



PUBLIC NOTICE

PROPOSED AMENDMENTS TO THE DISTRICT OF NEW JERSEY LOCAL CIVIL RULES

The United States District Court for the District of New Jersey announces that the following proposed amendments to the Local Civil Rules are posted for public comment as required by 28 U.S.C. § 2071(b) at <http://www.njd.uscourts.gov>

Amendments are proposed to the following Local Civil Rules:

- 6.1 Extensions of Time and Continuances
- 7.1 Application and Motion Practice
- 7.2 Affidavits and Briefs
- 12.1 (new proposed rule) Defenses and Objections: When and How Presented
- 12.2 (new proposed rule) Motion to Dismiss Fewer than All Claims
- 54.2 Compensation for Services Rendered and Reimbursement of Expenses
- 67.1 Deposit in Court
- 72.1 United States Magistrate Judges
- 104.1 Discipline of Attorneys

Amendments are also proposed to the following Local Civil Rules to indicate that any sworn statement complying with 28 U.S.C. § 1746 is acceptable to the Court: L. Civ. R. 5.1, 5.3, 6.1, 7.2, 9.2, 9.3, 11.2, 16.1, 37.1, 41.1, 54.2, 65.1, 66.1, 69.1, 104.1 and 201.1.

Any comments must be received by the Clerk of the Court by **May 20, 2013**.
Comments should be addressed to:

William T. Walsh, Clerk of Court
United States District Court
Martin Luther King Jr. Federal Bldg. & U.S. Courthouse
50 Walnut St.
Newark, NJ 07101

or by e-mail to: localrules@njd.uscourts.gov

Civ. RULE 6.1 EXTENSIONS OF TIME AND CONTINUANCES

(a) Each application for an extension of time shall:

(1) be made in writing;

(2) be served prior to the expiration of the period sought to be extended; and

(3) disclose in the application the date service of process was effected and all similar extensions previously obtained.

(b) The time within which to answer or reply to any pleadings as to which a responsive pleading is permitted may, before ~~its first~~ the expiration of the original deadline to answer or reply thereto, and with or without notice, be extended once for a period not to exceed 14 days on order granted by the Clerk. Any other proposed extension of time must be presented to the Court for consideration.

(c) A motion to postpone or continue a trial on the grounds of absence of a witness or evidence shall be made upon affidavit showing the nature and materiality of the expected testimony or evidence, and that diligent effort has been made to secure the witness or evidence. If the testimony or the evidence would be admissible at the trial, and the adverse party stipulates that it shall be considered as actually given at the trial, there shall be no postponement or continuance.

COMMENT: There has been confusion about whether this rule may be invoked to extend the original deadline to answer or otherwise respond to an amended pleading. This amendment clarifies that the automatic extension covers the original deadline for answering or otherwise responding to either an initial pleading or an amended pleading.

Civ. RULE 7.1 APPLICATION AND MOTION PRACTICE

(d) Filing Motion Papers

(5) The original motion day of a dispositive motion may be adjourned once by a party opposing the motion, without the consent of the moving party, the Court, or the Clerk. To obtain the automatic extension a party must file with the Clerk, and serve upon all other parties, a letter stating that the originally noticed motion day has not previously been extended or adjourned and invoking the provisions of this rule before the date on which opposition papers would otherwise be due under L. Civ. R. 7.1(d)(2). That letter shall set forth the new motion day, which shall be the next available motion day following the originally noticed date. All parties opposing the

motion shall file their opposition papers at least 14 days prior to the new motion day, and the moving party shall file its reply papers, if any, at least seven days prior to the new motion day. No other extension of the time limits provided in L. Civ. R. 7.1(d)(2) and (3) shall be permitted without ~~an~~ Order of the Court, and any application for such an extension shall advise the Court whether other parties have or have not consented to such request.

