# UNITED STATES DISTRICT COURT
# SOUTHERN DISTRICT OF INDIANA

# LOCAL RULES

*With Amendments Through January 1, 2012*

**The Local Rules of Alternative Disposition Resolution (ADR) and Local Rules of Disciplinary Enforcement can be found on the court's website at www.insd.uscourts.gov or by clicking the links above.**

# LOCAL RULES OF THE
# UNITED STATES DISTRICT COURT
# SOUTHERN DISTRICT OF INDIANA

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## Local Rule 1-1 - Scope of the Rules

**(a) Title and Citation.** The local rules of the United States District Court for the Southern District of Indiana may be cited as "S.D. Ind. L.R."

**(b) Effective Date and Scope of Rules.** These rules, as amended, take effect January 1, 2012. They govern all civil and criminal cases on or after that date. However, in cases pending when the rules take effect, the court may apply the former local rules if it finds that applying these rules would not be feasible or would be unjust.

**(c) Modification or Suspension of Rules.** The court may, on its own motion or at the request of a party, suspend or modify any rule in a particular case in the interest of justice.

## Local Rule 1-2 – Access to Local Rules, Attorney's Handbook, and Amendments

**(a) Availability of Rules and Attorney's Handbook.** These rules and the *Attorney's Handbook* may be purchased from the clerk's office or accessed for free on the court's web site at www.insd.uscourts.gov.

**(b) Notice of Amendments.** These rules may not be amended without public notice and an opportunity for public comment. Notice will be submitted for publication in *Res Gestae*, the Indiana State Bar Association's monthly publication, and may also be published elsewhere.

## Local Rule 1-3 - Sanctions for Errors as to Form

The court may strike from the record any paper that does not comply with the rules governing the form of papers filed with the court, such as rules that regulate paper size or the number of copies to be filed or that require a special designation in the caption. The court may also sanction an attorney or party who files a non-compliant paper.

## Local Rule 4-6 - Representation of Indigent Litigants

**(a) Civil Trial Assistance Panel.** The court has established a civil trial assistance panel to help provide legal representation to indigent civil litigants who request it. The panel consists of attorneys, law school legal clinics, and law firms who have applied for membership and who are willing to represent litigants who cannot afford an attorney.

**(b) Requests for Representation.** If the court determines that a litigant is unable to afford an attorney and that one should be appointed under 28 U.S.C. § 1915(e), 42 U.S.C. § 2000e-5(f), or another statute, the court may:

**(1)** request that a specific member of the panel or of this court's bar represent the litigant; or

**(2)** direct the clerk to select an attorney from the panel at random and request that the attorney represent the litigant.

**(c) Right to Decline Request; Appearance upon Acceptance.** An attorney may decline a request to represent an indigent litigant. An attorney who accepts a request must file an appearance within 14 days of the request.

**(d) Duration of Representation.** An attorney who accepts a request must represent the litigant from the date the attorney enters an appearance until:

**(1)** the attorney withdraws as allowed under this rule;

**(2)** the attorney is discharged or removed from the case;

**(3)** the court enters final judgment (if reasonable collection and enforcement efforts are not appropriate); or

**(4)** the attorney undertakes reasonable collection and enforcement efforts after final judgment.

**(e) Withdrawal.** An attorney who accepts a request to represent an indigent litigant may not seek to withdraw from the litigant's case unless:

**(1)** the attorney and the litigant are personally incompatible;

**(2)** the attorney believes the litigant is pursuing the case for improper purposes;

**(3)** it appears that the litigant is able to afford a private attorney;

**(4)** another attorney appears for the litigant before or at the same time the attorney withdraws; or

**(5)** the attorney has, in writing, both

**(A)** asked the litigant for permission to withdraw, and

**(B)** informed the litigant that the court may choose not to replace the attorney should the attorney withdraw.

**(f) Discharge and Replacement Requests.** The litigant may ask the court to discharge or replace the attorney.

**(g) Discretion of Court to Remove Attorney.** The court has discretion to grant or deny requests to withdraw, discharge, or replace attorneys whom it has requested represent an indigent litigant.

**(h) Arrangements Between Litigant and Attorney.** An attorney who represents a litigant under this rule may:

**(1)** represent the litigant for pay if the litigant can afford a private attorney;

**(2)** represent the litigant for longer than is necessary to undertake reasonable collection or enforcement efforts; or

**(3)** negotiate and enter into a voluntary fee arrangement with the litigant.

**(i) Expenses.** The court will reimburse an attorney up to $500 for itemized copy, mail, telephone, travel, and expert-witness expenses that the attorney incurs while representing a litigant under this rule. But the court, in its discretion, may reimburse an attorney up to $1,000 for these expenses. To receive reimbursement, the attorney must file a petition and appropriately itemize the expenses. The court will not reimburse an attorney for expenses that the attorney could recover from a source other than the litigant.

**(j) Award of Fees.** Upon appropriate application, the court may award attorney's fees to a litigant who is represented by an attorney under this rule as if the litigant had retained a private attorney.

# Local Rule 5-1 - Format of Papers Presented for Filing

**(a) Filing**. A paper or item submitted in relation to a matter within the court's jurisdiction is deemed filed upon delivery to the office of the clerk in a manner prescribed by these rules or the Federal Rules of Civil Procedure or authorized by the court. Any submission directed to the office of the clerk or any employee thereof in a manner that is not contemplated by this rule and without prior court authorization is prohibited.

**(b) General.** Any pleading, motion, brief, affidavit, notice, or proposed order filed with the court, whether electronically or with the clerk, must:

- be plainly typewritten, printed, or prepared by a clearly legible copying process;
- have at least 1-inch margins;
- use at least 12-point type in the body of the paper and at least 10-point type in footnotes;
- be double spaced (except for headings, footnotes, and quoted material);
- have consecutively numbered pages;
- include a title on the first page;
- if it has four or more exhibits, include a separate index that identifies and briefly describes each exhibit;
- if it is a form of order, include a statement of service, in the format required by S.D. Ind. L.R. 5-5(e) in the lower left corner of the paper; and
- in the case of pleadings, motions, legal briefs, and notices, include the name, complete address, telephone number, facsimile number (where available), and e-mail address (where available) of the *pro se* litigant or attorney who files it.

**(c) Electronic Filings.** Any paper submitted via the court's electronic case filing (ECF) system must be:

- in .pdf format;
- converted to a .pdf file directly from a word processing program, unless it exists only in paper format (in which case it may be scanned to create a .pdf document);

- submitted as one or more .pdf files that do not exceed 5 megabytes each (consistent with the *CM/ECF Policies and Procedures Manual*); and

- otherwise prepared and filed in a manner consistent with the *CM/ECF Policies and Procedures Manual*.

**(d) Non-Electronic Filings.**

**(1)** ***Form, Style, and Size of Papers.*** Any paper that is not filed electronically must:

- be flat, unfolded, and on good-quality, 8.5" x 11" white paper;

- be single-sided;

- not have a cover or a back;

- be either stapled in the top left corner or bound on the left side so that the paper can lie reasonably flat when open (for example, spiral bound);

- be two-hole punched at the top with the holes 2 ¾" apart and appropriately centered; and

- include the original signature of the *pro se* litigant or attorney who files it.

**(2)** ***Request for Nonconforming Fastening.*** If a paper cannot be stapled or bound as required by this rule, a party may ask the court for leave to fasten it in another manner. The party must make such a request before attempting to file the paper with nonconforming fastening.

**(e) Nonconforming Papers.** The clerk will accept a paper that violates this rule, but the court may exclude the paper from the official record.

# Local Rule 5-2 – Filing of Papers Electronically Required

**(a) Electronic Filing Required.** All civil cases (other than those cases the court specifically exempts) must be maintained in the court's electronic case filing (ECF) system. Accordingly, as allowed by Fed. R. Civ. P. 5(d)(3), every paper filed in this court (including exhibits) must be transmitted to the clerk's office via the ECF system consistent with S.D. Ind. Local Rules 5-2 through 5-11 except:

**(1)** papers filed by *pro se* litigants;

**(2)** transcripts in cases filed by claimants under the Social Security Act (and related statutes);

**(3)** exhibits in a format that does not readily permit electronic filing (such as videos and large maps and charts);

**(4)** papers that are illegible when scanned into .pdf format;

**(5)** papers filed in cases not maintained on the ECF system; and

**(6)** any other papers that the court or these rules specifically allow to be filed directly with the clerk.

**(b) Case Initiating Papers**. The initial pleading and accompanying papers, including the complaint and issuance of the summons, may be filed either in paper form or electronically through the court's ECF system. Case initiating papers must be served in the traditional manner on paper. All subsequent papers must be filed electronically except as provided in these rules or as ordered by the court.

**(c) Filing with the Clerk.** Any paper that is exempt from electronic filing must be filed directly with the clerk and served on other parties in the case as required by those Federal Rules of Civil Procedure and these rules that apply to the service of non-electronic papers.

**(d) Paper Filing by Non-Exempt Party.** When a party who is not exempt from the electronic filing requirement files a paper directly with the clerk, the party must:

**(1)** electronically file a notice of manual filing that explains why the paper cannot be filed electronically;

**(2)** present the paper to the clerk within 1 business day after filing the notice of manual filing; and

**(3)** present the clerk with a copy of the notice of manual filing when the party files the paper with the clerk.

Note: Effective January 1, 2012, former Local Rule 5.6 is combined with former Local Rule 5.10 to create new Local Rule 5-2.

# Local Rule 5-3 – Eligibility, Registration, Passwords for Electronic Filing; Exemption from Electronic Filing

**(a) Eligibility.** Attorneys admitted to this court's bar (including those admitted *pro hac vice*) or authorized to represent the United States may use the court's ECF system.

**(b) Registration.** To register to use the ECF system, an attorney must complete the registration form adopted by the clerk. The form must require:

**(1)** the attorney's name, address, and telephone number;

**(2)** the attorney's e-mail address; and

**(3)** a declaration that the attorney is admitted to this court's bar.

**(c) Change in Information; Compromise of Password.** An attorney who has registered to use the ECF system must notify the clerk:

**(1)** in writing within 30 days after the attorney's address, telephone number, or e-mail address changes; and

**(2)** immediately upon learning that the attorney's password for the ECF system has been compromised.

**(d) Consent to Electronic Service.** By registering to use the ECF system, attorneys consent to electronic service of papers filed in cases maintained on the ECF system.

**(e) Exemption from Participation.** The court may exempt attorneys from using the ECF system in a particular case for good cause. An attorney must file a petition for ECF exemption and a CM/ECF technical requirements questionnaire (both of which are available on the court's website, www.insd.uscourts.gov) in each case in which the attorney seeks an exemption.

Note: Effective January 1, 2012, former Local Rule 5.7 becomes Local Rule 5-3.

# Local Rule 5-4 – Timing and Consequences of Electronic Filing

**(a) Deadlines.** A paper due on a particular day must be filed before midnight local time of the division where the case is pending.

**(b) When Electronic Filing Is Completed.** Electronic transmission of a paper to the Electronic Case Filing System consistent with these rules, together with the transmission of a notice of Electronic Filing from the court, constitutes filing of the paper for all purposes of the Federal Rules of Civil Procedure and the court's local rules.

