

Local Civil Rules

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I. SCOPE OF RULES- ONE FORM OF ACTION.

LCvR 1.1 Purpose and Scope of Rules.

These local civil rules are promulgated to supplement the Federal Rules of Civil Procedure with local Court procedure. General Orders, which ~~are available on the Court's website, are issued by the Court to establish procedures on administrative matters and less routine matters which do not affect the majority of practitioners before this Court.~~ are issued by the Court periodically as necessary, are available from the Court Clerk or on the Court's website at www.oked.uscourts.gov. These Rules become effective on _____, 2016.

Committee Note: The modifications to this Rule reflect stylistic changes and the addition of an effective date.

LCvR 1.2 Rules of Procedure.

- (a) The rules of procedure in any proceeding in this Court shall be as prescribed by the laws of the United States, the rules of the Supreme Court of the United States, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, any applicable rules of the United States Court of Appeals for the Tenth Circuit, and these local rules.
- (b) When in any proceeding or in any instance there is no applicable rule of procedure, a judge may prescribe the same.
- (c) The trial judge has discretion in any civil or criminal case to waive, supplement, or modify any requirement of these local rules when the administration of justice requires.
- (d) These local rules do not apply in any case or proceeding which is pending in the Bankruptcy Court for the Eastern District of Oklahoma.
- (e) These local rules shall be known as the Local Civil Rules of the United States District Court for the Eastern District of Oklahoma. They may be cited as "LCvR ____."

II. COMMENCEMENT OF ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS.

LCvR 3.1 Civil Cover Sheet and Complaint.

Every complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet Form JS-44, which is available from the Court Clerk's office, or

from the Court's website at www.oked.uscourts.gov. Counsel and prose litigants are required to number each party separately in the caption of the complaint, plaintiffs consecutively and defendants consecutively. The face of the Complaint shall state whether the action is related to any previously filed case in this Court and identify by number said related case.

LCvR 3.2 Advance Payment of Filing Fees.

Except as provided in LCvR 3.3, 3.4, 3.5, or by order of the Court in a specific case, ~~the Court Clerk shall require payment of the filing fees before any civil action, suit or proceeding is filed.~~ the filing fee shall be paid within seven (7) days of the filing of any civil action, suit or proceeding or be subject to immediate dismissal without prejudice to refileing.

Committee Note: The Rule language was modified to reflect a change in court procedure.

LCvR 3.3 In Forma Pauperis Motions.

- (a) An applicant who seeks leave to proceed without prepayment of the filing fees must, at the time of initiating the civil action, suit or proceeding, or appeal from a judgment in a civil action, submit a motion to proceed in forma pauperis on the form approved by this Court and supplied by the Court Clerk upon request, or available from the Court's website at www.oked.uscourts.gov. Failure to use such form or to furnish the Court with the equivalent information required by the form may result in the motion being stricken.
- (b) In the case of a prisoner, such motion must also include a certificate executed by an authorized officer of the appropriate penal institution stating: (1) the amount of money or securities currently on deposit to the prisoner's credit in any institutional account; (2) the average monthly deposits to the prisoner's account for the six-month period immediately preceding the filing of the action; and (3) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the action.
- (c) In the event that the prisoner has been in more than one penal institution during the six-month period immediately preceding the filing of the action, the prisoner must obtain the required certificate from the appropriate official at each institution.
- (d) In the event the motion is denied, the filing party shall have ~~twenty (20)~~ twenty-one (21) days, unless a different time is specified by the Court, within which to pay the required filing fees. Failure to pay the filing fees by the date specified, to seek a timely

extension within which to make the payment, or to show cause in writing by the date specified for payment shall be cause for dismissal of the action without prejudice to refiling.

- (e) In forma pauperis status may be denied a prisoner seeking to bring a civil action, or appeal a judgment in a civil action, if the total balance of the prisoner's institutional accounts equals or exceeds the sum of the required filing fee plus \$10.00. In the event in forma pauperis status is denied, payment of the entire filing fee shall be required to commence the action or appeal.

Committee Note: Time for submission of the filing fee was modified to reflect a change in deadlines throughout the Rules to seven (7) day increments.

LCvR 3.4 Partial Filing Fees.

- (a) Prisoners allowed to proceed in forma pauperis in civil actions or appeals in civil actions shall be assessed an initial partial filing fee payment and monthly periodic payments until the filing fee is paid in full, as prescribed by 28 U.S.C. § 1915(b).
- (b) Failure of any applicant to pay the initial partial filing fee or any other payment ordered by the Court by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing for failure to pay by the date specified shall be cause for dismissal of the action without prejudice to refiling. In no event, however, shall an applicant be prohibited from bringing a civil action for the reason that the applicant does not have any assets or present means to pay the initial partial filing fee.
- (c) Unless otherwise directed by the Court, service of process will not issue until the applicant has paid the initial partial filing fee ordered by the Court.

LCvR 3.5 In Forma Pauperis Motions by Persons Filing Habeas Corpus Actions Under 28 U.S.C. § 2241, § 2254, or § 2255.

- (a) Habeas corpus proceedings are not "civil actions" governed by 28 U.S.C. § 1915(a)(2) and (b). In forma pauperis motions filed by habeas corpus petitioners must be on the Court- approved form or provide the information identified on such form. In support of the motion, a petitioner must provide a "statement of institutional accounts" or its equivalent, executed by an appropriate prison official.
- (b) In forma pauperis status may be denied if the total balance of the prisoner's institutional

accounts exceeds the sum of the required filing fee plus \$10.00. - In the event in forma pauperis status is denied, payment of the entire filing fee shall be required to commence the action or appeal. Failure to pay the filing fee or any other payment ordered by the Court by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing for failure to pay by the date specified shall be cause for dismissal of the action without prejudice to refiling.

- (c) In the event in forma pauperis status is granted, the habeas corpus petitioner may proceed with the action or appeal without prepayment of the filing fee unless otherwise directed by order of the Court.
- (d) A habeas corpus petitioner allowed to proceed in forma pauperis in the district court may appeal a district court judgment in forma pauperis without further authorization unless otherwise directed by order of the Court.

LCvR 3.6 Copyright, Trademark and Patent Cases.

Complaints filed in copyright, trademark and patent cases shall cite therein the copyright registration number, trademark number or patent number. If such number is unavailable at the time of filing, the complaint shall recite a serial number or other identification number obtained from the Registrar of Copyrights or the Commissioner of Patents and Trademarks.

~~LCvR 4.1 — Praecipe.~~

~~Requests for the issuance of summons shall be in writing, signed by the requesting party or attorney of record, designating the name and address of each person to be served. If service is to be made on other than an individual, the name and address of the service agent, officer or partner to be served shall be named. The type of service required must be set out in the praecipe. Pursuant to General Order 12-04, this Local Rule has been vacated and should be removed. The removal will require the renumbering of all other rules under LCvR 4.~~

Committee Note: Local rule eliminated as unnecessary. The requirement for a praecipe has been eliminated.

LCvR 4.2 4.1 Appointment of Authorized Process Servers.

In addition to any judge of this Court, the Court Clerk or the Chief Deputy Court Clerk is authorized to issue orders appointing any sheriff or deputy sheriff or authorized process server

in any state or territory of the United States to serve any civil process issued out of this Court. A party requesting that a person be authorized to serve civil process should prepare a written request, stating the name of the person desired to be appointed and an order for the Court Clerk or Chief Deputy Court Clerk to sign designating such person as the one authorized to serve process in any given case.

Committee Note: Renumbering required because of the deletion of LCvR 4.1 Praecipe.

LCvR 5.1 Filing by Electronic Means.

Pursuant to Rule 5(e)(d)(3) of the Federal Rules of Civil Procedure, the Clerk will accept papers filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. –Any paper filed by electronic means pursuant to these rules constitutes a written paper for the purposes of applying these rules and the Federal Rules of Civil Procedure. Papers filed by electronic means shall be governed by the Court's CM/ECF Administrative Guide of Policies and Procedures (ECF Policy Manual) and orders of the Court. Electronic filing is mandatory except as specified in the ECF Policy Manual.

Committee Note: Alteration of the Rule number was precipitated by a change in the numbering of the Federal Rules of Civil Procedure. Language was added to the Rule to reflect the adoption of mandatory electronic filing in the District.

LCvR 5.2 Format of Papers Presented for Filing.

- (a) All papers presented to the Clerk for filing by electronic means or in paper form shall be clearly legible. double spaced, if typewritten, using only one side of the paper and a paper size of 8½ inches wide by 11 inches long. All papers shall be clearly legible. The paper size shall be 8½ inches wide by 11 inches long. The print style, including footnotes, shall not be smaller than 12-point font, and margins shall be a minimum of one (1) inch on the top, bottom, and sides. Only one side of the paper shall be used, and line spacing shall be no less than 1.5, excluding blocked quotations and footnotes.
- (b) Papers presented to the Clerk in paper form for conversion and filing in electronic form shall not be stapled or permanently bound.
- (c) Papers that are required by the Court to be retained or filed in paper form as set forth in the ECF Policy Manual shall be stapled or otherwise semi-permanently fastened at the top of the page without the use of paper clips, binder clips, or rubber bands. If the

document is too large to staple, it should be two-hole punched at the top and secured with metal prongs. Unless otherwise stated in these local rules, all papers presented to the Clerk for filing in paper form shall consist of an original and one copy.

Committee Note: Rule revised for clarity and modified to reflect a change in court procedure.

LCvR 5.3 Redaction of Personal Data Identifiers.

In compliance with the policy of the Judicial Conference of the United States and the E-Government Act of 2002 (Pub. L. 107-347, ~~which was enacted on December 17, 2002~~), and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits thereto, whether filed electronically or ~~in~~on paper, unless otherwise ordered by the court:

- **Social Security Numbers (in civil and criminal cases).** If an individual's Social Security number must be included in a pleading, only the last four digits of that number shall be used. The filer of the administrative record in a Social Security appeal is not required to redact the claimant's Social Security number from the record since the record is filed under seal.
- **Names of Minor Children (in civil and criminal cases).** If the involvement of a minor child must be mentioned, only the initials of that child shall be used.
- **Dates of Birth (in civil and criminal cases).** If an individual's date of birth must be included in a pleading, only the year shall be used.
- **Financial Account Numbers (in civil and criminal cases).** – If financial account numbers are relevant, only the last four digits of these numbers shall be used.
- **Home Addresses (in criminal cases only).** If a home address must be included, only the city and state shall be used.

The responsibility for redacting these personal data identifiers rests solely with counsel and the parties. The clerk will not review each pleading for compliance with this general rule.

In addition, parties may refrain from including, or may partially redact where inclusion is necessary, the following confidential information: personal identifying numbers such as driver's license numbers; medical records; employment history; individual financial information; proprietary or trade secret information; information regarding an individual's cooperation with the government; information regarding the victim of any criminal activity; national security information; and sensitive security information as described in 49 U.S.C. § 114(s).

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers or other confidential information listed above may:

File an unredacted version of the document under seal, which shall be retained by the court as part of the record; or

File a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. The reference list shall be retained by the court as part of the record. The Court may, however, still require the party to file a redacted copy of the document for the public file.

