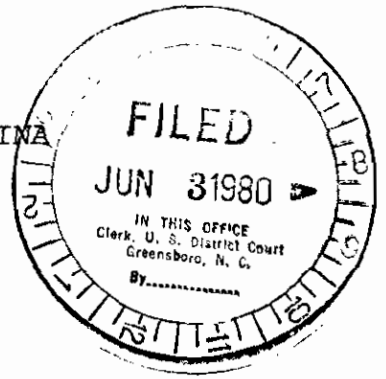


IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

STANDING ORDER NUMBER 1

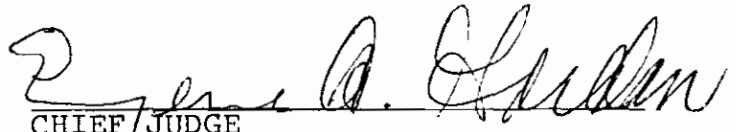



For good cause appearing to the court,

IT IS ORDERED THAT:

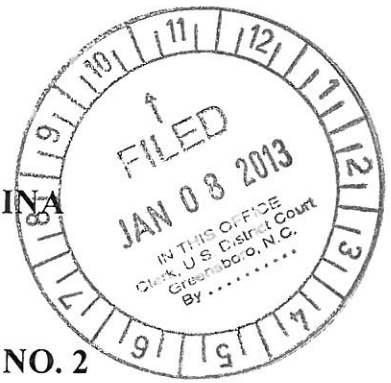
1. A standing Order is one so designated and approved by all or a majority of the judges of this court.
2. Normally, Standing Orders will be applicable to situations which are likely to re-occur, define court policy or relate to this Court's administrative procedures (as distinguished from orders applicable in a particular case), but not of sufficient interest or concern to the bar and general public as to warrant inclusion in the Local Rules of Practice and Procedure of this Court.
3. Standing Orders are public documents.
4. The clerk will file them in a manner suitable for convenient reference, and disseminate copies of all such orders to all judicial officers in this district, the Chief Probation Officer, United States Attorney and United States Marshal.

This the 2nd day of June, 1980.

  
CHIEF JUDGE

  
DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



RE: USE OF ELECTRONIC  
DEVICES BY ATTORNEYS

)  
)  
)

STANDING ORDER NO. 2

This matter is before the court on its own motion to establish a uniform policy regarding cell phones, laptops, tablets or other electronic devices being brought into the federal courthouses by attorneys in the Middle District of North Carolina.

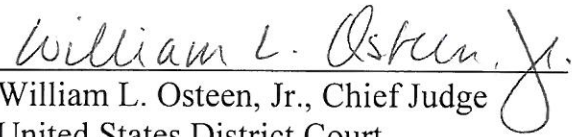
Effective immediately, members of the bar and attorneys who have associated with local counsel pursuant to Local Rule 83.1(d) may bring electronic devices into the courthouse upon showing of an Electronic Device Permission card. Attorneys may request the card by obtaining an Electronic Device Request and Acknowledgment Form from the clerk's office.

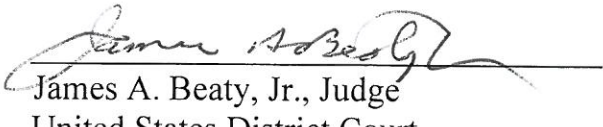
All electronic devices are subject to screening by the United States Marshal's Service or a Court Security Officer, and shall not be used to record, broadcast or transmit any video images or audio sounds of the proceedings or the environs. See LR83.7. Permitted attorneys shall maintain sole custody over the electronic device and shall not allow it to be used by anyone else unless they have been given court permission.


The use of an electronic device shall not disturb the court. While in the courtroom, attorneys should ensure that no sounds are emitted from the device and that the device is used only for official purposes during the proceeding being heard by the court. In all other instances, the device should be turned off while in the courtroom.

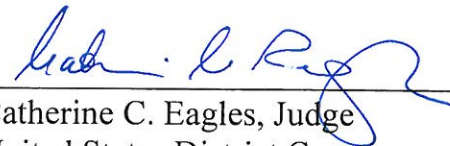
Failure to comply with any of the previous paragraphs may result in loss of right to use an electronic device in the United States District Courthouses in the Middle District of North Carolina, confiscation of the device, or result in other court sanctions, including, but not limited to, contempt of court.

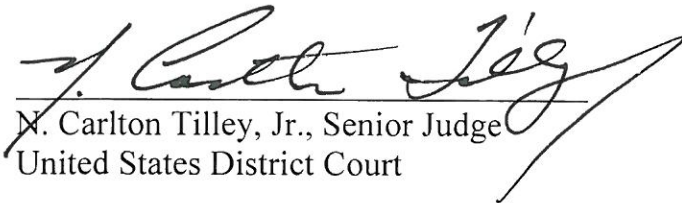
This the 8<sup>th</sup> day of January, 2013.

  
William L. Osteen, Jr., Chief Judge  
United States District Court

  
James A. Beaty, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



EMPLOYMENT DISPUTE  
RESOLUTION PLAN

STANDING ORDER 3

For good cause appearing to the Court, this Court adopts, for all Units of this Court, the attached Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan dated January 2013. This order replaces and revokes former Standing Order 33.

This the 8th day of <sup>February</sup>~~January~~, 2013.

FOR THE COURT:

Catherine R. Aron  
Catherine R. Aron, Chief Judge  
United States Bankruptcy Court

Thomas W. Waldrep, Jr.  
Thomas W. Waldrep, Jr.  
United States Bankruptcy Court

William L. Stocks  
William L. Stocks, Recall Judge  
United States Bankruptcy Court

FOR THE COURT:

William L. Osteen, Jr.  
William L. Osteen, Jr., Chief Judge  
United States District Court

