IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

IN THE MATTER OF THE AMENDMENT OF THE LOCAL RULES OF PRACTICE FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII	ORDER AMENDING THE LOCAL RULES OF PRACTICE FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

ORDER AMENDING THE LOCAL RULES OF PRACTICE FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII

IT IS HEREBY ORDERED that the Local Rules of Practice for the United States District Court for the District of Hawaii are amended, effective December 1, 2009, as attached to this order:

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, November 18, 2009.

SUSAN OKI MOLLWAY
CHIEF UNITED STATES DISTRICT JUDGE

DAVID ALAN EZRA
UNITED STATES DISTRICT JUDGE

J. MICHAEL SEABRIGHT
UNITED STATES DISTRICT JUDGE

ROBERT J. FARIS
UNITED STATES BANKRUPTCY JUDGE

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CHAPTER I - GENERAL AND CIVIL RULES

LR1.1. Title.

These are the Local Rules of Practice for the United States District Court for the District of Hawaii. They should be cited as "LR_____," or "CrimLR_____."

LR1.2. Effective Date; Transitional Provision.

These rules govern all actions and proceedings pending on or commenced after December 1, 2009. When justice requires, a judge may order that an action or proceeding pending before the court prior to that date be governed by the prior practice of the court.

LR1.3. Scope of the Rules; Construction.

These rules supplement the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure, and shall be construed so as to be consistent with those rules and to promote the just, efficient, and economical determination of every action and proceeding. If any local rule is or becomes in conflict with a federal statutory provision or a federal rule, the federal statutory provision or federal rule shall govern and apply. For example, if a local rule provides a party with a ten-day period to take certain actions consistent with a current federal rule, and the federal rule is subsequently changed to provide a fourteen-day period, the fourteen-day period shall apply. The provisions of the General and Civil Rules shall apply to all actions and proceedings, including criminal, admiralty, and actions and proceedings before magistrate judges, except if inconsistent with rules or provisions of law specifically applicable thereto or varied by order of one or more judges with respect to one or more cases assigned to that judge or judges. All parties, including those proceeding *pro se*, are obligated to follow these local rules. From time to time, this court may post proposed changes and/or changes to these local rules on the court's website, www.hid.uscourts.gov.

LR1.4. Definitions.

The following definitions apply to these rules:

(a) Unless otherwise defined by these rules, the term "days" shall mean calendar days.

(b) The term "brief" includes statements in support of or in opposition to appeals from administrative agencies, magistrate judges, and bankruptcy judges.

(c) The word "clerk" means Clerk, United States District Court, District of Hawaii.

(d) "CM/ECF" means "Case Management/Electronic Case Files," and refers to the electronic case management and filing system developed by the Administrative Office of the United States Courts and implemented by this court in the District of Hawaii. Any references in these rules to an electronic filing system mean the court's CM/ECF system.

(e) The word "court" refers to the United States District Court for the District of Hawaii, and not to any particular judge of the court.

(f) "ECF User" means an individual authorized to file documents in the CM/ECF system through the Internet with a court-issued ECF login and password. An ECF User (Registered Participant) may file documents at http://ecf.hid.uscourts.gov.

(g) "Electronic Filing" means the electronic transmission of a document in PDF form for uploading and storing in the court's CM/ECF system.

(h) "Electronic Recording" refers to the act of scanning a paper document submitted to the court, creating an electronic image of the document, and uploading it for storing in the court's CM/ECF system.

(i) "Electronic Signature" refers to the signature of an attorney using his or her assigned ECF login and password.

(j) The word "judge" refers to any United States district judge or to a part-time or full-time United States magistrate judge to whom an action or proceeding has been assigned exercising jurisdiction with respect to a particular action or proceeding in the court.

(k) "Notice of Electronic Filing" or "NEF" refers to the notice generated automatically upon the filing of a document in CM/ECF and transmitted by email to parties in a case who are ECF Users. The notice includes a link to an image of the document that was filed.

(l) "PACER" means "Public Access to Court Electronic Records" and refers to the Federal Judiciary's centralized registration, billing, and technical support center for electronic access to federal courts. The viewing of documents in the PACER system is subject to fees approved by the Judicial Conference and requires a PACER login and password. Further information is available at http://pacer.psc.uscourts.gov.

(m) "PDF" means "Portable Document Format." Only PDF files may be uploaded to the CM/ECF system. A document created in a word processing application may be saved or converted to a PDF. A paper document may be scanned and its image saved as a PDF.

(n) "United States magistrate judge" and "magistrate judge" shall mean both full-time and part-time United States magistrate judges.

LR3.1. Complaints.

A civil action is commenced by filing a complaint with the court. This complaint must be submitted in hard-copy form, and an appropriately filled-out Civil Cover Sheet, JS 44, must be submitted to the court at the same time. When a complaint pertains to patent or trademark law, an appropriately filled-out Report on the Filing or Determination of an Action Regarding a Patent or Trademark must be submitted to the court at the time the complaint is filed.

Pursuant to Fed. R. Civ. P. 7.1, a non-government party must file disclosure statements with its first appearance, pleading, petition, motion, response, or other request addressed to the court.

LR4.1. Service of Process.

The Sheriff of the State of Hawaii and his deputies and anyone else included in Fed. R. Civ. P. 4(c) are authorized to serve civil process.

LR5.1. Depositions: Original Transcripts.

Counsel responsible for the preservation and storage of the original transcript, tape, or other means of preservation of any deposition shall produce the original transcript, tape, or other means of preservation of such deposition if needed for court proceedings by any party when filing or using the same in court proceedings or, as ordered by the court as provided in Fed. R.

Civ. P. 5(d), shall file only copies of the portion(s) thereof that are germane.

LR5.2. Identification of Original Filings.

The original of any document submitted for filing and any non-Electronic Filing shall be clearly stamped or marked "ORIGINAL" on the first page of the document. For purposes of this rule, "document" includes any papers (*e.g.*, motion, memorandum, declaration, exhibits, certificate of service) fastened together; only the first page in such a group of papers must be stamped to comply with this rule.

LR5.3. Electronic Filing.

Pursuant to Fed. R. Civ. P. 5(d)(3), papers may be filed, signed, and/or verified by electronic means consistent with (a) these rules; (b) technical standards, if any, that the Judicial Conference of the United States establishes; and (c) any administrative procedure adopted by a general order of this court. A paper filed by electronic means in compliance with this rule is equivalent to a written paper for purposes of applying the Federal Rules of Civil Procedure and the Local Rules.

LR5.4. Electronic Service.

Pursuant to Fed. R. Civ. P. 5(b)(2)(E), a party may serve pleadings and other papers, other than service of process, through the court's transmission facilities in accordance with these rules and any administrative procedure adopted by a general order of this court. Receipt of the Notice of Electronic Filing generated by the court's CM/ECF system shall constitute the equivalent of service of the pleading or other paper on a person or party who has consented in writing to electronic service and who has waived the right to personal service or service by first-class mail.

LR5.5. Service of Hard Copies of Papers and Documents.

Unless otherwise ordered by the court or agreed to by the parties, any party serving

(a) A hard copy of a motion (regardless of when a response is due or when a hearing will be held); or

(b) A hard copy of any other paper or document that must be served on other parties pursuant to Fed. R. Civ. P. 5 and/or these local rules, and for which (1) a response is due in twenty-

one (21) days or less, or (2) a hearing or conference will be held in twenty-one (21) days or less,

must serve the motion, paper, or document on the other parties on the day of filing and comply with Fed. R. Civ. P. 5 (*e.g.*, (1) by mailing a copy of the paper or document to all parties with a postmark of the filing day; (2) by hand-delivering a copy of the paper or document to all parties on the filing day; or (3) by making arrangements acceptable to the other parties for same-day service of the paper or document (email, fax, *etc.*)). This rule applies even if the filing occurs after normal business hours and is not satisfied by placing a document in a mailbox on the filing day after mail pick-up from that mailbox for that day has been completed, unless the parties have agreed to such service.

LR5.6. Proof of Service.

Proof of service of all papers required or permitted to be served, other than those for which a particular method of proof is prescribed in the Federal Rules of Civil Procedure, shall be filed or mailed for filing with the court within one day of such service. The proof shall show the day and manner of service and may be (a) by written acknowledgment of service, (b) by certificate of the person who mailed or otherwise effected service, (c) by CM-ECF electronic service, or (d) by any other proof satisfactory to the court.

LR6.1. Computation of Time.

Unless otherwise specified in these rules, time periods prescribed or allowed shall be computed in accordance with Fed. R. Civ. P. 6 and other applicable court rules. The term "days" shall be defined as set forth in LR1.4 and, unless otherwise defined in these rules, shall mean calendar days.

Whenever these rules require papers or documents to be filed "not more than" or "not less than" a designated period after or before a specified event, and whenever the outside limit of the designated period is not a business day, such papers or documents shall be filed no later than the previous business day to ensure filing "not more than" or "not less than" the designated period. This rule is applicable to papers and documents filed electronically and in hard-copy form. For example, if a filing is required not less than 14 days before a hearing and the due date is a Saturday, the filing is due on Friday, 15 days before the hearing, assuming that the Friday is a business day.

Whenever these rules refer to a number of "weeks," that reference is merely to aid the parties and the court in counting the appropriate number of days. References made in these local rules to "weeks" shall not alter the "days" deadlines. For example, if these local rules refer to a period of "91 days (13 weeks)," calculation of the deadline shall be made using "91 days." The reference to "13 weeks" is merely to aid the parties in determining how long "91 days" is.

Rule 6(a)(4) of the Federal Rules of Civil Procedure defines "last day." This local rule alters Rule 6(a)(4), as allowed by that rule. In addition to the local rule regarding "not more than" or "not less than," Rule 6(a)(4)(B) is modified as follows: with respect to papers and documents filed in hard copy with this court, the "last day" ends at 11:59 p.m. Hawaii time so long as service of the paper or document complies with LR5.5.

LR6.2. Extensions, Enlargements, or Shortening of Time, and Other *Ex Parte* Requests.

(a) Stipulations Extending or Enlarging Time. All stipulations extending or enlarging time shall indicate on the face sheet the sequential number of such extensions or enlargements; *e.g.*, "Second Stipulation Extending Time." No stipulation to extend any briefing deadline while retaining an existing hearing date shall be submitted unless the extension has been previously discussed with the judge whose period of review of the brief may be shortened as a result.

(b) Applications for Extension or Enlargement of Time. All applications for extension or enlargement of time made by motion shall state (1) the total amount of time previously obtained by extensions or enlargements of time, and (2) the reason for the particular extension or enlargement requested.

(c) *Ex Parte* Applications. Any *ex parte* application must include a declaration that either (1) states why a stipulation or duly noticed motion could not be submitted or (2) sets forth the positions of other parties with respect to the request. The parties shall not submit a stipulation enlarging the time for the filing of their briefs without first having raised the proposed stipulation with the court.

(d) Extension to Respond to Third-Party Claims. Whenever a defendant causes a summons and complaint to be served pursuant to Fed. R. Civ. P. 14 on a person not a party to the action, no extension of time shall be granted to such person except on stipulation of all parties, or motion duly noticed.

(e) Orders Shortening Time. Applications for orders shortening the time permitted or required for filing any paper or pleading or complying with any requirement under the Federal Rules of Civil Procedure shall be supported by a certificate stating the reasons therefor. When the application is made *ex parte*, the certificate shall state the position of other parties with respect to the application and reason that a stipulation could not be obtained, or the reason that notice could not be given.

LR7.1. Motions; Format.

All subsequently filed documents related to a motion shall bear below the title of the document (a) the date and time of the hearing, when known, (b) the name of the presiding judge, (c) the trial date, if known, and (d) the docket number of the document to which it relates (*i.e.*, an opposition memorandum shall indicate the CM/ECF document number of the relevant motion).

LR7.2. Motions; Notice, Hearing, Motion, and Supporting Papers.

(a) Except as otherwise provided by this rule, all motions shall be entered on the motion calendar of the assigned judge for hearing not less than thirty-five (35) days (five weeks) after service.

(b) The above period may be shortened by order of court upon the submission of an *ex parte* application. Such an application must be accompanied by an affidavit or declaration setting forth the reasons necessitating shortened time and complying with LR6.2. The court may also shorten the above period *sua sponte* for good cause.

(c) The above period shall not apply to the following motions: those designated as non-hearing motions under Subsections (d) and (e) of this rule; applications for a temporary restraining order; motions for protective order; motions for withdrawal of counsel; motions for an extension or shortening of time; motions made during the course of a trial or hearing.

(d) Unless specifically required, the court, in its discretion, may decide all matters, including motions, petitions, and appeals, without a hearing.

(e) The following motions shall be non-hearing motions to be decided on submissions: motions to alter, amend, reconsider,

set aside or vacate a judgment or order; motions for judgment as a matter of law or for a new trial; motions for clarification of a judgment or order; motions for relief from judgment; motions to proceed *in forma pauperis*; motions for appointment of counsel; motions for certification of finality under Fed. R. Civ. P. 54; appeals from a magistrate judge's decision or order; and objections to a magistrate judge's report and recommendation. The court, in its discretion, may set any of the foregoing motions for hearing *sua sponte*, or upon application by a party. The court, in its sole discretion, may set any other motion as a non-hearing motion with briefing due in accordance with LR7.4 or as the court directs.

(f) All motions shall be accompanied, when appropriate, by affidavits or declarations sufficient to support material factual assertions and by a memorandum of law.

LR7.3. Motions; Deadline for Hearings on Dispositive Motions.

Unless otherwise ordered by the court, all dispositive motions shall be heard no later than thirty-five (35) days (five weeks) prior to the scheduled trial date.

LR7.4. Motions; Opposition and Reply.

An opposition to a motion set for hearing shall be served and filed not less than twenty-one (21) days prior to the date of hearing. An opposition to a non-hearing motion shall be served and filed not more than fourteen (14) days after service of the motion. When appropriate, the opposition shall include affidavits or declarations and a memorandum of law. A party not opposing a motion shall instead file a statement of no opposition or no position within the time provided above.

Any reply in support of a motion set for hearing shall be served and filed by the moving party not less than fourteen (14) days prior to the date of hearing. Any reply in support of a non-hearing motion shall be served and filed by the moving party not more than fourteen (14) days after service of the opposition. A reply must respond only to arguments raised in the opposition. Any argument raised for the first time in the reply shall be disregarded.

Any opposition or reply that is untimely filed may be disregarded by the court or stricken from the record.

No further or supplemental briefing shall be submitted without leave of court.

If any action is settled while a motion is pending, the parties shall immediately contact the judge who is scheduled to decide the motion. If an action is settled but the parties do not complete the settlement documents before an opposition to a motion is due, the party who would have filed an opposition shall submit a statement to the court that the case has been settled in lieu of filing an opposition to the motion.

LR7.5. Motions, Petitions, and Appeals; Length of Briefs and Memoranda.

(a) Unless the court orders otherwise, a brief or memorandum in support of or in opposition to any motion, petition, or appeal, including one filed by a *pro se* party, shall not exceed thirty (30) pages in length, unless it complies with LR7.5(b) and (e).

(b) A brief or memorandum in support of or in opposition to a motion, petition, or appeal may exceed the page limitation in LR7.5(a) if it contains no more than 9,000 words.

(c) A reply brief or reply memorandum, including one filed by a *pro se* party, shall not exceed fifteen (15) pages in length, unless it contains no more than half of the words specified for a brief or memorandum in support of or in opposition to a motion and also complies with LR7.5(e).

(d) Headings, footnotes, and quotations count toward the word limitation. The case caption, table of contents, table of authorities, exhibits, declarations, certificates of counsel, and certificates of service do not count toward the page or word limitation. In any matter in which a moving party uses a form prepared by the court (*e.g.*, § 2254 and § 2255 petitions, *etc.*), the pages of the form or of responses to the form's questions shall not count against any space limit set forth in these rules.

(e) A brief or memorandum submitted under LR7.5(b), a reply brief or memorandum submitted under the word limitation in LR7.5(c), or a concise statement submitted under the word limitation permitted in LR56.1(d) must include a certificate by the attorney or a *pro se* party that the document complies with the applicable word limitation. This certificate shall state the font and the font size used in a typed or computer-generated document, and the number of words contained in the document, whether typed, computer-generated, or handwritten. The person preparing the certificate may rely on the word count of the word-processing system used to produce the document. The certificate must state the number of words in the document.

(f) Briefs and memoranda exceeding fifteen (15) pages shall have a table of contents and a table of authorities cited.

LR7.6. Motions; Affidavits and Declarations; Citations.

Factual contentions made in support of or in opposition to any motion shall be supported by affidavits or declarations, when appropriate under the applicable rules. Affidavits and declarations shall contain only facts, shall conform to the requirements of Fed. R. Civ. P. 56(e) and 28 U.S.C. § 1746, and shall avoid conclusions and argument. Any statement made upon information or belief shall specify the basis therefor. Affidavits and declarations not in compliance with this rule may be disregarded by the court.

If citation is made to an authority that is not easily available through Westlaw, Lexis/Nexis, or a comparably accessible service, two (2) courtesy copies of the authority shall be submitted to the court concurrently with the document containing the citation.

Citations shall be made to the applicable United States Code provision(s), rather than only to the section(s) of a named act or code, although reference may be made to both. For example, a citation should not be made only to section 402(b) of the Clean Water Act; citation shall be made also or instead to 33 U.S.C. § 1342(b).

LR7.7. Extra Copies.

