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CIVIL LOCAL RULES

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I. SCOPE OF RULES - ONE FORM OF ACTION

LR 1: SCOPE AND PURPOSE OF RULES

LR 1.1 TITLE; EFFECTIVE DATE; DEFINITIONS; COMPLIANCE AND CONSTRUCTION

(A) Title.

These are the Civil Local Rules of Practice for the United States District Court for the Northern District of Georgia. They may be cited as "LR_, NDGa."

(B) Effective Date; Transitional Provision.

These rules govern all civil actions and proceedings pending on or commenced after April 15, 1997, except to the extent that in the opinion of the district judge to whom the case is assigned, their application in an action or proceeding pending on April 15, 1997, would not be feasible or would work an injustice.

(C) Scope of Rules; Construction.

These rules supplement the Federal Rules of Civil Procedure and shall be construed so as to be consistent with those Rules and to promote the just, efficient, and economical determination of every action and proceeding, except that the rules shall not apply to those proceedings where they may be inconsistent with rules or provisions of law specifically applicable thereto.

(D) Definitions.

(1) The word "Court" refers to the United States District Court for the Northern District of Georgia and not to any particular judge or magistrate judge of the Court.

(2) The word "judge" refers to any United States District Judge exercising jurisdiction with respect to a particular action or proceeding in this Court.

(3) The words "magistrate judge" refer to any full-time or part-time United States Magistrate Judge exercising jurisdiction under 28 U.S.C. § 636, consistent with the policies adopted by this Court.

(4) The words "bankruptcy court" refer to the unit of this Court known as the United States Bankruptcy Court for the Northern District of Georgia.

(5) The words "bankruptcy judge" refer to any United States Bankruptcy Judge exercising jurisdiction by referral from this Court with respect to actions or proceedings filed in the United States Bankruptcy Court.

(6) The word "clerk" refers to the District Court Clerk and deputy clerks.

(7) The words "bankruptcy clerk" refer to the Bankruptcy Court Clerk and deputy bankruptcy clerks.

II. COMMENCEMENT OF ACTION: SERVICE OF PROCESS, PLEADINGS, MOTIONS AND ORDERS

LR 3: COMMENCEMENT OF ACTION

LR 3.1 DIVISIONS OF COURT - VENUE

(A) Four Divisions. The Northern District of Georgia consists of four (4) divisions as outlined and described in 28 U.S.C. § 90. Refer to LR App. A, I, for a list of counties comprising each division.

(B) Venue and Transfer of Venue for Civil Actions.

(1) Defendants.

(a) Except as otherwise provided, any civil action, not of a local nature, against a defendant or defendants, all of whom reside in this district, must be brought in the division where the defendant or defendants reside. If the defendants live in different divisions, the action may be brought in any division in which one (1) defendant resides.

(b) Any such action against two (2) or more defendants residing in different districts within the State of Georgia may be brought against all defendants in any division of this district where at least one defendant resides.

(2) Plaintiffs. Except as otherwise provided, any diversity action brought in this district on the basis of plaintiff's or plaintiffs' residence within the district must be filed in the division where plaintiff or plaintiffs reside. If the plaintiffs reside in different divisions, the action may be brought in any division in which one (1) plaintiff resides.

(3) Where the Cause of Action Arose. Any civil action brought in this district on the grounds that the cause of action arose here must be filed in a division of the district wherein the activity occurred.

(4) Transfer of Venue. Any civil action may, by order of this Court, be transferred to any other place or division within the district for trial.

LR 3.2 ADVANCE PAYMENT OF FILING FEES

(A) Advance Payment Generally Required. Advance payment of fees is required before the clerk will file any civil action, suit, or proceeding. A notice of appeal shall be filed upon receipt. Persons wishing to proceed *in forma pauperis* may obtain the necessary papers at the public filing counter.

(B) Failure to Remit Fee. Pleadings received by the clerk for filing with the filing fee not attached shall be marked "received", but they shall not be filed. The clerk will notify counsel and/or the parties that the pleadings are being held and that they will not be filed until the filing fee is received or an order is issued allowing the pleadings to be filed *in forma pauperis*.

LR 3.3 CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

(A) Scope. Counsel for all private (non-governmental) parties in civil cases, including those that seek to intervene, must at the time of first appearance file a certificate containing:

(1) A complete list of the parties, including proposed intervenors, and the corporate disclosure statement required by FRCP 7.1.

(2) A complete list of other persons, associations, firms, partnerships, or corporations having either a financial interest in or other interest which could be substantially affected by the outcome of the case.

(3) A complete list of each person serving as an attorney in the case.

(4) For every action in which jurisdiction is based on diversity under 28 U.S.C. § 1332(a), the citizenship of every individual or entity whose citizenship is attributed to the party or proposed intervenor on whose behalf the certificate is filed.

Where the circumstances of the case may warrant, counsel may petition the Court for permission to file the certificate *in camera* or under seal.

(B) Duties of Counsel. Each attorney has a continuing duty to notify the Court of any changes to the information reported on the certificate, including but not limited to when any later event occurs that could affect the Court's jurisdiction under 28 U.S.C. § 1332(a).

(C) Form of Certificate. The certificate must be signed and dated and substantially in the following form:

[style and number of case]
Certificate of Interested Persons and Corporate Disclosure Statement

(1) The undersigned counsel of record for a party or proposed intervenor to this action certifies that the following is a full and complete list of all parties, including proposed intervenors, in this action, including any parent corporation and any publicly held corporation that owns 10% or more of the stock of a party or proposed intervenor:

_____

_____

(2) The undersigned further certifies that the following is a full and complete list of all other persons, associations, firms, partnerships, or corporations having either a financial interest in or other interest which could be substantially affected by the outcome of this case:

_____

_____

(3) The undersigned further certifies that the following is a full and complete list of all persons serving as attorneys for the parties, including proposed intervenors, in this case:

_____

_____

(4) [For every action in which jurisdiction is based on diversity under 28 U.S.C. § 1332(a).] The undersigned further certifies that the following is a full and complete list of the citizenship* of every individual or entity whose citizenship is attributed to a party or proposed intervenor on whose behalf this certificate is filed:

_____

_____

*Allegations of an individual's residence do not enable the Court to determine an individual's citizenship. *Travaglio v. Am. Express Co.*, 735 F.3d 1266, 1269 (11th Cir. 2013). For purposes of diversity jurisdiction, citizenship is equivalent to domicile, which is a party's "true, fixed, and permanent home and principal establishment, and to which he has the intention of returning whenever he is absent therefrom." *McCormick v. Aderholt*, 293 F.3d 1254, 1257–58 (11th Cir. 2002) (quoting *Mas v. Perry*, 489 F.2d 1396, 1399 (5th Cir. 1974)).

"[A] limited partnership is a citizen of each state in which any of its partners, limited or general, are citizens." *Rolling Greens MHP, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1021 (11th Cir. 2004) (citing *Carden v. Arkoma Assocs.*, 494 U.S. 185, 195-196 (1990)).

A limited liability company, like other unincorporated entities, "is a citizen of any state of which a member of the company is a citizen." *Rolling Greens MHP,* 374 F.3d at 1022.

A traditional trust is a citizen of the state of which its trustee is a citizen, not its beneficiaries. *Alliant Tax Credit 31, Inc. v. Murphy*, 924 F.3d 1134, 1143 (11th Cir. 2019).

Submitted this ____ day of_____, 20____.

_____
Counsel for

LR 3.4 PATENT, TRADEMARK, AND COPYRIGHT CASES

The plaintiff in an action arising from a registered patent, trademark, or copyright must, at the commencement of the action, complete and file AO Form 120 or 121, as applicable. The Clerk of Court then will submit the form to the U.S. Patent and Trademark Office or the U.S. Copyright Office, as appropriate. When any party makes a subsequent filing that adds additional registered patents, trademarks, or copyrights into the litigation, that party must complete and file an updated AO Form 120 or 121, as applicable, which the Clerk of Court then will submit to the appropriate office.

LR 5: SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

LR 5.1 ELECTRONIC AND PAPER DOCUMENTS; FORMAT; LEGIBILITY

(A) Electronic.

(1) Documents in civil and criminal cases will be filed, signed, and verified by electronic means to the extent and in the manner authorized by the Court's Standing Order, In Re: Electronic Case Filing and Procedures, as contained in Appendix H of these Local Rules. Documents filed electronically shall substantially conform to the requirements of these Local Rules.

(2) Consistent with Fed. R. Civ. P. 5(d)(3)(D), a paper filed electronically is a written paper for purposes of these Local Rules and the Federal Rules of Civil Procedure.

(3) Filing in the Court's electronic case files ("ECF") system constitutes service of the filed documents on registered users. Parties who are not registered users must be served with a copy of any pleading or other document filed electronically in accordance with the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and these Local Rules.

(B) Paper.

(1) General. All pleadings, motions, notices, orders, and other documents, including attachments hereto, if presented in paper, shall be presented for filing on white opaque paper of good quality, eight and one-half (8 ½) inches by eleven (11) inches in size, with writing appearing only on one side of the page.

(2) Paper Deposition Transcripts and Attachments. Paper deposition transcripts and attachments to pleadings or motions filed in this Court are subject to the restrictions set forth in LR 5.1(B)(1) above. In addition, paper deposition transcripts filed in support of pleadings or motions may not be compacted or reduced beyond one page of deposition per each page of exhibit.

(C) Type; Format. Pleadings, motions, and other documents presented to the Court for filing must:

(1) be computer processed, typed or handprinted on one side of the page only;

(2) be double-spaced between lines; and

(3) not be materially defaced by erasures or interlineations.

Computer documents must be prepared in one of the following fonts: Times New Roman (at least 14 point), Courier New (at least 12 point), Century Schoolbook (at least 13 point), or Book Antigua (at least 13 point). Typewriter prepared documents must be prepared with no more than 10 characters per inch. Footnotes, headings, and indented citations may be single-spaced.

(D) Margins. The top, bottom, left, and right margins of all pleadings, motions, and other documents must be at least one inch.

(E) Numbering. All pages shall be numbered consecutively at the bottom center of the page. Attachments to pleadings shall be numbered consecutively within the attachment.

(F) Citations. When Acts of Congress or sections thereof are cited, counsel shall include the corresponding United States Code citation. When citing regulations,

counsel shall give all Code of Federal Regulations references and the date of promulgation. All citations shall include the specific page or pages upon which the cited matters appear.

(G) Identification of Counsel. Every pleading, motion, and other document presented for filing by counsel must include the attorney's name, complete address (including post office box or drawer number and street address), telephone number, email address, and bar number.

(H) Civil Cover Sheet. The attorney filing the complaint shall prepare and submit to the clerk of court the civil cover sheet which is available at the public filing counter.

(I) Flat Filing. All documents presented to the clerk or judge for filing shall be flat and unfolded and firmly bound at the top.

(J) Captions on Pleadings. All pleadings presented to the clerk or judge for filing must bear specific pleading designations, in accordance with the nomenclature set forth in Fed. R. Civ. P. 7. When a document contains multiple pleadings, e.g., an answer to a complaint and a counterclaim or crossclaim, all pleadings contained in the document must be included in the caption on the first page of the document. Generalized captions, such as "Responsive Pleadings," will not be accepted for filing.

(K) Civil Case Numbers. A civil case filed in this Court shall be assigned a case number which will identify it as a civil case, designate the division, the year and the numerical sequence in which the case was filed, and include a three-initial suffix which will identify the district judge to whom the case is assigned. All documents presented to the clerk or judge for filing and all case-related correspondence shall have typed thereon the assigned civil case number which includes a three-initial suffix. Any document presented for filing which does not reflect the complete civil case number as described herein will not be accepted for filing.

(L) Pleadings Filed by Attorneys Appearing *Pro Hac Vice*.

Refer to LR 83.1(B)(4).

LR 5.2 ADDITIONAL AND COURTESY COPIES

(1) Generally. An original of all complaints, answers, amendments, motions, and other pleadings and papers shall be filed with the clerk at the public filing

counter, unless the Court expressly authorizes filing by other means. All original and courtesy copies of pleadings shall be clearly marked. A copy of each pleading shall be served upon opposing counsel.

(2) Courtesy Copies in Electronic Format. Courtesy copies of pleadings may be presented to the judge or magistrate judge in electronic format on a compact disc. Such discs may include hyperlinks to case cites, statutes, affidavits, depositions, and exhibits. Any courtesy copy in electronic format shall also be served upon each of the parties in accordance with Fed. R. Civ. P. 5(a).

LR 5.3 SPECIAL REQUIREMENTS FOR I.R.S. JEOPARDY ASSESSMENTS

All actions arising under 26 U.S.C. § 7429 shall bear the designation "Review of Jeopardy Assessments" on the complaint next to the style of the case. Upon filing such an action, the filing attorney shall immediately present a motion for rule nisi to the judge to whom the action has been assigned in order that the action might be promptly brought to the judge's attention. Failure to comply with this rule may result in dismissal of the action.

LR 5.4 SERVICE AND FILING OF DISCOVERY MATERIAL

(A) Filing Not Generally Required. Interrogatories, requests for inspection, requests for admission, and answers and responses thereto shall be served upon other counsel or parties, but they shall not be routinely filed with the Court. The party responsible for service of the discovery material shall, however, file a certificate with the clerk indicating the date of service. Counsel shall also retain the original discovery material and become its custodian.

(B) Selective Filing Required for Motions, Trial and Appeal.

(1) The custodial party shall file with the clerk at the time of use at trial or with the filing of a motion those portions of depositions, interrogatories, requests for documents, requests for admission and answers or responses thereto which are used at trial or which are necessary to the motion.

(2) Where discovery materials not previously in the record are needed for appeal purposes, the Court, upon application, may order or counsel may stipulate in writing that the necessary materials be filed with the clerk.

III. PLEADINGS AND MOTIONS

LR 7: PLEADINGS ALLOWED; FORM OF MOTIONS

LR 7.1 FILING OF MOTIONS AND RESPONSES; HEARINGS

(A) Filing of Motions.

(1) Every motion presented to the clerk for filing shall be accompanied by a memorandum of law which cites supporting authority. If allegations of fact are relied upon, supporting affidavits must be attached to the memorandum of law.

(2) Specific filing times for some motions are set forth below. All other motions must be filed WITHIN THIRTY (30) DAYS after the beginning of discovery unless the filing party has obtained prior permission of the Court to file later.

(B) Response to Motion. Any party opposing a motion shall serve the party's response, responsive memorandum, affidavits, and any other responsive material not later than fourteen (14) days after service of the motion, except that in cases of motion for summary judgment the time shall be twenty-one (21) days after the service of the motion. Failure to file a response shall indicate that there is no opposition to the motion.

(C) Reply. A reply by the movant shall be permitted, but it is not necessary for the movant to file a reply as a routine practice. When the movant deems it necessary to file a reply brief, the reply must be served not later than fourteen (14) days after service of the responsive pleading.

(D) Page and Type Limitations. Absent prior permission of the Court, briefs filed in support of a motion or in response to a motion are limited in length to twenty-five (25) pages. If the movant files a reply, the reply brief may not exceed fifteen (15) pages. Refer to LR 5.1 for restrictions regarding the preparation of briefs. At the end of the brief, counsel must certify that the brief has been prepared with one of the font and point selections approved by the Court in LR 5.1(B) or, if type written, that the brief does not contain more than 10 characters per inch of type.

