

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NORTH DAKOTA**



LOCAL RULES

Effective [DATE]

PREFACE

These rules have been adopted by the court as local rules under Fed. R. Civ. P. 83 and Fed. R. Crim. P. 57, and may be cited as "D.N.D. Gen. L. R. __," "D.N.D. Civ. L. R. __," or "D.N.D. Crim. L. R. __." The general rules apply to court proceedings in this district, whether civil or criminal, and they regulate the conduct of court personnel, practicing attorneys, parties, members of the public, and members of the press.

The court has also adopted an Administrative Policy Governing Electronic Filing and Service for electronically filing documents in civil and criminal cases. If there is conflict between a local rule and an administrative policy, the administrative policy controls.

ACKNOWLEDGEMENT

The Court extends its sincere appreciation to the Local Rules Committee members for their time, commitment, and thoughtful contributions in reviewing and revising the Local Rules. Their expertise and dedication to clarity and consistency were instrumental to the process.

The Local Rules Committee was chaired by Judge Alice R. Senechal and included the following attorneys: Chris Bellmore; Rachel Bruner; Ashley Flagstad; Mark Friese; Shanon Gregor; Jill Grossman; David Hagler; Kari Knudson; Duane Lillehaug; Tatum O'Brien; Kent Rockstad; Benjamin Sand; Jane Sportiello; Joe Quinn; and Jeff Weikum.

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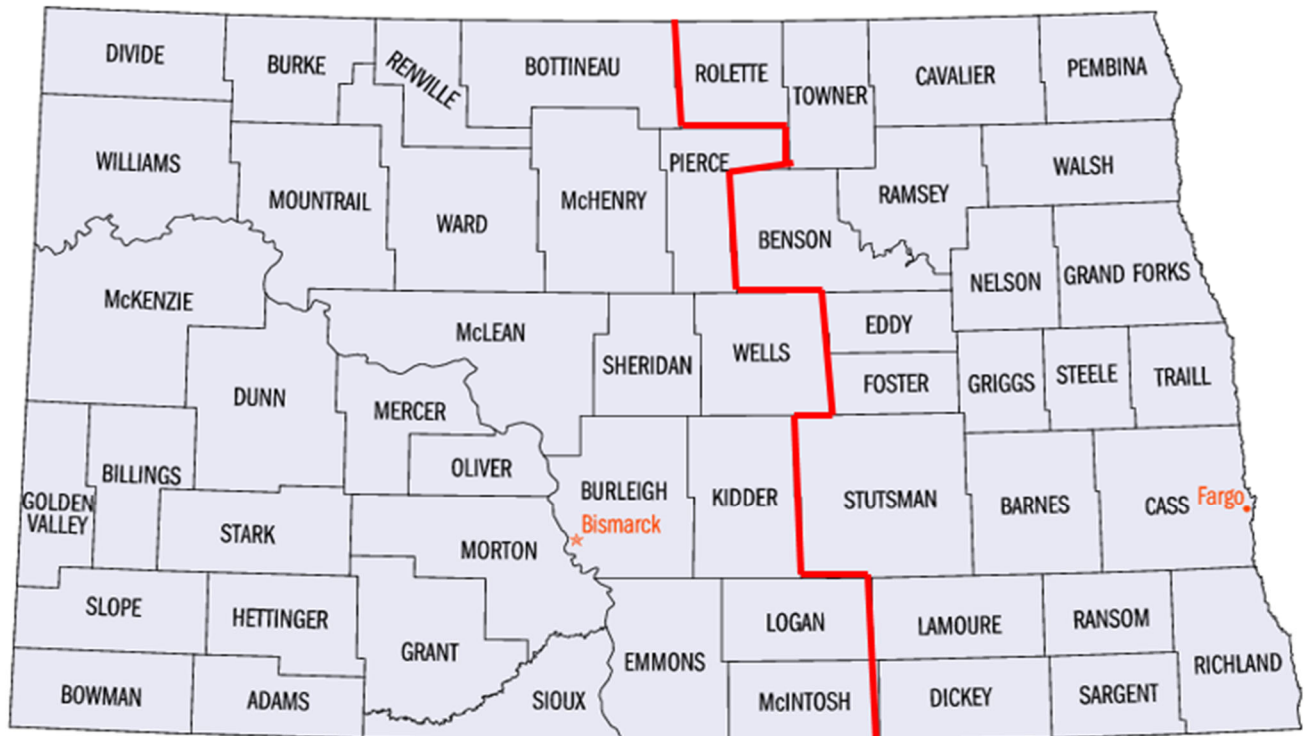
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GENERAL RULE 1.1

DIVISIONS

The State of North Dakota constitutes one (1) judicial district divided into two (2) divisions. The counties comprising each division are as follows:

- (1) Western Division: Adams, Billings, Bottineau, Bowman, Burke, Burleigh, Divide, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McHenry, McIntosh, McKenzie, McLean, Mercer, Morton, Mountrail, Oliver, Pierce, Renville, Sheridan, Sioux, Slope, Stark, Ward, Wells, and Williams.
- (2) Eastern Division: Barnes, Benson, Cass, Cavalier, Dickey, Eddy, Foster, Grand Forks, Griggs, LaMoure, Nelson, Pembina, Ramsey, Ransom, Richland, Rolette, Sargent, Steele, Stutsman, Towner, Traill, and Walsh.



GENERAL RULE 1.2
OFFICE OF THE CLERK

The clerk maintains offices in Bismarck and Fargo, with the headquarters in Bismarck. The clerk's offices must be open during regular business hours each day, Monday through Friday, except for legal holidays as defined in [Fed. R. Civ. P. 6\(a\)\(6\)](#), [Fed. R. Crim. P. 56\(c\)](#), or when closed by court order.

GENERAL RULE 1.3
ATTORNEYS

(A) ROLL OF ATTORNEYS

The bar of this court consists of those attorneys admitted to practice in this district.

(B) ELIGIBILITY

A member in good standing of the bar of another federal court, the highest court of any state, or the District of Columbia may apply for admission to the bar of this court.

(C) PROCEDURE FOR ADMISSION **Error! Bookmark not defined.**

- (1) An applicant for admission to the bar of this court must apply for admission via [PACER.gov](https://pacer.uscourts.gov). Detailed instructions are on the court's website.
- (2) An applicant for admission to the bar of this court must pay the admission fee set by the Judicial Conference of the United States plus an additional local admission fee. An attorney representing the United States, or an agency thereof, or employed by the Office of the Federal Public Defender is exempt from paying the admission fee.
- (3) The determination of an applicant's character and fitness to practice before this court is a matter within the sole discretion of the court. Before an applicant is denied admission, the applicant will be given notice and an opportunity to be heard.
- (4) An applicant for admission to the bar of this court must adhere to the [North Dakota Rules of Professional Conduct](#) in matters of discipline and agree to comply with these rules.

(D) *PRO HAC VICE* ADMISSION

An attorney not admitted to practice before this court may be admitted *pro hac vice* to represent a client in a single case. An attorney applying for *pro hac vice* admission must adhere to the [North Dakota Rules of Professional Conduct](#) in matters of discipline and agree to comply with these rules. In addition, the attorney must pay a local admission fee. Detailed instructions for applying to appear *pro hac vice* are on the court's website.

An attorney representing the United States, or an agency thereof, or employed by the Office of the Federal Public Defender is not permitted to appear *pro hac vice* and must apply for full admission.

(E) APPEARANCES

An attorney may not participate in a proceeding before the court until the attorney's name has been entered with the court as an attorney of record unless the attorney is anticipating appointment by the court, or the court has granted the attorney leave to appear.

(F) SUBSTITUTION AND WITHDRAWAL OF ATTORNEYS

(1) Notice of Substitution.

A notice of substitution may be filed only if an attorney from a law firm or agency replaces another attorney from the same law firm or agency.

(2) Motion to Substitute.

A motion to substitute must be filed if a change of representation includes an attorney from a different law firm or agency. The attorney assuming representation in the case must serve and file a motion to substitute, establishing good cause for the change of representation. An attorney ceasing representation is not relieved of their duties to the court, the client, or to an opposing attorney until the court has granted the motion for substitution.

(3) Motion to Withdraw.

An attorney who has appeared as attorney of record in a case and who is seeking to withdraw from the representation must serve and file a motion to withdraw, establishing good cause for withdrawing. The attorney seeking to withdraw must serve their client with the motion unless another attorney from the same law firm or agency will continue to represent the client. The attorney seeking to withdraw is not relieved of their duties to the court, the client, or to an opposing attorney until the court has granted the motion to withdraw.

(4) Appearing on Behalf of an Attorney of Record.

An attorney who is admitted to practice before this court may appear on behalf of an attorney of record without filing a notice of appearance or a notice of substitution in the event of an emergency or a scheduling conflict.

(G) CONTINUED DUTIES

An attorney admitted to practice under this rule must promptly update PACER with change of name, business address, telephone number, or email address. An attorney admitted to practice under this rule must remain a member in good standing of the bar of another federal court, the highest court of any state, or the District of Columbia.

(H) DISCIPLINARY ENFORCEMENT

(1) A member of the bar may be disbarred, suspended from practice for a definite time, reprimanded, or subjected to other discipline as the court may deem proper, upon a showing of good cause and after the court has afforded the attorney the opportunity for a hearing. Pending a hearing, the court may temporarily suspend an attorney or impose other restrictions the court deems appropriate under the circumstances. The court may order an attorney who has been disciplined by this court to notify all other jurisdictions in which the attorney is admitted of this court's discipline.

(2) If an attorney admitted to practice before this court is convicted of a serious crime, subject to public discipline, disbarred by another jurisdiction, or has otherwise breached standards of the [North Dakota Rules of Professional Conduct](#) or the standards of professional conduct of a jurisdiction to which the attorney is admitted, the court may enter an order requiring the attorney to appear before the court and show good cause why the attorney should not be disciplined by this court. The clerk must immediately serve a copy of the show cause order upon the attorney.

Following the issuance of a show cause order, the court may refer the matter to the United States Attorney or to another attorney appointed by the court for investigation and prosecution or the formulation of other recommendations as may be appropriate. The clerk must serve a suspension order on the attorney by certified mail at the address shown in PACER. The order may require the respondent-attorney to show cause within thirty (30) days after service why the attorney should not be disciplined. If the attorney responds, the matter must promptly be set for a hearing before one or more judges of this court. If the attorney fails to respond within the required time, the court may take disciplinary action as may be appropriate under the circumstances.

A prosecuting attorney may file a motion requesting an award of reasonable fees and costs expended during a disciplinary investigation or prosecution. Reasonable fees and costs, if awarded, may be taxed against the respondent-attorney, who must make immediate payment.