COMMENT: The added language specifies that the right under the rule to adjourn the motion return date for one motion cycle without the consent of the other parties or leave of Court only applies to the original, unmodified motion return date. Contrary to the position previously asserted by some litigants, the automatic extension of a motion return date cannot be secured without consent or leave of Court under the rule if the originally noticed date for the motion has already been altered by stipulation and/or court order.

h) Cross-Motion

A cross-motion related to the subject matter of the original motion may be filed by the party opposing the motion together with that party's opposition papers and may be noticed for disposition on the same day as the original motion, as long as the opposition papers are timely filed. Upon the request of the original moving party, the Court may enlarge the time for filing a brief and/or papers in opposition to the cross-motion and adjourn the original motion day. A party filing a cross-motion shall serve and file a combined brief in opposition to the original motion and in support of the cross-motion, which shall not exceed 40 pages. No reply brief in support of the cross-motion shall be served and filed without leave of the assigned district or magistrate judge. The original moving party shall file a single combined reply brief in support of its motion and in opposition to the cross-motion, which shall not exceed 40 pages (in contrast to the 15-page limit for repliers as provided in L. Civ. R. 7.2(b)). The provisions of L. Civ. R. 7.1(d)(5) apply to dispositive cross-motions.

COMMENT: This rule, as currently written, does not specify the page limits for briefs in support of and in opposition to a cross-motion. It is unclear whether a movant who is filing both a reply to opposition papers and a response to a cross-motion is limited to the 15 pages permitted for reply briefs to opposition papers, with no additional pages to respond to the cross-motion. The added language establishes a 40 page limit for a combined brief in opposition to the original motion and in support of the cross-motion. It clarifies that no reply brief in support of the cross-motion may be served without leave of Court. The amendment also increases the page limit for the original movant's combined reply/cross-motion opposition from 15 to 40 pages, with the hope of reducing applications to the Court for leave to file oversized briefs.

Civ. RULE 7.2 AFFIDAVITS AND BRIEFS

(d) Each page of a brief shall contain double-spaced text and/or single spaced footnotes or inserts. Typeface shall be in 12-point non-proportional font (such as Courier New 12) or an equivalent 14-point proportional font (such as Times New Roman 14). If a 12-point proportional font is used instead, the page limits shall be reduced by 25 percent (e.g., the 40 page limit becomes 30 pages in this font and the 15 page limit becomes 11.25 pages). Footnotes shall be printed in the same size of type utilized in the text.

COMMENT: This rule indicates that the length of briefs will be reduced if proportional type fonts are use. It provides a parenthetical example of how the length of an initial brief will be reduced if proportional type fonts are used (from 40 to 30 pages) but does not include a similar example regarding reply briefs. As a result, many parties filing reply briefs have continued to follow a 15 page limit regardless of font. The added language gives specific guidance by providing an example of how the length of reply briefs will be reduced by the use of a 12-point proportional font, from 15 to 11.25 pages.

Civ. RULE 12.1 DEFENSES AND OBJECTIONS: WHEN AND HOW PRESENTED

In General. When asserting, by way of a motion, any of the defenses allowable under Fed. R. Civ. P. 12(b), a party may file the motion without prior Court approval.

COMMENT: Magistrate Judges sometimes act as “gatekeepers” for District Judges by requiring a party intending to move for summary judgment to submit a letter request for authorization, which is examined by the Magistrate Judge to assure that the motion is necessary and timely. This rule clarifies that this gatekeeping procedure does not apply to dismissal motions filed pursuant to Fed. R. Civ. P. 12(b), as to which no pre-authorization is required.

Civ. RULE 12.2 MOTION TO DISMISS FEWER THAN ALL CLAIMS

When a motion to dismiss pursuant to Fed. R. Civ. P. 12(b) addresses fewer than all of the claims for relief in a complaint, the pleading in response to any claims for relief which have not been dismissed shall be filed 14 days after entry of the Court’s order resolving said motion to dismiss.

COMMENT: This proposed new rule addresses the obligation to answer claims of a complaint that are not covered by a motion to dismiss. It clarifies that a motion to dismiss fewer than all counts of the complaint will toll the obligation to file an answer to those claims which are not covered by the motion.