James A. Beaty, Jr.  
James A. Beaty, Jr., Judge  
United States District Court

Thomas D. Schroeder  
Thomas D. Schroeder, Judge  
United States District Court

Catherine C. Eagles  
Catherine C. Eagles, Judge  
United States District Court

N. Carlton Tilley, Jr.  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court



**Consolidated Equal  
Employment Opportunity**

*and*

**Employment Dispute Resolution Plan**

*of the*

**United States District Court  
for the Middle District of North Carolina**

**January 2013**

## TABLE OF CONTENTS

CHAPTER 1. GENERAL PROVISIONS .....	<a href="#">1</a>
§ 1 Preamble .....	<a href="#">1</a>
§ 2 Scope of Coverage .....	<a href="#">1</a>
§ 3 Definitions .....	<a href="#">2</a>
CHAPTER II. EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-DISCRIMINATION RIGHTS .....	<a href="#">2</a>
§ 1 General .....	<a href="#">2</a>
§ 2 Definition .....	<a href="#">3</a>
§ 3 Special Provision for Probation and Pretrial Services Officers .....	<a href="#">3</a>
§ 4 Organization .....	<a href="#">3</a>
§ 5 Personnel Practices .....	<a href="#">4</a>
CHAPTER III. FAMILY AND MEDICAL LEAVE RIGHTS .....	<a href="#">5</a>
§ 1 General .....	<a href="#">5</a>
CHAPTER IV. WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS .....	<a href="#">5</a>
§ 1 General .....	<a href="#">5</a>
§ 2 Definitions .....	<a href="#">5</a>
CHAPTER V. EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES .....	<a href="#">6</a>
§ 1 General .....	<a href="#">6</a>
CHAPTER VI. OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS .....	<a href="#">6</a>
§ 1 General .....	<a href="#">6</a>
§ 2 Court Program Requirements .....	<a href="#">6</a>
CHAPTER VII. POLYGRAPH TESTS .....	<a href="#">6</a>
§ 1 General .....	<a href="#">6</a>
CHAPTER VIII. WHISTLEBLOWER PROTECTION .....	<a href="#">7</a>
CHAPTER IX. REPORTS OF WRONGFUL CONDUCT .....	<a href="#">7</a>
CHAPTER X. DISPUTE RESOLUTION PROCEDURES .....	<a href="#">8</a>
§ 1 General Procedures for Consideration of Alleged Violations .....	<a href="#">8</a>
§ 2 Alleged Violation by Employee .....	<a href="#">8</a>
§ 3 Alleged Violation by Judge .....	<a href="#">9</a>

§ 4	Confidentiality .....	<a href="#">9</a>
§ 5	General Provisions and Protections .....	<a href="#">9</a>
§ 6	Designation of Duties of Employment Dispute Resolution Coordinator .	<a href="#">11</a>
§ 7	General Disqualification Provision .....	<a href="#">11</a>
§ 8	Counseling .....	<a href="#">12</a>
§ 9	Mediation .....	<a href="#">13</a>
§ 10	Complaint and Hearing .....	<a href="#">15</a>
§ 11	Remedies .....	<a href="#">17</a>
§ 12	Review of Decision .....	<a href="#">18</a>
§ 13	Record of Final Decisions .....	<a href="#">18</a>
CHAPTER XI. REPORTS .....		<a href="#">18</a>
§ 1	Court Unit Reports .....	<a href="#">18</a>
§ 2	Objectives .....	<a href="#">19</a>
§ 3	Annual Report .....	<a href="#">19</a>
CHAPTER XII. DISTRIBUTION AND PUBLIC NOTICE .....		<a href="#">20</a>
APPENDIX		
REQUEST FOR COUNSELING .....		<a href="#">21</a>
REQUEST FOR MEDIATION .....		<a href="#">23</a>
COMPLAINT OF DISCRIMINATION .....		<a href="#">25</a>

## **CHAPTER 1. GENERAL PROVISIONS**

### **§ 1 Preamble**

This Plan shall be known as the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States District Court for the Middle District of North Carolina (“Plan”). This Plan supersedes the Court’s Employment Dispute Resolution Plan, promulgated in Standing Order Number 33, dated August 11, 2010.

A copy of this Plan will be posted on the Court’s internal and external websites. A copy of this Plan and any subsequent modifications will be filed with the Administrative Office, and the Court shall annually submit a report on the implementation of its plan to the Administrative Office for inclusion in the Director’s Annual Report to the Judicial Conference.

Policies adopted by individual Court units in this District pertaining to adverse action or general grievance proceedings that do not invoke the rights and protections afforded under the Plan are not affected by the Plan. Further, local policies relating to rights enumerated under the Plan that are not inconsistent with the rights and procedures established herein will not be affected by the Plan.

This Plan is not intended to duplicate the protections provided for the resolution of complaints of judicial officer misconduct or disability under 28 U.S.C. §§ 351, et seq. and otherwise is intended to be the exclusive remedy of the employee relating to rights enumerated under the Plan.

### **§ 2 Scope of Coverage**

This Plan applies to:

- Article III judges of the United States District Court for the Middle District of North Carolina
- Bankruptcy Judges of the Middle District of North Carolina
- Magistrate Judges of the Middle District of North Carolina
- Chambers staff of judicial officers

The unit executive and staff of the following Court units:

- Clerk of the District Court
- Clerk of the Bankruptcy Court
- Probation and Pretrial Services Office

### § 3 Definitions

For purposes of this Plan:

- A. The term “claim” means the filing of a request for counseling as set forth in Chapter X, which may be further pursued by the filing of a request for mediation and a request for hearing.
- B. The term "employee" includes all individuals listed in § 2 of this Chapter, as well as applicants for employment and former employees, except the following individuals are *specifically excluded and are not covered* under this Plan: interns or externs providing gratuitous service, applicants for bankruptcy judge or magistrate judge positions, private attorneys who apply to represent indigent defendants under the Criminal Justice Act, criminal defense investigators not employed by federal public defenders, volunteer counselors or mediators, or other individuals who are not employees of an “employing office” as that term is defined below.
- C. The term “employing office” includes all offices of the United States District Court for the Middle District of North Carolina, including the Offices of the Clerk of the District Court, Clerk of the Bankruptcy Court and Probation and Pretrial Services Office. The Court is the employing office of a Judge’s chambers staff.
- D. The term “judicial officer” means a District Judge (including Senior District Judge) of the United States District Court for the Middle District of North Carolina appointed pursuant to Article III of the United States Constitution; a Bankruptcy Judge of the Middle District of North Carolina, or a Magistrate Judge of the United States District Court of the Middle District of North Carolina.
- E. The term “court” or “Court” refers to the United States District Court for the Middle District of North Carolina.