- (3) An attorney may be subject to appropriate disciplinary action if, before admission to the bar of this court or after disbarment or suspension from the bar of this court, the attorney exercises the privileges of a member of the bar in an action or proceeding in this court or pretends to be entitled to do so.
- (4) The clerk must promptly notify the National Lawyer Regulatory Data Bank, operated by the American Bar Association, of an order imposing public discipline on an attorney admitted to practice before this court.

(I) REINSTATEMENT

- (1) An attorney who has been disbarred or suspended may file a motion for reinstatement with the clerk. Upon receipt of the motion, the court may refer the motion to the United States Attorney or to another attorney appointed by the court for investigation and preparation of a report. The matter may be set for a hearing before one or more judges of this court. The movant has the burden to demonstrate by clear and convincing evidence that the movant possesses the moral qualification, competency, and knowledge of the law required for admission to practice before this court. The movant must also demonstrate that their reinstatement is not detrimental to the integrity of the bar or to the administration of justice, or contrary to the public interest.
- (2) An attorney who has been suspended or permanently disbarred by another jurisdiction and thereafter reinstated by that jurisdiction is not, solely by reason of reinstatement, permitted to practice in this court.

An attorney who has been reinstated to practice in another jurisdiction may file a motion for reinstatement to the bar of this court, supported by a certified copy of the order of reinstatement with the Bismarck clerk's office.

The movant must file a brief that sets forth the grounds of the suspension or disbarment, the grounds for reinstatement, and other facts supporting the motion for reinstatement to practice in this court.

- (3) Upon receiving the final determination by the court of the motion for reinstatement, the clerk must file and enter the order and advise the movant.

GENERAL RULE 1.4
STUDENT PRACTICE RULE

(A) GENERAL PROVISIONS

A student who meets the requirements of this rule may exercise limited privileges as a member of the bar in the particular case for which the student is admitted. The student may only practice under the immediate supervision of a member of this bar. The supervising attorney remains as attorney of record in the case until further court order or until entry of a final order disposing of the case. A student admitted to practice under this rule is not required to pay an admission fee.

(B) STUDENT REQUIREMENTS

To be admitted to practice as a student member of the bar, an applicant must meet the following qualifications:

- (1) the applicant must be
 - (a) a full-time student at an American Bar Association accredited law school and have completed at least four (4) semesters or equivalent time of law study;
 - (b) currently enrolled in a clinical education program at an American Bar Association accredited law school and have completed at least three (3) semesters or equivalent time of law study; or
 - (c) a graduate of an American Bar Association accredited law school, studying to write a state's bar examination or awaiting bar examination results; and
- (2) the applicant must be knowledgeable regarding the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the North Dakota Rules of Professional Conduct, and these rules.

(C) ADMISSION PROCEDURE

- (1) A member of this bar who has entered an appearance in a case may make a motion to admit a student who is qualified under this rule.
- (2) The attorney must attach to the motion the client's written consent to student representation.

- (3) Unless made in open court, a copy of the motion must be served on all other parties.
- (4) The court will inform the movant, the student applicant, and all parties of the court's ruling on the motion.

(D) STUDENT PRACTICE LIMITATIONS

- (1) A student practicing under this rule may not appear in more than four (4) cases pending in this court.
- (2) A student may not request or receive compensation or remuneration from the client. This limitation does not preclude payment of compensation to the student by the supervising attorney, or by that attorney's law firm or employing institution, in the manner in which compensation is normally paid to law-student clerks. This limitation also does not preclude the supervising attorney from receiving payments under the Criminal Justice Act or similar statutes for work performed by an admitted student under supervision.
- (3) A student practicing under this rule is not eligible to receive access to Electronic Case Filing (ECF).

(E) SUPERVISING ATTORNEY REQUIREMENTS

An attorney supervising a student practicing under this rule must:

- (1) Actively and personally attend to supervisory responsibilities, including professional responsibility for the student;
- (2) Be present with the student at appearances in court or at depositions;
- (3) Read, approve, and co-sign documents prepared in the case by the student;
- (4) Possess sufficient trial practice experience and competence to assure that supervision of the student's work is constructive and likely to be of educational value to the student; and
- (5) Be available to the judges to assist them in administration of this rule and in their continuing evaluation of the student practice program.

GENERAL RULE 1.5
USE OF ELECTRONIC DEVICES

[REPEALED [Date]]

GENERAL RULE 1.6

COURTROOM CONDUCT AND USE OF ELECTRONIC DEVICES

(A) INSPECTION

An individual may enter a courthouse building only if the individual has submitted to inspection of their person and any items in the individual's possession, if requested by the United States Marshals Service or a court security officer.

(B) COURTROOM CONDUCT

When court is in session, individuals must take a seat immediately upon entering the courtroom and conduct themselves in a quiet, orderly, and respectful manner. Individuals must be fully clothed in attire suitable to the maintenance of the dignity of the court. Individuals may not chew gum or bring food into the courtroom while court is in session. Individuals may not enter or leave the courtroom while the court is charging a jury, except in an emergency. Individuals leaving a courtroom while court is in session or during a recess may not loiter in the halls and must abide by this rule to reenter.

(C) ELECTRONIC DEVICES

Devices are allowed in the courthouse, including courtrooms. In a courtroom, devices must be turned off or muted, and authorized use of a device must be minimally disruptive.

A device may not be used to photograph, record, broadcast, store, or send images or sounds of an individual or thing in a courtroom or its surrounding areas, judge's chambers, jury room, clerk's office, or building corridor on a floor on which a courtroom, judge's chambers, or jury room is located. However, a judge may permit (a) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (b) the broadcasting, recording, or photographing of ceremonial or naturalization proceedings.

(D) EXCLUSION AND INSPECTION

The United States Marshals Service and court security officers may exclude from a courtroom, prohibit from a courthouse, or confiscate a device if there is reason to believe the user of the device has violated this rule. A device may be subject to visual and electronic inspection by the United States Marshals Service and court security officers. An inspection may include a demonstration of the device's functionality by the individual in possession of the device.

GENERAL RULE 1.7
STIPULATIONS

An agreement or consent between the parties or the parties' attorneys in respect to proceedings in this court is not binding, unless the agreement or consent is: (1) signed by all parties or the parties' attorneys, filed, and adopted by the court; or (2) made in open court, on the record, and adopted by the court.

GENERAL RULE 1.8
COURT REPORTER TRANSCRIPTS

If a party orders a transcript, the party requesting the transcript (unless the appellant is proceeding *in forma pauperis*) must pay to the court reporter the [fee](#) fixed by the Judicial Conference of the United States. The public may obtain from the clerk copies of transcripts filed as part of an official file by paying a fee at the rate fixed by the Judicial Conference of the United States or, in the alternative, from the official court reporter at the rate fixed by the Judicial Conference of the United States.

GENERAL RULE 1.9

FEES

A party must pay, in advance, all fees required by statute or by the Judicial Conference of the United States, except if a party is authorized by court order to proceed *in forma pauperis* or in exigent circumstances as authorized by court order.

GENERAL RULE 1.10

DEPOSIT AND WITHDRAWAL OF FUNDS WITH THE COURT

(A) GENERAL

(1) NON-INTEREST-BEARING FUNDS

The clerk must deposit non-interest-bearing funds (*e.g.*, bonds in criminal cases, condemnation proceeds) in the local registry of the court.

(2) INTEREST-BEARING FUNDS

The clerk must deposit interest-bearing funds (*e.g.*, deposits under [Fed. R. Civ. P. 67](#)) in the registry of the court in the Court Registry Investment System (CRIS), subject to withdrawal upon court order. The Director of the Administrative Office of the United States Courts is designated as custodian for the CRIS. The custodian must deduct from the income earned fees, as set by the Director of the Administrative Office of the United States Courts.

(3) INTERPLEADER FUNDS

Interpleader funds deposited under [28 U.S.C. § 1335](#) are considered a Disputed Ownership Fund (DOF), a taxable entity that requires tax administration. Unless otherwise ordered by the court, the interpleader funds must be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which is responsible for meeting DOF tax administration requirements. The custodian is authorized and directed to deduct the DOF fee on assets deposited in the DOF for management of investments and tax administration. The custodian must withhold and pay federal taxes due on behalf of the DOF.

(4) COMPLIANCE

A party is responsible for supplying the court with the information required by this rule.

(B) DEPOSIT OF FUNDS

(1) NON-INTEREST-BEARING FUNDS

Before depositing funds with the clerk, a party must obtain a court order directing the funds be deposited in the court's local registry.

(2) INTEREST-BEARING FUNDS

(a) Before depositing funds that are to be interest bearing with the clerk, a party must obtain a court order including:

- (i) the amount to be invested; and
- (ii) language authorizing the custodian to deduct the applicable fees and taxes, without further court order.

(b) The instrument to be deposited in the registry must be made payable to the United States District Court. Third-party checks are not accepted. Funds must be forwarded to the Fargo clerk's office for deposit.

(c) The following guidelines govern the deposit of interest-bearing registry funds:

- (i) Interest-bearing registry funds must be invested in the CRIS.
- (ii) The clerk must promptly deposit the funds.

(C) WITHDRAWAL OF FUNDS

Funds deposited in the registry of the court may be withdrawn only upon court order. Unless otherwise ordered by the court, withdrawals of registry funds are made by check only.

(1) WITHDRAWAL OF NON-INTEREST-BEARING FUNDS

Cash bonds are distributed only by a court order. Unless the court orders otherwise, cash deposited as security on a bond is refunded as provided in the affidavit of ownership filed under [D.N.D. Gen. L. R. 1.11](#).

(2) WITHDRAWAL OF INTEREST-BEARING FUNDS

- (a) Before the court issues an order disbursing interest-bearing funds, a party must file, under seal, a document setting forth the following:
 - (i) the full mailing instructions for each disbursement check, including full address and zip code; and
 - (ii) a completed IRS Form W-9 or an AO-213.
- (b) An order disbursing interest-bearing funds must contain the following:
 - (i) the principal sum initially deposited;
 - (ii) direction for the custodian to distribute the interest; and
 - (iii) the amount of the principal sum to be disbursed to each payee.

(3) COMPLIANCE

Disbursements of funds are not made until the above information is provided to the clerk.

GENERAL RULE 1.11

BONDS

(A) SECURITY PROVIDER LIMITATIONS

A member of the bar or an employee of this court may not serve as a security provider on a bond, other security, or undertaking in an action or proceeding in this court. However, a member of the bar may serve as a security provider for a family member or closely related individual who is not a client.