Two courtesy copies are required of the following: complaints and amended complaints; any document pertaining to a request for court action, including motions, appeals, and petitions, and any opposition to and reply in support thereof, as well as concise statements, exhibits, declarations, and affidavits in any way related to the request for court action; Scheduling Conference Statements; Final Pretrial Conference Statements; Settlement Conference Statements; trial briefs; and discovery briefs. All courtesy copies shall contain an indication as to which judge should receive the copies. Courtesy copies must comply with all Local Rule requirements, including the tabbing of exhibits and declarations or affidavits. If a document has been filed electronically, a courtesy copy should be a printout of the filed document, showing the header containing the filing information. To verify electronic filing, a copy of the Notice of Electronic Filing (NEF) must be attached after the last page of each courtesy copy. If a document is filed in hard copy, the courtesy copies must be submitted at the time the

original document is filed. Courtesy copies of electronically filed documents that are submitted from out-of-state shall be deemed to comply with this local rule when mailed no later than the business day after filing using "overnight" or "next day" priority. Courtesy copies of electronically filed documents may be mailed to the clerk's office in the normal course if they are mailed from anywhere in Hawaii no later than the business day following the date the document was filed. If a document concerns an imminent or expedited proceeding, courtesy copies shall be delivered as soon as possible after filing. Courtesy copies of the following need not be delivered to the court: answers, appearances of counsel, certificates of service, entries of default, routine discovery (including designations and namings of witnesses, disclosures, answers to interrogatories and document requests, requests for admissions, expert reports, *etc.*), returns of service.

In a consolidated proceeding, the original pleading and a copy of each pleading for each numbered case shall be filed (in addition to delivery of two copies for the judge's use, as required above).

LR7.8. Motions; Uncited Authorities.

A party who intends to rely at a hearing on authorities not included in either the brief or memorandum of law or in a letter submitted at least four (4) days before a hearing should provide to the court and opposing counsel copies of the authorities at the earliest possible time prior to the hearing. These copies of the uncited authorities shall have relevant portions highlighted. In addition to providing copies of the uncited authorities, the party may file a document listing the uncited authorities, and including a short parenthetical describing the proposition of law for which each authority is being cited, as well as pinpoint citations, but no further analysis or argument.

LR7.9. Motions; Counter Motions; Joinders.

Any motion raising the same subject matter as an original motion may be filed by the responding party together with the party's opposition and may be noticed for hearing on the same date as the original motion, provided that the motions would otherwise be heard by the same judge. A party's memorandum in support of the counter motion must be combined into one document with the party's memorandum in opposition to the original motion and may not exceed the page or word limit for an opposition absent leave of court. The opposition to the counter motion shall be served and filed together with any reply in support of

the original motion in accordance with LR7.4. A party's opposition to the counter motion must be combined into one document with that party's reply in support of the original motion and may not exceed the page limit for a reply absent leave of court. The movant on a counter motion shall file and serve any reply as follows: if the matter is scheduled for a hearing, not less than seven (7) days before the scheduled hearing; if the matter is scheduled as a non-hearing motion, not more than seven (7) days after service of the opposition to the counter motion.

Except with leave of court based on good cause, any substantive joinder in a motion or opposition must be filed and served within seven (7) days of the filing of the motion or opposition joined in. "Substantive joinder" means a joinder based on a memorandum supplementing the motion or opposition joined in. If a party seeks the same relief sought by the movant for himself, herself, or itself, the joinder shall clearly state that it seeks such relief so that it is clear that the joinder does not simply seek relief for the original movant. A joinder of simple agreement may be filed at any time. A separate opposition or reply complying with LR7.5 may be filed in response to a substantive joinder in a motion or opposition, respectively. No substantive joinder in a reply may be filed; a party that has joined in a motion may file its own reply (as opposed to a joinder in the movant's reply) by the reply deadline only if the opposition has addressed matters unique to that joining party. Joinders in motions must specifically identify the pending motion by docket number to which the joinder applies. This paragraph applies only to joinders relating to motions, not other proceedings, and does not preclude the filing of an independent motion that does not seek to be included in a pre-existing hearing schedule, or the filing of a motion to consolidate matters for hearing.

Unless otherwise ordered by the court, whenever an underlying motion is withdrawn, any joinders are also treated as withdrawn.

LR10.1. Applicability of Rule on the Format of Papers; Effect of Non-compliance.

The rule on the format of papers applies in all civil actions and proceedings, unless otherwise provided by rule governing the particular action or proceedings, and in criminal proceedings to the extent that the provisions of the rule are pertinent. In the event of a failure to comply with the rule, the clerk may require the prompt refiling of the paper in proper

form or may bring the failure to comply to the attention of the filing party and the judge.

LR10.2. Form of Papers; TRO Motions; Class Actions; Fax Rules.

(a) Form of Papers. All documents presented for filing shall be on white opaque paper of good quality, eight and one-half inches by eleven inches in size, with one inch margins, and shall be flat, unfolded (except when necessary for the presentation of exhibits), without back or cover, and shall comply with all other applicable provisions of these rules. Any original hard copy of a document shall be bound with a clip (not a staple). Unless a document cannot be stapled, courtesy copies shall be bound with a single staple in the upper, left-hand corner, not with metal prongs. All typewriting, including footnotes, shall be in either (1) a proportionally spaced face that is 14-point or larger and that includes serifs (*e.g.*, 14-point Times New Roman, CG Times, Charter BT, or Georgia), except that sans-serif type (*e.g.*, 14-point Arial, CG Omega, or Univers) may be used in headings and captions, or (2) a monospaced face that contains not more than 10½ characters per inch (*e.g.*, 12-point Courier or Courier New). All typewriting must be in a plain, Roman style, except that italics, underlining, or boldface may be used for emphasis. Matter shall be presented by typewriting, printing, or other clearly legible reproduction process, and shall appear on one side of each sheet only. If handwritten, all matters must be legible. All papers shall be double-spaced except for the identification of counsel, title of the case, footnotes, quotations, and exhibits. If the court determines that a matter does not comply with this rule, the matter may be stricken by motion or *sua sponte*.

(b) Identification of Person Filing a Document. The name, Hawaii bar identification number, address, telephone number, facsimile number, and e-mail address of counsel (or, if *pro se*, of the party), and the specific identification of each party represented by name and interest in the litigation (*e.g.*, plaintiff, defendant, *etc.*) shall appear in the upper left-hand corner of the first page of each paper presented for filing, except that in multi-party actions or proceedings, reference may be made to the signature page for the complete list of parties represented.

(c) Caption, Case Numbers, and Title. Following the identification of the person filing the document there shall appear: (1) the title of the court; (2) the title of the action or proceeding; (3) the file number of the action or proceeding, whether it is civil or criminal, followed by the initials of the

judge(s) to whom it is currently assigned; (4) a title describing the paper; and (5) any other matter required by these rules. If the case is a consolidated case, the words "Consolidated Case" shall appear on the first page of the document. In all documents not submitted through the court's CM/ECF system, the case number shall also appear in the lower right-hand corner of each page, including exhibit pages but excluding initiating documents and any page already including a case caption. This requirement that each page include the case number may be satisfied by handwriting the case number, typing it in, Bate-stamping the case number, photocopying or printing text onto pages that include a preprinted case number, or using any similar method.

(d) Exhibits, Declarations and Affidavits. Original documents and courtesy copies of exhibits, declarations, and/or affidavits shall have appropriately labeled tabs. All exhibits attached to papers shall show the exhibit number or letter at the bottom of the first page of the exhibit. Exhibits, declarations, and/or affidavits shall not contain cover sheets in lieu of tabs.

To the extent possible, parties should refrain from submitting multiple copies of the same exhibit.

Exhibits need not be typewritten and may be copies, but must be clearly legible and not unnecessarily voluminous. Unless otherwise authorized by the court or necessary for the presentation of exhibits, all exhibits shall be printed on one side only and shall be on white opaque paper of good quality, eight and one-half inches by eleven inches. Counsel are required to reduce oversized exhibits to eight and one-half inches by eleven inches unless such reduction would destroy legibility or authenticity. An oversized exhibit that cannot be reduced shall be filed separately with a captioned cover sheet, identifying the exhibit and the document(s) to which it relates. Such oversized exhibits may, at the discretion of the clerk, be kept out of the electronic docket, but will be retained by the court.

(e) Signatures on Declarations and Affidavits. When it is impracticable to submit an original signature on a declaration or an affidavit along with a filing, a party and/or attorney may submit his or her declaration or affidavit with a fax signature. The party and/or attorney must maintain the declaration or affidavit with the original signature. A registered user of the court's CM/ECF system may submit his or her own declaration using "/s/ John or Jane Lawyer." Use of "/s/ John or Jane Lawyer" by a registered user of the court's CM/ECF system or use of a fax signature by anyone shall constitute the person's signature for all purposes, including Fed. R. Civ. P. 11 and 28 U.S.C. § 1746.

(f) *In camera* submissions. Papers submitted for *in camera* inspection shall have a captioned cover sheet that indicates the document is being submitted *in camera* and shall include an envelope large enough for the *in camera* papers to be sealed without being folded.

(g) Application for Temporary Restraining Order or Preliminary Injunction. An application for a temporary restraining order or preliminary injunction shall be made in a document separate from the complaint. To assist the court in assigning a matter to a judge who is available to handle a motion for temporary restraining order promptly, a party must file a complaint and a motion for temporary restraining order contemporaneously if the party knows at the time of preparing a complaint that a motion for temporary restraining order will be filed within twenty-eight (28) days of when the complaint is filed. Any non-contemporaneous motion for temporary restraining order filed by a plaintiff within twenty-eight (28) days after the date the complaint is filed shall include a statement as to why the motion was not filed contemporaneously with the complaint. Courtesy copies of all motions for temporary restraining orders shall be delivered to the court as soon as possible.

(h) Class Actions. In any action sought to be maintained as a class action, the complaint, and any counterclaim or cross-claim, shall bear below the title of the pleading the legend "Class Action."

(i) Three-Judge Court. If any party contends that a hearing before a three-judge court is required, the words "Three-Judge Court" shall be typed below the case number on the first page of the complaint, answer, or other pleading making such allegation. The clerk shall forthwith notify the assigned judge of such filing. In addition to the original filed, six copies of all papers, including briefs, shall be lodged with the clerk.

(j) Thickness of Pleadings and Papers. In the event a party desires to file a pleading or paper by depositing it in the court's after-hours box, the pleading or paper may be separated into two or more appropriately bound and identified parts (for example, "1 of 3," "2 of 3," and "3 of 3") so that it will fit into the opening of the box.

(k) Fax Filings. No document may be filed by faxing to the clerk's office unless the filing party has first obtained leave to do so from the judge to whom the filing is addressed, or, if

no judge has been assigned to a matter, from the clerk. Leave will be granted only for good cause.

LR10.3. Amended Pleadings.

Any party filing or moving to file an amended complaint, counterclaim, third-party complaint, or answer or reply thereto shall reproduce the entire pleading as amended and may not incorporate any part of a prior pleading by reference, except with leave of court.

LR10.4. Form of Stipulations.

A stipulation requiring approval of the court shall contain the words "APPROVED AND SO ORDERED," and a designated signature line for the judge. The caption and title of the document must appear on the signature page. Stipulations must comply with LR6.2, if applicable. Proposed stipulations may be sent by email to the appropriate "orders box" via the email addresses in LR100.9.3.

LR11.1. Sanctions and Penalties for Non-compliance With the Rules.

Failure of counsel or of a party to comply with any provision of these rules is a ground for imposition of sanctions, including a fine, dismissal, or other appropriate sanction. Sanctions may be imposed by the court *sua sponte* consistent with applicable law.

LR12.1 Motions to Dismiss.

Whenever a party files a motion to dismiss, that party shall, when submitting two courtesy copies of the motion to dismiss to the court, also submit to the court two courtesy copies of the complaint or petition it seeks to have dismissed, either attached to the motion to dismiss or submitted separately.

LR16.1. Counsel's Duty of Diligence.

All counsel and all parties proceeding *pro se* shall proceed with diligence to take all steps necessary to bring an action to readiness for pretrial and trial.

LR16.2. Scheduling Conference.

(a) Within ninety-one (91) days (thirteen weeks) after the appearance of a defendant and within one hundred twenty-six (126)

days (eighteen weeks) after an action or proceeding has been served on a defendant, the court shall set a scheduling conference. All parties receiving notice of the scheduling conference shall attend in person or by counsel and shall be prepared to discuss the following subjects:

(1) Service of process on parties not yet served;

(2) Jurisdiction and venue;

(3) Anticipated motions, and deadlines as to the filing and hearing of motions;

(4) Appropriateness and timing of motions for dismissal or for summary judgment under Fed. R. Civ. P. 12 or 56;

(5) Deadlines to join other parties and to amend pleadings;

(6) Anticipated or remaining discovery, including discovery cut-off;

(7) The control and scheduling of discovery, including orders affecting disclosures and discovery pursuant to Fed. R. Civ. P. 26 and 29 through 37 and LR26.1;

(8) Further proceedings, including setting dates for pretrial and trial, and compliance with LR16.6, 16.8 and 16.9;

(9) Appropriateness of special procedures such as consolidation of actions for discovery or pretrial, reference to a master or magistrate judge or to the Judicial Panel on Multidistrict Litigation, alternative dispute procedures, or application of the Manual for Complex Litigation;

(10) Modification of the standard pretrial procedures specified by this rule on account of the relative simplicity or complexity of the action or proceeding;

(11) Prospects for settlement, including participation in the court’s mediation program or any other alternative dispute resolution process;

(12) Any other matters that may be conducive to the just, efficient, and economical determination of the action or proceeding, including the definition or limitation of issues, or any of the other matters specified in Fed. R. Civ. P. 16(c);

(b) Each party shall file with the court and serve on all parties a Scheduling Conference Statement no later than seven (7) days prior to the scheduling conference. The Scheduling Conference Statement shall include the following:

(1) A short statement of the nature of the case;

(2) A statement of jurisdiction with cited authority for jurisdiction and a short description of the facts conferring venue;

(3) Whether jury trial has been demanded;

(4) A statement addressing the appropriateness, extent, and timing of disclosures pursuant to Fed. R. Civ. P. 26 and LR26.1 that are not covered by the report(s) filed pursuant to Fed. R. Civ. P. 26(f);

(5) A list of discovery completed, discovery in progress, motions pending, and hearing dates;

(6) A statement addressing the appropriateness of any of the special procedures or other matters specified in Fed. R. Civ. P. 16(c) and LR16.2 that are not covered by the joint report filed pursuant to Fed. R. Civ. P. 26(f);

(7) A statement identifying any related case, including pending cases as well cases that have been adjudicated or have otherwise been terminated, in any state or federal court;

(8) Additional matters at the option of counsel.

(c) Continuances of scheduling conferences shall be governed by LR40.4, unless otherwise ordered.

LR16.3. Scheduling Conference Order.

At the conclusion of the scheduling conference, the judge shall enter an order governing disclosures under Fed. R. Civ. P. 26(a) and LR26.1, the extent of discovery to be permitted, the discovery completion date, deadlines for motions to be filed and heard, deadlines to join other parties, and deadlines to amend pleadings. Unless otherwise ordered, all discovery must be completed no later than thirty-five (35) days (five weeks) prior to the scheduled trial date. The order may include other matters that the judge deems appropriate, including provisions for initiation of pretrial proceedings and trial settings, and

reference of the case to the court mediation program or other ADR process pursuant to LR88.1.

LR16.4. Pretrial Conference.

One pretrial conference shall be held in any action or proceeding. The judge may order additional pretrial conferences *sua sponte* or upon the request of any party. Multiple pretrial conferences shall not be scheduled routinely. If any party requests a pretrial conference, a copy of the request shall be served on all other parties. Counsel having authority to bind his or her client regarding all matters identified by the court for discussion at the pretrial conference and all reasonably related matters shall appear at each pretrial conference.

LR16.5. Settlement Conferences.

(a) In General. In each civil action, a mandatory settlement conference shall be scheduled before the assigned magistrate judge or such other judicial officer as the court may direct. Such conference may be held before the assigned judge, except that, in a non-jury case, the written stipulation of counsel shall be necessary if the judge trying the case conducts the settlement conference. The judge conducting the settlement conference may require the parties or representatives of a party other than counsel who have authority to negotiate and enter into a binding settlement to be present at the settlement conference.

(b) Settlement Conferences Before Magistrate Judges.

(1) Confidential Settlement Conference Statement. At least seven (7) days before the settlement conference, each party shall deliver directly to the presiding magistrate judge a Confidential Settlement Conference Statement, which should not be filed or served on the other parties. The Confidential Settlement Conference Statements shall be kept under seal and separate from the files maintained by the clerk accessible to the public. The Confidential Settlement Conference Statement will not be made a part of the record, and information of a confidential nature contained in the statement will not be disclosed to other parties without express authority from the party submitting the statement.

The Confidential Settlement Conference Statement shall indicate the date of the settlement conference and shall include the following:

(A) A brief statement of the case;

(B) A brief statement of the claims and defenses, *e.g.*, statutory and other grounds upon which claims are founded, a forthright evaluation of the parties' likelihood of prevailing on the claims and defenses, and a description of the major issues in dispute, including damages;

(C) A summary of the proceedings to date, including a statement as to the status of discovery;

(D) An estimate of the time to be expended for further discovery, pretrial proceedings, and trial;

(E) A brief statement of present demands and offers and the history of past settlement discussions, offers, and demands; and

(F) A brief statement of the party's position on settlement.

(2) Required Attendance At The Settlement Conference. Unless otherwise permitted in advance by the court, lead trial counsel and all parties appearing *pro se* shall appear at the settlement conference with full authority to negotiate and to settle the case on any terms at the conference. Unless otherwise ordered by the court, parties may be present at the settlement conference. If not physically present, a party shall be available by telephone to its counsel during the settlement conference. The parties must be immediately available throughout the conference until excused regardless of time zone difference. Any other special arrangements desired in cases in which settlement authority rests with a governing body shall be proposed to the court in advance of the settlement conference.

(3) Sanctions. If any trial attorney, party, or person with authority fails to attend the conference or to be available by telephone, sanctions, including the fees and costs expended by the other parties in preparing for and attending the conference, may be assessed by the court. Failure to timely deliver a Confidential Settlement Conference Statement may also result in sanctions.

LR16.6. Contents of Pretrial Statement.

At the time to be set by a scheduling conference order under LR16.3, or by stipulation of the parties approved by the assigned judge, the parties shall serve and file separate pretrial statements (copies to be lodged concurrently with the district

judge's courtroom manager), which shall follow the form and contain the captions and information specified in this rule:

(a) Party. The name of the party or parties on whose behalf the statement is filed.