## **CHAPTER II. EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-DISCRIMINATION RIGHTS**

### § 1 General

Discrimination against employees based on race, color, religion, sex (including

pregnancy and sexual harassment), national origin, age (at least 40 years of age at the time of the alleged discrimination), and disability is prohibited. Harassment against an employee based upon any of these protected categories or retaliation for engaging in any protected activity is prohibited. All of the above constitute “wrongful conduct.” The rights and protections of Sections I through VII shall also apply to employees.

## **§ 2 Definition**

For purposes of this Plan, the term "disability" means:

- A. a physical or mental impairment that substantially limits one or more of the major life activities of an employee,
- B. a record of such an impairment, or
- C. being regarded as having such an impairment.

*See 42 U.S.C. § 12102(2).*

## **§ 3 Special Provision for Probation and Pretrial Services Officers**

The age discrimination provision of Section I of this Chapter shall not apply to the initial hiring or mandatory separation of probation and pretrial services officers and officer assistants. *See Report of the Proceedings of the Judicial Conference of the United States (March 1991), pp. 16-17.* Additionally, probation and pretrial services officers must meet all fitness for duty standards, and compliance with such standards does not, in and of itself, constitute discrimination on the basis of disability.

## **§ 4 Organization**

### **A. Unit Executives**

The Clerk of the District Court, the Clerk of the Bankruptcy Court and the Chief Probation Officer must ensure that all vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and all hiring decisions are based solely on job-related factors. They should make reasonable efforts to see that the skills, abilities, and potential of each employee are identified and developed and that all employees are given equal opportunities for promotions by being offered, when the work of the Court permits and within the limits of available resources, cross-training, reassignments, job



restructuring, special assignments, and outside job-related training.

**B. Judges, Unit Executives, Court Managers and Supervisors**

Judges, unit executives, court managers, and supervisors must apply equal employment opportunity practices and policies in their work units. This includes giving each employee a fair and equal opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for personnel actions and awards recognizing such achievements. As resources permit, it also requires providing training programs which enable employees to develop their job skills fully.

**§ 5 Personnel Practices**

**A. Recruitment**

Each Court unit will seek qualified applicants who reflect the make-up of all such persons in the relevant labor market. Each unit will publicize all vacancies.

**B. Hiring**

Each Court unit will make its hiring decisions strictly upon an evaluation of a person's qualifications and ability to perform the duties of the position satisfactorily. Hiring decisions shall be made without regard to race, color, religion, sex, national origin, age, or disability.

**C. Promotion**

Each Court unit will promote employees according to their experience, training and demonstrated ability to perform duties of a higher level. Promotion decisions shall be made without regard to race, color, religion, sex, national origin, age, or disability.

**D. Advancement**

Each Court unit will seek insofar as reasonably practicable to improve the skills and abilities of its employees through cross-training, job restructuring, assignments, details, and outside training.

## **CHAPTER III. FAMILY AND MEDICAL LEAVE RIGHTS**

### **§ 1 General**

Title II of the Family and Medical Leave Act of 1993, 5 U.S.C. §§ 6381 et. Seq., applies to Court employees in the manner prescribed in Volume 12, Chapter 9, Section 920.20.35 the *Guide to Judiciary Policy*.

## **CHAPTER IV. WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS**

### **§ 1 General**

No “employing office closing” or “mass layoff” (as defined in Section 2 of this Chapter) may occur until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to employees who will be affected. This provision shall not apply to an employing office closing or mass layoff that results from the absence of appropriated funds.

### **§ 2 Definitions**

A. The term “employing office closing” means the permanent or temporary shutdown of a single site of employment if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees.

B. The term “mass layoff” means a reduction in force which:

1. is not the result of an employing office closing; and
2. results in an employment loss at the single site of employment during any 30-day period for
  - a. (1) at least 33 percent of the employees (excluding any part-time employees); and
  - (2) at least 50 employees (excluding any part-time employees); or
  - b. at least 500 employees (excluding any part-time employees).

*See 29 U.S.C. § 2101.*

## **CHAPTER V. EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES**

### **§ 1 General**

An employing office shall not discriminate against an eligible employee or deny an eligible employee reemployment rights or benefits under the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§ 4301 *et seq.*

## **CHAPTER VI. OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS**

### **§ 1 General**

Each employing office shall provide to its employees a place of employment which is free from recognized hazards that cause or are likely to cause death or serious physical harm to employees. Complaints which seek a remedy that is exclusively within the jurisdiction of the General Services Administration (“GSA”) or the United States Postal Service (“USPS”) to provide are not cognizable under this Plan; such request should be filed directly with GSA or the USPS as appropriate.

### **§ 2 Court Program Requirements**

The Court will implement a program to achieve the protections set forth in § 1 of this Chapter.

## **CHAPTER VII. POLYGRAPH TESTS**

### **§ 1 General**

Unless required for access to classified information, or otherwise required by law, no employee may be required to take a polygraph test.

## **CHAPTER VIII. WHISTLEBLOWER PROTECTION**

### **§ 1 General**

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action shall not, with respect to such authority, take or threaten to take an adverse employment action with respect to an employee (excluding applicants for employment) because of any disclosure of information to –

- A. the appropriate federal law enforcement authority, or
- B. a supervisor or managerial official of the employing office, a judicial officer of the court, or the Administrative Office of the United States Courts,

by the latter employee, which that employee reasonably and in good faith believes evidences a violation of any law, rule, or regulation, or other conduct that constitutes gross mismanagement, a gross waste of funds, or a substantial and specific danger to public health or safety, provided that such disclosure of information –

- A. is not specifically prohibited by law,
- B. does not reveal case-sensitive information, sealed material, or the deliberative processes of the federal judiciary (as outlined in the Guide to Judiciary Policy, Vol. 20, Ch. 8), and
- C. does not reveal information that would endanger the security of any federal judicial officer.

### **§ 2 Definition**

For purposes of this Chapter, an “adverse employment action” means a termination, demotion, transfer, or reassignment; loss of pay, benefits, or awards; or any other employment action that is materially adverse to the employee’s job status, compensation, terms, or responsibilities, or the employee’s working conditions.

## **CHAPTER IX. REPORTS OF WRONGFUL CONDUCT**

A report of wrongful conduct is not the same as initiating or filing a claim under this Plan; thus, employees who wish to file an EDR claim relating to any alleged wrongful conduct as defined in Chapter II, §1 must follow the procedures set forth in Chapter X of this Plan.

