LOCAL RULES

of the

UNITED STATES DISTRICT COURT

for the

NORTHERN DISTRICT OF INDIANA

Effective Date: December 1, 2010

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LR 1.1 Scope of the Rules

(a) **Title and Citation**. These rules shall be known as the Local Rules of the United States District Court for the Northern District of Indiana. They may be cited as "N.D. Ind. L.R. __."

(b) **Effective Date**. These rules, as amended, become effective on December 1, 2010.

(c) **Scope of Rules**. These rules shall govern all proceedings in civil and criminal actions in this court. No litigant shall be bound by any local rule or standing order which is not passed in accordance with Fed. R. Civ. P. 83 and 28 U.S.C. §§ 2071 and 2077.

(d) **Relationship to Prior Rules; Actions Pending on Effective Date**. These rules supersede all previous rules promulgated by this court or any judge of this court. They shall govern all applicable proceedings brought in this court after they take effect. They also shall apply to all proceedings pending at the time they take effect, except to the extent that in the opinion of the court the application thereof would not be feasible or would work injustice, in which event the former rules shall govern.

(e) **Modification or Suspension of Rules.** In individual cases the court, upon its own motion or the motion of any party, may suspend or modify any of these rules if the interests of justice so require.

LR 1.2 Availability of the Local Rules

Copies of these rules, as amended and with any appendices attached hereto, are available from the clerk's office for a reasonable charge, and available free of charge at the court’s website at *www.innd.uscourts.gov*.

When amendments to these rules are made, notice of such amendments shall be provided among other places, in *Res Gestae*, published monthly by the Indiana State Bar Association.

When amendments to these rules are proposed, notice of such proposals and of the ability of the public to comment shall be provided.

LR 1.3 Limitations on Sanctions for Errors as to Form

The court may sanction any attorney or person appearing *pro se* for violation of any local rule governing the form of pleadings and other papers filed with the court by the imposition of a fine not to exceed $1,000.00, or by ordering stricken, after notice and opportunity to be heard or to cure the defect, a paper which does not comply with these rules. Local rules governing the form of pleadings and other papers filed with the court include, but are not limited to, those local rules regulating the paper size, the number of copies filed with the court, and the requirement of a special designation in the caption.

LR 5.1 Filing of Documents by Electronic Means

Documents may be filed, signed and verified by electronic means to the extent and in the manner authorized by the CM/ECF User Manual approved by the court. A document filed by electronic means in compliance with this Local Rule constitutes a written paper for the purposes of these Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

LR 5.2 Service of Documents by Electronic Means

Documents may be served through the court's transmission facilities by electronic means to the extent and in the manner authorized by the CM/ECF User Manual approved by the court. Transmission of the Notice of Electronic Filing through the court's transmission facilities constitutes service of the filed document upon each party in the case who is registered as a Filing User. Any other party or parties shall be served documents according to these Local Rules and either the Fed. R. Civ. P. or the Fed. R. Crim. P.

LR 5.3 Filing Documents Under Seal

(a) General Rule. No document will be maintained under seal in the absence of an authorizing statute, Court rule, or Court order.

(b) Filing of Cases Under Seal. Any new case submitted for filing under seal must be filed on paper with the Clerk pursuant to the CM/ECF Civil and Criminal User Manual for the Northern District of Indiana and accompanied by a motion to seal and proposed order. Any case presented in this manner will be assigned a new case number, District Judge and Magistrate Judge. The Clerk will maintain the case under seal until a ruling granting the motion to seal is entered . If the motion to seal is denied, the case will be immediately unsealed with or without prior notice to the filing party.

(c) **Filing Ex Parte and Sealed Documents in a Civil Case.** Materials presented as sealed documents or filed ex parte in civil cases, other than case originating documents, shall be filed electronically pursuant to the CM/ECF Civil and Criminal User Manual for the Northern District of Indiana.

(d) **Filing Ex Parte and Sealed Documents in a Criminal Case**. Materials presented as sealed documents or filed ex parte in criminal cases shall be filed manually on paper inside an envelope which allows them to remain flat. Affixed to the exterior of the envelope shall be an 8 ½ x 11" cover sheet containing:

(1) the case caption;

(2) the name of the document if it can be disclosed publicly, otherwise an appropriate title by which the document may be identified on the public docket;

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

(4) in the event the motion requesting the document be filed under seal does not accompany the document, the cover sheet must set forth the citation of the statute or rule or the date of the Court order authorizing filing under seal.

(e) **Notice of Manual Filing.** The party manually filing a sealed document in a criminal case shall file electronically a Notice of Manual Filing (see Form in CM/ECF Civil and Criminal User Manual for the Northern District of Indiana.)

LR 5.4 General Format of Papers Presented for Filing

(a) **Form, Style, and Size of Papers.** In order that the files of the clerk's office may be kept under the system commonly known as "flat filing," all papers presented to the clerk for filing shall be flat and unfolded. All filings shall be on white paper of good quality, 8-½" x 11" in size, and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process, and double spaced, except for headings, footnotes and quoted material. The filings shall have no covers or backs. The title of each pleading must be set out on the first page. Each page shall be numbered consecutively. Any paper presented to the clerk for filing which contains four or more exhibits shall include a separate index identifying and briefly describing each exhibit. The court encourages the use of recycled paper.

(b) **Signature**. Every pleading, motion, or other paper shall clearly identify the name, complete address, telephone number, facsimile number (where available) and email address (where available) of the *pro se* litigant or attorney. The original of any pleading, motion or other paper that contains a rubber stamp or facsimile signature shall be deemed unsigned for purposes of Fed. R. Civ. P. 11 and 26(g) Affidavits shall require only the signature of the affiant.

(c) **Number of Copies; Return of File-stamped Copies.** If a party wishes to receive by return mail a file-stamped copy of the pleading, motion, or paper, the party shall include an additional copy to be file-stamped, and a self-addressed envelope of adequate size and with adequate postage.

(d) **Filing with Appropriate Office of the Clerk.** Except for time-sensitive matters, all pleadings, motions, and other papers shall be filed with the office of the clerk for the division in which the case is pending. With respect to time-sensitive matters, a paper may be filed with any office of the clerk, but the party filing the time-sensitive paper must include with the filing an envelope of which is of adequate size, which contains adequate postage, and which is addressed to the office of the clerk in the division in which the case is pending. "Time-sensitive" matters are those in which the rights of a party or other person will be prejudiced if the document is not filed on the date on which it is tendered. All filings must be filed with the clerk of court. The transmission of papers to a judge in any manner for the purpose of filing is prohibited.

(e) **Form of Orders.** The filing of a motion or petition requiring the entry of a routine or uncontested order by the judge or the clerk shall be accompanied by a suitable form of order.

(f) **Form of Notices.** Whenever the clerk is required to give notice, the party or parties requesting such notice shall furnish the clerk with sufficient copies of the notice to be given and the names and addresses of the parties or their counsel to whom such notice is to be given.

(g) **Proof of Service of Papers.** Litigants must be aware that proof or acknowledgment of service is required by several rules including Fed. R. Civ. P. 4, 4.1, and 5(d).

(h) **Notice by Publication**. All notices required to be published in a case shall be delivered by the clerk of the court to the party originating such notice or the party's counsel, who shall have the responsibility for delivering such notice to the appropriate newspapers for publication.

LR 5.1.1 Constitutional Challenge to a Statute – Notice

A notice of constitutional challenge to a statute filed in accordance with Federal Rule of Civil Procedure 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. The party filing the notice of constitutional challenge must serve the notice and paper on the Attorney General of the United States and the United States Attorney for the Northern District of Indiana if a federal statute is challenged--or on the Attorney General for the State if a state statute is challenged--either by certified or registered mail or by sending it to an electronic address designated by those officials for this purpose.

LR 6.1 Extensions of Time

(a) **Initial extension.** In every civil action pending in this court in which a party wishes to obtain an initial extension of time not exceeding twenty-eight (28)) days within which to file a responsive pleading or a response to a written request for discovery or request for admission, the party shall contact counsel for the opposing party and solicit opposing counsel's agreement to the extension. In the event opposing counsel does not object to the extension or cannot with due diligence be reached, the party requesting the extension shall file a notice with the court reciting the lack of objection to the extension by opposing counsel or the fact that opposing counsel could not with due diligence be reached. No further filings with the court nor action by the court shall be required for the extension. In the event the opposing counsel objects to the request for extension, the party seeking the same shall file with the clerk a formal motion for such extension and shall recite in the motion the effort to obtain agreement. In the absence of the recitation, the court, in its discretion, may reject the formal motion for extension.

(b) **Other extensions.** Any other request for an extension of time, unless made in open court or at a conference, shall be made by written motion. In the event the opposing counsel objects to the request for extension, the party seeking the same shall recite in the motion the effort to obtain agreement; or recite that there is no objection.

(c) **Due dates.** Any notice or motion filed pursuant to this rule shall state the date such response was initially due and the date on which the response will be due pursuant to the request for extension.

LR 7.1 Motion Practice; Length and Form of Briefs

(a) Unless the court otherwise directs, or as otherwise provided in L.R. 56.1, an adverse party shall have fourteen (14) days after service of a motion in which to serve and file a response, and the moving party shall have seven (7) days after service of a response in which to serve and file a reply. Failure to file a response or reply within the time prescribed may subject the motion to summary ruling. Time shall be computed as provided in Fed. R. Civ. P. 6, and any extensions of time for the filing of a response or reply shall be granted only by order of the assigned or presiding judge or magistrate judge for good cause shown.

(b) Each motion shall be separate; alternative motions filed together shall each be named in the caption on the face. Any motion under Fed. R. Civ. P. 12, motions made pursuant to Fed. R. Civ. P. 37, or for summary judgment pursuant to Fed. R. Civ. P. 56 shall be accompanied by a separate supporting brief.

(c) Any defense raised pursuant to Fed. R. Civ. P. 12 must be briefed in accordance with this rule before the court will deem the defense submitted for ruling.

(d) Except by permission of the court, no brief shall exceed 25 pages in length (exclusive of any pages containing a table of contents, table of authorities, and appendices), and no reply brief shall exceed 15 pages. Permission to file briefs in excess of these page limitations will be granted only upon motion supported by extraordinary and compelling reasons.

Briefs exceeding 25 pages in length (exclusive of any pages containing the table of contents, table of authorities, and appendices) shall contain (a) a table of contents with page references; (b) a statement of issues; and (c) a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited. Each brief shall be plainly written, or typed in the style and format set forth in L.R. 5.1(a). Where the document is typed or printed, (a) the size of the type in the body of the text shall be no less than 12 point, and in footnotes no less than 10 point and (b) the margins, left-hand, right-hand, top and bottom, shall each be 1 inch.

(e) All briefs shall cite to supporting legal authority. A party citing a decision, statute, or regulation that is not available on Westlaw or Lexis/Nexis shall attach a copy to the document filed with the court. In addition, if a party cites a decision, statute, or regulation that is only available through electronic means (*e.g.* Lexis/Nexis, Westlaw or from the issuing court's website), upon request that party shall promptly furnish a copy to the requesting party.

LR 7.3 Time for Filing Briefs in Social Security Appeals

In any case seeking review of an agency determination regarding entitlement to Social Security benefits, the following time limits shall apply:

(a) The person challenging the agency determination shall file an opening brief within forty-two (42) days of the date on which the administrative record is filed.

(b) The brief in opposition shall be filed within forty-two (42) days of the date on which the opening brief was filed.

(c) A reply brief may be filed within fourteen (14) days of the filing of the brief in opposition.

The page limits of L.R. 7.1 shall apply to briefs filed under this rule. No motions for summary judgment need to be filed with this brief.