(B) CORPORATE SECURITY PROVIDER

On an undertaking in which the United States is the obligee, a corporate security provider must be qualified in accordance with [31 U.S.C. §§ 9301-9310](#). The parties must consult with the Department of Treasury listing of companies to confirm a security provider is qualified. In all other instances, a corporate security provider qualified to write bonds or other securities in the State of North Dakota is acceptable. A power of attorney showing the authority of the agent signing the bond or other security must be attached to the bond or other security.

(C) PERSONAL SECURITY PROVIDER

The court may accept a personal security provider if the execution and filing of a written bond or other security contains terms and conditions acceptable to the court, including the sufficiency and amount of collateral that may be required.

(D) CASH BONDS AND PERSONAL PROPERTY

Upon execution and filing of a written bond, a party must deposit cash or other personal property with the court. Unless otherwise ordered by the court, each deposit of cash or personal property must be accompanied by an affidavit of ownership, which must include the owner's full address and zip code. An affidavit of ownership will presumptively establish the identity of the property's owner. Withdrawal of cash or other personal property deposited with the court may be made only upon written court order according to the provisions of [D.N.D. Gen. L. R. 1.10\(C\)](#).

(E) COST BONDS OR OTHER SECURITIES

The court, on motion or on its own initiative, may order a party to file a bond or other security for costs or additional security for costs in an amount and conditioned by terms imposed by the court.

(F) INSUFFICIENCY AND REMEDY

A party may object to the form or timeliness of a bond or other security or the sufficiency of the security provider. If the court finds a bond or other security to be insufficient, the court may order that a sufficient bond or other security be filed within a stated time. If the party required to file the bond or other security does not comply, the court may dismiss the case or take other appropriate action.

GENERAL RULE 1.12
NON-APPROPRIATED FUND

(A) DEPOSIT

The clerk must deposit local attorney admission and *pro hac vice* fees in a non-appropriated fund.

(B) USE

The non-appropriated fund may be used only to benefit the bar and bench in the administration of justice. The fund must not be used to supplement appropriated funds or to supplement the salary of a judiciary employee.

(C) PLAN

The clerk must maintain a written [plan](#) for the administration and operation of the non-appropriated fund.

GENERAL RULE 1.13
HIGHLY SENSITIVE DOCUMENTS

A Highly Sensitive Document (HSD) is a document or other material that contains sensitive, but unclassified information that, if disclosed, could have significant national or international repercussions. The court anticipates relatively few documents will be classified as HSDs. In determining whether a document is an HSD, factors to be considered might include whether the case involves matters of national security, foreign sovereign interests, cybersecurity, or especially sensitive public corruption investigations; the extent of domestic or international interests; highly exploitable intellectual property, trade secrets, financial information, or computer source code; or the reputational interests of the United States. A document that meets one or more of these criteria may be classified as an HSD only upon motion and court order.

The following types of documents are unlikely to be classified as HSDs:

- A. Presentence investigation reports and pretrial release reports and documents related to those reports;
- B. Documents related to cooperation in criminal cases;
- C. Social Security records;
- D. Administrative records in immigration cases;
- E. Search warrant applications;
- F. Interception of wire, oral, or electronic communications under [18 U.S.C. § 2518](#);
- G. Application for pen registers, trap, and trace devices; and
- H. Most sealed filings in civil cases.

Instructions for filing a motion to designate a document as an HSD are on the court's website.

CIVIL RULE 3.1
CASE ASSIGNMENT

(A) DIVISION ASSIGNMENT AND OBJECTIONS

Civil cases must be assigned to and tried in the division where the action arose or where the defendant resides. [D.N.D. Gen. L. R. 1.1](#) sets forth the counties comprising each division.

The plaintiff must designate the appropriate division in the caption of the complaint. If a party believes the case has been assigned to the wrong division, a party must object within the time period for answering either by including an objection in the answer or by filing a motion seeking a change in the division assignment, except in removal cases. In removal cases, a party must object within thirty (30) days from the notice of removal. The failure to timely object constitutes a waiver of an objection to the division assignment.

(B) REASSIGNMENT OR CHANGE OF PLACE OF TRIAL

The court may order a change of division assignment or a change in the place of trial upon timely motion made by a party when the initial division assignment is improper, upon stipulation of the parties, or in the court's discretion.

(C) DIRECT ASSIGNMENT CASES

A percentage of civil cases are assigned to magistrate judges in accordance with the court's [Plan for Direct Assignment of Civil Cases to a Magistrate Judge](#). If all parties consent in writing to the magistrate judge's exercise of civil trial jurisdiction, the case will remain assigned to the magistrate judge for all purposes, including trial and entry of final judgment.

CIVIL RULE 4.1
SERVICE OF PROCESS AND COURT ORDERS

(A) SERVICE BY UNITED STATES MARSHALS SERVICE

The United States Marshals Service is relieved from serving civil process and court orders for non-federal litigants except as required by law or court order for good cause shown.

(B) APPOINTMENT OF SPECIAL PROCESS SERVERS

State sheriffs and their deputies are specially appointed to serve and execute civil process and court orders under [Fed. R. Civ. P. 4](#) and [4.1](#) without court order.

(C) PROOF OF SERVICE OF SUBPOENAS

A party must retain proof of service of subpoenas until the entry of a final non-appealable judgment or dismissal. A party may not file proof of service of subpoenas unless required to support a contested issue or unless ordered by the court.

CIVIL RULE 5.1
FILES AND FILING

(A) ELECTRONIC CASE FILING (ECF)

The specific requirements, procedures, and limitations of ECF are in the [Administrative Policy Governing Electronic Filing and Service](#).

(B) FORM

- (1) Documents for filing must be on standard size (8 ½" x 11") paper or equivalent PDF format, with page numbers at the bottom of each page.
- (2) Text must appear on only one side of the page with a minimum margin of one inch (1"). Text must be typeset with 12-point font or larger and must be double-spaced, except the title of the case and quoted material may be single-spaced.
- (3) Documents offered for filing, after the initial pleading, except exhibits, must be in pleading format, each containing the venue, case title, and file number.

(C) SEALED DOCUMENTS AND FILES

The filing of sealed documents and files is governed by the [Administrative Policy Governing Electronic Filing and Service](#). A party seeking to file a document under seal must comply with the [Guide to Filing Sealed Documents and Motions](#), which addresses requirements for motions seeking to seal a document in its entirety and motions seeking to seal only portions of a document.

CIVIL RULE 6.1

TIME

[REPEALED [Date]]

CIVIL RULE 7.1
MOTIONS

(A) MOTION TYPES

(1) DISPOSITIVE MOTIONS

(a) DEADLINES AND PAGE LIMITS

A dispositive motion is one which seeks relief, whether partial or complete, under [Fed. R. Civ. P. 12](#) or [56](#). When serving and filing a dispositive motion, the moving party must contemporaneously serve and file a memorandum in support not to exceed forty (40) pages. The adverse party has twenty-eight (28) days after service and filing of the memorandum in support to serve and file a response not to exceed forty (40) pages. The moving party has fourteen (14) days after service and filing of the response to serve and file a reply not to exceed ten (10) pages. A table of contents and a table of authorities, if a party chooses to include them, are excluded from the page limits described above.

DISPOSITIVE MOTION DEADLINES AND PAGE LIMITS		
	DAYS	PAGES
Memorandum in Support of Motion		40
Response	28	40
Reply	14	10

(b) MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

A memorandum in support of a motion for summary judgment must contain, separate from the argument section of the memorandum, a recitation of the material facts the moving party claims are uncontested. The statement of facts may be in narrative form, but each significant material fact must be supported by reference to specific pages, paragraphs, or parts of the pleadings, depositions, answers to interrogatories, exhibits, and affidavits that have been served and filed with the court and that conform to

the requirements of [Fed. R. Civ. P. 56\(c\)](#). A party's failure to comply with this rule may result in the denial of the motion.

(c) RESPONSE TO MOTION FOR SUMMARY JUDGMENT

A response to a motion for summary judgment must state the facts upon which the party opposing summary judgment relies and must clearly identify those facts the opposing party claims are contested. The recitation of facts in the response may be in narrative form, but must be supported by reference to specific pages, paragraphs, or parts of the pleadings, depositions, answers to interrogatories, exhibits, and affidavits that have been served and filed with the court and that conform to the requirements of [Fed. R. Civ. P. 56\(c\)](#). The party opposing summary judgment must clearly explain in the argument section of the response why the facts claimed to be contested are material to the matters at issue. A party's failure to comply with this rule may result in granting of the motion.

(2) NON-DISPOSITIVE MOTIONS

A non-dispositive motion is a motion not outlined in subsection (A)(1) or otherwise designated by the court as a dispositive motion. When serving and filing a non-dispositive motion, the moving party must contemporaneously serve and file a memorandum in support not to exceed twenty (20) pages. The adverse party has fourteen (14) days after service and filing of a memorandum in support to serve and file a response not to exceed twenty (20) pages. The moving party has seven (7) days to serve and file a reply not to exceed seven (7) pages. A table of contents and a table of authorities, if a party chooses to include them, are excluded from the page limits described above.

NON-DISPOSITIVE MOTION DEADLINES & PAGE LIMITS		
	DAYS	PAGES
Memorandum in Support of Motion		20
Response	14	20
Reply	7	7

(3) MOTIONS FOR INJUNCTIVE RELIEF

- (a) Deadlines. The deadlines for responses and replies outlined in subsection (A)(1)(a) also apply to briefing on motions for preliminary injunctions and other injunctive relief, except for motions for temporary restraining orders. Motions for temporary restraining orders are governed by [Fed. R. Civ. P. 65](#).
- (b) Page Limits. The page limits outlined in subsection (A)(1)(a) also apply to briefing on motions for temporary restraining orders, preliminary injunctions, and other injunctive relief.

(4) MOTIONS FOR LEAVE OF COURT TO FILE ADDITIONAL FILINGS OR TO EXCEED PAGE LIMITS

A party must serve and file a motion for leave of court to file additional filings or filings that exceed the page limits described in (A)(1), (A)(2), and (A)(3). Leave of court is granted only upon a showing of good cause. A memorandum in support of a motion for leave of court to file an additional filing or to file a filing that exceeds the page limits is not required but, if filed, may not exceed two (2) pages.

(5) MOTIONS AND STIPULATIONS FOR LEAVE TO FILE AMENDED DOCUMENT

A party filing a motion for leave of court or a stipulation to file an amended document must file the proposed document as an attachment to the motion or stipulation.

A party moving or stipulating to amend or supplement a pleading must file a version of the amended or supplemental pleading that identifies proposed changes.

(6) MOTIONS FOR ORAL ARGUMENT

The court may order oral argument on its own or upon a party's motion. A memorandum in support of the motion for oral argument is not required but, if filed, may not exceed two (2) pages.

