

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

In the Matter of ) GENERAL ORDER NO. 10-04  
)  
THE ADOPTION OF NEW AND )  
REVISED LOCAL RULES )  
\_\_\_\_\_ )

The Court has adopted the attached new and revised Local Rules, Rules for Admiralty and Maritime Claims, and Local Criminal Rules, effective January 1, 2010. These rules shall govern in all proceedings in civil, admiralty, and criminal cases thereafter commenced and, insofar as just and practicable, all proceedings then pending.

Dated: February 25, 2010

## **LOCAL RULES**

**5-1 Lodging Documents.** “Lodge” means to deliver to the Clerk a document which is tendered to the Court but is not approved for filing, such as depositions, exhibits, or a proposed form of order. Unless otherwise specified or unless a document is excluded from electronic filing, all lodged documents shall be submitted electronically, in the same manner as documents which are electronically filed.

**5-3.3 Service of Electronically Filed Documents.** Upon the electronic filing of a document, a Notice of Electronic Filing (NEF) is automatically generated by the CM/ECF system and sent by e-mail to all attorneys in the case who are registered as CM/ECF Users and have consented to electronic service. Service by this electronic NEF constitutes service pursuant to the Federal Rules of Civil and Criminal Procedure for all attorneys who have consented to electronic service. Attorneys not registered for the CM/ECF system or who did not consent to electronic service must be served as otherwise provided by the Federal Rules. Documents excluded from electronic filing (refer to General Order 08-02 or any successor General Order) must be served using traditional means of service in the manner prescribed for such service in the Federal Rules.

Orders or other documents electronically filed by the Court will be served on attorneys only by the e-mail NEF unless an attorney is not a registered CM/ECF user or has not consented to electronic service.

**5-4 Service and Filing of Pleadings and Other Papers - Electronic Case Filings.** In those categories designated by General Order 08-02 or any successor General Order, the Clerk will accept in certain actions documents filed, signed or verified by electronic means. A document filed by electronic means in compliance with this Local Rule constitutes a written document for the purposes of applying these Local Rules and the Federal Rules of Civil Procedure.

**6-1 Notice and Service of Motion.** Unless otherwise provided by rule or order of the Court, no oral motions will be recognized and every motion shall be presented by written notice of motion. The notice of motion shall be filed with the Clerk not later than twenty-eight (28) days before the date set for hearing, and shall be served on each of the parties electronically or, if excepted from electronic filing, either by deposit in the mail or by personal service. If mailed, the notice of motion shall be served not later than thirty-one (31) days before the Motion Day designated in the notice. If served personally, or electronically, the notice of motion shall be served not later than twenty-eight (28) days before the Motion Day designated in the notice. The

Court may order a shorter time. All motions belonging upon the Motion Day calendar shall be placed by the Clerk upon the calendar for hearing upon the day for which the motion is noticed.

**7-1 Stipulations.** Stipulations will be recognized as binding only when made in open court, on the record at a deposition, or when filed in the proceeding. Written stipulations affecting the progress of the case shall be filed with the Court, be accompanied by a separate order as provided in L.R. 52-4.1, and will not be effective until approved by the judge, except as authorized by statute or the F.R.Civ.P.

**7-3 Conference of Counsel Prior to Filing of Motions.** In all cases not listed as exempt in L.R. 16-12, and except in connection with discovery motions (which are governed by L.R. 37-1 through 37-4) and applications for temporary restraining orders or preliminary injunctions, counsel contemplating the filing of any motion shall first contact opposing counsel to discuss thoroughly, *preferably in person*, the substance of the contemplated motion and any potential resolution. If the proposed motion is one which under the F.R.Civ.P. must be filed within a specified period of time (*e.g.*, a motion to dismiss pursuant to F.R.Civ.P. 12(b), or a new trial motion pursuant to F.R.Civ.P. 59(a)), then this conference shall take place at least five (5) days prior to the last day for filing the motion; otherwise, the conference shall take place at least ten (10) days prior to the filing of the motion. If the parties are unable to reach a resolution which eliminates the necessity for a hearing, counsel for the moving party shall include in the notice of motion a statement to the following effect:

“This motion is made following the conference of counsel pursuant to L.R. 7-3 which took place on (date).”

**7-8 Presence of Declarants - Civil Cases.** On motions for and orders to show cause re preliminary injunctions, motions to be relieved from default and other motions where an issue of fact is to be determined (*e.g.*, civil contempt, but excluding motions contesting venue and personal jurisdiction), not later than fourteen (14) days prior to the hearing, a party desiring to cross-examine any declarant who is not beyond the subpoena power of the Court and who is reasonably available to the party offering the declaration may serve by hand (or facsimile or by electronic filing) and file a notice of request to cross-examine such declarant. If the party offering the declaration disputes that the declarant is within the subpoena power of the Court and reasonably available to the offering party, such party shall serve and file an objection to the notice of request to cross-examine not later than eleven (11) days prior to the hearing. The offering party shall be under no obligation to produce the declarant unless the Court has granted the request to cross-examine by written order not later

than three (3) days prior to the hearing. No declaration of a declarant with respect to whom such a request has been granted shall be considered unless such declarant is personally present and available at the hearing for such cross-examination as the Court may permit. The Court may, in the alternative, order that the cross-examination be done by deposition taken on two (2) days' notice with the transcript being lodged five (5) days prior to the hearing. The Court may impose sanctions pursuant to these Local Rules against any party or counsel who requests the presence of any declarant without a good-faith intention to cross-examine the declarant.