(b) Jurisdiction and Venue. The statutory basis of federal jurisdiction and venue, and a statement as to whether any party disputes jurisdiction or venue.

(c) Substance of Action. A brief description of the substance of the claims and defenses presented.

(d) Undisputed Facts. A plain and concise statement of all material facts not reasonably disputable. Counsel are expected to make a good faith effort to stipulate to all facts not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony or exhibits.

(e) Disputed Factual Issues. A plain and concise statement of all disputed factual issues.

(f) Relief Prayed. A detailed statement of the relief claimed, including a particularized itemization of all elements of damages claimed.

(g) Points of Law. A concise statement of each disputed point of law with respect to liability and relief, with reference to statutes and decisions relied upon. Extended legal argument is not to be included in the pretrial statement.

(h) Previous Motions. A list of all previous motions made in the action or proceeding and the disposition thereof.

(i) Witnesses to be Called. A list of all witnesses likely to be called at trial, except for impeachment or rebuttal, together with a brief statement following each name describing the substance of the testimony to be given.

(j) Exhibits, Schedules, and Summaries. A list of all documents and other items to be offered as exhibits at the trial, except for impeachment or rebuttal, with a brief statement following each, describing its substance or purpose and the identity of the sponsoring witness.

(k) Further Discovery or Motions. A statement of all remaining discovery or motions.

(l) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

(m) Amendments, Dismissals. A statement of requested or proposed amendments to pleadings or dismissals of parties, claims, or defenses.

(n) Settlement Discussion. A statement summarizing the status of settlement negotiations and/or participation in any alternative dispute resolution process, indicating whether further participation or negotiations are likely to be productive.

(o) Agreed Statement. A statement as to whether presentation of the action or proceeding, in whole or in part, upon an agreed statement of facts is feasible and desired.

(p) Bifurcation, Separate Trial of Issues. A statement as to whether bifurcation or a separate trial of specific issues is feasible and desired.

(q) Reference to Master or Magistrate Judge. A statement as to whether reference of all or a part of the action or proceeding to a master or magistrate judge is feasible and agreeable.

(r) Appointment and Limitation of Experts. A statement as to whether appointment by the court of an impartial expert witness, and whether limitation on the number of expert witnesses, is feasible and desired.

(s) Trial. A statement of the scheduled or, if not scheduled, requested trial date, and, if trial is to be by jury, a statement that a timely request for a jury trial is on file in the action.

(t) Estimate of Trial Time. An estimate of the number of court days expected to be required for the presentation of each party's case. Counsel must make a good faith effort to reduce the time required for trial by all means reasonably feasible, including stipulations, agreed statements of facts, expedited means of presenting testimony and exhibits, and the avoidance of cumulative proof.

(u) Claims of Privilege or Work Product. A statement indicating whether any matter otherwise required to be stated by this rule is claimed to be covered by the work product doctrine

or any privilege. Upon such indication, such matters may be omitted subject to further order at the pretrial conference.

(v) Miscellaneous. Any other subjects relevant to the trial of the action or proceeding, or material to its just, efficient, and economical determination.

LR16.7. Pretrial Conference Agenda.

A pretrial conference shall be held on the date and at the time scheduled. The agenda for the pretrial conference shall consist of matters covered by Fed. R. Civ. P. 16 and LR16.6, and any other matter germane to the trial of the action or proceeding. Each party (other than a *pro se* party) shall be represented at the pretrial conference by counsel having authority with respect to all matters on the agenda, including settlement of the action or proceeding.

LR16.8. Pretrial Order.

The judge may make such pretrial order or orders at or following the pretrial conference as may be appropriate, and such order shall control the subsequent course of the action or proceeding as provided in Fed. R. Civ. P. 16. Unless otherwise ordered, each party shall complete the following not less than seven (7) days prior to the day on which the trial is scheduled to commence:

(a) Serve and file briefs on all significant disputed issues of law, including foreseeable procedural and evidentiary issues, setting forth briefly the party's position and the supporting arguments and authorities, with a copy to be given concurrently to the judge's courtroom manager;

(b) In jury cases, serve and file proposed voir dire questions and forms of verdict at least seven (7) days prior to jury selection;

(c) In non-jury cases, serve and file proposed findings of fact and conclusions of law, with a copy to be given concurrently to the judge's courtroom manager;

(d) Serve and file statements designating excerpts from depositions (specifying the witness and page and line references), from interrogatory answers, and from responses to requests for admission to be offered at the trial other than for impeachment or rebuttal, with a copy to be given concurrently to the judge's courtroom manager;

(e) Exchange copies or, when appropriate, make available for inspection all exhibits to be offered and all schedules, summaries, diagrams, and charts to be used at the trial other than for impeachment or rebuttal. Unless otherwise ordered, each proposed exhibit shall be premarked for identification in a manner clearly distinguishing plaintiff's from defendant's exhibits. Upon request, a party shall make the original or the underlying documents of any exhibit available for inspection and copying.

LR16.9. Objections to Proposed Testimony and Exhibits; Motions in Limine.

(a) Promptly after receipt of the statements and exhibits pursuant to LR16.8, any party objecting to any proposed testimony or exhibit shall advise the opposing party of such objection. The parties shall confer with respect to any objections in advance of trial and attempt to resolve them.

(b) Motions in limine shall be filed and served not less than fourteen (14) days prior to the date of trial, unless leave of court is obtained shortening the time for filing. Any opposition to any motion in limine shall be filed and served not less than seven (7) days prior to the date of trial, unless leave of court is obtained shortening the time for filing.

(c) The caption to a motion in limine or opposition to a motion in limine should reflect the general subject matter of the motion in limine, rather than merely stating, for example, "Motion in Limine No. 1." Thus, the title of a motion in limine might be, for example, "Motion in Limine No. 1 re Exclusion of Evidence of Prior Bad Acts."

LR16.10. Status Conference.

Status conferences may from time to time be scheduled in any action or proceeding. Such conferences may be requested by any party and shall be called only as necessary to facilitate the progress of the case and shall not be held as a matter of routine. No paper need be filed.

LR17.1. Actions Involving Minors or Incompetents.

Except as otherwise permitted by statute or federal rule, no action by or on behalf of a minor or incompetent shall be dismissed, discontinued, or terminated without the approval of the court. When required by state law, court approval shall also

be obtained from the appropriate state court having jurisdiction over such matters for any settlement or other disposition of litigation involving a minor or incompetent.

LR26.1. Conference of Parties.

(a) Unless otherwise ordered by the court in a particular case, the conference must be held no later than twenty-one (21) days before any scheduling conference set by the court under Fed. R. Civ. P. 16(b).

(b) Unless otherwise agreed by the parties or ordered by the court, the plaintiff(s) shall prepare and file the report required by this rule no later than fourteen (14) days after the conference. The defendant(s) may file within seven (7) days a supplemental report if there are any objections to the report filed by the plaintiff(s).

(c) In connection with their discussion pursuant to Fed. R. Civ. P. 26(f) of the possibilities for a prompt settlement or resolution of the case, the parties at the conference shall confer about alternative dispute resolution options, including, without limitation, the option of participation in the court's mediation program. The report format (as illustrated by Form 35) should therefore include the following information under "Other Matters":

> [Other Matters]
> The parties have discussed alternative dispute resolution options, including, without limitation, the option of participation in the court's mediation program. The [parties] [plaintiff] [defendant] are prepared to consider this matter further and discuss options at the Scheduling Conference.

LR26.2. Written Responses to Discovery Requests.

(a) Discovery requests served pursuant to Fed. R. Civ. P. 33, 34, and 36 shall be in a form providing sufficient space to respond following each request.

(b) Responses to discovery requests pursuant to Fed. R. Civ. P. 33, 34, and 36 shall set forth the interrogatory or request in full before the response. Each objection shall be followed by a statement of the reasons therefor.

(c) In a motion to compel discovery, only the pertinent interrogatories, requests for production, or requests for admissions, and answers or objections shall be set forth.

(d) Whenever a claim of privilege is made in response to any discovery request pursuant to Fed. R. Civ. P. 33, 34, or 36, the materials or information claimed to be privileged shall be identified with reasons stated for the particular privilege claimed. No generalized claim of privilege shall be allowed.

LR33.1. Special Discovery in Civil RICO Actions.

In connection with any case arising out of the Racketeer Influenced and Corrupt Organizations Act (RICO), codified at 18 U.S.C. §§ 1961-68, any party defending against such a claim may move for an order requiring the RICO claimant to file and serve a RICO discovery statement with the information listed below, as well as any additional discovery that the court may order. If ordered, the RICO discovery statement shall not count against any limit on interrogatories or other form of discovery.

(a) State whether the alleged unlawful conduct is in violation of 18 U.S.C. §§ 1962(a), (b), (c), and/or (d).

(b) List the defendants and state the alleged misconduct and basis of liability of each defendant.

(c) List alleged wrongdoers, other than the defendants listed above, and state the alleged misconduct of each wrongdoer.

(d) List the alleged victims and state how each victim was allegedly injured.

(e) Describe in detail the pattern of racketeering activities or collection of unlawful debts alleged for each RICO claim. The description of the pattern of racketeering shall include the following information:

(1) List the alleged predicate acts and the specific statutes that were allegedly violated;

(2) Provide the date of each predicate act, the participants in each predicate act, and a description of the facts constituting each predicate act;

(3) If the RICO claim is based on the predicate offenses of wire fraud, mail fraud, or fraud in the sale of

securities, state the circumstances constituting fraud or mistake with particularity. Identify the time, place, and substance of the alleged misrepresentations, and the identity of persons to whom and by whom the alleged misrepresentations were made;

(4) State whether there has been a criminal conviction for violation of any predicate act;

(5) State whether civil litigation has resulted in a judgment with regard to any predicate act;

(6) Describe how the predicate act forms a "pattern of racketeering activity"; and

(7) State whether the alleged predicate acts relate to each other as part of a common plan. If so, describe the alleged relationship and common plan in detail.

(f) Describe in detail the alleged "enterprise" for each RICO claim. A description of the enterprise shall state the names of the individuals, partnerships, corporations, associations, or other legal entities that allegedly constitute the enterprise; describe the structure, purpose, function, and course of conduct of the enterprise; state whether any defendants are employees, officers, or directors of the alleged enterprise; state whether any defendants are associated with the alleged enterprise; state whether the defendants are individuals or entities separate from the alleged enterprise or the defendants are the enterprise itself, or members of the enterprise; and, if any defendants are alleged to be the enterprise itself, or members of the enterprise, explain whether such defendants are perpetrators, passive instruments, or victims of the alleged racketeering activity.

(g) State and describe in detail whether the pattern of racketeering activity and the enterprise are separate or have merged into one entity.

(h) Describe the alleged relationship between the activities of the enterprise and the pattern of racketeering activity. Discuss how the racketeering activity differs from the usual daily activities of the enterprise, if at all.

(i) Describe what benefits, if any, the alleged enterprise receives from the alleged pattern of racketeering.

(j) Describe the effect of the activities of the enterprise on interstate or foreign commerce.

(k) If the complaint alleges a violation of 18 U.S.C. § 1962(a), state who received the income derived from the pattern of racketeering activity or through the collection of unlawful debt and describe the use or investment of such income.

(l) If the complaint alleges a violation of 18 U.S.C. § 1962(b), describe in detail the acquisition or maintenance of any interest in or control of the alleged enterprise.

(m) If the complaint alleges a violation of 18 U.S.C. § 1962(c), state who is employed by or associated with the alleged enterprise, and state whether the same entity is both the liable "person" and the "enterprise" under § 1962(c).

(n) If the complaint alleges a violation of 18 U.S.C. § 1962(d), describe in detail the facts showing the existence of the alleged conspiracy.

(o) Describe the alleged injury to business or property.

(p) Describe the direct causal relationship between the alleged injury and the violation of the RICO statute.

(q) List the damages sustained by reason of the violation of § 1962, indicating the amount for which each defendant is allegedly liable.

(r) List all other federal causes of action, if any, and provide the relevant statute numbers.

(s) List all pendent state claims, if any.

(t) Provide any additional information helpful to the court in processing the RICO claims.

(u) If a claimant cannot presently provide certain information requested above due to lack of discovery, set forth with specificity:

(1) The fact(s) presently unknown but that the claimant believes can be proven;

(2) The nature of discovery planned to develop such facts;

(3) From whom discovery will be taken; and

(4) When discovery will commence and/or be completed.

LR37.1. Abuse of or Failure to Make Discovery; Sanctions.

(a) Conference Required. The court will not entertain any motion pursuant to Fed. R. Civ. P. 26 through 37, including any request for expedited discovery assistance pursuant to LR37.1(c), unless counsel have previously conferred, either in person or by telephone, concerning all disputed issues, in a good faith effort to limit the disputed issues and, if possible, eliminate the necessity for a motion or expedited discovery assistance.

(b) Certificate of Compliance. When filing any motion with respect to Fed. R. Civ. P. 26 through 37, or a letter brief in accordance with LR37.1(c), counsel for the moving party shall certify compliance with this rule.

(c) Expedited Discovery Assistance.

(1) Counsel may seek resolution of disputed discovery issues expeditiously and economically. This expedited procedure is intended to afford a swift but full opportunity for the parties to present their positions through abbreviated, simultaneous briefing and, when appropriate, a conference. Counsel desiring such assistance shall contact opposing counsel to arrange a mutually agreeable deadline for the submission of letter briefs. Should counsel be unable to agree upon a deadline, counsel may contact the courtroom manager of the assigned magistrate judge, who will assign a deadline for letter briefs. Counsel who obtains a deadline from the courtroom manager shall notify opposing counsel of the assigned deadline.

(2) Letter briefs by all parties shall be submitted to chambers and served on opposing counsel by the deadline. The letter brief shall contain all relevant information, including: confirmation of the deadline for submission of letter briefs; dates of discovery cut-off and trial; and a discussion of the dispute. If a party opposes the use of this expedited procedure, such opposition should be included in the letter brief. Unless otherwise ordered by the court, the letter briefs shall be five pages or less, inclusive of all exhibits.

(3) Upon receipt of the letter briefs, the magistrate judge shall determine a procedure for resolving the dispute. Should a conference be required, the courtroom manager of the assigned magistrate judge shall schedule such a conference and shall specify whether counsel must attend in person or by telephone.

(4) Any discovery order issued by a magistrate judge pursuant to such expedited procedure may be appealed to the assigned district judge, unless the case has been assigned on consent of the parties to the magistrate judge to act as the trial judge in the case.

LR40.1. Assignment of Civil Cases.

Cases will be assigned as determined by the court, in most cases by random draw.

LR40.2. Assignment of Similar Cases.

Whenever it shall appear that civil actions or proceedings involve the same or substantially identical transactions, happenings, or events, or the same or substantially the same parties or property or subject matter, or the same or substantially identical questions of law, or for any other reason said cases could be more expeditiously handled if they were all heard by the same judge, then the chief district judge or any other district judge appointed by the chief district judge in charge of the assignment of cases may assign such cases to the same judge. Each party appearing in any such action may also request by appropriate motion that said cases be assigned or reassigned to the same judge. Filing of a related-case notice may result in the direct assignment of a case to the judge presiding over the pending related case.

LR40.2.1. Consent to Trial by Magistrate Judge.

Unless otherwise ordered, all consents to trial by a magistrate judge shall be filed as soon as practicable, preferably before a district judge has ruled on a dispositive motion in the case.

LR40.3. Trial Setting and Readiness Procedure.

All civil and criminal trials shall be considered placed on a two-week readiness calendar. The week in which a case is set for trial shall be considered that case's primary week. The week prior to the week a case is set for trial shall be considered that case's standby week. As the calendar moves forward, cases will rotate from standby to primary week status, with the succeeding week's cases moving into standby status. Cases not tried during their primary or standby week shall be reset for trial at the earliest available date in accordance with present court practice.

The court will consider all cases set on either the primary or standby calendar to be ready for trial, and any such case may be called for trial on one day's notice without further order of the court. Failure of a party to be ready to proceed to trial on any case set on the two-week readiness calendar may subject that party to sanctions as provided in LR11.1, which sanctions may include entry of adverse judgment or dismissal.

LR40.4. Motions to Continue Trial.

Any motion to continue trial heard within thirty-five (35) days (five weeks) of the scheduled trial date shall be decided by the trial judge, unless the motion is designated by a district judge to a magistrate judge. All other motions to continue trial shall be decided by the assigned magistrate judge. Any motion to continue trial shall indicate that the client-party has consented to the continuance. Consent may be demonstrated by the client-party's signature on a motion to continue trial or by the personal appearance in court of the client-party.

LR40.5. Notice to the Court of Calendar Conflicts.

Upon learning of a scheduling conflict between the United States District Court for the District of Hawaii and the Hawaii State Courts, counsel shall within forty-eight (48) hours notify the judges involved in order that they may confer and resolve the conflict.

LR40.6. Scheduling Conflicts.

Upon being advised of a scheduling conflict, the judges involved shall, if necessary, confer personally or by telephone in an effort to resolve the conflict. While neither the United States District Court nor the Hawaii State Courts have priority in scheduling, the following factors, which are not all-inclusive, may be considered in resolving the conflict:

(a) Criminal cases versus civil cases and attendant Speedy Trial problems;

(b) Out-of-town witnesses, parties, or counsel;

(c) Age of cases;

(d) Which matter was set first;

(e) Any other factor that weighs in favor of one case over the other.

LR41.1. Voluntary Dismissal of Actions.

Any stipulation filed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) shall be submitted to the trial judge for that judge to sign as "APPROVED AS TO FORM."

LR48.1. Civil Juries.

In all civil actions in which a party is entitled to a jury trial, the jury shall be composed as mandated by Fed. R. Civ. P. 48, as amended.

LR51.1. Jury Instructions.

Unless otherwise ordered, all proposed jury instructions are required to be filed and served at least fourteen (14) days before the trial begins, except for a limited number of instructions whose need could not have been foreseen. Jury instructions are to be submitted in the following format:

(a) The parties are required to jointly submit one set of agreed upon proposed instructions. To this end, the parties are required to serve their proposed instructions upon each other no later than twenty-one (21) days prior to trial. The parties must then meet, confer in good faith, and submit one complete set of agreed on instructions.