(B) GENERAL MATTERS

(1) DEADLINES FOR *PRO SE* PARTIES WITHOUT ACCESS TO ELECTRONIC FILING

Under [Fed. R. Civ. P. 6\(d\)](#), *pro se* parties without access to electronic filing are often allowed three (3) additional days when calculating the deadlines in this rule.

(2) SERVICE AND FILING NOT ON SAME DATE

A party's time to respond or reply does not begin until after the service and filing of the motion or response, whichever is later.

(3) PROPOSED ORDERS NOT REQUIRED

Unless otherwise ordered, a proposed order should not be filed.

(4) FORM OF FILINGS AND EXHIBITS

(a) A party must serve and file a complete PDF copy of a deposition or other transcript offered in support of or in opposition to a motion.

(b) A party must serve and file each exhibit offered in support of or in opposition to a motion as a separate attachment with a sufficiently detailed description, so the attachment is readily identifiable. A party may not file a document already on file with the court but must instead refer to the docket number assigned to the filed document.

(5) FAILURE TO FILE MEMORANDUM OR RESPONSE

A party's failure to serve and file a memorandum or a response within the prescribed time may subject a motion to summary ruling. A moving party's failure to serve and file a memorandum in support may be deemed an admission that the motion is without merit. An adverse party's failure to serve and file a response to a motion may be deemed an admission that the motion is well taken.

(C) AMICUS CURIAE BRIEFS

(1) The United States or its officer or agency; a State, Territory, or Commonwealth; or the District of Columbia may file an *amicus curiae* brief without the consent of the

parties or leave of court. Other *amicus curiae* may file a brief only with leave of court or if the brief states all parties have consented to its filing.

- (2) A motion for leave to file an *amicus curiae* brief must state the movant's interest, the reasons an *amicus curiae* brief is desirable, and how the matters asserted are relevant to the disposition of the case. A motion for leave to file an *amicus curiae* brief must be accompanied by the proposed brief.

An *amicus curiae* must serve and file its motion for leave to file an *amicus curiae* brief and its proposed brief no later than seven (7) days after the party being supported files a memorandum in support of a motion or response to a motion unless otherwise ordered by the court.

- (3) An *amicus curiae* who may file a brief without leave of court must serve and file its brief no later than seven (7) days after the party being supported files a memorandum in support of a motion or response to a motion unless otherwise ordered by the court.
- (4) Unless otherwise ordered by the court, an *amicus curiae* brief may not exceed twenty (20) pages.

CIVIL RULE 7.1.1
DISCLOSURE STATEMENT

Every non-government organizational party or intervenor must file either a Corporate Disclosure Statement (disclosure statement) or a certificate that [Fed. R. Civ. P. 7.1](#) is not applicable (certificate of non-applicability). Information provided under this rule may be used by the assigned judge to determine whether recusal is necessary and to confirm jurisdiction is proper. The disclosure statement or certificate of non-applicability must be filed within fourteen (14) days of the party's first filing or entry of appearance.

CIVIL RULE 16.1
CIVIL CASE MANAGEMENT

The court will hold pretrial conferences as required by [Fed. R. Civ. P. 16\(b\)](#) and as otherwise ordered by the court. The following categories of actions are exempt from [Rule 16\(b\)](#) scheduling conferences unless otherwise ordered by the court:

- (1) IRS enforcement actions;
- (2) eminent domain proceedings;
- (3) forfeitures;
- (4) *habeas corpus* actions ([28 U.S.C. §§ 2241](#), [2254](#), and [2255](#); and [25 U.S.C. § 1303](#));
- (5) Freedom of Information Act proceedings;
- (6) enforcement of out-of-state judgments;
- (7) appeals from the bankruptcy court;
- (8) appeals from administrative agency decisions (including the Social Security Administration);
- (9) actions brought by the United States to collect debts or recover benefit payments;
- (10) actions in which one of the parties is incarcerated and appears *pro se*;
- (11) student loan cases;
- (12) overpayment of Veterans Administration benefits;
- (13) admission to or revocation of citizenship;
- (14) arbitration actions (to set aside, confirm, or compel arbitration);
- (15) actions to compel testimony or production of documents;
- (16) actions to enforce or quash administrative summons or subpoenas;

- (17) cases not reported for statistical purposes as “filed” cases (*e.g.*, registration of foreign judgments, grand jury matters, *in forma pauperis* requests which are denied, disbarment or reinstatement of attorneys);
- (18) foreclosure actions; and
- (19) mandamus actions ([28 U.S.C. § 1361](#)).

In any case, a party may request a pretrial conference.

CIVIL RULE 16.2**ALTERNATIVE DISPUTE RESOLUTION (ADR)****(A) AUTHORIZATION**

- (1) The court authorizes the use of Alternative Dispute Resolution (ADR) in civil cases, including adversary proceedings in bankruptcy under [28 U.S.C. § 651](#).
- (2) The primary form of ADR offered by the court is mediation in the form of court-sponsored settlement conferences conducted by a judge. The court will not offer arbitration as a court-sponsored ADR process but, in appropriate cases and with the consent of the parties, the court will facilitate other forms of ADR, such as early neutral evaluation. The court encourages, but does not require, private ADR as an alternative to court-sponsored ADR.

(B) DESIGNATION OF CASES

The court strongly encourages participation in ADR at an early stage of each civil case and requires that the parties in civil cases not excluded under [D.N.D. Gen. L. R. 16.1](#) discuss early ADR participation and the appropriate timing of ADR. The parties must include in their [Fed. R. Civ. P. 26\(f\)\(3\)](#) Scheduling/Discovery Plan the ADR option they choose and the appropriate timing. Upon request by a party or on the court's own initiative, the court may schedule a settlement conference at any stage of the proceeding if the nature of the case, the amount in controversy, and the status of the case indicate the conference may be beneficial. For cases in which a magistrate judge is the trial judge, another magistrate judge, a district judge, or a bankruptcy judge may be available to conduct a settlement conference.

(C) CONFIDENTIALITY

- (1) The settlement judge will not inform the trial judge of positions taken by parties during the ADR process and will only advise the trial judge whether the case settled. The trial judge will not ordinarily serve as the settlement judge unless the parties jointly agree otherwise in an appropriate jury case.
- (2) The ADR process is confidential and not open to the public. All written and oral communications by parties or their representatives in relation to court-sponsored ADR proceedings are deemed confidential. Disclosure of confidential ADR communications is prohibited, except as authorized by the court or agreed to by the parties.

- (3) A judge conducting an ADR proceeding may not be called to testify in connection with a dispute relating to the ADR proceeding or its result except upon written agreement of the parties and concurrence of the court, or when otherwise required by law.

(D) ADMINISTRATION

The chief judge is designated to serve as program administrator to implement, oversee, and evaluate the court's ADR program and may delegate the authority to an employee or judge as permitted by [18 U.S.C. § 651\(d\)](#).

(E) DISQUALIFICATION

- (1) A judge may be disqualified from conducting an ADR proceeding because of bias or prejudice or for conflict of interest as specified in [28 U.S.C. §§ 144](#) and [455](#).
- (2) A party who believes a judge conducting an ADR proceeding has a conflict of interest must serve and file a motion for recusal at the earliest opportunity.
- (3) Upon disqualification of a judge from conducting an ADR proceeding, the ADR program administrator will assign another judge to conduct further ADR proceedings. If the ADR program administrator has been disqualified, another judge in the district will assign a judge to conduct further ADR proceedings.

CIVIL RULE 26.1

CIVIL DISCOVERY

(A) SCOPE AND TIMING

The scope of discovery and the time for completion of discovery must be determined at the [Fed. R. Civ. P. 16\(b\)](#) conference. In cases exempt from a [Fed. R. Civ. P. 16\(b\)](#) conference and in cases in which the time for completion of discovery has not been specifically provided for by court order, discovery must be completed thirty (30) days before the scheduled trial date.

(B) FORM

The response to an interrogatory, document request, or request for admissions must set out the interrogatory or request in full, followed by the response. Parties are encouraged to provide an electronic courtesy copy of discovery requests to the opposing parties.

(C) FILING

A party may not file discovery materials except when relevant to a pending motion or when otherwise ordered by the court.

(D) EXEMPTIONS

The following types of proceedings are exempt from the requirements of [Fed. R. Civ. P. 26\(a\)\(1\)](#), unless otherwise ordered by the court:

- (1) proceedings under [Fed. R. Civ. P. 26\(a\)\(1\)\(B\)](#);
- (2) bankruptcy appeals;
- (3) collection actions; and
- (4) foreclosures.

CIVIL RULE 37.1
CIVIL DISCOVERY MOTIONS

(A) OBLIGATION TO CONFER

A party may not file a motion concerning a discovery or scheduling dispute (*e.g.*, a motion to compel discovery, motion for sanctions, motion for protective order, or motion to amend scheduling order) until the parties have conferred, either in person, by telephone, or by other reliable, real-time electronic means, to make a reasonable, good faith effort to resolve the dispute without involving the court. A written demand for relief, including a demand through email, is not sufficient. The moving party must make a reasonable effort to confer, and the opposing party must make a reasonable effort to participate.

(B) OBLIGATION FOR CONFERENCE WITH MAGISTRATE JUDGE

In addition to the requirements in subsection (A), the parties may not file a motion concerning a discovery or scheduling dispute until after the parties have participated in a conference with the assigned magistrate judge unless the court grants leave to file the motion. The parties must contact the chambers of the assigned magistrate judge to request a conference be scheduled.

(C) SANCTIONS FOR NON-COMPLIANCE

A party's failure to comply with the requirements of this rule may result in the court summarily granting or denying the motion, as well as awarding costs and reasonable attorney's fees.

CIVIL RULE 41.1
DISMISSAL OF SETTLED CIVIL CASE

Within thirty (30) days after advising the court a case has settled, or within a longer time as the court may set, the parties must serve and file the documents necessary to terminate the case, unless the United States is a party. If the United States is a party, the parties must serve and file the documents necessary to terminate the case within sixty (60) days of advising the court the case has settled. If the parties fail to do so, the court may order dismissal of the case, but a party may seek reinstatement of the case by serving and filing a motion to reinstate the case within sixty (60) days after the date of the order. The motion must show good cause to reinstate the case.

CIVIL RULE 43.1
EXHIBITS

(A) MARKING EXHIBITS

Before a proceeding, a party must physically mark and number documents and objects expected to be introduced as exhibits in the proceeding and must follow the requirements of the pretrial order governing the marking of exhibits. Unless otherwise ordered, the parties must number the exhibits consecutively, with each party using a separate number with sufficient gaps for unanticipated or rebuttal exhibits (*e.g.*, the plaintiff using numbers P1-P20 and the defendant using numbers D50-D70).

