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U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
AUG 15 1997
DAVID J. MALAND, CLERK
BY DEPUTY

GENERAL ORDER NO. 97-12

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

GENERAL ORDER CONVERTING PROVISIONS OF THE CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLAN INTO LOCAL RULES, AND OTHERWISE AMENDING THE LOCAL RULES

The attached amended local rules, having been approved by the judges of this Court, are adopted for immediate implementation.[1] The local rules as amended now include the provisions of this Court's Civil Justice Expense and Delay Reduction Plan.

Also, Magistrate Judge Rule 4(A), which appears as Appendix B to the local rules, is amended as follows:

(A) Motion for Reconsideration of Non-Dispositive Matters - 28 U.S.C. Section 636(b)(1)(A).

Any party may file a motion for reconsideration by a district judge of a magistrate judge's order determining a motion or matter under Subsection 1(C) of these rules, *supra*, within 10 days after ~~issuance of~~ being served with a copy of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or a district judge. * * *

(B) Review of Case-Dispositive Motions and Prisoner Litigation - 28 U.S.C. Section 636(b)(1)(B).

* * *

[1]New language appears in redline text; deleted language appears in ~~strikeout~~ text.

Signed this 11th day of August, 1997.

FOR THE COURT

Richard A. Schell

RICHARD A. SCHELL
Chief Judge

U. S. DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS
LOCAL RULES
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[1] Headings for the Local Rules are generally taken from the corresponding Federal Rules of Civil and Criminal Procedure, rather than by developing titles based on the content of the local rule. The only exception to this is in Section III, "Attorneys," which contains the local attorney admission and disciplinary rules. The attorney rules apply to both civil and criminal practice and do not fit neatly under national civil and criminal rule headings. This approach was used by the U.S. District Court for the Western District of Texas.

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Disposition Table

This table summarizes the disposition of the former local rules and CJRA Plan provisions into the renumbered local rules.

New Local Rule	Former Local Rule	Former CJRA Plan Provision
CV-1	1, 16	
CV-3	13	
CV-4	4(b)	
CV-5	4(a)(2), 4(g), 4(i)	
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CV-63	18	
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CV-72	15	
NEW LOCAL RULE	**FORMER LOCAL RULE**	**FORMER CJRA PLAN PROVISION**
CV-79	5, 14	
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CR-1	1, 12(a), 15	
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CR-12	12(c)	
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CR-44	new	
CR-47	4(e), 6(a)-(g)	
CR-49	2A, 4(a), 4(i)	
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AT-1	2	
AT-2	3	

U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LOCAL COURT RULES

Preface

For the convenience of the bench and bar, the local civil rules, former CJRA Plan provisions and criminal rules have been renumbered and organized to correspond with the applicable Federal Rules of Civil and Criminal Procedure.[2] A subject-matter index is also provided.

[2] Two provisions of the previous CJRA Plan have been deleted as no longer necessary: (1) the Introduction to the CJRA Plan written in 1990, and (2) Article 6, Section 4, which provides that "[a]ny existing local rule not in conformity to this Plan will be revised to conform."

SECTION 1 CIVIL RULES

LOCAL RULE CV-1 Scope and Purpose of Rules

(a) These rules govern the procedure in all civil actions in the United States District Court for the Eastern District of Texas. These rules shall be construed as consistent with Acts of Congress and rules of practice and procedure prescribed by the Supreme Court of the United States and the United States Court of Appeals for the Fifth Judicial Circuit.

(b) These rules may be known and cited as Local Court Rules.

~~(c) These rules shall be construed to secure the just, speedy, and inexpensive determination of every action.~~

~~(d) Nothing contained in these rules shall be construed to limit the manner in which a Judge of this Court regulates the practices in his Court.~~

~~(e)~~ (c) The Supplemental Rules for Certain Admiralty and Maritime Claims, as adopted by the Supreme Court of the United States, shall govern all admiralty and maritime actions in this Court.

Source: Previous local rules 1 & 16

Rule 2 is reserved for future expansion

LOCAL RULE CV-3 Commencement of Action

Habeas Corpus and §2255 Motions. The Clerk may require that petitions for a writ of habeas corpus and motions filed pursuant to 28 U.S.C. §2255 be filed on a set of standardized forms approved by this Court and supplied, upon request, by the Clerk without cost, to the petitioner.

Source: Previous local rule 13

LOCAL RULE CV-4 Complaint, Summons and Return

(a) The original and one copy of the complaint in a civil action must be filed with the Clerk, except in patent cases, where an original and two copies of the complaint must be filed. Any waiver of service of summons shall be done in accordance with Rule 4(d), Fed.R.Civ.P. If service of summons is not waived, an original and two copies of the summons in a civil action must be prepared by the attorney for the plaintiff and submitted for each defendant to be served with a copy of the complaint. Additional copies of the complaint and summons in a civil action may be required by the Clerk for service through certain governmental agencies or on certain governmental defendants. The Clerk is required to collect the filing fee authorized by federal statute before accepting a complaint for filing.

(b) On the complaint, all litigants shall type or print all party names contained in the case caption with the accurate capitalization and spacing for each party (e.g. Martha vanDerkloot, James De Borne'). This procedure seeks to ensure that accurate computer party name searches can later be performed. In multi-party cases, all parties in the case caption shall be numbered (e.g. plaintiff 1 through plaintiff 6; defendant 1 through defendant 20).

~~(b)~~ (c) Service of civil process shall not be executed by the United States Marshal except for government initiated process, extraordinary writ or when ordered to do so by a judge.

(1) The attorney (or any plaintiff if acting prose) seeking service of civil process upon a pleading filed in this district will be responsible for designating a person over the age of 18 years who is not a party in the case to make service.

(2) Service may be made by such designated person by personal service pursuant to Rule 4, Fed.R.Civ.P. or by mailing a copy of the pleadings and summons by registered or certified mail to the person (restricted to addressee only) with return receipt requested.

(3) The attorney (or pro se plaintiff) shall file a return or affidavit with the Clerk reflecting whether or not service was completed, together with a copy of the return receipt.

(4)The service of subpoenas shall be completed pursuant to Rule 45(c), Fed.R.Civ.P. A subpoena may be served by any person who is not a party or attorney in the case and who is not less than 18 years of age.

(5) The party requesting service shall be responsible for preparing all process forms to be supplied by the Clerk. When process is to be served by the United States Marshal, the party seeking service shall complete the required U.S. Marshal Form 285.

~~(6) The Clerk of this Court is authorized to sign and enter orders specially appointing persons to serve process without further direction of the Court. Any order so entered may be suspended, altered or rescinded by the Court in its own discretion or for good cause shown.~~

~~(c)~~ (d) Service through the Secretary of State may be accomplished in the same manner as in (b(1) and (b)(2) above. Counsel shall furnish the following to the Secretary of State for each defendant sought to be served:

(1) The original and two (2) copies of the summons;

(2) Two (2) copies of the complaint; and

(3) A check in the amount of $50.00 (September 1, 1991) payable to the Secretary of State to ensure that counsel requesting service will receive certification from the Secretary of State that service has or has not been effected. Counsel shall file a copy of the proof of service by the Secretary of State with the Clerk of this Court within 10 days from its receipt. Failure to timely file such proof of service may result in the dismissal of the case for want of prosecution.