**7-9 *Opposing Papers.*** Each opposing party shall, not later than ten (10) days after service of the motion in the instance of a new trial motion and not later than twenty-one (21) days before the date designated for the hearing of the motion in all other instances, serve upon all other parties and file with the Clerk either (a) the evidence upon which the opposing party will rely in opposition to the motion and a brief but complete memorandum which shall contain a statement of all the reasons in opposition thereto and the points and authorities upon which the opposing party will rely, or (b) a written statement that that party will not oppose the motion. Evidence presented in all opposing papers shall comply with the requirements of L.R. 7-6, 7-7 and 7-8.

**7-10 *Reply Papers.*** A moving party may, not later than fourteen (14) days before the date designated for the hearing of the motion, serve and file a reply memorandum, and declarations or other rebuttal evidence. Absent prior written order of the Court, the opposing party shall not file a response to the reply.

**7-11 *Continuance of Hearing Date.*** Unless the order for continuance shall specify otherwise, the entry of an order continuing the hearing of a motion automatically extends the time for filing and serving opposing papers and reply papers to twenty-one (21) days and fourteen (14) days, respectively, preceding the new hearing date. A stipulation to continue shall provide the date the opposition and reply papers are due to be filed with the Court.

**7-15 *Oral Argument - Waiver.*** Counsel may, with the consent of the Court, waive oral argument. Counsel who have agreed to waive oral argument shall advise the court clerk of such agreement by no later than noon on the fifth day preceding the hearing date. The court clerk shall advise the parties by no later than noon on the court day preceding the hearing date as to whether the Court has consented to the waiver of oral argument. The Court may dispense with oral argument on any motion except where an oral hearing is required by statute, the F.R.Civ.P. or these Local

Rules.

**7-19 Ex Parte Application.** An application for an ex parte order shall be accompanied by a memorandum containing, if known, the name, address, telephone number and e-mail address of counsel for the opposing party, the reasons for the seeking of an ex parte order, and points and authorities in support thereof. An applicant also shall lodge the proposed ex parte order.

**11-3.5 Pre-Punching and Backing of Documents.** All documents presented for filing or lodging in paper format, and mandatory chambers copies of electronic case filings, shall be pre-punched with two (2) normal-size holes (approximately 1/4" diameter), centered 2-3/4 inches apart, 1/2 to 5/8 inches from the top edge of the document. All pages shall be firmly bound at the top and backed. The backing shall extend not more than one (1) inch below the pages bound and have the short title of the document typed in the lower right hand corner.

**11-3.8 Title Page.** On the first page of all documents:

(a) The name, California bar number, office address (or residence address if no office is maintained), the telephone and facsimile numbers, and the e-mail address of the attorney or a party appearing *pro se* presenting the document shall be placed commencing with line 1 at the left margin. The e-mail address shall be placed immediately beneath the name of the attorney. Immediately beneath, the party on whose behalf the document is presented shall be identified. All this information shall be single spaced. When a document is presented, the information set forth in this paragraph shall be supplied for each attorney or party appearing *pro se* who joins in the presentation of that document.

**11-4.1 In General.** All documents filed in paper format, including exhibits to documents, shall be filed with one clear, conformed and legible copy for the use of the judge. Unless the assigned judge's orders or written procedures otherwise specify, a mandatory chambers copy of all electronically filed documents shall be delivered to the assigned judge in accordance with General Order 08-02 or any successor General Order.

**11-4.2 Three-Judge Court.** If the matter is one that is to be heard by a three-judge court, three paper copies shall be provided in accordance with General Order 08-02 or any successor General Order.

**[Deleted] 11-4.3.**

**11-4.5 Request for Conformed Copy.** If the party presenting a document for filing in paper format requests the Clerk to return a conformed copy by United States mail, an extra copy shall be submitted by the party for that purpose accompanied by a postage-paid, self-addressed envelope.

**11-5.1 Non-Paper Physical Exhibits.** Non-paper physical exhibits shall not be attached to any document. A non-paper physical exhibit shall be placed in a secure container identified by the case name and number, and the name, address and telephone number of the submitting party, and lodged with a separately filed Notice of Lodging. CM/ECF users shall first file electronically a Notice of Manual Filing setting forth the reason(s) why the exhibit cannot be filed electronically and present the Notice of Electronic Filing with the exhibits to be lodged.

**11-5.2 Numbering.** Unless compliance is impracticable, a paper exhibit shall be scanned and electronically filed with the document to which it relates and shall be numbered at the bottom of each page consecutively to the principal document.

**11-5.4 Size of Paper.** Exhibits shall not exceed 8 ½ x 11 inches in size and should be scanned and electronically filed whenever practicable. Exhibits that are too large to scan shall be folded in such a manner as not to exceed an 8 ½ x 11 inch sheet, and filed as paper exhibits. CM/ECF users shall file electronically a Notice of Manual Filing setting forth the reason(s) why the exhibit cannot be filed electronically and present the Notice of Electronic Filing with the exhibits to be filed or lodged.

