditors and parties. The report shall contain a summary of the operations of the receiver, an inventory of the assets and their appraised value, a schedule of all receipts and disbursements, and a list of all creditors, their addresses and the amounts of their claims. The petition shall contain the receiver's recommendation as to the continuance of the receivership and reason for the recommendations. At the hearing, the judge shall determine whether the receivership shall be continued and, if so, the judge shall fix the time for future reports of the receiver.

(f) **Notice of Hearings.** The receiver shall give all interested parties at least ten (10) days notice of the time and place of hearings concerning:

- (1) Petitions for the payment of dividends to creditors;
- (2) Petitions for confirmation of sales of property;
- (3) Reports of the receiver;
- (4) Applications for fees of the receiver or of any attorney, accountant or investigator, the notice to state the services performed and the fee requested; and,
- (5) Applications for discharge of the receiver.

LR67.1 Deposit in Court.

See General Rule 8.1.

LR 77.1 Orders Grantable by Clerk.

The Clerk of Court is authorized to grant, sign, and enter the following orders without further direction by the Court. Any orders so entered may be suspended, altered, or rescinded by the Court for cause shown:

- (a) Orders on consent satisfying a judgment or an order for the payment of money, annulling bonds, and exonerating sureties;

(b) Orders entering judgments on verdicts or decisions of the Court in circumstances authorized in Rule 58, Federal Rules of Civil Procedure, and orders entering defaults for failure to plead or otherwise defend, in accordance with Rule 55, Federal Rules of Civil Procedure;

(c) Any other orders which pursuant to Rule 77(c) Federal Rules of Civil Procedure, do not require allowance or order of the Court.

LR 77.2 Clerk of Court.

See General Rules, pp. 1-20.

LR 78.1 Motion Day.

See General Rule 10.1.

LR 79.1 Custody and Disposition of Exhibits and Transcripts.

(a) **Custody.** Every exhibit offered in evidence, including depositions and transcripts, shall be held in the custody of the clerk of this Court. 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.

(b) **Delivery to Person Entitled in Civil Cases.** In all civil cases in which final judgment has been entered and the time has expired for filing a motion for new trial, a motion for rehearing or a notice of appeal, any party or person may withdraw any exhibit, deposition, or transcript of testimony originally produced by him, without court order, upon ten (10) 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 in Civil Cases.** If exhibits, depositions or transcripts of testimony in civil cases are not withdrawn within twenty (20) days after the time when notice may first be given under subdivision (b) of this Rule, the clerk shall give notice to the parties to claim the same. If such exhibits, depositions and transcripts of testimony are not withdrawn by the parties within forty (40) days after notice by the clerk to claim the same, the clerk may destroy them or make other disposition as he sees fit.

LR 83.1 Rules by District Courts.

See General Rules, pp. 1-20.

LOCAL ADMIRALTY RULES ("LAR")

LAR A. Scope and Definitions.

1. **Scope.** The Local Admiralty Rules apply only to civil actions that are governed by Supplemental Rule A of the Supplemental Rules for Certain Admiralty and Maritime Claims (Supplemental Rule or Rules). All General Rules and Local Rules are applicable in these cases, but to the extent that another Rule is inconsistent with the applicable Local Admiralty Rules, the Local Admiralty Rules shall govern.

2. **Officers of Court.** As used in the Local Admiralty Rules, "judicial officer" means a Judge of the District Court; "clerk" means the Clerk of the District Court and includes deputy clerks of court; and "marshal" means the United States Marshal and includes deputy marshals.

LAR B. Attachment and Garnishment.

1. **Affidavit That Defendant is Not Found Within The District.** The affidavit required by Supplemental Rule B(1) to accompany the complaint shall list the efforts made by and on behalf of plaintiff to find and serve the defendant within the district. The phrase "not found within the district" in Supplemental Rule B(1) means that, in an in personam action, the defendant cannot be served with the summons and complaint as provided in Federal Rule Civil Procedure 4(d).

LAR C. Actions in Rem; Special Provisions.

1. **Undertakings in Lieu of Arrest.** If, before or after commencement of suit, plaintiff accepts any written undertaking to respond on behalf of the vessel or other property sued in return for his foregoing the arrest or stipulating to the release of such vessel or other property, the undertaking shall become a defendant in place of the vessel or other property sued and be deemed referred to under the name of the vessel or other property in any pleading, order or judgment in the action referred to in the undertaking.

2. **Intangible Property.** The summons issued pursuant to Supplemental Rule C(3) shall direct the person having control of intangible property to show cause no later than ten (10) days after service why the intangible property should not be delivered to the Court to abide the judgment. A judicial officer for good cause shown may lengthen or shorten the time. Service of the summons has the effect of an arrest of the intangible property and brings it within the control of the Court. The person who is served may deliver or pay over to the marshal the intangible property proceeded against to the extent sufficient to satisfy the plaintiff's claim. If such delivery or payment is made, the person served is excused from the duty to show cause. Claimants of the property may show cause as provided in Supplemental Rule C(6) why the property should not be delivered to or retained by the Court.

