

LOCAL UNIFORM CIVIL RULES

of the

UNITED STATES DISTRICT COURTS

for the

NORTHERN DISTRICT OF MISSISSIPPI

and the

SOUTHERN DISTRICT OF MISSISSIPPI

EFFECTIVE
DECEMBER 1, 2009

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PREAMBLE

The LOCAL UNIFORM CIVIL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN DISTRICT AND THE SOUTHERN DISTRICT OF MISSISSIPPI [the LOCAL RULES] were first made effective on January 1, 1986. The Rules were amended July 1, 1992, July 1, 1996, September 1, 1998, December 1, 2000 and November 1, 2004; they apply to pending civil actions except where injustice would result. They govern all proceedings in the United States District Courts serving the State of Mississippi, and should be cited as L.U.Civ.R.

Attorneys practicing before the district courts of Mississippi are charged with the responsibility of knowing the LOCAL RULES, the Administrative Procedures for Electronic Case Filing for both the Northern and Southern Districts of Mississippi, the Internal Operating Procedures and Standing Orders of the court and may be sanctioned for failing to comply with them. Posting of the LOCAL RULES on the Internet Websites maintained by the clerks of the district courts is sufficient delivery of the LOCAL RULES to all attorneys and the public.

All prior Local Rules of the United States District Courts for the Northern District and the Southern District of Mississippi relating to civil proceedings are hereby repealed.

All amendments to these LOCAL RULES will be by order of the court and require the approval of a majority of the district judges in each federal judicial district in Mississippi.

DIVISION SITES AND COUNTIES

(Venue)

NORTHERN DISTRICT

WESTERN DIVISION

Oxford

1. Benton
2. Calhoun
3. Grenada
4. Lafayette
5. Marshall
6. Montgomery
7. Pontotoc
8. Tippah
9. Union
10. Webster
11. Yalobusha

DELTA DIVISION

Oxford

1. Bolivar
2. Coahoma
3. DeSoto
4. Panola
5. Quitman
6. Tallahatchie
7. Tate
8. Tunica

EASTERN DIVISION

Aberdeen

1. Alcorn
2. Attala
3. Chickasaw
4. Choctaw
5. Clay
6. Itawamba
7. Lee
8. Lowndes
9. Monroe
10. Oktibbeha
11. Prentiss
12. Tishomingo
13. Winston

GREENVILLE DIVISION

Greenville

1. Carroll
2. Humphreys
3. Leflore
4. Sunflower
5. Washington

SOUTHERN DISTRICT

JACKSON DIVISION

Jackson

1. Amite
2. Copiah
3. Franklin
4. Hinds
5. Holmes
6. Leake
7. Lincoln
8. Madison
9. Pike
10. Rankin
11. Scott
12. Simpson
13. Smith

EASTERN DIVISION

Meridian

1. Clarke
2. Jasper
3. Kemper
4. Lauderdale
5. Neshoba
6. Newton
7. Noxubee
8. Wayne

HATTIESBURG DIVISION

Hattiesburg

1. Covington
2. Forrest
3. Greene
4. Jefferson Davis
5. Jones
6. Lamar
7. Lawrence
8. Marion
9. Perry
10. Walthall

WESTERN DIVISION

Natchez

1. Adams
2. Claiborne
3. Issaquena
4. Jefferson
5. Sharkey
6. Warren
7. Wilkinson
8. Yazoo

SOUTHERN DIVISION

Gulfport

1. George
2. Hancock
3. Harrison
4. Jackson
5. Pearl River
6. Stone

Rule 1. SCOPE AND PURPOSES

- (a) **Purposes.** The courts have adopted these Local Rules and, within them, a *Differentiated Case Management Plan* to permit the courts to manage their civil dockets in the most effective manner, to reduce costs and to avoid unnecessary delay, without compromising the independence or the authority of either the judicial system or the individual judge. The underlying principle of the Rules is to make access to a fair and efficient court system available and affordable to all citizens.
- (b) **Definitions.** For purposes of these Local Rules:
- (1) **Differentiated Case Management [DCM]** is a plan providing for management of civil actions based on case characteristics. This system is marked by the following features: the court reviews and screens civil action filings and channels cases to processing “tracks” which provide an appropriate level of judicial, staff, and attorney attention; civil actions having similar characteristics are identified, grouped, and assigned to designated tracks; each track employs a case management plan tailored to the general requirements of similarly situated cases; and provision is made for the initial track assignment to be adjusted to meet the special needs of any particular case.
 - (2) **Judicial Officer** is either a United States district judge or a United States magistrate judge.
 - (3) **Court** means the United States district judge, the United States magistrate judge, or clerk of court personnel, to whom a particular responsibility, action, or decision has been delegated by the judges of the United States District Court for the Northern District of Mississippi or the United States District Court for the Southern District of Mississippi.
- (c) **Tracks and Assignment of Civil Actions**
- (1) **Expedited.** Civil actions on the Expedited Track will have a completion goal of nine or fewer months after filing of the first answer or other responsive pleading.
 - (2) **Standard.** Civil actions on the Standard Track will have a completion goal of twelve or fewer months or less after the filing of the first answer or other responsive pleading.
 - (3) **Complex.** Civil actions on the Complex Track will have the discovery cut-off established in the Case Management Plan and will have a

completion goal of no more than twenty-four months after filing of the first answer or other responsive pleading.

- (4) **Administrative.** Civil actions on the Administrative Track, with the exceptions of bankruptcy appeals, student loan actions, and civil asset forfeiture actions, will normally be referred directly to a magistrate judge. These actions normally will have no discovery and will have a completion goal of nine months.
 - (5) **Mass Tort.** Civil actions on the Mass Tort Track will be treated in accordance with the special management plan adopted by the court.
 - (6) **Suspension Track.** The completion goal of civil actions placed on the Suspension Track will be determined at the Case Management Conference and time computations will commence on the date the stay order is lifted.
- (d) **Case Evaluation Criteria.** The court will consider and apply the following factors in assigning civil actions to a particular track:
- (1) **Expedited:**
 - (A) Legal Issues: Few and clear.
 - (B) Required Discovery: Limited.
 - (C) Number of Real Parties in Interest: Few.
 - (D) Number of Fact Witnesses: Up to five.
 - (E) Expert Witnesses: Few, if any.
 - (F) Likely Trial Days: Three or fewer.
 - (G) Character and Nature of Damage Claims: Liquidated or routine.
 - (2) **Standard:**
 - (A) Legal Issues: More than a few, some unsettled.
 - (B) Required Discovery: Routine.
 - (C) Number of Real Parties in Interest: Up to five legal entities but which represent no more than three diverse interests.
 - (D) Number of Fact Witnesses: Up to ten.
 - (E) Expert Witnesses: Usually fewer than four.
 - (F) Likely Trial Days: Five or fewer.
 - (G) Character and Nature of Damage Claims: Routine.
 - (3) **Complex:**
 - (A) Legal Issues: Numerous, complicated and possibly unique.
 - (B) Required Discovery: Extensive.
 - (C) Number of Real Parties in Interest: More than five.
 - (D) Number of Fact Witnesses: More than ten.

- (E) Expert Witnesses: More than three.
- (F) Likely Trial Days: More than five.
- (G) Character and Nature of Damage Claims: Usually requiring expert testimony.

- (4) **Administrative:** Civil actions that, based on the court's prior experience, are likely to result in default or consent judgments or usually can be resolved on the pleadings or by motions. These include such actions as Social Security appeals, bankruptcy appeals, habeas corpus petitions, student loans, civil asset forfeiture actions, or other actions involving an administrative record.
- (5) **Mass Torts:** Factors to be considered for this track will be identified in accordance with the special management plan adopted by the court.
- (6) **Suspension:** Civil actions stayed pending resolution of remand motions, immunity defense motions, jurisdictional motions, bankruptcy proceedings or for other good cause found by the court.

Rule 4. CIVIL PROCESS

- (a) **Preparation.** It is the responsibility of the plaintiff in each original case filed to prepare the summons to be served on each defendant and to present the process to the clerk of court at the time of the filing of the original complaint. The signed process with seal affixed will then be returned to the attorney for service.
- (b) **Service.** The United States Marshal does not serve process in civil actions except on behalf of the federal government, in actions proceeding *in forma pauperis*, on writs of seizure and executions of judgments, and when otherwise ordered by a federal court.

Rule 5. ORIGINAL FILINGS AND REMOVALS

- (a) **Original Filings.** In all civil actions, the plaintiff must file with the clerk of court the original complaint
 - (1) **Civil Cover Sheet.** A civil cover sheet (Form JS 44) must be filed with each original complaint or petition filed. A link to all national forms can be found on the courts' Websites.

- (2) **Filing Fees.** Filing fees must be paid to the clerk of court upon filing of each original complaint or petition in accordance with the fee schedule maintained by the clerk of court.

(b) **Removals.**

- (1) **Required Filing of Entire State Court Record.** No later than fourteen days after the docketing in the electronic filing system of a removed action, the removing party must obtain a complete copy of the record in the state court from which the action was removed and electronically file that complete copy in the electronic filing system record as a single docket item.
- (2) **Separate Docketing of All Nonadjudicated Motions.** In addition to the filing required by L.U.CIV.R. 5(b)(1), no later than fourteen days after the docketing in the electronic filing system of a removed action, the removing party must file as separate docket items each nonadjudicated motion and supporting memoranda (with associated exhibits and any other supporting materials) from the state court record, whether denominated in the state court record as a motion or in effect a motion contained within the body of the pleading, so as to provide notice to the court that the motions remain pending for adjudication.

(c) **Non-Filing of Pre-Discovery Disclosures and Discovery Materials**

- (1) **Pre-Discovery disclosures.** Pre-discovery disclosures of core information under L.U.CIV.R. 26.1(A) should not be filed with the clerk of court until the disclosures are used in a proceeding or the court orders that they be filed. The party serving disclosures must file a notice of service of pre-discovery disclosure of core information [Official Form No. 2(c)].
- (2) **Depositions.** As depositions in civil actions are not filed, the court reporter will forward the original of a deposition to the party responsible for its taking; the party must retain the original and is its custodian. Immediately upon receipt of the original deposition, the party serving as custodian must file a copy of the cover sheet of the deposition and a notice that all parties of record have been notified of its receipt by the custodian [Official Form No. 2(a)].
- (3) **Discovery.** Interrogatories under FED. R. CIV. P. 33, Requests for Production or Inspection under FED. R. CIV. P. 34, and Requests for Admission under FED. R. CIV. P. 36, must be served upon other counsel or parties, but not filed with the court. The party who served the discovery

request or the response must retain the original and become the custodian and file a notice of service with the court [Official Form No. 2(b)].

- (4) **Filing for use in Relation to Motions.** If disclosures under FED. R. CIV. P. 26(a)(1) or (2), interrogatories, requests, answers, responses or depositions are necessary to a pretrial motion that might result in an order on any issue, unless already of record and referenced by citation to the docket entry(ies), the moving party must file the portions to be used as an exhibit to the motion.
- (5) **Filing for use on Appeal.** When documentation of discovery or disclosures not in the record is needed for appeal purposes, a party may apply for a court order directing or the parties may stipulate to the filing of the necessary discovery or disclosure papers.

Rule 5.2. PROTECTION OF PERSONAL AND SENSITIVE INFORMATION; PUBLIC ACCESS TO COURT FILES; REDACTED INFORMATION; SEALED INFORMATION.

Responsibilities of Counsel and Parties. Counsel should advise clients of the provisions of this rule and Fed.R.Civ.P. 5.2 so that an informed decision may be made about the inclusion of protected information.

- (a) Counsel and parties must consider that the *E-Government Act of 2002* (as amended) and the policies of the Judicial Conference of the United States require federal courts eventually to make *all* pleadings, orders, judgments, and other filed documents available in electronic formats accessible over the Internet and the courts' PACER [Public Access to Court Electronic Records] systems. Consequently, personal and sensitive information and data that formerly were available only by a review of the court's physical case files will be available to the world, openly, publicly, and near-instantaneously.
- (b) If a redacted document is filed, it is the sole responsibility of counsel and the parties to ensure that all pleadings conform to the redaction-related standards of this rule.
- (c) Neither the court nor the clerk will review pleadings or other documents for compliance with this rule.

Rule 7 . MOTIONS AND OTHER PAPERS

- (a) **Trial Briefs.** Whether to submit a trial brief is within the discretion of the parties, but any brief submitted to the court must be simultaneously served upon all other parties. Briefs may not exceed thirty-five pages without prior approval of the court.

- (b) **Motion Practice.** Any written communication with the court that is intended to be an application for relief or other action by the court must be presented by a motion in the form prescribed by this Rule.
- (1) **Applicability.** The provisions of this rule apply to all written motions filed in civil actions.
- (2) **Filing, Deadlines, Proposed Orders.** Any motion, response, rebuttal and supporting exhibits, including memorandum briefs in support, must be filed. All affidavits and other supporting documents and exhibits, excluding the memorandum brief, must be filed as exhibits to the motion, response or rebuttal to which they relate. The memorandum brief must be filed as a separate docket item from the motion or response and the exhibits. All supporting exhibits must be denominated in the court's electronic filing system by both an exhibit letter or number *and* a meaningful description. Further, all supporting exhibits not already of record and cited in the motion, response or rebuttal by docket entry, must normally be filed under the same docket entry and denominated separately in the court's electronic filing system as exhibits to the motion, response or rebuttal to which they relate, unless doing so is not practicable, in which case supporting exhibits may be filed as separate docket item attachments, associated by the docket number of the motion, response or rebuttal to which they relate. Counsel must file a memorandum brief as a separate docket item from the motion or response to which it relates and *must not make the memorandum brief an exhibit to a motion or response*, except in the case of a motion for leave to submit the referenced memorandum brief.
- (A) Affirmative defenses must be raised by motion. Although the affirmative defenses may be enumerated in the answer, the court will not recognize a motion included within the body of the answer, but only those raised by a separate filing.
- (B) A party must file a discovery motion sufficiently in advance of the discovery deadline to allow response to the motion, ruling by the court and time to effectuate the court's order before the discovery deadline.
- (C) Unless otherwise ordered by the Case Management Order, all case-dispositive motions and motions challenging an opposing party's expert must be filed no later than fourteen calendar days after the discovery deadline.

- (D) Motions *in limine* other than motions challenging another party's expert must be filed no later than fourteen calendar days before the pretrial conference, and all responses must be filed no later than seven calendar days before the pretrial conference.
- (E) A proposed order must be submitted to the judge for any motion that may be heard *ex parte* or is to be granted by consent. If the motion is referred to a magistrate judge, the proposed order must be submitted to the magistrate judge. The addresses for the district judges' and for the magistrate judges' chambers appear in the courts' *Administrative Procedures for Electronic Case Filings*.