**15-1 Separate Document.** Any proposed amended pleading must be electronically filed as a document separate from a related motion or stipulation.

**[NEW] 15-4 Manner of Filing.** Every amended pleading shall be filed as a paper document.

**16-5 Witness List.** Each party shall serve and file under separate cover, at the same time as the Memorandum of Contentions of Fact and Law, a witness list containing the information required by F.R.Civ.P. 26(a)(3)(A). An asterisk shall be placed next to the names of those witnesses whom the party may call only if the need arises. Any objections to the use under F.R.Civ.P. 32 of a deposition designated under F.R.Civ.P. 26(a)(3)(A) shall be stated in the Final Pretrial Conference Order.

**16-6.3 Objections to Exhibits.** The list of objections required by F.R.Civ.P. 26(a)(3)(B) shall be included in the proposed Final Pretrial Conference Order. The

grounds for all objections shall be stated separately as to each exhibit.

**16-12 Exemptions.** In the following categories of cases, the Court need not issue a scheduling order or hold a Final Pretrial Conference under F.R.Civ.P. 16:

- (a) Petitions filed under 28 U.S.C. §§ 2241 *et seq.*, or their functional equivalents;
- (b) Actions for judicial review of a decision by the Commissioner of Social Security under 42 U.S.C. § 405(g);
- (c) Any case in which the plaintiff is appearing *pro se*, is in custody, and is not an attorney;
- (d) Any case removed to this Court from the small claims division of a state court;
- (e) Appeals from the bankruptcy court;
- (f) Extradition cases;
- (g) Actions to enforce or quash an administrative summons or subpoena; and
- (h) Actions by the United States to collect on a student loan guaranteed by the United States.

**16-15.5 Requirements for Settlement Procedures .**

(b) APPEARANCE BY PARTY - Each party shall appear at the settlement proceeding in person or by a representative with full authority to settle the case, which in the case of lawsuits brought against the United States or any of its agencies as a party, shall involve the attendance of an attorney charged with responsibility for the conduct of the case and who has final settlement authority as provided by his or her superiors. A corporation or other non-governmental entity satisfies this attendance requirement if represented by a person (other than in-house or outside counsel) who has final settlement authority and who is knowledgeable about the facts of the case. At the discretion of the settlement officer, and only with the settlement officer's express authorization, parties residing outside the District may have a representative with final settlement authority available by telephone during the entire proceeding, in lieu of personal appearance.

**37-1 Pre-Filing Conference of Counsel.** Prior to the filing of any motion relating to discovery pursuant to F.R.Civ.P. 26-37, counsel for the parties shall confer in a good faith effort to eliminate the necessity for hearing the motion or to eliminate as many of the disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for this conference. If both counsel are located within the same county of the Central District, the conference shall take place in person at the

office of the moving party's counsel, unless the parties agree to meet someplace else. If both counsel are not located within the same county of the Central District, the conference may take place telephonically. Unless relieved by written order of the Court upon good cause shown, counsel for the opposing party shall confer with counsel for the moving party within ten (10) days after the moving party serves a letter requesting such conference. The moving party's letter shall identify each issue and/or discovery request in dispute, shall state briefly with respect to each such issue/request the moving party's position (and provide any legal authority which the moving party believes is dispositive of the dispute as to that issue/request), and specify the terms of the discovery order to be sought.

**37-2.2 Preparation of Joint Stipulation.** Following the conference of counsel, counsel for the moving party shall personally deliver, e-mail or fax to counsel for the opposing party the moving party's portion of the stipulation, together with all declarations and exhibits to be offered in support of the moving party's position. Unless the parties agree otherwise, within seven (7) days of receipt of the moving party's papers, counsel for the opposing party shall personally deliver, e-mail, or fax to counsel for the moving party the opposing party's portion of the stipulation, together with all declarations and exhibits to be offered in support of the opposing party's position. After the opposing party's papers are added to the stipulation by the moving party's counsel, the stipulation shall be provided to opposing counsel, who shall sign it (electronically or otherwise) and return it to counsel for the moving party, no later than the end of the next business day, so that it can be filed with the notice of motion.

**41-6 Dismissal - Failure of Pro Se Plaintiff to Keep Court Apprised of Current Address.** A party proceeding *pro se* shall keep the Court and opposing parties apprised of such party's current address and telephone number, if any, and e-mail address, if any. If mail directed by the Clerk to a *pro se* plaintiff's address of record is returned undelivered by the Postal Service, and if, within fifteen (15) days of the service date, such plaintiff fails to notify, in writing, the Court and opposing parties of said plaintiff's current address, the Court may dismiss the action with or without prejudice for want of prosecution.

**49-1 Request for Special Verdict or Interrogatories.** Any request for a special verdict or a general verdict accompanied by answers to interrogatories shall be filed and served at least seven (7) days before trial is scheduled to commence.

**51-1 Requests for Instructions.** Proposed instructions shall be in writing and shall be filed and served at least seven (7) days before trial is scheduled to begin

unless a different filing date is ordered by the Court. The parties jointly shall submit a single set of instructions as to which they agree. In addition, each party shall submit separately those proposed instructions as to which all parties do not agree.