(b) If the parties cannot agree on one complete set of instructions, they are required to submit one set of those instructions that have been agreed on. Each party should in addition submit a supplemental set of proposed instructions not agreed on.

(c) It is not enough for the parties to merely agree on the general instructions, and then each submit their own set of proposed substantive instructions. The parties are expected to meet, confer in good faith, and agree on the substantive instructions for the case.

(d) These jointly proposed instructions and proposed supplemental instructions must be filed fourteen (14) days prior to trial. Each party should then file, seven (7) days before trial, its objections to the instructions proposed by the other party. All objections shall be in writing and shall set forth the proposed instruction in its entirety. The objection shall then specifically set forth each objectionable material in the proposed instruction. The objection shall contain citation to authority explaining why the instruction is improper and a

concise statement of argument concerning the instruction. When applicable, the objecting party shall submit an alternative instruction covering the subject or principle of law.

(e) The parties are required to submit to the court the proposed joint set of instructions and proposed supplemental instructions:

(1) A copy indicating the number of each proposed instruction and the authority supporting the instruction shall be filed with the court and two (2) courtesy copies shall be provided for the judge; and

(2) A virus-free electronic copy of the proposed instructions, as directed by the judge or the judge's staff (via email, flash drive, 3½ inch disk, CD-R, *etc.*) shall be provided to the judge. Unless otherwise stated, the court prefers that the electronic copy of the proposed instructions be in WordPerfect format.

(f) Not later than the first day of trial, each party may submit a concise argument supporting the appropriateness of that party's proposed instructions to which another party has objected.

(g) All instructions should be short, concise, understandable, and neutral statements of law. Argumentative instructions are improper, will not be given, and should not be submitted.

(h) Parties should note, in jointly agreeing on instructions, that a judge may have designated a set of standard instructions, and otherwise generally prefers Ninth Circuit Model Jury Instructions over Devitt and Blackmar.

(i) Parties should also note that any modifications of instructions from statutory authority, BAJI, or Devitt and Blackmar (or any other form instructions) must specifically state the modification made to the original form instruction and the authority supporting the modification.

(j) Failure to comply with any of the above instructions may subject the non-complying party and/or its attorneys to sanctions in accordance with LR11.1.

LR52.1. Settlement of Findings of Fact and Conclusions of Law.

Except as otherwise ordered by the judge, within seven (7) days after the announcement of the decision of the court awarding judgment in any action tried on the facts without a jury, including actions in which a jury may have been called and may have acted only in an advisory capacity under Fed. R. Civ. P. 39(c), the prevailing party shall prepare a draft of the findings of fact and conclusions of law required by Fed. R. Civ. P. 52(a) and serve a copy on each party who has appeared in the action and mail or deliver two copies to the judge. Before the court issues a ruling, parties may be required by the court to submit proposed findings of fact and conclusions of law supporting their respective positions. Any party receiving another party's proposed draft of findings of fact and conclusions of law shall, within seven (7) days thereafter, serve on all other parties and mail or deliver to the judge two copies of a statement of any objections he or she may have to the proposed draft, the reasons therefor, and a substitute proposed draft of the findings of fact and conclusions of law. The judge shall thereafter take such action as is necessary under the circumstances.

LR53.1. Magistrate Judges; Special Master References.

A magistrate judge may be designated by a district judge to serve as a special master in appropriate civil cases in accordance with 28 U.S.C. § 636(b)(2) and Fed. R. Civ. P. 53. With the consent of the parties, a magistrate judge may be designated by a district judge to serve as special master in any civil case, notwithstanding the limitations of Fed. R. Civ. P. 53(b).

LR53.2. Magistrate Judges; Special Master Orders, Reports, and Recommendations - 28 U.S.C. § 636(b)(2).

Any party may seek review of, or action on, the special master's order, report, and/or recommendation filed by a magistrate judge in accordance with the provisions of Fed. R. Civ. P. 53(f). Pursuant to Rule 53(f)(2), a party may file objections to--or a motion to adopt or modify--the special master's order, report, or recommendations no later than twenty-one (21) days after a copy is served, unless the court sets a different time. Any response to such objections or motion to adopt or modify shall be filed no later than fourteen (14) days after the filing date of the objections or motion to adopt or modify, unless the court sets a different time.

LR53.3. Special Master Appointment.

(a) Appointment of Special Master. If all of the parties to an action stipulate in writing to the reference of the action to a special master, and if the special master and the court consent to the assignment, an order of reference shall be entered. If the parties cannot agree on the selection of a special master but stipulate in writing that there be a reference to a special master, the court shall promptly designate a special master from the register and shall send notice of that designation to the special master and to all attorneys of record in the action.

(b) Powers and Duties. The powers and duties of the special master and the effect of his or her report shall be as set forth in Fed. R. Civ. P. 53 except as the same may be modified or limited by agreement of the parties and incorporated in the order of reference.

(c) Time and Place. The special master shall fix a time and place of hearing, and all adjourned hearings, that is reasonably convenient for the parties and shall give them written notice of the initial hearing.

(d) Other Special Master Appointments. This rule shall not limit the authority of the court to appoint compensated special masters to supervise discovery or for other purposes, under the provisions of Fed. R. Civ. P. 53. However, when the court orders the appointment of a compensated special master, the parties shall have the right to select the master by agreement, provided they do so within the time frame set by the court. If no agreement is reached, the court may select the master.

(e) Register of Volunteer Attorneys.

(1) Selection Procedure. The judges of the district shall establish and maintain a register of qualified attorneys who have volunteered to serve, without compensation, as special masters in civil cases in this court in order to facilitate disposition of civil actions. The attorneys so registered shall be selected by the judges of the district from lists of qualified attorneys at law, who are members of the bar of this court.

(2) Minimum Qualifications. In order to qualify for service as a special master under this rule, an attorney shall have the following minimum qualifications: (1) have been a member of the bar of a Federal District Court for at least seven (7) years; (2) be a member of the Bar of the United States District

Court for the District of Hawaii; and (3) have had, or have, a substantial portion of his or her practice in Federal Court.

(f) Criteria for Designations. In designating a special master, the judge shall take into consideration the nature of the action and the nature of the practice of the attorneys on the register. When feasible, the judge shall designate an attorney who has had substantial experience in the type of action in which the attorney is to act as special master.

LR53.4. Settlement Masters Program.

When settlement would be facilitated by the use of a settlement master, the court may designate a settlement master from a list of retired and/or experienced litigators appointed to serve on a pro bono basis. The settlement master is authorized to conduct settlement discussions, require the parties to attend a settlement conference conducted by the settlement master and require the parties to exchange position statements concerning settlement and/or provide confidential position statements concerning settlement to the settlement master. The settlement master shall report to the court on the prospects for and progress toward settlement.

LR54.1. Jury Cost Assessment.

When a civil case set for jury trial is settled or otherwise disposed of, notice of such agreement or disposition shall be filed in the clerk's office at least one (1) full business day before the date on which the case is set; otherwise juror costs, including service fees, mileage, and per diem, shall be assessed equally against the parties and their counsel or otherwise assessed as directed by the court, except for good cause shown. When a continuance of a case is applied for on the day set for trial and granted by the court, the payment of juror costs by the party applying for the continuance may be one of the conditions of the continuance, unless the continuance was not due to any fault of the moving party.

LR54.2. Taxation of Costs.

(a) Entitlement. Costs shall be taxed as provided in Fed. R. Civ. P. 54(d)(1). The party entitled to costs shall be the prevailing party in whose favor judgment is entered, or shall be the party who prevails in connection with a motion listed in LR54.2(b). Unless otherwise ordered, the court will not determine the party entitled to costs in an action terminated by

settlement; the parties must reach agreement regarding entitlement to taxation of costs, or bear their own costs.

(b) Time For Filing. Unless otherwise ordered by the court, a Bill of Costs shall be filed and served within fourteen (14) days of the entry of judgment, the entry of an order denying a motion filed under Fed. R. Civ. P. 50(b), 52(b), or 59, or an order remanding to state court any removed action. Non-compliance with this time limit shall be deemed a waiver of costs.

(c) Contents. The Bill of Costs must state separately and specifically each item of taxable costs claimed. It must be supported by a memorandum setting forth the grounds and authorities supporting the request and an affidavit that the costs claimed are correctly stated, were necessarily incurred, and are allowable by law. The affidavit must also contain a representation that counsel met and conferred in an effort to resolve any disputes about the claimed costs, and the prevailing party shall state the results of such a conference, or that the prevailing party made a good faith effort to arrange such a conference, setting forth the reasons the conference was not held. Parties may use the Bill of Costs Form AO 133, which is available from the clerk's office and the court's website. Any vouchers, bills, or other documents supporting the costs being requested shall be attached as exhibits.

(d) Objections. Within seven (7) days after a Bill of Costs is served, the party against whom costs are claimed must file and serve any specific objections, succinctly setting forth the grounds and authorities for each objection. Upon the timely filing of any objections, the clerk will refer both the Bill of Costs and objections to the court for a determination of taxable costs. If no such memorandum is filed within the required time, the movant shall notify the clerk that no objections have been filed. When no timely objection has been filed, the clerk may tax all of the requested costs on fourteen (14) days' notice.

(e) Review. Taxation of costs may be reviewed by the court upon motion filed and served within seven (7) days after taxation by the clerk, in accordance with Fed. R. Civ. P. 54(d)(1).

(f) Standards. Costs are taxed in conformity with 28 U.S.C. §§ 1821, 1920-1925, and other applicable statutes, with the following clarifications:

(1) Fees for the service of process and service of subpoenas by someone other than the marshal are allowable, to the extent they are reasonably required and actually incurred.

(2) The cost of a stenographic and/or video original and one copy of any deposition transcript necessarily obtained for use in the case is allowable. A deposition need not be introduced in evidence or used at trial, so long as, at the time it was taken, it could reasonably be expected that the deposition would be used for trial preparation, rather than mere discovery. The expenses of counsel for attending depositions are not allowable.

(3) Per diem, subsistence, and mileage payments for witnesses are allowable to the extent reasonably necessary and provided for by 28 U.S.C. § 1821. Unless otherwise provided by law, fees for expert witnesses are not taxable in an amount greater than that statutorily allowable for ordinary witnesses.

(4) The cost of copies necessarily obtained for use in the case is taxable provided the party seeking recovery submits an affidavit describing the documents copied, the number of pages copied, the cost per page, and the use of or intended purpose for the items copied. As of the effective date of these rules, the practice of this court is to allow taxation of copies at $.15 per page or the actual cost charged by commercial copiers, provided such charges are reasonable. The cost of copies obtained for the use and/or convenience of the party seeking recovery and its counsel is not taxable.

(5) Electronic or computer research costs are not taxable.

(6) Fees paid to the clerk of the state court prior to removal are taxable in this court, unless the removed case is remanded back to state court.

LR54.3. Motions For Attorneys' Fees And Related Non-taxable Expenses.

(a) Time For Filing. Unless otherwise provided by statute or ordered by the court, a motion for an award of attorneys' fees and related non-taxable expenses must be filed and served within fourteen (14) days of entry of judgment. Filing an appeal from the judgment does not extend the time for filing a motion.

(b) Statement of Consultation. The court will not consider a motion for attorneys' fees and related non-taxable expenses

until moving counsel advises the court in writing that, after consultation, or good faith efforts to consult, the parties are unable to reach an agreement with regard to the fee award or that the moving counsel has made a good faith effort, but has been unable, to arrange such a conference. The statement of consultation shall set forth the date of the consultation, the names of the participating attorneys, and the specific results achieved, or shall describe the efforts made to arrange such conference and explain the reasons why such conference did not occur. The moving party shall initiate this consultation after filing a motion for attorneys' fees and related non-taxable expenses. The statement of consultation shall be filed and served by the moving party within fourteen (14) days after the filing of the motion. If the parties reach an agreement, they may file an appropriate stipulation and request for an order.

(c) Contents. A motion for attorneys' fees and related non-taxable expenses shall specify the applicable judgment and statutory or contractual authority entitling the moving party to the requested award and the amount of attorneys' fees and related non-taxable expenses sought. In addition, the moving party shall file a memorandum in support and an affidavit of counsel.

(d) Memorandum in Support. The memorandum in support shall set forth the nature of the case; the claims as to which the moving party prevailed; the claims as to which the moving party did not prevail; the applicable authority entitling the moving party to the requested award; a description of the work performed by each attorney and paralegal, broken down by hours or fractions thereof expended on each task; the attorney's customary fee for like work; the customary fee for like work prevailing in the attorney's community; any additional factors required by case law; a listing, in sufficient detail to enable the court to rule on the reasonableness of the request, of any expenditures for which reimbursement is sought; any additional factors that are required by case law; and any additional factors the moving party wishes to bring to the court's attention.

(1) Itemization of Work Performed. Descriptions of work performed shall be organized by litigation phase[1] as follows:

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[1]In general, preparation time should be reported under the category to which it relates. For example, time spent preparing for a court hearing should be recorded under the category "court hearings." Factual investigation should also be listed under the specific category to which it relates. For example, time spent with a witness to obtain an affidavit for a summary judgment

(A) Case development, background investigation, and case administration (includes initial investigations, file setup, preparation of budgets, and routine communications with client, co-counsel, opposing counsel, and the court);

(B) Pleadings;

(C) Interrogatories, document production, and other written discovery;

(D) Depositions;

(E) Motions practice;

(F) Attending court hearings;

(G) Trial preparation and attending trial; and

(H) Post-trial motions.

(2) Description of Services Rendered. The party seeking an award of fees must describe adequately the services rendered, so that the reasonableness of the requested fees can be evaluated. In describing such services, counsel should be sensitive to matters giving rise to attorney-client privilege and attorney work product doctrine, but must nevertheless furnish an adequate non-privileged description of the services in question. If the time descriptions are incomplete, or if such descriptions fail to describe adequately the services rendered, the court may reduce the award accordingly. For example, time entries for telephone conferences must include an identification of all participants and the reason for the call; entries for legal research must include an identification of the specific issue researched and, if possible, should identify the pleading or document for which the research was necessary; entries describing the preparation of pleadings and other papers must include an identification of the pleading or other document prepared and the activities associated with such preparation.

(3) Description of Expenses Incurred. In addition to identifying each requested non-taxable expense, the moving party shall set forth the applicable authority entitling the moving party to such expense and should attach copies of invoices and receipts, if possible.

(e) Affidavit of Counsel. The affidavit of counsel shall include:

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motion or opposition should be indicated under the category "motions practice." Similarly, a telephone conversation or a meeting with a client held for the purpose of preparing interrogatory answers should be included under the category "interrogatories, document production, and other written discovery."

(1) A brief description of the relevant qualifications, experience, and case-related contributions of each attorney and paralegal for whom fees are claimed, as well as any other factors relevant to establishing the reasonableness of the requested rates;

(2) A statement that the affiant has reviewed and approved the time and charges set forth in the itemization of work performed and that the time spent and expenses incurred were reasonable and necessary under the circumstances; and

(3) A statement identifying all adjustments, if any, made in the course of exercising "billing judgment."

(f) Responsive and Reply Memoranda. Unless otherwise ordered by the court, any opposing party may file and serve a responsive memorandum within fourteen (14) days after service of the statement of consultation. The responsive memorandum in opposition to a motion for attorneys' fees and related non-taxable expenses shall identify with specificity all disputed issues of law and fact, each disputed time entry, and each disputed expense item. The moving party, unless otherwise ordered by the court, may file and serve a reply memorandum within fourteen (14) days after service of the responsive memorandum. Thereafter, unless otherwise ordered by the court, the motion and supporting and opposing memoranda will be taken under advisement and a ruling will be issued without a hearing.

(g) Court's Discretion to Deny With Prejudice. Failure to follow these rules regarding motions for attorneys' fees and/or related non-taxable expenses on more than one occasion in a case may, in the court's sole discretion, result in the denial of such motions with prejudice.

(h) Referral to Magistrate judge. Unless otherwise ordered, a post-verdict or post-judgment motion for an award of attorneys' fees and related non-taxable expenses shall automatically be referred to the magistrate judge assigned to the case pursuant to Fed. R. Civ. P. 54(d).

LR56.1. Motions for Summary Judgment.

(a) Motion Requirements. A motion for summary judgment shall be accompanied by a supporting memorandum and a separate concise statement detailing each material fact as to which the moving party contends that there are no genuine issues to be tried that are essential for the court's determination of the summary judgment motion (not the entire case). The motion shall

be heard on the schedule set forth in LR7.2, as permitted by Fed. R. Civ. P. 56.

(b) Opposition Requirements. Any party who opposes the motion shall file and serve with his or her opposing papers a separate document containing a single concise statement that admits or disputes the facts set forth in the moving party's concise statement, as well as sets forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated.

(c) Focus of the Concise Statement. When preparing the separate concise statement, a party shall reference only the material facts that are absolutely necessary for the court to determine the limited issues presented in the motion for summary judgment (and no others), and each reference shall contain a citation to a particular affidavit, deposition, or other document that supports the party's interpretation of the material fact. Documents referenced in the concise statement may, but need not, be filed in their entirety if a party concludes that the full context would be helpful to the court (*e.g.*, a deposition miniscript with an index stating what pages may contain key words may often be useful). The concise statement shall particularly identify the page and portion of the page of the document referenced. The document referred to shall have relevant portions highlighted or otherwise emphasized. The parties may extract and highlight the relevant portions of each referenced document, but shall ensure that enough of a document is attached to put the matter in context. If a party determines that an entire deposition transcript should be submitted, the party should consider whether a miniscript would be preferable to a full-size transcript. If an entire miniscript is submitted, the index of terms appearing in the transcript must be included, if it exists. When multiple pages from a single document are submitted, the pages shall be grouped in a single exhibit.