Source: Former local rule 4

LOCAL RULE CV-5 Service and Filing of Pleadings and Other Papers

(a) **Filing of Papers Generally**. The original and one copy of pleadings, motions and other papers shall be filed with the Clerk (*but see* Local Rule CV-4(b)). Except where a judge has not yet been assigned to a case, pleadings, motions and other papers shall include the case caption, the last name or initials of the assigned district judge and the appropriate magistrate judge, in the event that a case has been referred to a magistrate judge for disposition.

~~(1) Proposed findings of fact and conclusions of law, trial briefs, and proposed jury instructions shall be submitted to the judge to whom the case is assigned, with copies served upon all other parties.~~

(b) **Filing by Facsimile**.

Filing by facsimile will only be allowed in situations determined by the court to be of an emergency nature or other compelling circumstance. The clerk shall not accept documents transmitted by facsimile equipment unless prior authorization has been obtained from the judge or magistrate judge to whom the case has been assigned, or at that judge's personal direction, with the exception of emergency pleadings in capital offense cases.

(1) Authorized facsimile transmissions must be faxed directly to the clerk's office. Additionally,

(A) the party filing the document must mail the original signed document to the clerk on the same day it is sent via facsimile, along with any reasonable fee established by the clerk; and

(B) absent express judicial permission, documents filed by facsimile transmission shall not exceed 15 pages in length.

Failure to comply with these requirements may result in the pleading being stricken from the record.

(2) A facsimile pleading is deemed to be filed as of the date it is received by the court. The filed facsimile shall have the same force and effect as the original. The clerk shall assign the original signed pleading the same document number as the facsimile pleading.

(3) The clerk shall not accept for facsimile filing an original complaint, a removal from state court, or any other document constituting a new action.

(c) **Filing by After-Hours Depository.** The court maintains after-hours document depositories at the courthouses in Beaumont, Lufkin, Tyler, Marshall, Sherman and Texarkana. Any pleadings or other documents that are marked received using the electronic time stamp contained in the depository and then placed in the box will be entered on the docket as of the time and date marked as received to the depository.

Source: Previous local rules 4(a)(2), 4(g) &, 4(i)

Rule 6 is reserved for future expansion

LOCAL RULE CV-7 Pleadings Allowed; Form of Motions

(a) Generally[3]. All motions, unless made during a hearing or trial, shall be in writing and conform to the requirements of Local Rules CV-5 and CV-10. Every motion shall be signed by the attorney-in-charge, or with his or her permission. See Local Rule CV-11. The signature of an attorney constitutes a certificate by him that he has read the motion, that there are good grounds to support it, and that it is not interposed for delay. With each motion there shall also be filed and served a proposed order for the judge's signature. The order shall be a separate paper endorsed with the style and number of the cause.

(1) Dispositive Motions. Dispositive motions and briefs shall not exceed thirty pages, ~~including~~ excluding ~~authorities and~~ attachments, unless leave of court is first obtained. Likewise, a party opposing a dispositive motion shall limit the response to the motion to thirty pages, ~~including~~ excluding ~~authorities and~~ attachments, unless leave of Court is first obtained. See Rule CV-56 regarding attachment to motions for summary judgment and responses thereto.

(2) Non-dispositive Motions. Nondispositive motions shall not exceed fifteen pages including authorities and attachments, unless leave of Court is first obtained. Likewise, a party opposing a nondispositive motion shall limit the response to the motion to fifteen pages, including authorities and attachments, unless leave of Court is first obtained.

(b) Documents Supporting Motions. When allegations of fact not appearing in the record are relied upon in support of a motion, all affidavits and other pertinent documents shall be served and filed with the motion.

(1) Discovery Documents. When discovery documents or portions thereof are needed in support of a motion, those portions of the discovery which are relevant to the motion shall be submitted with the motion and attached thereto as exhibits. See Rule CV-56.

(c) Brief Supporting Motions. Motions may be accompanied by a brief. The brief shall contain a concise statement of the reasons in support of the motion and citation of authorities upon which the movant relies. Briefs are an especially helpful aid to the judge in deciding motions to dismiss, motions for summary judgment, motions to remand, and post-trial motions. All briefs must be filed ~~within the time prescribed by subsection (c) of this rule~~ concurrent with the motion they support.

(d) Response and Brief. If a party opposes a motion, he shall file his response, brief, and supporti

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[3]See Local Rule CV-65 regarding the form of an injunctive or T.R.O. motion that accompanies a complaint.

subsection (a) of this rule. Briefs shall contain a concise statement of the reasons in opposition to the motion, and a citation of authorities upon which the party relies. In the event a party fails to oppose a motion in the manner prescribed herein, the court will assume that the party has no opposition.

(e) Time to File Supporting Documents and Brief. A party opposing a motion has 10 days in which to serve and file supporting documents and briefs after which the court will consider the submitted motion for decision. Any party may separately move for an order of this court lengthening or shortening the period within which supporting documents and briefs may be filed.

(f) Service. All parties shall serve copies of their motion papers upon all other parties to the action ~~prior to filing with the Clerk~~. A certificate of service attached to the papers as provided for in Local Rule 10 shall indicate the time and method of service.

(g) Oral Hearings. A party may in a motion or a response specifically request an oral hearing, but the allowance of an oral hearing shall be within the sole discretion of the judge to whom the motion is assigned.

(h) Discovery Motions. Any judge of this Court may refuse to hear a motion relating to pre-trial discovery unless the movant advises the Court within the body of the motion that counsel for the parties have first conferred in a good faith attempt to resolve the matter by agreement.

(i) Determination of Motions. Motions filed by the parties shall be determined by the judicial officer as soon as practicable, and in any event within 30 days after filing of the response for non-dispositive motions. The Court shall employ its best efforts to dispose of dispositive motions such as summary judgment within sixty days.

Source: Previous local rules 4(e), 4(f) & 6 (except 6(h)); CJRA Plan Article 4.

LOCAL RULE CV-10 Form of Pleadings

When offered for filing, all papers shall be (1) endorsed with the style and number of the action and a statement of the character of the paper (e.g., COMPLAINT, MOTION TO DISMISS), (2) plainly written, typed, or printed, double-spaced, on 8 1/2 inch by 11 inch white paper, stapled at the top only, and punched at the top center with two holes 2 7/8 inches apart, (3) signed by the attorney in charge and contain beneath the signature line his or her name, bar I.D. number, post office address and telephone number. 'Blue backs" and other covers are not to be submitted with papers. No brief or motion shall be filed with the court with a font or typeface smaller than twelve (12) point type and 12 characters per inch. A certificate of service must be attached to and made a part of all papers when required by the Federal Rules of Civil Procedure.

Source: Former local rule 4(a)

LOCAL RULE CV-11 Signing of Pleadings, Motions and Other Papers

Attorney-in-charge.

(a) Designation. On first appearance through counsel, each party shall designate an attorney-in-charge. Signing the pleadings effects designation.

(b) Responsibility. The attorney-in-charge is responsible in that action for the party. That individual attorney shall attend all court proceedings or send a fully informed attorney with authority to bind the client.

(c) Signing the Pleadings. Every document filed must be signed by or by permission of, the attorney-in-charge. Requests for postponement of the trial shall be signed by the attorney of record and the party making the request.