LR 7.5 Requests for Oral Arguments and Hearings

(a) A request for oral argument on a motion shall be by separate instrument served and filed with the brief, answer brief, or reply brief. The request for oral argument shall set forth specifically the purpose of the request and an estimate of the time reasonably required for the court to devote to the argument. An oral argument shall be confined to argument and shall not include the presentation of additional evidence. If a request for oral argument is granted, the argument shall be held at such place within this district as the court may designate for its convenience without regard to the division in which the cause shall stand for trial. The granting of a motion for oral argument shall be wholly discretionary with the court. The court, upon its own initiative, may also direct that oral argument be held.

(b) A request for an evidentiary hearing on a motion or petition may be made by any party after a motion or petition has been filed. The request for hearing shall set forth specifically the purpose of the hearing and an estimate of the time reasonably required for the court to devote to the hearing. Dates of hearing shall not be specified in a notice of a motion or petition unless prior authorization is obtained from the court or deputy court clerk. If a request for a hearing is granted, a hearing shall be held at such place within this district as the court may designate for its convenience without regard to the division in which the cause shall stand for trial. The court, upon its own initiative, may also direct that a hearing be held.

LR 8.1 Pro se Complaints

Form Complaint. The following claims of parties appearing on their own behalf shall be on forms supplied by the clerk of the court:

(a) The Civil Rights Act, 42 U.S.C. § 1983;

(b) The Social Security Act, 42 U.S.C. § 405(g);

(c) Any complaint alleging employment discrimination under a federal statute.

LR 9.2 Request for Three-Judge Court

In any action or proceeding which a party believes is required to be heard by a three-judge district court, the words "Three-Judge District Court Requested" or the equivalent shall be included immediately following the title of the first pleading in which the cause of action requiring a three-judge court is pleaded. Unless the basis for the request is apparent from the pleading, it shall be set forth in the pleading or in a brief statement attached thereto. The words "Three-Judge District Court Requested" or the equivalent on a pleading is a sufficient request under 28 U.S.C. § 2284.

LR 10.1 Form of Responsive Pleadings

Except in pro se cases, a responsive pleading under Fed.R.Civ.P. 7(a) shall recite verbatim that paragraph of the pleading to which it is responsive, followed by the response.

LR 15.1 Form of a Motion to Amend and Its Supporting Documentation

A party who moves to amend a pleading shall attach the original of the amendment to the motion. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must, except by leave of court, reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference. A failure to comply with this rule is not grounds for denial of the motion.

LR 16.1 Pretrial Procedure

(a) **Purpose.** The fundamental purpose of pretrial procedure as provided in Fed. R. Civ. P. 16 is to eliminate issues not genuinely in contest and to facilitate the trial of issues that must be tried. The normal pretrial requirements are set forth in Fed. R. Civ. P. 16. It is anticipated that the requirements will be followed in all respects unless any judge of this court shall vary the requirements and shall so advise counsel. The following provisions shall also apply to the conduct of pretrial conferences by a United States magistrate judge and where applicable, reference to the judge of the court shall include a United States magistrate judge.

(b) **Notice.** In any civil case, the assigned or presiding judge may direct the clerk to issue notice of a pretrial conference, directing the parties to prepare and to appear before the court.

Unless otherwise ordered by the court, the following types of cases will be exempted from the scheduling order requirement of Fed. R. Civ. P. 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) Civil forfeiture cases;

(4) An action by the United States to recover benefit payments;

(5) An action by the United States to collect on a student loan guaranteed by the United States;

(6) An action to enforce or quash an administrative summons or subpoena;

(7) Mortgage foreclosures in which the United States is a party;

(8) A proceeding ancillary to proceedings in another court;

(9) An action to enforce, vacate, or modify an arbitration award.

(c) **Parties Planning Meeting Report.** When an initial pretrial conference is ordered, counsel shall, after conducting a planning meeting under Fed.R.Civ.P. 26(f), complete and file a Report of the Parties' Planning Meeting in accordance with the form found on the Court's website: www.innd.uscourts.gov. The Court may adopt the Report in whole or in part, and may make it part of the Court's scheduling order.

(d) **Additional Conferences.** Counsel should expect that additional conferences may be set. At any such conference, counsel shall be prepared to address case management plan issues, settlement, trial readiness, and any other matters specifically directed by the Court. Prior to all court conferences, counsel shall confer to prepare for the conference.

(e) **Settlement Discussions.** Counsel should anticipate that the subject of settlement will be discussed at any pretrial conference. Accordingly, counsel should be prepared to state his or her client's present position on settlement. Prior to any conference after the initial conference, counsel should have ascertained his or her settlement authority and be prepared to enter into negotiations in good faith. The court may require the parties, an agent of a corporate party, or an agent of an insurance company to appear in person or by telephone for settlement negotiations. Details of such discussions at the pretrial conference should not appear in the pretrial entry.

(f) **Deadlines.** Deadlines established at the pretrial conference shall not be altered except by agreement of the parties and the court, or for good cause shown.

(g) **Notification of Settlement or Disposition.** The parties shall immediately notify the court of any reasonably anticipated settlement of a case or the resolution of any pending motion.

(h) **Sanctions.** Should a party willfully fail to comply with any part of this Rule, the court in its discretion may impose appropriate sanctions.

LR 16.3 Continuances in Civil Cases

(a) **In general**. In any civil action, upon motion, evidence, or agreement of the parties, proceedings may be continued in the discretion of the court. The court expects counsel to have consulted with their clients prior to requesting continuance of a trial. The court may order the moving party to reimburse the other parties for their actual expenses caused by the delay.

(b) **Absence of Evidence.** A motion to postpone a civil trial on account of the absence of evidence can be made only upon affidavit, showing:

(1) the materiality of the evidence expected to be obtained,

(2) that due diligence has been used to obtain it;

(3) where the evidence may be; and

(4) if it is for an absent witness,

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

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

(C) that the absence has not been procured by the act or connivance of the party, nor by others at the party's request, nor with his or her knowledge or consent;

(D) the facts the party believes to be true; and

(E) that the party is unable to prove such facts by any other witness whose testimony can be as readily procured.

(c) **Stipulation by Adverse Party.** If the adverse party will stipulate to the content of the evidence that would have been elicited at trial from the absent document or witness, the trial shall not be postponed. In the event of a stipulation, the parties shall have the right to contest the stipulated evidence to the same extent as if the absent document or witness had been available at trial.

LR 16.6 Alternative Dispute Resolution

(a) The court may order mediation or early neutral evaluation in any civil case.

(b) Except for cases exempted by L.R. 16.1, the parties shall consider as part of every Fed. R. Civ. P. 26(f) report the use of one of the following Alternative Dispute Resolution Processes:

(1) Mediation;

(2) Early Neutral Evaluation;

(3) Mini-trial;

(4) Any other process upon which the parties may agree.

The parties shall report to the court which, if any, of the processes they wish to employ and when the process will be undertaken. A settlement conference conducted by a judicial officer is not an Alternative Dispute Resolution Process.

(c) Unless otherwise ordered by the court, the Indiana Rules for Alternative Dispute Resolution, including those rules regarding privilege, confidentiality of communications, and disqualification of neutrals, shall apply to all Alternative Dispute Resolution Processes.

(d) To the extent permitted under applicable law, each Mediator shall have immunity in the performance of his or her duties under these Rules, in the same manner, and to the same extent, as would a duly appointed Judge.

(e) A roster of available neutrals shall be maintained in the offices of the clerk and shall be made available to counsel and the public upon request.

LR 23.1 Designation of “Class Action” in the Caption

(a) In any case sought to be maintained as a class action, the complaint shall bear next to its caption the legend “Complaint -- Class Action.” The complaint shall also contain a reference to the portion or portions of Fed. R. Civ. P. 23, under which it is claimed that the suit is properly maintained as a class action.

(b) Within ninety (90) days after the filing of a complaint in a class action, unless this period is extended on motion for good cause, the plaintiff shall file a separate motion that a determination be made under Fed. R. Civ. P. 23 (c)(1) whether the case is to be maintained as a class action. In ruling upon such a motion, the court may allow the action to be maintained as a class action, may disallow the action to be so maintained, or may order postponement of the determination pending discovery or other such preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the court for renewal of the motion.

(c) The provisions of this Rule shall apply, with appropriate adaptations, to any counterclaim or cross claim alleged to be brought for or against a class.

LR 26.1 Form of Interrogatories, Requests for Production and Requests for Admission

(a) The party propounding written interrogatories pursuant to Fed. R. Civ. P. 33, requests for production of documents or things pursuant to Fed. R. Civ. P. 34, or requests for admission pursuant to Fed. R. Civ. P. 36, shall number each such interrogatory or request sequentially. The party answering, responding or objecting to such interrogatories or requests shall quote each such interrogatory or request in full immediately preceding the statement of any answer, response or objection thereto, and shall number each such response to correspond with the number assigned to the request.

(b) No party shall serve on any other party more than thirty (30) 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 shall file a written motion setting forth the proposed additional requests for admission and the reason(s) for their use.

LR 26.2 Filing of Discovery and Other Materials

Because of the considerable cost to the parties of furnishing discovery materials, and the serious problems encountered with storage, this court adopts the following procedure for filing of discovery and other materials with the court:

(a) The following material shall not be filed with the court until used in the proceedings or ordered to be filed: (i) Rule 26(a)(1) and (a)(2) disclosures; (ii) notices of deposition; (iii) depositions; (iv) interrogatories; (v) requests for documents or to permit entry upon land; (vi) requests for admission; (vii) responses or answers to interrogatories, to requests for documents, to requests to permit entry upon land, and to requests for admission; and (viii) notices of service of discovery. The party responsible for service of the discovery material shall retain the original and become the custodian.

(b) If relief is sought under Fed. R. Civ. P. 26(c) or 37, concerning any Rule 26(a)(1) disclosures, interrogatories, requests for production or inspection, answers to interrogatories or responses to requests for production or inspection, copies of the portions of the disclosures, interrogatories, requests, answers or responses in dispute shall be filed with the court contemporaneously with any motion filed under these rules.

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

(d) No motions to publish depositions are required.

(e) In *pro se* litigation, all discovery shall be filed.

LR 30.1 Scheduling of Depositions

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

LR 37.1 Informal Conference to Settle Discovery Disputes

(a) Any certification required to be made under Fed. R. Civ. P. 26(c)(1), 37(a)(1), and 37(d)(1)(B) shall recite, in addition to the information required under the appropriate Federal Rule, the date, time, and place of the conference or attempted conference and the names of all persons participating therein.

(b) With respect to every other motion concerning discovery, the motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party in an effort to resolve the matter without court action. The certification shall also state the date, time, and place of the conference or attempted conference and the names of all persons participating therein.

(c) The certification required under subsection (a) and (b) of this rule shall be made in a separate document filed contemporaneously with the motion. The court may deny any motion described in subsection (a) and (b) (except those motions brought by or against a person appearing *pro se*) if the required certification is not filed.

LR 37.3 Mode of Raising Discovery Disputes with the Court

Where an objection is raised during the taking of a deposition which threatens to prevent the completion of the deposition and which is susceptible to resolution by the court without the submission of written materials, any party may recess the deposition for the purpose of submitting the objection by telephone to a judicial officer for a ruling instanter, subject to the availability of and within the discretion of the judicial officer. Prior to contacting the court for such a ruling, all parties shall in good faith confer or attempt to confer in an effort to resolve the matter without court action.

LR 40.1 Assignment of Cases

(a) The caseload of the court shall be distributed among the judges and magistrate judges as provided by order of the court. All cases, as they are filed, shall be assigned to appropriate judicial officers in accordance with the method prescribed by the court from time to time.

(b) No clerk, deputy clerk, or other employee in the clerk's office shall reveal to any person, other than the judges, the order of assignment of cases until after they have been filed and assigned or assign any case otherwise than as herein provided or as ordered by the district court.

(c) No person shall directly or indirectly cause or procure or attempt to cause or procure any clerk, deputy clerk or other court attache to reveal to any person, other than the judges of the court, the order of assignment of cases until after they have been filed or assigned as provided above. No person shall directly or indirectly cause or procure or attempt to cause or procure any clerk, deputy clerk or other court attache to assign any case otherwise than as herein provided or as ordered by the district court. Any person violating this subparagraph may be punished for contempt of court.

