

LOCAL CIVIL RULE 7

PLEADINGS – MOTIONS – CONTINUANCES – ORDERS

(A) **Grounds and Relief to be Stated:** All motions shall state with particularity the grounds therefor and shall set forth the relief or order sought.

(B) **Address and Telephone Number of Attorney and *Pro Se* Litigants:** All pleadings and motions shall include the attorney's office address and telephone number. All pleadings filed by non-prisoner litigants proceeding *pro se* shall contain an address where notice can be served on such person and a telephone number where such person can be reached or a message left. All pleadings filed by prisoners proceeding *pro se* shall contain an address where notice can be served on such person.

(C) **Personal Identifiers:**

(1) Redaction of personal identifiers is governed by Fed.R.Civ.P. 5.2 unless the Court directs otherwise. In all actions for benefits under the Social Security Act, the government shall file the administrative record under seal in paper form, the Court having found that such administrative records are by nature confidential and that applicants' privacy interests outweigh any public interest in disclosure; but this provision does not preclude a motion to unseal in any such action.

(2) The responsibility for redacting personal identifiers rests solely with counsel and the parties. The Clerk will not review each pleading for compliance with this Local Rule. Counsel and the parties are cautioned that failure to redact these personal identifiers may subject them to sanctions.

(D) ~~**Use of Forms:** Motions and interrogatories on printed forms, multigraphed, mimeographed, or in any manner reproduced by machine process, other than a typewriter, computer, or word processor, shall not be permitted unless the attorney filing same has deleted all extraneous matter and certifies that he or she has carefully reviewed the remaining portions and in good faith believes that the contents are pertinent to the case.~~ **Abrogated.**

(E) **Return Date:** Except as otherwise provided by an order of the Court or by these Local Rules, all motions shall be made returnable to the time obtained from and scheduled by the Court for a hearing thereon. The moving party shall be responsible to set the motion for hearing or to arrange with opposing counsel for submission of the motion without oral argument. Unless otherwise ordered, a motion shall be deemed withdrawn if the movant does not set it for hearing (or arrange to submit it without a hearing) within thirty (30) days after the date on which the motion is filed. The non-moving party also may arrange for a hearing. Before endeavoring to secure an appointment for a hearing on any motion, it shall be incumbent upon the counsel desiring such hearing to meet and confer in person or by telephone with his or her opposing counsel in a good-faith effort to narrow the area of disagreement. In the absence of any agreement, such conference shall be held in the office of the attorney nearest the Court in the division in which the action is pending. In any division that has a regularly scheduled motions day, the motion should be noticed for the first permissible motions day. **The hearing date of motions for summary judgment is also governed by Local Civil Rule 56.**

(F) Briefs Required:

(1) All motions, unless otherwise directed by the Court and except as noted herein below in subsection 7(F)(2), shall be accompanied by a written brief setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies. Unless otherwise directed by the Court, the opposing party shall file a responsive brief and such supporting documents as are appropriate, within eleven (11) days after service and the moving party may file a rebuttal brief within three (3) days after the service of the opposing party's reply brief. No further briefs or written communications may be filed without first obtaining leave of Court.

(2) **Unless the court directs otherwise, briefs** Briefs need not accompany motions for: (a) a more definite statement; (b) an extension of time to respond to pleadings, unless the time has already expired; and (c) a default judgment.

(3) All briefs, including footnotes, shall be written in 12 point Roman style or 10 pitch Courier style with one inch margins. Except for good cause shown in advance of filing, opening and responsive briefs, exclusive of affidavits and supporting documentation, shall not exceed thirty (30) 8-1/2 inch x 11 inch pages double-spaced and rebuttal briefs shall not exceed twenty (20) such pages.

(G) Continuances: Motions for continuances of a trial or hearing date shall not be granted by the mere agreement of counsel. No continuance will be granted other than for good cause and upon such terms as the Court may impose.

(H) Filing of Pleadings: After the filing of the complaint, all pleadings, motions, briefs, and filings of any kind must be timely filed with the Clerk's Office of the division in which the case is pending.

(I) Extensions: Any requests for an extension of time relating to motions must be in writing and, in general, will be looked upon with disfavor.

(J) Determination of Motions Without Oral Hearing: In accordance with Fed. R. Civ. P. 78, the Court may rule upon motions without an oral hearing.

(K) Motions Against Pro Se Parties: It shall be the obligation of counsel for any party who files any dispositive or partially dispositive motion addressed to a party who is appearing in the action without counsel to attach to or include at the foot of the motion a warning consistent with the requirements of *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). The warning shall state that:

(1) The *pro se* party is entitled to file a response opposing the motion and that any such response must be filed within ~~twenty (20)~~ **twenty-one (21)** days of the date on which the dispositive or partially dispositive motion is filed; and

(2) The Court could dismiss the action on the basis of the moving party's papers if the *pro se* party does not file a response; and

(3) The *pro se* party must identify all facts stated by the moving party with which the *pro*

se party disagrees and must set forth the *pro se* party's version of the facts by offering affidavits (written statements signed before a notary public and under oath) or by filing sworn statements (bearing a certificate that it is signed under penalty of perjury); and

(4) The *pro se* party is also entitled to file a legal brief in opposition to the one filed by the moving party.