(1) *Required Information.* Under the signature shall appear the

(A) attorney's individual name;
(B) designation 'attorney-in-charge";
(C) state bar number;
(D) office address including zip code; and
(E) telephone number with area code.

(2) Allowed Information. The name of the law firm and name(s) of associate counsel may appear with the designation 'of counsel."

(d) Withdrawal of Counsel. Although no delay will be countenanced because of a change in counsel, withdrawal of the attorney-in-charge may be effected by motion and order, under conditions imposed by the Court.

(e) Notices. All communications about an action will be sent to the attorney-in-charge, who is responsible for notifying associate counsel.

(f) Change of Address. Notices will be sent only to the address on file. A lawyer or pro se litigant is responsible for keeping the Clerk advised in writing of the current address. Counsel of record and pro se litigants must include in this advisement of change of address the case numbers of all pending cases in which they are participants in this district.

Source: Former local rule 2A; Article 6(8) of the former CJRA Plan

Rules 12-15 are reserved for future expansion

LOCAL RULE CV-16 Pretrial Conferences; Scheduling; Management

(a) **Case Management Conference**

(1) **Timing.**[4] Within 120 days after issues have been joined, the judicial officer assigned to cases in Tracks 3, 4, 5 and 6[5] shall convene a Management Conference.

(2) **Attorney Responsibility Prior to Management Conference.** Prior to the Management Conference, attorneys for each party shall make the required disclosures, shall have completed the depositions, if any, of the parties and shall have conferred with the other attorneys in the action concerning stipulations of fact and each of the items contained in section (c) below.

(3) **Scope of Management Conference.** At the Management Conference, the judicial officer shall address each of the following items:

(A) confirm or modify track assignment;
(B) establish deadlines for filing of motions;
(C) determine issues to be tried;
(D) identify witnesses who will testify at trial;
(E) establish deadlines for approval of proposed expert witnesses;
(F) determine the efficacy of referring the case to alternative dispute resolution;
(G) determine feasibility of a settlement conference and the timing of such conference, if any;
(H) establish a firm trial date;
(I) consider establishing a time limit for trial;
(J) discuss litigation cost estimates with the parties and counsel;
(K) invite offers of judgment;
(L) discuss any other matter appropriate for the case.

(4) **Attendance.** The Management Conference shall be attended by an attorney of record with full authority to make decisions and agreements that bind the client. Except in extraordinary circumstances, the court expects that attorney to be the one who will actually try the case. Attendance by clients at the management conference is not required unless otherwise ordered by the Court.

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[4]Sections (a)(1) and (a)(2) have been switched from their original order in the former CJRA Plan because the language of (a)(1) serves as a better introduction to the other provisions here.

[5] See Local Rule CV-26.

(b) **Pretrial Orders.** Pretrial orders shall be prepared for each case in Tracks 3, 4 and 5[6]. These pretrial orders will be standardized and used by each judicial officer. The standardized form can be found in Appendix D of ~~this Plan~~ these rules.

(c) **Alternative Dispute Resolution.** If the judicial officer determines that the case probably will benefit from alternative dispute resolution, the judicial officer shall have discretion to refer the case to:

(1) court-annexed mediation in accordance with the court's mediation plan (see Appendix H).

(2) voluntary mini-trial or summary jury trial before a judicial officer; or

(3) other alternative dispute resolution programs designated for use in this district

(d) **Docket Control Order Modification**. The Docket Control Order produced at the management conference may be modified at any time thereafter by the judicial officer to whom the case is assigned.

Source: Former CJRA Plan Articles 3, 6(2), 6(7), 6(10)

Rules 17-25 are reserved for future expansion

[6]See Local Rule CV-26 (Formerly CJRA Provision 26).

LOCAL RULE CV-26 Provisions Governing Discovery; Duty of Disclosure

(a) **Non-filing of Discovery Materials.** ~~Depositions upon oral examination and interrogatories, requests for documents, requests for admission and answers,~~ Discovery and responses thereto shall not be filed unless by order of the Court.

(b) **Tracking and Presumptive Discovery Limits.**[7] Upon the filing of each case, the Court will assign the case to one of six tracks. The parties may submit an agreed notice of assignment of the case to a track lower than the one to which it is initially assigned by the Court. Upon submission of such notice, signed by counsel for all parties, the case will remain on the track agreed to unless modified by the Court at the Management Conference. Each track will carry presumptive discovery limits as set forth below. These limits shall govern the case and may not be increased by the parties or their attorneys by agreement or otherwise. If any additional change of track number is necessary it should be taken up at the Management Conference at which time the judicial officer to whom the case is assigned may, upon good cause shown, expand or limit the discovery.

TRACK ONE:	No discovery
TRACK TWO:	Disclosure only
TRACK THREE:	Disclosure plus 25 interrogatories, 25 requests for admission, depositions of the parties, and depositions on written questions of custodians of business records for third parties.
TRACK FOUR:	Disclosure plus 25 interrogatories, 25 requests for admissions, depositions of the parties, depositions on written questions of custodians of business records for third parties, and three other depositions per side (i.e., per party or per group of parties with a common interest.)
TRACK FIVE:	Disclosure plus a discovery plan tailored by the judicial officer to fit the special management needs of the case.
TRACK SIX:	Disclosure plus a discovery plan as determined by the judicial officers to fit the special management needs of mass tort and other large groups of similar cases.

(c) **Initial Disclosure** [8].

(1) Each party shall, without awaiting a discovery request, provide to every other party:

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[7] "Differential Case Management" has been removed from the title of the section.

[8] **"ARTICLE TWO: DUTY OF DISCLOSURE.** When required by this Plan, the duty of disclosure means the following: (1) Initial Disclosure: (a)" was deleted to as unnecessary and to reduce the number of sublevels.

(A) The name and, if known, the address and telephone number of each person likely to have information that bears significantly on any claim or defense, identifying the subjects of the information, and a brief, fair summary of the substance of the information known by the person;

(B) A copy of all documents, data compilations, and tangible things in the possession, custody, or control of the party that are likely to bear significantly on any claim or defense;

(C) A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34, the documents or other evidentiary material on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and

(D) For inspection and copying as under Rule 34, any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(E) There is no duty to disclose privileged documents. Privileged documents or information shall be identified and the basis for the claimed privilege shall be disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

(F) Authorizations.

(i) Where a party's physical or mental condition is at issue in the case, that party shall provide the party's medical records or shall furnish a signed authorization to the opposing party's counsel so that records of health care providers which bear significantly on injuries and damages claimed may be obtained. If additional records are desired, the requesting party will have to show the need for them.

(ii) Where lost earnings, lost earning capacity or back pay is at issue in the case, the party making such claims shall furnish signed authorizations to the opposing party's counsel so that wage and earning records of past and present employers, and the Social Security Administration records, may be obtained.

(iii) Copies of any records obtained with authorizations provided pursuant to subsections (i) or (ii) above shall be promptly furnished to that party's counsel. Records which are obtained shall remain confidential. The attorney

in the case of an entity, those employees or officers of the entity necessary to prepare the defense), the attorney's own staff and consulting and testifying experts who may review the records in connection with formulating their opinions in the case.