**(c) Consequences of Electronic Filing.** When a paper has been filed electronically:

**(1)** it is deemed entered on the clerk's docket under Fed. R. Civ. P. 58 and 79;

**(2)** the paper's electronic recording stored by the court is the official record of the paper;

**(3)** the paper, as filed, binds the filing party;

**(4)** the notice of electronic filing for the paper serves as the court's date-stamp and proof of filing;

**(5)** transmission of the notice of electronic filing generated by the ECF system to an attorney's e-mail address constitutes service of the paper on that attorney; and

**(6)** no other attempted service will constitute electronic service of the paper.

**(d) Service on Exempt Parties.** A filer must serve a copy of the paper consistent with Fed. R. Civ. P. 5 on any party or attorney who is exempt from participating in electronic filing.

Note: Effective January 1, 2012, former Local Rule 5.8 becomes Local Rule 5-4.

# Local Rule 5-5 – Orders and Judgments in Cases Filed Electronically

**(a) Court Will File Electronically.** The court will file electronically any papers it issues. Doing so will constitute entry on the clerk's docket under Fed. R. Civ. P. 58 and 79.

**(b) Notice of Order or Judgment.**

**(1)** A notice of electronic filing will be generated and emailed to all ECF users who have appeared in a case immediately after an order or judgment is entered in that case. Issuance of the notice of electronic filing constitutes notice as required by Fed. R. Civ. P. 77(d)(1).

**(2)** If a party is represented by multiple attorneys from the same law firm and one or more is an ECF system user, notice of entry of an order or judgment in a case assigned to the ECF system will be transmitted only to the ECF system user. The clerk will send notice of the order or judgment to any party in the case that is not represented by at least one attorney using the ECF system. The clerk need not send any other notice of the order or judgment.

**(c) Electronically Filed Orders.** The court must file orders electronically. The court may issue orders signed electronically without an original signature or as "text-only" entries on the docket without an attached paper.

**(d) Proposed Orders from Parties.** A party must include a suitable form of order with any paper that requests the judge or the clerk to enter a routine or uncontested order. A party electronically filing a proposed order—whether voluntarily or because required by this rule— must convert the order directly from a word processing program and file it as an attachment to the paper it relates to. Proposed orders must include in the lower left-hand corner a statement that service will be made electronically on all ECF-registered counsel of record via email generated by the court's ECF system, without listing all such counsel. A service list including the name and postal address of any *pro se* litigant or non-registered attorney of record must follow, stating that service on the listed individuals will be made in the traditional paper manner, via first-class U. S. Mail.

**(e) Other Papers Requiring a Judge's Signature.** A party electronically filing any other paper that requires a judge's signature must do so consistent with the *CM/ECF Policies and Procedures Manual*.

Note: Effective January 1, 2012, former Local Rule 5.9 is combined with former Local Rule 5.1(a)(5) and former Local Rule 5.12 to create new Local Rule 5-5.

# Local Rule 5-6 – Attachments and Exhibits in Cases Filed Electronically

**(a) General Requirements.** Each electronically filed exhibit to a main paper must be:

**(1)** created as a separate .pdf file;

**(2)** submitted as an attachment to the main paper and given a title which describes its content; and

**(3)** limited to excerpts that are directly germane to the main paper's subject matter.

**(b) Excerpts.** A party filing an exhibit that consists of excerpts from a larger document must clearly and prominently identify the exhibit as containing excerpted material. Either party will have the right to timely file additional excerpts or the complete document to the extent they are or become directly germane to the main paper's subject matter.

Note: Effective January 1, 2012, portions of former Local Rule 5.10 are incorporated into Local Rule 5-2 and the remainder of former Local Rule 5.10 becomes Local Rule 5-6.

# Local Rule 5-7 – Signatures in Cases Filed Electronically

**(a) Filing Certain Papers Signed by an Attorney.** A pleading, motion, brief, or notice filed electronically under an attorney's ECF log-in and password must be signed by that attorney.

**(b) Form of Electronic Signature.** If a paper is converted directly from a word processing application to .pdf (as opposed to scanning), the name of the Filing User under whose log-in and password the paper is submitted must be preceded by a "s/" and typed on the signature line where the Filing User's handwritten signature would otherwise appear.

**(c) Other Papers.** A signature on a paper other than a paper filed as provided under subdivision (a) must be an original handwritten signature and must be scanned into .pdf format for electronic filing.

**(d) Effect of Electronic Signature.** Filing an electronically signed paper under an attorney's ECF log-in and password constitutes the attorney's signature on the paper under the Federal Rules of Civil Procedure, under these local rules, and for any other reason a signature is required in connection with the court's activities.

**(e) Papers with Multiple Attorneys' Signatures.** A paper signed by more than one attorney and electronically filed must:

**(1)** include a representation on the signature lines where the handwritten signatures of the non-filing attorneys would otherwise appear that the non-filing attorneys consent to the paper;

**(2)** identify in the signature block the non-filing attorneys whose signatures are required and be followed by notices of endorsement filed by the other attorneys within three business days after the original paper is filed; or

**(3)** include a scanned paper containing all necessary signatures.

**(f) Unauthorized Use of ECF Log-in and Password.** No one may knowingly allow anyone other than a filer's authorized agent to use the filer's ECF log-in and password.

Note: Effective January 1, 2012, former Local Rule 5.11 becomes Local Rule 5-7.

## Local Rule 5-8 – Public Access to Cases Filed Electronically

Any person may review any unsealed paper that has been filed with the court:

**(a)** in person at the clerk's office; or

**(b)** via the court's internet site (www.insd.uscourts.gov) if they have a PACER log-in and password.

Note: Effective January 1, 2012, former Local Rule 5.13 becomes Local Rule 5-8.

## Local Rule 5-9 - Retention of Papers in Cases Filed Electronically

A person who electronically files a paper that requires an original signature must maintain the original signed paper for two years after all deadlines for appeals in the case expire. On request of the court, the Filing User must provide original papers for review.

Note: Effective January 1, 2012, former Local Rule 5.14 becomes 5-9.

## Local Rule 5-10 – Non-Electronic Filings

**(a) When Completed.** A paper or other item that is not required to be filed electronically is deemed filed:

**(1)** upon delivery in person, by courier, or via U.S. Mail or other mail delivery service to the clerk's office during business hours;

**(2)** when the courtroom deputy clerk accepts it, if the paper or item is filed in open court; or

**(3)** upon completion of any other manner of filing that the court authorizes.

**(b) Return of File-Stamped Copies.** To receive a file-stamped copy of a paper filed directly with the clerk, a party must include with the original paper an additional copy and a self-addressed envelope. The envelope must be big enough to hold the copy and have enough postage on it to send the copy via regular first-class mail.

**(c) Form of Orders.** A party must include a suitable form of order with any paper that requires the judge or the clerk to enter a routine or uncontested order.

**(d) Form of Notices.** If a party files a paper directly with the clerk that requires the clerk to give others notice, the party must provide the clerk with sufficient copies of the notice and the names and addresses of each person who is to receive the notice.

**(e) Faxed Papers.** The clerk may not file a faxed paper without court authorization. The court may not authorize the clerk to file faxed papers without finding that compelling circumstances justify it. A party must submit a copy of the paper that otherwise complies with this rule to replace the faxed copy within seven days after faxing the paper.

**(f) Notice by Publication**. The clerk must send notices required to be published to the party originating the notice. The party must deliver the notice to the appropriate newspapers for publication.

**(g) Signature.** The court will strike any paper filed directly with the clerk that is not signed by an attorney of record or the *pro se* litigant filing it, but the court may do so only after giving the attorney or *pro se* litigant notice of the omission and reasonable time to correct it. Rubber-stamp or facsimile signatures are not original signatures and the court will deem papers containing them to be unsigned for purposes of Fed. R. Civ. P. 11 and 26(g) and this rule.

Note: Effective January 1, 2012, provisions formerly contained in Local Rule 5.1(b) become Local Rule 5-10.

# Local Rule 5-11 - Filing Papers Under Seal

**(a) General Rule.** The clerk may not maintain a paper under seal unless authorized to do so by statute, court rule, or court order. But once a paper is sealed, the clerk may not, without a court order, allow anyone to see it other than:

**(1)** the court and its staff;

**(2)** the clerk's staff; and

**(3)** the attorneys who have appeared in the case that the paper pertains to.

**(b) Filing Cases Under Seal.** To seal a case, a party must file a motion requesting that the court seal the case and a proposed order at the same time the party files the initial pleadings. The clerk will seal the case until the court rules on the motion. If the court denies the motion, the clerk will immediately unseal the case and may do so without first notifying the filing party.

**(c) Filing Papers Under Seal.** To seal a paper, a party must either file it electronically as required under section 18 of the *CM/ECF Policies and Procedures Manual* or file the paper with a cover sheet containing:

**(1)** the case caption;

**(2)** the name of the paper or (if the name can't be disclosed publicly) an appropriate title to identify it on the public docket;

**(3)** the name, address, and telephone number of the person filing the paper; and

**(4)** information identifying the statute, rule, or court order authorizing the paper to be sealed, if a motion requesting that it be sealed does not accompany the paper.

**(d) Serving Sealed Papers Filed Electronically**. The ECF System does not automatically serve electronically filed papers that have been filed under seal. A party who files a sealed paper electronically must serve it consistent with Fed. R. Civ. P. 5.

Note: Effective January 1, 2012, former Local Rule 5.3 becomes Local Rule 5-11.

## Local Rule 5.1-1 – Constitutional Challenge to a Statute – Notice

**(a) Time for Filing.** A notice of constitutional challenge to a statute filed in accordance with Fed. R. Civ. P. 5.1 must be filed at the same time the parties tender their proposed case management plan, if one is required, or within 21 days of the filing drawing into question the constitutionality of a federal or state statute, whichever occurs later.

**(b) Additional Service Requirements.** If a federal statute is challenged, in addition to the service requirements of Fed. R. Civ. P. 5.1(a), the party filing the notice of constitutional challenge must serve the notice and paper on the United States Attorney for the Southern District of Indiana, either by certified or registered mail or by sending it to an electronic address designated for that purpose by that official.

## Local Rule 6-1 - Extensions of Time

**(a) Motion Ordinarily Required.** Ordinarily, a request for an extension of time not made in open court or at a conference must:

**(1)** be made by written motion;

**(2)** state the original deadline and the requested deadline;

**(3)** provide the reasons why an extension is requested; and

**(4)** if all parties are represented by counsel, either:

**(A)** state that there is no objection to the extension; or

**(B)** describe all attempts made to obtain an agreement to the extension and state whether opposing counsel objects to it.

**(b) Automatic Initial Extension.** The deadline for filing a response to a pleading or to any written request for discovery or admissions will automatically be extended upon filing a notice of the extension with the court that states:

**(1)** the deadline has not been previously extended;

**(2)** the extension is for 28 or fewer days;

**(3)** the extension does not interfere with the Case Management Plan, scheduled hearings, or other case deadlines;

**(4)** if all parties are represented by counsel, the movant has diligently attempted to contact opposing counsel to obtain an agreement to the extension, and either:

**(A)** that opposing counsel agrees to the extension; or

**(B)** that the movant was unable to reach opposing counsel, providing the dates, times, and manner of all attempts to reach opposing counsel; and

**(5)** the original deadline and extended deadline.

## Local Rule 7-1 - Motion Practice

**(a) Motions Must Be Filed Separately.** Motions must be filed separately, but alternative motions may be filed in a single paper if each is named in the title.