(3) **Responses**

- (A) A response to a motion, all affidavits, 28 U.S.C. § 1746 declarations, the response memorandum and other supporting materials, including any objections, must be filed of record. Within the time allowed for response, the opposing party must either respond to the motion or notify the court of its intent not to respond.
- (B) A separate response must be filed as to each separately docketed motion.
- (C) A response to a motion may not include a counter-motion in the same document. Any motion must be an item docketed separately from a response.
- (D) A response to a motion may not be included in the body of a pleading, but rather should be a separately docketed item denominated in the record as a response and should be associated by docket number with the motion to which it responds.
- (E) If a party fails to respond to any motion, other than a dispositive motion, within the time allotted, the court may grant the motion as unopposed.

- (4) **Memorandum Briefs; Documents Required with Motions; Time Limits; Failure to Submit Required Documents; Motions Not Reurged.** At the time the motion is served, other than motions or applications that may be heard *ex parte* or those involving necessitous or urgent matters, counsel for movant must file a memorandum brief in support of the motion. Counsel for respondent must, within fourteen days

after service of movant's memorandum brief, file a memorandum brief in response. Counsel for movant desiring to file a rebuttal may do so within seven days after the service of the respondent's memorandum brief. A party must make any request for an extension of time in writing to the judge who will decide the motion. Failure to timely submit the required motion documents may result in the denial of the motion. A pending nondispositive motion not reurged after discovery has been concluded and before the motion deadline, may be deemed moot and denied by operation of this rule.

- (5) **Length of Memorandum Briefs.** Movant's original and rebuttal memorandum briefs together may not exceed a total of thirty-five pages, and respondent's memorandum brief may not exceed thirty-five pages.
- (6) **Notice and Hearings**
 - (A) The court will decide motions without a hearing or oral argument unless otherwise ordered by the court on its own motion or, in its discretion, upon written request made by counsel in an easily discernible manner on the face of the motion or response.
 - (B) An evidentiary hearing or oral argument, where allowed, will be set at a time and place convenient to the judge. The court may, in its discretion, hear oral argument by electronic means.
- (7) **Priority.** The court will give priority to discovery motions, discovery appeals, immunity defense motions, motions to remand, and other jurisdictional motions.
- (8) **Urgent or Necessitous Matters.** When the motion relates to an urgent or necessitous matter, counsel for the movant must contact the courtroom deputy, or other staff member designated by the judge, and arrange a definite time and place for the motion to be heard. In such cases, counsel for movant must file a written notice to all other parties of the time and place fixed by the court for the hearing and must serve all documents upon other parties. Upon receipt of the motion, the court in its discretion may direct counsel to submit memorandum briefs for the court's consideration.

Unless a party files a motion for a protective order to limit the scope or quash the taking of a deposition within seven days of the date of the notice of deposition, the motion will not be considered urgent or necessitous.

- (9) **Court Reporters.** If the hearing of a motion requires the presence of a court reporter, the party requesting a court reporter must obtain prior approval from the office of the district or magistrate judge before whom the motion is noticed.
 - (10) **Non-Dispositive Motions.** All non-dispositive motions must advise the court whether there is opposition to the motion.
 - (11) **Untimely Motions.** Any nondispositive motion served beyond the motion deadline imposed in the Case Management Order may be denied solely because the motion is not timely served.
- (c) **Corporate Disclosure Statement.** A non-governmental corporate party must file a statement identifying all of its parent corporations and listing any publicly-held company that owns ten percent or more of the party's stock. The Corporate Disclosure Statement must be filed as a separate pleading with the party's initial pleading, and a copy of the Corporate Disclosure Statement must be provided to the magistrate judge and to the district judge assigned to the civil action. Each party must supplement the statement within a reasonable time of any change in the disclosure information.

Rule 11. SIGNATURES REQUIRED ON PLEADINGS, MOTIONS, AND OTHER PAPERS

- (a) Consistent with FED. R. CIV. P. 11, the filing of a signed pleading, motion, or other document by any counsel is deemed to signify approval by all co-counsel. All filed, signed documents must contain counsel's name, address, telephone number, fax number, e-mail address, and counsel's bar membership identification number. All documents filed and signed by a party not represented by an attorney must contain the party's name, address, telephone number, fax number, and e-mail address. Every attorney and every litigant proceeding without legal counsel has a continuing obligation to notify the clerk of court of address changes.
- (b) **Sanctions—Unreasonable Delays.** Any delay or continuance occasioned by a party's failure to abide by these rules may result in the imposition of appropriate sanctions, including assessment of costs and attorneys' fees. In this regard, counsel must immediately notify the appropriate judge if a pending motion is resolved by the parties or if the civil action is settled.

Rule 16. PRETRIAL CONFERENCES

- (a) **Court Order.** The court will issue an Initial Order setting the deadline for the attorney conference required by FED. R. CIV. P. 26(f) and a date for a case

management conference [CMC] with the magistrate judge. The court will strive to set the case management conference within sixty days of the filing of the first responsive pleading.

(b) Exceptions:

(1) Removed Civil Actions.

(A) In removed civil actions in which no motion to remand or motion to refer the action to the bankruptcy court is filed, the attorneys and unrepresented parties must confer as outlined in L.U.CIV.R. 26(c) within forty days, and all other deadlines will be determined accordingly.

(B) A motion to remand or a motion to refer an action to the bankruptcy court will stay the attorney conference and disclosure requirements and all discovery not relevant to the remand or referral issue and will stay the parties' obligation to make disclosures pending the court's ruling on the motions. At the time the remand motion or referral motion is filed, the movant must submit to the magistrate judge an order granting the stay but permitting discovery concerning only the remand or referral issue. The parties must promptly notify the magistrate judge of any order denying a motion to remand or motion to refer and must promptly submit an order lifting the stay.

(C) Within fourteen days of the order lifting the stay, the parties must confer as outlined in L.U.CIV.R. 26(c) and all other deadlines will be determined accordingly. A scheduling conference will be held within sixty days after the stay is lifted.

(2) Transferred Civil Actions. If the attorneys and unrepresented parties have not already conducted the conference required by FED. R. CIV. P. 26(f) in an action transferred to the district, the parties must do so within fourteen days of the action's transfer and all other deadlines will be determined accordingly.

(3) Immunity Defense or Jurisdictional Defense

(A) An immunity defense or a jurisdictional defense must be raised by a separate motion as expeditiously as possible after the filing of the complaint. A motion asserting lack of jurisdiction must be filed at least seven days before the Case Management Conference or the

movant will be deemed to have waived the stay provision of subsection (B).

- (B) Filing an immunity defense or jurisdictional defense motion stays the attorney conference and disclosure requirements and all discovery not related to the issue pending the court's ruling on the motion, including any appeal.
- (C) At the time the immunity defense or jurisdictional defense motion is filed, the moving party must submit to the magistrate judge a proposed order granting the stay but permitting discovery relevant only to the defense raised in the motion.
- (D) The plaintiff must promptly notify the magistrate judge of a decision on the motion and must submit a proposed order lifting the stay. Within fourteen days of the order lifting the stay, the parties must confer in accordance with L.U.CIV.R. 26(c), and all other deadlines will be determined accordingly.
- (E) A case management conference will be scheduled within sixty days of the order lifting the stay.

(4) Civil Asset Forfeiture Actions

- (A) In civil asset forfeiture actions in which the United States files a motion challenging the claimant's standing, the attorney conference and disclosure requirements and all discovery not relevant to the standing issue will be stayed pending the court's ruling on the standing issue.
- (B) At the time the motion challenging the claimant's standing is filed, the United States must submit to the magistrate judge a proposed order granting the stay but permitting discovery on the standing issue.
- (C) The parties must promptly notify the magistrate judge of a decision on the standing issue and must submit a proposed order lifting the stay if it is determined that the claimant has standing. Within fourteen days of the order lifting the stay, the parties must confer in accordance with this Rule and all other deadlines will be determined accordingly.

- (D) A case management conference will be scheduled within sixty days of the order lifting the stay.
 - (E) If there is a pending criminal proceeding related to the civil asset forfeiture action, the discovery provided (or to be provided) by the United States in the criminal case will be deemed to satisfy the disclosure requirements of FED. R. CIV. P. 26(a).
- (c) **Submission of Written Proposed Case Management Plan and Scheduling Order.** The magistrate judge may require the parties to submit a proposed case management order no later than fourteen days after the attorney conference. Disagreements with the content of the proposed case management order must be noted on the submitted written plan. Each party must submit to the magistrate judge a confidential memorandum, no longer than three pages, setting forth a brief explanation of the case and a candid appraisal of the respective positions of the parties, including a candid evaluation of the possibilities for settlement.
- (d) **Time of Disclosures.** Unless a different time is set by court order or unless a party objects during the attorney conference and states the objection in the proposed case management order, the parties must make the disclosures required by FED. R. CIV. P. 26(a) [L.U.CIV.R. 26.1(a)(1)], no later than fourteen days after the attorney conference, but in no event may they be made later than seven days before the Case Management Conference.
- (e) **Case Management Conference.** On the date set by court order, the magistrate judge will hold a case management conference in accordance with FED. R. CIV. P. 16(b) and 26(f).
- (f) **Case Management Order**
 - (1) The judicial officer will enter the case management order no more than fourteen calendar days after the case management conference. [Official Form No. 1].
 - (2) The court will not require the parties to reserve a period in excess of three weeks for trial following the trial date.
- (g) **Settlement Conference**
 - (1) The court may schedule an initial settlement conference in the case management plan and scheduling order or by other order as the interests of justice may dictate.

- (A) Counsel for any party may request at any time that the judicial officer assigned to the case schedule a settlement conference.
 - (B) The court may order mediation in addition to, or in lieu of, a settlement conference.
 - (C) The parties are required to undertake discovery necessary for meaningful settlement discussions before a settlement conference or mediation.
- (2) Lead counsel for each party, individual parties not represented by legal counsel, and representatives of each corporate party, organization, or similar entity must appear at the conference. If lead counsel has been admitted *pro hac vice*, local counsel must also appear at the conference.
- (A) The party representative attending the conference must have full settlement authority to bind the party for settlement purposes.
 - (B) If approved in advance by the court, a party or party representative may, in lieu of attending the conference in person, be immediately available by telephone during the entire settlement conference. The court may also order that a representative of any intervening party with full settlement authority also attend the conference in person or be available by telephone.
 - (C) At the request of any party, the court will issue a notification of the settlement conference which the party may then forward to any entity having any type of subrogation lien that would need to be considered during settlement negotiations. The failure of a party to attend a settlement conference, or to have present at the conference a representative with reasonable settlement authority, may result in the assessment of sanctions against the offending party.
- (3) The notice of a settlement conference will set forth the format of the conference and will include any requirement for information or documents that must be submitted to the court before or at the conference.
- (4) No statement, oral or written, made by any party to the court or counsel(s) opposite during settlement negotiations under this rule will be admissible or used in any fashion in the trial of the case or any related case.
- (5) At least seven days before the settlement conference, each party must submit to the court a confidential memorandum, no longer than three

pages, setting forth a brief explanation of the case and a candid appraisal of the respective positions of the parties, including settlement negotiations to date and possible settlement figures. Counsel will also furnish a good faith estimate of the total expense of carrying the litigation through trial and the appellate processes, if not settled, and will have discussed and will represent to the court that they so discussed these expenses with their clients. The settlement memoranda are not to be exchanged or filed in the record, are to be viewed only by the court, and will be destroyed upon exhaustion of settlement negotiations.

- (h) Cases Excluded from Scheduling and Disclosure Requirements.** Those categories of proceedings appearing in FED. R. CIV. P. 26(a)(1)(B) are exempt from the scheduling and disclosure requirements of these rules.
- (i) Alternative Dispute Resolution Programs.** The courts have adopted a uniform Alternative Dispute Resolution Plan. That plan is appended to these Local Rules.
- (j) Final Pretrial Conferences And Pretrial Orders**

 - (1) Cases in Which Conference to be Held; Scheduling; Role of Magistrate Judge.** A final pretrial conference is to be held in all civil actions, subject only to the exceptions hereinafter noted.

 - (A)** The judicial officer assigned to try the case will attempt to conduct the pretrial conference. If the judicial officer is unable to schedule the pretrial conference in a timely manner, however, then he or she may direct that the conference be held before another judicial officer. This conference will be scheduled not more than forty-five days prior to trial.
 - (B)** Whenever possible, a final pretrial conference will be separately scheduled at a date, place, and hour and for such period of time as the subject matter of the particular civil action may require, but in all events a final pretrial conference will be scheduled in such manner as not to cause undue or inordinate inconvenience to counsel scheduled for final pretrial conferences in other cases.
 - (2) When Conference May be Dispensed With; Pretrial Order Still Required; Contents.** The court recognizes that a formal final pretrial conference may not be needed in all cases. The court, either on its own motion or by request of the parties made not later than fourteen days before the scheduled conference, may determine that a final pretrial conference is unnecessary and excuse the parties from attendance, but in

that event the jointly agreed pretrial order must be submitted to the judge before whom the conference was to have been held and all requirements of this rule must be complied with at or before the time and date set for the final pretrial conference, unless the judge fixes another date for submission of the pretrial order. If no formal final pretrial conference is held, counsel must submit to the appropriate judge a jointly agreed final pretrial order [Official Form No. 3] which must set forth:

- (A) Any jurisdictional question.
- (B) Any questions raised by pending motions, including motions *in limine*.
- (C) A concise summary of the ultimate facts claimed by plaintiff(s), by defendant(s), and by all other parties.
- (D) Facts established by pleadings or by stipulations or admissions of counsel.
- (E) Contested issues of fact.
- (F) Contested issues of law.
- (G) Exhibits (except documents for impeachment only) to be offered in evidence by the parties respectively. If counsel cannot in good faith stipulate the authenticity or admissibility of a proposed exhibit, the order must identify the same and state the precise ground of objection.
- (H) The names of witnesses for all parties, stating who *Will Be Called* in the absence of reasonable notice to opposing counsel to the contrary and who *May Be Called* as a possibility only. Neither rebuttal nor impeachment witnesses need be listed. The witness list must state whether the witness will give fact or expert testimony, or both, whether the witness will testify as to liability or damages, or both, and whether the witness will testify in person or by deposition.
- (I) Any requested amendments to the pleadings.
- (J) Any additional matters to aid in the disposition of the action.
- (K) The probable length of the trial.