(2) **Timing of Disclosure**. Unless the judicial officer directs otherwise, or the parties otherwise stipulate with the judicial officer's approval, these disclosures shall be made as follows:

(A) by a plaintiff within 30 days after
- (i) service of a Rule 12(b) motion or
- (ii) service of an answer to its complaint or
- (iii) removal of the action from state court

whichever occurs first;

(B) by a defendant within 30 days after
- (i) serving a Rule 12(b) motion or
- (ii) serving its answer to the complaint or
- (iii) removal of the action from state court, provided that service of process has been perfected upon that defendant

whichever occurs first; and, in any event

(C) by any party that has appeared in the case within 30 days after receiving from another party a written demand for accelerated disclosure accompanied by the demanding party's disclosure.

(3) **Bears Significantly On**. The following observations are provided for counsels' guidance in evaluating whether a particular piece of information 'bears significantly on" a claim or defense.

(A) It includes information that would not support the disclosing parties' contentions;

(B) It includes those persons who, if their potential testimony were known, might reasonably be expected to be deposed or called as a witness by any of the parties;

(C) It is information that is likely to have an influence on or affect the outcome of a claim or defense;

(D) It is information that deserves to be considered in the preparation, evaluation or trial of a claim or defense;

(E) It is information that reasonable and competent counsel would consider reasonably necessary to prepare, evaluate or try a claim or defense;

(E) It is information that reasonable and competent counsel would consider reasonably necessary to prepare, evaluate or try a claim or defense;

(F) All information that bears significantly on a claim or defense is relevant but all relevant information does not necessarily bear significantly on a claim or defense.

(4) **No Excuses**. A party is not excused from disclosure because it has not fully completed its investigation of the case, or because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. Absent court order to the contrary, a party is not excused from disclosure because there are pending motions to dismiss, to remand or to change venue. Parties asserting the defense of qualified immunity may submit a motion to limit disclosure to those materials necessary to decide the issue of qualified immunity.

(d) **Disclosure of Expert Testimony.**

(1) In addition to the disclosures required in section (b), each party shall disclose to every other party the identity of any person who may be used at trial to present evidence under Rules 702, 703, and 705, Federal Rules of Evidence. This disclosure shall be in the form of a written report prepared and signed by the witness that includes a complete statement of all opinions to be expressed and the basis and reasons therefor, the data or other information considered in forming such opinions; any exhibits to be used as a summary of or support for such opinions; the qualifications of the witness; and a listing of any other cases in which the witness has testified as an expert at trial or in deposition within the preceding four years. When listing the cases in which the witness has testified as an expert, the disclosure shall include the styles of the cases, the courts in which the cases were pending, the cause numbers, and whether the testimony was in trial or deposition. In addition, the report must include a list of all publications authored by the witness within the preceding ten years and the compensation to be paid for the study and testimony in this case. On motion of the party, an expert witness not retained or employed may be excused from filing the required report with approval of the court.

(2) Unless the judicial officer designates a different time, this disclosure shall be made at least 90 days before the date the case has been directed to be ready for trial, or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another under section (c)(1), then disclosure shall be made within 30 days after such disclosure is made.

(3) By order in the case, the judicial officer may alter the type or form of disclosures to be made with respect to particular experts or categories of experts, such as treating physicians.

(e) **Pretrial Disclosure**

(1) In addition to disclosures required in the preceding sections, each party shall provide to every

other party information regarding the evidence that the disclosing party may present at trial as follows:

(A) The name and, if not previously provided, the address and telephone number, of each witness, separately identifying those whom the party expects to present at trial and those whom the party may call if the need arises;

(B) the designation of those witnesses whose testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony.

(C) an appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those which the party expects to offer and those which the party may offer if the need arises.

(2) **Timing.** Unless otherwise directed by the judicial officer, these disclosures shall be made at least 30 days before trial. Within 14 days thereafter, unless a different time is specified by the court, a party may serve and file a list disclosing (1) any objections to the use under Rule 32(a) of a deposition designated by another party under subparagraph (B) and (2) any objections, together with the grounds therefor, that may be made to the admissibility of materials identified under subparagraph (C). Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the court for good cause shown.

(f) **Form of Disclosures, Meeting, Filing.** The disclosures required by the preceding sections shall be made in writing and signed by the party or counsel in accordance with Rule 26(a)(4) and 26(g) and shall constitute a certification that, to the best of the signer's knowledge, information and belief, such disclosure is complete and correct as of the time it is made. If feasible, counsel shall meet to exchange disclosures required by sections (b) and (d); otherwise such disclosures shall be served as provided by Rule 5, Fed.R. Civ. P. The parties shall file a prompt notice with the court that the required disclosure has taken place.

(g) **Duty to Supplement**. After disclosure is made pursuant to this article, each party is under a duty to immediately supplement or correct its disclosures if the party obtains information on the basis of which it knows that the information disclosed was either incomplete or incorrect when made, or is no longer complete or true.

(h) **Discovery Hotline** - (903) 593-0742. The Court shall provide a judicial officer on call during business hours to rule on discovery disputes and to enforce provisions of ~~the Plan~~ these rules. Counsel may contact the judicial officer by dialing the Hotline number listed above for any case in the district and get an immediate hearing on the record and ruling on the discovery dispute or request to enforce or modify provisions of the ~~Plan~~ rules as ~~it~~ they relate~~s~~ to a particular case.

Source: Former local rule 4(h); Articles 1, 2, and 6(1) of the CJRA Plan

LOCAL RULE CV-27 Depositions Before Action or Pending Appeal

Notices of deposition shall not be filed with the Clerk, and shall not be accepted for filing by the Clerk except as an attachment to an objection to the taking of the deposition and/or motion thereupon.

Source: Note appended to former local rule 4 citing General Order 90-24

Rules 28-29 are reserved for future expansion

LOCAL RULE CV-30 Depositions Upon Oral Examination

Depositions of witnesses or parties shall be taken on weekdays and may not last longer than six hours, unless otherwise authorized by the court. A non-party witness, that is a neutral witness or a witness which all parties must examine, the six hour time limit shall be divided equally among plaintiffs and defendants. Depositions may be taken after 5:00 P. M., on weekends, or holidays with approval of a judicial officer or by agreement of counsel. Attorneys are prohibited from instructing the deponent not to answer a question or how to answer a question, except to assert a recognized privilege. Other objections shall be made at trial.

Source: Article 6(6), Former CJRA Plan.

Rules 31-37 are reserved for future expansion

LOCAL RULE CV-38 Jury Trial of Right

(a) **Jury Demand**. Pleadings in which a jury is demanded shall bear the word 'jury' at the top, immediately below the case number.

(b) **Selection of Jurors.** Trial jurors shall be selected at random in accordance with a plan adopted by this Court pursuant to applicable federal statute and rule. See Appendix E.

(c) **Taxation of Jury Costs for Late Settlement**. Except for good cause shown, whenever the settlement of an action tried by a jury causes a trial to be postponed, canceled or terminated before a verdict, all juror costs, including attendance fees, mileage, and subsistence, may be imposed upon the parties unless counsel has notified the Court and the clerk's office of the settlement at least one full business day prior to the day on which the trial is scheduled to begin. The costs shall be assessed equally against the parties and their counsel unless otherwise ordered by the Court.

Source: Former Local Rules 4(c) & 9.

Rules 39-40 are reserved for future expansion

LOCAL RULE CV-41 Dismissal of Actions

A dismissal for failure to prosecute may be ordered by this Court upon motion by an adverse party, or upon this Court's own motion.