**(b) Brief Required for Certain Motions.** The following motions must also be accompanied by a supporting brief:

**(1)** a motion to dismiss, for judgment on the pleadings, or for more definite statement under Fed. R. Civ. P. 12.

**(2)** any motion made under Fed. R. Civ. P. 37.

**(3)** a motion for summary judgment under Fed. R. Civ. P. 56.

**(4)** a motion for a temporary restraining order under Fed. R. Civ. P. 65(b) and S.D. Ind. L.R. 65-2(b).

**(c) Response and Reply Deadlines.**

**(1)** ***Summary Judgment Motions.*** Summary judgment motions are subject to the deadlines in S.D. Ind. L.R. 56-1:

**(2)** ***Other Motions.***

**(A)** *Responses.* Responsive briefs are due within 14 days after service of the supporting brief.

**(B)** *Replies.* Any reply briefs are due within 7 days after service of the response brief.

**(3)** ***Extensions.*** The court may extend response and reply deadlines, but only for good cause.

**(4)** ***Time.*** Time will be computed under Fed. R. Civ. P. 6.

**(5)** ***Summary Ruling on Failure to Respond.*** The court may summarily rule on a motion if an opposing party does not file a response within the deadline.

**(d) Routine or Uncontested Motions.** A party filing a routine or uncontested motion must also file a suitable proposed order. The court may rule upon a routine or uncontested motion before the response deadline passes, unless:

**(1)** the motion indicates that an opposing party objects to it; or

**(2)** the court otherwise believes that a response will be filed.

**(e) Page Limits.**

**(1)** ***Generally.*** Supporting and response briefs (excluding tables of contents, tables of authorities, appendices, and certificates of service) may not exceed 35 pages. Reply briefs may not exceed 20 pages.

**(2)** ***Permission to Exceed Limits.*** The court may allow a party to file a brief exceeding these page limits for extraordinary and compelling reasons.

**(3)** ***Supporting and Response Briefs Exceeding Limits.*** If the court allows a party to file a brief or response exceeding 35 pages, the paper must include:

**(A)** a table of contents with page references;

**(B)** a statement of issues; and

**(C)** a table of authorities including

**(i)** all cases(alphabetically arranged), statutes, and other authorities cited in the brief; and

**(ii)** page numbers where the authorities are cited in the brief.

**(f) Copies of Authority.** Generally, copies of cited authorities may not be attached to court filings. However, a party must attach to the party's motion or brief a copy of any cited authority if it is not available on Westlaw or Lexis. Upon request, a party must provide copies of any cited authority that is only available through electronic means to the court or the other parties.

**(g) Motions for Fees, Sanctions, and Disqualification.**

**(1)** ***Reasonable Efforts to Resolve Dispute.*** The court may not grant the following motions unless the movant's attorney files with the motion a statement showing that the attorney made reasonable efforts to confer with opposing counsel and resolve the matters raised in the motion:

**(A)** motion for attorney's fees (other than post-judgment).

**(B)** motion for sanctions under Fed. R. Civ. P. 11.

**(C)** motion to disqualify an attorney (other than one brought by a *pro se* party).

**(2)** ***Statement Regarding Efforts.*** The statement required by subdivision (g)(1) must include:

**(A)** the date, time, and place of all conferences; and

**(B)** the names of all conference participants.

**(3)** ***Refusal or Delay of Conference.*** The court may take action appropriate to avoid unreasonable delay if any party's attorney advises the court in writing that any opposing counsel has refused to meet or otherwise delayed efforts to resolve the matters raised in the motion.

**(h) Notice of Settlement or Resolution.** The parties must immediately notify the court if they reasonably anticipate settling their case or resolving a pending motion.

## Local Rule 7-5 - Oral Arguments and Hearings

**(a) Request for Oral Argument.** A party may request oral argument by filing a separate motion explaining why oral argument is necessary and estimating how long the court should allow for the argument. The request must be filed and served with the supporting brief, response brief, or reply brief.

**(b) No Additional Evidence at Oral Argument.** Parties may not present additional evidence at oral argument.

**(c) Request for Evidentiary Hearing.** A party may request an evidentiary hearing on a motion or petition by serving and filing a separate motion explaining why the hearing is necessary and estimating how long the court should allow for the hearing.

**(d) Directed by the Court.** The court may:

**(1)** grant or deny a request for oral argument or an evidentiary hearing in its sole discretion;

**(2)** set oral argument or an evidentiary hearing without a request from a party; and

**(3)** order any oral argument or evidentiary hearing to be held anywhere within the district regardless of where the case will be tried.

## Local Rule 8-1 - *Pro Se* Complaints

Parties representing themselves must file the following types of complaints on forms that the clerk supplies:

- Complaints alleging claims under The Civil Rights Act, 42 U.S.C. § 1983.
- Complaints alleging claims under The Social Security Act, 42 U.S.C. § 405(g).
- Complaints alleging employment discrimination under a federal statute.

## Local Rule 9-2 - Request for Three-Judge Court

**(a) Procedure.** To request a three-judge court in a case, a party must:

**(1)** print "Three-Judge District Court Requested" or the equivalent immediately following the title on the first pleading the party files; and

**(2)** set forth the basis for the request in the pleading or in a brief statement attached to the pleading, unless the basis is apparent from the pleading.

**(b) Sufficiency of Request.** The words "Three-Judge District Court Requested" or the equivalent on a pleading is a sufficient request under 28 U.S.C. § 2284.

**(c) Non-Electronic Filings.** Parties in a case where a three-judge court has been requested must file an original and three copies of any paper filed directly with the clerk (instead of electronically) until the court:

**(1)** denies the request;

**(2)** dissolves the three-judge court; or

**(3)** allows the parties to file fewer copies.

## Local Rule 15-1 - Motions to Amend Pleadings

**(a) Supporting Papers.** A motion to amend a pleading must:

**(1)** if it is filed electronically, include as attachments the signed proposed amended pleading and a proposed order; or

**(2)** if it is filed directly with the clerk, be accompanied by a proposed order and one signed original and one copy of the proposed amended pleading.

**(b) Form of Amended Pleading.** Amendments to a pleading must reproduce the entire pleading as amended.

# Local Rule 16-1 - Pretrial Procedures

**(a) Initial Pretrial Conference.** In all cases not exempted under subsection (f) of this rule, the court may order the parties to appear for an initial pretrial conference.

**(b) Case Management Plan.** Unless otherwise ordered or exempted under (f) of this rule, the parties in a civil case must confer, prepare, and file a joint case management plan:

**(1)** within 90 days after the case was either filed or removed to the court; and

**(2)** according to the instructions and form available on the court's website (www.insd.uscourts.gov/Attorney/default.htm).

**(c) Parties' Responsibilities for Case Management Plan.** The plaintiff must initiate and coordinate the efforts to confer about, prepare, and file the case management plan. If the plaintiff fails to do so, the defendant must appear at the initial pretrial conference with a proposed case-management plan.

If the parties cannot agree on all provisions of the case management plan the parties must file a joint plan that contains their respective positions in the disputed portions of the case management plan. The court will enter a case management plan that the court deems most appropriate with or without additional input from the parties.

**(d) Additional Conferences.** The court may set additional pretrial conferences. The parties must confer before each conference and must be prepared to address case-management plan issues, settlement, trial readiness, and any other matters specifically directed by the court.

**(e) Deadlines.** Absent court order, deadlines established in any order or pretrial entry under this rule may not be altered unless the parties and the court agree, or for good cause shown.

**(f) Exempted Cases**. Unless otherwise ordered by the court, the following types of cases will be exempted from the scheduling and planning requirements of Fed. R. Civ. P. Rule 16(b):

**(1)** an action for review of an administrative record;
**(2)** a petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence;
**(3)** an action brought by a person in custody of the United States, a State or a State subdivision;
**(4)** an action to enforce or quash an administrative summons or subpoena;
**(5)** an action by the United States to recover benefit payments;

**(6)** an action by the United States to collect on a student loan guaranteed by the United States;

**(7)** a proceeding ancillary to proceedings in another court;

**(8)** an action to enforce, vacate or modify an arbitration award;

**(9)** mortgage foreclosures in which the United States is a party; and

**(10)** civil forfeiture cases.

**(g) Sanctions.** The court may, in its discretion, sanction a party that fails to comply with this rule.

## Local Rule 16-2 - Responsibilities for Cases Remanded or Transferred

Within 21 days after the court receives a case remanded by the court of appeals for further proceedings or that is transferred from another district, each party must file a statement of position as to what action the court should take in the case.

## Local Rule 16-3 - Continuances in Civil Cases

**(a) Court's Discretion.** The court may continue proceedings in a civil case on its own or on the motion of one or more parties.

**(b) Consultation with Clients.** Attorneys must consult with their clients before asking the court to continue a trial.

**(c) Continuance for Unavailable Evidence.** A party seeking to continue a trial because evidence is unavailable must include with the motion an affidavit showing:

**(1)** how the evidence is material;

**(2)** that the party has used due diligence to obtain the evidence;

**(3)** where the party believes the evidence is; and

**(4)** if the evidence is the testimony of an absent witness,

**(A)** the name and residence of the witness, if known;

**(B)** the likelihood of procuring the testimony within a reasonable time;

**(C)** that neither the party nor anyone at the party's request or with the party's knowledge procured the witness's absence;

**(D)** the facts the party believes the witness will truthfully testify to; and

**(E)** that the party cannot prove the facts by any other witness whose testimony can be readily procured.

**(d) Stipulation to Absent Evidence.** The court may not continue a trial because evidence is unavailable if all parties stipulate to the content of the unavailable evidence. Despite the stipulation, the parties may contest the stipulated evidence as if it had been available at trial.

**(e) Award of Costs Due to Continuance.** The court may order a party seeking a continuance to reimburse other parties for their actual expenses caused by the delay.

# Local Rule 23-1 - Designation of "Class Action" in the Caption

**(a) Designation in Complaint.** A party seeking to maintain a case as a class action (whether for or against a class) must include in the complaint, crossclaim, or counterclaim:

**(1)** the words "Class Action" in the paper's title; and

**(2)** a reference to each part of Fed. R. Civ. P. 23 that the party relies on in seeking to maintain the case as a class action.

**(b) Counterclaims and Crossclaims.** The provisions of the Rule will apply, with appropriate adaptations, to any counterclaim or crossclaim alleged to be brought for or against a class.

Notes: Former subsection (b) was deleted from the rule on January 1, 2011, thereby removing the requirement that a separate motion seeking class certification be filed within 90 days of filing of a complaint in a class action, leaving the timing of such a motion to be determined within the Case Management Plan for each case.

## Local Rule 26-1 - Form of Certain Discovery Requests

**(a) Form of Discovery Requests.** A party propounding written discovery under Fed. R. Civ. P. 33, 34, or 36 must number each interrogatory or request sequentially and, upon request, supply the written discovery to the responding party in an editable word processing format.

**(b) Form of Discovery Responses.** A party responding (by answer or objection) to written discovery must fully quote each interrogatory or request immediately before each response and number each response to correspond with the interrogatory or request.

## Local Rule 26-2 - Filing of Discovery Materials

Discovery materials (whether discovery requests, responses, or deposition transcripts) may not be filed with the court except in the following circumstances:

**(a) Relevant to Certain Motions.** A party seeking relief under Fed. R. Civ. P. 26(c) or 37, or by way of a pretrial motion that could result in a final order on an issue, must file with the motion those parts of the discovery materials relevant to the motion.

**(b) For Anticipated Use at Trial.** When a party can reasonably anticipate using discovery materials at trial, the party must file the relevant portions at the start of the trial.

**(c) Materials Necessary for Appeal.** A party seeking for purposes of appeal to supplement the record with discovery materials not previously filed may do so by stipulation of the parties or by court order approving the filing.