**52-1 Non-Jury Trial - Findings of Fact and Conclusions of Law.** In any matter tried to the Court without a jury requiring findings of fact and conclusions of law, counsel for each party shall lodge and serve proposed findings of fact and conclusions of law at least seven (7) days before trial.

**52-2 Other Findings of Fact and Conclusions of Law.** In all other cases where findings of fact and conclusions of law are required under F.R.Civ.P. 41, 52, and 65, the attorney directed to do so by the Court shall lodge and serve proposed findings of fact within seven (7) days of the decision.

**52-4 Orders.** Each order shall be prepared by the attorney directed to do so by the Court. The order shall comply with the requirements of L.R. 58-10. Within five (5) days of the ruling, the attorney preparing the order shall serve it on all parties and lodge it with the Clerk.

**[NEW] 52-4.1. Separate Order.** A separate order shall be electronically filed with any stipulation, application, motion or request of the parties requiring an order of the court. The pertinent elements requested in the stipulation shall be set forth in the order.

**52-7 Separate Objection.** Opposing counsel may, within seven (7) days after service of a copy of a document prepared pursuant to L.R. 52-2, 52-4 or 52-5, file and serve objections to the form of the document and the grounds thereof. The failure to file timely objections shall be deemed a waiver of any defects in the form of the document.

**[DELETED] 52-9 Order Upon Stipulation**

**54-4.1 Filing Fees.** The Clerk's filing fees (*pro hac vice* fees are not recoverable).

**54-4.6 Depositions.** Costs incurred in connection with taking oral depositions, including:

(b) The reasonable fees of the deposition reporter, including reporter fees when a deponent fails to appear at a scheduled deposition, the notary, and any other persons required to report or transcribe the deposition, but not

including the costs of video or audio technicians unless otherwise ordered by the Court;

**54-4.9 Docket Fees.** Docket fees as provided by 28 U.S.C. § 1923 (only if incurred).

**54-4.11 Certification, Exemplification and Reproduction of Documents.** Document preparation costs, including:

(a) The cost of copies of an exhibit attached to a document necessarily filed and served; other than exhibits, the costs of copies of documents filed and served is generally not taxable;

(b) The cost of copies of documents or records admitted into evidence when the original is not available or the copy is substituted for the original at the request of an opposing party;

(f) Fees for necessary certification or exemplification of any document or record.

**54-9 Review of Clerk's Determination.** Review of the Clerk's taxation of costs may be obtained by a motion to retax costs filed and served within seven (7) days of the Clerk's decision. That review will be limited to the record made before the Clerk, and encompass only those items specifically identified in the motion.

**54-11 Writ of Execution for Costs.** The Clerk shall, upon request, issue a writ of execution to recover attorney's fees awarded following a judgment and any separate award of costs by the Clerk:

(a) Upon presentation of a certified copy of the final judgment and separate Bill of Costs (Form CV-59) and, if appropriate, a certified copy of the order awarding attorney's fees; or

(b) Upon presentation of a mandate of the Court of Appeals to recover costs taxed by the appellate court.

**58-2 Entry of Judgments - Costs.** Entry of judgment shall not be delayed pending taxation of costs to be included therein pursuant to L.R. 54.

**65-9 Bonds or Undertakings - Surety - Judges and Attorneys.** No bankruptcy judge, magistrate judge, or district judge, and no attorney appearing in the case, will be accepted as surety upon any bond or undertaking in any action or proceeding in this Court.

**72-2.1 Motions for Review of Nondispositive Rulings.** Any party objecting under F.R.Civ.P. 72(a) to a Magistrate Judge's ruling on a pretrial matter not dispositive of a claim or defense must file a motion for review by the assigned District Judge, designating the specific portions of the ruling objected to and stating the grounds for the objection. Such motion shall be filed within fourteen (14) days of an oral ruling which the Magistrate Judge indicates will not be followed by a written ruling, or within fourteen (14) days of service of a written ruling.

**73-2.4.1 Cases Originally Filed in District Court.** Except as provided in L.R. 73-2.4.1.1, a case originally filed in District Court and initially assigned only to a magistrate judge shall be randomly reassigned to a district judge if any defendant has not filed a statement of consent within 30 days after service of the summons and complaint upon that defendant, if the plaintiff has not filed a statement of consent within 30 days after service upon the first-served defendant, if any party applies for a temporary restraining order, or if any party makes a motion that the magistrate judge concludes cannot be decided by the magistrate judge and must be addressed before the period for consent expires.

**73-2.4.1.1 Exception for United States, its Agencies, Officers and Employees.** If the United States, an agency of the United States, or an officer or employee of the United States is a defendant, a case originally filed in District Court and initially assigned only to a magistrate judge shall be randomly reassigned to a district judge if the government defendant has not filed a statement of consent within 60 days after service of the summons and complaint upon that defendant, if any party applies for a temporary restraining order, or if any party makes a motion that the magistrate judge concludes cannot be decided by the magistrate judge and must be addressed before the period for consent expires.

**73-2.4.2 Cases Removed from State Court.** A case initially assigned only to a magistrate judge following removal under 28 U.S.C. § 1441 *et seq.* shall be randomly reassigned to a district judge if, within 11 days after the notice of removal is filed, plaintiff(s) and all defendants upon whom service has been effected have not filed a statement of consent, if any party applies for a temporary restraining order, or if any party makes a motion that the magistrate judge concludes cannot be decided by the magistrate judge and must be addressed before the period for consent expires.

