UNIFORM LOCAL RULES

of the

UNITED STATES DISTRICT COURTS

for the

NORTHERN DISTRICT OF MISSISSIPPI

and the

SOUTHERN DISTRICT OF MISSISSIPPI

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PREAMBLE

The UNIFORM LOCAL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN DISTRICT AND THE SOUTHERN DISTRICT OF MISSISSIPPI [the RULES] were first made effective on January 1, 1986. The RULES were amended July 1, 1992, July 1, 1996, September 1, 1998, December 1, 2000 and November 1, 2004; they apply to pending civil actions except where injustice would result. They govern civil proceedings (and, where applicable, criminal cases) in the United States District Courts serving the State of Mississippi.

Attorneys practicing before the district courts of Mississippi are charged with the responsibility of knowing the RULES; a failure to comply with the RULES may result in the imposition of appropriate sanctions. Consistent with budgetary restrictions imposed on the district courts, a copy of these RULES shall be provided by the clerk of each court to each member of the bar of the court and to each newly-admitted attorney at the time of his or her admission to the bar of the court. Posting of the RULES on the Internet websites maintained by the clerks of the district courts is sufficient delivery of the RULES to all attorneys and the public.

All prior local rules of the United States District Courts for the Northern District and the Southern District of Mississippi which conflict with or concern the same subject matter as the rules contained herein are hereby repealed. In particular, the matters previously governed by Northern District Local Rules CR-1 through CR-5, dealing with criminal cases, and M-1 through M-13, dealing with powers and duties of magistrate judges, are now governed by the terms of a Standing Order adopted by the District Judges of the Northern District of Mississippi July 1, 1998. A copy of the Standing Order is available from the clerk of the court.

All amendments to these RULES shall be by order of the Court and shall require the approval of a majority of the active district judges in each federal judicial district in Mississippi.

[Amended effective November 1, 2004]

DIVISION SITES AND COUNTIES

(Venue)

NORTHERN DISTRICT

WESTERN DIVISION

Oxford

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

EASTERN DIVISION

Aberdeen

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

DELTA DIVISION

Oxford

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

GREENVILLE DIVISION

Greenville

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

SOUTHERN DISTRICT

JACKSON DIVISION
Jackson

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

EASTERN DIVISION
Meridian

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

HATTIESBURG DIVISION
Hattiesburg

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

WESTERN DIVISION
Vicksburg

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

SOUTHERN DIVISION
Gulfport

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

Rule 1.1 **PURPOSES.** The courts have adopted these Local Rules and, within them, a *Differentiated Case Management Plan* to permit the courts to manage their civil dockets in the most effective manner, to reduce costs and to avoid unnecessary delay, without compromising the independence or the authority of either the judicial system or the individual judge. The underlying principle of the Rules is to make access to a fair and efficient court system available and affordable to all citizens.

Rule 1.2 **DEFINITIONS.** For purposes of these Local Rules:

(A) **Differentiated Case Management** [DCM] is a plan providing for management of civil actions based on case characteristics. This system is marked by the following features: the court reviews and screens civil action filings and channels cases to processing "tracks" which provide an appropriate level of judicial, staff, and attorney attention; civil actions having similar characteristics are identified, grouped, and assigned to designated tracks; each track employs a case management plan tailored to the general requirements of similarly situated cases; and provision is made for the initial track assignment to be adjusted to meet the special needs of any particular case.

(B) **Judicial Officer** is either a United States district judge or a United States magistrate judge.

(C) **Court** means the United States district judge, the United States magistrate judge, or clerk of court personnel, to whom a particular responsibility, action, or decision has been delegated by the judges of the United States District Court for the Northern District of Mississippi and/or the United States District Court for the Southern District of Mississippi.

Rule 1.3 **TRACKS AND ASSIGNMENT OF CIVIL ACTIONS.**

(A) **Expedited.** Civil actions on the Expedited Track shall have a completion goal of nine or fewer months after filing of the first answer or other responsive pleading.

(B) **Standard.** Civil actions on the Standard Track shall have a completion goal of twelve or fewer months or less after the filing of the first answer or other responsive pleading.

(C) **Complex.** Civil actions on the Complex Track shall have the discovery cut-off established in the Case Management Plan and shall have a completion goal of no more than twenty-four months after filing of the first answer or other responsive pleading.

(D) **Administrative.** Civil actions on the Administrative Track, with the exceptions of bankruptcy appeals, student loan actions, and civil asset forfeiture actions, shall normally be referred directly to a magistrate judge. These actions normally will have no discovery and will have a completion goal of nine months.

(E) **Mass Tort.** Civil actions on the Mass Tort Track shall be treated in accordance with the special management plan adopted by the court.

(F) **Suspension Track.** The completion goal of civil actions placed on the Suspension Track shall be determined at the Case Management Conference and time computations shall commence on the date the stay order is lifted.

Rule 1.4 **CASE EVALUATION CRITERIA.** The court shall consider and apply the following factors in assigning civil actions to a particular track:

(A) **Expedited:**

(1) Legal Issues: Few and clear.
(2) Required Discovery: Limited.
(3) Number of Real Parties in Interest: Few.
(4) Number of Fact Witnesses: Up to five.
(5) Expert Witnesses: Few, if any.
(6) Likely Trial Days: Three or fewer.
(7) Character and Nature of Damage Claims: Liquidated or routine.

(B) **Standard:**

(1) Legal Issues: More than a few, some unsettled.
(2) Required Discovery: Routine.
(3) Number of Real Parties in Interest: Up to five legal entities but which represent no more than three diverse interests.
(4) Number of Fact Witnesses: Up to ten.
(5) Expert Witnesses: Usually fewer than four.
(6) Likely Trial Days: Five or fewer.
(7) Character and Nature of Damage Claims: Routine.

(C) Complex:

(1) Legal Issues: Numerous, complicated and possibly unique.

(2) Required Discovery: Extensive.

(3) Number of Real Parties in Interest: More than five.

(4) Number of Fact Witnesses: More than ten.

(5) Expert Witnesses: More than three.

(6) Likely Trial Days: More than five.

(7) Character and Nature of Damage Claims: Usually requiring expert testimony.

(D) Administrative: Civil actions that, based on the court's prior experience, are likely to result in default or consent judgments or usually can be resolved on the pleadings or by motions. These include such actions as Social Security appeals, bankruptcy appeals, habeas corpus petitions, student loans, civil asset forfeiture actions, or other actions involving an administrative record.

(E) Mass Torts: Factors to be considered for this track shall be identified in accordance with the special management plan adopted by the court.

(F) Suspension: Civil actions stayed pending resolution of remand motions, immunity defense motions, bankruptcy proceedings or for other good cause found by the court.

Rule 4.1 CIVIL PROCESS.

(A) Preparation. It is the responsibility of the plaintiff in each original case filed to prepare the summons to be served on each defendant and to present the process to the clerk of court at the time of the filing of the original complaint. The signed process with seal affixed will then be returned to the attorney for service.

(B) Service. The United States Marshal does not serve process in civil actions except on behalf of the federal government, in actions proceeding *in forma pauperis*, on writs of seizure and executions of judgments, and when otherwise ordered by a federal court.

Rule 5.1 ORIGINAL CONVENTIONAL FILINGS.

(A) Copies of Pleadings.

(1) In-state private party cases. In all civil actions, the plaintiff must file with the clerk of court the original complaint, and one copy of the complaint for service on each defendant.

(2) Service on Mississippi Secretary of State or Mississippi Insurance Commissioner. If process is to be served on the Mississippi Secretary of State or the Insurance Commissioner in their respective capacities as the statutory agent for service of process on a defendant, then the plaintiff must file with the clerk of court the original complaint and two copies of the complaint for each defendant being served by service on the state official.

(3) United States Cases. In civil actions against any branch of the United States government, one copy of the complaint shall be filed for the United States Attorney, two copies for the Attorney General of the United States, and one copy for the secretary or director of the branch of government listed as a defendant.

(B) Civil Cover Sheet. A civil cover sheet (Form JS 44) shall be filed with each original complaint or petition filed.

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

Rule 5.2 PLEADINGS.

(A) Electronic Filings; Signatures and Verifications; Administrative Procedures. Rules 5 and 83 of the FEDERAL RULES OF CIVIL PROCEDURE, and Rule 57 of the FEDERAL RULES OF CRIMINAL PROCEDURE, authorize courts to establish practices and procedures for electronically filing, signing, and verifying documents. Accordingly, the district courts for the Northern District and the Southern District of Mississippi have implemented *Administrative Procedures for Electronic Case Filing* prescribing the procedures and standards governing electronically filing, signing, and verifying documents.

(B) **Facsimile Filings.** The clerk of court is authorized to accept for filing documents transmitted by facsimile equipment in situations that have been previously determined by the clerk of court or any judge to be of an emergency nature or other compelling circumstance. In those situations, the original pleading, upon receipt by the clerk of court, will be substituted for the facsimile copy and will be docketed by the clerk.

(C) Certificate of Service. All pleadings and documents required by FED. R. CIV. P. 5 to be served on other parties shall be accompanied by a certificate of service setting forth the date and manner of service and the names and addresses of all persons upon whom service has been made.

Rule 5.3 NON-FILING OF PRE-DISCOVERY DISCLOSURES AND DISCOVERY MATERIALS.

(A) Pre-discovery disclosures. Pre-discovery disclosures of core information pursuant to UNIFORM LOCAL RULE 26.1(A) shall not be filed with the clerk of court unless and until such disclosures are used in a proceeding and/or the court orders such filing. The party serving such disclosure shall file a notice of service of pre-discovery disclosure of core information [Official Form No. 2(c)].

(B) Depositions. Pursuant to the provisions of FED. R. CIV. P. 5(d), depositions in civil actions shall not be filed with the clerk of court. The court reporter shall forward the original of a deposition to the party responsible for its taking; the party shall retain the original and is the custodian thereof. Upon receipt of the original deposition, the party serving as custodian shall forthwith file with the clerk of court a copy of the cover sheet of the deposition and a notice that all parties of record have been notified of the receipt of the deposition by the custodian [Official Form No. 2(a)].

(C) Discovery. Interrogatories under FED. R. CIV. P. 33 and the responses thereto, Requests for Production or Inspection under FED. R. CIV. P. 34 and the responses thereto, and Requests for Admission under FED. R. CIV. P. 36 and the responses thereto, shall be served upon other counsel or parties, but shall not be filed with the court. The party responsible for service of the discovery request, or the response, shall retain the original and become the custodian and file a notice thereof with the court [Official Form No. 2(b)].

(D) Filing in relation to Discovery/Disclosure Motions. If relief is sought under FED. R. CIV. P. 26(c) or 37 concerning any disclosures pursuant to FED. R. CIV. P. 26(a)(1) or (2), interrogatories, requests for production or inspection, requests for admission, answers to interrogatories or responses to requests for admissions, copies of the portions of the disclosure, interrogatories, requests, answers, or responses in dispute shall be filed with the court contemporaneously with any motion filed under the Rules.

(E) Filing for use at Trial or in Relation to Dispositive Motions. If disclosures pursuant to FED. R. CIV. P. 26(a)(1) or (2), interrogatories, requests,

answers, responses or depositions are to be used at trial or are necessary to a pretrial motion that might result in a final order on any issue, the portions to be used shall be considered an exhibit and filed with the clerk of court at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated.

(F) **Filing for use on Appeal.** When documentation of discovery and/or disclosures not previously in the record is needed for appeal purposes, upon an application and order of the court, or by stipulation of counsel, the necessary discovery and/or disclosure papers shall be filed with the clerk of court.

Rule 7.1 **BRIEFS AND MEMORANDA.**

(A) **Trial Briefs.** Unless otherwise directed by the court in a particular cause, the submission of a trial brief on the merits of a case is within the discretion of the parties; provided, however, a copy of any such brief so submitted to the court shall be simultaneously served upon counsel for the opposing party. Briefs shall not exceed thirty-five pages without prior approval of the court.

(B) **Motion Briefs**. [Covered in UNIFORM LOCAL RULE 7.2]

Rule 7.2 **Motion Practice.** A written communication with the court that is intended to be an application for relief or other action by the court shall be presented by a motion in the form prescribed by this Rule.

(A) **Applicability**. The provisions of this rule apply to all written motions filed in civil or criminal actions.

(B) **Filing; Proposed Orders.** The original motion and all affidavits and other supporting documents, including briefs and memoranda of authorities, shall be filed with the clerk of court at the division office where the action is docketed. The moving party shall simultaneously submit the proposed order to the district judge presiding in the action or, if the motion is referred to a magistrate judge, to the magistrate judge. The addresses for the district judges and for the magistrate judges chambers appear on the courts' Internet websites and in the courts' *Administrative Procedures for Electronic Case Filings*.

(1) Affirmative defenses shall be raised by motions, in accordance with these rules. Although the affirmative defenses may be enumerated in

the answer, no motion shall be included within the body of the answer but must be raised by a separate pleading.

(2) Discovery motions must be filed sufficiently in advance of the discovery deadline so as to not affect the deadline.

(3) Unless otherwise ordered by the Case Management Order, all case-dispositive motions and motions challenging an opposing party's expert shall be filed no later than fifteen calendar days after the discovery deadline.

(4) Motions *in limine* shall be filed no later than ten calendar days before the pretrial conference, and all responses shall be filed no later than five calendar days before the pretrial conference.

(5) A proposed order shall be submitted to the judge for any motion that may be heard *ex parte* or is to be granted by consent. If the motion is referred to a magistrate judge, the proposed order shall be submitted to the magistrate judge.

(C) Responses.

(1) The original of any response to the motion, all opposing affidavits, and other supporting documents shall be filed with the clerk of court at the division office where the action is docketed, and any response to the motion and all objections shall be filed and served as provided in paragraph (B) of this rule. Within the time allowed for response, the opposing party shall either respond to the motion or notify the court of its intent not to respond.

(2) If a party fails to respond to any motion, other than a motion for summary judgment, within the time allotted, the court may grant the motion as unopposed.

(D) Memoranda; Documents Required with Motions; Time Limits; Failure to Submit Required Documents; Motions not Reurged. At the time the motion is served, other than motions or applications that may be heard *ex parte* or those involving necessitous or urgent matters, counsel for movant shall submit to the presiding judge a memorandum of authorities upon which counsel relies. Counsel for respondent shall, within ten days after service of movant's memorandum, submit a memorandum of authorities in

reply. Counsel for movant desiring to submit a rebuttal memorandum may do so within five days after the service of the respondent's memorandum. A request for extension of time shall be made in writing to the judge before whom the motion is noticed. Failure to timely submit the required motion documents may result in the denial of the motion. A pending non-dispositive motion not reurged after discovery has been concluded and before the motion deadline, may be deemed moot and denied by operation of this rule.

(E) Length of Memoranda. Movant's original and rebuttal memoranda together shall not exceed a total of thirty-five pages, and respondent's memorandum shall not exceed thirty-five pages.

(F) Notice and Hearings.

(1) All motions shall be decided by the court without a hearing or oral argument unless otherwise ordered by the court on its own motion or, in its discretion, upon written request made by counsel in an easily discernible manner on the face of the motion or response.

(2) The scheduling of an evidentiary hearing or oral argument, where allowed, shall be set at such time and place as may suit the convenience of the judge. The court may, in its discretion, hear oral argument by telephone conference. The court will strive to issue its opinion within sixty days of the receipt of the last brief.

(G) Priority. The court will give priority to discovery motions, discovery appeals, immunity defense motions, motions to remand, and other jurisdictional motions.

(H) Urgent or Necessitous Matters. When the motion relates to an urgent or necessitous matter, counsel for the movant shall contact the courtroom deputy, or other staff member designated by the judge, and arrange a definite time and place for the motion to be heard. In such cases, counsel for movant shall file a written notice to all other parties of the time and place fixed by the court for the hearing and shall serve all documents upon other parties. The court, upon receipt of the motion, may, in its discretion, direct counsel regarding the submission of memoranda of authorities for the court's consideration.

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

(I) **Service.** Movant and respondent shall serve copies of all motions, responses, and/or memoranda upon opposing counsel. Unless the documents are hand-delivered, three days shall be added to the periods prescribed in paragraph (D) of this rule.