## Local Rule 30-1 - Conduct of Depositions

**(a) Questions About an Asserted Privilege.** An attorney may question a deponent who refuses to answer a question on the basis of privilege about information related to the appropriateness of the privilege, including whether:

**(1)** the privilege applies under the circumstances;

**(2)** the privilege has been waived; and

**(3)** circumstances exist to overcome a claim of qualified privilege.

**(b) Private Conference Regarding a Pending Question.** A deponent's attorney may not initiate a private conference with the deponent during the deposition about a pending question except to determine whether to assert a claim of privilege.

**(c) Raising Objections with the Court.** A party may recess a deposition to submit an objection by phone to a judicial officer if the objection:

**(1)** could cause the deposition to be terminated; and

**(2)** can be resolved without submitting written materials to the court.

**(d) Scheduling Depositions.** Under the Standards for Professional Conduct within the Seventh Federal Judicial Circuit, Lawyers Duty to Other Counsel, paragraph 14, attorneys will make a good faith effort to schedule depositions in a manner that avoids scheduling conflicts. Unless agreed by counsel or otherwise ordered by the court, no deposition will be scheduled on less than 14 days notice.

## Local Rule 36-1 - Requests for Admissions

No party may serve on any other party more than 25 requests for admission without leave of court. Requests relating to the authenticity or genuineness of documents are not subject to this limitation. Any party desiring to serve additional requests for admission must file a written motion setting forth the proposed additional requests for admission and the reason(s) for their use.

# Local Rule 37-1 – Discovery Disputes

**(a) Required Actions Prior to Court Involvement.** Prior to involving the court in any discovery dispute, including disputes involving depositions, counsel must confer in a good faith attempt to resolve the dispute. If any such dispute cannot be resolved in this manner, counsel are encouraged to contact the chambers of the assigned Magistrate Judge to determine whether the Magistrate Judge is available to resolve the discovery dispute by way of a telephone conference or other proceeding prior to counsel filing a formal discovery motion. When the dispute involves an objection raised during a deposition that threatens to prevent completion of the deposition, any party may recess the deposition to contact the Magistrate Judge's chambers.

**(b) Requirements of Motion to Compel.** In the event that the discovery dispute is not resolved at the conference, counsel may file a motion to compel or other motion raising the dispute. Any motion raising a discovery dispute must contain a statement setting forth the efforts taken to resolve the dispute, including the date, time, and place of any discovery conference and the names of all participating parties. The court may deny any motion raising a discovery dispute that does not contain such a statement.

**(c) Pro Se Parties.** Discovery disputes involving *pro se* parties are not subject to S.D. Ind. L.R. 37-1.

Notes: January 1, 2011 - Local Rule 37.1 was amended and consolidated with Local Rule 37.3, to encourage informal resolution of discovery disputes, including disputes that might otherwise derail a deposition. More complex discovery disputes may benefit from full briefing, but the amended rule recognizes that most discovery disputes can be resolved or at least narrowed by good faith efforts of counsel and intervention by the Magistrate Judge as necessary. The amendment also deletes prior language in the rule suggesting parties were required to file a separate statement regarding efforts to resolve the discovery dispute. The amended rule provides that such a statement must be contained in the motion.

## Local Rule 38-1 - Jury Demand

A party demanding a jury trial in a pleading as permitted by Fed. R. Civ. P. 38(b) must include the demand in the title by way of a notation placed on the front page of the pleading, immediately following the title of the pleading, stating "Demand for Jury Trial." Failure to do so will not result in a waiver under Rule 38(d) if a jury demand is otherwise properly filed and served under Rule 38(b).

## Local Rule 39-1 - Authorization of Bankruptcy Judges to Conduct Jury Trials

As allowed by 28 U.S.C. § 157(e), bankruptcy judges may, with the express consent of all parties, conduct jury trials in cases for which the law provides a right to a jury trial. Bankruptcy judges conducting jury trials under this rule may use the court's pool of prospective jurors.

## Local Rule 40-1 - Assignment of Cases

**(a) Assignment According to Court Order.** The clerk must assign cases to judicial officers according to the method that the court orders from time to time.

**(b) Assignment Sequence Is Confidential.** No one in the clerk's office may reveal to any person, other than a judge, the sequence in which cases are assigned.

**(c) Punishment for Tampering with Assignments.** The court may punish a person for contempt if the person causes or attempts to cause a court employee to:

**(1)** reveal the sequence in which cases are assigned; or

**(2)** assign a case inconsistent with the court's order.

**(d) Notice of Related Action.** A party must file a notice of related action:

**(1)** upon filing an appeal from a bankruptcy case, if another appeal arising out of the same case (including from an adversary proceeding) has already been filed; or

**(2)** as soon as it appears that the party's case and another pending case:

**(A)** arise out of the same transaction or occurrence;

**(B)** involve the same property; or

**(C)** involve the validity or infringement or the same patent, trademark, or copyright.

**(e) Transfer of Related Cases.** When the court determines that two cases are related, the case filed later may, in the court's discretion, be transferred to the judicial officer handling the earlier-filed case.

**(f) Reassignment of Cases.** The court may reassign cases among judicial officers if workload and the speedy administration of justice so require. If it is necessary to reassign a case for reasons other than workload, the chief judge will refer the case to the clerk and the clerk must reassign the case using a system similar to that used when cases are first filed.

**(g) Remands for New Trials.** The clerk must assign cases remanded for a new trial under Seventh Circuit Rule 36 by random lot unless:

**(1)** the remand order directs otherwise; or

**(2)** within 15 days after the mandate for a new trial is docketed, all parties in the case file a request that the judge previously assigned to the case retry it.

## Local Rule 40-3 – Trial Start Dates

The court expects that cases will be tried within 18 months after the complaint is filed, unless the court determines that this deadline is unreasonable due to:

**(a)** the case's complexity;

**(b)** staging provided by the case management plan; or

**(c)** the demands of the court's docket.

## Local Rule 40-4 - Division of Business Among District Judges

**(a) Assignment to Divisions.** The court may assign a judge to any of the district's four divisions (Indianapolis, Evansville, New Albany, or Terre Haute) permanently or by cause number.

**(b) Divisions with Permanent Judges.** A division with at least one permanently assigned judge must remain in continuous session.

**(c) Motions Judge.** The court will designate a "motions judge" to hear:

**(1)** emergency matters in cases where the assigned judge is absent; and

**(2)** other matters in cases not yet assigned to a judge.

**(d) Identity of Motions Judge.** The clerk must identify the motions judge upon request.

## Local Rule 41-1 - Dismissal of Actions for Failure to Prosecute

The court may dismiss a civil case with judgment for costs if:

**(a)** the plaintiff has not taken any action for 6 months;

**(b)** the judicial officer assigned to the case or the clerk has given notice to the parties that the case will be dismissed for failure to prosecute it; and

**(c)** at least 28 days have passed since the notice was given.

## Local Rule 42-1 – Motions to Consolidate

A party seeking to consolidate two or more civil cases must:

**(a)** file the motion in the case with the earliest docket number; and

**(b)** file a notice of the motion in all the other cases.

Note: Effective January 1, 2012, former Local Rule 42.2 becomes Local Rule 42-1.

## Local Rule 47-1 - Voir Dire of Jurors

**(a) Voir Dire Conducted by Court.** The court will conduct the voir dire examination in jury cases. However, nothing in this rule is intended to preclude or otherwise limit the court from allowing attorneys to conduct voir dire examination in any manner permitted by Fed. R. Civ. P. 47.

**(b) Requests to Cover Particular Subjects and Questions.** Parties may file with the clerk requests for the court to cover particular subjects or to ask particular questions during voir dire. Requests must be filed at least 24 hours before the trial starts unless the court orders otherwise.

**(c) Requests for Additional Questions after Initial Voir Dire.** After the court completes its initial voir dire, parties may request that the court ask additional questions that are necessary and could not have been reasonably anticipated before trial.

## Local Rule 47-2 - Communication with Jurors

**(a) Communication Not Allowed.** No party or attorney (or any of their employees or agents) may communicate or attempt to communicate off the record:

**(1)** with a member of the venire from which the jury will be selected; or

**(2)** with a juror.

**(b) Exceptions.** The court may allow a party or attorney to communicate with jurors after the trial if all other parties are given notice. In criminal cases, a party or attorney must show good cause before the court will allow communication with a juror.

**(c) Control by Court.** Any juror contact permitted by the court will be subject to the control of the judge.

## Local Rule 47-3 - Juror Costs

**(a) Failure to Notify the Court of Settlement.** The court may order the parties to pay juror costs (including marshal's fees, mileage, and per diem) in a case if:

**(1)** the parties settle or otherwise dispose of the case before trial; and

**(2)** the clerk's office is not notified at least 1 full business day before the trial is set to begin.

**(b) Division of Juror Costs.** The court may divide juror costs among the parties, their attorneys, or both in its discretion.

Note: Effective January 1, 2012, former Local Rule 42.1 becomes Local Rule 47-3.

## Local Rule 47-4 – Jury; Unanimous Verdict

**(a) Number of Jurors.** Each civil jury must have at least 6 members, unless the law requires otherwise.

**(b) Additional Jurors.** The court in its discretion may impanel up to 4 additional jurors. If it impanels additional jurors, the court may allow the parties additional peremptory challenges.

**(c) Unanimous Verdict Required.** Regardless of the number of jurors, the jury's verdict must be unanimous and be rendered by at least six jurors.

# Local Rule 54-1 - Taxation of Costs and Attorney's Fees

**(a) Deadline for Requests for Costs and Attorney's Fees.** A party cannot recover attorney's fees and costs unless the party files and serves a bill of costs and a motion for fees within 14 days after final judgment is entered. The court may extend this deadline for good cause if a motion requesting an extension is filed before the original deadline.

**(b) Form for Bill of Costs.** The court prefers that parties use AO form 133 (available from the clerk) for the bill of costs.

## Local Rule 56-1 – Summary Judgment Procedure

**(a) Movant's Obligations.** A party seeking summary judgment must file and serve a supporting brief and any evidence (that is not already in the record) that the party relies on to support the motion. The brief must include a section labeled "Statement of Material Facts Not in Dispute" containing the facts:

**(1)** that are potentially determinative of the motion; and

**(2)** as to which the movant contends there is no genuine issue.

**(b) Non-Movant's Obligations**. A party opposing a summary judgment motion must, within 28 days after the movant serves the motion, file and serve a response brief and any evidence (that is not already in the record) that the party relies on to oppose the motion. The response must include a section labeled "Statement of Material Facts in Dispute" that identifies the potentially determinative facts and factual disputes that the party contends demonstrate a dispute of fact precluding summary judgment.

**(c) Reply.** The movant may file a reply brief within 14 days after a response is served.

**(d) Surreply.** A party opposing a summary judgment motion may file a surreply brief only if the movant cites new evidence in the reply or objects to the admissibility of the evidence cited in the response. The surreply must be filed within 7 days after the movant serves the reply and must be limited to the new evidence and objections.

**(e) Citations to Supporting Facts.** A party must support each fact the party asserts in a brief with a citation to a discovery response, a deposition, an affidavit, or other admissible evidence. The evidence must be in the record or in an appendix to the brief. The citation must refer to a page or paragraph number or otherwise similarly specify where the relevant information can be found in the supporting evidence.

