UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

FEB 20 2013

Phil Lombardi, Clerk
U.S. DISTRICT COURT

IN RE: LOCAL RULES (GO-13- 2
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Before the Court is the matter of amendments to the Local Civil Rules. Revisions have been made to update rules, clarify existing rules, or to correct clerical errors. The Local Civil Rules amended are: 5.1, 5.3, 7.2, 7.3, 9.2, 16.2, 39.3, 54.1, 54.2, 83.2, and 83.7.

Pursuant to Rule 83, Fed.R.CIV.P, notice and opportunity for comment have been properly effected. Accordingly the amendments to the Local Civil Rules are hereby adopted. A copy of the Local Civil Rules as amended are attached hereto.

IT IS SO ORDERED this 20th day of February, 2013.

GREGORY K. FRIZZELL
CHIEF UNITED STATES DISTRICT JUDGE

CLAIRE V. EAGAN
UNITED STATES DISTRICT JUDGE

JOHN E. DOWDELL
UNITED STATES DISTRICT JUDGE

JAMES H. PAYNE
UNITED STATES DISTRICT JUDGE

TERENCE C. KERN
UNITED STATES DISTRICT JUDGE

LOCAL CIVIL RULES

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Phil Lombardi, Clerk of Court
Effective Date: February 20, 2013

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

LOCAL COURT RULES

LOCAL CIVIL RULES

PREAMBLE

AUTHORITY. These local rules of the United States District Court for the Northern District of Oklahoma are promulgated under the authority of Title 28, United States Code, Section 2071 and Rule 83 of the Federal Rules of Civil Procedure. These local civil rules are promulgated to supplement the Federal Rules of Civil Procedure with local Court procedure.

UNIFORM NUMBERING. The Judicial Conference of the United States has required uniform numbering for all local Court rules in conformity with the Federal Rules. They require a ".1" designation be added to the number of the Federal Rule of Civil Procedure to indicate that the federal rule is being supplemented by a local civil Court rule. For example, if Fed. R. Civ. P. 4 is being supplemented, the local civil rule is designated LCvR4.1.

Gregory K. Frizzell, Chief Judge
Claire V. Eagan, Judge
James H. Payne, Judge
John E. Dowdell, Judge
Terence C. Kern, Senior Judge

Frank H. McCarthy, Magistrate Judge
Paul J. Cleary, Magistrate Judge
T. Lane Wilson, Magistrate Judge

Effective Date: February 20, 2013

Phil Lombardi, Clerk
U.S. District Court
Page Belcher Federal Building
333 West Fourth, Room 411
Tulsa, OK 74103
(918)699-4700

Counties within the Northern District of Oklahoma are:

Craig	**Creek**
Delaware	**Nowata**
Mayes	**Osage**
Ottawa	**Pawnee**
Rogers	**Tulsa**

Washington

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LOCAL CIVIL RULES
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

I. SCOPE OF RULES - ONE FORM OF ACTION.

LCvR1.1 Purpose and Scope of Rules.

These local civil rules are promulgated to supplement the Federal Rules of Civil Procedure with local Court procedure not to be inconsistent with the federal rules. General Orders, which are available on the Court's website, are issued by the Court to establish procedures on administrative matters and less routine matters which do not affect the majority of practitioners before this Court.

LCvR1.2 Rules of Procedure.

(a) The rules of procedure in any proceeding in this Court shall be as prescribed by the laws of the United States, the rules of the Supreme Court of the United States, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, any applicable rules of the United States Court of Appeals for the Tenth Circuit, and these local rules.

(b) Where in any proceeding or in any instance there is no applicable rule of procedure, a judge may prescribe the same.

(c) The trial judge has discretion in any civil or criminal case to waive, supplement, or modify any requirement of these local rules when the administration of justice requires.

(d) These local rules do not apply in any case or proceeding which is pending in the Bankruptcy Court for the Northern District of Oklahoma.

(e) These local rules shall be known as the Local Civil Rules of the United States District Court for the Northern District of Oklahoma. They may be cited as "LCvR ____."

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

LCvR3.1 Civil Cover Sheet and Complaint. Every Complaint or other document initiating a civil action shall be accompanied by a completed civil cover sheet Form JS-44, which is available

from the Court Clerk's office. Counsel and pro se litigants are required to number each party separately in the caption of the complaint, plaintiffs consecutively and defendants consecutively. The face of the Complaint shall state whether the action is related to any previously filed case in this Court and identify by number said related case.

LCvR3.2 Advance Payment of Filing Fees.

Except as provided in LCvR 3.3, 3.4, 3.5, or by order of the Court in a specific case, the Court Clerk shall require payment of the filing fees before any civil action, suit or proceeding is filed.

LCvR3.3 In Forma Pauperis Motions.

(a) An applicant who seeks leave to proceed without prepayment of the filing fees must, at the time of initiating the civil action, suit or proceeding, or appeal from a judgment in a civil action, submit a motion to proceed in forma pauperis on the form approved by this Court and supplied by the Court Clerk upon request. Failure to use such form or to furnish the Court with the equivalent information required by the form may result in the motion being stricken.

(b) In the case of a prisoner, such motion must also include a certificate executed by an authorized officer of the appropriate penal institution stating: (1) the amount of money or securities currently on deposit to the prisoner's credit in any institutional account; (2) the average monthly deposits to the prisoner's account for the six-month period immediately preceding the filing of the action; and (3) the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the action.

(c) In the event that the prisoner has been in more than one penal institution during the six-month period immediately preceding the filing of the action, the prisoner must obtain the required certificate from the appropriate official at each institution.

(d) Pending the Court's ruling on the motion, the civil action, suit or proceeding will be deemed conditionally filed.

(e) In the event the motion is granted, the formal filing of the pleadings will relate back to the date the pleadings were conditionally filed. In the event the motion is denied, the filing party shall have twenty-one (21) days, unless a different time is specified by the Court, within which to pay the required filing fees. Upon payment of the filing fees within this period, the formal filing of the pleadings shall relate back to the date the pleadings were conditionally

filed. Failure to pay the filing fees by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing by the date specified for payment shall be cause for dismissal of the action without prejudice to refiling.

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

LCvR3.4 Partial Filing Fees.

(a) Prisoners allowed to proceed in forma pauperis in civil actions or appeals in civil actions shall be assessed an initial partial filing fee payment and monthly periodic payments until the filing fee is paid in full, as prescribed by 28 U.S.C. § 1915(b).

(b) Failure of any applicant to pay the initial partial filing fee or any other payment ordered by the Court by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing for failure to pay by the date specified shall be cause for dismissal of the action without prejudice to refiling. In no event, however, shall an applicant be prohibited from bringing a civil action for the reason that the applicant does not have any assets or present means to pay the initial partial filing fee.

(c) Unless otherwise directed by the Court, service of process will not issue until the applicant has paid the initial partial filing fee ordered by the Court.

LCvR3.5 In Forma Pauperis Motions by Persons Filing Habeas Corpus Actions Under 28 U.S.C. § 2241, § 2254, or § 2255.

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

(b) In forma pauperis status may be denied if the total balance of the prisoner's institutional accounts exceeds the sum of the required filing fee plus $10.00. In the event in forma pauperis status is denied, payment of the entire filing fee shall be required to commence the

action or appeal. Failure to pay the filing fee or any other payment ordered by the Court by the date specified, to seek a timely extension within which to make the payment, or to show cause in writing for failure to pay by the date specified shall be cause for dismissal of the action without prejudice to refiling.

(c) In the event in forma pauperis status is granted, the habeas corpus petitioner may proceed with the action or appeal without prepayment of the filing fee unless otherwise directed by order of the Court.

(d) A habeas corpus petitioner allowed to proceed in forma pauperis in the district court may appeal a district court judgment in forma pauperis without further authorization unless otherwise directed by order of the Court.

LCvR3.6 Copyright, Trademark and Patent Cases.

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

LCvR3.7 Social Security Cases: Motion for Attorney Fees

Plaintiff's Motion for Attorney Fees filed in social security cases pursuant to 42 U.S.C. § 406(b) shall include the following forms: Certification of Notice to Plaintiff and Notice to Plaintiff. Both forms shall be made available on the Court's website.

LCvR4.1 Appointment of Authorized Process Servers.

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

LCvR5.1 Filing by Electronic Means.

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

LCvR5.2 Format of Papers Presented for Filing.

(a) All papers presented to the Clerk for filing by electronic means or in paper form shall be double-spaced, if typewritten, using only one side of the paper and a paper size of 8 ½ inches wide by 11 inches long. All papers shall be clearly legible.

(b) Papers that are required by the Court to be retained or filed in paper form as set forth in the Administrative Guide shall be stapled or otherwise semi-permanently fastened at the top of the page without the use of paper clips, binder clips, or rubber bands. If the document is too large to staple, it should be two-hole punched at the top and secured with metal prongs. Unless otherwise stated in these local rules, all papers presented to the Clerk for filing in paper form shall consist of an original and one copy.