(E) Hearings. Motions will be decided by the Court without oral hearing, unless a hearing is ordered by the Court.

(F) Effect of Noncompliance. The Court, in its discretion, may decline to consider any motion or brief that fails to conform to the requirements of these rules.

LR 7.2 SPECIFIC MOTIONS

(A) Motions Pending on Removal. When an action or proceeding is removed to this Court with pending motions on which briefs have not been submitted, the moving party shall serve a memorandum in support of the motion within fourteen (14) days after removal. Each party opposing the motion shall reply in compliance with LR 7.1(B).

(B) Emergency Motions. Upon written motion and for good cause shown, the Court may waive the time requirements of this rule and grant an immediate hearing on any matter requiring such expedited procedure. The motion shall set forth in detail the necessity for such expedited procedure.

(C) Motions to Compel Discovery.

Refer to LR 37.1.

(D) Motions for Summary Judgment.

Refer to LR 56.1.

(E) Motions for Reconsideration. Motions for reconsideration shall not be filed as a matter of routine practice. Whenever a party or attorney for a party believes it is absolutely necessary to file a motion to reconsider an order or judgment, the motion shall be filed with the clerk of court within twenty-eight (28) days after entry of the order or judgment. Responses shall be filed not later than fourteen (14) days after service of the motion. Parties and attorneys for the parties shall not file motions to reconsider the Court's denial of a prior motion for reconsideration.

(F) Daubert Motions.

Refer to LR 26.2(C).

LR 7.3 ORAL RULINGS ON MOTIONS

Unless the Court directs otherwise, all orders, including findings of fact and conclusions of law, orally announced by the district judge in Court shall be prepared in writing by the attorney for the prevailing party. The original order shall be submitted to the district judge within seven (7) days from the date of pronouncement. Copies shall also be provided each party.

LR 7.4 RESTRICTIONS ON LETTER COMMUNICATIONS TO JUDGES

Communications to judges seeking a ruling or order, including an extension of time, shall be by motion and not by letter. A letter seeking such action ordinarily will not be treated as a motion. Counsel shall not provide the Court with copies of correspondence among themselves relating to matters in dispute.

LR 7.5 APPLICATIONS TO JUDGES IN CHAMBERS

(A) Judge to Whom Request Submitted. Whenever an attorney seeks an immediate order of the Court, the attorney must submit a motion to the district judge to whom the case has been assigned if the district judge is present within the district. If the district judge is not available or if the case has not yet been assigned to a particular judge, the attorney shall contact the clerk for instructions as to which judge the motion should be submitted. All courtesy copies of proposed orders must be clearly marked.

(B) Proper Notice to Adversary. Whenever an attorney desires to confer with a judge or magistrate judge of this Court in chambers with regard to a pending case, the attorney shall first give proper notice to opposing counsel, disclosing the date, hour, and nature of the conference sought, and shall satisfy the district judge or magistrate judge that such notice has been given. Emergency situations in which it is impossible to contact opposing counsel and those situations (other than motions to proceed *in forma pauperis*) where ex parte motions or applications are contemplated by the Federal Rules of Civil Procedure are excepted from this rule.

LR 9: PLEADING SPECIAL MATTERS

LR 9.1 THREE-JUDGE COURT

When a suit or proceeding is commenced which is believed to require a three-judge court for disposition, the party instituting the action shall notify the clerk that a three-judge court is requested and the provision under which the party is proceeding. When a three-judge court hearing is requested after filing of the initial complaint, counsel shall at that time notify the clerk of the provision under which the attorney is proceeding.

LR 10: FORM OF PLEADINGS

LR 10.1 CAPTIONS ON PLEADINGS

All pleadings presented to the clerk or judge for filing must bear specific pleading designations, in accordance with the nomenclature set forth in Fed. R. Civ. P. 7. When a document contains multiple pleadings, e.g., an answer to a complaint and a counterclaim or crossclaim, all pleadings contained in the document must be included in the caption on the first page of the document. Generalized captions, such as "Responsive Pleadings," will not be accepted for filing.

LR 11: SIGNING OF PLEADINGS, MOTIONS AND OTHER PAPERS; REPRESENTATIONS TO COURT; SANCTIONS

LR 11.1 COUNSEL IDENTIFICATION

Counsel's name, complete address (including post office box or drawer number and street address), telephone number, facsimile number and Georgia Bar number shall appear on every pleading and other paper presented for filing.

LR 15: AMENDED AND SUPPLEMENTAL PROCEEDINGS

LR 15.1 AMENDED PLEADINGS

In those instances where reproduction of the entire pleading as amended would be unduly burdensome, parties filing or moving to file an amendment to a pleading shall be permitted to incorporate relevant provisions of prior pleadings by reference.

LR 16: PRETRIAL CONFERENCES; SCHEDULING; MANAGEMENT

LR 16. 1 RULE 26(f) (EARLY PLANNING) CONFERENCE

Prior to filing the Joint Preliminary Report and Discovery Plan, lead counsel for all parties are required to confer in person in an effort to settle the case, discuss discovery, limit issues, and discuss other matters also addressed in the Joint Preliminary Report and Discovery Plan. The conference shall be held within sixteen days after the appearance of a defendant by answer or motion and shall comply with the requirements of Fed. R. Civ. P. 26(f). Counsel are required to inform the parties promptly of all offers of settlement proposed at conference.

If the filing deadline for the Certificate of Interested Persons (see LR 3.3) has not already passed, counsel may wish to include the certificate on counsel's agenda for the Rule 26(f) conference.

LR 16.2 JOINT PRELIMINARY REPORT AND DISCOVERY PLAN

For all cases not settled at the Rule 26(f) conference, counsel are required to complete the Joint Preliminary Report and Discovery Plan form prepared by the Court and attached to these rules as Appendix B. See Fed. R. Civ. P. 26(f). If counsel cannot agree on the answers to specific items, the contentions of each party must be shown on the form. The completed form must be filed within thirty days after the appearance of the first defendant by answer or motion or within thirty days after a removed case is filed in this Court. This rule applies only to cases not exempted pursuant to Fed. R. Civ. P. 26(a)(1)(B). *Pro se* litigants and opposing counsel shall be permitted to file separate statements.

The Joint Preliminary Report and Discovery Plan shall include as referenced on the form:

(1) A classification of the type of action, a brief factual outline of the case, a succinct statement of the issues in the case, and a listing of any pending or previously adjudicated related cases.

(2) An indication of whether the case is complex because of the existence of one or more of the following features:

(1) Unusually large number of parties
(2) Unusually large number of claims or defenses
(3) Factual issues are exceptionally complex
(4) Greater than normal volume of evidence
(5) Extended discovery period is needed
(6) Problems locating or preserving evidence
(7) Pending parallel investigations or action by government
(8) Multiple use of experts
(9) Need for discovery outside United States boundaries
(10) Existence of highly technical issues and proof
(11) Unusually complex discovery of electronically stored information

(3) The individual names of lead counsel for each party.

(4) Any objections, supported by authority, to this Court's jurisdiction.

(5) The names of necessary parties to this action who have not been joined and any questions of misjoinder of parties and inaccuracies and omissions regarding the names of parties.

(6) A description of any amendments to the pleadings that are anticipated and a time-table for the filing of amendments.

(7) Information regarding timing limitations for filing motions in the case.

(8) Objections to initial disclosures, and space for the attorneys to indicate which party has objections, and the bases therefor.

(9) Request for scheduling conference with the Court, if any, stating the issues that could be addressed and the position of each party.

(10) Directions regarding the length of the discovery period and subjects of discovery and space for the attorney to indicate reasons, if any, why additional discovery time is needed and the subjects of discovery.

(11) Discovery Limitations

(a) Proposals and reasons in support thereof for modifying the

limitations on discovery under the Federal Rules of Civil Procedure or the Local Rules of this Court.

(b) Issues and agreements between the parties regarding discovery of electronically stored information.

(12) Requests for additional orders from the Court.

(13) A report regarding the settlement discussions required by LR 16.1, including the date; the name(s) of the lead counsel and other persons who attended; the likelihood of settlement of the case following the conference; dates for future settlement conferences between counsel; and specific problems hindering settlement of the case.

(14) A statement as to whether the parties are willing to consent to trial before a magistrate judge. Consenting parties must complete and file with the clerk the Consent to Jurisdiction by a United States Magistrate Judge form provided to all parties in the pretrial instruction packet.

(15) The signatures of lead counsel for each party consenting to the submission of the Joint Preliminary Report and Discovery Plan form.

(16) A scheduling order to be signed by the district judge imposing time limits for adding parties, amending the pleadings, filing motions, completing discovery, and, if appropriate, addressing settlement initiatives and referral of the case to trial before a magistrate judge, in accordance with the form submitted by counsel, except as the district judge may specifically state otherwise.

LR 16.3 CONFERENCE AFTER DISCOVERY

For cases not settled earlier, counsel for plaintiff shall contact counsel for all other parties to arrange an in-person conference among lead counsel and a person possessing settlement authority for each plaintiff and each defendant to discuss, in good faith, settlement of the case. The conference must be held no later than fourteen (14) days after the close of discovery. If this personal conference does not produce a settlement, the status of settlement negotiations must be reported in item twenty-six (26) of the pretrial order, LR 16.4. *Pro se* litigants and their opposing counsel and cases involving administrative appeals are exempt from the requirements of this rule.

LR 16.4 CONSOLIDATED PRETRIAL ORDER

(A) Procedure. The parties shall prepare and sign, in lieu of the Fed. R. Civ. P. 26(a)(3) disclosures, a proposed consolidated pretrial order to be filed with the clerk no later than thirty (30) days after the close of discovery, or entry of the Court's ruling on any pending motions for summary judgment, whichever is later. It shall be the responsibility of plaintiff's counsel to contact defense counsel to arrange a date for the conference. If there are issues on which counsel for the parties cannot agree, the areas of disagreement must be shown in the proposed pretrial order. In those cases in which there is a pending motion for summary judgment, the Court may in its discretion and upon request extend the time for filing the proposed pretrial order.

If counsel desire a pretrial conference, a request must be indicated on the proposed pretrial order immediately below the civil action number. Counsel will be notified if the district judge determines that a pretrial conference is necessary. A case shall be presumed ready for trial on the first calendar after the pretrial order is filed unless another time is specifically set by the Court.

(B) Content. Each proposed consolidated pretrial order shall contain the information outlined below. No modifications or deletions shall be made without the prior permission of the Court. A form Pretrial Order prepared by the Court and which counsel shall be required to use is contained in Appendix B. Copies of the form Pretrial Order containing adequate space for response are available at the public filing counter in each division.

The proposed order shall contain:

(1) A statement of any pending motions or other matters.

(2) A statement that, unless otherwise noted, discovery has been completed. Counsel will not be permitted to file any further motions to compel discovery. Provided there is no resulting delay in readiness for trial, depositions for the preservation of evidence and for use at trial will be permitted.

(3) A statement as to the correctness of the names of the parties and their capacity and as to any issue of misjoinder or non-joinder of parties.

(4) A statement as to any question of the Court's jurisdiction and the statutory basis of jurisdiction for each claim.

(5) The individual names of lead counsel for each party.

(6) A statement as to any reason why plaintiff should not be entitled to open and close arguments to the jury.

(7) A statement as to whether the case is to be tried to a jury, to the Court without a jury, or that the right to trial by jury is disputed.

(8) An expression of the parties' preference, supported by reasons, for a unified or bifurcated trial.

(9) A joint listing of the questions which the parties wish the Court to propound to the jurors concerning their legal qualifications to serve.

(10) A listing by each party of requested general voir dire questions to the jurors. The Court will question prospective jurors as to their address and occupation and as to the occupation of a spouse, if any. Follow-up questions by counsel may be permitted. The determination of whether the district judge or counsel will propound general voir dire questions is a matter of courtroom policy which shall be established by each judge.

(11) A statement of each party's objections, if any, to another party's general voir dire questions.

(12) A statement of the reasons supporting a party's request, if any, for peremptory challenges in addition to those allowed by 28 U.S.C. § 1870.

(13) A brief description, including style and civil action number, of any pending related litigation.

(14) An outline of plaintiff's case which shall include:

(a) A succinct factual statement of plaintiff's cause of action which shall be neither argumentative nor recite evidence.

(b) A separate listing of all rules, regulations, statutes, ordinances, and illustrative case law creating a specific legal duty relied upon by plaintiff.

(c) A separate listing of each and every act of negligence relied upon in negligence cases.

(d) A separate statement for each item of damage claimed containing a brief description of the item of damage, dollar amount claimed, and citation to the law, rule, regulation, or any decision authorizing a recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.

(15) An outline of defendant's case which shall include:

(a) A succinct factual summary of defendant's general, special, and affirmative defenses which shall be neither argumentative nor recite evidence.

(b) A separate listing of all rules, regulations, statutes, ordinances, and illustrative case law creating a defense relied upon by defendant.

(c) A separate statement for each item of damage claimed in a counterclaim which shall contain a brief description of the item of damage, the dollar amount claimed, and citation to the law, rule, regulation, or any decision which authorizes a recovery for that particular item of damage. Items of damage not identified in this manner shall not be recoverable.

(16) A listing of stipulated facts which may be read into evidence at trial. It is the duty of counsel to cooperate fully with each other to identify all undisputed facts. A refusal to do so may result in the imposition of sanctions upon the non-cooperating counsel.

(17) A statement of the legal issues to be tried.

(18) (a) A separate listing, by each party, of all witnesses (and their addresses) whom that party will or may have present at trial, including expert (any witness who might express an opinion under Federal Rule of Evidence 702), impeachment and rebuttal witnesses whose use can or should have been reasonably anticipated. Each party shall also attach to the party's list a reasonably specific summary of the expected testimony of each expert witness.

(b) A representation that a witness will be called may be relied upon by other parties unless notice is given fourteen (14) days prior to trial to permit

other parties to subpoena the witness or obtain the witness' testimony by other means.

(c) Witnesses not included on the witness list will not be permitted to testify, unless expressly authorized by Court order based upon a showing that the failure to comply was justified. The attorneys may not reserve the right to add witnesses.

(19) (a) A separate, typed, serially numbered listing, beginning with one (1) and without the inclusion of any alphabetical or numerical subparts, of each party's documentary and physical evidence. Adequate space must be left on the left margin of each list for court stamping purposes. A courtesy copy of each party's list must be submitted for use by the district judge. Learned treatises which counsel expect to use at trial shall not be admitted as exhibits but must be separately listed on the party's exhibit list.

(b) Prior to trial counsel shall affix stickers numbered to correspond with the party's exhibit list to each exhibit. Plaintiffs shall use yellow stickers; defendants shall use blue stickers; and white stickers shall be used on joint exhibits. The surname of a party must be shown on the numbered sticker when there are either multiple plaintiffs or multiple defendants.

(c) A separate, typed listing of each party's objections to the exhibits of another party. The objections shall be attached to the exhibit list of the party against whom the objections are raised. Objections as to authenticity, privilege, competency, and, to the extent possible, relevancy of the exhibits shall be included. Any listed document to which an objection is not raised shall be deemed to have been stipulated as to authenticity by the parties, and such documents will be admitted at trial without further proof of authenticity.

