

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



**LOCAL RULES**

Effective **[DATE]** ~~March 1, 2022~~



## PREFACE

*These rules have been adopted by the court as local rules ~~under~~ pursuant to 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 ~~all~~ 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 ~~any~~ 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.

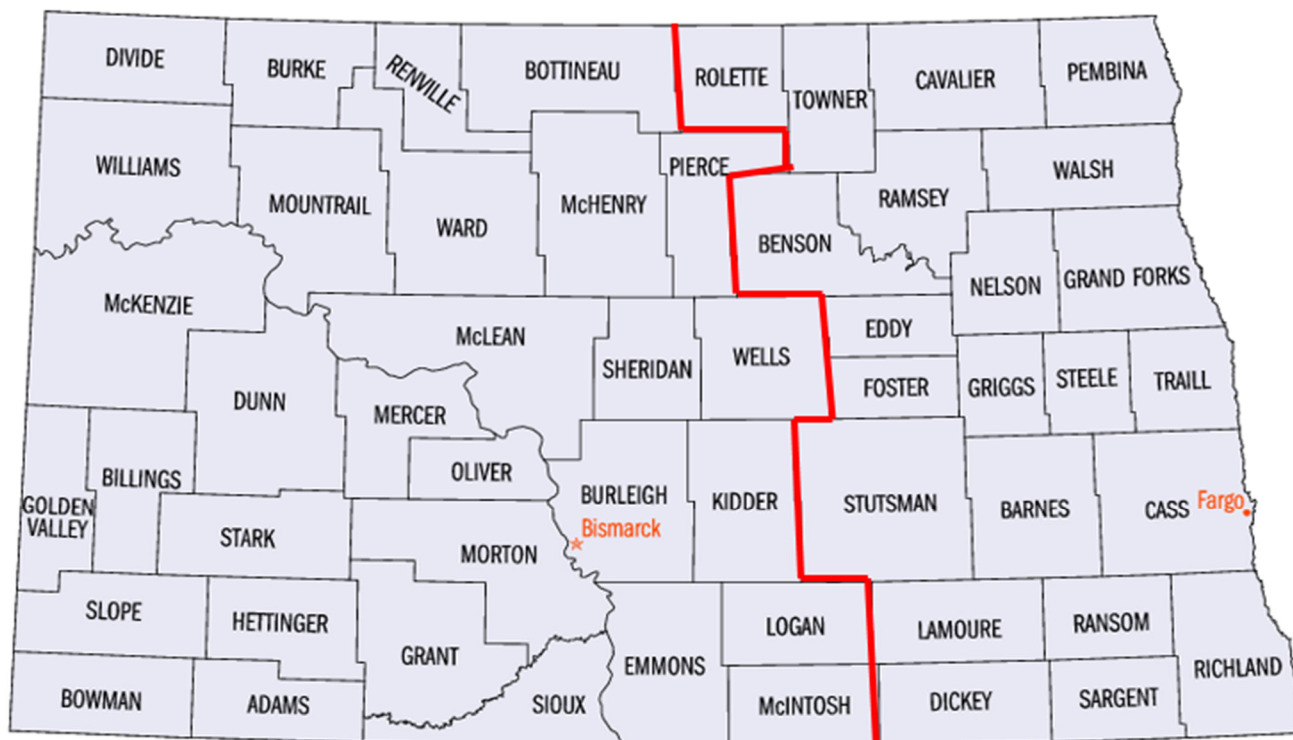
**TABLE OF CONTENTS**

[excluded from redline draft]

**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, ~~Burke~~, 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, ~~Towner~~, and Walsh.



**GENERAL RULE 1.2**

**OFFICE OF THE CLERK**

The clerk maintains offices in ~~the cities of~~ Bismarck and Fargo, with the headquarters ~~located~~ 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.** ~~with the exception of the following legal holidays: New Year's Day, Martin Luther King, Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. Whenever these legal holidays fall on a Saturday or Sunday, the clerk's offices will be closed on the preceding Friday or the following Monday, respectively.~~

**GENERAL RULE 1.3**

**ATTORNEYS**

(A) ROLL OF ATTORNEYS

The bar of this court consists of those **attorneys** ~~who have been~~ admitted to practice **in this district.** ~~before this court, taken the oath, and paid the admission fee.~~

(B) ELIGIBILITY

**A** ~~Any~~ member in good standing of the bar of **another** ~~any~~ federal court, ~~or of~~ 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

- (1) **An** ~~Each~~ applicant for admission to the bar of this court must **apply for admission via PACER.gov.** ~~submit an application petition as required by the clerk.~~ Detailed instructions **are** ~~for admission may be found~~ on the court's website.
- (2) **An** ~~Each~~ applicant for admission to the bar of **this court** ~~the United States District Court for the District of North Dakota~~ must pay the admission fee set by the Judicial Conference **of the United States** plus an additional local admission fee. **An** ~~Any~~ attorney representing the United States, or any agency thereof, or employed by the Office of the Federal Public Defender is exempt from **paying** the ~~payment of~~ admission **fee** ~~fees~~.
- (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 ~~to the bar of this court~~, 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, ~~who is not admitted to practice before this court~~ may be admitted *pro hac vice* to ~~represent a client in a single case. practice in a particular case~~ *pro hac vice* by seeking admission ~~pro hac vice. An attorney applying for~~ Applying to appear *pro hac vice* admission must adhere is ~~deemed consent to submit to the~~ North Dakota Rules of Professional Conduct jurisdiction of the court in matters of discipline and ~~agree an agreement~~ to comply with ~~these rules~~ Local Rules. In addition, the attorney must pay a ~~local~~ an admission fee. Admission to appear *pro hac vice* is for ~~the limited purposes of a particular case.~~ Detailed instructions for applying to appear *pro hac vice* ~~are may be found~~ on the court's website.

An attorney representing the United States, or any 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 cannot~~ participate in any 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 permission~~ to appear.

(F) SUBSTITUTION AND WITHDRAWAL OF ATTORNEYS

(1) Notice of Substitution.

~~A notice of substitution may be filed only if an attorney~~ Substitution of counsel from same law firm or agency: When one attorney from a law firm or agency replaces another attorney from the same law firm or agency, ~~the attorneys must serve and file a notice of substitution of attorney.~~

(2) Motion to Substitute.

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

(3) Motion to Withdraw.

~~Withdrawal of counsel with no substitution of counsel:~~ An attorney who has appeared as attorney of record in a case and ~~who~~ is seeking to withdraw from the



~~representation~~ ease must serve and file a motion to withdraw, establishing good cause for withdrawing. The attorney seeking to withdraw must ~~also~~ serve ~~their~~ ~~his~~ or ~~her~~ 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~~ ~~his~~ or ~~her~~ 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~~ ~~has the continuing duty to promptly notify the clerk of any~~ change of name, business address, telephone number, or ~~email e-mail~~ address. An attorney ~~admitted to practice under this rule~~ must ~~also~~ remain a member of ~~in~~ good standing of the bar ~~of another federal court, the highest court of any state, or the District of Columbia, used as the basis for admission under D.N.D. Gen. L. R. 1.3(B).~~

(H) DISCIPLINARY ENFORCEMENT

- (1) ~~A~~ Any member of the bar ~~of this court~~ may be disbarred, suspended from practice for a definite time, reprimanded, or subjected to ~~such~~ 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 ~~on the matter~~. 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~~ ~~Where it is shown to the court that any~~ attorney admitted to practice before this court ~~is~~ ~~may have been~~ convicted of a serious crime, subject to public discipline, disbarred by ~~another jurisdiction, the bar used as the basis for admission under D.N.D. Gen. L. R. 1.3(B), or~~ ~~has~~ otherwise breached standards of ~~the North Dakota Rules of Professional Conduct or the standards of professional conduct of any 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~~ ~~that~~ attorney should not be ~~disciplined by this~~ ~~suspended or disbarred from practice before the court.~~ The clerk must immediately serve a copy of the show cause order upon the attorney.

- (3) Following the issuance of a show cause order, the court may refer the matter to the United States Attorney or ~~to another~~ **other** attorney appointed by the court for investigation and prosecution or the formulation of other recommendations as may be appropriate. The clerk must serve ~~any~~ suspension order ~~of the court~~ on the attorney by certified mail at the address shown in **PACER** ~~the clerk's records~~. 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** ~~is~~ 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)(4) 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 ~~any of~~ the privileges of a member of the bar in any action or **proceeding** ~~proceedings~~ in this court or pretends to be entitled to do so.
- (5) ~~A prosecuting attorney may file a motion requesting the award of reasonable fees and costs expended in the course of a disciplinary investigation or prosecution. Reasonable fees and costs, if awarded, may be taxed against the respondent attorney for immediate payment.~~
- (4)(6) The clerk must promptly notify the National **Lawyer Regulatory** ~~Discipline~~ Data Bank, operated by the American Bar Association, of any order imposing public discipline on **an** ~~any~~ attorney admitted to practice before this court.