(J) **Court Reporters.** If the hearing of a motion, whether at a regular motion day, pretrial conference, or special setting, requires the presence of a court reporter, the party requesting a court reporter shall obtain prior approval from the office of the district or magistrate judge before whom the motion is noticed.

(K) **Untimely Motions.** Any motion served beyond the motion deadline imposed in the Case Management Order entered pursuant to Rule 16.1(B)(9) may be denied solely because the motion is served untimely. Parties are encouraged to file all non-dispositive motions prior to the discovery deadline.

Rule 7.3 **CORPORATE DISCLOSURE STATEMENT.** A non-governmental corporate party shall file a statement identifying all of its parent corporations and listing any publicly-held company that owns ten percent or more of the party's stock. The Corporate Disclosure Statement shall be filed as a separate pleading with the party's initial pleading, and a copy of the Corporate Disclosure Statement shall be provided to the magistrate judge and to the district judge assigned to the civil action. Each party shall supplement the statement within a reasonable time of any change in the disclosure information.

Rule 8.1 PROTECTION OF PERSONAL AND SENSITIVE INFORMATION; PUBLIC ACCESS TO COURT FILES; REDACTED INFORMATION; SEALED INFORMATION.

(A) **Personal Identifiers and Sensitive Information Prohibited**. Pursuant to the *E-Government Act of 2002*, Pub. L. 107-347, 116 Stat. 2899 (Dec. 17, 2002), as amended by H.R. 1303 (Aug. 2, 2004), and the polices of the Judicial Conference of the United States, personal identifiers, and sensitive information and data, shall not be stated in pleadings, exhibits, or other court-filed documents except as provided by this rule.

(B) Personal Identifiers. Personal identifiers are defined as:

1. Social Security numbers.

2. Financial account numbers.

3. Dates of birth.

4. Names of minor children.

(C) Sensitive Information and Data. Sensitive information and data are defined as:

1. Personal identifying numbers, such as driver license numbers.

2. Medical records, treatments, and diagnoses.

3. Personal financial information.

4. Proprietary or trade secret information.

(D) Redaction of Personal Identifiers and Sensitive Information and Data. A party filing a document containing personal identifiers and/or sensitive information and data may . . .

1. file an unredacted document under seal; this document shall be retained by the court as part of the record; or,

2. file a reference list under seal. The reference list shall contain the complete personal data identifiers and/or the complete sensitive information and data used in their place in the filing. All final references in the case to the redacted identifiers, information, or data included in the reference list will be construed to refer to the corresponding complete identifiers, information, or data. The reference list must be filed under seal and may be amended as of right; it shall be retained by the court as part of the record.

(E) Responsibilities of Counsel and Parties. Counsel should advise clients of this rule so that an informed decision may be made about the inclusion of protected information.

1. Counsel and parties must consider that the *E-Government Act of 2002* (as amended) and the policies of the Judicial Conference of the United States require federal courts eventually to make *all* pleadings, orders, judgments, and other filed documents available in electronic formats accessible over the Internet and the courts' PACER [Public Access to Court Electronic Records] systems. Consequently, personal and sensitive information and data that formerly were available only by a review of the court's physical case files will be available to the world, openly, publicly, and near-instantaneously.

2. If a redacted document is filed, it is the sole responsibility of counsel and the parties to ensure that all pleadings conform to the redaction-related standards of this rule.

3. Neither the court nor the clerk will review pleadings or other documents for compliance with this rule.

Rule 11.1 **SIGNATURES REQUIRED ON PLEADINGS, MOTIONS, AND OTHER PAPERS.** Consistent with FED. R. CIV. P. 11, the filing of a signed pleading, motion, or other document by any counsel is deemed to signify approval by all co-counsel. All filed, signed documents shall contain counsel's name, address, telephone number, fax number, e-mail address, and counsel's bar membership identification number. All documents filed and signed by a party not represented by an attorney shall contain the party's name, address, telephone number, fax number, and e-mail address. Every attorney and every litigant proceeding without legal counsel has a continuing obligation to notify the clerk of court of address changes.

Rule 11.2 **SANCTIONS—UNREASONABLE DELAYS.** Any delay or continuance occasioned by a party's failure to abide by these rules may result in the imposition of appropriate sanctions, including assessment of costs and attorneys' fees. In this regard, counsel shall immediately notify the appropriate judge if a pending motion is resolved by the parties or if the civil action is settled.

Rule 16.1 CASE MANAGEMENT CONFERENCE.

(A) Court Order. The court will issue an Initial Order setting the deadline for the attorney conference required by FED. R. CIV. P. 26(f) and also setting a date for a case management conference [CMC] with the magistrate judge. The court will strive to set the case management conference within sixty days of the filing of the first responsive pleading.

(B) Early Assessment and Pretrial Case Management.

(1) Early Meeting of Counsel/Attorney Conference. Except in categories of proceedings exempted from initial disclosure by FED. R. CIV. P. 26(a)(1)(E), the attorneys and any unrepresented parties are required to confer by telephone or in person as soon as is practicable and no later than the deadline established by the court, and are to discuss the following matters in accordance with FED. R. CIV. P. 26(f):

(a) Principal Issues.

(i) Identify the principal factual and legal issues in dispute;

(ii) Discuss the principal evidentiary basis for claims and defenses;

(iii) Determine the DCM case track provided by UNIFORM LOCAL RULES 1.3 and 1.4, days required for trial, and whether the case should be considered for ADR procedures.

(b) Disclosure. Discuss the arrangements for exchanging the disclosures required by FED. R. CIV. P. 26(a)(1) and whether any changes should be made in the timing, form, or requirement for such disclosures.

(c) Motions. Identify any motions the early resolution of which would have a significant impact on the scope of discovery or other aspects of the litigation.

(d) Discovery. Consistent with case management track recommendations, determine what discovery is required, when discovery should be completed, whether discovery should be

conducted in phases or be limited to or focused upon particular issues, and what limitations should be placed on discovery.

(e) **Preparation of a proposed case management plan** and scheduling order setting forth track and/or ADR recommendations, whether all parties consent to trial by the magistrate judge, the date and manner in which the disclosures required by FED. R. CIV. P. 26(a) have been or will be made, or whether any party objects to the disclosures being made and, if so, on what grounds, discovery limitations, deadlines for amendments to pleadings and joinder of additional parties, completion of discovery, designation of experts, and filing of motions, including motions for summary judgment, *Daubert* motions *(Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)), and motions *in limine*. The attorneys of record and all unrepresented parties who have appeared in the action are jointly responsible for arranging the conference and attempting in good faith to agree on the proposed case management plan and scheduling order.

(f) **Jurisdiction by a Magistrate Judge.** Discuss whether all parties consent to jurisdiction by a magistrate judge pursuant to 28 U.S.C. § 636(c).

(g) **Settlement.** Discuss the possibilities for a prompt settlement or resolution of the action and whether it would be helpful to schedule a settlement conference earlier than the settlement conference that will be held pursuant to subdivision 16.1(C) of this rule.

(h) **Orders.** Discuss whether any other orders should be entered by the court pursuant to FED. R. CIV. P. 16(b) or (c).

(2) **Removed Civil Actions.**

(a) In removed civil actions in which no motion to remand or motion to refer the action to the bankruptcy court is filed, the attorneys and unrepresented parties shall confer as outlined above within forty days, and all other deadlines will be determined accordingly.

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

(c) Within fifteen days of the order lifting the stay, the parties shall confer as outlined above and all other deadlines will be determined accordingly. A scheduling conference shall be held within sixty days after the stay is lifted.

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

(4) Immunity Defense.

(a) An immunity defense shall be raised by a separate motion as expeditiously as possible after the filing of the complaint.

(b) The filing of an immunity defense motion shall stay the attorney conference and disclosure requirements and all discovery not related to the immunity issue, pending the court's ruling on the motion issue, including any appeal.

(c) At the time the immunity defense motion is filed, the moving party shall submit to the magistrate judge a proposed order granting the stay but permitting discovery relevant only to the immunity defense.

(d) The plaintiff shall promptly notify the magistrate judge of a decision on the immunity defense motion and shall submit a proposed order lifting the stay. Within fifteen days of the

order lifting the stay, the parties shall confer in accordance with this Rule and all other deadlines will be determined accordingly.

(e) A case management conference shall be scheduled within sixty days of the order lifting the stay.

(5) Civil Asset Forfeiture Actions.

(a) In civil asset forfeiture actions in which the United States files a motion challenging the claimant's standing, the attorney conference and disclosure requirements and all discovery not relevant to the standing issue shall be stayed pending the court's ruling on the standing issue.

(b) At the time the motion challenging the claimant's standing is filed, the United States shall submit to the magistrate judge a proposed order granting the stay but permitting discovery on the standing issue.

(c) The parties shall promptly notify the magistrate judge of a decision on the standing issue and shall submit a proposed order lifting the stay if it is determined that the claimant has standing. Within fifteen days of the order lifting the stay, the parties shall confer in accordance with this Rule and all other deadlines will be determined accordingly.

(d) A case management conference shall be scheduled within sixty days of the order lifting the stay.

(e) If there is a pending criminal proceeding related to the civil asset forfeiture action, the discovery provided (or to be provided) by the United States in the criminal case shall be deemed to satisfy the disclosure requirements of FED. R. CIV. P. 26(a).

(6) Submission of Written Proposed Case Management Plan and Scheduling Order. The magistrate judge may require the parties to submit a proposed case management order no later than fourteen days after the attorney conference. Disagreements with the content of the proposed case management order shall be noted on the submitted written plan or attachments thereto. Each party shall submit to the

magistrate judge a confidential memorandum, no longer than three pages, setting forth a brief explanation of the case and a candid appraisal of the respective positions of the parties, including a candid evaluation of the possibilities for settlement.

(7) **Time of Disclosures.** No later than fourteen days after the attorney conference, the parties shall make the disclosures required by FED. R. CIV. P. 26(a) [LOCAL RULE 26.1(a)(1)], unless a different time is set by stipulation or court order or unless a party objects during the attorney conference and states the objection in the proposed case management order.

(8) **Case Management Conference.** On the date set by court order, the magistrate judge will hold a case management conference in accordance with FED. R. CIV. P. 16(b) and 26(f).

(9) **Case Management Order.**

(a) No more than ten calendar days after the case management conference, the judicial officer will enter the case management order.

(b) The order shall include the determination of track assignments, whether the case is suitable for reference to an alternative dispute resolution [ADR] program, the type and extent of discovery, the setting of a discovery deadline, and deadlines for filing motions.

(c) The order shall specify that its provisions, including any deadlines, having been established with the participation of all parties, can be modified only by order of the judicial officer and only upon a showing of good cause supported by affidavits, other evidentiary materials, or references to pertinent portions of the record. The order shall also set a date, time, and place for the settlement conference required by LOCAL RULE 16.1(C). The order shall also set a trial date.

(d) The court shall not require the parties to reserve a period in excess of two weeks for trial following the trial date.

(C) Settlement Conference.

(1) The initial settlement conference may be scheduled by the court in the case management plan and scheduling order or by such other order as the interests of justice may dictate.

(a) Counsel for any party may request at any time that the judicial officer assigned to the case schedule a settlement conference.

(b) Court-ordered mediation may be ordered by the court in addition to, or in lieu of, settlement conference.

(c) Prior to a settlement conference or mediation, the parties are required to undertake discovery necessary for meaningful settlement discussions.

(2) Lead counsel for each party, individual parties not represented by legal counsel, and representatives of each corporate party, organization, or similar entity must appear at the conference.

(a) The party representative attending the conference shall have full settlement authority to bind the party for settlement purposes.

(b) If approved in advance by the court, a party or party representative may, in lieu of attending the conference in person, be immediately available by telephone during the entire settlement conference. The court may also order that a representative of any intervening party with full settlement authority also attend the conference in person or be available by telephone.

(c) At the request of any party, the court will issue a notification of such settlement conference which the party may then forward to any entity having any type of subrogation lien that would need to be considered during settlement negotiations. The failure of a party to attend a settlement conference, or to have present at the conference a representative with reasonable settlement authority, may result in the assessment of sanctions against the offending party.

(3) The notice of a settlement conference shall set forth the format of the conference and shall include any requirement for information or documents that must be submitted to the magistrate judge prior to or at the conference as the magistrate judge may direct.

(4) No statement, oral or written, made by any party to the court or counsel(s) opposite pursuant to this rule, shall be admissible or used in any fashion in the trial of the case or any related case.

(5) At least five days prior to the settlement conference scheduled, each party shall submit to the magistrate judge a revised confidential memorandum, no longer than three pages, setting forth a brief explanation of the case and a candid appraisal of the respective positions of the parties, including possible settlement figures. Counsel will also furnish a good faith estimate of the total expense of carrying the litigation through trial and the appellate processes, if not settled, and will have discussed and will represent to the court that they so discussed these expenses with their clients. The settlement memoranda are not to be exchanged or filed in the record, are to be viewed only by the magistrate judge, and will be destroyed upon exhaustion of settlement negotiations.

(D) Cases Excluded from Scheduling and Disclosure Requirements. Those categories of proceedings appearing in FED. R. CIV. P. 26(a)(1)(E) are exempt from the scheduling and disclosure requirements of these rules.

(E) Alternative Dispute Resolution Programs. The courts have adopted a uniform Alternative Dispute Resolution Plan. That plan is appended to these UNIFORM LOCAL RULES.

Rule 16.2 FINAL PRETRIAL CONFERENCES AND PRETRIAL ORDERS.

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

(1) The judicial officer assigned to try the case will attempt to conduct the pretrial conference. If the judicial officer is unable to schedule the pretrial conference in a timely manner, however, then he or she may direct that the conference be held before another judicial officer. This conference shall be scheduled not more than forty-five days prior to trial.

(2) Whenever possible, a final pretrial conference shall be separately scheduled at a date, place, and hour and for such period of time as the subject matter of the particular civil action may require, but in all events a final pretrial conference shall be scheduled in such manner as not to cause undue or inordinate inconvenience to counsel scheduled for final pretrial conferences in other cases.

(B) When Conference May be Dispensed With; Pretrial Order Still Required; Contents. The court recognizes that a formal final pretrial conference may not be needed in all cases. In any civil case the district or magistrate judge, either on his or her own motion or by request of the parties made not later than ten days prior to the scheduled conference, may determine that a final pretrial conference is unnecessary and excuse the parties from attendance, but in any event the jointly agreed pretrial order shall be submitted to the judge before whom the conference was to have been held and all requirements of this rule shall be complied with at or before the time and date set for the final pretrial conference, unless the judge shall fix another date for submission of the pretrial order. In the event no formal final pretrial conference is held, counsel shall submit to the appropriate judge a jointly agreed final pretrial order [Official Form No. 2] which shall set forth:

(1) Any jurisdictional question.

(2) Any questions raised by pending motions, including motions *in limine*.

(3) A concise summary of the ultimate facts claimed by plaintiff(s), by defendant(s), and by all other parties.

(4) Facts established by pleadings or by stipulations or admissions of counsel.

(5) Contested issues of fact.

(6) Contested issues of law.

(7) Exhibits (except documents for impeachment only) to be offered in evidence by the parties respectively. In the event counsel cannot in

good faith stipulate the authenticity and/or admissibility of a proposed exhibit, the order shall identify the same and state the precise ground of objection.

(8) The names of witnesses for all parties, stating who *Will Be Called* in the absence of reasonable notice to opposing counsel to the contrary and who *May Be Called* as a possibility only. Neither rebuttal nor impeachment witnesses need be listed. The witness list shall state whether the witness will give fact or expert testimony, or both, whether the witness will testify as to liability or damages, or both, and whether the witness will testify in person or by deposition. If the qualifications of an expert witness are an issue, the expert's qualifications are to be typed and retained as possible exhibits at trial. The expert's qualifications shall be stated in the pretrial order.

(9) Any requested amendments to the pleadings.

(10) Any additional matters to aid in the disposition of the action.

(11) The probable length of the trial.

(12) Full name, address, and phone number of all counsel of record for each party.