**(f) Court's Assumptions About Facts.** In deciding a summary judgment motion, the court will assume that:

**(1)** the facts as claimed and supported by admissible evidence by the movant are admitted without controversy except to the extent that:

**(A)** the non-movant specifically controverts the facts in that party's "Statement of Material Facts in Dispute" with admissible evidence; or

**(B)** it is shown that the movant's facts are not supported by admissible evidence; or

**(C)** the facts, alone or in conjunction with other admissible evidence, allow the court to draw reasonable inferences in the non-movant's favor sufficient to preclude summary judgment.

**(2)** facts that a non-movant asserts are true to the extent admissible evidence supports them.

**(g) Stipulation to Facts.** The parties may stipulate to facts in the summary judgment process, and may state that their stipulations are entered only for the purpose of the motion for summary judgment and are not intended to be otherwise binding.

**(h) No Duty to Search Record.** The court has no duty to search or consider any part of the record not specifically cited in the manner described in subdivision (e).

**(i) Collateral Motions**. The court disfavors collateral motions—such as motions to strike— in the summary judgment process. Parties should address disputes over the admissibility or effect of evidence in their briefs.

**(j) Oral Argument or Hearing**. The court will decide summary judgment motions without oral argument or hearing unless the court otherwise directs or grants a request under S.D. Ind. L.R. 7-5.

**(k) Notice Requirement for *Pro Se* Cases**. A party seeking summary judgment against an unrepresented party must serve that party with the notice contained in Appendix A.

**(l) Compliance**. The court may, in the interest of justice or for good cause, excuse failure to comply strictly with this rule.

**Local Rules Advisory Committee Comments**
Re: 2002 Amendment

The 2002 revision completely replaces the former rule. It is designed to reduce the length of briefs related to motions for summary judgment, particularly the statement of undisputed material facts. In some cases, the statement of undisputed material facts has grown to an unmanageable level for the courts and for the parties. The parties have included facts which are not material to the legal issues to be resolved by summary judgment. Including the statement of undisputed material facts in the 35-page limit for initial briefs established by S.D. Ind. L. R. 7.1(b) will require the parties to discipline their presentation.

Note to subdivision (a). This provision sets forth the general requirements for all briefs to be submitted by the parties. It requires that the movant's brief contain a "Statement of Material Facts Not in Dispute." Emphasis is made that "material" facts are ones which are potentially determinative (former Rule 56.1(h)). The Statement should not contain mere background facts which a party feels puts the case in perspective – that can be done in an introduction or background section of the brief. Further, the Statement of asserted material facts is to state facts, not the party's argument which should be in the

argument portion of the brief. Asserted material facts must be supported by specific citations to the admissible evidence in the record, which requires that any material not already in the Court's file be contained in an appendix. Although the strict formatting requirements of former Rule 56.1(h) are eliminated, separately numbering the facts is recommended for presentation clarity.

Note to subdivision (b). The specific rules for the non-movant's response are contained in this section. The brief shall contain a "Statement of Material Facts in Dispute" identifying: (1) the material facts which preclude summary judgment and/or (2) disputed material facts which do so. Like movant's Statement, the non-movant's Statement should not contain mere background facts or be argumentative.

Note to subdivision (d). A non-moving party may file a surreply brief in two limited circumstances. It is permitted only when: (1) the moving party submits in its reply brief evidence not previously cited; or (2) the moving party objects in its Reply to the admissibility of evidence cited by the non-movant.

Note to subdivision (e). This provision sets forth the effect of facts asserted. If supported by cited admissible evidence, a party's asserted material facts will be assumed admitted unless the opposing party submits admissible evidence of a genuine issue of material fact, demonstrates that the movant's assertions are not supported by admissible evidence or, through argument, shows that reasonable inferences can be drawn from admissible facts which preclude summary judgment. Obviously, the parties may, and are encouraged to, stipulate to undisputed material facts. Any such fact stipulations may be for purposes of the summary judgment motion only. The Court will not search the record to find admissible evidence to support an asserted material fact.

Note to subdivision (f). Motion practice about the admissibility of evidence cited in support of asserted material facts is strongly discouraged. Challenges to the evidence belong in the parties' briefs.

Cross Motions. If the parties anticipate cross-motions for summary judgment, the briefing schedule and format should be addressed in the case management plan.

## Local Rule 65-2 - Motions for Preliminary Injunctions and Temporary Restraining Orders

**(a) Preliminary Injunctions.** The court will consider a request for preliminary injunction only if the movant files a separate motion for relief and complies with Fed. R. Civ. P. 65(a). Supporting and response briefs are not required, but the court may request them.

**(b) Temporary Restraining Orders.** The court will consider a request for temporary restraining order only if the movant files a separate motion for relief with a supporting brief. The movant must also comply with Fed. R. Civ. P. 65(b).

## Local Rule 66-1 - Receiverships

**(a) Applicability.** This rule applies to the administration of estates (excluding estates in bankruptcy) by court-appointed officers such as receivers.

**(b) Officer's Duties.**

**(1)** ***Inventories.*** Within 28 days after taking possession of an estate, the court-appointed officer must file:

**(A)** an inventory and appraisal of the estate's property and assets held by the officer or the officer's agent; and

**(B)** on a separate schedule, an inventory of the estate's property and assets held by others.

**(2)** ***Regular Reports.*** Within 28 days after the inventory is filed and every three months after that, the court-appointed officer must file a report:

**(A)** describing the acts and transactions the officer has undertaken on the estate's behalf; and

**(B)** accounting for any monies received by or expended for the estate.

**(c) Compensation of Receiver, Attorneys, and Other Officers.**

**(1)** ***Amount.*** The court, in its discretion, will determine what to pay court-appointed officers, their attorneys, and others the court appoints to help administer an estate.

**(2)** ***Procedures for Payment.*** To get paid, persons seeking compensation must petition the court and notify:

**(A)** the estate's creditors; and

**(B)** any other interested parties the court requires to receive notice.

**(d) Administration Generally.** In all other respects the court-appointed officer must—to the extent it is reasonable to do so—administer the estate in the way that bankruptcy estates are typically administered unless the court authorizes a different practice.

**(e) Deadlines.** The court may alter any deadline imposed by this rule.

## Local Rule 69-1 - Execution

All procedures on execution must accord with Fed. R. Civ. P. 69 and applicable state law. This rule applies to proceedings supplementary to, and in aid of, a judgment and to procedures on, and in aid of, execution.

## Local Rule 69-2 - Interrogatories to Garnishees

**(a) Order to Answer Interrogatories Required.** Garnishees may be ordered to answer interrogatories. An order requiring a garnishee to answer interrogatories must accompany each set of interrogatories served on the garnishee. The interrogatories may be part of another paper or pleading.

**(b) Content of Order.** The order to answer interrogatories must advise the garnishee:

**(1)** that the plaintiff has a judgment against the defendant;

**(2)** of the judgment amount;

**(3)** of the time, date and place of the hearing on a motion for proceedings supplemental;

**(4)** that if the garnishee has a claim or defense to a proceedings supplemental or a garnishment order, the garnishee must present the claim or defense at the hearing; and

**(5)** that the garnishee has the option to either:

**(A)** answer the interrogatories in writing on or before the date specified, or

**(B)** appear in court and answer the interrogatories in person.

**(c) Motion for Proceedings Supplemental.** A motion for proceedings supplemental must be served on the garnishee when the garnishee is served with the interrogatories and the order to answer them.

**(d) Requirements for Hold on Depository Account.** If the order to answer interrogatories is to operate as a hold on a judgment-debtor's depository account, the order must comply with Indiana law.

## Local Rule 69-3 - Final Orders in Wage Garnishment

All final orders garnishing wages must comply with Ind. Code § 24-4.5-5-105.

## Local Rule 69-4 - Body Attachments; Hearings

**(a) Failure to Appear.** If a judgment debtor fails to appear for a hearing despite service and actual notice, the magistrate judge may recommend that the district judge issue a body attachment.

**(b) Hearing after Arrest.** When a judgment debtor is arrested on a body attachment, the court must conduct a hearing at its earliest convenience. The judgment-creditor's attorney will be notified of the hearing by telephone. Attorneys are deemed to have consented to telephonic notice by requesting the body attachment.

**(c) Failure to Respond to Telephonic Notice.** If the judgment-creditor's attorney fails to respond promptly to the telephonic notice, the court may release the judgment debtor or take other appropriate action.

**(d) Appearance at Hearing by Creditor's Attorney.** The judgment-creditor's attorney of record must personally appear at the hearing; neither clerical nor secretarial personnel may interrogate an attached judgment debtor.

## Local Rule 72-1 - Authority of United States Magistrate Judges

**(a) Application to Rule.** This rule applies to all United States magistrate judges, including full-time magistrate judges, part-time magistrate judges, and magistrate judges recalled pursuant to 28 U.S.C. §636(h).

**(b) Authority of Magistrate Judges.** Magistrate judges are judicial officers. They are authorized and specially designated to perform all duties authorized by the United States Code and any rule governing proceedings in this court. Magistrate judges are authorized to perform the duties enumerated in these rules in cases assigned to the magistrate judge by rule, by court order, or by order or special designation of any of the court's district judges.

## Local Rule 72-2 - Forfeiture of Collateral in Lieu of Appearance

**(a) Nature of Offense.** A person charged with an offense made criminal pursuant 18 U.S.C. § 13, and for which the penalty provided by state law is equal to or less than that of a misdemeanor, other than an offense for which a mandatory appearance is required may, in lieu of appearance, post collateral before a United States Magistrate Judge and consent to forfeiture of collateral.

**(b) Schedule of Offenses.** These offenses, and the amounts of collateral to be posted (if applicable), will appear on a schedule and be available for public inspection in the clerk's office in each of the district's divisions. The schedule will be effective until rescinded or superseded by court order.

**(c) Failure to Appear.** Posted collateral will be forfeited if the person charged with an offense covered by this rule fails to appear before the magistrate judge. The forfeiture will signify that the offender does not contest the charge and does not request a hearing before the magistrate judge. The forfeiture is tantamount to a finding of guilt.

**(d) When Forfeitures Are Not Permitted.** Forfeitures are not permitted for violations involving an accident that results in personal injury. Arresting officers must treat multiple and aggravated offenses as mandatory-appearance offenses and must direct the accused to appear for a hearing.

**(e) Discretion of Officers to Arrest.** Nothing in this rule prohibits a law-enforcement officer from:

**(1)** arresting a person for the commission of an offense (including those for which collateral may be posted and forfeited); and

**(2)** either:

**(A)** requiring the person charged to appear before a magistrate judge, or

**(B)** taking that person before a magistrate judge immediately after arrest.

## Local Rule 76-1 - Designating Additional Items For Record on Appeal

An appellant designating items for the record on appeal under Circuit Rule 10(a) must serve a proposed joint designation on the appellee with the notice of appeal. The parties must then confer and, if they agree, prepare a joint designation, highlighting those entries on the court's docket sheet if it is practical to do so. The joint designation must be filed with the clerk within 14 days after the notice of appeal is filed. If the parties cannot reach agreement on a joint designation, each party must submit a separate designation within 14 days after filing the notice of appeal.

## Local Rule 79-1 - Custody of Files and Exhibits

**(a) Custody During Pendency of Action.** Any item offered into evidence in a case—other than contraband exhibits—will be placed in the clerk's custody. Unless the court orders otherwise, these items may not be claimed from the clerk until the case is disposed of as to all issues, including appeals.

**(b) Claiming Items After Disposition of Action.** The party that offered the items into evidence must claim them from the clerk:

**(1)** if the case is not appealed, within 90 days after the case is disposed of as to all issues;

**(2)** if the case is appealed, within 28 days after the mandate of the reviewing court is filed in the clerk's office and the case is disposed of as to all issues, unless otherwise ordered.