(d) At the time of filing and at any time thereafter when it becomes known, counsel shall file a notice of related action when it appears that any case:

(1) grows out of the same transaction or occurrence,

(2) involves the same property, or

(3) involves the validity or infringement of a patent, trademark or copyright as is involved in a pending case.

(e) Related cases shall be transferred from one judge to another judge, or from one magistrate judge to another magistrate judge, when it is determined that a later numbered case is related to a pending, earlier numbered case assigned to another judge or magistrate judge.

(f) When required by considerations of workload, in the interest of the expeditious administration of justice, the court by order may reassign cases among the judges or magistrate judges.

(g) If for any reason it should become necessary for a judge, to be disqualified from a civil case assigned to that judge, the case shall be reassigned to another judge within the district on a random basis.

(h) If for any reason it should be necessary for a judge, in a division of this court where more than one judge is in residence, to be disqualified from a criminal case assigned to that judge,

the case shall be reassigned to another judge resident in that division on a random basis. If there is a need of recusal by a judge in a division where fewer than two judges are in residence, or if all judges in a division are disqualified, the case shall be transferred to the chief judge of the district for reassignment to another judge within the district. If the chief judge is disqualified from deciding a case from which another judge has been disqualified, the case shall be sent for reassignment to the judge who is next senior in service on the bench and who is not also disqualified.

(i) If for any reason it should become necessary for a magistrate judge to be disqualified from a case consented to under Title 28 U.S.C. Section 636(c)(1), the case should return to the originally assigned district judge for reassignment to another magistrate judge within the district.

(j) Unless the remand order directs otherwise, following the docketing of a mandate for a new trial pursuant to Seventh Circuit Rule 36 and allowing fourteen (14) days thereafter within which all parties may file their request that the judge previously assigned to the case retry the case, the case shall be reassigned in accordance with paragraphs (g), (h), or (i).

LR 40.4 Division of Business Among District Judges

(a) Cases shall be assigned to district judges pursuant to a general order issued by the court or by the chief judge when an assigned district judge is unable to handle the case. The assignment of cases may be made without regard to the division in which the district judge normally sits.

(b) If a matter requires expedited consideration, and the assigned district judge is unavailable, then the other district judge within that division shall consider the matter. If no district judge is available in that division, then the clerk shall notify the chief judge. If the chief judge is also unavailable, the clerk shall notify the next most senior judge who is available.

LR 41.1 Dismissal of Actions for Failure to Prosecute

Civil cases in which no action has been taken for a period of six (6) months may be dismissed for want of prosecution with judgment for costs after twenty-eight (28) days notice given by the clerk or the assigned judge to the attorneys of record (or, in the case of a *pro se* party, to the party) unless, for good cause shown, the court orders otherwise.

LR 42.2 Consolidation of Cases

A motion to consolidate two or more civil cases pending upon the docket of the Court shall be filed in the case bearing the earliest docket number. That motion shall be ruled upon by the Judge to whom that case is assigned. In each case to which the consolidation motion applies, a copy of the moving papers shall be served upon all parties and a notice of consolidation motion shall be filed.

LR 47.1 Voir Dire

The court will conduct the voir dire examination in all jury cases. If counsel desires any particular area of interrogation or questions on voir dire examination, such proposal shall be filed with the clerk of the court at such time as the court may order. The court will give counsel an opportunity at the completion of the original voir dire to request that the court ask such further questions as counsel shall deem necessary and proper and which could not have been reasonably anticipated in advance of trial. However, nothing in this rule is intended to preclude or otherwise limit the court, in any individual case, from allowing attorneys to conduct voir dire examination in any other manner as permitted by Fed. R. Civ. P. 47.

LR 47.2 Communication with Jurors

No attorney or party appearing in this court, or any of their agents or employees, shall approach, interview, or communicate with any member of the jury except on leave of court granted upon notice to opposing counsel . This rule applies to any communication before trial with members of the venire from which the jury will be selected, as well as any communication with members of the jury during trial, during deliberations, or after return of a verdict. Any juror contact permitted by the court shall be subject to the control of the judge.

LR 47.3 Juror Costs

If for any reason attributable to counsel or parties, including a settlement or change of plea, the court is unable to commence a jury trial as scheduled where a panel of prospective jurors has reported to the courthouse for the voir dire, or a selected jury reports to try the case, the court may, unless good cause is shown, assess against counsel or parties responsible all or part of the cost of the panel including Marshal's fees, mileage and per diem. There shall be no costs assessed if the Clerk's office is notified at least one (1) business day prior to the day on which the action is scheduled for trial.

LR 51.1 Instructions in Civil Cases

In all civil cases to be tried to a jury, and subject to the requirements of any controlling pretrial order, parties shall use pattern jury instructions whenever possible.

LR 54.1 Taxation of Costs and Attorneys Fees

Except as otherwise provided by statute, rule, or court order, a party shall have fourteen (14) days from the entry of a final judgment to file and serve a request for the taxation of costs and for assessment of attorney fees. The time may be extended by the court for good cause shown. Failure to file such a request or to obtain leave of court for extensions of time within which to file shall be deemed a waiver of the right to make such a request. A party requesting taxation of costs shall submit a completed bill of costs on AO Form 133, which is available from the clerk and on the court's website.

LR 56.1 Summary Judgment Procedure

(a) **Moving Party's Obligations**. The brief supporting a summary-judgment motion or the brief's appendix must include a section labeled "Statement of Material Facts" that identifies the facts that the moving party contends are not genuinely disputed.

(b) **Opposing Party's Obligations**.

(1) **Required Filings**. A party opposing the motion must, within 28 days after the movant serves the motion, file and serve

(A) a response brief; and

(B) any materials that the party contends raise a genuine dispute.

(2) **Content of Response Brief or Appendix**. The response brief or its appendix must include a section labeled "Statement of Genuine Disputes" that identifies the material facts that the party contends are genuinely disputed so as to make a trial necessary.

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

(d) **Oral Argument**. The court will decide summary-judgment motions without oral argument unless a request under L.R. 7.5 is granted or the court directs otherwise.

(e) **Disputes About Admissibility of Evidence**. Any dispute regarding the admissibility of evidence should be addressed in a separate motion in accordance with L.R. 7.1.

(f) **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 C.

LR 65.1 Motions for Preliminary Injunctions and Temporary Restraining Orders

The court will consider a request for a preliminary injunction or a temporary restraining order only when the moving party files a separate motion for such relief. If the motion is for a temporary restraining order, in addition to fully complying with all the requirements of Fed. R. Civ. P. 65(b), the moving party also shall file with its motion a supporting brief.

LR 66.1 Receiverships

(a) **Proceedings to Which This Rule is Applicable.** This rule is promulgated, pursuant to Fed. R. Civ. P. 66 for the administration of estates, other than the estates in bankruptcy, by receivers or by other officers appointed by the court.

(b) **Inventory and Appraisal.** Unless the court otherwise orders, a receiver or similar officer, as soon as practicable after appointment and not later than twenty-eight (28) days after he or she has taken possession of the estate, shall file an inventory and an appraisal of all the property and assets in the receiver's possession or in the possession of others who hold possession as his or her agent, and in a separate schedule, an inventory of the property and assets of the estate not reduced to possession by the receiver but claimed and held by others.

(c) **Periodic Reports.** Within twenty-eight (28) days after the filing of inventory, and at regular intervals of three (3) months thereafter until discharged, unless the court otherwise directs, the receiver or other similar officer shall file reports of the receipts and expenditures and of his or her acts and transactions in an official capacity.

(d) **Compensation of Receiver, Attorneys and Other Officers.** In the exercise of its discretion, the court shall determine and fix the compensation of receivers or similar officers and their counsel and the compensation of all others who may have been appointed by the court to aid in the administration of the estate, and such allowances or compensation shall be made only on petition therefore and on such notice, if any, to creditors, and other interested persons as the court may direct.

(e) **Administration Generally.** In all other respects the receiver or similar officer shall administer the estate as nearly as may be in accordance with the practice in the administration of estates in bankruptcy, except as otherwise ordered by the court.

LR 69.4 Body Attachments; Hearings

Whenever a judgment debtor fails to appear for a hearing on a complaint in proceedings supplemental, no body attachment warrant shall issue until after the judgment plaintiff files a petition directing the judgment defendant to show cause for the failure to appear. If the defendant fails to appear at the show cause hearing, the court may issue a body attachment warrant upon proof that the defendant was served with notice of the original proceedings supplemental hearing and the show cause hearing.

Whenever a judgment defendant has been brought into court on a body attachment, a hearing shall be conducted at the earliest convenience of the court. Counsel for the moving party shall respond to the telephone request by court personnel to appear at the hearing forthwith, and counsel shall be deemed to have consented to such notice to appear by requesting a body attachment. The hearing requires the presence of the attorney of record, and clerical or secretarial personnel shall not appear to interrogate the attached judgment defendant. Failure to respond promptly to such a request may result in the discharge of the attached defendant or other such appropriate measures taken by the court.

LR 72.1 Authority Of United States Magistrate Judges

(a) The term "United States Magistrate Judge" shall include full-time magistrate judges, part-time magistrate judges and magistrate judges recalled pursuant to 28 U.S.C. §636(h).

(b) Magistrate judges of this district are judicial officers of the Court and are authorized and specially designated to perform all duties authorized to be performed by United States magistrate judges by the United States Code and any rule governing proceedings in this Court.

(c) The cases in which each magistrate judge is authorized to perform the duties enumerated in these rules are those cases assigned to the magistrate judge by rule or order of this Court, or by order or special designation of any district judge of this Court.

LR 72.2 Forfeiture of Collateral in Lieu of Appearance

(a) A person who is charged with an offense made criminal pursuant to 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. The offenses to which this rule applies, together with the amounts of collateral to be posted, where applicable, shall appear on a schedule to be filed in the office of the clerk of court in each division of this district and available for public inspection. Such schedule shall be in effect until rescinded, amended or superseded by general order of the court. The clerk shall make copies of such schedule available to those legal publishing houses that publish for commercial distribution the rules of this court for inclusion of such schedule in any publication of the rules of this court.

(b) Upon the failure of the person charged with an offense to which this rule applies to appear before the United States magistrate judge, the collateral posted shall be forfeited and the forfeiting of said collateral shall signify that the offender does not contest the charge or request a hearing before the United States magistrate judge. If collateral is forfeited, such action shall be tantamount to a finding of guilt.

(c) Forfeiture will not be permitted on violations contributing to an accident which results in personal injury. Arresting officers shall treat multiple and aggravated offenses as mandatory appearance offenses, and shall direct the accused to appear for a hearing. No forfeiture of collateral will be permitted in such cases.

(d) Nothing in this rule shall prohibit a law enforcement officer from arresting a person for the commission of any offense, including those for which collateral may be posted and forfeited, and requiring the person charged to appear before a United States magistrate judge, or, upon arrest, taking the person immediately before a United States magistrate judge.

LR 79.1 Custody of Files and Exhibits

(a) **Custody During Pendency of Action**. After being marked for identification, models, diagrams, exhibits and material offered or admitted in evidence in any cause pending or tried in this court shall be placed in the custody of the clerk, unless otherwise ordered by the court, and shall not be withdrawn until after the time for appeal has run or the case is disposed of otherwise. Such items shall not be withdrawn until the final mandate of the reviewing court is filed in the office of the clerk and until the case is disposed of as to all issues, unless otherwise ordered.

(b) **Removal After Disposition of Action**. Subject to the provisions of subsections (a) and (d) hereof, unless otherwise ordered, all models, diagrams, exhibits or material placed in the custody of the clerk shall be removed from the clerk's office by the party offering them in evidence within ninety (90) days after the case is decided. In all cases in which an appeal is taken these items shall be removed within twenty-eight (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. At the time of removal a detailed receipt shall be given to the clerk and filed in the cause. No motion or order is required as a prerequisite to the removal of an exhibit pursuant to this rule.