(I) REINSTATEMENT

- (1) **An attorney who has been** ~~A~~ **disbarred or suspended** ~~attorney~~ may file a **motion** ~~petition~~ for reinstatement with the clerk. Upon receipt of the **motion** ~~petition~~, the court may refer the **motion** ~~petition~~ to the United States Attorney or ~~to another~~ **other** attorney appointed by the court for investigation and **preparation of a report**. The matter **may be** ~~must promptly be set for a hearing before one or more judges of this court. The~~ **movant** ~~petitioner~~ has the burden **to demonstrate** ~~of demonstrating~~ by clear and convincing evidence that the **movant possesses** ~~attorney maintains~~ the moral qualification, competency, and **knowledge of learning in** the law required for

admission to practice law before this court. The **movant** ~~petitioner~~ must also demonstrate that ~~the attorney's~~ **their reinstatement** ~~resumption of the practice of law~~ **is** ~~will not be~~ detrimental to the integrity of the bar or to the administration of justice, or **contrary** ~~subversive~~ to the public interest.

- (2) An attorney who has been suspended or permanently disbarred by **another jurisdiction** ~~the bar used as the basis for admission under D.N.D. Gen. L. R. 1.3(B)~~ and thereafter reinstated by that **jurisdiction is** ~~court may not~~, solely by reason of reinstatement, ~~be permitted to practice in this court.~~
- (3) — An attorney who has been reinstated to practice **in another jurisdiction** may file a **motion** ~~petition~~ for reinstatement to the bar of this court, supported by a certified copy of the order of reinstatement with ~~the clerk in~~ the Bismarck clerk's office.
- (4) — The **movant** ~~petitioner~~ must **file** ~~set forth in~~ a brief; **that sets forth** the grounds of the suspension or disbarment, the **grounds** ~~reason~~ for reinstatement, and ~~any other facts supporting~~ **fact in substantiation** of the **motion** ~~petition~~ for reinstatement to practice in this court.
- (3)(5) Upon receiving the final determination by the court of the **motion** ~~petition~~ for reinstatement, the clerk must file and enter the order and advise **the movant** ~~all interested parties.~~

**GENERAL RULE 1.4****STUDENT PRACTICE RULE****(A) GENERAL PROVISIONS**

A student who meets the requirements of this rule may exercise all **limited** privileges as a member of the bar ~~of this court~~ in the particular case for which the student is admitted. The student may only practice under the immediate supervision of a member of ~~this the bar of this court~~. The supervising attorney remains as attorney of record in the case until further **court** ~~order of the court~~ 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 ~~of this court~~, an applicant must meet the following qualifications:

- (1) the applicant must be
  - (a) a full-time student at **an** ~~the University of North Dakota School of Law or other~~ 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** ~~the University of North Dakota School of Law or other~~ 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** ~~the University of North Dakota School of Law or other~~ 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 ~~approved by the Supreme Court of North Dakota~~, and these **rules** ~~Local Rules.~~ ; ~~and,~~
- ~~(3) — a supervising attorney must make a motion to admit an applicant.~~

(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** ~~its~~ ruling on the motion.

(D) STUDENT PRACTICE LIMITATIONS

- (1) A student practicing under this rule may not **appear in** ~~have~~ more than four (4) cases pending in this court.
- (2) A student may **not** ~~neither~~ request **or** ~~nor~~ receive compensation or remuneration of ~~any kind~~ 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. ~~; nor does this~~ **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 the court's electronic filing system (ECF).**

(E) SUPERVISING ATTORNEY REQUIREMENTS

An attorney supervising **a student practicing under this rule** ~~practitioners~~ must:

- (1) Actively and personally attend to supervisory responsibilities, including professional responsibility for the student;
- (2) Be present with the student at ~~all~~ appearances in court or at depositions;
- (3) Read, approve, and co-sign ~~all pleadings, documents, or other papers~~ 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 ~~judicial officers of this court~~ **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 [Effective Date]]**

**(A) — PHOTOGRAPHS AND RECORDINGS**

~~The taking of photographs and operation of recording equipment in the courtroom or its surrounding areas, and radio and television broadcasting from the courtroom or its surrounding areas, during the progress of or in connection with judicial proceedings is prohibited whether or not court is actually in session. A judicial officer may, however, permit (a) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record and (b) the broadcasting, televising, recording, or photographing of ceremonial or naturalization proceedings.~~

**(B) — WIRELESS COMMUNICATION DEVICES**

~~Wireless communication devices are allowed and may be used in all areas of the courthouse, including courtrooms. All wireless communication devices must be rendered silent before entering a courtroom. Wireless communication devices may not be used to photograph, record, televise, or otherwise transmit any images or sounds in a courtroom, judge's chambers, jury room, or corridor of the building on the floor on which a courtroom or jury room is located. Wireless communication devices must not be used for voice communication in a courtroom during judicial proceedings without the express permission of the presiding judge.~~

**(C) — EXCLUSION AND INSPECTION**

~~The United States Marshal Service and court security officers are authorized to exclude from any courtroom, prohibit from the courthouse, or confiscate any devices they have reason to believe violate this rule. All electronic devices are subject to visual and/or electronic inspection by the United States Marshal Service and court security officers at any time. An inspection may include a demonstration by the person in possession of the device that it is functional.~~

**GENERAL RULE 1.6****COURTROOM CONDUCT AND USE OF ELECTRONIC DEVICES  
DECORUM****(A) INSPECTION**

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

**(B) ~~COURTROOMS~~ COURTROOM CONDUCT**

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

**(C) ELECTRONIC DEVICES ~~PHOTOGRAPHS AND RECORDINGS~~**

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. ~~The taking of photographs and operation of recording equipment in the courtroom or its surrounding areas and radio and television broadcasting from the courtroom or its surrounding areas during the progress of or in connection with judicial proceedings is prohibited whether or not court is actually in session.~~ 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, ~~televising~~, 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.

~~(D) — WIRELESS COMMUNICATION DEVICES~~

~~Wireless communication devices are allowed and may be used in all areas of the courthouse, including courtrooms. All wireless communication devices must be rendered silent before entering a courtroom. Wireless communication devices may not be used to photograph, record, televise, or otherwise transmit any images or sounds in a courtroom, judge's chambers, jury room, or corridor of the building on the floor on which a courtroom or jury room is located. Wireless communication devices must not be used for voice communication in a courtroom during judicial proceedings without the express permission of the presiding judge.~~

**GENERAL RULE 1.7**

**STIPULATIONS**

~~An~~ No agreement or consent between the parties or ~~the parties'~~ ~~their~~ attorneys in respect to proceedings in this court is ~~not~~ binding, unless ~~the agreement or consent~~ ~~it~~ is: (1) signed by all parties or ~~the parties'~~ ~~their~~ attorneys, filed ~~with the clerk~~, and ~~adopted~~ ~~approved~~ by the court; or (2) made in open court, on the record, and approved by the court.

**GENERAL RULE 1.8**

**COURT REPORTERS' TRANSCRIPTS**

~~If~~ ~~When~~ 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 ~~and docketed~~ as part of any 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 when~~ 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 ~~all~~ 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~~ pursuant to Fed. R. Civ. P. 67) in the registry of ~~the~~ ~~this~~ 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 ~~all fees on any deposit fee~~, as set by the Director of the Administrative Office of the United States Courts.

**(3) INTERPLEADER FUNDS**

Interpleader funds ~~s~~ 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 shall~~ be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which ~~is shall be~~ responsible for meeting ~~all~~ DOF tax administration requirements. The custodian is authorized and directed to deduct the DOF fee on assets ~~deposited on deposit~~ in the DOF for management of investments and tax administration. The custodian ~~must is further authorized and directed to~~ 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

~~Prior to presenting to the clerk any deposit of funds,~~  
~~a the party must obtain a from the court an order directing that the funds be~~  
~~deposited in the court's local registry of the court.~~  
**Before depositing funds with the clerk, a party must obtain a from the court an order directing that the funds be**

(2) INTEREST-BEARING FUNDS

~~Prior to presenting to the clerk any deposit of funds,~~  
~~which that are to be interest bearing with the clerk, a , the party must obtain~~  
~~a from the court an order including the following:~~  
**Before depositing funds with the clerk, a party must obtain a from the court an order including the following:**

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

(b) The instrument to be deposited in the registry must be made payable to the United States District Court. ~~Third-party No third-party checks are will not~~  
~~be accepted. All Funds must be forwarded to the Fargo clerk's office for~~  
~~deposit.~~  
**Third-party No third-party checks are will not be accepted. All Funds must be forwarded to the Fargo clerk's office for deposit.**

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

- (i) **Interest-bearing** ~~All interest-bearing~~ registry funds must be invested in the CRIS.
- (ii) The clerk **must promptly deposit the funds.** ~~will deposit the funds as soon as the business of the clerk's office allows.~~

(C) WITHDRAWAL OF FUNDS

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

(1) WITHDRAWAL OF NON-INTEREST-BEARING FUNDS

Cash bonds are distributed ~~only by a upon order of the court order. Unless the court orders otherwise, cash~~ Cash deposited as security on a bond ~~is will be refunded as provided in upon order of the court in accordance with the affidavit of ownership filed under pursuant to D.N.D. Gen. L.R. 1.11. , unless otherwise ordered by the court.~~

(2) WITHDRAWAL OF INTEREST-BEARING FUNDS

- (a) ~~Before~~ Prior to the court ~~issues~~ issuing 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 ~~street~~ address and zip code; and
  - (ii) a completed IRS Form W-9 or an AO-213.
- (b) ~~An order~~ All orders 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 will not be made until the above~~ information set forth ~~above~~ is provided to the clerk.

