

Amendments to EDVA Local Civil Rule 67 – Effective August 1, 2006

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LOCAL CIVIL RULE 67 DEPOSITS INTO COURT

Deposit Into Court Procedure: ~~Upon entry of an order in any action involving the payment into Court of a sum of money to be deposited to the credit of the Court for the benefit of any party, the party for whose benefit the sum is to be deposited shall tender to the Court a sketch for an order identifying the desired depository (which must have sufficient collateral in the Federal Reserve Bank in Richmond as required by 31 C.F.R. §§ 202 [Circular 176]), the specific investment instrument with the rate of interest expected to be earned thereon, and the proposed disposition of the interest proceeds. The order should specify if the Clerk is directed to place the funds into an interest bearing account for the benefit of the party later determined by the Court to be entitled to the fund and interest earned thereon will be provided to the person receiving the funds. If the order does not specify that the funds are to be placed in an interest bearing account for the benefit of the person later determined by the Court to be entitled to the funds, the funds will be deposited into the Court's United States Treasury account, and no interest will accrue to any party's benefit. Interest earned thereon will accrue to the United States. The sketch shall be endorsed by the guardian *ad litem* of any party under a legal disability. Upon entry of such sketch, or any modification thereof, the party shall cause the same to be served on the Clerk in a manner similar to that required by Fed. R. Civ. P. 67. The order shall also provide that the Clerk's registry assessment fee, as prescribed by the Judicial Conference of the United States and published in the Federal Register, be paid to the Clerk from the interest earned on the investment. At the time any request for disbursement of deposited funds is made, the party requesting disbursement shall provide the Clerk in writing the social security or tax identification number of any person to whom any payment is to be made.~~

When the Court is requested to enter an order involving the payment of funds into Court for deposit for the benefit of any party, the parties shall submit a draft order, endorsed by counsel for all parties, that specifies (a) the desired depository (which must have sufficient collateral in the Federal Reserve Bank as required by 31 C.F.R. §§ 202 [Circular 176]); (b) whether the Clerk should place the funds into an interest bearing account until the Court orders distribution thereof; and (c) the specific proposed investment instrument with the rate of interest expected. Any party receiving a share of the deposited funds will also receive a proportional share of any interest earned on the funds, minus the court registry assessment fee prescribed by the Judicial Conference of the United States, which fee shall be paid to the Clerk, by check payable to "Clerk of the United States District Court." If the draft order does not specify that the deposited funds will be placed in an interest bearing account, the parties on whose behalf the draft order is submitted shall be deemed to have consented to deposit of the funds into the Court's United States Treasury account, and to have agreed that no interest will accrue. A draft order submitted on behalf of any party under a legal disability shall be endorsed by the party's guardian *ad litem*. A party requesting any disbursement of the deposited funds shall provide to the Clerk in writing the Social Security or tax identification number of any proposed recipient.

Amendments to EDVA Local Civil Rule 83.6 – Effective August 1, 2006

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LOCAL CIVIL RULE 83.6

SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

(A) The Court encourages the parties to meet and consult with each other to achieve settlement. Pursuant to 28 U.S.C. §§ 651, 652, and 653, as amended by the Alternative Dispute Resolution Act of 1998, the use of mediation as an alternative dispute resolution process in all civil actions, including adversary proceedings in bankruptcy, is authorized. Before the initial pretrial conference or in the scheduling order, litigants in all civil cases shall be advised of the availability of mediation and may request it. The continued utilization of settlement conferences as a form of mediation is also authorized.

(B) The parties by consent may select and compensate any mutually acceptable non-judicial mediator or neutral. No mediator or neutral may be compensated by contingent fee. After mediation ends, the parties and the mediator or neutral shall file under seal a report stating (1) the name and address of the mediator or neutral; (2) his or her compensation and who paid it; and (3) the result of the mediation.

(C) All district judges, magistrate judges, and bankruptcy judges are authorized (a) to act as mediators or neutrals; and (b) to appoint as mediators or neutrals any appropriately trained non-judicial person, in which event the appointing order shall establish the compensation to be paid for the services of such non-judicial person and shall schedule a time for completion of mediation. Any participant or potential participant in ADR who is able to establish an inability to pay a pro rata share of the neutral's proposed compensation, may petition the Court for the appointment of a judicial neutral.

(D) The appointment of a mediator or neutral shall not operate to postpone or stay the scheduling of any case or controversy nor shall such appointment be grounds for the continuance of a previously scheduled trial date or the extension of any deadlines previously scheduled by the Court.

(E) The substance of communication in the mediation process shall not be disclosed to any person other than participants in the mediation process; provided, however, that nothing herein shall modify the application of Federal Rule of Evidence 408 nor shall use in the mediation process of an otherwise admissible document, object, or statement preclude its use at trial.

(F) The chief judge of the district court shall appoint an ADR Administrator for the district. Duties of the Administrator shall include the following: implementing, administering, overseeing and evaluating the Court's ADR programs; providing rules for the qualification of mediators and neutrals; and consulting with the chief judge of the district court, members of the bar, and the United States Attorney relative to exempting specific cases or categories of cases from ADR.

(G) Disqualification of neutrals: Neutrals shall be disqualified from participation in any case in which the individual, his or her law firm, group, or organization may be personally affected by the outcome of the mediation or their impartiality may be called into question. Accordingly, the

provisions of 28 U.S.C. § 455 apply to neutrals by application of this Local Rule. Neutrals shall also refrain from activity that may call into question their impartiality, for example, acceptance of gifts or favors of any kind from a party.

(H) By order, a district judge, or a magistrate judge to whom a case has been referred on consent or for settlement conference, may provide that counsel and/or a party representative with full settlement authority shall attend a settlement conference at any time the judge considers appropriate.