(d) A statement of any objections to the use at trial of copies of documentary evidence.

(e) Documentary and physical exhibits may not be submitted by counsel after filing of the pretrial order, except upon consent of all the parties or permission of the Court. Exhibits so admitted must be numbered, inspected by counsel, and marked with stickers prior to trial.

(f) Counsel shall familiarize themselves with all exhibits (and the numbering thereof) prior to trial. Counsel will not be afforded time during trial to examine exhibits that are or should have been listed herein.

(20) A listing of all persons whose testimony at trial will be given by deposition and designation of the portions of each person's deposition which will be introduced. Objections not filed by the date on which the case is first scheduled for trial shall be deemed waived or abandoned. Extraneous and unnecessary matters, including non-essential colloquy of counsel, shall not be permitted to be read into evidence. No depositions shall be permitted to go out with the jury.

(21) Any trial briefs which counsel may wish to file containing citations to legal authority on evidentiary questions and other legal issues. Limitations, if any, regarding the format and length of trial briefs is a matter of individual practice which shall be established by each judge.

(22) Counsel are directed to prepare, in accordance with LR 51.1(A), a list of all requests to charge in jury trials. These charges shall be filed no later than 9:30 a.m. on the date the case is calendared (or specially set) for trial. A short, one (l)-page or less, statement of the party's contentions must be attached to the requests. Requests should be drawn from the latest edition of the Eleventh Circuit District Judges Association's Pattern Jury Instructions and Devitt and Blackmar's Federal Jury Practice and Instructions whenever possible. In other instances, only the applicable legal principle from a cited authority should be requested.

(23) A proposed verdict form, if counsel desire that the case be submitted to the jury in a manner other than upon general verdict.

(24) A statement of any requests for time for argument in excess of thirty (30) minutes per side as a group and the reasons for the request.

(25) Counsel are directed to submit a statement of proposed Findings of Fact and Conclusions of Law in nonjury cases, which must be submitted no later than the opening of trial.

(26) A statement of the date on which lead counsel and persons possessing settlement authority to bind the parties met personally to discuss settlement, whether the Court has discussed settlement with counsel, and the likelihood of settlement of the case at this time.

(27) A statement of any requests for a special setting of the case.

(28) A statement of each party's estimate of the time required to present that party's evidence and an estimate of the total trial time.

(29) The following paragraph shall be included at the close of each proposed pretrial order above the signature line for the district judge:

> IT IS HEREBY ORDERED that the above constitutes the pretrial order for the above captioned case (_____) submitted by stipulation of the parties or (_____) approved by the court after conference with the parties.
>
> IT IS FURTHER ORDERED that the foregoing, including the attachments thereto, constitutes the pretrial order in the above case and that it supersedes the pleadings which are hereby amended to conform hereto and that this pretrial order shall not be amended except by Order of the court to prevent manifest injustice. Any attempt to reserve a right to amend or add to any part of the pretrial order after the pretrial order has been filed shall be invalid and of no effect and shall not be binding upon any party or the court, unless specifically authorized in writing by the court.
>
> IT IS SO ORDERED this_____day of__, 20_____.

(30) The signature of lead counsel for each party on the last page below the district judge's signature.

LR 16.5 SANCTIONS

Failure to comply with the Court's pretrial instructions may result in the imposition of sanctions, including dismissal of the case or entry of a default judgment.

LR 16.6 PRETRIAL OBJECTIONS TO TRIAL EXHIBITS, DOCUMENTARY EVIDENCE AND TESTIMONY

(A) Exhibits. The pretrial order requires a separate, typed listing of each party's objections to the exhibits of another party. The objections shall be attached to the exhibit list of the party against whom the objections are raised. Objections as to authenticity, privilege, competency, and, to the extent possible, relevancy of the exhibits shall be included. Any listed document to which an objection is not raised shall be deemed to have been stipulated as to authenticity by the parties, and such

documents will be admitted at trial without further proof of authenticity. The pretrial order also requires each party to state any objections the party may have to the use at trial of copies of documentary evidence.

(B) Testimony. Each party is required to list all persons whose testimony at trial will be given by deposition and to designate the portions of each person's deposition which will be introduced. Objections that have not been filed by the date on which the case is first scheduled for trial shall be deemed waived or abandoned. Extraneous and unnecessary matters, including non-essential colloquy of counsel, shall not be permitted to be read into evidence. No depositions shall be permitted to go out with the jury.

LR 16.7 ALTERNATIVE DISPUTE RESOLUTION PLAN

(A) Purpose. The Court adopts this Alternative Dispute Resolution ("ADR") Program to provide alternative processes for the resolution of civil disputes with resultant savings in time and costs to litigants and to the Court, but without sacrificing the quality of justice or the right of the litigants to a full trial in the event of an impasse following ADR. The program and the procedures established thereunder are intended to comply fully with the Alternative Dispute Resolution Act of 1998. 28 U.S.C. § 651 et. seq.

(B) Description of ADR Program. At various stages in the litigation of a civil case, litigants and their counsel are required to consider whether utilization of an alternative dispute resolution process is desirable or appropriate in their particular case. See LR 16.7(D), below. A judge may authorize use of an ADR process that is facilitated by individuals or programs not connected with the Court or, alternatively, the judge may authorize utilization of an ADR process offered through the Court's court-annexed ADR program.

(1) General Referrals. A judge may in his or her discretion refer any civil case to a non-binding ADR process, e.g. early neutral evaluation, mediation, or non-binding arbitration. Upon the consent of the parties, the judge may refer any civil case to binding arbitration, binding summary jury trial or bench trial, or other binding ADR process.

The timing of the referral to a binding or non-binding ADR process under this section is within the discretion of the referring judge.

(2) Court-annexed ADR Program. Note: This program has not been funded by Congress and will not be implemented until funded.

(3) Compromise Negotiations. Every ADR process conducted in a civil case filed in this Court will be treated as a compromise negotiation for purposes of the Federal Rules of Evidence and the Georgia Rules of Evidence. No record will be made of the ADR proceedings. The ADR neutral in the particular case is disqualified from appearing as a witness, consultant, attorney, or expert in any pending or future action relating to that dispute.

(4) Stay of Proceedings. In the initial Order directing the litigants to an ADR process or to the court-annexed ADR program, the judge will have indicated whether the proceedings will or will not be stayed during the ADR process.

(C) Definitions.

As used in this local rule:

(1) Mediation is a non-binding supervised process presided over by a qualified and neutral mediator.

(2) Early neutral evaluation ("ENE") is a non-binding supervised process where a neutral evaluator provides the litigants with an evaluation of the strengths and weaknesses of each party's case to the extent possible at an early stage, helps the parties focus on the issues, organizes an efficient discovery plan, identifies a plan for expeditious resolution of the case by dispositive motion or trial, and/or, if possible, settles all or part of the issues in the case.

(3) Arbitration is the submission of a dispute to a neutral third party or panel, which then renders a decision. Arbitration is an adjudicative process that requires each side to offer evidence and present argument, upon which the neutral or panel then decides the case.

(D) Requirement to Consider ADR.

(1) Counsel for the litigants are required to discuss utilization of an ADR process at the Early Planning Conference (see LR 16.1). If counsel wish to participate in ADR, counsel shall immediately so notify the judge to whom the case is assigned in writing, specifying which ADR process is desired and whether they desire to

participate in the court-annexed ADR plan or otherwise. If counsel decide against participation in an ADR process at this time, this decision must be reported in the Preliminary Planning Report (see LR 16.2).

(2) For cases not resolved sooner, counsel shall again consider participation in ADR at the required Conference After Discovery (see LR 16.3). The assigned judge must be notified immediately if counsel wish to participate in an ADR process.

(3) In any case in which all counsel do not support participation in ADR, individual counsel may provide the judge confidential notice, in writing, of that counsel's desire for ADR. The judge will then make a determination as to whether the case should be included in the ADR program.

(E) Notification of Referral. The judge will notify the parties in writing when the judge has referred a case to an ADR process, specifying whether the referral is to the court-annexed program or otherwise.

(F) Selection of ADR Neutral.

(1) General Referrals. For ADR processes conducted by others, the judge will appoint the ADR neutral. However, before making the appointment, the judge may direct that each party send the judge a list of the names of three (3) ADR neutrals after which the judge will then select the ADR neutral. If the parties have mutually agreed on one of the ADR neutrals listed in their submissions, the parties may so notify the judge, who in his or her discretion, may consider their recommendations. The judge will provide the parties written notice of the identity of the ADR neutral selected and will send a copy of the appointment to the ADR neutral.

(2) Referrals to Court-Annexed Program. In cases referred to the court-annexed program, the ADR administrator shall appoint the neutral after providing counsel with the names of three (3) or more proposed neutrals and considering any objections counsel may have to the proposed neutrals.

(3) Judicial Contact. Once a neutral has been appointed, counsel are not allowed to have any oral or written communication regarding the ADR process with the judge to whom the case is assigned.

(4) ADR Conferences. Once appointed, the ADR neutral will arrange for a conference at a time within thirty (30) days from the date of the notice naming the ADR neutral, unless otherwise ordered by the judge.

(G) Disqualification of ADR Neutrals. Any person selected as an ADR neutral may be disqualified for bias or prejudice as provided in 28 U.S.C. § 144 and shall be disqualified in any case in which such action would be required by a justice, judge, or magistrate judge governed by 28 U.S.C. § 455.

(H) Required Submissions Before ADR Conferences.

At least seven (7) days before the ADR conference, the parties must submit to the ADR neutral:

(a) copies of relevant pleadings and motions;

(b) a short memorandum which identifies the persons, in addition to counsel, who will attend the ADR conference and identifies the individuals connected to the opposing litigant whose presence would be helpful to a productive session. The ADR neutral shall determine whether any person so identified should be requested to attend;

(c) a written statement, not to exceed ten (10) pages double spaced, which summarizes the legal and factual position of each party respecting the issues in dispute. For ENE conferences, each party also shall prepare a written evaluation statement; any written evaluation statements for an ENE conference shall not be submitted to the judge;

(d) such other relevant materials as the ADR neutral requests.

At the conference, counsel shall be prepared to respond fully and candidly in a private caucus to questions by the ADR neutral regarding the estimated costs to counsel's clients of any remaining discovery and of litigating the case through trial, including attorneys' fees and expert witnesses, and regarding the claimed damages, including the method of computation.

(I) Procedure Applicable to all ADR Conferences.

(1) Attendance. The attorney primarily responsible for each litigant's case must personally attend the ADR conference and must be prepared and authorized to discuss all relevant issues, including settlement unless excused by the neutral. The litigants must also be present unless excused by Court order. When a litigant is other than an individual, an authorized representative of such litigant, with full authority to settle, must attend. When a litigant has insurance coverage for the claims in dispute, an authorized representative of the insurance company, with full authority to settle, must attend. Willful failure of a party to attend an ADR conference will be reported to the administrator by the ADR neutral, who will then report the absence to a judicial officer for possible imposition of sanctions.

ADR conferences will be private. Persons other than the litigants and their representatives may attend only with the permission of all litigants and with the consent of the ADR neutral.

(2) Time and Place. The ADR neutral will fix the date and length of each ADR conference. The conference will be held at a location agreeable to the ADR neutral and the litigants or as otherwise directed by the judge.

(3) Informal Procedure. The ADR conference, and such additional conferences as the ADR neutral deems appropriate, will be informal.

(4) Private Caucuses; Confidentiality. The ADR neutral may hold separate, private caucuses with any litigant or counsel. The ADR neutral must not disclose to any other party any information disclosed by a litigant during a caucus which that party indicates to the ADR neutral should be treated as confidential. It will be the responsibility of each party to clearly indicate to the ADR neutral which information is and is not deemed confidential by that litigant.

(5) Statements; Confidentiality. The ADR neutral shall have the litigants and their attorneys sign a form agreeing that any statements made or presented during the ADR conference are confidential and may not be used as evidence in any subsequent administrative or judicial proceeding. The only exception shall be if the judge requests a report from the EN evaluator in the judge's order appointing the EN evaluator.

(J) Procedure at Mediation Conference.

(1) Procedure. The mediator will conduct the process in order to assist the litigants in arriving at a settlement of all or some of the issues involved in the case. The mediator will determine how to structure the mediation conference.

(2) Settlement Proposal by Mediator. If after reasonable efforts the litigants fail to develop settlement terms or upon request of the litigants, the mediator may submit to the litigants a final settlement proposal that the mediator believes to be fair. The litigants carefully will consider such proposal and, at the request of the mediator, will discuss the proposal with the mediator. The mediator may comment on questions of law at any appropriate time.

(3) Conclusion of the Mediation Process. The mediator will conclude the process when:

(a) a settlement is reached by the litigants; or

(b) the mediator concludes, and informs the litigants, that further efforts would not be useful.

(K) Procedure at ENE Conference.

(1) Procedure. The evaluator will conduct the process in order to help the parties focus the issues and work efficiently and expeditiously to make the case ready for trial or settlement. The evaluator will determine how to structure the evaluation conference.

(2) Scope. At the initial conference, and at any additional conferences the evaluator deems appropriate, the evaluator may:

(a) permit each litigant to make a brief oral presentation of its position through counsel or otherwise;

(b) help the litigants to identify areas of agreement and, if feasible, enter stipulations;

(c) determine whether the litigants wish to negotiate, with or without the evaluator's assistance, before evaluation of the case;

(d) help the litigants identify issues and assess the relative strengths and weaknesses of the litigants' positions;

(e) help the litigants to agree on a plan for exchanging information and conducting discovery which will enable them to prepare expeditiously for the resolution of the case by trial, settlement, or dispositive motion;

(f) help the litigants to assess litigation costs realistically;

(g) determine whether one or more additional conferences would assist in the settlement or case development process and, if so, schedule the conference and direct the litigants to prepare and submit any additional written materials needed for the conference;

(h) at the final conference (which may be the initial conference), give an evaluation of the strengths and weaknesses of each litigant's case and of the probable outcome if the case is tried, including, if feasible, the dollar value of each claim and counterclaim;

(i) advise the litigants, if appropriate, about the availability of ADR processes that might assist in resolving the dispute;

(j) act as a mediator or otherwise assist in settlement negotiations either before or after presenting the evaluation called for in Section (2)(h) above; and

(k) assist the litigants in narrowing the issues in the case, and, if requested by the judge, the evaluator may send a report to the judge on whether a preliminary pretrial conference should be held with the judge under Rule 16 to further narrow the issues in the case.

(L) Report to the Court. Within seven (7) days following any ADR process, the ADR neutral will file a Report indicating the date and length of the ADR process and whether all required litigants were present. If a settlement agreement is reached, the Report will indicate that a settlement is reached and the date by which the final settlement agreement will be executed and the dismissal filed. If no settlement agreement is reached, the ADR neutral will report in writing that the ADR process was held, that no agreements were reached, and the recommendations, if any, of the ADR

neutral as to the future processing of the case. The written Report shall be prepared by the ADR neutral (or at the ADR neutral's request, one of the litigants), shall be signed by the litigants, and shall be delivered to the ADR administrator.

If a settlement is reached, the ADR neutral, or one of the litigants at the ADR neutral's request, shall prepare a written document reflecting briefly the terms of the settlement agreement which shall be signed by the litigants and retained by the ADR neutral and the litigants.