(C) Submission by Magistrate Judge to Trial Judge. If the pretrial conference is held before a magistrate judge who will not try the case, the magistrate judge shall submit the agreed, approved pretrial order to the trial judge, with copies to counsel and to the clerk of court.

(D) Duty of Counsel to Confer; Exhibits; Matters to be Considered at Conference; Sanctions. The following provisions of this rule apply, regardless of whether the pretrial order is entered by stipulation of the parties or following a formal final pretrial conference:

(1) Counsel shall resolve by stipulation all relevant facts that are not in good faith controverted and shall exchange with counsel for all other parties true copies of all exhibits proposed to be offered in evidence, other than those to be used for impeachment purposes only, and shall stipulate the authenticity of each exhibit proposed to be offered in evidence by any party unless the authenticity of any such exhibit is in good faith controverted.

(2) All exhibits are to be pre-marked, and lists briefly describing each are to be exchanged among counsel and presented to the court at the beginning of the trial, in quadruplicate, unless otherwise directed by the court.

(3) At any formal final pretrial conference, the judge shall confer with counsel regarding proposed stipulations of facts and contested issues of fact and law, and shall inquire as to the reasonableness of any party's failure to stipulate and agree thereon or as to the authenticity and/or admissibility of exhibits. If the court determines that any party or his attorney has failed to comply with this rule, such party or his attorney shall be subject to appropriate sanctions.

(E) **Depositions.** Depositions to be introduced in evidence other than for rebuttal or impeachment purposes shall be abridged prior to pretrial conference or submission of the order, as follows:

(1) The offering party shall designate by line and page the portions of the deposition it plans to offer.

(2) The opposing party or parties shall designate by line and page any additional portions of the deposition to be offered and shall identify distinctly any portions of the deposition previously designated by any other party to which objection is made.

(3) The offering party shall thereafter identify distinctly any portions of the deposition previously designated by any other party to which objection is made.

(4) Videotaped depositions shall be edited prior to trial as required by the pretrial order.

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

(1) **Counsel Shall Attend; Sanctions.** All scheduled conferences shall be attended by counsel of record who will participate in the trial and who have full authority to speak for the party and enter into stipulations and agreements. Counsel shall have full authority from their

clients with respect to settlement and shall be prepared to inform the court regarding the prospects of settlement. The court may require the attendance or availability of the parties, as well as counsel. Should a party or his attorney fail to appear or fail to comply with the directions of this rule, an *ex parte* hearing may be held and a judgment of dismissal or default or other appropriate judgment entered or sanctions imposed.

(2) **Preparation for the Conference.** Counsel shall comply with the requirements of subdivisions (D) and (E) of this rule as soon as practicable prior to the pretrial conference and submit to the court and counsel opposite a proposed pretrial order setting forth his proposals for inclusion in the pretrial order in accordance with subdivision (B) of this rule and any instructions which the court may in its discretion issue.

(3) **Preparation of the Pretrial Order.** After the final pretrial conference has concluded, a pretrial order shall be prepared by counsel in conformity with Official Form No. 3 and submitted to the court for entry. Responsibility for preparation of the pretrial order and the deadline for its submission shall be fixed by the judicial officer before whom the conference was held. If a magistrate judge has conducted the conference on behalf of a district judge, he or she shall require counsel to make such corrections as the magistrate judge deems necessary before transmitting the order to the district judge.

(4) **Additional Conferences.** After the final pretrial conference has been conducted, the court will not hold an additional pretrial conference except in those exceptional situations in which the district judge or magistrate judge determines that an additional conference would materially benefit disposition of the action.

(G) **Effect of Pretrial Order.** The pretrial order shall control the subsequent course of the action unless modified by the trial judge at the trial or prior thereto, upon oral or written motion, to prevent manifest injustice.

(H) **Conference Scheduling; Conflicting Settings.** In scheduling all pretrial conferences of any nature, the judge shall give due consideration to conflicting settings but not to the mere convenience of counsel. If a scheduling order has been entered in an action, no final pretrial conference shall be held until after the discovery deadline has expired. Failure to complete

discovery within such deadline shall not be an excuse for delaying the final pretrial conference, nor for securing continuance of a case which has been calendared for trial.

(I) **Discretion of District Judge.** Notwithstanding any of the provisions of this rule to the contrary, a district judge may, in his or her discretion, in any assigned case, conduct any or all pretrial conferences and may enter or modify a scheduling order.

Rule 16.3 **CONFLICTING SETTINGS AND REQUESTS FOR CONTINUANCES.** When the court has set a case for trial, other hearing, or pretrial conference that conflicts with a court appearance of counsel in other courts, the first case having a firm setting shall control, whether such first case is set by this or some other court, and other courts are expected to yield to the prior firm setting, as this court will do when other cases have prior settings in other courts, consistent with the policy adopted by the State-Federal Judicial Council. When a case has not been reached as scheduled, the court, in resetting the case, shall take into account the obligations of counsel on the basis of the first-setting rule. If a conflict develops, it is the absolute duty of counsel to inform the court of the later setting in order that the conflict might be resolved and calendars cleared for other settings. It is essential for counsel and the court or courts involved to resolve potential conflicts at the earliest practical date.

Rule 23.1 **CLASS ACTIONS.** In all civil actions filed as class actions, the class plaintiff must, at a time directed by the case management order, move for a FED. R. CIV. P. 23 class determination. The plaintiff has the burden of establishing by way of pleadings and evidentiary materials that a class action is appropriate and of defining all relevant classes and subclasses.

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

Counsel for all parties must be aware of the general time schedule set forth above and shall promptly prepare all materials that may be relevant to class

action maintainability and class definitions. Until the issue of class certification has been decided, counsel shall give priority to discovery directed to the class issue.

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

Rule 26.1 DISCOVERY CONTROL.

(A) Pre-Discovery Disclosure of Core Information/Other Cooperative Discovery Devices.

(1) Initial Disclosure.

(a) Within the time designated in the court's initial order setting the FED.R.CIV.P. 16 conference, the parties shall make the disclosure required by Fed.R.Civ.P. 26(a)(1).

(b) If documents, data compilations, and tangible items required for production are voluminous, or if other circumstances make their production unduly burdensome or expensive, the party may describe by category and location all such documents, data compilations, and tangible things in its possession, custody or control and shall provide the opposing party a reasonable opportunity to review all such documents, data compilations and tangible items, at the site at which they are located or maintained.

(c) A party withholding information claimed privileged or otherwise protected shall submit a privilege log that contains at least the following information: name of the document; description of the document; date; author(s); recipient(s); and nature of the privilege. To withhold materials without such notice subjects the withholding party to sanctions under FED. R. CIV. P. 37 and may be viewed as a waiver of the privilege or protection.

(2) Expert Witnesses. A party shall, as soon as it is obtained, but in any event no later than the time specified in the case management order, make disclosure as required by FED.R.CIV.P. 26(a)(2)(A).

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

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

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

(d) A party shall designate treating physicians as experts pursuant to this rule, but is only required to provide the facts known and opinions held by the treating physician(s) and a summary of the grounds therefor.

(e) A party is required to supplement an expert's opinion in accordance with FED. R. CIV. P. 26(e).

(3) **Failure to Disclose.** If a party fails to make a disclosure required by this section, any other party shall move to compel disclosure and for appropriate sanctions pursuant to FED. R. CIV. P. 37(a). The failure to take immediate action and seek court intervention if necessary when a known disclosure violation occurs will be considered by the court in determining the appropriate sanctions to be imposed regarding a subsequent motion filed pursuant to FED. R. CIV. P. 37(c).

(4) **Discovery Prior to the Case Management Conference.** The discovery prior to the case management conference is governed by FED.R.CIV.P. 26(d).

(5) **Supplementation of Disclosures.** A party is under a duty to supplement disclosures at appropriate intervals pursuant to FED.R.CIV.P. 26(e) and in no event later than the discovery cut-off established by the scheduling order.

(B) **Setting Discovery Deadlines.** A firm discovery deadline, consistent with the track assignment, will be set by the judicial officer entering the case management order.

(1) The discovery deadline or cut-off date is that date by which all responses to written discovery shall be due according to the FEDERAL RULES OF CIVIL PROCEDURE and by which all depositions shall be concluded.

(2) Counsel must initiate discovery requests and notice or subpoena depositions sufficiently in advance of the discovery cut-off date so as to comply with this rule, and discovery requests that seek responses or schedule depositions that would otherwise be answerable after the discovery cut-off are not enforceable except by order of the court for good cause shown.

(3) The parties may not, by stipulation and without the consent of the court, extend the discovery cut-off date.

(C) **Attorney/Party Signatures for Requests to Extend Discovery Deadlines.** The court in its discretion may require the requesting attorney and party to sign requests to extend discovery deadlines.

(D) **Limits on the Use of Discovery.** The court should limit the number of depositions, interrogatories, requests for production and requests for admission to the needs of each particular case consistent with the track assignment. In computation of the number of interrogatories or requests propounded, each subpart of a question shall be counted as a separate interrogatory or request.

(1) **Expedited.** Interrogatories, requests for production of documents, and requests for admissions should be limited to fifteen succinct questions or requests. Depositions should be limited to the parties and no more than three fact witness depositions per party without prior approval of the court.

(2) **Standard.** Interrogatories, requests for production of documents, and requests for admissions should be limited to thirty succinct questions or requests. Depositions should be limited to the parties and no more than five fact witness depositions per party without prior approval of the court.

(3) Complex. The case management order should provide for discovery consistent with the needs of the case.

(4) Administrative. No discovery should be the norm.

(5) Mass torts. The case management order should provide for discovery consistent with the needs of the case.

Rule 30.1 VIDEOTAPED DEPOSITIONS. The videotaping of a deposition shall be permitted as a matter of course in accordance with FED.R.CIV.P. 30(b)(2).

(A) Written Transcript Required. The videotaped deposition of a witness shall also be taken in the usual manner by a qualified shorthand or machine reporter and a written transcript prepared for use in subsequent court proceedings.

(B) Scope of Scene Viewed. During the deposition the witness shall be recorded in as near to courtroom atmosphere and standards as possible. There will not be any zoom-in procedures to unduly emphasize any portion of the testimony, but zoom-in will be allowed for exhibits and charts to make them visible to the jury. The camera shall focus as much as possible on the witness. The attorneys may be shown on introduction, the beginning of examination and during objections.

(C) Witness's Approval Not Required. It shall not be necessary for a witness to view and/or approve the videotape of a deposition.

(D) Availability to Parties. Any party may purchase a duplicate original or edited tape from the video operator technician at any time.

(E) Editing. Videotaped depositions shall be edited prior to trial as required by the pretrial order.

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

Rule 30.2 DEPOSITIONS OF EXPERTS. The videotaping of the testimony of expert witnesses is encouraged.

Rule 35.1 **PHYSICAL AND/OR MENTAL EXAMINATIONS.** Every motion for the physical and/or mental examination of persons in civil actions which is not accompanied by a consent order setting forth the time, place, and scope of the examination and the person selected to perform the examination shall be accompanied by a statement executed by counsel for the moving party.

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

Rule 37.1 **DISCOVERY VIOLATIONS.**

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

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

(1) the specific objection,

(2) the grounds assigned for the objection (if not apparent from the objection itself), and

(3) the reasons assigned as supporting the motion, and shall be written in immediate succession to one another. Such objections and grounds shall be addressed to the specific interrogatory, request for production, or request for admission and may not be general in nature.

(C) Uniform Local Rule 26.1 Violation Order. Any party or his counsel who fails to abide by these rules shall be subject to the sanctions allowed by FED. R. CIV. P. 37, which sanctions may be levied by execution and entry of Official Form 6 by the assigned district or magistrate judge.

Rule 37.2 MOTION TO LIMIT OR QUASH A DEPOSITION. The filing of a motion for a protective order to limit or quash a deposition does not operate as a stay of the deposition. It is incumbent upon the party seeking the protection of the court to obtain a ruling on the motion prior to the scheduled deposition.

Rule 38.1 DEMAND FOR JURY.

(A) When Due; How Presented. A demand for jury trial shall be made in accordance with FED.R.CIV.P. Rule 38(b). A designation of jury trial on the civil cover sheet shall not be sufficient for purposes of this rule.

(B) Within Discretion of Court. A request for a jury otherwise presented will be addressed to the sound judicial discretion of the court.

(C) Removed Actions; Law and Equity Actions. A civil action removed to federal district court from a circuit court of the State of Mississippi shall be designated for jury trial; a civil action removed to federal district court from a chancery court of the State of Mississippi shall be designated for non-jury trial.

Rule 42.1 CONSOLIDATION OF ACTIONS. In civil actions consolidated pursuant to FED.R.CIV.P. 42(A), the action bearing the lower or lowest docket number will control the designation of the district or magistrate judge before whom the motion to consolidate is noticed; the docket number will also determine the judge before whom the case or cases will be tried. Consolidation of actions from different divisions of a district court shall be controlled by the earliest filing date. A dismissal of the action bearing the lower or lowest number prior to the hearing on a motion to consolidate shall not affect the operation of this rule. The judge initially assigned the lower or lowest numbered action, even if that action has been dismissed, shall be the judge before whom the action(s) will be tried.

Rule 45.1 WITNESSES. Witnesses for trial in paupers' cases must be compelled by subpoena or their voluntary attendance procured.

(A) Witnesses' Attendance and Mileage Fees. Tendering of the witness fee and mileage is required even if the party requesting the subpoena (except in

habeas corpus cases and proceedings under 28 U.S.C. § 2255) has been granted leave to proceed *in forma pauperis* under 28 U.S.C. § 1915, because, with those exceptions, no public funds are available for that purpose.

(B) Incarcerated Witness. A prospective witness who is incarcerated will be compelled to attend court only if the party desiring his or her attendance demonstrates to the court by means of an affidavit that the witness has personal knowledge of relevant facts. Upon such a showing, the court will issue a writ of *habeas corpus ad testificandum* to cause the custodian of the witness to produce the witness in court.

Rule 51.1 REQUESTS FOR JURY INSTRUCTIONS.

(A) When Due. Requests for instructions shall be submitted not later than ten days prior to the date for which trial is set; additional and revised instructions may be admitted thereafter as the evidence may justify.

(B) How Presented. Each requested instruction shall be on a separate document, shall be numbered (as P-1, *et seq.* and D-1, *et seq.*), and shall be supported by citation of authority on papers separate from the requested instruction. Copies shall be furnished to opposing counsel when the special requests are submitted to the court. Where good cause is shown to exist, counsel may, with the permission of the court, submit additional written requests during the progress of the trial.

(C) Automated Formats. For the convenience of the court and the parties, jury instructions may be accompanied by a computer disk containing the proposed instructions.

(D) Standard Instructions Not Required. This rule does not require counsel to submit pattern or "boilerplate" instructions which are routinely given by the court. This rule is intended to give the court an opportunity to study requests for instructions tailored specifically for a particular trial.

Rule 52. ORDERS AND JUDGMENTS.

(A) Manner of Presentation. All proposed orders and judgments shall be submitted directly to the district or magistrate judge assigned to the case at his or her regular mailing or e-mail address.

(B) Copies. The attorney providing the order or judgment shall also provide a copy for each party who has answered or made an appearance and is not in

default. The clerk of court shall provide a copy of the executed order or judgment to each party not in default.

Rule 54.1 JURY COSTS.

(A) Postponement in Advance of Trial. Whenever a civil action scheduled for jury trial is required to be postponed, or is settled, or otherwise is disposed of in advance of trial, then jury costs, including mileage and per diem, may, in the court's discretion, be assessed equally against the parties and their counsel or otherwise assessed as directed by the court, unless the court is notified at least one full business day prior to the day on which the action is scheduled for trial so that the jurors can be notified that it will not be necessary for them to attend.

(B) Postponement After the Case is Called. Whenever a civil action is postponed, settled, or otherwise disposed of after the case is called and prior to the verdict of the jury, the court may assess jury costs, as described in subparagraph (A), equally against the parties and their counsel, or against the party responsible for the postponement or late settlement.

