CIVIL LOCAL RULES OF PRACTICE
effective July 22, 2019

CVLR 1 Title; Scope

(a) Scope. These are the Civil Local Rules of Practice before the District Court of Guam. They should be cited as "CVLR ____".

(b) Effective Date; Transitional Provision. These rules govern all actions and proceedings pending on or commenced after the effective date of these rules, except for motions filed prior to the effective date which shall be governed by the prior motion practice of this Court. Where justice requires, the Chief Judge may order that an action or proceeding pending before the Court prior to that date be governed by the prior practice of this Court.

(c) Scope of the Rules. These rules supplement the Federal Rules of Civil Procedure and shall be construed so as to be consistent with those rules and to promote the just, efficient, and economical determination of every action and proceeding. The provisions of these Civil Local Rules shall apply to all civil actions, including admiralty, tax, bankruptcy adversary proceedings, and actions and proceedings before the Magistrate Judge, except where they may be inconsistent with rules or provisions of law specifically applicable thereto.

CVLR 5 Non-filing of Discovery Disclosures and Materials

In addition to the documents listed in Fed. R. Civ. P. 5(d)(1), the following discovery documents and responses or objections thereto shall not be filed with the Court until they are used in the proceeding or the Court orders filing: (i) initial disclosures, (ii) disclosure of expert reports or testimony, (iii) notices of taking depositions, (iv) subpoenas, (v) privilege logs, and (vi) certificates of service related to discovery documents.

CVLR 7 Motion Practice

(a) Motions. All motions, unless made during a hearing or trial, shall be in writing, served on all parties who have appeared and shall be filed with the Court sufficiently in advance of trial to comply with the time periods set forth in this rule or other order of the Court and to avoid any delays in the trial. The caption of each motion must contain a brief description of the motion, including citation to the section of the United States Code, other statute or rule under which the motion is brought. The movant shall also prepare a proposed order setting forth the specific relief requested or the terms of the parties' stipulation. Proposed orders shall be emailed to chambers@gud.uscourts.gov in a word processing format (*e.g.* Microsoft Office Word® or Corel WordPerfect®) and served on each party that has appeared in the action.

(b) Contents of Papers Filed. Each motion or response thereto shall be accompanied by a memorandum of points and authorities and, where appropriate, a separate statement of material

facts. If a motion, response or reply requires consideration of facts not appearing of record, the movant or opponent shall also serve and file copies of all affidavits, declarations, photographic or other evidence presented in support of or in opposition to the motion. Excerpted exhibits shall be labeled as such. If a party desires to call the Court's attention to anything contained in a previous pleading, exhibit, motion, order or minute entry, the party may do so by incorporation by reference.

(c) Length of Brief in Support of or in Response to Motion. Unless otherwise ordered by the Court, briefs or memoranda in support of or in response to all motions shall not exceed twenty-five (25) pages and reply memoranda shall not exceed fifteen (15) pages. The filing of multiple dispositive motions to avoid the page limits of this rule is strongly discouraged and successive motions may be stricken. Briefs and memoranda in excess of twelve (12) pages in length shall include a table of contents and a table of authorities cited. The case caption, table of contents, table of authorities, exhibits, declarations, certificates of counsel and certificates of service do not count toward the page limitation.

(d) Motions to Exceed Page Limitation. Motions seeking approval to exceed the page limitations set forth in the preceding paragraph are disfavored but may be filed ex parte subject to the following:

(1) the motion shall be filed as soon as possible but no later than on the day the underlying motion or brief is due;

(2) the motion shall be no more than two pages in length and shall request a specific number of additional pages;

(3) oppositions to the motion shall not be filed unless requested by the Court; and

(4) if the Court grants leave to file a motion that exceeds the 25-page limit, the brief in opposition shall automatically be allowed an equal number of additional pages, and the reply brief shall automatically be allowed half the number of additional pages.

(e) Noncompliance. The Court need not consider motions, oppositions to motions or briefs or memoranda that do not comply with this Rule.