(c) **Neglect to Remove**. Unless otherwise ordered by the court, if the parties or their attorneys shall neglect to remove models, diagrams, exhibits or material within twenty-eight (28) days after notice from the clerk, the same shall be sold by the United States Marshal at public or private sale or otherwise disposed of as the court may direct. If sold, the proceeds, less the expense of sale, shall be paid into the registry of the court.

(d) **Contraband Exhibits.** Contraband exhibits, such as controlled substances, money, and weapons, shall be released to the investigative agency at the conclusion of the trial and not placed in the custody of the clerk. A receipt shall be issued when such contraband exhibits are released.

(e) **Withdrawal of Original Records and Papers.** Except as provided above with respect to the disposition of models and exhibits, no person shall withdraw any original pleading, paper, record, model or exhibit from the custody of the clerk or other officer of the court having custody thereof except upon order of a judge of this court.

LR 83.3 Courtroom and Courthouse Decorum

(a) **Photography and Broadcasting.** The following Resolution of the Judicial Conference adopted at its March 1979 meeting shall be effective in the courthouses of this district:

> "RESOLVED, That the Judicial Conference of the United States condemns the taking of photographs in the courtroom or its environs in connection with any judicial proceedings and the broadcasting of judicial proceedings by radio, television, or other means, and considers such practices to be inconsistent with fair judicial procedure and that they ought not be permitted in any federal court. A judge may, however, permit the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings."

(1) In the Northern District of Indiana the term "environs" means all areas upon the same floor of the building on which a courtroom, jury assembly room, grand jury room or clerk's office is located.

(2) The taking of photographs, sound recording (except by the official court reporters in the performance of their duties), broadcasting by radio, television, telephone, or other means, in connection with any judicial proceeding in any environs as defined above are prohibited. Provided, however, that incidental to investiture, ceremonial or naturalization proceedings, a judge of this court may permit the taking of photographs, broadcasting, televising, or recording. Provided further, nothing in this Rule shall prohibit the U.S. Attorney from conducting a press conference or depositions within its office space.

(3) Depositions recorded by whatever means may be taken in the environs of the court upon approval by a judge or the clerk of this court.

(b) **Cellular Telephones and PDA's.**

(1) Members of the Bar of this Court may bring into the courthouses in this district cellular telephones and personal digital assistants (PDA's).

(2) Building personnel and federal law enforcement officers may have cellular telephones in the district courthouses subject to the following:

(A) Building personnel shall not be allowed to bring cellular telephones into any courtroom in this district.

(B) The United States Marshal and all Deputy Marshals shall be allowed to bring

cellular telephones into the courtrooms, provided the cellular telephones are switched to a vibrate (rather than an audible) mode prior to entry.

(C) Visiting federal law enforcement personnel who have been approved by the United States Marshal's Service to carry cellular telephones are authorized to carry them directly to and from the agency office they are visiting, but must deposit them there for the duration of their visit.

(c) All persons authorized by this Rule to bring cellular telephones or PDA's into the courthouse are strictly prohibited from using such devices for any improper purpose, including but not limited to the taking of any photographs or moving pictures. Furthermore, all such persons shall be subject to a fine of up to $1,500 and/or confiscation of the cellular telephone or PDA if that device creates an audible noise in the courtroom of this district while the court is in session, which penalty is at the discretion of the judicial officer before whom the device creates the audible noise.

LR 83.5 Bar Admission

(a) **Bar Membership.** In all cases filed in, removed to, or transferred to this court, all parties, except as provided in subsection (c), must be represented of record by a member of the bar of this court. The bar of this court shall consist of persons admitted to practice by this court and who have signed the roll of attorneys, who have not been disbarred or suspended, or who have not resigned.

(b) **Admission.** Any attorney admitted to practice by the Supreme Court of the United States or the highest court of any state may become a member of the bar of this court upon motion by a member of the bar of this court, if the court is satisfied that the applicant is a member in good standing of the bar of every jurisdiction to which the applicant is admitted to practice and that the applicant is of good private and professional character from the assurance of the movant or upon report of a committee appointed by the court. Upon being admitted, the applicant shall take a prescribed oath or affirmation, certify that the applicant has read and will abide by the Seventh Circuit's Standards for Professional Conduct, certify that the applicant has read and will abide by the local rules of this court, pay the required fees (except law clerks to judges of this court shall not be required to pay such fees), sign the roll of attorneys, register for electronic case filing, give a current address, and agree to notify the clerk promptly of any change thereof, whereupon the attorney's admission will be entered upon the records of this court with certificate to issue accordingly.

(c) **Pro Se, Pro Hac Vice, and United States Government Appearances.** A person not a member of the bar of this court shall not be permitted to practice in this court or before any officer thereof as an attorney, unless:

(1) such person appears on his or her own behalf as a party, or

(2) such person is admitted to practice in any other United States Court or the highest court of any state, is a member in good standing of the bar of every jurisdiction to which the applicant is admitted to practice, is not currently under suspension , has certified that he or she will abide by the local rules of this court and the Seventh Circuit Standards of Professional Conduct, ,has made application to this court, has made payment of the required fee, and has been granted leave by this court to appear in a specific action, or

(3) such person appears as attorney for the United States, or any agency thereof or any officer of the United States or of an agency thereof.

(d) **Foreign Legal Consultants**. There is no admission to this bar for Foreign Legal Consultants, as provided for in Rule 5 of the Indiana Rules for the Admission to the Bar and the Discipline of Attorneys.

(e) **Local Counsel.** Whenever necessary to facilitate the conduct of litigation, this court may require any attorney appearing in any action in this court who resides outside this district to retain as local counsel a member of the bar of this court who is resident of this district.

(f) **Standards.** The Rules of Professional Conduct, as adopted by the Indiana Supreme Court, and the Standards for Professional Conduct, as adopted by the Seventh Circuit, shall provide standards of conduct for those practicing in this court. The Seventh Circuit's Standards for Professional Conduct are set out in an Appendix to these Rules.

LR 83.6 Disciplinary Action Against Attorneys

(a) **Effect of an Appearance in this Court**. Any attorney authorized to appear on behalf of a client in this court is deemed admitted to practice before this court and is subject to discipline in this court.

(b) **Violations of Standards for Professional Conduct.**

(1) Acts or omissions by an attorney admitted to practice before this court, individually or in concert with any other person or persons, which violate the standards of professional conduct identified in L.R. 83.5(f) constitute misconduct, whether or not the act or omission occurred in the course of an attorney-client relationship.

(2) When an attorney admitted to practice before this court engages in misconduct, the attorney may be disbarred or, suspended from practice before this court, reprimanded, or subjected to other disciplinary action in accordance with the grievance process established under L.R. 83.6(c).

(c) **Grievance Process.**

(1) **Establishment of the Grievance Committee.**

(A) The judges of the district court shall appoint a five member panel to serve as a Grievance Committee ("Committee") for the Northern District of Indiana. The Chief Judge shall designate one member as the chairperson to convene the Committee.

(B) The Committee shall consist of members of the bar of this court, including at least one member from each of the divisions of the court.

(C) Committee members shall serve for a period of five years and may be reappointed by the judges of the district court. Upon receiving notification that a Committee member is unable or unwilling to serve the entirety of the member's appointed term, the judges of the district court shall promptly select a replacement Committee member. The terms of the Committee members will be staggered, with one member replaced or the term renewed annually by the district court. The initial Committee members will serve terms from one to five years so as to establish this rotation. The Committee will determine at its initial meeting which members will serve these initial terms of service.

(D) The clerk shall either serve or designate a deputy clerk to serve as secretary

to the Committee, responsible for maintaining all Committee records. The designee shall be a non-voting member of the Committee.

(E) Committee members shall serve without compensation, but insofar as possible, their necessary expenses shall be paid by the clerk from the Library Fund.

(F) By January 31 of each year, the Committee shall provide the district court with a written report of its actions during the previous calendar year. The report shall include information concerning the complaints filed, the number of pending investigations, and the disposition of complaints.

(G) The members of the Committee, with respect to their actions in such capacity, shall be considered as representatives of, and acting under the powers and immunities of, the district court; and they shall enjoy all such immunities while acting in good faith in their official capacities.

(H) Any three or more members shall constitute a quorum and may act on behalf of the Committee.

(2) **Filing a Grievance.**

(A) The clerk shall maintain a form complaint that may be utilized to initiate a grievance proceeding against an attorney admitted to practice before this court. A complaint shall identify the attorney and provide a short and plain statement of the claim of misconduct. The complaint shall be verified and filed under seal with the clerk. Once filed, the clerk shall present the filing to the Committee. The complaint shall remain under seal until such time as the Committee determines that there is probable cause to investigate the complaint.

(B) A judge of this court may initiate a grievance proceeding with the entry of an order in a pending case.

(C) The secretary of the Committee shall promptly provide a copy of the complaint or order to all members of the Committee.

(3) **Procedures Before the Grievance Committee.**

(A) Upon receiving a complaint or order, the Committee shall do one or more of the following:

(i) Determine that the complaint or order raises a substantial question of misconduct justifying further inquiry that should be pursued by the

Committee; or

(ii) Determine that the complaint or order raises a substantial question of misconduct that should be referred to the appropriate grievance committee of the Indiana Bar or other disciplinary agency with jurisdiction over the attorney; or

(iii) Determine that the complaint or order raises no substantial question of misconduct and take no further action against the attorney. If the Committee decides to take no further action, it shall advise the clerk and complaining person or judge that no further action or investigation is warranted. It shall also notify the attorney that a claim of misconduct was filed and that the Committee determined to take no further action. The Committee shall supply the attorney with a copy of the complaint or order.

(B) If the Committee determines to conduct a further investigation, the Committee shall decide how and to what extent to conduct the investigation. It shall also notify the attorney of the investigation, provide the attorney with a copy of the complaint or order, and direct the attorney to file with the clerk a written response to the complaint or order within (30) days. The response shall be under seal unless the attorney files a written request with the Committee to have it unsealed.

(C) The Committee shall be vested with such powers as are necessary to the proper and expeditious investigation of any claim of misconduct, including the power to interview witnesses, to compel the attendance of witnesses by subpoena, to take or cause to be taken the deposition of any witness, to secure the production of documentary evidence, and to administer oaths.

(D) After completing its investigation, the Committee shall either:

(i) Determine to hold a formal hearing; or

(ii) Determine that no substantial question of misconduct exists and take no further action against the attorney. If the Committee decides to take no further action, it shall advise the clerk and complaining person or judge that no further action is warranted, and it shall also notify the attorney that no further action will be taken by the Committee.

(E) If the Committee determines to hold a formal hearing, it shall schedule the hearing as promptly as possible, provided, however, that delays in the hearing shall not affect the jurisdiction of the Committee. The attorney shall have the

right to be present, to be represented by counsel, to present evidence, and to confront and cross-examine witnesses. In conducting the hearing, the Federal Rules of Evidence shall guide the Committee. A record shall be made of the hearing.

(F) After the hearing, the Committee shall either:

(i) Determine that no substantial question of misconduct exists and take no further action against the attorney. If the Committee decides to take no further action, it shall advise the clerk and complaining person or judge that no further action is warranted, and it shall also notify the attorney that no further action will be taken by the Committee; or

(ii) Determine that the attorney's misconduct merits disciplinary action. Among the actions which the Committee can recommend are one or more of the following:

a. A private reprimand;

b. A public reprimand;

c. Suspension of the attorney from the bar of the district court;

d. Disbarment of the attorney from the district court; and

e. A referral of the matter to another appropriate disciplinary board for disciplinary action.

(G) At any point during the investigation or during or after the hearing, the attorney can propose a disciplinary action for the claim of misconduct. If the Committee believes that the proposed disciplinary action is appropriate, it can recommend the imposition of that action in lieu of further proceedings before the Committee.