(M) Fee.

(1) General. Litigants are encouraged to agree upon compensation of the ADR neutral at or before the first conference. Relevant factors to be considered in determining an appropriate fee include the complexity of the litigation, the degree of skill necessary to facilitate the dispute, and the ability of the litigants to pay.

(2) Court Annexed Program. Neutrals in the court-annexed ADR program are required to list their fee schedules as part of their applications. The Court will review fee schedules for reasonableness. Daily rather than hourly rates are encouraged. Any issues with regard to fees will be resolved by the ADR administrator.

(3) Before being placed on the roster for the Court's annexed ADR program, a neutral must agree to provide pro bono hours and hours at reduced rates to defray ADR costs for parties with limited ability to pay. The number of hours required will be determined by the judges.

IV. PARTIES

LR 23: CLASS ACTIONS

LR 23.1 CLASS ACTIONS

(A) Complaint, Counterclaims, Crossclaims

(1) Caption. For all class actions the complaint shall bear next to the style of the case the designation "Complaint - Class Action."

(2) Class Action Allegations. Under a separate heading titled "Class Action Allegations", the complaint shall provide the following information:

(a) The section of Fed. R. Civ. P. 23 which is claimed to authorize maintenance of suit by class action.

(b) The size (or approximate size) and definition of the alleged class.

(c) The basis of the named plaintiff's or plaintiffs' claim to be an adequate representative of the class or, if defendants, the basis of the named defendant's or defendants' claim to be an adequate representative of the class.

(d) The alleged questions of law and fact which are common among members of the class.

(e) The allegations necessary to satisfy the criteria of section (b)(1) or (b)(2) of Fed. R. Civ. P. 23 or to support the findings required by section (b)(3) of Fed. R. Civ. P. 23.

(f) For actions requiring a jurisdictional amount, the basis for determination of that amount.

The foregoing provisions shall apply, with appropriate adaptions, to any counterclaim or crossclaim alleged to be brought for or against a class.

(B) Class Certification. The plaintiff shall move within ninety (90) days after the complaint is filed for a determination under Fed. R. Civ. P. 23(c)(1) as to whether the suit may be maintained as a class action. Notwithstanding the foregoing, in any class action brought pursuant to the Private Securities Litigation Reform Act of 1995, or a class action in which one or more defendants have filed a motion to dismiss pursuant to Fed. R. Civ. P. 12 in lieu of an answer to the complaint, or a class action in which one or more parties file a motion for coordination and/or consolidation of multiple actions before the Judicial Panel on Multidistrict Litigation, the plaintiff shall move for a determination under Fed. R. Civ. P. 23(c)(1) within thirty (30) days after all defendants have filed an answer to the complaint. The Court may extend the time upon a showing of good cause.

(C) Communications with Actual or Putative Class Members.

(1) Purpose. The administration of justice often requires that limited restrictions be placed on counsel and parties in cases in which class certification is sought or has been granted. In class actions where a putative class member is permitted to elect not to participate in the class action, there is an inherent risk that a class member's decision may, in the absence of Court regulation of communications regarding the class action, not be based on a complete and balanced presentation of the relevant facts. Special management of class actions is often necessary to protect the interests of both formal parties and absent class members.

(2) Restrictions on Communications. When class certification is sought in a case, all parties and/or their counsel are required to confer jointly to determine whether proper management of the case or the interests of putative class members require the entry of an order limiting either the parties or counsel in communications with putative class members. The conference shall occur as soon as practicable, but in no event later than twenty-one (21) days after the complaint is served. Within fourteen (14) days after the conference, counsel shall submit to the Court a joint statement of their collective or individual views as to whether an order should be entered limiting communications. If counsel agree no order is necessary, they shall so state in their report to the Court. If counsel agree that an order limiting communications should be entered, they shall submit the proposed content of such order and the grounds justifying entry of same. If counsel cannot agree whether an order should be entered or what the content of such an order should be, they shall report this to the Court and either submit stipulated facts for the Court's consideration or request a hearing to present evidence on the issue. Based on the record before the Court, an order limiting communications may be entered upon a finding that a failure to so limit communications would likely result in imminent and irreparable injury to one of the parties. Except as set forth in LR 23.1(C)(4)(a), neither the parties nor their counsel shall initiate communications with putative class members regarding the substance of the lawsuit until counsel presents the required report to the Court and any necessary order is entered pursuant to the report.

(3) Restrictions Applicable to All Class Actions. In all cases where class certification is sought or granted, the following shall apply:

(a) All parties and counsel are forbidden to solicit fees and expenses or agreements to pay fees and expenses from prospective or actual class

members who are not formal parties or who do not plan to become formal parties.

(b) All parties and counsel are forbidden to communicate with prospective or actual class members in a way which tends to misrepresent the status, purpose, and effects of the action or of any actual or potential Court orders therein, which may create impressions tending without cause to reflect adversely on any party, any counsel, the Court, or the administration of justice.

(4) Class Actions Under the Private Securities Litigation Reform Act of 1995. The Private Securities Litigation Reform Act of 1995 ("Reform Act") provides for a notice to be published following the commencement of a securities class action. 15 U.S.C. §§ 78u-4(a)(3)(A)(i), 77z-1(a)(3)(A)(i). The Court finds that certain practices in Reform Act class actions have the potential to harm the interests of class members and/or defendants and can interfere with the orderly administration of justice. For example, the Court finds that numerous notices of the same litigation have been released, thereby creating the potential for confusion for potential class members and potential damage to the interests of shareholders and businesses. The Court finds further that the measures adopted herein are reasonably necessary to protect the interests of class members, realize the goals of the Reform Act, and balance the rights of those who wish to prosecute a Reform Act class action or communicate about it.

(a) Notice of the Reform Act Class Action.

(i) Contents of the Notice. Consistent with the provisions of 15 U.S.C. §§ 78u-4(a)(3)(A)(i), 77z-1(a)(3)(A)(i), following the filing of any Reform Act class action in this District, each law firm on a complaint may choose to publish a notice. Such notice shall have as its headline "Notice of Filing Securities Class Action Against [Defendant or Defendants]" and shall provide the following information as required by the Reform Act:

(1) the pendency of the action;
(2) the claims asserted therein;
(3) the purported class period;
(4) that, not later than sixty (60) days after the date on which the first notice is published, any member of the purported class may move the Court to serve as lead plaintiff of the purported class; and

(5) contact information for the law firm issuing the notice, including the name of a contact person who is designated to discuss the lawsuit with putative class members, an address, a telephone number, and a website and e-mail address, if applicable. However, the notice shall not contain a promotional statement for any law firm.

(ii) Type of Publication. The one notice pursuant to subsection (i) shall be published in a widely circulated national business-oriented publication or wire service.

(iii) Only One Notice Per Law Firm. Unless otherwise ordered by the Court, there shall be only one notice per law firm regardless of the number of complaints filed in this Court arising out of the same or similar set of facts or circumstances. No attorney seeking to represent the putative class shall initiate any other communication with putative class members unless approved in advance by the Court. Such Court approval will be granted if the communication is deemed by this Court to be reasonably necessary to achieve the purposes of the Reform Act. This rule does not affect the rights or obligations of defendants to give notice of the pendency of the suit, nor does it preclude counsel for either party from contacting class members whom they believe to be fact witnesses or with whom they have an attorney-client relationship.

(b) Motion for Appointment of Lead Plaintiff. Pursuant to 15 U.S.C. §§ 78u-4(a)(3)(B)(i) and (v), 77z-1(a)(3)(B)(i) and (v), the Court shall consider any motion for appointment of lead plaintiff and lead plaintiff's counsel in a Reform Act class action within ninety (90) days after the date on which the first Notice is published pursuant to 15 U.S.C. §§ 78u-4(a)(3)(A)(i), 77z-1(a)(3)(A)(i), and this rule or as soon thereafter as practicable. Consistent with the purpose and terms of the Reform Act, in considering and ruling upon such a motion as to appointment of lead plaintiff and lead counsel, the Court will consider, among other relevant factors, the following:

(i) the proposed lead plaintiff's financial loss, recognizing that the presumption that the person with the largest financial interest in the relief sought is the most adequate lead plaintiff is rebuttable;

(ii) whether the proposed lead plaintiff's counsel has complied with the Local Rules of this Court;

(iii) whether the proposed lead plaintiff's counsel promotes the efficient conduct of the litigation; and

(iv) the relevant experience of the proposed lead plaintiff's counsel.

(c) Certification of Proposed Lead Counsel. Any law firm seeking to be appointed lead counsel pursuant to the Reform Act, 15 U.S.C. §§ 78u-4(a)(3)(B)(v), 77z-1(a)(3)(B)(v), shall submit with its motion papers a sworn certification stating that with regard to the case at bar, such law firm:

(i) has issued or caused to be issued no more than one notice to putative class members (except as authorized by LR 23.1(C)(4)(a)(iii));

(ii) has complied with the Local Rules of this Court; and

(iii) has complied with applicable State Bar of Georgia ethical rules.

(5) Ethical and Other Obligations Not Affected. The obligations and prohibitions of the foregoing rule are not exclusive. All other ethical, legal, and equitable obligations to which counsel and/or parties are subject are not affected by this rule.

V. DEPOSITIONS AND DISCOVERY

LR 26: GENERAL PROVISIONS GOVERNING DISCOVERY; DUTY OF DISCLOSURE

LR 26.1 INITIAL AND EXPERT DISCLOSURES

(A) Applicability. The parties to civil actions shall make the initial disclosures required by Fed. R. Civ. P. 26(a)(1) at or within thirty (30) days after the appearance of a defendant by answer or motion. Expert disclosures shall be made as required by Fed.

R. Civ. P. 26(a)(2) and by LR 26.2(C). Pretrial disclosures (Fed. R. Civ. P. 26(a)(3)) are addressed in LR 16.4, Consolidated Pretrial Order.

(B) Procedures.

(1) Standard Form. The Court has prepared a form, Initial Disclosures, which counsel shall be required to use. A copy of the form is included as Form I in Appendix B and copies of the form may be obtained by counsel at the public filing counter in each division. No modifications or deletions to the form shall be made without prior permission of the Court. All disclosures must be answered fully in writing in compliance with Fed. R. Civ. P. 26. See also Fed. R. Civ. P. 37 regarding failure to make disclosures.

(2) Multiple Parties. If there is more than one (1) plaintiff or more than one (1) defendant in the action, each plaintiff and each defendant must submit the disclosures separately unless a disclosure is the same for all plaintiffs or all defendants.

(3) Attorney's Signature Required. Initial Disclosures shall be certified as directed by Fed. R. Civ. P. 26(g)(1). Sanctions, if appropriate, will be imposed according to Fed. R. Civ. P. 26(g)(3) and 37(c).

(4) Removed Cases. For purposes of this rule, any time period stated to run from the appearance of a defendant will run from the date the removed case is filed in this Court.

(C) Supplementation and Amendment of Disclosures. The duties of a party to supplement and amend prior initial, expert or pretrial disclosure are set forth in Fed. R. Civ. P. 26(e).

LR 26.2 DISCOVERY PERIOD

(A) Commencement; **Length.** The discovery period shall commence thirty days after the appearance of the first defendant by answer to the complaint, unless the parties mutually consent to begin earlier. In removed cases, the discovery period commences thirty days after the removed case is filed in this Court if any defendant has appeared by answer to the complaint prior to removal.

The discovery tracks established in this Court are: (1) zero-months discovery period; (2) four-months discovery period; and (3) eight-months discovery period. A

chart showing the assignment of cases to a discovery track by filing category is contained in Appendix F.

(B) Adjustments to Discovery Period. The Court may, in its discretion, shorten or lengthen the time for discovery. Motions requesting extensions of time for discovery must be made prior to expiration of the existing discovery period and will be granted only in exceptional cases where the circumstances on which the request is based did not exist or the attorney or attorneys could not have anticipated that such circumstances would arise at the time the Joint Preliminary Report and Discovery Plan was filed.

(C) Expert Witnesses. Any party who desires to use the testimony of an expert witness shall designate the expert sufficiently early in the discovery period to permit the opposing party the opportunity to depose the expert and, if desired, to name its own expert witness sufficiently in advance of the close of discovery so that a similar discovery deposition of the second expert might also be conducted prior to the close of discovery.

Any party who does not comply with the provisions of the foregoing paragraph shall not be permitted to offer the testimony of the party's expert, unless expressly authorized by Court order based upon a showing that the failure to comply was justified.

Any party objecting to an expert's testimony based upon Daubert v. Merrell Dow Pharms. Inc., 509 U.S. 579, 113 S. Ct. 2786 (1993) shall file a motion no later than the date that the proposed pretrial order is submitted. Otherwise, such objections will be waived, unless expressly authorized by Court order based upon a showing that the failure to comply was justified.

LR 26.3 SERVICE AND FILING OF DISCOVERY MATERIAL

(A) Filing Not Generally Required. Interrogatories, requests for inspection, requests for admission, and answers and responses thereto shall be served upon other counsel or parties, but they shall not be routinely filed with the Court. The party responsible for service of the discovery material shall, however, file a certificate with the clerk indicating the date of service. Counsel shall also retain the original discovery material and become its custodian.

(B) Selective Filing Required for Motions, Trial and Appeal.

(1) The custodial party shall file with the clerk at the time of use at trial or with the filing of a motion those portions of depositions, interrogatories, requests for documents, requests for admission and answers or responses thereto which are used at trial or which are necessary to the motion.

(2) Where discovery materials not previously in the record are needed for appeal purposes, the Court, upon application, may order or counsel may stipulate in writing that the necessary materials be filed with the clerk.

LR 30: DEPOSITIONS UPON ORAL EXAMINATION

LR 30.1 EXPERT WITNESSES

Limitations regarding the timing of expert depositions and listing of potential and expected expert witnesses at trial (see Fed. R. Civ. P. 26(a)(2)), are set forth in LR 26.2(C) and LR 16.4(B)(18), respectively.

LR 37: FAILURE TO MAKE DISCLOSURES OR TO COOPERATE IN DISCOVERY; SANCTIONS

LR 37.1 MOTIONS TO COMPEL A DISCLOSURE OR DISCOVERY

(A) Form. A motion to compel a disclosure under LR 26.1 or to compel a response to discovery conducted pursuant to the Federal Rules of Civil Procedure shall:

(1) Include the certification of counsel with regard to the duty to confer required by Fed. R. Civ. P. 37(a)(2)(A)(B);

(2) Quote verbatim each disclosure, interrogatory, deposition question, request for designation of deponent, or request for inspection to which objection is taken;

(3) State the specific objection;

(4) State the grounds assigned for the objection (if not apparent from the objection); and

(5) Cite authority and include a discussion of the reasons assigned as supporting the motion.

The motion shall be arranged so that the objection, grounds, authority, and supporting reasons follow the verbatim statement of each specific disclosure, interrogatory, deposition question, request for designation of deponent, or request for inspection to which an objection is raised.

(B) Time for Filing. Unless otherwise ordered by the Court, a motion to compel a disclosure or discovery must be filed within the time remaining prior to the close of discovery or, if longer, within fourteen (14) days after service of the disclosure or discovery response upon which the objection is based. The close of discovery is established by the expiration of the original or extended discovery period or by written notice of all counsel, filed with the Court, indicating that discovery was completed earlier.