(f) Time Limits. Unless otherwise ordered by the Court or provided by statute or rule, an opposition must be served and filed within twenty-one (21) days of the filing of the motion, and a reply, if any, must be served and filed within fourteen (14) days of the filing of the opposition. In the event multiple oppositions are filed to a single motion, any reply shall be filed no later than fourteen (14) days after the last opposition is filed.

(g) Extensions of Time. No party may amend the deadlines for the filing of oppositions or replies if the Court has issued an order setting such deadlines. In the absence of such an order, a

party may seek an extension from all other parties of the deadline otherwise prescribed in this Rule. When a party requests an extension of time from the other party, the parties shall first make a good faith effort to negotiate a reasonable extension, which shall not exceed fourteen (14) days for oppositions and seven (7) days for replies. Only one such extension for the motion in question is permitted. The party seeking the extension must file notice of any such negotiated extension before the filing date prescribed in this Rule and no further order of the Court is necessary.

If the parties cannot agree, the party seeking an extension may apply to the Court. If the Court grants the application, the parties may not thereafter alter the deadlines set by the Court without leave of the Court.

(h) Supplemental Briefing. No further or supplemental brief shall be filed without leave of Court.

(i) Oral Argument. Unless otherwise ordered by the Court or where required by statute or the federal rules, all motions shall be decided by the Court without oral argument. A party desiring oral argument shall file a request for oral argument no later than seven (7) days following the last day a reply brief would be due. If a request for oral argument is granted, the Court will set the date and time for argument and notify the parties. In the absence of an order setting an evidentiary hearing, hearings are solely for the purpose of hearing argument.

The Court, in the exercise of its discretion, may order oral argument without request or may determine that argument is unnecessary and deny the request.

(j) Motions to Shorten Time. A party may move for hearing or consideration of a matter on a time schedule shorter than provided by this Rule. The motion to shorten time must be accompanied by:

(1) An affidavit explaining:

(A) why shortened time is needed,

(B) efforts made to work out the problem with counsel for other parties,

(C) positions counsel for the other parties take on the expedited schedule, and

(D) what dates are of significance; and

(2) (A) proof of service by a means reasonably likely to allow counsel for other parties an opportunity to see the papers at least as soon as the Court sees them, or

(B) an affidavit explaining why service of the motion upon the opposing party

under the circumstances should not be required.

(k) Motions Requiring Evidentiary Hearing. In those matters where testimony must be heard or other evidence presented at a hearing:

(1) The motion and each response or opposition thereto shall contain a statement whether an evidentiary hearing is requested and an estimate of the time required for the presentation of evidence and argument. The reply brief shall contain a re-estimate of the time or a statement that the original estimate remains unchanged.

(2) If any party obtains leave to present evidence, all other parties may present evidence at the same hearing.

(3) Unless otherwise ordered by the Court, not less than seven (7) days before the evidentiary hearing, each party who intends to present testimony must, except where counsel files a written certification that a requirement of prior disclosure would risk serious injustice, file with the Court and serve on all other parties:

(A) a list of witnesses, together with a summary of the witnesses' anticipated testimonies; and

(B) an estimate of time for each witness's testimony.

(4) A party intending to utilize documentary or other evidence not already made a part of the record shall also file an exhibit list not less than seven (7) days before the evidentiary hearing. Copies of the exhibits shall thereafter be provided to the Court and all parties no later than three (3) business days before the scheduled evidentiary hearing.

(l) Participation Other than in Person. For good cause and in the absence of substantial prejudice to any party, the Court may allow one or more parties, counsel, witnesses or the Court to participate in any hearing by telephone conference call, video conference call or by other reliable electronic means. The party proposing such a method for participation shall arrange, initiate and pay for any costs associated with said participation. If a party is permitted to participate at the hearing telephonically or by video conference, any party intending to present or refer to documentary evidence must serve copies of those documents prior to the hearing on the party appearing telephonically or by video conference.

(m) Telephonic Participation by Witness. Authorization for a witness to telephonically participate does not bar:

(1) Witnesses' testimony from being presented by audio-visual deposition taken under Rule 30(b), Federal Rules of Civil Procedure; nor

(2) A party or attorney from being present at the site at which a witness is physically present.