**(c) Procedure for Claiming Items.** No motion or order is necessary to claim the items. The party withdrawing them must give the clerk a detailed receipt when the items are withdrawn. The clerk must file the receipt in the cause.

**(d) Failure to Claim Items**. If the parties fail to claim the items within the deadline in subdivision (b), the United States Marshals Service may sell the items in a public or private sale or dispose of them in any manner directed by the court. If sold, the proceeds, less the expense of sale, will be paid into the court's registry.

**(e) Contraband Exhibits.** Contraband exhibits (such as controlled substances, money, and weapons) may not be placed in the clerk's custody. They must be released to the investigative agency when the case is concluded. The investigative agency must give the clerk a detailed receipt when the contraband exhibits are released.

**(f) Withdrawal of Original Records and Papers.** No one may withdraw an original pleading, paper, record, model or exhibit from the clerk's custody except as provided by this rule or by court order.

# Local Rule 80-1 - Official Transcripts of Court Proceedings

**(a) Filing Official Transcripts.** Upon completion of an official transcript of any proceeding in this court, the court reporter or transcriber will file electronically a certified copy of the official transcript, in accordance with 28 U.S.C. § 753(b).

**(b) Access Restrictions for Official Transcripts.** Access to an official transcript of a court proceeding will be restricted for a period of 90 days after the transcript is filed by the court reporter or transcriber (the "Restriction Period"), unless otherwise provided by this rule or ordered by the court.

**(1)** ***Availability During the Restriction Period.*** During the Restriction Period, the official transcript will be available:

**(A)** for purchase from the court reporter or transcriber who prepared and filed the transcript;

**(B)** to attorneys of record who have purchased the transcript from the court reporter and requested electronic access via the ECF system through the court reporter;

**(C)** for inspection only, via the public computer terminals located in the clerk's office; and

**(D)** as directed by the court.

**(2)** ***Availability After the Restriction Period.*** After the Restriction Period has expired and any pending motions related to an official transcript have been resolved, the official transcript and any redacted version of the official transcript will be available as provided by subdivision (b)(1) and as follows:

**(A)** If the official transcript has not been redacted, it will be available:

**(i)** for inspection and purchase via the public computer terminals located in the clerk's office; and

**(ii)** for downloading from the court's ECF system through PACER.

**(B)** If the official transcript has been redacted pursuant to S.D. Ind. L.R. 80-2, only the redacted version of the official transcript will be available as described in subdivisions (b)(2)(A)(i) and (ii).

**(3)** ***Sealed Matters*****.** Official transcripts of sealed proceedings, official transcripts filed in sealed cases, and official transcripts which have been sealed by the court will not be publicly available, electronically or otherwise, unless ordered by the court.

**(c) Official Transcript Fees.** Access fees apply to official transcripts of court proceedings, whether purchased from a court reporter or transcriber, downloaded via PACER, or obtained through the clerk's office. Current schedules of official transcript fees, electronic public access (PACER) fees, and clerk's office printing fees are established by the Judicial Conference and maintained on file in the clerk's office.

# Local Rule 80-2 - Redaction of Official Transcripts of Court Proceedings

**(a) Redaction of Personal Data Identifiers.** Upon the filing of an official transcript of any court proceeding under S.D. Ind. L.R. 80-1, attorneys of record will review the transcript and determine whether redaction of personal data identifiers within the transcript is necessary to comply with Fed. R. Civ. P. 5.2 or Fed. R. Crim. P. 49.1. The requirements of this rule apply to pro se litigants.

**(1)** ***Review of Transcript.*** Unless otherwise ordered by the court, attorneys of record who represent a party or parties in a matter in which an official transcript has been filed must review the following portions of the official transcript:

**(A)** opening and closing statements made on the party's behalf;

**(B)** statements of the party;

**(C)** the testimony of any witnesses called by the party;

**(D)** sentencing proceedings; and

**(E)** any other portion of the transcript as ordered by the court.

**(2)** ***Notice of Intent to Request Redaction.*** If any portion of an official transcript is subject to the requirements of Fed. R. Civ. P. 5.2 or Fed. R. Crim. P. 49.1, the attorneys of record will either jointly or individually file a "Notice of Intent to Request Redaction" within 7 days from the date on which the official transcript was filed.

**(3)** ***Redaction Statement.*** If a Notice of Intent to Request Redaction is filed, attorneys of record will either jointly or individually file a "Redaction Statement" within 21 days from the date on which the official transcript was filed. The Redaction Statement will certify that the official transcript has been reviewed by counsel and identify the following information:

**(A)** the filed date and document number of the official transcript for which redaction is requested;

**(B)** a description of each type of personal data identifier to be redacted (*e.g.*, social-security number);

**(C)** transcript page number(s) and line number(s) identifying the location of

each personal data identifier to be redacted; and

**(D)** the redacted version of each such personal data identifier (e.g., social-security number to read as XXX-XX-1234).

The Redaction Statement must not disclose, in its unredacted form, any personal data identifier.

**(b) Redaction of Information other than Personal Data Identifiers.** Any party may request redaction of information other than the personal data identifiers set forth in Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1 by filing a "Motion to Redact Transcript." Such motion must state the grounds for requesting redaction, set forth the information to be redacted in the format required by (a)(2), and be filed within 21 days.

**(c) Filing Redacted Transcripts**. After the filing of a Redaction Statement or court order granting a party's Motion to Redact Transcript, the court reporter will file a redacted version of the official transcript within 31 days from the date on which the official transcript was filed.

## Local Rule 81-1 – Notice of Removal and Response in Diversity Cases

**(a) Notice Requirement.** Every notice of removal based, in part or in whole, on diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) must include:

**(1)** a statement that the amount in controversy, exclusive of interest and costs at issue satisfies the jurisdictional amount requirement; and

**(2)** a listing of the citizenship of each party.

**(b) Response.** Within 30 days after the filing of the notice of removal, every plaintiff who has not filed a motion to remand must file a statement responding to the notice of removal's allegations as to the citizenship of the parties and the amount in controversy. If the plaintiff lacks sufficient information upon which to form a belief about those allegations despite meeting and conferring in good faith with the removing party about them, the plaintiff may so state.

**(c) Burden of Proof.** Nothing in this rule alters the burden of proof with respect to jurisdictional allegations.

## Local Rule 83-3 - Courtroom and Courthouse Decorum

**(a) Prohibited Activities.** The following may not be done in connection with a judicial proceeding anywhere on a floor where a courtroom is located:

**(1)** taking photographs;

**(2)** making sound recordings (except by court reporters in the performance of their duties and Judicial Conference approved digital audio recordings made utilizing court-owned equipment); and

**(3)** broadcasting by radio, television, or any other means.

**(b) Exceptions.** The court may permit these activities when they are incidental to investitive, ceremonial, or naturalization proceedings.

## Local Rule 83-5 - Bar Admission

**(a) Authority to Practice Before the Court.**

**(1)** ***Rule.*** Only members of the court's bar may represent parties before the court.

**(2)** ***Exceptions.***

**(A)** ***Pro Se.*** A nonmember may represent him or herself in a case.

**(B)** ***U.S. Government Attorneys.*** A nonmember who is an attorney may represent the United States, or an officer or agency of the United States.

**(C)** ***Pro Hac Vice.*** A nonmember who is an attorney may represent parties in a case if the nonmember:

**(i)** is admitted to practice as an attorney in another United States court or the highest court of any state;

**(ii)** is a member in good standing of the bar in every jurisdiction where the attorney is admitted to practice;

**(iii)** is not currently suspended or subject to other disciplinary action with respect to the person's practice;

**(iv)** has certified that he or she will abide by the *Seventh Circuit Standards of Professional Conduct* and these rules;

**(v)** has paid the required filing fee; and

**(vi)** has applied for, and been granted by the court, leave to appear in the case.

**(3)** ***Foreign Legal Consultants.*** Foreign legal consultants may not be admitted to practice in the court (despite the provisions of Rule 5 of the Indiana Rules for the Admission to the Bar and the Discipline of Attorneys).

**(b) Bar Membership.** The bar consists of those persons who:

**(1)** have been admitted by the court to practice and have signed the roll of attorneys; and

**(2)** have not resigned or been disbarred or suspended from the bar.

**(c) Admission.**

**(1)** ***Who May Be Admitted.*** An attorney admitted to practice by the United States Supreme Court or the highest court in any state may become a member of the court's bar on a member's motion.

**(2)** ***Character.*** An applicant will be admitted to the bar if the court—after being assured by a member or by the report of a committee appointed by the court—is satisfied that the applicant:

**(A)** has good private and professional character; and

**(B)** is a member in good standing of the bar in every jurisdiction where the applicant is admitted to practice.

**(3)** ***Entry on Court's Records.*** The attorney's admission will be entered on the court's records and the court will issue a certificate to that effect only after the applicant:

**(A)** takes a prescribed oath or affirmation;

**(B)** certifies that he or she has read and will abide by the *Seventh Circuit Standards of Professional Conduct;*

**(C)** pays the required fees (law clerks to the court's judges and attorneys representing the United States are exempt from these fees);

**(D)** signs the roll of attorneys;

**(E)** registers for electronic case filing;

**(F)** gives a current address; and

**(G)** agrees to notify the clerk promptly of any change in address.

**(d) Local Counsel.** The court may require an attorney residing outside the district to retain, as local counsel, a member of the court's bar who resides in the district.

**(e) Standards.** The Indiana Rules of Professional Conduct and the *Seventh Circuit Standards of Professional Conduct* (an appendix to these rules) govern the conduct of those practicing in the court.

**(f) Sanctions.** Attorneys may be disbarred or suspended from practicing in the court for good cause, but only after having an opportunity to be heard. They may also be reprimanded as provided for in the court's Rules of Disciplinary Enforcement.

## Local Rule 83-7 - Appearance and Withdrawal of Appearance

**(a) General.** Every attorney who represents a party or who files a paper on a party's behalf must file an appearance for that party. Only those attorneys who have filed an appearance in a pending action are entitled to be served with case papers under Fed. R. Civ. P. 5(a).

**(b) Removed and Transferred Cases.** Attorneys whose names do not appear on the court's docket after a case has been removed from state court must file an appearance or a copy of the appearance they previously filed in state court. An attorney of record who is not admitted to practice before the court must either comply with this court's admission policy (see S.D. Ind. L.R. 83-5), or withdraw his or her appearance (see subdivision (c) of this rule) within 21 days after the case is removed or transferred to the court.

**(c) Withdrawal of Appearance**.

**(1)** An attorney must file a written motion to withdraw his or her appearance.

**(2)** The motion must fix a date for the withdrawal and must contain satisfactory evidence that the attorney provided the client with written notice of his or her intent to withdraw at least 7 days before the withdrawal date.

**(3)** The motion must also include the client's contact information, including a current address and telephone number.

**(4)** The requirements of subparagraphs (1) - (3) are waived when a notice of withdrawal is filed contemporaneously with another attorney's appearance for the client.

## Local Rule 83-8 – Referral of Cases to Bankruptcy Court

**(a) Cases Referred to Bankruptcy Court.** Consistent with 28 U.S.C. § 157(a), all cases and proceedings arising under Title 11 of the United States Code, or relating to a case under Title 11 of the United States Code, are referred to the district's bankruptcy court. This includes all cases removed under 28 U.S.C. §§ 1441(a) or 1452.