## GENERAL RULE 1.11

### BONDS

(A) **SECURITY PROVIDER LIMITATIONS** ~~ATTORNEY MAY NOT TO BE SECURITY PROVIDER~~

~~A No member of the bar or any employee attorney of this court, no member of the bar, nor any other officer of this court may not serve be accepted as a security provider on a any bond, other security, or undertaking in an any 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 A corporate security provider upon any~~ undertaking in which the United States is the obligee, **a corporate security provider** must be qualified in accordance with ~~the provisions of 31 U.S.C. §§ 9301-9309~~**9310**. The parties must consult with the Department of Treasury listing of ~~certified~~ companies to confirm ~~that~~ 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 ~~an acceptable security provider. In all cases,~~ 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**, ~~but only upon~~ the execution and filing of a written bond or other security **contains** ~~containing~~ 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** ~~every~~ deposit of cash or personal property must be accompanied by an affidavit of ownership, which must include the **owner's** full ~~street~~ address and zip code ~~of the owner~~. An affidavit of ownership will presumptively establish the identity of the **property's** owner ~~of the property~~. Withdrawal of cash or other personal property ~~so~~ deposited **with the court** may be made only upon written **court** ~~order of the court~~ **according to the provisions of** See 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~~ any party to file a bond or other security for costs or additional security for costs in ~~such~~ an amount and ~~so~~ conditioned **by terms imposed by** as the court ~~may designate~~.

(F) INSUFFICIENCY AND REMEDY

A party may **object** ~~raise objections~~ 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 ~~with such order~~, the court may **dismiss** ~~the case be dismissed for want of prosecution, or the judge may~~ take other appropriate action.

**GENERAL RULE 1.12**

**NON-APPROPRIATED FUND**

(A) DEPOSIT

The clerk must deposit all 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 These funds must not be used to supplement appropriated funds or to supplement the salary of a judiciary any court officer or employee.

(C) PLAN

The clerk must maintain a written plan for the administration and operation of the non-appropriated fund on file in the office of the clerk.

## **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 ~~that~~ 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 ~~DIVISION~~ ASSIGNMENT****(A) DIVISION ASSIGNMENT AND OBJECTIONS**

All Civil cases must be assigned to **and tried in** the division where the action arose or where the defendant resides, ~~with the trial to be held within that division.~~ **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 ~~that~~ 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 ~~make a~~ timely **object** ~~objection~~ constitutes a waiver of any 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 ~~(1)~~ upon timely motion made by a party when the initial division assignment is improper, ~~(2)~~ upon stipulation of the parties ~~with the consent of the court~~, or ~~(3)~~ ~~at any time~~ in the court's discretion ~~with or without a motion by a party.~~

**(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~~ MARSHAL SERVICE

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

(B) APPOINTMENT OF SPECIAL PROCESS SERVERS

State sheriffs and their deputies are specially appointed to serve and execute ~~all~~ civil process and court orders ~~under~~ pursuant to 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~~ ~~must~~ 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) ~~USE OF~~ ELECTRONIC CASE FILING (ECF)

The specific requirements, procedures, and limitations ~~for the court's related to~~ ECF are set out in the "[Administrative Policy Governing Electronic Filing and Service](#)."

(B) ~~FORM OF PAPERS~~

- (1) ~~All pleadings, papers, and Documents for filing in this court~~ must be on standard size (8 ½" x 11") paper or equivalent PDF format, ~~with page numbers properly paginated~~ 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~~ All text must be typeset with 12-point font or larger and must be double-spaced, except that the title of the case and quoted material may be single-spaced.
- (3) ~~Documents~~ All papers offered for filing, after the initial pleading, except exhibits, must be in pleading format, each containing the venue, case title, and file number.
- (4) ~~All pleadings filed by pro se parties must have an original signature.~~

(C) ~~FILING OF PLEADINGS REQUIRING LEAVE OF COURT~~

~~A party filing a motion for leave of court to file pleadings must file the proffered pleading as an attachment.~~

(D) ~~SEALED DOCUMENTS AND SEALED FILES~~

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.

**CIVIL RULE 6.1**

**TIME**

**[REPEALED [Effective Date]]**

~~The method of computing time under the Local Rules is the same as that set forth in [Fed. R. Civ. P. 6.](#)~~

## CIVIL RULE 7.1

## MOTIONS

## (A) MOTION TYPES

## (1) DISPOSITIVE MOTIONS

## (a)(1) DEADLINES AND PAGE LIMITS LIMITATIONS

A dispositive motion is one which seeks dispositive relief, whether partial or complete, ~~under pursuant to Fed. R. Civ. P. 12 or 56.~~ ~~When~~ Upon serving and filing a dispositive motion, the moving party must contemporaneously serve and file a memorandum in support not to exceed forty (40) pages, ~~of which no more than twenty-five (25) pages may be argument.~~ The adverse party has ~~twenty-eight (28) twenty-one (21)~~ days after service and filing of the memorandum in support to serve and file a response ~~not to exceed forty (40) pages. subject to the same page limitations.~~ 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	<del>28</del> 21	40
Reply	14	10

## (b)(2) MEMORANDUM IN SUPPORT OF A MOTION FOR SUMMARY JUDGMENT

A memorandum in support of a motion for summary judgment must contain, separate from the argument ~~section portion~~ of the memorandum, a recitation of the material facts ~~that~~ 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** ~~these requirements~~ may result in the denial of the motion.

**(c)(3) RESPONSE TO A MOTION FOR SUMMARY JUDGMENT**

A response to a motion for summary judgment must ~~also~~ state the facts upon which the party opposing summary judgment relies and must clearly identify those facts ~~that the opposing party claims are contested. and that require a trial.~~ The recitation of facts in the response ~~to a motion for summary judgment~~ 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 portion~~ of the response why the facts claimed to be contested are material to the **matters at issue.** ~~issues to be resolved.~~ A party's failure to comply with **this rule** ~~these requirements~~ may result in **granting of the motion.** ~~a motion for summary judgment being granted.~~

**(2)(B) NON-DISPOSITIVE MOTIONS**

A non-dispositive motion is ~~any~~ motion not set forth in D.N.D. Civ. L.R. 7.1(A)(1) or otherwise designated by the court as a dispositive motion. ~~When~~ Upon 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)(C) MOTIONS FOR LEAVE OF COURT TO FILE REQUESTS FOR ADDITIONAL FILINGS OR TO EXCEED PAGE LIMITS LIMITATIONS

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

### (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.

### ~~(D)~~ FORM OF FILINGS AND EXHIBITS [moved to a subsequent section]

- ~~(1) A party must serve and file in PDF a complete copy of a deposition or other transcript offered in support of or in opposition to a motion.~~

- (2) ~~A party must serve and file each exhibit offered in support of or in opposition to a motion as a separate attachment with a description of sufficient detail to make the attachment readily identifiable to the court. A party must not attach as an exhibit any pleading or other document already on file with the court, but must instead refer to the docket number assigned to the document.~~
- (3) ~~A table of contents and a table of authorities, if a party chooses to include them in documents filed with the court, are excluded from the page limitations set forth in these rules.~~
- (4) ~~All filings must comply with the form requirements of [D.N.D. Civ. L.R. 5.1](#) and the “[Administrative Policy Governing Electronic Filing and Service](#).”~~

**(6)(E) MOTIONS FOR ORAL ARGUMENT**

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

**(B) GENERAL MATTERS**

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

~~Under pursuant to~~ 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 [moved from a prior section]**

**(a)(4)**

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)(2)

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)(F)~~ FAILURE TO FILE A MEMORANDUM OR A 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)(G)~~ AMICUS CURIAE BRIEFS

- (1) The United States or its officer or agency; ~~or~~ 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~~ Any other *amicus curiae* may file a brief only ~~with~~ by leave of court or if the brief states that 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~~ reason why an *amicus curiae* brief is desirable, and ~~how~~ why the matters asserted are relevant to the disposition of the case. A motion for leave to file an *amicus curiae* brief must ~~also~~ be accompanied by the proposed brief.
- ~~(2)~~—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 filing of a party's memorandum in support of a motion or response to a motion; unless otherwise ordered by the court.~~ 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) ~~An *amicus curiae* brief must comply with the form requirements of [D.N.D. Civ. L.R. 5.1](#) and the “[Administrative Policy Governing Electronic Filing and Service](#).” Unless otherwise ordered by the court, an *amicus curiae* brief may be no longer than **twenty (20) pages**, the maximum length authorized by these rules for a party’s corresponding brief. (i.e., if the *amicus curiae* brief is supporting a dispositive motion, the *amicus curiae* brief may be no longer than forty (40) pages in length; if the *amicus curiae* brief is in response to a non-dispositive motion, the *amicus curiae* brief may be no longer than twenty (20) pages in length).~~