Judges and employees are encouraged to report wrongful conduct to the Court’s EDR Coordinator, the Chief District Judge, unit executive, human resources manager, or

their supervisor as soon as possible, before it becomes severe or pervasive. Retaliation against any employee making a report of wrongful conduct is prohibited. The person receiving such a report has the responsibility to notify the EDR Coordinator as soon as possible.

The EDR Coordinator shall promptly inform the Chief District Judge and unit executive of any report. The Chief District Judge and/or unit executive shall ensure that the allegations in the report are appropriately investigated, either by the human resources manager or other person.

All individuals involved in the investigation shall protect the confidentiality of the allegations of wrongful conduct to the extent possible. Information and records about the allegations shall be shared on a need-to-know basis.

Employees found by the Chief District Judge and/or unit executive to have engaged in wrongful conduct, as defined in this Plan, may be subject to disciplinary action.

## **CHAPTER X. DISPUTE RESOLUTION PROCEDURES**

### **§ 1 General Procedures for Consideration of Alleged Violations**

An employee who claims a denial of the rights granted under Chapters II through VIII of this Plan shall seek resolution of such claims through the procedures of this Chapter. Generally, the procedural process consists of:

- A. Counseling and mediation;
- B. Hearing before the Chief District Judge of the United States District Court for the Middle District of North Carolina (or a designated judicial officer); and
- C. Review of the hearing decision under procedures established by the Judicial Council of the Fourth Circuit.

### **§ 2 Alleged Violation by Employee**

Before invoking a request for counseling an employee (to the extent feasible) is encouraged to bring his or her concerns to his or her supervisor or unit executive, unless the supervisor or unit executive is the alleged violator. In such a situation, the employee is encouraged to discuss the matter with the EDR Coordinator. An employee alleging that

any of the rights granted under this Plan have been violated, and who seeks relief under this Plan, must file a request for counseling with the Court's EDR Coordinator in accordance with Section 8 of this Chapter.

### **§ 3 Alleged Violation by Judge**

Any employee alleging that a judge violated any rights granted under this Plan may file an EDR claim in accordance with this Plan. In such an instance, however, all the claims procedures of this Chapter shall be performed by the Fourth Circuit Judicial Council ("Judicial Council"), either by members of the Judicial Council directly or by persons designated to act on its behalf, which may include the Chief Circuit Judge. If a judge becomes the subject of both an EDR claim and a judicial misconduct complaint under the Judicial Conduct and Disability Act, §§ 351-364, the Judicial Council or its designee, which may include the Chief Circuit Judge, will craft a procedure for determining any common issues of fact and processing both complaints, subject to all requirements of the Act, the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and, as practicable, this Plan. In so doing, the Judicial Council or its designee, which may include the Chief Circuit Judge, may determine that all or part of the EDR claim must be abated until action is taken on the judicial misconduct complaint.

### **§ 4 Confidentiality**

The Court or employing office shall protect the confidentiality of allegations filed under this Plan to the extent possible. However, information about allegations filed under this Plan shall be shared on a need-to-know basis. Records relating to violations under this Plan shall be kept confidential on the same basis.

### **§ 5 General Provisions and Protections**

#### **A. Prohibition Against Retaliation**

Claimants under this Plan have the right to be free from retaliation because of the filing of a claim pursuant to this Plan. Likewise, any person who participates in the filing or processing of a claim, such as an EDR Coordinator, mediator, witness, representative, or co-worker, is also entitled to freedom from retaliation.

#### **B. Right to Representation**

Every individual invoking the dispute resolution procedures of this Plan has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. A Court employee may accept the



responsibilities of representation if it will not unduly interfere with his or her Court duties or constitute a conflict of interest, as determined by the representative's appointing officer.

C. Case Preparation

To the extent feasible, every individual invoking the dispute resolution procedures of this Plan may use a reasonable amount of official time to prepare his or her case, so long as it does not unduly interfere with the performance of his or her Court duties.

D. Determining Time Periods

The word "days" in all filing and other time periods specified in this Consolidated Plan shall mean calendar days, except that if the deadline date falls on a Saturday, Sunday or holiday, the deadline shall be extended to the following Court business day.

E. Extensions of Time

The Chief District Judge of the Court, or other presiding judicial officer, may extend any of the deadlines set forth in this Chapter for good cause. The time periods for counseling and mediation may also be extended as provided in §§ 8 and 9 of this Chapter.

F. Dismissal of Claim

On his or her own initiative or at the request of any party, the Chief District Judge of the Court or presiding judicial officer may at any time in the proceedings, dismiss a claim on the grounds that it does not invoke violations of the rights or protections granted under this Plan, is untimely, is unduly repetitive of a previous claim, adverse action, or grievance, is frivolous, or fails to state a claim upon which relief may be granted.

G. Records

At the conclusion of formal and informal proceedings under this Plan, all papers, files, and reports will be filed with the Court's EDR Coordinator. No papers, files or reports relating to a dispute will be filed in any employee's personnel folder, except as necessary to implement an official personnel action.

#### H. Election of Remedies

If an employee files an appeal of an adverse action or grievance in addition to a claim under this Plan concerning the same or substantially the same subject matter, the employee must elect either (a) the Plan or (b) the grievance/adverse action appeal procedures under which the claim is to be processed. An employee may not utilize both (a) and (b). Similarly, if a claim has already been processed under one of these procedures, it may not be the subject of a claim under the other.

### **§ 6 Designation of Duties of Employment Dispute Resolution Coordinator**

The Court designates the Chief Probation Officer to serve as the Employment Dispute Resolution Coordinator (EDR Coordinator) under this Plan for matters arising in the Office of the Clerk of the District Court and the Office of the Clerk of the Bankruptcy Court; and the Clerk of the Bankruptcy Court to serve as the Employment Dispute Resolution Coordinator (EDR Coordinator) under this Plan for matters arising in the Probation and Pretrial Services Office. The duties of the EDR Coordinators shall include the following:

- A. To provide information to the Court and employees regarding the rights and protections afforded under this Plan;
- B. To coordinate and organize the procedures and establish and maintain official files of the Court pertaining to claims and other matters initiated and processed under this Plan;
- C. To coordinate the counseling of individuals in the initial stages of the claims process, in accordance with Section 8 of this Chapter; and,
- D. To collect, analyze, and consolidate statistical data and other information pertaining to the Court's employment dispute resolution process.