## **83-2.2 Admission to Practice**

**83-2.2.1 In General.** Admission to and continuing membership in the Bar of this Court is limited to persons of good moral character who are active

members in good standing of the State Bar of California, or Registered Legal Services Attorneys, pursuant to California Rules of Court, Rule 9.45. If the attorney ceases to meet these criteria, the attorney is subject to the disciplinary rules of the court, *infra*.

**83-2.3.1 *Permission to Appear Pro Hac Vice*** . Any person who is not otherwise eligible for admission to practice before this Court, but who is a member in good standing of, and eligible to practice before, the bar of any United States Court, the District of Columbia Court of Appeals, or the highest court of any State, Territory or Insular Possession of the United States, and who is of good moral character may, upon written application and in the discretion of the Court, be permitted to appear and participate *pro hac vice* in a particular case.

**83-2.4.1 *Attorney for the United States, or its Departments or Agencies***. Any person who is not eligible for admission under L.R. 83-2.2.1 or 83-2.3, who is employed within this state and is a member in good standing of, and eligible to practice before, the bar of any United States Court, the District of Columbia Court of Appeals, or the highest court of any State, Territory or Insular Possession of the United States, and is of good moral character, may be granted leave of court to practice in this Court in any matter for which such person is employed or retained by the United States, or its departments or agencies. The application for such permission shall include a certification filed with the Clerk showing that the applicant has applied to take the next succeeding Bar Examination for admission to the State Bar of California for which that applicant is eligible. No later than one year after submitting the foregoing application, the applicant shall submit to this Court proof of admission to the State Bar of California. Failure to do so shall result in revocation of permission to practice in this Court.

**83-2.8.2 *Pro Hac Vice Appearance***. Each applicant for permission to appear *pro hac vice* shall file an Application of Non-Resident Attorney to Appear in a Specific Case and a separate proposed Order and pay the applicable fee. Attorneys employed by the United States Department of Justice specially appointed by the United States Attorney General to conduct any kind of legal proceeding, civil or criminal, pursuant to 28 U.S.C. § 515(a), may appear without filing an Application of Non-Resident Attorney to Appear in a Specific Case.

### **83-3 *Attorney Disciplinary Rules of the Court***

**83-3.1 *Discipline***. Nothing contained in these Rules shall be construed to deny the Court its inherent power to maintain control over the

proceedings conducted before it or to deny the Court those powers derived from statute, rule or procedure, or other rules of court. When alleged attorney misconduct is brought to the attention of the Court, whether by a Judge of the Court, any lawyer admitted to practice before the Court, any officer or employee of the Court, or otherwise, the Court may, in its discretion, dispose of the matter through the use of its inherent, statutory, or other powers; refer the matter to an appropriate state bar agency for investigation and disposition; refer the matter to the Standing Committee on Discipline; or take any other action the Court deems appropriate. These procedures are not mutually exclusive.

**83-3.1.1 *The Standing Committee on Discipline.*** At all times the Court will maintain a Standing Committee on Discipline (hereinafter “Committee”). The Committee shall consist of 13 attorneys who are members of the Bar of the Court. However, in the event of any vacancy or vacancies, the Committee may continue to perform any of the functions herein authorized so long as there are nine members in office.

Committee members shall be appointed by the Chief Judge with the concurrence of the Executive Committee. The Chief Judge shall designate one member to serve as the chair. A Committee member shall serve for a term of one to three years but may continue in office, upon order of the Chief Judge, beyond said three-year term until the completion of any disciplinary proceeding (which includes the initial investigation to presentation of disciplinary recommendations to the Court) in which the member is participating. Each committee member’s term shall commence on January 1 of the year specified in the appointment, and appointments shall be staggered so that each year the terms of four members, not including the Chair, shall end. Should any Committee member not complete a three-year term, that member’s replacement shall complete the length of term remaining. The Chair of the Committee shall serve a term of three years as Chair, regardless of previous time served as a Committee member.

The Chair of the Committee shall organize the Committee into four sections of three members each. Each section shall consist of one member who has one year remaining on his term, one member who has two years remaining on his term, and one member who has three years remaining on his term. The Chair of the Committee may assign any matter before the Committee to one of the sections for initial investigation and further proceedings described in these rules. Except for the requirement of seven affirmative votes for the imposition of discipline as specified in Rule 83-3.1.5, the Committee may perform or decide any matter arising under these rules by a majority vote. For any Committee meeting, a quorum of seven is required.

The Clerk of the Court shall be advised of, and keep a current list of, all matters referred to the Committee and each section, to assist the Court, the Committee, and the affected attorney or complaining person, in recording the status of each matter.

**83-3.1.3 Possible Disciplinary Penalties.** An order imposing discipline under this Rule may consist of any of the following:

- (a) disbarment,
- (b) suspension not to exceed three years,
- (c) public or private reproof,
- (d) monetary penalties (which may include an order to pay the costs of the proceedings), and/or
- (e) acceptance of resignation.

In lieu of any of the foregoing disciplinary steps, the Court's Standing Committee on Discipline may issue an admonition as defined by California State Bar Rules, to wit, where the offense is not serious, or not intentional, or involved mitigating circumstances, or no significant harm resulted.