LCvR 5.3 Redaction of Personal Data Identifiers

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

- **Social Security Numbers/Tax Identifications Numbers.** If a Social Security or Tax Identification Number must be included in a pleading, only the last four digits of that number shall be used.
- **Names of Minor Children (in civil and criminal cases).** If the involvement of a minor child must be mentioned, only the initials of that child shall be used.
- **Dates of Birth (in civil and criminal cases).** If an individual's date of birth must be included in a pleading, only the year shall be used.
- **Financial Account Numbers (in civil and criminal cases).** If financial account numbers are relevant, only the last four digits of these numbers shall be used.
- **Home Addresses (in criminal cases only).** If a home address must be included, only the city and state shall be used.

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

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

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

- File an unredacted version of the document under seal, which shall be retained by the Court as part of the record; **or**
- File a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its (their) place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete identifier. The reference list must be filed under seal, and may be amended as of right. The reference list shall be retained by the Court as part of the record.

The Court may, however, still require the party to file a redacted copy of the document for the public file. The unredacted version of the document or the reference list shall be marked underneath the case number "SEALED UNREDACTED VERSION" or "SEALED REFERENCE LIST."

LCvR5.4 Fax Filing.

(a) Papers shall not be directly faxed to the Clerk unless authorized by the Court.

(b) Electronically faxed or scanned papers, including the signature page, may be presented in paper form to the Clerk for filing if they otherwise comply with the requirements stated in LCvR5.2.

LCvR5.5 Change of Address; Proof of Service.

(a) All papers shall contain the name, mailing address, daytime telephone number, fax number, and e-mail address, if any, of the attorney or pro se litigant. If any of this information changes, the attorney or pro se litigant must notify the Court by filing the form provided by the Clerk and serving a copy on opposing counsel or pro se parties. Papers sent by the Court will be deemed delivered if sent to the last known address given to the Court. If applicable, the attorney or pro se litigant is further required to comply with Administrative Guide procedures regarding Change of Contact Information.

(b) Proof of service of any papers required to be served shall be made by the certificate of any attorney of record or pro se litigant, or if made by any other person, the affidavit of such person.

(c) Pursuant to Federal Rule of Civil Procedure 5(b)(2)(D), receipt of the Notice of Electronic Filing generated by the Court's Electronic Case Filing System shall constitute the equivalent of service of the paper identified in the notice on persons who have consented to electronic service and who have waived their right to service by personal service or first class mail.

III. PLEADINGS AND MOTIONS.

LCvR7.1 Disclosure Statement

Any non-governmental corporate party to an action in this Court shall file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more

of the party's stock. Such corporate party shall file the statement with its initial pleading filed in the Court and shall supplement the statement within a reasonable time of any change in the information.

LCvR7.2 Motion Practice.

(a) **Filing.** Except as provided in LCvR 9.2(c) for actions brought by incarcerated persons, no attached pleadings, motions or other papers shall be removed for filing from an original motion. Nor shall pleadings, motions or other papers be held by the Court Clerk for filing, awaiting leave to do so.

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

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

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

(e) **Response Briefs.** A response to a motion may not also include a motion or a cross-motion made by the responding party. Each party opposing a motion shall file with the Court Clerk and serve upon all other parties a response within twenty-one (21) days from the date the motion was filed, and the copy served on opposing counsel shall reflect, either by file stamp or notation, the date of filing. In the discretion of the Court, any non-dispositive motion which is not opposed within twenty-one (21) days may be deemed confessed. The

requirements of Fed. R. Civ. P. 6 (d) are satisfied by this 21 day time period and an additional 3 days may not be added.

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

(g) **Requests for Extensions of Time.** All motions for extension of time shall state: (1) the date the act is due to occur without the requested extension; (2) whether previous motions for extensions have been made and the disposition of said requested extensions; (3) specific reasons for such requested extension to include an explanation why the act was not done within the originally allotted time; (4) whether the opposing counsel or party agrees or objects to the requested extension; and (5) the impact, if any, on the scheduled trial or other deadlines. All such motions shall be accompanied by a proposed order submitted pursuant to the Administrative Guide. The proposed order shall state specifically the events being extended and the proposed new dates for the deadlines.

(h) **Reply and Supplemental Briefs.** Reply briefs regarding new matter in the response brief may be filed within fourteen (14) days after the due date of the response. After the filing of the reply or the expiration of fourteen (14) days, the motion will be deemed ripe for ruling. By order, the Court may increase or reduce this time. Supplemental briefs are not encouraged and may be filed only upon motion and leave of Court. Reply and supplemental briefs shall be limited to ten (10) pages in length unless otherwise authorized by the Court. The requirements of Fed. R. Civ. P. 6 (d) are satisfied by this 14 day time period and an additional 3 days may not be added.

(i) **Motions Not to be Filed Within Fourteen Days of the Date a Case Is Set For Trial.** Motions filed within fourteen (14) days of the date a case is set for trial will be stricken unless the motion is based upon a sudden emergency regarding facts that could not have been previously known. If a motion is filed within fourteen (14) days of trial, a response may be

filed within seven (7) days thereafter or, if the trial date is sooner than seven (7) days, any time prior to trial.

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

(k) **Motions Not Requiring Briefs.** No brief is required by either movant or respondent unless otherwise directed by the Court, with respect to the following motions: (1) to extend time or to continue any proceeding before the Court; (2) to amend pleadings; (3) to file supplemental pleadings; (4) to appoint next friend or guardian ad litem; (5) to substitute parties; (6) to compel discovery responses when no response has been made; (7) to amend briefs; (8) to file supplemental motions, briefs or other papers; and (9) to file an oversized brief in compliance with subsection (c) above. Said motions not requiring briefs shall state whether opposing counsel agrees or objects to the request and shall be accompanied by a proposed order submitted pursuant to the Administrative Guide.

(l) **Motions to Amend or Add Parties.** In a motion to amend or a motion to add parties, the movant shall state (1) the deadline date established by the scheduling order, if any, and (2) whether any other party objects to the motion. All such motions shall be accompanied by a proposed order submitted pursuant to the Administrative Guide which specifically sets forth what is being amended and/or the names of parties being added.

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

(n) **Notice to the Court of Matters Under Advisement for More Than Ninety (90) Days.** In the event any matter, including but not limited to a motion or decision in a bench trial, has been under advisement or submitted for decision for a period of more than ninety (90) days, any party affected by the undecided matter may file a notice of matter under advisement particularly describing the matter under advisement and stating the date the matter was taken under advisement.

LCvR7.3 Briefs for Bankruptcy Appeals.

(a) For a bankruptcy appeal, the appellant shall serve and file its brief within twenty-one (21) days after the transmission of the record to the Court Clerk. The appellee shall serve and file its brief within twenty-one (21) days after the due date of the brief of the appellant. The appellant

may serve and file a reply brief within fourteen (14) days after the due date of the brief of the appellee. Unless otherwise stated in this local rule, briefs for an appeal from the bankruptcy court are governed by the rules found at LCvR7.2. The requirements of Fed. R. Civ. P. 6 (d) are satisfied by this 14 day time period and an additional 3 days may not be added.

(b) Unless otherwise ordered by the Court, oral argument as required by Bankruptcy Rule 8012 is excused.

LCvR9.1 Notice Requirement for Three-Judge Court.

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

LCvR9.2 Actions Brought by Incarcerated Persons.

(a) **Forms.** Petitions for writs of habeas corpus, motions to vacate sentence pursuant to 28 U.S.C. § 2255, and civil rights complaints pursuant to 42 U.S.C. § 1983 or Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971), by persons in state or federal custody, shall be on forms provided by the Court Clerk upon request. If the petition is not on the Court-approved form or does not supply the Court with the equivalent information required by such form, the Court may order the pleading be stricken.

(b) **Delivery.** Petitioners or movants seeking habeas corpus relief under 28 U.S.C. §§ 2241, 2254, or 2255, or civil rights relief under 42 U.S.C. § 1983 or Bivens (cited above) shall send or deliver to the Court Clerk the original petition, motion or complaint. If tendered for filing by mail, petitions, motions or complaints shall be addressed to the Court Clerk at an address designated by the Court Clerk.

(c) **Amended Pleadings.** Original proposed amended pleadings shall be signed and attached to any motion for leave to amend the pleading. Unless otherwise permitted by the Court, every pleading to which an amendment is permitted as a matter of right or has been allowed by order of the Court must be retyped or handwritten and filed so that it will be complete in itself including exhibits, without reference to the superseded pleading. Each amended pleading shall contain copies of all exhibits referred to in the amended pleading.

LCvR16.1 Pretrial Procedures.

(a) **Scheduling and Planning.**

(1) **Joint Status Report.** In all cases, trial counsel for all parties, and pro se parties, if any, shall confer and prepare a Joint Status Report for submission to the Court, in accordance with Fed. R. Civ. P. 26(f), using a Joint Status Report form available in the Court Clerk's office. The Court will ordinarily order the filing of a Joint Status Report by a date certain. However, if the Court fails to order the submission of a Joint Status Report by a date certain, the Report shall be submitted in accordance with the timing set forth in Fed.R. Civ.P. 26(f).