- (L) Full name, address, and phone number of all counsel of record for each party.
- (3) **Submission by Magistrate Judge to Trial Judge.** If the pretrial conference is held before a magistrate judge who will not try the case, the magistrate judge will submit the agreed, approved pretrial order to the trial judge, with copies to counsel and to the clerk of court.
- (4) **Duty of Counsel to Confer; Exhibits; Matters to be Considered at Conference; Sanctions.** The following provisions of this rule apply, regardless of whether the pretrial order is entered by stipulation of the parties or following a formal final pretrial conference:
 - (A) Counsel must resolve by stipulation all relevant facts that are not in good faith controverted and must exchange with counsel for all other parties true copies of all exhibits proposed to be offered in evidence, other than those to be used for impeachment purposes only, and must stipulate the authenticity of each exhibit proposed to be offered in evidence by any party unless the authenticity of any such exhibit is in good faith controverted.
 - (B) All exhibits are to be pre-marked, and lists briefly describing each are to be exchanged among counsel and presented to the court at the beginning of the trial, in quadruplicate, unless otherwise directed by the court.
 - (C) At any formal final pretrial conference, the judge will confer with counsel regarding proposed stipulations of facts and contested issues of fact and law, and will inquire as to the reasonableness of any party's failure to stipulate or agree as to the authenticity or admissibility of exhibits. If the court determines that any party or his attorney has failed to comply with this rule, such party or his attorney will be subject to appropriate sanctions.
- (5) **Depositions.** Depositions to be introduced in evidence other than for rebuttal or impeachment purposes must be abridged before the pretrial conference or submission of the order, as follows:
 - (A) The offering party must designate by line and page the portions of the deposition it plans to offer.
 - (B) The opposing party or parties must designate by line and page any additional portions of the deposition to be offered and must

identify distinctly any portions of the deposition previously designated by any other party to which objection is made.

- (C) The offering party must thereafter identify distinctly any portions of the deposition previously designated by any other party to which objection is made.
- (D) Videotaped depositions must be edited before trial as required by the pretrial order.

(6) **Procedure at Final Pretrial Conference.** In addition to the preceding provisions, the following provisions apply to the formulation of a pretrial order by formal conference before the magistrate judge, or in any appropriate case, the district judge.

- (A) **Counsel Must Attend; Sanctions.** All scheduled conferences must be attended by counsel of record who will participate in the trial and who have full authority to speak for the party and enter into stipulations and agreements. Counsel must have full authority from their clients with respect to settlement and must be prepared to inform the court regarding the prospects of settlement. The court may require the attendance or availability of the parties, as well as counsel. Should a party or his attorney fail to appear or fail to comply with the directions of this rule, an *ex parte* hearing may be held and a judgment of dismissal or default or other appropriate judgment entered or sanctions imposed.
- (B) **Preparation for the Conference.** Counsel must comply with the requirements of subdivisions (j)(4) and (j)(5) of this rule as soon as practicable before the pretrial conference and submit to the court and counsel opposite a proposed pretrial order setting forth his proposals for inclusion in the pretrial order in accordance with subdivision (j)(2) of this rule and any instructions which the court may in its discretion issue.
- (C) **Preparation of the Pretrial Order.** After the final pretrial conference has concluded, a pretrial order must be prepared by counsel in conformity with Official Form No. 3 and submitted to the court for entry. Responsibility for preparation of the pretrial order and the deadline for its submission will be fixed by the judicial officer before whom the conference was held. If a magistrate judge has conducted the conference on behalf of a district judge, he or she will require counsel to make such

corrections as the magistrate judge deems necessary before transmitting the order to the district judge.

- (D) **Additional Conferences.** After the final pretrial conference has been conducted, the court will not hold an additional pretrial conference except in those exceptional situations in which the judicial officer determines that an additional conference would materially benefit disposition of the action.
- (7) **Effect of Pretrial Order.** The pretrial order controls the subsequent course of the action unless modified by the trial judge at or before the trial, upon oral or written motion, to prevent manifest injustice.
- (8) **Conference Scheduling; Conflicting Settings.** In scheduling all pretrial conferences of any nature, the judge will give due consideration to conflicting settings but not to the mere convenience of counsel. If a scheduling order has been entered in an action, no final pretrial conference will be held until after the discovery deadline has expired. Failure to complete discovery within such deadline is not an excuse for delaying the final pretrial conference nor for securing continuance of a case which has been calendared for trial.
- (9) **Discretion of District Judge.** Notwithstanding any of the provisions of this rule to the contrary, a district judge may, in his or her discretion, in any assigned case, conduct any or all pretrial conferences and may enter or modify a scheduling order.
- (k) **Conflicting Settings And Requests For Continuances.** When the court has set a case for trial, other hearing, or pretrial conference that conflicts with a court appearance of counsel in other courts, the first case having a firm setting will control, whether set by this or some other court, and other courts are expected to yield to the prior firm setting, as this court will do when other cases have prior settings in other courts, consistent with the policy adopted by the State-Federal Judicial Council. When a case has not been reached as scheduled, the court, in resetting the case, will take into account the obligations of counsel on the basis of the first-setting rule. If a conflict develops, it is the absolute duty of counsel to inform the court of the later setting in order that the conflict might be resolved and calendars cleared for other settings. It is essential for counsel and the court or courts involved to resolve potential conflicts at the earliest practical date.

Rule 23. **CLASS ACTIONS.** In all civil actions filed as class actions, the class plaintiff must, at a time directed by the case management order, move for a FED. R. CIV. P. 23

class determination. The plaintiff has the burden of establishing by way of pleadings and evidentiary materials that a class action is appropriate and of defining all relevant classes and subclasses.

Although the court may deem it necessary to schedule an evidentiary hearing on the class aspects of a civil action, usually pleadings, affidavits, other evidentiary materials, and legal memoranda submitted by both sides should be adequate bases upon which the court may make a class action determination. Interlocutory procedures, when appropriate, will be tailored to fit each action.

Counsel for all parties must be aware of the general time schedule set forth above and must promptly prepare all materials that may be relevant to class action maintainability and class definitions. Until the issue of class certification has been decided, counsel must give priority to discovery directed to the class issue.

If additional time is desired for preparation on the L.U.CIV.R. 23 issue(s), a motion stating grounds for the requested delay must be served within the above time period. Delays will be granted only for good cause.

Rule 26. DISCOVERY CONTROL

(a) Pre-Discovery Disclosures of Core Information/Other Cooperative Discovery Devices

(1) Initial Disclosure

(A) Within the time designated in the court's initial order setting the FED.R.CIV.P. 16 conference, the parties must make the disclosure required by FED.R.CIV.P. 26(a)(1). Disclosures must be made no later than seven days before the Case Management Conference unless a different time is set by court order or unless a party objects during the attorney conference and states the objection in the proposed case management order. At the time of the submission of the proposed case management order, the parties must certify that the conference required by FED.R.CIV.P. 26(f) has taken place and that the initial disclosures have been made.

(B) If the documents, electronically stored information, data compilations, and tangible things [collectively "items"] required for production are voluminous, or if other circumstances make their production unduly burdensome or expensive, the party may describe by category and location all such items in its possession,

custody or control and must provide the opposing party a reasonable opportunity to review all the items at the site they are located or maintained.

(C) A party withholding information claimed privileged or otherwise protected must submit a privilege log that contains at least the following information: name of the document, electronically stored information, or tangible thing; description of the document, electronically stored information, or tangible thing, which description must include each requisite element of the privilege or protection asserted; date; author(s); recipient(s); and nature of the privilege. To withhold materials without such notices subjects the withholding party to sanctions under FED.R.CIV.P. 37 and may be viewed as a waiver of the privilege or protection.

(2) **Expert Witnesses.** A party must make full and complete disclosure as required by FED.R.CIV.P. 26(a)(2) and L.U.CIV.R. 26(a)(2)(D) no later than the time specified in the case management order. Absent a finding of just cause, failure to make full expert disclosures by the expert designation deadline is grounds for prohibiting introduction of that evidence at trial.

(A) For purposes of this section, a written report is “prepared and signed” by the expert witness when the witness executes the report after review.

(B) An attempt to designate an expert without providing full disclosure information as required by this rule will not be considered a timely expert designation and may be stricken upon proper motion or sua sponte by the court.

(C) Discovery regarding experts must be completed within the discovery period. The court will allow the subsequent designation or discovery of expert witnesses only upon a showing of good cause.

(D) A party must designate physicians and other witnesses who are not retained or specially employed to provide expert testimony but are expected to be called to offer expert opinions at trial. No written report is required from such witnesses, but the party must disclose the subject matter on which the witness is expected to present evidence under FED.R.EVID. 702, 703 or 705, and a summary of the facts and opinions to which the witness is expected to testify. The party must also supplement initial disclosures.

- (E) FED.R.CIV.P. 26(b)(3) protects drafts of any report or disclosure required by FED.R.CIV.P. 26(a) and communications between the party's attorneys and the witness, regardless of the form of the communication, except to the extent the communication relates to: (i) compensation for the expert's study or testimony; (ii) identity of facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or (iii) identity of assumptions that the party's attorney provided and that the expert relied upon in forming the opinions to be expressed.
 - (F) The party seeking the deposition of an expert witness must pay the expert a reasonable fee for the time spent in preparing for and responding to the deposition and reasonable travel, room, and board expenses for the expert witness to attend the deposition.
- (3) **Failure to Disclose.** If a party fails to make a disclosure required by this section, any other party must move to compel disclosure and for appropriate sanctions under FED.R.CIV.P. 37(a). The failure to take immediate action and seek court intervention when a known fact disclosure violation other than as to expert witnesses occurs will be considered by the court in determining the appropriate sanctions to be imposed regarding a subsequent motion filed under FED.R.CIV.P.37(c). Challenges as to inadequate disclosure of expert witness(es) must be made no later than thirty days before the discovery deadline or will be deemed waived. Daubert motions challenging a designated expert must be filed no later than the deadline for dispositive motions or other deadline for such motions established by the case management order or other order, whichever is later.
- (4) **Discovery Before the Case Management Conference.** Discovery before the case management conference is governed by FED.R.CIV.P. 26(d).
- (5) **Supplementation of Discovery.** A party is under a duty to supplement disclosures at appropriate intervals under FED.R.CIV.P. 26(e) and in no event later than the discovery deadline established by the case management order.
- (b) **Setting Discovery Deadlines.** The Case Management Order will establish a firm discovery deadline consistent with the track assignment of the case.

- (1) The discovery deadline is that date by which all responses to written discovery, including supplementation of responses, required by the Federal Rules of Civil Procedure must be made and by which all depositions must be concluded. Supplementation of disclosures must be concluded by the discovery deadline.
 - (2) Counsel must initiate discovery requests and notice or subpoena depositions sufficiently in advance of the discovery deadline date to comply with this rule, and discovery requests that seek responses or schedule depositions that would otherwise be answerable after the discovery deadline date are not enforceable except by order of the court for good cause shown.
 - (3) The parties may not extend the discovery deadline by stipulation or without the consent of the court.
- (c) **Attorney/Party Signatures for Requests to Extend Discovery Deadlines.** The court in its discretion may require the requesting attorney and party to sign requests to extend discovery deadlines.
- (d) **Limitations on Use of Discovery.** The court should limit the number of depositions, interrogatories, requests for production and requests for admission to the needs of each particular case consistent with the track assignment. A specific interrogatory/request and its reasonably related subpart will be counted as one interrogatory/request.
- (1) **Expedited.** Interrogatories, requests for production of documents, and requests for admission should be limited to fifteen succinct questions or requests. Depositions should be limited to the parties and no more than three fact witness depositions per party without prior approval of the court.
 - (2) **Standard.** Interrogatories, requests for production of documents, and requests for admission should be limited to twenty-five succinct questions or requests. Depositions should be limited to the parties and no more than five fact witness depositions per party without prior approval of the court.
 - (3) **Complex.** The case management order should provide for discovery consistent with the needs of the case.
 - (4) **Administrative.** No discovery should be the norm.
 - (5) **Mass Torts.** The case management order should provide for discovery consistent with the needs of the case.

(e) **FED. R. CIV. P. 26(f) Conference of the Parties.** Early Meeting of Counsel/Attorney Conference. Except in categories of proceedings exempted from initial disclosures by Fed.R.Civ.P. 26(a)(1)(E), the attorneys and any unrepresented parties must confer by telephone or in person as soon as is practicable and no later than the deadline established by the court and discuss, at a minimum, the following:

(1) Principal Issues.

- (A) Identify the principal factual and legal issues in dispute;
- (B) Discuss the principal evidentiary basis for claims and defenses;
- (C) Determine the DCM case track as provided by LU.CIV.R. 1(c) and (d), days required for trial, and whether the case should be considered for ADR procedures.

(2) Disclosure

- (A) Discuss the arrangements for exchanging the disclosures required by FED.R.CIV.P. 26(a)(1) and whether any changes should be made in the timing, form, or requirement for such disclosures.
- (B) Confer on the following topics relating to electronically stored information [ESI]:
 - (i) The native format, media, and repositories of discoverable ESI;
 - (ii) Steps the parties will take to identify and preserve discoverable ESI to avoid a claim of spoliation;
 - (iii) The scope of e-mail discovery and any e-mail protocol;
 - (iv) Whether discoverable deleted ESI still exists, the extent to which restoration of deleted ESI is necessary, and who will bear the burden and cost of restoration;
 - (v) With respect to discoverable ESI, whether embedded data and metadata exist, whether they will be requested or should be produced, and how to address determinations regarding privilege and FED. R. CIV. P. 26(b)(3)-protected ESI;

- (vi) Whether responsive back-up and archival ESI exists, the extent to which back-up and archival ESI is needed and who will bear the burden and costs of obtaining such ESI;
 - (vii) The format and media to be used in the production of ESI;
 - (viii) The identity of sources and types of potentially discoverable ESI that a party does not intend to subject to discovery;
 - (ix) Whether any discoverable ESI is not reasonably accessible and the basis for that contention;
 - (x) If a party intends to seek discovery of ESI from sources or of types identified as not reasonably accessible, the parties should discuss: (i) the burden and cost of accessing and retrieving such ESI; (ii) any putative good cause for requiring production of all or part of such ESI; and (iii) any mitigating conditions such as scope, time, and cost shifting that might reduce the burden or cost of producing ESI that is not reasonably accessible;
 - (xi) How to handle inadvertent disclosure of privileged or FED. R. CIV. P. 26(b)(3)-protected ESI considering FED.R.EVID. 502.
- (3) **Motions.** Identify any motions whose early resolution would have a significant impact on the scope of discovery or other aspects of litigation.
- (4) **Discovery.** Consistent with case management track recommendations, determine what discovery is required, when discovery should be completed, whether discovery should be conducted in phases or be limited to or focused upon particular issues, and what limitations should be placed on discovery.
- (5) **Jurisdiction by a Magistrate Judge.** Discuss whether all parties consent to jurisdiction by a magistrate judge under 28 U.S.C. § 636.
- (6) **Settlement.** Discuss the possibilities for prompt settlement or resolution of the action and whether it would be helpful to schedule an early settlement conference.

- (7) **Preparation of a proposed case management plan and scheduling order.** The proposed order must set forth track and ADR recommendations, whether all parties consent to trial by a magistrate judge, the date and manner in which disclosures required under FED.R.CIV.P. 26(a) have been made, whether any party objects to the disclosures made and, if so, on what grounds, discovery limitations, deadlines for amendments to pleadings and joinder of additional parties, completion of discovery, designation of experts; filing of motions, including motions for summary judgment, *Daubert* motions, and other motions in limine. The attorneys of record and all unrepresented parties who have appeared in the action are jointly responsible for arranging the conference and attempting in good faith to agree on the proposed case management plan and scheduling order.
- (8) **Other Orders.** Discuss whether any other orders should be entered by the court under FED.R.CIV.P. 16(b) or (c).