Committee Note: The Rule was modified to create an exception to the requirement for the deletion of personal identifiers for filers of the administrative record in Social Security cases because the record is sealed as a matter of course. The claimants' Social Security numbers will remain protected but the filers will not be forced to redact the records which are replete with the numbers. The remaining deletion and insertion reflect stylistic and grammatical changes.

LCvR 5.4 Transcript Redaction.

The Judicial Conference of the United States approved a policy governing the availability of transcripts of court proceedings and the redaction of personal identifiers from those transcripts. Parties are referred to this Court's ECF Policy Manual for the specific procedure to be followed for obtaining the transcript and for redaction requests.

Committee Note: This Rule was modified to reflect a change in the transcript policy approved by the Judicial Conference of the United States.

LCvR ~~5.4~~ 5.5 Fax Filing.

- (a) Papers shall not be directly faxed to the Clerk unless authorized by the Court.
- (b) Electronically faxed or scanned papers, including the signature page, may be presented in paper form to the Clerk for filing if they otherwise comply with the requirements stated in LCvR 5.2.

Committee Note: Renumber required because of insertion of LCvR 5.4 on transcript redaction.

LCvR ~~5.5~~ 5.6 Change of Address; Proof of Service.

- (a) All papers shall contain the name, mailing address, daytime telephone number, fax number, and e-mail address, if any, of the attorney or pro se litigant. If any of this information changes, the attorney or pro se litigant must notify the Court by filing the form provided by the Clerk and serving a copy on opposing counsel or pro se parties. Papers sent by the Court will be deemed delivered if sent to the last known address given to the Court. If applicable, the attorney is further required to comply with ECF Policy Manual procedures regarding Change of Contact Information.
- (b) Proof of service of any papers required to be served shall be made by the certificate of any attorney of record or pro se litigant, or if made by any other person, the affidavit of such person.
- (c) Pursuant to Federal Rule of Civil Procedure 5(b)(2)(~~DE~~), receipt of the Notice of Electronic Filing generated by the Court's Electronic Case Filing System shall constitute the equivalent of service of the paper identified in the notice on persons who have consented to electronic service and who have waived their right to service by personal service or first class mail.

Committee Note: Renumber required because of the insertion of LCvR 5.4 and due to the change in the numbering of the Federal Rules of Civil Procedure.

III. PLEADINGS AND MOTIONS.

LCvR 7.1 Motion Practice.

- (a) **Filing.** Except as provided in LCvR 9.2(c) for actions brought by incarcerated persons, no attached pleadings, motions or other papers shall be removed for filing from an original motion. ~~Additionally, no pleadings, motions or other papers shall be held by the Court Clerk for filing, awaiting leave to do so.~~

Committee Note: This change moved language to LCvR 9.2(a).

~~(b) **Title.** Each brief shall be clearly styled to show whether it is opening, response, reply or supplemental; the particular motion or proceeding to which it relates; and the party or parties on whose behalf it is presented. If there are multiple parties or if there are cross-claimants or intervenors, references to them shall include the name (which may be abbreviated) of the particular party to whom reference is made.~~

Committee Note: This deleted section was duplicative of Fed.R.Civ.P. 10.

~~(e)(b) **Motions.** Each motion, application, or objection filed shall be a separate pleading, except where alternative pleading is allowed by law or these Rules. Each shall set out the specific point or points upon which it is brought. Except as otherwise provided by these Rules, a concise brief shall accompany each motion, application, or objection. The brief may be combined with the motion, application, or objection and submitted as one document, if clearly stated in the title of the motion or pleading. ~~A separate~~ Any pleading in opposition or response to ~~each a~~ motion, application, or objection shall be filed as a separate pleading. ~~Any failure to comply with this paragraph will constitute a waiver of any objection by the noncomplying party, and the failure to comply will constitute a confession of the matters raised by the pleadings.~~~~

Committee Note: This change clarifies requirements for briefs, incorporates the deleted LCvR 7.1(p), and deletes language that did not conform with Tenth Circuit case law.

~~(d)(c) **Length and Format of Briefs.** No brief shall be submitted that is longer than twenty-five (25) typewritten pages without leave of Court. Motions for leave to file a brief in excess of twenty-five (25) typewritten pages shall state the requested number of pages and shall be filed no later than 1 day prior to the date the brief is due. ~~The print style, including footnotes, shall not be smaller than twelve (12) characters to an inch (i.e. 12 pitch font), and margins shall be a minimum of one inch on the top, bottom and sides.~~ Briefs exceeding fifteen (15) pages in length shall be accompanied by an indexed table of contents showing headings or sub-headings subheadings and an indexed table of statutes, rules, ordinances, cases, and other authorities cited. Paper size, margins, line spacing, and print style shall conform to the requirements of Local Civil Rule 5.2(a).~~

Committee Note: This change clarifies formatting for briefs created with a word processing program.

~~(e) **Authority.** Any authority not readily available, including statutes foreign to the jurisdiction and ordinances which are relied upon by a party, shall be cited and quoted in or attached to the brief of the party.~~

Committee Note: This section was deleted, because the Court can direct a party to submit any required authority.

~~(f)~~**(d) Response Briefs.** A response to a motion may not also include a motion or a cross-motion made by the responding party. Each party opposing a motion or objection shall file with the Court Clerk and serve upon all other parties a response within ~~fifteen (15)~~ fourteen (14) days, ~~which includes three days for mailing,~~ if applicable, from the date the motion or objection was filed. The copy served on opposing counsel shall reflect the date of filing. In the discretion of the Court, any non-dispositive motion or objection which is not opposed within ~~fifteen (15)~~ fourteen (14) days may be deemed confessed.

Committee Note: This change reflects the 2009 Amendments to the Fed.R.Civ.P. 6(a) and the Court's General Order No. 09-05.

(e) **Reply and Supplemental Briefs.** Reply briefs regarding new ~~matter~~ matters in the response brief may be filed within ~~eleven (11)~~ fourteen (14) days, ~~which includes three days for mailing,~~ if applicable, after the due date of the response is filed. After the filing of the reply or the expiration of ~~eleven (11)~~ fourteen (14) days, the motion will be deemed ripe for ruling. By order, the Court may increase or reduce this time. Supplemental briefs are not encouraged and may be filed only upon motion and leave of Court. Reply and supplemental briefs shall be limited to ten (10) pages in length unless otherwise authorized by the Court.

Committee Note: This change reflects the 2009 Amendments to Fed.R.Civ.P. 6(a) and the Court's General Order No. 09-05. This paragraph was previously numbered as 7.1(k).

~~(g)~~**(f) Informal Conference Before Filing All Non-Dispositive Motions.** With respect to all non-dispositive motions or objections (including all discovery matters and motions in limine), ~~this the~~ Court shall refuse to hear any such motion or objection unless counsel for movant first advises the Court in writing that counsel personally have met and

conferred in good faith and, after a sincere attempt to resolve differences, have been unable to reach an accord. No personal conference shall be required, however, where the movant's counsel represents to the Court in writing that movant's counsel has conferred with opposing counsel by telephone and (1) the motion or objection arises from failure to timely make a discovery response (if applicable), or (2) the distance between counsels' offices renders a personal conference infeasible. When the locations of counsels' offices, which ~~will~~shall be stated with particularity by movant, are in the same city or within thirty (30) miles of each other, a personal conference is always deemed feasible as to distance. There is no duty to confer if any party is pro se.

Committee Note: This change is made for clarity and to instruct with regard to pro se parties.

~~(h)~~(g) **Unopposed Dispositive Motions.** If a dispositive motion is not opposed, the Court may in its discretion ~~either (1)~~ provide an additional ~~eleven~~fourteen (14) days for the opposing party to show cause why the motion should not be granted, after which the case will be dismissed or the motion will be deemed confessed, as appropriate, ~~or, (2) in~~ In the event the moving party has filed a motion for confession of judgment, such motion may be granted ~~following eleven~~fourteen (14) days after filing. In either event, ~~in~~at the discretion of the Court, the party failing to respond shall be subject to sanctions, including but not limited to all attorney fees and costs incurred by the moving party in connection with such failure to timely oppose the motion.

Committee Note: This change reflects the 2009 Amendments to Fed.R.Civ.P. 6(a) and the Court's General Order No. 09-05.

~~(i)~~(h) **First Extension of Time.** The Court Clerk may grant a defendant the first extension of time, not to exceed ~~fifteen (15)~~fourteen (14) days, within which to serve an answer or other responsive pleading to the complaint. A proposed order granting the requested extension or continuance may be ~~presented with the application or motion~~ submitted pursuant to the ECF Policy Manual.

Committee Note: This change reflects the 2009 Amendments to Fed.R.Civ.P. 6(a) and the Court's General Order No. 09-05, and it references the Court's ECF policies.

~~(j)~~(i) **Other Requests for Extensions of Time.** All other motions for extension of time shall be made before expiration of the period originally prescribed, or as extended by

previous orders and shall state: (1) the date the act is due to occur without the requested extension; (2) whether previous motions for extensions have been made and the disposition of ~~said the previous~~ requested extensions; (3) specific reasons for ~~such the~~ requested extension, ~~to include including~~ an explanation why the act was not done within the originally allotted time; (4) whether the opposing counsel or party agrees or objects to the requested extension; (5) the basis of any ~~such~~ objection; and (6) the ~~impact effect~~, if any, on the scheduled trial or other deadlines. All such motions shall be accompanied by a proposed order submitted pursuant to the ECF Policy Manual. The proposed order shall state specifically the events being extended and the proposed new dates for the deadlines. If the motion for extension of time concerns discovery, the movant shall include a brief summary of the current status of discovery.

Committee Note: This change is for clarity and to advise the Court regarding discovery status.

~~(k) **Reply and Supplemental Briefs.** Reply briefs regarding new matter in the response brief may be filed within eleven (11) days, which includes three days for mailing, if applicable, after the due date of the response. After the filing of the reply or the expiration of eleven (11) days, the motion will be deemed ripe for ruling. By order, the Court may increase or reduce this time. Supplemental briefs are not encouraged and may be filed only upon motion and leave of Court. Reply and supplemental briefs shall be limited to ten (10) pages in length unless otherwise authorized by the Court.~~

Committee Note: This paragraph was renumbered to 7.1(e).

~~(l) **Exhibits and Evidentiary Materials.** If conventionally filing exhibits and evidentiary materials in connection with a brief and those exhibits and evidentiary materials number in excess of 100 pages, those items shall not be attached to the brief, but rather shall be submitted as a separate appendix. Such materials filed conventionally shall be secured with metal prongs at the top of the page.~~

Committee Note: This section was deleted because LCvR 7.1(n) sets forth the requirements for oversized documents.

~~(m) **Mere Statements in Brief Not Part of the Record.** Factual statements or documents appearing only in the brief shall not be deemed to be a part of the record in the case, unless specifically permitted by the Court.~~

Committee Note: This section was deleted as unnecessary.