Civ. RULE 54.2 COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES

(a) Motions; Affidavits: Content. In all actions in which a counsel fee is allowed by the Court or permitted by statute, an attorney seeking compensation for services or reimbursement of necessary expenses shall file ~~with the Court an affidavit~~ within 30 days of the entry of judgment or order, unless extended by the Court, a motion for fees and expenses in accordance with L. Civ. R. 7.1. The motion shall include any affidavits setting forth the following:

COMMENT: Fed. R. Civ. P. 54(d)(2)(B)(i) requires that a motion for attorney's fees be filed within 14 days of the entry of judgment. The goal of our local rule is to increase this 14 day limit to 30 days. However, whereas the federal rule requires the filing of a motion within 14 days, our existing local rule permits the filing of supporting affidavits within 30 days of the judgment but does not refer to the filing of a motion. In case law, the Third Circuit has interpreted our local rule as allowing for the filing of a motion for attorney's fees within 30 days of judgment. In practice though, a notice of motion might be filed within 14 days, pursuant to the federal rule, with the supporting affidavits following later, within 30 days of judgment, pursuant to our local rule. The recommended language eliminates confusion regarding what is to be filed and when, by establishing that the motion and affidavit shall be filed simultaneously within 30 days of judgment.

Civ. RULE 67.1 DEPOSIT IN COURT

(a) Deposit in Court Pursuant to Fed. R. Civ. P. 67

(1) Receipt of Funds

(A) No money shall be sent to the Court or its officers for deposit into the Court's Registry without a court order by the Judge assigned to the case.

(B) Unless otherwise directed, all registry funds ordered to be paid into the Court or received by its officers in any case pending or adjudicated shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. §2041 through depositories designated by the Treasury to accept such deposit on its behalf.

(C) The party or attorney making the deposit or transferring funds to the Court's Registry shall personally serve the order permitting the deposit or transfer on the Clerk of Court, the Chief Deputy Clerk of Administration, Chief Deputy of Operations, or ~~the Chief Financial Deputy Clerk~~ Finance Manager. Failure to personally serve a copy of the order to invest shall release the Clerk and any Deputy Clerk from any liability for the loss of interest which could have been earned on the funds.

(2) Orders Directing Investment of Registry Funds by Clerk

(A) Where, by ~~stipulation of the parties and approval~~ order of the Court, funds on deposit with the Court are to be placed in some ~~interest-bearing~~ form of interest-bearing account, the Court Registry Investment System (C.R.I.S.) administered ~~through the United States District Court for the Southern District of Texas~~ by the Administrative Office of the United States Courts shall be the only investment mechanism authorized. (See Form of Required Order at Appendix D).

(B) Funds deposited in each case under C.R.I.S. will be “pooled” together with those on deposit with the Treasury to the credit of other courts in the C.R.I.S. and used to purchase ~~Treasury Securities~~ Government Account Series securities through the Bureau of Public Debt, which will be held at ~~the Federal Reserve Bank of Dallas/Houston Branch,~~ Treasury, in a ~~safekeeping, interest-bearing~~ an account in the name and to the credit of the ~~Clerk of the United States District Court for the Southern District of Texas,~~ Director of the Administrative Office of the United States Courts, hereby designated Custodian (“Custodian”) for the C.R.I.S. for this District Court.

(C) An account for each case will be established in the C.R.I.S. titled in the name of the case giving rise to the investment in the system. Income ~~received~~ generated from fund investments will be distributed to each case based on the ratio which each account's principal and ~~income~~ earnings has to the aggregate principal and income total in the fund ~~each week.~~ Weekly ~~Reports~~ Reports showing the ~~income~~ interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in C.R.I.S. and made available to litigants and/or their counsel on request.

(3) Registry Investment Fee Deduction of Fees

(A) The ~~e~~Custodian is authorized to deduct the registry fee for maintaining accounts in C.R.I.S. and the investment services fee for the management of investments. The proper registry fee is to be determined on the basis of the rates published by the Director of the Administrative Office of the United States Courts as approved by the Judicial Conference. The investment services fee is assessed from interest earnings according to the Court's Miscellaneous Fee Schedule which can be found on the Court's internet site. ~~shall deduct a miscellaneous schedule fee for the handling of those registry funds invested in interest-bearing accounts, as authorized by the Judicial Conference of the United States and by Standing Order of this Court dated June 30, 1989, as amended November 30, 1990, of 10% of the income earned on an account and any subsequent deposit of new principal while invested in the C.R.I.S.~~

(B) ~~No additional fee shall be assessed with respect to investments for which a fee has already been deducted prior to the establishment of C.R.I.S. in this District.~~ If registry fees were assessed against the case under the old 45-day requirement prior to deposit in C.R.I.S., no additional registry fee will be assessed.