### **§ 7 General Disqualification Provision**

A party may seek disqualification of a judicial officer, employee or other person involved in a dispute by written request to the Chief District Judge. Such written request shall contain facts regarding why the individual should be disqualified. If the Chief District Judge is named as being involved in a dispute, the Chief District Judge will ask the next most senior judge of the District Court in regular active service who is available and qualified to serve to decide the disqualification request.

## § 8 Counseling

### A. Initiating a Proceeding; Formal Request for Counseling

An employee who believes that his or her rights under Chapters II through VIII of this Plan have been violated must first request counseling.

### B. Form, Manner, and Timing of Requests

Requests for counseling:

1. are to be submitted to the Court's EDR Coordinator;
2. must be made in writing and contain all the violations asserted by the claimant (*copy of approved form is contained in Appendix*); and
3. must be made within 30 days of the alleged violation or within 30 days of the time the employee becomes aware of the alleged violation.

### C. Procedures

#### 1. Who May Serve as Counselor

The counseling shall be conducted by the Court's EDR Coordinator, unless the EDR Coordinator is disqualified from serving as counselor under § 7 of this Chapter, or is otherwise unavailable. If the EDR Coordinator is unavailable, the Chief District Judge shall designate another qualified individual to perform the counseling function. The EDR Coordinator shall promptly provide a copy of the request for counseling to the unit executive and the Chief District Judge of the Court.

#### 2. Purposes of Counseling

The purposes of the counseling shall be to discuss the employee's concerns and elicit information regarding the matter which the employee believes constitutes a violation; to advise the employee of his or her rights and responsibilities and the procedures of the Court applicable to the employment dispute resolution process; to evaluate the matter; and to assist the employee in achieving an early resolution of the matter, if possible.

### 3. Confidentiality

Unless waived by the employee, the Court or employing office shall protect the confidentiality of allegations filed under this Plan to the extent possible. However, information about allegations filed under this Plan shall be shared on a need-to-know basis. Records relating to violations under this Plan shall be kept confidential.

### 4. Form of Settlement

The EDR Coordinator shall reduce to writing any settlement achieved during the counseling process and secure the signatures of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing offices behalf.

#### D. Duration of Counseling Period

The counseling period shall be 30 days (or a shorter period if counseling is concluded at an earlier date), beginning on the date the request for counseling is received by the EDR Coordinator. The counseling period may be extended by the mutual agreement of the counselor and the employee for an additional 30 day period.

#### E. Conclusion of the Counseling Period and Notice

The EDR Coordinator shall notify the employee in writing of the end of the counseling period. As part of the notice, the EDR Coordinator shall inform the employee of the right and obligation, should the employee choose to pursue his or her claim, to file with the EDR Coordinator a request for mediation in accordance with § 9 of this Chapter.

## § 9 Mediation

#### A. Initiation

Within 15 days after receipt by the employee of the notice of the conclusion of the counseling period, the employee may file a request for mediation with the EDR Coordinator. The request must be made in writing and must state the claim(s) presented (*copy of approved form is contained in Appendix*). The EDR Coordinator shall promptly provide a copy of the request for mediation to the unit

executive and the Chief District Judge of the Court. Failure to pursue mediation will preclude further processing of the employee's claim under any other provisions of this Chapter.

B. Procedures

1. Designation of Mediator

As soon as possible after receiving the request for mediation, the Chief District Judge or EDR Coordinator shall designate a mediator and provide written notice of such designation.

2. Who May Serve as Mediator

Any person with the skills to assist in resolving disputes, except the Courts EDR Coordinator, may serve as a mediator under this Plan.

3. Purpose of Mediation

The mediator shall consult separately and/or jointly with the employee and his or her representative, if any, and the employing office to discuss alternatives for resolving a dispute, including any and all possibilities of reaching a voluntary, mutually satisfactory resolution.

4. Confidentiality

Any person or party involved in the mediation process shall not disclose, in whole or in part, any information or records obtained through, or prepared specifically for, the mediation process, except as necessary to consult with the parties or their representatives, and then only with notice to all parties.

5. Form of Settlement

The mediator shall reduce to writing any settlement achieved during the mediation process and secure the signature of the employee, his or her representative, if any, and the member of the employing office who is authorized to enter into settlement on the employing office's behalf.

C. Duration of Mediation Period

The mediation period shall be 30 days (or a shorter period if mediation is concluded at an earlier date), beginning on the date the request for mediation is received. The employee is required to attend at least one mediation session. Thereafter, he or she may proceed to file a request for hearing. The mediation period may be extended by the mutual agreement of the mediator and the employee for an additional 30-day period.

D. Conclusion of Mediation Period and Notice

If, at the end of the mediation period, the parties have not resolved the matter that forms the basis of the request for mediation, the EDR Coordinator shall provide the employee, the employee's representative, if any, and the employing office with written notice that the mediation period has concluded. The notice shall also inform the employee of his or her right to file a complaint under § 10 of this Chapter.

**§ 10 Complaint and Hearing**

A. Complaint

Not later than 15 days after receiving written notice of the end of the mediation period, an employee may file a complaint with the EDR Coordinator, who will transmit the complaint to the Chief District Judge and to the respondent. The complaint must be in the form approved by the Court (*copy of approved form is contained in Appendix*). Claims that were not presented in §9(A) may not be pursued. The respondent shall be the employing office which would be responsible for redressing, correcting or abating the violation(s) alleged in the complaint. No individual shall be named as a respondent in the complaint.

B. Hearing Procedures

1. Presiding Judicial Officer

If the Chief District Judge or designee (“judicial officer”) does not dismiss the complaint under the preceding subsection, the presiding judicial officer shall hold a hearing on the merits of the complaint unless he or she determines that no material factual dispute exists.