Source: Former local rule 7.

LOCAL RULE CV-42 Consolidation; Separate Trials

Consolidation of Actions.

(a) Duty to Notify Court of Collateral Proceedings and Refiled Cases. Whenever a civil matter, commenced in or removed to the court, involves subject matter that either comprises all or a material part of the subject matter or operative facts of another action, whether civil or criminal, then pending before this or another court or administrative agency, or previously dismissed or decided by this court, counsel for the filing party shall identify the collateral proceedings and/or refiled case(s) on the civil cover sheet filed in this court. The duty to notify the court and opposing counsel of any collateral proceeding continues throughout the time the action is before this court.

(b) When two or more actions are pending before a judge which involve either (1) a common question of law or fact; or (2) the same parties and issues; or (3) different or additional parties and issues all of which arise out of the same transaction or occurrence, that judge may order that all or part of the actions be consolidated.

(c) Consolidation in Multi-Judge Division. When actions that may be consolidated under lb) above have been filed in a division wherein the caseload is divided between two or more judges, the actions, upon consolidation, shall be assigned to the judge who was assigned the initial action or actions. The judge assigned the initial action or actions has the prerogative of declining the transfer and assignment of the additional action or actions.

Source: Previous local rule 17

Rules 43-44 are reserved for future expansion

LOCAL RULE CV-45 Subpoena

Attorneys shall prepare all subpoenas.

Source: Former local rule 4(d)

LOCAL RULE CV-47 Selection of Jurors

Communication with Jurors

(a) No party or attorney for a party shall converse with a member of the jury during the trial of an action.

(b) After a verdict is rendered but before the jury is discharged from further duty, an attorney may obtain leave of the judge before whom the action was tried to converse with members of the jury.

(c) Nothing in this rule shall be construed to limit the power of the judge before whom an action is being or has been tried to permit conversations between jurors and attorneys.

Source: Former local rule 10.

Rules 48-55 are reserved for future expansion

LOCAL RULE CV-56 Summary Judgment

Summary Judgment Procedure.

(a) Any party moving for summary judgment should identify both the legal and factual basis for its motion. The text of the motion or an appendix thereto must include a "Statement of Material Facts." If the movant relies upon evidence to support its motion, the motion should include appropriate citations to proper summary judgment evidence as to which the moving party contends there is no genuine issue of material fact for trial. Proper summary judgment evidence should be attached to the motion in accordance with section (d) of this rule.

(b) Any party opposing the motion should serve and file a response that includes in the text of the response or as an appendix thereto, a "Statement of Genuine Issues." The response should be supported by appropriate citations to proper summary judgment evidence as to which it is contended that a genuine issue of material fact exists. Proper summary judgment evidence should be attached to the response in accordance with the procedure contained in section (d) of this rule.

(c) In resolving the motion for summary judgment, the Court will assume that the facts as claimed and supported by admissible evidence by the moving party are admitted to exist without controversy, except to the extent that such facts are controverted in the "Statement of Genuine Issues" filed in opposition to the motion, as supported by proper summary judgment evidence. The Court will not scour the record in an attempt to determine whether the record contains an undesignated genuine issue of material fact for trial before entering summary judgment.

(d) As used within this rule, "proper summary judgment evidence" means excerpted copies of pleadings, depositions, answers to interrogatories, admissions, affidavits, and other admissible evidence cited in the motion for summary judgment or the response thereto. The phrase "appropriate citations" means that any excerpted evidentiary materials that are attached to the motion or the response should be referred to by page and, if possible, by line. Any attached evidentiary materials should have the cited portions highlighted in the copy provided to the Court, unless the citation encompasses the entire page. The page preceding and following a highlighted page may be submitted if necessary to place the highlighted material in its proper context. Only relevant, cited-to excerpts of evidentiary materials should be attached to the motion or the response.

Source: New

Rules 57-62 are reserved for further expansion

LOCAL RULE CV-63 Inability of a Judge to Proceed

Reassignment of Actions after Recusal or Disqualification

(a) **Single-Judge Divisions.**

(1) Upon the disqualification or recusal of a judge from participation in an action or proceeding pending in a division wherein actions are assigned to only one judge, a reassignment and transfer of the action or matter shall be made in accordance with an order of the Chief Judge of the district.

(2) When the Chief Judge is the only judge who is assigned actions in a particular division and is disqualified or recuses himself in an action or proceeding pending in that division, the action or matter systematically shall be reassigned and transferred to the judge in active service, present in the district and able and qualified to act as Chief Judge, who is senior in precedence over the remaining judges in the district. Such action or matter may be reassigned and transferred by such Acting Chief Judge as provided in (1)(A).

(b) **Multi-Judge Divisions**. Upon the disqualification of a judge from participation in an action or proceeding pending in a division wherein the caseload is divided between two judges, the action or matter systematically shall be reassigned and transferred to the other judge sitting in that division. Where the caseload in the division is divided between more than two judges, the action or matter systematically shall be reassigned and transferred randomly to a judge in the division who is not disqualified. The Clerk shall randomly assign another case to the recusing/disqualified judge in place of the case he/she recused in or was disqualified in. In instances where each judge in a two-judge or a multi-judge division recuses himself or is disqualified, the action or matter systematically shall be reassigned and transferred in accordance with an order of the Chief Judge of the district to any judge in active service, in another division, who is not disqualified.

(c) **All Judges Disqualified**. If all of the judges in the district shall recuse themselves or be disqualified to serve with reference to a particular civil or criminal action or matter, the Clerk of the Court shall, without delay, so certify to the Chief Judge of the Court of Appeals for the Fifth Circuit, in order that he may re-assign such action or matter to a suitable judge.

Source: Former local rule 18.

Rule 64 is reserved for future expansion

LOCAL RULE CV-65 Injunctions

An application for a temporary restraining order or for a preliminary injunction shall be made on an instrument separate from the complaint.

Source: Former local rule 8.

LOCAL RULE CV-65.1 Security; Proceedings Against Sureties

No attorney, clerk, or marshal, nor the deputies of any clerk or marshal shall be received as security on any cost, bail, attachment, forthcoming or replevy bond, without written permission of a judge of this Court.

Source: Former local rule 11.

Rules 66-67 are reserved for future expansion

LOCAL RULE CV-68 Offer of Judgment

At the Management Conference or anytime thereafter, a party may make a written offer of judgment. If the offer of judgment is not accepted and the final judgment in the case is of more benefit to the party who made the offer by 10%, then the party who rejected the offer must pay the litigation costs incurred after the offer was rejected. In personal injury and civil rights cases involving contingent attorneys' fees, the award of litigation costs shall not exceed the amount of the final judgment. The Court may, in its discretion, reduce the award of litigation costs in order to prevent undue hardship to a party.

"Litigation costs" means those costs which are directly related to preparing the case for trial and actual trial expenses, including but not limited to reasonable attorneys' fees, deposition costs and fees for expert witnesses.

The party who makes an offer of judgment shall set forth the deadline by which the offer must be accepted. The deadline must be reasonable. If the offer is not accepted in writing by the deadline, the offer is deemed rejected on that day.

The government's participation in this section is not mandatory, but is permitted with the consent of the government.

Source: Article 6(9), Former CJRA Plan.