Rule 54.2 TAXATION OF COSTS

Bill of Costs. In all civil actions in which costs are allowed, pursuant to 28 U.S.C. § 1920, in the final judgment as defined in FED. R. CIV. P. 54(a), the prevailing party to whom costs are awarded shall serve the bill of costs not later than thirty days after entry of judgment. Except as provided herein, and unless the court directs otherwise, a motion for review of or objecting to the taxation of costs shall be subject to the requirements of UNIFORM LOCAL RULE 7.2. Except as provided by statute or rule, an appeal of the final judgment shall not affect the taxation of costs.

Rule 72.1 PROCEDURES BEFORE A MAGISTRATE JUDGE—SUPPLEMENTAL PROVISIONS.

(A) Appeal of Magistrate Judge's Decision.

(1) A party aggrieved by a magistrate judge's ruling may appeal the ruling to the assigned district judge. The appeal shall be perfected by serving and filing, within ten days after being served with a copy of the magistrate judge's ruling, objections to the ruling, specifying the grounds of error. Objections shall be filed and served upon the other party or parties and shall be promptly transmitted to the assigned

district judge and to the magistrate judge. The opposing party or parties shall, within ten days of service of the objections, either file a response to the objection or notify the district judge that they do not intend to respond.

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

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

(C) Matters Upon Which a Magistrate Judge is Required to Submit a Report and Recommendations. In all matters requiring a full-time magistrate judge to make a report and recommendation to the district court, the magistrate judge shall submit the report and recommendation to the district judge and to the clerk of court. After service of a copy of the magistrate judge's report and recommendations, each party shall have ten days in which to serve and file written objections to the report or recommendations. Objections shall be filed with the clerk of court and served upon the other parties, as in other cases; objections shall be submitted to the assigned district judge. Within five days of service of the objection, the opposing party or parties shall either file a response or notify the district judge that they do not intend to respond to the objection. Responses shall be served and filed as required in the case of objections.

(D) Rule Not Applicable to Consent Cases. Nothing contained in this rule shall apply to any civil action referred to a magistrate judge by consent of

the parties pursuant to UNIFORM LOCAL RULE 73.1, for trial and entry of judgment, from and after the date of such reference.

Rule 72.2 **ASSIGNMENTS TO A MAGISTRATE JUDGE.** In an action referred to a magistrate judge, the magistrate judge will perform the duties assigned by the court under court rule, plan, order, or other document. A magistrate judge will perform other duties when those duties are assigned by the court or a district judge under court rule, plan, order, or other document. The duties assigned to a magistrate judge by the court, and the manner of their distribution and assignment, are specified in a standing order establishing such duties and procedures, available in the office of the clerk of court.

Rule 72.3 **NOTIFYING PARTIES OF A NON-AUTOMATIC ASSIGNMENT.** If not effected directly by the clerk of court under court rule, plan, order, or other document, reference of a case or duty to a magistrate judge will be by order signed by a district judge. The clerk of court will notify all parties to the action of each reference by a district judge.

Rule 72.4 **REFERRAL TO MAGISTRATE JUDGE.** Pretrial motions in civil actions are hereby referred to a magistrate judge for hearing and determination, subject to the following exceptions: motions for injunctive relief; motions to remand; motions for judgment on the pleadings; motions for summary judgment; motions to dismiss or to permit maintenance of a class action; motions to dismiss for failure to state a claim upon which relief can be granted; motions to involuntarily dismiss an action; motions *in limine* regarding evidentiary matters; and motions affecting the rulings on dispositive motions (e.g., motions to amend) pending before a district judge. Upon entry of a pretrial order, all motions thereafter served shall be submitted to the assigned trial judge.

Rule 72.5 **HEARING OF NONDISPOSITIVE MOTIONS WHEN ASSIGNED MAGISTRATE JUDGE IS UNAVAILABLE.** When the magistrate judge assigned to an action is unavailable because of absence from the district, illness, or other cause, or in a bona fide emergency as the result of which any party would be prejudicially delayed by presenting the matter to such magistrate judge, any other full-time magistrate judge may hear and determine any motion presented by a party, other than a motion enumerated as an exception in 28 U.S.C. § 636 (b)(1)(A) and UNIFORM LOCAL RULE 72.5.

Rule 73.1 PROCEDURES BEFORE A MAGISTRATE JUDGE—CIVIL CONSENT CASES.

(A) Notice of Consent Option. Parties may consent at any time prior to trial to have a magistrate judge:

(1) conduct all further proceedings in the action and order the entry of final judgment; or

(2) hear and determine one or more case dispositive motions designated by the parties.

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

(B) Execution of Consent. If all parties in a civil action consent to a magistrate judge's exercise of authority described in UNIFORM LOCAL RULE 73.1(A), plaintiff or plaintiff's counsel must file with the clerk of court a *Notice of Availability of a United States Magistrate Judge to Exercise Jurisdiction* (Form AO 85), signed by all parties or their attorneys. The notice will not be docketed without all such signatures; neither the notice nor its contents may be made known or available to a judge if the notice lacks any signatures required under this rule. A party's decision regarding consent must not be communicated to a judge before a fully executed consent notice is filed.

(C) Time for Consent. Consent in a civil action under UNIFORM LOCAL RULE 73.1(A) may be entered at any time before trial of the case.

(D) Reference of Civil Consent Action. An executed notice of consent shall be provided to the assigned district judge. The district judge may then refer the case to the magistrate judge for all further proceedings.

(E) Party Added After Consent Occurs. A party added to a civil action after reference to a magistrate judge on consent will be given an opportunity to consent to the continued exercise of case-dispositive authority by the magistrate judge. A later-added party electing to consent must, within twenty days of its appearance, file a consent, signed by the party or its attorney, with the clerk of court. If a later-added party declines to consent to the magistrate judge's exercise of authority, the action will be returned to the assigned district judge for all further proceedings.

Rule 77.1 CALENDARS.

(A) Court Always Open. There are no terms of court in the United States district courts of Mississippi.

(B) Sessions. Courts will sit as designated from time to time by the judge conducting each particular session. In each division in which there is a federal courthouse, there shall be at least one session of court each calendar year if justified by the volume of business.

Rule 83.1 ATTORNEYS: ADMISSION AND CONDUCT.

(A) Admission of Attorneys.

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

(a) The attorney must produce a photocopy of the certification of admission to practice before the Mississippi Supreme Court;

(b) The attorney must be sponsored by a member of the bar of this court who shall certify that the applicant is a member in good standing of the Mississippi Bar and is familiar with the UNIFORM LOCAL RULES and the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT; and

(c) The attorney must be presented to the court only after filing his or her documentation with the clerk of court, paying the admission fee, and signing the oath. An applicant may then be presented to a district or magistrate judge of this court for formal admission, which may be accomplished in open court or in chambers at any time convenient to the judge.

(2) Admission by Comity. A non-resident attorney who is not a member of the Mississippi Bar and is not authorized to practice before the Mississippi Supreme Court may apply to be admitted *pro hac vice* by comity to practice in a particular civil action in this court upon compliance with the following conditions:

(a) The applicant must submit with his or her motion for *pro hac vice* admission a certificate from the United States district court of the applicant's jurisdiction, showing that he or she is

duly authorized to practice in and is in good standing with that court;

(b) the applicant must associate a member of the bar of this court in the particular civil action for which the applicant seeks admission;

(c) the applicant must certify that he or she has read and is familiar with the UNIFORM LOCAL RULES OF THE UNITED STATES DISTRICT COURTS FOR THE NORTHERN DISTRICT AND THE SOUTHERN DISTRICT OF MISSISSIPPI;

(d) upon approval of the *pro hac vice* admission by the court, the applicant must pay the *pro hac vice* admission fee.

(3) Attorneys Representing the United States. Attorneys representing the United States or any of its departments, agencies, or employees shall be permitted to handle such actions in this court, without being admitted to the bar of this court, upon proper introduction to the court by the United States Attorney for this district or one of the United States Attorney's assistants.

(B) Appearances.

(1) Requirement of Local Counsel. When a party appears by attorney, each complaint, answer, motion, application, or other papers on behalf of the represented party shall be signed by at least one attorney of record admitted to practice in the district court in which the action is pending.

(2) Designation of Lead Counsel. In any civil action in which a single party is represented by multiple counsel, the initial pleading filed on behalf of the party shall designate one attorney as lead counsel.

(3) Withdrawal by Attorneys. When an attorney enters an appearance in a civil action, he or she shall remain as counsel of record until released by formal order of the court. An attorney may be released only on motion duly noticed to all parties, including the client, and presented to the district judge or magistrate judge to whom the case is assigned, together with a proposed order authorizing counsel's withdrawal.

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

(C) Discipline and Reinstatement.

(1) Original Discipline. The court may, after thirty days notice and an opportunity to show cause to the contrary, and after hearing, if requested, censure or reprimand any attorney who practices before it for conduct unbecoming a member of the bar or for failure to comply with these rules, the MISSISSIPPI RULES OF PROFESSIONAL CONDUCT, or any other rule of the court. If the conduct or failure to comply is found to be flagrant, the court may, after notice, opportunity to show cause, and hearing as provided above, revoke or suspend the attorney's admission to practice before the court. Such action by the court shall be reported by the clerk of court to the executive director of the Mississippi Bar, or the appropriate official of the bar of any non-resident attorney admitted to practice in this court.

If the court finds that the conduct complained of affords reasonable grounds for more stringent disciplinary action, including suspension or disbarment, the matter shall, in the case of a member of the Mississippi Bar, be referred to the Mississippi Bar for such action as is appropriate under the provisions of MISS. CODE ANN. §§ 73-3-301, *et seq*. (1972), or subsequent amendments. If the attorney is not a member of the Mississippi Bar, the matter shall be referred to the appropriate disciplinary authority of the bar of which he or she is a member.

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

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

(3) **Reinstatement.** No application for relief from suspension or reinstatement after disbarment will be considered by this court unless the applicant can show that he or she is an attorney in good standing with the Mississippi Bar or with the jurisdiction in which he or she may have been disbarred. Any attack upon the denial of such readmission or relief from suspension shall be limited to claims of (i) lack of procedural due process in the reinstatement proceeding of the other jurisdiction, and (ii) lack of substantial evidence to support the factual findings. Upon the applicant's showing of good standing, the court may vacate or continue the disbarment or suspension, or diminish the suspension, as may be appropriate.

(D) Attorney Admission Fee; Presentation to Any District or Magistrate Judge. In addition to the fee for admission set by the Judicial Conference of the United States, an applicant for admission pursuant to paragraphs (A)(1) and (A)(4) shall also pay a fee for the court library fund in such amount as the court may impose by general order. An applicant for admission may be presented for formal admission to any district or magistrate judge of the Northern District or the Southern District.

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

Rule 83.3 EXHIBITS.

(A) Custody and Disposition of Exhibits. All exhibits, including models, diagrams, or other material items, filed in a proceeding shall be physically removed by the parties who filed them, in the event no appeal is perfected, within sixty days from the date of final disposition of the case by this court, or, in the event an appeal is perfected and thereafter disposed of, within thirty days after receipt of the judgment, other process, or certificate disclosing disposition of the case by that court. In the event the exhibits are not removed from the custody of the clerk of court within the required time, the clerk of court may destroy or otherwise dispose of the exhibits.

(B) Custody of Sensitive Exhibits. Sensitive exhibits include, but are not necessarily limited to, drugs, weapons, currency, pornography, and items of high monetary value. Sensitive exhibits offered or received in evidence shall be maintained in the custody of the clerk of court during the hours in which the court is in session. At the conclusion of each daily proceeding and at the noon recess, the clerk of court shall return all sensitive exhibits to the offering counsel or party, who shall then be responsible for maintaining custody and the integrity of such exhibits until the next session of court, at which time they shall be returned to the clerk of court, unless otherwise ordered by the court. Following the return of a verdict in a jury case, or the entry of a final order in a non-jury case, sensitive exhibits shall be handled and/or disposed of in the same manner as other exhibits pursuant to this rule.

Rule 83.4 PHOTOGRAPHS AND BROADCASTING.

(A) Photography and Broadcasting Prohibited. The taking of photographs in the courtroom or its environs or broadcasting by radio, television or other means from the courtroom or its environs during the progress of or in

connection with judicial proceedings, regardless of whether the court is actually in session, is prohibited. The environs of the courtroom shall extend to all interior portions, including hallways, stairs, and elevators of the building in which the courtroom is located.

(B) **Exceptions.** The restriction against taking photographs in the courtroom may be relaxed, in the discretion of the presiding judge, in proceedings exclusively devoted to the induction into office of a newly appointed judge or in naturalization proceedings.

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

Rule 83.6 **SEALING OF COURT RECORDS.**

(A) **Court Records Presumptively in Public Domain.** Except as otherwise provided by statute, rule, or order, all pleadings and other materials filed with the court ("court records") shall become a part of the public record of the court.

(B) **When and How Sealed; Redactions.** Subject to the standards imposed by LOCAL RULE 8.1, court records or portions thereof shall not be placed under seal unless and except to the extent that the person seeking the sealing thereof shall have first obtained, for good cause shown, an order of the court specifying those court records, categories of court records, or portions thereof, which shall be placed under seal. The court may, in its discretion, receive and review any document *in camera* without public disclosure thereof and, in connection with any such review, determine whether good cause exists for the sealing of the document. Unless the court orders otherwise, the party seeking sealing shall file with the court redacted versions of court records when only a portion thereof is to be sealed.

(C) **Criminal Matters; Unsealing.** The Office of the United States Attorney shall present to the court a proposed order in connection with any indictment, complaint, or bill of information that the United States Attorney wishes to file under seal. Unless otherwise ordered by the court, indictments, complaints, and bills of information filed under seal shall be unsealed after all defendants have made an appearance before the court.

(D) Duration of Sealing. Court records filed under seal in civil and criminal actions shall be maintained under seal for thirty days following final disposition (including direct appeal) of the action. After that time, all sealed court records shall be unsealed unless the court, upon motion, orders that the court records be maintained under seal beyond the thirty-day period. All such orders shall set a date for unsealing of the court records.

Rule 83.7 ALTERNATIVE DISPUTE RESOLUTION.

(A) Introduction and Purpose. Alternate dispute resolution [ADR], when supported by the bench and bar, and utilizing properly trained neutrals in a program adequately administered by the court, has the potential to provide a variety of benefits, including greater satisfaction of the parties, innovative methods of resolving disputes, and greater efficiency in achieving settlements. The United States District Courts for the Northern and Southern Districts of Mississippi developed these rules in order to implement the ALTERNATIVE DISPUTE RESOLUTION PLAN [hereinafter, the Plan] mandated by the *Alternative Dispute Resolution (ADR) Act of 1998*, 28 U.S.C. § 651, *et seq*. The Plan is designed to provide access to modern ADR settlement techniques and to encourage mutually satisfactory resolutions of disputes in all stages of litigation.

(B) Administration of ADR Plan. The chief judge of each district shall designate a judicial officer, who is knowledgeable in alternative dispute resolution practices and processes to implement, administer, oversee, and evaluate the ADR plan. The ADR judges shall be responsible for recruiting and screening attorneys to serve as an ADR neutral. In addition, the ADR judges may from time to time solicit recommendations from state and federal bar associations, committees and organizations interested in ADR, regarding ADR programs and efficient methods of coordinating ADR resources in the state and federal courts.

(C) Mediation.

(1) The courts have determined that mediation is the alternative dispute resolution process that best serves the needs of litigants and their attorneys in the timely and efficient resolution of cases. However, nothing in these rules shall prevent the parties from voluntarily engaging in other forms of ADR, such as arbitration, early neutral evaluation, mini-trial, or other appropriate ADR processes.

(2) **Definition.** Mediation is a process in which impartial and neutral persons assist parties in reaching agreed settlements. Mediators facilitate communications between the parties and assist them in their negotiations. When appropriate, mediators may also offer objective evaluations of cases and may make settlement recommendations.

(D) Cases Appropriate for Referral to Mediation.

(1) **Discretion of Court.** The determination of whether a matter should be referred for mediation is addressed to the sound discretion of the judicial officer assigned to the case.