(B) CUSTODY OF EXHIBITS

The clerk must retain custody of exhibits that have been offered in evidence unless the court orders otherwise. Parties retaining custody of exhibits of unusual bulk or weight must permit inspection, if requested, by another party and bear the responsibility for the exhibits' safekeeping and transportation to subsequent proceedings, if necessary.

(C) SENSITIVE EXHIBITS

- (1) Sensitive exhibits include controlled substances, authentic or counterfeit currency, articles of high monetary value, explosives, weapons, firearms, ammunition, biohazardous materials, contraband of any kind (including child pornography and child sexual abuse materials), and any other items designated as a sensitive exhibit.
- (2) Explosives may not be brought into the courthouse or entered into evidence unless approved in advance by the court.
- (3) A party seeking admission of a sensitive exhibit, other than a firearm, must maintain the exhibit in a sealed evidence bag or in a manner which prevents direct physical access to the exhibit. The sealed evidence bag or container may not be opened except upon direction of the court.
- (4) A party seeking admission of a firearm must render the firearm inoperable, with a weapon lock (such as a trigger guard lock or cable gun lock) or by removing the firing pin (zip ties are not acceptable). The United States Marshals Service must inspect the inoperable firearm at the time the firearm is brought into the courthouse. If a firearm is rendered inoperable by a weapon lock, the key to the lock must be maintained outside the courtroom.

- (5) Sensitive exhibits may not be sent to a jury room, unless directed by the court.
- (6) The court must specify instructions for retention of sensitive exhibits, which may include retention by the clerk, counsel, a case agent, or other individual. If the clerk retained custody of a sensitive exhibit during a proceeding, immediately upon the conclusion of the proceeding, the offering party or other custodian authorized by the court must take custody of the sensitive exhibit and must execute a receipt prepared by the clerk.

(D) RETURN OF EXHIBITS

After notice to all parties, the clerk must return exhibits to the offering party or other custodian authorized by the court. A party or custodian who receives an exhibit must execute a receipt prepared by the clerk and is responsible for retention and safekeeping of the exhibit for the duration of subsequent proceedings.

CIVIL RULE 45.1
SUBPOENAS

The clerk may not issue a blank subpoena to a *pro se* party except by court order.

CIVIL RULE 47.1
CIVIL JURY TRIALS

(A) JURY SELECTION

The names of prospective jurors must be selected and drawn in accordance with the court's [Plan for Random Jury Selection](#).

(B) DISCLOSURE OF JUROR NAMES

After a petit jury panel is drawn, the clerk must send a list of prospective jurors' names to each party in the case.

(C) JURY SIZE

- (1) The court may exercise discretion in determining the size of the jury consistent with [Fed. R. Civ. P. 48](#).
- (2) The initial panel for *voir dire* examination must consist of the number of jurors and alternate jurors who will try the case, plus the number of individuals equal to the total number of peremptory challenges that will be allowed.
- (3) Unless otherwise ordered by the court, each party may exercise peremptory challenges, beginning with the plaintiff, striking one (1) juror until each side has exhausted or waived its peremptory challenges.
- (4) The trial jury will consist of those jurors remaining after dismissal of jurors for cause and the exercise of peremptory challenges. If some peremptory challenges are not exercised, the trial jury will consist of those jurors remaining, in the order drawn, after dismissal of jurors for cause and the exercise of peremptory challenges.

(D) EXAMINATION OF WITNESSES

Only one attorney for a party may examine or cross-examine the same witness, unless otherwise permitted by the court.

(E) OPENING STATEMENTS AND CLOSING ARGUMENTS

- (1) Only one attorney for a party may present an opening statement or closing argument except by leave of court before the statement or argument begins. Different attorneys may present the main and rebuttal portions of closing argument without leave of court.
- (2) The court may impose time limits on opening statements and closing arguments.
- (3) The plaintiff must open and close the argument, unless otherwise ordered by the court.

CIVIL RULE 51.1
CIVIL JURY INSTRUCTIONS

(A) DEADLINES

Each party must serve and file requested jury instructions and a proposed verdict form at least seven (7) days before the first day of trial, unless ordered otherwise. At any time before closing arguments, a party may present additional requested instructions relating to issues arising during the trial.

(B) FORM OF REQUESTED INSTRUCTIONS

Requested jury instructions must be marked with the case number and must designate the party filing the request. Each requested instruction must be numbered and written on a separate page, along with a citation to authorities supporting the proposition of law stated in the instruction. A party requesting an Eighth Circuit or North Dakota pattern jury instruction only needs to designate the pattern jury instruction number and name, unless the pattern instruction is proposed to be modified. If the pattern instruction is proposed to be modified, the entire proposed instruction must be filed and must be clearly identified as modified.

CIVIL RULE 54.1
COSTS AND ATTORNEY'S FEES

(A) COSTS

(1) DISTRICT COURT COSTS

The parties must serve and file a voluntary agreement with respect to taxable costs in the form of a written stipulation. If the parties are unable to stipulate to the costs, the court will apply the following procedures unless otherwise ordered by the court.

A party seeking an award of costs must serve and file a motion for costs no later than fourteen (14) days after entry of judgment. The motion must be accompanied by a verified statement of costs that contains (1) for each category of costs being claimed, a detailed breakdown of each item of claimed costs within the category with sufficient description so the item can be readily understood, (2) a brief citation to the statutory or other legal authority that provides for recovery of the category of claimed costs, and (3) supporting documents the moving party relies upon to establish the claim of costs.

The moving party's attorney must verify the statement of costs by affirming the items are correct, the services were actually and necessarily performed, and the disbursements were necessarily incurred. A party's failure to comply with this rule may be deemed a waiver of the claim for costs.

Each party objecting to the claimed costs must serve and file a response within fourteen (14) days of being served with the motion that (1) sets forth specific objections to each item of disputed cost, along with a citation to authority for not awarding the item or category of cost, and (2) includes as exhibits supporting documents relied upon to contest the claim of costs. A party's failure to object to a specific item of cost may be deemed a waiver of an objection to the claimed item.

Within seven (7) days after the response is served and filed, the moving party may file a reply.

The clerk will tax as part of a judgment only those costs that are awarded by the court or that have been agreed upon by the parties in a stipulation filed with the clerk. Filing a motion for costs does not affect the finality and appealability of the final judgment previously entered.

(2) COSTS ON APPEAL TAXABLE IN THE DISTRICT COURT

The court will tax costs allowable under [Fed. R. App. P. 39\(e\)](#) in accordance with this rule if a verified statement of costs is filed within fourteen (14) days of the issuance of a mandate by the court of appeals.

(B) ATTORNEY'S FEES

- (1) The time periods and other procedures in this rule, including filing a verified statement of fees and expenses along with supporting documents, apply to a claim for attorney's fees and related nontaxable expenses under [Fed. R. Civ. P. 54\(d\)\(2\)](#), unless the recovery of attorney's fees and expenses is sought against the United States.
- (2) If recovery of attorney's fees is sought against the United States, a party must file a motion as provided in [28 U.S.C. § 2412\(d\)\(1\)\(B\)](#). The United States has fourteen (14) days from service and filing of the motion to respond. Within seven (7) days after the response is served and filed, the moving party may file a reply, but additional documents may be filed only upon court order for good cause shown.

CIVIL RULE 72.1**UNITED STATES MAGISTRATE JUDGES**

Except as hereinafter provided, a United States magistrate judge appointed in this district is authorized and designated to exercise powers and duties consistent with the United States Constitution, [28 U.S.C. § 636](#), other statutes as may be applicable, and the Federal Rules of Civil Procedure. These powers and duties include, but are not limited to, those enumerated in this rule.

(A) ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

The clerk will assign cases or duties in a case to a magistrate judge and allocate duties among the magistrate judges of the court in accordance with this rule, standing orders of the court, the court's [Plan for Direct Assignment of Civil Cases to a Magistrate Judge](#), or by special reference of a district judge, which reference may be by formal order or informal request. This rule does not preclude a district judge from reserving a proceeding for decision of a district judge rather than a magistrate judge. Assignment of duties or cases to a magistrate judge will generally be based on geographic location of the magistrate judge's chambers.

(B) DUTIES IN CIVIL MATTERS

The magistrate judges of this court are authorized and designated to exercise the following duties in civil matters:

- (1) Conduct case management matters, including supervising discovery and holding status conferences, scheduling conferences, and final pretrial conferences;
- (2) Conduct Alternative Dispute Resolution proceedings, including mediation and settlement conferences, early neutral evaluation, mini-trials, and summary jury trials;
- (3) Rule on all non-dispositive motions ([28 U.S.C. § 636\(b\)\(1\)\(A\)](#)) unless otherwise directed by a district judge;
- (4) Rule on dispositive motions ([28 U.S.C. § 636\(b\)\(1\)\(B\)](#)) by issuing a report and recommendations upon designation by a district judge, or by final order and judgment upon consent of all parties ([28 U.S.C. § 636\(c\)](#)) for final disposition of the motion (as opposed to disposition of the entire case) by a magistrate judge;

- (5) Conduct all proceedings in cases brought by prisoners challenging conditions of confinement, including conducting bench trials and issuing a report and recommendations to the district judge (28 U.S.C. § 636(b)(1)(B)) (if all parties do not consent to final disposition by the magistrate judge);
- (6) Conduct all pre-trial, trial, and post-trial proceedings and enter final judgment upon consent of all parties (28 U.S.C. § 636(c));
- (7) Serve as a special master upon designation by a district judge;
- (8) Conduct jury *voir dire* and selection upon direction of a district judge, and in the absence of the trial judge, preside over return of jury verdicts;
- (9) Conduct all proceedings in cases seeking post-conviction review under 28 U.S.C. §§ 2254 or 2241 and 25 U.S.C. § 1303, including issuing a report and recommendations to a district judge (28 U.S.C. § 636(b)(1)(B)) or entering final judgment upon consent of all parties (28 U.S.C. § 636(c));
- (10) Conduct proceedings under 28 U.S.C. § 1782 with respect to foreign tribunals and to litigants before those tribunals;
- (11) Issue statutory administrative inspection or search warrants on determination of probable cause;
- (12) Preside over naturalization ceremonies and administer the oath as required by 8 U.S.C. § 1448(a);
- (13) Conduct examination of judgment debtors in accordance with Fed. R. Civ. P. 69; and
- (14) Authorize alternative process servers under Fed. R. Civ. P. 4 and 4.1 and service of process on an absent defendant under 28 U.S.C. § 1655.