(L) Court Orders – Objections Noted: Whenever counsel shall endorse an order and note with such endorsement any objection to the order, unless the grounds of such objection have been previously stated in the record, or unless the grounds are set forth in writing at the time and as a part of the endorsement, or a request made to the Court for a hearing, it will be assumed the objection is without effect and waived.

LOCAL CIVIL RULE 26
DISCOVERY AND DISCLOSURE

(A) Discovery:

(1) In this district, pursuant to Fed. R. Civ. P. 26(f), hereinafter Rule 26(f), it may be required by order that:

(a) the scheduling and planning conference outlined in Fed. R. Civ. P. 16(b) be held fewer than twenty-one (21) days after the conference required by Rule 26(f); and

(b) the written report outlining the discovery plan due under Rule 26(f) be filed fewer than fourteen (14) days after the conference between the parties or the parties be excused from submitting a written report and be permitted to report orally on their discovery plan at the conference required by Fed. R. Civ. P. 16(b).

(2) In this district, magistrate judges are authorized to conduct the scheduling and planning conference and issue the scheduling order for which provision is made in Fed. R. Civ. P. 16(b).

(3) A deposition taken without leave of Court pursuant to a notice under Fed. R. Civ. P. 30(a)(1) before the time required by Fed. R. Civ. P. 12 for filing an answer or responsive pleading shall not be used against a party who demonstrates that, when served with the notice, it was unable through the exercise of diligence to obtain counsel to represent it at the taking of the deposition.

(B) Requirement of Writing: All objections to interrogatories, depositions, requests, or applications under Fed. R. Civ. P. 26 through 37, as well as all motions and replies thereto concerning discovery matters, shall be in writing. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.

(C) Objections to Discovery Process: Unless otherwise ordered by the Court, an objection to any interrogatory, request, or application under Fed. R. Civ. P. 26 through 37, shall be served within fifteen (15) days after the service of the interrogatories, request, or application, ~~except that a defendant may serve any such objection within thirty (30) days after service of the summons and complaint upon that defendant and within forty-five (45) days after service of the summons and complaint, shall serve responses to interrogatories, requests, or applications that are served with the complaint and as to which no objection is made ; or, in a case removed or transferred to this Court after discovery was served, within fifteen (15) days after the date of removal or transfer.~~ The Court may allow a shorter or longer time. Any such objection shall be specifically stated. Any such objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter to which no specific objection has been made.

(D) Expert Disclosures:

(1) Agreement Upon Disclosure: Counsel are encouraged to agree upon the sequence and timing of the expert disclosures required by Fed. R. Civ. P. 26(a)(2). All such agreements must be in the form of a consent order entered by the Court.

(2) Timing of Mandatory Disclosure: Absent such a consent order or unless ordered otherwise, the disclosures required by Fed. R. Civ. P. 26(a)(2) shall be made first by the plaintiff not later than sixty (60) days before the earlier of the date set for completion of discovery or for the final pretrial conference, if any, then by the defendant thirty (30) days thereafter. Plaintiff shall disclose fifteen (15) days thereafter any evidence that is solely contradictory or rebuttal evidence to the defendant's disclosure.

(3) Completion of Disclosure: Whether accomplished by agreement pursuant to Local Civil Rule 26(D)(1) or pursuant to the schedule set by Local Civil Rule 26(D)(2), all parties shall complete all forms of expert disclosure and discovery not later than thirty (30) days after the date upon which plaintiff is, or would be, required by Fed. R. Civ. P. 26(a)(2)(c) to disclose contradictory or rebuttal evidence.

(4) General Provisions: For purposes of this Local Rule, counter-claim plaintiffs, cross-claimants, and third-party plaintiffs shall be plaintiffs as to all elements of the counter-claim, cross-claim, or third-party claim. Answers to interrogatories directed at clarification of the written reports of expert witnesses disclosed pursuant to Fed. R. Civ. P. 26(a)(2) shall be due fifteen (15) days after service.

LOCAL CIVIL RULE 38

DEMAND FOR JURY TRIAL

Any demand for jury in a civil action must be in writing and filed strictly in accordance with Fed. R. Civ. P. 38. Removal actions shall be governed by Fed. R. Civ. P. 81(C). In the event another party is added, the additional party may demand trial by jury at any time within ~~twenty~~ **twenty-one (21)** days after such party is served with process or summons.