(2) **Required Attendance at Conference.** Counsel with authority to make appropriate decisions and pro se litigants shall attend any conference required by the Court. When justified by the circumstances, the Court may allow counsel or pro se litigants to participate in such conference by telephone. Pro se litigants and counsel shall be prepared to discuss all relevant matters enumerated in Fed. R. Civ. P. 16(c).

(b) **Pretrial Responsibilities.**

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

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

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

provide to the Court Clerk the proposed final Pretrial Order in accordance with the Administrative Guide regarding proposed orders.

(2) **Default.** Failure to prepare and file a required Joint Status Report, failure to comply with the Final Pretrial Order, failure to appear at a conference, appearance at a conference substantially unprepared, or failure to participate in good faith may result in any of the following sanctions: the striking of a pleading, a preclusion order, stay of the proceeding, default judgment, assessment of expenses and fees (either against a party or the attorney individually), or such other order as the Court may deem just and appropriate.

LCvR16.2 Settlement Conferences.

(a) **Purpose.** The purpose of the settlement conference is to permit an informal discussion between the attorneys, parties, and the settlement judge on every aspect of the case bearing on its settlement value in an effort to resolve the matter before trial. The parties and counsel shall participate in the conference in good faith. This means that based on discussion at the conference, the parties will reconsider their negotiating positions, objectively evaluating the strengths and weaknesses of their case or defense, the anticipated cost of the litigation and the uncertainty of a particular result.

(b) **Referral and Scheduling the Settlement Conference.** All civil cases set on a trial docket are automatically set for settlement conference before the settlement judge. Also the Court may, upon its own motion or on the request of any of the parties, set a settlement conference at any practicable time. The terms of the settlement conference order govern the procedures for the settlement conference. The assigned district judge may, in his or her discretion, require that the parties pay for a settlement conference in any reasonable manner or amount.

(c) **Settlement Judges.** A district judge other than the judge assigned to the case, a magistrate judge, or an adjunct settlement judge designated by the Court, will normally preside at the settlement conference. The settlement judge will take no part in adjudicating the case subsequent to the settlement conference. Adjunct settlement judges shall be selected by the Court from among members of the bar in good standing and chosen based upon their expertise, experience, actual and apparent impartiality, reputation for fairness, training, and temperament. They shall be invited to serve without compensation and commit to conduct a minimum of six settlement conferences per year. Any party or counsel of record may move to disqualify the

assigned settlement judge pursuant to 28 U.S.C. § 455, other applicable law or professional responsibility standards. No adjunct settlement judge may be called as a witness, except as requested by a judge of this Court. In that instance, the adjunct settlement judge shall not be deposed, and shall testify as the Court's witness. In cases where the settlement effort is expected to be extensive, or in connection with discovery matters, the Court may appoint an adjunct settlement judge as a special project settlement or discovery judge, and order the parties to pay for his or her time at a reasonable hourly rate. Such payment shall be apportioned between the parties as agreed, or by the Court on an equitable basis.

(d) **Attendance Requirements.** The lead attorney who will try the case for each party shall appear, and shall be accompanied by one with full settlement authority. The latter will be the parties if natural persons, or representatives of parties which are not natural persons, but may not be counsel (except in-house counsel) or a person who is not directly or actively associated with the party or parties. Other interested entities such as insurers or indemnitors shall attend and are subject to the provisions of this Rule. Governmental entities and boards shall send a representative and counsel who, together, are knowledgeable about the facts of the case and the governmental unit's or board's position, and have, to the greatest extent feasible, authority to settle. Except as provided in subsection (e) below, only the settlement judge may excuse attendance of any attorney, party or party representative. Any party excused from appearing in person shall be available to participate by telephone, if required. Failure to attend the settlement conference or failure to cooperate fully may result in the imposition of sanctions in accordance with LCvR16.1(b)(2) and Fed. R. Civ. P. 16(f).

(e) **Governmental Entities.** In the event a governmental entity which is a party determines that it will be unable to provide a representative with full settlement authority at the settlement conference, the governmental entity shall promptly move for leave to proceed with a representative with limited authority. The motion shall be filed and delivered to the settlement judge no later than fourteen (14) days prior to the conference and shall contain: (1) the reasons which make it impracticable for a party's representative to appear with full settlement authority; (2) a detailed description of the limited authority to be exercised at the conference; and (3) alternative proposals by which full authority may be exercised at or subsequent to the conference. Upon consideration of the motion, the settlement judge may allow the governmental entity to appear with limited authority or may, notwithstanding the motion, require appropriate persons to appear as may be necessary to have full settlement authority at

the conference. Any adjunct settlement judge may defer such determination to the judge then supervising the adjunct settlement judge program or the assigned trial judge.

(f) **Submission of Written Settlement Conference Statements.** A settlement statement shall be submitted to the settlement judge and served on opposing counsel at least seven (7) days preceding the date of the settlement conference unless otherwise ordered by the Court. It shall concisely summarize the parties' claims/defenses/counterclaims, etc., the parties' views concerning factual issues, issues of law, liability, damages or relief requested. The statement shall not exceed five (5) pages in length, shall conform to the format requirements set forth in the Local Rules, but shall not be filed in the case or made part of the Court file.

(g) **Settlement Conference Process.** Prior to settlement conference, the parties shall discuss settlement with their respective clients and opposing counsel (or pro se parties) so that the issues and bounds of settlement have been explored in advance of the settlement conference. The parties, their representatives and attorneys are required to be completely candid with the settlement judge so that the judge may properly guide settlement discussions. Pertinent evidence to be offered at trial, documents or otherwise, may be brought to the settlement conference for presentation if particularly relevant.

(h) **Authority of Settlement Judge.** The settlement judge may excuse attendance of any attorney, party or party's representative; meet jointly or individually with counsel, alone or with parties or persons or representatives interested in the outcome of the case without the presence of counsel; and issue such other and additional requirements as shall seem proper, including follow-up sessions telephonically or otherwise, in order to expedite an amicable resolution of the case.

(i) **Confidentiality.** The settlement judge, all counsel and parties, and any other persons attending the settlement conference shall treat as confidential all written and oral communications made in connection with or during any settlement conference. Neither the settlement conference statements nor communications during the conference with the settlement judge may be used by any party in the trial of the case unless otherwise permitted under Federal Rules of Evidence 408. No communication relating to or occurring at a Court-ordered settlement conference may be used in any aspect of any litigation except proceedings to enforce a settlement agreed to at the conference, unless otherwise permitted under Federal Rules of Evidence 408.

(j) **Conclusion of the Settlement Conference.** At the conclusion of the settlement conference, the settlement judge shall notify the Court whether the case did or did not settle. If the case settled, counsel shall prepare and file the appropriate dismissal or closing papers.

(k) **Other Alternative Methods.** The Court may, in its discretion, set any civil case for summary jury trial, mini-trial, executive summary jury trial (summary jury trial where chief executive officers of corporate parties participate as part of a three-judge trial panel), mediation, arbitration, or other method of alternative dispute resolution as the Court may deem proper, so long as due process is not abrogated or impaired.

IV. PARTIES.

LCvR17.1 Parties Who Are Not Natural Persons.

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

LCvR21.1 Notice of Bankruptcy Filing.

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

V. DEPOSITIONS AND DISCOVERY.

LCvR26.1 Compliance with Requirements Under Fed. R. Civ. P. 26.

(a) **Initial Disclosures.** Parties shall make the initial disclosures required by Fed. R. Civ. P. 26(a)(1) unless in the Joint Status Report required by LCvR 16.1 they specifically stipulate to waive initial disclosures.

(b) **Implementation.** The Court shall from time to time promulgate such rules as may be necessary to implement the mandatory disclosure requirements in Fed. R. Civ. P. 26(a). These rules will be available in the Court Clerk's office and on the Court's website at www.oknd.uscourts.gov.

LCvR26.2 Disclosure of Insurance Agreements.

A party shall, without awaiting a discovery request, provide any insurance agreement to the other parties under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy such a judgment. Full and complete copies of such insurance agreements shall be served on all other parties along with the disclosing party's answer, reply, or motion filed pursuant to Fed. R. Civ. P. 12(b).

LCvR26.3 Discovery Material Not to be Filed. Depositions, notices of depositions, interrogatories, requests for documents, requests for admissions, and answers and responses thereto shall not be filed with the Court Clerk unless on order of the Court or unless they are attached to a motion, response thereto, or are needed for use in a trial or hearing.

LCvR26.4 Privilege Log.

(a) In accordance with Fed. R. Civ. P. 26(b), when a claim of privilege or work product protection is asserted in response to a discovery request for documents, the party asserting the privilege or protection shall provide the following information with respect to each document in the form of a privilege log: the type of document; the general subject matter of the document; the date of the document; the author of the document, whether or not the author is a lawyer; each recipient of the document; and the privilege asserted. This rule shall apply only to document requests.