(d) Limitation. The concise statement in support of or in opposition to a motion for summary judgment shall be no longer than five (5) pages, unless it contains no more than 1500 words. When a concise statement is submitted pursuant to the foregoing word limitation, the number of words shall be computed in accordance with LR7.5(d), and the concise statement shall include the certificate provided for in LR7.5(e).

(e) Format. A separate concise statement may utilize a single-space format for the presentation of the facts and evidentiary support only when set out in parallel columns, but a column format is not required.

(f) Scope of Judicial Review. When resolving motions for summary judgment, the court shall have no independent duty to search and consider any part of the court record not otherwise referenced in the separate concise statements of the parties. Further, the court shall have no independent duty to review exhibits in their entirety, but rather will review only those portions of the exhibits specifically identified in the concise statements.

(g) Admission of Material Facts. For purposes of a motion for summary judgment, material facts set forth in the moving party's concise statement will be deemed admitted unless controverted by a separate concise statement of the opposing party.

(h) Affidavits and declarations. Affidavits or declarations setting forth facts and/or authenticating exhibits, as well as exhibits themselves, shall only be attached to the concise statement. Supplemental affidavits and declarations may only be submitted with leave of court.

(i) Summary Judgment to Nonmoving Party. If a party moves for summary judgment and the record establishes as a matter of law that another party is entitled to summary judgment against the moving party, the court, in the court's discretion, may enter summary judgment against the moving party after providing that party with oral or written notice and an opportunity to be heard.

(j) Filing and Service Deadlines. The opposition to any motion for summary judgment and any reply in support of a motion for summary judgment shall be due on the schedule set forth in LR7.4.

LR58.1. Entry of Judgments and Orders.

(a) The clerk may require any party obtaining a judgment or order that does not require approval as to form by the judge to supply the clerk with a draft thereof.

(b) No judgment or order, except orders grantable by the clerk pursuant to authorization by the court and judgments that the clerk is authorized by the Federal Rules of Civil Procedure to enter without direction of the court, will be noted in the civil docket until the clerk has received from the court a specific direction to enter it.

(c) Every order and judgment shall be filed with the clerk.

(d) Attorneys shall notify the clerk in advance of substantial sums to be deposited as registry account funds, to ensure that the depository has pledged sufficient collateral under Treasury regulations; otherwise, funds will be retained in a non-interest-bearing account pending verification of such pledge. All orders for the deposit of registry account funds in interest-bearing accounts shall contain the following provisions:

(1) IT IS FURTHER ORDERED that counsel presenting this order shall serve a copy on the clerk at the time the money is deposited. Absent the aforesaid service, the clerk is hereby relieved of any personal liability relative to compliance with this order.

(2) IT IS FURTHER ORDERED that the clerk shall deduct from the income earned on the account, a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

(e) Orders distributing registry funds that have accumulated interest income in the amount of $10.00 or more shall contain the name, address, and social security or taxpayer's identification number of the party or parties entitled thereto. A copy of the entire order shall be filed under seal. A copy of the order with the personal information redacted shall be filed and available for the public's inspection.

LR58.2. Settlement of Judgments; Orders by the Court.

(a) Except as otherwise ordered by the judge, within seven (7) days after the announcement of the decision of the court awarding any judgment or order that requires settlement and approval as to form by the judge, the prevailing party shall prepare a draft of the order or judgment embodying the court's decision and serve a copy thereof upon each party who has appeared in the action and mail or deliver a copy to the judge and to the clerk. Any party receiving the proposed draft of judgment or order shall within seven (7) days thereafter serve upon all other parties and mail or deliver to the judge and to the clerk a statement of any objection he or she may have to the proposed draft, the reasons therefor, and a substitute proposed draft. Thereafter, the judge shall take such further action as is necessary under the circumstances.

(b) Judgments and orders shall be served by the clerk on all parties appearing in the action.

LR60.1. Motions for Reconsideration.

Motions seeking reconsideration of case-dispositive orders shall be governed by Fed. R. Civ. P. 59 or 60, as applicable. Motions for reconsideration of interlocutory orders may be brought only upon the following grounds:

(a) Discovery of new material facts not previously available;

(b) Intervening change in law;

(c) Manifest error of law or fact.

Motions asserted under Subsection (c) of this rule must be filed and served not more than fourteen (14) days after the court's written order is filed. Oppositions to and replies in support of a motion for reconsideration shall be filed and served in accordance with Local Rules 7.2(e) and 7.4.

LR65.1. When a Bond or Security is Required.

The court, on motion or of its own initiative, may order any party to file an original bond or additional security for costs in such an amount and so conditioned as the court by its order may designate.

LR65.2. Qualifications of Surety.

Subject to approval of the court, every bond for costs under this rule must have as surety either: (a) a cash deposit equal to the amount of the bond; or (b) a corporation authorized by the Secretary of the Treasury of the United States, to act as surety on official bonds pursuant to 31 U.S.C. §§ 9301-09; or (c) a resident of the district, who owns real or personal property within the district sufficient in value above any incumbrances to justify the full amount of the suretyship; or (d) any insurance, surety, or bonding company licensed to do business in the State of Hawaii.

LR66.1. Receiverships.

In the exercise of the authority vested in the district courts by Fed. R. Civ. P. 66, this rule is promulgated for the administration of estates by receivers or by other similar officers appointed by the court. Except in the administration of the estate, any civil action in which the appointment of a receiver or other similar officer is sought, or which is brought

by or against such an officer, is governed by the Federal Rules of Civil Procedure and by these rules.

(a) Inventories. Unless the court otherwise orders, a receiver or similar officer as soon as practicable after his or her appointment and not later than twenty-eight (28) days after he or she has taken possession of the estate, unless such time shall be extended by the court for good cause shown, shall file an inventory of all the property and assets in the receiver's possession or in the possession of others who hold possession as his or her agent, and in a separate schedule, an inventory of the property and assets of the estate not reduced to possession by the receiver but claimed and held by others.

(b) Reports. Within one month after the filing of the inventory, and at regular intervals of three months thereafter until discharged, or at such other times as the court may direct, the receiver or other similar officer shall file reports of his or her receipts and expenditures and of the receiver's acts and transactions in his or her official capacity.

(c) Compensation of Receivers, Commissioners, Attorneys, and Others. The compensation of receivers or similar officers, of their counsel, and of all those who may have been appointed by the court to aid in the administration of the estate, the conduct of its business, the discovery and acquirement of its assets, the formation of reorganization plans, and the like, shall be ascertained and awarded by the court in its discretion. Such an allowance shall be made only on such notice to creditors and other persons in interest as the court may direct. The notice shall state the amount claimed by each applicant.

(d) Administration of Estates. In all other respects, receivers or similar officers shall administer the estate as nearly as possible in accordance with the practice in the administration of estates in bankruptcy, except as otherwise ordered by the court.

LR72.1. Magistrate Judges; Jurisdiction Under 28 U.S.C. § 636(a).

Each magistrate judge of this court is authorized to perform the duties prescribed by 28 U.S.C. § 636(a), and may:

(a) Exercise all the powers and duties conferred or imposed on magistrate judges by law and the Federal Rules of Criminal Procedure;

(b) Administer oaths and affirmations, impose conditions of release under 18 U.S.C. § 3146, and take acknowledgments, affidavits and depositions; and

(c) Conduct extradition proceedings, in accordance with 18 U.S.C. § 3184.

LR72.2. Procedures Before the Magistrate Judge.

In performing duties for the court, a magistrate judge shall conform to all applicable provisions of federal statutes and rules, and to the rules of this court.

LR72.3. Magistrate Judges; Determination of Non-Dispositive Pretrial Matters - 28 U.S.C. § 636(b)(1)(A).

Unless otherwise ordered, a magistrate judge shall hear and determine all pretrial motions, including discovery motions, in a civil or criminal case, other than the motions specified in LR72.4.

LR72.4. Magistrate Judges; Determination of Case-Dispositive Pretrial Matters - 28 U.S.C. § 636(b)(1)(B).

(a) A district judge may designate a magistrate judge to hear and determine, and to submit to a district judge of the court proposed findings of fact and recommendations for disposition by a district judge, the following pretrial motions in civil and criminal cases:

(1) Motions for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

(2) Motions for judgment on the pleadings;

(3) Motions for summary judgment;

(4) Motions to dismiss or permit the maintenance of a class action;

(5) Motions to dismiss for failure to state a claim upon which relief may be granted;

(6) Motions to dismiss an action involuntarily;

(7) Motions made by a defendant to dismiss or quash an indictment or information;

(8) Motions to suppress evidence in a criminal case; and

(9) Motions for remand.

(b) A magistrate judge may determine all preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this Subsection.

LR72.5. Magistrate Judges; Prisoner Cases Under 28 U.S.C. §§ 2254 and 2255.

Unless otherwise ordered, a petition brought under 28 U.S.C. § 2254 shall automatically be referred to the magistrate judge assigned to the case. Referral of a petition brought under 28 U.S.C. § 2255 is not automatic, but may occur at a district judge's express discretion. Upon referral, a magistrate judge may perform any or all of the duties imposed upon a judge by the rules governing proceedings in the district courts under 28 U.S.C. §§ 2254 and 2255, so long as the magistrate judge acts in accordance with his or her authority as set forth in 28 U.S.C. § 636. In so doing, a magistrate judge may issue preliminary orders and conduct necessary evidentiary hearings or other appropriate proceedings and shall submit to a district judge a proposed order containing findings of fact and recommendations for disposition of the petition by the district judge. Except when proceeding pursuant to § 636(c), an order disposing of the petition may only be made by a district judge.

LR72.6. Magistrate Judges; Prisoner Cases Under 42 U.S.C. § 1983 and 28 U.S.C. § 2241.

Unless otherwise ordered, a case or petition filed by a prisoner under 42 U.S.C. § 1983 or 28 U.S.C. § 2241 shall automatically be referred to the magistrate judge assigned to the case. Upon referral, a magistrate judge may issue preliminary orders and conduct necessary evidentiary hearings or other appropriate proceedings and shall submit to a district judge a report containing proposed findings of fact and recommendations for the disposition of these cases.

LR72.7. Magistrate Judges; Civil Cases.

(a) In most cases, upon filing, civil cases shall be randomly assigned by the clerk to a magistrate judge. The magistrate judge shall hear and determine pretrial motions made pursuant to LR72.3.

(b) When designated by a district judge, the magistrate judge may conduct additional pretrial conferences and hear the motions and perform the duties set forth in LR72.4 through 72.6.

(c) If the parties consent to trial and disposition of a case by a magistrate judge under LR73.1, such case shall be set before the magistrate judge for the conduct of all further proceedings and the entry of judgment.

LR72.8. Magistrate Judges; Authority of U.S. District Judges.

Nothing in these rules shall preclude the court or a district judge from reserving any proceedings for conduct by a district judge, rather than a magistrate judge. The court, moreover, may by general order modify the method of assigning proceedings to a magistrate judge as changing conditions may warrant.

LR72.9 Post-Trial or Post-Judgment Motion For Sanctions.

Unless otherwise ordered, a post-verdict or post-judgment motion for sanctions shall automatically be referred to the magistrate judge assigned to the case in accordance with 28 U.S.C. § 636(b)(3). The magistrate judge shall submit to a district judge findings and recommendations. The procedures for adjudicating such a motion shall be identical to those set forth in LR74.2.

LR73.1. Magistrate Judges; Conduct of Trials and Disposition of Civil Cases Upon Consent of the Parties - 28 U.S.C. § 636(c).

Upon the consent of the parties, a magistrate judge may conduct any or all proceedings in a jury or non-jury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he or she serves. With the consent of the parties, pursuant to their specific written request, any part-time magistrate judge may exercise such jurisdiction, if such magistrate judge meets the bar membership requirements set forth in 28 U.S.C. § 631(b)(1) and the chief district judge of the district court certifies that a full-time magistrate judge is not reasonably available in accordance with guidelines established by the judicial council of the circuit. When there is more than one district judge of a district court, designation under this paragraph shall be by the concurrence of a majority of all the district judges of such district court, and when there is no such concurrence, then by the chief district judge.

A magistrate judge is also authorized to:

(a) Exercise general supervision of the civil calendars, conduct calendar and status calls, and determine motions to expedite or postpone the trial of cases for the district judge;

(b) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings in civil cases;

(c) Conduct voir dire and select petit juries for the court;

(d) Accept petit jury verdicts in civil cases in the absence of a district judge;

(e) Issue subpoenas or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for court proceedings;

(f) Order the exoneration or forfeiture of bonds;

(g) Conduct proceedings for the collection of civil penalties of not more than $200.00 assessed under 46 U.S.C. §§ 4311(d) and/or 12309(c);

(h) Conduct examinations of judgment debtors in accordance with Fed. R. Civ. P. 69;

(i) Conduct naturalization hearings;

(j) Grant motions to dismiss in civil cases when authorized by statute or rule and when such dismissal is within the jurisdiction of the magistrate judge; and

(k) Perform any additional duty not inconsistent with the Constitution and Laws of the United States.

LR73.2. Magistrate Judges; Special Provisions for the Disposition of Civil Cases by a Magistrate Judge on Consent of the Parties - 28 U.S.C. § 636(c)(2).

(a) Notice. The clerk shall notify the parties in all civil cases that they may consent to have a magistrate judge conduct any or all proceedings in the case and order the entry of a final judgment. Such notice shall be provided to the plaintiff or his representative at the time an action is filed and to other parties as attachments to copies of the complaint and summons

when served. Additional notices may be furnished to the parties at later stages of the proceedings, and may be included with pretrial notices and instructions.

(b) Execution of Consent. Unless otherwise ordered, the clerk shall not accept a consent form unless it has been signed by all the parties or their respective counsel in a case. The parties shall be responsible for securing the execution of a consent form by all parties or their respective counsel and for filing such form with the clerk. No judicial officer or other court official may compel any party to consent to the reference of any civil matter to a magistrate judge.

LR73.3. Magistrate Judges; Appeal from Judgments in Civil Cases Disposed of on Consent of the Parties - 28 U.S.C. § 636(c).

Subject to provisions of 28 U.S.C. § 636(c), upon the entry of judgment in any civil case disposed of by a magistrate judge on consent of the parties under authority of 28 U.S.C. § 636(c) and LR73.1, an aggrieved party may appeal directly to the United States Court of Appeals for the Ninth Circuit in the same manner as an appeal from any other judgment of this court.

LR74.1. Magistrate Judges; Appeal of Non-Dispositive Matters - 28 U.S.C. § 636(b)(1)(A).

A magistrate judge may hear and determine any pretrial matter pending before the court, except those motions delineated in LR72.4(a). Any party may move for reconsideration before the magistrate judge pursuant to LR60.1. A reconsideration motion shall toll the time in which any appeal must be taken from the magistrate judge's order. Any party may appeal from a magistrate judge's order determining a motion or matter under LR72.3, or, if a reconsideration order has issued, the magistrate judge's reconsideration order, within fourteen (14) days after being served with a copy of the order. The appealing party shall file with the clerk, and serve on the magistrate judge and all parties, a written statement of appeal that shall specifically designate the order, or part thereof, appealed from after having been served with a copy thereof. Any party in interest may file and serve a response within fourteen (14) days after service thereof. Each of the above periods of fourteen (14) days may be altered by the magistrate judge or a district judge. Oral argument will not be scheduled unless requested by the court. A district judge shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law. The district judge may also

reconsider *sua sponte* any matter determined by a magistrate judge under this rule. Any cross-appeal shall be filed and served within four (4) days of the filing of an appeal or within fourteen (14) days after service of a copy of the order, whichever is later. Any opposition to a cross-appeal shall be filed and served within fourteen (14) days of service of the cross-appeal. No reply in support of an appeal or cross-appeal shall be filed without leave of court.

The party appealing a magistrate judge's non-dispositive order shall provide the district judge with two courtesy copies of all briefs, exhibits, and orders relevant to the appeal.

LR74.2. Magistrate Judges; Review of Recommendations for Disposition - 28 U.S.C. § 636(b)(1)(B).

Any party may object to a magistrate judge's case dispositive order, findings, or recommendations under LR72.4, 72.5, and 72.6 within fourteen (14) days after being served with a copy of the magistrate judge's order, findings, or recommendations. Any party may move for reconsideration before the magistrate judge pursuant to LR60.1. A reconsideration motion shall toll the time in which objections must be filed to the magistrate judge's order, findings, or recommendations; objections must be filed and served within fourteen (14) days from entry of the order disposing of the reconsideration motion. The objecting party shall file with the clerk, and serve on the magistrate judge and all parties, written objections that specifically identify the portions of the order, findings, or recommendations to which objection is made and the basis for such objections. Any party in interest may file and serve a response within fourteen (14) days after service thereof. Each of the above periods of fourteen (14) days may be altered by a magistrate judge or a district judge. A district judge shall make a *de novo* determination of those portions of the report or specified findings or recommendations to which 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, however, will not conduct a new hearing unless required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The district judge may exercise discretion to receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions. Cross-objections shall be filed and served within four (4) days of the filing of an objection or within fourteen (14) days after being served with a copy of the order, findings, or recommendations, whichever is later. Any opposition to a cross-objection shall be

filed and served within fourteen (14) days of service of the original objection. No reply in support of objections or cross-objections to a magistrate judge's case-dispositive proposed order, findings, or recommendations shall be filed without leave of court.

The party objecting to a magistrate judge's case-dispositive order, findings, or recommendation shall provide the district judge with two courtesy copies of all briefs, exhibits, and orders relevant to the objections.

LR74.3. Magistrate Judges; Appeals from Other Orders of a Magistrate Judge.

Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by governing statute, rule, or decisional law.

LR77.1. Sessions of the Court.

The court shall be in continuous regular session in Honolulu, Hawaii, and in special session at other locations when ordered by the chief judge or the chief judge's designee.

LR77.2. Clerk's Office; Location and Hours.

The offices of the clerk of this court are currently located at 300 Ala Moana Boulevard, Room C-338, Honolulu, Hawaii, 96850. The regular hours are currently from 8:30 a.m. to 4:00 p.m. each day, except Saturdays, Sundays, legal holidays, and other days or times so ordered by the court. The most current information regarding location and hours of operation is located on the court's website.