~~(4) Transition from Former Investment Procedure~~

~~(A) The Clerk is directed to develop a systematic method of redemption of all existing investments and their transfer to C.R.I.S.~~

~~(B) Parties not wishing to transfer existing investment instruments into C.R.I.S. may seek leave to transfer them to the litigants or their designees on motion and approval by order of the Judge assigned to a specific case.~~

(b) Orders Relating to the Disbursement of Court Funds

(1) Before any proposed order for disbursement of monies from the Registry of the Court is submitted to or considered by a Judge, the order first shall be approved as to form and content by the Clerk of Court or his/her designee ~~and contain the Clerk's endorsement thereon.~~

(2) The Clerk of Court will not calculate interest on court registry funds invested in interest bearing accounts whenever accrued interest is to be apportioned between parties or partial payments are to be made from the investment. Counsel of record for a prevailing party(ies) shall consult with the Clerk of Court to ascertain the amount of interest accrued to date before applying (preferably by consent) to the Court for an order to disburse funds, including interest, from the Court's Registry.

(3) The Clerk Custodian shall deduct a miscellaneous schedule fee for the handling of those registry funds invested in interest bearing accounts, as authorized by the Judicial Conference of the United States and by Standing Order of this Court dated June 30, 1989, as amended November 30, 1990, and May 19, 2011, of 10% of the income earned on an account and any subsequent deposit of new principal while invested in ~~the Court's Registry~~ C.R.I.S.

(4) All disbursement orders shall provide for the signature of the Clerk of Court or his/her designee in addition to that of the Judge, and shall state the following: "I recommend approval of the above order and declare that no lien or other claim against monies deposited in the Registry of the Court in this matter is on file in my office as of this date."

(~~d~~ Date)

(Clerk /Deputy Clerk)

(5) Failure of a party to personally serve the proposed order provided in L. Civ. R. 67.1(b)(1) upon the Clerk of Court, Chief Deputy Clerk of Administration, Chief Deputy of Operations, ~~Deputy in Charge~~, or Chief Financial Deputy Finance Manager shall relieve the Clerk of Court or his/her designee from any all liability for any lien on or other claim against the monies on deposit.

COMMENT: These proposed amendments are necessary to reflect changes in the Court Registry Investment System (C.R.I.S.). As part of the Financial Management Improvement Program, the Administrative Office of the United States Courts (“AO”) sought and received from Congress authorization for the Director of the AO to invest registry funds in Government Accounting Series securities under the Bureau of Public Debt’s Federal Investment Program. The Judiciary sought the change to ensure the safety of money invested in C.R.I.S. and to earn market rates of return. The amendment also reflects the transition of the accountability and administration of C.R.I.S. from the United States District Court for the Southern District of Texas to the AO as the designated Custodian for C.R.I.S.

Civ. RULE 72.1 UNITED STATES MAGISTRATE JUDGES

(c) Appeals from Judgments and Other Orders

(1) Appeals from Non-Dispositive Orders

(A) Any party may appeal from a Magistrate Judge's determination of a non-dispositive matter within 14 days after the party has been served with a copy of the Magistrate Judge's order, unless a motion for reargument of the matter pursuant to L. Civ. R. 7.1(i) has been timely filed and served, in which case the time to appeal will begin to run when the parties are served with a copy of the Magistrate Judge's order rendering a determination on the merits of such a motion. Such party shall file with the Clerk and serve on all parties a written notice of appeal which shall specifically designate the order or part thereof appealed from and the basis for objection thereto. The notice of appeal shall be submitted for filing in the form of a notice of motion conforming with the requirements of L. Civ. R. 7.1. The party filing an appeal shall provide to the Court a transcript of that portion of the hearing before the Magistrate Judge wherein findings of fact were made, no later than 14 days before the return date of the motion. Any party opposing the appeal shall file a responsive brief at least 14 days prior to the motion day. Should the party appealing wish to reply to any responsive brief filed by the opposition, that party must file a reply brief at least seven days prior to the motion day. A cross-appeal related to the subject matter of the original determination may be filed by the responding party together with that party's opposition and may be noticed for a hearing on the same ~~date~~ day as the original appeal, as long as the responding papers are timely filed. A brief in ~~reply~~ response to the cross-appeal may be filed at least seven days prior to the date originally noticed for argument. Each of the above periods may be altered by the Magistrate Judge or Judge. A Judge shall consider the appeal and/or cross-appeal and set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law.