3. **Notice of Action and Arrest.**

(a) **Publication.** The notice required by Supplemental Rule C(4) shall be published once in the newspaper named in General Rule 1.1(d)(4) and plaintiff's attorney shall file a copy of the notice as it was published with the clerk. The notice shall contain:

- (1) The court, title, and number of the action;
- (2) The date of the arrest;
- (3) The identity of the property arrested;
- (4) The name, address, and telephone number of the attorney for plaintiff;
- (5) A statement that the claim of a person who is entitled to possession or who claims an interest pursuant to Supplemental Rule C(6) must be filed with the clerk and served on the attorney for plaintiff within ten (10) days after publication;
- (6) A statement that an answer to the complaint must be filed and served within twenty (20) days after publication, and that otherwise, default may be entered and condemnation ordered;
- (7) A statement that applications for intervention under Federal Rule 24 by persons claiming maritime liens or other interests shall be filed within the time fixed by the Court; and
- (8) The name, address, and telephone number of the marshal.

(b) **Filing of Proof of Publication.** Plaintiff shall cause to be filed with the clerk no later than thirty (30) days after the date of publication sworn proof of publication by or on behalf of the publisher of the newspaper in which notice was published, together with a copy of the publication or reproduction thereof.

4. **Default in Action In Rem.**

(a) **Notice Required.** A party seeking a default judgment in an action in rem must show that due notice of the action and arrest of the property has been given (1) by publication as required in Local Admiralty Rule C.3., (2) by service upon the master or other person having custody of the property, and (3) by service under Federal Rule 5(b) upon every other person who has not appeared in the action and is known to have an interest in the property.

(b) **Persons With Recorded Interests.** (1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must attempt to notify all persons named in the United States Coast Guard certificate of ownership. (2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, plaintiff must attempt to notify the persons named in the records of the issuing authority. (3) If the defendant property is of such character that there exists a governmental registry of recorded property interests or security interests in the property, the plaintiff must attempt to notify all persons named in the records of each such registry.

(c) **Failure to Give Notice.** Failure to give notice as provided by this Rule shall be grounds for setting aside the default under applicable Rules but shall not affect title to property sold pursuant to order of sale or judgment.

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

- (a) Notice has been given as required by Local Admiralty Rule C.4.(a), and
- (b) Notice has been attempted as required by Local Admiralty Rule C.4.(b), where appropriate, and
- (c) The time for answer has expired, and
- (d) No one has appeared to claim the property.

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

LAR D. Possessory, Petitory and Partition Actions.

1. **Return Date.** In an action under Supplemental Rule D, a judicial officer may order that the claim and answer be filed on a date earlier than twenty (20) days after arrest. The order may also set a date for expedited hearing of the action.

LAR E. Actions in Rem and Quasi in Rem; General Provisions.

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

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

3. **Review by Judicial Officer.**

(a) **Authorization to Issue Process.** Except in actions by the United States for forfeitures, before the clerk will issue a summons and process of arrest, attachment or garnishment to any party, including interveners, under Supplemental Rules B and C, the pleadings, the affidavit required by Local Admiralty Rule B and accompanying supporting papers must be reviewed by a judicial officer. If the judicial officer finds the conditions set forth in Local Admiralty Rules B or C appear to exist, as appropriate, the judicial officer shall authorize the clerk to issue process. Supplemental process or alias process may thereafter be issued by the clerk upon application without further order of the court.

(b) **Exigent Circumstances.** If the plaintiff or his attorney certifies by affidavit submitted to the clerk that exigent circumstances make review impracticable, the clerk shall issue a summons and warrant of arrest or process of attachment and garnishment. In actions by the United States for forfeiture for federal statutory violations, the clerk, upon filing of the complaint, shall forthwith issue a summons and warrant for the arrest of the vessel or other property without requiring a certification of exigent circumstances.

(c) **Personal Appearance.** Unless otherwise required by the judicial officer, the review by the judicial officer will not require the presence of the applicant or its attorney but shall be based upon the pleadings and other papers submitted on behalf of that party.

(d) **Order.** Upon approving the application for arrest, attachment or garnishment, the judicial officer will issue an order to the clerk authorizing the clerk to issue an order for arrest, attachment, or garnishment. The proposed form of order authorizing the arrest, attachment, or garnishment, and the order of arrest, attachment, or garnishment shall be submitted with the other documents for review.

(e) **Request for Review.** Except in cases of exigent circumstances, application for review shall be made by filing a Notice of Request For Review in Accordance with

Supplemental Rule B or C with the clerk and stating therein the process sought and any time requirements within which the request must be reviewed. The clerk shall contact the judicial officer to whom the matter is assigned to arrange for the necessary review. It will be the duty of the applicant to ensure that the application has been reviewed and, upon approval, presented to the clerk for issuance of the appropriate order.

4. **Process Held in Abeyance.** If a party does not wish the process to be issued at the time of filing the action, the party shall request that issuance of process be held in abeyance. It will not be the responsibility of the clerk or the marshal to ensure that process is issued at a later date.

5. **Service by Marshal Required.** Only a marshal shall arrest or attach a vessel, cargo or other tangible property.

6. **Instructions to the Marshal.** The party who requests a warrant of arrest or process of attachment or garnishment shall provide instructions to the marshal.

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

8. **Security for Costs.** In an action under the Supplemental Rules, a party may move upon notice to all parties for an order to compel an adverse party to post security for costs with the clerk pursuant to Supplemental Rule E(2)(b). Unless otherwise ordered, the amount of security shall be \$500.00. The party so ordered shall post the security within five (5) days after the order is entered. A party who fails to post security when due may not participate further in the proceedings. A party may move for an order increasing the amount of security for costs.