(C) Procedures. Motions to compel are subject to the general motion requirements set forth in LR 7.1.

VI. TRIALS

Editor's Note: See also LR 83.1, Attorneys: Admission to Practice before the Court.

LR 39: TRIAL BY JURY OR BY THE COURT

LR 39.1 PLEADINGS AND EXHIBITS; APPEAL RECORDS; CLOSED FILES

Refer to LR 79.1.

LR 39.2 TAXATION OF COSTS IN LATE-SETTLING CASES

(A) Settlement Before Trial. Whenever a civil action scheduled for jury trial is settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, juror costs for one day shall be assessed equally against the parties and their counsel or otherwise assessed or relieved as directed by the Court. Juror costs include attendance fees, per diem, mileage, and parking. No juror costs will be

assessed if notice of settlement or other disposition of the case is given to both the courtroom deputy of the judge to whom the case is assigned and to the Jury Section of the clerk's office one full business day prior to the scheduled trial date.

(B) Settlement Before Verdict. Except upon a showing of good cause, the Court shall assess the juror costs equally against the parties and their counsel whenever a civil action proceeding as a jury trial is settled at trial in advance of the verdict. The judge may, in the discretion of the judge, direct that the juror costs be relieved or that they be assessed other than equally among the parties and their counsel.

LR 39.3 ATTORNEYS: AT TRIAL

(A) Presence During Trial.

(1) Presence Required. It shall be the duty of counsel in all jury cases to be present at all portions and phases of trial including the time during which the jury is considering its verdict, unless excused by the Court. The Court and Court officials shall have no duty to telephone or notify counsel after the jury has retired to consider the verdict.

(2) Presumptions. Unless the contrary affirmatively appears of record, it will be presumed that the parties and their counsel were present at all stages of the trial or, if absent, that their absence was voluntary and constituted a waiver of their presence.

(B) Limitations on Participation.

(1) Witness Examination. Unless the Court permits otherwise, only one (1) attorney on each side shall examine or cross-examine a witness.

(2) Argument to the Jury.

(a) Unless the Court permits otherwise, the merits of an action or proceeding shall not be argued by more than two (2) attorneys on each side.

(b) The party bearing the burden of persuasion at trial shall be entitled to open and close the arguments to the jury.

(c) If the party waives the party's right to make an opening argument, the party's rebuttal argument is limited to those matters argued by the opposing party in that party's closing argument.

(3) Attorney as Witness. In this Court, an attorney for a party who is examined as a witness in an action or proceeding and who gives testimony on the merits shall not be permitted to argue the merits of the case or proceeding, either to the Court or to the jury, except with the permission of the Court.

LR 39.4 RESTRICTIONS ON MEDIA AND RELEASE OF INFORMATION

Refer to LR 83.4.

LR 39.5 CONTINUANCES

(A) Generally. A continuance of any trial, pretrial conference, or other hearing will be granted only on the basis of exceptional circumstances. No such continuance will be granted on stipulation of counsel alone but shall require an order of the Court.

(B) Absence of Witnesses. Motions for continuance on account of the absence of any witness must show the steps which have been taken to secure the attendance of the witness and must reveal the nature of the witness' testimony. The motion must also state the time at which the witness will be available and, unless waived, must include a certificate of a doctor when illness of the witness is claimed. The stipulation of the adversary as to the witness' testimony shall be sufficient reason for denial of the motion for continuance.

LR 40: ASSIGNMENT OF CASES FOR TRIAL

LR 40.1 TRIAL CALENDAR

A case shall be presumed ready for trial on the first calendar after the pretrial order is filed unless another time is specifically set by the Court.

LR 41: DISMISSAL OF ACTIONS

LR 41.1 VOLUNTARY DISMISSAL

Orders of voluntary dismissal under Fed. R. Civ. P. 41(a)(1) may be obtained from the clerk who is authorized to grant, sign, and enter such orders of dismissal.

LR 41.2 DISMISSAL WITHOUT PREJUDICE

(A) Omission of Response Date on Summons. Failure of a party or attorney for a party to state the correct response time on a summons or notice of lawsuit and request for waiver of service of summons attached to a complaint, third-party complaint, or any other pleading that requires a summons shall constitute grounds for dismissal of the action without prejudice.

(B) Failure to Update Office Address and Number. The failure of counsel for a party or of a party appearing *pro se* to keep the clerk's office informed of any change in address and/or telephone number which causes a delay or otherwise adversely affects the management of the case shall constitute grounds either for dismissal of the action without prejudice or for entry of a default judgment.

LR 41.3 DISMISSAL FOR WANT OF PROSECUTION

(A) Dismissal Authorized. The Court may, with or without notice to the parties, dismiss a civil case for want of prosecution if:

(1) A plaintiff or attorney willfully fails or refuses to make a case ready or refuses to cause a case to be made ready for placement on the trial calendar; or

(2) A plaintiff or plaintiffs attorney shall, after notice, fail or refuse to appear at the time and place fixed for pretrial or other hearing or trial in a case or fail or refuse to obey a lawful order of the Court in the case; or

(3) A case has been pending in this Court for more than six (6) months without any substantial proceedings of record, as shown by the record docket or other manner, having been taken in the case.

(B) Adjudication on the Merits. In accordance with the provisions of Fed. R. Civ. P. 41(b), a dismissal for want of prosecution operates as an adjudication upon the merits of the action unless the Court specifies otherwise in its order of dismissal.

LR 43: TAKING OF TESTIMONY

LR 43.1 DEPOSITION TESTIMONY AT TRIAL

Counsel are required to list in the Pretrial Order all persons whose testimony at trial will be given by deposition and designation of the portions of each person's deposition which will be introduced. Objections not filed by the date on which the case is first scheduled for trial shall be deemed waived or abandoned. Extraneous and unnecessary matters, including non-essential colloquy of counsel, shall not be permitted to be read into evidence. No depositions shall be permitted to go out with the jury.

LR 43.2 EXCUSAL OF WITNESSES

All witnesses called to testify will be subject to the control of counsel who subpoenaed them (or secured their voluntary appearance). At the close of the witness' testimony, counsel need not ask the Court's permission to excuse the witness. Rather, the witness may be excused unless other counsel requests at that time that the witness not be excused. If the witness is not excused, the witness must remain within the environs of the courtroom for the remainder of the court session on that day. Attendance on subsequent dates is not required unless the party desiring the witness' attendance serves a subpoena upon the witness. Payment of a witness' per diem and other covered expenses is the responsibility of counsel who on that date has the witness under subpoena.

LR 47: SELECTION OF JURORS

LR 47.1 JURY SELECTION AND QUALIFICATION

Prospective grand and petit jurors shall be selected and qualified and jury panels shall be drawn pursuant to the Jury Selection and Service Act of 1968, 28 U.S.C. §§ 1861-70, and the current Jury Plan of this Court. The Jury Plan of this Court is attached hereto as Appendix A and is made a part of these rules.

LR 47.2 VOIR DIRE PROCEDURES

Counsel shall include in the proposed Pretrial Order:

(1) A joint listing of the questions which the parties wish the Court to propound to the jurors concerning their legal qualifications to serve.

(2) A listing by each party of requested general voir dire questions to the jurors.

The Court will question prospective jurors as to their address and occupation and as to the occupation of a spouse, if any. Follow-up questions by counsel may be permitted. The determination of whether the district judge or counsel will propound general voir dire questions is a matter of courtroom policy which shall be established by each judge.

LR 47.3 RESTRICTED CONTACT WITH JURORS

During trial or after the conclusion of a trial, no party, agent or attorney shall communicate with any members of the petit jury, including alternate or excused jurors, before which the case was tried without first receiving permission of the Court.

LR 49: SPECIAL VERDICTS AND INTERROGATORIES

LR 49.1 SPECIAL VERDICTS

If counsel desire that the case be submitted to the jury in a manner other than upon a general verdict, counsel must attach the proposed verdict form to the Pretrial Order.

LR 51: INSTRUCTIONS TO JURY; OBJECTION

LR 51.1 REQUESTS TO CHARGE

(A) When Due; Procedures. Requests to charge shall be filed with the courtroom deputy of the judge to whom the case is assigned no later than 9:30 a.m. on the date on which the case is calendared (or specially set) for trial unless otherwise ordered by the Court. The requests shall be numbered sequentially with each request and the citations to authorities supporting the request presented on a separate sheet of paper. In addition

to the original, counsel must file two copies of each request with the courtroom deputy and must serve one copy of the requests on opposing counsel.

(B) Content Sources. Requests should be drawn from the latest edition of the Eleventh Circuit District Judges Association's Pattern Jury Instructions and O'Malley's Federal Jury Practice and Instructions whenever possible. In other instances, only the applicable legal principle from a cited authority should be requested. A short, one (1)-page or less, statement of the party's contentions must be attached to the requests.

LR 53: MASTERS

LR 53.1 SERVICE AS SPECIAL MASTER

Pursuant to 28 U.S.C. § 636(b)(2), a judge may designate a magistrate judge to serve as a special master in a civil case assigned to that judge. Appointments of magistrate judges as special masters are subject to Fed. R. Civ. P. 53 only when the order referring the matter expressly provides that the reference is made under Rule 53.

VII. JUDGMENT

LR 54: JUDGMENT COSTS

LR 54.1 BILL OF COSTS

A bill of costs must be filed by the prevailing party within thirty (30) days after the entry of judgment. A bill of costs which is not timely filed will result in the costs not being taxed as a part of the judgment.

LR 54.2 ATTORNEY'S FEES

(A) Procedure for Determination. If a final judgment, including a judgment made final under Fed. R. Civ. P. 54(b), does not determine (or establish other procedures for determining) the amount of attorney's fees which are authorized by federal statute to be awarded by the Court to or on behalf of a prevailing party or which may be sought under the equitable or inherent powers of the Court, the following procedures shall apply:

(1) The award of such fees (and expenses incident thereto not ordinarily allowable as taxable costs) shall be requested by special written motion addressed to the Court and shall not be included in a cost bill, in a motion for taxation or retaxation of costs, or in a motion under Fed. R. Civ. P. 50(b), 52(b), or 59.

(2) The motion shall specify the judgment and the statute or other grounds on the basis of which entitlement to the award is claimed and shall state the amount (or provide a fair estimate of the approximate amount) of the fees and expenses sought. Within thirty (30) days (or such other period as the Court may prescribe) after filing the motion, the movant shall file and serve a detailed specification and itemization of the requested award, with appropriate affidavits and other supporting documentation.

(3) Hearings on the motion shall be conducted by the Court in accordance with Fed. R. Civ. P. 43(e) and Fed. R. Civ. P. 78 and in accordance with applicable statutory and decisional standards.

(4) Pendency of a motion filed under this rule does not extend the time for appealing from, or for filing a motion under Fed. R. Crim. P. 50(b), 52(b), or 59 directed to the judgment giving rise to the claim for attorney's fees. The Court may, however, take the motion into consideration in ruling upon a motion for extension of time for appealing filed under Fed. R. App. P. 4(a)(5).

LR 55: DEFAULT

LR 55.1 MAGISTRATE JUDGES: DEFAULT JUDGMENTS

(A) Pretrial Matters on Reference from Judge. The magistrate judges may, in appropriate cases, enter default judgments and review motions to set aside default judgments.

LR 56: SUMMARY JUDGMENT

LR 56.1 MOTIONS FOR SUMMARY JUDGMENT

(A) Generally. Motions for summary judgment shall be filed in accordance with the provisions of Fed. R. Civ. P. 56, except that no date for a hearing shall be set until after the party opposing the motion has had twenty-one (21) days after service of the motion or a responsive pleading is due, whichever is later, in which to file a responsive pleading. In accordance with LR 7.1(C), the parties shall not be permitted

to file supplemental briefs and materials, with the exception of a reply by the movant, except upon order of the Court.

(B) Form of Motion.

(1) A movant for summary judgment shall include with the motion and brief a separate, concise, numbered statement of the material facts to which the movant contends there is no genuine issue to be tried. Each material fact must be numbered separately and supported by a citation to evidence proving such fact. The Court will not consider any fact: (a) not supported by a citation to evidence (including page or paragraph number); (b) supported by a citation to a pleading rather than to evidence; (c) stated as an issue or legal conclusion; or (d) set out only in the brief and not in the movant's statement of undisputed facts.

(2) A respondent to a summary judgment motion shall include the following documents with the responsive brief:

(a) A response to the movant's statement of undisputed facts.

(1) This response shall contain individually numbered, concise, nonargumentative responses corresponding to each of the movant's numbered undisputed material facts.

(2) This Court will deem each of the movant's facts as admitted unless the respondent: (i) directly refutes the movant's fact with concise responses supported by specific citations to evidence (including page or paragraph number); (ii) states a valid objection to the admissibility of the movant's fact; or (iii) points out that the movant's citation does not support the movant's fact or that the movant's fact is not material or otherwise has failed to comply with the provisions set out in LR 56.1(B)(1).

(3) The Court will deem the movant's citations supportive of its facts unless the respondent specifically informs the Court to the contrary in the response.

(4) The response that a party has insufficient knowledge to admit or deny is not an acceptable response unless the party has complied with the provisions of Fed. R. Civ. P. 56(d).

(b) A statement of additional facts which the respondent contends are material and present a genuine issue for trial. Such separate statement of material facts must meet the requirements set out in LR 56.1(B)(1).

(3) If respondent provides a statement of additional material facts, then, within the time allowed for filing a reply, the movant shall file a response to each of the respondent's facts. The range of acceptable responses is limited to: (a) an objection to the admissibility of the evidence upon which the respondent relies, (b) an objection pointing out that the respondent's evidence does not support the respondent's fact; (c) an objection on the ground that the respondent's fact is not material or does not otherwise comply with the provisions set out in LR 56.1(B)(1), and (d) a concession that the Court can properly consider the respondent's evidence for purposes of the summary judgment motion.

(C) Exhibits. The parties must file as exhibits to their briefs the originals of any affidavits relied upon in their motion and response papers, and copies of those excerpts of depositions or other discovery materials that are referenced therein. In addition, when a portion of a deposition is referenced and submitted, then the party in custody of the original of that deposition shall cause the entire deposition to be filed with the Court. LR 26.3(B)(1).

(D) Time. Motions for summary judgment shall be filed as soon as possible, but, unless otherwise ordered by the Court, not later than thirty (30) days after the close of discovery, as established by the expiration of the original or extended discovery period or by written notice of all counsel, filed with the Court, indicating that discovery was completed earlier.

LR 58: ENTRY OF JUDGMENT

LR 58.1 FILING OF ORDERS

Whenever an attorney obtains an order of any nature from a district judge or magistrate judge in chambers, the attorney shall immediately deliver the order to the clerk for filing.

LR 58.2 SATISFACTION OF JUDGMENT

Whenever the amount directed to be paid by any judgment or decree, together with interest and the clerk's statutory charges, shall have been paid into the Court, the clerk shall enter satisfaction of said judgment and shall note same on the margin of the judgment. Satisfaction may be evidenced by either:

(1) the filing of a satisfaction of judgment by the prevailing party, or

(2) the filing of a motion by the defendant requesting satisfaction of the judgment of record. A copy of the motion must be served upon the prevailing party who shall have fourteen (14) days within which to object. Otherwise, the clerk shall be authorized to mark the judgment paid and satisfied in full.