LOCAL CIVIL RULE 54

COSTS – NOTICE OF APPEAL – JURY COSTS

(A) **Payment in Advance:** All fees and costs due the Clerk shall be paid in advance except as otherwise provided by law.

(B) **Stipulation for Costs for Certain Admiralty and Maritime Claims:** No stipulation for costs for complaints, petitions, counterclaims, and cross-claims, and the filing of an answer, appearance, or claim shall be required, unless specifically ordered by the Court, except where now or hereafter required by statute, the Federal Rules of Civil Procedure, or the Supplementary Rules for Certain Admiralty and Maritime Claims heretofore or hereafter adopted by Congress or through the rule making process.

(C) **Bond Premiums:** If costs are awarded by the Court, the reasonable premiums or expense paid on any bond or other security given by the prevailing party shall be taxed as part of the costs.

(D) **Taxable Costs And Procedure For Taxing Costs:**

(1) Bill of Costs. The party entitled to costs shall file a bill of costs as provided in 28 U.S.C. §§ 1920 and 1924 within eleven (11) days from the entry of judgment, unless such time is extended by order of the Court.

Such bill of costs shall distinctly set forth each item thereof so that the nature of the charge can be readily understood. An itemization and documentation for requested costs in all categories shall be attached to the cost bill. Costs will be disallowed if proper documentation is not provided.

(2) Objection to the Bill of Costs. A party from whom costs are sought may serve an opposition to the bill of costs within eleven (11) days after service of the bill of costs. The opposition shall identify each item objected to and the grounds for the objection. Within five (5) days thereafter, the prevailing party may serve responses to the objections.

If no objections are filed, the Clerk shall promptly proceed to tax the costs and shall allow such items specified in the bill of costs as are properly chargeable as costs. The Clerk shall give notice of such action to the parties or their counsel. The Court shall promptly review the action of the Clerk upon timely motion under Fed. R. Civ. P. 54(d). In the absence of a timely motion the action of the Clerk is final.

If objections are filed and the Clerk is unable to determine all or some of the properly chargeable costs, the application for such costs shall be referred to the judge who presided over the trial or, at the discretion of that judge, to a magistrate judge for report and recommendation under 28 U.S.C. § 636(b)(1)(B).

(E) **Excessive and Unnecessary Costs:** Any party applying for costs which are not recoverable or which are excessive shall be subject to sanction under Fed. R. Civ. P. 11.

(F) Notice of Appeal – Fees:

(1) Where there are multiple parties seeking to appeal jointly (e.g., where cases are consolidated or tried together or decided by a single judgment or order) and a joint notice of appeal is filed, the Clerk shall collect only one fee and only one cost bond, if required. Where separate notices of appeal are filed, the Clerk shall collect separate fees and require separate bonds.

(2) Separate notices of appeal, separate fees, and separate bonds are required of a party who exercises a right of appeal under Fed. R. App. P. 4(a)(3), within fourteen (14) days of the date on which the first notice of appeal was filed.

(G) Jury Costs: Whenever any 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, including service fees, mileage, and per diem, shall be assessed equally against the parties and their counsel or otherwise assessed as directed by the Court, unless the Clerk is notified at least one (1) full business day prior to the day on which the action is scheduled for trial in time to advise the jurors that it will not be necessary for them to attend.

Likewise, when any civil action, proceeding as a jury trial, is settled at trial in advance of the verdict, then, except for good cause shown, all jury costs, service fees, mileage, and per diem shall be assessed equally against the parties and their counsel, or otherwise assessed as directed by the Court.

LOCAL CIVIL RULE 56

SUMMARY JUDGMENT

(A) **Summary Judgment – Time of Filing:** **The time provisions of Fed. R. Civ. P. 56(c)(1) shall not apply in this District.** No motion for summary judgment shall be considered unless it is filed and set for hearing or submitted on briefs within a reasonable time before the date of trial, thus permitting a reasonable time for the Court to hear arguments and consider the merits after completion of the briefing schedule specified in Local Civil Rule 7(F)(1).

(B) **Summary Judgment – Listing Of Undisputed Facts:** Each brief in support of a motion for summary judgment shall include a specifically captioned section listing all material facts as to which the moving party contends there is no genuine issue and citing the parts of the record relied on to support the listed facts as alleged to be undisputed. A brief in response to such a motion shall include a specifically captioned section listing all material facts as to which it is contended that there exists a genuine issue necessary to be litigated and citing the parts of the record relied on to support the facts alleged to be in dispute. In determining a motion for summary judgment, the Court may assume that facts identified by the moving party in its listing of material facts are admitted, unless such a fact is controverted in the statement of genuine issues filed in opposition to the motion.

(C) **Summary Judgment – Separate Motions:** Unless permitted by leave of Court, a party shall not file separate motions for summary judgment addressing separate grounds for summary judgment.