(n) Settlement. If any action is settled but the parties do not complete the settlement documents while a motion is pending or before a response or reply to a motion is due, the parties shall notify the assigned judge's courtroom deputy as soon as possible and shall thereafter file a statement that the action has been settled in lieu of proceeding with the complete briefing of the motion.

(o) Withdrawal of Motion. Any movant who does not intend to proceed with a motion or other request for a ruling by the Court shall notify opposing counsel and the assigned judge's courtroom deputy as soon as possible. If such notification is made orally, the movant shall file a written notice of withdrawal of motion as soon thereafter as is practicable.

(p) Motions for Reconsideration.

(1) Standard. Motions for reconsideration are generally disfavored. A motion for reconsideration of the decision on any motion may be made only on the grounds of:

(A) a material difference in fact or law from that represented 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

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

(C) 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 except to the extent necessary to demonstrate manifest error. Failure to comply with this subsection may be grounds for denial of the motion. The pendency of a motion for reconsideration shall not stay discovery or any other procedure.

(2) Procedure and Timing. A motion for reconsideration shall be plainly labeled as such. A motion or application for reconsideration under this subsection shall be filed no later than fourteen (14) days after the filing of the ruling or order sought to be reconsidered.

CVLR 11 Sanctions and Penalties for Noncompliance with the Rules

Failure of counsel or of a party to comply with any provisions of these local rules is a ground for imposition of sanctions consistent with the Federal Rules of Civil Procedure and the General Local Rules.

CVLR 12 Notice to *Pro Se* Litigant re Rule 12 Motions

A represented party moving to dismiss or for judgment on the pleadings against a party proceeding pro se, who refers, in support of the motion, to matters outside the pleadings as described in Fed. R. Civ. P. 12(b) or 12(c), shall serve and file a separate notice using the Court's preapproved form (Civil Attachment 1) with the full text of Fed. R. Civ. P. 56 and CVLR 56 attached at the time the motion is served. If the Court rules that a motion to dismiss or for judgment on the pleadings will be treated as one for summary judgment pursuant to Fed. R. Civ. P. 56, and the movant has not previously served and filed the notice required by this rule, the movant shall amend the form notice to reflect that fact and shall serve and file the amended notice within fourteen days of the Court's ruling.

Where the *pro se* party is not the plaintiff, the movant shall amend the form notice as necessary to reflect that fact.

CVLR 15 Amended Pleadings

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

CVLR 16-1 Pre-Trial Management and Scheduling Conference

(a) Exempt Actions. In addition to the exempt actions set forth in Fed. R. Civ. P. 26(a)(1)(B), 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;

(3) Eminent domain proceedings; and

(4) Actions to enforce out-of-state judgments.

(b) Scheduling.

(1) Scheduling Notice. The Clerk of Court will schedule a Scheduling Conference to be held approximately ninety (90) days after the complaint is filed. The Clerk shall issue, no later than forty (40) days after the complaint has been filed, a Scheduling Notice setting forth:

(A) the date on which the Scheduling and Planning Conference Report 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 Scheduling Notice.

(2) Scheduling and Planning Order. The Court shall issue a Scheduling and Planning Order pursuant to Fed. R. Civ. P. Rule 16(b)(1) after receiving and discussing the Scheduling and Planning Conference Report described in CVLR 26(f), with the parties' attorneys and any unrepresented parties at the Scheduling Conference. Said Scheduling and Planning Order shall control the course of the action unless modified by the Court, a sample of which is attached hereto as Civil Attachment 2.

(3) Extension of Deadlines Fixed in Scheduling and Planning Order. A deadline established by a Scheduling and Planning 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 and Planning Order must demonstrate a specific need for the requested extension and should be accompanied by a detailed proposed amendment to the previously entered Scheduling and Planning 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.

(c) Preliminary and Final Pretrial Conferences. Preliminary pretrial conferences shall be held on the dates and at the times set by a Scheduling and Planning Order. Generally, the Court will schedule three (3) preliminary pretrial conferences before the Magistrate Judge and a final pretrial conference before the assigned trial judge.

The agenda for the preliminary pretrial conferences shall consist of the matters covered by Fed. R. Civ. P. 16(c)(2).

The parties shall have a final pretrial conference with the assigned judge 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.