(H) All investigations, deliberations, hearings, and other proceedings of the Committee, as well as all documents presented to the Committee, shall remain confidential. All meetings and hearings of the Committee shall be held in camera and the business conducted by the Committee shall remain confidential. In its judgment, however, the Committee may disclose some or all aspects of its proceedings to the district court judges, to complainants, and to other disciplinary committees.

(4) **Proceedings Before the District Court.**

(A) If the Committee recommends that disciplinary action be taken against an attorney, it shall forward its recommendation, along with a written report of its findings and conclusions, to the Chief Judge of this court, and, if the matter involves conduct before the United States Bankruptcy Court, to the Chief Judge of that Court. The written report shall be a public record, provided, however, any recommendation of a private reprimand shall remain under seal.

(B) Upon receiving a written report by the Committee finding that misconduct occurred, setting forth specific facts in support of its conclusion and recommending disciplinary action, the Chief Judge shall issue an order requiring the attorney to show cause in writing why the Committee's findings and recommendations should not be adopted by the court. Within 30 days after service of the show cause order, the attorney may file a written response with the clerk. After considering the attorney's response, if any, the Chief Judge, upon a majority vote of the district judges of the court – or if the matter involves conduct before the United States Bankruptcy Court, upon a majority vote of the district court and bankruptcy judges – may adopt, modify, or reject the Committee's findings and recommendations without a hearing, or, if deemed appropriate, the Chief Judge may set the matter for a hearing before a judicial officer.

(C) The designated judge shall conduct a hearing promptly and issue a report to the district court which includes proposed findings of fact and a recommended disposition of the case. In conducting the hearing, the Federal Rules of Evidence shall guide the designated judge.

(D) The Chief Judge, upon the majority vote of the district judges of the court, – or if the matter involves conduct before the United States Bankruptcy Court, upon a majority vote of the district court and bankruptcy judges – may adopt, modify, or reject the findings and recommendations or take such other action as deemed appropriate. Notice of the disposition shall be provided to the attorney, the clerk, the complaining person or judge, and the Committee chairperson.

(d) **Attorneys Convicted of Crimes.**

(1) Upon the filing with this court of a certified copy of a judgment of conviction demonstrating that any attorney admitted to practice before the court has been convicted in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined, the court shall enter an order immediately suspending that attorney, (whether the conviction resulted from a plea of guilty, nolo contendere, or

from a verdict after trial or otherwise), and regardless of the pendency of any appeal or other pleading attacking the determination of guilt, until final disposition of a disciplinary proceeding to be commenced upon such conviction. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the court may set aside such order when it appears in the interest of justice to do so.

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

(3) A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

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

(5) Upon the filing of a certified copy of a judgment of conviction of an attorney for a crime not constituting a "serious crime," the Chief Judge may refer the matter to the Grievance Committee for whatever action the Committee deems warranted, including the institution of a disciplinary proceeding; provided, however, that the Chief Judge may, in his or her discretion, make no reference with respect to convictions for minor offenses.

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

(7) An attorney admitted to practice before this court shall, upon being convicted of a serious crime in any court of the United States, or the District of Columbia, or any state, territory, commonwealth, or possession of the United States, promptly inform the clerk of such action.

(e) **Discipline Imposed by Other Courts.**

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

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

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

(B) an order to show cause directing that the attorney inform this court within 30 days after service of that order upon the attorney, personally or by mail, of any claim by the attorney predicated upon the grounds set forth in (4) hereof that the imposition of the identical discipline (other than payment of a fine) by the court would be unwarranted and the reasons therefor.

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

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

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

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

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

(D) that the misconduct established is deemed by this court to warrant substantially different discipline.

Where the court determines that any of said elements exist, the court shall enter such

other order as it deems appropriate.

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

(6) The Chief Judge may at any stage refer the matter to the Grievance Committee to conduct disciplinary proceedings or to make recommendations to the court for appropriate action in light of the discipline imposed by another court or disciplinary authority.

(f) **Disbarment on Consent or Resignation in Other Courts.**

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

(2) Any attorney admitted to practice before this court shall, upon being disbarred on consent or resigning from the bar of any other court of the United States or the District of Columbia, or from the bar of any state, territory, commonwealth or possession of the United States while an investigation into allegations of misconduct is pending, promptly inform the clerk of such disbarment on consent or resignation.

(g) **Disbarment on Consent While Under Disciplinary Investigation or Prosecution in this Court.**

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

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

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

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

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

(2) Upon receipt of the required affidavit, the clerk shall submit the affidavit to the Chief Judge for entry of an order disbarring the attorney from practice before this court.

(3) The order disbarring the attorney on consent from practice before this court shall be a matter of public record. However, the affidavit required under the provisions of this Rule shall not be publicly disclosed or made available for use in any other proceeding except upon order of this court.

(h) **Reinstatement.**

(1) **Automatic Reinstatement**. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with the court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months or disbarred from practice before this court may not resume practice until reinstated by order of this court.

(2) **Time of Application for Reinstatement Following Disbarment**. A person who has been disbarred from practice before this court after hearing or by consent may not apply for reinstatement until the expiration of at least five years from the effective date of the disbarment.

(3) **Reinstatement Following Reciprocal Discipline**. An attorney, who has previously been the subject of reciprocal discipline and subsequent termination by another court and also disbarred or suspended from practice in this court, may petition for reinstatement by filing a petition together with a certified copy of the judgment or order of the other court granting reinstatement. Upon receipt of the petition and certified reinstatement judgment or order, the Chief Judge shall promptly review the petition as well as any findings and conclusions of another court, and recommend to the other judges of this court whether or not in his/her opinion the petition and/or findings of another court sufficiently establish the fitness of petitioner to practice law so that he should be reinstated to the roll of attorneys without further hearing. If, after receiving the recommendations of the Chief Judge, a majority of the active district judges of the court – or if the matter involves conduct before the United States Bankruptcy Court, upon a majority of the district court and bankruptcy judges – agree to reinstatement without further evidence or hearing, the court shall enter a judgment accordingly and the petitioner shall be reinstated. If, on the other hand, after receiving and considering the recommendation of the Chief Judge a majority of the active district judges of the court – or if the matter involves conduct before the United States Bankruptcy Court, upon a majority of the district court and bankruptcy judges

– request additional evidence or hearing prior to making a decision on the petition, a hearing shall be scheduled in accordance with Section (h)(4) of this rule.

(4) **Hearing on Application for Reinstatement**. If a hearing is required to rule on a petition for reinstatement, the Chief Judge shall promptly refer the petition to the Grievance Committee for a hearing at which the petitioner shall have the burden of establishing by clear and convincing evidence that he/she has the moral qualifications, competency and learning in the law required for admission to practice law before this court and that his/her resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or subversive to the public interest. Upon completion of the hearing the Committee shall make a full report to the court. The Committee shall include its findings of fact as to the petitioner's fitness to resume the practice of law and its recommendations as to whether or not the petitioner should be reinstated.

(5) **Order**. If, after consideration of the Committee's report and recommendation, and after such a hearing as the court may direct, a majority of the district judges – or if the matter involves conduct before the United States Bankruptcy Court, upon a majority of the district court and bankruptcy judges – finds that the petitioner is unfit to resume the practice of law, the petition shall be denied. If, after consideration of the Committee's report and recommendation and after such a hearing as the court may direct, the majority of the active district judges – or if the matter involves conduct before the United States Bankruptcy Court, upon a majority of the district court and bankruptcy judges – finds that the petitioner is fit to resume the practice of law, the court shall reinstate the petitioner, provided that the reinstatement may be made conditional:

(A) Upon the payment of all or part of the costs of the proceedings, and the making of partial or complete restitution to all parties harmed by the conduct of the petitioner which led to the suspension or disbarment;

(B) If the petitioner was suspended or disbarred from practice before this court for five years or more, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment from practice before this court; and

(C) Upon any other terms which the court in its discretion deems appropriate.

(6) **Successive Petitions**. No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

(7) **Deposit for Costs of Proceeding**. Petitions for reinstatement under this Rule shall be accompanied by an advance cost deposit in an amount to be set from time to time by the court to cover anticipated costs of the reinstatement proceeding.

(i) **Service of Papers and Other Notices**. Service of an order to show cause instituting a formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the respondent-attorney at his or her last known address.

(j) **Duties of the Clerk.**

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

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

(3) The clerk shall promptly notify the appropriate disciplinary agency with jurisdiction over the attorney of any criminal conviction in this court or any discipline imposed pursuant to this rule.

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

(5) The clerk shall serve as the official custodian of all records and shall distribute to the appropriate person or entity communications filed in these actions.

(k) **Other Disciplinary Powers.** These provisions do not apply to or limit the imposition of sanctions or other disciplinary or remedial action as may be authorized by the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure, or through exercise of the inherent or statutory powers of the court in maintaining control over proceedings conducted before it, such as proceedings for contempt under Title 18 United States Code or under Fed. R. Crim. P. 42.

LR 83.7 Duty of Counsel to Accept Appointments in Certain Civil Actions

Every member of the bar of this court shall be available to represent or assist in the representation of indigent parties whenever reasonably possible.

(a) **Appointment Procedure.** If the district judge or magistrate judge to whom a case has been assigned determines that representation by counsel of a party proceeding *in forma pauperis* is warranted under 28 U.S.C. § 1915 (e)(1) or 42 U.S.C. § 2000e-5(f), the district judge or magistrate judge shall direct the clerk to request an attorney who is a member of the bar of this court to represent the indigent party.

(b) **Entry of Appearance**. An attorney agreeing to accept such appointment shall enter an appearance on behalf of the indigent party within fourteen (14) days of the entry of the court's notice or order of appointment.

(c) **Representation, Relief from Appointment, and Discharge.** Continued representation of an indigent party by appointed counsel, relief from appointment, and discharge of counsel, shall be at the discretion of the district judge or magistrate judge.

(d) **Payment of Expenses.** An attorney appointed pursuant to the court's rules to represent an indigent party may petition the court for payment, from the District Court Library and Court Administration Fund, of appropriate and reasonable expenses that may be or were incurred in the preparation and presentation of the proceeding, subject to the following restrictions:

(1) Such petition shall be made by motion filed with the court either prior to incurring the expenses or within ninety (90) days of the date the expenses were incurred. The motion may be made *ex parte*. The motion shall be accompanied by sufficient documentation to permit the court to determine that the request for payment is appropriate and reasonable.

(2) Only those expenses associated with preparation and presentation of a civil action in the United States District Court for the Northern District of Indiana will be approved for payment. No expenses associated with the preparation of any appeal shall be payable.

(3) Any costs or fees taxed as part of a judgment obtained by an adverse party against a party for whom counsel was appointed pursuant to the rules of this court are not payable.

(4) In any case in which an appointed attorney receives any fee award, any

amounts the attorney has received from the Fund as payment for expenses shall be promptly repaid to the Fund.

LR 83.8 Appearance and Withdrawal of Appearance

(a) **General.** Except for attorneys representing the United States or an agency thereof, each attorney representing a party, whether in person or by filing any document, must file a separate Notice of Appearance for such party.

(b) **Removed and Transferred Cases.** Any attorney of record whose name does not appear on this Court's docket following the removal of a case from state court must file a Notice of Appearance or a copy of his/her appearance previously filed in state court.

Within 21 days of removal or transfer of a case to this Court, any attorney of record who is not admitted to practice before this Court must comply with this Court's admission policy, as set forth in Local Rule 83.5.

(c) **Withdrawal of Appearance.** Counsel desiring to withdraw an appearance in any action shall file a motion requesting leave to do so. Counsel shall file with the court satisfactory evidence of written notice to the client at least seven days in advance of the filing of such motion, unless other counsel has entered an appearance.

LR 83.9 Student Practice Rule

(a) **Purpose.** Effective legal service for each person in the Northern District of Indiana, regardless of that person's ability to pay, is important to the directly affected person, to our court system, and to our whole citizenry. Law students, under supervision by a member of the bar of the District Court for the Northern District of Indiana, may staff legal aid clinics organized under city or county bar associations or accredited law schools, or which are funded pursuant to the Legal Services Corporation Act. Law students and graduates may participate in legal training programs organized in the offices of the United States Attorney or Federal Community Defender.