LOCAL CIVIL RULE 80

~~OFFICIAL COURT REPORTERS TRANSCRIPTS – HEARING ON TRANSCRIPTS – RECORD ON APPEAL~~

(A) **Court Reporter Management Plan:** In accordance with the provisions of 28 U.S.C. § 753 and the requirements of a resolution adopted by the Judicial Conference of the United States at its March 1982 session, all district courts have been required to file a Court Reporter Management Plan, which is available for inspection and copying in the Clerk's Office. This plan provides information about the supervision, duties and assignments, including the work hours, of court reporters and notes the fee schedule for transcripts. The transcript rates charged by reporters are governed by rates recommended by the Judicial Conference of the United States, if adopted by this Court. The schedule of maximum fees which may be charged is posted in the Clerk's Office.

(B) **Release of Transcript:** The filing, viewing, and purchasing of transcripts of proceedings is governed by the Court's *Electronic Case Filing Policies and Procedures* manual.

(C) **Obligation to Pay Court Reporter:** The obligation to pay the court reporter for any and all transcripts shall be the joint and several personal obligation of the attorney, and the party for whose benefit the transcript was obtained, when the order is placed, to the extent so ordered. Any charges for a transcript shall be payable upon the completion of the transcript or any segment thereof, when a proper bill for same has been submitted by the court reporter. If proper charges for transcripts are not paid within a reasonable time after submission, the court reporter may refer the matter to a district judge for such action as may be deemed appropriate.

(D) **Record on Appeal:** Unless otherwise directed by the Court, the record on appeal in civil cases shall not include the examination of the jury on voir dire, counsel's opening statements, arguments of counsel, including arguments of counsel on motions, and the Court's charge to the jury unless there were exceptions to the charge.

~~Unless the parties file a written stipulation with the Clerk within twenty (20) days after notice of appeal is filed designating the papers which shall constitute the record on appeal, the Clerk shall certify and forward to the Court of Appeals all of the original pleadings and orders in the file jacket dealing with the action or proceeding in which the appeal is taken, unless otherwise instructed by the Court of Appeals.~~

(E) **Daily or Expedited Copy:** All requests for daily or expedited transcripts must be made in writing to the court reporter, if known, and, if not, to the Clerk, with copies to opposing counsel, not later than five (5) **business** days before the hearing or trial to be transcribed.

LOCAL CIVIL RULE 83.1

ATTORNEYS AND PRO SE PARTIES

(A) **Eligibility:** Any person who is ~~a member of the bar in good standing in the Supreme Court of Virginia~~ **an Active Member of the Virginia State Bar in good standing** is eligible to practice before this Court upon admission.

(B) **Initial Appearance:** Any person who meets the requirements of the foregoing paragraph and who maintains a law office outside of Virginia shall set forth his or her Virginia State Bar I.D. Number on any initial pleading filed by such person.

(C) **Procedure for Admission:** Every person desiring admission to practice in this Court shall file with the Clerk written application therefor accompanied by an endorsement by two (2) qualified members of the bar of this Court stating that the applicant is of good moral character and professional reputation. The form for such application may be obtained from the Clerk's Office.

As a part of the application, the applicant shall certify that applicant has within ninety (90) days prior to submission of the application read or reread (a) the Federal Rules of Civil Procedure, (b) the Federal Rules of Evidence, and (c) the Local Rules of the United States District Court for the Eastern District of Virginia.

The applicant shall thereafter be presented by a qualified practitioner of the Court who shall in open Court by oral motion, and upon giving assurance to the Court that the practitioner has examined the credentials of the applicant and is satisfied the applicant possesses the necessary qualifications, move the applicant's admission to practice.

The applicant shall in open Court take the oath required for admission, subscribe the roll of the Court, and pay to the Clerk the required fee. For such payment, the applicant shall be issued a certificate of qualification by the Clerk. For good cause shown, the Court may waive payment of the fee.

Federal government attorneys, whether they are Department of Justice attorneys, or assistant United States attorneys, or employed by any other federal agency, are not required to pay the admission fee if they are appearing on behalf of the United States.

(D) **Foreign Attorneys:**

(1) Upon written motion by a member of this Court, a practitioner qualified to practice in the United States District Court of another state or the District of Columbia may appear and conduct specific cases *pro hac vice* before this Court including oral arguments of motions and trial, provided that:

(a) The rules of the United States District Court of the district in which the practitioner maintains an office extend a similar privilege to members of the bar of this Court; and

(b) That such practitioners from another state or the District of Columbia shall be

accompanied by a member of the bar of this Court in all appearances before this Court.

For purposes of this Local Civil rule, a member of the bar of this Court shall be a person admitted to practice under Local Civil Rule 83.1(C).