~~(n)(j) **Motions Not Requiring Briefs.** Unless otherwise directed by the Court, no ~~No~~ brief is~~

required by either movant or respondent ~~unless otherwise directed by the Court, with respect to~~ for the following motions:

- to extend time for the performance of an act required or allowed to be done, provided the request is made before expiration of the period originally prescribed, or as extended by previous orders;
- to continue a pretrial conference, hearing or trial of an action;
- to amend pleadings;
- to appoint next friend or guardian ad litem;
- to substitute parties;
- to add additional parties;
- to conduct physical or mental examinations;
- to compel discovery responses when no response has been made;
- to amend briefs;
- to stay proceedings to enforce a judgment;
- for admission pro hac vice;
- to file supplemental motions, briefs or other papers; or
- to file an oversized brief in compliance with subsection (d) above.

These motions not requiring briefs shall state on the first page whether opposing counsel agrees or objects to the request, and the basis for any ~~such~~ objections. ~~The motion, and~~ shall be accompanied by a proposed order submitted pursuant to the ECF Policy Manual.

Committee Note: This change was made for clarity.

~~(e)(k)~~ **Motions to Amend Pleadings, ~~or Add Parties~~.** Except as provided for motions to amend pleadings by incarcerated persons in LCvR 9.2(c), In a motion to amend ~~or a motion to add parties, the movant~~ shall state (1) the deadline ~~date~~ established by the scheduling order, if any, (2) whether any ~~other~~ party objects to the motion, and (3) the basis for any ~~such~~ objection. All ~~such~~ motions to amend shall be accompanied by a proposed order submitted pursuant to the ECF Policy Manual which specifically sets forth what is being amended, and/or the names of parties being added. The movant also shall attach to the motion a copy of the signed, proposed amended pleading.

Committee Note: This change was made for clarity and to require proposed amended pleadings.

~~(p)~~ **~~Motion and Brief as One Document.~~** ~~A motion and the brief in support may be presented to the Court as one document if clearly stated in the title of the pleading.~~

Committee Note: This rule was incorporated into LCvR 7.1(b).

~~(e)(d)~~ **Notice to the Court of Matters Under Advisement for More Than Ninety (90) Days.**

In the event any matter, including but not limited to a motion or decision in a bench trial,

has been under advisement or submitted for decision for a period of more than ninety (90) days, any party affected by the undecided matter may file a notice of matter under advisement particularly describing the matter under advisement and stating the date the matter was taken under advisement.

Committee Note: Renumbered section.

(r)(m) Scheduling Conflicts. This Court adopts the General Order In re: Guidelines for Resolving Scheduling Conflicts with Oklahoma Courts, issued by the Tenth Circuit Court of Appeals on May 21, 1998.

Committee Note: Renumbered section.

(s)(n) Oversized Documents. If an electronically filed document, ~~together with attachments, exhibits, or appendices,~~ exceeds ~~250~~ 100 pages, the filer shall deliver one (1) paper copy of the document to the Clerk's Office within ~~two (2)~~ three (3) business days of the date of filing. If the document is too large to staple, it should be bound at the ~~left-hand~~ left-hand margin in a manner that will permit it to be opened flat. Additionally, if requested, one (1) paper copy of any other electronically filed document shall be delivered to the Clerk's Office within ~~two (2)~~ three (3) business days of the date of filing.

Committee Note: This change was made to decrease the number of pages required for paper copies of electronically filed documents, and to incorporate the deadline specified in General Order 09-05.

(o) Motions to Dismiss. All motions to dismiss shall include a section explaining why an amendment to the complaint or petition would be futile.

Committee Note: This change was made to benefit the Court in deciding motions to dismiss.

LCvR 9.1 Notice Requirement for Three-Judge Court.

In any action or proceeding which a plaintiff believes is required to be heard by three-judge district court under 28 U.S.C. § 2284, the plaintiff shall file with the complaint a separate notice to the Court, stating that a three-judge district court is requested or the equivalent thereto. If the plaintiff fails to give such notice, every other party shall file such notice, provided that as soon as a notice is filed by any party, all other parties are relieved of this

obligation.

LCvR 9.2 Actions Brought by Incarcerated Persons.

(a) **Forms.** Petitions for writs of habeas corpus pursuant to 28 U.S.C. § 2254 or 28 U.S.C. § 2241, motions to vacate sentence pursuant to 28 U.S.C. § 2255, and civil rights complaints pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), by persons in state or federal custody, shall be on forms provided by the Court Clerk upon request, or from the Court's website at www.oked.uscourts.gov. If a habeas corpus petition, motion to vacate sentence, or complaint ~~the petition~~ is not on the Court-approved form or does not supply the Court with the equivalent information required by such form, the Court may order the pleading be stricken. No pleadings, motions, or other papers shall be held by the Court Clerk for filing, except proposed amended pleadings as set forth in LCvR 9.2(c).

Committee Note: This change was made for clarity and to incorporate the deleted section of LCvR 7.1(a).

(b) **Copies.** Petitioners or movants seeking habeas corpus relief under 28 U.S.C. §§ 2241, 2254, or 2255 shall ~~send or deliver~~ submit to the Court Clerk the original and ~~two copies one~~ copy of the petition or motion. Plaintiffs submitting complaints for civil rights relief must submit the original and one copy of the complaint for the Court and one copy for each of the persons named as a defendant in the complaint. If tendered for filing by mail, petitions, motions or complaints shall be addressed to the Court Clerk at an address designated by the Court Clerk.

Committee Note: This change was made to reflect the Court's need for only one copy.

(c) **Motions to Amend Amended Pleadings.** ~~Original~~ An original proposed amended ~~pleading pleadings~~ shall be signed and ~~attached to~~ submitted with any motion for leave to amend ~~the~~ a pleading. The motion to amend must include a statement of the reasons for requesting permission to file an amended pleading. Unless otherwise permitted by the Court, ~~every~~ each pleading to which an amendment is permitted as a matter of right, or which has been allowed by order of the Court, must be retyped or handwritten and filed so that it ~~is will be~~

complete in itself including exhibits, without reference to the superseded pleading. Each amended pleading shall contain copies of all exhibits ~~referred to~~ referenced in the amended pleading.

Committee Note: This change was made for clarity and to succinctly advise the Court of reasons for amended pleadings.

(d) **Format.** All pleadings, motions, and other papers submitted to the Court for filing by incarcerated persons shall conform with LCvR 5.2 and 7.1.

Committee Note: This change was made to make this section regarding prisoner litigation complete in itself.

(e) **Responses to Petitions for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254.** The state court records filed by the respondent in responses to Petitions for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 shall be filed electronically.

Committee Note: This change was made to require electronic filing of responses to writs of habeas corpus.

LCvR 16.1 Pretrial Procedures.

(a) Scheduling and Planning.

- (1) **Joint Status Report.** In all cases, trial counsel for all parties, and pro se parties, if any, shall confer and prepare a Joint Status Report for submission to the Court, in accordance with Fed. R. Civ. P. 26(f), using a Joint Status Report form available in the Court Clerk's office, or from the Court's website at www.oked.uscourts.gov. The Court will ordinarily order the filing of a Joint Status Report by a date certain. ~~However, if the Court fails to order the submission of a Joint Status Report by a date certain, the Report shall be submitted no later than 120 days from the date the case was filed, or 90 days from the date the case was removed.~~ For purposes of preparing a Joint Status Report, counsel and pro se parties, if any, shall confer at least 14 days prior to the date the Report is to be submitted.
- (2) **Required Attendance at Conference.** Counsel with authority to make appropriate decisions and pro se litigants shall attend any Scheduling Conference required by the Court. When justified by the circumstances, the Court may allow counsel or

pro se litigants to participate in such conference by telephone. Pro se litigants and counsel shall be prepared to discuss all relevant matters enumerated in Fed. R. Civ. P. 16(c).

(b) **Pretrial Responsibilities.**

(1) **Preparation of Status Reports, Final Pretrial Orders, and Other Orders.**

~~(A)~~ Unless otherwise ordered by the Court, counsel for the plaintiff, with full and timely cooperation of other counsel and pro se parties, is responsible for preparing, obtaining approval of all parties, and furnishing the Court any status reports, pretrial orders or other orders required by the Court or these local rules.

~~(B)~~ ~~The clerk who keeps the minutes of the scheduling and planning conference shall have forms available, whereby the time and/or date fixed by the Court for the performance of specified duties may be inserted. Upon request, counsel will be supplied with a copy of such form so that they may make their own notations of deadlines and of other orders prescribed by the judge presiding over the conference. Such executed form, when approved by the Court and filed, shall constitute the order of the Court as to such schedules without the necessity of filing any other order to the same effect. Unless otherwise directed by the assigned judge, the form and content of a jointly prepared, proposed, final Pretrial Order, conforming to the sample, shall be tendered to the Court Clerk by plaintiff's counsel seven (7) days in advance of the pretrial conference, unless otherwise ordered by the Court.~~

~~(2)~~ ~~**Default.** Failure to prepare and file a required Joint Status Report, failure to comply with the Final Pretrial Order, failure to appear at a conference, appearance at a conference substantially unprepared, or failure to participate in good faith may~~

~~result in any of the following sanctions: the striking of a pleading, a preclusion order, stay of the proceeding, default judgment, assessment of expenses and fees (either against a party or the attorney individually), or such other order as the Court may deem just and appropriate.~~

Committee Note: This rule is amended to be in agreement with new language contained in F.R.Cv.P. 16, and to be consistent with local practices.

LCvR 16.2 Settlement Conferences.

- (a) **Purpose.** The purpose of the settlement conference is to permit an informal discussion between the attorneys, parties, and the settlement judge on every aspect of the case bearing on its settlement value in an effort to resolve the matter before trial.
- (b) **Referral and Scheduling the Settlement Conference.** All civil cases set on a trial docket are automatically set for settlement conference before the settlement judge. Also the Court may, upon its own motion or on the request of any of the parties, set a settlement conference at any practicable time. Form settlement conference orders shall be available from the Court Clerk, or from the Court's website at www.oked.uscourts.gov. The terms of the settlement conference order govern the procedures for the settlement conference. The assigned district judge may, in his or her discretion, require that the parties pay for a settlement conference in any reasonable manner or amount.
- (c) **Settlement Judges.** A district judge other than the judge assigned to the case, a magistrate judge, or an adjunct settlement judge designated by the Court, will normally preside at the settlement conference. Adjunct settlement judges shall be selected by the Court from among members of the bar in good standing and chosen based upon their expertise, experience, actual and apparent impartiality, reputation for fairness, training, and temperament. They shall be invited to serve without compensation. Any party or counsel of record may move to disqualify the assigned settlement judge pursuant to 28 U.S.C. § 455, other applicable law or professional responsibility standards. No adjunct settlement judge may be called as a witness, except as requested by a judge of this Court. In that instance, the adjunct settlement judge shall not be deposed, and shall testify as the Court's witness. In cases where the settlement effort is expected to be extensive, or in connection with discovery matters, the Court may appoint an adjunct settlement

judge as a special project settlement or discovery judge, and order the parties to pay for his or her time at a reasonable hourly rate. Such payment shall be apportioned between the parties as agreed or by the Court on an equitable basis.