LR77.3. Court Library; Operation and Use.

The court maintains a law library for the primary use of judges and personnel of the court. In addition, attorneys admitted to practice in this court may use the library, when circumstances require, while actively engaged in actions or proceedings pending in the court. The library is operated in accordance with such rules and regulations as the court may from time to time adopt. *Pro se* parties may use the court library only if they obtain an order signed by any judge of this court.

LR79.1. Clerk's Office - Removal of Records and Files.

No records or objects belonging in the files of the court may be taken from the office or custody of the clerk except upon written order of the court.

LR79.2. Clerk's Office - Receipt for Removal.

Any person removing records pursuant to LR79.1 shall give the clerk a descriptive receipt using the form prescribed by the clerk.

LR79.3. Clerk's Office - Removal of Records and Files - Court Officers.

The provisions of LR79.1 shall not apply to a judge, master, examiner employed by the United States, a judge's law clerk or other staff, court reporter, or court clerk requiring records or objects in the exercise of official duty. Any court officer removing records or objects shall provide the clerk with a receipt as required in LR79.2.

LR79.4. Clerk's Office - Disposition of Exhibits - Civil Cases and Administrative Appeals.

All models, diagrams, documents or other exhibits lodged with the clerk or admitted into evidence or marked at trial, and all administrative records on appeal, shall be retained by counsel of record until expiration of the time for appeal when no appeal is taken, entry of stipulation waiving or abandoning the right to appeal, final disposition of the appeal, or order of the court, whichever occurs first.

LR79.5. Clerk's Office - Removal of Contraband.

Contraband of any kind coming into the possession of the clerk shall be returned to an appropriate governmental agency. The agency shall give the clerk the receipt required by LR79.2. The agency shall be responsible for the contraband until expiration of the time for appeal when no appeal is taken, entry of stipulation waiving or abandoning the right to appeal, final disposition of the appeal, or order of the court, whichever occurs first.

LR83.1. Attorneys; Admission to the Bar of this Court; Mandatory Notices for All Parties Concerning Changes of Address.

(a) Admission to Practice. Admission to and continued membership in the bar of this court is limited to attorneys of good moral character who are members in good standing of the bar of this court prior to October 1, 1997, and those attorneys who are admitted to membership after October 1, 1997. Continued membership in the bar of this court also requires active membership in good standing in a bar of the highest court of any State or territory of the United States or the District of Columbia.

(b) Eligibility for Membership. After October 1, 1997, an applicant for admission to membership in the bar of this court must be an attorney who is an active member in good standing of the bar of the State of Hawaii.

(c) Procedure for Admission. Each applicant for admission to the bar of this court shall file with the clerk a verified petition for admission, stating the applicant's full name, residence address, office address, the names of the courts before which the applicant is admitted to practice, and the respective dates of admission to those courts. The petition along with the applicable fee shall be accompanied by proof of membership in the bar of the State of Hawaii.

(d) Attorneys for the United States, Students at an Accredited School of Law. Any attorney who is an active member in good standing of the bar of the highest court of any State and who is employed by the United States or one of its agencies in a professional capacity and who, while being so employed, may have occasion to appear in this court on behalf of the United States, shall be eligible for leave to practice before this court during the period of such employment. Leave of court shall be granted upon written notice, accompanied by an affidavit verifying eligibility. Any student at an accredited school of law shall be eligible for leave to practice before this court under the provisions set forth in LR83.7.

(e) Pro hac vice. An attorney who is an active member in good standing in a bar of the highest court of any State or territory of the United States or the District of Columbia, who is of good moral character, and who has been retained to appear in this court, may, upon written application and in the discretion of this court, be permitted to appear and participate in a particular case subject to the conditions of this rule. An attorney who has been the subject of a criminal investigation

known to the attorney or a criminal prosecution or conviction in any court in the past ten (10) years may, in this court's sole discretion, be eligible to practice pursuant to this section provided the attorney satisfactorily explains the circumstances surrounding the criminal investigation, prosecution, or conviction. Unless authorized by the Constitution of the United States or Acts of Congress, an attorney is not eligible to practice pursuant to this section if any one or more of the following apply: the attorney resides in Hawaii; the attorney is regularly employed in Hawaii; or the attorney is regularly engaged in business, professional, or law-related activities in Hawaii.

The *pro hac vice* application and applicable fee shall be presented to the clerk and shall state under penalty of perjury:

(1) The attorney's city and state of residence and office address;

(2) By what court(s) the attorney has been admitted to practice and the date(s) of admission;

(3) That the attorney is in good standing and eligible to practice in said court(s);

(4) Whether and under what circumstances the attorney:

(A) Is currently involved in disciplinary proceedings before any state bar, federal bar, or any equivalent;

(B) Has in the past ten (10) years been suspended, disbarred, or otherwise subject to other disciplinary proceedings before any state bar, federal bar, or its equivalent;

(C) Has been denied admission pro hac vice by any court or agency in the past ten (10) years; and

(D) Has been the subject of a criminal investigation known to the attorney or a criminal prosecution or conviction in any court in the past ten (10) years; and

(5) Whether the attorney has concurrently or within the year preceding the current application made any *pro hac vice* application in this court, and if so, the title and the number of each matter wherein the attorney made the application, the date of the application, and whether or not the application was granted. The attorney shall also designate in the application a member in good standing of the bar of this court who maintains an

office within the district to serve as associate counsel. The application shall include the address, telephone number, and written consent of such associate counsel. The associated attorney shall at all times meaningfully participate in the preparation and trial of the case with the authority and responsibility to act as attorney of record for all purposes. The associated attorney shall participate in all court proceedings unless otherwise ordered by the court, but need not attend depositions or participate in other discovery. Any document required or authorized to be served upon counsel by the Federal Rules of Civil or Criminal Procedure, or by these rules, shall be served upon the associated attorney (local counsel), which shall be deemed proper and effective service. The *pro hac vice* application shall also be accompanied by payment to the clerk of any required assessment, which the clerk shall place to the credit of the Court Library Fund. If the *pro hac vice* application is denied, the court may refund any and all of the assessment paid by the attorney. If the application is granted, the attorney is subject to the jurisdiction of the court with respect to the attorney's conduct to the same extent as a member of the bar of this court.

(f) Notice of Change of Status. An attorney who is a member of the bar of this court or who has been permitted to practice in this court under LR83.1(e) hereof shall promptly notify the court of any change in his (or her) status that would make him (or her) ineligible for membership in the bar of this court under LR83.1(a) or LR83.2 or ineligible to practice in this court under LR83.1(e).

(g) Reinstatement. Any person who has been suspended or disbarred or is otherwise ineligible to practice law before this court may be reinstated upon such terms and conditions as may be prescribed by the court.

(h) Changes in Address. An attorney shall file and serve on all other parties who have appeared in the action any change in the attorney's business address or firm affiliation, and the effective date of the change. This notice shall appear in each case in which the attorney represents a party. The attorney must also update his or her CM/ECF account. A *pro se* party shall similarly file and serve on all other parties who have appeared in the action any change of address, and the effective date of the change. The notice required by this rule shall be filed within fourteen (14) days of the change. Failure to comply with this rule may result in sanctions, including but not limited to monetary fines, dismissal of the case, or entry of a judgment.

LR83.2. Attorneys; Practice in this Court.

Only a member of the bar of this court who is also an active member in good standing of a state bar or its equivalent, or any attorney otherwise authorized by these rules to practice before this court, may enter an appearance for a party, sign stipulations or receive payment or enter satisfaction of judgment, decree, or order. In every action or proceeding in which a party is represented by an attorney who is a member of the bar of this court but who does not maintain an office within the district, the court may order the attorney to designate in the pleadings a member in good standing of the Bar of the State of Hawaii who maintains an office within the district, and is a member of the bar of this court upon whom copies of pleadings may be served and with whom the district judge and opposing counsel may communicate concerning the conduct of the action. The associated attorney shall participate in all court proceedings unless otherwise ordered by the court, but need not attend depositions or participate in other discovery. Any document required or authorized to be served upon counsel by the Federal Rules of Civil or Criminal Procedure, or by these rules, shall be served upon the associated attorney, which shall be deemed proper and effective service. Nothing in these rules shall prohibit any individual from appearing *pro se*.

LR83.3. Attorneys; Standard of Professional Conduct.

Every member of the bar of this court and any attorney permitted to practice in this court pursuant to LR83.1(d) or (e) shall be governed by and shall observe the standards of professional and ethical conduct required of members of the Hawaii State Bar.

LR83.4. Attorneys; Discipline.

(a) For good cause shown and after an opportunity to be heard, 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.

(b) The court may at any time appoint three members of the bar of this court as a Committee on Discipline. Such Committee may be dissolved by the court at any time. Said Committee shall have power to and shall conduct investigations relating to the discipline of members of the bar of this court, either on its own motion or pursuant to a reference by the court. The court may refer the matter to the disciplinary body of any court before which the attorney has been admitted to practice.

(c) If the Committee concludes that there is probable cause for disciplinary action, formal charges shall be filed and served upon such member. A member of the bar of this court so charged shall have twenty-one (21) days within which to answer and the matter shall then be tried to the court. All disciplinary proceedings shall be secret unless the court shall direct otherwise.

(d) Whenever it comes to the attention of the court that any member of the bar of this court has been disbarred or suspended from practice by any court, that the member has been found guilty of a crime that is a felony or involves dishonesty or false statement, or that the member fails to satisfy any of the court's present requirements for admission to the court, a notice shall be mailed to such member at the member's last known residence and office addresses, requiring the member to show cause within fourteen (14) days after the mailing of such notice why the member should not be disbarred or suspended from practice before this court. Upon the member's failure to respond or upon a response to said notice, the court may, as in the opinion of the court the circumstances warrant, disbar or suspend the member from practice before this court. For purposes of this rule, a finding of guilt is a verdict or judgment of guilty, a guilty plea, or a no contest plea. Deferred acceptance of a plea, a sentence suspension, or a conditional discharge does not change the definition of guilt for purposes of this rule.

(e) Any person who has not been admitted to the bar of this court, or who has been so admitted but is an inactive member of the bar of this court, or who has been suspended or disbarred therefrom and not reinstated or readmitted to active membership in such a bar, or who is not authorized to practice before this court under LR83.1(e) or LR83.2, and who, without complying with, or in violation of, the requirements of this rule, exercises in this district any of the privileges of a member of said bar, or pretends to be entitled to do so, is guilty of contempt of court.

(f) In all proceedings by the court hereunder, written findings of fact and an order based thereon shall be filed.

(g) Except as otherwise provided in this rule, all proceedings hereunder shall be governed by the Federal Rules of Civil Procedure.

(h) Disciplinary proceedings under this rule shall not affect or be affected by any proceedings for contempt under Title 18 of the United States Code or under the court's contempt power.

(i) The court need not follow the foregoing procedures in connection with vacating any grant of pro hac vice status.

LR83.5. Attorneys; Sanctions for Unauthorized Practice.

Any person who before admission to the bar of this court or obtaining leave of court to appear in a particular action or proceeding, or during the person's disbarment or suspension, or during a time when the person is not authorized to practice before this court under LR83.1(e) or LR83.2, exercises within this district in any action or proceeding pending in this court any of the privileges of a member of the bar of this court or who pretends to be entitled to do so may be found guilty of contempt of court and suffer appropriate punishment thereof.

LR83.6. Attorneys; Appearances, Substitutions and Withdrawal of Attorneys.

(a) Appearances. Whenever a party has appeared by an attorney, the party may not thereafter appear or act in his or her own behalf in the action, or take any step therein, unless an order of substitution shall first have been made by the court, after notice to the attorney of such party, and to all parties; provided that the court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared or is represented by an attorney. The court, in its sole discretion, may strike any document filed by a party on his or her own behalf when the party is represented by counsel in the action.

(b) Substitution and Withdrawal. No attorney will be permitted to be substituted as attorney of record in any pending action without leave of court. An attorney who has appeared in a case may seek to withdraw on motion showing good cause. Withdrawal shall be effective only on court order entered after service by the withdrawing attorney of a notice of withdrawal on all counsel of record and on the withdrawing attorney's client. A motion to withdraw must specify the reasons for withdrawal, unless that would violate the rules of professional conduct, and the name, address, and telephone number of the client. Notice to the attorney's client must include the warning that the client personally is responsible for complying with all court orders and time limitations established by any applicable rules. When the withdrawing attorney's client is a corporation, partnership, or other legal entity, the notice shall state that such entity cannot appear without counsel admitted to practice before this court, and, absent prompt appearance of substitute counsel, pleadings, motions, and other papers may be stricken and default

judgment or other sanctions may be imposed against the entity. It is within the court's discretion to hold a hearing on a motion to withdraw as counsel.

LR83.7. Attorneys; Supervised Student Practice of Law.

(a) Definitions used in LR83.7.

(1) A "law student intern" is a person who is enrolled and in good standing at any accredited school of law, who has completed legal studies amounting to substantially one-third of the requirements for graduation from that law school, who is enrolled in a clinical program at that law school, and with respect to whom the order referred to in Subsection (c)2 is in effect.

(2) A "clinical program" is a practice-oriented law activity administered under the direction of a faculty member of any accredited school of law, participation in which activity entitles qualified students to receive academic credit.

(3) A "supervising lawyer" is a member of the bar of this court who has been approved as a supervisor of law student interns by any accredited school of law or this court.

(b) Activities of Law Student Interns.

(1) In connection with a clinical program, a law student intern may appear before this court or any judge on behalf of a client, provided that:

(A) the client has consented in writing to such appearance; and

(B) a supervising lawyer has indicated in writing approval of such appearance.

In every such appearance the law student intern shall be accompanied by a supervising lawyer, unless the judge consents to the law student intern's appearing without a supervising lawyer.

(2) Unless prohibited by statute or ordinance, the term "client" includes the United States, the State of Hawaii, or any political subdivision of the State of Hawaii, subject to the requirements of Subsection (1) of this section.

(3) In every such appearance by a law student intern, the written consents and approvals referred to in Subsection (1)

of this section shall be filed in the record of the proceeding and shall be brought to the attention of the judge.

(c) Qualification Procedures for Law Student Interns.

(1) To become a law student intern, each eligible person shall file with the clerk a typewritten application setting forth, together with such other information as may be required by order of this court, his or her name, age, that he or she is enrolled and in good standing at a school of law accredited by the American Bar Association, that he or she has completed substantially one-third of the requirements for graduation therefrom, that he or she has read and is familiar with the standards of professional and ethical conduct required of members of the Hawaii State Bar, and that he or she is enrolled in a clinical program at the law school. A letter from the Dean of the law school certifying that the applicant is in good academic standing and appears to be competent to engage in the activities of law student interns as defined by this rule must accompany each application.

(2) This court shall issue an order designating each qualified applicant as a law student intern, subject to taking such oath of office as may be prescribed.

(d) Duration of Law Student Intern Authorization and Compensation Limitations.

(1) Unless the order referred to in Subsection (c)(2) is revoked or modified, it shall remain in effect so long as the law student intern is enrolled in a clinical program at any accredited school of law, and shall cease to be in effect upon any termination of such enrollment. However, after the clinical semester ends, the law student intern may continue to represent a client in cases initiated before the semester ended if such representation is deemed appropriate by the supervising lawyer.

(A) The certification referred to in Subsection (c)(1) may be withdrawn by the Dean by notice to that effect to the clerk. It is not necessary that such notice state the cause for withdrawal. Upon receipt of such notice, the order referred to in Subsection (c)(2) shall be automatically revoked.

(B) The order referred to in Subsection (c)(2) with respect to any law student intern may be terminated by this court for cause consisting of violation of this rule or any act or omission that, on the part of any attorney, would constitute misconduct and ground for discipline. The effectiveness of such

order may be suspended by this court during any proceedings to terminate such order.

(2) A law student intern shall neither ask for nor receive any compensation or remuneration of any kind for services rendered to a client, but this shall not prevent a lawyer, law school, or public agency from paying compensation to a law student intern or from making such charges for services as such lawyer, law school, or public agency may otherwise properly require.

(e) Other Law Student Intern Activities. Any law student intern may, with the knowledge and approval of the supervising lawyer and the client, engage in the following activities:

(1) Counseling and advising clients, interviewing and investigating witnesses, negotiating the settlement of claims, and preparing and drafting legal instruments, pleadings, briefs, abstracts, and other documents. Any document requiring signature of counsel, and any settlement or compromise of a claim, must be signed by a supervising lawyer.

(2) Rendering assistance to clients who are inmates of penal institutions or other clients who request such assistance in preparing applications for and supporting documents for post-conviction legal remedies.

(f) Supervision of Law Student Practice. The supervising lawyer shall counsel and assist the law student who practices law pursuant to this rule and shall provide professional guidance in every phase of such practice with special attention to matters of professional responsibility and legal ethics.

(g) Law Students Employed by the United States Attorney and the Federal Public Defender.

Any other local rule notwithstanding, in any criminal case any law student under the supervision of the United States Attorney or the Federal Public Defender, who has completed at least two years of study at any American Bar Association accredited law school, may appear in court provided that the United States Attorney or the Federal Public Defender personally approves, and provided further that:

(1) The particular district judge before whom the student is to appear consents;

(2) The student is supervised by an assistant United States Attorney or assistant Federal Public Defender who is present in court; and

(3) In the case of the Federal Public Defender, the written consent of the defendant is filed with the court.

(h) Miscellaneous.

(1) Law students practicing pursuant to this rule shall be governed by the rules of conduct applicable to lawyers generally, but the termination of practice referred to in Subsection (d)(1)(B) shall be the exclusive sanction for disciplinary infractions that occur during authorized practice; except that such disciplinary infractions may be considered by a court or agency authorized to entertain applications for admission to the practice of law.

(2) Nothing contained in this rule shall affect the right of any person to do anything that he or she might lawfully do were this rule not in existence.

LR83.8. Broadcasting, Televising, Recording, or Photographing Judicial and Grand Jury Proceedings.