(d) Pretrial Disclosures. Parties to an action shall make pretrial disclosures and objections thereto pursuant to Fed. R. Civ. P. 26(a)(3). Responses to any objections to pretrial disclosures shall be filed and served within seven (7) days of the filing of the objection, unless leave of Court is obtained shortening the time for filing.

(e) Trial Brief. 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. No trial brief shall exceed twenty-five (25) pages in length without leave of Court. The brief shall include the following:

(1) Factual Contentions. The brief 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.

(2) Legal Assertions.

(A) Issue of Law - The brief shall include the issues of law necessary to the determination of the case with authorities cited in support thereof.

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

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

(4) Abandonment of Issues. The brief shall state any issues in the pleadings which have been abandoned.

(f) Witness Lists, Discovery Material Designations, Exhibit Lists and Exhibit Binders.

(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, telephone number, and current employment information of each witness. 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; and

(C) statements designating excerpts from responses to requests for admission to be offered at trial other than for impeachment or rebuttal.

Deposition designations which were not exchanged thirty (30) days prior to trial pursuant to Fed. R. Civ. P. 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 under separate cover 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 Fed. R. Civ. P. 26(a)(3) may not be contained on the exhibit list absent leave of Court, which shall be sought by motion. The parties shall meet and confer sufficiently in advance of trial and formulate a list of joint exhibits, if possible. Those exhibits upon which agreement cannot be reached shall be submitted separately. The Plaintiff's exhibits shall be marked numerically and the Defendant's exhibits shall be marked alphabetically. The exhibit list shall be in substantially the same form as Civil Attachment 3.

(4) Exhibit Binders. Each party shall prepare and lodge with the Court three (3), three-ring binders each containing a copy of each exhibit marked for identification. Exhibit identification tags are available from the Clerk's Office.

(g) Pretrial Order. Fourteen (14) days prior to trial, plaintiff shall serve and lodge 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 last preliminary pretrial conference. The form shall be in substantially the same form as Civil Attachment 4.

(h) Proposed Jury Instructions, Voir Dire Questions, Forms of Verdicts, Objections. In jury cases, unless the Court otherwise orders, the parties shall, not less than fourteen (14) days prior to the date on which the trial is scheduled to commence, serve and file 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 separately filed. 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.

(i) Waiver of Pretrial Requirements. If the parties believe that the action should not be subject to the pretrial requirements of subsections (e) through (h) of this rule, the parties may include in the Scheduling and Planning Conference Report required by CVLR 26(f) a statement requesting a waiver and the basis(es) for such request. If the request is made, the Scheduling and Planning Conference Report shall contain a comprehensive discovery schedule that will permit the trial to be set within six (6) months of the date of the Scheduling Conference.

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

(2) 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:

(A) a succinct statement of the factual and legal issues;

(B) 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;

(C) a witness list; (see Fed. R. Civ. P. 26(a)(3) and CVLR 16-1(f)(1);

(D) an exhibit list; (see Fed. R. Civ. P. 26(a)(3) and CVLR 16-1(f)(3);

(E) depositions to be used at trial marked as required by Fed. R. Civ. P. 26(a)(3); and

(F) 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.

CVLR 16-2 Alternative Dispute Resolution

(a) Purpose and Scope.

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

(2) Scope.

(A) Cases Pending Before a District Judge or Magistrate Judge. This local rule applies to all civil cases pending before any district judge or magistrate judge in this district.

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

(b) ADR Procedures and Rules.

(1) Judicial Settlement Conference.

(A) Definition. A Judicial Settlement Conference is a process in which a Settlement Conference Judge is made available in order to facilitate communication between the parties and assist them in their negotiations, *e.g.*, by clarifying underlying interests, as they attempt to reach an agreed settlement of their dispute. A Judicial Settlement Conference generally will be conducted by a Magistrate Judge, but in some limited circumstances may be conducted by a Senior District Judge or a visiting federal judge. Whether a settlement results from a Judicial Settlement Conference and the nature and extent of the settlement are within the sole control of the parties.

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

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

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

(2) Mediation.