9. **Adversary Hearing.** The adversary hearing following arrest or attachment or garnishment that is called for in Supplemental Rule E(4)(f) shall be conducted upon three (3) days written notice to plaintiff, unless otherwise ordered. This Rule shall have no application to suits for seamen's wages when process is issued upon a certification of sufficient cause filed pursuant to 46 U.S.C. § 603 and 604 or to actions by the United States for forfeitures.

10. **Appraisal.** An order for appraisal of property so that security may be given or altered will be entered by the clerk at the request of any interested party. If the parties do not agree in writing upon an appraiser, a judicial officer will appoint the appraiser. The appraiser shall be sworn to the faithful and impartial discharge of the appraiser's duties before any federal or state officer authorized by law to administer oaths. The appraiser shall give one day's notice of the time and place of making the appraisal to counsel of record. The appraiser shall promptly file the appraisal with the

clerk and serve it upon counsel of record. The appraiser's fee will be paid by the moving party, unless otherwise ordered or agreed but it is a taxable cost of the action.

11. Security Deposit for Arrest or Attachment of Vessels. The first party who seeks arrest or attachment of a vessel or property aboard a vessel shall deposit with the marshal the sum estimated by the marshal to be sufficient to cover the expenses of the marshal including, but not limited to dockage, keepers, maintenance, and insurance for at least ten (10) days. The marshal is not required to execute process until the deposit is made. The party shall advance additional sums from time to time as requested to cover the marshal's estimated expenses until the property is released or disposed of as provided in Supplemental Rule E.

12. Intervenors Claims.

(a) Presentation of Claim. When a vessel or other property has been arrested, attached or garnished, and is in the hands of the marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint, and not by filing an original complaint, unless otherwise ordered by a judicial officer. The clerk shall forthwith deliver a conformed copy of the complaint in intervention and the intervenor's warrant of arrest or process of attachment or garnishment to the marshal, who shall deliver the same to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the marshal.

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

13. Custody of Property.

(a) Safekeeping of Property. When a vessel, cargo or other property is brought into the marshal's custody by arrest or attachment, the marshal shall arrange for adequate safekeeping, which may include the placing of keepers on or near the vessel. Upon motion a substitute custodian in place of the marshal may be appointed by order of the Court.

(b) Insurance. The marshal may procure insurance to protect the Marshal, his deputies, keepers, and substitute custodians, from liabilities assumed in arresting and holding the vessel , cargo , or other property , and in performing what ever services may be undertaken to protect the vessel, cargo, or other property, and to maintain the Court's

custody. The party who applies for removal of the vessel, cargo, or other property to another location, for designation of a substitute custodian, or for other relief that will require an additional premium, shall reimburse the marshal therefor. The premiums charged for the liability insurance are taxable as administrative costs while the vessel, cargo, or other property is in custody of the Court.

(c) **Vessel Operations.** Following arrest or attachment of a vessel, no cargo handling, repairs, or movement may be made without an order of court. The applicant for such an order shall give notice to the marshal and to all parties of record. Upon proof of adequate insurance coverage of the applicant to indemnify the marshal for his liability, the Court may direct the marshal to permit cargo handling, repairs, movement of the vessel, or other operations. Before or after the marshal has taken custody of a vessel, cargo or other property, any party of record may move for an order to dispense with keepers or to remove or place the vessel, cargo, or other property at a specified facility, to designate a substitute custodian or for similar relief. Notice of the motion shall be given to the marshal and to all parties of record. The judicial officer will require that adequate insurance on the property will be maintained by the successor to the marshal before issuing the order to change arrangements.

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

14. **Sale of Property.**

(a) **Notice.** Notice of sale of arrested or attached property shall be published in one or more newspapers to be specified in the order for sale. Unless otherwise ordered by a judge upon a showing of urgency or impracticality, or unless otherwise provided by law, such notice shall be published for at least six (6) consecutive days before the date of sale.

(b) **Payment of Bid.** Unless otherwise provided in the order, in all public auction sales by the marshal under orders of sale in admiralty and maritime claims, the marshal shall require of the last and highest bidder at the sale a minimum deposit in cash, certified check or cashier's check, of the full purchase price if it does not exceed \$500.00, and otherwise \$500 or ten (10) percent of the bid, whichever is greater. The balance, if any, of the purchase price shall be paid in cash, certified check or cashier's check before confirmation of the sale or within three (3) days of the dismissal of any opposition which may have been filed, exclusive of Saturdays, Sundays and legal holidays. Notwithstanding the above, a plaintiff or intervening plaintiff foreclosing a properly recorded and endorsed preferred mortgage on,

or other valid security interest in the vessel may bid, without payment of cash, certified check or cashier's check, up to the total amount of the secured indebtedness as established by affidavit filed and served by that party on all other parties no later than ten (10) days prior to the date of sale.

