UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

LOCAL RULES

Effective December 1, 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

Honorable David R. Herndon
Chief District Judge
United States District Court
East St. Louis, Illinois

Honorable J. Phil Gilbert
District Judge
United States District Court
Benton, Illinois

Honorable G. Patrick Murphy
District Judge
United States District Court
East St. Louis, Illinois

Honorable Michael J. Reagan
District Judge
United States District Court
East St. Louis, Illinois

	Honorable William D. Stiehl **Senior District Judge** **United States District Court** **East St. Louis, Illinois**	
Honorable Philip M. Frazier **Magistrate Judge** **United States District Court** **Benton, Illinois**	**Honorable Clifford J. Proud** **Magistrate Judge** **United States District Court** **East St. Louis, Illinois**	**Honorable Donald G. Wilkerson** **Magistrate Judge** **United States District Court** **East St. Louis, Illinois**

Nancy J. Rosenstengel
Clerk, United States District Court
East St. Louis, Illinois

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Answer	Within 21 days after actual service of summons and complaint; OR Within 60 days if service has been waived (90 days if defendant was addressed outside any judicial district of the U.S.). [Fed. R. Civ. P. 12(a)(1)]
Initial Disclosures	At or within 14 days after the Rule 26(f) conference. [Fed. R. Civ. P. 26(a)(1)]
Report of the Parties to the Magistrate	Within 14 days after the parties' initial conference, and at least 7 days before the date of the scheduling and discovery conference. [Fed. R. Civ. P. 26(f); SDIL-LR 16.2(a)]
Discovery Cutoff	No later than 115 days before first day of presumptive trial month.
Dispositive Motion Deadline	No later than 100 days before first day of presumptive trial month.
Settlement Conference	The parties may request a settlement conference at any time. The court may set a settlement conference at its discretion at any time. Parties shall submit *ex parte* settlement statements to the Magistrate Judge 7 days before the settlement conference. [SDIL-LR 16.3(b)]
Final Pretrial Conference	No less than 7 days before presumptive trial date. Parties shall confer and jointly submit a signed proposed final pretrial order 3 days before the date of the final pretrial conference. [SDIL-LR 16.2(b)]

TIMETABLE AND DEADLINES UNDER FEDERAL RULES AND CIVIL JUSTICE REFORM ACT	
Presumptive Trial Month	Track A: 8 to 10 months after first appearance of a defendant or default date. Track B: 11 to 14 months after first appearance of a defendant or default date. Track C: 15 to 18 months after first appearance of a defendant or default date. Track D: 19 to 24 months after first appearance of a defendant or default date. [SDIL-LR 16.1(a)]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

LOCAL RULES
Effective December 1, 2009

RULE 1.1 SCOPE OF RULES

(a) These rules shall be known as the Local Rules of the United States District Court for the Southern District of Illinois. Parties are encouraged to cite to these rules as "SDIL-LR."

(b) These rules became effective on December 1, 2009, and supersede all previous Local Rules. These rules shall apply in all civil and criminal proceedings in the Southern District of Illinois regardless of when the case was filed.

RULE 3.1 PAYMENT OF FEES AND COSTS
(*See* 28 U.S.C. §§ 1911, 1915, 2254)

(a) Advance Payment of Fees

Except as may now or hereafter be required or permitted by law, by direction of the Judicial Conference of the United States, or by special Order of the Court in exceptional circumstances, all fees, including those fees required by 28 U.S.C. § 1914, shall be paid to the Clerk of Court in advance of filing the document or documents involved. On September 1, 2009, the Court implemented online fee payments via Pay.gov, and all fees shall be paid in accordance with the CM/ECF User's Manual in effect on the date of the filing. All electronic filers are required to use the Pay.gov Internet payment module in CM/ECF. Payments for filing fees, *pro hac vice* attorney admission fees, and notice of appeal fees must be paid by credit card over the Internet. Users will be automatically directed through the Pay.gov payment process. The Notice of Filing Fee Events List and the Notice of Refund Policy of Electronic Filing Fees is contained in the CM/ECF User's Manual or available online at www.ilsd.uscourts.gov. All parties are strongly encouraged to read and have a working knowledge of the CM/ECF User's Manual and should stay current on all revisions to it.

(b) *In Forma Pauperis*

A petitioner or plaintiff who wishes to seek leave to file *in forma pauperis* under 28 U.S.C. § 1915 shall submit an affidavit which sets forth information to establish that he or she is unable to pay the fees and costs, shall sign and verify an oath or affirmation, and shall answer additional questions concerning his or her financial status as the Court may require. An example of an affidavit is contained in the Appendix of Forms to the Rules Governing Section 2254 cases in the United States District Courts titled "Model Form For Use in Applications for Habeas Corpus under 28 U.S. C. Section 2254." A blank copy of this affidavit as well as a form motion to proceed *in forma pauperis* may be obtained by sending a written request to the Clerk of Court at either the East St. Louis or Benton address listed in Local Rule 8.1(d).

A petitioner or plaintiff in custody must also submit a certified copy of his or her prison trust fund account statement for the six-month period preceding the filing of the complaint. All petitioners and plaintiffs are under a continuing obligation to keep the Clerk of Court and

each opposing party informed of any change in his or her location. This shall be done in writing and not later than **7 days** after a transfer or other change in address occurs.

(c) Payment of Costs and Court Order Waiving Costs

(1) At the time application is made under 28 U.S.C. § 1915 for leave to commence any civil action without being required to prepay fees and costs or give security for the same, the applicant and his or her attorney will be deemed to have entered into a stipulation that the recovery, if any, secured in the action shall be paid to the Clerk of Court, who shall pay therefrom all unpaid costs taxed against plaintiff and remit the balance to plaintiff. If notice is filed with the Clerk of Court that an attorney's contingent fee contract has been entered into by plaintiff, the balance shall be paid to plaintiff and his or her attorney in accordance with an Order of the Court.

(2) Any person seeking leave to proceed *in forma pauperis* shall submit sufficient copies of the complaint to effect service upon all defendants. The original of the complaint shall be retained by the Clerk of Court. Upon good cause shown, this paragraph of the Local Rules may be waived by the Court at the time leave to proceed *in forma pauperis* is granted.

RULE 5.1 SERVING AND FILING PLEADINGS AND OTHER PAPERS (*See* Fed. R. Civ. P. 5, 7.1, 11; Fed. R. Crim. P. 49)

(a) Designation of Lead Counsel

When a party's initial pleading is filed, "Lead Counsel" shall be designated as the attorney for that party who will be responsible for receipt of service of every document required to be filed or served and for receipt of telephone conferences.

(b) General Format of Papers Presented for Filing

All pleadings, motions, documents, and other papers presented for filing shall be on 8 ½" x 11" white paper of good quality, flat and unfolded, and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process and double-spaced, except for quoted material. Each page shall be numbered consecutively.

This rule does not apply to (a) exhibits submitted for filing and (b) documents filed in removed actions prior to removal from state court.

(c) Electronic Filing

All parties must file documents by electronic means that comply with procedures established by the Court unless specifically exempted for good cause shown. Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight (Central Time) to be considered timely filed that day, **unless a specific time is set by the Court**. Pursuant to Federal Rule of Civil Procedure 6(d) and Federal Rule of Criminal Procedure 45(c), whenever a document is served electronically, three days are added to the prescribed response time.

(d) Privacy Policy – ***See Amended Administrative Order 107***

In order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all pleadings filed with the Clerk of Court, which includes exhibits attached thereto, unless otherwise ordered.

(1) Social Security Numbers. If an individual's social security number must be included, only the last four digits of that number should be used.

(2) Names of Minor Children. If the involvement of a minor child must be mentioned, only the initials of that child should be used.

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

(4) Drivers' License Numbers. If a driver's license number must be included, only the last four digits should be used.

(5) Financial Account Numbers. If financial account numbers are relevant, only the last four digits should be used.

(6) Home Addresses. *In criminal cases only*, if home addresses must be used, only the city and state should be used. **[Limited to criminal cases only by interlineation on March 15, 2012 - see Federal Rule of Civil Procedure 5.2, Federal Rule of Criminal Procedure 49.1, and Amended Administrative Order 107].**

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk of Court will not review each pleading for compliance with this rule. Counsel and the parties are cautioned that failure to redact these personal identifiers may subject them to discipline.

In compliance with the E-Government Act of 2002, a party wishing to file a document containing the personal data identifiers listed above **must file a redacted version in the public file** (file electronically for ECF cases or manually for non-ECF cases). In addition to the public filing, a party may file, but is not required to file, the personal data identifiers listed above by filing the information under seal in accordance with the directions below.

A party wishing to file the unredacted information may file either (a) a reference list under seal, or (b) an unredacted version of the document under seal. When a party finds it necessary to file the unredacted information under seal, the Court prefers a reference list to the filing of a complete document. The reference list shall contain the complete personal identifier(s) and the redacted identifier(s) used in its (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 identifier. The reference list must be filed under seal and may be amended as of right. Parties are responsible for maintaining possession of original, unredacted documents and information redacted from publicly filed documents. Upon request, counsel may be required to furnish the unredacted information. (For further details, *See* Amended Administrative Order 107.)

RULE 7.1 MOTION PRACTICE
(*See* Fed. R. Civ. P. 7, 56, 78; Fed. R. Crim. P. 12)

NOTE: The requirements for motions in class actions are located in SDIL-LR 23.1. To the extent anything in this Local Rule is in conflict with SDIL-LR 23.1, SDIL-LR 23.1 takes priority.

(a) A motion shall state its grounds with particularity and shall set forth the relief sought.

(b) Each motion shall include or have attached to it a certification that a copy has been properly served upon each party to the action as required by the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

(c) Motions to remand, to dismiss, for judgment on the pleadings, for summary judgment, to suppress, and all post-trial motions shall be supported by a brief. The motion and brief may be combined into a single submission.

(1) An adverse party in a civil case shall have **30 days** after service of a motion listed above to file a response.

(2) An adverse party in a criminal case shall have **14 days** after service of a motion to suppress to file a response.

Failure to timely file a response to a motion may, in the Court's discretion, be considered an admission of the merits of the motion. Reply briefs, if any, shall be filed within **14 days** of the service of a response. **Reply briefs are not favored and should be filed only in exceptional circumstances.** The party filing the reply brief shall state the exceptional circumstances. Under no circumstances will sur-reply briefs be accepted. If a party believes it is necessary to supplement its brief with new authority due to a change in the law or facts that occurred after the filing of its brief, the party must seek leave of court to file a supplemental brief. The supplemental authority shall be filed in accordance with the supplemental authority provisions found in Federal Rule of Appellate Procedure 28(j).

(d) All briefs shall contain a short, concise statement of the party's position, together with citations to relevant legal authority and to the record. Allegations of fact not supported by citation may, in the Court's discretion, not be considered. No brief shall be submitted which is longer than 20 double-spaced typewritten pages in 12 point font. Reply briefs shall not exceed 5 pages. Requests for additional pages are not allowed.

(e) Any brief in support of or in opposition to a motion for summary judgment shall contain citation to relevant legal authority and to the record, together with any affidavits or documentary material designated pursuant to Federal Rule of Civil Procedure 56 supporting the party's position.

(f) All motions to dismiss, for judgment on the pleadings, and for summary judgment must be filed no later than **100 days** before the first day of the presumptive trial month.

(g) For all motions other than those listed in subsection (c) above, a supporting brief is not required. A party opposing a motion not listed in subsection (c) shall have **14 days** after service of the motion to file a written response. Failure to file a timely response to a motion may, in the Court's discretion, be considered an admission of the merits of the motion. A reply, if any, shall be filed within **7 days** of the service of the response. **Reply briefs are not favored and should be filed only in exceptional circumstances.** The party filing the reply brief shall state the exceptional circumstances. Under no circumstances will sur-reply briefs be accepted. If a party believes it is necessary to supplement its brief with new authority due to a change in the law or the facts that occurred after the filing of its brief, the party must seek leave of court to file a supplemental brief. The supplemental authority shall be filed in accordance with the supplemental authority provisions found in Federal Rule of Appellate Procedure 28(j).

(h) A party may not schedule or notice a hearing for oral argument on a pending motion. Any party desiring oral argument on a motion shall file a formal motion and state the reason why oral argument is requested. Any motion may be either:

(1) scheduled by the Court for oral argument at a specified time;

(2) scheduled for determination by telephone conference call;

(3) referred to a United States Magistrate Judge for determination or recommendation; or

(4) determined upon the pleadings and the motion papers without oral argument.