(C) CIVIL CASE CONSENT PROCEDURE

(1) NOTICE UPON FILING OF COMPLAINT

For civil cases initially assigned to a district judge, the clerk must notify the parties that the parties may consent to a magistrate judge conducting any or all proceedings in the case and ordering the entry of final judgment (28 U.S.C. § 636(c)). Upon the filing of the complaint, the clerk will provide notice and consent forms (AO-85

form) to the plaintiff, who in turn must serve them upon the defendants together with the summons and complaint.

In preparing their proposed [Fed. R. Civ. P. 16\(b\)](#) scheduling plan, the parties must discuss whether they will unanimously consent to disposition by a magistrate judge. In their proposed plan, the parties must state whether they unanimously consent and must not identify which parties decline to consent.

If all parties consent to a magistrate judge conducting all proceedings and entering final judgment, the case will be reassigned for disposition to the magistrate judge who served as the case manager or to another magistrate judge as may be designated by the district judge making the reassignment.

(2) DIRECT ASSIGNMENT

A percentage of civil cases are assigned to magistrate judges in accordance with the court's [Plan for Direct Assignment of Civil Cases to a Magistrate Judge](#).

(3) LATER CONSENT

Notwithstanding an initial decision declining to consent, the parties may later consent to a magistrate judge conducting any or all proceedings and ordering entry of final judgment.

(D) REVIEW AND APPEAL

(1) APPEAL FROM JUDGMENTS IN CIVIL CONSENT CASES

Upon entry of judgment by a magistrate judge in a civil consent case, an appeal lies directly to the Eighth Circuit Court of Appeals in the same manner as an appeal from other judgments of a district court.

(2) OBJECTION TO NON-DISPOSITIVE ORDER

A party may object to a magistrate judge's determination of a non-dispositive matter (other than in a civil consent case) within fourteen (14) days after being served with a copy of the magistrate judge's order unless the magistrate judge orders a different time ([28 U.S.C. § 636\(b\)\(1\)\(A\)](#) & [Fed. R. Civ. P. 72\(a\)](#)). The objecting party must serve and file a written objection, which must specifically designate the order or part of the order from which the objection is taken and the grounds for the objection. The adverse party has seven (7) days after service and

filing of the objection to serve and file a response. The objection and the response may not exceed twenty (20) pages. A reply is not permitted.

The party filing an objection must file a transcript of a hearing during which the magistrate judge made findings of fact. With leave of court, the party may rely on an audio recording of the hearing in lieu of a transcript.

A district judge must consider the objection and set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.

Filing an objection does not stay the magistrate judge's order. A request to stay a magistrate judge's order pending objection must be made to the magistrate judge with notice to all parties.

(3) OBJECTION TO REPORT AND RECOMMENDATIONS

A party may object to a magistrate judge's report and recommendations on a dispositive matter within fourteen (14) days after being served with the report and recommendations unless the magistrate judge orders a different time ([28 U.S.C. § 636\(b\)\(1\)\(B\)](#) & [Fed. R. Civ. P. 72\(b\)](#)).

The objecting party must serve and file written objections, which must identify the portions of the proposed findings, recommendations, or report to which objections are made and the basis for the objections. The party filing objections must file a transcript of any evidentiary proceeding related to the report and recommendations. With leave of court, the party may rely on an audio recording of the hearing in lieu of a transcript.

A party may respond to an objection as prescribed in [Fed. R. Civ. P. 72\(b\)\(2\)](#). A reply is not permitted.

The objection and the response may not exceed twenty (20) pages.

A district judge must make a *de novo* determination of those portions of the report and recommendations to which a party makes specific objections and may accept, reject, or modify in whole or in part the magistrate judge's findings or recommendations. The district judge will generally not conduct a hearing but, in appropriate circumstances, may receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions.

CRIMINAL RULE 6.1

GRAND JURIES

(A) NAMES OF GRAND JURORS

The names of grand jurors may not be published or disclosed to an individual after a grand jury is drawn, other than to an attorney for the United States and necessary support personnel for performance of official duties to enforce federal criminal law and to other individuals as may be required by law or allowed by court order.

(B) GRAND JURY DOCUMENTS

Grand jury documents maintained by the clerk are restricted documents, filed under seal, and available for review or unsealed only upon court order. This rule applies to grand jury subpoenas; transcripts of testimony; the clerk's docket of grand jury proceedings; and motions and orders relating to grand jury subpoenas, true bills, and no bills. However, the United States Attorney may disclose to a defense attorney or to the defendant statements and reports of a witness before the grand jury, if the witness will testify during a criminal trial. The transcript of a witness's grand jury testimony may be released to a defense attorney or to the defendant at least three days before the witness will testify.

(C) MOTIONS TO QUASH

Absent good cause shown, a motion to quash or limit a grand jury subpoena must be filed and served seven (7) days before the date the witness is subpoenaed to appear or to produce documents.

CRIMINAL RULE 7.1
SUPERSEDING INDICTMENTS

If a superseding indictment is filed, the United States must contemporaneously provide a brief statement describing the differences between the original indictment and the superseding indictment to the court and opposing attorney.

CRIMINAL RULE 17.1

SUBPOENAS

(A) SUBPOENAS TO *PRO SE* PARTY

The clerk may not issue a blank subpoena to a *pro se* party except by court order.

(B) CONFIDENTIALITY OF SUBPOENA SERVICE

Subpoenas obtained in blank from the clerk and issued by attorneys appointed to represent indigent defendants are confidential. The confidentiality applies to court personnel, the United States Marshals Service, and an individual assisting the United States Marshals Service with service of process unless otherwise ordered by the court.

CRIMINAL RULE 23.1
CRIMINAL JURY TRIALS

(A) JURY SELECTION

The names of prospective jurors must be selected and drawn in accordance with the court's [Plan for Random Jury Selection](#).

(B) DISCLOSURE OF JUROR NAMES

After a petit jury panel is drawn, the clerk must send a list of prospective jurors' names to each party in the case.

(C) JURY SIZE

- (1) The court may exercise discretion in determining the size of the jury consistent with [Fed. R. Crim. P. 23](#) and [24](#).
- (2) The initial panel for *voir dire* examination must consist of the number of jurors and alternate jurors who will try the case, plus the number of individuals equal to the total number of peremptory challenges that will be allowed.
- (3) Unless otherwise ordered by the court, the parties may exercise peremptory challenges in the following manner:
 - (a) Misdemeanors. The United States may exercise three (3) peremptory challenges and the defendant may exercise three (3) peremptory challenges, exercised in the following order: the first by the United States, the next by the defendant, the next by the United States, and so on until each side has exhausted or waived their challenges.
 - (b) Felonies Not Punishable by Death. The United States may exercise six (6) peremptory challenges and the defendant may exercise ten (10) peremptory challenges, exercised in the following order until each side has exhausted or waived their challenges: the first by the United States, the next two (2) by the defendant, the next by the United States, the next two (2) by the defendant, the next by the United States, the next two (2) by the defendant, the next by the United States, the next by the defendant, the next by the United States, and the last by the defendant.

- (c) Felonies Punishable by Death. The United States may exercise twenty (20) peremptory challenges and the defendant may exercise twenty (20) peremptory challenges, exercised in the following order: the first by the United States, the next by the defendant, the next by the United States, and so on until each side has exhausted or waived their challenges.
 - (4) The trial jury will consist of those jurors remaining after dismissal of jurors for cause and the exercise of peremptory challenges. If some peremptory challenges are not exercised, the trial jury will consist of those jurors remaining, in the order drawn, after dismissal of jurors for cause and the exercise of peremptory challenges.
- (D) EXAMINATION OF WITNESSES

Only one attorney for a party may examine or cross-examine the same witness, unless otherwise permitted by the court.
- (E) OPENING STATEMENTS AND CLOSING ARGUMENTS
 - (1) Only one attorney for a party may present an opening statement or closing argument except by leave of court before the statement or argument begins. Different attorneys may present the main and rebuttal portions of closing argument without leave of court.
 - (2) The court may impose time limits on opening statements and closing arguments.
 - (3) The United States must open and close the argument unless otherwise ordered by the court.

CRIMINAL RULE 26.1**EXHIBITS****(A) MARKING EXHIBITS**

Before a proceeding, a party must physically mark and number documents and objects expected to be introduced as exhibits in the proceeding and must follow the requirements of the pretrial order governing the marking of exhibits. Unless otherwise ordered, the parties must number the exhibits consecutively, with each party using a separate number with sufficient gaps for unanticipated or rebuttal exhibits (*e.g.*, the plaintiff using numbers P1-P20 and the defendant using numbers D50-D70).

(B) CUSTODY OF EXHIBITS

The clerk must retain custody of exhibits that have been offered in evidence unless the court orders otherwise. Parties retaining custody of exhibits of unusual bulk or weight must permit inspection, if requested, by another party and bear the responsibility for the exhibits' safekeeping and transportation to subsequent proceedings, if necessary.

(C) SENSITIVE EXHIBITS

- (1) Sensitive exhibits include controlled substances, authentic or counterfeit currency, articles of high monetary value, explosives, weapons, firearms, ammunition, biohazardous materials, contraband of any kind (including child pornography and child sexual abuse materials), and any other items designated as a sensitive exhibit.
- (2) Explosives may not be brought into the courthouse or entered into evidence unless approved in advance by the court.
- (3) A party seeking admission of a sensitive exhibit, other than a firearm, must maintain the exhibit in a sealed evidence bag or in a manner which prevents direct physical access to the exhibit. The sealed evidence bag or container may not be opened except upon direction of the court.
- (4) A party seeking admission of a firearm must render the firearm inoperable, with a weapon lock (such as a trigger guard lock or cable gun lock) or by removing the firing pin (zip ties are not acceptable). The United States Marshals Service must inspect the inoperable firearm at the time the firearm is brought into the courthouse.

If a firearm is rendered inoperable by a weapon lock, the key to the lock must be maintained outside the courtroom.

- (5) Sensitive exhibits may not be sent to a jury room, unless directed by the court.
- (6) The court must specify instructions for retention of sensitive exhibits, which may include retention by the clerk, counsel, a case agent, or other individual. If the clerk retained custody of a sensitive exhibit during a proceeding, immediately upon the conclusion of the proceeding, the offering party or other custodian authorized by the court must take custody of the sensitive exhibit and must execute a receipt prepared by the clerk.

(D) RETURN OF EXHIBITS

After notice to all parties, the clerk must return exhibits to the offering party or other custodian authorized by the court. A party or custodian who receives an exhibit must execute a receipt prepared by the clerk and is responsible for retention and safekeeping of the exhibit for the duration of subsequent proceedings.