(c) **Report and Confirmation.** At the conclusion of the sale, the marshal shall forthwith file a written report to the court of the fact of sale, the price obtained and the name and address of the buyer. The clerk of the court shall endorse upon such report the time and date of its filing. If within three (3) days, exclusive of Saturdays, Sundays, and legal holidays, no written objection is filed, the sale shall stand confirmed as of course, without the necessity of any affirmative action thereon by the court and the clerk upon request shall so state to the marshal in writing; except that no sale shall stand confirmed until the buyer has complied fully with the terms of his purchase. If no opposition to the sale is filed, the expenses of keeping the property pending confirmation of sale shall be charged against the party bearing expenses before the sale (subject to taxation as costs), except that if confirmation is delayed by the purchaser's failure to pay any balance which is due on the price, the cost of keeping the property subsequent to the three-day period hereinabove specified shall be borne by the purchaser.

(d) **Penalty for Late Payment of Balance.** A successful bidder who fails to pay the balance of the bid within the time allowed under these Rules or a different time specified by the court shall also pay the marshal the costs of keeping the property from the date payment of the balance was due to the date the bidder pays the balance and takes delivery of the property. Unless otherwise ordered by the Court, the marshal shall refuse to release the property until the additional charge is paid.

(e) **Penalty for Default in Payment of Balance.** A successful bidder who fails to pay the balance of the bid within the time allowed is in default and the Court may at any time thereafter order a sale to the second highest bidder or order a new sale as appropriate. Any sum deposited by the bidder in default shall be applied to pay any additional costs incurred by the marshal by reason of the default, including costs incident to resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the Court, and the Court shall be given written notice of its existence whenever the registry deposits are reviewed.

(f) **Opposition to Sale.** A party filing an opposition to the sale, whether seeking the reception of a higher bid or a new public sale by the marshal, shall give prompt notice to all other parties and to the purchaser. Such party shall also, prior to filing an opposition, secure the marshal's endorsement upon it acknowledging deposit with the marshal of the necessary expense of keeping the property for at least five (5) days. Pending the court's determination of the opposition, such party shall also advance any further expense at such times and in such amounts as the marshal shall request, or as the Court orders upon application of the marshal or the opposing party. Such expense may later be subject to

taxation as costs. In the event of failure to make such advance, the opposition shall fail without necessity for affirmative action thereon by the court. If the opposition fails, the expense of keeping the property during its pendency shall be borne by the party filing the opposition.

(g) **Disposition of Deposits.**

(1) **Objection Sustained.** If an objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the marshal in keeping the property until it is resold, and any balance remaining shall be returned to the objector. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale.

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

LAR F. **Limitation of Liability.**

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

2. **Order of Proof at Trial.** Where the vessel interests seeking statutory limitation of liability have raised the statutory defense by way of answer or complaint, the plaintiff in the former or the damage claimant in the latter shall proceed with its proof first, as in normal civil trials.

LAR G. **Miscellaneous.**

1. **Deserting Seamen Cases.**

(a) **Service.** Upon filing a verified petition for return of wages deposited in the registry of the Court by a Coast Guard official to whom the duties of shipping commissioner have been delegated pursuant to the provisions of 46 U.S.C. § 11505, a copy of the petition shall be served forthwith on the United States Attorney and a copy mailed to the Attorney General of the United States, after which a sworn return of such service and mailing shall be filed.

(b) **Time to Plead.** The United States has twenty (20) days after receipt of a copy of the petition by the United States Attorney in which to file its responsive pleading and claim.

2. **Rate of Prejudgment Interest Allowed.** Unless a judge directs otherwise or as provided by statute, prejudgment interest shall be awarded at the rate authorized in 28 U.S.C. § 1961, providing for interest on judgments.

3. **Assignment of Actions.** If the judge to whom a case under the Local Admiralty Rules has been assigned is not readily available, any matter pertaining to arrest, attachment, garnishment, security or release may be presented to any other judicial officer in the district without reassigning the case.

4. **Emergency Telephone Numbers.** When counsel urgently need action or advice and cannot wait for normal business hours, counsel may use these emergency telephone numbers:

Clerk of Court: Mary L. M. Moran, (671) 477- 7095

Chief Deputy Clerk: Rosita P. San Nicolas, (671) 637-5468

United States Marshals Service Pager No.: (671) 472-03762

Law Clerk: Ann Galey-Keith, (671) 789-3479

LOCAL HABEAS CORPUS RULES ("LHCR")

LHCR 1 Applicability.

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

LHCR 2 Form of Petition.

The petition or motion shall be in writing, accompanied by all territorial court opinions and judgments in the case, and signed under penalty of perjury, and, if presented in propria persona, upon the form and in accordance with the instructions approved by the Court. Copies of the forms and instructions shall be supplied by the clerk upon request. A petitioner who is unable to furnish the opinions and judgments in the case shall state why they are unavailable and where they may be obtained. If they are not furnished by petitioner, the respondent shall furnish them to the Court or state why such documents are not supplied.

LHCR 3 Filing in Forma Pauperis.

A petition or a motion to be filed in forma pauperis shall be accompanied by a declaration attached to the forms supplied by the Court. The declaration shall set forth information sufficient to establish that the petitioner or movant will be unable to pay the fees and costs or give security therefor.

LHCR 4 Filing - Copies.

An original and two copies of a petition for a writ of habeas corpus or a motion pursuant to 28 U.S.C. Section 2255 shall be filed.

LHCR 5 Service of Copy.