RULE 8.1 PLEADINGS FILED BY PRISONERS

(*See* 42 U.S.C. § 1983; 28 U.S.C. §§ 1915, 2241, 2254, 2255; Fed. R. Civ. P. 1-15; Rules Governing Section 2254 Cases in the United States District Courts; Rules Governing Section 2255 Cases in the United States District Courts)

(a) Forms Available

(1) Civil Complaints and Habeas Corpus Pleadings

Prisoners who wish to file a civil complaint under 42 U.S.C. § 1983, an application for writ of habeas corpus under 28 U.S.C. § 2241, a petition under 28 U.S.C. § 2254, or a motion under 28 U.S.C. § 2255 may obtain forms and instructions by sending a written request to the Clerk of Court at the East St. Louis address listed below. Prisoners who wish to file a civil complaint are referred to the Federal Rules of Civil Procedure generally, and in particular, Rules 1 through 15.

Prisoners who wish to file a petition under 28 U.S.C. § 2254 or a motion under 28 U.S.C. § 2255 are referred to the Rules Governing Section 2254 Cases in the United States District Courts and the Rules Governing Section 2255 Cases in the United States District Courts, respectively. The Court strongly urges plaintiffs to use the Court's complaint form.

(2) *In Forma Pauperis*

Prisoners who wish to proceed *in forma pauperis* – without prepayment of fees – may obtain forms and instructions by sending a written request to the Clerk of Court at the East St. Louis address listed below. (For further information regarding *in forma pauperis* status, *see* 28 U.S.C. § 1915 and Local Rule 3.1.)

(b) General Pleading Requirements

A complaint, petition, or motion filed by a prisoner shall be in writing, signed, and verified. The original pleading must be submitted with enough copies for each defendant or respondent as required by Federal Rule of Civil Procedure 4. All complaints, petitions, or motions, except motions under 28 U.S.C. § 2255, shall be filed with the Clerk of Court at the East St. Louis address.

Upon receipt of a complaint, petition, or motion, the Clerk of Court shall determine that the pleading has been properly completed and signed. The Clerk of Court will notify the designated District Judge of any pleading which fails to comply with any filing requirement of the Federal Rules of Civil Procedure. The Court, in its discretion, may strike and direct the return of any defective pleading.

(c) Court Addresses

Clerk of Court
750 Missouri Avenue
P. O. Box 249
East St. Louis, Illinois 62202
(618) 482-9371

Clerk of Court
301 W. Main Street
Benton, IL 62812
(618) 439-7760

RULE 9.1 PLEADINGS IN ACTIONS FOR REVIEW OF ADMINISTRATIVE DECISIONS
(*See* Fed. R. Civ. P. 8, 9, 84; 42 U.S.C. § 405)

(a) Any person seeking judicial review of a decision of the Commissioner of Social Security under Section 205(g) of the Social Security Act (42 U.S.C. § 405(g)) shall provide, on a separate paper attached to the complaint served on the Commissioner of Social Security, the last four digits of the social security number of the worker on whose wage record the application for benefits was filed. The person shall also state in the complaint that the complete social security number has been attached to the copy of the complaint served on the Commissioner of Social Security. Failure to provide a social security number to the Commissioner of Social Security will not be grounds for dismissal of the complaint.

(b) In keeping with Federal Rule of Civil Procedure 84 and the Appendix of Forms to the rules, the following form of allegations in the complaint is considered sufficient for § 405(g) review cases:

(1) Plaintiff is a resident of

_____ _____
City State

(2) Plaintiff complains of a decision which adversely affects him/her. The decision has become the final decision of the Secretary for purposes of judicial review and bears the following caption:

In the Case of: Claim for:

_____ _____
Plaintiff

_____ _____
Wage Earner

(3) Plaintiff has exhausted administrative remedies in this matter, and this Court has jurisdiction for judicial review pursuant to 42 U.S.C. § 405(g).

(4) Defendant shall have **60 days** from the date of service of summons within which to file an answer and transcript of administrative proceedings.

(5) Within **30 days** after the filing of the answer and transcript, plaintiff shall file a brief which shall state with particularity which findings of the Commissioner are contrary to law. Within **30 days** thereafter, defendant shall file a brief which shall specifically respond to plaintiff's assertions and arguments. The case may be set for hearing at the Court's discretion.

RULE 15.1 AMENDED PLEADINGS
(*See* Fed. R. Civ. P. 15)

A proposed amendment to a pleading or amended pleading itself must be submitted at the time the motion to amend is filed. Proposed pleadings must be submitted in accordance with the CM/ECF User's Manual Section 2.10 titled "Submitting a Proposed Document."

Section 2.10 provides that proposed orders, proposed amended complaints, proposed documents to be filed out of time, writs, post-judgment notices, and certain stipulations require court approval before actually being filed and given full effect. These documents must be attached to an e-mail sent to the presiding judge. The subject line of the e-mail must include the case number, the corresponding document number, and a brief description of the proposed document. Documents should be submitted in a format compatible with WordPerfect and served on all parties.

The e-mail addresses for submission of these documents are as follows:

Chief District Judge David R. Herndon	DRHpd@ilsd.uscourts.gov
District Judge J. Phil Gilbert	JPGpd@ilsd.uscourts.gov
District Judge G. Patrick Murphy	GPMpd@ilsd.uscourts.gov
District Judge Michael J. Reagan	MJRpd@ilsd.uscourts.gov
Senior District Judge William D. Stiehl	WDSpd@ilsd.uscourts.gov

Magistrate Judge Philip M. Frazier PMFpd@ilsd.uscourts.gov
Magistrate Judge Clifford J. Proud CJPpd@ilsd.uscourts.gov
Magistrate Judge Donald G. Wilkerson DGWpd@ilsd.uscourts.gov

All new material in an amended pleading must be underlined. It is sufficient to simply underline the names of new parties the first place they appear in amended pleadings. Similarly, when new claims or defenses are raised by an amendment, it is sufficient that the number of the designated count or paragraph identifying the amendment be underlined.

RULE 16.1 TRIAL DATES

**(*See* 28 U.S.C. § 473 (a)(2)(B) and Appendix A,
Fed. R. Crim. P. 50; 18 U.S.C. § 3161 *et seq.*, 5036, 5037)**

(a) Presumptive Trial Date

After the first appearance of a defendant or default date, whichever occurs first, the judicial officer to whom a case is assigned for trial will, in his or her discretion, assign a presumptive trial date to the case based on the following tracks of cases:

Track "A" The presumptive trial date will be set between 8-10 months after the first appearance of a defendant or default date, whichever occurs first. Track "A" shall include all cases exempt from the requirements of pretrial and settlement conferences by SDIL-LR 26.1. Prisoner habeas corpus petitions and any administrative review cases (i.e., social security) are not included in Track "A" assignments.

Track "B" The presumptive trial date will be set between 11-14 months after the first appearance of a defendant or default date, whichever occurs first. (Examples are simple tort and contract cases.)

Track "C" The presumptive trial date will be set between 15-18 months after the first appearance of a defendant or default date, whichever occurs first. (Examples are multi-party or complex issue cases including products liability, malpractice, antitrust, and patent cases.)

Track "D" The presumptive trial date will be set between 19-24 months after the first appearance of a defendant or default date, whichever occurs first. (Only proposed class actions will be assigned to Track "D.")

The presumptive trial date, which shall be for a specific month, will be communicated to the parties and, for cases assigned to Tracks "B," "C," and "D," shall be set forth in the notice to the parties of the date set for the initial pretrial and scheduling conference pursuant to Federal Rule of Civil Procedure 26(f) and also will be incorporated into the initial pretrial scheduling and discovery order.

(b) Firm Trial Date

On or before the presumptive trial date of a case assigned to Track "A," the judicial officer to whom the case is assigned shall set a firm trial date, and the parties shall be informed of this date. For cases in Tracks "B," "C," and "D," a firm trial date, which shall be for a specific week, shall be set at or before

the final pretrial conference and incorporated into the final pretrial order (when required by the presiding judge).

(c) Continuances After Firm Trial Date Is Set

When the demands of the Speedy Trial Act, the unanticipated length of a civil trial, an emergency, or an unanticipated situation prevents the judicial officer to whom the case is assigned for trial from adhering to the firm trial date, the case will be given priority for trial during the next month or given an accelerated trial date.

(d) Parties Informed of Case Status

The Court will, from time to time, keep the attorneys/parties apprised of the trial date status of a case.

(e) Trial Dates in Criminal Cases

Trial dates in criminal cases are addressed in the District's "Plan for Achieving Prompt Disposition of Criminal Cases." (*See* Appendix A.)

RULE 16.2 PRETRIAL CONFERENCES
(*See* Fed. R. Civ. P. 16, 26)

NOTE: The requirements for the scheduling and discovery report and pretrial conference in class actions are located in SDIL-LR 23.1. To the extent anything in this Local Rule is in conflict with SDIL-LR 23.1, SDIL-LR 23.1 takes priority.

(a) Initial Conference of the Parties; Submission of Report

At least **21 days** before any scheduling conference set by the Court, the attorneys (and any unrepresented parties) must confer in accordance with Federal Rule of Civil Procedure 26(f). Within **14 days** after conferring, and at least **7 days** before the date of the scheduling conference, a jointly prepared report must be submitted to the Magistrate Judge before whom the conference is set. (*See* Form: Joint Report of the Parties and Proposed Scheduling and Discovery Order.) The filing of motions will not eliminate the duty to comply with this rule.

(b) Final Pretrial Conference

(1) Except in those cases listed in SDIL-LR 26.1(a), a final pretrial conference will be held before the judicial officer assigned to try the case not less than **7 days** prior to the presumptive trial date. The parties shall confer and jointly submit a signed proposed final pretrial order **3 days** before the date of the final pretrial conference unless otherwise directed by the presiding judge. The parties are encouraged to review the procedures for each judge as outlined on the Court's website.

(2) Lead trial counsel for each party with authority to bind the party shall be present at this conference.

(3) The following issues shall be discussed at the final pretrial conference and shall be included in the final pretrial order:

(A) the firm trial date (*see* SDIL-LR 16.1(b));
(B) stipulated and uncontroverted facts;
(C) list of issues to be tried;
(D) disclosure of all witnesses;
(E) listing and exchange of copies of all exhibits;
(F) pretrial rulings, where possible, on objections to evidence;
(G) disposition of all outstanding motions;
(H) elimination of unnecessary or redundant proof, including limitations on expert witnesses;
(I) itemized statements of all damages by all parties;
(J) bifurcation of the trial;
(K) limits on the length of trial;
(L) jury selection issues;
(M) any issue which may facilitate and expedite the trial, for example, the feasibility of presenting testimony by a summary written statement; and
(N) the date when proposed jury instructions shall be submitted to the Court and opposing counsel, which, unless otherwise ordered, shall be the first day of the trial.

(4) Trial briefs on any difficult, controverted factual or legal issue, including anticipated objections to evidence, shall be submitted to the Court at or before the final pretrial conference when possible.

RULE 16.3 SETTLEMENT CONFERENCES
(28 U.S.C. § 651, *et seq.*)

(a) Authorization of Alternative Methods of Dispute Resolution

To encourage and promote the use of alternative dispute resolution in this district, the parties shall use an early neutral evaluation in the form of a settlement conference in all civil cases except for the cases listed in SDIL-LR 26.1(a). The Court may, in its discretion, set any civil case for summary jury trial or other alternative method of dispute resolution which the Court may deem proper.

(b) Settlement Conference

(1) The parties may request a settlement conference at any time. The Court may set a settlement conference at its discretion at any time during the course of the litigation.

(2) In addition to the lead counsel for each party, a representative of each party or the party's insurance company with authority to bind that party for settlement purposes shall be present in person.

(3) The notice of the settlement conference shall set forth the format of the conference, any requirement for information that must be submitted to the presiding judicial officer prior to the conference, and

the types of documents or other information that must be brought to the conference.

(4) The statements or other communications made by any of the parties or their representatives in connection with the settlement conference shall remain confidential and shall not be admissible or used in any fashion in the trial of the case or any related case.

RULE 23.1 CLASS ACTIONS
(*See* Fed. R. Civ. P. 23)

(a) Scheduling and Discovery Conference

Proposed class actions pose complex scheduling and discovery issues which are not addressed by the standard "Joint Report of the Parties and Proposed Scheduling and Discovery Order." Accordingly, an initial scheduling and discovery conference with counsel for all parties may be set by the Court consistent with SDIL-LR 16.2.