The taking of photographs, the operation of tape recorders and other recording devices, the broadcast of radio or television, or the receipt or transmission of electronic communications, including but not limited to email, text messages, or internet communications in the courtrooms, in grand jury rooms, and their environs during the progress of or in connection with any proceeding, including proceedings before a magistrate judge and a grand jury, whether or not in session, are prohibited, unless expressly authorized by a judge, a court rule, or an order. A judge may, however, permit (a) the use of electronic or photographic means for the presentation of the evidence or the perpetuation of a record by a court reporter, and (b) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings. Attorneys for the government may use recording devices for the purpose of the presentation of evidence to the grand jury.

Possession or use of cellular telephones, PDAs, or related devices in the courthouse is governed by the General Order issued on November 6, 2008, as may be amended, and by such other orders as any individual judge may issue with respect to proceedings before that judge. Such orders are available on the court's website at www.hid.uscourts.gov.

LR83.9. Publicity.

Courthouse personnel, including, but not limited to marshals, deputy clerks, secretaries, and law clerks, shall not disclose to any person information relating to any pending proceeding that is not part of the public records of the court without specific authorization of the court.

LR83.10. Gratuities.

No person shall directly or indirectly give or offer to give, nor shall any judge, employee, trustee, or anyone appointed by the court or by any judge for any purpose accept on his or her behalf or on behalf of the court any gift or gratuity, regardless of value, directly or indirectly related to services performed by or for the court, except as permitted by law.

LR83.11. Business Entities.

Business entities, including but not limited to corporations, partnerships, limited liability partnerships, limited liability corporations, and community associations, cannot appear before this court *pro se* and must be represented by an attorney.

LR83.12. Sealing of Information Filed With the Court.

(a) Any party may seek leave to file under seal any pleading, declaration, affidavit, document, picture, exhibit, or other matter if it contains confidential, restricted, or graphic information and/or images. These items shall not be filed under seal without leave of court. A stipulation or blanket protective order that allows a party to designate matters to be filed under seal will not suffice to allow the filing of the matter under seal.

(b) Unless the court orders otherwise, a party seeking leave to file something under seal shall lodge a copy of the proposed sealed filing along with an appropriate motion. This motion shall specify the applicable standard for sealing the information and shall discuss how that standard has been met. Concurrently with the filing of the motion and lodging of the sealed matter, the party seeking to seal a matter must submit a proposed form of order. Copies of the lodged filing, the motion to seal, and proposed order shall be appropriately served, and two courtesy copies of each shall be delivered to the judge.

No later than seven (7) days after the filing of a motion to seal, any party who contends that any information is not entitled to confidential treatment may challenge the designation. Pursuant to such a challenge, or if the court otherwise determines that all or part of the information should not be sealed, the submitting party shall have the option of withdrawing the lodged document or having it filed publicly. The submitting party shall inform the court within four (4) days whether it wants to withdraw the lodged document or have it filed. If the court does not receive such notification within four (4) days, the lodged document will be returned to the submitting party. If the request to seal is denied in part and granted in part, the submitting party may, within four (4) days, resubmit the pleading, declaration, affidavit, document, picture, exhibit, or other matter consistent with the order.

If a party wishes to file a pleading, declaration, affidavit, document, picture, exhibit, or other matter that has been designated as confidential by another party pursuant to a protective order, or if a party wishes to refer in a memorandum or other filing to information so designated by another party, the submitting party must file and serve a motion to file the matter publicly. At the same time, the party shall lodge a copy of the pleading, declaration, affidavit, document, picture, exhibit, or other matter and submit a proposed form of order. Two courtesy copies of each shall be delivered to the judge. No later than seven (7) days after the filing of a motion to file a matter publicly, any party may file and serve written objections seeking to have all or part of the matter sealed. If no written response is filed within that period, the clerk shall automatically file the matter publicly. If written objections are received, the court will rule upon those objections and issue an appropriate order before filing the matter publicly.

If the court determines at any time that any pleading, declaration, affidavit, document, picture, exhibit, or other matter has been improperly sealed or no longer needs to be sealed, the court may order its unsealing or take other appropriate action, including issuing sanctions against the party and/or the party's attorney responsible for having improperly sealed the information.

(c) Any party granted leave to file under seal a pleading, declaration, affidavit, document, picture, exhibit, or other matter shall also file a copy of it with the confidential information redacted. That redacted copy shall be open for public inspection. This means that the parties shall make every

attempt to seal only confidential information and allow filings to be open to public inspection to the fullest extent possible.

(d) Because transcripts are available to the public via the court's CM/ECF system after a waiting period, and because members of the public may be seated in the audience, counsel and parties at any hearing open to the public shall argue, to the extent practicable, the merits and the underlying facts of the motion or matter without specifically discussing the confidential or restricted material.

(e) The courtesy copies of sealed documents will be disposed of in accordance with the judge's discretion. Ordinarily, these copies will be recycled, not shredded, unless special arrangements are made.

LR83.13 *Pro Se* Litigants.

Pro se litigants shall abide by all local, federal, and other applicable rules and/or statutes.

LR88.1 Mediation.

(a) Purposes and Scope. Pursuant to the findings and directives of Congress in the Alternative Dispute Resolution Act of 1998, 28 U.S.C. §§ 651, et seq., use of alternative dispute resolution (hereinafter "ADR") is hereby authorized for all civil actions pending before the United States District Court for the District of Hawaii. This rule implements court-sponsored mediation in accordance with the ADR Act. This rule does not preclude (1) parties from agreeing to private ADR, or (2) the court from ordering non-binding ADR other than as provided in this rule.

(b) Duty To Consider ADR. The parties shall consider mediation and/or other ADR processes in accordance with LR16.2 and 26.1.

(c) Program Administration.

(1) Mediation Judge.

(A) Appointment. A magistrate judge shall be appointed to serve as mediation judge and ADR Administrator. When necessary, the chief district judge shall appoint another judge to temporarily perform the duties of the mediation judge.

(B) Duties. The mediation judge shall serve as the primary liaison between the court and the mediation committee on matters of policy, program design and evaluation, education, training, and administration.

(2) Mediation Committee. The court shall establish a Mediation Committee that shall be responsible for:

(A) Making recommendations to the mediation judge for implementing, administering, overseeing, and evaluating the mediation program, mediator performance, and procedures covered by this rule;

(B) Educating litigants, lawyers, judges, and court staff about the mediation program and rules; and

(C) Making recommendations for recruiting, screening, and training mediators, as well as for evaluating mediator performance.

(d) Submission To Mediation Under This Rule.

(1) By Stipulation. Parties may stipulate to submit a civil action to mediation. The parties may stipulate to the appointment of a mediator from the panel of mediators provided in this rule, subject to the consent of the selected mediator. If the parties have stipulated to mediation but are unable to agree on a mediator, the court may appoint a mediator from the panel.

(2) By Court Order. Notwithstanding the provision of Subsection (d)(1) above, at any time before the entry of final judgment, the court may, on its own motion or at the request of any party after affording the parties an opportunity to express their views, order the parties to participate in mediation and/or any other non-binding ADR process. However, when the court orders the appointment of a compensated mediator, the parties shall have the right to select the mediator by agreement, provided they do so within the time frame set by the court. If no agreement is reached, the court may select the mediator.

(e) Mediator Panel. The clerk shall publish and maintain a list of mediators who have been recommended by the mediation judge and approved by the court. The mediator's role is to facilitate the voluntary resolution of cases.

(f) Mediation Procedure. Upon the submission of an action to mediation and the appointment of a mediator as provided in this rule, the plaintiff shall provide a copy of the stipulation

or order, as the case may be, to the mediator together with a list of the names, addresses, and telephone and facsimile numbers of counsel for all appearing parties and/or *pro se* parties. Thereafter, all procedures within the mediation, including, but not limited to, deadlines and the form and content of any written submissions, shall be determined by the mediator.

Parties shall meaningfully participate in any mediation submitted under this rule.

(g) Attendance At Mediation. Lead counsel and clients, representatives, or third persons with full settlement authority shall attend, in person, all mediation conferences scheduled by the mediator, unless excused by the mediator.

A governmental entity satisfies the attendance requirement if its lead counsel is in attendance and has been delegated full settlement authority, or has reasonable access to the person who has full settlement authority. In the event that the mediator determines it appropriate, the mediator shall have reasonable access to the person who has full settlement authority with appropriate accommodation given to the person's competing public duties.

(h) Mediator's Report Upon Completion. Within seven (7) days of the completion of a mediation conducted under this rule, the mediator shall file and serve a report addressing the date of completion and the following items:

(1) Whether or not a settlement has been reached;

(2) If a complete settlement has been reached, the date by which the parties have agreed to complete documentation of the settlement, including the full execution and lodging of any stipulation for dismissal; and

(3) If less than a complete settlement is reached, a brief statement of whether or not the mediator recommends further mediation or other ADR efforts.

(i) Compensation Of Mediators. Unless otherwise stipulated by the parties and/or ordered by the court, each party will be responsible for a pro-rata share of the mediator's fees and expenses. Any dispute regarding the mediator's fees or expenses may be submitted to the mediation judge for disposition.

(j) Immunity Of Mediators. All persons serving as mediators under this rule shall be deemed to be performing quasi-

judicial functions and shall be entitled to all of the privileges, immunities, and protections that the applicable law accords to persons serving in such capacity.

(k) Confidentiality. Except as otherwise provided by this rule and/or applicable law, all communications made in connection with any mediation under this rule shall be subject to Fed. R. Evid. 408.

Mediators and parties shall not communicate with the court about the substance of any position, offer, or other matter related to mediation without the consent of all parties, unless such disclosure is required to enforce a settlement agreement, to adjudicate a dispute over mediator fees, or to provide evidence in an attorney disciplinary proceeding, but only to the extent required to accomplish that purpose.

(l) Disclosure By Mediator. Before commencing a mediation, an individual who is requested to serve as a mediator shall make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable person would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and any existing or past relationship with a party or foreseeable participant in the mediation. The mediator shall disclose any such fact known or learned by the mediator to the parties as soon as is practical.

(m) Objections For Cause. Within seven (7) days after learning the identity of a mediator selected by the court, a party who objects to the selection of that mediator must file an objection that specifies the reason for the objection. Promptly after the close of the period for submitting objections, the court shall determine whether the proposed mediator or another mediator will be selected.

(n) Protection Against Unfair Financial Burdens. The court shall ensure that no referral to mediation results in imposition on any party of an unfair or unreasonable economic burden. A party who cannot afford to pay any fee charged under this rule may file a motion to be excused from paying or to pay at an appropriately reduced amount or rate.

LR99. Local Rules Re: Prisoner Actions.

In addition to all other Local Rules of Practice for the United States District Court for the District of Hawaii, the following rules shall apply to all actions and proceedings pending or commenced on or after December 1, 2009, by prisoners, whether proceeding *pro se* or represented by counsel. When justice requires, a judge may order that an action or proceeding pending before the court prior to that date be governed by the prior practice of the court.

LR99.7.10. Complaints and Petitions Filed by Incarcerated Individuals.

(a) Petitions, Complaints, and/or Applications. Petitions and/or complaints filed by incarcerated individuals, including those filed pursuant to 42 U.S.C. § 1983 and 28 U.S.C. §§ 2241, 2244, 2254, and 2255, and applications to proceed *in forma pauperis* by incarcerated individuals, shall be signed under penalty of perjury and legibly written or typewritten on forms approved by the court and in accordance with the instructions provided with the forms unless the assigned judge, in his or her discretion, determines that the complaint, petition, or application is understandable and that it conforms with federal and local requirements. Copies of the forms and instructions shall be provided by the clerk upon request and are available on the court's website. The original and two (2) copies of the petition, motion, or application shall be sent or delivered to the clerk. The assigned judge may strike or dismiss complaints, petitions, or applications that do not conform substantively or procedurally with federal and local requirements.

(b) Responses. Respondents to petitions filed pursuant to 28 U.S.C. §§ 2241, 2244, 2254, or 2255 shall attach to the response relevant portions of pretrial, trial, posttrial, appellate, collateral attack, and administrative transcripts, briefs, opinions, orders, and other matters necessary for the court to adjudicate the proceeding. In addition to addressing the merits, respondents shall specifically address, when appropriate, all relevant procedural issues, including exhaustion, procedural default, statute of limitation, and equitable tolling.

Except as otherwise ordered by the court, within thirty-five (35) days of service of a petition filed under 28 U.S.C. § 2255, all respondents named in the petition shall file with the court a response addressing the matters asserted in the petition as grounds for relief.

(c) General Rules. All local and federal rules applicable to the form of motions apply to any petitions and complaints filed pursuant to 28 U.S.C. §§ 2241, 2244, 2254, and 2255, and responses thereto, including page or word limitations, unless otherwise ordered by the court. Additionally, when a party cites to a portion of the record, the relevant portion of the document referenced shall be highlighted.

(d) *In Forma Pauperis*. Any prisoner seeking to prosecute an action *in forma pauperis* shall file an "Application to Proceed In Forma Pauperis by a Prisoner" on the court's approved form, accompanied by a certification of the warden or other appropriate officer of the institution in which the prisoner is confined as to the amount of money or securities on deposit to the prisoner's credit, and a copy of the prisoner's certified trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the filing of the action. The prisoner is required to sign a financial certificate and consent to collection of fees.

(e) Motions for Extension of Time. When a motion for extension of time is submitted, the party shall submit (1) a memorandum that sets forth the reasons supporting the request, and (2) a proposed order that includes the proposed extension and a corresponding extension of time for the opposing party, if applicable.

(f) Motions. With the exception of motions to proceed *in forma pauperis*, motions for temporary restraining orders, and motions for appointment of counsel, no motion shall be filed in prisoner actions until either payment has been received or *in forma pauperis* status has been granted. The assigned judge may strike or dismiss motions that do not conform substantively or procedurally with federal and local requirements.

(g) *Ex Parte* Communications. A prisoner should limit letters and avoid informal attempts to communicate directly with the district or magistrate judge presiding over the prisoner action. Documents sent to a judge will be shared with all parties in the case. Requests for action should be brought in the form of a motion subject to response by the opposing party, not in a letter. The court in its discretion may construe a letter or other request as a motion that shall be docketed and treated as such by all parties.

(h) Communications When Represented By an Attorney. Absent exceptional circumstances, when a prisoner is represented by an attorney, the prisoner shall not communicate directly with the

court or a judge by sending the court or judge letters, requests, or motions, or calling or faxing the judge. All communication shall be through the prisoner's attorney. Any communication sent directly to the court or judge by a represented prisoner may, in the court's sole discretion, be disregarded and stricken from the record.

LR99.12. Dismissal for Want of Prosecution.

Pro se prisoner cases may be dismissed when it appears that the *pro se* prisoner is not prosecuting the case with diligence to take all necessary steps to bring the action to readiness for pretrial and trial. See LR16.1. Notice and an opportunity to be heard shall be given to the *pro se* prisoner that such action is contemplated prior to dismissal of the action for want of prosecution.

LR99.16.1. Hearings and Status Conferences.

Pursuant to the Prison Litigation Reform Act of 1996, all pretrial proceedings in prisoner actions in which the prisoner may or should participate shall be conducted by telecommunications technologies that allow the prisoner to stay in the penal institution. The court may also authorize hearings to be conducted in the prisoner's institution, subject to institution officials' agreement.

LR99.16.2. Pretrial Scheduling Orders in Prisoner Actions.

Pretrial scheduling conferences are not held in *pro se* prisoner actions. A scheduling order will be issued automatically in the case after the opposing party has entered an appearance in the action and an answer to a complaint, response to a petition, or other responsive pleading has been filed. The *pro se* prisoner scheduling order is substantially identical to the scheduling conference order issued in represented cases, as set forth in LR16.3, with the following exceptions:

(a) All motions filed in *pro se* prisoner actions shall be designated as non-hearing motions unless otherwise designated by the court.

(b) The parties shall serve and file an opposition or reply to all prisoner motions according to the schedule set forth in LR7.4, except that the following *pro se* prisoner motions require no opposition, unless otherwise directed by the court: motions to proceed *in forma pauperis*, motions for appointment of counsel, motions for copies, motions for extension or enlargement of time,

and general requests that would not normally require input from an opposing party.

(c) When an answer sets forth the affirmative defense of failure to exhaust prison administrative remedies, pursuant to 42 U.S.C. § 1997e(a), the party asserting that defense shall file a dispositive motion to that effect within seventy (70) days (ten weeks) after entry of the scheduling order.

(d) Pursuant to LR5.4, any party that has consented in writing to electronic service and who has waived the right to personal service shall be deemed served with the *pro se* prisoner's documents and pleadings, other than service of process, when the documents or pleadings are entered on the court's docket through the court's transmission facilities in accordance with the administrative procedures adopted by a general order of this court. Receipt of the Notice of Electronic Filing ("NEF") generated by the court's Electronic Case Files ("ECF") shall constitute the equivalent of service of the *pro se* prisoner's pleading or other paper.

LR99.56.2. Notice to *Pro Se* Prisoner Litigants Re Motions for Summary Judgment.

In all cases in which summary judgment motions are filed against *pro se* prisoner litigants, the moving party shall either file a separate notice using the court's preapproved form or lodge for the magistrate judge's review and signature, and then file, a separate notice, which in ordinary, understandable language advises the prisoner: (a) of the contents of Fed. R. Civ. P. 56 and LR56.1; (b) that the prisoner has the right to file affidavits or other admissible evidence in opposition to the motion, and that failure to respond might result in the entry of summary judgment against the prisoner; and (c) that if the motion for summary judgment is granted, the prisoner's case will be over. The moving party shall serve the prisoner with the notice simultaneously with the summary judgment motion. A preapproved form of the notice follows this rule.

PREAPPROVED NOTICE TO *PRO SE* PRISONERS
FILED PURSUANT TO LR99.56.2

THIS NOTICE IS REQUIRED TO BE GIVEN TO YOU BY THE COURT. The defendants have made a motion for summary judgment by which they seek to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case. Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact – that is, if there is no real dispute about any fact that would affect the result of your case, and if the party who asked for summary judgment is entitled to judgment as a matter of law, your case will end. When a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, you must set forth your specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.