(b) **Procedure.** A member of the legal aid clinic, in representation of clients of such clinic, shall be authorized to advise such persons and to negotiate and appear in all courts of this District in criminal and civil matters on their behalf. These activities shall be conducted under the supervision of a member of the bar of the District Court for the Northern District of Indiana. Supervision by a member of this bar shall include the duty to examine and sign all pleadings filed on behalf of a client. Supervision shall not require that any such member of the bar be present in the room while a student or law graduate is advising a client or negotiating on his or her behalf nor that the supervisor be present in the courtroom during a student's or graduate's appearance except in criminal or juvenile cases carrying a penalty in excess of six (6) months. In no case shall any such student or graduate appear in any court of this District without first having received the approval of the judge of that court for the student's appearance. Where such permission has been granted, the judge of any court may suspend the trial proceedings at any stage where the judge in his or her sole discretion determines that such student's or graduate's representation is professionally inadequate and substantial justice so required. Law students or graduates serving in a United States Attorney's program may be authorized to perform comparable functions and duties as assigned by the United States Attorney subject to all the conditions and restrictions in this rule and the further restriction that they may not be appointed as Assistant United States Attorneys. Law students or graduates serving in a Federal Community Defender program may be authorized to perform comparable functions and duties as assigned by the Executive Director subject to all the conditions and restrictions in this rule.

(c) **Eligible Students.** Any student in good standing in an accredited law schooland who has completed the first year shall be eligible to participate pursuant to this rule if (1) the student meets the academic and moral standards established by the dean of that school, and (2) the school certifies to the court that the student has met the eligibility requirements of this rule.

LR 200.1 Bankruptcy Cases and Proceedings

(a) **Matters Determined by the Bankruptcy Judges.**

(1) Subject to paragraph (a)(3)(B), all cases under Title 11 of the United States Code, and any or all proceedings arising under Title 11 or arising in or related to a case under Title 11 are referred to the bankruptcy judges. It is the intention of this court that the bankruptcy judges be given the broadest possible authority to administer cases properly within their jurisdiction, and this rule shall be interpreted to achieve this end.

(2) Pursuant to 28 U.S.C. § 157(b)(1), the bankruptcy judges shall hear and determine all cases under Title 11 and all core proceedings (including those delineated in 28 U.S.C. § 157(b)(2)) arising under Title 11, or arising in a case under Title 11, and shall enter appropriate orders and judgments, subject to review under 28 U.S.C. § 158.

(3) The bankruptcy judges shall hear all non-core proceedings related to a case under Title 11.

(A) By Consent: With the consent of the parties, a bankruptcy judge shall conduct hearings and enter appropriate orders or judgments in the proceeding, subject only to review under 28 U.S.C. § 158.

(B) Absent Consent: Absent consent of the parties, a bankruptcy judge shall conduct hearings and file proposed findings of fact and conclusions of law and a proposed order or judgment with the bankruptcy clerk. The bankruptcy judge may also file recommendations concerning whether the review of the proceedings should be expedited, and whether or not the basic bankruptcy case should be stayed pending district court termination of the non-core proceedings. The bankruptcy clerk shall serve copies of these documents upon the parties. Within 14 days of service, any party to the proceedings may file objections with the bankruptcy clerk. Any final order or judgment shall be issued by the district judge after considering the bankruptcy judge's proposed findings and conclusions and after reviewing *de novo* those matters to which any party has timely and specifically objected. (Review of interlocutory orders shall be had following the procedure specified in paragraph (d) of this rule.)

(C) Signifying Consent: At time of pre-trial, or earlier, upon motion of a party in interest, the parties shall:

(i) Stipulate in writing that the proceeding is a core proceeding:

(ii) Stipulate in writing that the proceeding is a non-core proceeding, but that the bankruptcy judge can determine the matter and enter a final order subject to review pursuant to 28 U.S.C. § 158;

(iii) Stipulate that the proceeding is a non-core proceeding, the bankruptcy judge finds the matter is a non-core proceeding and at least one party refuses to have the bankruptcy judge determine the matter; or

(iv) State that there is no agreement between the parties as to whether the proceeding is a core or non-core proceeding and at least one party refuses to have the bankruptcy judge determine the matter if it is determined to be a non-core proceeding;

Attached as an Appendix to this rule is an example of a stipulated order which may be used at the pretrial conference.

(b) **Matters to be Determined or Tried by District Judges.**

(1) Motions to withdraw cases and proceedings to the District Court.

(A) The district judge shall hear and determine any motion to withdraw any case, contested matter, or adversary proceeding pursuant to 28 U.S.C. § 157(d).

(B) All such motions shall be accompanied by a separate supporting brief and any appropriate affidavits. The motion shall be filed with the bankruptcy court and served upon all appropriate parties in interest. Unless the bankruptcy court directs otherwise, any response and opposing affidavits shall be served and filed within the time required by L.R. 7.1 and the movant may serve and file any reply thereto within the time provided in that rule.

(C) Upon the expiration of the time for filing briefs concerning the motion, the motion and all materials submitted in support thereof and in opposition thereto will be transmitted to the district court for a determination. The bankruptcy judge may submit a written recommendation concerning the motion, the effect of withdrawal upon the disposition of the underlying bankruptcy case, and whether the disposition of the motion should be expedited. Any such recommendation shall be served upon the parties in accordance with the procedures set forth in subparagraph (a)(3)(B) of this rule.

(D) Should the district judge grant the motion to withdraw, the case, contested matter or adversary proceeding may be referred back to the bankruptcy judge for proposed findings of fact and conclusions of law and a proposed order or

judgment in accordance with the procedures set forth in subparagraph (a)(3)(B) of this rule.

(2) Personal Injury or Wrongful Death Tort Claims.

(A) In proceedings involving an objection to a personal injury or wrongful death claim, the bankruptcy judge may hold a preliminary pre-trial or scheduling conference. At this conference, the parties may agree to the termination of the automatic stay to allow the claim to be determined in the state or federal court that would, absent bankruptcy, have jurisdiction over the action. In the absence of such an agreement, the bankruptcy judge, after consulting with the parties or their counsel, may issue a preliminary scheduling order. The matter shall then be transmitted to the clerk of the district court for such proceedings as may be appropriate.

(c) **Jury Trial.**

(1) Jury Trial Before a Bankruptcy Judge: Jury trials before a bankruptcy judge are not permitted. Issues arising under section 303 of Title 11 shall be tried by the bankruptcy judge without a jury.

(2) Jury Trials Before a District Judge:

(A) Where jury trials are not permitted before a bankruptcy judge, the party demanding a jury trial shall file a motion to withdraw the proceeding to the district court, in accordance with paragraph (b)(1) of this rule. The motion shall be filed at the same time as the demand for a jury trial. Unless excused by the district judge, the failure to file a timely motion to withdraw the proceeding shall constitute a waiver of any right to a trial by jury.

(B) In a personal injury or wrongful death tort claim, parties have the right to trial by jury. The demand for a jury trial must be properly made to preserve the right to a trial by jury.

(d) **Appeals to the District Court.** All appeals in core cases, in non-core cases heard by consent, and appeals of interlocutory orders entered by the bankruptcy judges in non-core cases heard by the bankruptcy court under subparagraph (a)(3)(B) of this rule shall be taken in the same manner as appeals in civil proceedings generally are taken to the courts of appeals from the district courts and in the time provided by the Bankruptcy Rules.

(e) **Mandate Following a Decision on Appeal.** The court's mandate following a decision on appeal from the bankruptcy court consists of a certified copy of the court's judgment and the court's written opinion, if any. Unless the court orders otherwise, the clerk will issue the mandate to the clerk of the bankruptcy court:

(1) immediately, when an appeal is dismissed voluntarily;

(2) seven days after the expiration of the deadline for filing any notice of appeal from this court's decision, unless a notice of appeal is filed; or

(3) if a notice of appeal is filed, seven days after the conclusion of any proceedings undertaken as a result of the Seventh Circuit's mandate to this court, unless those proceedings result in the entry of an order that could be the subject of a further appeal.

The mandate is effective when issued.

(f) **Filing of Papers.** While a case or proceeding is pending before a bankruptcy judge, or prior to the docketing of an appeal in the district court as set forth in the Bankruptcy Rules, all pleadings and other papers shall be filed with the bankruptcy clerk. After the case or non-core proceeding is assigned to a district judge, or after the district clerk has given notice to all parties of the date on which the appeal was docketed, all pleadings shall bear a civil case number in addition to the bankruptcy case number(s) and shall be filed only with the district court clerk.

(g) **Submission of Files to the District Court; Assignment to District Judges.** After the expiration of the time for filing objections under subparagraph (a)(3)(B), upon receipt of any order by a district judge pursuant to 28 U.S.C. § 157(d) or upon the docketing of an appeal in the district court as specified in paragraph (d), the bankruptcy clerk shall submit the file for the case or proceeding to the district court clerk. The district court clerk shall affix a civil number to each submission, and shall make the assignment to a district judge in accordance with the usual system for assigning civil cases.

(h) **Local Bankruptcy Rules.** The bankruptcy judges are authorized to make and amend rules governing the practice and procedure in all cases and proceedings within the district court's bankruptcy jurisdiction, in accordance with the requirements of Bankruptcy Rule 9029. Unless the district court orders otherwise, such rules shall also apply to any bankruptcy case or proceeding in which the order of reference has been withdrawn.

LCrR 6.1 The Grand Jury

(a) No person shall be present in the hall adjacent to the area or rooms utilized by a grand jury in the process of performing its function. In addition, while a grand jury is in the process of performing its function, no person shall remain in an area in which persons who are appearing before the grand jury can be monitored or observed. This rule shall not apply to grand jurors; witnesses; government attorneys, agents, and employees; court personnel concerned with grand jury proceedings; private attorneys whose clients have been called to appear as a witness at a session of the grand jury then in progress or about to commence; and others specifically authorized to be present.

(b) 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.

(c) 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.

(d) All magistrate judges in this district are authorized, pursuant to 28 U.S.C. §636 (b)(3), to hear and determine motions to quash or limit grand jury subpoenas.

(e) Motions to quash or limit a grand jury subpoena shall be filed and served upon the United States no later than seven (7) days prior to the appearance or production date unless good cause exists for a later filing.

(f) Upon the filing of any motion to quash or limit a grand jury subpoena, the court will endeavor to rule upon the motion on or prior to the return date of the subpoena.

LCrR 12.1 Authentication and Foundation for Exhibits

(a) A party seeking authentication of an exhibit pursuant to Fed.R.Evid. 901 and/or seeking to establish the foundation for admissibility of records of regularly conducted activity pursuant to Fed.R.Evid. 803(6) may serve a copy of all such exhibits, along with a statement of intent to proceed under this local rule, on the opposing party at least thirty (30) days prior to the trial date. The opposing party shall file any objections at least fourteen (14) days prior to trial. Failure to file an objection within this time frame shall operate as a waiver of any objection under Fed.R.Evid. 901 and/or any objection to the foundational requirements required under Fed.R.Evid. 803(6).

(b) A party is not required, but is nevertheless strongly encouraged, to avail itself of this rule.

LCrR 13.1 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 of 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.

LCrR 16.1 Standard Orders in Criminal Cases

The court may issue a standard order at the arraignment in a criminal case which contains provisions for a trial date, pretrial discovery, and deadlines for the filing of and responses to pretrial motions, and any other matters.

LCrR 30.1 Instructions in Criminal Cases

In all criminal cases to be tried to a jury, all requests for instructions shall be filed with the clerk,in accordance with Fed.R.Crim.P. 30, or at such other time during the trial as the court may direct. Parties shall utilize the Seventh Circuit Pattern Jury Instructions whenever possible, and shall submit a request for those instructions by number only. Parties are encouraged to submit to the court an additional copy of the non-pattern instructions in a format compatible with the word processing program of the court.