The purpose of the scheduling and discovery conference is for the Magistrate Judge to identify the length and scope of discovery necessary for the fair and expeditious determination of whether the case can proceed as a class action. Discovery prior to class certification must be sufficient to permit the Court to determine whether the requirements of Federal Rule of Civil Procedure 23 are satisfied, including a preliminary inquiry into the merits of the case to ensure appropriate management of the case as a class action. In order to ensure that a class certification decision is issued as soon as practicable, however, priority shall be given to discovery on class certification issues.

After the scheduling conference, the Magistrate Judge shall enter the appropriate scheduling and discovery order in light of these concerns. Either party may move to have a second scheduling and discovery order entered after resolution of the motion for class certification.

(b) Joint Report

Seven days prior to any scheduling and discovery conference set by the Court, the parties shall submit a Joint Report of the Parties and Proposed Scheduling and Discovery Order (Class Action) consistent with the model found in the Forms section of these Local Rules. In the event the parties are unable to agree on a joint scheduling and discovery plan, the parties should each submit their Proposed Scheduling and Discovery Order and a memorandum in support of said order, addressing the issues in dispute **7 days** prior to the scheduling and discovery conference. The Magistrate Judge may adopt a Joint Report or issue a Scheduling and Discovery Order in lieu of proceeding with the scheduling and discovery conference.

(c) Motion Practice

The timetable for responding to a motion for class certification shall be established in the Joint Report or Scheduling and Discovery Order issued by the Court.

RULE 24.1 PROCEDURE FOR NOTIFICATION OF ANY CLAIM OF UNCONSTITUTIONALITY

(a) In any action, suit, or proceeding in which the United States or any agency, officer, or employee thereof is not a party and in which the constitutionality of an Act of Congress is drawn in question, or in any action, suit, or proceeding in which a state or any agency, officer, employee thereof is not a party and in which the constitutionality of any statute of that state is drawn in question, the party raising the constitutional issue shall notify the Court of the existence of the question either by checking the appropriate box on the Civil Cover Sheet or by stating on the pleading, immediately following the title of that pleading, "Claim of Unconstitutionality" or the equivalent.

(b) Failure to comply with this rule will not be grounds for waiving the constitutional issue or for waiving any other rights the party may have. Any notice provided under this rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirement set forth in the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, or any federal statute.

RULE 26.1 INITIAL DISCLOSURE PRIOR TO DISCOVERY; FILING OF DISCLOSURE AND DISCOVERY; COOPERATIVE DISCOVERY

(*See* 28 U.S.C. § 473(a)(4)-(5); Fed. R. Civ. P. 26, 37; Fed. R. Crim. P. 12, 16)

(a) Implementation of Federal Rule of Civil Procedure 26

Federal Rule of Civil Procedure 26 shall control the initial stages of disclosure and discovery in all civil cases with the exception of the categories of proceedings specified in Federal Rule of Civil Procedure 26(a)(1)(B).

These categories are construed to include the following:

(1) prisoner habeas corpus petitions;
(2) prisoner civil rights cases;
(3) cases brought in which one of the parties appears *pro se* and is incarcerated;
(4) cases brought by the United States for collection on defaults of government loans and all mortgage foreclosure default loans;
(5) land condemnation cases;
(6) cases brought by the United States for condemnation or forfeiture against vehicles, airplanes, vessels, contaminated foods, drugs, cosmetics, and the like;
(7) cases brought to review the decision of administrative agencies (e.g., the Commissioner of Social Security);
(8) IRS enforcement actions;
(9) Freedom of Information Act cases;
(10) cases brought to collect civil penalties under the Federal Boat Safety Act of 1971;
(11) reviews of rulings of a Bankruptcy Judge or Magistrate Judge;
(12) suits to quash subpoenas; and

(13) proceedings filed as civil actions for admission to citizenship or to cancel or revoke citizenship.

The judicial officer to whom the case is assigned for trial may order an initial conference, a final pretrial conference, or a settlement conference in a case falling in one of the excluded categories if the judicial officer determines that the complexity of the case or some unusual factor warrants more extensive pretrial case management than is usually necessary for that type of case.

(b) Filing of Disclosure and Discovery

(1) Interrogatories under Federal Rule of Civil Procedure 33 and the answers thereto, requests for production or inspection under Federal Rule of Civil Procedure 34, and depositions under Federal Rules of Civil Procedure 30 and 31 shall be served upon other counsel or parties but **shall not** be filed with the Clerk of Court. The party responsible for service of the discovery material shall retain the original and become the custodian thereof. Requests for admissions under Federal Rule of Civil Procedure 36 and responses thereto shall be served upon other counsel or parties and **shall** be filed with the Clerk of Court.

(2) Initial disclosures or discovery under Federal Rule of Civil Procedure 26(a) should be filed with the Clerk of Court upon Order of the Court or if a dispute arises over the disclosure or discovery.

(3) Any discovery motion filed pursuant to Federal Rules of Civil Procedure 26 through 37 shall have attached to it or the accompanying memorandum a copy of the actual discovery documents which are the subject of the motion or, in the alternative, set out in the memorandum a verbatim recitation of each interrogatory, request, answer, response, and/or objection which is the subject of the motion.

(4) If interrogatories, requests, answers, responses, or depositions are to be used at trial or are necessary to a pretrial motion which might result in a final order on any issue, the portions to be used shall be filed with the Clerk of Court at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated.

(5) When documentation of discovery not previously in the record is needed for appeal purposes, upon an application and order from the presiding judge or by stipulation of counsel, the necessary discovery papers shall be filed with the Clerk of Court.

(6) If a non-party requests to examine discovery materials and the presiding judge so orders, the parties will comply and make designated discovery material available for inspection.

(c) Duplicative Disclosure

At the time the duty to disclose arises, it may cover matters that have already been fully disclosed in the same civil action pursuant to an order, to a requirement of law, or otherwise. In that event, duplicative disclosure is not required and a statement that disclosure has already been made discharges the obligation imposed under this section.

(d) Cooperative Discovery Arrangements

Cooperative discovery arrangements in the interest of reducing delay and expense are mandated.

(e) Discovery in Criminal Cases

Parties in criminal cases shall comply with the Standard Order for Pretrial Discovery and Inspection.

RULE 33.1 INTERROGATORIES
(*See* Fed. R. Civ. P. 33)

(a) Form

Under Federal Rule of Civil Procedure 33, answers or objections to interrogatories shall set forth in full the interrogatory being answered or objected to immediately preceding the answer or objection. Objections shall be served upon opposing counsel as a separate document entitled "Objections to Interrogatories," within the time provided by Federal Rule of Civil Procedure 33. Objections shall be accompanied by citation to legal authority. Objections shall not be filed with the Clerk of Court unless a motion to compel is submitted pursuant to Federal Rule of Civil Procedure 37.

(b) Copies Not Permitted

No photocopied or otherwise duplicated form containing interrogatories shall be served upon a party unless all interrogatories are consecutively numbered and applicable to the case in which the same are served. The intent and purpose of this rule is to prohibit the submission of photocopied or otherwise duplicated forms of "stock" interrogatories, except where the nature of the case or the number of the parties makes the use of such forms necessary and feasible.

(c) Sequential Numbering

All interrogatories served by a party, including supplemental interrogatories, shall be sequentially numbered. All subsequent sets of interrogatories shall be numbered commencing with the number immediately succeeding the one last used.

RULE 40.1 CASE ASSIGNMENT AND TRIAL CALENDARS
(*See* Fed. R. Civ. P. 40, 79)

(a) Civil cases are randomly assigned to a District Judge pursuant to Administrative Order as from time to time amended by the Court. Any action taken to avoid the random assignment will subject that party and that party's attorney(s) to the full disciplinary power and sanctions of this Court.

(b) Criminal cases are randomly assigned to a District Judge by separate Benton and East St. Louis dockets.

RULE 51.1 INSTRUCTIONS TO THE JURY
(*See* Fed. R. Civ. P. 49, 51; Fed. R. Crim. P. 30)

(a) In both civil and criminal cases, an electronic version of a party's proposed jury instructions should be submitted by e-mail to the presiding judicial officer. When required by the presiding judicial officer, an original and one copy of each proposed instruction also shall be submitted to the Court and duplicates shall be delivered to opposing counsel. The original of each instruction shall be on 8½" x 11" plain white paper without any designation or number. The copy shall be numbered and shall identify the authority supporting the instruction and which party tenders it. The parties are encouraged to review the procedures for each judge as outlined on the Court's website.

(b) In all cases, the Pattern Jury Instructions as approved by the Seventh Circuit Court of Appeals shall be used when available.

RULE 53.1 COMMUNICATIONS WITH JURORS

Before and during trial, no attorney, party, or representative of either shall contact, converse, or otherwise communicate with a juror or potential juror on any subject, whether pertaining to the case or not.

No attorney, party, or representative of either may interrogate a juror after the verdict has been returned without prior approval of the presiding judge. Approval of the presiding judge shall be sought only by application made by counsel orally in open court or upon written motion which states the grounds and the purpose of the interrogation. If a post-verdict interrogation of one or more of the members of the jury is approved, the scope of the interrogation and other appropriate limitations upon the interrogation will be determined by the presiding judge prior to the interrogation.

RULE 54.1 ASSESSMENT OF JURY COSTS

Whenever a civil case which has been set for jury trial is disposed of or settled by the parties, counsel shall immediately inform the chambers of the judge before whom the case is pending. When possible, notice of settlement shall be provided by no later than 3 p.m. on the last full court business day before the date the trial is scheduled. If for any reason attributable to counsel or the parties, including settlement or disposition of the matter, the Court is unable to commence a jury trial as scheduled, and a panel of prospective jurors has reported for service, or a selected jury has reported to hear the case, all costs incurred with respect to the jury, including per diem and mileage, may be assessed by the Court

against all parties equally or against one or more of the parties, if it appears that the party was, or the parties were, responsible for the failure to notify the Court as required, or otherwise caused the Court's inability to proceed.

All money collected as a result of any assessment under this rule shall be paid to the Clerk of Court, who shall promptly remit said money to the Treasury of the United States of America.

RULE 54.2 TAXATION OF COSTS

(*See* 28 U.S.C. §§ 1914, 1920, 1828; Fed. R. Civ. P. 54(d))

Not all trial expenses are taxable as costs. Only those items authorized by law may be taxed as costs. Costs shall be taxed in accordance with Federal Rule of Civil Procedure 54(d) and 28 U.S.C. § 1920.

Federal Rule of Civil Procedure 54(d)(1) provides that costs (other than attorneys' fees) should be allowed to the prevailing party, unless a federal statute, rule, or court order otherwise directs. Rule 54(d)(1) further provides that such costs may be taxed by the Clerk of Court "on 14 days' notice." Opposing counsel will be allowed **14 days** (from the date notice is given by the Clerk) in which to file any objections. If no objections are filed within the 14 day period, the Clerk of Court will tax the appropriate costs. If objections are timely filed, the matter will be reviewed and resolved by the presiding judge.

RULE 54.3 CONTINUANCES

The Court may condition a continuance upon the payment of the expenses caused to the other parties and/or jury fees incurred by the Court.

RULE 55.1 DEFAULT JUDGMENT

(*See* Fed. R. Civ. P. 55)

(a) Entry by Clerk. The Clerk of Court shall enter a default against any party who fails to respond to a complaint, crossclaim, or counterclaim within the time and in the manner provided by Federal Rule of Civil Procedure 12. The serving party shall give notice of the entry of default to the defaulting party by regular mail sent to the last known address of the defaulted party and shall certify to the Court that notice has been sent.

(b) Default Judgment. Any motion for default judgment pursuant to Federal Rule of Civil Procedure 55(b) shall contain a statement that a copy of the motion has been mailed to the last known address of the party from whom default judgment is sought. If the moving party knows, or reasonably should know, the identity of an attorney thought to represent the defaulted party, the motion shall also state that a copy has been mailed to that attorney.