COMMENT: This rule addresses procedures that attorneys must follow when appealing non-dispositive orders issued by United States Magistrate Judges, including the filing of briefs in support of and in opposition to such appeals. However, it does not specify whether or not a reply brief is permitted. The added language indicates

that a reply brief is permitted and specifies when it should be filed. Also, clarifying language, changing “reply” to “response” in the fourth to last line, has been inserted to distinguish between responsive briefs and reply briefs.

Civ. RULE 104.1 DISCIPLINE OF ATTORNEYS

(a) Attorneys Convicted of Crimes

(1) Upon the filing with this Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted in any court of the United States, or the District of Columbia, or any state, territory, commonwealth or possession of the United States, of a serious crime as hereinafter defined, ~~the Court shall enter an order~~ Chief Judge shall immediately enter an order ~~immediately~~ temporarily suspending that attorney, whether the conviction resulted from a plea of guilty or *nolo contendere*, or from a verdict after trial or otherwise, and regardless of the pendency of any appeal, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the Court may set aside such order when the interest of justice requires.

(2) The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy or solicitation of another to commit a "serious crime."

(3) A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

(4) After the entry of the temporary suspension, the Court shall enter an Order to Show Cause as to why the temporary suspension should not be made permanent. If the suspended attorney does not contest the matter by the return date of the Order to Show Cause, the Court shall enter an Order of Disbarment barring the attorney from practice of law before the Court. If the attorney does contest the matter, the Court can refer the matter to counsel in accordance with subsections (5) and (6).

(5) Where ~~Upon the filing of a certified copy of a judgment of~~ the conviction of an attorney is for a serious crime, the Court shall, ~~in addition to suspending that attorney in accordance with the provisions of this Rule,~~ also refer the matter to counsel, who will represent the interests of the Court, for the institution of a disciplinary proceeding before the Court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all direct appeals from the conviction are concluded. Counsel shall

investigate and research the matter, and make a recommendation to the Court as to the appropriate sanction to be imposed in accordance with subsection (e) (4).

~~(65) Where the~~ Upon the filing of a certified copy of a judgment of conviction of an attorney is for a crime not constituting a serious crime, the Court may, in its discretion, refer the matter to counsel for a recommendation as to what action, if any, should be taken, including the institution of a disciplinary proceeding before the Court. ~~; provided, however, that the Court may in its discretion make no reference with respect to convictions for minor offenses.~~

~~(76)~~ An attorney suspended under the provisions of this Rule will be reinstated immediately upon the filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed but the reinstatement will not terminate any disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

COMMENT: The proposed amendment clarifies the procedures for disciplining attorneys convicted of crimes. In contrast to the current practice of immediately suspending an attorney convicted of a serious crime upon the filing of a certified copy of the judgment of conviction, the amended rule establishes that the initial suspension of such attorney shall be temporary and institutes the procedure of an Order to Show Cause why the temporary suspension should not be made permanent. It further provides for the interests of the Court to be represented by counsel, who will make recommendations to the Court after investigation and research.

PROPOSED AMENDMENTS ALLOWING FOR CONFORMITY WITH 28 U.S.C. §1746

COMMENT: Several of the Local Civil Rules require the submission of sworn statements in support of motions or other applications, but the type of sworn statement specified, e.g., affidavit, declaration, certification, varies from rule to rule. The amendments proposed below indicate that any statement complying with 28 U.S.C. § 1746 is acceptable to the Court. Section 1746 allows such sworn statements required by law by a person in writing to be substituted with the “unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury”

It should be noted that not all Local Civil Rules that reference sworn statements are suitable for this amendment because certain Local Civil Rules, omitted below, may require a specific type of sworn statement for good reason. Compliance with § 1746 is not acceptable when a preference for a particular type of document continues to be specified in the Local Civil Rules omitted from the revisions below.