**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~~ ~~schedule~~ pretrial conferences as required by Fed. R. Civ. P. 16(b) and as otherwise ordered by the court. The following categories of actions are exempted 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 a magistrate judge, the bankruptcy court, and administrative agency decisions (including Social Security);
- (8) appeals from administrative agency decisions (including the Social Security Administration);
- ~~(9)~~(8) actions brought by the United States to collect debts or recover benefit payments;
- ~~(10)~~(9) actions in which one of the parties is incarcerated and appears *pro se*;
- ~~(11)~~(10) student loan cases;
- ~~(12)~~(11) overpayment of Veterans' Administration benefits;
- ~~(13)~~(12) admission to or revocation of citizenship;
- ~~(14)~~(13) arbitration actions (to set aside, confirm, or compel arbitration);
- ~~(15)~~(14) actions to compel testimony or production of documents;
- ~~(15)~~—motions for attorneys fees or costs;

- (16) actions to enforce or quash administrative summons or subpoenas;
- (17) ~~all~~ 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 ~~in any case~~ may request that the court hold 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~~ pursuant to **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**. ~~held by judicial officers~~. 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 ~~also~~ 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** ~~the~~ case and requires that the parties, in ~~all~~ civil cases not excluded **under D.N.D. Gen. L. R. 16.1** ~~from application of this rule~~, discuss early ADR participation and the appropriate timing of **ADR**. ~~such effort~~. The parties must include in their **Fed. R. Civ. P. 26(f)(3)** ~~Report a recitation of their discussion about participating in early ADR and must indicate in their~~ **Fed. R. Civ. P. 16(b)** Scheduling/Discovery Plan the ADR option they choose and the appropriate timing. ~~In addition, upon~~ **Upon** request by ~~a any~~ party or ~~on upon~~ the court’s own initiative, the court may schedule a settlement conference at any stage of the proceedings if the nature of the case, the amount in controversy, and the status of the case indicate ~~that~~ 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 ~~any~~ positions taken by parties during the ADR process and will only advise **the trial judge** whether ~~or not~~ 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. ~~In addition, all~~ **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~~ ~~The judicial officer~~ conducting an ADR proceeding may not be called to testify in connection with any 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~~ ~~court will designate by order of appointment a judicial officer~~ 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~~ ~~judicial officer~~ conducting an ADR proceeding ~~because of~~ ~~may be disqualified for~~ bias or prejudice or for conflict of interest as specified in ~~28 U.S.C. §§ 144 and 455.~~
- (2) ~~A~~ Any party who believes that a ~~judge~~ ~~judicial officer~~ 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~~ ~~judicial officer~~ from conducting an ADR proceeding, the ADR program administrator will assign another ~~judge~~ ~~judicial officer~~ to conduct further ADR proceedings. If the ADR program administrator has been disqualified, ~~another judge in the district~~ ~~the chief judge~~ will assign ~~a~~ ~~another judge~~ ~~judicial officer~~ 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~~ ~~prior to~~ 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 the discovery ~~requests~~ ~~request~~ to the opposing ~~parties~~ ~~party~~.

**(C) FILING**

A party ~~may~~ ~~must~~ not file discovery materials except when ~~relevant to~~ ~~required for~~ 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) ~~those proceedings~~ ~~under~~ ~~set forth in~~ [Fed. R. Civ. P. 26\(a\)\(1\)\(B\)](#);
- (2) bankruptcy appeals;
- (3) ~~consent cases~~;
- (4) collection actions; and
- ~~(4)~~ ~~(5)~~ foreclosures.

## CIVIL RULE 37.1

## CIVIL DISCOVERY MOTIONS

## (A) OBLIGATION TO CONFER

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

(B) OBLIGATION FOR ~~TELEPHONIC~~ CONFERENCE WITH MAGISTRATE JUDGE

In addition to the requirements ~~set forth in subsection (A) D.N.D. Civ. L.R. 37.1(A)~~, the parties ~~may must~~ not file a ~~motion concerning a~~ discovery ~~or scheduling dispute motion~~ until ~~after~~ the parties have participated in a ~~telephonic~~ conference with the assigned magistrate judge, unless ~~the court grants leave to file the motion. otherwise ordered by the court. 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 a~~ ~~summary~~ granting or ~~denying~~ ~~denial~~ of the ~~discovery~~ motion, as appropriate, as well as ~~awarding~~ ~~an award~~ of costs and reasonable attorney's fees.

**CIVIL RULE 41.1****DISMISSAL OF SETTLED CIVIL CASE CASES**

Within thirty (30) days after advising the court ~~that a case an action has been settled~~, or **within** a longer time as the court may set, the parties must serve and file the documents necessary to terminate the **case action**, unless the United States is a party. If the United States is a party ~~to the action~~, the parties must serve and file the documents necessary to terminate the **case action** within sixty (60) days **of advising the court that the case has settled**. If the parties fail to do so, the court may order dismissal of the **case action**, 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 as to why** the case ~~should be reinstated~~.

## CIVIL RULE 43.1

## EXHIBITS

## (A) MARKING EXHIBITS

~~Before a proceeding, a party must physically mark and number documents. Parties must complete the physical marking and numbering of all papers and objects that are expected to be introduced as exhibits in the proceeding prior to any proceedings before the court and must follow following the requirements of the any pretrial order governing that may govern the marking of exhibits. Unless otherwise ordered provided by a pretrial order, 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 all exhibits that which have been offered in evidence, unless the court orders otherwise. Parties retaining custody of exhibits of unusual bulk or weight must permit their inspection, if requested, by another any party after a reasonable request and bear the responsibility for of the exhibits' safekeeping and transportation to all subsequent proceedings, if necessary.~~

## (C) RETURN OF EXHIBITS [Moved to a subsequent section]

~~Upon notice to all parties, the clerk must return exhibits to the party who produced them. The party who receives the exhibits must execute a receipt prepared by the clerk. The party is responsible for retention and safekeeping for the duration of all subsequent proceedings.~~

~~(D)~~ SENSITIVE EXHIBITS

- (1) ~~Sensitive exhibits include controlled substances. Drugs, authentic legal or counterfeit currency money, articles of high monetary value, explosives, weapons, firearms, ammunition, biohazardous materials, or—contraband of any kind (including child pornography and child sexual abuse materials), and any other items designated as a are considered sensitive exhibits.~~
- (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 ~~offering other~~ sensitive exhibit, ~~other than a firearm~~, must maintain ~~present~~ the exhibit ~~exhibits~~ in a sealed evidence bag or in a manner which prevents direct physical access to the exhibit. The sealed evidence bag or container may ~~must~~ not be opened except upon direction of the court.
- (42) A party seeking admission of ~~offering~~ a firearm must render the firearm inoperable, with a weapon lock (such as a ~~whenever possible through the use of a trigger guard lock or cable gun lock~~) or by removing the firing pin (zip ties are not acceptable); ~~and~~ The United States Marshals ~~Marshal~~ Service must inspect the inoperable firearm at the time the firearm ~~it~~ 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)(3) 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 ~~At the conclusion of the proceeding a hearing or trial~~, the offering party ~~offering a sensitive exhibit~~ or other custodian authorized by the court must take custody of the sensitive exhibit ~~it~~ and must execute a receipt prepared by the clerk.
- (D) RETURN OF EXHIBITS [Moved from a prior section]
- 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 ~~The party~~ is responsible for retention and safekeeping of the exhibit for the duration of subsequent proceedings.

**CIVIL RULE 45.1**

**SUBPOENAS**

The clerk ~~may~~ **must** not issue ~~a~~ blank ~~subpoena~~ **subpoenas** to a *pro se* party except ~~by~~ **upon order** of the court **order**.



## CIVIL RULE 47.1

## CIVIL JURY TRIALS

(A) **JURY SELECTION OF JURORS**

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

(B) **DISCLOSURE OF JUROR NAMES** ~~DISCLOSING THE NAMES OF JURORS~~

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

(C) **JURY SIZE**

- (1) **The court** ~~In all jury cases, the presiding judicial officer~~ 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** ~~to~~ try the case, plus the number of **individuals** ~~persons~~ 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) ~~If all parties exercise all of their peremptory challenges, the~~ **The** trial jury will consist of those ~~unchallenged~~ jurors **remaining after** ~~, following the dismissal of~~ jurors for cause and the exercise of peremptory challenges. ~~If some peremptory challenges are not exercised, a party declines to exercise all of its challenges, the~~ trial jury will consist of those ~~unchallenged~~ jurors **remaining**, in the order drawn, **after** ~~following the dismissal of~~ jurors for cause and the exercise of peremptory challenges.