If the petition or motion is filed in forma pauperis, the clerk shall serve a copy of the petition or motion on the United States Attorney or appropriate territorial officer.

LHCR 6 Further Proceedings.

All proceedings subsequent to filing and service of the petition or motion shall be governed by these Local Habeas Corpus Rules and the Rules governing Section 2254 Cases or Section 2255 Proceedings in the United States District Courts. (Found in 28 U.S.C. following Sections 2254 and 2255.)

LHCR 7 Petitions by Territorial Prisoners.

All petitions by territorial prisoners shall state with specificity that all issues raised in the petition

(a) have been raised before all territorial tribunals in which the issues could be heard, to the exhaustion of the petitioner's territorial remedies, or

(b) have not been raised before all territorial tribunals in which the issues could be heard, along with all facts which justify the failure to exhaust territorial remedies.

LHCR 8 Petitions of Territorial Prisoners Requesting an Evidentiary Hearing.

All petitions by territorial prisoners, if the petitions request an evidentiary hearing, shall state that:

(a) Each issue of fact to be raised at the hearing has not been the subject of a territorial court evidentiary hearing in which a finding was made as to the fact in question, or

(b) For those issues that were raised in a prior territorial court evidentiary hearing, the territorial hearing was not a full and fair consideration of the issue of fact in question, along with all reasons why the territorial hearing was inadequate.

LHCR 9 All Petitions - Previous Rulings Contained.

All petitions shall state whether or not petitioner has previously sought relief arising out of the same matter from this Court or from any other federal court, together with the ruling and reasons given for denial of relief.

LHCR 10 Pretrial Conference and Order.

If a hearing, in which petitioner will be represented by counsel, is granted by the Court, a pretrial conference of Court and counsel shall be held and a Pretrial Order filed. The Pretrial Order should list all grounds for upsetting the conviction or sentence which appear relevant, whether or not raised in the petition or motion, as issues of fact to be tried at the hearing, along with related issues of law.

LHCR 11 Relief Granted - Clerk's Notification.

If relief is granted on a petition of a territorial prisoner or if any stay of execution of a territorial court judgment is issued by the Court, the clerk shall forthwith notify the territorial authority having jurisdiction over the prisoner of the action taken.

LHCR 12 Relief Denied - Stay of Execution Continued.

If relief is denied such territorial prisoner, and a certificate of probable cause is issued, the Court will also grant a stay of execution to continue in effect until such time as the Ninth Circuit Court of Appeals acts in the matter; and the clerk of this Court shall forthwith notify the Clerk of the Ninth Circuit Court of Appeals of the action taken.

LHCR 13 Habeas Corpus - Exclusion and Deportation Cases.

A next friend petition for a writ of habeas corpus in exclusion and deportation cases must allege that the petitioner has been authorized by the applicant for admission or respondent in deportation proceedings to file the petition. If the petition is filed by a relative who is the father, mother, husband, wife, brother, sister, uncle or aunt of the applicant for admission or respondent in deportation proceedings, that fact shall be alleged and authorization to file the petition need not be shown.

LHCR 14 Habeas Corpus - Exclusion or Deportation - Allegations.

Petitioner must state in detail what conduct of the exclusion or deportation authorities has deprived the applicant for admission or respondent in deportation proceedings of a fair hearing, and the reasons why the applicant or respondent is entitled to land or remain notwithstanding the order of exclusion or deportation. The petition must also allege:

(a) That the petitioner or his attorney has learned the facts so stated from the files and records of the Immigration and Naturalization Service or the Department of Justice; or

(b) That access to such records has been refused; or

(c) That the interval between notice to the alien of deportation and the time of the proposed deportation is too short to allow any examination of the records.

If it is alleged that access has been refused, the petition must state when the application for access was made, by whom, and the identity of the official refusing the inspection.

LOCAL TAX RULES ("LTR")

LTR 1 Filing of Petition for Redetermination.

(a) The taxpayer may file a petition with this Court for a redetermination of a deficiency or liability within ninety (90) days after the notice of deficiency or liability is mailed, or one hundred fifty (150) days if the notice is mailed to a person outside the Territory of Guam. (See Government Code of Guam, Section 19700.)

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

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

LTR 2 Content of Petition in Deficiency or Liability Actions.

The petition in a deficiency or liability action shall contain:

(a) The petitioner's name and legal residence, in the case of a petitioner other than a corporation; in the case of a corporate petitioner, its name and principal place of business or principal office or agency; and, in all cases, the petitioner's identification number (e.g., Social Security number or employer identification number). The legal residence, principal place of business, or principal office or agency shall be stated as of the date of filing the petition. In the event of a variance between the name set forth in the notice of deficiency or liability and the correct name, a statement of the reasons for such variance shall be set forth in the petition. (See **Attachment "LTR 2A"** entitled "**Petition in Tax Cases.**")

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

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

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

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

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

(g) The signature, mailing address, and telephone number of each petitioner or his counsel.

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

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

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

LTR 4 Answer.

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

LTR 5 Reply.

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

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

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

LTR 6 Discovery, Discovery Plan and Scheduling Order.

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

LTR 7 Stipulations for Trial.