Civ. RULE 5.1 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(b) Except where otherwise provided by these Rules (or the Federal Rules of Civil Procedure), proof of service of all papers required or permitted to be served shall be filed in the Clerk's office promptly and in any event before action is taken thereon by the Court or the parties. The proof shall show the date and manner of service and may be by written acknowledgement of service, by certificate of a member of the bar of this Court, by affidavit of the person who served the papers, or by any other proof satisfactory to the Court, including, without limitation, any document complying with 28 U.S.C. § 1746. . . .

Civ. RULE 5.3 PROTECTIVE ORDERS AND PUBLIC ACCESS UNDER CM/ECF

(b) Discovery Materials

(2) Parties may submit to a Judge or Magistrate Judge an agreed-on form of order which embodies a written agreement as described above. Any such form of order must be accompanied by an affidavit, ~~or~~ attorney certification or other document complying with 28 U.S.C. § 1746, filed electronically under the designation "affidavit/certification in support of discovery confidentiality order." The affidavit, ~~or~~ attorney certification or other document complying with 28 U.S.C. § 1746 shall describe (a) the nature of the materials to be kept The affidavit, ~~or~~ attorney certification or other document complying with 28 U.S.C. § 1746 shall be available for public review.

Civ. RULE 6.1 EXTENSIONS OF TIME AND CONTINUANCES

(c) A motion to postpone or continue a trial on the grounds of absence of a witness or evidence shall be made upon affidavit or other document complying with 28 U.S.C. § 1746 showing the nature and materiality of the expected testimony or evidence, and that diligent effort has been made to secure the witness or evidence

Civ. RULE 7.2 AFFIDAVITS AND BRIEFS

(a) Affidavits, declarations, certifications and other documents of the type referenced in 28 U.S.C. § 1746 shall be restricted to statements of fact within the personal knowledge of the signatoryaffiant. Argument of the facts and the law shall not be contained in such documentsaffidavits. Legal arguments and summations in such documentsaffidavits will be disregarded by the Court and may subject the signatoryaffiant to appropriate censure, sanctions or both.

**Civ. RULE 9.2 SPECIAL MATTERS - ADMIRALTY AND MARITIME RULES FOR
THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
NEW JERSEY**

LAMR (c) (4) Entry of Default and Default Judgment.

After the time for filing a claim or answer has expired, the plaintiff may move for entry of default under Fed. R. Civ. P. 55(a). Default will be entered upon showing by affidavit ~~or~~ certificate of counsel, or other document complying with 28 U.S.C. § 1746

**Civ. RULE 9.3 SPECIAL MATTERS – LOCAL PATENT RULES FOR THE UNITED
STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY**

L. Pat. R. 2.2 Confidentiality.

Within thirty (30) days after the initial Scheduling Conference, (a) the parties shall present a consent discovery confidentiality order, supported by a sufficient certification (or statement complying with 28 U.S.C. § 1746) under L. Civ. R. 5.3(b)(2), or (b) in the absence of consent, a party shall, supported by a sufficient certification, apply for entry of a discovery confidentiality order under L. Civ. R. 5.3(b)(5) and L. Civ. R. 37.1(a)(1).

Civ. RULE 11.2 VERIFICATION OF PETITIONS AND INITIAL CERTIFICATIONS

Except where otherwise provided by law, every petition shall be verified and, whenever possible, by the person on whose behalf it is presented. In case the same shall be verified by another, the affiant, declarant or certifier shall state in the affidavit, declaration, certification or other document submitted in accordance with 28 U.S.C. § 1746 the reasons such person does not make the verification and the affiant's, declarant's or certifier's authority for making it. The initial pleading, motion or other paper of any party filed in any case in this Court, other than a criminal action, shall be accompanied by a certification or other document complying with 28 U.S.C. § 1746 as to whether the matter in controversy is the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding, and, if so, the certification or other authorized document shall identify each such action, arbitration or administrative proceeding, and all parties thereto.