## 2. Specific Provisions

The presiding judicial officer may provide for such discovery and investigation as is necessary. In general, the presiding judicial officer shall determine the time, place, and manner of conducting the hearing. However, the following specific provisions shall apply to hearings conducted under this Section:

- a. the hearing shall be commenced no later than 60 days after the filing of the complaint;
- b. the complainant and the head of the office against which the complaint has been filed must receive written notice of the hearing; such notice shall also be provided to the individual alleged to have violated rights protected by this Plan;
- c. at the hearing, the complainant will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses; the employing office will have the right to representation, to present evidence on its behalf and to cross-examine adverse witnesses; the individual who is the subject of the complaint will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses;
- d. a verbatim record of the hearing must be kept and shall be the sole official record of the proceeding;
- e. in reaching a decision, the presiding judicial officer shall be guided by judicial and administrative decisions under the laws related to Chapters II through VIII of this Plan and by decisions of the Judicial Council of the Circuit under Section 12 of this Chapter;
- f. remedies may be provided in accordance with Section 11 of this Chapter where the presiding judicial officer finds that the complainant has established by a preponderance of the evidence that a substantive right protected by this Plan has been violated;
- g. the final decision of the presiding judicial officer must be issued in writing not later than 60 days after the conclusion of the hearing; and

h. all parties, or any aggrieved individual, shall have the right to written notice of any action taken as a result of a hearing.

## **§ 11 Remedies**

A. Where judicial officers acting pursuant to § 10 of this Chapter find that a substantive right protected by this Plan has been violated, they may order a necessary and appropriate remedy. A remedy may be directed at correcting a past violation, prospectively ensuring compliance with the rights protected by this Plan, or both. A remedy shall be tailored as closely as possible to the specific violation involved.

B. Remedies which may be provided to successful complainants under this Plan include, but are not limited to:

1. placement of an employee in a position previously denied;
2. placement in a comparable alternative position;
3. reinstatement to a position from which previously removed;
4. prospective promotion to a position;
5. priority consideration for a future promotion or position;
6. back pay and associated benefits, including attorneys fees, where the statutory criteria of the Back Pay Act, 5 U.S.C. § 5596, are satisfied;
7. records modification and/or expungement;
8. "equitable" relief, such as temporary stays of adverse actions;
9. granting of family and medical leave; and
10. accommodation of disabilities through the purchase of specialized equipment or the restructuring of duties and work hours, or other appropriate means.

C. Remedies which are not legally available include:

1. payment of attorneys fees (except as authorized under the Back Pay Act);

2. compensatory damages; and
3. punitive damages.

## **§ 12 Review of Decision**

A party or individual aggrieved by a final decision of the Chief District Judge or presiding judicial officer, or by a summary dismissal of the complaint, may petition for review of that decision under procedures established by the Judicial Council of the Fourth Circuit. A petition for review must be received by this Court's EDR Coordinator within 30 days of the date of the letter to the parties transmitting the order. Any review will be conducted by a judicial officer(s), based on the record created by the hearing officer, and shall be affirmed if supported by substantial evidence. The Fourth Circuit's Procedures for Considering Petitions for Review are located in the Circuit Judicial Council Handbook, which is available on the internal website for the Fourth Circuit Court of Appeals.

## **§ 13 Record of Final Decisions**

Final decisions of the presiding judicial officer shall not name the complainant or individual respondents. In addition, the presiding judicial officer has the discretion to remove sensitive information contained in the final decision that may inadvertently identify the parties. Once final action on a complaint has been taken and is no longer subject to review, the final decision of the presiding judicial officer shall be available to the public free of charge by written request to the EDR Coordinator.

# **CHAPTER XI. REPORTS**

## **§ 1 Court Unit Reports**

Each Court unit will prepare a brief report for the EDR Coordinator describing its efforts to provide equal employment opportunities under Chapter II of this Plan. This report will also provide the information required by the Administrative Office for personnel actions occurring in the previous year and will be submitted to the EDR Coordinator in time to meet the due date prescribed by the Administrative Office.

## **§ 2 Objectives**

Each Court unit will develop annually its own objectives which reflect those improvements needed in recruitment, hiring, promotions, and advancement.

## **§ 3 Annual Report**

The Chief Probation Officer will prepare for the Court's approval an annual report for the year ending September 30, consolidating the data and statements received from each Court unit. The report will include tables to be provided by the Administrative Office of the United States Courts consolidating the information provided by each Court unit. It will also describe instances where significant achievements were made in providing equal employment opportunities, will identify areas where improvements are needed, and will explain factors inhibiting achievement of equal employment opportunity objectives. Upon approval by the Chief District Judge, this report will be submitted by the EDR Coordinator to the Administrative Office of the United States Courts by the due date.

In addition, the annual report submitted by the EDR Coordinator will indicate:

- A. The number and type of alleged violations for which counseling was conducted;
- B. The number and type of alleged violations for which mediation was conducted;
- C. The number and type of complaints filed;
- D. The number and type of complaints resolved without a hearing;
- E. The number and type of complaints resolved with a hearing; and
- F. The number and type of complaints for which Judicial Council review was sought.

The type of violation or complaint shall be reported according to the Chapter(s) of the Plan involved and, with respect to allegations under Chapter II, according to the type(s) of discrimination alleged. The report will not identify the names of the parties involved.

## **CHAPTER XII. DISTRIBUTION AND PUBLIC NOTICE**

Copies of this Plan shall be given to all employees and, upon request, to members of the public.

**REQUEST FOR COUNSELING  
UNDER THE CONSOLIDATED  
EQUAL EMPLOYMENT OPPORTUNITY  
*and*  
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE  
UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Plan"). Please complete this form legibly. If there is insufficient space you may attach additional pages.

1. Name of Person Requesting Counseling: \_\_\_\_\_
2. Address: \_\_\_\_\_  
\_\_\_\_\_
3. Home Phone: \_\_\_\_\_ Work: \_\_\_\_\_
4. If you are a Court employee, state the following:  
Court Unit in which employed: \_\_\_\_\_  
Job Title: \_\_\_\_\_
5. Name and address of the Employing Office from which you seek resolution of your dispute: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Date(s) of incident or decision giving rise to dispute: \_\_\_\_\_
7. Please summarize the actions or occurrences giving rise to this dispute: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



---

---

---

---

---

8. What corrective action do you seek in this matter?

---

---

---

---

---

9. Are you willing to waive confidentiality in order to permit the counselor to contact the employing office or to attempt a resolution of the disputed matter?