Rule 30. DEPOSITIONS

- (a) **Audiovisual Recording of Depositions.** A deposition may be recorded audiovisually as a matter of course in accordance with Fed.R.Civ.P. 30(b)(2).
 - (1) **Written Transcript Required.** The recorded deposition must also be taken in the usual manner by a qualified shorthand or machine reporter and a written transcript prepared for use in subsequent court proceedings.
 - (2) **Scope of Scene Viewed.** During the deposition the witness must be recorded in as near to courtroom atmosphere and standards as possible. There will not be any zoom-in procedures to unduly emphasize any portion of the testimony, but zoom-in will be allowed for exhibits and charts to make them visible to a jury. The camera must focus as much as possible on the witness. The attorneys may be shown on introduction, the beginning of examination and during objections.
 - (3) **Witness's Approval Not Required.** A witness need not view or approve the recording of a deposition.
 - (4) **Availability to Parties.** Any party may purchase a duplicate original or edited recording from the video operator technician at any time.
 - (5) **Editing.** Audiovisually recorded depositions must be edited before the trial as required by the pretrial order.

(6) **Expenses Recoverable as Cost.** A prevailing party may claim in its bill of costs the court reporter's expenses for audiovisually recorded depositions necessarily obtained for use in the case.

(b) **Depositions of Experts.** The court encourages audiovisual recording of the testimony of expert witnesses.

Rule 35. PHYSICAL AND/OR MENTAL EXAMINATION. Every motion for the physical or mental examination of persons in civil actions which is not accompanied by a consent order setting forth the time, place and scope of the examination and the person selected to perform the examination must be accompanied by a statement executed by counsel for the moving party.

Counsel's statement must recite specifically the efforts initiated by counsel to agree upon the details, time, place, and scope of the mental or physical examination and the person proposed to perform the examination, and that the efforts were not successful.

Rule 37. DISCOVERY VIOLATIONS

(a) **Good Faith Certificate.** Before service of a discovery motion, counsel must confer in good faith to determine to what extent the issue in question can be resolved without court intervention. A Good Faith Certificate [Official Form No. 5] must be filed with all discovery motions. This certificate must specify whether the motion is unopposed, and if opposed, by which party(ies) and the method by which the matter has been submitted to the magistrate judge for resolution. The certificate must bear the signatures/endorsements of all counsel. If a party fails to cooperate in the attempt to resolve a discovery dispute or prepare the Good Faith Certificate, the filed motion must be accompanied by an affidavit or a 28 U.S.C. § 1746 declaration by the moving party detailing the lack of cooperation and requesting appropriate sanctions.

(b) **Motions Must Quote Disputed Language.** Motions raising issues concerning discovery propounded under FED.R.CIV.P. 33, 34, 36, and 37, must quote verbatim each interrogatory, request for production, or request for admission to which the motion is addressed, and must state:

(1) the specific objection;

- (2) the grounds assigned for the objection (if not apparent from the objection itself), and
- (3) the reasons assigned as supporting the motion.

The objections, grounds and reasons must be written in immediate succession to the quoted discovery request. The objections and grounds must be addressed to the specific interrogatory, request for production, or request for admission and may not be general in nature.

- (c) Failure to comply with subsections (a) or (b) of this rule will result in a denial of the motion without prejudice to the party, who may refile the motion upon conformity with this rule.
- (d) **L.U.CIV.R. 37 Motion to Limit or Quash a Deposition.** The filing of a motion for a protective order to limit or quash a deposition does not operate as a stay of the deposition. It is incumbent upon the party seeking the protection of the court to obtain a ruling on the motion before the scheduled deposition.

Rule 38. DEMAND FOR JURY

- (a) **When Due; How Presented.** A party must make a demand for jury trial, including a removed or transferred action, in accordance with FED. R.CIV.P. Rule 38(b). A designation of jury trial on the civil cover sheet is not sufficient for purposes of this rule.
- (b) **Within Discretion of Court.** A request for a jury otherwise presented will be addressed to the sound judicial discretion of the court.
- (c) **Removed Actions; Law and Equity Actions.** A civil action removed to federal district court from a chancery court of the State of Mississippi shall be designated for non-jury trial.

Rule 42. CONSOLIDATION OF ACTIONS. In civil actions consolidated under FED.R.CIV. P. 42(a), the action bearing the lower or lowest docket number will control the designation of the district or magistrate judge before whom the motion to consolidate is noticed; the docket number will also determine the judge before whom the case or cases will be tried. Consolidation of actions from different divisions of a district court will be controlled by the earliest filing date. A dismissal of the action bearing the lower or lowest number before the hearing on a motion to consolidate will not affect the operation of this rule. The judge initially assigned the lower or lowest numbered action, even if that action has been dismissed, will be the judge before whom the action(s) will be tried.

Rule 45. SUBPOENA

- (a) **Witnesses.** Witnesses for trial in paupers' cases must be compelled by subpoena or their voluntary attendance procured.
- (b) **Witnesses' Attendance and Mileage Fees.** Tender of the witness fee and mileage is required even if the party requesting the subpoena (except in habeas corpus cases and proceedings under 28 U.S.C. § 2255) has been granted leave to proceed in forma pauperis under 28 U.S.C. § 1915, because, with those exceptions, no public funds are available for that purpose.
- (c) **Privileged Information.** Information which is claimed to be privileged may be filed under seal under the provisions of L.U.CIV.R. 79.
- (d) **Non-Party ESI.** Parties issuing a subpoena duces tecum for electronically stored information from non-parties must attempt to meet and confer with the non-party (or counsel, if represented) and discuss the same issues with regard to requests for ESI as set out in L.U.CIV.R. 26.
- (e) **Motions Regarding Subpoenas.** Motions regarding subpoenas will be considered discovery motions and are governed by the procedural requirements that govern discovery motions.

Rule 48. COMMUNICATION WITH JURORS. Upon the return of a verdict by the jury in any civil or criminal action, neither the attorneys in the action nor the parties may, in the courtroom or elsewhere, express to the members of the jury their pleasure or displeasure with the verdict. After the jury has been discharged, neither the attorneys in the action nor the parties may at any time or in any manner communicate with any member of the jury regarding the verdict. Provided, however, that if an attorney believes in good faith that the verdict may be subject to legal challenge, the attorney may apply ex parte to the trial judge for permission to interview one or more members of the jury regarding the fact or circumstance claimed to support the legal challenge. If satisfied that good cause exists, the judge may grant permission for the attorney to make the requested communication and will prescribe the terms and conditions under which it may be conducted.

Rule 51. REQUESTS FOR JURY INSTRUCTIONS

- (a) **When Due.** Requests for instructions must be submitted not later than fourteen days before the date for which trial is set; additional and revised instructions may be admitted thereafter as the evidence may justify.
- (b) **How Presented.** Each requested instruction must be on a separate document, must be numbered (as P-1, *et seq.* and D-1, *et seq.*), and must be supported by citation of authority on papers separate from the requested instruction. Copies must be

furnished to opposing counsel when the special requests are submitted to the court. Where good cause is shown to exist, counsel may, with the permission of the court, submit additional written requests during the progress of the trial.

- (c) **Automated Formats.** Parties registered on the court's electronic filing system must submit instructions via electronic mail. The addresses for the district judges' and for the magistrate judges' chambers appear on the courts' Internet Websites and in the courts' *Administrative Procedures for Electronic Case Filings*.
- (d) **Standard Instructions Not Required.** Counsel should not submit pattern or "boilerplate" instructions which are routinely given by the court. This rule is intended to give the court an opportunity to study requests for instructions tailored specifically for a particular trial.

Rule 52. ORDERS AND JUDGMENTS

- (a) **Manner of Presentation.** All proposed orders and judgments must be submitted directly to the district or magistrate judge assigned to the case via electronic mail, in software format as may be designated by the court. The addresses for the district judges' and for the magistrate judges' chambers appear on the courts' Internet Websites and in the courts' *Administrative Procedures for Electronic Case Filings*.
- (b) **Service.** The attorney providing the order or judgment must also provide a copy to each party. The clerk of court will provide a copy of the executed order or judgment to each party not in default via the court's electronic filing system.

Rule 54. JURY COSTS

- (a) **Postponement in Advance of Trial.** Whenever a civil action scheduled for jury trial is required to be postponed, or is settled, or otherwise is disposed of in advance of trial, then jury costs, including mileage and per diem, may, in the court's discretion, be assessed equally against the parties and their counsel or otherwise assessed as directed by the court, unless the court is notified at least one full business day before the day on which the action is scheduled for trial so that the jurors can be notified that it will not be necessary for them to attend.
- (b) **Postponement After the Case is Called.** Whenever a civil action is postponed, settled, or otherwise disposed of after the case is called and before the verdict of the jury, the court may assess jury costs, as described in subparagraph (a), equally against the parties and their counsel, or against the party responsible for the postponement or late settlement.
- (c) **Bill of Costs.** In all civil actions in which costs are allowed under 28 U.S.C. § 1920 in the final judgment as defined in FED. R. CIV. P. 54(a), the prevailing party to whom costs are awarded must serve the bill of costs not later than thirty days after

entry of judgment. Unless the court directs otherwise, a motion for review of or objecting to the taxation of costs is subject to the requirements of L.U.CIV.R. 7(b). Except as provided by statute or rule, an appeal of the final judgment does not affect the taxation of costs.

Rule 72. MAGISTRATE JUDGES

(a) Procedures before a Magistrate Judge

(1) Appeal of Magistrate Judge's Decision

(A) A party aggrieved by a magistrate judge's ruling may appeal the ruling to the assigned district judge. The appeal is perfected by serving and filing objections to the ruling within fourteen days after being served with a copy of the ruling, specifying the grounds of error. Objections must be filed and served upon the other party or parties and will be promptly transmitted to the assigned district judge and to the magistrate judge. The opposing party or parties must either file a response to the objection or notify the district judge that they do not intend to respond within fourteen days of service of the objections.

(B) No ruling of a magistrate judge in any matter which he or she is empowered to hear and determine will be reversed, vacated, or modified on appeal unless the district judge determines that the magistrate judge's findings of fact are clearly erroneous, or that the magistrate judge's ruling is clearly erroneous or contrary to law.

(2) Effect of Ruling by a Magistrate Judge. A magistrate judge's ruling or order is the court's ruling and will remain in effect unless and until reversed, vacated, modified, or stayed. The filing of a motion for reconsideration does not stay the magistrate judge's ruling or order, and no such stay occurs unless ordered by the magistrate judge or a district judge. A stay application must first be presented to the magistrate judge who issued the ruling or order. If the magistrate judge denies the stay, the applicant may request in writing a stay from the district judge to whom the case is assigned. Counsel for the applicant must append to the application to the district judge for a stay a certification by counsel that an application for the stay was made to and denied by the magistrate judge.

(3) Matters Upon Which a Magistrate Judge is Required to Submit a Report and Recommendations. In all matters requiring a full-time magistrate judge to make a report and recommendation to the district court, the magistrate judge must submit the report and recommendation to the district judge and to the clerk of court. After service of a copy of the magistrate judge's report and recommendations, each party has fourteen

days to serve and file written objections to the report and recommendations. A party must file objections with the clerk of court and serve them upon the other parties and submit them to the assigned district judge. Within seven days of service of the objection, the opposing party or parties must either serve and file a response or notify the district judge that they do not intend to respond to the objection.

- (4) **Rule Not Applicable to Consent Cases.** Nothing contained in this rule applies to any civil action referred to a magistrate judge by consent of the parties under L.U.Civ.R. 73, for trial and entry of judgment after the date of reference.
- (b) **Assignments to a Magistrate Judge.** All United States Magistrate Judges serving within the territorial jurisdiction of the Northern District of Mississippi and the Southern District of Mississippi are referred all the powers and duties granted them by the provisions of 28 U.S.C. § 636 within their territorial jurisdictions. In an action referred to a magistrate judge, the magistrate judge will perform the duties assigned by the court under court rule, plan, order, or other document. A magistrate judge will perform other duties when those duties are assigned by the court or a district judge under court rule, plan, order, or other document.
- (c) **Notifying Parties of Non-Automatic Assignment.** If not effected directly by the clerk of court under court rule, plan, order, or other document, reference of a case or duty to a magistrate judge will be by order signed by a district judge. The clerk of court will notify all parties to the action of each reference by a district judge.
- (d) **Referral to Magistrate Judge.** Pretrial motions in civil actions are hereby referred to a magistrate judge for hearing and determination, subject to the following exceptions: motions for injunctive relief; motions to remand; motions for judgment on the pleadings; motions for summary judgment; motions to dismiss or to permit maintenance of a class action; motions to dismiss for failure to state a claim upon which relief can be granted; motions to involuntarily dismiss an action; motions *in limine* regarding evidentiary matters; and motions affecting the rulings on dispositive motions (e.g., motions to amend) pending before a district judge. Upon entry of a pretrial order, all motions thereafter served must be submitted to the assigned trial judge.
- (e) **Hearing of Non-dispositive Motions When Assigned Magistrate Judge Is Unavailable.** When the magistrate judge assigned to an action is unavailable because of absence from the district, illness, or other cause, or in a bona fide emergency as the result of which any party would be prejudicially delayed by presenting the matter to that magistrate judge, any other full-time magistrate judge may hear and determine any motion presented by a party, other than a motion enumerated as an exception in 28 U.S.C. § 636 (b)(1)(A) and L.U.Civ.R. 72(d).

Rule 73. PROCEDURES BEFORE A MAGISTRATE JUDGE – CIVIL CONSENT CASES

- (a) **Notice of Consent Option.** Parties may consent at any time before trial to have a magistrate judge:
- (1) conduct all further proceedings in the action and order the entry of final judgment; or
 - (2) hear and determine one or more case dispositive motions designated by the parties.

Either the assigned district judge or the assigned magistrate judge may discuss the consent option with the parties. The parties are free to withhold consent without adverse substantive consequences, and any notice or other communication from the court under authority of this rule will so advise them.

- (b) **Execution of Consent.** If all parties in a civil action consent to a magistrate judge's exercise of authority described in L.U.CIV.R. 73(a), plaintiff or plaintiff's counsel must file with the clerk of court a *Notice, Consent and Reference of a Civil Action to a Magistrate Judge* (Form AO 0085), signed by all parties or their attorneys. A link to this and other national forms is available on the court's website. The notice will not be docketed without all such signatures; neither the notice nor its contents may be made known or available to a judge if the notice lacks any signatures required under this rule. A party's decision regarding consent must not be communicated to a judge before a fully executed consent notice is filed.
- (c) **Time for Consent.** Consent in a civil action under L.U.CIV.R. 73(a) may be entered at any time before trial of the case.
- (d) **Reference of Civil Consent Action.** An executed notice of consent must be provided to the assigned district judge. The district judge may then refer the case to the magistrate judge for all further proceedings.
- (e) **Party Added After Consent Occurs.** A party added to a civil action after reference to a magistrate judge on consent will be given an opportunity to consent to the continued exercise of case-dispositive authority by the magistrate judge. A later-added party electing to consent must, within twenty-one days of its appearance, file a consent, signed by the party or its attorney, with the clerk of court. If a later-added party fails or declines to consent to the magistrate judge's exercise of authority, the action will be returned to the assigned district judge for all further proceedings.