Rules 69-71A are reserved for future expansion

LOCAL RULE CV-72 Magistrate Judges

Powers and Duties of a United States Magistrate Judge in Civil Cases. The powers and duties of a United States Magistrate Judge serving within the Eastern District of Texas shall be governed by the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges adopted by this Court. See Appendix B. Nothing in this rule shall be construed to limit the jurisdiction of a United States Magistrate Judge serving in the Eastern District of Texas acting pursuant to powers directly conferred by Act of Congress or applicable rule.

Source: Former local rule 15

LOCAL RULE CV-79 Books and Records Kept by the Clerk

(a) **Disposition of Exhibits And/or Sealed Documents by the Clerk.** Thirty days after a civil action has been finally disposed of by the appellate courts or from the date the appeal time lapsed, the Clerk is authorized to take the following actions:

(1) **Unsealed exhibits.** Destroy any exhibits filed therein which have not been previously claimed by the attorney of record for the party offering the same in evidence at the trial;

(2) **Sealed exhibits/documents.** ~~Unseal and file in the original case file any documents which have been filed of record and ordered sealed by the Court, except *in camera* documents, presentence investigation reports, applications for pen registers, trap and trace devices, search warrants, wire taps and tax return orders as specified below. The Clerk shall timely notify all parties in the case that the sealed documents will be unsealed and filed in the original case file at the conclusion of the thirty-day period, unless otherwise ordered by the Court.~~

~~(A) **Unfiled *in camera* exhibits/documents.** All unfiled confidential documents and/or exhibits submitted to the Court for *in camera* inspection in all civil and criminal actions shall be claimed by the party(ies) submitting same after final~~

3/3/98

Prior to G.O. 97-12, some sealed exhibits, photographs, etc. in criminal matters contained in the vault were shredded due to a misunderstanding of procedures regarding the scanning of exhibits. The scanning and/or shredding of exhibits and documents began in 1997. This procedure has now been corrected.

of scanned images is maintained for the foreseeable future, and that no unauthorized access of the stored images occurs.

(b) **Removal of Papers, Records, etc.** The Clerk shall not allow the original copy of any papers, records, proceedings, or any other paper, writing or memorandum, belonging to or related to and filed in any civil action in this Court to be removed from the Clerk's Office without permission of the Judge to whom the case is assigned. The Clerk may authorize an attorney of record to remove copies of all papers, records, etc., filed in a civil action, from the Clerk's Office for examination for a limited period upon taking the attorney's receipt.

Source: Former local rules 5 & 14

LOCAL RULE CV-81 Removed Actions

Parties removing cases from state court to federal court shall comply with the following:

(a) File with the Clerk a notice of removal which reflects the style of the case exactly as it was styled in state court;

(b) If a jury was requested in state court, the removed action will be placed on the jury docket of this court; however, the removing party or parties shall include the word 'jury' at the top of the notice for removal, immediately below the case number (see Local Rule CV-38(a));

(c) The removing party or parties shall furnish to the Clerk the following information at the time of removal:

(1) a list of all parties in the case, their party type (e.g., plaintiff, defendant, intervenor, receiver, etc.) and current status of the removed case (pending, dismissed).

(2) a civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action (e.g., complaints, amended complaints, supplemental complaints, petitions, counter-claims, cross-actions, third party actions, interventions, etc.); all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court, as required by 28 U.S.C. § 1446(a);

(3) a complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number and party or parties represented by him/her; and

(4) a record of which parties have requested trial by jury (this information is in addition to placing the word 'jury' at the top of the Notice of Removal immediately below the case number).

(d) Any motions pending in state court made by any party will be considered moot at the time of removal unless they are re-urged in this court. Failure to comply with any of the requirements set forth in this rule may result in dismissal of the case.

Source: *Former local rule 19*

LOCAL RULE CV-83 Rules by District Courts; Judge's Directives

(a) **Attorney's Fees**. The assumption that underlies the substance of the Civil Justice Reform Act is that implementation of a plan that substantially reduces legal activity during discovery will result in cost reduction for litigants who pay for legal services by the hour. Whether such presumed reductions become a reality remains to be seen. The court shall adopt methods to evaluate the effectiveness of the court's plan in this respect. However, no such reduction from these measures will inure to the benefit of litigants who retain counsel on a contingency fee basis. The court, therefore, adopts the following maximum fee schedule for contingency fee cases (whether filed originally in this court or removed from state court):

(1) Contingent fees in non-statutory cases: A fee of 33-1/3% of the total award or settlement

(2) Expenses: Expenses incurred by attorneys that are directly related to the costs of litigation of individual cases shall be deducted from the award or settlement before any calculation or distribution is made for attorneys' fees. No deduction is permitted for general office overhead expenses. Moreover, attorneys are prohibited from charging interest on any money advanced for expenses.

(3) The court may modify the fee in exceptional circumstances.

(4) In cases where statutory attorneys' fees are recoverable, such as civil rights cases, the court shall approve a reasonable fee.

(b) **Docket Calls**. Traditional docket calls are abolished. Each judicial officer shall endeavor to set early and firm trial dates which will eliminate the need for multiple-case docket calls.

~~(c) **Inconsistencies with the Federal Rules of Civil Procedure**. To the extent that the Federal Rules of Civil Procedure are inconsistent with the CJRA Plan, the Plan has precedence and is controlling.~~

Source: Previous CJRA Plan Articles 5 and 6(3,5).

Rules 84-86 are reserved for future expansion

SECTION TWO: CRIMINAL RULES

LOCAL RULE CR-1 Scope

(a) These rules govern the procedure in all criminal actions in the United States District Court for the Eastern District of Texas. These rules shall be construed as consistent with Acts of Congress and rules of practice and procedure prescribed by the Supreme Court of the United States and the United States Court of Appeals for the Fifth Judicial Circuit.

(b) These rules may be known and cited as Local Criminal Rules.

~~(c) These rules shall be construed to secure the just, speedy, and inexpensive determination of every action.~~

~~(d)~~ (c) The disposition of criminal cases shall be governed by the Plan for the United States District Court, Eastern District of Texas, for Achieving Prompt Disposition of Criminal Cases. See Appendix F.

~~(e)~~ (d) The powers and duties of a United States Magistrate Judge serving within the Eastern District of Texas in criminal cases shall be governed by the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges adopted by this Court. See Appendix B. Nothing in this rule shall be construed to limit the jurisdiction of a United States Magistrate Judge serving in the Eastern District of Texas acting pursuant to powers directly conferred by Act of Congress or applicable rule.

Source: Previous local rules 1, 12(a), 15

LOCAL RULE CR-6 The Grand Jury

Selection of Grand Jurors. Grand jurors shall be selected at random in accordance with a plan adopted by this Court pursuant to applicable federal statute and rule. See Appendix E.

Source: Derivative of former local rule 9

LOCAL RULE CR-10 Arraignments

In the interest of reducing delays and costs, judges and magistrate judges may conduct the arraignment at the same time as the post-indictment initial appearance.

Source: Former local rule 12(b)

LOCAL RULE CR-12 Pleadings and Motions Before Trial.

Criminal defense attorneys must confer with the Assistant U.S. Attorney in a good faith attempt to resolve pretrial disputes before filing a motion, and must certify to such a conference in the motion.