LCrR 47.1 Continuances 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) (7), 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 the ends of justice, or such other reason why the continuance will not violate the Speedy Trial Act, 18 U.S.C. § 3161 et seq.

LCrR 46.1 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 Fed. R. Crim. P. 46.

(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.

LCrR 47.2 Petitions for Habeas Corpus and Motions Pursuant to 28 U.S.C. §§ 2254 and 2255 by Persons in Custody

Petitions for writs of habeas corpus and motions filed pursuant to 28 U.S.C. §§ 2254 and 2255 by persons in custody shall be in writing and signed under penalty of perjury. Such petitions and motions shall be on the form contained in the Rules following 28 U.S.C. § 2254, in the case of a person in state custody, or 28 U.S.C. § 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.

LCrR 47.3 Disposition of Post Conviction Petitions and Motions Brought Pursuant to 28 U.S.C. § 2254 and § 2255 in Cases Involving Persons Under a Sentence of Capital Punishment

(a) **Operation and Scope**.

(1) These rules shall apply to habeas corpus petitions brought pursuant to 28 U.S.C. § 2254 and § 2255 by petitioners under a sentence of capital punishment.

(2) To the extent that these rules are inconsistent with any other local rules of this court, these rules shall apply.

(3) The district judge to whom a case is assigned shall handle all matters pertaining to the case, including application for certificate of appealability, motion for stay of execution, consideration of the merits, second or successive petitions, remands from the Supreme Court of the United States or the United States Court of Appeals, and all incidental or collateral matters. This rule does not limit a district judge's discretion to designate a magistrate judge, pursuant to 28 U.S.C. § 636, to perform such duties as the district judge deems appropriate or for an emergency judge to act in the absence of the assigned district judge.

(4) If a second or successive petition is filed in this court, the judge of this district to whom the second or successive petition is assigned ("second judge") shall communicate with the judge to whom earlier petitions were assigned ("first judge") and, if the first judge is not a judge of this court, also with the chief judge of the circuit.

(5) Pursuant to the Criminal Justice Act (18 U.S.C. § 3006A) and 21 U.S.C. § 848(q), counsel shall be appointed for all prisoners in cases within the scope of these rules if the prisoner is not already represented by counsel, is financially unable to obtain representation, and requests that counsel be appointed.

(6) If the district court grants or denies a stay of execution, it shall set forth the reasons for the decision.

(7) The district judge to whom a case is assigned under these rules may make changes in procedures in any case when justice so required.

(b) **Filing of a Petition.**

(1) Upon the filing of a petition within the scope of these rules, it shall be immediately assigned to a district judge under the usual practices of the court. The clerk shall

immediately notify the judge of his or her assignment and shall thereafter promptly notify, by telephone, the designated representatives of the Attorney General of the state in which the petition is filed. The Attorney General of Indiana has the obligation to keep the court informed as to the office and home telephone numbers of their designated representatives.

(2) In all petitions within the scope of this rule, the petitioner or movant shall file, within 14 days of the day of filing of the petition or motion, a legible copy of the documents listed below. If a required document is not filed, the petitioner or movant shall state the reason for the omission. The required documents are:

(A) prior petitions, with docket numbers, filed by petitioner in any state or federal court challenging the conviction and sentence challenged in the current petition;

(B) 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; and

(C) such other documents as the district court may request.

(3) A petitioner shall include in his or her petition all possible grounds for relief and the scheduled execution date. If an issue is raised in a second or successive petition that was not raised in a prior petition, the petitioner shall state the reasons why the issue was not raised and why relief should nonetheless be granted.

(4) If an issue is raised that has not been exhausted in state court, was never raised in state court or was not raised on direct appeal in state court, the petitioner shall state the reasons why the issue was not raised and why relief should nonetheless be granted.

(5) Upon the filing of a petition within the scope of these rules, the district court clerk shall immediately provide the petitioner with a copy of this rule and a copy of Circuit Rule 22 adopted by the United State Court of Appeals for the Seventh Circuit.

(6) The clerk shall notify the clerk of the Court of Appeals of the filing of a petition within the scope of these rules, of significant events and the progress of the case, and of any subsequent appeal of such case. The clerk of this court shall send a copy of the final decision and any notice of appeal to the clerk of the state supreme court.

(c) **Preliminary Consideration of Judge.**

(1) The district judge shall promptly examine a petition within the scope of these rules and, if appropriate, order the respondent to file an answer or other pleading or take

such other action as the judge deems appropriate.

(2) If the district judge determines, after examination of the petition, that the petition is a second or successive petition raising issues previously decided by a federal court, the district judge shall enter an appropriate order with a written finding so stating.

(d) **Priority.** The district judge shall give priority on his or her calendar to scheduling and deciding cases within the scope of these rules.

(e) **Motions for Immediate Stay of Execution.**

(1) No motion for a stay of execution shall be filed unless accompanied by a petition for relief under 28 U.S.C. § 2254 or § 2255 which comports with these rules. The movant shall immediately notify opposing counsel by telephone of the filing.

(2) The movant shall attach to the motion for stay a legible copy of the documents listed in section (b)(2) 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 shall deliver to the clerk a legible copy of the listed documents as soon as possible. If a required document is not filed, the movant shall state the reason for the omission.

(3) If the state has no objection to the motion for stay, the district court shall enter an order staying the execution.

(4) If the district court determines that the petition or motion is not frivolous and a stay is requested, it shall enter an order staying the execution.

(5) Following a decision on the merits, if the district court issues a certificate of probable cause, it shall enter an order staying the execution pending appeal. If the district court denies a certificate of probable cause, it shall not enter an order staying the execution pending appeal and it shall dissolve any stay of execution previously granted to petitioner by the district court.

(6) Except in the case of emergency motions, parties shall file motions with the district court clerk during the normal business hours of the clerk's office. The motion shall 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.

(f) **Clerk's List of Cases.** The district court clerk shall maintain a separate list of all cases within the scope of these rules.

LCrR 53.1 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 extrajudicial 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 extrajudicial 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.

LCrR 53.2 Release of Information in Criminal Cases

It is the duty of the attorneys for the government and the defense, including the law firm, and of any law enforcement agency or investigator associated with the prosecution or defense, 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 they are 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 or law enforcement agent participating in or associated with the investigation, of any extrajudicial 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 authorization to release by a lawyer, law firm, law enforcement agent or investigator associated with the prosecution or defense, of any extrajudicial 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 the accused 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, law firm, or law enforcement agent during this period, in the proper discharge of 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 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 authorization to release by a lawyer or law enforcement agent or investigator associated with the prosecution or defense, of any extrajudicial 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 or law enforcement agent from replying to charges of misconduct that are publicly made against him or her.

Appendix A. Sample Pre-trial Order

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

CLAUDE JONES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL NO. 2:99-CV-798-RL
	)	
WILBUR SMITH,	)	
	)	
Defendant.	)	

PRE-TRIAL ORDER

Pursuant to the order of the Court, the attorneys for the parties to this action appeared before the United States District Judge at Hammond, Indiana, at 2:00 P.M. on September 30, 2000 for a conference under Rule 16 of the Federal Rules of Civil Procedure.

Plaintiff was represented by Richard Roe of the firm of Roe and Roe. Defendant was represented by John Doe of the firm of Diamond & Doe.

Thereupon, the following proceedings were had and the following engagements and undertakings arrived at:

A. Jurisdiction was conceded by counsel and found by the Court to be present. (If otherwise, so state).

B. The case is at issue on plaintiff's complaint and the defendant's answer. The First Defense denies defendant's negligence. The Second Defense alleges comparative fault on the part of the driver of plaintiff's car. The plaintiff and driver were engaged in a joint enterprise, and the

driver's negligence is imputed to the plaintiff.

C. There are no pending motions.

D. The plaintiff contends that on June 1, 1998, he was riding in the front seat of a 1997 Ford automobile which was being driven in a northerly direction on U.S. Highway No. 31 approaching the intersection of Pierce Road, a county road in St. Joseph County, Indiana. The defendant was driving a Chevrolet convertible west on Pierce Road. The defendant negligently operated his automobile in the following manner: (1) He failed to stop for a stop sign before entering the intersection, (2) he failed to keep a proper lookout for vehicles traveling on U.S. Highway No. 31, and (3) he failed to yield the right-of-way to the vehicle in which plaintiff was riding. The plaintiff further contends that as a result of defendant's negligence, his car collided with the car in which plaintiff was riding, causing plaintiff to be injured permanently. Plaintiff lost wages and income as a result of his injuries in the amount of $32,000 and will suffer loss of income in the future. He was required to expend $39,455 for medical and hospital care and will be required to expend further sums in the future. Plaintiff sustained property damage of $8,500 to his automobile.

E. The defendant contends that he was not negligent in the operation of his automobile as contended by the plaintiff and further contends that the driver of the car in which the plaintiff was riding was negligent in that (1) he drove at a fast and unreasonable rate of speed, to-wit: 80 miles per hour, and (2) he failed to yield the right-of-way to the defendant, who was in the intersection and almost clear of the northbound lanes when struck in the left rear by the plaintiff's driver. Defendant also contends that the plaintiff and the driver of the car in which he was riding were engaged in a joint enterprise in that they had jointly rented the car in which plaintiff was riding to go on a business trip for the mutual benefit of both and had shared the driving and expense incident to the trip.

F. The following facts are established by admissions in the pleadings or by stipulation of counsel:

1. A collision occurred between the car of the defendant and the car driven by William Jones, with whom plaintiff was riding, at the intersection of U.S. 31 and Pierce Road in St. Joseph County, Indiana, on June 1, 1998 , at approximately 4:00 P.M.

2. U.S. 31 is a paved, four-lane, north-to-south highway divided by a median curb approximately four inches high and three feet wide. Pierce Road is a two-land, paved, east-and-west highway, paved with black top. A stop sign, legally erected, was located at the northwest corner of the intersection facing westbound traffic on Pierce Road. Both roads are level for at least 500 feet in both directions, and there are no obstructions to view within 500 feet of the intersection.

3. The pavement was dry and the weather was clear and warm.

4. Plaintiff was traveling north in the northbound lanes of U.S. 31. Defendant was traveling west in the westbound lane of Pierce Road.

5. The defendant was alone in his Chevrolet automobile. The plaintiff was riding in a rented car being driven by his brother, William Jones, who died as a result of injuries received in the collision. The plaintiff and his brother William had gone from South Bend to Plymouth to negotiate for the joint purchase of a grocery store. The plaintiff had driven from South Bend to Plymouth, and William was driving on the return trip. They were sharing the cost of renting the car and any other expenses of the trip.

G. The contested issues of fact are:

1. The negligence of the defendant which was a proximate cause of the collision.

2. The negligence of William Jones which was a proximate cause of the collision.

3. Whether plaintiff and his brother were engaged in a joint enterprise, and, if so, is the negligence, if any, of the driver William imputed to the plaintiff.

4. Extent of plaintiff's damages.

H. A contested issues of law not implicit in the foregoing issue of fact will be:

1. Whether the common-law doctrine of imputed negligence between members of a joint enterprise survived the adoption of Indiana's Comparative Fault Act, I.C. §§ 34-51-2-1 et seq.

2. The admissibility of expert testimony attempting to reconstruct the manner in which the accident occurred. In that regard, it is represented that the plaintiff has a complete loss of memory concerning the manner in which the accident occurred and the only living eyewitness is the defendant.

I. There were received in evidence:

1. Plaintiff's exhibits 1, 2, 3, 4, and 5, the same being pictures of the scene taken by State Policeman John Williams; 7 and 8, being pictures of the intersection taken by Commercial Photographer Sam Bigley; 9, Memorial Hospital bill; 10, Dr. Willard Raymond's bill; 11, bill from Medical Appliance Company for back brace; 12, plaintiff's hospital record compiled by Memorial Hospital; 13, Dr.

Max Small's bill.