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

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

(C) Selection of a Mediator. The parties may either select from the list of approved Mediators found on the Court's website or select someone not on the Court's list through mutual agreement. The parties may contact the Court's ADR Coordinator for facilitation of the selection of a mediator from the Court's list.

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

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

(F) Report of Mediator. Within five days of the conclusion of a Mediation, the Mediator shall file a report with the Court's ADR Coordinator indicating

when mediation occurred and merely whether settlement was or was not achieved.

(3) Arbitration.

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

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

(i) the action is based upon an alleged violation of a right secured by the Constitution of the United States;

(ii) jurisdiction is based in whole or in part on 28 U.S.C. § 1343;

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

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

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

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

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

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

(c) Selection of ADR Procedure.

(1) Mandated Early ADR Selection Process.

(A) The Parties' Duty to Consider ADR, Confer and Report. Prior to the Rule 16-1 scheduling conference, unless otherwise ordered, in every case to which this rule applies, the parties must meet and confer about (i) whether they might benefit from participating in some ADR process; (ii) which type of ADR process is best suited to the specific circumstances in their case; and (iii) when the most appropriate time would be for the ADR session to be held. In their Scheduling and Planning Conference Report, the parties must report their shared or separate views about the utility of ADR, which ADR procedure would be most appropriate, and when the ADR session should occur.

(B) Designation of Process. After considering the parties' submissions, the Court may order the parties, on appropriate terms and in conformity with this rule, to participate in ADR. The Court may refer the case to Judicial Settlement Conference, Mediation or, with written consent of all parties, to an ADR procedure which, by stipulation of all parties, has been tailored to meet the specific needs of the parties and the case.

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

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

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

(d) Process Administration.

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

District Court of Guam
ADR Coordinator
4th Floor, U.S. Courthouse
520 W. *S*oledad Avenue

Hagatna, GU 96910
(671) 969-4500 (telephone)
(671) 969-4488 (facsimile)

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

CVLR 23 Class Actions

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

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

CVLR 26. Duty to Disclose; General Provisions Regarding Discovery

(a)-(e) Intentionally left blank

(f) Conference of the Parties; Scheduling and Planning Conference Report.

(1) Conference of the Parties. It is the responsibility of the plaintiff to initiate the process for scheduling the conference required under Fed. R. Civ. P. 26(f)(1). All parties are directed to confer in accordance with Fed. R. Civ. P. 26(f) and file with the Court a Scheduling and Planning Conference Report within seventy-five (75) days of the date of the filing of the complaint. The Scheduling and Planning Conference Report shall be in substantially the same form as Civil Attachment 5. Unless otherwise ordered by the Court in a particular case, the conference must be held no later than twenty-one (21) days before any scheduling conference set by the Court under Fed. R. Civ. P. 16(b) and CVLR 16-1(b)(1). The parties' disagreement(s) over matters addressed in the Scheduling and Planning Conference Report shall be set forth in the Report. The filing of separate reports is discouraged.

(2) Filing of Motions Does Not Excuse Counsel from the Requirements of Fed.R.Civ.P.26(f). 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 Fed. R. Civ. P. 26(f) and any Scheduling and Planning Order entered in the case.

(3) Non-Appearance of Defendants - Status Report. If on the due date of the Scheduling and Planning Conference Report, 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, the plaintiff shall file an independent status report containing the current status of the non-appearing parties. In addition, if service has not been effected, the status report must set forth the reasons why service has not been effected and what attempts at service have been made.

CVLR 33 Interrogatories to Parties

The party answering or objecting to interrogatories shall quote each interrogatory in full immediately preceding the statement of any answer or objection thereto. Upon request the propounding party shall make reasonable efforts to provide the party answering or objecting to interrogatories with the text of each interrogatory in electronic format.

CVLR 36 Requests for Admissions

The party answering or objecting to requests for admission shall quote each request in full immediately preceding the statement of any answer or objection thereto. Upon request the propounding party shall make reasonable efforts to provide the party answering or objecting to requests for admission with the text of each request in electronic format.