- (d) **Attendance Requirements.** The lead attorney who will try the case for each party shall appear, and shall be accompanied by one with full settlement authority. The latter will be the parties if natural persons, or representatives of parties which are not natural persons, but may not be counsel (except in-house counsel) or a person who is not directly or actively associated with the party or parties. Other interested entities such as insurers or indemnitors shall attend and are subject to the provisions of this Rule. Governmental entities and boards shall send a representative and counsel who, together, are knowledgeable about the facts of the case and the governmental unit's or board's position, and have, to the greatest extent feasible, authority to settle. Except as provided in subsection (e) below, only the settlement judge may excuse attendance of any attorney, party or party representative. Any party excused from appearing in person shall be available to participate by telephone, if required. Failure to attend the settlement conference or failure to cooperate fully may result in the imposition of sanctions in accordance with LCvR 16.1(b)(2) and Fed. R. Civ. P. 16(f).
- (e) **Governmental Entities.** In the event a governmental entity which is a party determines that it will be unable to provide a representative with full settlement authority at the settlement conference, the governmental entity shall promptly move for leave to proceed with a representative with limited authority. The motion shall be filed and delivered to the settlement judge no later than ~~eleven (11)~~ fourteen (14) days prior to the conference and shall contain: (1) the reasons which make it impracticable for a party's representative to appear with full settlement authority; (2) a detailed description of the limited authority to be exercised at the conference; and (3) alternative proposals by which full authority may be exercised at or subsequent to the conference. Upon consideration of the motion, the settlement judge may allow the governmental entity to appear with limited authority or may, notwithstanding the motion, require appropriate persons to appear as may be necessary to have full settlement authority at the conference. Any adjunct settlement judge may defer such determination to the judge

then supervising the adjunct settlement judge program or the assigned trial judge.

Committee Note: This rule is amended to be in agreement with General Order 09-05.

- (f) **Submission of Written Settlement Conference Statements.** A settlement statement shall be submitted to the settlement judge and served on opposing counsel at least seven (7) days preceding the date of the settlement conference unless otherwise ordered by the Court. It shall concisely summarize the parties' claims/defenses/counterclaims, etc., the parties' views concerning factual issues, issues of law, liability, damages or relief requested. The statement shall not exceed five (5) pages in length, shall conform to the format requirements set forth in the Local Rules, but shall not be filed in the case or made part of the Court file.
- (g) **Settlement Conference Process.** Prior to settlement conference, the parties shall discuss settlement with their respective clients and opposing counsel (or pro se parties) so that the issues and bounds of settlement have been explored in advance of the settlement conference. The parties, their representatives and attorneys are required to be completely candid with the settlement judge so that the judge may properly guide settlement discussions. Pertinent evidence to be offered at trial, documents or otherwise, may be brought to the settlement conference for presentation if particularly relevant.
- (h) **Authority of Settlement Judge.** The settlement judge may excuse attendance of any attorney, party or party's representative; meet jointly or individually with counsel, alone or with parties or persons or representatives interested in the outcome of the case without the presence of counsel; and issue such other and additional requirements as shall seem proper, including follow-up sessions telephonically or otherwise, in order to expedite an amicable resolution of the case.
- (i) **Confidentiality.** The settlement judge, all counsel and parties, and any other persons attending the settlement conference shall treat as confidential all written and oral communications made in connection with or during any settlement conference. Neither the settlement conference statements nor communications during the conference with the settlement judge may be used by any party in the trial of the case unless otherwise permitted under Federal Rules of Evidence 408. No communication relating to or

occurring at a Court- ordered settlement conference may be used in any aspect of any litigation except proceedings to enforce a settlement agreed to at the conference, unless otherwise permitted under Federal Rules of Evidence 408.

- (j) **Conclusion of the Settlement Conference.** At the conclusion of the settlement conference, the settlement judge shall notify the Court whether the case did or did not settle. If the case settled, counsel shall prepare and file the appropriate dismissal or closing papers.
- (k) **Other Alternative Methods.** The Court may, in its discretion, set any civil case for summary jury trial, mini-trial, executive summary jury trial (summary jury trial where chief executive officers of corporate parties participate as part of a three-judge trial panel), mediation, arbitration, or other method of alternative dispute resolution as the Court may deem proper, so long as due process is not abrogated or impaired.
- (l) **Sanctions.** Any party who, in the Court's judgment, acts in bad faith or impairs settlement proceedings, may be subject to appropriate sanctions. Failure to appear, or to participate in good faith in a settlement conference ordered by the Court, may result in any of the following sanctions:
 - 1. The striking of a pleading;
 - 2. A preclusion order, staying the proceeding;
 - 3. A default judgment;
 - 4. Assessment of expenses and fees against a party, attorney individually, insurer or indemnitor, or combination thereof; or
 - 5. Such other order as the Court may deem just and appropriate.

IV. PARTIES.

LCvR 17.1 Parties Who Are Not Natural Persons.

Parties who are not natural persons may not appear pro se.

LCvR 21.1 Notice of Bankruptcy Filing.

In the event a party to a civil case files bankruptcy, or an involuntary bankruptcy proceeding is commenced against a party, counsel, or the party if pro se, shall notify the Court within ~~five (5)~~ seven (7) days of the filing of said bankruptcy by filing a formal notice in the

civil case, with proof of service to all parties.

Committee Note: This rule is amended to be in agreement with General Order 09-05.

V. DEPOSITIONS AND DISCOVERY.

LCvR 26.1 Discovery Material Not to be Filed.

Depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Court Clerk unless on order of the Court or unless they are attached to a motion, response thereto, or are needed for use in a trial or hearing.

LCvR 26.2 Privilege Log.

- (a) In accordance with Fed. R. Civ. P. 26(b), when a claim of privilege or work product protection is asserted in response to a discovery request for documents, the party asserting the privilege or protection shall provide the following information with respect to each document in the form of a privilege log: the type of document; the general subject matter of the document; the date of the document; the author of the document, whether or not the author is a lawyer; each recipient of the document; and the privilege asserted. This rule shall apply only to document requests.
- (b) If information called for by one or more of the foregoing categories is itself privileged, it need not be disclosed. However, the existence of the document and any non-privileged information called for by the other categories must be disclosed. This rule requires preparation of a privilege log with respect to all documents withheld on the basis of a claim of privilege or work product protection except the following: written communications between a party and its trial counsel after commencement of the action and the work product material created after commencement of the action.

LCvR 30.1 Depositions.

- (a) **Notice.** Subject to an order of the Court entered for cause shown enlarging or shortening the time:
 - (1) a subpoena to compel a witness to attend a deposition as contemplated by Fed.

R.Civ. P. 30(a)(1), shall be served on the witness at least ~~five (5)~~ seven (7) days prior to the date of the deposition; and

(2) reasonable notice to parties as contemplated by Fed. R. Civ. P. 30(b)(1) for the taking of depositions shall be ~~five (5)~~ seven (7) days.

(b) **Length of Depositions.** No deposition shall extend beyond seven hours in length, beyond 5:00 p.m., or be taken on a weekend or holiday without an agreement in writing signed by all interested attorneys or acknowledged on the record by all interested attorneys or an order of the Court. ~~Extensions of this time limitation shall be freely given in the event of obstructive or uncooperative conduct on the part of the witness or opposing counsel, or otherwise in the interests of justice. The court must allow additional time consistent with Rule 26(b)(1) and (2) if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination.~~

(c) **Procedure for Designation of Deposition Testimony for Use at Trial.**

The parties are to file a list of the deposition designations, counter-designations, and objections by all parties.

Additionally, the parties are to jointly submit to the Judge's chambers one copy of each transcript of each deponent, which will include the designations, cross designations, and objections by all parties. These transcripts are to be submitted in paper format, and not as an electronic submission. Under no circumstances shall the Plaintiffs submit a deposition transcript which includes only their designations and/or objections, and the Defendants also submit an additional copy of the same deposition transcript which includes only the Defendants' designations and/or objections.

- The Plaintiffs are to highlight their deposition designations with a pink highlighter. The Defendants are to highlight their deposition designations with a yellow highlighter.
- If both parties designate the same testimony, the Plaintiff shall highlight the text in pink and the Defendant shall underline the text in yellow.

- If there are multiple plaintiffs or defendants in the case with differing designations, the additional party shall highlight their deposition designations with a different highlighter color of their choice.
- **The entire deposition transcript of each deponent is to be submitted.** The transcript may be copied four (4) pages per sheet, but this is not required. Each transcript shall be bound on the left margin or placed in a three-ring binder. Multiple transcripts may be bound together or placed in a three-ring binder, with divider tabs indicating the name of the deponent.
- If an entire page is designated, the party shall highlight the line numbers in a vertical line on that page, rather than highlighting the text of each individual line. If less than the entire page is designated, the party shall highlight the individual lines of designated text.
- Any objections to the designations are to be hand written in the right margin of the page. The objection shall indicate the page and line numbers relevant to each objection, either included in the hand written objection or by a bracket hand written in the right margin which shows the beginning and ending points of the text relevant to that objection. Additionally, any deposition page that contains an objection shall be flagged.

No objection to any designation or counterdesignation shall be considered by the Court until a good faith effort to resolve such objections by means of a personal meeting between counsel has been conducted. Subsequent to this meeting, any remaining evidentiary objections may be annotated in the margins of the highlighted transcript, so that the Court may easily consider them in context. Objections arising out of the procedural history of a particular case or stemming from the law of the case may be supported by an optional supplemental brief, which may then be submitted to the Court with the annotated transcript. A high degree of cooperation between counsel is expected to minimize the number of objections.

- (d) **Certified Copies Substituted.** Upon a showing that an original deposition is unavailable, a certified copy may be substituted.
- (e) **Depositions Generally.** Depositions as provided in Fed. R. Civ. P. 30 are authorized.

Counsel shall personally meet as required by LCvR 37.1 and attempt to resolve any disputes concerning objections to the taking of or objections made during the deposition, including transcript preparation, before presenting such unresolved issues to the Court.

- (f) **Trial Depositions.** Except by order of the Court, trial depositions may be taken by reasonable notice up to ~~fifteen (15)~~ fourteen (14) days prior to trial. Rule 6, Federal Rule of Civil Procedure, shall govern the computation of time.

Committee Note: This rule is amended to reflect new language contained in F.R.Cv.P. 30, and to incorporate deadlines as amended by General Order No. GO-09-05 dated November 30, 2009.

LCvR 33.1 Interrogatories.

Each answer to an interrogatory shall be immediately preceded by the interrogatory being answered. ~~Interrogatories inquiring as to the existence, location and custodian of documents or physical evidence shall each be construed as one interrogatory. All other interrogatories, including subdivisions of one numbered interrogatory, shall be construed as separate interrogatories.~~ Unless otherwise stipulated or ordered by the court, a party may serve on any other party no more than 25 written interrogatories, including all discrete subparts. Leave to serve additional interrogatories may be granted to the extent consistent with Rule 26(b)(1) and (2).

Committee Note: This rule is amended to reflect new language contained in F.R.Cv.P. 26 and 33.

LCvR 36.1 Admissions.