(a) **Stipulations required.**

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

(2) **Stipulations to be Comprehensive** - The fact that any matter may have been obtained through discovery or requests for admission or through any other authorized

procedure is not grounds for omitting such matter from the stipulation. Such other procedures should be regarded as aids to stipulation, and matter obtained through them which is within the scope of paragraph (1), must set forth comprehensively in the stipulation, in logical order in the context of all other provisions of the stipulation.

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

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

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

(e) **Binding Effect**. A stipulation shall be treated, to the extent of its terms, as a conclusive admission by the parties to the stipulation, unless otherwise permitted by the Court or agreed upon by those parties. The Court will not permit a party to a stipulation to qualify, change, or contradict a stipulation in whole or in part, except that it may do so where justice requires. A stipulation and the admissions therein shall be binding and have effect only in the pending case and not for any other purpose, and cannot be used against any of the parties thereto in any other case or proceedings.

(f) **Noncompliance by a Party**.

(1) **Motion to Compel Stipulation** - If, after the issuance of a scheduling order in a case, a party has refused or failed to confer with his adversary with respect to entering into a stipulation in accordance with this Rule, or he has refused or failed to make such a stipulation of any matter within the terms of this Rule, the party proposing to stipulate may, at a time not later than forty-five (45) days prior to the trial date, file a motion with the Court for an order directing the delinquent party to show cause why the matters covered in the motion should not be deemed admitted for the purposes of the case. The motion shall (i) show with particularity and by separately numbered paragraphs each matter which is claimed

for stipulation; (ii) set forth in express language a specific stipulation which the moving party proposes with respect to each such matter and annex thereto or make available to the Court and the other parties each document or other paper as to which the moving party desires a stipulation; (iii) set forth the sources, reasons, and basis for claiming, with respect to each such matter, that it should be stipulated; (iv) show that opposing counsel or the other parties have had reasonable access to those sources or basis for stipulation and have been informed of the reasons for stipulation; and (v) show proof of service of a copy of the motion on opposing counsel or the other parties.

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

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

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

LTR 8 Pretrial Conferences.

(a) **General.** The Court will undertake to confer with the parties in pretrial conferences with a view of narrowing issues, stipulating facts, simplifying the presentation of evidence, or

otherwise assisting in the preparation for trial or possible disposition of the case in whole or in part without trial.

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

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

LTR 9 Decisions Without Trial.

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

(b) **Summary Judgment.**

(1) **Matters Outside Pleadings** - If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Federal Rule of Civil Procedure 56.

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

LTR 10 Submission Without Trial.

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

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

LTR 11 Default and Dismissal.

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

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

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

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

LTR 12 Computation by Parties for Entry of Decision.

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

(b) **Procedure in Absence of Agreement.** If, however, the parties are not in agreement as to the amount of the deficiency, liability, or overpayment to be entered as the decision in accordance with the findings and conclusions of the Court, either of them may file with the Court a computation of the deficiency, liability, or overpayment believed by him to be in accordance with the Court's findings and conclusions. The clerk will serve upon the opposite party a notice of such filing accompanied by a copy of such computation. If the opposite party fails to file within seven

(7) days, an objection, accompanied or preceded by an alternative computation, the Court may enter decision in accordance with the computation already submitted. If in accordance with this Rule computations are submitted by the parties which differ as to the amount to be entered as the decision of the Court, the parties may, at the Court's discretion, be afforded an opportunity to be heard in argument thereon and the Court will determine the correct deficiency, liability, or overpayment and will enter its decision accordingly.

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

LOCAL BANKRUPTCY RULES ("LBR")

LBR 1001-1. Rules and Forms.

The Rules of Bankruptcy Procedure adopted by the Supreme Court of the United States, as amended by deleting Part VIII (Appeals to District Court or Bankruptcy Appellate Panel), and the General Rules of the District Court of Guam which are not inconsistent with the Rules of Bankruptcy Procedure, are adopted as the Bankruptcy Rules for the District Court of Guam, Bankruptcy Division. In bankruptcy adversary proceedings, the parties are directed to the Local Civil Rules ("LR").

The Official Bankruptcy Forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economies in their use.

LBR 1002-1. Bankruptcy Division.

All petitions in Bankruptcy shall be filed in the District Court of Guam, Bankruptcy Division.

LBR 1007-1. Master Mailing Matrix.

(a) In addition to an original, two legible conformed copies of all bankruptcy petitions and all other bankruptcy documents, except certificates of service, summons, subpoenas, and notices of deposition, are required to be filed with the Court in bankruptcy cases.

(b) The requirements for all creditor's matrices shall be as follows:

(1) **General Requirements.** The debtor shall file concurrently with the petition a Master Mailing Matrix with the names, mailing addresses and zip codes of all creditors listed on Schedules D, E, and F — List of Creditors. The Master Mailing Matrix shall be prepared in accordance with instructions and specifications set forth below.

(2) **Partnerships and Corporations.** If the debtor is a partnership or corporation, the Master Mailing Matrix shall also include the name and addresses of all general partners or senior corporate officers. Either as part of the Master Mailing Matrix or as a separate "Equity Security Holders Mailing Matrix," there shall also be provided the names and addresses of all limited partners, shareholders, or other equity holders. The Equity Security Holders Mailing Matrix must comply with the format requirements of subsection (c) below.