CVLR 37 Abuse of or Failure to Make Discovery: Sanctions

(a) Conference Required. The Court will not entertain any motion pursuant to Fed. R. Civ. P. 26 through 37, including any request for expedited discovery assistance pursuant to CVLR37(c), unless counsel have previously conferred or attempted to confer, either in person or by telephone, concerning all disputed issues, in a good faith effort to limit the disputed issues and, if possible, eliminate the necessity for a motion or expedited discovery assistance.

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

(c) Expedited Discovery Assistance.

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

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

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

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

CVLR 51 Jury Instructions

Pursuant to CVLR16-1(h), proposed jury instructions are required to be filed and served at least fourteen (14) days before trial.

CVLR 54 Judgment; Costs

(a) Assessment of Jury Costs. Where a civil case set for jury trial is settled or otherwise disposed of, notice of such agreement or disposition shall be filed in the Clerk's Office at least 24 hours before the date on which the case is set; otherwise juror costs, including service fees, mileage, and per diem, shall be assessed equally against the parties and their counsel or otherwise assessed as directed by the Court, except for good cause shown. Where a continuance of a case is applied for on the day set for trial and granted by the Court, the payment of juror costs by the party applying for the continuance may be one of the conditions of the continuance, unless the continuance was not due to any fault of the moving party.

(b) Taxation of Costs.

(1) Entitlement. Costs shall be taxed as provided in Rule 54(d)(1) of the Federal Rules of Civil Procedure. Unless otherwise ordered, the Court will not determine the party entitled to costs in an action terminated by settlement; the parties must reach agreement regarding entitlement to taxation of costs or bear their own costs.

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

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

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

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

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

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

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

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

(D) The cost of copies necessarily obtained for use in the case is taxable provided the party seeking recovery submits an affidavit describing the

documents copied, the number of pages copied, the cost per page, and the use of or intended purpose for the items copied. As of the effective date of these rules, the practice of this court is to allow taxation of copies at $.15 per page or the actual cost charged by commercial copiers, provided such charges are reasonable. The cost of copies obtained for the use and/or convenience of the party seeking recovery and its counsel is not taxable.

(E) Electronic or computer research costs are not taxable.

(F) Fees paid to the clerk of the territorial court prior to removal are taxable in this court, unless the removed case is remanded back to the territorial court.

(c) Motion for Attorney's Fees and Related Non-taxable Expenses

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

(2) Memorandum in Support. The memorandum in support shall set forth the nature of the case; the claims as to which the moving party prevailed; the claims as to which the moving party did not prevail; the applicable authority entitling the moving party to the requested award; a description of the work performed by each attorney and paralegal, broken down by hours or fractions thereof expended on each task; the attorney's customary fee for like work; any additional factors required by case law; a listing, in sufficient detail to enable the Court to rule on the reasonableness of the request, of any expenditures for which reimbursement is sought; any additional factors that are required by case law; and any additional factors the moving party wishes to bring to the Court's attention.

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

and other papers must include an identification of the pleading or other document prepared and the activities associated with such preparation.

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

(3) Affidavit of Counsel. The affidavit of counsel shall include:

(A) a brief description of the relevant qualifications, experience and case-related contributions of each attorney and paralegal for whom fees are claimed, as well as any other factors relevant to establishing the reasonableness of the requested rates;

(B) a statement that the affiant has reviewed and approved the time and charges set forth in the itemization of work performed and that the time spent and expenses incurred were reasonable and necessary under the circumstances; and

(C) a statement identifying all adjustments, if any, made in the course of exercising "billing judgment."

(4) Responsive and Reply Memoranda. Unless otherwise ordered by the Court, any opposing party may file a responsive memorandum within fourteen (14) days after service of the statement of consultation. The responsive memorandum in opposition to a motion for attorney's fees and related non-taxable expenses shall identify with specificity all disputed issues of law and fact, each disputed time entry, and each disputed expense item. The moving party, unless otherwise ordered by the Court, may file a reply memorandum within seven (7) days after service of the responsive memorandum. Thereafter, unless otherwise ordered by the Court, the motion and supporting and opposing memoranda will be taken under advisement and a ruling will be issued without a hearing.