RULE 72.1 ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES
(*See* 28 U.S.C. § 636, *et seq*.; Fed. R. Civ. P. 72, 73)

(a) Automatic References

The Clerk of Court shall refer the following matters to a Magistrate Judge upon filing:

(1) all pretrial motions for hearing and determination in accordance with the provisions of Federal Rule of Civil Procedure 72, with the exception of motions for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss, to remand, to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, to involuntarily dismiss an action, motions in limine regarding evidentiary matters, and for extensions of time with regard to matters pending before a District Judge. Upon entry of a pretrial order, all motions thereafter served shall be submitted to the assigned trial judge;

(2) all so-called "prisoner petitions" (e.g., petitions or complaints filed pursuant to 28 U.S.C. §§ 1331, 2241, and 2254 or 42 U.S.C. § 1983), which are filed by inmates during confinement;

(3) all requests for judicial review of a decision of the Commissioner of Social Security under Section 205(g) of the Social Security Act (42 U.S.C. § 405(g));

(4) all misdemeanor offenses occurring within the Southern District of Illinois which are prosecuted by criminal complaint;

(5) all petty offenses and all offenses involving Central Violations Bureau (CVB), which are offenses occurring on government property or reservations.

(6) all supplemental proceedings to discover assets and aid execution of judgments in civil cases pursuant to Federal Rule of Civil Procedure 69.

(b) Authorized References

With the consent of the parties, a Magistrate Judge is authorized to: (1) conduct voir dire and select petit juries for the District Court; (2) accept guilty pleas in felony cases, order presentence investigation reports, and file reports and recommendations with the District Court.

(c) Selected References

All other civil or criminal matters will be referred by a District Judge to a Magistrate Judge on a case-by-case basis.

RULE 72.2 PROCEDURES BEFORE MAGISTRATE JUDGES
(*See* 28 U.S.C. § 636, *et seq*.; Fed. R. Civ. P. 72, 73)

(a) In General

In performing his or her duties, a Magistrate Judge shall conform to all applicable provisions of federal statutes and rules, to the general procedural rules of this Court, and to the requirements specified in any order of reference from a District Judge. All practice before a Magistrate Judge shall be in accordance with these Local Rules.

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

(1) Notice

The Clerk of Court 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. This notice shall be handed or mailed to plaintiff or his or her representative at the time an action is filed and to other parties as soon as practicable after service upon defendants. Additional notices may be furnished to the parties at later stages of the proceedings and may be included with pretrial notices and instructions.

(2) Execution of Consent

The Clerk of Court shall supply, with the notice, a consent form which may be used by the parties. An executed consent form shall be mailed to the Clerk of Court who will file the form under seal. The executed consent form will be unsealed only if all parties consent to the reference to a Magistrate Judge. No Magistrate Judge, District Judge, or other court official may attempt to persuade or induce any party to consent to the reference of any matter to a Magistrate Judge. This rule shall not preclude a District Judge or Magistrate Judge from informing the parties that they have the option of consenting to a Magistrate Judge.

(3) Reference

If all parties file and execute consent forms agreeing to trial by a Magistrate Judge, the Clerk of Court shall transmit the forms to the District Judge to whom the case has been assigned for approval and referral of the case to a Magistrate Judge. Once the case has been assigned to a Magistrate Judge, the Magistrate Judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the Clerk of Court to enter a final judgment in the same manner as if a District Judge had presided.

RULE 73.1 REVIEW AND APPEAL OF MAGISTRATE JUDGES' ORDERS OR RECOMMENDATIONS

(*See* 28 U.S.C. § 636, *et seq.*; Fed. R. Civ. P. 72, 73)

(a) Appeal of Non-Dispositive Matters - 28 U.S.C. § 636(b)(1)(A)

Any party may appeal a Magistrate Judge's order determining a motion or matter within **14 days** after issuance of the Magistrate Judge's order, unless a different time is prescribed by the Magistrate Judge or a District Judge. The party shall file with the Clerk of Court and serve on all parties a written request for an appeal which shall specifically designate the order or part of the order that the parties wish the Court to reconsider. A District Judge shall reconsider the matter and shall set aside any portion of the Magistrate Judge's order found to be clearly erroneous or contrary to law. A District Judge may also reconsider sua sponte any matter determined by a Magistrate Judge under this rule.

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

Any party may object to a Magistrate Judge's proposed dispositive findings, recommendations, or reports within **14 days** after being served with a copy. The objecting party shall file with the Clerk of Court and serve on all parties written objections which shall specifically identify the portions of the proposed findings, recommendations, or reports to which objection is made and the basis for the objections. Any party may respond to another party's objections within **14 days** after being served with a copy. **Requests for extension of these deadlines are not favored.**

A District Judge shall make a *de novo* determination of those portions of the report or specified proposed 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 may conduct a new hearing, may consider the record developed before the Magistrate Judge, and may make a determination on the basis of that record. The District Judge may also receive further evidence, recall witnesses, or recommit the matter to the Magistrate Judge with instructions.

(c) Special Master Reports - 28 U.S.C. § 636(b)(2)

Any party may seek review of, or action on, a special master report filed by a Magistrate Judge in accordance with the provisions of Federal Rule of Civil Procedure 53(e).

(d) Appeal from Judgments in Misdemeanor Cases – 18 U.S.C. § 3402; Fed. R. Crim. P. 58(g)(2)(B)

A defendant may appeal a judgment of conviction by a Magistrate Judge in a misdemeanor case by filing a notice of appeal with the District Court within **14 days** after entry of the judgment, and by serving a copy of the notice upon the United States Attorney. The scope of the appeal shall be the same as on an appeal from a judgment of the District Court to the Court of Appeals.

(e) Appeal from Judgments in Civil Cases Disposed of on Consent of the Parties - 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), an aggrieved party may appeal directly to the United States Court of Appeals for the Seventh Circuit in the same manner as an appeal from any other judgment of this Court.

RULE 79.1 CUSTODY AND DISPOSITION OF EXHIBITS

(a) During Trial

Unless the presiding judge orders otherwise, exhibits received into evidence at any trial or hearing shall be retained in the custody of the Clerk of Court for the duration of the proceeding.

(b) After Trial

Unless the presiding judge orders otherwise, exhibits shall not be retained by the Clerk of Court at the conclusion of the proceeding, but shall be retained in the custody of the respective attorneys who produced them in court. A detailed receipt shall be given to the Clerk of Court. Any exhibits not so removed may be destroyed or otherwise disposed of as the Clerk of Court may deem appropriate after **30 days** notice to counsel.

(c) Appeal

If an appeal is taken, parties shall make available all of the exhibits in their possession in order to prepare the record on appeal. The attorney who has custody of exhibits shall comply with Rule 10 of the Circuit Rules for the United States Court of Appeals for the Seventh Circuit and must ensure that exhibits to be included in the record which are not in the possession of the Clerk of Court in the district court are furnished to the Clerk of Court in the Seventh Circuit Court of Appeals as set forth in Rule 10.

RULE 80.1 OFFICIAL TRANSCRIPTS
(*See* Fed. R. App. P. 10; 7th Cir. R. 10, 11)

Before producing an official transcript, a court reporter shall obtain a written request on a "Seventh Circuit Transcript Information Sheet" pursuant to Rule 10(b) of the Federal Rules of Appellate Procedure and Rule 10(c) of the Circuit Rules.

The written request shall contain the following pertinent data:

(a) a commitment of the party and his or her attorney to pay;

(b) the commitment of the party and his or her attorney that they will not directly or indirectly furnish the transcript or a copy of it to any other party or attorney in the action; and

(c) any other pertinent matter that is necessary for a clear understanding of the terms of the contract between the court reporter and the ordering party and his or her attorney.

RULE 83.1 ADMISSION OF ATTORNEYS

(a) General Admission of Attorneys

Any attorney licensed to practice law in any state of the United States or the District of Columbia shall be admitted to practice generally in this Court upon payment of a **$200.00** fee as required by law, and:

(1) a written motion of a member in good standing of the bar of this Court including the bar number of the member and all state bar numbers issued to the applicant; or

(2) the attorney's own motion accompanied by a Certificate of Good Standing from a state in which the attorney is licensed together with all state bar numbers issued to the applicant; or

(3) the attorney's own motion accompanied by a copy of the attorney's Certificate of Admission to Practice in the Northern or Central Districts of Illinois together with all state bar numbers issued to the applicant.

(b) *Pro Hac Vice* Admissions

Any attorney licensed to practice law in any state of the United States or the District of Columbia who does not wish to be admitted generally but wishes to be admitted for the purposes of a specific civil or criminal case only may, upon submission of a Motion to Appear *Pro Hac Vice* which contains a verified statement setting forth the state and federal bars of which the movant is a member in good standing, the bar number, if any, issued by each jurisdiction, and the required filing fee of **$100.00** for *pro hac vice* motions, be permitted to appear of record and participate *pro hac vice*.

(c) Government Representation

Any attorney representing any governmental entity, whether federal, state, or municipal, may appear and participate in particular cases in his or her official capacity without the necessity of a motion for admission. The requirements of subparagraph (d) below, concerning nonresident counsel, shall apply.

(d) Non-Resident Counsel

It shall not be necessary for parties appearing by non-resident counsel to retain local counsel to represent them. At any time for good cause, upon the motion of any party, or upon its own motion, the Court may require that a non-resident attorney obtain local counsel to assist in the conduct of the case.

(e) Representation in Cases

In all cases filed in, removed to, or transferred to this Court, all parties, except governmental agencies or those appearing *pro se*, must be represented by a member of the bar of this Court. Service upon such attorney shall constitute service upon all other counsel appearing of record for the party.

Unless otherwise excepted by this rule, pleadings or other documents submitted by a party who is not represented by a member of the bar of this Court shall not be accepted by the Clerk of Court.

(f) Appearances

In all cases filed in, removed to, or transferred to this Court, all attorneys, including government attorneys, shall file a written entry of appearance before addressing the Court.

(g) Withdrawals

An attorney may not withdraw an entry of appearance for a party without leave of court and notice to all parties of record.

(1) Notice to Court

The motion for leave to withdraw shall be in writing and, unless another attorney is substituted, shall state the last known address of the party represented. The Court may deny the motion if granting it would delay the trial of the case or would otherwise be inequitable.

(2) Notice to Parties

Unless another attorney is substituted, a withdrawing attorney must give reasonable notice of the time and place of the presentation of the motion for leave to withdraw to the party being represented at the party's last known business or residential address, by personal service or by certified mail. The notice shall advise the party being represented that he or she should retain other counsel and that within **21 days** of the entry of the order of withdrawal, the party or the new counsel shall file with the Clerk of Court a supplementary appearance that provides an address at which the party and/or the new counsel may receive service of documents related to the case.

If the motion for withdrawal is granted, the withdrawing attorney shall serve a copy of the order of withdrawal within **7 days** upon all counsel of record and upon unrepresented parties.

(h) Conduct

Conduct of attorneys admitted to practice in this Court is controlled by Local Rule 83.2.

(i) Duty of Attorneys to Accept Appointments

In testimonial proceedings arising out of matters pending before this Court, every member of the bar of this Court, as defined in subparagraph (a) of this rule, shall be available for appointment by the Court to represent or assist in the representation of those who cannot afford to hire an attorney. Appointments shall be made in such a manner that no member of the bar of this Court shall be required to accept more than one appointment during any twelve month period.

(j) Representation by Supervised Senior Law Students

A student in a law school who has been certified to render services pursuant to Illinois Supreme Court Rule 711 may, upon approval of the judge before whom the case is pending, perform such services in this Court as allowed by Rule 711 while under the supervision of an attorney authorized to practice in this Court. In addition to the agencies specified in paragraph (b) of Rule 711, the law school student may render services with the United States Attorney for this district, the legal staff of any agency of the United States government, or the Federal Public Defender for this district including any of its staff or panel attorneys.

(k) Registration Fee

When a fee is collected from an attorney for general admission to practice in this Court, the amount of $50.00 shall be retained by the Clerk of Court for use as set forth in this Court's *Plan for the Administration of the District Court Fund*. The balance of the fee collected from every general attorney admission shall be paid to the Treasury of the United States. The entire fee collected from a *pro hac vice* admission shall be retained by the Clerk of Court for use as set forth in this Court's *Plan for the Administration of the District Court Fund*.

RULE 83.2 CONDUCT OF ATTORNEYS

The Court, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys admitted to practice before it, promulgates the following Rules of Disciplinary Enforcement superseding all of its other rules pertaining to disciplinary enforcement.

(a) For misconduct defined in these rules and for good cause shown, after notice and opportunity to be heard, any attorney admitted to practice before this Court may be disbarred, suspended from practice before this Court, reprimanded, or subjected to other disciplinary action as the circumstances may warrant.

(b) Acts or omissions by an attorney admitted to practice before this Court, individually or in concert with any other person or persons, which violate the Rules of Professional Conduct adopted by this Court shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship. The Rules of Professional Conduct adopted by this Court are the Rules of Professional Conduct adopted by the Supreme Court of Illinois as amended from time to time, except as otherwise provided by specific rule of this Court.