This notice is also being provided to you in accordance with Rule 99.56.2, of the Local Rules of Practice for the United States District Court for the District of Hawaii ("Local Rule"). You are required to comply with Local Rule 56.1. This rule sets out the local requirements for summary judgment motions and for opposition to such motions. To oppose a motion, you must file a concise statement that accepts the facts set forth in the moving parties' concise statement, or sets forth all material facts as to which it is contended there exists a genuine issue necessary to be litigated. When preparing the separate concise statement, you are required to reference only the material facts that are absolutely necessary for the court to determine the limited issues presented in the motion for summary judgment (and no others), and each reference shall contain a citation to a particular affidavit, deposition, or other document that supports your interpretation of the material fact. Documents referenced in the concise statement may, but need not, be filed in their entirety if a party concludes that the full context would be helpful to the court (*e.g.*, a deposition miniscript with an index stating what pages may contain key words may often be useful). You shall extract and highlight the relevant portions of each referenced document. Photocopies of extracted pages, with

appropriate identification and highlighting, will be adequate. The concise statement shall be no longer than five (5) pages, unless it contains no more than 1500 words. When a concise statement is submitted pursuant to the foregoing word limitation, the number of words shall be computed in accordance with Local Rule 7.5(d), and the concise statement shall include the certificate provided for in Local Rule 7.5(e). When resolving motions for summary judgment, the court shall have no independent duty to search and consider any part of the court record not otherwise referenced in the separate concise statement.

If necessary, you may request further guidance from the court regarding the requirements of Rule 56, Federal Rules of Civil Procedure, and Local Rule 56.1.

LR100.1. CM/ECF Rules.

These local rules supersede this court's Feb. 1, 2006, Amended General Order Adopting Electronic Case Filing Procedures.

LR100.2.1. Applicability; Effective Date.

Except as prescribed by local rule, order, or other procedure, the court has designated all cases to be included in the CM/ECF system, effective January 1, 2006. Documents filed in paper form will be scanned and docketed into CM/ECF by the clerk's office. Unless otherwise expressly provided in these procedures or in exceptional circumstances preventing a Registered Participant from filing electronically, all documents, other than those that must be filed in paper form, required to be filed with the court by a Registered Participant in connection with a case assigned to the court's electronic filing system must be electronically filed.

LR100.2.2. Documents Required to be Filed in Paper Form.

Unless otherwise ordered by the court, documents that must be filed in the traditional manner on paper rather than by electronic filing include:

(a) Initial papers in a civil case, including the complaint;
(b) The charging documents in a criminal case, including the complaint, information, indictment and superseding information or indictment;
(c) Documents that are sealed under a court order or those papers proposed to be under seal;
(d) Consents to proceed before a Magistrate Judge, or
(e) Correspondence to the court; and
(f) Any other document or filing that the court orders not to be electronically filed, imaged, or maintained in the CM/ECF system.

If the court enters orders changing the requirements of this rule, those orders will be available on this court's website, www.hid.uscourts.gov.

LR100.2.3. Electronic Recording of Documents in Paper Form.

Unless the court orders otherwise, the clerk shall make an electronic recording of all documents filed with the court in paper form. Except as provided elsewhere in these procedures such documents will be treated as if they had been filed

electronically, except that the date and time of filing shall be the date and time stamped on the paper document, rather than the date and time indicated on the Notice of Electronic Filing.

LR100.2.4. Further Detailed Procedures.

To provide further clarification of these procedures, the clerk is authorized to issue notices, guidelines, user guides, and the like that provide more detailed requirements concerning the electronic filing of documents. These will be available on the court's website at www.hid.uscourts.gov.

LR100.2.5. Courtesy Copies.

As described in LR7.7 and LR10.2, two courtesy copies of electronically filed documents must be submitted to the clerk's office with an indication as to which judge should receive the copies.

LR100.2.6. Exhibits.

Each exhibit referenced in a pleading, motion, brief, or other electronic filing shall be submitted as a separate ECF attachment to the main document, regardless of the size of the file containing the exhibit. The filer must clearly label each exhibit so that anyone examining the electronic case file will know what the "Exhibit" is:

Motion	(main document)
Exhibit A	(Affidavit of John Doe)
Exhibit B	(Letter dated January 1, 2008)

A party may conventionally file exhibits that are not available in electronic format (*e.g.* videotapes, maps, etc). The clerk's office will note on the docket receipt of the exhibits.

LR100.3.1. Transmission to CM/ECF System.

Electronic transmission of a document to the CM/ECF system consistent with the administrative and technical procedures established by this court, together with the transmission of a Notice of Electronic Filing from the court, constitutes the filing of the document for all purposes of the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the local rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed. R. Civ. P. 58 and 79 and Fed. R. Crim. P. 49 and 55.

LR100.3.2. Official Record.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. The clerk shall not be required to retain any paper document after making an electronic recording thereof in a manner consistent with the technical standards, if any, established by the Judicial Conference of the United States and the requirements, if any, prescribed by the Administrative Office of the United States Courts. If a paper document filed with the court has not been electronically recorded by the clerk, the original paper document as maintained by the court is the official record.

LR100.3.3. Time of Filing.

Except in the case of a document originally filed in paper form with a date and time stamp and subsequently uploaded in the CM/ECF system, a document filed electronically is deemed filed at the date and time (Hawaiian Standard Time) stated on the Notice of Electronic Filing. The time stamp on the Notice of Electronic Filing is based on the time of the electronic receipt of the document by the court, not the time of transmission by the ECF User.

LR100.4.1. Eligibility.

An attorney who is a member of the bar of this court or who is otherwise permitted to practice before this court under LR83.1 may request a login and password as an ECF User. An ECF User must have and maintain a functioning email address suitable for accepting the Notices of Electronic Filing transmitted from the court. An ECF User must also have and utilize anti-virus software to verify that files transmitted to the court are not infected with any virus or worm.

LR100.4.2. Registration.

An individual eligible to be an ECF User must complete a registration form to be issued a login and password for participation in the CM/ECF system. The registration form requires the individual’s agreement to certain provisions, including the individual’s acknowledgment that the use of the ECF login and password is equivalent to the individual’s signature, the individual’s consent in writing to accept service of documents by electronic means, and an agreement that failure to abide by the CM/ECF procedures may result in sanctions.

LR100.4.3. Login and Password.

The clerk will issue a login and password for access to the CM/ECF system to an eligible individual after completion of registration and a training course offered by a United States District Court. Any login and password issued to an ECF User shall be used exclusively by that individual or associate to whom authorization has been given by the ECF User. No ECF User shall knowingly permit a login and password to be used by anyone not so authorized and no person shall knowingly use an ECF User's login and password unless so authorized. ECF Users shall safeguard the security of their passwords and immediately notify the clerk upon discovery or suspicion that security has been compromised.

LR100.4.4. Suspension or Deactivation of CM/ECF Access.

Upon appropriate notice and for cause shown, the court at any time may suspend or deactivate an ECF User's access to electronic filing. The court may require that additional training be taken in order to reactivate ECF participation.

LR100.5.1. Use of Login and Password.

The use of a login and password assigned to an ECF User in the electronic filing of a document shall constitute the ECF User's signature on the document, for purposes of Fed. R. Civ. P. 11, 28 U.S.C. § 1746, the local rules of this court, and any other purpose for which a signature is required in connection with matters before the court.

LR100.5.2. ECF User's Signature.

The name of the ECF User under whose login and password the document is being electronically filed must be preceded by "/s/" and typed in the space where the signature otherwise would appear (*e.g.*, /s/ John or Jane Lawyer).

LR100.5.3. Third Party Signatures.

An electronically filed document requiring the signature of an individual other than the ECF User, such as a stipulation or declaration, must contain the original or a scanned image of that individual's signature.

LR100.5.4. Retention of Documents with Third Party Signatures.

Documents that are electronically filed and require original signatures other than the ECF User's must be maintained in paper form by the ECF User until thirty-five (35) days (five weeks) after expiration of any appeal period. Upon request by the court, an ECF User must provide for review any such document requiring a third-party signature. A non-filing signatory or party who disputes the authenticity, or the alleged endorsement, of an electronically filed document must file an objection to that document.

LR100.6.1. Service of Documents by Electronic Means.

The issuance of the Notice of Electronic Filing generated by the CM/ECF system constitutes service of the document(s) being filed to ECF Users and any other parties who have consented in writing to receive service by electronic means.

LR100.6.2. Conventional Service of Electronically Filed Documents.

Parties who are not ECF Users or who have not consented to service by electronic means must be served by conventional means. If a filed copy of a document is required to be served, the paper copy of the subject document(s) shall be accompanied by a copy of the Notice of Electronic Filing showing the date and time of filing.

LR100.6.3. Certificate of Service.

A certificate of service on all parties entitled to service is required when a document is filed (electronically or conventionally). The certificate must state the manner in which service was accomplished on each party and shall appear as the last page of the document. The certificate of service should be in the form shown below:

I hereby certify that, on the dates and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served Electronically through CM/ECF:

Jane Dow	jane_dow@hotmail.com	January 1, 2006
John Dow	john_dow@law.net	January 1, 2006

Served by First-Class Mail:

Robert Jones 321 S. King St Honolulu, HI 96813	January 2, 2006

Served by hand-delivery:

Carol Smith 123 Bishop St Honolulu, HI 96813	January 3, 2006

LR100.7.1. Orders and Judgments.

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these procedures and will constitute entry on the docket kept by the clerk under Fed. R. Civ. P. 58 and 79, and Fed. R. Crim. P. 49 and 55.

LR100.7.2. Docket Orders.

Orders may be issued as text-only entries on the docket without an attached document. Such orders are official and binding. For purposes of Fed. R. Civ. P. 58, a text order is deemed set forth as a separate document in the Notice of Electronic Filing created by the docketing of the order.

LR100.7.3. Notice of Entry of Orders.

Electronic transmission of the Notice of Electronic Filing of an order or judgment docketed by the clerk constitutes the notice required under Fed. R. Civ. P. 77(d) and Fed. R. Crim. P. 49(c) to those parties who have consented to receive notice by electronic means. The clerk shall give notice using non-electronic means to those parties who have not consented to receive electronic notice.

LR100.7.4. Summons.

The clerk may sign, seal, and issue a summons electronically, although a summons may not be served electronically.

LR100.9.1. Proposed Orders.

Proposed orders are to be submitted separately from the underlying application, request, or motion and shall be submitted

by e-mail in a format compatible with Word or Word Perfect, unless directed by the court to be submitted differently.

LR100.9.2. E-mailing of Proposed Orders and Stipulations.

All proposed orders and stipulations must list in the e-mail subject line the following items:

(a) The case number;

(b) The docket number of the motion filed electronically that is the subject of the proposed order; and

(c) The title of the related pleading (*e.g.*, CV05-236-Doc5-Motion To Compel).

LR100.9.3. E-mail addresses for order and stipulation submission to Chambers:

Judge Kevin S. C. Chang	chang_orders@hid.uscourts.gov
Judge David A. Ezra	ezra_orders@hid.uscourts.gov
Judge Helen Gillmor	gillmor_orders@hid.uscourts.gov
Judge Alan C. Kay	kay_orders@hid.uscourts.gov
Judge Samuel P. King	king_orders@hid.uscourts.gov
Judge Leslie E. Kobayashi	kobayashi_orders@hid.uscourts.gov
Judge Barry M. Kurren	kurren_orders@hid.uscourts.gov
Judge Susan Oki Mollway	mollway_orders@hid.uscourts.gov
Judge J. Michael Seabright	seabright_orders@hid.uscourts.gov
Visiting Judges	visit_orders@hid.uscourts.gov
Any New Judge	judge's last name_orders@hid.uscourts.gov

These email addresses shall only be used for submitting proposed orders and stipulations to the court. They shall not be used for submitting correspondence to the court.

LR100.10. Technical Failures.

Any ECF User or other person whose filing is untimely or who is otherwise prejudiced by a technical failure of the CM/ECF system should document the incident and may seek appropriate relief from the court. The assigned judge in a case shall determine whether a technical failure has occurred and whether relief should be afforded under the particular circumstances.

LR100.11.1. Personal Identifiers.

To comply with the policy of the Judicial Conference of the United States and the E-government Act of 2002, and to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all documents and pleadings filed with the court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the court:

(a) Social Security numbers. If an individual's social security number must be included in a pleading, only the last three digits of that number should be used.

(b) Names of minor children. If a minor child must be mentioned, only the initials of that child should be used.

(c) Dates of birth. If an individual's date of birth must be included in a document, only the year should be used.

(d) Financial account numbers. If financial account numbers are relevant, identify the name or type of account and the financial institution where maintained, and only indicate the last three digits of the account number.

(e) Home Address. If a home address must be included, only the city and state should be listed.

LR100.11.2. Redaction/Reference List.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above may:

(a) File an unredacted document under seal, or

(b) File a reference list under seal. The reference list shall contain the complete personal identifiers and the redacted identifiers used in their place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifiers. The reference list must be filed under seal, and may be amended as of right.

A redacted version of the document or the reference list shall be filed and become part of the public file. The

unredacted versions shall be retained by the court as part of the record in sealed form.

LR100.11.3. Responsibility of Counsel.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The clerk will not review each document for compliance with this provision.

LR100.12. Hyperlinks.

Electronically filed documents may contain hyperlinks to (a) other portions of the same document, and (b) a location on the Internet that contains a source document for reference. Hyperlinks do not replace standard citation format, but inclusion of hyperlinks is encouraged. Complete citations must be included in the text of the filed document. Hyperlinks are convenient mechanisms for accessing material, but neither a hyperlink, nor any site to which it refers, shall be considered part of the record. The court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked. The court accepts no responsibility for the availability or the functionality of any hyperlink.

RULES PERTAINING TO CASES UNDER TITLE 11, UNITED STATES CODE

LR1001.1. Scope of Rules.

(a) Scope of Rules. The Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms, promulgated under 28 U.S.C. § 2075, together with these local rules and any local bankruptcy rules adopted by the bankruptcy court, govern practice and procedure in all bankruptcy cases and adversary proceedings in this district. These rules, and any local bankruptcy rules adopted by the bankruptcy court, supersede all previous local bankruptcy rules for the District of Hawaii.

(b) Effective Date. These rules shall apply to all bankruptcy cases and adversary proceedings pending on the date of adoption.

LR1070.1(a). General Reference.

Pursuant to 28 U.S.C. § 157(a), all cases under Title 11 and all civil proceedings arising under Title 11 or arising in or related to a case under Title 11 are referred to the bankruptcy judges of this district, except as provided in LR1070.1(b). A party may request that reference of a particular matter be withdrawn by filing a motion with the clerk of the bankruptcy court, who will promptly transmit the motion to the clerk of the district court.

LR1070.1(b). Pending District Court Proceedings.

Any civil proceeding arising in or related to a case under Title 11 that is pending in the district court on the date the Title 11 case is filed shall be referred to a bankruptcy judge only upon order of the district judge before whom the proceeding is pending. Such an order may be entered on the motion of a party, on the district judge's own motion, or on the recommendation of a bankruptcy judge.

LR1070.1(c). Removed and Transferred Proceedings.

Pursuant to the general reference provided in LR1070.1(a), the following may be filed with the clerk of the bankruptcy court:

(1) A notice of removal of a claim related to a bankruptcy case under 28 U.S.C. § 1452(a); and

(2) A bankruptcy case or proceeding transferred from another district under 28 U.S.C. § 1412.

LR1070.1(d). Authorization of Bankruptcy Appellate Panel to Hear and Determine Appeals.

Pursuant to 28 U.S.C. § 158(b)(6), the Bankruptcy Appellate Panel of the Ninth Circuit may hear and determine appeals from judgments, orders, and decrees issued by bankruptcy judges in this district.

LR1070.1(e). Authorization for Bankruptcy Court to Make Local Bankruptcy Rules.

Pursuant to Fed. R. Bankr. P. 9029(a), the bankruptcy judges of this district are authorized to make and amend rules of practice and procedure in the bankruptcy court that meet the requirements of Fed. R. Civ. P. 83 and Fed. R. Bankr. P. 9029.

LR8005.1. Processing of Bankruptcy Appeals.

(a) At any time before an appeal from the bankruptcy court has been docketed in the district court as provided in Fed. R. Bankr. P. 8007, the bankruptcy court is authorized and directed, on motion of a party or its own motion:

(1) To dismiss an appeal filed after the time specified in Fed. R. Bankr. P. 8002;

(2) To dismiss an appeal in which appellant has failed to file a designation of the items for the record or a statement of the issues as required by Fed. R. Bankr. P. 8006;

(3) To hear, under Fed. R. Bankr. P. 9006(b), motions to extend the foregoing deadlines and to consolidate appeals that present similar issues from a common record.

(b) Bankruptcy court orders entered under Subsection (a) may be reviewed by the district court on motion filed within fourteen (14) days after entry of the order sought to be reviewed.

LR8007.1. Completion of Record - Bankruptcy Appeal.

The record on appeal in a bankruptcy case shall include a transcript of the hearing(s) resulting in the order or judgment from which the appeal is taken or a summary thereof agreed upon by all parties.

LR8007.2. Transmission of Record - Bankruptcy Appeal to District Court.

In a bankruptcy appeal to the district court, as soon as the statement of issues, designation of record, and any transcripts that have been designated are filed with the bankruptcy court, the clerk of the bankruptcy court shall transmit to the district court a certificate of readiness, indicating that the record is complete. The clerk of the district court shall forthwith notify the parties to the appeal that this certificate has been filed at the district court, and this date shall constitute the date of entry of the appeal on the docket for purposes of Fed. R. Bankr. P. 8007 and 8009. The record shall be retained by the clerk of the bankruptcy court. A copy of the record shall be transmitted to the district court upon request by the clerk of the district court.

LR8009.1. Requirement for Appendix to Bankruptcy Appellate Brief.

The requirement for an appendix to an appellant's brief in Fed. R. Bankr. P. 8009(b) shall apply to appeals to the district court. The appendix shall include excerpts of the record to be considered on appeal.