(2) All practitioners admitted before this Court for the purpose of participating in a particular proceeding *pro hac vice* shall be subject to the Local Rules of the United States District Court for the Eastern District of Virginia and the Federal Rules of Disciplinary Enforcement (Appendix B). Applicants for *pro hac vice* admission shall complete a written application certifying that they have read the Local Rules and shall pay the required fee to the Clerk. Federal government attorneys, whether they are United States Department of Justice attorneys, or assistant United States attorneys, or employed by any other federal agency, are not required to pay the admission fee if they are appearing on behalf of the United States. If the Court finds the application otherwise appropriate, upon payment of the required fee, the Court may order the *pro hac vice* admission of the applicant. Revenues from *pro hac vice* admission fees shall be deposited in the Court's non-appropriated funds account and disbursed by order of the chief judge of the district for such improvements to the Court's administration of justice as the chief judge finds appropriate.

(3) Except where a party conducts his or her own case, no pleading or notice required to be signed by counsel shall be filed unless signed by counsel who shall have been admitted to practice in this Court under subparagraphs (A), (B) and (C) of this Local Rule, with the office address where notice can be served upon said attorney, and who shall have such authority that the Court can deal with the attorney alone in all matters connected with the case. Such appearance shall not be withdrawn without leave of the Court. Service of notice or other proceedings on such an attorney shall be equivalent to service on the parties for whom the attorney appeared.

(4) Federal government attorneys appearing pursuant to the authority of the United States Attorney's Office for the Eastern District of Virginia are not required to secure private local counsel. All other federal government attorneys representing the interests of the United States, including the United States Department of Justice, shall secure local counsel by working with an assistant United States attorney assigned to the Eastern District of Virginia or secure local counsel in accordance with Local Civil Rule 83.1(D)(3).

(E) Western District of Virginia: Any attorney admitted to practice in the Western District of Virginia **who is an Active Member of the Virginia State Bar in good standing** shall be permitted to practice in the Eastern District of Virginia upon the filing of a certificate from the Clerk of the Western District of Virginia showing that such attorney has been duly admitted to practice in that district.

(F) Attorneys Filing Pleadings: Any counsel presenting papers, suits, or pleadings for filing, or making an appearance, must be members of the bar of this Court, or must have counsel who are members of the bar of this Court to join in the pleading by endorsement. Any counsel who joins in a pleading, motion, or other paper filed with the Court will be held accountable for the case by the Court. At least one person admitted to practice under subsection (C) of this Local Rule must personally be present at all hearings, pretrials, and trials. This obligation may not be

avoided or delegated without leave of Court.

(G) **Withdrawal of Appearance:** No attorney who has entered an appearance in any civil action shall withdraw such appearance, or have it stricken from the record, except on order of the Court and after reasonable notice to the party on whose behalf said attorney has appeared.

(H) **Practicing Before Admission or While Disbarred or Suspended:** Any person who, before admission to the bar of this Court or during any disbarment or suspension, exercises any of the privileges of a member of the bar of this Court, or who pretends to be entitled so to do, shall be guilty of contempt of court and subject to appropriate punishment therefor.

(I) **Professional Ethics:** The ethical standards relating to the practice of law in civil cases in this Court shall be ~~the Virginia Rules of Professional Conduct, as published in the version effective January 1, 2000~~ **Section II of Part Six of the Rules of the Virginia Supreme Court as it may be amended or superceded from time to time.**

(J) **Courtroom Decorum:** Counsel shall at all times conduct and demean themselves with dignity and propriety. When addressing the Court, counsel shall rise unless excused therefrom by the Court. All statements and communications to the Court shall be clearly and audibly made from a standing position at the counsel table or, if the Court is equipped with an attorney's lectern, from a standing position behind the lectern, facing the Court or the witness. Counsel shall not approach the bench unless requested to do so by the Court or unless permission is granted upon the request of counsel.

Examination of witnesses shall be conducted by counsel standing behind the lectern or, if none, behind the counsel table. Counsel shall not approach the witness except for the purpose of presenting, inquiring about, or examining the witness with respect to an exhibit, unless otherwise permitted by the Court. Only one attorney for each party may participate in the examination or cross-examination of a witness.

(K) **Third-Year Law Student:** An eligible law student qualifying pursuant to Paragraph II of the Plan for Third-Year Practice filed in each division of this Court is herewith given leave to participate in any civil case pursuant to said plan and as said plan may, from time to time, be amended. The Plan for Third-Year Practice is Appendix A to these Local Rules.

(L) **Federal Rules of Disciplinary Enforcement:** All counsel admitted to practice before this Court or admitted for the purpose of a particular proceeding *pro hac vice* shall be admitted subject to the rules, conditions, and provisions set forth in full as Appendix B to these Local Rules.