Rule 77. COURT ALWAYS OPEN. There are no terms of court in the United States District Courts of Mississippi.

Rule 79. SEALING OF COURT RECORDS

- (a) **Court Records Presumptively in Public Domain.** Except as otherwise provided by statute, rule, including FED. R. CIV. P. 5.2, or order, all pleadings and other materials filed with the court (“court records”) become a part of the public record of the court.
- (b) **Documents Filed with the Court.** Every document used by parties moving for or opposing an adjudication by the court, other than trial or hearing exhibits, must be filed with the court. No document may be filed under seal, except upon entry of an order of the court either acting sua sponte or specifically granting a request to seal that document. Any order sealing a document must include particularized findings demonstrating that sealing is supported by clear and compelling reasons and is narrowly tailored to serve those reasons. A statute mandating or permitting the non-disclosure of a class of documents provides sufficient authority to support an order sealing documents.
- (c) **Sealed Orders.** A judicial officer may seal a court order, including an order to seal documents and related findings, when sealing a court order meets the standard for sealing a document.
- (d) **Stipulations, Confidentiality and Protective Orders Insufficient.** No document may be sealed merely by stipulation of the parties. A confidentiality order or protective order entered by the court to govern discovery will not qualify as an order to seal documents for purposes of this rule. Any document filed under seal in the absence of a court order to seal may be unsealed without prior notice to the parties.
- (e) **Procedure for Filing Documents Under Seal.**
 - (1) Parties must comply with the Administrative Procedures of the court governing the physical requirements related to filing documents under seal (i.e., format of electronic media, physical versus electronic filing, etc.).
 - (2) A party submitting a document or portion of a document for filing under seal under a governing statute, rule, or order must note on the face of the document that it or a portion of it is filed under seal under that statute, rule, or order (specifying the statute(s), rule(s) or order(s) relied upon). The clerk will provide public notice by stating on the docket that the document contains sealed material.
 - (3) Any document not covered by section (e)(2) and filed with the intention of being sealed must be accompanied by a motion to seal. The clerk will

provide public notice by docketing the motion in a way that discloses its nature as a motion to seal. The document and any confidential memoranda will be treated as sealed pending the outcome of the ruling on the motion. Any filing unaccompanied by a motion to seal will be treated as a public record.

(4) Any motion to seal must be accompanied by a non-confidential supporting memorandum, a notice that identifies the motion as a sealing motion, and a proposed order. A party may also submit a confidential memorandum for in camera review. The non-confidential memorandum and the proposed order must include:

(A) A non-confidential description of what is to be sealed;

(B) A statement of why sealing is necessary, and why another procedure will not suffice;

(C) References to governing case law; and

(D) Unless permanent sealing is sought, a statement of the period of time the party seeks to have the matter maintained under seal and how the matter is to be handled upon unsealing.

(E) The proposed order must recite the findings required by governing case law to support the proposed sealing. Any confidential memoranda will be treated as sealed pending the outcome of the ruling on the motion.

(f) **Duration of Sealing.** Court records filed under seal in civil actions will be maintained under seal until otherwise ordered by the court.

(g) **Non-Filed Documents.** Nothing in this Local Rule limits the ability of the parties, by agreement, to restrict access to documents which are not filed with the court.

Rule 83.1 ATTORNEYS: ADMISSION AND CONDUCT

(a) **General Admission of Attorneys**

(1) Any attorney who is a member of the Mississippi Bar must satisfy the following requirements for admission to this court:

- (A) the attorney must produce a photocopy of the certification of admission to practice before the Mississippi Supreme Court;
- (B) the attorney must be sponsored by a member of the bar of this court who must certify that the applicant is a member in good standing in the Mississippi Bar and is familiar with the LOCAL RULES and the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT; and
- (C) the attorney must be presented to the court only after filing his or her documentation with the clerk of court, paying the admission fee, and signing the oath. An applicant may then be presented to a district or magistrate judge of this court for formal admission, which may be accomplished in open court or in chambers at any time convenient to the judge. An applicant for admission may be presented for formal admission to any district or magistrate judge in either the Northern or Southern District of Mississippi.

(b) **Appearances**

- (1) **Requirement of Local Counsel.** When a party appears by attorney, every complaint, answer, motion, application, notice of deposition, or other paper on behalf of the represented party must be signed, and every deposition, mediation, conference or hearing must be attended by at least one attorney of record admitted to the general practice of law in the district court in which the action is pending.
- (2) **Designation of Lead Counsel.** In any civil action in which a single party is represented by multiple counsel, the initial pleadings filed on behalf of the party must designate at least one attorney as lead counsel.
- (3) **Withdrawal by Attorneys.** When an attorney enters an appearance in a civil action, he or she must remain as counsel of record until released by formal order of the court. An attorney may be released only on motion signed by the client(s) or upon a duly noticed motion to all parties, including the client and presented to the judicial officer to whom the case is assigned, together with a proposed order authorizing counsel's withdrawal.

(c) **Discipline and Reinstatement**

- (1) **Original Discipline.** The court may, after notice and an opportunity to show cause to the contrary, if requested, censure or reprimand any attorney who practices before it for conduct unbecoming a member of the bar or for failure to comply with these rules, the MISSISSIPPI RULES OF

PROFESSIONAL CONDUCT, or any other rule of the court. If the conduct or failure to comply is found to be flagrant, the court may, after notice and opportunity to show cause, revoke or suspend the attorney's admission to practice before the court. Such action by the court will be reported by the clerk of the court to the executive director of the Mississippi Bar, or the appropriate official of the bar of any non-resident attorney admitted to practice before this court. If the court finds that the conduct complained of affords reasonable grounds for more stringent disciplinary action, including suspension or disbarment, the matter will, in the case of a member of the Mississippi Bar, be referred to the Mississippi Bar for appropriate action under MISS. CODE ANN. § 73-3-301, et seq. (1972) or subsequent amendments. If the attorney is not a member of the Mississippi Bar, the matter will be referred to the appropriate disciplinary authority of the bar of which he or she is a member.

Nothing herein may be construed to limit the inherent disciplinary power of the judicial officers of this court, including the power of a district judge to immediately suspend a member of the bar convicted of a felony in a case heard before him or her.

- (2) **Reciprocal Discipline.** When it is shown to the court that any member of its bar has been suspended or disbarred from practice by any other court of record, the member will be subject to suspension or disbarment by the district court. The disciplinary action is initiated by a show-cause order issued by the court, notifying the attorney that disciplinary proceedings have been commenced, describing the disciplinary proceedings conducted in the other jurisdiction, and requesting that the member appear and show cause why he or she should not be suspended or disbarred from practice before the district court. The member will be afforded thirty days to show cause why he or she should not be suspended or disbarred; the time for response may be extended by the court for proper reason. The member's response to the show-cause order is limited to claims of (A) lack of procedural due process in the original proceedings or (B) lack of substantial evidence to support the factual findings. Lack of procedural due process in the original proceedings, however, does not preclude original disciplinary action by the court as provided in subparagraph 1. Upon response to the show-cause order, and after hearing, if one is requested, or upon expiration of the period allowed for response, if no response is made, the court may enter an appropriate order in which it may impose discipline, including, but not limited to, the same discipline administered by the other jurisdiction.
- (3) **Reinstatement.** No application for relief from suspension or reinstatement after disbarment will be considered by this court unless the applicant can show that he or she is an attorney in good standing with the

Mississippi Bar or with the jurisdiction in which he or she may have been suspended or disbarred. Any attack upon the denial of readmission or relief from suspension/reinstatement after disbarment is limited to claims of (A) lack of procedural due process in the reinstatement proceeding of the other jurisdiction or (B) lack of substantial evidence to support the factual findings. Upon the applicant's showing of good standing, the court may vacate or continue the disbarment or suspension, or diminish the suspension, as may be appropriate.

(d) Pro Hac Vice Admission of Attorneys:

(1) Definitions

(A) A “non-resident attorney” is a person not admitted to practice law in this state but who is admitted in another state or territory of the United States or of the District of Columbia and is not disbarred or suspended from practice in any jurisdiction.

A non-resident attorney is eligible for admission pro hac vice if that lawyer:

- i.** lawfully practices solely on behalf of the lawyer's client and its commonly owned organizational affiliates, regardless of where the lawyer resides or works; or
- ii** neither resides nor is regularly employed at an office in this state; or
- iii.** resides in this state but (a) lawfully practices from offices in one or more other states and (b) practices no more than temporarily in this state, whether by admission pro hac vice or in other lawful ways; or
- iv.** is a government attorney employed on a full time basis and is lawfully admitted to practice in another jurisdiction.

(B) A “resident attorney” is an attorney admitted to practice in either the Northern or Southern District of Mississippi after complying with L.U.CIV.R. 83.1(a).

(C) A “client” is a person for whom or entity for which the non-resident attorney has rendered services or by whom the attorney has been retained before the lawyer performs services in this state.

(D) “This state” refers to Mississippi. This rule governs proceedings before any federal court located in this state.

- (2) **Authority of the Court to Permit Pro Hac Vice Admissions.** A federal court of this state may, in its discretion, admit an eligible non-resident attorney retained to appear in a particular civil proceeding pending before that court to appear pro hac vice as counsel in that proceeding. No admission will be effective until all required fees are received by the clerk of the court. This rule provides the only authority under which a non-resident attorney who is not a member of the Mississippi Bar and not admitted to practice before the Mississippi Supreme Court may practice in a United States District Court serving Mississippi. These rules contain no “grandfathering” provision allowing a non-resident attorney not a member of the Mississippi Bar to practice in a district court other than on a case-by-case pro hac vice admission.
- (3) **Association and Duties of a Resident Attorney.** No eligible non-resident attorney may appear pro hac vice unless and until a resident attorney has been associated. The resident attorney remains responsible to the client and responsible for the conduct of the proceeding before the court. It is the duty of the resident attorney to advise the client of the resident attorney’s independent judgment on contemplated actions in the proceedings if that judgment differs from that of the non-resident attorney. At least one resident attorney must sign every pleading filed with the court and must personally appear and participate in all trials, in all pretrial conferences, case management conferences and settlement conferences, hearings and other proceedings conducted in open court, and all depositions or other proceedings in which testimony is given.
- (4) **Pro Hac Vice Application.** A non-resident attorney seeking to appear pro hac vice in a proceedings pending in a federal court of this state must mail a verified application, in the form set out in Form 6, to the court where the litigation is filed, accompanied by a certificate of good standing issued within ninety days of the date of the application by the United States District Court wherein the applicant primarily practices. The application must be served on all parties who have appeared in the case and must include proof of service. The verified application must contain the following information:
- (A) the applicant’s residence and business address;
 - (B) the name, address, and phone number of each client sought to be represented;

- (C) the courts before which applicant has been admitted to practice and the respective period(s) of admission;
- (D) whether the applicant (i) has been denied admission pro hac vice in this state, (ii) has had admission pro hac vice revoked in this state, or (iii) has otherwise formally been disciplined or sanctioned by any court in this state in the last five years. If so, specify the nature of the allegations; the name of the authority bringing such proceedings, the caption of the proceedings, the date filed, what findings were made, and what action was taken in connection with those proceedings;
- (E) whether any formal, written disciplinary proceeding has ever been brought against the applicant by a disciplinary authority in any other jurisdiction within the last five (5) years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
- (F) whether the applicant has been formally held in contempt or otherwise sanctioned by any court in a written order in the last five (5) years for disobedience to its rules or orders, and, if so, the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substances of the court's rulings (a copy of the written order or transcript of the oral rulings must be attached to the application);
- (G) the name and address of each court and a full identification of each proceeding in which the applicant has filed an application to appear pro hac vice in this state within the preceding two years; the date of each application; and the outcome of the application;
- (H) the style and number of each case, including the name of the court, in which the applicant has appeared as counsel pro hac vice within the immediately preceding 12 months, is presently appearing as counsel pro hac vice, or has pending applications for admission to appear pro hac vice;
- (I) an affirmative statement that the applicant has read and is familiar with the LOCAL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN AND SOUTHERN DISTRICT OF MISSISSIPPI and the ethics, principles, practices, customs and usages of the legal

profession in the State of Mississippi, including but not limited to the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT required of the members of the Mississippi Bar as well as the procedures of this court;

- (J) the name, address, telephone number, e-mail address and bar number of the resident attorney whom the applicant has associated in the particular case; and
- (K) the signature of the resident attorney associated by the applicant certifying the resident attorney's agreement to the association and his/her appearance of record with the non-resident attorney.

The non-resident attorney's application may provide the following optional information:

- i. the applicant's prior or continuing representation in other matters of one or more of the clients the applicant proposes to represent and any relationship between those other matter(s) and the proceeding for which the applicant seeks admission;
- ii. any special experience, expertise, or other factor the applicant believes to make it particularly desirable that the applicant be permitted to represent the client(s) the applicant proposes to represent in the particular case.

(5) **Application Fee.** Simultaneously with the filing of the verified application, the applicant must pay a non-refundable fee in an amount set by the court by general order. An applicant will not be required to pay the fee established by L.U.CIV.R. 83.1(b)(5) if the applicant will not charge an attorney fee to the client(s) and is:

- (A) employed or associated with a pro bono project or nonprofit legal services organization in a civil case involving the client(s) of such programs; or
- (B) applying to appear in a habeas corpus proceeding for an indigent defendant.

(6) **Objection to Application:** A party to the proceedings may file an objection to the application or seek the court's imposition of conditions to its being granted. The objecting party must file its written objection by way of a verified affidavit containing or describing information establishing a factual basis for the objection and may seek denial or modification of the application. If the application has already been

granted, the objecting party may move that the pro hac vice admission be revoked. The court may grant or deny the application or modification of the application without the necessity of any hearing, at the court's discretion.