No pleadings or motions relating to the satisfaction of judgments shall be accepted for filing prior to the expiration of the time allowed for filing a bill of costs.

Only the United States Attorney or authorized designee is authorized to sign an acknowledgment of satisfaction on behalf of the United States. The attorney, legal representative, or assignee of a judgment creditor must present evidence of authority to act when presenting an acknowledgment of satisfaction on behalf of the judgment creditor.

LR 58.3 REMITTITURS

(A) Judgment Affirmed or Appeal Dismissed. When the judgment of this Court in a civil case has been affirmed or the appeal dismissed, the clerk shall immediately upon receipt of the remittitur from the appellate court file it upon record and shall notify counsel of record and/or the parties that the remittitur has been filed.

(B) Judgment Modified, Vacated, or Reversed. When the judgment of this Court has been modified, vacated, or reversed on appeal, the clerk shall immediately present a proposed order to the Court making the remittitur the judgment of this Court and shall notify counsel and/or the parties of the entry of said order and that they are required to prepare and present promptly to the Court any such further orders as may be required.

VIII. PROVISIONAL AND FINAL REMEDIES

LR 64: SEIZURE OF PERSON OR PROPERTY

LR 64.1 ENFORCEMENT OF INTERNAL REVENUE LAWS

In accordance with 26 U.S.C. § 7402, the magistrate judges are authorized to issue orders, warrants, or other processes as may be necessary or appropriate for the enforcement of Internal Revenue Laws including, but not limited to, warrants for seizure of property in satisfaction of tax assessments.

LR 65: INJUNCTIONS AND RESTRAINING ORDERS

LR 65.1 REQUEST TO JUDGE FOR IMMEDIATE ORDER

Whenever an attorney seeks an immediate order of the Court, the attorney must submit a motion to the district judge to whom the case has been assigned if the district judge is present within the district. If the district judge is not available or if the case has not yet been assigned to a particular judge, the attorney shall contact the clerk for instructions as to which judge the motion should be submitted. All courtesy copies of proposed orders must be clearly marked. Refer to LR 7.5(B) regarding notice to adversary.

LR 65.2 MOTIONS TO WAIVE USUAL PROCEDURES

Upon written motion and for good cause shown, the Court may waive the time requirements of LR 7.1 and grant an immediate hearing on any matter requiring such expedited procedure. The motion shall set forth in detail the necessity for such expedited procedure.

LR 65.1: SECURITY: PROCEEDINGS AGAINST SURETIES

LR 65.1.1 PROCEDURES RELATING TO BONDS

(A) Approval of Surety by Clerk. The clerk shall approve as to surety all bonds requiring approval (except criminal and bankruptcy bonds), unless otherwise provided by law, rules, or direction of the Court.

(B) Officers of Court Not Accepted as Surety. No clerk, marshal, other officer of this Court, or any practicing attorney at law will be accepted as surety on any bond or undertaking in any action or proceeding in this Court.

(C) Surety Qualifications for Bonds for Costs. Unless otherwise provided by the Court, every bond for costs under this rule must have as surety either:

(1) A cash deposit equal to the amount of the bond, or

(2) A corporation authorized to execute bonds under 31 U.S.C. §§ 9304-08, or

(3) An individual of the district with sufficient property, above all homestead and exemption rights, to render him or her liable for the amount of the bond and all costs incident to collecting same.

(D) Bonds Where Minor Involved. In all cases where a minor has sued and recovered by and through a next friend, the bond to be made by the next friend shall, unless otherwise ordered by the Court, be in all respects as provided by the existing law of the State of Georgia, except that the obligee in the bond shall be the minor for whom recovery is had, and the bond shall be approved by the clerk.

(E) Bonds for Costs on Appeal. A party in a civil case appealing a judgment from this Court shall not be routinely required to file a bond for costs on appeal. The Court may, however, upon meritorious motion by a party or on its own initiative, order an appellant or cross-appellant to file a bond for costs in an amount and with those conditions as the Court may designate in its order.

LR 67: DEPOSIT IN COURT

LR 67.1 REGISTRY AND OTHER FUNDS IN THE CUSTODY OF THE CLERK OF COURT

(A) Receipt and Deposit of Registry Funds.

(1) Generally. No money shall be sent to the Court or its officers for deposit in the Court's registry without a Court order signed by the presiding judge.

(2) Deposit with U.S. Treasury. Unless otherwise ordered by the presiding judge, all monies ordered to be paid to the Court or tendered by litigants and authorized by the Court for deposit into the registry of the Court must be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposits on its behalf.

(B) Investment of Registry Funds with the Court Registry Investment System ("CRIS").

(1) Unless otherwise ordered by the presiding judge or impractical due to a short time-frame before disbursement, registry deposits which reasonably are expected to accrue to the ultimate benefit of private parties must be invested through the Court Registry Investment System ("CRIS") administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045. All monies made payable by decree of this Court to minor and incompetent plaintiffs which are not paid directly to the plaintiff's authorized representative shall be deposited into CRIS.

(2) Where, by order of the Court, funds on deposit with the Court are to be placed in some form of interest-bearing account, CRIS shall be the only investment mechanism authorized.

(3) Unless the Court specifically provides otherwise, the ultimate beneficiary or beneficiaries of any appreciation resulting from investment shall be that person or those persons ultimately found to be entitled to receive the principal thereof.

(4) Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a "Disputed Ownership Fund" (DOF), a taxable entity that requires tax administration. Unless otherwise ordered by the Court, interpleader funds must be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements.

(5) The Director of the Administrative Office of the United States Courts is designated as custodian for all CRIS funds. The Director or the Director's designee shall perform the duties of custodian. Funds held in CRIS remain subject to the control and jurisdiction of this Court.

(6) Money from each case deposited in CRIS shall be "pooled" together with those on deposit with Treasury to the credit of other courts in CRIS and used to purchase Government Account Series securities, which will be held at Treasury in an account in the name and to the credit of the Director of the Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.

(7) An account will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case based on the ratio each account's principal and earnings has to the aggregate principal and income total in the fund after the CRIS fee has been applied. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to the Court and made available to litigants and/or their counsel.

(8) For each interpleader case, an account shall be established in the CRIS Disputed Ownership Fund ("DOF"), titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account as directed by Court order.

(9) The custodian is authorized and directed to deduct the CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in CRIS. According to the Court's Miscellaneous Fee Schedule, the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to Court cases.

(10) The custodian is authorized and directed to deduct the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. According to the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to Court cases. The custodian is further authorized and directed by this Order to withhold and pay federal taxes due on behalf of the DOF.

(C) Disbursement of Registry Funds.

(1) Generally. Withdrawal of registry funds must be authorized by Court order.

(2) Motion for Disbursement. All motions for disbursement of registry funds must specify the principal sum initially deposited, the amount(s) of principal funds to be disbursed, to whom (payee or attorney) the disbursement is to be made, and complete mailing instructions (full address and zip code of payee or attorney). Each motion must include a proposed order of disbursement.

(3) Orders of Disbursement. Before they are presented to the judge, all orders for disbursement of registry funds must be presented to a financial deputy clerk for a certification of the amount of funds deposited in the registry of the Court, including any interest earned. If counsel does not present the order to a financial deputy clerk for certification, then chambers staff must do so. Each proposed order of disbursement must contain the following language: "The clerk is authorized and directed to draw a check(s) on the funds on deposit in the registry of this Court in the principal amount of $____ plus all accrued interest, minus any statutory users fees, payable to [name of payee] and mail or deliver the check(s) to [payee or attorney]." If more than one check is to be issued on a single order, the portion of principal due each payee must be separately stated in the order.

(4) Taxpayer Identification Numbers. Social Security numbers, tax identification numbers, and mailing addresses will not be included in a proposed order of disbursement, but that information will be provided by counsel for each payee in a cover letter or other document conveyed to but not filed with the Court. A W-9 (Request for Taxpayer Identification Number and Certification) form is required for each payee.

(5) Payee Name. On all checks drawn by the clerk on deposits made into the registry of the Court, the name of the payee must be written as that name appears in the Court's order providing for disbursement.

(6) Time of Disbursement. The clerk will issue disbursements as soon after receipt of the Order for Disbursement as the business of the clerk's office allows, except when it is necessary to allow time for a check or draft to clear or when an order

is appealable. The disbursement may not be made until the time for appeal has expired.

(D) Designated and Qualified Settlement Funds. If the Court establishes or approves a "designated or qualified settlement fund" that will be held in the registry of the Court, the Court either shall approve the person named in the settlement agreement as administrator or shall designate as administrator the party that deposited the funds into the Court's registry. *See* 26 U.S.C. § 468B and applicable Internal Revenue Service regulations, including 26 C.F.R. § 1.468B (57 Federal Register 60983-60995). The administrator shall be responsible for fulfilling all obligations of the fund relating to tax procedures, including all necessary filings and payments of taxes. If, for any reason, the order establishing the fund does not designate or approve an administrator, the party depositing the funds shall be deemed to be the administrator for the purposes of complying with the fund's tax obligations and requirements, including the filing of necessary returns and the payment of all taxes.

(E) Disbursement of Monies Other than Registry Funds. Funds other than registry funds must be disbursed by check drawn on the Treasury of the United States. The payee's name must be written as the name appears in the disbursement voucher approved by the clerk or designated approving officer. The name of the payee in the disbursement voucher must conform to the name appearing in the clerk's records of the case to which the disbursement relates. The clerk must endeavor to note of record the given name of all individuals making deposits of monies with the clerk. In those cases where the given name appears of record, disbursement vouchers and checks thereunder shall show the full given name, additional initials, if any, and the surname of the payee.

LR 69: EXECUTION

LR 69.1 ISSUANCE OF WRITS OF EXECUTION

Unless otherwise ordered by the Court, Writs of Execution shall be prepared by the prevailing party or that party's attorney on forms made available by the clerk at the public filing counter. Writs so prepared must be approved and issued by the clerk.

IX. SPECIAL PROCEEDINGS

LR 71A: CONDEMNATION OF PROPERTY

LR 71A.1 MASTER FILE FOR SEPARATE ACTIONS

The clerk is authorized to establish a master file for those condemnation actions in which the United States files more than one condemnation action, but only one Declaration of Taking covering all of the actions.

The filing of the Declaration of Taking in the master file shall constitute a filing of the Declaration in each of the separate actions.

LR 72: MAGISTRATE JUDGES: PRETRIAL ORDERS

LR 72.1 MAGISTRATE JUDGES: CIVIL JURISDICTION AND DUTIES

(A) Non-Dispositive Pretrial Matters on Reference from District Judge. Non-dispositive matters in a civil action referred to a magistrate judge by a district judge shall be heard and an order entered in compliance with Fed. R. Civ. P. 72(a).

(B) Dispositive Motions on Reference from District Judge. A magistrate judge shall promptly conduct any such proceedings as may be required in connection with a dispositive pretrial motion referred to the magistrate judge by a district judge. Objections to the magistrate judge's recommendation for disposition shall be processed in accordance with Fed. R. Civ. P. 72(b)(2). A listing of dispositive motions is contained in 28 U.S.C. § 636(b)(1).

(C) Prisoner Petitions. Except in cases in which the death penalty has been imposed, the magistrate judges may, unless otherwise directed:

(1) Review habeas corpus petitions filed by state prisoners under 28 U.S.C. §§ 2241, 2254 to determine the petitioner's eligibility to proceed *in forma pauperis*, issue orders to show cause, and any other orders necessary to obtain a complete record and issue orders pursuant thereto; conduct evidentiary hearings; and submit a report and recommendation to the district judge as to the proper disposition of the petition.

(2) Review habeas corpus petitions and motions filed by federal prisoners under 28 U.S.C. §§ 2241, 2254 to determine the petitioner's eligibility to proceed *in*

forma pauperis, issue orders to show cause, and orders pursuant thereto; conduct evidentiary hearings; and submit a report and recommendation to the district judge as to the proper disposition of the petition or motion.

(3) Review civil suits challenging conditions of confinement and for deprivation of rights filed under 42 U.S.C. § 1983 to determine the petitioner's eligibility to proceed *in forma pauperis*, and issue orders pursuant thereto; conduct evidentiary proceedings; and submit a report and recommendation to the district judge as to the proper disposition of the case. Such proceedings shall be conducted in compliance with Fed. R. Civ. P. 72(b).

(D) Assignments to a Magistrate Judge. In a case referred to a magistrate judge, the magistrate judge will perform the duties assigned to him or her by the Court or a district judge under Court rule, plan, order or other document. A magistrate judge will perform other duties when those duties are assigned to him or her by the Court or a district judge under Court rule, plan order, or other document. The duties assigned to a magistrate judge by the Court, and the manner of their distribution and assignment, are specified in a standing order of the Court, available in the clerk's office and on the Court's website at www.gand.uscourts.gov.

(E) Briefing Practice for Objections and Responses. Absent prior permission of the Court, objections and any responses thereto are limited in length to twenty-five (25) pages. Objections must be filed within fourteen (14) days from the date the magistrate judge's report and recommendation or order is served, and responses may be filed within fourteen (14) days from the date the objections are served. Objections and responses thereto must meet the form and formatting requirements of LR 5.1. Reply briefs may not be filed unless the moving party requests, and the presiding judge grants, leave to do so. If leave is granted, the reply brief must be filed no later than the deadline set by the presiding judge, and, unless the Court orders otherwise, be limited in length to fifteen (15) pages and meet the form and formatting requirements of LR 5.1.

LR 73: MAGISTRATE JUDGES: TRIAL BY CONSENT AND APPEAL OPTIONS

LR 73.1 TRIALS OF CIVIL CASES UPON CONSENT OF PARTIES

(A) Jurisdiction. In accordance with 28 U.S.C. § 636(c), the magistrate judges are authorized, upon the consent of all parties, to conduct any and all proceedings in any

civil case filed in this Court, including a jury or nonjury trial, and to order the entry of a final judgment. The magistrate judges shall be authorized to do and perform any act which could be done by a judge. A record of the proceedings shall be made in accordance with 28 U.S.C. § 636(c)(7). See also Fed. R. Civ. P. 73.

(B) Procedure.

(1) Concurrently with the filing of a complaint in a civil case, the clerk shall notify the plaintiff or plaintiffs of the opportunity to consent to have the case heard, determined, and final judgment on the case entered by a magistrate judge. The notice shall be served with the complaint upon all other parties. At the direction of a judge, additional notices may be sent by a courtroom deputy at later stages of the proceedings. The notice used by the clerk shall conform to Form 81, Federal Rules of Civil Procedure Appendix of Forms (AO 85).

(2) Except as provided in (3) below, a joint form consenting to the exercise of jurisdiction by a magistrate judge may be filed at any time. Consent forms complying with Form 34, Federal Rules of Civil Procedure Appendix of Forms (AO 85) are available at the public filing counter in each division.

(3) For Social Security Appeals, the Commissioner of Social Security, who is represented by the United States Attorney, shall be deemed to have provided consent unless that consent is withdrawn as to a particular case at the time of filing the initial response to the complaint. Absent a withdrawal of consent, the clerk will reassign a case to the Magistrate Judge before whom the case is pending upon receipt of the Plaintiff's Notice and Consent to Proceed before a Magistrate Judge.