(b) If information called for by one or more of the foregoing categories is itself privileged, it need not be disclosed. However, the existence of the document and any non-privileged information called for by the other categories must be disclosed. This rule requires preparation of a privilege log with respect to all documents withheld on the basis of a claim of privilege or work product protection except the following: written communications between a party and its trial counsel after commencement of the action and the work product material created after commencement of the action.

LCvR30.1 Depositions.

(a) **Notice.** Subject to an order of the Court entered for cause shown enlarging or shortening the time:

(1) a subpoena to compel a witness to attend a deposition as contemplated by Fed. R. Civ. P. 30(a)(1), shall be served on the witness at least seven (7) days prior to the date of the deposition; and

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

(b) **Length of Depositions.** No deposition shall extend beyond seven hours in length, beyond 5:00 p.m., or be taken on a weekend or holiday without an agreement in writing signed by all interested attorneys or acknowledged on the record by all interested attorneys or an order of the Court. Extensions of this time limitation shall be freely given in the event of obstructive or uncooperative conduct on the part of the witness or opposing counsel, or otherwise in the interests of justice.

(c) **Procedure for Designation of Deposition Testimony for Use at Trial.** Deposition designations and counterdesignations should be exchanged between counsel and filed of record. No objection to any designation or counterdesignation shall be considered by the Court until a good faith effort to resolve such objections by means of a personal meeting between counsel has been conducted. Subsequent to this meeting, objections to designations, if any, shall be filed as separate pleadings as to each deponent without attachments of any deposition transcripts. Deposition transcripts highlighted in different colors with designations and counterdesignations and annotated with objections in the margins should be submitted in hard copy to the Court Clerk. A high degree of cooperation between counsel is expected to minimize the number of objections.

(d) **Certified Copies Substituted.** Upon a showing that an original deposition is unavailable, a certified copy may be substituted.

(e) **Depositions Generally.** Depositions as provided in Fed. R. Civ. P. 30 are authorized. Counsel shall personally meet as required by LCvR 37.1 and attempt to resolve any disputes concerning objections to the taking of or objections made during the deposition, including transcript preparation, before presenting such unresolved issues to the Court.

LCvR33.1 Interrogatories.

Each answer to an interrogatory shall be immediately preceded by the interrogatory being answered. Interrogatories inquiring as to the existence, location and custodian of documents or

physical evidence shall each be construed as one interrogatory. All other interrogatories, including subdivisions of one numbered interrogatory, shall be construed as separate interrogatories.

LCvR36.1 Admissions.

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

LCvR37.1 Informal Conference to Settle Discovery Disputes.

With respect to all motions or objections relating to discovery pursuant to Fed. R. Civ. P. 26 through 37 and 45, this Court shall refuse to hear any such motion or objection unless counsel for movant first advises the Court in writing that counsel personally have met and conferred in good faith and, after a sincere attempt to resolve differences, have been unable to reach an accord. However, no personal conference shall be required where the movant's counsel represents to the Court in writing that movant's counsel has conferred with opposing counsel by telephone and (1) the motion or objection arises from failure to timely make a discovery response, or (2) distance between counsels' offices renders a personal conference infeasible. When the locations of counsels' offices, which will be stated with particularity by movant, are in the same city or within thirty (30) miles of each other, a personal conference is always deemed feasible as to distance.

LCvR 37.2 Discovery Enforcement.

(a) **Disposition of Discovery Matters by Magistrate Judge**. Unless otherwise directed by a district judge, disposition of all discovery matters shall be by order of the magistrate judge. Magistrate judge's orders shall remain in full force and effect as an order of the Court until reversed or modified by a district judge.

(b) **Expedited Hearings.** A magistrate judge may expedite discovery matters by means of telephone conferences or emergency hearings. Where exigent circumstances are present, verbal or telephonic requests for an expedited hearing may be made through the office of the Court Clerk or directly to a magistrate judge's office. Ex parte communication with the discovery magistrate judge will not be permitted.

(c) **Routine Matters.** Discovery matters which are not time sensitive or of an emergency nature shall be handled in due course by consideration of appropriate written motions.

(d) **Requests and Responses Must Be Submitted.** The opening brief in support of a discovery motion filed pursuant to Fed. R. Civ. P. 26 through 37 shall include a verbatim recitation of each interrogatory, request, answer, response and objection which is the subject of the motion.

VI. TRIALS.

LCvR39.1 Opening Statements and Closing Arguments.

The trial judge will determine specific time limits for opening statements and closing arguments in each case.

LCvR39.2 Courtroom Decorum.

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

LCvR39.3 Use of Electronic Devices, Photographs or Tape Recorders.

(a) The taking of photographs and operation of recorders and radio or television broadcasting in the courthouse during the progress of or in connection with judicial proceedings, including proceedings before a magistrate judge, whether or not Court is actually in session, is prohibited.

(b) A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investiture, ceremonial, educational, or naturalization proceedings. On a case by case basis, the court may allow media to text, tweet or similarly communicate updates when reporting a trial, hearing or other proceeding.

(c) (1) The Court prohibits the use of mobile phones, pagers, or other electronic communication devices in the courtroom. Such devices may be carried on the person within a courtroom only if the device is turned off.

(2) All electronic communications devices including mobile phones and wireless laptops are prohibited from being turned on in the courtroom without express permission from the Court.

(3) Many electronic devices contain cameras and recorders. Use of cameras and recorders are specifically prohibited notwithstanding permission to use an electronic device. Certain ceremonies and investitures are exceptions, but all such activities within a courtroom require

permission from the court.

(4) Without the court's express approval, electronic communication devices shall not be used for peer-to-peer wireless communication or network communication within the courtroom or from the courtroom to another location outside the courtroom. Persons entering the courtroom may be asked to reveal any such devices in order to ensure that they are turned off. Persons violating this Local Rule may be escorted from the courtroom, denied access to further proceedings, and subjected to other sanctions deemed necessary by the Court.

LCvR39.4 Use of Exhibits at Trial.

(a) **Marking and Disclosure.** All exhibits and documents which are to be introduced in evidence are to be marked for identification, which shall include the case number, and exhibited to opposing counsel at least seven (7) days before submission of the Pretrial Order.

(b) **Withdrawal.** Unless otherwise ordered by the Court, all exhibits introduced in evidence in the trial of the case shall be withdrawn at the close of trial and remain in the custody of the party introducing the evidence. The Court may order the party introducing exhibits which are bulky, heavy, firearms or controlled substances to retain custody of such exhibits during the trial. Any such order shall provide for preservation of the exhibit as justice may require.

(c) **Photographs for Appeal.** Exhibits, diagrams, charts and drawings may, under the supervision of the Court, be photographed for use on appeal or otherwise.

LCvR40.1 Assignment and Distribution of Cases.

(a) **Random Assignment of District Judges.** Criminal and civil cases shall be assigned to district judges according to a system based on random selection both for initial assignment and for assignment in the event of recusal. The system of random case assignment, distribution of cases, and rotating supervision of the Grand Jury shall be determined by the Court.

(b) **Random Assignment of Magistrate Judges**. A magistrate judge shall be randomly assigned to each civil case at the time the case is filed.

(c) **Capital Cases.** Capital cases shall be randomly assigned independently of other actions to ensure their equal distribution among the active district judges of this Court, or senior judges with their consent.

LCvR40.2 Assignment of Cases for Trial.

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

LCvR41.1 Administrative Closure.

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

LCvR43.1 List of Witnesses and Exhibits in Civil Cases.

At the commencement of the trial of a civil case or any civil proceeding in which witnesses and exhibits are utilized, the attorneys shall submit to the judge, the courtroom deputy, and the court reporter a typewritten list of the witnesses they expect to call as a witness in chief and the exhibits they intend to introduce on the forms provided by the Court Clerk for this purpose.

LCvR 47.1 Random Selection of Grand and Petit Jurors.

(a) **Adoption of Plan.** Pursuant to the Jury Selection and Service Act of 1968 (Public Law 90-274) ("the Act") the following plan is hereby adopted by this Court, subject to approval by the Tenth Circuit Judicial Council and to such rules and regulations as may be adopted from time to time by the Judicial Conference of the United States.

(b) **Applicability of Plan.** This plan is applicable to the Northern District of Oklahoma, which consists of the following counties: Craig, Creek, Delaware, Nowata, Mayes, Osage, Ottawa, Pawnee, Rogers, Tulsa, and Washington.

(c) **Policy.** It is the policy of this Court that all litigants entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross-section of the community that constitutes the Northern District of Oklahoma, and that all citizens shall have the opportunity to be considered for service on grand and petit juries and shall be obligated to serve as jurors when summoned, unless excused for valid reasons by the Court.