Any suspension or reproof imposed, or acceptance of resignation, may be subject to specified conditions, which may include, but are not limited to, continuing legal education requirements, counseling and/or supervision of practice and periods of probation.

Any disbarment, suspension or acceptance of resignation from this Court will result in the deactivation of the attorney's CM/ECF login and password. The CM/ECF login and password will be reactivated upon application of the practitioner showing proof of an order of reinstatement.

**83-3.1.4 Who May Originate Complaints - Initial and Further Investigation - Hearing and Opportunity for Attorney Involved to Appear and Present Evidence.** A complaint that an attorney has violated any of the standards of conduct specified in Rule 83-3.1.2, may come to the Committee from any District, Bankruptcy or Magistrate Judge of the Court or from any other person. The complaint shall be in writing addressed to the Committee in care of the Clerk of Court. Within 10 days of receipt, the Clerk shall serve a copy of the complaint on the Chair of the Committee, the attorney affected and the Clerk of the Bankruptcy Court.

Within 10 days of receipt of any such complaint, the Committee chair shall assign the matter of possible disciplinary action based on the complaint to one

of the sections of the Committee for initial investigation and possible disciplinary proceedings. Any attorney of the assigned section who cannot participate shall so notify the Chair within 10 days of assignment so that a replacement can be assigned.

Within 60 days of receipt, the section to which such a complaint is referred shall conduct and complete an initial investigation. If the section determines that the complaint should not be the subject of further disciplinary action, and the Committee concurs in that determination, the matter will thereupon be closed. Notice of closing shall be promptly sent to the complainant, the attorney affected and the Chief Judge. If the Committee determines that the complaint should be further investigated as being one that may result in disciplinary action, the section shall thereupon within 60 days conduct and complete such further investigation and inquiries as it deems necessary. The section, in so doing, may take the testimony of witnesses and may seek from the Chief Judge, or his or her designee, any subpoena necessary for its investigation and the Clerk shall promptly issue any such requested subpoena. The affected attorney may also apply to the Chief Judge, or his or her designee, for any necessary subpoenas.

All final disciplinary actions will be distributed to the judicial officers of the Court. Final disciplinary action, including the name of the attorney, will be posted on the Court's website when it consists of (a) disbarment; (b) suspension; (c) public reproof; or (d) resignation with charges pending. It may be ordered posted if the disciplinary action consists of monetary penalties.

Other final disciplinary action may be posted, without the name of the attorney, to promote understanding of the level of practice expected in this district.

The deadlines in this paragraph may be extended by the Committee Chair for a period of up to six months, for good cause at the request of the section or the affected attorney. The deadlines may be extended for a longer time in consultation with the Chief Judge.

**83-3.1.6 Confidentiality of Proceedings.** The record in a disciplinary proceeding shall not be public (unless otherwise ordered by the Court) but shall become public if and when a final order imposing discipline is entered. If the final order imposing discipline consists of private reproof, the record shall only be made public upon an order of the Court.

**83-3.1.8 Application For Reinstatement.** Any attorney who has been suspended or disbarred under the Local Rules may make an application for reinstatement. The application for reinstatement shall be by written motion filed in

paper format addressed to the Committee. The Committee shall consider the application and make a recommendation to the Chief Judge. The Chief Judge may, with the concurrence of the Executive Committee, adopt, modify or reject the recommendation of the Committee concerning the application. Before making its recommendation, the Committee is not required to hear the attorney affected or his or her counsel and is not required to hear any testimony or receive any other evidence or briefing. Nor shall the Chief Judge or the Executive Committee be required to do so before deciding on the application.

### ***L.R. 83-3.2 Enforcement of Attorney Discipline***

#### ***83-3.2.1 Disbarment or Suspension by Other Courts or***

***Conviction of a Crime.*** Upon receipt of reliable information that a member of the Bar of this Court or any attorney appearing *pro hac vice* (1) has been suspended or disbarred from the practice of law by the order of any United States Court, or by the Bar, Supreme Court, or other governing authority of any State, territory or possession, or the District of Columbia, or (2) has resigned from the Bar of any United States Court or of any State, territory or possession, or the District of Columbia while an investigation or proceedings for suspension or disbarment was pending, or (3) has been convicted of a crime, other than in this Court, the elements or underlying facts of which may affect the attorney's fitness to practice law, this Court shall issue an Order to Show Cause why an order of suspension or disbarment should not be imposed by this Court.

Upon the filing of a judgment or conviction demonstrating that any attorney admitted to practice before this Court has been convicted in this Court of any serious crime as herein defined, the Chief Judge or his or her designee shall enter an order immediately suspending that attorney, whether the conviction resulted from a plea of guilty, *nolo contendere*, verdict after trial, or otherwise, and regardless of the pendency of any appeal. The suspension so ordered shall remain in effect until final disposition of the disciplinary proceedings to be commenced upon such conviction. A copy of such order shall be immediately served upon the attorney. Upon good cause shown, the Chief Judge or his or her designee may set aside such order when it appears in the interest of justice to do so.

The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction in which it was entered, involves false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or the use of dishonesty, or an attempt, conspiracy, or solicitation of another to commit a "serious crime."