(D) EXAMINATION OF WITNESSES AND ARGUMENTS TO JURY

- (1) — Only one attorney for a party may examine or cross-examine the same witness, unless otherwise **permitted** ~~ordered~~ by the court.

(E) OPENING STATEMENTS AND CLOSING ARGUMENTS

- (1)(2) Only one attorney for a party may **present an opening statement or closing argument** ~~argue any question to the court or jury~~, except by **leave of court** ~~special permission of the court~~ before the **statement or argument begins opens**. **Different attorneys may present** ~~Attorneys may split~~ the main and rebuttal portions of closing argument without leave of court.
- (2)(3) The court may impose time limits on ~~the length of~~ opening statements **and** ~~or~~ closing arguments.
- (3) The plaintiff must open and close the argument ~~to the jury~~, unless otherwise ordered by the court.

**CIVIL RULE 51.1****CIVIL JURY INSTRUCTIONS****(A) DEADLINES**

Each party must serve and file requested **jury** instructions ~~to the jury~~ and a proposed verdict form; at least seven (7) days **before the first day** ~~prior to the commencement of a jury trial~~, unless a ~~different procedure is ordered otherwise by the court~~. **At any time before closing arguments**, a party may present additional **requested** ~~requests for~~ instructions relating to issues arising during the trial ~~at any time prior to argument~~.

**(B) FORM OF REQUESTED INSTRUCTIONS**

**Requested jury** ~~All requests for~~ instructions must be ~~plainly~~ marked with the **case** number ~~of the case~~ and must designate the party **filing** ~~submitting~~ the request. Each requested instruction must be numbered and written on a separate page, **along** ~~together~~ with a citation ~~to~~ ~~of~~ authorities supporting the proposition of law stated in the instruction. A party requesting an Eighth Circuit or North Dakota pattern jury instruction ~~need~~ 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** ~~submitted~~ 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 ~~any~~ voluntary agreement with respect to taxable costs in the form of a written stipulation. ~~If In the event~~ 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 ~~that~~ the item can be readily understood, (2) ~~together with~~ a brief citation to the statutory or other legal authority that provides for recovery of the category of claimed costs, and (3) ~~any~~ supporting documents ~~the moving party relies that will be relied upon~~ to establish the claim of costs.

The ~~moving party's applicant's~~ attorney must verify the statement of costs by affirming ~~that~~ 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 the foregoing procedures~~ may be deemed a waiver of ~~any or all~~ 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 being disputed~~, along with a citation to ~~any~~ authority for not awarding the item or category of cost, and (2) ~~includes has attached to it as exhibits any~~ supporting documents ~~that will be 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 any~~ objection to the claimed item.

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

The clerk will ~~only~~ 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** ~~The parties need to be aware that the filing of a motion for costs~~ **does** ~~may~~ 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** ~~pursuant to~~ **Fed. R. App. P. 39(e)** in accordance with **this rule** ~~if D.N.D. Civ. L.R. 54.1(A)(1), provided~~ a verified statement of costs is filed within fourteen (14) days of the issuance of ~~a~~ **the** mandate by the court of appeals.

(B) ATTORNEY'S FEES

- (1) The time periods and other procedures ~~set forth in this rule D.N.D. Civ. L.R. 54.1(A)(1) above~~, including **filing** ~~submitting~~ a verified statement of fees and expenses along with ~~any~~ supporting documents, ~~will~~ apply to ~~a~~ **any** claim for attorney's fees and related nontaxable expenses **under** ~~pursuant to~~ **Fed. R. Civ. P. 54(d)(2)**, unless the recovery of attorney's fees and expenses is sought against the United States.
- (2) ~~If~~ **When** recovery of attorney's fees is sought against the United States, a party must ~~file~~ **make** a motion as provided in **28 U.S.C. § 2412(d)(1)(B)**. The United States ~~has~~ **may** ~~have~~ fourteen (14) days from service ~~and filing~~ of the motion to respond. Within seven (7) days after ~~being served with~~ the response ~~is served and filed~~, the moving party may file a reply, but ~~no~~ additional documents may be filed **only** ~~unless~~ upon ~~court~~ order of ~~the court~~ for good cause **shown**.

## CIVIL RULE 72.1

## UNITED STATES MAGISTRATE JUDGES

Except as hereinafter provided, ~~a each~~ United States magistrate judge appointed ~~in this district by this court~~ 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~~ ~~Such~~ 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, ~~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~~ ~~Nothing in this rule precludes the court or an individual district judge~~ from reserving any proceeding for ~~decision of~~ ~~conduct by~~ a district judge rather than a magistrate judge. Assignment of duties or cases to a ~~particular~~ magistrate judge will generally be based on geographic location of the magistrate judge's chambers.

~~(2) — CIVIL CASE ASSIGNMENT —~~

~~Each civil case may be referred to a magistrate judge for pretrial management. The referred magistrate judge will conduct case management duties, rule on all non-dispositive motions, and rule on such dispositive motions as designated by formal order of reference or by informal request of a district judge. If all the parties in a civil case waive disposition by a district judge and 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.~~

## (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** ~~Case~~ management matters, including supervising discovery and holding **status** ~~pretrial~~ conferences, ~~such as~~ scheduling conferences, and final pretrial conferences;
- (2) **Conduct Alternative** ~~Alternative~~ Dispute Resolution proceedings, including mediation/settlement conferences, early neutral evaluation, mini-trials, and summary jury trials;
- (3) **Rule on all** ~~All~~ non-dispositive motions (28 U.S.C. § 636(b)(1)(A)); unless otherwise **directed** ~~requested~~ by a district judge;
- (4) **Rule on dispositive** ~~Dispositive~~ motions (28 U.S.C. § 636(b)(1)(B)) by **issuing** ~~issuance of~~ a report and recommendations upon **designation by** ~~request of~~ 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** ~~All~~ proceedings in cases brought by prisoners challenging conditions of confinement, including conducting **bench trials** ~~non-jury trial~~ and **issuing** ~~with submission of~~ a report and **recommendations** ~~recommendation~~ 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** ~~Trial of any civil case and enter entry of final judgment upon~~ ~~on~~ consent of all parties (28 U.S.C. § 636(c)), ~~including all pretrial and post-trial motions;~~
- (7) **Serve** ~~Service~~ as a special master upon designation by ~~a~~ the district judge;
- (8) **Conduct jury** ~~Jury~~ *voir dire* and selection upon **direction** ~~request~~ of a district judge, and in the absence of the trial judge, preside over return of jury verdicts ~~in civil cases;~~
- (9) **Conduct all** ~~All~~ proceedings in **cases seeking** ~~post-conviction review~~ ~~relief proceedings~~ under 28 U.S.C. §§ 2254 or 2241 and 25 U.S.C. § 1303, including **issuing** a report and **recommendations** ~~recommendation~~ to ~~a~~ the district judge (28

U.S.C. § 636(b)(1)(B)); or **entering** entry of final judgment upon consent of all the parties (28 U.S.C. § 636(c));

- (10) **Conduct** Supervise proceedings **under** conducted pursuant to 28 U.S.C. § 1782 with respect to foreign tribunals and to litigants before **those** such 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** pursuant to 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** The clerk must notify the parties ~~in all civil cases that the parties~~ they may consent to have a magistrate judge **conducting** conduct 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.

### ~~(2) SCHEDULING PLAN~~

**In preparing their proposed** ~~The parties must also address in their~~ Fed. R. Civ. P. 16(b) scheduling plan, **the parties must discuss** whether ~~or not~~ they will unanimously consent to disposition by a magistrate judge. **In their proposed plan,** ~~The parties must state in the plan only~~ whether they unanimously consent and must not identify which parties **decline to** ~~will not~~ 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 not~~ to consent, the parties may ~~later at any time thereafter~~ consent to have a magistrate judge ~~conducting~~ ~~conduct~~ any or all proceedings ~~in the case~~ and ~~ordering~~ ~~order~~ the 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 ~~by a magistrate judge on consent of the parties~~, an appeal will lie directly to the Eighth Circuit Court of Appeals in the same manner as an appeal from any other judgment of a ~~district~~ ~~this~~ court.