CRIMINAL RULE 30.1
CRIMINAL JURY INSTRUCTIONS

(A) DEADLINES

Each party must serve and file requested jury instructions and a proposed verdict form at least seven (7) days before the first day of trial, unless ordered otherwise. At any time before closing arguments, a party may present additional requested instructions relating to issues arising during the trial.

(B) FORM OF REQUESTED INSTRUCTIONS

Requested jury instructions must be marked with the case number and must designate the party filing the request. Each requested instruction must be numbered and written on a separate page, along with a citation to authorities supporting the proposition of law stated in the instruction. A party requesting an Eighth Circuit or North Dakota pattern jury instruction only needs to designate the pattern jury instruction number and name, unless the pattern instruction is proposed to be modified. If the pattern instruction is proposed to be modified, the entire proposed instruction must be filed and must be clearly identified as modified.

CRIMINAL RULE 32.1**PRESENTENCE INVESTIGATION REPORT AND SENTENCING MEMORANDUMS****(A) PRESENTENCE INVESTIGATION REPORTS****(1) CONFIDENTIALITY**

Presentence Investigation Reports (PSIR) and other reports by Probation and Pretrial Services officers are confidential. The court authorizes the defendant, defendant's attorney, and the United States to retain copies of a PSIR. The court also authorizes Probation and Pretrial Services officers to provide a copy of a PSIR to the Federal Bureau of Prisons, the United States Sentencing Commission, other agencies providing placement, training, or treatment services to individuals sentenced by the court, and to others as ordered by the court. Except for use by the United States in collecting a special assessment, criminal fine, forfeiture, or restitution imposed by the court, the confidentiality of a PSIR must be maintained. A copy of a PSIR or other report prepared by Probation and Pretrial Services officers may not be reproduced or redistributed without court approval.

(2) REQUEST FOR DISCLOSURE

A request for disclosure of a PSIR or a probation record, except as provided in this rule, must be presented by motion to the court and must demonstrate a particularized need for and entitlement to disclosure of the record. A Probation and Pretrial Services officer may not disclose confidential information when requested or demanded by subpoena except under a court order directing disclosure.

(3) DISCLOSURE TO AID SEX OFFENDER REGISTRATION

The court authorizes the disclosure of Probation and Pretrial Services supervision files to the North Dakota Bureau of Criminal Investigation for purposes of determining whether an individual is required to register as a sex offender. Probation and Pretrial Services also may disclose supervision files to entities in other states that require sex offender registration and notification for use in completing a sexual offender risk assessment or re-assessment. Authorized disclosure is limited to the following: (1) charging documents; (2) factual basis of a plea agreement if the defendant pled guilty; (3) a brief synopsis of the case if there was an open plea or if the case proceeded to trial; (4) criminal history included in a PSIR; and (5) the judgment. A request for other documents must be made through the process described in subsection (A)(2).

(B) SENTENCING MEMORANDUM

A party may, but is not required to, file a sentencing memorandum. If a party files a sentencing memorandum, the party also must file a sentencing memorandum supplement. Both documents must be served and filed no later than seven (7) days before the sentencing hearing unless otherwise ordered by the court. A party may serve and file a response to a sentencing memorandum no later than two (2) days before the sentencing hearing.

CRIMINAL RULE 45.1

TIME

[REPEALED [Date]]

CRIMINAL RULE 47.1**MOTIONS****(A) MOTIONS****(1) DEADLINES AND PAGE LIMITS**

When serving and filing a motion, the moving party must contemporaneously serve and file a memorandum in support not to exceed twenty (20) pages. The adverse party has fourteen (14) days after service and filing of a memorandum in support to serve and file a response not to exceed twenty (20) pages. The moving party has seven (7) days after the service and filing of a response to serve and file a reply not to exceed seven (7) pages. A table of contents and a table of authorities, if a party chooses to include them, are excluded from the page limits described above.

MOTION DEADLINES AND PAGE LIMITS		
	DAYS	PAGES
Memorandum in Support of Motion		20
Response	14	20
Reply	7	7

(2) MOTIONS TO REDUCE SENTENCE

The United States has twenty-eight (28) days after service and filing of a motion to reduce sentence to file a response. The moving party has fourteen (14) days after the service and filing of a response to serve and file a reply. The page limits outlined in subsection (A)(1) apply to briefing on motions to reduce sentence.

(3) MOTIONS FOR LEAVE TO FILE ADDITIONAL FILINGS OR TO EXCEED PAGE LIMITS

A party must serve and file a motion for leave of court to file additional filings or filings that exceed the page limits. Leave of court is granted only upon a showing of good cause. A memorandum in support of a motion for leave of court to file an

additional filing or to file a filing that exceeds the page limits is not required but, if filed, may not exceed two (2) pages.

(4) MOTIONS FOR LEAVE OF COURT

A party filing a motion for leave of court to file a document must file the proposed document as an attachment.

(5) MOTIONS FOR ORAL ARGUMENT

The court may order oral argument on its own or upon a party's motion. A memorandum in support of the motion for oral argument is not required but, if filed, may not exceed two (2) pages.

(B) GENERAL MATTERS

(1) DEADLINES FOR *PRO SE* PARTIES WITHOUT ACCESS TO ELECTRONIC FILING

Under [Fed. R. Crim. P. 45\(c\)](#), *pro se* parties without access to electronic filing are often allowed three (3) additional days when calculating the deadlines in this rule.

(2) SERVICE AND FILING NOT ON SAME DATE

A party's time to respond or reply does not begin until after the service and filing of the motion or response, whichever is later.

(3) PROPOSED ORDERS NOT REQUIRED

Unless otherwise ordered, a proposed order should not be filed.

(4) FORM OF FILINGS AND EXHIBITS

(a) A party must serve and file a complete PDF copy of a deposition or other transcript offered in support of or in opposition to a motion.

(b) A party must serve and file each exhibit offered in support of or in opposition to a motion as a separate attachment with a sufficiently detailed description, so the attachment is readily identifiable. A party may not file a document already on file with the court but must instead refer to the docket number assigned to the filed document.

(5) FAILURE TO FILE MEMORANDUM OR RESPONSE

A party's failure to serve and file a memorandum or a response within the prescribed time may subject a motion to summary ruling. A moving party's failure to serve and file a memorandum in support may be deemed an admission that the motion is without merit. An adverse party's failure to serve and file a response to a motion may be deemed an admission that the motion is well taken.

CRIMINAL RULE 49.1

FILES AND FILING

(A) ELECTRONIC CASE FILING (ECF)

The specific requirements, procedures, and limitations of ECF are in the [Administrative Policy Governing Electronic Filing and Service](#).

(B) FORM

- (1) Documents for filing must be on standard size (8 ½" x 11") paper or equivalent PDF format, with page numbers at the bottom of each page.
- (2) Text must appear on only one side of the page with a minimum margin of one inch (1"). Text must be typeset with 12-point font or larger and must be double-spaced, except the title of the case and quoted material may be single-spaced.
- (3) Documents offered for filing, after the initial pleading, except exhibits, must be in pleading format, each containing the venue, case title, and file number.

(C) SEALED DOCUMENTS AND SEALED FILES

- (1) The filing of sealed documents and sealed files is governed by the [Administrative Policy Governing Electronic Filing and Service](#). A party seeking to file a document under seal must comply with the [Guide to Filing Sealed Documents and Motions](#), which addresses requirements for motions seeking to seal a document in its entirety and motions seeking to seal only portions of a document.
- (2) The following documents must be filed under seal and will remain sealed unless otherwise ordered by the court:
 - a. Plea agreement supplements;
 - b. Motions under [Fed. R. Crim. P. 35](#), memorandums in support of those motions, and responsive filings;
 - c. Motions under Section 5K1.1 of the United States Sentencing Guidelines, memorandums in support of those motions, and responsive filings;

- d. Pen register or a trap and trace device applications under either [18 U.S.C. § 3121](#) et seq. or [18 U.S.C. § 2516](#) et seq.; and
 - e. Sentencing memorandum supplements.
- (3) Documents pertaining to the issuance of search and seizure warrants must be filed under seal and remain sealed until ninety (90) days after the return of the search warrant is filed. Upon expiration of the period, the case and documents are unsealed without further court order. If the United States wishes a search or seizure warrant case or documents in the case to remain under seal, the United States must file a motion and a supporting memorandum stating with particularity the reasons for the case or documents in the case to remain under seal for more than ninety (90) days and suggest a date certain on which the case or documents will be unsealed.

CRIMINAL RULE 59.1**UNITED STATES MAGISTRATE JUDGES**

Except as hereinafter provided, a United States magistrate judge appointed in this district is authorized and designated to exercise powers and duties consistent with the United States Constitution, [28 U.S.C. § 636](#), other statutes as may be applicable, and the Federal Rules of Criminal Procedure. Those powers and duties may include, but are not limited to, those enumerated in this rule.

(A) ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES**(1) GENERAL ASSIGNMENT**

The clerk will assign cases or duties in a case to a magistrate judge and allocate duties among the magistrate judges of the court in accordance with this rule, standing orders of the court, or by special reference of a district judge, which reference may be by formal order or informal request. This rule does not preclude a district judge from reserving a proceeding for decision by a district judge rather than a magistrate judge. Assignment of duties or cases to a magistrate judge will generally be based on geographic location of the magistrate judge's chambers.

(2) CASE ASSIGNMENT**(a) Misdemeanor Cases.**

(i) Class A Misdemeanors. Class A misdemeanor cases are assigned to a magistrate judge upon filing of the charges. The magistrate judge will handle all pretrial proceedings and, upon consent of the defendant, conduct trial or guilty plea proceedings, sentence the defendant, enter judgment, and conduct post-conviction proceedings.

(ii) Petty Offenses (Class B Misdemeanors, Class C Misdemeanors, and Infractions). Petty offense cases are assigned to a magistrate judge upon filing of the charges. The magistrate judge will handle all proceedings.

(b) Felony Cases. Pre-indictment proceedings are conducted by a magistrate judge. Upon filing of an indictment, the case is assigned to a district judge. A magistrate judge will conduct initial appearances, arraignments, and other duties by general reference, specific order of reference, or informal request of a district judge.