(c) Whenever an attorney applies to be admitted or is admitted to this Court for purposes of a particular proceeding (*pro hac vice*), the attorney shall be deemed to have conferred disciplinary jurisdiction upon this Court for any

alleged misconduct of that attorney arising in the course of, or in the preparation for, such proceeding.

RULE 83.3 DISCIPLINARY ENFORCEMENT

(a) Disciplinary Proceedings

(1) When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court shall come to the attention of a District Judge or Magistrate Judge, whether by complaint or otherwise, and the applicable procedure is not otherwise mandated by these rules, he or she shall refer the matter to counsel for investigation and the prosecution of a formal disciplinary proceeding or the formulation of such other recommendation as may be appropriate.

(2) Should counsel conclude after investigation and review that a formal disciplinary proceeding should not be initiated against the respondent-attorney because sufficient evidence is not present, or because there is pending another proceeding against the respondent-attorney, the disposition of which, in the judgment of the counsel, should be awaited before further action by this Court is considered, or for any other valid reason, counsel shall file with the Court a recommendation for disposition of the matter, whether by dismissal, admonition, deferral, or otherwise, and set forth the reasons for his or her recommendation.

(3) To initiate formal disciplinary proceedings, counsel shall obtain an Order of this Court, upon a showing of probable cause, requiring the respondent-attorney to show cause within **30 days** after service of that order upon that attorney, personally or by mail, why the respondent-attorney should not be disciplined.

(4) Upon the respondent-attorney's answer to the order to show cause, if any issue of fact is raised or the respondent-attorney wishes to be heard in mitigation, this Court shall set the matter for prompt hearing before one or more judges of this Court, provided, however, that if the disciplinary proceeding is predicated upon the complaint of a judge of this Court, the hearing shall be conducted before one or more other judges of this Court appointed by the Chief Judge.

(5) Criminal Contempt. Notwithstanding any other provision of these rules, a District Judge may summarily punish a person who commits criminal contempt in its presence if he or she saw or heard the contemptuous conduct and so certifies; a Magistrate Judge may summarily punish a person as provided in 28 U.S.C. § 636(e). The contempt order must recite the facts, be signed by the Judge, and be filed with the Clerk of Court. (*See* Fed. R. Crim. P. 42(b); 28 U.S.C. § 1784.) If the misconduct has occurred outside the actual presence of the Court or where time is not of the essence, the provisions of Federal Rule of Criminal Procedure 42(a) may be applied.

(6) Service of Paper and Other Notices. Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the

respondent-attorney at the address shown in the most recent registration on file. Service of any other papers or notices required by these rules shall be deemed to have been made if such paper or notice is addressed to the respondent-attorney at the address shown on the most recent registration on file or to the respondent's attorney at the address indicated in the most recent pleading or other document filed in the course of any proceeding.

(7) Appointment of Counsel: Whenever counsel is to be appointed pursuant to these rules to investigate allegations of misconduct or prosecute disciplinary proceedings or in conjunction with a reinstatement petition filed by a disciplined attorney, this Court shall appoint as counsel one or more members of the bar of this Court to investigate allegations of misconduct or to prosecute disciplinary proceedings under these rules, provided, however, that the respondent-attorney may move to disqualify an attorney so appointed who is or has been engaged as an adversary of the respondent-attorney in any matter. Counsel, once appointed, may not resign unless permission to do so is given by this Court.

(8) Payment of Fees and Costs. At the conclusion of any disciplinary investigation and prosecution, if any, under these rules, counsel may make application to this Court for an order awarding reasonable fees and reimbursing costs expended in the course of such disciplinary action or prosecution. Any such order shall be submitted to the Chief Judge, who may order payment of such amounts from the funds collected pursuant to Rule 83.1(k), as he or she may deem reasonable and just under the circumstances of each case.

(b) Attorneys Convicted of Crimes

(1) Upon the filing with the Court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the Court has been convicted of a serious crime, as hereinafter defined, in any court of the United States, the District of Columbia, or any state, territory, commonwealth, or possession of the United States, the Court shall immediately enter an order suspending that attorney, whether the conviction resulted from a plea of guilty or nolo contendere, from a verdict after trial or otherwise, regardless of the pendency of any appeal. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the Court may set aside such order when it appears to be in the interest of justice to do so.

(2) The term "serious crime" shall include any felony and any lesser crime, a necessary element of which, as determined by the statutory or common law definition of the crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime."

(3) A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in

any disciplinary proceeding instituted against that attorney based upon the conviction.

(4) Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall, in addition to suspending that attorney in accordance with the provisions of this rule, also refer the matter to counsel for the institution of a disciplinary proceeding in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

(5) Upon the filing of a certified copy of a judgment of conviction of an attorney for a serious crime, the Court shall, in addition to suspending that attorney in accordance with the provisions of this rule, also refer the matter to counsel for the institution of a disciplinary proceeding before the Court in which the sole issue to be determined shall be the extent of the final discipline to be imposed as a result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted will not be brought to final hearing until all appeals from the conviction are concluded.

Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a “serious crime,” the Court may refer the matter to counsel for whatever action counsel may deem warranted, including the institution of a disciplinary proceeding in accordance with Rule 83.3(a), provided, however, that the Court may in its discretion make no reference with respect to convictions for minor offenses.

(6) An attorney suspended under the provisions of this rule will be reinstated immediately upon the filing of proof demonstrating that the underlying conviction of a serious crime has been reversed, but the reinstatement will not terminate any disciplinary proceeding brought in accordance with Rule 83.3(a) then pending against the attorney, the disposition of which shall be determined by the Court on the basis of all available evidence pertaining to both guilt and the extent of discipline to be imposed.

(c) Discipline Imposed by Other Court

(1) Any attorney admitted to practice before this Court shall, upon being subjected to public discipline by any other court of the United States or the District of Columbia, or by a court of any state, territory, commonwealth, or possession of the United States, promptly inform the Clerk of Court.

(2) Upon the filing of a certified copy of a judgment or order demonstrating that an attorney admitted to practice before this Court has been disciplined by another court, this Court shall forthwith issue a notice directed to the attorney containing:

(i) a copy of the judgment or order from the other court; and

(ii) an order to show cause directing that the attorney inform this Court within **30 days** after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in (4) below that the imposition of the identical discipline by the Court would be unwarranted and the reasons why.

(3) In the event the discipline imposed in the other jurisdiction has been stayed there, any reciprocal discipline imposed by this Court shall be deferred until the stay expires.

(4) Upon the expiration of **30 days** from service of the notice issued pursuant to the provisions of (2) above, this Court shall impose the identical discipline unless the respondent-attorney demonstrates, or this Court finds, that upon the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:

(A) that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(B) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that this Court could not, consistent with its duty, accept as final the conclusion on that subject; or

(C) that the imposition of the same discipline by this Court would result in grave injustice; or

(D) that the misconduct established is deemed by this Court to warrant substantially different discipline. Where this Court determines that any of said elements exist, it shall enter such other order as it deems appropriate.

(5) In all other respects, a final adjudication in another court that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this Court.

(6) The Court may at any stage appoint counsel to prosecute the disciplinary proceedings.

(d) Disbarment on Consent or Resignation in Other Court

(1) Any attorney admitted to practice before this Court who shall be disciplined on consent or resign from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth, or possession of the United States while an investigation into allegations of misconduct is pending, shall, upon the filing with this Court of a certified copy of the judgment or order accepting such discipline on consent or resignation, be subject to the same action by this Court.

(2) Any attorney admitted to practice before this Court shall, upon being disciplined on consent or resigning from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth, or possession of the United States

while an investigation into allegations of misconduct is pending, promptly inform the Clerk of Court of such discipline on consent or resignation.

(e) Disbarment on Consent While Under Disciplinary Investigation or Prosecution

(1) Any attorney admitted to practice before this Court who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct, may consent to discipline, but only by delivering to this Court an affidavit stating that the attorney desires to consent to such discipline and that:

(A) the attorney's consent is freely and voluntarily rendered, the attorney is not being subjected to coercion or duress, and the attorney is fully aware of the implications of consenting;

(B) the attorney is aware that there is a pending investigation or proceeding involving allegations that there exist grounds for the attorney's discipline, the nature of which the attorney shall specifically set forth;

(C) the attorney acknowledges that the material facts so alleged are true; and

(D) the attorney so consents because the attorney knows that if the charges were predicated upon the matters under investigation, or if the proceedings were prosecuted, the attorney could not successfully defend himself.

(2) Upon receipt of the required affidavit, this Court shall enter an order of such discipline.

(3) The order disciplining the attorney on consent shall be a matter of public record. However, the affidavit required under the provisions of this rule shall not be publicly disclosed or made available for use in any other proceeding except upon Order of this Court.

(f) Duties of the Clerk of Court

(1) Upon being informed that an attorney admitted to practice in this Court has been convicted of any crime, the Clerk of Court shall determine whether the court in which such conviction occurred has forwarded a certificate of the conviction. If a certificate has not been so forwarded, the Clerk of Court shall promptly obtain the certificate.

(2) Upon being informed that an attorney admitted to practice in this Court has been subjected to discipline by another court, the Clerk of Court shall determine whether a certified copy of the judgment or order has been filed with this Court, and, if not, the Clerk of Court shall promptly obtain the judgment or order.

(3) Whenever it appears that any person convicted of a crime or disbarred, suspended, censured, or disciplined on consent by this Court is admitted to practice law in any other jurisdiction or before any other court, the Clerk of Court shall, within **14 days** of that conviction,

disbarment, suspension, censure, or discipline on consent, transmit to the disciplinary authority in such other jurisdiction or court, a certificate of the conviction or a certified copy of the judgment or order of disbarment, suspension, censure, or discipline on consent, as well as the last known office and residence addresses of the defendant or respondent.

(4) The Clerk of Court shall likewise promptly notify the National Discipline Data Bank operated by the American Bar Association of any order imposing public discipline upon any attorney to practice before this Court.

(g) Jurisdiction

Nothing contained in these rules shall be construed to deny to this Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure.

RULE 83.4 REINSTATEMENT OF ATTORNEYS

(a) After Disbarment or Suspension

An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon filing with the Clerk of Court an affidavit of compliance with the provisions of the order suspending him or her. An attorney suspended for more than three months or disbarred may not resume practice until reinstated by Order of this Court.

(b) Time of Application Following Disbarment

A person who has been disbarred after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

(c) Hearing on Application

Petitions for reinstatement by a disbarred or suspended attorney under this rule shall be filed with the Chief Judge. Upon receipt of the petition, the Chief Judge shall promptly refer the petition to counsel and shall assign the matter for prompt hearing before one or more judges of this Court, provided, however, that if the disciplinary proceeding was predicated upon the complaint of a judge of this Court, the hearing shall be conducted before a panel of the remaining judges of this Court appointed by the Chief Judge. The judge or judges assigned to the matter shall, within **30 days** after referral, schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications, competency, and learning in the law required for admission to practice law before this Court and that his or her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice or subversive of the public interest.

(d) Duty of Counsel

In all proceedings upon a petition for reinstatement, cross-examination of the witnesses of the respondent-attorney and the submission of evidence, if any, in opposition to the petition shall be conducted by counsel.

(e) Deposit for Costs of Proceeding

Petitions for reinstatement under this rule shall be accompanied by an advance cost deposit in an amount to be set by the Court to cover anticipated costs of the reinstatement proceeding.

(f) Conditions of Reinstatement

If the petitioner is found unfit to resume the practice of law, the petition shall be dismissed. If the petitioner is found fit to resume the practice of law, the judgment shall reinstate him or her, provided that the judgment may make reinstatement conditional upon the payment of all or part of the costs of the proceedings and upon the making of partial or complete restitution to parties harmed by the petitioner whose conduct led to the suspension or disbarment. If the petitioner has been suspended or disbarred for five years or more, reinstatement may be conditioned, in the discretion of the judge or judges before whom the matter is heard, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

(g) Successive Petitions

No petition for reinstatement under this rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

RULE 83.5 AUDIO-VISUAL REPRODUCTIONS OF JUDICIAL PROCEEDINGS PROHIBITED

(*See* FED. R. CRIM. P. 53; 18 U.S.C. § 1508; 7th Cir. R. 55)

Unless otherwise authorized by Order of this Court, the taking of photographs, sound recordings (except by the official court reporters in the performance of their duties), and broadcasting by radio, television, or other means, in connection with any judicial proceeding on or from the same floor on which a courtroom is located is prohibited.