☐ Yes ☐ No

This request for counseling is submitted by:

---

Signature

---

Date

---

Counselor's Signature

---

Date of Receipt

**REQUEST FOR MEDIATION  
UNDER THE CONSOLIDATED  
EQUAL EMPLOYMENT OPPORTUNITY  
*and*  
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE  
UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Plan"). Please complete this form legibly. If there is insufficient space you may attach additional pages.

1. Name of Person Requesting Mediation: \_\_\_\_\_
2. Address: \_\_\_\_\_  
\_\_\_\_\_
3. Home Phone: \_\_\_\_\_ Work: \_\_\_\_\_
4. If you are a Court employee, state the following:  
Court Unit in which employed: \_\_\_\_\_  
Job Title: \_\_\_\_\_
5. Name and address of the Employing Office from which you seek resolution of your dispute: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Date(s) of incident or decision giving rise to dispute: \_\_\_\_\_
7. Please summarize the actions or occurrences giving rise to this dispute:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. List below all claims you wish to raise in mediation. Any claims not advanced in mediation may not be pursued in a complaint filed under this Plan.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. What corrective action do you seek in this matter? \_\_\_\_\_

\_\_\_\_\_

10. Date counseling was initiated: \_\_\_\_\_

11. Date of receipt of notice of conclusion of counseling: \_\_\_\_\_

12. Name of person providing counseling: \_\_\_\_\_

This request for mediation is submitted by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Recipient's Signature

\_\_\_\_\_  
Date of Receipt

**COMPLAINT OF DISCRIMINATION  
UNDER THE CONSOLIDATED  
EQUAL EMPLOYMENT OPPORTUNITY  
*and*  
EMPLOYMENT DISPUTE RESOLUTION PLAN OF THE  
UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Prior to completing this form, please refer to the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan ("Plan"). Please complete this form legibly.

1. Full Name of Person Filing Complaint: \_\_\_\_\_
2. Address: \_\_\_\_\_  
\_\_\_\_\_
3. Home Phone: \_\_\_\_\_ Work: \_\_\_\_\_
4. If you are a Court employee, state the following:  
Court Unit in which employed: \_\_\_\_\_  
Job Title: \_\_\_\_\_
5. Name and address of the Employing Office against whom this complaint is filed (under the terms of the Consolidated Equal Employment Opportunity and Employment Dispute Resolution Plan of the United States District Court for the Middle District of North Carolina, all complaints must be against the Employing Office, *not an individual*):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. Identify the Chapter(s) of the Plan under which your complaint is being filed.

☐ Chapter II-Equal Employment Opportunity and Anti-Discrimination Rights

☐ Race

☐ Color

☐ Religion

☐ Sex (includes Sexual Harassment)

☐ National Origin

☐ Age (at least 40 years old at the time of the alleged discrimination)

☐ Disability

☐ Chapter III-Family and Medical Leave Rights

☐ Chapter IV - Worker Adjustment and Retraining Notification Rights

☐ Chapter V-Employment and Reemployment Rights of Members of the  
Uniformed Services

☐ Chapter VI-Occupational Safety and Health Protections

☐ Chapter VII-Polygraph Tests

☐ Chapter VIII-Whistleblower Protection

7. Date(s) of alleged violation \_\_\_\_\_

8. Date on which counseling was requested \_\_\_\_\_

Date on which counseling was completed \_\_\_\_\_

Date on which mediation was requested \_\_\_\_\_

Date on which mediation was completed \_\_\_\_\_

9. Name of person who served as Counselor on this matter \_\_\_\_\_

10. Name of person who served as Mediator on this matter \_\_\_\_\_

11. Please summarize the actions or occurrences giving rise to your complaint. Explain in what way you believe your rights under the Plan were violated. Identify all persons who participated in this matter or who can provide relevant information concerning your complaint. (If there is insufficient space below, you may attach additional pages.)

---

---

---

---

---

---

---

---

---

[Please attach a copy of any documents that relate to your complaint, such as an application form, resume, letters of discipline or termination, etc.]

12. What corrective action do you seek from your complaint?

---

---

---

---

13. Do you have an attorney or any other person who represents you in this matter?

☐ Yes ☐ No

If yes, please provide the following information concerning that person:

Name \_\_\_\_\_

Address \_\_\_\_\_

Work Phone \_\_\_\_\_ Email Address \_\_\_\_\_

I affirm that the information provided in this complaint is true and correct to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



DISCRETIONARY CARRYING OF )  
FIREARMS BY UNITED STATES )  
PROBATION OFFICERS )

STANDING ORDER NO. 4

This standing order supersedes Standing Order Number 17, signed and filed on December 21, 2004.

The carrying of firearms by the United States Probation Officers is authorized by 18 U.S.C. §§ 3603(9), subject to approval by the District Court and under such rules and regulations as the Director of the Administrative Office of the United States Courts may prescribe. It is recognized that probation officers are at risk of physical harm in the performance of their official duties. In the Middle District of North Carolina, probation officers have been the recipients of attempted assaults and threats, both real and implied.

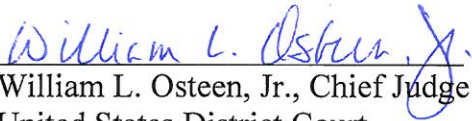
It is now, therefore, ordered that probation officers in the Middle District of North Carolina receive authorization to carry firearms in connection with their official duties pursuant to 18 U.S.C. §§ 3603(9), regulations promulgated by the Director of the Administrative Office of the United States Courts, and additional policies of this district as noted in this order.

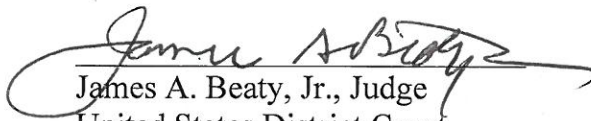
Standards for the Authorization and Procedures for Obtaining Authority to Carry a Firearm

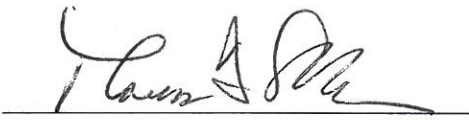
1. The probation officer has completed the national and/or district firearms training programs for probation officers and has qualified thereunder to carry a firearm.
2. The probation officer has presented to the Chief U.S. Probation Officer sufficient reasons in writing why the carrying of the firearm is reasonably necessary (a) in the performance of his/her general duties, or (b) in the performance of a specified assignment.
3. Permission to carry a firearm has been granted in writing by the Chief U. S. Probation Officer and the Chief U.S. District Judge.