If the attorney files a response stating that imposition of an order of suspension or disbarment from this Court is not contested, or if the attorney does not respond to the Order to Show Cause within the time specified, then the Court shall issue an order of suspension or disbarment. The order shall be filed by the Chief Judge or his or her designee.

**83-3.2.2 Alternatives.** As an alternative to suspension or disbarment, the Committee may consider, and the Court may accept, the attorney's resignation, if the attorney both:

(a) Files a written response setting forth his or her status for the practice of law in all other jurisdictions where the attorney was or is admitted; and

(b) Tenders his or her resignation from the Bar of this Court.

A resignation with charges pending is not effective until accepted by the Court. An attorney will be on inactive status while the Court considers whether to accept the resignation. The acceptance of a resignation may be subject to additional conditions including but not limited to those under L.R. 83-3.1.3 and referral to, or resignation from, the Bar of another jurisdiction.

**83-3.2.3 Contested Matters.** If the attorney files a written response to the Order to Show Cause within the time specified stating that the entry of an order of suspension or disbarment is contested, then the Chief Judge or other district judge who may be assigned shall determine whether an order of suspension or disbarment or other appropriate order shall be entered. Where an attorney has been suspended or disbarred by another Bar, or has resigned from another Bar while disciplinary proceedings were pending, the attorney in the response to the Order to Show Cause, must set forth facts establishing one or more of the following: (a) the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; (b) there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the Court should not accept as final the other jurisdiction's conclusion(s) on that subject; (c) imposition of like discipline would result in a grave injustice; or (d) other substantial reasons exist so as to justify not accepting the other jurisdiction's conclusion(s). In addition, at the time the response is filed, the attorney must produce a certified copy of the entire record from the other jurisdiction or bear the burden of persuading the Court that less than the entire record will suffice.

**83-3.2.4 Reinstatement.** Unless stated otherwise by order of the Court, an attorney who has been suspended or disbarred from the Bar of this Court because of his resignation, suspension or disbarment from the Bar of another court will be reinstated upon proof of reinstatement as an active member in good standing in such other Bar.

**83-3.2.5 Discipline by Agencies.** Information that a member of the Bar of this Court has been suspended or disbarred from practice by the order of any federal or state administrative agency, shall be treated as a complaint which can be the basis of disciplinary action by this Court. The matter shall be referred to the Committee for investigation, hearing and recommendation as provided hereinabove in the case of other complaints. All parties in interest are advised of General Order 96-05 or any successor General Order governing attorney discipline proceedings in the Bankruptcy Court. (Formerly numbered 83-3.1.10)

**83-3.2.6 Notice of Disciplinary Action to State Bar and Other Courts.** The Clerk shall give prompt notice of any conviction of any attorney admitted to this bar of a serious crime as herein defined or imposing discipline under this Rule 83-3 to the Circuit Court of Appeals, to the Bankruptcy Court, to the California State Bar, and to the Bar or disciplinary body of those courts to which the attorney involved has been admitted to practice and of which the Clerk is aware. (Formerly numbered 83-3.1.11)

**83-3.2.7 Powers of an Individual Judge to Deal with Contempt or Other Misconduct Not Affected.** Disciplinary proceedings under Rule 83-3 shall not affect, or be affected by, any proceedings for criminal contempt under the U.S. Criminal Code, nor shall anything contained in this Rule 83-3 be construed to deny any judge of this Court said judge's inherent power to maintain control over the proceedings conducted before said judge, nor to deny the judge those powers derived from any statute or rule of court. Misconduct of any attorney in the presence of a court or in any manner in respect to any matter pending in a court may be dealt with directly by the judge in charge of the matter or at said judge's option, referred to the Committee, or both. (Formerly numbered 83-3.1.12)

**83-3.3 Practice Prohibited While on Inactive Status.** Any attorney previously admitted to the Bar of this Court who no longer is enrolled as an active member of the Bar, Supreme Court, or other governing authority of any State, territory or possession, or the District of Columbia, shall not practice before this Court. Upon

receipt of reliable information that such attorney is practicing before the Bar of this Court, this Court shall issue an Order to Show Cause why the attorney should not be disbarred from this Court, and shall proceed with the Order to Show Cause in the manner set forth in L.R. 83-3.2.1. (Formerly numbered 83-3.2)

**83-3.4 *Obligation to Notify Court of Felony Conviction or Change of Status.*** Any attorney admitted to the Bar of this Court or admitted *pro hac vice* shall promptly notify the Clerk of this Court of (1) the attorney's conviction of any felony, or (2) the imposition of discipline in any other jurisdiction, or (3) the attorney's resignation from the Bar while disciplinary investigation or proceedings were pending in any other jurisdiction. (Formerly numbered 83-3.3)

**83-5.2 *Minors or Incompetents - Settlement of Claim Procedure.*** Insofar as practicable, hearings on petitions to settle, compromise or dismiss a claim in an action involving a minor or incompetent person shall conform to California Code of Civil Procedure Section 372 and California Rule of Court 3.1384.

**83-17 *Special Requirements for Habeas Corpus Petitions Involving the Death Penalty***

**83-17.3 *Initial Filings and Petitions***

(d) If the petitioner is not represented by counsel, the Clerk of Court shall immediately serve the California Attorney General's Office by mail, e-mail or fax when an initial filing is received by the Court.