(2) **Actions Exempted from Consideration for ADR.** The following categories of proceedings are exempt from consideration for ADR: an action for review on an administrative record; a petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence; and an action brought without counsel by a person in custody of the United States, a state, or a state subdivision.

(E) Referral Procedure.

(1) A judicial officer may refer a case to mediation on his or her own motion.

(2) If the court determines that a case is appropriate for referral to mediation, the court shall enter an order directing the parties to schedule and complete a mediation conference as set forth in these rules within such time frame as the court may specify. Within ten days of the entry of the order of referral, a party may file a written objection to the referral order, stating concisely the reasons the case should not be referred for mediation. The objection shall be served on all parties. The court may rule on any objection without a hearing or, in its discretion, may conduct a hearing either in person or by telephone.

(3) A party may request that a case be referred to mediation. The request shall be made by motion addressed to the magistrate judge assigned to the case and shall be determined according to the procedures for non-dispositive motions set forth in Rule 7.2 of the Uniform Local Rules.

(4) The order of referral shall state a time period within which the mediation shall be completed.

(5) A court may not order a case to mediation more than one time except upon a showing of exceptional circumstances or upon the request of all parties.

(6) Upon the court's entry of an order referring the case to mediation, and upon all objections having been disposed of by the court, the parties shall have a period of twenty days from the date of entry of the court's final order to schedule the mediation. If the parties are unable to schedule the mediation within the twenty-day period or to agree on a date and/or a mediator, the court shall assign a mediator and shall order the date, time, and place for the mediation, which shall be binding on the parties.

(F) Pre-mediation Documents.

(1) The mediator will submit to the parties a list of required pre-mediation documents and agreements at least ten days prior to the scheduled date for mediation. All objections to pre-mediation documents shall be addressed to the mediator not less than five days prior to the scheduled date and a mediation agreement shall be entered prior to commencement of mediation.

(2) If pre-mediation documents are not furnished within five days of the scheduled mediation, any party and/or the mediator may apply to the court, which shall determine the disputed terms and conditions of the mediation.

(3) Failure to reasonably agree to the pre-mediation agreements and/or to timely raise objections to pre-mediation agreement which delays or encumbers the mediation process will be considered a failure to comply with the order of referral and the mediator and/or parties shall report such failure to the court. The court may enter such remedial orders as it deems appropriate.

(G) Authority to Settle.

(1) Appearance at Mediation. Counsel, including lead trial counsel, for all parties must appear at the mediation unless otherwise ordered by the court.

(2) Attendance of Parties. All individual parties must appear in person at the mediation unless excused in advance by the court. Representatives of corporate parties, organizations, or other entities must also appear at the mediation or be available by telephone, as the mediator may direct, throughout the entire mediation. Office closings and time zone differences do not excuse a company representative from continued participation in a mediation under this rule. **Each party representative must have full authority to settle the case.**

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

(I) Panels of Neutrals.

(1) Court-Appointed Federal Panels. The courts shall establish panels of neutrals to assist with the ADR and settlement programs. Panel members shall consist of persons who by experience, training, and character appear qualified to serve in one or more of the processes provided for in these rules. Appointment to a panel means that the neutral has met the minimum qualifications, training, and experience requirements. The court will maintain a roster of qualified neutrals. Any person whose name appears on the panel roster may ask at any time to have his or her name removed or, if selected to serve, decline to serve at that time but remain on the roster. The courts shall appoint panel members in such numbers as may be appropriate and may, for good cause shown, withdraw an appointment. Comments or complaints concerning panel members shall be made to the ADR judges.

(2) Use of Non-Panel Neutrals. Upon proper application, the judicial officer assigned to the case may appoint to a specific case non-panel members who are otherwise qualified with expertise in particular substantive fields or have expertise in a specific dispute resolution process.

(3) Qualifications and Training. Each lawyer serving as an ADR panel member shall be admitted to the practice of law for at least five years and be a member in good standing with the bar of the appointing court or be a member of the faculty of an accredited law school. All panel members shall be determined by the court to be competent to perform the specific program duties. All panel members shall be knowledgeable about civil litigation in federal court and shall have strong mediation or other ADR skills. Panel members shall have successfully completed such training and other experience requirements as the courts may require.

(4) Oath of Panel Members. Every panel member serving under these rules shall take the oath or affirmation prescribed by 28 U.S.C. § 453 upon qualification and confirmation of appointment.

(5) Immunity. Panel members or others authorized to serve in a specific case are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.

(6) Codes of Ethics and Standards of Conduct. Any neutral serving under these rules shall be subject to all codes of ethics and standards of conduct set by statute, by the Judicial Conference of the United States, and by other professional organizations to which the neutral may belong and or that may be approved or adopted by the court.

(J) Selection of Neutrals.

(1) Parties to Confer. Unless otherwise ordered, the parties must confer in good faith and attempt to agree on a neutral. Before nominating a neutral, the parties must have confirmed the neutral's availability and willingness to serve within the time frame proposed.

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

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

(2) **Documents provided by the Court to the Neutral.** Promptly after the neutral is designated, the court shall provide the neutral with a copy of the order of referral.

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

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

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

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

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

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

(4) **Proposed Order of Referral.**

(a) **File with Proposed Scheduling Order.** If the parties recommend mediation, counsel must prepare a proposed order of referral for submission to the court.

(b) **Contents of Proposed Order.** The proposed order of referral must:

(i) state that mediation is appropriate for the case;

(ii) identify by name the available neutral whom the parties nominate to mediate the case;

(iii) specify the time frame within which the parties propose that the mediation will be completed and the date by which the neutral must file written confirmation of that completion; and

(iv) suggest and explain any modifications or additions to the case management and scheduling order that would be advisable because of the reference to mediation.

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

(K) Confidentiality of Proceedings.

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

(2) No Compelled Disclosure. A party, a party's attorney, a party's representative, and the neutral may not be compelled to testify in any proceedings related to matters occurring during a mediation under these rules. A party, a party's attorney, a party's representative, and the neutral may not be subject to process requiring disclosure of confidential information or data related to a mediation conducted under these rules.

(3) Limitations on Communications with Court. A person participating in a mediation under these rules may not be compelled to disclose to the court any communication made, position taken, or opinion formed by any party or neutral in connection with mediation proceedings.

(4) Exception to the General Rule of Confidentiality. The only event that may make it appropriate for either the neutral or either of the parties to disclose a confidential communication arising from proceedings governed by these rules is a finding by the court that such testimony or other disclosure is necessary to:

(a) prevent a manifest injustice;

(b) help establish a violation of law; or,

(c) prevent harm to the public health or safety.

(L) Compensation of Neutrals.

(1) In General. Unless otherwise established by statute, directed by the court, or unless proceeding pro bono, neutrals may charge reasonable fees and charges for services and expenses. The cost of the neutral's services shall be shared equally by all parties, unless otherwise agreed by counsel or as ordered by the court.

(2) Pro Bono Service. Each panel member must serve pro bono at least once per year if requested by the parties in an appropriate case or if requested or ordered by the court. Panel members may perform other pro bono service as may be appropriate.

(M) Effective Date. The mediation procedures set forth in these Rules shall become effective on December 1, 2000. From and after the effective date, these Rules shall apply in all civil cases whether pending before or filed subsequent to the effective date hereof.

PROCEDURES FOR APPOINTMENT OF NEUTRALS TO PANEL

1. Neutral Application Forms, with copies of the Local Rules and Orders relating to Neutrals, and Qualification of Neutrals, are available at the clerk of courts' offices.

2. Completed applications for membership on the panels of neutrals are to be returned to:

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

   or

   Clerk, United States District Court
   Northern District of Mississippi
   911 Jackson Avenue, Suite 369
   Oxford, Mississippi 38655

3. Applications will be forwarded by the clerk of the court to the appropriate ADR judges for review and recommendation to the court. The ADR judges will screen all applications to ensure proper application completion. The ADR judges may convene when necessary to review pending applications and may recommend approval, reject applications, or request additional information from applicants. The ADR judges will recommend to the court for final approval applicants who meet the eligibility, qualification, training, and experience requirements stated in the Local Rules and Standing Orders regarding Neutrals.

4. Upon final approval by the court, an order of appointment will be filed and the clerk of the court will notify the neutral of panel membership.

5. The clerks of the court will maintain a register of approved neutrals. The register will include the pertinent data from the neutrals' applications, including years of practice, areas of experience and expertise, degrees, training experience, and other similar credentials, and a copy of the neutrals's signed oaths. The register of neutrals shall be available for public inspection in the clerks' offices.

Rule A.1 ADMIRALTY

(A) Applicability. These rules apply to procedure in claims governed by the SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS OF THE FEDERAL RULES OF CIVIL PROCEDURE [ADMIRALTY SUPPLEMENTAL RULES] in the United States District Courts in the State of Mississippi.

(B) Deposit of Fees with Marshal. No process *in rem* in an action provided for in the ADMIRALTY SUPPLEMENTAL RULES shall be served, except on behalf of the United States, or on special order of the court, unless the party seeking the same shall deposit with the marshal for the district such sums as may be required by the marshal as a partial advance against attachment and custodial costs.

(C) Regarding In Rem Admiralty and Maritime Jurisdiction. In any action *in rem* invoking the admiralty and maritime jurisdiction of the courts of the United States, if the plaintiff shall procure a person, firm, or corporation to serve as consent keeper or substitute consent keeper of the property seized, any United States district judge or magistrate judge of Mississippi, may sign an order providing for the arrest of the property and permitting the marshal to deliver the property seized to the consent keeper. Further, it is the plaintiff's responsibility to assure that there is sufficient insurance coverage for the vessel while in the possession of a consent keeper or substitute custodian. The insurance required by the marshal does not protect the vessel while the property is in the custody of a consent keeper or a substitute custodian.

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

(D) Post-Seizure Hearing. After the arrest, seizure, or attachment of property under the ADMIRALTY SUPPLEMENTAL RULES, a party asserting an interest in the property may move for a hearing and prompt relief by the court upon any issue concerning the propriety of the arrest, seizure, or attachment.

(E) **Release of Seizures**. Property seized by the marshal may be released as provided by the ADMIRALTY SUPPLEMENTAL RULES, or pursuant to paragraph (D) of this rule. On being advised to do so by counsel for plaintiff, the marshal, guard service, consent keeper, substitute custodian, or person, firm, or corporation having the legal custody of the property arrested may release it by taking a receipt from the master, mate, or agent for the property owner and filing the receipt with the clerk of the court as soon as possible. *See* Official Form No. 4. No property seized by the marshal may be directed to be released by plaintiff's counsel until the marshal is notified of the pending release and appropriate arrangements are made with the marshal for the payment of all costs and charges.

(F) **Advertisement of Seizures**. If a vessel or other property seized under maritime process is not released within ten days following seizure, notice of the seizure shall be published in a newspaper of general circulation in the district three times a week for two consecutive weeks. The notice shall first be published not later than twenty days following seizure.

(G) **Verification of Pleadings**. Every complaint and claim under the ADMIRALTY SUPPLEMENTAL RULES shall be verified on oath or affirmation by a party, or an officer of a corporate party. If no party (or corporate officer of the party) is within the district, verification of a complaint or claim may be made by an agent, attorney-in-fact, or attorney of record, who shall state briefly the sources of his of her knowledge, information and belief, declare that the document verified is true to the best of his or her knowledge, information and belief, state the reason why verification is not made by the party or corporate officer, and that he or she is authorized so to act. Any such verification will be deemed to be that of the party, as if verified personally. Any interested party may move, with or without a request for stay, for a personal oath of a party or all parties, or that of a corporate officer. If required by the court, such verification shall be procured by commission or as otherwise ordered.

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

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

(I) Intervention.

(1) For purposes of this rule, the word "plaintiff" shall include any party asserting a claim for affirmative relief.

(2) Whenever a vessel or other property is seized, attached, or arrested and is in the custody of the court, anyone asserting a maritime lien or a writ of foreign attachment against the vessel or property may proceed only by intervention unless otherwise ordered by the court. At the time of filing of a complaint in intervention, counsel for intervening parties are required to ascertain the names and addresses of other counsel of record in the proceedings, to serve a copy of the complaint in intervention upon all counsel of record, and to file with the clerk of the court a certificate stating the names and addresses of counsel served and the date and the method of service.

(3) A party asserting a maritime lien or a writ of foreign attachment may intervene within the time specified by these rules without the filing of a motion for leave to intervene if a vessel or other property has been arrested or attached and it or the proceeds of sale thereof are within the jurisdiction of the court.

(4) Intervenors under this rule shall be liable for costs together with the party originally effecting seizure, on any reasonable basis determined by the court. Intervenors may be required by the marshal to advance their share of reasonable accrued costs and reasonable unaccrued advance costs, giving due deference to the respective amounts of the various claims. Relief from such assessment may be granted by the court upon motion.

(5) Release of seizure or dismissal by the party originally effecting seizure shall not quash the seizure if there remain pending claims by intervenors, unless by unanimous consent of intervenors or order of court.

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

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

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

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

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

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

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

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

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

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

OFFICIAL FORMS

Form 1 CASE MANAGEMENT ORDER

Form 2(a) NOTICE OF RECEIPT OF ORIGINAL DEPOSITION

Form 2(b) NOTICE OF SERVICE OF INTERROGATORIES OR REQUESTS FOR PRODUCTION OF DOCUMENTS OR RESPONSES THERETO

Form 2(c) NOTICE OF SERVICE OF PRE-DISCOVERY DISCLOSURE INFORMATION

Form 3 PRETRIAL ORDER

Form 4 RECEIPT OF SEIZED PROPERTY

Form 5 GOOD FAITH CERTIFICATE

Form 6 UNIFORM LOCAL RULE 26.1 VIOLATION ORDER

Form 7 NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE TO EXERCISE JURISDICTION (AO85)

Form 8 APPLICATION FOR ENROLLMENT IN COURT'S PANEL OF NEUTRALS

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v. **CIVIL ACTION NO.**

Defendant

CASE MANAGEMENT ORDER

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

1. **CASE TRACK:**

Expedited	Administrative
Standard	Mass Tort
Complex	Suspension Track

2. **ALTERNATIVE DISPUTE RESOLUTION [ADR].**

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

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

3. CONSENT TO TRIAL BY UNITED STATES MAGISTRATE JUDGE.

A. The parties consent to trial by a United States Magistrate Judge.

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

4. DISCLOSURE.

A. The pre-discovery disclosure requirements of Uniform Local Rule 5.1(A) have been complied with fully.

B. The following additional disclosure is needed and is hereby ordered:

5. MOTIONS; ISSUE BIFURCATION.

A. The court finds and orders that early filing of the following motion(s) might significantly affect the scope of discovery or otherwise expedite the resolution of this action:

B. The court finds and orders that staged resolution, or bifurcation of the issues for trial in accordance with FED. R. CIV. P. 42(b),

(1) Will assist in the prompt resolution of this action.

(2) Will not assist in the prompt resolution of this action.

Accordingly, the court orders that:

6. DISCOVERY PROVISIONS AND LIMITATIONS.

A. Interrogatories, Requests for Production, and Requests for Admissions are limited to

[Expedited: 15; Standard and Complex: 30] succinct questions.

B. Depositions are limited to the parties and no more than

[Expedited: 3; Standard: 5; Complex: 10] fact witness depositions per party without additional approval of the court.

C. There are no further discovery provisions or limitations.

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

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

SCHEDULING DEADLINES
(To be completed by the court only)

IT IS HEREBY ORDERED AS FOLLOWS:

8. Trial.

A. This action is set for trial commencing on:

B. Reserved Trial Period (two-week limitation):

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

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

9. Pre-trial. The pretrial conference is set on:

10. Discovery. All discovery shall be completed by:

11. Amendments. Motions for joinder of parties or amendments to the pleadings shall be served

by:

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

A. Plaintiff:

B. Defendant:

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

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

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

ORDERED:

Date UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v. **CIVIL ACTION NO.**

Defendant

NOTICE OF RECEIPT OF ORIGINAL DEPOSITION

TO: All Counsel of Record

1. Pursuant to UNIFORM LOCAL RULE 5.1(B), notice is hereby given that I have received, and will retain as the custodian thereof, the original of the following deposition:

Deponent:

Taken at the instance
of:

2. Pursuant to UNIFORM LOCAL RULE 5.1(B), a copy of the cover sheet accompanying this deposition is attached hereto as "Exhibit A."