RULE 83.6 FAIR TRIAL, FREE PRESS

(*See* Fed. R. Crim. P. 6, 12.1, 16, 32, 53; 18 U.S.C. § 3322; 28 U.S.C. §§ 566, 751, 753, 755, 956)

(a) Duties of Lawyers

It is the duty of the lawyer not to release or authorize the release of information or opinion for dissemination by any means of public communication, in connection with pending or imminent criminal litigation with which he or she is associated, if there is a reasonable likelihood that such dissemination will interfere with a fair trial or otherwise prejudice the due administration of justice. With respect to a grand jury or other pending investigation of

any criminal matter, a lawyer participating in the investigation shall refrain from making any extrajudicial statement for dissemination by any means of public communication that goes beyond the public record or that is not necessary to inform the public that the investigation is underway, to describe the general scope of the investigation, to obtain assistance in the apprehension of a suspect, to warn the public of any dangers, or otherwise to aid in the investigation.

From the time of arrest, issuance of an arrest warrant, or the filing of a complaint, information, or indictment in any criminal matter until the commencement of trial or disposition without trial, a lawyer associated with the prosecution or defense shall not release or authorize the release of any extrajudicial statement for dissemination by any means of public communication relating to that matter and concerning:

(1) the prior criminal record (including arrests, indictments, or other charges of crime) or the character or reputation of the accused, except that the lawyer may make a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, a lawyer associated with the prosecution may release any information necessary to aid in his or her apprehension or to warn the public of any dangers he or she may present;

(2) the existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement;

(3) the performance of any examinations or tests or the accused's refusal or failure to submit to an examination or test;

(4) the identity, testimony, or credibility of prospective witnesses, except that the lawyer may announce the identity of the victim if the announcement is not otherwise prohibited by law;

(5) the possibility of a plea of guilty or innocence or as to the merits of the case or the evidence in the case; or

(6) any opinion as to the accused's guilt or innocence or as to the merits of the case or the evidence in the case.

A lawyer may inform the public of developments in a case such as indictments and arrests, and communicate to the public the particulars of such matters. Additionally, a lawyer may inform the public that a hearing or trial has been scheduled and that his or her client pleads not guilty. During the trial of any criminal matter, including the period of selection of the jury, no lawyer associated with the prosecution or defense shall give or authorize any extrajudicial statement or interview relating to the trial or the parties or issues in the trial for dissemination by any means of public communication, except that the lawyer may quote from, or refer without comment to, public records in the case.

After the completion of a trial or disposition without trial of any criminal matter and prior to the imposition of sentence, a lawyer associated with the prosecution or defense shall refrain from making or authorizing any extrajudicial statement for dissemination by any means of public communication if there is a reasonable likelihood that such dissemination will affect the imposition of sentence.

Nothing in this rule is intended to preclude the formulation or application of more restrictive rules relating to the release of information about juvenile or other offenders, to preclude the holding of hearings or the lawful issuance of reports by legislative, administrative, or investigative bodies, or to preclude any lawyer from replying to charges of misconduct that are publicly made against him or her.

(b) Duties of Court Personnel

No personnel connected in any way with this Court or its operation, including, among others, marshals, deputy marshals, deputy clerks, bailiffs, secretaries, and court reporters, shall disclose to any person, without specific authorization by the presiding judge, any information relating to a pending criminal or civil case that is not a part of the public record. This prohibition applies specifically to the divulgence of information concerning arguments and hearings held in chambers or otherwise outside the presence of the public.

(c) Special Order in Certain Cases

In a widely publicized or sensational case, the Court, on motion of either party or on its own motion, may issue a special order governing such matters as extrajudicial statements by parties and witnesses which might interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such an order.

(d) Specific Directives or Orders of the Court May Include:

(1) directives regarding the clearing of entrances to and hallways in a courthouse and respecting the management of the jury and witnesses during the course of the trial to avoid their mingling with or being in the proximity of reporters, photographers, parties, lawyers, and others, both in entering and leaving the courtroom and courthouse, and during recesses in the trial;

(2) a specific directive that the jurors refrain from reading, listening to, or watching news reports concerning the case, and that they similarly refrain from discussing the case with anyone during the trial and from communicating with others in any manner during their deliberations;

(3) sequestration of the jury on motion of any party or the Court, without disclosure of the identity of the movant;

(4) directive that the names and addresses of the jurors or prospective jurors not be publicly released, except as required by statute, and that no photographs be taken or sketch made of any juror within the environs of the Court;

(5) insulation of witnesses from news interviews during the trial period; and

(6) specific provisions regarding the seating of spectators and representatives of news media.

RULE 83.7 DEATH PENALTY CASES
(*See* 28 U.S.C. § 2261, *et seq.*)

(a) Operation, Scope, and Priority

(1) This rule applies to post-conviction proceedings in all cases involving persons under sentence of capital punishment.

(2) The District Judge to whom a case is assigned will handle all matters pertaining to the case, including certificates of appealability, stays of execution, consideration of the merits, second or successive petitions when authorized by the Court of Appeals under 28 U.S.C. §§ 2244(b)(3), 2255 ¶8, remands from the Court of Appeals or Supreme Court of the United States, and associated procedural matters. This rule does not limit a District Judge's discretion to designate a Magistrate Judge, under 28 U.S.C. § 636, to perform appropriate tasks. An emergency judge may act when the designated District Judge is unavailable.

(3) The District Judge must give priority to cases within the scope of this rule, using the time limitations in 28 U.S.C. § 2266(b) as a guideline when that section is not directly applicable.

(4) The District Judge may make changes in the procedures established by this rule when justice so requires.

(b) Notices and Required Documents

(1) A petition or motion within the scope of this rule must:

(A) include all possible grounds for relief;
(B) inform the Court of the execution date, if one has been set; and
(C) in an action under 28 U.S.C. § 2254, inform the Court how each issue raised was presented to the state tribunal and, if it was not presented, why the contention nonetheless should be treated as (i) exhausted, and (ii) not forfeited.

(2) As soon as a case is assigned to a District Judge, the Clerk of Court must notify by telephone the District Judge, counsel for the parties, and the representatives designated under the next subsection. The Clerk of Court also must inform counsel of the appropriate procedures and telephone numbers for emergency after-hours motions.

(3) The Attorney General of states with persons under sentence of death and the United States Attorneys of districts with persons under sentence of death must designate representatives to receive notices in capital cases in addition to, or in lieu of, the government's assigned counsel, and must keep the Court informed about the office and home telephone numbers of the designated representatives.

(4) The Clerk of Court in the district court must notify the Clerk of Court in the Seventh Circuit Court of Appeals of the filing of a case within the scope of this rule, of any substantial development in the case, and of the filing of a notice of appeal. In all cases within the scope of this rule, the Clerk of Court in the district court must immediately transmit

the record to the Court of Appeals following the filing of a notice of appeal. A supplemental record may be sent later if items are not currently available.

(5) Promptly after the filing of a case within the scope of this rule, the Clerk of Court must furnish to petitioner or movant a copy of this rule, together with copies of Federal Rule of Appellate Procedure 22 and Seventh Circuit Rules 22 and 22.2.

(6) In all cases within the scope of this rule, the petitioner or movant must file, within **10 days** after filing the petition or motion, legible copies of the documents listed below:

(A) copies of all state or federal court opinions, memorandum decisions, orders (if a decision or opinion has been published, a citation may be supplied in lieu of a copy), transcripts of oral statements of reasons, and judgments involving any issue presented by the petition or motion, whether these decisions or opinions were rendered by trial or appellate courts, on direct or collateral review;

(B) copies of prior petitions or motions filed in state or federal court challenging the same conviction or sentence;

(C) if a prior petition has been filed in federal court, either (i) a copy of an Order issued by the Court of Appeals under 28 U.S.C. § 2244(b)(3) or § 2255 ¶8 permitting a second or successive collateral attack, or (ii) an explanation why prior approval of the Court of Appeals is not required; and

(D) any other documents that the presiding judge requests.

If a required document is not filed, the petitioner or movant must explain the omission to the Court.

(c) Preliminary Consideration

(1) The District Judge will promptly examine a petition or motion within the scope of this rule and, if appropriate, order the respondent to file an answer or other pleading or take such other action as he or she deems appropriate.

(2) If the District Judge determines that the petition or motion is a second or successive collateral attack for which prior approval of the Court of Appeals was required but not obtained, he or she will immediately dismiss the case for want of jurisdiction.

(3) If the Court of Appeals granted leave to file a second or successive collateral attack, the District Judge must promptly determine in writing whether 28 U.S.C. § 2244(b)(4) has been satisfied.

(d) Appointment of Counsel

Pursuant to 18 U.S.C. § 3006A, 21 U.S.C. § 848(q), 28 U.S.C. § 2254(h), and 28 U.S.C. § 2255 ¶7, counsel will be appointed for any person under a sentence of death who is

financially unable to obtain representation, requests that counsel be appointed, and does not already have counsel appointed by a state under 28 U.S.C. § 2261.

(e) Stay of Execution

(1) A stay of execution is granted automatically in some cases and forbidden in others by 28 U.S.C. § 2262. All requests with respect to stays of execution over which the Court possesses discretion, or in which any party contends that § 2262 has not been followed, must be made by motion under this rule.

(2) Parties must endeavor to file motions with the Court in writing and during normal business hours. Parties having emergency motions during nonbusiness hours must proceed as instructed under part (b)(2).

(3) A motion must be accompanied by legible copies of the documents required by part (b)(6), unless these documents have already been filed with the Clerk of Court or the movant supplies a reason for their omission. If the reason is lack of time to obtain or file the documents, then the movant must furnish them as soon as possible.

(4) If the attorney for the government has no objection to the motion for stay, the Court must enter an order staying the execution.

(5) If the District Judge concludes that an initial petition or motion is not frivolous, a stay of execution must be granted.

(6) An order granting or denying a stay of execution must be accompanied by a statement of the reasons for the decision.

(7) If the District Court denies relief on the merits and an appeal is taken, then:

(A) if the Judge denies a certificate of appealability, any previously issued stay must be vacated, and no new stay of execution may be entered; but

(B) if the Judge issues a certificate of appealability, a stay of execution pending appeal must be granted.

(f) List of Cases

The Clerk of Court will maintain a list of cases within the scope of this rule.

APPENDIX A
CRIMINAL RULES

Cr32.1 CONFIDENTIAL PROBATION RECORDS
(*See* Fed. R. Crim. P. 32; 18 U.S.C. § 3552)

(a) Presentence Interview

The attorney for defendant will receive notice and a reasonable opportunity to attend any presentence investigation interview by the probation officer with defendant. Defense counsel has the burden of responding as promptly as possible to enable timely completion of the presentence report. If an undue delay is caused by defense counsel's unavailability, the probation officer will consult with the Court about proceeding with the interview without counsel.

(b) Presentence Report

The presentence report shall be mailed or otherwise provided to defendant's attorney and the attorney for the government at least **35 days** prior to the sentencing hearing in accordance with Federal Rule of Criminal Procedure 32. Defendant may waive the 35 day disclosure rule. The attorney for the government, attorney for defendant, and defendant shall acknowledge receipt of the presentence report on the Probation Form which is provided with the presentence report. The parties shall indicate whether the report is acceptable or that there are objections to the report. The Probation Form shall be filed with the Clerk of Court within **14 days** after receiving the presentence report. The Clerk of Court will provide a file-marked copy to the Probation Office.

Either party wishing to file objections to the presentence report must do so with the Clerk of Court within **14 days** after receiving the presentence report. The party filing objections must provide a copy to the Probation Office and opposing party. All responses to the objections must be served on the opposing party and the Probation Office within **7 days** of receipt of objections unless directed otherwise by the Court. The probation officer must submit the presentence report to the Court no later than **7 days** prior to disposition. The probation officer will also submit to the Court an addendum setting forth any unresolved objections and the officer's response to the objections. At the same time, the officer will furnish to defendant and counsel for both parties the revisions of the presentence report and the addendum. The probation officer's recommendation shall not be disclosed to either party and shall be sealed separate from the presentence report following disposition.

(c) Stipulation of Facts (Guilty Plea)

Counsel for defendant and the attorney for the government may submit a written stipulation of facts pursuant to U.S.C.G. § 6B.1 that accompanies the plea agreement.