CVLR 56 Motion for Summary Judgment

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

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

(1) Accepts the facts set forth in the moving party's concise statement; or

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

(c) Focus of the Concise Statement. When preparing the separate concise statement, a party shall reference only the material facts which are absolutely necessary for the Court to determine the limited issues presented in the motion for summary judgment (and no others) and each reference shall contain a citation to a particular affidavit, deposition, or other document which supports the party's interpretation of the material fact. Affidavits or declarations setting forth facts and/or authenticating exhibits, as well as exhibits themselves, shall only be attached to the concise statement.

The Court discourages the filing of non-relevant portions of any exhibits referenced in the concise statement. Instead, the filing party shall extract and highlight only the relevant portions of each referenced exhibit. Photocopies of extracted pages, with appropriate identification and highlighting will be adequate.

(d) Format. A separate concise statement may utilize a single space format for the presentation of the facts and evidentiary support when set out in parallel columns. Sample concise statements are attached hereto as Civil Attachments 6 (for movants) and 6.1 (for respondents).

(e) Limitation. The concise statement shall be no longer than five (5) pages, unless it contains no more than 1500 words.

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

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

(h) Notice to *Pro Se* Litigants re Motions for Summary Judgment. Any represented party moving for summary judgment against a party proceeding *pro se* shall serve and file a separate notice using the Court's preapproved form (Civil Attachment 7) with the full text of Fed. R. Civ. P. 56 and CVLR 56 attached, together with the papers in support of the motion.

Where the *pro se* party is not the plaintiff, the movant shall amend the form notice as necessary to reflect that fact.

CVLR 58-1 Entry of Judgments and Orders

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

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

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

CVLR 58-2 Settlement of Judgments and Orders by the Court

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

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

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

CVLR 65 Application for a Temporary Restraining Order or Preliminary Injunction

An application for a temporary restraining order or preliminary injunction shall be made by motion separate from the complaint.

CVLR 65.1 Bonds and Sureties

(a) Security for Costs. 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 Local 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) an individual who 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 of 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) 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.

(e) 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.

CVLR 66 Receiverships.

(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 motion filed and served on all parties.

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

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

(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 may be heard in open court, unless otherwise ordered by the court.

CVLR 72 Magistrate Judges: Pretrial Orders

(a) General Duties and Functions. The magistrate judge is authorized to perform all of the duties and functions prescribed by 28 U.S.C. § 636, or any other statutes or Federal Rules of Procedure which authorize magistrate judges to perform judicial duties or functions. The magistrate judge shall have the inherent power of a judicial officer to implement and enforce his own orders and to regulate proceedings before him, to the extent permitted by law.

(b) Determination of Non-Dispositive Pretrial Matters. Pursuant to 28 U.S.C. § 636(b)(1)(A), a magistrate judge will hear and determine any pretrial motions, including discovery motions, other than the dispositive motions which are specified in 28 U.S.C. § 636(b)(1)(A).

(c) Determination of Case-Dispositive Pretrial Matters. A district judge may designate a magistrate judge to hear and determine, and to submit to a district judge proposed findings of fact and recommendations for the disposition by the district judge of case dispositive motions. A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this subsection.

(d) Special Master References. A magistrate judge may be designated by a district judge to serve as a special master in appropriate civil cases in accordance with 18 U.S.C. § 636(b)(2)

and Rule 53 of the Federal Rules of Civil Procedure. Upon the consent of the parties, a magistrate judge may be designated by a district judge to serve as a special master in any civil case.

(e) Other Duties. A magistrate judge is also authorized to:

(1) Conduct scheduling conferences, preliminary pretrial conferences, settlement conferences and related pretrial proceedings;

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

(3) Conduct voir dire and select petit juries for the district judge with the consent of the parties;

(4) Accept petit jury verdicts in the absence of a district judge;

(5) Review and approve requests for exemption and/or excuse from jury service, grand jury empanelments, and conduct juror qualification hearings;

(6) Rule upon objections to the allowance of costs by the Clerk of Court;

(7) Conduct examinations of judgment debtors;

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

(9) Conduct proceedings for the collection of civil penalties of not more than $200 assessed under the Federal Boat Safety Act of 1971;

(10) Conduct proceedings relating to naturalization matters;

(11) Conduct proceedings relating to the admission of attorneys to practice before this Court;