Date Signature

Typed Name & Bar Number

Attorney for:

FORM 2(b) (ND/SD MISS. DEC. 2000)

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v. **CIVIL ACTION NO.**

Defendant

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

TO: All Counsel of Record

Pursuant to UNIFORM LOCAL RULE 5.1(c), notice is hereby given that on the date entered below I served the following discovery device(s):

(✔) Check as appropriate:

Interrogatories to:

Requests for Production of Documents to:

Requests for Admissions to:

Responses to Interrogatories of:

Responses to Requests for
Production of Documents of:

Responses to Requests for
Admission(s) of:

Pursuant to UNIFORM LOCAL RULE 5.1(c), I acknowledge my responsibilities as the custodian of the original(s) of the document(s) identified above.

Date Signature

Typed Name & Bar Number

Attorney for:

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v. **CIVIL ACTION NO.**

Defendant

NOTICE OF SERVICE OF PRE-DISCOVERY DISCLOSURE INFORMATION

Notice is hereby given that
on the date entered below

disclosed to

the information required by UNIFORM LOCAL RULE 26.1(A).

Date Signature

Typed Name & Bar Number

Attorney for:

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v. **CIVIL ACTION NO.**

Defendant

PRETRIAL ORDER

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

If a pretrial conference was held

A pretrial conference was held as follows:

Date: Time:

United States Courthouse at: Mississippi,

before the following judicial officer:

If the final pretrial conference was dispensed with by the court pursuant to UNIFORM LOCAL RULE 10(b)

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

2. The following counsel appeared:

a. For the Plaintiff:

Name	Address	Telephone No.

b. For the Defendant:

Name	Address	Telephone No.

a. For Other Parties:

Name	Address	Telephone No.

3. The pleadings are amended to conform to this pretrial order.

4. The following claims (including claims stated in the complaint, counter-claims, cross-claims, third-party claims, etc.) have been filed:

5. The basis for the court's jurisdiction is:

6. The following jurisdictional question(s) remain(s) [If none, enter "None"]:

7. The following motions remain pending [If none, enter "None'] [Note: Pending motions not noted here may be deemed moot]:

8. The parties accept the following **concise** summaries of the ultimate facts as claimed by:

a. Plaintiff:

b. Defendant:

c. Other:

9. **a.** The following facts are established by the pleadings, by stipulation, or by admission:

b. The contested issues of fact are as follows:

c. The contested issues of law are as follows:

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

a. To be Offered by the Plaintiff:

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

a. To be Offered by the Defendant:

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

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

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

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

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

Name	✔ Will Call	✔ May Call	Fact Liability Expert Dam-ages	Residence Address & Tel. No.	Business Address & Tel. No.

Will testify live:

Will testify by deposition:

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

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

Name	✔ Will Call	✔ May Call	Fact Liability Expert Dam-ages	Residence Address & Tel. No.	Business Address & Tel. No.

Will testify live:

Will testify by deposition:

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

14. This (✔) is is not a jury case.

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

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

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

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

UNITED STATES DISTRICT JUDGE

Attorney for Plaintiff

Attorney for Defendant

Entry of the preceding Pretrial Order is recommended by me on this, the

_____ day of _____, 20____.

UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v. **CIVIL ACTION NO.**

Defendant

RECEIPT OF SEIZED PROPERTY

On behalf of all owners, charters, and cargo interests, receipt is acknowledged of the delivery of:

(Name of vessel or description of property arrested; her engine, tackle, etc., if a vessel)

from:

(Identity of Custodian)

this: day of 20 at hours CST or CDT.

Signature of Receiving Person

Title

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v. **CIVIL ACTION NO.**

Defendant

GOOD FAITH CERTIFICATE

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

Counsel further certify that:

✔ as appropriate:

1. The motion is unopposed by all parties.

2. The motion is unopposed by:

3. The motion is opposed by:

4. The parties agree that replies and rebuttals to the motion shall be submitted to the magistrate judge in accordance with the time limitations stated in Uniform Local Rule 7.2

This the day of 20

Signature of Plaintiff's Attorney

Typed Name and Bar Number

Signature of Defendant's Attorney

Typed Name and Bar Number

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

Plaintiff

v. **CIVIL ACTION NO.**

Defendant

UNIFORM LOCAL RULE 26.1 VIOLATION ORDER

1. PARTY SANCTIONED AND COUNSEL: Plaintiff Defendant Third Party

Violation(s)

Failure to conduct early meeting of counsel.

Untimely or incomplete service of initial disclosures.

Failure to file notice of service of disclosures.

Failure to provide complete privilege log.

Failure to prepare proposed case management order.

Untimely or inadequate submission of settlement memorandum.

Failure to be prepared for meaningful settlement discussions or to have party or representative with settlement authority present or available by telephone during settlement conference.

Untimely or incomplete designation of expert witness(es) and required disclosures.

Failure to timely supplement pre-discovery disclosure.

Failure to timely submit stay order when remand or qualified immunity motion filed.

Failure to timely submit order lifting stay after ruling on remand or qualified immunity motion.

Court Order(s)

Sanctioned party shall fully comply with the violated UNIFORM LOCAL RULE 26.1 provisions within _____ days.

Discovery by the sanctioned party is stayed pending compliance with violated UNIFORM LOCAL RULE 26.1 provision(s).

Monetary Sanction(s)

A court sanction of $50.00 is imposed on the sanctioned party for each of the violations checked above. Additional sanction(s) for flagrant violation(s): $_____. A total sanction in the sum of $_____ shall be paid to the office of the clerk of this district.

The sanctioned party shall pay attorneys' fees and/or costs to opposing counsel in the sum of $_____.

Other Sanctions

The sanctioned party shall not be permitted to use as evidence at trial, at a hearing, or on a motion, any witness or information not disclosed.

The jury shall be informed of the disclosure violation(s).

For failure to disclose and present complete privilege log, the sanctioned party has waived (✔ as appropriate)

____ attorney/client privilege

____ work product privilege

____ medical privilege. The waiver of medical privilege is for all medical records and allows *ex parte* communication with physicians and medical providers.

The sanctioned party's expert(s), _____, may be deposed forthwith at the expense of the party in violation of the case management order.

The sanctioned party's expert(s),
_____, shall be stricken and not allowed to testify at trial, at a hearing, or on a motion.

The sanctioned party is directed to show cause within thirty days why the court should not issue a censure or reprimand for failure to comply with UNIFORM LOCAL RULE 26.1.

ORDERED, this the _____ day of _____ 20 .

UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT

_____ District of _____

Plaintiff
V.

Defendant

NOTICE, CONSENT, AND ORDER OF REFERENCE — EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

Case Number:

NOTICE OF AVAILABILITY OF A UNITED STATES MAGISTRATE JUDGE TO EXERCISE JURISDICTION

In accordance with the provisions of 28 U.S.C. §636(c), and Fed.R.Civ.P. 73, you are notified that a United States magistrate judge of this district court is available to conduct any or all proceedings in this case including a jury or nonjury trial, and to order the entry of a final judgment. Exercise of this jurisdiction by a magistrate judge is, however, permitted only if all parties voluntarily consent.

You may, without adverse substantive consequences, withhold your consent, but this will prevent the court's jurisdiction from being exercised by a magistrate judge. If any party withholds consent, the identity of the parties consenting or withholding consent will not be communicated to any magistrate judge or to the district judge to whom the case has been assigned.

An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as an appeal from any other judgment of this district court.

CONSENT TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE

In accordance with provisions of 28 U.S.C. §636(c) and Fed.R.Civ.P. 73, the parties in this case consent to have a United States magistrate judge conduct any and all proceedings in this case, including the trial, order the entry of a final judgment, and conduct all post-judgment proceedings.

Party Represented	Signatures	Date

ORDER OF REFERENCE

IT IS ORDERED that this case be referred to _____ United States Magistrate Judge, to conduct all proceedings and order the entry of judgment in accordance with 28 U.S.C. §636(c) and Fed.R.Civ.P. 73.

Date

United States District Judge

NOTE: RETURN THIS FORM TO THE CLERK OF THE COURT ONLY IF ALL PARTIES HAVE CONSENTED ON THIS FORM TO THE EXERCISE OF JURISDICTION BY A UNITED STATES MAGISTRATE JUDGE.

UNITED STATES DISTRICT COURT
_____ DISTRICT OF MISSISSIPPI

APPLICATION FOR ENROLLMENT IN COURT'S PANEL OF NEUTRALS

Name: Age:

Firm Name:

Office Address: Tel:

City: State: ZIP Fax:

E-Mail:

1. Date admitted to The Mississippi Bar: Bar No:
2. Are you a member in good standing in The Mississippi Bar? Yes No
3. Have you ever been part of any legal proceedings, civil or criminal, charging you with moral turpitude or commission of a crime; or have you been disbarred, suspended from practice or otherwise disciplined by any court or administrative body; or have any proceedings been commenced against you by any court, administrative body, bar association, or grievance committee; or have you ever been refused admission to any bar or court?

   Yes Attach to this application an affidavit giving complete details.

   No
4. Date admitted to the bar of this district court:
5. List other courts, bars, or professional associations to which you have been admitted:

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

✔		Yrs	✔		Yrs	✔		Yrs
	Admin. Law			Contracts			Insurance Law	
	Admiralty			Construction Law			Labor Law	
	Antitrust Law			Criminal Law			Medical Malpractice	

Asbestosis	Civil Rights	Oil & Gas
Banking Law	Debtor/Creditor	Personal Injury
Bankruptcy	Employment	Products Liability
Computer Law	Environmental	Securities
Other (specify)		

MEDIATION TRAINING

10. a. Hours of mediator training completed:

b. Date(s) of mediator training, course provider, and summary of course content:

Date	Course Provider	Content

c. Have you ever conducted mediation under the observation of another trained mediator?

No Yes Date(s):

Where?

Summarize the event:

11. Have you ever trained mediators? Yes When?

No

MEDIATION EXPERIENCE

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

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

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

14. Other references:

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

Date:

Applicant's Signature

Mail completed application to either of the following clerks:

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

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

STANDING ORDER

OF THE

UNITED STATES DISTRICT COURT

FOR THE

NORTHERN DISTRICT OF MISSISSIPPI

SEPTEMBER 17, 1998

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI

STANDING ORDER

The District Judges of the Northern District of Mississippi hereby establish the following procedures for practice before this court. The provisions of this Order are supplemental to the *Uniform Local Rules of the United States District Courts for the Northern and Southern Districts of Mississippi* and shall govern both civil and criminal cases, to the extent applicable, in this district. If any provision of this Order conflicts with any *Uniform Local Rule* or Federal Rule of Civil or Criminal Procedure, then the latter Rules govern. This Order shall be printed and distributed by the clerk of this court to the members of the bar. Attorneys practicing before this court are charged with the responsibility of knowing the provisions of this Order, and failure to comply may result in the imposition of appropriate sanctions.

I. CRIMINAL PROCEEDINGS

A. Regulation of Plea Agreement Procedures. The plea agreement in all cases must comply with the steps outlined below.[1]

1. Written Plea Agreement and Memorandum. The attorney for the government and the attorney for the defendant (or the defendant when acting pro se) must first execute a memorandum setting out in full the terms of the proposed plea agreement in the form attached. In addition, the plea agreement must be read and signed by the defendant, certifying that he understands and approves its

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[1] This court subscribes to the sentiments expressed by the United States Court of Appeals, Fifth Circuit, in *United States* v. *Herman*, 544 F.2d 791, 796 (5th Cir. 1977):

> Plea bargaining is a practice many have criticized and few have enthusiastically endorsed.
>
> Nevertheless, plea bargaining has become an accepted fact of life. . . .The legal battleground [as to whether or not plea bargaining is at all permissible] has thus shifted from the propriety of plea bargaining to how best to implement and oversee the process. Plea bargaining is a tool of conciliation. It must not be a chisel of deceit or a hammered purchase and sale. The end result must come as an open covenant, openly arrived at with judicial oversight. A legal plea bargain is made in the sunshine before the penal bars darken.

contents and expressly authorizing the United States Probation Service to conduct a pre-sentence investigation prior to the time the plea is proposed to be offered in open court. The plea agreement must be filed by government counsel as a public record with the clerk of the court at the time the agreement is consummated. Provided, however, that the court, in its discretion, and after an *in camera* hearing, may find that such exceptional circumstances exist as to require that the plea agreement not be publicly disclosed until it is presented in open court.

2. Pre-Sentence Investigation and Reports. The clerk of the court shall promptly advise the Probation Service of the proposed plea agreement and request it to commence pre-sentence investigation without delay. The Probation Service shall in no way be influenced by the contents of any plea bargain but shall make its independent investigation and recommendations to the court. Upon completion of its pre-sentence investigation, the Probation Service shall submit the pre-sentence report to the sentencing judge and attach to it a copy of the proposed plea agreement as fully executed by all parties.

3. Notice of Hearing. Upon advice from the sentencing judge, the clerk of court shall notify the attorney for the government, attorney for the defendant (or the defendant if acting pro se), and the Probation Service as to the time and place for hearing of any plea based upon agreement.

4. Acceptance or Rejection of Plea. At the time the plea of guilty or *nolo contendere* is tendered in open court, the court may accept the plea, in which event sentence will ordinarily be imposed without delay, or the court may defer decision as to the acceptance or rejection of the plea to a date certain, or the court may at the hearing reject the plea agreement either at that time or subsequently. In the event the plea is rejected, the defendant shall be granted an opportunity to withdraw the plea.

B. Representation of Indigents.

1. Adequate Representation. Pursuant to the provisions of the CRIMINAL JUSTICE ACT OF 1964 (19 U.S.C.A. § 3006A) as amended, the judges of the United States District Court for the Northern District of Mississippi have adopted the following plan for the adequate representation of any person otherwise financially unable to obtain adequate representation:

(A) who is charged with a felony or misdemeanor (other than a petty offense as defined in 18 U.S.C. § 19), or with juvenile delinquency by the commission of an act which, if committed by an adult, would be such a felony or misdemeanor, or with a violation of probation, or

(B) who is under arrest when such representation is required by law, or

(C) who is subject to revocation of parole, in custody as a material witness, or seeking collateral relief, subject to the conditions of 18 U.S.C. § 3006A(g) as amended, or

(D) who is a person for whom the Sixth Amendment to the Constitution requires the appointment of counsel, or for whom, in a case in which he faces loss of liberty, any federal law requires the appointment of counsel. Representation shall include counsel and investigative, expert, and other services necessary for an adequate defense.

Services performed by attorneys pursuant to this plan are done primarily in their capacity as officers of the court, and the compensation provided by the CRIMINAL JUSTICE ACT OF 1964, as amended, does not diminish this professional responsibility.

2. Use of Private Attorneys; Creation of Panels. A separate panel of attorneys shall be established for each division of the district court and shall consist of attorneys who are qualified and competent to provide an adequate defense for indigent persons who are covered by this plan. Members of each panel shall be selected by the clerk, under the direction of the district judges, from the members of the bar who reside within the division for which the panel is chosen. The panels will be submitted to the district judges for their approval. The district judges may at any time make deletions from and additions thereto. The panels shall be reviewed and revised by the clerk at least annually, to the end that there shall be sufficient names on the lists to provide adequate representation to entitled defendants with fair distribution of the work among qualified members of the bar. Each such revised panel will be submitted to the district judges for their approval.

3. Determination of Need for Counsel

(A) When Appearing Before a Magistrate Judge or District Judge in a Criminal Case. In every criminal case in which the party is charged with a felony or misdemeanor (other than a petty offense), or with juvenile delinquency by the commission of an act which, if committed by an adult, would be such a felony or misdemeanor, or with a violation of probation, and appears without counsel, the judicial officer[2] before whom the party first appears shall advise the party that he has the right to be represented by counsel throughout the case and that counsel will be appointed to represent him if he so desires and if he is financially unable to obtain counsel.