(d) **Management and Supervision of Jury Selection Process.** This Plan shall be managed by the Court Clerk under the supervision and control of the Chief Judge or such other judge as may be designated to perform these duties. Whenever used in the Plan, the terms "Clerk" and "Clerk of the Court" shall mean the Court Clerk, any authorized Deputy Court Clerk, or any other person authorized by the Court to assist the Court Clerk in performance of functions under

this Plan. The Court finds that the electronic data processing methods can be advantageously used for managing this Plan. Therefore, a properly programmed electronic data system, or a combination system employing both manual and electronic machine methods, will be used to select Master Jury Wheel names, select names of persons to be sent questionnaires, select names of persons in the qualified jury wheel and supplemental qualified jury wheel to be summoned and to perform other clerical and record-keeping functions as the Court deems necessary.

(e) **Random Selection From Actual Voter Lists and Supplementation from Driver License List of Tulsa County.** Actual voter lists with supplementation from the driver license list of Tulsa County represent a fair cross-section of the community in the Northern District of Oklahoma. Accordingly, names of grand and petit jurors shall be selected at random from the actual voter lists of all the counties within the district as supplemented by the driver license list of Tulsa County. In order to establish a Master Jury Wheel of randomly selected names of prospective jurors, the Court Clerk shall determine the aggregate number of individuals on the actual voter lists for the last general election in each county of this district, and further determine the number of individuals on the driver license list of Tulsa County. The Court shall build 50% of its Master Jury Wheel from the actual voter lists and 50% of the Master Jury Wheel from the driver license list of Tulsa County. For example, if the Court needs 30,000 names for the Master Jury Wheel, the Court Clerk will obtain 15,000 names from the actual voter lists and 15,000 names from the driver license list of Tulsa County. When a name is duplicated in both the Master Jury Wheel and the Supplemental Jury Wheel, the name will be purged from the Supplemental Wheel. In this example, the 15,000 names drawn from the actual voter lists will comprise the primary source of names within this district. The 15,000 names drawn from the driver license list of Tulsa County will comprise a supplementary source of names in order to foster the policy and protect the rights secured by Sections 1861 and 1862 of Title 28 of the United States Code. The Court Clerk is authorized to accept the voluntary assistance of the Secretary of the State Election Board and the Commissioner of Public Safety in accomplishing the requirements of this section, provided such Secretary certifies the names furnished were selected in the manner herein prescribed. The Court Clerk is authorized to use qualified non-Court personnel to create the Master Wheel.

(f) **Master Jury Wheel.**

(1) The Court Clerk shall maintain a Master Jury Wheel or a device similar in purpose and function for the district. The names of all persons randomly selected from the actual

voter lists of the counties in the district and from the driver license list of Tulsa County shall be placed in the Master Jury Wheel. Pursuant to 28 U.S.C. § 1863(b)(4), the minimum number of names to be placed initially in the Master Jury Wheel shall be one-half of one percent of the total number of persons on the lists used as a source of names for the district, but in no event shall that number be less than 1,000.

(2) The Master Jury Wheel shall be emptied and refilled between March 1 and June 30 of the year following a general presidential election and every four years thereafter. The Chief Judge or the Judge designated by the Chief Judge may order additional names to be placed in the Master Jury Wheel, as herein provided, from time to time when necessary. In the event that the Master Jury Wheel is not emptied and refilled within the time as herein provided, the current Master Jury Wheel shall continue to serve until it is properly refilled as herein provided.

(3) After the Master Jury Wheel is refilled, the Court shall construct a Qualified Jury Wheel and a Supplemental Qualified Jury Wheel in the manner provided in subparagraph (g) below. This will be done at periodic intervals as may be required to maintain an adequate number of names in the Qualified Jury Wheel and the Supplemental Qualified Jury Wheel. A juror qualification form will then be mailed to each of those persons with instructions to fill out and return duly signed and sworn to, to the Court Clerk by mail within fourteen (14) days in order to elicit the information necessary to determine whether a person is qualified for, exempt from, or may be excused from jury service.

(g) **Qualified Jury Wheel.**

(1) The names of those persons deemed qualified from the actual voter list shall be placed in a Qualified Jury Wheel and the names of those persons deemed qualified from the driver license list at Tulsa County shall be placed in a Supplemental Qualified Jury Wheel. Prospective jurors will be drawn at random from each wheel in a proportion to be determined by the Court from time to time. For example, prospective jurors may be selected by drawing three names from the Qualified Jury Wheel and one name from the Supplemental Qualified Jury Wheel. The prospective jurors whose names have been drawn shall be summoned to appear for a time certain as may be designated by the Chief Judge or the Judge designated by the Chief Judge.

(2) The Court Clerk shall draw at random from the Qualified Jury Wheel and the Supplemental Qualified Jury Wheel for this district such number of names of persons

are necessary to be summoned for the petit jury panels and prepare a list of the names drawn. Grand jurors shall be drawn from the Qualified Jury Wheel and the Supplemental Qualified Jury Wheel as ordered by the Court.

(3) (A) A jury list will be provided to the parties and/or their attorneys on the day of trial at the commencement of voir dire.

(B) Indictments available through CM/ECF will contain an electronic signature: s/grand jury foreperson. A paper indictment manually signed by the grand jury foreperson shall be retained under seal in the office of the Court Clerk. The Court directs the Court Clerk to make paper indictments manually signed available for viewing to the attorneys representing parties under indictment.

(C) The contents of records or papers used by the Court Clerk in connection with the jury selection process shall not be disclosed, except upon order of the Court as may be necessary in the preparation or presentation of a motion challenging compliance with the selection procedures of this plan. The parties in a case shall be allowed to inspect, reproduce, and copy such records or papers at all reasonable times during the preparation and pendency of such motion. Any person who discloses the contents of any record or paper shall be subject to penalty, as provided in the Jury Selection and Service Act of 1968 as amended.

(D) All other disclosures of juror information including disclosures to the press or public shall be released only by Court Order upon written request.

(4) The Court Clerk or the Court Clerk's duly designated deputies shall issue summonses for the required number of jurors, to be served in the manner prescribed in 28 U.S.C. § 1866(b). There shall be no jury commission in this District.

(5) When there is an unanticipated shortage of available petit jurors drawn and summoned from the Qualified Jury Wheel and the Supplemental Qualified Jury Wheel, the Court may require the marshal to summon a sufficient number of petit jurors selected at random from available citizens listed either on the actual voter lists for the District or the driver license list of Tulsa County, or both in the manner ordered by the Court who are found to be qualified by the Court.

(6) The names of persons drawn for the trial of a case who may be excused or not used for any reason shall be placed back in the jury pool. The names of the trial panel at the completion of the trial may also be placed back in the jury pool for subsequent cases.

The procedure is to be repeated for each subsequent case tried at each session of Court.

(h) **Determination of Qualifications For, and Exemption or Excuse From, Jury Service.** Upon the initiative of the Chief Judge or any judge of the Court, or upon recommendation of the Court Clerk, the judge or his or her designee shall determine, solely on the basis of information provided on the juror qualification form and other relevant information, whether a person is unqualified for, exempt from, or to be excused from jury service.

(i) **Excuses and Exemptions.** In making such determination, the Chief Judge or any judge of this Court shall deem any person qualified to serve on grand and petit juries in the district unless the person:

(1) is not a citizen of the United States, is not eighteen years old, or has not resided for a period of one year within the judicial district;

(2) is unable to read, write, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily the juror qualification form;

(3) is unable to speak the English language sufficiently to participate fully and effectively at trial;

(4) is incapable, by reason of mental or physical infirmity, to render satisfactory jury service; or

(5) has a charge pending against him or her for the commission, or has been convicted in a state or federal court of record, of a crime punishable by imprisonment for more than one year and his or her civil rights have not been restored.

(j) **Exemption from Jury Service.** The Court finds that exemption of the following groups of persons or occupational classes is in the public interest and would not be inconsistent with the Act, and accordingly members of such groups are barred from jury service:

(1) members in active service in the Armed Forces of the United States;

(2) members of the fire or police departments of any state district, territory, possession or subdivision thereof;

(3) federal or state "public officers" in the executive, legislative or judicial branches of the government of the United States, or any state, district, territory, or possession or subdivision thereof, who are actively engaged in the performance of official duties. Public officer shall mean a person who is either elected to public office or directly appointed by a person elected to public office.

(k) **Excuses On Individual Request.** The Court finds that jury service by members of the following groups of persons may entail undue hardship or extreme inconvenience to the members thereof, and the excuse of such members will not be inconsistent with the Act and shall be granted upon individual request:

(1) persons over seventy (70) years of age;

(2) persons who have legal custody of a child or children under the age of ten (10) years, and it is essential they remain in the home for child care;

(3) persons who have served as a grand or petit juror in federal court within the past two years;

(4) students in actual attendance at a university, college, academy, or other school having a regular schedule of classes;

(5) volunteer safety personnel (fire fighters, rescue squad, or ambulance crew) for a public agency.

The Court Clerk is authorized to grant temporary excuses to prospective jurors on the grounds of undue hardship or extreme inconvenience for such period as the Court Clerk deems necessary, at the conclusion of which such person shall be summoned again for jury service.