LOCAL CRIMINAL RULE 57.3

OFFICIAL COURT REPORTERS TRANSCRIPTS – HEARING ON TRANSCRIPTS – RECORD ON APPEAL

(A) **Court Reporter Management Plan:** In accordance with the provisions of 28 U.S.C. § 753 and the requirements of a resolution adopted by the Judicial Conference of the United States at its March 1982 session, all district courts are required to file a Court Reporter Management Plan, which is available for inspection and copying in the Clerk's Office. This plan provides information about the supervision, duties and assignments, including the work hours, of court reporters and notes the fees for transcripts. The transcript rates charged by court reporters are governed by rates recommended by the Judicial Conference of the United States, if adopted by this Court. The schedule of maximum fees which may be charged is posted in the Clerk's Office.

(B) **Release of Transcript:** The filing, viewing, and purchasing of transcripts of proceedings is governed by the Court's *Electronic Case Filing Policies and Procedures* manual.

(C) **Obligation to Pay Court Reporter:** The obligation to pay the court reporter for any and all transcripts shall be the joint and several personal obligation of the attorney, and the party for whose benefit the transcript was obtained, when the order is placed, to the extent so ordered. Any charges for a transcript shall be payable upon the completion of the transcript or any segment thereof, when a proper bill for same has been submitted by the court reporter. If proper charges for transcripts are not paid within a reasonable time after submission, the court reporter may refer the matter to a district judge for such action as may be deemed appropriate.

(D) **Record on Appeal:** Unless otherwise directed by the Court, the record on appeal in criminal cases shall not include the examination of the jury on voir dire, counsel's opening statements, arguments of counsel, including arguments of counsel on motions, and the Court's charge to the jury unless there were exceptions to the charge.

Unless the parties file a written stipulation with the Clerk within ~~twenty (20)~~ **twenty-one (21)** days after notice of appeal is filed designating the papers which shall constitute the record on appeal, the Clerk shall certify and forward to the Court of Appeals all of the original pleadings and orders in the file jacket dealing with the action or proceeding in which the appeal is taken, unless otherwise instructed by the Court of Appeals.

(E) **Daily or Expedited Copy:** All requests for daily or expedited transcripts must be made in writing to the court reporter, if known, and, if not, to the Clerk, with copies to opposing counsel, not later than five (5) business days before the hearing or trial to be transcribed.

LOCAL CRIMINAL RULE 57.4

ATTORNEYS AND PRO SE PARTIES

(A) **Eligibility:** Any person who is ~~a member of the bar in good standing in the Supreme Court of Virginia~~ **an Active Member of the Virginia State Bar in good standing** is eligible to practice before this Court upon admission.

(B) **Initial Appearance:** Any person who meets the requirements of the foregoing paragraph and who maintains a law office outside of Virginia shall set forth his or her Virginia State Bar I.D. Number on any initial pleading filed by such person.

(C) **Procedure for Admission:** Every person desiring admission to practice in this Court shall file with the Clerk written application therefor accompanied by an endorsement by two (2) qualified members of the bar of this Court stating that the applicant is of good moral character and professional reputation. The form for such application may be obtained from the Clerk's Office.

As a part of the application, the applicant shall certify that applicant has within ninety (90) days prior to submission of the application read or reread (a) the Federal Rules of Criminal Procedure, (b) the Federal Rules of Evidence, and (c) the Local Rules of the United States District Court for the Eastern District of Virginia.

The applicant shall thereafter be presented by a qualified practitioner of the Court who shall in open Court by oral motion, and upon giving assurance to the Court that the practitioner has examined the credentials of the applicant and is satisfied the applicant possesses the necessary qualifications, move the applicant's admission to practice.

The applicant shall in open Court take the oath required for admission, subscribe the roll of the Court, and pay to the Clerk the required fee. For such payment, the applicant shall be issued a certificate of qualification by the Clerk. For good cause shown, the Court may waive payment of the fee.

Federal government attorneys, whether they are Department of Justice attorneys, or assistant United States attorneys, or employed by any other federal agency, are not required to pay the admission fee if they are appearing on behalf of the United States.

(D) Foreign Attorneys:

(1) Upon written motion by a member of this Court, a practitioner qualified to practice in the United States District Court of another state or the District of Columbia may appear and conduct specific cases *pro hac vice* before this Court including oral arguments of motions and trial, provided that:

(a) The rules of the United States District Court of the district in which the practitioner maintains an office extend a similar privilege to members of the bar of this Court; and

(b) That such practitioners from another state or the District of Columbia shall be

accompanied by a member of the bar of this Court in all appearances before this Court.

For purposes of this Local Rule, a member of the bar of this Court shall be a person admitted to practice under Local Criminal Rule 57.4(C).