(d) Submission of Offense Conduct

The attorney for defendant and the attorney for the government may each file, with the Clerk of Court, a written version of the offense conduct not more than **14 days** after a guilty verdict. Each attorney shall provide a copy of his/her version to opposing counsel and to the Probation Office.

(e) Subpoena of Records and Testimony

When probation records, presentence reports, or testimony by a probation officer are requested by subpoena or other judicial process, the probation officer shall file a petition seeking instruction from the sentencing court for such disclosure. No disclosure will be authorized except upon an order issued by the sentencing court.

Cr50.1 DISPOSITION OF CRIMINAL CASES; SPEEDY TRIAL
(*See* Fed. R. Crim. P. 50; 18 U.S.C. § 3161, *et seq.*; 18 U.S.C. §§ 5036, 5037)

The disposition of criminal cases shall be handled and disposed of in accordance with the District's "*Plan for Achieving Prompt Disposition of Criminal Cases*."

The "*Plan for Achieving Prompt Disposition of Criminal Cases*," also called the Speedy Trial Plan, places special requirements on both the government and defendant regarding time which may be excluded from the time allowed by the Speedy Trial Plan, including an obligation for both parties to review the Clerk of Court's records of excusable time for completeness and accuracy.

The Clerk of Court shall enter judicial determinations of excusable time on the docket and in such other records as the Court may direct.

APPENDIX B
BANKRUPTCY CASES AND PROCEEDINGS

(*See* 28 U.S.C. § 157, 28 U.S.C. § 158, *et seq.*; 28 U.S.C. §§ 1334(c), 1452(b), 1412)

Br1001.1 MATTERS DETERMINED BY THE BANKRUPTCY JUDGES

All cases under Title 11 of the United States Code, and any or all proceedings arising under Title 11 or arising in or related to a case under Title 11, are referred to the Bankruptcy Judge.

It is the intention of this Court that the Bankruptcy Judges be given the broadest possible authority to administer cases properly within their jurisdiction, and this rule shall be interpreted to achieve this end.

Motions for abstention, 28 U.S.C. § 1334(c); remand, 28 U.S.C. § 1452(b); transfer of venue, 28 U.S.C. § 157(b)(5); change of venue, 28 U.S.C. § 1412; withdrawal of reference, 28 U.S.C. § 157(d); and removal of cases under 28 U.S.C. § 1452(a) shall be filed with the Clerk of the Bankruptcy Court.

Br9015.1 JURY TRIAL

If the right to a jury trial applies in a proceeding that may be heard under Section 157 of Title 28, United States Code, by a Bankruptcy Judge, the Bankruptcy Judge for the Southern District of Illinois, as well as those Bankruptcy Judges sitting in this district by designation of the Circuit Council, are hereby specially designated to exercise such jurisdiction.

Br9029.1 ADOPTION OF LOCAL BANKRUPTCY RULES

The rules governing practice and procedure in all cases and proceedings within the District Court's bankruptcy jurisdiction shall be the Local Rules of the United States Bankruptcy Court for the Southern District of Illinois, adopted by Administrative Order in the District Court on February 1, 1989, in their present form or as amended or supplemented by the United States Bankruptcy Court in this District.

NOTE: FORMS REFERENCED IN THESE LOCAL RULES ARE AVAILABLE FREE OF CHARGE FROM THE DISTRICT COURT'S WEBSITE AT WWW.ILSD.USCOURTS.GOV OR FROM THE CLERK'S OFFICE FOR A FEE.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

Plaintiff,	)	
vs.	)	**CIVIL NO.**
Defendant.	)	

ENTRY OF APPEARANCE

To the Clerk of Court and all parties of record:

I hereby enter my appearance as counsel for

DATED:

_____
Signature

_____
Name

_____
Address

_____
Phone Number

_____
Fax Number

_____
E-Mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

Plaintiff(s),	)	
vs.	)	**CIVIL NO.**
	)	**CJRA TRACK:**
	)	**PRESUMPTIVE TRIAL MONTH:**
Defendant(s).	)	**JUDGE:**

UNIFORM TRIAL PRACTICE AND PROCEDURES

In conformity with the Civil Justice Reform Act of 1990 and in compliance with the Civil Justice Expenses and Delay Reduction Plan adopted by this Court, the following uniform procedures will apply to all civil cases filed in the Southern District of Illinois.

Scheduling Practice

Trial settings and other scheduling will vary depending on the track classification which was assigned to the case at the time of filing by the trial judge to whom the case is assigned. There are four tracks: “A,” “B,” “C,” and “D.” “A” cases are set for trial between 8-10 months after the date of first appearance of a defendant or the default date; “B” cases 11-14 months after the date of first appearance of a defendant or the default date; “C” cases 15-18 months after the date of first appearance of a defendant or the default date; and “D” cases 19-24 months after the date of first appearance of a defendant or the default date.

Except in cases exempted under SDIL-LR 26.1(a), the attorneys (and any unrepresented parties) must meet in accordance with SDIL-LR 16.2(a) at least **21 days** before any scheduling conference set by the Court to candidly discuss the issues in the case and potential discovery needs. Fed. R. Civ. P. 26(f). Within **14 days** after this meeting, and at least **7 days** before the date of the scheduling conference, the participants must submit a Joint Report of the Parties and Proposed Scheduling Order to the Magistrate Judge.

All track "B," "C,” and “D” cases will be set for a scheduling and discovery conference before a Magistrate Judge within **40 days** after the track has been set by the District Judge. The scheduling conference may be canceled at the discretion of the Court following receipt of the Joint Report of the Parties regarding their initial meeting. The Magistrate Judge may approve the parties' Joint Report of Parties and Proposed Scheduling and Discovery Order, or enter a separate scheduling order, as circumstances require.

A final pretrial conference will be held by the trial judge at least **7 days** prior to the first day of the presumptive trial month. The parties shall confer and jointly submit a Final Pretrial Order **3 days** before the date of the final pretrial conference unless otherwise directed by the presiding judge.

Disclosures and Discovery Practice

Except in cases exempted under SDIL-LR 26.1, the parties shall comply with the initial disclosure requirements of Federal Rule of Civil Procedure 26(a). These disclosures must be supplemented by the parties, depending on the nature of the case and any limitations

placed on discovery at the scheduling conference. The disclosures and supplementation are not to be filed with the Clerk of Court.

A party may not seek discovery from another source until: (a) the party seeking discovery has made its initial disclosures as required by Federal Rule of Civil Procedure 26(a), and, further, (b) the parties have met and conferred as required by SDIL-LR 16.2(a).

A party may not seek discovery from another party before such disclosures have been made by, or are due from, such other party. The cut-off date for all discovery, including experts and third parties, shall not be later than **115 days** prior to the first day of the month of the presumptive trial date. Disclosure of experts and discovery with reference to experts and other discovery dates will be set according to the Joint Report of the Parties following their initial meeting or at the scheduling and discovery conference before the Magistrate Judge.

Motion Practice

Motions to remand, to dismiss, for judgment on the pleadings, for summary judgment, and all post-trial motions shall be supported by a brief and filed with the Clerk of Court. Any adverse party shall have **30 days** after the service of the movant's brief in which to file and serve an answering brief.

Briefs shall be no longer than 20 double-spaced typewritten pages, 12 point font. Reply briefs, if any, shall be filed within **14 days** of the service of a response and shall be no longer than **5 pages**. Such briefs are not favored and should be filed only in exceptional circumstances. Under no circumstances will sur-reply briefs be accepted. If a party believes it is necessary to supplement its brief with new authority due to a change in the law or the facts that occurred after the filing of its brief, the party must seek leave of court to file a supplemental brief. The supplemental authority shall be filed in accordance with the supplemental authority provisions found in Federal Rule of Appellate Procedure 28(j).

For all motions other than those listed above, a supporting brief is not required. A party opposing such a motion shall have **14 days** after service to file a written response. Failure to file a timely response to a motion may, in the Court's discretion, be considered an admission of the merits of the motion. A reply, if any, shall be filed within **7 days** of the service of the response.

A party may not schedule or notice a hearing or oral argument on a pending motion. Any party desiring oral argument on a motion shall file a formal motion and state the reason why oral argument is requested. Any motion may be either (1) scheduled by the Court for oral argument at a specified time; (2) scheduled for determination by telephone conference call; (3) referred to a United States Magistrate Judge for determination or recommendation; or (4) determined upon the pleadings and the motions without benefit of oral argument.

FOR THE COURT:

NANCY J. ROSENSTENGEL
CLERK OF COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

Plaintiff(s),	)	
vs.	)	**CIVIL NO.**
	)	**CJRA TRACK:**
	)	**PRESUMPTIVE TRIAL MONTH:**
Defendant(s).	)	**JUDGE:**

NOTICE TO COUNSEL

Pursuant to SDIL-LR 16.1, the above-styled cause has been assigned as a "Track _____" case. Therefore, you are hereby placed on notice that a presumptive trial month has been set as indicated above. Pursuant to SDIL-LR 16.2(a) and Federal Rule of Civil Procedure 26(f), an initial pretrial scheduling and discovery conference is hereby set before:

Honorable _____,
Courtroom_____,
Date and Time_____.

The purposes of this conference are:

(1) To discuss the Joint Report of the Parties as to the proposed discovery plan;
(2) To discuss the possibility of settlement;
(3) To discuss the possibility of using a voluntary alternative dispute resolution device (e.g., mediation, arbitration, summary jury trial, mini-trial) to resolve the dispute;
(4) To discuss the complexity of the case and, if it is tried, the approximate number of days necessary to complete the testimony;
(5) To confirm the presumptive date for the trial (see SDIL-LR 16.1(a));
(6) To set a cut-off date for completion of all discovery including experts' discovery (or in the case of extraordinarily complex cases, the cut-off date for completion of core discovery), which date shall be no later than **115 days** before the first day of the month of the presumptive trial date;
(7) To establish a plan for the management of discovery in the case, including any limitations on the use of the various discovery devices that may be agreed to by the parties or ordered by the judicial officer presiding over the conference;
(8) To formulate, simplify, and narrow the issues;
(9) To discuss and set deadlines for amendments to the pleadings, including the filing of third-party complaints, which deadline shall be no later than **90 days** following this conference;
(10) To discuss the filing of potential motions and a schedule for their disposition, including the cut-off date for filing dispositive motions;
(11) To set the approximate date of the settlement conference (see SDIL-LR 16.3(b));
(12) To set the approximate date of the final pretrial conference (see SDIL-LR 16.2(b));
(13) To consider the advisability of referring various matters to a Magistrate Judge or a Special Master;

(14) To discuss the advisability of one or more additional case management conferences prior to the final pretrial conference; and

(15) To cover any other procedural issues that the judicial officer hearing the case determines to be appropriate for the fair and efficient management of the litigation.

The Joint Report of Parties and Proposed Scheduling and Discovery Order, consented to and signed by each party or by an attorney of record, at the discretion of the assigned judicial officer, may be deemed to satisfy the requirements of SDIL-LR 16.2(a). All actions taken at the initial pretrial scheduling and discovery conference will be incorporated into a pretrial scheduling and discovery order, which shall be modified only by Order of Court. The scheduling and discovery conference may, at the discretion of the Magistrate Judge, be canceled if the Magistrate Judge approves the parties' Joint Report of Parties and Proposed Scheduling and Discovery Order as submitted.

DATED:

NANCY J. ROSENSTENGEL, CLERK

By: _____
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

	)	
	)	
Plaintiff(s),	)	
	)	
vs.	)	**CIVIL NO.**
	)	
	)	**CJRA TRACK:**
	)	**PRESUMPTIVE TRIAL MONTH:**
Defendant(s).	)	**JUDGE:**

JOINT REPORT OF PARTIES AND PROPOSED SCHEDULING AND DISCOVERY ORDER

Pursuant to Federal Rule of Civil Procedure 26(f) and SDIL-LR 16.2(a), an initial conference of the parties was held on _____ with attorneys and/or unrepresented parties _____ _____ _____ participating.

SCHEDULING AND DISCOVERY PLANS WERE DISCUSSED AND AGREED TO AS FOLLOWS:

1. Initial interrogatories and requests to produce, pursuant to Federal Rules of Civil Procedure 33 and 34 shall be served on opposing parties by _____.

2. Plaintiff's deposition shall be taken by _____.

3. Defendant's deposition shall be taken by _____.

4. Motions to amend the pleadings, including the commencement of a third party action, shall be filed by _____ (which date shall be no later than **90 days** following the Scheduling and Discovery conference).