- (7) **Standards for Admission.** The court has discretion whether to grant applications for admission pro hac vice and to set the terms and conditions of admission. An application ordinarily should be granted unless the court finds reasons to believe that:
- (A) admission may be detrimental to the prompt, fair and efficient administration of justice;
 - (B) admission may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent;
 - (C) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate the risk;
 - (D) the applicant has engaged in more than five (5) separate unrelated cases or other matters before the Northern and Southern Districts of the federal courts of this state within the last twelve (12) months immediately preceding the appearance in question;
 - (E) admission should be denied because the applicant had, before the application, filed or appeared in the federal court without having secured approval under these rules.
- (8) **Revocation of Admission.** Admission to appear as counsel pro hac vice in a proceeding will be revoked if the attorney is suspended or disbarred by any other court of record during the pendency of the action in which he or she has been granted leave to appear, and lack of due process or lack of substantial evidence to support the factual findings in the original proceeding will not preclude revocation. Admission to appear as counsel pro hac vice in a proceeding may also be revoked for any of the reasons listed in Section 7(a-c) above or just cause determined by the court.
- (9) **Suspension or Disbarment of Resident Attorney.** In the event the resident attorney associated by the non-resident attorney in a particular case is suspended, disbarred, or incapacitated by virtue of health or otherwise from the practice of law in the State of Mississippi, the non-resident attorney before further proceeding in the pending case, must associate a new resident attorney who is in good standing to practice law

in Mississippi and admitted to practice in the Northern or Southern District federal courts for the State of Mississippi and must file an amendment to the verified application required by L.U.Civ.R. 83.1(4).

- (10) **Attorneys Representing the United States.** Attorneys representing the United States or any of its departments, agencies or employees are permitted to appear on behalf of the United States government and to represent its interests in any matter in which the United States government is interested upon proper introduction to the court by the United States Attorney for the district or one of the United States Attorney's assistants.

Rule 83.2. ASSIGNMENT OF JUDGES. The assignment of judges in civil cases will be in accordance with the internal procedures adopted by each court.

Rule 83.3. EXHIBITS

- (a) **Custody and Disposition of Exhibits.** All exhibits, including models, diagrams, or other material items, filed in a proceeding must be physically removed by the parties who filed them, in the event no appeal is perfected, within sixty days from the date of final disposition of the case by this court, or, in the event an appeal is perfected and thereafter disposed of, within thirty days after receipt of the judgment, other process, or certificate disclosing disposition of the case by that court. In the event the exhibits are not removed from the custody of the clerk within the required time, the clerk may destroy or otherwise dispose of the exhibits.
- (b) **Custody of Sensitive Exhibits.** Sensitive exhibits include, but are not necessarily limited to, drugs, weapons, currency, pornography, and items of high monetary value. Sensitive exhibits offered or received in evidence will be maintained in the custody of the clerk of court during the hours in which the court is in session. At the conclusion of each daily proceeding and at the noon recess, the clerk will return all sensitive exhibits to the offering counsel or party, who must then be responsible for maintaining custody and the integrity of such exhibits until the next session of court, at which time they must be returned to the clerk, unless otherwise ordered by the court. Following the return of a verdict in a jury case, or the entry of a final order in a non-jury case, sensitive exhibits will be handled or disposed of in the same manner as other exhibits under this rule.

Rule 83.4. PHOTOGRAPHS AND BROADCASTING

- (a) **Photography and Broadcasting Prohibited.** Taking photographs, video or audio recordings or broadcasting by radio, television or other means in or from

the courtroom or its environs is prohibited, regardless of whether the court is actually in session. The environs of the courtroom extend to all portions of the building in which a courtroom is located, including hallways, stairs, and elevators.

- (b) **Electronic Devices Prohibited.** Electronic devices capable of transmitting images or messages are prohibited in the courtroom except when such equipment is being utilized by parties, attorneys and support personnel directly involved in the litigation before the Court. Cellular telephones must be turned off or in the vibrate/silent mode in the courtroom.
- (c) These provisions may be relaxed or modified in the discretion of the presiding judge, unless otherwise prohibited by statute, rule or Judicial Conference policy.

Rule 83.5. MISSISSIPPI RULES OF PROFESSIONAL CONDUCT. An attorney who makes an appearance in any case in the district court is bound by the provisions of the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT and is subject to discipline for violating them.

Rule 83.7. ALTERNATIVE DISPUTE RESOLUTION

- (a) **Introduction and Purpose.** Alternate dispute resolution [ADR], when supported by the bench and bar, and utilizing properly trained neutrals in a program adequately administered by the court, has the potential to provide a variety of benefits, including greater satisfaction of the parties, innovative methods of resolving disputes, and greater efficiency in achieving settlements. The United States District Courts for the Northern and Southern Districts of Mississippi developed these rules in order to implement the ALTERNATIVE DISPUTE RESOLUTION PLAN [hereinafter, the Plan] mandated by the *Alternative Dispute Resolution (ADR) Act of 1998*, 28 U.S.C. § 651, *et seq.* The Plan is designed to provide access to modern ADR settlement techniques and to encourage mutually satisfactory resolutions of disputes in all stages of litigation.
- (b) **Administration of ADR Plan.** The chief judge of each district shall designate a judicial officer, who is knowledgeable in alternative dispute resolution practices and processes to implement, administer, oversee, and evaluate the ADR plan. The ADR judges shall be responsible for recruiting and screening attorneys to serve as an ADR neutral. In addition, the ADR judges may from time to time solicit recommendations from state and federal bar associations, committees and organizations interested in ADR, regarding ADR programs and efficient methods of coordinating ADR resources in the state and federal courts.

(c) **Mediation**

- (1) The courts have determined that mediation is the alternative dispute resolution process that best serves the needs of litigants and their attorneys in the timely and efficient resolution of cases. However, nothing in these rules shall prevent the parties from voluntarily engaging in other forms of ADR, such as arbitration, early neutral evaluation, mini-trial, or other appropriate ADR processes.
- (2) **Definition.** Mediation is a process in which impartial and neutral persons assist parties in reaching agreed settlements. Mediators facilitate communications between the parties and assist them in their negotiations. When appropriate, mediators may also offer objective evaluations of cases and may make settlement recommendations.

(d) **Cases Appropriate for Referral to Mediation**

- (1) **Discretion of Court.** The determination of whether a matter should be referred for mediation is addressed to the sound discretion of the judicial officer assigned to the case.
- (2) **Actions Exempted from Consideration for ADR.** The following categories of proceedings are exempt from consideration for ADR: an action for review on an administrative record; a petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence; and an action brought without counsel by a person in custody of the United States, a state, or a state subdivision.

(e) **Referral Procedure**

- (1) A case may be referred to mediation:
 - (A) Upon the Court's own motion; or
 - (B) Upon motion by any party addressed to the judicial officer assigned to the case and determined according to the procedures for non-dispositive motions set forth in L.U.CIV.R. 7(b) .
- (2) Upon a determination that mediation is appropriate, an order of referral must be entered stating a time period within which the mediation shall be completed.
- (3) If the parties are unable to agree on a date, time or place for mediation and/or a mediator, the court shall assign a mediator and shall order the

date, time, and place for the mediation, which shall be binding on the parties.

(f) Pre-mediation Documents.

- (1)** A mediation agreement must be entered prior to commencement of mediation.
- (2)** The mediator may submit to the parties a list of required pre-mediation documents and agreements at least fourteen days prior to the scheduled date for mediation. All objections to pre-mediation documents must be addressed to the mediator not less than seven days prior to the scheduled date.
- (3)** Failure to reasonably agree to a mediation agreement and/or to otherwise delay or encumber the mediation process will be considered a failure to comply with the order of referral and the mediator and/or parties shall report such failure to the court. The court may enter such remedial orders as it deems appropriate.

(g) Authority to Settle

- (1) Appearance at Mediation.** Counsel, including lead trial counsel, for all parties must appear at the mediation unless otherwise ordered by the court.
- (2) Attendance of Parties.** All individual parties must appear in person at the mediation unless excused in advance by the court. Representatives of corporate parties, organizations, or other entities must also appear at the mediation or be available by telephone, as the mediator may direct, throughout the entire mediation. **Each party representative must have full authority to settle the case.**

- (h) Sanctions.** If a party, or party representative, or attorney fails to appear or be available as provided by these rules at a scheduled mediation, or if a party, or party representative, or attorney is substantially unprepared to participate in the mediation, or if a party, party representative, or attorney fails to participate in good faith during a mediation session, a judge, upon motion or upon the judge's own initiative, may impose appropriate sanctions including attorneys' fees and reasonable expenses incurred.

(i) Panels of Neutrals

- (1) Court-Appointed Federal Panels.** The courts shall establish panels of neutrals to assist with the ADR and settlement programs. Panel members shall consist of persons who by experience, training, and character appear

qualified to serve in one or more of the processes provided for in these rules. Appointment to a panel means that the neutral has met the minimum qualifications, training, and experience requirements. The court will maintain a roster of qualified neutrals. Any person whose name appears on the panel roster may ask at any time to have his or her name removed or, if selected to serve, decline to serve at that time but remain on the roster. The courts shall appoint panel members in such numbers as may be appropriate and may, for good cause shown, withdraw an appointment. Comments or complaints concerning panel members shall be made to the ADR judges.

- (2) **Use of Non-Panel Neutrals.** Upon proper application, the judicial officer assigned to the case may appoint to a specific case non-panel members who are otherwise qualified with expertise in particular substantive fields or have expertise in a specific dispute resolution process.
- (3) **Qualifications and Training.** Each lawyer serving as an ADR panel member shall be admitted to the practice of law for at least five years and be a member in good standing with the bar of the appointing court or be a member of the faculty of an accredited law school. All panel members shall be determined by the court to be competent to perform the specific program duties. All panel members shall be knowledgeable about civil litigation in federal court and shall have strong mediation or other ADR skills. Panel members shall have successfully completed such training and other experience requirements as the courts may require.
- (4) **Oath of Panel Members.** Every panel member serving under these rules shall take the oath or affirmation prescribed by 28 U.S.C. § 453 upon qualification and confirmation of appointment.
- (5) **Immunity.** Panel members or others authorized to serve in a specific case are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.
- (6) **Codes of Ethics and Standards of Conduct.** Any neutral serving under these rules shall be subject to all codes of ethics and standards of conduct set by statute, by the Judicial Conference of the United States, and by other professional organizations to which the neutral may belong and or that may be approved or adopted by the court.

(j) **Selection of Neutrals**

- (1) **Parties to Confer.** Unless otherwise ordered, the parties must confer in good faith and attempt to agree on a neutral. Before nominating a neutral,

the parties must have confirmed the neutral's availability and willingness to serve within the time frame proposed.

(A) **Appointment of the Neutral When Parties Agree.** If the parties agree on a neutral and confirm the neutral's availability, the parties must identify the nominee in the proposed order submitted to the court. Absent substantial countervailing considerations, the judicial officer assigned to the case will appoint the neutral whom the parties have jointly nominated and who is willing to serve.

(B) **Appointment of a Neutral When Parties Disagree.** If the parties cannot agree on a neutral, they shall so advise the court. Upon being so advised, the judicial officer assigned to the case will select an available neutral from the panel and enter an order of referral.

(2) **Disqualification of Neutrals.** No person may serve as a neutral in a mediation in violation of:

(A) the standards set forth in 28 U.S.C. § 455; or

(B) any applicable standard of professional responsibility or rule of professional conduct; or

(C) any additional standards adopted by the court; or

(D) the neutral discovers a circumstance requiring disqualification and immediately submits to the parties and to the court a written notice of recusal.

(E) The parties may not waive a basis for disqualification described in 28 U.S.C. § 455(b).

(3) **Neutral's Post-Mediation Report to Court.** Within fourteen days of the completion of a mediation conducted pursuant to this rule, the neutral shall submit to the referring judge a written report stating whether the case was resolved by mediation.

(k) **Confidentiality of Proceedings**

(1) **General Rule of Confidentiality.** Except as otherwise provided in these rules or required by law, all communications made in connection with mediation proceedings under these rules must be confidential. Mediation-related communications shall not be subject to disclosure and may not be

used as evidence against any participant in any judicial or administrative proceeding.

- (2) **No Compelled Disclosure.** A party, a party's attorney, a party's representative, and the neutral may not be compelled to testify in any proceedings related to matters occurring during a mediation under these rules. A party, a party's attorney, a party's representative, and the neutral may not be subject to process requiring disclosure of confidential information or data related to a mediation conducted under these rules.
- (3) **Limitations on Communications with Court.** A person participating in a mediation under these rules may not be compelled to disclose to the court any communication made, position taken, or opinion formed by any party or neutral in connection with mediation proceedings.
- (4) **Exception to the General Rule of Confidentiality.** The only event that may make it appropriate for either the neutral or either of the parties to disclose a confidential communication arising from proceedings governed by these rules is a finding by the court that such testimony or other disclosure is necessary to:
 - (A) prevent a manifest injustice;
 - (B) help establish a violation of law; or,
 - (C) prevent harm to the public health or safety.

(1) **Compensation of Neutrals**

- (1) **In General.** Unless otherwise established by statute, directed by the court, or unless proceeding pro bono, neutrals may charge reasonable fees and charges for services and expenses. The cost of the neutral's services shall be shared equally by all parties, unless otherwise agreed by counsel or as ordered by the court.
- (2) **Pro Bono Service.** Each panel member must serve pro bono at least once per year if requested by the parties in an appropriate case or if requested or ordered by the court. Panel members may perform other pro bono service as may be appropriate.

PROCEDURES FOR APPOINTMENT OF NEUTRALS TO PANEL

1. Neutral Application Forms, with copies of the Local Rules and Orders relating to Neutrals, and Qualification of Neutrals, are available at the clerk of courts' offices.
2. Completed applications for membership on the panels of neutrals are to be returned to:

Clerk, United States District Court
Southern District of Mississippi
P. O. Box 23552
Jackson, Mississippi 39225-3552

or

Clerk, United States District Court
Northern District of Mississippi
911 Jackson Avenue, Suite 369
Oxford, Mississippi 38655
3. Applications will be forwarded by the clerk of the court to the appropriate ADR judges for review and recommendation to the court. The ADR judges will screen all applications to ensure proper application completion. The ADR judges may convene when necessary to review pending applications and may recommend approval, reject applications, or request additional information from applicants. The ADR judges will recommend to the court for final approval applicants who meet the eligibility, qualification, training, and experience requirements stated in the Local Rules and Standing Orders regarding Neutrals.
4. Upon final approval by the court, the clerk of the court will notify the neutral of panel membership, and the neutral will execute the oath of appointment.
5. The clerks of the court will maintain a register of approved neutrals. The register will include the pertinent data from the neutrals' applications, including years of practice, areas of experience and expertise, degrees, training experience, and other similar credentials, and a copy of the neutrals' signed oaths. The register of neutrals shall be available for public inspection in the clerks' offices.

Rule 83.8. RICO CASES

- (a) In all cases in this court in which claims are asserted under the Racketeer Influenced and Corrupt Organization Act ("RICO"), 18 U.S.C. § 1961, a RICO Statement, conforming to the requirements of this order, must accompany the filing of the RICO complaint.
- (b) This Statement must include the facts that the Plaintiff is relying upon to initiate this RICO complaint as a result of the "reasonable inquiry" required by FED. R.