Whenever the party states that he is financially unable to obtain counsel and desires the appointment of counsel, it shall be the duty of the judicial officer before whom the matter is pending to inquire into and to make a finding as to whether the defendant is financially able to obtain counsel. The judicial officer shall appoint separate counsel for defendants having interests that cannot properly be represented by the same counsel, or when other good cause is shown. All statements made by a defendant in such an inquiry shall be either (a) by affidavit sworn to before a district judge, a magistrate judge, a court clerk, or his deputy, or a notary public, or (b) under oath in open court before a magistrate judge or a district judge.

(B) Selection of Attorney. At the time of a defendant's first appearance before a judicial officer, the presiding judicial officer shall determine whether the defendant requires appointment of counsel. If so, the judicial officer shall choose an attorney from the panel, giving due regard to the residence of the defendant, the need for immediate hearing under the BAIL REFORM ACT, and any other relevant factor which bears on adequate representation of the defendant.

(C) Counsel for Person Arrested When Representation is Required by Law. Where a person arrested has been represented by counsel before his presentation before a judicial officer under circumstances where such representation is required by law, his counsel may subsequently apply to the magistrate judge or district judge for approval of compensation. If the magistrate judge or district judge finds such person has been and is then financially unable to obtain an adequate defense, and that such representation was required by law, compensation will be made retroactive to cover out-of-court time expended by the attorney during the arrest period, and in addition cover compensation for services rendered from the time of his initial presentation before a magistrate judge, or district judge, as the case may be. The magistrate judge or district judge may, only if he

[2]The term *judicial officer* includes district judges and or magistrate judges for purposes of this order.

deems it proper in a particular case, make retroactive the appointment of counsel where such attorney continues to represent such party in criminal proceedings in this court. If the person represented is unavailable at the time counsel applies to the court for approval of compensation for services rendered during the arrest period, the attorney may nevertheless submit his claim to the district judge for approval based on the arrestee's financial condition and a showing that such representation was required by law.

(D) Other Appointments as of Right. The magistrate judge or district judge may proceed as under subparagraph (3) above to make an appointment of counsel for a person (1) for whom the Sixth Amendment to the Constitution requires the appointment of counsel, or (2) for whom, in a case in which he faces loss of liberty, any federal law requires the appointment of counsel.

(E) Discretionary Appointments. Any person subject to revocation of parole, in custody as a material witness, or seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255, or 18 U.S.C. § 4245, may apply to the magistrate judge or district judge to be furnished representation based on a showing (1) that the interests of justice so require and (2) that such person is financially unable to obtain representation. Such application shall be verified and in such written form as is prescribed by the Judicial Conference of the United States. If the party applicant is not before the court, the magistrate judge or district judge may, without requiring the personal appearance of the party for such purpose, act on the basis of the form alone, or the form as supplemented by such information as may be made available by an officer or custodian or other responsible officer, provided that such information is also made available to the party. The magistrate judge or district judge may approve such representation on a determination that the interests of justice so require and that such person is financially unable to obtain representation.

4. Appointment of Counsel

(A) Appointment by a Judicial Officer. In every criminal case in which a party is charged with a felony or misdemeanor other than a petty offense, or with violation of probation, and appears without counsel before a judicial officer, it is the duty of the judicial officer not only to advise the party of his right to counsel before the judicial officer and throughout the case, but also promptly to appoint counsel to represent the party if the judicial officer finds that the party is financially unable to obtain an attorney, unless the party waives his right to be represented by counsel.

Counsel appointed by a judicial officer shall, unless excused by order of court, continue to act for the party throughout the proceedings in this court. In the event that a criminal defendant is convicted following trial, counsel appointed hereunder shall advise the defendant of his right of appeal and of his right to counsel on appeal. If requested to do so by the defendant in a criminal case, counsel shall file a timely Notice of Appeal, and he shall continue to represent the defendant unless, or until, he is relieved by the district court or the court of appeals. If counsel appointed by a judicial officer in any proceeding wishes to be relieved, he shall communicate his wish to the judicial officer before whom the case is then pending.

The judicial officer before whom a case is pending may, in the interest of justice, substitute one appointed counsel for another at any stage of the proceedings before him.

If at any time after the appointment of counsel, the judicial officer finds that the party is financially able to obtain counsel or make partial payment for the representation, he may terminate the appointment of counsel or recommend to the court that any funds available to the party be ordered paid as provided in 18 U.S.C. § 3006A(f).

If at any stage of the trial proceedings, the judicial officer finds that the party is financially unable to pay counsel whom he had retained or to obtain other counsel, the judicial officer may make an original appointment of counsel in accordance with the general procedure set forth in subparagraph I.B.3., which counsel may claim compensation for services rendered afer such appointment. Ordinarily the same attorney *shall not* be appointed.

A claim for compensation and reimbursement of expenses of counsel appointed in a case tried before the magistrate judge shall be made to the magistrate judge on the prescribed CJA form. The magistrate judge shall examine each claim, and make a recommendation to the district court as to the amount which the district court should fix in accordance with the statute and this Order, unless the matter is concluded before him, in which case the magistrate judge himself may approve the claim.

(B) Redetermination of Need. If a party having a right to counsel (*i.e.,* where the appointment is not a matter of discretion) is not represented by counsel before the judicial officer and waives his right to have appointed counsel, the judicial officer shall present to the party a written

waiver of rights to have appointed counsel. If such party executes the written waiver, the judicial officer shall certify the fact in the record of the proceedings. If such party waives the right to have appointed counsel but refuses to sign the waiver form, the judicial officer shall certify that fact in the record of proceeding. If such party admits or the judicial officer finds that such party is financially able to obtain counsel but declines to do so, the judicial officer shall certify that fact in the record of proceedings.

No appointed counsel may request or accept any payment or promise of payment for assisting in the representation of a defendant unless such payment is first approved by order of the district court.

If at any time after his appointment counsel should have reason to believe that a party is financially able to obtain counsel or to make partial payment for counsel, he shall advise the district judge. The district judge will then take appropriate action, which may include permitting assigned counsel to continue to represent the party with part or all of the cost of representation defrayed by such defendant. In such event, the amount so paid or payable by the party shall be considered by the district judge in determining the total compensation to be allowed to such attorney.

5. Compensation. Fees and expenses shall be determined in accordance with the provisions of the CRIMINAL JUSTICE ACT, 18 U.S.C. § 3006A.

6. Forms. The uniform appointment and voucher forms approved by the Administrative Office of the United States Courts, and such other forms as may be from time to time approved by the court, shall be used in the implementation of this plan.

C. Confidentiality of Pre-Sentence Reports. Pre-sentence reports prepared for the judges and magistrate judges of this district are considered confidential court documents and remain the property of the court at all times. Copies of the pre-sentence report will be disclosed, pursuant to FED. R. CIM. P. 32, to the defendant, defense counsel of record, and the government prior to sentencing, but said reports must be returned to the probation officer immediately after disclosure. Reproduction or recording of the pre-sentence report and its contents or any portion thereof by any method is prohibited.

The court will allow the probation office to release copies of the pre-sentence report to the U.S. Bureau of Prisons for designation, classification, and treatment purposes and to the U.S. Parole Commission as provided in 18 U.S.C. § 4025(e). However, said reports are released to the Bureau and to the Commission in the form of a confidential bailment. Such reports released to the Bureau or the Commission will continue to be treated as confidential court documents, not to be reproduced by either agency, and to be considered by each agency as being on loan from the court. Such documents must be returned by the Bureau or the Commission after these documents have been used by these agencies to serve their statutory functions. The provisions of the Rule will be clearly stated on the face of each pre-sentence report provided by the Bureau of Prisons or the Parole Commission.

II. Proceedings Before Magistrate Judges

A. Powers and Duties of Magistrate Judges. All United States Magistrate Judges serving within the territorial jurisdiction of the Northern District of Mississippi shall have within such territorial jurisdiction all the powers and duties granted them by the provisions of 28 U.S.C. § 636.

B. Matters Assigned to Magistrate Judges. The provisions of Uniform Local Rule 73.1(D) do not apply to cases originally assigned to a Magistrate Judge for disposition. Consent orders in such cases shall be presented to the Chief Judge for his signature.

C. Matters Referred to Magistrate Judges. The full-time magistrate judges serving within the territorial jurisdiction of the Northern District of Mississippi are referred the following duties, and shall have all powers necessary to perform such additional duties:

1. Prisoner Petitions.

(A) Reviewing petitions of state prisoners seeking post conviction relief from state custody under 28 U.S.C. § 2254, and other petitions of state prisoners seeking to attack the fact or duration of their state confinement; issuing orders to show cause and other necessary orders or writs to obtain a complete record; conducting evidentiary and other hearings and oral arguments; performing all other duties authorized to be performed by a magistrate judge under the Rules Governing Section 2254 Cases in the United States District Courts; and preparing and submitting to the district judge to whom the case is assigned a report and recommendations as to the appropriate disposition of the petition.

(B) Reviewing civil suits by prisoners for deprivation of civil rights arising out of conditions of confinement under 42 U.S.C. § 1983 and related statutes; conducting evidentiary and other hearings and oral arguments and preparing reports and recommendations to the district judge to whom the case is assigned.

(C)Taking on-site depositions, gathering evidence, conducting pretrial conferences, and serving as a mediator at the holding facility in connection with civil rights suits filed by prisoners contesting conditions of confinement under 42 U.S.C. § 1983 and related statutes.

(D) Conducting periodic reviews of proceedings to ensure compliance with previous orders of the court regarding conditions of confinement.

(E) Reviewing prisoner correspondence.

2. Civil Proceedings.

(A) General supervision of the civil calendar, including the handling of calendar calls and motions to expedite or postpone the trial of cases.

(B) Conducting preliminary and final pretrial conferences, and the formulation or preparation of pretrial orders.

(C) Hearing and determining pretrial procedural and discovery motions and any other motion or pretrial matter that is not specifically enumerated as an exception in 28 U.S.C. § 636(b)(1)(A).

(D) Examining judgment debtors under FED. R. CIV. P. 69.

(E) Issuing orders prior to ratification of sale in mortgage foreclosure proceedings on properties financed through government loans.

(F) Reviewing default judgments and conducting inquests on damages in cases involving default judgments.

(G) Appointing persons to serve process pursuant to FED. R. CIV. P. 4(c), except that, as to *in rem* process, such appointments shall be made only when the United States Marshal, or his deputies, are not immediately available to execute such process and the individual appointed has been approved by the United States Marshal for such purpose.

3. Administrative Proceedings. Reviewing the record of administrative proceedings in suits for judicial review of final decisions of administrative agencies and submitting to the district judge to whom the case is assigned a report and recommendation.

4. Miscellaneous Duties.

(A) Issuance of subpoenas and writs of habeas corpus *ad testificandum* and *ad prosequendum* or other orders necessary to obtain the presence of the parties or witnesses or evidence needed for court proceedings in civil and criminal cases.

(B) Supervision of proceedings on requests for letters rogatory in civil and criminal cases.

(C) Exoneration of forfeiture of bonds and bail.

(D) Taking pleas and sentencing in all cases of minor offenses as defined in 18 U.S.C. § 3401, other than petty offenses, transferred to the Northern District of Mississippi under the provisions of FED. R. CIM. P. 20.

III. PRISONER PETITIONS FOR RELIEF FROM CUSTODY

A. Scope of Order; Place of Filing. This order deals with all kinds of requests for relief from custody, regardless of the designation given the request by the prisoner, including, but not limited

to, letters written to the court or to one of the district judges of the court or to a magistrate judge. Regardless of the nature of the request, the same is referred to herein as a *petition* and such designation shall be all inclusive.

Actions which involve federal convictions shall be filed at the Western Division, where the criminal files are maintained. Actions which attack a state conviction or procedure within the territorial jurisdiction of this court shall be filed at the division point wherein is situated the county in which the conviction or procedure occurred. All other actions shall be assigned to the division where the action accrued.

B. Processing of Petitions.

1. If the petition for relief from custody is accompanied by the required filing fee or an affidavit of poverty, the clerk shall forthwith file the same at the appropriate division point.

2. If the petition is not accompanied by a filing fee or an affidavit of poverty, the clerk shall notify the petitioner or his attorney by mail that the petition cannot be filed without the filing fee or a legally sufficient affidavit of poverty. The clerk shall enclose with the notice to the petitioner an affidavit of poverty for the petitioner's use, should the petitioner be unable to pay the fee or give security therefor. If the petitioner remits the filing fee or an affidavit of poverty, the clerk shall file the petition.

C. Procedure After Filing and Assignment of Action. When the petition is filed, the clerk shall:

1. Draw a district judge for the action if one has not already been drawn, provided, however, where the subject matter of the action pertains to a case already tried by a district judge of this court, the action shall be assigned automatically to such district judge;

2. Assign the case to a full-time magistrate judge for review. Provided, however, that when a motion for relief under 28 U.S.C. § 2255 attacks a conviction and/or sentence resulting from a trial or other proceeding presided over by an active district judge or a senior district judge accepting such petitions, the clerk shall not assign the action to a full-time magistrate judge. After review of the motion the district judge to whom it is assigned may refer it to a full-time magistrate judge, who shall then proceed as provided for other cases governed by this rule.

D. Procedure After Assignment to a Full-Time Magistrate Judge. The full-time magistrate judge shall forthwith review the petition and other documents and papers pertinent to the case and take action as follows:

1. If the magistrate judge, after considering the petition and other papers in the files, determines that the petition does not present a question of which the court should take jurisdiction, or that, taking all facts properly pleaded in the petition and supporting papers as being true, the petitioner is not entitled to any relief at the hands of the court, the magistrate judge shall prepare and file his report and recommendations, accompanied by a proposed form or order dismissing the case.

2. If the magistrate judge shall find the petition legally sufficient, or if the district judge shall so order, the magistrate judge shall prepare and sign an appropriate order requiring the respondent to answer the petition, or to show cause why the petition should not be granted.

3. If the magistrate judge concludes that the petition may be subject to dismissal under the provision of Rule 9, RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURTS, or Rule 9, RULES GOVERNING SECTION 2255 CASES IN THE UNITED STATES DISTRICT COURTS, he may call upon the petitioner to show why the petition should not be dismissed and may fix the time within which the petitioner may make such showing.

4. After the respondent has complied with the order to answer or show cause and the file contains all the information necessary for consideration of the case, and such briefs or memoranda as have been required of the parties by the magistrate judge, the magistrate judge shall determine whether or not an evidentiary hearing is required.

(A) If the magistrate judge determines that an evidentiary hearing is not required, he shall prepare and file his report and recommendations, accompanied by a proposed form of order to be entered thereon.

(B) If the magistrate judge determines that an evidentiary hearing is required, he shall conduct such a hearing without the necessity of further reference. The magistrate judge shall give the parties such notice of the time and place of the hearing as the circumstances of the case require. After the evidentiary hearing has been concluded and after the submission of such post-hearing briefs

or memoranda as the magistrate judge may require, the magistrate judge shall prepare and file his report and recommendations setting forth his proposed findings of fact and recommendations for disposition of the case.

5. In addition to the duties specifically imposed upon the magistrate judge by this rule, the magistrate judge shall, whenever necessary for the orderly processing of the case, perform any other duty which a magistrate judge is authorized to perform under the provisions of the RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURTS or the RULES GOVERNING SECTION 2255 CASES IN THE UNITED STATES DISTRICT COURTS, including issuance of writs of habeas corpus *ad testificandum*.

E. Appointment of Counsel.

1. Any district judge or full-time magistrate judge of the court, at any time, may furnish representation pursuant to subparagraph I.B.3.(E) for the appointment of counsel to represent indigent defendants in actions pending before the court, to any person seeking relief under 28 U.S.C. §§ 2241, 2254, or 2255.

2. If an evidentiary hearing is to be held and the petitioner is not represented by counsel, counsel shall be appointed for the petitioner if the petitioner is financially unable to employ counsel, unless the petitioner acknowledges in writing that he understands his right to appointment of counsel without cost to himself but nevertheless wishes to waive his right to counsel and to proceed pro se. A petitioner who has been granted leave to proceed *in forma pauperis* shall be presumed to be financially unable to employ counsel.