**(b) Papers Filed in Cases in Bankruptcy Court.** Papers filed in these cases, including the original petition, must be filed with the bankruptcy-court clerk and be captioned "United States Bankruptcy Court for the Southern District of Indiana."

**(c) Promulgation of Bankruptcy Rules.** Bankruptcy judges may make and amend rules of practice and procedure that:

**(1)** comply with—but do not duplicate—Acts of Congress and the Federal Rules of Bankruptcy Procedure, and

**(2)** do not prohibit or limit the use of the official forms.

# CRIMINAL RULES

## Local Criminal Rule 1.1 - Bail in Criminal Cases

**(a)** The conditions of release of defendants and material witnesses are set forth in 18 U.S.C. § 3141, et seq., and Rule 46, Federal Rules of Criminal Procedure.

**(b)** When the appearance of a person in a criminal case is required by the Court to be secured by a surety,

**(1)** every surety except a corporate surety must own fee simple title to real estate, unencumbered except for current taxes and the lien of a first mortgage. The surety's equity in such property shall have a fair market value at least double the penalty of said bond; provided, however, that a proposed surety whose real estate is then subject to an existing appearance bond in this Court or in any other Court in this district, including, state, county or municipal Courts, shall not be accepted as a surety; and

**(2)** a corporate surety must hold a certificate of authority from the Secretary of the Treasury and must act through a bondsman registered with the Clerk of this Court.

**(c)** No person who executes appearance bonds for a fee, price or other valuable consideration shall be eligible as a surety on any appearance bond unless such person be a corporate surety which is approved as provided by law.

## Local Criminal Rule 2.1 - Standard Orders in Criminal Cases

The Court may issue a standard order in a criminal case which contains provisions for a plea of not guilty, a change of plea, trial date, attorney appearances, pretrial discovery, pretrial motions, plea agreement, and other matters. When such a standard order is issued, it shall be served on the defendant with the indictment or information. Copies of the form standard order are available from the Clerk of the Court.

## Local Criminal Rule 3.1 - Provisions for Special Orders in Appropriate Cases

**(a)** On motion of any party or on its own motion, when the Court deems it necessary, to preserve decorum and to maintain the integrity of the trial, the Court may issue a special order governing such matters as extra-judicial statements by parties and witnesses likely to interfere with the rights of any party to a fair trial, the seating and conduct in the Courtroom of parties, attorneys and their staff, 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. Such special order may be addressed to some or all, but not limited to the following subjects:

**(1)** A proscription of extra-judicial statements by participants in the trial, including lawyers and their staff, parties, witnesses, jurors, and Court officials, which might divulge prejudicial matter not of public record in the case.

**(2)** Specific directives regarding the clearing of entrances to and hallways in the 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.

**(3)** A specific direction 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.

**(4)** Sequestration of the jury on motion of any party or the Court, without disclosure of the identity of the movant.

**(5)** Direction that the names and addresses of the jurors or prospective jurors not be publicly released except as required by statute, and that no photograph be taken or sketch made of any juror within the environs of the Court.

**(6)** Insulation of witnesses from news interviews during the trial period.

**(7)** Specific provisions regarding the seating of parties, attorneys and their staff, spectators and representatives of the news media.

**(b)** Unless otherwise permitted by law and ordered by the Court, all preliminary criminal proceedings, including preliminary examinations and hearings on pretrial motions, shall be held in open Court and shall be available for attendance and observation by the public.

If the Court orders closure of a pretrial hearing pursuant to this Rule, it shall cite for the record its specific findings that compel the need for same.

## Local Criminal Rule 4.1 - Release of Information by Court Supporting Personnel

All Court supporting personnel, including among others, Marshals, Deputy Marshals, Court Clerks, Deputy Court Clerks, Bailiffs, and Court or Grand Jury reporters and their employees or subcontractors, are prohibited from disclosing to any person, without authorization by the Court, information relating to a grand jury or pending criminal case that is not part of the public records of the Court. This Rule shall be applicable also to divulgence of information concerning grand jury proceedings, arguments, hearings held in chambers or otherwise outside the presence of the public.

# Local Criminal Rule 5.1 - Release of Information by Attorneys in Criminal Cases

It is the duty of the attorneys for the government and the defense, including the law firm, not to release or authorize the release of information or opinion which a reasonable person would expect to be disseminated by any means of public communication, in connection with pending or imminent criminal litigation with which a lawyer or a law firm is associated, if such dissemination poses a serious and imminent threat of interference with the fair administration of justice.

The following actions will presumptively be deemed to pose a serious and imminent threat of interference with the fair administration of justice:

**(a)** With respect to a grand jury or other pending investigation of any criminal matter, the release, by a government lawyer participating in or associated with the investigation, of any extra-judicial statement, which a reasonable person would expect to be disseminated 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 under way, 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.

**(b)** 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 a trial, the release or giving of authority to release by a lawyer or law firm associated with the prosecution or defense, of any extra-judicial statement, which a reasonable person would expect to be disseminated, 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 a factual statement of the accused's name, age, residence, occupation, and family status, and if the accused has not been apprehended, the release by a lawyer associated with the prosecution of any information necessary to aid in the apprehension of the accused or to warn the public of any dangers he/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 announcement of the identity of the victim if the announcement is not otherwise prohibited by law;

**(5)** the possibility of a plea of guilty to the offense charged or a lesser offense;

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

The foregoing shall not be construed to preclude the lawyer or law firm during this period, in the proper discharge of his/her or its official or professional obligations, from announcing the fact and circumstances of arrest (including time and place of arrest, resistance, pursuit, and use of weapons), the identity of the investigating and arresting officer or agency, and the length of the investigation; from making an announcement, at the time of seizure of any physical evidence other than a confession, admission or statement, which is limited to a description of the evidence seized; from disclosing the nature, substance, or text of the charge, including a brief description of the offense charged; from quoting or referring without comment to public records of the Court in the case; from announcing the scheduling or result of any stage in the judicial process; from requesting assistance in obtaining evidence; or from announcing without further comment that the accused denies the charges made against him/her and stating without elaboration the general nature of the defense.

**(c)** During a trial of any criminal matter, or any other proceeding that could result in incarceration, including a period of selection of the jury, the release or giving authority to release by a lawyer associated with the prosecution or defense, of any extra-judicial statement or interview, relating to the trial or the parties or issues in the trial, which a reasonable person would expect to be disseminated by any means of public communication, other than a quotation from or reference without comment to public records of the Court in the case.

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.

## Local Criminal Rule 6.0 - Petitions for Habeas Corpus Motions Pursuant to 28 U.S.C. Sections 2254 and 2255 by Persons in Custody

Petitions for writs of habeas corpus and motions filed pursuant to 28 U.S.C. Sections 2254 and 2255 by persons in custody shall be in writing and signed under the penalty of perjury. Such petitions and motions shall be on the form contained in the Rules following 28 U.S.C. Section 2254, in the case of a person in state custody, or 28 U.S.C. Section 2255, in the case of a person in federal custody, or on forms adopted by general order of this Court, copies of which may be obtained from the Clerk of the Court.

## Local Criminal Rule 6.1 - Petitions Under 28 U.S.C. Section 2254 or 2255 in Cases Involving a Sentence of Capital Punishment

**(a) Applicability.** This Rule governs the procedures for a petition filed pursuant to 28 U.S.C. §§ 2254 or 2255, in which a prisoner seeks relief from a judgment imposing a sentence of death. The provisions of this Rule may, where appropriate, be determined to be applicable in any collateral challenge not authorized by §§ 2254 or 2255. The application of this Rule may be modified by the Judge to whom the petition is assigned.

**(b) Clerk to Maintain the Records of status of cases; Request to Attorney General of Indiana.** The clerk will request from the Indiana Attorney General, insofar as reasonably available, information pertaining to the movement of cases through the Indiana courts in which a prisoner is under sentence of death from an Indiana Court and as to which the judgment of conviction and sentence have been affirmed by the Supreme Court of Indiana. This information should include the following: defendant's name, court imposing sentence, date of affirmance on direct appeal by the Supreme Court of Indiana, date that denial of postconviction relief petition was affirmed by the Supreme Court of Indiana, and the execution date, if any.

**(c) Clerk to Maintain the Records of status of cases; Request to United States Attorney.** The clerk will request from the United States Attorney, insofar as reasonably available, information pertaining to the movement of cases through the federal courts in which a prisoner within the district is under sentence of death from a federal court and as to which the judgment of conviction and sentence are final. This information should include the following: defendant's name, court imposing sentence, date of affirmance on direct appeal by a Court of Appeals and the United States Supreme Court, date that denial of any postconviction relief petition was affirmed by a Court of Appeals or Supreme Court, and the execution date, if any.

**(d) Notice of Intention to File Initial Petition.** Whenever it is determined that a prisoner under sentence of death will file an initial petition for relief in this court, either counsel or the prisoner may file with the clerk a "Notice of Intention to File Initial Petition for a Writ of Habeas Corpus." Each such Notice will be on the form set out in Appendix A-Criminal to this Rule or in substantially similar terms. Forms will be available from the clerk. The failure to submit such a Notice will not preclude the filing of a petition.

**(e) Action by Court Upon Filing of Notice.** The clerk will forward copies of the Notice, together with copies of any motions or requests submitted therewith, and any rulings thereon, to the following: (i) the Indiana Attorney General if the prisoner is in state custody or the United States Attorney if the prisoner is in federal custody; (ii) the United States Marshal for the Southern District of Indiana; and (iii) the Warden or Superintendent of the institution where the prisoner is confined.

**(f) Appointment of Counsel.** Motions or requests for the appointment of counsel will be presented to, and counsel appointed by, the Judge to whom such action is assigned.

**(g) Additional Required Materials.** Within 14 days of filing the notice or petition, Petitioner or Movant must file a legible copy of the materials listed below. If a required document is not filed, the petitioner or movant must state the reason for the omission. The required documents are:

**(1)** listing of prior petitions, with docket numbers, filed in any state or federal court challenging the conviction and sentence challenged in the current petition; and

**(2)** a copy of, or a citation to, each state or federal court opinion, memorandum decision, order, transcript of oral statement of reasons, or judgment involving an issue presented in the petition.

**(h) Motions for Stay of Execution.**

**(1)** The movant must attach to the motion for stay a legible copy of the documents listed in section (g) of this Rule, unless the documents have already been filed with the court. If the movant asserts that time does not permit the filing of a written motion, he or she must deliver to the clerk a legible copy of the listed documents as soon as possible. If a required document is not filed, the movant must state the reason for the omission.

**(2)** Parties must file motions with the clerk during the normal business hours of the clerk's office. The motion must contain a brief account of the prior actions of any court or Judge to which the motion or a substantially similar or related petition for relief has been submitted.

**(3)** The clerk will adopt procedures for filing of emergency motions or applications pursuant to this Rule when the clerk's office is closed.

**(4)** The clerk will maintain a separate list of all cases within the scope of this Rule.

Note: December 1, 2009, stylistic amendment. Technical amendment to (g) to achieve consistency in time counting format with the Federal Rules of Civil Procedure. Current Rule was formerly numbered 6.2, and was significantly amended effective January 1, 2007. Former rule 6.1 was eliminated January 1, 2007.

## Local Criminal Rule 7.1 - Continuance in Criminal Cases

A motion for continuance in a criminal case will be granted only if the moving party demonstrates that the ends of justice served by a continuance outweigh the best interest of the public and the defendant to a speedy trial, as provided by 18 U.S.C. §3161(h)(8), or that the continuance will not violate the Speedy Trial Act deadlines for trial because of some other reason. The moving party shall submit with the motion a proposed entry setting out the findings as to these ends of justice, or such other reason why the continuance will not violate the Speedy Trial Act, 18 U.S.C §3151 *et seq*.