CIV. P. 11. This Statement must be in a form which uses both the numbers and letters as set forth below and must, in detail and with specificity:

- (1) State whether the alleged unlawful conduct is in violation of 18 U.S.C. §§ 1962(a), (b), (c), and/or (d).
- (2) List each Defendant and state the alleged misconduct and basis of liability of each Defendant.
- (3) List the alleged wrongdoers, other than the Defendant(s) listed above, and state the alleged misconduct of each wrongdoer.
- (4) List the alleged victims and state how each victim was allegedly injured.
- (5) Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim. A description of the pattern of racketeering must include the following information:
 - (A) List the alleged predicate acts and the specific statutes which were allegedly violated;
 - (B) Provide the dates of the predicate acts, the participants in the predicate acts, and a description of the facts surrounding the predicate acts;
 - (C) If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the “circumstances constituting fraud or mistake shall be stated with particularity.” FED. R. CIV. P. 9(b). Identify the time, place, and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;
 - (D) State whether there has been a criminal conviction for violation of the predicate acts;
 - (E) State whether civil litigation has resulted in a judgment in regard to the predicate acts;
 - (F) Describe how the predicate acts form a “pattern of racketeering activity”; and,
 - (G) State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe in detail.
- (6) Describe in detail the alleged enterprise for each RICO claim. A description of each enterprise must include the following information:

- (A) State the names of the individuals, partnerships, corporations, associations, or other legal entities which allegedly constitute the enterprise;
 - (B) Describe the structure, purpose, function, and course of conduct of the enterprise;
 - (C) State whether any Defendants are employees, officers, or directors of the alleged enterprise;
 - (D) State whether any Defendants are associated with the alleged enterprise;
 - (E) State whether the Plaintiff is alleging that the Defendants are individuals or entities separate from the alleged enterprise, or that the Defendants are the enterprise itself, or are members of the enterprise; and,
 - (F) If any Defendants are alleged to be either the enterprise itself or members of the enterprise, explain whether such Defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.
- (7) State whether the Plaintiff is alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity. In either event, describe in detail.
 - (8) Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all.
 - (9) Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.
 - (10) Describe the effect of the activities of the enterprise on interstate or foreign commerce.
 - (11) If the complaint alleges a violation of 18 U.S.C. § 1962(a), provide the following information:
 - (A) State who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt; and,
 - (B) Describe the use, investment, or locus of such income.

- (12) If the Complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.
- (13) If the Complaint alleges a violation of 18 U.S.C. § 1962(c), provide the following information:
 - (A) State who is employed by or associated with the enterprise; and,
 - (B) State whether the same entity is both the liable “person” and the “enterprise” under § 1962(c).
- (14) If the Complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the alleged conspiracy.
- (15) Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.
- (16) List the actual damages for which Defendant is allegedly liable.
- (17) List all other federal causes of action, if any, and provide citations to the relevant statute(s).
- (18) List all pendent state claims, if any.
- (19) Provide any additional information that you feel would be helpful to the Court in considering your RICO claim.

Rule A.1 ADMIRALTY

- (a) **Applicability.** These rules apply to procedure in claims governed by the SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS OF THE FEDERAL RULES OF CIVIL PROCEDURE [ADMIRALTY SUPPLEMENTAL RULES] in the United States District Courts in the State of Mississippi.
- (b) **Deposit of Fees with Marshal.** No process *in rem* in an action provided for in the ADMIRALTY SUPPLEMENTAL RULES shall be served, except on behalf of the United States, or on special order of the court, unless the party seeking the same shall deposit with the marshal for the district such sums as may be required by the marshal as a partial advance against attachment and custodial costs.
- (c) **Regarding In Rem Admiralty and Maritime Jurisdiction.** In any action *in rem* invoking the admiralty and maritime jurisdiction of the courts of the United States, if the plaintiff shall procure a person, firm, or corporation to serve as consent keeper or substitute consent keeper of the property seized, any United States district judge or magistrate judge of Mississippi, may sign an order

providing for the arrest of the property and permitting the marshal to deliver the property seized to the consent keeper. Further, it is the plaintiff's responsibility to assure that there is sufficient insurance coverage for the vessel while in the possession of a consent keeper or substitute custodian. The insurance required by the marshal does not protect the vessel while the property is in the custody of a consent keeper or a substitute custodian.

However, upon a verified written showing by the plaintiff that a district judge or magistrate judge is not available and that there exists the danger of losing opportunity for service unless process is issued forthwith, such order may be signed by the clerk of court or any deputy clerk upon specific designation therefor by the judge to whom the case is assigned. Further, the plaintiff shall verify that the matter has not been previously presented to any judicial officer.

- (d) **Post-Seizure Hearing.** After the arrest, seizure, or attachment of property under the ADMIRALTY SUPPLEMENTAL RULES, a party asserting an interest in the property may move for a hearing and prompt relief by the court upon any issue concerning the propriety of the arrest, seizure, or attachment.
- (e) **Release of Seizures.** Property seized by the marshal may be released as provided by the ADMIRALTY SUPPLEMENTAL RULES, or pursuant to paragraph (D) of this rule. On being advised to do so by counsel for plaintiff, the marshal, guard service, consent keeper, substitute custodian, or person, firm, or corporation having the legal custody of the property arrested may release it by taking a receipt from the master, mate, or agent for the property owner and filing the receipt with the clerk of the court as soon as possible. No property seized by the marshal may be directed to be released by plaintiff's counsel until the marshal is notified of the pending release and appropriate arrangements are made with the marshal for the payment of all costs and charges.
- (f) **Advertisement of Seizures.** If a vessel or other property seized under maritime process is not released within fourteen days following seizure, notice of the seizure shall be published in a newspaper of general circulation in the district three times a week for two consecutive weeks. The notice shall first be published not later than twenty-one days following seizure.
- (g) **Verification of Pleadings.** Every complaint and claim under the ADMIRALTY SUPPLEMENTAL RULES shall be verified on oath or affirmation by a party, or an officer of a corporate party. If no party (or corporate officer of the party) is within the district, verification of a complaint or claim may be made by an agent, attorney-in-fact, or attorney of record, who shall state briefly the sources of his or her knowledge, information and belief, declare that the document verified is true to the best of his or her knowledge, information and belief, state the reason why verification is not made by the party or corporate officer, and that he or she is authorized so to act. Any such verification will be deemed to be that of the party, as if verified personally. Any interested party may move, with or without a request for stay, for a personal oath of a party or all parties, or that of a corporate

officer. If required by the court, such verification shall be procured by commission or as otherwise ordered.

- (h) Jury Trials in Cases Containing Claims Within the Purview of Rule 9(h).** In any case in which a maritime claim within the meaning of FED. R. CIV. P. 9(h), is asserted and a jury trial is also demanded, each plaintiff shall elect at or before the pretrial conference, or at such other time as the court may direct, whether it will proceed under Rule 9(h) and the ADMIRALTY SUPPLEMENTAL RULES if appropriate, or proceed without benefit of the ADMIRALTY SUPPLEMENTAL RULES so as to have the issues tried by jury.

If no election is made by a plaintiff at the pretrial, the plaintiff will be deemed to have elected trial by jury and process issued at plaintiff's request pursuant to the ADMIRALTY SUPPLEMENTAL RULES will be quashed seven days after the clerk of court has given notice to all counsel of record.

(i) Intervention.

- (1)** For purposes of this rule, the word "plaintiff" shall include any party asserting a claim for affirmative relief.
- (2)** Whenever a vessel or other property is seized, attached, or arrested and is in the custody of the court, anyone asserting a maritime lien or a writ of foreign attachment against the vessel or property may proceed only by intervention unless otherwise ordered by the court. At the time of filing of a complaint in intervention, counsel for intervening parties are required to ascertain the names and addresses of other counsel of record in the proceedings, to serve a copy of the complaint in intervention upon all counsel of record, and to file with the clerk of the court a certificate stating the names and addresses of counsel served and the date and the method of service.
- (3)** A party asserting a maritime lien or a writ of foreign attachment may intervene within the time specified by these rules without the filing of a motion for leave to intervene if a vessel or other property has been arrested or attached and it or the proceeds of sale thereof are within the jurisdiction of the court.
- (4)** Intervenors under this rule shall be liable for costs together with the party originally effecting seizure, on any reasonable basis determined by the court. Intervenors may be required by the marshal to advance their share of reasonable accrued costs and reasonable unaccrued advance costs, giving due deference to the respective amounts of the various claims. Relief from such assessment may be granted by the court upon motion.
- (5)** Release of seizure or dismissal by the party originally effecting seizure shall not quash the seizure if there remain pending claims by intervenors, unless by unanimous consent of intervenors or order of court.

(6) All claims in intervention are to be filed within thirty days after sale of a vessel or property. Claims not timely filed are to be paid out of the proceeds of a sale only after the payment of all timely filed valid claims and costs.

(j) **Notice of Sale.** Notice must be given by the marshal of the sale of property by order of this court. The notice must be by advertisement in a newspaper of general circulation within the division of the district in which the sale will take place, unless otherwise ordered by the court. Such notice shall be published three times a week for two consecutive weeks, with the last date of publication not more than twenty-one nor fewer than seven days immediately preceding the sale. Additionally, publication may be made elsewhere or in specialized trade publications. The notice of sale shall state that last date on which claims may be filed against the vessel or property or proceeds of the sale, as provided in subparagraph (I)(6) of this rule.

Unless extraordinary circumstances exist, no vessel shall be sold within fewer than thirty days after it was seized.

(k) **Judicial Sale; Marshal's Return.** Upon the payment of the proceeds of sale of seized property into the registry of the court, the clerk of the court shall forthwith direct the custodian of the vessel or seized property to send written notice within seven days to all persons known by him or her to have claims for charges incurred while the vessel or property was in the custody of court, and shall notify such persons of the necessity of filing claims within fourteen days of the mailing of such notice.

(l) **Confirmation of Sale.** In all sales by the marshal pursuant to orders of sale under the ADMIRALTY SUPPLEMENTAL RULES, the marshal shall report to the court the fact of sale, the price brought, and the name of the buyer. If within seven days after the sale [*See* FED. R. CIV. P. 6(a) for computation of time] no written objection is filed, the sale shall automatically stand confirmed if the buyer has performed the terms of his purchase.

(m) **Taxation of Costs.** If costs shall be awarded to any party, the following may be taxed as costs in the case, in the manner provided for a civil action:

(1) The reasonable premium or expenses paid on all bonds or stipulations or other security by the party to whom costs are awarded.

(2) Reasonable wharfage or storage charges while in custody of the court.

(3) Costs of publication of notices under applicable rules of court.

(4) Any other reasonable expenses determined by the court on motion and after hearing to have been necessarily incurred and proper as costs.

OFFICIAL FORMS

- Form 1** **CASE MANAGEMENT ORDER**
- Form 2(a)** **NOTICE OF RECEIPT OF ORIGINAL DEPOSITION**
- Form 2(b)** **NOTICE OF SERVICE OF INTERROGATORIES OR REQUESTS FOR PRODUCTION OF DOCUMENTS OR RESPONSES THERETO**
- Form 2(c)** **NOTICE OF SERVICE OF PRE-DISCOVERY DISCLOSURE INFORMATION**
- Form 3** **PRETRIAL ORDER**
- Form 4** **GOOD FAITH CERTIFICATE**
- Form 5** **APPLICATION FOR ENROLLMENT IN COURT'S PANEL OF NEUTRALS**
- Form 6** **APPLICATION FOR ADMISSION PRO HAC VICE**

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v.

**CIVIL ACTION
NO.**

Defendant

CASE MANAGEMENT ORDER

This Order, including the deadlines established herein, having been established with the participation of all parties, can be modified only by order of the court upon a showing of good cause supported with affidavits, other evidentiary materials, or reference to portions of the record. **IT IS HEREBY ORDERED:**

- 1. CASE TRACK:**
- | | |
|------------------------------------|---|
| <input type="checkbox"/> Expedited | <input type="checkbox"/> Administrative |
| <input type="checkbox"/> Standard | <input type="checkbox"/> Mass Tort |
| <input type="checkbox"/> Complex | <input type="checkbox"/> Suspension Track |

2. ALTERNATIVE DISPUTE RESOLUTION [ADR].

A. Alternative dispute resolution techniques appear helpful and will be used in this civil action as follows:

B. At the time this Case Management Order is offered it does not appear that alternative dispute resolution techniques will be used in this civil action.

3. CONSENT TO TRIAL BY UNITED STATES MAGISTRATE JUDGE.

- _____ A. The parties consent to trial by a United States Magistrate Judge.
- _____ B. The parties do not consent to trial by a United States Magistrate Judge.

4. DISCLOSURE.

- _____ A. The pre-discovery disclosure requirements of L.U.Civ.R. 26(a)(1) have been complied with fully.
- _____ B. The following additional disclosure is needed and is hereby ordered:

5. MOTIONS; ISSUE BIFURCATION.

- _____ A. The court finds and orders that early filing of the following motion(s) might significantly affect the scope of discovery or otherwise expedite the resolution of this action:
- _____ B. The court finds and orders that staged resolution, or bifurcation of the issues for trial in accordance with FED. R. CIV. P. 42(b).
 - _____ (1) Will assist in the prompt resolution of this action.
 - _____ (2) Will not assist in the prompt resolution of this action.

Accordingly, the court orders that:

6. DISCOVERY PROVISIONS AND LIMITATIONS.

- A. Interrogatories, Requests for Production, and Requests for Admissions are limited to
_____ [Expedited: 15; Standard and Complex: 30] succinct questions.
- B. Depositions are limited to the parties and no more than
_____ [Expedited: 3; Standard: 5; Complex: 10] fact witness depositions per party without additional approval of the court.

_____ C. There are no further discovery provisions or limitations.

_____ D. The court orders that further discovery provisions or limitations be imposed:

7. **Scheduling Deadlines.** *The appropriate scheduling deadlines based upon the track designation will not be included in the proposed Case Management Order. (Deadlines will be determined at the Case Management Conference.)*

SCHEDULING DEADLINES
(To be completed by the court only)

IT IS HEREBY ORDERED AS FOLLOWS:

8. Trial.

A. This action is set for trial commencing on: _____.

B. Reserved trial period (two-week limitation): _____.

C. Conflicts (the court will only consider conflicts specified in this Case Management Order):

D. This is a [check one]: Jury Trial Non-Jury Trial

9. **Pretrial.** The pretrial conference is set on: _____.

10. **Discovery.** All discovery will be completed by: _____.

11. **Amendments.** Motions for joinder of parties or amendments to the pleadings will be served by:

_____.

12. Experts. The parties experts will be designated by the following dates:

A. Plaintiff: _____

B. Defendant: _____.

13. Motions. All motions other than motions *in limine* will be filed by:

_____.

The deadline for motions *in limine* is fourteen days before the pretrial conference; the deadline for responses is seven days before the pretrial conference.

14. Settlement Conference. A judicial officer will conduct a settlement conference on:

_____.

ORDERED: _____
Date

UNITED STATES MAGISTRATE JUDGE

**UNITED STATES DISTRICT COURT
DISTRICT OF MISSISSIPPI**

Plaintiff

v.