5. Expert witnesses shall be disclosed, along with a written report prepared and signed by the witness pursuant to Federal Rule of Civil Procedure 26(a)(2), as follows:

   Plaintiff's expert(s):_____.
   Defendant's expert(s):_____.
   Third Party expert(s):_____.

6. Depositions of expert witnesses must be taken by:
   Plaintiff's expert(s):_____.
   Defendant's expert(s):_____.
   Third Party expert(s):_____.

7. **Discovery** shall be completed by _____ (which date shall be no later than **115 days** before the first day of the month of the presumptive trial month). Any written interrogatories or request for

production served after the date of the Scheduling and Discovery Order shall be served by a date that allows the served parties the full **30 days** as provided by the Federal Rules of Civil Procedure in which to answer or produce by the discovery cut-off date.

8. All **dispositive motions** shall be filed by _____ (which date shall be no later than **100 days** before the first day of the month of the presumptive trial month). Dispositive motions filed after this date will not be considered by the Court.

9. The Scheduling and Discovery Conference may, at the discretion of the Magistrate Judge, be canceled if the Magistrate Judge approves of the parties' proposed Scheduling and Discovery Order as submitted.

DATED:

_____
Attorney(s) for Plaintiff(s)

_____
Attorney(s) for Defendant(s)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

Plaintiff,	)	
vs.	)	**CIVIL NO.**
	)	**CJRA TRACK:**
	)	**PRESUMPTIVE TRIAL MONTH:**
Defendant.	)	**JUDGE:**

SCHEDULING AND DISCOVERY ORDER

Depositions upon oral examination, interrogatories, request for documents, and answers and responses thereto shall not be filed unless on Order of the Court. Disclosures or discovery under Rule 26(a) of the Federal Rules of Civil Procedure are to be filed with the Court only to the extent required by the final pretrial order, other order of the Court, or if a dispute arises over the disclosure or discovery.

Having reviewed the Report of the Parties and finding that the parties have complied with the requirements of Federal Rule of Civil Procedure 26(f) and SDIL-LR 16.2(a), the Court hereby approves and enters the Proposed Scheduling and Discovery Order as submitted by the parties/as modified at the Pretrial Scheduling and Discovery Conference.

A. A settlement conference is set before _____ in accordance with SDIL-LR 16.3(b) on _____ at _____ in _____.

B. A final pretrial conference is set for _____ at _____ before the trial judge in accordance with SDIL-LR16.2(b).

As initially set by the Court, the presumptive trial month is _____.

IT IS SO ORDERED.

DATED:

_____
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**CIVIL NO.**
	)	
	)	**CJRA TRACK:**
	)	**PRESUMPTIVE TRIAL MONTH:**
Defendant.	)	**JUDGE:**

JOINT REPORT OF THE PARTIES AND PROPOSED SCHEDULING AND DISCOVERY ORDER (CLASS ACTION)

Pursuant to Federal Rule of Civil Procedure 26(f), SDIL-LR 26.1, and SDIL-LR 23.1, an initial conference of the parties was held on _____ with attorneys _____ participating.

SCHEDULING AND DISCOVERY PLANS WERE DISCUSSED AND AGREED TO AS FOLLOWS:

1. Discovery prior to Class Certification must be sufficient to permit the Court to determine whether the requirements of Federal Rule of Civil Procedure 23 are satisfied, including a preliminary inquiry into the merits of the case to ensure appropriate management of the case as a Class Action. In order to ensure that a Class Certification decision be issued as soon as practicable, however, priority shall be given to discovery on class issues. Once Class Certification is decided, the Court may, upon motion of either party, enter a second scheduling and discovery order, if necessary.

2. Initial interrogatories and requests to produce, pursuant to Federal Rules of Civil Procedure 33 and 34 and SDIL-LR 33.1, shall be served on opposing parties by _____.

   Due to the nature of this case, the parties are exempted from compliance with Federal Rules of Civil Procedure 30(a)(2)(A) (10 deposition limit) and 33(a) (25 interrogatory limit).

3. Plaintiff(s)' depositions shall be taken by _____.

4. Defendant(s)' depositions shall be taken by _____.

5. Third Party actions must be commenced by _____.

6. Expert witnesses for Class Certification, if any, shall be disclosed, along with a written report prepared and signed by the witness pursuant to Federal Rule of Civil Procedure 26(a)(2), as follows:

   Plaintiff(s)' expert(s):_____.

   Defendant(s)' expert(s):_____.

7. Depositions of Class Certification expert witnesses must be taken by:

   Plaintiff(s)' expert(s):_____.

   Defendant(s)' expert(s):_____.

8. Plaintiff(s)' Motion for Class Certification and Memorandum in Support shall be filed by _____ and shall not exceed _____ pages.

9. Defendant(s)' Memorandum in Opposition to Class Certification shall be filed by _____ and shall not exceed _____ pages.

10. Plaintiff(s)' Reply Memorandum, if any, must be filed by _____ and shall not exceed _____ pages.

11. The Class Certification hearing will be set by separate notice.

12. Expert witnesses for trial, if any, shall be disclosed, along with a written report prepared and signed by the witness pursuant to Federal Rule of Civil Procedure 26(a)(2), as follows:

    Plaintiff(s)' expert(s):_____.

    Defendant(s)' expert(s):_____.

    Plaintiff(s)' rebuttal expert(s):_____.

13. Depositions of trial expert witnesses must be taken by:

    Plaintiff(s)' expert(s):_____.
    Defendant(s)' expert(s):_____.

    Plaintiff(s)' rebuttal expert(s):_____.

14. All discovery shall be completed by _____ (which date shall be no later than **115 days** before the first day of the presumptive trial month). Any written interrogatories or request for production served after the date set out in the Scheduling and Discovery Order shall be served by a date that allows the served parties the full 30 days as provided by the Federal Rules of Civil Procedure in which to answer or produce by the discovery cut-off date.

15. All dispositive motions shall be filed by _____ (which date shall be no later than **100 days** before the first day of the presumptive trial month). Dispositive motions filed after this date will not be considered by the Court.

DATED:

_____
Attorney(s) for Plaintiff(s)

_____
Attorney(s) for Defendant(s)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

Plaintiff,	)	
vs.	)	**CIVIL NO.**
	)	**CJRA TRACK:**
	)	**PRESUMPTIVE TRIAL MONTH:**
Defendant.	)	**JUDGE:**

SCHEDULING AND DISCOVERY ORDER (CLASS ACTION)

Depositions upon oral examination, interrogatories, request for documents, and answers and responses thereto shall not be filed unless on order of the Court. Disclosures or discovery under Federal Rule Civil Procedure 26(a) and SDIL-LR 26.1 are to be filed with the Court only to the extent required by the final pretrial order, other order of the Court, or if a dispute arises over the disclosure or discovery. Having reviewed the Report of the Parties and finding that the parties have complied with the requirements of Federal Rule of Civil Procedure 26(f), SDIL-LR 26.1, and SDIL-LR 23.1, the Court hereby approves and enters the Proposed Scheduling and Discovery Order as submitted by the parties/as modified at the Pretrial Scheduling and Discovery Conference.

( ) A settlement conference is set before _____ in accordance with SDIL-LR 16.3(b) on _____ at _____ in _____.

( ) A Class Certification hearing is set for _____ at _____ before the trial judge.

( ) A final pretrial conference is set for _____ at _____ before the trial judge in accordance with SDIL-LR 16.2(b).

( ) As initially set by the Court, the presumptive trial month is _____.

DATED:

_____
United States Magistrate Judge

INSTRUCTIONS FOR PREPARING FINAL PRETRIAL ORDER

1. Although primary responsibility for the preparation of the Final Pretrial Order lies with plaintiff's attorney, full cooperation and assistance on the part of defendant's attorney is expected and required.

2. The parties are directed to stipulate to the authenticity of exhibits and shall indicate in the Final Pretrial Order those exhibits to which authenticity has not been stipulated and specific reasons why not.

3. The Final Pretrial Order should be submitted to the trial judge 3 days before the date of the Final Pretrial Conference or as otherwise directed by the Court. The parties are encouraged to review the procedures for each judge as outlined on the Court's website.

4. Failure to comply with the substance or intent of these instructions may result in appropriate sanctions pursuant to Federal Rules 16 or 37 and 28 U.S.C. § 1927, among others.

5. The Court greatly appreciates any and all efforts on the part of counsel to be brief and concise in preparing pretrial memoranda and findings of fact and conclusions of law.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**CIVIL NO.**
	)	
	)	**CJRA TRACK:**
	)	**PRESUMPTIVE TRIAL MONTH:**
Defendant.	)	**JUDGE:**

FINAL PRETRIAL ORDER

This matter is before the Court at a Final Pretrial Conference held pursuant to Rule 16 of the Federal Rules of Civil Procedure:

PLAINTIFF(S)' COUNSEL:
(Insert name, address, and telephone number)

DEFENDANT(S)' COUNSEL:
(Insert name, address, and telephone number)

I. NATURE OF THE CASE

The parties should prepare a brief statement of the nature of the case including the claims of the parties (personal injury, Federal Tort claim, breach of contract, etc.). The principal purpose of this statement is to assist the Court in explaining the case to prospective jurors.

II. JURISDICTION

A. This is an action for:
(State the remedy sought, such as damages, injunctive, or declaratory relief.)

B. The jurisdiction of the Court is not disputed (or is disputed).
1. If not disputed, state the statutory, constitutional, or other basis of jurisdiction.

2. If disputed, the basis on which jurisdiction is contested.

III. UNCONTROVERTED FACTS

The following facts are not disputed or have been agreed to or stipulated to by the parties:

(This section should contain a comprehensive statement of facts which will become a part of the evidentiary record in the case and which, in jury trials, may be read to the jury.)

IV. AGREED TO ISSUES OF LAW

The parties agree that the following are the issues to be decided by the Court:

V. WITNESSES

A. List of witnesses plaintiff expects to call, including experts:

1. Expert witnesses.

2. Non-expert witnesses.

B. List of witnesses defendant expects to call, including experts:

1. Expert witnesses.

2. Non-expert witnesses.

If there are any third parties to the action, they should include an identical list of witnesses as that contained in parts A and B above.

C. Rebuttal witnesses. Each of the parties may call such rebuttal witnesses as may be necessary, without prior notice thereof to the other party.

VI. EXHIBITS

The parties shall prepare and append to the Final Pretrial Order a Pretrial Exhibit Stipulation, which shall be on a separate schedule. The Pretrial Exhibit Stipulation shall contain the style of the case, be entitled "Pretrial Exhibit Stipulation," shall contain each party's numbered list of trial exhibits, other than impeachment exhibits, with objections, if any, to each exhibit, including briefly the basis of the objection. All parties shall list their exhibits in numerical order. Where practicable, copies of all exhibits to which there is an objection will be submitted with the stipulation.

The burden for timely submission of a complete list is on plaintiff. Each party is to submit a pre-marked copy of each exhibit for the Court's use at trial. The list of exhibits shall be substantially in the following form:

PRETRIAL EXHIBIT STIPULATION

Plaintiff(s)' Exhibits

Number	Description	Objection	If objection, state grounds

Defendant(s)' Exhibits

Number	Description	Objection	If objection, state grounds

VII. DAMAGES

An itemized statement of all damages, including special damages.

VIII. BIFURCATED TRIAL

Indicate whether the parties desire a bifurcated trial and, if so, why.

IX. TRIAL BRIEFS

Trial briefs should be filed with the Court at the Final Pretrial Conference on any difficult factual or evidentiary issue and also set forth a party's theory of liability or defense.

X. LIMITATIONS, RESERVATIONS, AND OTHER MATTERS

A. **Trial Date.** Trial of this cause is set for the week of _____.

B. **Length of Trial**. The probable length of trial is ____ days. The case will be listed on the trial calendar to be tried when reached.

Mark Appropriate Box: JURY. . . . . .____

NON-JURY. . . . ____

C. **Number of Jurors.** There shall be a minimum of six jurors.

D. **Jury Voir Dire.** The Court will conduct voir dire. Limited participation by counsel may be permitted. If voir dire questions are to be tendered, they should be submitted with the Final Pretrial Order.

E. **Jury Instructions.** All jury instructions shall be submitted as directed by the presiding judge and a copy delivered to opposing counsel.

IT IS ORDERED that the Final Pretrial Order may be modified at the trial of the action or before to prevent manifest injustice or for good cause shown. Such modification may be made either on application of counsel for the parties or on motion of the Court.

IT IS SO ORDERED.

DATED:

_____

United States District Judge