Without leave of Court or written stipulation of the parties, the number of requests for admissions for each party is limited to twenty-five (25).

LCvR 37.1 Form of Discovery Motions.

Any discovery motion filed pursuant to Rules 26 through 37, Federal Rules of Civil Procedure, shall include in the motion itself, or in an attached memorandum, a verbatim recitation of each interrogatory, request, answer, response, and objection which is the subject of the motion or a copy of the actual discovery document which is the subject of the motion.

LCvR 38.1 Assessment of Jury Costs.

Notice of settlement or other disposition of a case, other than by trial, must be timely given to the Court Clerk to avoid unnecessary expense regarding the appearance of jurors. Should the parties fail to give timely notice, the Court may in an appropriate case assess jury costs against the parties and/or counsel. Any monies collected as a result of said assessment shall be paid to the Court Clerk for transmittal to the United States Treasury.

VI. TRIALS.

LCvR 39.1 Opening Statements and Closing Arguments.

Opening statements and closing arguments to juries are subject to time limitations and the number of participating attorneys.

LCvR 39.2 Courtroom Decorum.

Each judge will direct parties, either orally or by written statement, regarding appropriate and proper courtroom decorum.

LCvR 39.3 Use of Electronic Communication Devices, Photographs or ~~Tape Recorders Recording Devices~~.

The taking of photographs and operation of ~~tape recorders~~ recording devices and radio or television broadcasting in the courthouse ~~or its environs~~ during the progress of, or in connection with judicial proceedings, including proceedings before a Magistrate Judge, whether or not court is actually in session, are prohibited unless prior leave is granted by the Court.

The Court prohibits use of cellular telephones, pagers, or other electronic communication devices in the courtroom. A Judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record; (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings; and (3) the use of ~~personal computers by attorneys~~ electronic communication devices by attorneys as authorized by General Order No. 13-02.

As used in this Rule, the term ~~"environs"~~ "courthouse" means anyplace within the Ed Edmondson Federal Building in Muskogee, Oklahoma, or any other place in this district where federal proceedings are being conducted.

Committee Note: The changes reflect the Court's adoption of General Order No. 13-02 generally authorizing attorneys to bring and use electronic communication devices in the courthouse subject to certain restrictions. The amendment also inserts the word "courthouse" as the operative definition and eliminates the word "environs" as a misleading reference.

LCvR 39.4 Use of Exhibits at Trial.

- (a) **Marking and Disclosure.** All exhibits and documents which are to be introduced in evidence are to be marked for identification, which shall include the case number, and exhibited to opposing counsel at least three (3) ~~calendar~~ business days before submission of the Pretrial Order.
- (b) **Withdrawal.** Unless otherwise ordered by the Court, all exhibits introduced in evidence in the trial of the case shall be withdrawn at the close of trial and remain in the custody of the party introducing the evidence. The Court may order the party introducing exhibits which are bulky, heavy, firearms or controlled substances to retain custody of such exhibits during the trial. Any such order shall provide for preservation of the exhibit as justice may require.
- (c) **Photographs for Appeal.** Exhibits, diagrams, charts and drawings may, under the supervision of the Court, be photographed for use on appeal or otherwise.
- (d) **Electronic Media.** Any electronic media (audio or video presentations) presented as evidence must be submitted on a ~~floppy disk, CD Rom, video tape, or other applicable format~~ CD/DVD, or other applicable medium, for preservation of the record.
- (e) **Withdrawal of Trial Exhibits Required.** Exhibits introduced and received into evidence at a trial or hearing shall be retained in the custody of the Court Clerk during the pendency of the trial or hearing, unless otherwise ordered by the Court. At the conclusion of the Court proceedings, the party introducing exhibits shall remove those exhibits from the custody of the Court Clerk for storage until the final determination of the case. If an appeal is taken, it shall be the responsibility of the attorneys to provide any designated exhibits to the United States Court of Appeals for the Tenth Circuit. If the Court reserves ruling after a non-jury trial or other hearing in which exhibits have been received into evidence, the attorneys shall produce the exhibits to the Court upon request.

Committee Note: Change to subsection (a) conforms to General Order 09-05 and change to subsection (d) updates electronic media terminology.

LCvR 40.1 Assignment and Distribution of Cases.

- (a) **Random Assignment in Criminal Cases.** Criminal cases shall be assigned to district judges according to a system based on random selection both for initial assignment and for assignment in the event of recusal. The system of random case assignment, distribution of cases, and rotating supervision of the Grand Jury shall be determined by the Court.
- (b) **Random Assignment in Civil Cases.** Civil cases shall be assigned to district judges, senior district judges and magistrate judges according to a system based on random selection: (i) for the initial assignment of cases; (ii) for the reassignment of any case in the event of recusal; (iii) for the reassignment of any case initially assigned to a magistrate judge after the election of the district judge option by any party, as set forth in subsection (c) below; and, (iv) for the reassignment to a magistrate judge of any case initially assigned to a district judge after all parties have consented pursuant to 28 U.S.C. § 636(c). The system of random case assignment and distribution of cases shall be determined by the Court.
- (c) **Civil Cases Initially Assigned to a Magistrate Judge.** In any civil case initially assigned to a magistrate judge, the clerk shall provide the parties with forms for consent pursuant to 28 U.S.C. § 636(c) or, in the alternative, the election of the district judge option. Until all parties have consented, or until any party has elected the district judge option, the assigned magistrate judge shall by designation pursuant to 28 U.S.C. § 636(b)(1)(A) exercise the authority of the District Court to conduct all non-dispositive proceedings and to enter all orders on such matters. This authority shall terminate upon reassignment of the case to a district judge upon election by any party of the district judge option.
- (d) **Companion Cases.** Upon the filing of companion cases (i. e., cases involving the same transaction regardless of the parties thereto), the parties shall promptly notify the assigned judges. Those judges shall determine whether the cases are in fact companions and whether a transfer is in order, in which event the cases shall be transferred to the judge assigned to the earliest case.

LCvR 40.2 Assignment of Cases for Trial.

The placing of actions upon the trial calendar will be set in the Scheduling Order or upon motion by the parties.

LCvR 41.1 Administrative Closure.

A judge may direct the Court Clerk to close a civil action administratively, subject to reopening for good cause.

LCvR 43.1 List of Witnesses and Exhibits in Civil Cases.

(a) **List of Witnesses.** At the commencement of the trial of a civil case, counsel shall submit to the presiding Judge, the courtroom deputy clerk, the court reporter, the court security officer, and opposing counsel a typewritten list of the witnesses expected to testify, including rebuttal witnesses, in the order to be called.

(b) **List of Trial Exhibits.**

(1) **Pretrial Meeting.** Within ~~five (5)~~ seven (7) days of the trial date, the attorneys shall meet with the courtroom deputy clerk to accomplish the numbering of the parties' respective exhibits. This meeting may be conducted telephonically. Unless otherwise directed by the courtroom deputy clerk, exhibits shall be consecutively numbered without subparts.

(2) **Trial Procedure.** At the commencement of a trial, the attorneys shall submit to the Judge, the courtroom deputy clerk, the court reporter, and opposing counsel a typewritten list of the exhibits they plan to introduce, designated by trial exhibit numbers. A separate list shall also be provided to the courtroom deputy clerk designating the specific exhibits to be used during the examination of each listed witness.

(A) The attorneys for each party shall also submit two (2) trial notebooks, one (1) for the Court and one (1) for the witnesses, containing each party's exhibits, consecutively numbered and tabbed. The notebook need not contain oversized exhibits, x-rays, or other exhibits which cannot be conveniently photocopied.

Committee Note: Change conforms to General Order 09-05.

LCvR 47.1 Attorney Communication with Jurors.

At no time, including after a case has been completed, may attorneys approach or speak to

jurors regarding the case unless authorized by the Court, upon written motion.

VII. JUDGMENT.

LCvR 54.1 Costs.

(a) A prevailing party who seeks to recover costs against an unsuccessful party pursuant to 28 U.S.C. § 1920 shall file a bill of costs on the form provided by the Court Clerk and support the same with a brief. The bill of costs and brief shall be filed and served not more than fourteen (14) days after entry of judgment. The bill of costs and brief shall be a separate document from the motion for legal fees and its brief.

(b) The original of the verified bill of costs shall have endorsed thereon proof of service upon the opposite party. The prevailing party shall provide either receipts, documents or an affidavit in support of the requested itemized costs. Objections to the allowance of costs must be filed within fourteen (14) days from the date the bill of costs was filed.

(c) As soon as practicable after the period for filing objections has elapsed, the Court Clerk will consider the bill of costs. A hearing may be scheduled at the discretion of the Court Clerk to review the bill of costs and any objections. After consideration of the bill of costs and any objections, the Court Clerk will make disposition and ruling on the bill of costs allowing or disallowing the items in whole or part.

(d) If a bill of costs is properly and timely filed and no written objection thereto is filed within the time herein specified, the claimed costs may be allowed in full.

Committee Note: The change affords the Court Clerk the discretion to schedule a hearing on a contested bill of costs.

LCvR 54.2 Civil Attorney Fees.

(a) A prevailing party who seeks to recover attorney fees against the unsuccessful party shall file a motion for recovery of legal fees and support the same with a brief and affidavit. A motion for recovery of legal fees with brief shall be a separate document from the bill of costs and its brief. The motion for attorney fees shall be filed and served not more than fourteen (14) days after entry of judgment.

(b) The brief should recite the statutory, contractual, and/or legal authority for the request

and, in an affidavit, the amount of time spent on the case, the hourly fee claimed by the attorney, the hourly fee usually charged by the attorney if this differs from the amount claimed in the case, and any other pertinent factors.

- (c) Responses in opposition to the allowance of attorney fees must be filed within fourteen (14) days from the date the motion for attorney fees is filed.

LCvR 55.1 Procedure For Obtaining Default Judgment.

(a) **Entry of Default by Court Clerk.** To obtain an entry of default pursuant to Fed. R. Civ. P. 55(a), the party must provide the Court Clerk with a "Motion for Entry of Default by the Clerk." The motion shall recite the facts that establish service of process, and be accompanied by affirmations concerning non-military service and that the individual is neither an infant nor an incompetent person. Once a proper motion has been filed, the Court Clerk will prepare and enter default, after independently determining that service has been effected, that the time for response has expired and that no answer or appearance has been filed.

(b) **Entry of Default Judgment.** ~~Once a party is in default, a default judgment pursuant to Fed. R. Civ. P. 55(b) may be requested by filing a motion for default judgment accompanied by a concise brief, a form of judgment, and an affidavit setting forth that plaintiffs claim is for a particular sum certain and the factual basis for such a claim. In its discretion, the Court may set a hearing on the motion with respect to which notice shall be provided by the party moving for default judgment in accordance with the requirements of Fed. R. Civ. P. 55(b). The Court Clerk shall not enter a judgment of default. In cases where a plaintiff's claim is for a sum certain or a sum that can be made certain by computation, a plaintiff may request the Court Clerk to enter a default judgment under Fed.R.Civ.P. 55(b)(1). The plaintiff must file a motion for default judgment accompanied by a concise brief, a form of judgment, and an affidavit (1) stating the amount for a sum certain or that can by computation be made certain and (2) stating that the defendant against whom judgment is to be entered is not an infant or an incompetent person. In all~~

other cases, a party must apply to the Court for a default judgment pursuant to the provisions of Fed.R.Civ.P. 55(b)(2). In its discretion, the Court may set a hearing on a motion for default judgment with respect to which notice shall be provided by the party moving for default judgment in accordance with the requirements of Fed.R.Civ.P. 55(b)(2).