(3) **Debtor's Obligation to Assure Accuracy.** It shall be the responsibility of the debtor or such other person as the Court may order to ensure that the schedules, Master Mailing Matrix, and Equity Security Holders Mailing Matrix are complete and correct. The Master Mailing Matrix and Equity Security Holders Mailing Matrix shall be accompanied by the debtor or debtor's counsel attesting to the completeness and correctness of the Matrix (Verification of Master Mailing Matrix/Verification of Equity Security Holders Mailing Matrix). The Clerk's Office shall not be required to compare the names and addresses shown on the Master Mailing Matrix or Equity Security Holders Mailing Matrix with those on the petition.

(c) The mailing matrices for new bankruptcy petitions must be submitted in the following format:

(1) Typed in black ink only on copies of the attached blank matrix form or on blank, unlined, standard white 8½" x 11" bond paper placed over the attached blank matrix form. (See Attachment "LBR 1007-1A".)

(2) No name/address block can contain more than 4 lines and each name/address block must fit completely in the boxes designated on the attached matrix form. (See Attachment "LBR 1007-1B" sample.)

LBR 8001-1. Appeals to Ninth Circuit Court of Appeals.

The Ninth Circuit Court of Appeals has jurisdiction of appeals from all final decisions of the District Court of Guam, Bankruptcy Division pursuant to Title 28, U.S.C. § 1291.

Appeals from the District Court of Guam, Bankruptcy Division shall be taken by filing a notice of appeal with the Bankruptcy Clerk of the District Court of Guam within the time allowed by Rule 4(a) of the Federal Rules of Appellate Procedure.

Appeals from the District Court of Guam, Bankruptcy Division to the Ninth Circuit Court of Appeals shall be governed by the Federal Rules of Appellate Procedure and the Rules of the United States Court of Appeals for the Ninth Circuit.

ATTACHMENT "GR 17.1A"

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

ATTORNEY REGISTRATION STATEMENT

I, _____, am a member of the bar of this Court.

I have been admitted to practice before the following State, Territorial and Federal courts,
in the years shown below:

Executed on _____, 19__.

(Signature)

(Full name - typed or printed)

(Address of Record)

ATTACHMENT "GR 22.4A"

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

In re _____)
)
)
)
)
 _____)

Disciplinary No. _____

DECLARATION OF
ADMISSION TO PRACTICE

I, _____, am the attorney who has been served with an order to show cause why disciplinary action should not be taken in the above-captioned matter.

I am a member of the bar of this Court.

I have been admitted to practice before the following State, Territorial and Federal courts, in the years, and under the license record numbers shown below:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____, 19 ____.

(Signature)

(Full Name - typed or printed)

(Address of Record)

This declaration must be signed and delivered to the court with the attorney's answer to the order to show cause or any waiver of an answer. Failure to return this declaration may subject an attorney to further disciplinary action. Under 28 U.S.C. §1746, this declaration under penalty of perjury has the same force and effect as a sworn declaration made under oath.

ATTACHMENT "LR 7.1A"

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

(TITLE OF CASE)

Civil Case No. _____

AGREEMENT OF HEARING DATE

Pursuant to Local Rule 7.1, the parties hereby acknowledge the following:

1. I, _____, am the attorney for the _____ in this matter. I contacted the attorney(s) for the opposing party(ies) in this action, or if the opposing party(ies) is/are pro se, I contacted the pro se party(ies), to agree upon a date for oral argument of my Motion _____.

2. The attorney(s) for the opposing party(ies) [or the pro se parties] is/are:

3. We agreed upon the following date: _____.

4. I called the Deputy Clerk of Court to ensure that the Court is available on the above date.

OR

I request oral argument and the party(ies) opposing the motion will not agree to an oral argument date.

DATED: _____

Attorney For Party Requesting
Oral Argument

ATTACHMENT "LR 16.1A"

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

(TITLE OF CASE)

Civil Case No. _____

SCHEDULING ORDER

Pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure, and Local Rule 16.1 for the District Court of Guam, the parties hereby submit the following Scheduling Order:

1. The nature of the case is as follows:
2. The posture of the case is as follows:
 - a) The following motions are on file:
 - b) The following motions have been resolved:
 - c) The following discovery has been initiated:
3. All motions to add parties and claims shall be filed on or before:
4. All motions to amend pleadings shall be filed on or before:
5. Status of Discovery:

The Discovery Plan attached hereto is adopted and incorporated as part of this Scheduling Order; **OR**

- a) The times for disclosures under Rules 26(a) and 26(e) of the

ATTACHMENT "LR 16.1A"

Federal Rules of Civil Procedure are modified as follows:

b) The following is a description and schedule of all pretrial discovery each party intends to initiate prior to the close of discovery:

Plaintiff:

Defendant:

6. The parties shall appear before the District Court on _____ at __: __
_.m. for the Scheduling Conference.

7. The discovery cut-off date (defined as the last day to file responses to discovery) is:

8. a) The anticipated discovery motions are:

All discovery motions shall be filed on or before _____ and heard on or before _____.

b) The anticipated dispositive motions are:

All dispositive motions shall be filed on or before _____ and heard on or before _____.

9. The prospects for settlement are:

10. The Preliminary Pretrial Conference shall be held on the ____ day of _____, at __: __.m. (no later than twenty-one (21) days prior to trial date).

11. The parties' pretrial materials, discovery material, witness lists, designations

ATTACHMENT "LR 16.1A"

and exhibit lists shall be filed on or before _____ (no later than fourteen (14) days prior to trial).