**83-17.7 *Procedures for Considering the Petition.***

(c)(i) In the interest of expediting habeas death penalty cases, it is the policy of the Court to entertain unexhausted claims if the respondent waives the exhaustion issue. However, if the respondent declines to waive the exhaustion issue with respect to any or all claims in the petition, prior to filing a motion, counsel for respondent shall make a good faith effort to confer with counsel for petitioner regarding the exhausted status of each such claim. Unless relieved by written order of the Court upon good cause shown, counsel for petitioner shall confer with counsel for respondent within seven (7) days after service of a letter requesting such conference. The respondent's letter shall identify each claim that respondent contends is unexhausted, specify the basis for asserting that the claim is unexhausted, and provide any legal authority that respondent contends is dispositive of the exhausted status of that claim.

Appendix A to Local Rules

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PRETRIAL FORM NO. 1

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UNITED STATES DISTRICT COURT

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CENTRAL DISTRICT OF CALIFORNIA

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(TITLE OF CASE)

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CASE NO.

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FINAL PRETRIAL

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CONFERENCE ORDER

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Following pretrial proceedings, pursuant to Rule 16, F.R.Civ.P. and L.R. 16, IT IS ORDERED:

4. The trial is to be a jury (non-jury) trial.

[If a jury trial add: At least seven (7) days prior to the trial date each party shall file and serve by e-mail, fax, or personal delivery: (a) proposed jury instructions as required by L.R. 51-1 and (b) any special questions requested to be asked on voir dire.]

[If a non-jury trial add: At least seven (7) days prior to the trial date each party shall lodge and serve by e-mail, fax, or personal delivery the findings of fact and conclusions of law the party expects the Court to make upon proof at the time of trial as required by L.R. 52-1.]

**RULES FOR ADMIRALTY AND MARITIME CLAIMS**

***B.1. (RB-B.1.) AFFIDAVIT THAT DEFENDANT IS NOT FOUND WITHIN THE DISTRICT.*** The affidavit required by Supplemental Rule B(1) to accompany the complaint shall list the efforts made by and on behalf of plaintiff to find and serve the defendant within the district. The phrase “not found within the district” in Supplemental Rule B(1) means that, in an *in personam action*, the defendant cannot be served with the summons and complaint as provided in F.R.Civ.P. 4(e).

***E.12. (83-E.12.) INTERVENOR’S CLAIMS.***

(a) Presentation of Claim. When a vessel or other property has been arrested, attached, or garnished, and is in the hands of the Marshal or custodian substituted therefor, anyone having a claim against the vessel or property is required to present the claim by filing an intervening complaint in paper format, and not by filing an original complaint, unless otherwise ordered by a judicial officer. The Clerk shall forthwith deliver a conformed copy of the complaint in intervention and the intervenor’s warrant of arrest or process of attachment or garnishment to the Marshal, who shall deliver the same to the vessel or custodian of the property. Intervenors shall thereafter be subject to the rights and obligations of parties, and the vessel or property shall stand arrested, attached, or garnished by the intervenor. An intervenor shall not be required to advance a security deposit to the Marshal.

***E.13. (83-E.13.) CUSTODY OF PROPERTY.***

(d) Claims by Suppliers for Payment of Charges. A person who furnishes supplies or services to a vessel, cargo, or other property in custody of the Court who has not been paid and claims the right to payment as an expense of administration shall file an invoice with the Clerk in the form of a verified claim in paper format at any time before the vessel, cargo, or other property is released or sold. The supplier must serve copies of the claim on the Marshal, substitute custodian if one has been appointed, and all parties of record. The Court may consider the claims, individually or schedule a single hearing for all claims.

***E.14. (83-E.14.) SALE OF PROPERTY.***

(f) Opposition to Sale. A party filing an opposition to the sale, whether seeking the reception of a higher bid or a new public sale by the Marshal, shall give prompt notice to all other parties and to the purchaser. Unless the party has previously

appeared on the case, the opposition shall be filed in paper format. Such party shall also, prior to filing an opposition, secure the Marshal's endorsement upon it acknowledging deposit with the Marshal of the necessary expense of keeping the property for at least five (5) days. Pending the Court's determination of the opposition, such party shall also advance any further expense at such times and in such amounts as the Marshal shall request, or as the Court orders upon application of the Marshal or the opposing party. Such expense may later be subject to taxation as costs. In the event of failure to make such advance, the opposition shall fail without necessity for affirmative action thereon by the Court. If the opposition fails, the expense of keeping the property during its pendency shall be borne by the party filing the opposition.

### **LOCAL CRIMINAL RULES**

***7-2 Superseding Indictment or Information.*** A superseding indictment or information shall be filed promptly with the Clerk in paper format and assigned the same number as the original indictment or information, followed by the letter (A) for the first superseding indictment or information, (B) for the second, etc.

***46-3.4 Review of Surety and Documentation by United States Attorney.*** Any affidavit of surety and any documentation required by this Rule must be presented to the Office of the United States Attorney. Within six (6) office working hours, an attorney employed by that office shall report to the Court approval or disapproval of the documentation presented. If disapproved, the United States Attorney shall specify the reason for disapproval.