(2) OBJECTION TO ~~APPEAL FROM~~ NON-DISPOSITIVE ~~ORDER~~ ~~ORDERS~~

A ~~Any~~ party may ~~object to appeal from~~ a magistrate judge's determination of a non-dispositive matter ~~in a civil case~~ (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~~ a different time is prescribed by the ~~magistrate judge~~. (28 U.S.C. § 636(b)(1)(A) & Fed. R. Civ. P. 72(a)). The ~~objecting~~ ~~appealing~~ party must serve and file a written ~~objection notice of appeal~~, which must specifically designate the order or part ~~of the order~~ ~~thereof~~ from which the ~~objection~~ ~~appeal~~ is taken and the grounds for ~~the objection~~ ~~appeal~~. The adverse party has seven (7) days after service ~~and filing~~ of the ~~objection notice of appeal~~ to serve and file a response ~~not to exceed ten (10) pages~~. ~~The objection and the response may not exceed twenty (20) pages. A reply is not permitted.~~

The party filing an ~~objection~~ ~~appeal~~ must file ~~with the clerk~~ a transcript of ~~a~~ the hearing ~~during which~~ ~~before~~ the magistrate judge ~~made~~ ~~wherein~~ findings of fact ~~were made~~. ~~With~~ ~~Upon~~ leave of ~~court~~ ~~Court~~, the party may rely ~~on~~ ~~upon~~ an audio recording of the hearing in lieu of a transcript.

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

**Filing an objection** ~~The filing of such an appeal does not operate to stay the magistrate judge's order. A request to party must seek a stay of a magistrate judge's order pending objection must be made to appeal in the first instance from the magistrate judge with upon due notice to all interested parties.~~

(3) **OBJECTION** ~~OBJECTIONS~~ TO REPORT AND RECOMMENDATIONS

**A** ~~Any~~ party may object to a magistrate judge's report and recommendations on a dispositive matter ~~in a civil case~~ within fourteen (14) days after being served with **the report and recommendations** ~~a copy~~, unless **the magistrate judge orders** a different time ~~is prescribed by the magistrate judge~~. (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** ~~objection is made~~ and the basis **for the objections** ~~of such objection~~. The party filing objections must file ~~with the clerk~~ a transcript of any evidentiary proceeding **related to the report and recommendations**. ~~to which objection is made~~. **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** ~~objection is made~~ and may accept, reject, or modify in whole or in part the **magistrate judge's** findings or recommendations ~~made by the magistrate judge~~. The district judge will **generally** not ~~normally~~ conduct a ~~new~~ 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~~ **must** not be published or disclosed to any **individual** ~~person~~ after a grand jury is drawn, other than to an attorney for the United States and necessary support personnel for ~~use in the~~ performance of official duties to enforce federal criminal law and to other **individuals** ~~persons~~ as may be required by law or allowed by ~~special~~ **court** order ~~of the court~~.

**(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 ~~of a judicial officer~~. 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 (3) 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** ~~in the subpoena for a witness's appearance or the production of documents~~.

**CRIMINAL RULE 7.1**

**SUPSEDING 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 attorneys.

**CRIMINAL RULE 17.1**

**SUBPOENAS ~~SUBPOENA~~**

**(A) SUBPOENAS TO *PRO SE* PARTY**

The clerk ~~may~~ **must** not issue a blank ~~subpoena~~ **subpoenas** to a *pro se* party except ~~by~~ **upon order** of the court ~~order~~.

**(B) CONFIDENTIALITY OF SUBPOENA SERVICE**

Subpoenas obtained in blank from the clerk and issued by attorneys appointed to represent indigent defendant 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 OF JURORS**

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

(B) **DISCLOSURE OF JUROR NAMES** ~~DISCLOSING THE NAMES OF JURORS~~

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

(C) **JURY SIZE**

- (1) **The court** ~~In all jury cases, the presiding judicial officer~~ 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 ~~in all criminal cases~~ must consist of the number of jurors and alternate jurors **who will** ~~to~~ try the case, plus the number of **individuals** ~~persons~~ equal to the total number of peremptory challenges **that will be allowed**.
- (3) Unless otherwise ordered by the court, the parties ~~may~~ **must** exercise **peremptory** challenges in the following manner:
  - (a) Misdemeanors. The United States may **exercise** ~~have~~ three (3) peremptory challenges and the defendant may **exercise** ~~have~~ three (3) peremptory challenges, exercised **in the following order: the first** by the United States ~~first striking one (1)~~, **the next by the** defendant ~~then striking one (1)~~, **the next by the United States**, and so on until each side has exhausted or waived **their** ~~its~~ challenges.
  - (b) Felonies Not Punishable by Death. The United States may **exercise** ~~have~~ six (6) peremptory challenges and the defendant may **exercise** ~~have~~ ten (10) peremptory challenges, exercised in the following order until each side has exhausted or waived **their** ~~its~~ 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 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 ~~Capital Offenses~~. The United States may ~~exercise have~~ twenty (20) peremptory challenges and the defendant may ~~exercise have~~ 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~~ ~~its~~ challenges.

- (4) ~~If all parties exercise all of their peremptory challenges,~~ The trial jury will consist of those ~~unchallenged~~ jurors ~~remaining after~~ ~~, following the~~ dismissal of jurors for cause and the exercise of peremptory challenges. If ~~some peremptory a party declines to exercise all of its challenges are not exercised,~~ the trial jury will consist of those ~~unchallenged~~ jurors ~~remaining,~~ in the order drawn, ~~after following the~~ dismissal of jurors for cause and the exercise of peremptory challenges.

(D) EXAMINATION OF WITNESSES AND ARGUMENTS TO JURY

- ~~(1)~~—Only one attorney for a party may examine or cross-examine the same witness, unless otherwise ~~permitted~~ ~~ordered~~ by the court.

(E) OPENING STATEMENTS AND CLOSING ARGUMENTS

- ~~(1)(2)~~ Only one attorney for a party may ~~present an opening statement or closing argument argue any question to the court or jury,~~ except by ~~leave of court~~ ~~special permission of the court~~ before the ~~statement or argument begins opens.~~ ~~Different attorneys may present~~ ~~Attorneys may split~~ the main and rebuttal portions of closing argument without leave of ~~the~~ court.
- ~~(2)(3)~~ The court may impose time limits on ~~the length of~~ opening statements ~~and or~~ closing arguments.
- (3) The United States must open and close the argument ~~to the jury,~~ 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. Parties must complete the physical marking and numbering of all papers and objects that are expected to be introduced as exhibits in the proceeding prior to any proceedings before the court and must follow following the requirements of the any pretrial order governing that may govern the marking of exhibits. Unless otherwise ordered provided by a pretrial order, 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 all exhibits that which have been offered in evidence, unless the court orders otherwise. Parties retaining custody of exhibits of unusual bulk or weight must permit their inspection, if requested, by another any party after a reasonable request and bear the responsibility for of the exhibits' safekeeping and transportation to all subsequent proceedings, if necessary.~~

## (C) RETURN OF EXHIBITS [Moved to a subsequent section]

~~Upon notice to all parties, the clerk must return exhibits to the party who produced them. The party who receives the exhibits must execute a receipt prepared by the clerk. The party is responsible for retention and safekeeping for the duration of all subsequent proceedings.~~

## (D) SENSITIVE EXHIBITS

- (1) ~~Sensitive exhibits include controlled substances. Drugs, authentic legal or counterfeit currency money, articles of high monetary value, explosives, weapons, firearms, ammunition, biohazardous materials, or contraband of any kind (including child pornography and child sexual abuse materials), and any other items designated as a are considered sensitive exhibits.~~
- (2) ~~Explosives may not be brought into the courthouse or entered into evidence unless approved in advance by the court.~~



- 
- (3) A ~~The~~ party seeking admission of a ~~offering other~~ sensitive exhibit, ~~other than a~~ firearm, must maintain ~~present~~ the exhibit ~~exhibits~~ in a sealed evidence bag or in a manner which prevents direct physical access to the exhibit. The sealed evidence bag or container may ~~must~~ not be opened except upon direction of the court.
- (42) A party seeking admission of ~~offering~~ a firearm must render the firearm inoperable, with a weapon lock (such as a ~~whenever possible through the use of a trigger guard~~ lock or cable gun lock) or by removing the firing pin (zip ties are not acceptable); ~~and~~ The United States Marshals ~~Marshal~~ Service must inspect the inoperable firearm at the time the firearm ~~it~~ 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)(3) 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 ~~At the conclusion of the proceeding a hearing or trial,~~ the offering party ~~offering a sensitive exhibit~~ or other custodian authorized by the court must take custody of the sensitive exhibit ~~it~~ and must execute a receipt prepared by the clerk.
- (D) RETURN OF EXHIBITS [Moved from a prior section]  
 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 ~~The party~~ 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 requests for jury instructions to the jury~~ and a proposed verdict form at least seven (7) days ~~before the first day of trial, unless ordered otherwise. prior to the commencement of a jury trial.~~ **At any time before closing arguments,** a party may present additional ~~requested requests for~~ instructions relating to issues arising during the trial ~~at any time prior to the argument.~~

**(B) FORM OF REQUESTED INSTRUCTIONS**

~~Requested jury~~ All requests for instructions must be plainly marked with the ~~case~~ **case** number of the ~~ease~~ and must designate the party ~~filing submitting~~ the request. Each requested instruction must be numbered and written on a separate page, ~~along together~~ **along** with a citation ~~to of~~ 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 need only~~ 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 submitted~~ **filed** and must be clearly identified as modified.