X. DISTRICT COURTS AND CLERKS

LR 79: BOOKS AND RECORDS KEPT BY THE CLERK AND ENTRIES THEREIN

LR 79.1 PLEADINGS AND EXHIBITS; APPEAL RECORDS; CLOSED FILES

(A) Removal of Pleadings. Original pleadings in the custody of the clerk may be removed from the clerk's office by the district judges, magistrate judges, official court

reporters, special masters, or law clerks when necessary to expedite the business of the Court.

(B) Filing and Custody of Exhibits.

(1) Exhibits. Documentary exhibits, audio files, video files, and non-sensitive non-documentary exhibits, offered into evidence at trial or at any hearing must be delivered to the courtroom deputy, who will keep them in custody until a verdict is rendered in a jury case or a final order is entered by the Court in a nonjury case, unless the Court has ordered otherwise. Sensitive non-documentary exhibits will remain in the custody of the introducing party unless the Court orders otherwise. The deputy may permit United States district judges, magistrate judges, special masters, law clerks, and official court reporters to have custody of exhibits when necessary to expedite the business of the Court. No other persons will be permitted to remove exhibits from the courtroom deputy's custody except upon order of the Court.

(2) Rejected Exhibits. Rejected exhibits must be identified as having been rejected on both the exhibit list and on the exhibits themselves.

(3) Withdrawn Exhibits. Exhibits that are either withdrawn or not tendered will not be retained by the courtroom deputy but must be shown on the exhibit list as having been withdrawn or not tendered.

(4) Sensitive Exhibits. Sensitive documentary exhibits in the custody of the Clerk generally will be sealed by the Court.

(5) Returned Oversized and Non-Documentary Exhibits. Oversized and non-documentary original exhibits will be returned to the parties at the conclusion of the hearing or trial, except for audio and video files. Within ten days following the conclusion of a trial or hearing, all parties must file photographs or other appropriate reproductions of oversized and non-documentary physical or demonstrative exhibits tendered as evidence at the trial or any hearing, unless otherwise ordered by the Court. These photographs and reproductions must be filed electronically by counsel and in paper by pro se litigants. The parties must indicate on each photograph or reproduction whether the displayed exhibit was admitted or rejected.

(6) Retention of Exhibits. The clerk must retain possession of all documentary exhibits, audio and video files and substitute exhibits (*see also* LR 16.4(B)(19)(a)) received or offered into evidence at trial or any hearing until after the

time for appeal has expired or, in appealed cases, until entry of the appellate court's mandate, unless otherwise ordered by the Court.

(C) Inspection and Copying of Exhibits.

(1) Sensitive Exhibits. Sensitive and special criminal evidence may not be inspected or copied without specific leave of the Court. Such evidence includes, without limitation, narcotics, weapons, currency, exhibits of a pornographic nature, articles of high monetary value, exhibits depicting or describing a particularly brutal crime, exhibits in a highly publicized case, and any other evidence designated by the Court as being sensitive.

(2) Sealed Exhibits. Exhibits ordered sealed or impounded by the Court may not be inspected or copied by anyone, including attorneys for the parties, except upon leave of the Court.

(3) Other Exhibits. Attorneys of record for any party may inspect or copy without specific leave of Court all exhibits, other than those exhibits defined in (1) and (2) above, which have been admitted into evidence or rejected.

(4) Presence of Clerk Required. All inspections of exhibits of any type covered by this rule must be conducted in the presence of the clerk or an authorized deputy clerk of this Court. Inspections by attorneys for the parties are not excepted from this rule nor is application of this rule affected by whether the inspection is being made with or without leave of Court.

(D) Reclamation and Disposition of Unclaimed Exhibits. Counsel must reclaim all exhibits from the clerk of court within thirty (30) days following expiration of the applicable time period as stated in (B)(6) above. Exhibits not reclaimed in accordance with this Rule may be destroyed or otherwise disposed of by the clerk without further notice to the parties.

(E) Availability of Exhibits for Inspection or Appeal. The filing party or the party's attorney must grant a reasonable request of any party to examine an exhibit returned to the filing party's custody. Any exhibit in the custody of the filing party or the party's attorney must, upon request, be returned immediately to the clerk. In the event transfer of oversized documentary exhibits or exhibits other than documents to the appellate court is required, the filing party or the party's attorney must arrange and pay for such transportation.

(F) Chain of Custody. The filing party or the party's attorney must maintain a chain of custody for each returned exhibit during the time permitted for filing an appeal (*see* Fed. R. App. P. 4) and during the pendency of an appeal filed in compliance with Fed. R. App. P. 3.

(G) Transcripts. The original transcripts of testimony and any record of proceedings filed with the clerk by an official court reporter must not be removed from the clerk's office by the parties or anyone acting on their behalf.

(H) Closed Files. Closed files of this Court are forwarded to the Federal Records Center for this district. Persons desiring use of any such files may, on an appropriate form furnished by the clerk and upon payment of the prescribed fee, request that such files be returned for examination in the clerk's office. Alternatively, the clerk may provide the requestor the accession number(s) for the closed file(s) so that the requestor may request copies directly from the Federal Records Center.

XI. GENERAL PROVISIONS

LR 83: RULES BY DISTRICT COURTS

LR 83.1 ATTORNEYS: ADMISSION TO PRACTICE BEFORE THE COURT

(A) Admission to the Bar of this Court.

(1) Eligibility. Any attorney who is an active member of the State Bar of Georgia in good standing is eligible for admission to this Court's bar. Continued admission is contingent on an attorney's maintaining active membership in good standing with the State Bar of Georgia.

(2) Admission Procedure.

(a) Application. Applicants for admission must complete the admission process through pacer.uscourts.gov and, following approval of the application, pay the admission fee. Once an applicant pays the fee, the applicant is deemed a member of this Court's bar with no further action required.

(b) Optional Admissions Ceremonies. Optional admissions ceremonies will be held monthly in open court for any applicant who chooses to attend. The clerk of court also will schedule a ceremonial admissions day each year for attorneys who recently passed the Georgia Bar Examination.

(c) Oath. The following oath must be administered to each attorney at the time of admission:

> "I do solemnly swear (or affirm) that I will support the Constitution of the United States; that I will bear true faith and allegiance to the Government of the United States; that I will maintain the respect due to the courts of justice and judicial offices; that I will well and faithfully discharge my duties as an attorney and officer of this Court; and that I will demean myself uprightly and according to the law and the recognized standards of ethics of the legal profession. So help me God."

(3) Attorneys for the United States. Attorneys representing the United States government or any agency thereof who reside within this district but are not yet members of the State Bar of Georgia must be admitted to this Court's bar before they may practice before this Court. Notwithstanding this requirement, these attorneys will be allowed 18 months from the date of their appointment or commission within which to become members of the State Bar of Georgia, provided that they at all times are members in good standing of the bar of another United States district court. These attorneys will be deemed provisionally admitted to the bar of this Court until they are formally admitted. The requirements of this rule do not apply to government attorneys who are expressly exempted by statute from the necessity of local bar membership or to judge advocates of the Army, Navy, Marine Corps, or Air Force representing the United States before a magistrate judge.

Attorneys representing the United States government or any agency thereof who do not reside in this district need not be admitted to practice before this Court provided that they at all times are members in good standing of the bar of another United States district court.

(B) Permission to Appear *Pro Hac Vice*.

(1) Eligibility. An attorney who does not represent the United States government or any agency thereof may apply in writing for permission to appear *pro hac vice* in a particular case if the attorney (1) is not an active member in good standing of the State Bar of Georgia but is a member in good standing of the bar of any United States court or of the highest court of any State or (2) is an active member in good standing of the State Bar of Georgia but does not reside in this district.

Except as set forth in LR 83.1(A)(3), an attorney must be admitted in any case in which the attorney will appear in this Court on behalf of a party, apply for fees, sign his or her name to a document filed with the Court, or otherwise substantially participate in preparing or presenting a case. This requirement does not mean that every attorney within a law firm providing legal services that may be included in a fee request must be admitted *pro hac vice* so long as attorneys within the firm who have appeared in the case are directing that work and are either (1) admitted to the bar of this Court as regular members or (2) have been admitted *pro hac vice* in the particular case.

(2) Application Process. Applications for admission *pro hac vice* may be obtained from the clerk. The applicant must state, under penalty of perjury, the following:

(a) the applicant's residential address, office address, telephone number, and email address;

(b) all courts to which the applicant has been admitted to practice and the dates of admission;

(c) that the applicant is in good standing and eligible to practice in all courts to which the applicant has been admitted; and

(d) that the applicant either does not reside in the district or is not a member of the State Bar of Georgia.

(3) Fees and Permission. Applications for admission *pro hac vice* must be accompanied by payment of a prescribed admission fee. Except as otherwise

ordered by the presiding judge for good cause, an applicant for admission *pro hac vice* will not be permitted to appear until the application has been granted by the district judge to whom the case is assigned or, in cases in which the parties have consented to a magistrate judge presiding, the magistrate judge to whom the case is assigned.

(4) Designation, Qualifications, and Duties of Local Counsel. An attorney applying to appear *pro hac vice* must designate local counsel with whom opposing counsel and the Court readily may communicate regarding the conduct of the case and upon whom papers may be served. Except as otherwise ordered by the presiding judge for good cause, the designated local counsel must maintain an office in this district and be a member in good standing of the bar of this Court and the State Bar of Georgia. Local counsel must file the application for admission *pro hac vice* and must verify the bar admission status of the attorney being sponsored for admission. The address, telephone number, email address, and written consent of local counsel must be filed with the application. Local counsel must authorize and sign all pleadings and other papers filed in the case by the attorney appearing *pro hac vice*. Accordingly, local counsel is subject to Fed. R. Civ. P. 11.

(5) Effect of Failure to Respond by Attorney Appearing *Pro Hac Vice*. If the attorney appearing *pro hac vice* fails to respond to any order of the Court for appearance or otherwise, local counsel will have the responsibility and full authority to act on behalf of the client in all proceedings related to the case, including hearings, pretrial conferences, and trial.

(C) Standards of Professional Conduct. All lawyers practicing before this Court are governed by and must comply with the specific rules of practice adopted by this Court and, unless otherwise provided, with the Georgia Rules of Professional Conduct and the decisions of this Court interpreting those rules.

(D) Appearances.

(1) In Civil Cases. An attorney's appearance as attorney of record for a plaintiff may be evidenced by signature on the complaint and for a defendant by signature on the answer to the complaint or on a Fed. R. Civ. P. 12(b) pre-answer motion. Any other attorney who signs a subsequent pleading or paper on behalf of a party must file a Notice of Appearance.

An attorney whose appearance has not been noticed will not be permitted to represent a party at trial or in any other Court proceeding until the attorney has filed a Notice of Appearance. Furthermore, failure to file a Notice of Appearance may result in the attorney not receiving notices, orders, or other important communications from the Court.

(2) ***Pro Se*** **Appearance Limitations.** When an attorney has appeared on behalf of a party, the party normally may not appear or act on the party's own behalf in the action or proceeding. However, a party may do so if he or she provides notice to the attorney of record and the opposing party of the party's intention to appear on his or her own behalf and obtains an order of substitution from the Court. Notwithstanding this rule, the Court may in its discretion hear a party in open court even though the party is represented by an attorney.

(3) Duty to Supplement. Every attorney registered to use the ECF system must notify the PACER Service Center online at pacer.uscourts.gov of any changes to the attorney's primary email address, mailing address, and/or telephone number. Parties appearing pro se must notify the clerk's office by letter of any such change. If a failure to provide notice of any such change causes delay or adversely affects the management of a case, the Court may impose an appropriate sanction.

(E) Withdrawal.

(1) Withdrawal Policy. Under ordinary circumstances, counsel will not be permitted to withdraw after submission of the pretrial order or when withdrawal would delay trial of the case.

(2) Withdrawal by Motion. In order to seek withdrawal from any action or proceeding or to have counsel removed as attorney of record for a party, the attorney must comply with the following procedure:

(a) File a motion requesting permission to withdraw unless withdrawal is with the client's consent in a civil case pursuant to LR 83.1(E)(3) or by notice pursuant to LR 83.1(E)(4).

(b) The motion must state that the attorney has given the client 14 days' notice of the attorney's intention to request permission to withdraw and must describe the manner in which notice was provided. The notice must be served on the client personally or at the client's last known address

and must include the style of the action and the names, addresses, and telephone numbers of the clerk and opposing counsel. The notice must advise the client of the following:

(A) The attorney's intent to request permission to withdraw;

(B) The Court's retention of jurisdiction over the action;

(C) The client's obligation to keep the Court informed of a location where notices, pleadings, or other papers may be served;

(D) If a trial date has been set, the client's obligation to prepare for trial or hire other counsel to prepare for trial;

(E) Failure or refusal to satisfy court-related obligations could result in adverse consequences including, in criminal cases, bond forfeiture and arrest;

(F) The dates of any scheduled proceedings, including trial, and that these dates will not be affected by the withdrawal of counsel;

(G) Notices may be served on the client at the client's last known address;

(H) If the client is a corporation or organization, it may only be represented by an attorney, who must sign all pleadings and papers submitted to the Court; a corporate officer may not represent the client unless that officer is admitted to the bar of this Court as a regular member or has been admitted *pro hac vice* in the case; and failure to comply with this rule could result in a default judgment against the client; and

(I) The client's right to object within 14 days of the date when notice of the attorney's intention to request permission to withdraw was served.

(c) A copy of the notice required by LR 83.1(E)(2)(b) must be filed with the motion.

(d) The attorney must serve a copy of the motion on opposing counsel and the client.

(e) The clerk must submit the motion to the Court within 14 days after its filing.

(3) Withdrawal by Consent. With the client's consent, counsel may withdraw from any civil action (except a class action) by filing a Certificate of Consent with the Court that has been signed by the client and the withdrawing

attorney. The Certificate of Consent must demonstrate that the client has been advised of the items set forth in LR 83.1(E)(2)(b)(B) through (H). The Court may reject the withdrawal by consent after submission of the pretrial order, when withdrawal would delay trial of the case, or for other good cause.

(4) Withdrawal by Notice. If withdrawal of a party's attorney would not leave the party unrepresented (such as when co-counsel remains in the case or substitute counsel enters an appearance prior to or contemporaneous with the withdrawal), then the attorney may withdraw by filing a notice of withdrawal that identifies the attorney(s) who will represent the party after the withdrawal. To withdraw by notice, local counsel for an attorney admitted *pro hac vice* may not identify the *pro hac vice* attorney but must identify another attorney who will serve as local counsel and meets the requirements of LR 83.1(B)(4). The Court may reject any withdrawal by notice after submission of the pretrial order, when withdrawal would delay trial of the case, or for other good cause.

(5) Leaves of Absence. All leaves of absence require the Court's approval. A request for a leave of absence of 21 days or more must be made by motion. Lead counsel must file the motion in each individual case in which leave is requested, set forth the dates of the requested absence and the reason for the absence, and include a proposed order. Lead counsel must request a leave of absence of fewer than 21 days by filing electronically a letter addressed to the district judge's courtroom deputy requesting that the case not be calendared during the period of absence. Only lead counsel as identified in the Joint Preliminary Report and Discovery Plan must request a leave of absence. A leave of absence does not extend previously scheduled filing deadlines or other deadlines imposed by the Court.