Civ. RULE 16.1 PRETRIAL CONFERENCES; SCHEDULING; CASE MANAGEMENT

(g) Case Management – Motions

(1) Case management motions must be accompanied by an affidavit or other document complying with 28 U.S.C. § 1746 certifying that the moving party has conferred with the opposing party in a good faith effort to resolve by agreement the issues raised by the motion without the intervention of the Court and that the parties have been unable to reach agreement. The affidavit or other document complying with 28 U.S.C. § 1746 shall set forth the date and method of communication used in attempting to reach agreement.

Civ. RULE 37.1 DISCOVERY MOTIONS

(b) Discovery Motions

(1) Discovery motions must be accompanied by an affidavit or other document complying with 28 U.S.C. § 1746 certifying that the moving party has conferred with the opposing party in a good faith effort to resolve by agreement the issues raised by the motion without the intervention of the Court and that the parties have been unable to reach agreement. The affidavit or other document complying with 28 U.S.C. § 1746 shall set forth the date and method of communication used in attempting to reach agreement.

Civ. RULE 41.1 DISMISSAL OF INACTIVE CASES

(a) Civil cases, other than bankruptcy matters, which have been pending in the Court for more than 120 days without any proceedings having been taken therein must be dismissed for lack of prosecution by the Court (1) on its own motion, or (2) on notice from the Clerk to all parties who have appeared, unless good cause is shown with the filing of an affidavit or other document complying with 28 U.S.C. § 1746 from counsel of record or the unrepresented party. Notice shall be provided by the Clerk of either action contemplated above under sub-paragraphs (1) and (2) to counsel, their client(s) and/or unrepresented persons who have appeared.

Civ. RULE 54.2 COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES

(a) Affidavits: Content. In all actions in which a counsel fee is allowed by the Court or permitted by statute, an attorney seeking compensation for services or reimbursement of necessary expenses shall file with the Court an affidavit or other document complying with 28 U.S.C. § 1746 within 30 days of the entry of judgment or order, unless extended by the Court, setting forth the following:

The time spent by each individual performing services shall be totalled at the end of the affidavit or other document complying with 28 U.S.C. § 1746. Computerized time sheets, to the extent that they reflect the above, may be utilized and attached to any such affidavit or other document showing the time units expended.

(b) Affidavits: Fee Agreements. Applications for the allowance of counsel fees shall include an affidavit or other document complying with 28 U.S.C. § 1746 describing all fee agreements and setting forth both the amount billed to the client for fees and disbursements and the amount paid.

Civ. RULE 65.1 APPLICATIONS FOR EMERGENCY RELIEF

(a) Any party may apply for an order requiring an adverse party to show cause why a preliminary injunction should not issue, upon the filing of a verified complaint or verified counterclaim or by affidavit or other document complying with 28 U.S.C. § 1746 during the pendency of the action. No order to show cause to bring on a matter for hearing will be granted except on a clear and specific showing by affidavit, other document complying with 28 U.S.C. § 1746 or verified pleading of good and sufficient reasons why a procedure other than by notice of motion is necessary. An order to show cause which is issued at the beginning of the action may not, however, serve as a substitute for a summons which shall issue in accordance with Fed. R. Civ. P. 4. The order to show cause may include temporary restraints only under the conditions set forth in Fed. R. Civ. P. 65(b).

Civ. RULE 66.1 RECEIVERSHIPS

(g) No receiver may employ an attorney, counsel or accountant except upon order of the Court supported by an affidavit or other document complying with 28 U.S.C. § 1746 of the receiver setting forth the necessity for the employment and an affidavit or other document complying with 28 U.S.C. § 1746 of the proposed attorney, counsel or accountant claiming no interest in the suit or any of the parties thereto in any way which would disqualify that person from serving the receiver in good faith as a fiduciary for all of the beneficial owners and creditors of the estate.