2. Defendant's exhibits A, an engineer's drawing of the intersection; and B, photograph of defendant's car.

3. Except as otherwise indicated, the authenticity of received exhibits has been stipulated, but they have been received subject to objections, if any, by the opposing part at the trial as to their relevance and materiality. If other exhibits are to be offered, they may be done so only with leave of court.

Exhibits which can be obtained only by a subpoena duces tecum shall not be covered by this requirement, but counsel for party offering such exhibits shall advise opposing counsel of the nature of such exhibits at the pretrial conference or at least ten (10) days prior to trial.

J. Witnesses:

1. Plaintiff's witnesses may include any or all of the following:

a. The plaintiff.

b. Dr. Willard Raymond, Room 304 Medical Arts Building, South Bend, Indiana, attending physician.

c. Dr. Max Small, 923 Sherland Building, South Bend, Indiana, consultant.

d. John Williams, state policeman who investigated the accident.

e. Dr. George Bundage, 1069 High Street, Evanston, Illinois, expert who will reconstruct the accident.

f. Mrs. Claude Jones, wife of plaintiff, who will testify as to plaintiff's condition before and following the accident.

2. Defendant's witnesses may include any or all of the following persons:

a. The defendant.

b. John Williams, state policeman.

c. Alex Nagy, 124 West Indiana Avenue, South Bend, Indiana, deputy sheriff, St. Joseph County, who investigated the accident.

d. Bill Hill, 29694 U.S. 31 South, South Bend, Indiana, a neighbor who came to the scene of the accident.

e. Bert McClellan, engineer who made the drawing of the intersection.

f. Dr. James Hyde, examining physician.

3. In the event there are other witnesses to be called at the trial, their names and addresses and the general subject matter of their testimony will be reported to opposing counsel, with copy to the Court, at least ten (10) days prior to trial. Such witnesses may be called at trial only upon leave of Court. This restriction shall not apply to rebuttal or impeachment witnesses, the necessity of whose testimony cannot reasonably be anticipated before trial.

K. It is directed that requests for special instructions must be submitted to the Court, in writing and on a computer disk (or in another electronic format), with supporting authorities, at or

prior to the commencement of the trial, subject to the right of counsel to supplement such requests during the course of the trial on matters that cannot reasonably be anticipated.

L. No amendments to the pleadings are anticipated.

M. Trial briefs shall be filed with the Court and exchanged among counsel at least seven (7) days before trial, covering specifically:

1. Questions raised under Section H of this order.

2. Whether under the facts the negligence, if any, of William Jones should be imputed to the plaintiff.

N. The following additional matters pertinent to the trial will be considered.

1. Plaintiff will request the Court to instruct the jury that a violation of I.C. § 9-21-8-32 constitutes negligence per se.

2. Defendant will request the Court to instruct the jury that a violation of I.C. § 9-21-8-31 constitutes negligence per se.

3. Plaintiff contends that as a result of the accident, he suffered a skull fracture and concussion resulting in partial loss of memory, headaches, and occasional blackouts; that he suffered a broken left leg about the knee resulting in a shortening of the leg, causing plaintiff to limp; injury to the lumbar spine, with a probable ruptured intervertebral disc which will require an operation; permanent pain in the spine radiating down the right leg; that he has suffered permanent impairment of 15% of the whole man; that he is 36 years of age and has a life expectancy of 34.76 years.

4. Plaintiff claims the following special damages:

a.	Dr. Willard Raymond	$ 7,500
b.	Dr. Max Small	$ 1,500
c.	Memorial Hospital	$17,680
d.	Medical Appliance Co. (back brace)	$ 275
e.	Cost of future back operation:	
	Surgeon's	$ 5,000
	Hospital bill	$ 7,500

5. Plaintiff claims he lost income as follows:

Fifteen months as manager of the A.B.C. Supermarket located at 1764 Portage Street, South Bend, at $2,000 per month. Time lost began June 1, 1998 , with the plaintiff returning for light work August 1, 1999 . Plaintiff has lost four weeks since returning to work on August 1, 1999 (one week in September 1999 and three weeks in November 1999) due to his back condition. It is expected that he will lose three or four more weeks due to his future operation to repair back injury. Plaintiff's supervisor is Paul Dill, District Manager, A.B.C. Grocery Co., 1764 Portage Street, South Bend, Indiana.

O. This pre-trial order has been formulated after conference at which counsel for the respective parties have appeared. Reasonable opportunity has been afforded counsel for corrections or additions prior to signing by the Court. Hereafter, this order will control the course of the trial and may not be amended except by consent of the parties and the Court or by order of the Court to prevent manifest injustice. The pleadings will be deemed merged herein.

P. The parties have discussed settlement, but have been unable to reach agreement. They will continue to negotiate and will advise the Court immediately if settlement is reached.

Q. The probable length of trial is two days. The case is set down for trial before a jury

on November 5, 2000 at 9:30 A.M.

Entered this 15th day of October, 2000 .

Judge, United States District Court

APPROVED:

Richard Roe,
Attorney for Plaintiff

APPROVED:

John Doe,
Attorney for Defendant

Appendix B. Standards for Professional Conduct Within The Seventh Federal Judicial Circuit

Preamble

A lawyer's conduct should be characterized at all times by personal courtesy and professional integrity in the fullest sense of those terms. In fulfilling our duty to represent a client vigorously as lawyers, we will be mindful of our obligations to the administration of justice, which is a truth-seeking process designed to resolve human and societal problems in a rational, peaceful, and efficient manner.

A judge's conduct should be characterized at all times by courtesy and patience toward all participants. As judges we owe to all participants in a legal proceeding respect, diligence, punctuality, and protection against unjust and improper criticism or attack.

Conduct that may be characterized as uncivil, abrasive, abusive, hostile, or obstructive impedes the fundamental goal of resolving disputes rationally, peacefully, and efficiently. Such conduct tends to delay and often to deny justice.

The following standards are designed to encourage us, judges and lawyers, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

We expect judges and lawyers will make a mutual and firm commitment to these standards. Voluntary adherence is expected as part of a commitment by all participants to improve the administration of justice throughout this Circuit.

These standards shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these standards supersedes or detracts from exiting disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.

These standards should be reviewed and followed by all judges and lawyers participating in any proceeding in this Circuit. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

Lawyers' Duties to Other Counsel

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. In our dealings with others we will not reflect the ill feelings of our clients. We will treat all other counsel, parties, and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.

2. We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties, or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses. We will treat adverse witnesses and parties with fair consideration.

3. We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.

4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.

5. We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances and necessary to protect our client's lawful interests.

6. We will adhere to all express promises and to agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.

7. When we reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide the opportunity for review of the writing to other counsel. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.

8. We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.

9. In civil actions, we will stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.

10. We will not use any form of discovery or discovery scheduling as a means of harassment.

11. We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings and discovery requests and objections.

12. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.

13. We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.

14. We will consult other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts.

15. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.

16. We will notify other counsel and, if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings, or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the court to use the previously reserved time for other matters.

17. We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided our clients' legitimate rights will not be materially or adversely affected.

18. We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity.

19. We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.

20. We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

21. We will not obstruct questioning during a deposition or object to deposition questions unless necessary under the applicable rules to preserve an objection or privilege for resolution by the court.

22. During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.

23. We will carefully craft document production requests so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of any action. We will not design production requests to place an undue burden or expense on a party.

24. We will respond to document requests reasonably and not strain to interpret the request in

an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.

25. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.

26. We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.

27. We will base our discovery objections on a good faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.

28. When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the court.

29. We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

30. Unless specifically permitted or invited by the court, we will not send copies of correspondence between counsel to the court.

Lawyers' Duties to the Court

1. We will speak and write civilly and respectfully in all communications with the court.

2. We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time; if delayed, we will notify the court and counsel, if possible.

3. We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.

4. We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

5. We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court.

6. We will not write letters to the court in connection with a pending action, unless invited or permitted by the court.

7. Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.

8. We will act and speak civilly to court marshals, clerks, court reporters, secretaries, and law clerks with an awareness that they, too, are in integral part of the judicial system.

Courts' Duties to Lawyers

1. We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to insure that all litigation proceedings are conducted in a civil manner.

2. We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral communications with lawyers, parties, or witnesses.

3. We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.

4. In scheduling all hearings, meetings and conferences we will be considerate of time schedules of lawyers, parties, and witnesses.

5. We will make all reasonable efforts to decide promptly all matters presented to us for decision.

6. We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.

7. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.

8. We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

9. We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom or the causes which a lawyer represents.

10. We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.

11. We will not adopt procedures that needlessly increase litigation expense.

12. We will bring to lawyers' attention uncivil conduct which we observe.

Appendix C. Notice to *Pro Se* Litigant

(This form may be downloaded from the Northern District of Indiana's internet website at www.innd.uscourts.gov)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
________________ DIVISION

____________________________,

Plaintiff

v. Case No.

____________________________,

Defendant

NOTICE OF SUMMARY-JUDGMENT MOTION

A summary-judgment motion has been filed against you. Attached to this notice is a copy of the motion. The motion asks the court to decide all or part of your case without a trial. The party that filed this motion does not think that a full trial is necessary. The motion says that there should not be a full trial because you cannot win on some or all of your claims. The motion asks the court to enter judgment against you.

Rule 56 and Local Rule 56.1 are set forth below. You should read—and follow—all the rules carefully. The outcome of this case may depend on it. Following the rules does not guarantee that the summary-judgment motion will be denied. But if you do not follow the rules, you may lose this case.

Before the court rules on the motion, you have the right to file a response. If you do not

respond to the summary-judgment motion, you may lose this case. If you need more time to respond, you must file a motion asking for more time before the deadline expires. The court may—but is not required to—give you more time.

Fed. Rule Civ. Proc. 56. Summary Judgment

(a) **Motion for Summary Judgment or Partial Summary Judgment.** A party may move for summary judgment, identifying each claim or defense - or the part of each claim or defense--on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b) **Time to File a Motion.** Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.

(c) **Procedures.**

(1) **Supporting Factual Positions.** A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) **Objection That a Fact Is Not Supported by Admissible Evidence.** A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) **Materials Not Cited.** The court need consider only the cited materials, but it may consider other materials in the record.

(4) **Affidavits or Declarations.** An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible

in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) **When Facts Are Unavailable to the Nonmovant.** If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) **Failing to Properly Support or Address a Fact.** If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials--including the facts considered undisputed--show that the movant is entitled to it; or

(4) issue any other appropriate order.

(f) **Judgment Independent of the Motion.** After giving notice and a reasonable time to respond, the court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) **Failing to Grant All the Requested Relief.** If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact--including an item of damages or other relief--that is not genuinely in dispute and treating the fact as established in the case.

(h) **Affidavit or Declaration Submitted in Bad Faith.** If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court--after notice

and a reasonable time to respond--may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

N.D. Ind. L.R. 56.1

(a) **Moving Party's Obligations**. The brief supporting a summary-judgment motion or the brief's appendix must include a section labeled "Statement of Material Facts" that identifies the facts that the moving party contends are not genuinely disputed.

(b) **Opposing Party's Obligations**.

(1) **Required Filings**. A party opposing the motion must, within 28 days after the movant serves the motion, file and serve

(A) a response brief; and

(B) any materials that the party contends raise a genuine dispute.

(2) **Content of Response Brief or Appendix**. The response brief or its appendix must include a section labeled "Statement of Genuine Disputes" that identifies the material facts that the party contends are genuinely disputed so as to make a trial necessary.

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

(d) **Oral Argument**. The court will decide summary-judgment motions without oral argument unless a request under L.R. 7.5 is granted or the court directs otherwise.

(e) **Disputes about Admissibility of Evidence**. Any dispute regarding the admissibility of evidence should be addressed in a separate motion.

(f) **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 C.

Certificate of Service

On ______________________, 20____, I served a copy of this notice via

U.S. mail on ____, a *pro se* party at

____.

____
[Attorney]