Source: Former local rule 12(c)

LOCAL RULE CR-17 Subpoena

Attorneys shall prepare all subpoenas. The service of subpoenas shall be completed pursuant to Rule 17(d), Fed.R.Crim.P. A subpoena may be served by any person who is not a party or attorney in the case and who is not less than 18 years of age.

Source: Former local rules 4(b)(2)(D), 4(d)

LOCAL RULE CR-24 Trial Jurors

(a) **Selection of Jurors.** Petit jurors shall be selected at random in accordance with a plan adopted by this Court pursuant to applicable federal statute and rule. See Appendix E.

(b) **Communication with Jurors.**

(1) No party or attorney for a party shall converse with a member of the jury during the trial of an action.

(2) After a verdict is rendered but before the jury is discharged from further duty, an attorney may obtain leave of the judge before whom the action was tried to converse with members of the jury.

(3) Nothing in this rule shall be construed to limit the power of the judge before whom an action is being or has been tried to permit conversations between jurors and attorneys.

Source: *Local rules 9(a) & 10*

LOCAL RULE CR-44 Right to and Assignment of Counsel

The appointment of counsel in criminal cases for persons who are financially unable to obtain adequate representation is governed by the local Criminal Justice Plan adopted by the Court. See Appendix G.

LOCAL RULE CR-47 Motions

(a) **Generally.** All motions in criminal cases, unless made during a hearing or trial, shall be in writing and conform to the requirements of Local Rule CR-49. Every motion shall be signed by the attorney-in-charge, or with his or her permission. The signature of an attorney constitutes a certificate by him that he has read the motion, that there are good grounds to support it, and that it is not interposed for delay. With each motion there shall also be filed and served a proposed order for the judge's signature. The order shall be a separate paper endorsed with the style and number of the cause.

(b) **Documents Supporting Motions.** When allegations of fact not appearing in the record are relied upon in support of a motion, all affidavits and other pertinent documents shall be served and filed with the motion.

(c) **Brief Supporting Motions.** Motions may be accompanied by a brief. The brief shall contain a concise statement of the reasons in support of the motion and citation of authorities upon which the movant relies. Briefs are an especially helpful aid to the judge in deciding motions to dismiss, motions for summary judgment, motions to remand, and post-trial motions. All briefs must be filed ~~within the time prescribed by subsection (e) of this rule~~ concurrent with the motion they support.

(d) **Response and Brief.** If a party opposes a motion, he shall file his response, brief, and supporting documents as are then available within the time period prescribed by subsection (e) of this rule. A response shall be accompanied by a proposed order conforming to the requirements of subsection (a). Briefs shall contain a concise statement of the reasons in opposition to the motion, and a citation of authorities upon which the party relies. In the event a party fails to oppose a motion in the manner prescribed herein, the court will assume that the party has no opposition.

(e) **Time to File Supporting Documents and Brief.** A party opposing a motion has 10 days in which to serve and file supporting documents and briefs after which the court will consider the submitted motion for decision. Any party may separately move for an order of this court lengthening or shortening the period within which supporting documents and briefs may be filed.

(f) **Service.** All parties shall serve copies of their motion papers upon all other parties to the action ~~prior to filing with the Clerk~~. A certificate of service attached to the papers as provided for in Local Rule CR-49(a)(1) shall indicate the time and method of service.

(g) **Oral Hearings.** A party may in a motion or a response specifically request an oral hearing, but the allowance of an oral hearing shall be within the sole discretion of the judge to whom the motion is assigned.

Source: Former local rules 4(e) & 6(a) - (g)

LOCAL RULE CR-49 Service and Filing of Papers

(a) Generally.

(1) When offered for filing, all papers shall be (1) endorsed with the style and number of the action and a statement of the character of the paper (e.g., MOTION TO SUPPRESS), (2) plainly written, typed, or printed, double-spaced, on 8 1/2 inch by 11 inch white paper, stapled at the top only, and punched at the top center with two holes 2 7/8 inches apart, (3) signed by the attorney in charge and contain beneath the signature line his or her name, bar I.D. number, post office address and telephone number. 'Blue backs" and other covers are not to be submitted with papers. No brief or motion shall be filed with the court with a font or typeface smaller than twelve (12) point type and 12 characters per inch. A certificate of service must be attached to and made a part of all papers when required by the Federal Rules of Criminal Procedure.

(2) The original and one copy of pleadings, motions and other papers shall be filed with the Clerk. Except where a judge has not yet been assigned to a case, pleadings, motions and other papers shall include the case caption, the last name or initials of the (a) assigned district judge and (b) the appropriate magistrate judge, in the event that a case has been referred to a magistrate judge for disposition.

(b) Facsimile Filing.

(1) Filing by facsimile will only be allowed in situations determined by the court to be of an emergency nature or other compelling circumstance. The clerk shall not accept documents transmitted by facsimile equipment unless prior authorization has been obtained from the judge or magistrate judge to whom the case has been assigned, or at that judge's personal direction, with the exception of emergency pleadings in capital offense cases.

(2) Authorized facsimile transmissions must be faxed directly to the clerk's office. Additionally,

(A) the party filing the document must mail the original signed document to the clerk on the same day it is sent via facsimile, along with any reasonable fee established by the clerk; and

(B) absent express judicial permission, documents filed by facsimile transmission shall not exceed 15 pages in length.

Failure to comply with these requirements may result in the pleading being stricken from the record.

(3) A facsimile pleading is deemed to be filed as of the date it is received by the court. The filed facsimile shall have the same force and effect as the original. The clerk shall assign the

original signed pleading the same document number as the facsimile pleading.

(4) The clerk shall not accept for facsimile filing an original complaint, a removal from state court, or any other document constituting a new action.

(c) Attorney-in-Charge.

(1) Designation. On first appearance through counsel, each party shall designate an attorney-in--charge. Signing the pleadings effects designation.

(2) Responsibility. The attorney-in-charge is responsible in that action for the party. That individual attorney shall attend all court proceedings or send a fully informed attorney with authority to bind the client.

(3) Signing the Pleadings. Every document filed must be signed by or by permission of, the attorney-in-charge.

(A) Required Information. Under the signature shall appear the

(i) attorney's individual name;
(ii) designation 'attorney-in-charge";
(iii) state bar number;
(iv) office address including zip code; and
(v) telephone number with area code.

(B) Allowed Information. The name of the law firm and name(s) of associate counsel may appear with the designation 'of counsel."

(4) Withdrawal of Counsel. Although no delay will be countenanced because of a change in counsel, withdrawal of the attorney-in-charge may be effected by motion and order, under conditions imposed by the Court.

(5) Notices. All communications about an action will be sent to the attorney-in-charge, who is responsible for notifying associate counsel.

(6) Change of Address. Notices will be sent only to the address on file. A lawyer or pro se litigant is responsible for keeping the Clerk advised in writing of the current address. Counsel of record and pro se litigants must include in this advisement of change of address the case numbers of all pending cases in which they are participants in this district.

(d) **Filing by After-Hours Depository.** The court maintains after-hours document depositories at the courthouses in Beaumont, Lufkin, Tyler, Marshall, Sherman and Texarkana. Any pleadings or other documents that are marked received using the electronic time stamp contained in the

depository and then placed in the box will be entered on the docket as of the time and date marked as received to the depository.