F. The Petition

1. Petitions Seeking Relief from State Custody.

(A) **Form of Petition.** The petition shall be in the form annexed to this rule as Form P-1 and shall otherwise conform with the requirements of the RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURTS. If the petitioner wishes to submit citations of authority, a separate memorandum of authorities may be filed. Blank petitions in the prescribed form shall be made available without charge by the Clerk of the Court to applicants upon request. The petition shall specify all the grounds for relief which are available to the petitioner and of which he has or

by the exercise of reasonable diligence should have knowledge, and the petitioner shall be deemed to have waived all such grounds not specified. The petition shall set forth in summary form the facts supporting each of the grounds thus specified. It shall state the relief requested. The petition shall be typewritten or legibly handwritten and shall be signed and sworn to by the petitioner, and shall be signed by the petitioner's attorney if the petitioner is represented by counsel.

(B) **Petition to be Directed to Judgments of One Court Only.** A petition shall be limited to the assertion of a claim for relief against the judgment or judgments of a single state court, and it shall assert no other claims for relief against the respondent. If a petitioner desires to attack the validity of the judgments of two or more state courts, he shall do so by separate petitions.

(C) **Return of Insufficient Petition.** If a petition received by the Clerk of the Court does not comply with the requirements of this rule, it shall be returned by the clerk to the petitioner with a statement of the reason for its return, and the clerk shall under the same cover furnish the petitioner with four copies of Form P-1. The clerk shall retain one copy of any such insufficient petition returned to a petitioner.

2. Petitions or Motions Seeking Relief from Federal Custody under 28 U.S.C. § 2255.

(A) **Form of Motion.** The motion shall be in the form annexed to this rule as Form P-2, and shall otherwise conform with the requirements of the RULES GOVERNING SECTION 2255 CASES IN THE UNITED STATES DISTRICT COURTS. If the petitioner wishes to submit citations of authority, a separate memorandum of authorities may be filed. Blank petitions in the prescribed form shall be made available without charge by the Clerk of the Court to applicants upon request. The petition shall specify all the grounds for relief which are available to the petitioner and of which he has or by the exercise of reasonable diligence should have knowledge, and the petitioner shall be deemed to have waived all such grounds not specified. The motion shall set forth in summary form the facts supporting each of the grounds thus specified. It shall state the relief requested. The motion shall be typewritten or legibly handwritten and shall be signed and sworn to by the petitioner, and shall be signed by the petitioner's attorney if the petitioner is represented by counsel.

(B) **Motion to be Directed to One Judgment Only.** Any such motion shall be limited to the assertion of a claim for relief against only one judgment of this court. If a petitioner desires to attack the validity of the judgments of this court, he shall do so by separate motions.

(C) **Return of Insufficient Motion.** If a motion received by the Clerk of the Court does not comply with the requirements of this rule as to form, it shall be returned by the clerk to the petitioner with an order stating the reason for its return and requiring amendment, and the clerk shall under the same cover furnish the petitioner with four copies of Form P-2. The clerk shall retain one copy of any such insufficient motion returned to a petitioner.

G. Correction or Reduction of Sentence. Petitions or other requests for correction or reduction of sentence pursuant to FED. R. CIM. P. 35 are not within the scope of this rule.

H. Applications for Bail *Pendente Lite.* A full-time magistrate judge shall hear and determine all applications for bail *pendente lite* in connection with petitions assigned or referred to him for review. The magistrate judge may require the parties to file briefs and/or supplemental pleadings dealing with the questions raised by any such application for bail, and shall hold all evidentiary hearings thereon. If, in the opinion of the magistrate judge, the application for bail is insufficient on its face the magistrate judge shall enter an order denying the application without evidentiary hearing.

IV. CIVIL ACTION CHALLENGING CONDITIONS OF CONFINEMENT

A. Initial Processing. Complaints of prisoners challenging conditions of confinement under 42 U.S.C. § 1983 and related statutes shall be processed initially as provided in this order, to the extent that such procedure is applicable to civil actions challenging conditions, as distinguished from the fact or duration, of confinement.

B. Procedure After Assignment to a Full-time Magistrate Judge. The full-time magistrate judge shall promptly review the complaint and other documents and papers pertinent to the case and take action as follows:

1. If the plaintiff has submitted the documents which satisfy the provisions of 28 U.S.C. § 1915(a), the magistrate judge shall enter an order granting leave to proceed *in forma pauperis* in accordance with the provisions of U.S.C. § 1915(b).

2. Thereafter, if the magistrate judge concludes that the case should be dismissed under the provisions of U.S.C. § 1915(e)(2), he shall prepare a report and recommendations recommending dismissal of the action as to one or more defendants.

3. If the complaint is not to be dismissed as to all defendants after the magistrate judge's initial review, the magistrate judge shall enter an order directing that process issue for the remaining defendants named in the complaint and directing that process be served upon them. The action shall thereafter stand referred to the magistrate judge for all purposes, including evidentiary hearings and trial, unless trial by jury is demanded. After trial before the magistrate judge, the magistrate judge shall prepare and file his proposed findings of fact and recommendations for disposition of the action.

4. If trial by jury is demanded, the action shall stand referred to the magistrate judge for all purposes other than trial on the merits. The magistrate judge shall enter a scheduling order and conduct all necessary hearings, including evidentiary hearings, and oral arguments on motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action, and shall file his reports and recommendations thereon as in other cases. The magistrate judge shall hear and determine all other motions and may conduct one or more pretrial conferences.

5. If at any stage of the proceedings the magistrate judge concludes that any pretrial motion or other matters, or the entire action, can be more efficiently or expeditiously disposed of by the district judge without the intervention of the magistrate judge, the magistrate judge shall so report to the district judge, either orally or in writing. The district judge may then, at his discretion, recall the reference to the magistrate judge in whole or in part.

6. The clerk shall inquire of the parties whether they will consent to trial of the action and entry of final judgment by the magistrate judge. If all parties consent thereto in writing, the magistrate judge shall thereafter, notwithstanding any other provisions of this rule, proceed as contemplated by 28 U.S.C. § 636(c) and FED. R. CIV. P. 73.

C. The Complaint.

1. **Form of Complaint.** The complaint shall be in the form annexed to this order as Form P-3. Blank complaints in the prescribed form shall be made available without charge by the Clerk of the Court to applicants upon request. The complaint shall clearly and concisely set out the facts upon which the plaintiff bases his claims. It shall state the relief requested. The complaint shall be typewritten or legibly handwritten and shall be signed and sworn to by the plaintiff. It shall also be signed by the plaintiff's attorney, if the plaintiff is represented by counsel.

2. **Insufficient Complaints.** If a complaint does not comply with the requirements of this rule, the plaintiff shall be given an opportunity to remedy any defect. The court shall at the same time furnish the plaintiff with four copies of Form P-3.

D. Penitentiary Grievance Procedures. In all civil actions hereafter filed in this court by an inmate under 42 U.S.C. §§ 1981, 1982, 1983, 1985, 1986, 1988, or 1994, complaining of conditions of confinement or grievances occurring during the period of his incarceration, plaintiff-inmate shall clearly indicate on his complaint whether he has resorted to the PENITENTIARY ADMINISTRATIVE REMEDY PROGRAM [ARP] or other jail grievance procedure prior to filing his complaint. If so, he shall file with his complaint true copies of his *Request for Administrative Remedy*, including parts A—*Inmate Request*, B—*Response*, C—*Receipt*, as well as his *Appeal*, including parts A—*Reason for Appeal*, B—*Response*, and C—*Receipt*, and any other document relating to the grievance procedure.

Failure to exhaust the ARP or other available grievance procedure or to provide the documentation required by this rule shall be grounds for dismissal of the action without prejudice, in accordance with 42 U.S.C. § 1997(e). Defendant officials shall incorporate in their answer thereafter filed in such civil action the results of the administrative procedure, setting forth affirmatively what issues raised in the complaint have been resolved. When the plaintiff-inmate has exhausted the administrative procedures provided by the jail or penitentiary, but has failed to attach the required documentation to his complaint, he shall not be required to again resort to the ARP, or other administrative proceeding, but all of the other provisions of this subparagraph shall apply.

V. Forfeiture of Collateral in Lieu of Appearance

A person who is charged with a petty offense as defined in 18 U.S.C. § 19, other than one for which a mandatory appearance before a United States Magistrate Judge is required, may, in lieu of appearance, post collateral in the amount set for the offense in a separate collateral forfeiture schedule approved by order of this court, waive appearance before a United States Magistrate Judge, and consent to forfeiture of collateral. A person charged with an offense designated as *Mandatory Appearance* in the collateral forfeiture schedule must appear before United States Magistrate Judge. Nothing contained in this rule shall prohibit a law enforcement officer from arresting a person for the commission of any offense, including an offense for which collateral may be posted and forfeited, and taking him promptly before a United States Magistrate Judge, or requiring a person charged with such an offense to appear before a United States Magistrate Judge.

VI. Application for Appointment of Counsel and Leave to Proceed without Payment of Fees, Costs, or Security Under Title VII, Civil Rights Act of 1964

A. Every application for appointment of counsel and/or for leave to proceed without the payment of fees, costs, or security under the provisions of 42 U.S.C. § 2000e-5(f)(1) and 28 U.S.C. § 1915(a)(1)-(2) shall be referred by the clerk to a full-time magistrate judge of this court, to be dealt with as is provided herein.

B. The magistrate judge shall conduct all necessary proceedings in connection with the application. In his discretion, the magistrate judge may consider the application on the basis of affidavits and documents submitted by the applicant, or may receive oral testimony and other evidence.

So ordered, this the 17th day of September 1998.

/s/ Neal B. Biggers Jr.
Neal B. Biggers Jr.
Chief United States District Judge

/s/ Glen H. Davidson
Glen H. Davidson
United States District Judge

STANDING ORDER

OF THE

UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF MISSISSIPPI

AUGUST 28, 1991

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

STANDING LOCAL ORDER

SOCIAL SECURITY CASES

In proceedings for review of actions by the Secretary of Health and Human Services under Title 42 of the United States Code, the defendant Secretary shall cause an answer and a certified copy of the transcript of the record to be filed within 90 days after service of the complaint for review pursuant to Federal Rule of Civil Procedure 4. Within 30 days from the filing of the defendant's answer, the plaintiff shall serve and file an appropriate dispositive motion seeking reversal or remand of the Secretary's decision and a brief setting forth all errors and legal authorities which plaintiff contends entitle him to relief. Within 60 days from receipt of plaintiff's motion and brief by defendant's attorneys, defendant shall serve and file a brief in opposition. Within 15 days thereafter plaintiff may serve and file a rebuttal brief. The case shall be deemed submitted 30 days after the filing of the defendant's brief, without oral argument, unless otherwise directed by the court.

The plaintiff's brief shall contain the following items under separate headings and in the order here indicated:

(a) A statement of the issues presented for review, set forth in separate numbered paragraphs.

(b) A statement of the case. This statement should indicate briefly the course of the proceeding and its disposition at the administrative level and should set forth a general statement of facts. This statement of the facts shall include plaintiff's age, education, and work experience; a summary of the physical and mental impairments alleged; a brief outline of the medical evidence; and a brief summary of other evidence of record. Each statement of fact shall be supported by reference to the page in the record where the evidence may be found.

(c) An argument. The argument may be preceded by a summary. The argument shall be divided into sections separately treating each issue and must set forth the contentions of plaintiff with respect to the issues presented and reasons therefor. Each contention must be supported by specific reference to the portion of the record relied upon and by citations to statutes, regulations, and cases supporting plaintiff's position. Cases from other districts and circuits should be cited only in conjunction with relevant cases from this jurisdiction or if authority on point form this jurisdiction does not exist. Citations to unreported district court opinions must be accompanied by a copy of the

opinion. If plaintiff has moved for remand to the Secretary for further proceedings, the argument in support thereof must set forth good cause for remand. Furthermore, if the remand is for the purpose of taking additional evidence, such evidence must be attached to the brief or, if such evidence is in the form of a consultative examination sought at government expense, plaintiff must make a proffer of the nature of the evidence anticipated to be obtained.

(d) A short conclusion stating the relief sought.

The Clerk shall give a copy of this rule to anyone filing a suit for social security benefits under 42 U.S.C. § 405(g).

SO ORDERED, this the 28th day of August 1991.

WILLIAM H. BARBOUR JR.

Chief Judge

ORIGINAL ORDER FILED AUGUST 28, 1991

STANDING ORDER

OF THE

UNITED STATES DISTRICT COURT

FOR THE

SOUTHERN DISTRICT OF MISSISSIPPI

JULY 13, 1998

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

STANDING LOCAL ORDER

RICO CASES

In all cases in this court in which claims are asserted under the Racketeer Influenced and Corrupt Organization Act ("RICO"), 18 U.S.C. § 1961, a RICO Statement, conforming to the requirements of this order, must accompany the filing of the RICO complaint.

This Statement shall include the facts the Plaintiff is relying upon to initiate this RICO complaint as a result of the "reasonable inquiry" required by FED. R. CIV. P. 11. This Statement shall be in a form which uses both the numbers and letters as set forth below and shall, in detail and with specificity:

1. State whether the alleged unlawful conduct is in violation of 18 U.S.C. §§ 1962(a), (b), (c), and/or (d).

2. List each Defendant and state the alleged misconduct and basis of liability of each Defendant.

3. List the alleged wrongdoers, other than the Defendant(s) listed above, and state the alleged misconduct of each wrongdoer.

4. List the alleged victims and state how each victim was allegedly injured.

5. Describe in detail the pattern of racketeering activity or collection of unlawful debts alleged for each RICO claim. A description of the pattern of racketeering shall include the following information:

   a. List the alleged predicate acts and the specific statutes which were allegedly violated;

   b. Provide the dates of the predicate acts, the participants in the predicate acts, and a description of the facts surrounding the predicate acts;

c. If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of securities, the "circumstances constituting fraud or mistake shall be stated with particularity." FED. R. CIV. P. 9(b). Identify the time, place, and contents of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;

d. State whether there has been a criminal conviction for violation of the predicate acts;

e. State whether civil litigation has resulted in a judgment in regard to the predicate acts;

f. Describe how the predicate acts form a "pattern of racketeering activity"; and,

g. State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe in detail.

6. Describe in detail the alleged enterprise for each RICO claim. A description of each enterprise shall include the following information:

a. State the names of the individuals, partnerships, corporations, associations, or other legal entities which allegedly constitute the enterprise;

b. Describe the structure, purpose, function, and course of conduct of the enterprise;

c. State whether any Defendants are employees, officers, or directors of the alleged enterprise;

d. State whether any Defendants are associated with the alleged enterprise;

e. State whether the Plaintiff is alleging that the Defendants are individuals or entities separate from the alleged enterprise, or that the Defendants are the enterprise itself, or are members of the enterprise; and,

f. If any Defendants are alleged to be either the enterprise itself or members of the enterprise, explain whether such Defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.

7. State whether the Plaintiff is alleging that the pattern of racketeering activity and the enterprise are separate or have merged into one entity. In either event, describe in detail.

8. Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual and daily activities of the enterprise, if at all.

9. Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.

10. Describe the effect of the activities of the enterprise on interstate or foreign commerce.

11. If the complaint alleges a violation of 18 U.S.C. § 1962(a), provide the following information:

a. State who received the income derived from the pattern of racketeering activity or through the collection of an unlawful debt; and,

b. Describe the use, investment, or locus of such income.

12. If the Complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.

13. If the Complaint alleges a violation of 18 U.S.C. § 1962(c), provide the following information:

a. State who is employed by or associated with the enterprise; and,

b. State whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).

14. If the Complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the alleged conspiracy.

15. Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.

16. List the actual damages for which Defendant is allegedly liable.

17. List all other federal causes of action, if any, and provide citations to the relevant statute(s).

18. List all pendent state claims, if any.

19. Provide any additional information that you feel would be helpful to the Court in considering your RICO claim.

SO ORDERED, this the 13th day of July 1998.

TOM S. LEE
Chief Judge

ORIGINAL ORDER FILED JULY 13, 1998