## Local Criminal Rule 8.1 - Assignment of Related Cases

When a pending indictment or information is superseded by an indictment or information charging one or more of the defendants charged in the pending indictment or information and charging one or more of the offenses charged in the original indictment or information growing out of one or more occurrences which gave rise to the original charge, the superseding indictment or information shall be assigned to the same Judge to whom the first case is assigned. When two or more indictments or criminal informations are filed against the same person or persons, corporation or corporations, charging like offenses or violations of the same statute, each of such cases shall be assigned to the Judge to whom the first of such cases is assigned. Further, when an indictment or information is pending against a defendant, all subsequent indictments or informations against the same defendant which may be returned or filed shall be assigned to the same Judge.

## Local Criminal Rule 9.1 - Processing of Cases in Division Without a Resident Judge

**(a)** In any criminal case presided over by a Judge to whom such case was not regularly assigned upon its filing, in which there is more than one defendant and in which one or more but not all of the defendants enter a plea of guilty, the Judge taking such plea shall retain control over the defendant or defendants making such plea and proceed toward final disposition of the case in so far as it concerns such defendants. The Judge may then elect to retain the case in his/her control for purposes of trial and final disposition as to the remaining defendants or may refer the case back to the Judge to whom such case was originally assigned.

**(b)** In any criminal case in which a defendant enters a plea of guilty or is found guilty upon trial, the Judge taking such plea or presiding at trial, as the case may be, shall retain control of such case for disposition and sentencing.

## Local Criminal Rule 10.1 - The Grand Jury

**(a)** A regular session of the grand jury shall be called on the second Monday of February and August in each year, and shall serve for a six-month term. Each Indianapolis-based Judge shall in rotation impanel the grand jury.

**(b)** A petition to extend the session of a grand jury impaneled pursuant to this Rule shall be made to and decided by the Judge who impaneled that grand jury, the Motions Judge, or the Chief Judge.

**(c)** Each newly impaneled grand jury shall be assigned a number on the miscellaneous docket. All motions, orders, and other filings pertaining to matters before that grand jury shall bear that particular docket number and shall be maintained by the Clerk under seal, without the necessity for a motion to seal or order.

**(d)** All pre-indictment challenges to grand jury subpoenas or grand jury proceedings shall be made in writing and filed with the Clerk, and shall recite all pertinent facts including the grand jury number, the date of service of the subpoena, the appearance or production date of the subpoena, and the law. Such matters shall be ruled on by the District Judge who impaneled the grand jury, or, in his/her absence, the Motions Judge or the Chief Judge.

**(e)** Motions to quash the appearance of a witness or the production of records commanded by grand jury subpoena shall be filed and served upon the United States no later than 48 hours prior to the appearance or production date unless good cause exists for a later filing.

**(f)** Upon the filing of any objection to a grand jury subpoena, the appropriate District Judge will endeavor to rule upon the motion on or prior to the return date of the subpoena.

# Local Criminal Rule 11.1 - Records Relating to Presentence Reports and Probation Supervision

**(a)** Records maintained by the Probation Office of this Court relating to the preparation of presentence investigation reports are considered to be confidential. Such information may be released only by Order of the Court. Requests for such information in a presentence report being released shall be by written petition establishing, with particularity, the need for specific information contained in such reports.

**(b)** When a demand by way of subpoena or other judicial process is made of the probation officer either for testimony concerning information contained in such presentence reports or for copies of the presentence reports, the probation officer may petition the Court for instructions. The probation officer shall neither disclose the information nor provide the presentence report or copies of the presentence report except on Order of this Court or as provided in Rule 32(b)(3) of the Federal Rules of Criminal Procedure.

**(c)** Supervision records on persons under probation supervision are considered to be confidential. The occasional need to release information on probationers to governmental agencies is recognized as being conducive to the rehabilitative process. In those infrequent cases, the Chief U.S. Probation Officer has in his/her discretion the authority to release or not release the requested information.

Note: Subsection (d) deleted effective January 1, 2002.

## Local Criminal Rule 12.1 - Authority of United States Magistrate Judges in Criminal Matters

The authority of United States Magistrate Judges in criminal matters shall include, but is not necessarily limited to, those duties set forth in Local Rule 72.1 - Authority of United States Magistrate Judges.

Note: Rule adopted effective January 1, 2002, to provide a cross-reference to applicable local civil rules.

## Local Criminal Rule 13.1 - Sentencing Procedure

**(a)** The sentencing hearing in each criminal case will be scheduled by the court in accordance with the following timetable, which commences with either the filing of a petition to enter a plea of guilty, the entry of a guilty plea, or a verdict of guilty.

**(b)** Within 14 days after a verdict of guilty, or a guilty plea is entered by a defendant or a Petition to Enter a Plea of Guilty is filed with the clerk of court, counsel for the government and counsel for the defendant must submit in writing their respective versions of the facts pertaining to the instant offense to the probation officer of the court for inclusion in the Presentence Investigation Report.

**(c)** The Presentence Investigation Report, including guideline computations, will be completed and disclosed to the parties as early as feasible. The presentence report will be deemed to have been disclosed when the document is electronically served upon counsel through the court's CM/ECF system or, if an attorney is not registered to receive electronic service, 3 days after a notice of the report's availability is mailed to the attorney. The probation office will also mail a disclosure letter to the defendant advising that the presentence report has been made available to both parties. The sentence recommendation provided to the court by the probation office will not be disclosed except to the court.

**(d)** Within 14 days following disclosure of the presentence report, unless the court determines otherwise, all counsel must file in writing with the probation officer and serve on each other all objections they may have as to any material information, sentencing classifications, sentencing guideline calculations, and policy statements contained in or omitted from the Report.

**(e)** After receiving counsels' objections, if any, the probation officer will conduct any further investigation and make any necessary revisions to the Presentence Investigation Report. The officer may require counsel for both parties to meet with the officer in person or by telephone to discuss unresolved factual and legal issues. It is the obligation of an objecting party to seek administrative resolution of disputed factors or facts through consultation with opposing counsel and the probation officer prior to the sentencing hearing.

**(f)** The probation officer will submit the Presentence Investigation Report to the sentencing judge immediately after the receipt and processing of objections but no later than 7 days before the sentencing date. The probation officer will notify the court immediately if additional time is necessary to investigate and resolve disputed issues raised by the attorneys and the defendant during the review period. The Report will be accompanied by an addendum setting forth any objections any counsel may have asserted that have not been resolved, together with the officer's comments thereon. The probation officer will certify that

the contents of the Report, including any revisions thereof, have been disclosed to the defendant and to counsel for the defendant and counsel for the government, and that the addendum fairly summarizes any remaining objections.

**(g)** Any party objecting to the Presentence Investigation Report, the guidelines, computations, or commentary will have a reasonable opportunity, usually at the sentencing hearing, but in any event in advance of imposition of the sentence, to present evidence or argument to the court regarding disputed factors or facts. The court may consider any reliable information presented by the probation officer, the defendant, or the government. The manner and form of such presentations are committed to the discretion of each sentencing judge on a case by case basis.

**(h)** The presentence report will be disclosed to the defendant's counsel and the government's counsel by the probation officer. Defense counsel will be responsible for making the necessary arrangements for review of the report by defendants within the schedules set out by the sentencing court. The unauthorized disclosure of the information contained in the presentence report, statements, and other attachments may be considered a contempt and punished accordingly. The presentence report will be filed under seal with the clerk of court and retained as part of the case file for whatever further judicial purposes may occur or be necessary.

Note: January 1, 2011, amendment to allow electronic service of presentence report and reflect previously adopted practice of defense counsel providing report to defendant rather than probation officer. December 1, 2009, stylistic amendment and technical amendment to (b) to achieve consistency in time counting format with the Federal Rules of Civil Procedure.

## Local Criminal Rule 57.1 – Public Access to Criminal Case Information - *Rule deleted effective December 1, 2007*

Note: The Local Rule was deleted effective December 1, 2007, as the enactment of Fed. R. Crim. P. 49.1, "Privacy Protection For Filings Made with the Court" - rendered Local Criminal Rule 57.1 duplicative and/or inconsistent.

# S.D. Indiana – Appendix A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

| | | |
|---|---|---|
| _____, | ) | |
| | ) | |
| Plaintiff, | ) | |
| | ) | |
| v. | ) | Case No. |
| | ) | |
| _____, | ) | |
| | ) | |
| Defendant. | ) | |

**NOTICE REGARDING RIGHT TO RESPOND TO AND SUBMIT EVIDENCE IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT**

[Moving party(ies)] has/have filed a motion seeking summary judgment. This means that the [moving party(ies)] seek(s) to have some part or all of this lawsuit decided against you without a trial. This motion is based on the evidence presented in the affidavits and documents attached to or referenced in the motion for summary judgment or based on the argument that you are unable to offer admissible evidence in support of your claim.

You have the right to file a response to the motion. Each of the facts stated in the "Statement of Material Facts Not in Dispute" which accompanies the motion for summary judgment will be accepted by the court as being true unless you submit your own affidavits or other admissible evidence disputing those facts. Your response may also dispute the admissibility of the evidence relied on in support of the motion for summary judgment.

*However, a failure to properly respond will be the same as failing to present any evidence in your favor at a trial.*

You must file and serve a copy of your response to the motion for summary judgment by [date certain equal to 28 days after service of the motion, plus 3 days if served by mail] or by other such date ordered by the court. If you need more time to respond, you must file a motion with the court asking for more time before the deadline expires. The court may, but is not required to, give you more time.

Your response must also comply with all other portions of Federal Rule of Civil Procedure 56, and with Local Rule 56-1, copies of which are attached. Please note that for these rules you are considered a "party," the "non-moving party" and/or the "non-movant."

[Insert Federal Rule of Civil Procedure 56]

[Insert Local Rule 56-1]

# APPENDIX A-Criminal

**Notice of Intention to File First Petition for Writ of Habeas Corpus by Person in State Custody under Sentence of Death**

The undersigned, being either counsel in the Indiana courts for a person under a sentence of death imposed by an Indiana court or such a person, hereby gives notice to the Clerk of the United States District Court for the Southern District of Indiana that such person will in the near future file a petition attacking such sentence or the underlying conviction or both.

The name of the person under sentence of death is _____, his inmate number within the Department of Correction is _____ and he is presently confined at the _____ (insert name of the institution where confined). In connection with this Notice the following representations are made:

1. The sentence of death was imposed by the _____ (insert name of court) in cause number _____ ;

2. The sentence and the underlying conviction have been appealed to the Indiana Supreme Court and the appeal and postconviction proceedings were concluded in that Court on _____ (insert dates of decision of the Indiana Supreme Court on direct appeal and, if applicable, on the denial of postconviction relief);

3. The person under sentence of death will/will not (select one) be represented by counsel when a petition for relief is presented to the United States District Court;

4. There is presently no date of execution set; or an execution date of _____ (insert date);

5. The person under sentence of death will/will not (select one) seek a stay of execution before/upon (select one) the filing of the petition for relief referred to in this Notice and will/will not (select one) be seeking the appointment of counsel to represent him in the proceeding.

6. This Notice is accompanied by the $30.00 docketing fee prescribed by 28 U.S.C. § 1914(a) or submitted by or on behalf of a person without sufficient funds to prepay the $20.00 docketing fee.

Date:_____ _____

(Signature)

_____

(Name)