Civ. RULE 69.1 MARSHAL'S VOUCHERS

In all cases of sales of property by the Marshal, the Marshal shall (a) annex to the return vouchers for all disbursements, and (b) make an affidavit or other document complying with 28 U.S.C. § 1746 that (1) the services charged were actually and necessarily performed, and (2) the disbursements paid were actually incurred as therein stated.

Civ. RULE 104.1 DISCIPLINE OF ATTORNEYS

(f) Disbarment on Consent While Under Disciplinary Investigation or Prosecution

(1) Any attorney admitted to practice before this Court who is the subject of an investigation into or a pending proceeding involving allegations of misconduct may consent to disbarment, but only by delivering to this Court an affidavit or other document complying with 28 U.S.C. § 1746 stating that the attorney desires to consent to disbarment and that:

(2) Upon receipt of the required affidavit or other document complying with 28 U.S.C. § 1746, this Court shall enter an order disbarring the attorney signed by the Chief Judge, unless unavailable, at which time the order shall be signed by the next active Judge senior in commission.

(3) The order disbarring the attorney on consent shall be a matter of public record; however, the affidavit or other document complying with 28 U.S.C. § 1746 required by this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this Court.

(g) Reinstatement

(1) After Disbarment or Suspension

An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon filing with the Court an affidavit or other document complying with 28 U.S.C. § 1746 of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by order of this Court.

(k) Payment of Fees and Costs

At the conclusion of any disciplinary investigation or prosecution under these Rules, counsel appointed by the Court to either investigate, prosecute or defend the respondent in these disciplinary proceedings shall submit to the Court an itemized affidavit or other document complying with 28 U.S.C. § 1746 of expenses incurred in the course of such disciplinary investigation or prosecution. Any such appointed counsel may also submit an itemized affidavit or other document complying with 28 U.S.C. § 1746 of fees, calculated at \$75 per hour or such higher rate as may from time to time be allowable to counsel for indigent defendants under the federal Criminal Justice Act. Any attorney who is disciplined because of misconduct may be directed by the Court to pay all or part of the fees and expenses incurred by the Court and/or by any counsel appointed by the Court to investigate allegations of misconduct and/or to prosecute or defend the disciplinary proceedings. If the disciplinary proceedings result in the imposition

of no discipline upon the respondent, counsel appointed to investigate and/or prosecute the proceedings may seek from the Court an order that his/her expenses be reimbursed from the Court's Attorney Admissions Fee Fund. If the respondent is determined to be indigent, any attorney appointed to either investigate, prosecute or defend the respondent may seek from the Court an order that his/her expenses be reimbursed from the Court's Attorney Admissions Fee Fund, without regard to whether the proceedings resulted in the imposition of discipline. Upon receipt of affidavits [or other documents complying with 28 U.S.C. § 1746](#) regarding attorneys fees as described above, the Court may, in exceptional circumstances and if specifically requested by the applicant, order payment from the Court's Attorney Admissions Fee Fund of all or part of the fees of any appointed counsel. Any of the foregoing applications shall be made to the Judge appointed pursuant to paragraph (e) (9) hereof or, if no such Judge has been appointed, to the Chief Judge.

Civ. RULE 201.1 ARBITRATION

(d) Civil Cases Eligible for Compulsory Arbitration

(3) Presumption of Damages. For the sole purpose of making the determination as to whether the damages are in excess of \$150,000 as provided in L. Civ. R. 201.1(d)(1), damages shall be presumed in all cases to be \$150,000 or less, exclusive of interest and costs and any claim for punitive damages, unless counsel of record for the plaintiff at the time of filing the complaint or counsel of record for any other party at the time of filing that party's first pleading, or any counsel within 30 days of the filing of a notice of removal, files with the Court a document signed by said counsel which certifies that the damages recoverable exceed the sum of \$150,000 exclusive of interest and costs and any claim for punitive damages. The Court may disregard any certification [or other document complying with 28 U.S.C. § 1746](#) filed under this Rule and require arbitration if satisfied that recoverable damages do not exceed \$150,000. No provision of this Rule shall preclude an arbitrator from entering an award exceeding \$150,000 based upon the proofs presented at the arbitration hearing; and an arbitrator's award may also include interest, costs, statutory attorney's fees and punitive damages, if appropriate.