Committee Note: The changes comport with Fed.R.Civ.P. 55(b)'s authorization for entry of default judgment by the Court Clerk (under proper circumstances) and by the Court. Thus, the changes reflect the Court Clerk's authorization to enter default judgment where the plaintiff's claim is for a sum certain or a sum that can be made certain by computation by the Court Clerk.

LCvR 56.1 Summary Judgment Procedure.

(a) Absent leave of Court, each party may file only one motion under Fed. R. Civ. P. 56.

(b) The brief in support of a motion for summary judgment (or partial summary judgment) shall begin with a section ~~that contains a concise statement of material facts to which the moving party contends no genuine issue of fact exists. The facts shall be numbered and shall refer with particularity to those portions of the record upon which movant relies~~ stating the material facts to which the movant contends no genuine dispute exists. The facts shall be set forth in concise, numbered paragraphs.

(c) The response brief in opposition to a motion for summary judgment (or partial summary judgment) shall begin with a section responding, by correspondingly numbered paragraph, to the facts that the movant contends are not in dispute and shall state any fact that is disputed. Separately, the brief in opposition may, in concise, numbered paragraphs, state any additional facts the nonmovant contends preclude judgment as a matter of law. The nonmovant shall not present facts that are not material to an issue raised by the movant. ~~which contains a concise statement of material facts to which the party asserts genuine issues of fact exist. Each fact in dispute shall be numbered, shall refer with particularity to those portions of the record upon which the opposing party relies and, if applicable, shall state the numbered paragraphs of the movant's facts that are disputed. All material facts set forth in the statement of the material facts of the movant shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of material facts of the opposing party.~~

(d) Each individual statement by the movant or nonmovant pursuant to subparagraph (b) or (c) of this rule shall be followed by citation, with particularity, to any evidentiary material that the party presents in support of its position pursuant to Fed. R. Civ. P. 56(c).

(e) All material facts set forth in the statement of material facts of the movant may be deemed admitted for the purpose of summary judgment unless specifically controverted by the nonmovant using the procedures set forth in this rule.

Committee Note: The committee recommends the modification of existing Local Civil Rule 56.1 to clarify the organizational structure required for summary judgment briefs, including that the movant's facts are to be disputed by the nonmovant through correspondingly numbered paragraphs and that the nonmovant shall not present facts that are not relevant to an issue raised by the movant. Further, the language of the rule has been updated to better match the phrasing currently used in Federal Rule of Civil Procedure 56 and to reflect longstanding summary judgment practice in this district.

LCvR 58.1 Entry of Judgment

The Court Clerk shall not prepare, sign, and enter a judgment unless ordered by the Court or as otherwise allowed by Fed.R.Civ.P. 55(b)(1) and Local Rule 55.1(b).

Committee Note: The change accounts for the Court Clerk's authorization to enter a default judgment pursuant to Fed.R.Civ.P. 55(b)(1).

LCvR 62.1 Stays Pending Disposition of Motions After Judgment.

Unless otherwise directed by the Court, all proceedings to enforce a judgment are stayed pending the disposition of the following motions:

- (a) new trial or to alter or amend a judgment made pursuant to Fed. R. Civ. P. 59;
- (b) relief from judgment or order made pursuant to Fed. R. Civ. P. 60;
- (c) judgment as a matter of law made pursuant to Fed. R. Civ. P. 50; or
- (d) to amend the findings or for additional findings made pursuant to Fed. R. Civ. P. 52(b).

LCvR 62.2 Supersedeas Bonds and Other Security.

- (a) **Scope of Rule.** Whenever a security, bond or undertaking is required by federal statute, the Federal Rules of Civil Procedure, or by an order of the Court, and the form or amount thereof is not otherwise specified in or determined by the statute, rule or order, the amount

and form thereof shall be as provided by this local rule.

- (b) **Security for Costs.** On its own motion or upon motion of a party in interest, the Court may at any time order any party to give security, bond or undertaking in such amount as the Court may order for the payment of costs or for performance of other conditions or requirements imposed in an action or proceeding.
- (c) **Corporate Surety.** No security, bond or undertaking with corporate surety shall be accepted or approved unless (1) the corporate surety is in compliance with the provisions of 31 U.S.C. §§ 9301-09, and (2) there is on file with the Court Clerk a duly authenticated power of attorney appointing the agents or officers executing such obligation to act on behalf of the corporate surety. If an agent or officer so appointed is removed, resigns, dies or becomes disabled, the corporate surety shall notify the Court in writing.
- (d) **Cash.** In lieu of corporate surety, a party may deposit with the Court Clerk the required amount in lawful money. Upon exoneration of the deposit, it may be returned by the Court Clerk to the true owner, after application to claims of the United States in the proceedings and to proper fees of the United States Marshal and Court Clerk.
- (e) **Submission to Jurisdiction- Agent for Service of Process.** Notwithstanding any provision of a security instrument to the contrary, every surety or depositor of security is subjected to the jurisdiction of this Court. The Court Clerk is irrevocably appointed agent upon whom any papers affecting the surety's or depositor's liability may be served, and consents that liability shall be joint and several, that judgment may be entered in accordance with the obligation simultaneously with judgment against the principal, and that execution may thereupon issue against the appropriate property.
- (f) **Further Security for Jurisdiction of Personal Sureties.** Upon reasonable notice to the party presenting the security, any other party for whose benefit it is presented may apply to the Court at any time for further or different security or for an order requiring the personal sureties to justify.
- (g) **Court Officers Not Allowed as Sureties.** Unless a party to the action, no clerk, marshal, member of the bar, or other officer of this Court will be accepted as surety, either directly or indirectly, on any bond or undertaking in any action or proceeding in this Court.

(h) **Real Estate.** This Court will not accept real estate as security.

VIII. PROVISIONAL AND FINAL REMEDIES.

LCvR 67.1 Deposit and Withdrawal of Funds in Court.

In cases where a party depositing funds with the Court Clerk desires that the funds be invested with a named institution, the order shall so specify but, in the absence of specific directions to the contrary, all registry funds will be invested in a general interest-bearing account or instrument as required by Fed.R.Civ.P. 67.

All court orders for the deposit of registry funds in interest-bearing accounts shall contain the following provision:

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

LCvR 67.2 Disbursement of Registry Funds.

All checks drawn by the Court Clerk on deposits made in the registry of the Court shall be made payable to the order of the payee or payees as the name or names thereof shall appear in the orders of this Court providing for distribution.

Disbursements from the registry of the Court shall be made as soon as practicable upon receipt of order for disbursement except in cases where an order is appealable and must be held until the time for appeal has expired. Orders for disbursement shall be prepared for signature of the appropriate judge and presented to the Court Clerk for review and transmittal to the Court. ~~The order for disbursement shall include the full name, any tax identification number other than social security number, and mailing address of the payee, with directions for the Court Clerk to disburse the principal amount, plus interest less the applicable registry fee.~~ Where more than one party payee is to receive proceeds, the order will designate the apportionment applicable to each ~~party payee~~. Any proposed court order to disburse funds must include the payee's full name, complete address, and the amount, plus interest and less the applicable registry fee, to be disbursed to that payee. The proposed court order must be

accompanied by a completed IRS Form W-9 (which shall be filed subject to restricted access) for each payee receiving interest.

Committee Note: This amendment clarifies the information and documentation necessary for the disbursement of funds, including the requirement for a completed IRS Form W-9 for those payees receiving interest.

LCvR 69.1 Procedures on Execution of Judgment

A party seeking enforcement of a judgment shall file a motion for writ of execution identifying the judgment sought to be enforced, the party against whom enforcement is sought, the description of any and all properties against which enforcement is sought, and any other pertinent information which indicates issuance of a writ to be proper and appropriate. The motion does not need to be served upon the opposing party.

IX. SPECIAL PROCEEDINGS.

LCvR 73.1 Magistrate Judges - Consent Authority.

- (a) With the consent of the parties, each full-time magistrate judge appointed by this Court is specifically designated to exercise the authority and jurisdiction provided by 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, to conduct any or all proceedings in a jury or non-jury civil matter and to order the entry of judgment in the case.
- (b) The parties may consent to magistrate judge jurisdiction at any time during the pendency of the case, however, ALL consents must be submitted to Consents_OKED@oked.uscourts.gov. Parties should not file these consents in CM/ECF.
- (c) The joint form of consent shall be executed by the parties unless one of the parties is a pro se prisoner, in which case separate consent forms may be submitted.

Committee Note: The addition expands the instructions in the rule to provide more information to filers.

X. DISTRICT COURTS AND COURT CLERK.

LCvR 78.1 Oral Arguments.

Oral arguments or hearings on motions or objections will not be conducted unless ordered by the Court.

LCvR 79.1 Sealed Documents.

(a) **Policy.** It is the policy of this Court that sealed documents, confidentiality agreements, and protective orders are disfavored. Sealed documents and confidentiality agreements may be approved by the Court only upon a showing that a legally protected interest of a party, non-party or witness outweighs the compelling public interest in disclosure of records.

~~(b) **Motion Required.** A person seeking to file a document under seal shall file a motion to seal and provide a copy of the document sought to be sealed. If the person seeks to file the motion itself under seal, the motion shall be in paper format and accompanied by a courtesy copy of the document sought to be sealed in paper format. Underneath the case number, in the style of any document sought to be sealed, the document shall be marked in all caps "SEALED." The motion seeking such an order must contain sufficient facts to overcome the presumption in favor of disclosure. The relief sought shall be narrowly tailored to serve the specific interest sought to be protected.~~

(b) **Motion Required.** Leave of Court is required to file a document or a portion of a document under seal. The motion seeking such an order must contain sufficient facts to overcome the presumption in favor of disclosure. The relief sought shall be narrowly tailored to serve the specific interest sought to be protected. Underneath the case number, in the style of any document sought to be sealed, the document shall be marked in all caps "SEALED." Parties are referred to this Court's ECF Policy Manual for specific procedure to be followed for filing motions to seal, proposed orders and sealed filings.

(c) **Docketing.** Titles of sealed pleadings will be docketed and open to the public, unless otherwise ordered by the Court. Therefore, parties should take every precaution to remove confidential material from the title of the sealed pleading.

Committee Note: Paragraph (b) reworked to refer parties to ECF Policy Manual for specifics on filing sealed pleadings.

XI. GENERAL PROVISIONS.

LCvR 81.1 Removed Actions - Demand for Jury Trial.

Unless a written jury demand has been filed of record in state court, trial by jury is waived in any case removed from a state court unless a demand for jury trial is filed and served within the time period provided under Fed. R. Civ. P. 38 and 81.