(l) **Challenges to the Selection Procedure.** Any challenge to this jury selection procedure or the Court's compliance with the provisions of this jury selection procedure or compliance with the provisions of the Jury Selection and Service Act of 1968 shall be made within the times and manner provided in 28 U.S.C. § 1867.

LCvR47.2 Attorney Communication with Jurors.

At no time, including after a case has been completed, may attorneys approach or speak to jurors regarding the case unless authorized by the Court, upon written motion.

VII. JUDGMENT.

LCvR54.1 Costs.

(a) A prevailing party who seeks to recover costs against an unsuccessful party shall file a bill of costs on the form provided by the Court Clerk and support the same with a brief. The bill of costs and brief shall be filed and served not more than fourteen (14) days after entry of

judgment. The bill of costs and brief shall be separate documents from the motion for legal fees and its brief.

(b) The original of the verified bill of costs shall have endorsed thereon proof of service upon the opposite party. The prevailing party shall provide either receipts or documents (or, if unavailable, an affidavit) in support of the requested itemized costs. Objections to the allowance of costs must be filed within twenty-one (21) days from the date the bill of costs was filed. The requirements of Fed. R. Civ. P. 6 (d) are satisfied by this 21 day time period and an additional 3 days may not be added.

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

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

LCvR54.2 Civil Attorney Fees.

(a) A prevailing party who seeks to recover attorney fees against the unsuccessful party shall file a motion for recovery of legal fees and support the same with a brief and affidavit. A motion for recovery of legal fees with brief shall be a separate document from the bill of costs and its brief.

(b) The brief should recite the statutory, contractual, and/or legal authority for the request and, in an affidavit, the amount of time spent on the case, the hourly fee claimed by the attorney, the hourly fee usually charged by the attorney if this differs from the amount claimed in the case, and any other pertinent factors.

(c) Responses in opposition to the allowance of attorney fees must be filed within twenty-one (21) days from the date the motion for attorney fees is filed. The requirements of Fed. R. Civ. P. 6 (d) are satisfied by this 21 day time period and an additional 3 days may not be added.

LCvR55.1 Procedure For Obtaining Default Judgment.

(a) **Entry of Default by Court Clerk.** To obtain an entry of default pursuant to Fed. R. Civ. P. 55(a), the party must provide the Court Clerk with a "Motion for Entry of Default by the Clerk."

The motion shall recite the facts that establish service of process, and be accompanied by affirmations concerning non-military service and that the individual is neither an infant nor an incompetent person. Once a proper motion has been filed, the Court Clerk will prepare and enter default, after independently determining that service has been effected, that the time for response has expired and that no answer or appearance has been filed.

(b) **Entry of Default Judgment.** Once a party is in default, a default judgment pursuant to Fed. R. Civ. P. 55(b) may be requested by filing a motion for default judgment accompanied by a concise brief, a form of judgment, and an affidavit setting forth that plaintiff's claim is for a particular sum certain, if applicable, and the factual basis for such a claim. A proposed form of judgment shall be submitted in accordance with the Administrative Guide regarding proposed orders. In its discretion, the Court may set a hearing on the motion with respect to which notice shall be provided by the party moving for default judgment in accordance with the requirements of Fed. R. Civ. P. 55(b). The Court Clerk shall not enter a judgment of default.

LCvR56.1 Summary Judgment Procedure.

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

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

(c) The response brief in opposition to a motion for summary judgment (or partial summary judgment) shall begin with a section which contains a concise statement of material facts to which the party asserts genuine issues of fact exist. Each fact in dispute shall be numbered, shall refer with particularity to those portions of the record upon which the opposing party relies and, if applicable, shall state the number of the movant's facts that is disputed. All material facts set forth in the statement of the material facts of the movant shall be deemed admitted for the purpose of summary judgment unless specifically controverted by the statement of material facts of the opposing party.

LCvR58.1 Entry of Judgment

The Court Clerk shall not prepare, sign, and enter a judgment unless ordered by the Court.

LCvR62.1 Stays Pending Disposition of Motions After Judgment.

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

(a) new trial or to alter or amend a judgment made pursuant to Fed. R. Civ. P. 59;

(b) relief from judgment or order made pursuant to Fed. R. Civ. P. 60;

(c) judgment as a matter of law made pursuant to Fed. R. Civ. P. 50; or

(d) to amend the findings or for additional findings made pursuant to Fed. R. Civ. P. 52(b).

LCvR62.2 Supersedeas Bonds and Other Security.

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

(b) **Security for Costs.** On its own motion or upon motion of a party in interest, the Court may at any time order any party to give security, bond or undertaking in such amount as the Court may order for the payment of costs or for performance of other conditions or requirements imposed in an action or proceeding.

(c) **Corporate Surety.** No security, bond or undertaking with corporate surety shall be accepted or approved unless (1) the corporate surety is in compliance with the provisions of 31 U.S.C. §§ 9301-09, and (2) there is on file with the Court Clerk a duly authenticated power of attorney appointing the agents or officers executing such obligation to act on behalf of the corporate surety. If an agent or officer so appointed is removed, resigns, dies or becomes disabled, the corporate surety shall notify the Court in writing by filing a Revocation of Power of Attorney.

(d) **Cash.** In lieu of corporate surety, a party may deposit with the Court Clerk the required amount in lawful money. Upon exoneration of the deposit, it may be returned by the Court Clerk to the true owner, after application to claims of the United States in the proceedings and to proper fees of the United States Marshal and Court Clerk.

(e) **Submission to Jurisdiction - Agent for Service of Process.** Notwithstanding any provision of a security instrument to the contrary, every surety or depositor of security is subjected to the jurisdiction of this Court. The Court Clerk is irrevocably appointed agent upon whom any papers affecting the surety's or depositor's liability may be served, and consents that liability shall be joint and several, that judgment may be entered in accordance with the obligation

simultaneously with judgment against the principal, and that execution may thereupon issue against the appropriate property.

(f) **Further Security for Jurisdiction of Personal Sureties.** Upon reasonable notice to the party presenting the security, any other party for whose benefit it is presented may apply to the Court at any time for further or different security or for an order requiring the personal sureties to justify.

(g) **Court Officers Not Allowed as Sureties.** Unless a party to the action, no clerk, marshal, member of the bar, or other officer of this Court will be accepted as surety, either directly or indirectly, on any bond or undertaking in any action or proceeding in this Court.

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

VIII. PROVISIONAL AND FINAL REMEDIES.

LCvR67.1 Deposit and Withdrawal of Funds in Court.

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

All court orders for the deposit of registry funds shall contain the following provision:

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

LCvR67.2 Disbursement of Registry Funds.

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

Disbursements from the registry of the Court shall be made as soon as practicable upon receipt of order for disbursement except in cases where an order is appealable and must be held until the time for appeal has expired. Orders for disbursement shall be prepared for signature of the appropriate judge and presented to the Court Clerk for review and transmittal to the Court. The order for disbursement shall include the full name, any tax identification number other than social security number, and mailing

address of the payee, with directions for the Court Clerk to disburse the principal amount, plus interest less the applicable registry fee. Where more than one party is to receive proceeds, the order will designate the apportionment applicable to each party.

IX. SPECIAL PROCEEDINGS.

LCvR73.1 Magistrate Judges - Consent Authority.

(a) With the consent of the parties, each full-time magistrate judge appointed by this Court is specifically designated to exercise the authority and jurisdiction provided by 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, to conduct any or all proceedings in a jury or non-jury civil matter and to order the entry of judgment in the case.

(b) The parties may consent to magistrate judge jurisdiction at any time during the pendency of the case.

(c) The joint form of consent shall be executed by the parties unless one of the parties is a *pro se* prisoner, in which case separate consent forms may be submitted.

X. DISTRICT COURTS AND COURT CLERK.

LCvR78.1 Oral Arguments.

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

LCvR79.1 Sealed Documents.

(a) **Policy.** It is the policy of this Court that sealed documents, confidentiality agreements, and protective orders are disfavored. Sealed documents and confidentiality agreements may be approved by the Court only upon a showing that a legally protected interest of a party, non-party or witness outweighs the compelling public interest in disclosure of records. All protective orders dealing with confidentiality must be approved by a magistrate judge and filed of record. In civil cases in which confidential information covered by a protective order must be attached to a pleading, attorneys should file an unsealed pleading with nonconfidential exhibits and redacted confidential exhibits. At the same time, attorneys should file a supplemental sealed pleading which contains the unredacted exhibits covered by the protective order.

The Court strongly urges attorneys to present all arguments and all documents in unsealed pleadings. In an effort to do this, attorneys should use good judgment in generically referring to matters covered by a protective order without revealing confidential information. In those rare instances where specific confidential documents must be attached to a pleading, attorneys should file the supplemental sealed pleading referenced above.

(b) **Caption of Sealed Documents**. Underneath the case number, in the style of any document sought to be sealed, the document shall be marked in all caps, "SEALED."