**CIVIL ACTION
NO.**

Defendant

NOTICE OF RECEIPT OF ORIGINAL DEPOSITION

To: All Counsel of Record

1. Pursuant to L.U.CIV.R. 5(c)(2), notice is hereby given that I have received, and will retain as the custodian thereof, the original of the following deposition:

Deponent: _____

Taken at the instance of: _____

2. Pursuant to L.U.CIV.R. 5(c)(2), a copy of the cover sheet accompanying this deposition is attached hereto as "Exhibit A."

Date

Signature

Typed Name & Bar Number

Attorney for: _____

**UNITED STATES DISTRICT COURT
DISTRICT OF MISSISSIPPI**

Plaintiff

v.

**CIVIL ACTION
NO.**

Defendant

**NOTICE OF SERVICE OF INTERROGATORIES OR REQUESTS FOR
PRODUCTION OF DOCUMENTS OR RESPONSES THERETO**

To: All Counsel of Record

Pursuant to L.U.CIV.R. 5(c)(3), notice is hereby given that on the date entered below I served the following discovery device(s):

(✓) Check as appropriate:

_____ Interrogatories to: _____

_____ Requests for Production of Documents to: _____

_____ Requests for Admissions to: _____

_____ Responses to Interrogatories of: _____

_____ Responses to Requests for Production of Documents of: _____

_____ Responses to Requests for Admissions of: _____

Pursuant to L.U.Civ.R. 5(c)(3), I acknowledge my responsibilities as the custodian of the original(s) of the documents(s) identified above.

Date

Signature

Typed Name & Bar Number

UNITED STATES DISTRICT COURT
DISTRICT OF MISSISSIPPI

Plaintiff

v.

CIVIL ACTION
NO.

Defendant

NOTICE OF SERVICE OF PRE-DISCOVERY DISCLOSURE INFORMATION

To: All Counsel of Record

Notice is hereby given that, on the date entered below, _____

disclosed to _____, the information required by L.U.CIV.R. 26(a).

Date

Signature

Typed Name & Bar Number

Attorney for: _____

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v.

**CIVIL ACTION
NO.**

Defendant

PRETRIAL ORDER

1. Choose [by a ✓ mark] one of the following paragraphs, as is appropriate to the action:

If a pretrial conference was held

A pretrial conference was held as follows:

Date: _____ Time: _____

United States Courthouse
at:

_____, Mississippi,

before the following judicial
officer:

_____.

If the pretrial conference was dispensed with by the court pursuant to L.U.Civ.R. 16(f)(2)

The final pretrial conference having been dispensed with by the judicial officer, the parties have conferred and agree upon the following terms of this pretrial order:

2. The following counsel appeared:

a. For the Plaintiff:

<u>Name</u>	<u>Postal and Email Addresses</u>	<u>Telephone No.</u>
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b. For the Defendant:

<u>Name</u>	<u>Postal and Email Addresses</u>	<u>Telephone No.</u>
-------------	---------------------------------------	----------------------

c. For Other Parties:

<u>Name</u>	<u>Postal and Email Addresses</u>	<u>Telephone No.</u>
-------------	---------------------------------------	----------------------

3. The pleadings are amended to conform to this pretrial order.
4. The following claims (including claims stated in the complaint, counterclaims, cross claims, third-party claims, etc.) have been filed:
5. The basis for this court's jurisdiction is:
6. The following jurisdictional question(s) remain(s) [If none, enter "None"]:
7. The following motions remain pending [If none, enter "None"] [Note: Pending motions not noted here may be deemed moot]:
8. The parties accept the following **concise** summaries of the ultimate facts as claimed by:

- a. Plaintiff:
 - b. Defendant:
 - c. Other:

- 9.
 - a. The following facts are established by the pleadings, by stipulation, or by admission:
 - b. The contested issues of fact are as follows:
 - c. The contested issues of law are as follows:

- 10. The following is a list and brief description of all exhibits (except exhibits to be used for impeachment purposes only) to be offered in evidence by the parties. **Each exhibit has been marked for identification and examined by counsel.**
 - a. To be offered by the Plaintiff:

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specified evidentiary ground(s) for the objection(s):

b. To be offered by the Defendant:

The authenticity and admissibility in evidence of the preceding exhibits are stipulated. If the authenticity or admissibility of any of the preceding exhibits is objected to, the exhibit must be identified below, together with a statement of the specified evidentiary ground(s) for the objection(s):

- 11.** The following is a list and brief description of charts, graphs, models, schematic diagrams, and similar objects which will be used in opening statements or closing arguments, but which **will not** be offered in evidence:

Objections, if any, to use of the preceding objects are as follows:

If any other objects are to be used by any party, such objects will be submitted to opposing counsel at least three business days before trial. If there is then any objection to use of the objects, the dispute will be submitted to the court at least one business day before trial.

- 12.** The following is a list of witnesses Plaintiff anticipates calling at trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge before commencement of trial. The listing of a **WILL CALL** witness constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.

<u>Name</u>	<u>Will/ May Call</u>	<u>[F]act/ [E]xpert [L]iability/ [D]amages</u>	<u>Business Address & Telephone Number</u>
-------------	-------------------------------	--	--

Will testify live.

Will testify by deposition:

State whether the entire deposition, or only portions, will be used. Counsel **must** confer, no later than twenty-one days before the commencement of trial, to resolve **all** controversies concerning **all** depositions (electronically recorded or otherwise). All controversies not resolved by the parties **must** be submitted to the trial judge not later than fourteen days before trial. All objections not submitted within that time are waived.

- 13.** The following is a list of witnesses Defendant anticipates calling at trial (excluding witnesses to be used solely for rebuttal or impeachment). All listed witnesses must be present to testify when called by a party unless specific arrangements have been made with the trial judge before commencement of trial. The listing of a **WILL CALL** witness constitutes a professional representation, upon which opposing counsel may rely, that the witness will be present at trial, absent reasonable written notice to counsel to the contrary.

<u>Name</u>	<u>Will/ May Call</u>	<u>[F]act/ [E]xpert [L]iability/ [D]amages</u>	<u>Business Address & Telephone Number</u>
-------------	-------------------------------	--	--

Will testify live.

Will testify by deposition:

State whether the entire deposition, or only portions, will be used. Counsel **must** confer, no later than twenty-one days before the commencement of trial, to resolve **all** controversies concerning **all** depositions (electronically recorded or otherwise). All controversies not resolved by the parties **must** be submitted to the trial judge not later than fourteen days before trial. All objections not submitted within that time are waived.

14. This (✓) _____ is _____ is not a jury case.

15. Counsel suggests the following additional matters to aid in the disposition of this civil action:

16. Counsel estimates the length of the trial will be _____ days.

17. As stated in paragraph 1, this pretrial order has been formulated (a) at a pretrial conference before a judicial officer, notice of which was duly served on all parties, and at which the parties attended as stated above, or (b) the final pretrial conference having been dispensed with by the judicial officer, as a result of conferences between the parties. Reasonable opportunity has been afforded for corrections or additions prior to signing. This order will control the course of the trial, as provided by Rule 16, Federal Rules of Civil Procedure, and it may not be amended except by consent of the parties and the court, or by order of the court to prevent manifest injustice.

ORDERED, this the _____ day of _____, 20_____.

UNITED STATES DISTRICT JUDGE

Attorney for Plaintiff

Attorney for Defendant

Entry of the preceding Pretrial Order is recommended by me on this, the _____ day of _____, 20_____.

UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MISSISSIPPI

Plaintiff

v.

CIVIL ACTION
No.

Defendant

GOOD FAITH CERTIFICATE

All counsel certify that they have conferred in good faith to resolve the issues in question and that it is necessary to file the following motion:

Counsel further certify that:

as appropriate:

_____ 1. The motion is unopposed by all parties.

_____ 2. The motion is unopposed by:

_____ 3. The motion is opposed by:

4. The parties agree that replies and rebuttals to the motion will be submitted to the magistrate judge in accordance with the time limitations stated in L.U.Civ.P. 7(b)(4).

_____ This the _____ day of _____ 20

Signature of Plaintiff's Attorney

Typed Name and Bar Number

Signature of Defendant's Attorney

Typed Name and Bar Number

United States District Court
_____ District of Mississippi

APPLICATION FOR ENROLLMENT IN COURT’S PANEL OF NEUTRALS

Name: _____ Age: _____

Firm Name: _____

Office Address: _____ Tel: _____

City: _____ State: _____ ZIP _____ Fax: _____

E-Mail: _____

1. Date admitted to The Mississippi Bar: _____ Bar No: _____

2. Are you a member in good standing in The Mississippi Bar? Yes _____ No _____

3. Have you ever been part of any legal proceedings, civil or criminal, charging you with moral turpitude or commission of a crime; or have you been disbarred, suspended from practice or otherwise disciplined by any court or administrative body; or have any proceedings been commenced against you by any court, administrative body, bar association, or grievance committee; or have you ever been refused admission to any bar or court?

_____ Yes Attach to this application an affidavit giving complete details.

_____ No

4. Date admitted to the bar of this district court: _____

5. List other courts, bars, or professional associations to which you have been admitted:

6. Check the areas of legal practice or experience which best describe the majority of your legal practice and show the number of years of experience in each.

✓	<u>Yrs</u>	✓	<u>Yrs</u>	✓	<u>Yrs</u>
_____ Admin. Law _____		_____ Contracts _____		_____ Insurance Law _____	
_____ Admiralty _____		_____ Construction Law _____		_____ Labor Law _____	
_____ Antitrust Law _____		_____ Criminal Law _____		_____ Medical Malpractice _____	
_____ Asbestosis _____		_____ Civil Rights _____		_____ Oil & Gas _____	
_____ Banking Law _____		_____ Debtor/Creditor _____		_____ Personal Injury _____	
_____ Bankruptcy _____		_____ Employment _____		_____ Products Liability _____	
_____ Computer Law _____		_____ Environmental _____		_____ Securities _____	
_____ Other (specify) _____					

MEDIATION TRAINING

10. a. Hours of mediator training completed: _____
- b. Date(s) of mediator training, course provider, and summary of course content:

<u>Date</u>	<u>Course Provider</u>	<u>Content</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- c. Have you ever conducted mediation under the observation of another trained mediator?
- _____ No _____ Yes Date(s): _____

Where? _____

Summarize the event: _____

11. Have you ever trained mediators? Yes _____ When? _____
No _____

MEDIATION EXPERIENCE

12. Number of mediation observations: _____ Summarize the experience(s): _____

Number of mediation sessions held to date: _____ Summarize the session(s): _____

13. References as to your mediation skills, training, education, or other qualifications:

14. Other references: _____

I certify that the information provided in this application is true and correct.

Date:

Applicant's Signature

Mail completed application to either of the following clerks:

Clerk, U.S. District Court
Northern District of Mississippi
911 Jackson Avenue, Room 369
Oxford, Mississippi 38655

Clerk, U.S. District Court
Southern District of Mississippi
P. O. Box 23552
Jackson, Mississippi 39225-3552

**UNITED STATES DISTRICT COURT
DISTRICT OF MISSISSIPPI**

Plaintiff

v.

**CIVIL ACTION
NO.**

Defendant

APPLICATION FOR ADMISSION PRO HAC VICE

(A) Name: _____

Firm Name: _____

Office Address: _____

City: _____ State _____ Zip _____

Telephone: _____ Fax: _____

E-Mail: _____

(B) Client(s): _____

Address: _____

City: _____ State _____ Zip _____

Telephone: _____ Fax: _____

The following information is optional:

Has Applicant had a prior or continuing representation in other matters of one or more of the clients Applicant proposes to represent and is there a relationship between those other matter(s) and the proceeding for which Applicant seeks admission?

Does Applicant have any special experience, expertise, or other factor that Applicant believes makes it particularly desirable that Applicant be permitted to represent the client(s) Applicant proposes to represent in this case?

(C) Applicant is admitted to practice in the:

_____ State of _____
_____ District of Columbia

and is currently in good standing with that Court. A certificate to that effect, issued within ninety days of the date of this Application, is enclosed; the physical address, telephone number and website/email address for that admitting Court are:

All other courts before which Applicant has been admitted to practice:

Jurisdiction	Period of Admission
--------------	---------------------

_____	_____
_____	_____
_____	_____
_____	_____

-
-
- | | Yes | No |
|--|--------------------------|--------------------------|
| (D) Has Applicant been denied admission pro hac vice in this state? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has Applicant had admission pro hac vice revoked in this state? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has Applicant been formally disciplined or sanctioned by any court in this state in the last five years? | <input type="checkbox"/> | <input type="checkbox"/> |

If the answer was “yes,” describe, as to each such proceeding, the nature of the allegations, the name of the person or authority bringing such proceedings; the dates the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings:

- | | Yes | No |
|--|--------------------------|--------------------------|
| (E) Has any formal, written disciplinary proceeding ever been brought against Applicant by a disciplinary authority in any other jurisdiction within the last five years? | <input type="checkbox"/> | <input type="checkbox"/> |

If the answer was “yes,” describe, as to each such proceeding, the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings.

- | | Yes | No |
|--|--------------------------|--------------------------|
| (F) Has Applicant been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for disobeying its rules or orders? | <input type="checkbox"/> | <input type="checkbox"/> |

If the answer was “yes,” describe, as to each such order, the nature of the allegations, the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substances of the court’s rulings (a copy of the written order or transcript of the oral rulings must be attached to the application).

(G) Please identify each proceeding in which Applicant has filed an application to proceed pro hac vice in this state within the preceding two years, as follows:

Name and Address of Court	Date of Application	Outcome of Application
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(H) Please identify each case in which Applicant has appeared as counsel pro hac vice in this state within the immediately preceding twelve months, is presently appearing as counsel pro hac vice, or has pending applications for admission to appear pro hac vice, as follows:

Name and Address of Court	Style of Case
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

- | | Yes | No |
|---|--------------------------|--------------------------|
| (I) Has Applicant read and become familiar with all the LOCAL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN AND SOUTHERN DISTRICTS OF MISSISSIPPI? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has Applicant read and become familiar with the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT? | <input type="checkbox"/> | <input type="checkbox"/> |

- (J)** Please provide the following information about the resident attorney who has been associated for this case:

Name and Bar No: _____

Firm Name: _____

Office Address: _____

City: _____ State _____ Zip _____

Telephone: _____ Fax: _____

E-Mail: _____

- (K)** The undersigned resident attorney certifies that he/she agrees to the association with Applicant in this matter and to the appearance as attorney of record with Applicant.

Resident Attorney

I certify that the information provided in this Application is true and correct.

Date

Applicant's Signature

Unless exempted by Local Rule 83.1(d)(5), the application fee established by this Court must be enclosed with this Application.

CERTIFICATE OF SERVICE

The undersigned Applicant certifies that a copy of this Application for Admission Pro Hac Vice has been mailed or otherwise served on this date on all parties who have appeared in this case.

This the _____ day of _____, 20__.

Applicant