LCvR 81.2 Removed Actions - Documents to be Filed.

A defendant or defendants who remove a civil case from the state court to this Court shall, in addition to filing a notice of removal, file a clearly legible copy of all documents filed or served in the case, along with a copy of the docket sheet of the case. In order for any pending State court motions to be considered, the motion must be reurged and filed in this Court in compliance with the Federal Rules of Civil Procedure, the Local Rules of this Court, and any scheduling order entered by this Court.

LCvR 81.3 Removed Actions - Bankruptcy.

A notice of removal from state court filed pursuant to Fed. R. Bankr. P. 9027 shall be filed with the bankruptcy clerk. Such removed actions are automatically referred to the bankruptcy court pursuant to LCvR 84.1(a)(4).

LCvR 83.1 Committee on Local Civil Rules.

A Committee on Local Rules comprised of members of the bar of this Court and the Court Clerk or the Court Clerk's designee shall be appointed by the Court. Such Committee shall accept comments and recommendations regarding the local rules from any member of the bar of this Court or any other interested person.

LCvR 83.2 Attorneys.

- (a) **Roll of Attorneys.** The bar of this Court shall consist of those attorneys admitted to practice before this Court who have taken the prescribed oath and submitted the required fee.

- (b) **Committee on Admissions and Grievances.** A Committee on Admissions and Grievances shall be appointed by the Court.
- (c) **Procedure for Admission.** Every applicant for admission shall submit to the Court Clerk, on a form prescribed by the Court, a written application for admission, which shall be referred to the Committee on Admissions and Grievances for investigation into the applicant's qualifications and fitness to be admitted to the bar of this Court. The Committee shall report its recommendations in writing to the Court Clerk. Upon a favorable report of the Committee, the applicant may be admitted. Each applicant approved by the Committee on Admissions and Grievances shall pay the applicable fee to the Court Clerk's office at the time he is sworn and receives his certificate.
- (d) **Eligibility.** Any member of the bar of the Supreme Court of the United States, or of any United States Court of Appeals, or of any District Court of the United States, or a member in good standing of the bar of the highest court of any state of the United States, is eligible for admission to the bar of this Court.

~~(e) **Reciprocity.** Any attorney who shall have been admitted to practice in any other United States District Court of Oklahoma may be admitted to practice in this district without referral to the Committee on Admissions and Grievances by filing a motion and certificate of good standing from such other district in Oklahoma, along with the required fee.~~

~~(f)~~(e) **Attorneys for the United States.** Attorneys who are employed or retained by the United States or its agencies may practice in this Court in all cases or proceedings in which they represent the United States or such agencies.

~~(g)~~(f) **Admission Pro Hac Vice.** Any attorney who is eligible for admission to the bar of this Court may in the discretion of a judge of this Court be granted temporary admission to practice in a pending case. Attorneys requesting such admission are required to attach to their motion a completed Request for Admission Pro Hac Vice form provided by the Court Clerk's office along with the required fee.

Committee Note: The deletion of the reciprocity provision is made to reflect the fact that Oklahoma attorneys do not utilize this provision in order to gain admittance to the Eastern District of Oklahoma. The Court's standard admission procedure is less time consuming and does not impose the additional cost and burden of obtaining a certificate of good standing. Subsequent subsections were relettered to reflect the deletion.

LCvR 83.3 Association of Local Counsel.

- (a) **Responsibilities of Non-Resident Counsel.** When representing a party in this Court, any attorney who is not a member of the Oklahoma bar shall show association with an attorney who is personally appearing in the action and who is a member of the Oklahoma bar, and who has been duly and regularly admitted to practice in this Court.
- (b) **Responsibilities of Local Counsel.** It is the responsibility of local counsel appearing in any civil case to file the motion of the attorney to be admitted pro hac vice and to certify in the motion that the attorney is a member in good standing of the bar of the highest court of the state where the attorney resides or is licensed. The local attorney shall sign the first pleading filed and shall continue in the case unless other local counsel is substituted. Any notice, pleading or other paper may be served upon the local counsel with the same effect as if personally served on the non-resident attorney.
- (c) **Relief from this Rule.** Relief from this rule is within the Court's discretion upon motion establishing financial hardship, special qualifications of counsel, or other good cause, provided that out-of-state counsel certifies familiarity with the local civil court rules.

LCvR 83.4 Appearance of Counsel.

- ~~(a) An attorney appearing for a party in a civil case shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Court Clerk.~~
- (a) An attorney appearing for a party in a civil case shall either (a) sign the initial pleading filed on behalf of that party or (b) sign and file an entry of appearance on the form prescribed by the Court Clerk.
- (b) In the event a party should change counsel or add additional counsel, the new or additional counsel for such party shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Court Clerk.
- (c) In the event an attorney is appearing Pro Hac Vice, that attorney shall file an Entry of Appearance and register for electronic case filing within seven (7) days after granting of the Motion for Pro Hac Vice.

Committee Note: These changes were made for clarity.

LCvR 83.5 Attorney Withdrawal From Case.

In civil cases, attorneys of record shall not withdraw from the case except upon reasonable notice to the client and all other parties who have appeared in the case and by leave of the judge to whom the case is assigned. Counsel shall certify that he or she has served the application and motion upon their client. Counsel shall also file a certificate of service, stating the date and manner of service regarding the approved Order.

Committee Note: This addition was made for clarity.

LCvR 83.6 Discipline by the Court.

- (a) **Discipline by Other Courts; Criminal Convictions.** Whenever any member admitted to practice in this Court, including a person admitted pro hac vice, has been suspended, disbarred or resigned pending disciplinary proceedings from the practice of law by the Supreme Court of Oklahoma or by any other court of competent jurisdiction or has been convicted of a felony or any crime involving moral turpitude in any court, such disbarment, suspension, or conviction shall operate as an automatic disbarment of the attorney's right to practice in this Court, and an order of disbarment shall be issued by the Court. Any attorney subject to this rule must notify the Court immediately upon any such suspension, disbarment or resignation. The automatic disbarment from this Court shall remain in effect unless the attorney has by motion to the Court shown good cause as to why disbarment should not remain in effect. The Chief Judge or his designee shall rule on such motion.
- (b) **Standard Governing Attorney Conduct.** The Court adopts the Oklahoma Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Oklahoma as the standard governing attorney conduct in this Court.
- (c) **Misconduct.** Complaints of professional misconduct by counsel are subject to Fed. R. Civ. P. 11. Complaints of professional misconduct may be submitted by a judge of the Court, at his or her discretion, to the Committee on Admissions and Grievances. Upon receipt of a complaint regarding the professional conduct of an attorney, the Committee on

Admissions and Grievances shall, after notice and opportunity to be heard, report and recommend to the Court whether:

- (1) The inquiry should be terminated because the question raised is unsupported or insubstantial;
- (2) The alleged professional misconduct justifies further inquiry and, for members of the Oklahoma Bar Association, the matter should be referred to the Office of the General Counsel of the Oklahoma Bar Association for investigation and prosecution by that Office, if warranted;
- (3) The alleged professional misconduct warrants consideration of prompt disciplinary action by this Court regarding the attorney's right to practice before the Court;
- (4) The alleged professional misconduct of an attorney not a member of the Oklahoma Bar Association justifies further inquiry by the Court. Any attorney whose conduct in this Court is under investigation by the Committee on Admissions and Grievances shall not be admitted pro hac vice until the pending investigation is concluded. Any action taken by the Court pursuant to a report and recommendation by the Committee on Admissions and Grievances shall be by a majority vote of the active judges.

Nothing contained in this Local Rule shall limit the right of an individual judge to manage the cases assigned to that judge, which right shall include, without limitation, the authority to impose any sanctions, penalties or other restrictions which may be appropriate in a particular case, or the authority to refer a matter for consideration to the Committee on Admissions and Grievances on an advisory basis.

- (d) **Right to a Hearing.** This Court shall not impose any disciplinary action affecting an attorney's right to practice before the Court for two (2) years or more until after a hearing on the matter has been held before a judge or panel of judges. The attorney may waive the right to a hearing. At the hearing, the attorney whose conduct is the subject of the complaint shall be afforded an opportunity to appear in person and/or by counsel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally

or in writing. If not called by the attorney whose conduct is being investigated, it is within the discretion of the judge or panel to call the complaining party to appear at the hearing.

- (e) **Sanctions.** Discipline by this Court may include disbarment, suspension from practice for a definite time, reprimand, or other discipline which the Court deems proper. Referral of a complaint to the Office of the General Counsel of the Oklahoma Bar Association for investigation shall not constitute such discipline as to entitle the attorney to a hearing in this Court on the propriety of the referral.
- (f) **Contempt of Court.** Disciplinary proceedings under this rule shall not affect or be affected by any proceeding for contempt under Title 18 of the United States Code or under Fed. R. Crim. P. 42.
- (g) **Unauthorized Practice.** Any person who before admission to the bar of this Court or who during disbarment or suspension exercises any of the privileges bestowed upon members of this bar, or who pretends to be entitled to such privileges, or who otherwise engages in the unauthorized practice of law before the Court, shall be guilty of contempt of this Court and shall be subject to punishment therefor and shall be subject to any other discipline which the Court may impose.
- (h) **Reinstatement.** Persons disbarred indefinitely from practice before this Court may not petition for reinstatement until three (3) years following disbarment or until two (2) years following an adverse decision upon a previous petition for reinstatement; provided, however, that a person disbarred under subsection (a) may apply for reinstatement at any time upon being reinstated by the Oklahoma Bar Association. Persons suspended indefinitely must satisfy all conditions to reinstatement imposed by the Court at the time of suspension.

LCvR 83.7 Professional Conduct and Courtroom Decorum.

- (a) **Oklahoma Rules of Professional Conduct Apply.** Attorneys practicing in this Court are expected to conduct themselves in accordance with the Oklahoma Rules of Professional Conduct, as adopted by the Oklahoma Supreme Court, as the standard of conduct of all members of the Oklahoma Bar Association. See, Title 5 O.S.A. Ch. 1, App. 3A. As set forth in the preamble:

A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

In this spirit, all lawyers should become familiar with their duties and obligations, as defined and classified generally in the Oklahoma Rules of Professional Conduct, any interpretive decisions, applicable statutes, and the usages, customs, and practices of the bar.

(b) **Courtroom Behavior.** The purpose of this rule is to emphasize, not to supplant, certain portions of those ethical principles applicable to the lawyer's conduct in the courtroom. In addition to all other requirements, therefore, lawyers appearing in this Court shall adhere to the following:

- 1) Be punctual in attendance at Court.
- 2) Refrain from addressing anyone in Court by first names -- use last names only.
- 3) Refrain from leaving the courtroom while court is in session, unless it is absolutely necessary, and then only if the Court's permission has been obtained first.
- 4) At all times, counsel for plaintiff shall occupy the table nearest the jury box and counsel for defendant shall occupy the table furthest from the jury box.
- 5) Ascertain that only one lawyer is standing at a time, unless an objection is being made.
- 6) Bench conferences will be kept to a minimum. Counsel should anticipate issues which will arise during the trial and inform the Court and opposing counsel at the earliest opportunity. Permission must be obtained from the Court to approach the bench, a witness, an exhibit, or the clerk.
- 7) Refrain from employing dilatory tactics.
- 8) Hand all papers intended for the Court to see to the clerk who, in turn, will pass them up to the judge.