## CRIMINAL RULE 32.1

PRESENTENCE ~~INVESTIGATION REPORTS~~ INVESTIGATIONS AND  
SENTENCING ~~MEMORANDUMS~~ MEMORANDA(A) PRESENTENCE ~~INVESTIGATION REPORTS~~ INVESTIGATIONS

## (1) CONFIDENTIALITY

Presentence ~~Investigation Reports~~ Investigations (PSIR~~PSI~~) 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 ~~their~~ copies of a ~~PSIR~~ the PSI. The court also authorizes Probation and Pretrial Services officers to provide a copy of a ~~PSIR~~ the PSI to the United States Federal Bureau of Prisons, the United States Sentencing Commission, other agencies providing placement, training, or treatment services to ~~individuals~~ persons sentenced by the court, and to others as ordered by the court. ~~Except for~~ With the exception of use by the United States in collecting a ~~special~~ an assessment, criminal fine, forfeiture, or restitution imposed by the court, the confidentiality of a ~~PSIR~~ the PSI must be maintained at all times. ~~A~~ Any copy of a ~~PSIR~~ PSI or other report prepared by Probation and Pretrial Services officers ~~may~~ must not be reproduced or redistributed without the express approval of the court approval.

## (2) REQUEST FOR DISCLOSURE

~~A request~~ All requests for disclosure of a ~~PSIR~~ PSIs or a probation ~~record~~ records, except as provided in this rule, must be presented by motion to the court and ~~must demonstrate a particularized showing with particularity the need for and entitlement to disclosure of the record. such information.~~ A Probation and Pretrial Services officer ~~may not~~ must never disclose confidential information when requested or demanded by subpoena; except under an ~~a court~~ order issued by the court 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~~ ~~MEMORANDA~~

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 it~~ must be served and filed no later than seven (7) days ~~before~~ ~~prior to~~ the sentencing hearing ~~unless otherwise ordered by the court.~~ A party may ~~serve and~~ file a response to a sentencing memorandum. ~~If a party files a response to a sentencing memorandum, it must be served and filed no later than two (2) days before prior to the sentencing hearing.~~

**CRIMINAL RULE 45.1**

**TIME**

**[REPEALED [Effective Date]]**

~~The method of computing time under the Local Rules is the same as that set forth in [Fed. R. Crim. P. 45](#).~~

## CRIMINAL RULE 47.1

## MOTIONS

## (A) MOTIONS

## (1) DEADLINES AND PAGE LIMITS

~~When~~ ~~Upon~~ 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 <del>LIMITS</del> LIMITATIONS		
	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)(B) ~~MOTIONS FOR LEAVE TO FILE REQUESTS FOR ADDITIONAL FILINGS OR TO EXCEED PAGE~~ ~~LIMITS~~ LIMITATIONS

~~A party~~ ~~Parties~~ must serve and file a motion ~~for to obtain~~ leave of court to ~~file~~ ~~submit any~~ additional filings or filings that exceed the page ~~limits~~ ~~limitations~~. Leave of court ~~is will be~~ granted only upon a showing of good cause. A memorandum in support of a motion for leave of court to ~~file~~ ~~submit~~ an additional filing or to ~~file~~

~~submit~~ a filing that exceeds the page ~~limits~~ ~~limitation~~ is not required ~~but~~ ~~and~~, if filed, ~~may~~ ~~must~~ not exceed two (2) pages ~~in length~~.

(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 ~~pursuant to~~ 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)(C) FORM OF FILINGS AND EXHIBITS

(a)(1) A party must serve and file a ~~complete~~ ~~in PDF format~~ ~~a complete~~ copy of ~~any~~ deposition or other transcript offered in support of or in opposition to a motion.

(b)(2) 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 of sufficient detail to make~~ the attachment ~~is~~ readily

~~identifiable to the court. A party may must not file attach as an exhibit any pleading or other a~~ document already on file with the court, but must instead refer to the docket number assigned to the ~~filed~~ document.

~~(3) — A table of contents and a table of authorities, if a party chooses to include them in documents filed with the court, are excluded from the page limitations set forth in these rules.~~

~~(4) — All Filings must comply with the form requirements of Crim. D.N.D. L. R. 49.1 and the “Administrative Policy Governing Electronic Filing and Service.”~~

~~(D) — MOTIONS FOR ORAL ARGUMENT~~

~~The court may order oral argument on its own or upon motion of either party. A memorandum in support of the motion for oral argument is not required and, if filed, must not exceed two (2) pages in length.~~

~~(5)(E) FAILURE TO FILE A MEMORANDUM OR A 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) ~~USE OF ELECTRONIC CASE FILING (ECF) SYSTEM~~**

The specific requirements, procedures, and limitations **for the court's** related to ECF system are set out in the "**Administrative Policy Governing Electronic Filing and Service.**"

**(B) ~~FORM OF PAPERS~~**

- (1) ~~All pleadings, papers, and documents~~ **Documents** for filing in this court must be on standard size (8 1/2" x 11") paper or equivalent PDF format, **with page numbers** properly paginated 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"). ~~All text~~ **Text** must be typeset with 12-point font or larger and must be double-spaced, except that the title of the case and quoted material may be single-spaced.
- (3) **Documents** ~~All papers~~ offered for filing, after the initial pleading, except exhibits, must be in pleading format, each containing the venue, case title, and file number.
- (4) ~~All pleadings filed by pro se parties must have an original signature.~~

**(C) ~~FILING OF PLEADINGS REQUIRING LEAVE OF COURT~~**

~~A party filing a motion for leave of court to file pleadings, must file the proffered pleading as an attachment.~~

**(~~D~~) ~~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. ~~Rule 35 of the Federal Rules of Criminal Procedure~~, memorandums in support of those ~~such~~ motions, and responsive filings;
  - c. Motions under Section 5K1.1 of the United States Sentencing Guidelines, memorandums in support of those ~~such~~ 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 ~~90-day~~ period, the case ~~cases~~ and the documents are unsealed without further court order ~~of the court~~. 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 each~~ United States magistrate judge appointed ~~in this district by this court~~ 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~~ Such 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~~ Nothing in this rule precludes the court or an individual district judge from reserving any proceeding for ~~decision~~ conduct by a district judge rather than a magistrate judge. Assignment of duties or cases to a ~~particular~~ magistrate judge will generally be based on geographic location of the magistrate judge's chambers.

(2) ~~CRIMINAL~~ CASE ASSIGNMENT(a) Misdemeanor Cases.

- (i) Class A Misdemeanors. ~~Class A~~ All misdemeanor cases ~~(including petty offenses and infractions)~~ ~~are~~ will be assigned to a magistrate judge upon filing of the charges. The magistrate judge will handle ~~all proceedings in cases where consent of the defendant is not required.~~ In other cases, 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 any post-conviction proceedings.
- (ii) Petty Offenses (Class B Misdemeanors, Class C Misdemeanors, and Infractions). Petty offense cases are be assigned to a magistrate judge upon filing of the charges. The magistrate judge will handle all proceedings.

- (b) Felony Cases. ~~Pre-indictment~~ All pre-indictment preliminary proceedings ~~are~~ will be conducted ~~by~~ before a magistrate judge. Upon filing of an

indictment, the case ~~is~~ will be assigned to a district judge. ~~A~~ The referred magistrate judge will conduct ~~an~~ initial appearances, arraignments, ~~arraignment~~ 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** All proceedings in **class A** misdemeanor cases (~~including petty offenses and infractions~~), including **conducting** ~~conduct of jury or bench trials non-jury trial,~~ **accepting** ~~acceptance of guilty pleas plea,~~ sentencing, **entering** ~~entry of judgment,~~ and **conducting** post-conviction proceedings, **with the defendant's consent** ~~dispositive authority limited where required by law to cases in which the defendant consents to proceed before a magistrate judge;~~
- (2) **Conduct all proceedings in petty offense cases;**
- (3)(2) **Conduct pre-indictment and pretrial** All preliminary proceedings (~~pre-indictment and post-indictment through arraignment~~) in felony investigations and cases, including issuing arrest and search warrants; **determining probable cause for filing** ~~approving~~ complaints; **conducting** initial appearances, ~~and arraignments,~~ preliminary hearings, **arraignments,** detention hearings, **and Fed. R. Crim. P. 40 removal proceedings;** **setting release conditions;** ~~and setting bail,~~ addressing extradition; **and consent to transfer;** ~~and addressing appointment and substitution of an attorney;~~ **Fed. R. Crim. P. 40 removal proceedings;**
- (4) **Conduct all pre-adjudication hearing proceedings in juvenile delinquency cases;**
- (5)(3) **Conduct case management conferences and determine** ~~Pretrial matters in felony criminal cases, including determining non-dispositive motions (28 U.S.C. § 636(b)(1)(A)), and conducting case management conferences,~~ if **designated** ~~requested by a~~ the district judge (28 U.S.C. § 636(b)(1)(A));
- (6)(4) **Issue** ~~Issuing~~ reports and recommended findings, including conducting evidentiary hearings **when** ~~where~~ necessary, **on evidentiary motions and on** ~~on~~ case dispositive motions (28 U.S.C. § 636(b)(1)(B)) in felony cases and misdemeanor cases proceeding before a district judge, upon **designation** ~~special reference~~ by a district judge;