Source: *Former local rules 2A, 4(a), 4(i)*

LOCAL RULE CR-55 Records

(a) **Removal of Papers, Records, etc.** The Clerk shall not allow any papers, records, etc. in a criminal case to be removed from the Clerk's Office except upon order of the Judge to whom the case is assigned.

(b) **Disposition of Exhibits and/or Sealed Documents by Clerk.** Thirty days after a criminal action has been finally disposed of by the appellate courts or from the date the appeal time lapsed, the Clerk is authorized to take the following actions:

(1) **Unsealed exhibits.** Destroy any exhibits filed therein which have not been previously claimed by the attorney of record for the party offering the same in evidence at the trial;

(2) **Sealed exhibits/documents.** ~~Unseal and file in the original case file any documents which have been filed of record and ordered sealed by the Court, except *in camera* documents, presentence investigation reports, applications for pen registers, trap and trace devices, search warrants, wire taps and tax return orders as specified below. The Clerk shall timely notify all parties in the case that the sealed documents will be unsealed and filed in the original case file at the conclusion of the thirty-day period, unless otherwise ordered by the Court.~~

~~(A) **Unfiled *in camera* exhibits/documents.** All unfiled confidential documents and/or exhibits submitted to the Court for *in camera* inspection in all civil and criminal actions shall be claimed by the party(ies) submitting same after final disposition of all matters in controversy has been made. The Clerk shall provide timely written notification to the party(ies) who submitted the confidential materials that they will have thirty days to claim these materials. If no response is received to this notification at the conclusion of the thirty-day period, the confidential matters shall be destroyed by a suitable method to be determined by the Clerk; and~~

~~(3) **Sealed Presentence Investigation Reports, Applications for Pen Registers, Trap and Trace Devices, Search Warrants, Wire Taps and Tax Return Orders.**~~ Scan the original documents into electronic images that are stored on the court's computer system in lieu of maintaining the original paper copies. ~~In cases involving applications for pen registers, trap and trace devices, search warrants, wire taps and tax return orders, the Clerk shall scan the original sealed documents into electronic images no sooner than one hundred-eighty (180) days from the date the sealed document was filed.~~ The Clerk shall ensure that the database of scanned images is maintained for the foreseeable future, and that no unauthorized access of the stored images occurs.

Source: Former local rules 5 & 14

SECTION III: ATTORNEYS

LOCAL RULE AT-1 Admission to Practice

(a) An attorney who has been admitted to practice before the Supreme Court of the United States, or a United States Court of Appeals, or a United States District Court, or the highest court of a state, is eligible for admission to the Bar of this Court. He or she must be of good moral and professional character, and must be a member in good standing of the state and federal bars in which he or she is licensed.

(b) Each applicant shall file an application on a form prescribed by the Court. If the applicant has previously been subject to disciplinary proceedings, full information about the proceedings, the charges and the result must be given.

(1) A motion for admission made by a member in good standing of the Bar of Texas or the bar of any united States District Court shall accompany the completed admission form. The movant must state that the applicant is competent to practice before this Court and is of good personal and professional character.

(2) The applicant must provide with the application form an oath of admission signed in the presence of a notary public on a form prescribed by the Court.

(A) The completed application for admission, motion for admission and oath of admission shall be submitted to the Court, along with the admission fee required by law and any other fee required by the Court. Upon investigation of the fitness, competency and qualifications of the applicant, completed application forms may be granted or denied by the Clerk subject to the oversight of the Chief Judge.

(c) The Clerk shall maintain a complete list of all attorneys who have been admitted to practice before the Court.

(d) An attorney who is not admitted to practice before this Court may appear for or represent a party in any case in this Court only by permission of the Judge before whom the case is pending. When an attorney who is not a member of the Bar of this Court appears in any case before this Court, he or she shall first present to the Judge before whom the case is pending a motion requesting permission to appear. Such motion shall be accompanied by a ten dollar local fee. An order shall then be entered by this Court granting or denying the motion.

Source: *Former local rule 2*

LOCAL RULE AT-2 Attorney Discipline

(a) **Generally.** The standards of professional conduct adopted as part of the Rules Governing the State Bar of Texas shall serve as a guide governing the obligations and responsibilities of all attorneys appearing in this Court. It is recognized, however, that no set of rules may be framed which will particularize all the duties of the attorney in the varying phases of litigation or in all the relations of professional life. Therefore, the attorney practicing in this Court should be familiar with the duties and obligations imposed upon members of this Bar by the Texas Disciplinary Rules of Professional Conduct, court decisions, statutes, and the usages customs and practices of this Bar.

(b) **Disciplinary Action Initiated in Other Courts.**

(1) A member of the bar of this court shall automatically lose his or her membership if he or she loses, either temporarily or permanently, the right to practice law before any state or federal court for any reason other than nonpayment of dues, failure to meet continuing legal education requirements or voluntary resignation unrelated to a disciplinary proceeding or problem.

(2) When it is shown to the court that a member of its bar has been either disbarred or suspended, the clerk shall enter an order for the court, effective ten days after issuance unless sooner modified or stayed, disbarring or suspending the member from practice in this court upon terms and conditions identical to those set forth in the order of the other court.

(c) **Conviction of a Crime.** A member of the bar of this court who is convicted of a felony offense in any state or federal court will be immediately and automatically suspended from practice and thereafter disbarred upon final conviction.

(d) **Disciplinary Action Initiated in This Court.**

(1) **Grounds for Disciplinary Action.** This court may, after the member has been given an opportunity to show cause to the contrary, take any appropriate disciplinary action against any member of its Bar:

(A) for conduct unbecoming a member of the Bar;
(B) for failure to comply with these local rules or any other rule or order of this court;
(C) for unethical behavior;
(D) for inability to conduct litigation properly; or
(E) because of conviction by any court of a misdemeanor offense involving dishonesty or false statement.

(2) **Disciplinary Procedures.**

(A) When it is shown to a judge of this court that a member of this bar has engaged in conduct which might warrant disciplinary action, the judge receiving the information shall bring the matter to the attention of the full court as to whether disciplinary proceedings should be held. If the court determines that further disciplinary proceedings are necessary, the court will notify the lawyer of the charges and give the lawyer opportunity to show good cause why he or she should not be suspended or disbarred. Upon the charged lawyer's response to the order to show cause, and after a hearing if requested or upon expiration of the time prescribed for a response if no response is made, the court shall enter an appropriate order.

(B) At any hearing, the charged lawyer shall have the right to counsel and at least fourteen days' notice of the time and charges. Prosecution of the charges may be conducted by an attorney specially appointed by the court. Costs of the prosecutor and any fees allowed by the court shall be paid from the attorney admission fee fund.

(e) **Notification of Disciplinary Action.** Upon final disciplinary action by the court, the clerk shall send certified copies of the court's order to the State Bar of Texas, the Fifth U.S. Circuit Court of Appeals and the National Discipline Data Bank operated by the American Bar Association.

(f) **Reinstatement.** Any lawyer who is suspended by this court is automatically reinstated to practice at the end of the period of suspension. Any lawyer who is disbarred by this court may not apply for reinstatement for at least three years from the effective date of his or her disbarment. Petitions for reinstatement shall be sent to the clerk and assigned to the chief judge for a ruling. Petitions for reinstatement must include a full disclosure concerning the attorney's loss of bar membership in this court and any subsequent felony convictions or disciplinary actions that may have occurred in other federal or state courts.

Source: Former local rule 3

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