(B) DUTIES IN CRIMINAL MATTERS

The magistrate judges of this court are authorized and designated to exercise the following duties in criminal matters:

- (1) Conduct all proceedings in class A misdemeanor cases, including conducting jury or bench trials, accepting guilty pleas, sentencing, entering judgments, and conducting post-conviction proceedings, with the defendant's consent to proceed before a magistrate judge;
- (2) Conduct all proceedings in petty offense cases;
- (3) Conduct pre-indictment and pretrial proceedings in felony investigations and cases, including issuing arrest and search warrants; determining probable cause for filing complaints; conducting initial appearances, preliminary hearings, arraignments, detention hearings, and [Fed. R. Crim. P. 40](#) removal proceedings; setting release conditions; addressing extradition and consent to transfer; and addressing appointment and substitution of an attorney;
- (4) Conduct all pre-adjudication hearing proceedings in juvenile delinquency cases;
- (5) Conduct case management conferences and determine non-dispositive motions if designated by a district judge ([28 U.S.C. § 636\(b\)\(1\)\(A\)](#));
- (6) Issue reports and recommended findings, including conducting evidentiary hearings when necessary, on evidentiary motions and case dispositive motions ([28 U.S.C. § 636\(b\)\(1\)\(B\)](#)) in felony cases and misdemeanor cases proceeding before a district judge, upon designation by a district judge;
- (7) Issue reports and recommended findings when accepting guilty pleas in felony cases and in misdemeanor cases proceeding before a district judge, if designated by a district judge and upon consent of the defendant;
- (8) Conduct preliminary proceedings on felony probation or supervised release revocation or modification petitions, and if designated by a district judge, conduct the final hearing and issue a report and recommended findings to a district judge;
- (9) Empanel grand juries and receive grand jury returns;

- (10) Conduct jury *voir dire* and selection in felony cases and class A misdemeanor cases proceeding before a district judge, upon designation by a district judge and upon consent of the parties;
- (11) Issue subpoenas, writs of *habeas corpus ad testificandum* and *habeas corpus ad prosequendum*, and other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings;
- (12) Issue warrants for searches and seizures that are not within the purview of [Fed. R. Crim. P. 41](#);
- (13) Issue warrants of arrest for individuals who have been determined, under [18 U.S.C. § 3144](#), to be material witnesses;
- (14) Issue orders authorizing the installation and use of devices, including traps and traces, pen registers, and mobile tracking devices, and issue orders directing an electronic communication service provider or a remote computing service to provide assistance to a named federal investigative agency in accomplishing the installation of traps and traces, pen registers, and other location devices;
- (15) Issue orders ruling on pre-indictment challenges to grand jury subpoenas or other motions related to grand jury proceedings and related contempt proceedings to the extent authorized by statute;
- (16) Request preparation of a presentence investigation report in misdemeanor cases; and
- (17) Accept jury verdicts in cases proceeding before a district judge.

(C) FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE

Magistrate judges are authorized to accept payment of a fixed sum in lieu of appearance in a petty offense case. Conditions and [schedules](#) for the forfeiture of collateral in lieu of appearance are on the court's website.

(D) REVIEW AND APPEAL

(1) APPEAL FROM JUDGMENTS IN MISDEMEANOR CASES

A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case to a district judge by filing a notice of appeal within fourteen

(14) days after entry of judgment and by serving a copy of the notice upon the United States Attorney. The scope of review upon appeal is the same as appeal from a judgment of a district judge to the court of appeals. See Fed. R. Crim. P. 58.

(2) OBJECTION TO NON-DISPOSITIVE ORDER

A party may object to a magistrate judge's determination of a non-dispositive matter within fourteen (14) days after being served with a copy of the magistrate judge's order unless otherwise ordered by the court (28 U.S.C. § 636(b)(1)(A) & Fed. R. Crim. P. 59(a)). The objecting party must serve and file a written objection to the order, which must specifically designate the order or part of the order to which the objection is made and the grounds for the objection. The adverse party has seven (7) days after service and filing of the objection to serve and file a response. The objection and response may not exceed twenty (20) pages. A reply is not permitted.

The party filing an objection must file a transcript of any hearing during which the magistrate judge made findings of fact related to the objection. With leave of court, the party may rely on an audio recording of the hearing in lieu of a transcript.

A district judge must consider the objection and set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.

Filing an objection does not stay the magistrate judge's order. A request to stay a magistrate judge's order pending objection must be made to the magistrate judge with notice to all parties.

(3) OBJECTION TO REPORT AND RECOMMENDATIONS

A party may object to a magistrate judge's report and recommendations on an evidentiary or dispositive matter within fourteen (14) days after being served with a copy, unless the court orders otherwise (28 U.S.C. § 636(b)(1)(B) & Fed. R. Crim. P. 59(b)(2)). The objecting party must serve and file written objections, which must identify the portions of the proposed findings, recommendations, or report to which objections are made and the basis for the objections. The objection and response may not exceed twenty (20) pages. A reply is not permitted. The party filing objections must file a transcript of any evidentiary proceeding related to the report and recommendations. With leave of court, the party may rely on an audio recording of the hearing in lieu of a transcript.

A district judge must make a *de novo* determination of those portions of the report and recommendations to which specific objections are made and may accept, reject, or modify in whole or in part the findings or recommendations made by the magistrate judge. The district judge will not generally conduct a hearing but, in appropriate circumstances, may receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions.

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APPENDIX

DEADLINES				
Type of Filing	Deadline	General Rule	Civil Rule	Criminal Rule
<i>Amicus Curiae</i> Brief (Motion for Leave to File and Proposed Brief)	7 days after party being supported files memorandum in support of motion or response to motion		7.1(C)	
Appeal from Judgment of Conviction by Magistrate Judge in Misdemeanor Case	14 days after entry of judgment			59.1(D)(1)
Completion of Discovery	30 days before trial		26.1(A)	
Disclosure Statement	14 days after party's first filing or entry of appearance		7.1.1	
Jury Instructions	7 days before jury trial		51.1(A)	30.1(A)
Motion for Attorney's Fees	14 days after entry of judgment, unless recovery is sought against United States. See 28 U.S.C. § 2412(d)(1)(B).		54.1(B)	
Motion for Costs	14 days after entry of judgment or issuance of mandate by court of appeals		54.1(A)	
Motion to Quash or Limit Grand Jury Subpoena	7 days before witnesses' appearance or production			6.1(C)
Motion to Reinstate Case	60 days after date of order dismissing settled case		41.1	
Objection to Magistrate Judge's Order on Non-dispositive Matter	14 days after being served copy of magistrate judge's order		72.1(D)(2)	59.1(D)(2)
Objection to Removal	30 days from notice of removal		3.1(A)	

DEADLINES				
Type of Filing	Deadline	General Rule	Civil Rule	Criminal Rule
Objection to Report and Recommendations	14 days after being served copy of Report and Recommendations		72.1(D)(3)	59.1(D)(3)
Reply to Criminal Motion	7 days			47.1(A)(1)
Reply to Dispositive Motion	14 days		7.1(A)(1)(a)	
Reply to Motion for Attorney's Fees	7 days		54.1(B)	
Reply to Motion for Compassionate Release	14 days			47.1(A)(2)
Reply to Motion for Costs	7 days		54.1(A)(1)	
Reply to Motion for Injunctive Relief	7 days		7.1(A)(3)(a)	
Reply to Non-dispositive Motion	7 days		7.1(A)(2)	
Response to Compassionate Release Motion	28 days			47.1(A)(2)
Response to Criminal Motion	14 days			47.1(A)(1)
Response to Dispositive Motion	28 days		7.1(A)(1)(a)	
Response (by the USA) to a Motion for Attorney's Fees	14 days from service of motion for costs		54.1(B)(2)	
Response/Objection to Motion for Costs	14 days after service of motion for costs		54.1(A)(1)	
Response to Motion for Injunctive Relief	14 days		7.1(A)(3)(a)	
Response to Non-dispositive Motion	14 days		7.1(A)(2)	
Response to Objection to Magistrate Judge's Decision of Non-dispositive Matter	7 days		72.1(D)(2)	59.1(D)(2)

DEADLINES				
Type of Filing	Deadline	General Rule	Civil Rule	Criminal Rule
Response to Order to Show Cause re: Attorney Discipline	30 days after service of order to show cause	1.3(H)(2)		
Response to Sentencing Memorandum	2 days before sentencing hearing			32.1(B)
Sentencing Memorandum and Sentencing Memorandum Supplement	7 days before sentencing hearing			32.1(B)
Settlement Documents	30 days after advising court case has settled		41.1	
Settlement Documents (if United States is a party)	60 days after advising court case has settled		41.1	
Verdict Form	7 days before trial		51.1(A)	30.1(A)

PAGE LIMITS (a table of contents or a table of authorities, if included, do not count towards the page limits)			
Type of Filing	Page Limit	Civil Rule	Criminal Rule
<i>Amicus Curiae</i> Brief	20 pages	7.1(C)(4)	
Memorandum in Support of Criminal Motion	20 pages		47.1(A)(1)
Memorandum in Support of Dispositive Motion	40 pages	7.1(A)(1)(a)	
Memorandum in Support of Motion for Compassionate Release	20 pages		47.1(A)(2)
Memorandum in Support of Motion for Injunctive Relief	20 pages	7.1(A)(3)(b)	
Memorandum in Support of Motion for Leave of Court to File Additional Filing	2 pages	7.1(A)(4)	47.1(A)(3)
Memorandum in Support of Motion for Leave of Court to File Filing that Exceeds the Page Limits	2 pages	7.1(A)(4)	47.1(A)(3)
Memorandum in Support of Motion for Oral Argument	2 pages	7.1(A)(6)	47.1(A)(5)
Memorandum in Support of Non-dispositive Motion	20 pages	7.1(A)(2)	
Objection to Magistrate Judge's Decision of Non-dispositive Matter	20 pages	72.1(D)(2)	59.1(D)(2)
Objection to Report and Recommendations	20 pages	72.1(D)(3)	59.1(D)(3)
Reply to Criminal Motion	7 pages		47.1(A)(1)
Reply to Dispositive Motion	10 pages	7.1(A)(1)(a)	
Reply to Motion for Compassionate Release	7 pages		47.1(A)(2)
Reply to Motion for Injunctive Relief	7 pages	7.1(A)(3)(b)	
Reply to Non-dispositive Motion	7 pages	7.1(A)(2)	
Response to Criminal Motion	20 pages		47.1(A)(1)
Response to Dispositive Motion	40 pages	7.1(A)(1)(a)	
Response to Motion for Compassionate Release	20 pages		47.1(A)(2)

Type of Filing	Page Limit	Civil Rule	Criminal Rule
Response to Motion for Injunctive Relief	20 pages	7.1(A)(3)(b)	
Response to Non-dispositive Motion	20 pages	7.1(A)(2)	
Response to Objection to Magistrate Judge's Decision of Non-dispositive Matter	20 pages	72.1(D)(2)	59.1(D)(2)
Response to Objection to Report and Recommendations	20 pages	72.1(D)(3)	59.1(D)(3)