- 
- (7)(5) ~~Issue reports and recommended findings when accepting~~ **Accept** guilty pleas in felony cases and in misdemeanor cases proceeding before a district judge, if **designated** ~~requested by a the~~ district judge and upon consent of the defendant;
  - (8)(6) ~~Conduct preliminary~~ **Preliminary** proceedings on felony probation or supervised release revocation or modification petitions, and if **designated** ~~requested by a~~ district judge, conduct the final hearing and **issue** ~~submit~~ a report and recommended findings to ~~a the~~ district judge;
  - (9)(7) ~~Empanel grand juries and receive~~ **Receive** grand jury returns ~~and empanel grand juries~~;
  - (10)(8) ~~Conduct jury~~ **Jury** *voir dire* and selection in felony cases **and class A misdemeanor cases proceeding before a district judge**, upon designation by ~~a the~~ district judge and upon consent of the parties;
  - (11)(9) 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)(10) Issue warrants for searches and seizures **that** ~~which~~ are not within the purview of Fed. R. Crim. P. 41;
  - (13)(11) Issue warrants of arrest for **individuals** ~~persons~~ who have been determined, **under** ~~pursuant~~ 18 U.S.C. § 3144, to be material witnesses;
  - (14)(12) Issue orders authorizing the installation and use of devices, **including** ~~such as~~ traps and traces, pen registers, and mobile tracking devices, and issue orders directing **an electronic communication service provider or a remote computing service** ~~a communications common carrier, including a telephone company~~, to provide assistance to a named federal investigative agency in accomplishing the installation of traps **and**; traces, ~~and~~ pen registers, **and other location devices**; ~~and~~
  - (15)(13) 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 ~~of this court~~ are authorized to accept payment of a fixed sum in lieu of appearance in a petty offense ~~or infraction~~ case. ~~By special order of this court, conditions~~ **Conditions** and schedules for the forfeiture of collateral in lieu of appearance **are available on the court's website.** ~~must be kept on file in the office of the clerk.~~

(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 ~~with the clerk~~ 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** ~~will be~~ the same as appeal from a judgment of ~~a the district judge court~~ **to the court of appeals.** See Fed. R. Crim. P. 58.

(2) **OBJECTION TO APPEAL FROM NON-DISPOSITIVE ORDER ORDERS**

**A** ~~Any~~ party may **object to** ~~appeal from~~ a magistrate judge's determination of a non-dispositive matter ~~in a criminal case~~ within fourteen (14) days after being served with a copy of the magistrate judge's order; ~~unless otherwise ordered by the court a different time is prescribed by the magistrate judge.~~ **(28 U.S.C. § 636(b)(1)(A) & Fed. R. Crim. P. 59(a)).** The **objecting** ~~appealing~~ party must serve and file a written **objection to the order** ~~notice of appeal~~, which must specifically designate the order or part ~~of the order to thereof from~~ which the **objection is made** ~~appeal is taken~~ and the grounds for **the objection** ~~appeal~~. The adverse party has seven (7) days after service **and filing** of the **objection** ~~notice of appeal~~ to serve and file a response ~~not to exceed ten (10) pages.~~ **The objection and response may not exceed twenty (20) pages. A reply is not permitted.**

The party filing an **objection** ~~appeal~~ must file ~~with the clerk~~ a transcript of any hearing **during which** ~~before the magistrate judge made wherein~~ findings of fact **related to the objection** ~~were made.~~ **With** ~~Upon~~ leave of **court** ~~Court~~, the party may rely **on** ~~upon~~ an audio recording of the hearing in lieu of a transcript.

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

**Filing** ~~The filing of such an objection appeal does not operate to stay the magistrate judge's order. Any request to party must seek a stay of a magistrate judge's order pending objection must be made to appeal in the first instance from the magistrate judge with upon due notice to all interested parties.~~

(3) **OBJECTION** ~~OBJECTIONS~~ TO REPORT AND RECOMMENDATIONS

~~A Any party may object to a magistrate judge's report and recommendations on an evidentiary or a dispositive matter in a criminal case within fourteen (14) days after being served with a copy thereof, unless the court orders otherwise a different time is prescribed by the magistrate judge. (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 objection is made and the basis for the objections of such objection. The objection and response may not exceed twenty (20) pages. A reply is not permitted. The party filing objections must file with the clerk a transcript of any evidentiary proceeding related to the report and recommendations to which objection is made. 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 objection is 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 normally conduct a new hearing, but, in appropriate circumstances, may receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions.

**INDEX**

[excluded from redline draft]



## APPENDIX

### 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 <b>party being supported files</b> <del>the filing of a memorandum in support of a motion or response to a motion</del>		7.1(G)(C)	
Appeal from a Judgment of Conviction by a Magistrate Judge in <b>Misdemeanor Case</b>	14 days after entry of judgment			59.1(D)(1)
Appeal from a Magistrate Judges' Order on a Non-dispositive Motion	14 days after being served with a copy of the magistrate judge's order		72.1(D)	59.1(D)
Civil Jury Instructions	7 days prior to a jury trial		51.1(A)	
Completion of Discovery	30 days <b>before</b> prior to trial		26.1(A)	
Criminal Jury Instructions	7 days prior to a jury trial			30.1
<b>Disclosure Statement</b>	14 days after party's first filing or entry of appearance		7.1.1	
<b>Jury Instructions</b>	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 the 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 a mandate by the court of appeals		54.1(A)	

## APPENDIX

DEADLINES				
Type of Filing	Deadline	General Rule	Civil Rule	Criminal Rule
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 the date of an order dismissing a settled case		41.1	
<del>Motion re: Grand Jury Matters</del>	<del>7 days prior to the witnesses' appearance or production</del>			6.1(C)
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)	
Objection to a Report and <del>Recommendations</del> Recommendation	14 days after being served with a copy of the 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(B)(1)(A)(2)	
<del>Response to an Appeal of a Magistrate Judge</del>	7 days		72.1(D)(2)	59.1(D)(2)

## APPENDIX

DEADLINES				
Type of Filing	Deadline	General Rule	Civil Rule	Criminal Rule
<del>Decision of a Non-dispositive matter</del>				
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 <del>21</del> 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(B)(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)
Response to an Order to Show Cause re: Attorney Discipline	30 days after service of order to show cause	1.3(H)(3)(2)		
Response to Sentencing Memorandum	2 days before prior to the sentencing hearing			32.1(B)
Sentencing Memorandum and Sentencing Memorandum Supplement	7 days before prior to the sentencing hearing			32.1(B)
Settlement Documents Papers	30 days after advising the court that an action case has been settled		41.1	

Effective March 1, 2022

---

## APPENDIX

---

DEADLINES				
Type of Filing	Deadline	General Rule	Civil Rule	Criminal Rule
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)

## APPENDIX

<b>PAGE LIMITS LIMITATIONS</b> (a table of contents and/or a table of authorities, if included, <b>do not count towards</b> are excluded from the page limitations)			
Type of Filing	Page Limit	Civil Rule	Criminal Rule
<i>Amicus Curiae</i> Brief	<del>20 pages no longer than the maximum length authorized for a party's corresponding brief</del>	7.1(G) (C)(4)	
Memorandum in Support of a Criminal Motion	20 pages		47.1(A)(1)
Memorandum in Support of a Dispositive Motion	40 pages (no more than 25 pages may be argument)	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 a Motion for Leave of Court to <b>File</b> <del>Submit</del> Additional Filings	2 pages	7.1(C)(A)(4)	47.1(B)(A)(3)
Memorandum in Support of a Motion for Leave of Court to <b>File</b> <del>Submit</del> Filings that Exceeds the Page Limits Limitation	2 pages	7.1(C)(A)(4)	47.1(B)(A)(3)
Memorandum in Support of a Motion for Oral Argument	2 pages	7.1(C)(A)(6)	47.1(B)(A)(5)
Memorandum in Support of a Non-dispositive Motion	20 pages	7.1(C)(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 a Criminal Motion	7 pages		47.1(A)(1)

## APPENDIX

Reply to a 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 a Non-dispositive Motion	7 pages	7.1(B)(A)(2)	
<del>Response to an Appeal of a Magistrate Judge Decision of a non-dispositive matter</del>	<del>10 pages</del>	<del>72.1(D)(2)</del>	<del>59.1(D)(2)</del>
Response to a Criminal Motion	20 pages		47.1(A)(1)
Response to a Dispositive Motion	40 pages (no more than 25 pages may be argument)	7.1(A)(1)(a)	
Response to Motion for Compassionate Release	20 pages		47.1(A)(2)
Response to Motion for Injunctive Relief	20 pages	7.1(A)(3)(b)	
Response to a Non-dispositive Motion	20 pages	7.1(B)(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)