(c) **Sealed Documents in Public Cases**. A person seeking to file a document under seal in a public case shall electronically file both a motion to seal and the sealed document separately. The motion seeking such an order must contain sufficient facts to overcome the presumption in favor of disclosure and may itself be filed under seal. The relief sought shall be narrowly tailored to serve the specific interest sought to be protected. A proposed order shall be submitted pursuant to the Administrative Guide. If the motion to seal is denied, the court will direct that the document either be stricken or be unsealed.

(d) **Documents in Sealed Cases**. Documents to be filed in sealed cases (nonpublic cases) must be filed in paper format.

XI. GENERAL PROVISIONS.

LCvR81.1 Removed Actions - Demand for Jury Trial.

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

LCvR81.2 Removed Actions - Documents to be Filed.

A defendant or defendants who remove a civil case from the state court to this Court shall, in addition to filing a notice of removal, file a clearly legible copy of all documents filed or served in the case, along with a copy of the docket sheet of the case. The defendant or defendants shall provide to the Court an extra copy of any motion pending before the state court at the time of removal. The defendant or defendants shall also file a Status Report on Removed Action on the form provided by the Clerk.

LCvR81.3 Removal - Jurisdictional Amount.

(a) Where one or more defendants seek to remove an action from state court based upon diversity of citizenship, and where the face of the state court petition does not contain an express damages clause as to at least one claim asserted by at least one plaintiff, in an amount exceeding $75,000 (exclusive of interest and costs), the notice of removal shall include either:

(1) A particularized statement of facts upon which the jurisdictional amount is based set forth in accordance with applicable law; or

(2) With respect to at least one plaintiff in the state court action, either a response by such plaintiff to an interrogatory or interrogatories as to the amount in controversy or an admission by such plaintiff in response to a request for admissions. In either case, that plaintiff's response must state unequivocally that the damages actually sought by the plaintiff exceed $75,000.

(b) The receipt by the removing defendant or defendants of the response by a plaintiff or of the admission by a plaintiff referred to in paragraph (a)(2) shall constitute the receipt of a "paper from which it may first be ascertained that the case is one which is or has become removable" within the meaning of 28 U.S.C. § 1446(b). Where the defendant or defendants do not include the statement required by paragraph (a)(1) of this rule, or do not comply with one of the alternatives described in paragraph (a)(2) of this rule, the action will be subject to remand to the state court for failure to establish a basis of federal jurisdiction.

(c) If a party responds in bad faith to any of the above-described discovery requests thus requiring otherwise unnecessary pleadings or proceedings, such party may be subject to sanctions under applicable law for attorney fees and costs incurred in connection with such pleadings and/or proceedings.

LCvR81.4 Removed Actions - Bankruptcy.

A notice of removal from state court filed pursuant to Fed. R. Bankr. P. 9027 shall be filed with the bankruptcy clerk. Such removed actions are automatically referred to the bankruptcy court pursuant to LCvR84.1(a)(4).

LCvR83.1 Committee on Local Civil Rules.

A Committee on Local Rules comprised of members of the bar of this Court and the Court Clerk or the Court Clerk's designee shall be appointed by the Court. Such Committee shall accept

comments and recommendations regarding the local rules from any member of the bar of this Court or any other interested person.

LCvR83.2 Attorneys.

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

(b) **Committee on Admissions and Grievances.** A Committee on Admissions and Grievances shall be appointed by the Court.

(c) **Procedure for Admission.** Every applicant for admission shall submit the required fee and shall submit to the Court Clerk, on a form prescribed by the Court, a written application for admission, which shall be referred to the Committee on Admissions and Grievances for investigation into the applicant's qualifications and fitness to be admitted to the bar of this Court. The Committee shall report its recommendations in writing to the Court Clerk. Upon a favorable report of the Committee, the applicant may be admitted by any judge of this court or the court clerk. Admission ceremonies may be scheduled from time to time by the court.

(d) **Eligibility.** Any member of the bar of the Supreme Court of the United States, or of any United States Court of Appeals, or of any District Court of the United States, or a member in good standing of the bar of the highest court of any state of the United States, is eligible for admission to the bar of this Court.

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

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

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

LCvR83.3 Association of Local Counsel.

(a) **Responsibilities of Non-Resident Counsel.** When representing a party in this Court, any attorney who is not a resident of, and does not maintain an office in, Oklahoma shall show association with an attorney who is personally appearing in the action and who is a resident of the State and maintains a law office within the State of Oklahoma, and who has been duly and regularly admitted to practice in this Court.

(b) **Responsibilities of Local Counsel.** It is the responsibility of local counsel appearing in any civil case to file the motion of the non-resident attorney to be admitted pro hac vice and to certify in the motion that the non-resident attorney is a member in good standing of the bar of the highest court of the state where the non-resident attorney resides or is licensed. The local attorney shall sign the first pleading filed and shall continue in the case unless other local counsel is substituted. Any notice, pleading or other paper may be served upon the local counsel with the same effect as if personally served on the non-resident attorney.

(c) **Relief from this Rule.** Relief from this rule is within the Court's discretion upon motion establishing financial hardship, special qualifications of non-resident counsel, or other good cause, provided that out-of-state counsel certifies familiarity with the local civil court rules.

LCvR83.4 Appearance of Counsel.

(a) An attorney appearing for a party in a civil case shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Court Clerk.

(b) In the event a party should change counsel or add additional counsel, the new or additional counsel for such party shall enter an appearance by signing and filing an entry of appearance on the form prescribed by the Court Clerk.

LCvR83.5 Attorney Withdrawal From Case.

In civil cases, attorneys of record shall not withdraw from the case except upon reasonable notice to the client and all other parties who have appeared in the case and by leave of the judge to whom the case is assigned.

LCvR83.6 Discipline by the Court.

(a) **Discipline by Other Courts; Criminal Convictions.** Whenever any member admitted to practice in this Court, including a person admitted pro hac vice, has been suspended, disbarred

or resigned pending disciplinary proceedings from the practice of law by the Supreme Court of Oklahoma or by any other court of competent jurisdiction or has been convicted of a felony or any crime involving moral turpitude in any court, such disbarment, suspension, or conviction shall operate as an automatic suspension of the attorney's right to practice in this Court, and an order of suspension shall be issued by the Court. Any attorney subject to this rule must notify the Court immediately upon any such suspension, disbarment or resignation. The automatic suspension from this Court shall remain in effect unless the attorney has by motion to the Court within twenty-eight (28) days of the order of suspension shown good cause as to why the suspension should not remain in effect. The Chief Judge or his or her designee shall rule on such motion. If the attorney was disbarred, resigned or was convicted as stated above, an order of disbarment will issue if no motion for good cause has been filed within the required time period.

(b) **Standard Governing Attorney Conduct.** The Court adopts the Oklahoma Rules of Professional Conduct as adopted and amended from time to time by the Supreme Court of Oklahoma as the standard governing attorney conduct in this Court.

(c) **Misconduct.** Complaints of professional misconduct by counsel are subject to Fed. R. Civ. P. 11. Complaints of professional misconduct may be submitted by a judge of the Court, at his or her discretion, to the Committee on Admissions and Grievances. Upon receipt of a complaint regarding the professional conduct of an attorney, the Committee on Admissions and Grievances shall, after notice and opportunity to be heard, report and recommend to the Court whether:

(1) The inquiry should be terminated because the question raised is unsupported or insubstantial;

(2) The alleged professional misconduct justifies further inquiry and, for members of the Oklahoma Bar Association, the matter should be referred to the Office of the General Counsel of the Oklahoma Bar Association for investigation and prosecution by that Office, if warranted;

(3) The alleged professional misconduct warrants consideration of prompt disciplinary action by this Court regarding the attorney's right to practice before the Court;

(4) The alleged professional misconduct of an attorney not a member of the Oklahoma Bar Association justifies further inquiry by the Court. Any attorney whose conduct in this Court is under investigation by the Committee on Admissions and Grievances shall not

be admitted pro hac vice until the pending investigation is concluded. Any action taken by the Court pursuant to a report and recommendation by the Committee on Admissions and Grievances shall be by a majority vote of the active judges.

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

(d) **Right to a Hearing.** Except as otherwise provided under subsection (a), this Court shall not impose any disciplinary action affecting an attorney's right to practice before the Court until after a hearing on the matter has been held before a judge or panel of judges. The attorney may waive the right to a hearing. At the hearing, the attorney whose conduct is the subject of the complaint shall be afforded an opportunity to appear in person and/or by counsel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing. If not called by the attorney whose conduct is being investigated, it is within the discretion of the judge or panel to call the complaining party to appear at the hearing.

(e) **Sanctions.** Discipline by this Court may include disbarment, suspension from practice for a definite time, reprimand, or other discipline which the Court deems proper. Referral of a complaint to the Office of the General Counsel of the Oklahoma Bar Association for investigation shall not constitute such discipline as to entitle the attorney to a hearing in this Court on the propriety of the referral.

(f) **Contempt of Court.** Disciplinary proceedings under this rule shall not affect or be affected by any proceeding for contempt under Title 18 of the United States Code or under Fed. R. Crim. P. 42.