(2) All practitioners admitted before this Court for the purpose of participating in a particular proceeding *pro hac vice* shall be subject to the Local Rules of the United States District Court for the Eastern District of Virginia and the Federal Rules of Disciplinary Enforcement (Appendix B). Applicants for *pro hac vice* admission shall complete a written application certifying that they have read the Local Rules and shall pay the required fee to the Clerk. Federal government attorneys, whether they are United States Department of Justice attorneys, or assistant United States attorneys, or employed by any other federal agency, are not required to pay the admission fee if they are appearing on behalf of the United States. If the Court finds the application otherwise appropriate, upon payment of the required fee, the Court may order the *pro hac vice* admission of the applicant. Revenues from *pro hac vice* admission fees shall be deposited in the Court's non-appropriated funds account and disbursed by order of the chief judge of the district for such improvements to the Court's administration of justice as the chief judge finds appropriate.

(3) Except where a party conducts his or her own case, no pleading or notice required to be signed by counsel shall be filed unless signed by counsel who shall have been admitted to practice in this Court under subparagraphs (A), (B) and (C) of this Local Rule, with the office address where notice can be served upon said attorney, and who shall have such authority that the Court can deal with the attorney alone in all matters connected with the case. Such appearance shall not be withdrawn without leave of the Court. Service of notice or other proceedings on such an attorney shall be equivalent to service on the parties for whom the attorney appeared.

Federal government attorneys appearing pursuant to the authority of the United States Attorney's Office for the Eastern District of Virginia are not required to secure private local counsel. All other federal government attorneys representing the interests of the United States, including the United States Department of Justice, shall secure local counsel by working with an assistant United States attorney assigned to the Eastern District of Virginia.

(E) Western District of Virginia: Any attorney admitted to practice in the Western District of Virginia **who is an Active Member of the Virginia State Bar in good standing** shall be permitted to practice in the Eastern District of Virginia upon the filing of a certificate from the Clerk of the Western District of Virginia showing that such attorney has been duly admitted to practice in that district.

(F) Attorneys Filing Pleadings: Any counsel presenting papers, suits, or pleadings for filing, or making an appearance, must be members of the bar of this Court, or must have counsel who are members of the bar of this Court to join in the pleading by endorsement. Any counsel who joins in a pleading, motion, or other paper filed with the Court will be held accountable for the case by the Court. At least one person admitted to practice under subsection (C) of this Local Rule must personally be present at all hearings, pretrials, and trials. This obligation may not be avoided or delegated without leave of Court.

(G) **Withdrawal of Appearance:** No attorney who has entered an appearance in any criminal action shall withdraw such appearance, or have it stricken from the record, except on order of the Court and after reasonable notice to the party on whose behalf said attorney has appeared.

(H) **Practicing Before Admission or While Disbarred or Suspended:** Any person who, before admission to the bar of this Court or during any disbarment or suspension, exercises any of the privileges of a member of the bar of this Court, or who pretends to be entitled so to do, shall be guilty of contempt of court and subject to appropriate punishment therefor.

(I) **Professional Ethics:** With the exception of Virginia Rule of Professional Conduct 3.6 (the subject of which is covered by Local Criminal Rule 57 57.1), the ethical standards relating to the practice of law in criminal cases in this Court shall be ~~the Virginia Rules of Professional Conduct, as published in the version effective January 1, 2000~~ Section II of Part Six of the Rules of the Virginia Supreme Court as it may be amended or superceded from time to time.

(J) **Courtroom Decorum:** Counsel shall at all times conduct and demean themselves with dignity and propriety. When addressing the Court, counsel shall rise unless excused therefrom by the Court. All statements and communications to the Court shall be clearly and audibly made from a standing position at the counsel table or, if the Court is equipped with an attorney's lectern, from a standing position behind the lectern, facing the Court or the witness. Counsel shall not approach the bench unless requested to do so by the Court or unless permission is granted upon the request of counsel.

Examination of witnesses shall be conducted by counsel standing behind the lectern or, if none, behind the counsel table. Counsel shall not approach the witness except for the purpose of presenting, inquiring about, or examining the witness with respect to an exhibit, unless otherwise permitted by the Court. Only one attorney for each party may participate in the examination or cross-examination of a witness.

(K) **Third-Year Law Student:** An eligible law student qualifying pursuant to Paragraph II of the Plan for Third-Year Practice filed in each division of this Court is herewith given leave to participate in any criminal case pursuant to said plan and as said plan may, from time to time, be amended. The Plan for Third-Year Practice is Appendix A to these Local Rules.

(L) **Federal Rules of Disciplinary Enforcement:** All counsel admitted to practice before this Court or admitted for the purpose of a particular proceeding *pro hac vice* shall be admitted subject to the rules, conditions and provisions set forth in full as Appendix B to these Local Rules.