(6) Responsibilities of Party Upon Removal of Attorney. When a party is unrepresented after the party's attorney withdraws or otherwise is removed as counsel of record, the party whom the attorney was representing must notify the clerk within 21 days or before any further proceedings are conducted of the retention of another attorney or of the party's decision to proceed *pro se*. The party also must provide the clerk with the current telephone number, address, and email address of the replacement attorney or of the party, if proceeding *pro se*. Failure to comply with this rule will constitute a default by the party.

(F) Attorney Discipline.

(1) No Limitation on Inherent Authority. Nothing in this rule limits the inherent authority of a judge to manage individual assigned cases, including the authority to impose monetary penalties, disqualify counsel, and impose any other appropriate penalties or sanctions; and nothing in this rule imposes additional procedural requirements before a judge may exercise that authority.

(2) Reciprocal Discipline; Criminal Convictions; Duty to Disclose. When an attorney admitted to practice in this Court under LR 83.1(A) or (B) is: (a) suspended or disbarred from the practice of law by any court of competent jurisdiction or regulatory body with the authority to determine who may practice law in a particular jurisdiction or (b) convicted, in any court of competent jurisdiction, of a felony, a crime that required proof of a dishonest act or false statement, or any other crime involving moral turpitude, the attorney's right to practice in this Court automatically is suspended; and the Court will issue an order of suspension and serve it on the attorney. Unless within 30 days after service of the order the attorney, by motion, shows the Court, under penalty of perjury, good cause for why the attorney should not be disbarred, the order automatically will become an order of disbarment. The attorney must notify the Court within 10 days of a suspension, disbarment, or conviction under this paragraph, but any failure to do so will not affect the automatic suspension.

(3) Complaints of Professional Misconduct. Complaints alleging professional misconduct by an attorney admitted to practice in this Court under LR 83.1(A) or (B), including those made by judges, must be submitted to the chief district judge in writing and must state with particularity the basis for the allegations. Complaints of professional misconduct must be under oath, except for those submitted by judges of this Court and those submitted by counsel that are subject to Fed. R. Civ. P. 11. When the chief district judge makes the complaint of professional misconduct, he or she must designate another district judge to fulfill the duties of the chief district judge under this rule.

(4) Procedure Governing Complaints of Professional Misconduct.

(a) Upon receiving a complaint of professional misconduct made under Local Rule 83.1(F)(3), the chief district judge must determine:

(i) whether the complaint should be terminated because the allegations are unjustified, frivolous, unsupported, or insubstantial;

(ii) whether, for members of the State Bar of Georgia, the complaint should be referred to the State Disciplinary Board as a formal or informal complaint; this option may be selected in addition to (iii), (iv), or (v) below;

(iii) whether the complaint warrants discipline that does not affect the attorney's right to practice before the Court, in which case the chief judge has discretion either to impose the discipline or to refer the complaint to a judge for disciplinary proceedings as set forth in paragraphs (6) through (10) below;

(iv) whether the complaint should be referred to a committee on discipline (described more fully in paragraph (12) below) for investigation and preparation of findings of fact, conclusions of law, and a recommendation to the chief judge; and

Note: An attorney authorized to practice in an individual case under LR 83.1(B) whose conduct is under review by a committee on discipline will not be admitted under LR 83.1(B) in any other cases while the review is pending.

(v) whether the complaint may warrant discipline affecting the attorney's right to practice before the Court and therefore must be referred to a judge for disciplinary proceedings as set forth in paragraphs (6) through (10) below; a complaint may be referred to a judge without first being referred to a committee on discipline.

(b) Upon receipt of findings of fact, conclusions of law, and a recommendation from a committee on discipline, the chief district judge must determine appropriate actions under 4(a)(i), 4(a)(ii), 4(a)(iii), and 4(a)(v) above.

(5) Written Notice. When the chief district judge determines that action is appropriate under 4(a)(ii) through 4(a)(v) above, the Court must provide the attorney who is the subject of the complaint with a copy of the allegations.

(6) Designation of Judge to Conduct Disciplinary Proceedings. When the chief district judge determines under 4(a)(iii) or 4(a)(v) above that a complaint of professional misconduct should be referred to a judge for disciplinary proceedings, the chief district judge must designate a district or magistrate judge to hold disciplinary proceedings consistent with this rule and to recommend proposed discipline. A judge who makes a complaint under Local Rule 83.1(F)(3) cannot conduct any disciplinary proceedings arising from that complaint.

(7) Right to a Hearing. When it appears to the designated judge that discipline may be appropriate, he or she must provide the attorney whose conduct is at issue notice of the proposed discipline and at least 20 days from the date of notice to appear at a hearing to show good cause, under oath, why the discipline should not be imposed. The attorney may waive the right to a hearing. Discipline pursuant to paragraph (2) above, referral of a complaint to the State Disciplinary Board of the State Bar of Georgia for investigation, and discipline imposed by the chief district judge under 4(a)(iii) above do not constitute discipline that invokes the attorney's right to a hearing.

(8) Hearing Procedure. At the hearing, the attorney whose conduct is at issue must be afforded the opportunity to:

(a) appear in person and/or by counsel;

(b) present evidence, including testimony and documents;

(c) compel the attendance of witnesses and the production of documents;

(d) cross-examine witnesses; and

(e) present argument orally and in writing.

(9) Failure to Call Complaining Party. If the attorney whose conduct is at issue does not call the complaining party to appear at the hearing, the designated judge has discretion to do so.

(10) Recommendation to and Voting by the Full Court. Following the hearing, the attorney's waiver of a hearing, or the attorney's failure to respond timely, the designated judge must present findings of fact, conclusions of law, and a discipline recommendation to the chief district judge for presentation at the next district judges' meeting. A majority of the judges at the meeting will approve a final order setting forth the Court's findings of fact and conclusions of law and identifying any discipline to be imposed as a result of the complaint of professional misconduct.

(11) Sanctions. Discipline may include disbarment, suspension from practice for a definite period, reprimand, or other discipline that the Court deems proper.

(12) Committee on Discipline. The Court may create a committee on discipline by appointing 5 members of the bar of this Court. No committee member may serve for more than 3 years. The committee must at all times have at least 2 members from divisions other than the Atlanta division. The Court will select one committee member to serve as chairperson. No committee member may serve as chairperson for more than 2 years.

The committee has the power to investigate all charges of professional misconduct referred to it by the Court. At the request of the committee, the clerk is authorized to issue subpoenas and subpoenas *duces tecum* in connection with the investigation.

At the conclusion of the investigation, the committee must prepare and submit a written report to the chief judge that sets forth findings of fact, conclusions of law, and the discipline or other action recommended. All disciplinary proceedings will be *in camera* unless the Court directs otherwise. The rules governing the committee on discipline are contained in Appendix G to these Local Rules.

(13) Contempt of Court. Disciplinary proceedings under this Local Rule neither affect nor may be affected by any proceeding for contempt under Title 18 of the United States Code or under Fed. R. Crim. P. 42.

(14) Unauthorized Practice. Any person not admitted to the bar of this Court or any attorney disbarred or suspended by this Court who exercises any of the privileges bestowed upon members of this Court's bar or pretends to be entitled to such privileges will be adjudged guilty of contempt and may be subject to other discipline by the Court.

(15) Reinstatement. Petitions for reinstatement must be made under penalty of perjury and filed with the clerk. Attorneys suspended indefinitely must satisfy all conditions of reinstatement imposed by the Court at the time of suspension.

LR 83.2 TRIAL RELATED LOCAL RULES

(A) Taxation of Costs in Late-Settling Cases.

Refer to LR 39.2.

(B) Attorneys at Trial.

Refer to LR 39.3.

LR 83.3 PETITIONS TO STAY EXECUTION OF STATE COURT JUDGMENTS; HABEAS CORPUS PETITIONS

(A) Procedure for Petitioning to Stay. A petitioner seeking a stay of enforcement of a state court judgment or order shall attach to the petition a copy of all state court opinions and judgments relating to the matter. The petitioner shall also state whether or not petitioner has previously petitioned this Court or any other federal court for relief arising out of this same matter. The reasons for denying relief given by a court that has considered the matter shall be attached to the petition. If the court did not issue a written order stating its reasons for denying relief, a copy of all relevant portions of the transcript shall be attached to the petition. If petitioner raises an issue which was either not raised or not fully exhausted in state court, petitioner shall state the reasons why such action was not taken.

(B) Successive Petitions. A second or successive petition for habeas corpus may be dismissed if the Court finds:

(1) that the petition fails to allege new or different grounds for relief, or

(2) that the failure of the petitioner to assert those grounds in a prior petition constitutes an abuse of the writ, or

(3) that the petition is frivolous and entirely without merit.

Second or successive petitions not dismissed on one of the above-stated grounds shall be given expedited consideration by the Court.

LR 83.4 RESTRICTIONS ON MEDIA AND RELEASE OF INFORMATION

(A) Recording, Broadcasting or Photographing Judicial Proceedings.

Regardless of whether Court is actually in session, photographing, recording, or broadcasting in or from a district courthouse in connection with judicial proceedings or during judicial proceedings, including those before a United States Magistrate Judge, is prohibited. A judicial officer may, however, allow use of photographic or electronic equipment for: the presentation of evidence; the perpetuation of the record; ceremonial, investiture, or naturalization proceedings; security purposes; and other purposes of judicial administration.

Still cameras, video cameras, and/or any electronic devices equipped with cameras, including cellular phones, smart phones, tablets, laptop computers, and devices that wirelessly connect to and pair with such devices to transmit data, will not be allowed into district courthouses except by Court order or by direct escort and supervision of an employee of a federal agency whose offices are located therein. Attorneys possessing Court issued identification cards, authorized federally certified contract interpreters, and Court employees are permitted to bring their personal electronic devices into the courthouse; however, they are bound by the same restrictions as the general public.

To facilitate the enforcement of this rule, no photographic, broadcasting, or recording equipment, with the exception of the recording equipment in United States magistrate judge courtrooms and that of official court reporters, will be permitted to be operated on courthouse floors occupied by the Court, except as otherwise permitted by the presiding judge.

Personal devices without cameras may be allowed onto floors occupied by the Court; however, these devices shall neither be operated in any courtroom or hearing room, nor be operated in any public area where their operation is disruptive to a Court proceeding or Court operations unless otherwise permitted by order of the Court.

All electronic photographic, broadcasting, and recording equipment brought into federal courthouses in this district shall be subject to inspection at any time by the United States Marshals Service.

(B) Provisions for Special Orders in Widely Publicized or Sensational Civil Cases.

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

LR 83.5 WEAPONS PROHIBITED IN COURTHOUSES

(A) Weapons Prohibited. Firearms, ammunition, or other weapons must not be worn or brought into any district courthouse, unless specifically authorized by the Court. The following persons or groups, however, are exempt from this rule:

(1) The United States Marshal and duly assigned deputy marshals, court security officers, and other security personnel engaged by the U.S. Marshal.

(2) Federal Protective Service officers on assignment or on call.

(3) Any federal law enforcement officer presenting a prisoner before a magistrate judge for initial appearance.

(4) Other federal law enforcement officials whose permanent assignments are located within the security parameters of a district courthouse. This exemption, however, does not permit these officials to carry weapons into the facilities of the United States District Court, including, but not limited to, judges' chambers, offices, and courtrooms.

(5) United States Probation Officers are authorized to wear or carry firearms to and from their offices within the district's courthouses but are not authorized to wear firearms inside their offices. Firearms brought to the probation office must be secured in a locked container.

(6) Federal law enforcement officers assigned to full-time protective duties for a current or former President of the United States, Vice President of the United States, or Attorney General of the United States.

(7) Other persons or groups as designated by Court order.

(B) Checking of Weapons. Firearms, ammunition, and other weapons must be checked with security personnel. If no security officer is on duty or locatable, these items must be checked with the United States Marshal.

(C) Sanction for Noncompliance. Any person, including any law enforcement officer, who fails to comply with this rule will be guilty of contempt and subject to sanctions.

LR 83.6 CERTIFICATE OF INTERESTED PERSONS

Refer to LR 3.3.

LR 83.7 BANKRUPTCY JUDGES

(A) Delegated Jurisdiction. Bankruptcy judges are judicial officers of this Court serving in the unit of this Court known as the United States Bankruptcy Court for the Northern District of Georgia. Each bankruptcy judge shall perform the duties set forth and may exercise the authority conferred in Section 104 of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353, 98 Stat. 333 (July 11, 1984) (to be codified as 28 U.S.C. §§ 151-58) with respect to any action, suit, or proceeding and may preside alone and hold a regular or special session of the bankruptcy court, except as otherwise provided by law or by rule or order of this Court.

(B) Jury Trials in Bankruptcy Court. In accordance with 28 U.S.C. § 157(e), the bankruptcy judges of this Court are specially designated to conduct jury trials where the right to a jury trial applies. This jurisdiction is subject to the express consent of all parties pursuant to the procedure set forth in BLR 9015-2, NDGa.

LR 83.8 TRUTH-IN-LENDING ACTIONS

(A) Referral to Magistrate Judges. Actions brought by individual plaintiffs under the Truth-in-Lending Statute seeking relief under 15 U.S.C. § 1635, 15 U.S.C. § 1640, or both shall be automatically referred to the magistrate judges of this Court once the answer and counterclaims have been filed. Additional information regarding these actions is set forth in LR 72.1(D).

LR 83.9 ADMINISTRATIVE APPEALS

(A) Social Security Actions. Actions brought under Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), and related statutes to review administrative determinations shall be automatically referred to the magistrate judges of this Court once issue has been joined. In all actions brought under 42 U.S.C. § 405(g), the government shall automatically be granted an additional forty (40) days in which to answer, for a total response time of one hundred (100) days.

(B) Other Administrative Appeals. The magistrate judges are authorized to review the administrative awards of licenses and similar privileges and civil service cases involving matters such as adverse action, retirement questions, and reductions in force.

LR 83.11 INTERNAL REVENUE ACTIONS

(A) Review of Jeopardy Assessments. All actions arising under 26 U.S.C. § 7429 shall bear the designation "Review of Jeopardy Assessments" on the complaint next to the style of the case. Upon filing such an action, the filing attorney shall immediately present a motion for rule nisi to the judge to whom the action has been assigned in order that the action might be promptly brought to the judge's attention. Failure to comply with this rule may result in dismissal of the action.

(B) Enforcement of Internal Revenue Summonses. Petitions for the enforcement of Internal Revenue Summonses shall be heard by the magistrate judges. Refer to LR 72.1(D) for additional information.

(C) Enforcement of Internal Revenue Laws. The magistrate judges are authorized to issue orders, warrants, or other necessary or appropriate processes for the enforcement of the Internal Revenue laws. Refer to LR 64.1 for additional information.

LR 84: FORMS

LR 84.1 Appendix B: Documents Associated with Civil Cases (Appendix B)

(A) Plaintiff's Initial Disclosures (App. B, Form I.A.)

(B) Defendant's Initial Disclosures (App. B, Form I.B.)

(C) Joint Preliminary Report and Discovery Plan (App. B, Form II)

(D) Pretrial Order (App. B, Form III)