12. The Proposed Pretrial Order shall be filed on or before the ____ day of _____, 19__ (no later than fourteen (14) days prior to trial).

13. The Final Pretrial Conference shall be held on the ____ day of _____, at __: __ .m. (seven (7) days prior to trial).

14. The trial shall be held on the ____ day of _____, 199__, at __: __ .m. (in no event shall the trial be later than 18 months after the complaint is filed, unless the Court otherwise allows).

15. The trial is / is not a jury trial.

16. It is anticipated that it will take ____ days to try this case.

17. The names of counsel on this case are:

18. The parties do/do not wish to submit this case to a settlement conference.

19. The parties present the following suggestions for shortening trial:

20. The following issues will also affect the status or management of the case:

DATED this ____ day of _____, _____.

JOHN S. UNPINGCO
Chief District Judge

APPROVED AS TO FORM AND CONTENT:

Attorney for Plaintiff

Attorney for Defendant

_____.Attorney for (indicate)

ATTACHMENT "LR 16.1B"

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

(TITLE OF CASE)

Civil Case No. _____

SCHEDULING NOTICE

The Local Rules establish procedures for complying with Rules 16(b) and 26(f) of the Federal Rules of Civil Procedure. Counsel should study the Local Rules before attempting to process cases in this Court.

Pursuant to Local Rules 16.1 and 16.2, it is hereby ORDERED that:

1. Counsel of record and all pro se litigants that have appeared in the case must meet and confer, within fifteen (15) days after receipt of this Notice, but no later than sixty (60) days after the filing of the complaint, prior to commencing discovery.
2. A proposed Scheduling Order and a proposed Discovery Plan shall be filed on or before the ____ day of _____, 19___. Careful and immediate attention should be given to the directions in Local Rules 16.1 and 16.2 to ensure complete and timely compliance with Federal Rules 16(b) and 26(f), and the Local Rules.
3. Plaintiffs' counsel, or if the plaintiff is pro se, then the pro se plaintiff, must take the lead in the preparation of the Scheduling Order. If a defendant is not contacted by a pro se plaintiff within the required time frame, the defendant's counsel shall contact the pro se plaintiff

ATTACHMENT "LR 16.1B"

and arrange a meeting to comply with this Rule in the appropriate time frame. The failure of a party or its counsel to participate in good faith in the framing of a Scheduling Order may result in the imposition of sanctions.

4. Counsel of record and all pro se litigants that have appeared in the case are jointly responsible for submitting a Proposed Discovery Plan to the Court.

5. A Scheduling Conference shall be held on the ____ day of _____, 19____, at __:__.m.

6. Counsel are reminded that:

- a) The filing of motions does not postpone discovery.
- b) Local Rule 37.1 governs discovery disputes and motions.
- c) The number and form of interrogatories are governed by Local Rule

33.1.

(d) Discovery documents and certificates of service shall not be filed with the clerk until there is a proceeding in which the document or proof of service is in issue.

MARY L.M. MORAN
Clerk of Court

By: _____
Deputy Clerk

ATTACHMENT "LTR 2A"

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

Petitioner(s) vs. DIRECTOR OF DEPARTMENT OF REVENUE AND TAXATION Respondent.		DOCKET NO. _____ PETITION IN TAX CASE
--	--	---

The petitioner hereby petitions for a redetermination of the deficiency (or liability) set forth by the Director of Department of Revenue & Taxation in his notice of deficiency (or liability) [Service symbols] dated _____, 19__, and as the basis for his case alleges as follows:

1. The petitioner is [set forth whether an individual, or a corporation, etc., as provided in Local Tax Rule 2] with legal residence (or principal office) now at

Street	City	State or Terr.	Zip Code
--------	------	----------------	----------

Petitioner's taxpayer identification number (e.g., Social Security or employer identification number) is _____.

ATTACHMENT "LTR 2A"

The return for the period here involved was filed with the Department of Revenue & Taxation, Government of Guam at _____, _____.
City Territory

2. The notice of deficiency (or liability) (a copy of which, including so much of the statement and schedules accompanying the notice as is material, is attached and marked Exhibit A) was mailed to the petitioner on _____, 19__, and was issued by the Department of Revenue & Taxation, _____, Guam.

3. The deficiencies (or liabilities) as determined by the Director are in income (estate, gift, or certain excise) taxes for the calendar (or fiscal) year 19__, in the amount of \$ _____, of which \$ _____, is in dispute.

4. The determination of tax set forth in the said notice of deficiency (or liability) is based upon the following errors: [Here set forth specifically in lettered subparagraphs the assignments of error in a concise manner and avoid pleading facts which properly belong in the succeeding paragraph.]

5. The facts upon which the petitioner relies, as the basis of his case, are as follows: [Here set forth allegations of fact, but not the evidence, sufficient to inform the Court and the Director of the positions taken and the bases therefor, in orderly and logical sequence, with subparagraphs lettered, so as to enable the Director to admit or deny each allegation. See Local Tax Rule 2(e).

ATTACHMENT "LTR 2A"

WHEREFORE, petitioner prays that [here set forth the relief desired].

Dated: _____

(signed)
Petitioner or Counsel

Address

Telephone (include area code)