- 9) Hand to the clerk any exhibits offered into evidence.
- 10) Advise clients, witnesses, and others concerning rules of decorum to be observed in court.
- 11) Use the lectern when interrogating witnesses or addressing the jury, unless otherwise permitted by the Court. – Appropriate exceptions to this rule shall be made for disability or infirmity.
- 12) Never conduct or engage in experiments or demonstrations unless prior permission is granted by the Court.
- 13) Refrain from conducting a trial when they know, prior thereto, that they will be necessary witnesses, other than as to merely formal matters such as identification or custody of a document or the like. If, during the trial, it is discovered that the ends of justice require the lawyers' testimony, they should from that point on, if feasible and not prejudicial to their client's case, leave further conduct of the trial to other counsel. If circumstances do not permit withdrawal from the conduct of the trial, lawyers should not argue the credibility of their own testimony.
- 14) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly uninfluenced by all ill feeling between the respective clients. Attorneys should abstain from any allusion to personal peculiarities and idiosyncrasies of opposing counsel.
- 15) Rise when addressing or being addressed by the Court. Appropriate exception will be made for disability or medical infirmity.
- 16) Refrain from assuming an undignified posture. Counsel should always be attired in a proper and dignified manner and should abstain from any apparel or ornament calculated to attract attention to themselves.
- 17) At all times exemplify conduct consistent with their obligation as an officer of the Court.
- 18) In making representations to the Court, know or honestly believe them to be supported by fact.
- 19) Comply, along with all other persons in the courtroom, with the following:

- (A) No tobacco in any form will be permitted at any time.
- (B) No propping of feet on tables or chairs will be permitted at any time.
- (C) No water bottles or other beverage containers, bottles or cups, or edibles shall be brought into the courtroom, except with permission of the marshal or courtroom deputy clerk.
- (D) No gum chewing or reading of newspapers or magazines (except as a part of the evidence in a case) will be permitted while Court is in session.
- (E) No talking or other unnecessary noises will be permitted while Court is in session.
- (F) Everyone must rise when instructed to do so upon opening, closing, or declaring recesses of Court. Appropriate exception shall be made for disability or medical infirmity.
- (G) Any attorney who appears in court intoxicated or under the influence of intoxicants, drugs, or narcotics may be summarily held in contempt.

- (c) ~~Use of Electronic Devices. The Court prohibits the use of cellular telephones, pagers, or other electronic communication devices in the courthouse.~~

Committee Note: Revision pursuant to General Order 13-02.

LCvR 83.8 Standards of Practice.

The following are principles intended to guide attorneys in practicing in the Eastern District of Oklahoma:

- (a) In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.
- (b) A lawyer owes, to the judiciary, candor, diligence and utmost respect.
- (c) A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.
- (d) A lawyer owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.
- (e) Lawyers should treat each other, the opposing party, the Court, and members of the Court staff with courtesy and civility and conduct themselves in a professional manner

at all times.

(f) A client has no right to demand that counsel abuse the opposite party or indulge in offensive conduct. A lawyer shall always treat adverse witnesses and suitors with fairness and due consideration.

(g) In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer's conduct, attitude, or demeanor towards opposing lawyers.

(h) A lawyer should not use any form of discovery, or the scheduling of discovery, as a means of harassing opposing counsel or counsel's client.

(i) Lawyers will be punctual in communications with others and in honoring scheduled appearances, and will recognize that neglect and tardiness are demeaning to the lawyer and to the judicial system.

(j) If a fellow member of the bar makes a just request for cooperation, or seeks scheduling accommodation, a lawyer will not arbitrarily or unreasonably withhold consent.

(k) Effective advocacy does not require antagonistic or obnoxious behavior and members of the bar will adhere to the higher standard of conduct which judges, lawyers, clients, and the public may rightfully expect.

LCvR 84.1 Bankruptcy Cases.

(a) **Matters Referred to the Bankruptcy Judges.**

(1) Pursuant to 28 U.S.C. § 157(a), all cases under Title 11 of the United States Code and any and all proceedings arising under Title 11 or arising in or related to a case under Title 11 shall be and hereby are referred to the bankruptcy judges for this district.

(2) The bankruptcy judges shall hear and determine all cases under Title 11 and all core proceedings arising under Title 11 or arising in a case under Title 11, and may enter appropriate orders and judgments, subject to review under 28 U.S.C. § 158; provided, however, that personal injury tort and wrongful death claims shall be tried in the district court in accordance with 28 U.S.C. § 157(b)(5).

(3) The bankruptcy judges may hear a proceeding that is not a core proceeding but

that is related to a case under Title 11. Resolution of such matters shall be governed by 28 U.S.C. § 157(c).

- (4) All removed claims and causes of action removed from state court pursuant to Fed. R. Bankr. P. 9027 are hereby referred to the bankruptcy judge assigned to the case to which the removed action relates. The bankruptcy judge shall hear and determine all such removed proceedings subject to review and appeal as allowed under 28 U.S.C. §§ 157 and 158 and the Federal Rules of Bankruptcy Procedure.
- (5) The bankruptcy judges shall hear and enter appropriate orders on all motions related to appeals prior to the entry of the appeal on the docket of the district court or bankruptcy appellate panel. Orders entered during this period are subject to review or appeal as allowed under 28 U.S.C. §§ 157 and 158.

(b) **Motions for Withdrawal of Reference.**

- (1) Motions for withdrawal of the reference of a case, proceeding or contested matter (collectively, a "proceeding") shall be timely filed with the bankruptcy clerk, shall be accompanied by the required filing fee, and shall be governed by Fed. R. Bankr. P. 5011 and 9014. In the motion, the movant shall allege whether the proceeding is a core proceeding under 28 U.S.C. § 157(b) or a proceeding that is otherwise related to a case under Title 11.
- (2) Motions for withdrawal of a bankruptcy case shall be filed and served within ~~fifteen (15)~~ fourteen (14) days after the first meeting of creditors is held in the case. Motions for withdrawal of an adversary proceeding or a contested matter shall be filed and served at the same time the party filing such motion files its first pleading responding to claims asserted in the adversary proceeding or contested matter.
- (3) Responses to motions for withdrawal shall be filed with the bankruptcy clerk within ~~fifteen (15)~~ fourteen (14) days from service of the motion. Replies may be filed only with leave of the bankruptcy court.
- (4) Within a time period reasonable under the circumstances of the matter, the

bankruptcy judge shall enter an order pursuant to 28 U.S.C. § 157(b)(3), determining whether the proceeding is a core proceeding or a proceeding that is otherwise related to a case under Title 11 and forward the order to the district court together with a copy of the record of the proceeding for which withdrawal is sought.

- (c) **Appeals.** All appeals from final judgments, orders and decrees of bankruptcy judges and, with appropriate leave, from interlocutory orders and decrees of bankruptcy judges shall be taken in the manner prescribed by 28 U.S.C. § 158 and Part VIII of the Federal Rules of Bankruptcy Procedure, as supplemented by the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Oklahoma.
- (d) **Briefs for Bankruptcy Appeals.** ~~For a bankruptcy appeal, the appellant shall serve and file its brief within fifteen (15) days after the transmission of the record to the Court Clerk. The appellee shall serve and file its brief within fifteen (15) days after the due date of the brief of the appellant. The appellant may serve and file a reply brief within eleven (11) days after the due date of the brief of the appellee. The time limits specified in Fed.R.Bankr.P. 8016(e), 8017(e), and 8018 for filing briefs shall apply in appeals from the bankruptcy court unless the district court fixes different limits in a specific case on its own motion or the motion of a party in interest.~~ Unless otherwise stated in this local rule, briefs for an appeal from the bankruptcy court are governed by the rules found at LCvR 5.2 and 7.1.
- (e) Unless otherwise ordered by the Court, oral argument as required by Bankruptcy Rule 8012 is excused.
- (f) **Transmittal of Records or File by the Bankruptcy Court.** The bankruptcy clerk shall transmit the record or file of a case, proceeding or contested matter (collectively, a "proceeding") to the Court Clerk as follows:
- (1) a copy of the record, after the expiration of time for filing objections to the bankruptcy court's proposed findings of fact and conclusions of law in non-core "related-to" proceedings pursuant to Fed. R. Bankr. P. 9033(b);
 - (2) a copy of the record of the proceeding for which a withdrawal of reference is

sought upon the entry of the order required by LCvR 84.1(b)(4);

- (3) the file, upon the receipt of an order by a district judge pursuant to 28 U.S.C. § 157(d) withdrawing the reference;
- (4) the file, upon the filing of a recommendation by a bankruptcy judge that a proceeding is one in which a personal injury tort or wrongful death claim shall be tried in the district court pursuant to 28 U.S.C. § 157(b)(5); and
- (5) the record, when it is complete for purposes of appeal pursuant to Fed. R. Bankr. P.

~~8007(b)~~ 8010.

(g) **Assignment of District Judges.** The Court Clerk shall assign a district judge to the transmitted matter or proceeding in accordance with random assignment procedure used in assigning civil cases unless a prior assignment of a related matter requires assignment of the newly transmitted matter or proceeding to a particular district judge.

(h) **Jury Trials.**

- (1) In accordance with 28 U.S.C. § 157(e), if the right to a jury trial applies in a proceeding that may be heard by a bankruptcy judge, each of the bankruptcy judges for this district is hereby specially designated to exercise such jurisdiction and to conduct such jury trials.
- (2) In conducting jury trials, the bankruptcy court shall adhere to the provisions of the Jury Act.
- (3) The jury plan of the Court as set forth in these Local Rules shall govern jury selection in the bankruptcy court.
- (4) Upon request, the Court Clerk shall supply a sufficient number of jurors to the bankruptcy court for its scheduled jury trials. Jurors may continue to be utilized by the district court if not selected or when not serving in the bankruptcy court.
- (5) The bankruptcy clerk shall cooperate with the Court Clerk in the implementation of efficient and economical juror utilization techniques.
- (6) In conducting jury trials, the bankruptcy court shall comply with these Local

Rules as applicable to civil jury trials. The bankruptcy court may waive such rules for good cause in any civil jury case, upon due notice, in order to accommodate expedited scheduling and trial consistent with due process.

Committee Note: Subsection (b)(2) and (b)(3) amended pursuant to General Order 09-05. Subsection (d) amended to conform with the new briefing periods under the Bankruptcy Rules, and subsection (f)(5) amended to conform to new numbering of Bankruptcy Rule 8010.

ADOPTED by the Judges of this Court effective July 5, 2016.

JAMES H. PAYNE, Chief Judge

RONALD A. WHITE, U.S. District Judge

FRANK H. SEAY, Senior U.S. District Judge

KIMBERLY E. WEST, U.S. Magistrate Judge

STEVEN P. SHREDER, U.S. Magistrate Judge

ATTEST:

PATRICK KEANEY, Court Clerk