(12) Hear and determine matters relating to nonpayment of seaman's wages;

(13) Conduct proceedings relating to preferred ship mortgage foreclosures;

(14) Hear and determine matters relating to the arrest or release of vessels;

(15) Rule upon applications to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915;

(16) Issue administrative inspection warrants and orders of entry;

(17) Hear and determine matters relating to the enforcement of administrative subpoenas;

(18) Hear and determine Internal Revenue Service Attachments or Orders to enforce obedience to Internal Revenue Service summonses to produce records or give testimony;

(19) Hear and determine Internal Revenue Service Attachments or orders to enforce obedience to Guam Department of Revenue and Taxation summonses to produce records or give testimony;

(20) Hear and determine matters relating to applications for the appointment of a guardian *ad litem;*

(21) Hear and determine applications for letters rogatory; and

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

(f) Authority of Chief Judge or District Judge. Nothing in these rules shall preclude the Chief Judge or a district judge from reserving any proceedings for conduct by a district judge, rather than a magistrate judge.

CVLR 73 Magistrate Judge: Trial by Consent; Appeal

(a) Notice. The Clerk of Court shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case, including determination of any dispositive motion, and order the entry of final judgment. The notice shall be personally served upon or mailed to the plaintiff or his counsel at the time an action is filed. The plaintiff or his counsel shall provide such notice to other parties as attachments to copies of the complaint and summonses when served. Additional notices may be furnished to the parties at later stages of the proceedings. A copy of the consent forms (AO 85 and AO 85A) shall also be available on the Court's website.

(b) Execution of Consent. The Clerk of Court shall not accept a consent form unless it has been signed by all parties or their respective counsel in a case. The plaintiff, or the defendant if the plaintiff is proceeding *pro se*, shall be responsible for securing the execution of a consent form by the parties and for lodging such form with the Clerk of Court. However, either party may procure the form. No consent form will be made available, nor will its contents be made known to any district judge or magistrate judge, unless all parties have consented to the reference to the magistrate judge. The district judge or magistrate judge may advise the parties of the availability of the magistrate judge to try a civil case or hear a civil motion by consent, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences.

A party added after reference of the case to the magistrate judge on consent will be given an opportunity to consent to the continued exercise of case-dispositive authority by the Magistrate Judge. The Clerk of Court will give the party an unexecuted copy of the notice previously provided to the plaintiff. If the party chooses to consent, it must, within 21 days of its appearance, file with the Clerk of Court the notice denoting its consent, signed by the party or its counsel. Unless the notice is properly signed and filed, the case will be transferred back to the district judge for final determination and disposition.

(c) Filing of Consent. Once the consent to proceed before the magistrate judge has been approved by the assigned judge and filed, the Magistrate Judge is authorized to conduct any and all proceedings in a jury or non-jury civil matter and to direct the Clerk of Court to enter final judgment in the same manner as if a district judge had presided. Appeal from a final judgment entered at a magistrate judge's direction may be taken to the court of appeals as would any other appeal from a district court judgment.

CVLR 77 Clerk's Authority.

(a) 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:

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

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

(3) Any other orders which pursuant to Fed. R. Civ. P. 77(c) do not require allowance or order of the Court.

(b) Notice of Court Orders and Judgments. Immediately upon the entry of an order or judgment in an action within the Electronic Filing System, the Clerk of Court will transmit to filing users a Notice of Electronic Filing ("NEF"). Electronic transmission of the NEF constitutes the Notice required by Fed. R. Civ. P. 77(d). The Clerk of Court must give notice in paper form to a person who has not registered for electronic filing and has not consented to electronic service by other means.

CVLR 79 Custody and Disposition of Non-Electronically Submitted Exhibits and Depositions.

(a) Custody. Unless otherwise ordered by the Court, each exhibit offered in evidence and all depositions and transcripts shall be held in the custody of the Clerk of 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. All exhibits received in evidence that are in the nature of narcotic drugs, illegal or counterfeit money, firearms, or contraband of any kind shall be entrusted to the custody of the arresting or investigative agency of the government pending disposition of the action and for any appeal period thereafter.

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

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