(g) **Unauthorized Practice.** Any person who before admission to the bar of this Court or who during disbarment or suspension exercises any of the privileges bestowed upon members of this bar, or who pretends to be entitled to such privileges, or who otherwise engages in the unauthorized practice of law before the Court, shall be guilty of contempt of this Court and shall be subject to punishment therefor and shall be subject to any other discipline which the Court may impose.

(h) **Reinstatement.** Persons disbarred indefinitely from practice before this Court may not petition

for reinstatement until three (3) years following disbarment or until two (2) years following an adverse decision upon a previous petition for reinstatement; provided, however, that a person disbarred under subsection (a) may apply for reinstatement at any time upon being reinstated by the disciplining body. Persons suspended indefinitely must satisfy all conditions to reinstatement imposed by the Court at the time of suspension.

LCvR83.7 Professional Conduct.

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

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

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

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

(1) Be punctual in attendance at Court.

(2) Refrain from addressing anyone in Court by first names -- use last names only.

(3) Refrain from leaving the courtroom while court is in session, unless it is absolutely necessary, and then only if the Court's permission has been obtained first.

(4) At all times, counsel for plaintiff shall occupy the table nearest the jury box and counsel for defendant shall occupy the table furthermost from the jury box.

(5) Ascertain that only one lawyer is standing at a time, unless an objection is being made.

(6) Bench conferences will be kept to a minimum. Counsel should anticipate issues which will arise during the trial and inform the Court and opposing counsel at the earliest opportunity. Permission must be obtained from the Court to approach the bench, a witness, an exhibit, or the clerk.

(7) Refrain from employing dilatory tactics.

(8) Hand all papers intended for the Court to see to the clerk who, in turn, will pass them up to the judge.

(9) Hand to the clerk any exhibits offered into evidence.

(10) Advise clients, witnesses, and others concerning rules of decorum to be observed in court.

(11) Use the lectern when interrogating witnesses or addressing the jury, unless otherwise permitted by the Court. Appropriate exceptions to this rule shall be made for disability or infirmity.

(12) Never conduct or engage in experiments or demonstrations unless prior permission is granted by the Court.

(13) Refrain from conducting a trial when they know, prior thereto, that they will be necessary witnesses, other than as to merely formal matters such as identification or custody of a document or the like. If, during the trial, it is discovered that the ends of justice require the lawyers' testimony, they should from that point on, if feasible and not prejudicial to their client's case, leave further conduct of the trial to other counsel. If circumstances do not permit withdrawal from the conduct of the trial, lawyers should not argue the credibility of their own testimony.

(14) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly uninfluenced by all ill feeling between the respective clients. Attorneys should abstain from any allusion to personal peculiarities and idiosyncrasies of opposing counsel.

(15) Rise when addressing or being addressed by the Court. Appropriate exception will be made for disability or medical infirmity.

(16) Refrain from assuming an undignified posture. Counsel should always be attired in a proper and dignified manner and should abstain from any apparel or ornament calculated to attract attention to themselves.

(17) At all times exemplify conduct consistent with their obligation as an officer of the Court.

(18) In making representations to the Court, know or honestly believe them to be supported by fact.

(19) Comply, along with all other persons in the courtroom, with the following:

(A) No tobacco in any form will be permitted at any time.

(B) No propping of feet on tables or chairs will be permitted at any time.

(C) No water bottles or other beverage containers, bottles or cups, or edibles shall be brought into the courtroom, except with permission of the marshal or courtroom deputy clerk.

(D) No gum chewing or reading of newspapers or magazines (except as a part of the evidence in a case) will be permitted while Court is in session.

(E) No talking or other unnecessary noises will be permitted while Court is in session.

(F) Everyone must rise when instructed to do so upon opening, closing, or declaring recesses of Court. Appropriate exception shall be made for disability or medical infirmity.

(G) Any attorney who appears in court intoxicated or under the influence of intoxicants, drugs, or narcotics may be summarily held in contempt.

LCvR83.8 Standards of Practice.

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

(a) In fulfilling his or her primary duty to the client, a lawyer must be ever conscious of the broader duty to the judicial system that serves both attorney and client.

(b) A lawyer owes, to the judiciary, candor, diligence and utmost respect.

(c) A lawyer owes, to opposing counsel, a duty of courtesy and cooperation, the observance of which is necessary for the efficient administration of our system of justice and the respect of the public it serves.

(d) A lawyer owes, to the administration of justice, the fundamental duties of personal dignity and professional integrity.

(e) Lawyers should treat each other, the opposing party, the Court, and members of the Court staff with courtesy and civility and conduct themselves in a professional manner at all times.

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

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

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

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

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

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

LCvR84.1 Bankruptcy Cases.

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

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

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

(3) The bankruptcy judges may hear a proceeding that is not a core proceeding but that is related to a case under Title 11. Resolution of such matters shall be governed by 28 U.S.C. § 157(c).

(4) All removed claims and causes of action removed from state court pursuant to Fed. R. Bankr. P. 9027 are hereby referred to the bankruptcy judge assigned to the case to which the removed action relates. The bankruptcy judge shall hear and determine all such removed proceedings subject to review and appeal as allowed under 28 U.S.C. §§ 157 and 158 and the Federal Rules of Bankruptcy Procedure.

(5) The bankruptcy judges shall hear and enter appropriate orders on all motions related to appeals prior to the entry of the appeal on the docket of the district court or bankruptcy appellate panel. Orders entered during this period are subject to review or appeal as allowed under 28 U.S.C. §§ 157 and 158.

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

(1) Motions for withdrawal of the reference of a case, proceeding or contested matter (collectively, a "proceeding") shall be timely filed with the bankruptcy clerk, shall be accompanied by the required filing fee, and shall be governed by Fed. R. Bankr. P. 5011 and 9014. In the motion, the movant shall allege whether the proceeding is a core proceeding under 28 U.S.C. § 157(b) or a proceeding that is otherwise related to a case under Title 11.

(2) Motions for withdrawal of a bankruptcy case shall be filed and served within fourteen (14) days after the first meeting of creditors is held in the case. Motions for withdrawal of an adversary proceeding or a contested matter shall be filed and served at the same time the party filing such motion files its first pleading responding to claims asserted in the adversary proceeding or contested matter.

(3) Responses to motions for withdrawal shall be filed with the bankruptcy clerk within fourteen (14) days from service of the motion. Replies may be filed only with leave of the bankruptcy court.

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

(c) **Appeals.** All appeals from final judgments, orders and decrees of bankruptcy judges and, with appropriate leave, from interlocutory orders and decrees of bankruptcy judges shall be taken in the manner prescribed by 28 U.S.C. § 158 and Part VIII of the Federal Rules of Bankruptcy

Procedure, as supplemented by the Local Rules of the U.S. Bankruptcy Court for the Northern District of Oklahoma.

(d) **Transmittal of Records or File by the Bankruptcy Court.** The bankruptcy clerk shall transmit the record or file of a case, proceeding or contested matter (collectively, a "proceeding") to the Court Clerk as follows:

(1) a copy of the record, after the expiration of time for filing objections to the bankruptcy court's proposed findings of fact and conclusions of law in non-core "related-to" proceedings pursuant to Fed. R. Bankr. P. 9033(b);

(2) a copy of the record of the proceeding for which a withdrawal of reference is sought upon the entry of the order required by LCvR84.1(b)(4);

(3) the file, upon the receipt of an order by a district judge pursuant to 28 U.S.C. § 157(d) withdrawing the reference;

(4) the file, upon the filing of a recommendation by a bankruptcy judge that a proceeding is one in which a personal injury tort or wrongful death claim shall be tried in the district court pursuant to 28 U.S.C. § 157(b)(5); and

(5) the record, when it is complete for purposes of appeal pursuant to Fed. R. Bankr. P. 8007(b).

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

(f) **Jury Trials.**

(1) In accordance with 28 U.S.C. § 157(e), if the right to a jury trial applies in a proceeding that may be heard by a bankruptcy judge, each of the bankruptcy judges for this district is hereby specially designated to exercise such jurisdiction and to conduct such jury trials.

(2) In conducting jury trials, the bankruptcy court shall adhere to the provisions of the Jury Act.

(3) The jury plan of the Court as set forth in these Local Rules shall govern jury selection in the bankruptcy court.

(4) Upon request, the Court Clerk shall supply a sufficient number of jurors to the bankruptcy court for its scheduled jury trials. Jurors may continue to be utilized by the

district court if not selected or when not serving in the bankruptcy court.

(5) The bankruptcy clerk shall cooperate with the Court Clerk in the implementation of efficient and economical juror utilization techniques.

(6) In conducting jury trials, the bankruptcy court shall comply with these Local Rules as applicable to civil jury trials. The bankruptcy court may waive such rules for good cause in any civil jury case, upon due notice, in order to accommodate expedited scheduling and trial consistent with due process.

(g) **Prior Orders Superseded.** Miscellaneous Order M-128 dated April 11, 1985 and Miscellaneous Order M-128 dated June 21, 1995, are superseded by this Rule 84.1.