LOCAL ADMIRALTY RULE (c)

ACTIONS IN REM: SPECIAL PROVISIONS

(1) **Undertaking in Lieu of Arrest.** If, before or after commencement of an action by arrest, all parties accept a written undertaking to respond on behalf of the vessel or other property in return for foregoing the arrest, or stipulating to the release of the vessel or other property, the undertaking shall be filed, shall become the party in place of the vessel or other property, and shall be deemed the subject referred to when a pleading, motion, order, or judgment in the action refers to the vessel or property.

(2) **Intangible Property.** The summons issued pursuant to Supplemental Rule C(3) shall direct the person having control of the specified funds or other intangible property to show cause no later than 10 days after service why the funds or other property should not be delivered to the Marshal to abide the judgment. A judicial officer for good cause shown may lengthen or shorten the time. Service of the summons has the effect of an arrest of the property and brings it within the control of the Court. The person who is served may deliver or pay over to the Marshal (or other person or organization having a warrant for the arrest of the property) the property or funds proceeded against to the extent sufficient to satisfy the plaintiff's claim. If such delivery or payment is made, the person served is excused from the duty to show cause. A claimant of the property may show cause why the property should not be delivered or should be returned by serving and filing a claim as provided in Supplemental Rule C(6) within the time allowed to show cause and by serving and filing an answer to the complaint within ~~20~~ **twenty-one (21)** days thereafter. If a claim is not filed within the time stated in the summons, or an answer is not filed within the time allowed under this rule, the person who was served shall deliver or pay to the Marshal the property or funds proceeded against, or a part thereof sufficient to satisfy plaintiff's claim.

(3) **Publication of Notice of Action and Arrest.** The notice required by Supplemental Rule C(4) shall be published once in a newspaper of general circulation within the Division where arrest is to occur, and plaintiff's attorney shall file a copy of the notice as it was published with the Clerk. The notice shall contain:

- a. the Court, title, and number of the action;
- (b) the date of the arrest;
- (c) the identity of the property arrested;
- (d) the name, address and telephone number of the attorney for plaintiff;
- (e) (i) a statement that a person who asserts an interest in or right against the property that is the subject of the civil forfeiture must file a verified statement identifying the interest or right, in compliance with Admiralty Rule C(6)(a), within ~~20~~ **twenty-one (21)** days of the earlier of (1) receiving actual notice of execution of process, or (2) publication of the notice; or

(ii) a statement that a person who asserts a right of possession or any ownership interest in the property that is the subject of the Maritime Arrest or Other

Proceeding must file a verified statement of right or interest, in compliance with Admiralty Rule C(6)(b), within 10 days of the earlier of (1) execution of process, or (2) publication of the notice.

- (f) a statement that a person who files a statement of interest in or right against the property subject to the civil forfeiture or a person who asserts a right of possession or any ownership interest in the property subject to Maritime Arrest and Other Proceedings must file an answer within ~~20~~ **twenty-one (21)** days of filing the verified statement under LAR (c)(3)(e)(i) or (ii).
- (g) a statement that applications for intervention under Federal Rule 24 by persons claiming maritime liens or other interests shall be filed within the 10 days allowed for claims for possession; and
- (h) the name, address and telephone number of the Marshal or deputy Marshal.

(4) Default in Action *In Rem*.

- (a) Notice Required. A party seeking a default judgment in an action *in rem* must satisfy the judicial officer that due notice of the action and arrest of the property has been given (1) by publication in a newspaper of general circulation within the Division where arrest occurred, (2) by service under Fed. R. Civ. P. 5(a) upon the master or other person having custody of the property, and (3) by service under Fed. R. Civ. P. 5(b) upon every other person who has not appeared in the action and is known to have an interest in the property.
- (b) Persons With Recorded Interests.
 - (1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must obtain a current Certificate of Ownership or General Index or Abstract of Title from the United States Coast Guard and give notice to the persons named therein claiming a current interest in or lien against the defendant vessel.
 - (2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, plaintiff must obtain information from the issuing authority and give notice to the persons named in the records of such authority.
 - (3) If the defendant property is of such character that there exists a registry of recorded property interests and/or security interests in the property (whether governmental or private), the party must obtain information from each such registry and give notice to the persons named in the records of each such registry.

(5) Entry of Default and Default Judgment. After the time for filing an answer has expired, the plaintiff may move for entry of default under Fed. R. Civ. P. 55(a), unless there be an understanding between the parties or counsel to the contrary. Default will be entered upon showing that:

- (a) notice has been given as required in LAR (c)(4);
- (b) the time for answer has expired; and
- (c) no one has filed an appearance to claim the property.

The plaintiff may move for the entry of default judgment under Fed. R. Civ. P. 55(b)(2) at any time after default has been entered. Default judgment may be entered under Fed. R. Civ. P. 55(b)(1) in admiralty proceedings only after the Clerk shall have consulted with the Court.