4. Re-qualification will be scheduled in compliance with the policy established by the Administrative Office of the United States Courts, Firearms Procedures Manual and/or more frequently subject to the availability of funds as directed by the Chief U.S. Probation Officer. Probation officers unable to re-qualify may be prohibited from carrying a duty issued firearm by the Chief U.S. Probation Officer until they have re-qualified, and shall be prohibited from carrying a firearm if they have not re-qualified within 12 months of their qualification or re-qualification.
5. Except as provided for in the Firearms Regulations of the Director of the Administrative Office of the United States Courts, Section II(B)(2), permission to carry a firearm may be withdrawn from any probation officer at any time by the Chief U. S. Probation Officer at his/her discretion.

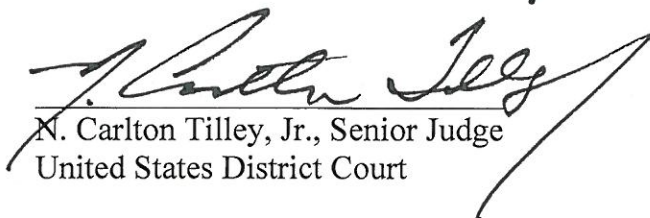
This the 8<sup>th</sup> day of April, 2013

  
William L. Osteen, Jr., Chief Judge  
United States District Court

  
James A. Beaty, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



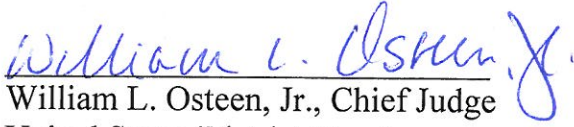
CARRYING OF FIREARMS IN DURHAM )  
COURTHOUSE BY CREDENTIALLED ) STANDING ORDER NO. 5  
LAW ENFORCEMENT OFFICERS OR )  
AGENTS OF THE UNITED STATES )  
No. 5

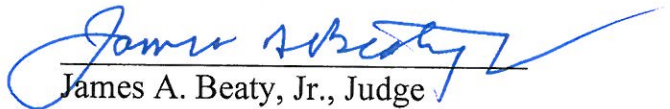
Pursuant to Local Rule 83.8, firearms or weapons are prohibited in courtrooms except for 1) employees of the United States Marshal's Service, or 2) credentialed law enforcement officers or agents of the United States, who have been given express approval by the United States Marshal or the Marshal's designee on a case by case basis. The Court finds that the U.S. Marshal's Office does not have adequate holding facilities in the Durham, North Carolina Courthouse (Durham Courthouse), and is in need of assistance from credentialed law enforcement officers or agents of the United States to secure and transport those charged with a criminal offense, who are making an initial appearance before a U.S. Magistrate Judge in the Durham Courthouse. The Court also finds that the U.S. Marshal approves of credentialed law enforcement officers or agents of the United States carrying firearms in the Durham Courthouse for the purpose of securing and transporting those making an initial appearance.

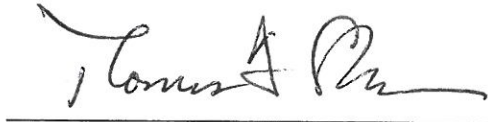
IT IS THEREFORE ORDERED that credentialed law enforcement officers or agents of the United States are given an exception to Local Rule 83.8 and shall be allowed to carry firearms in the Durham Courthouse for the limited purpose of securing and transporting those who are making an initial appearance before a

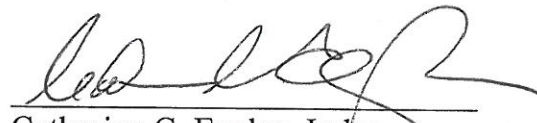
U.S. Magistrate Judge. This exception shall not apply to any other courthouse and does not extend to any other matters beyond initial appearances in the Durham Courthouse.

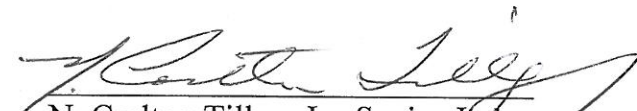
This the 29<sup>th</sup> day of May, 2013

  
William L. Osteen, Jr., Chief Judge  
United States District Court

  
James A. Beaty, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



PILOT PROGRAM FOR PRO BONO )  
REPRESENTATION IN PRO SE ) STANDING ORDER NO. 6  
CIVIL CASES )

The judges of this court periodically receive motions from pro se litigants requesting appointment of counsel in civil cases in which the pro se litigant has been permitted to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a). Under 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent any person unable to afford counsel.” However, in cases brought under the provisions of § 1915, “a plaintiff does not have an absolute right to appointment of counsel.” Miller v. Simmons, 814 F.2d 962, 966 (4th Cir. 1987). Instead, the provision of counsel by the court remains “a matter within the discretion of the District Court. It is a privilege and not a right.” Bowman v. White, 388 F.2d 756, 761 (4th Cir. 1968).

In delineating the scope of the district court’s discretion to appoint counsel, the Fourth Circuit has held that the requesting litigant “must show that his case is one with exceptional circumstances.” Miller, 814 F.2d at 966 (citing Cook v. Bounds, 518 F.2d 779, 780 (4th Cir. 1975)). “The question of whether such circumstances exist in any particular case hinges on characteristics of the claim and the litigant.” Whisenant v. Yuam, 739 F.2d 160, 163 (4th Cir. 1984), abrogated in part on other grounds, Mallard v. United States Dist. Ct. for S.D. of Iowa, 490 U.S. 296, 109 S. Ct. 1814, 104 L. Ed. 2d 318 (1989). “If it is apparent to the district court that a *pro se* litigant has a colorable claim but lacks the capacity to present it, the district court

should appoint counsel to assist him.” Gordon v. Leeke, 574 F.2d 1147, 1153 (4th Cir. 1978).

In Mallard, the United States Supreme Court ruled that a court could not make “compulsory assignments of attorneys in civil cases” pursuant to the provision in 28 U.S.C. § 1915 (then codified at subsection (d), now set out in subsection/paragraph (e)(1)) stating that a “court may request an attorney to represent’ an indigent litigant.” Mallard, 490 U.S. at 300-01 (holding that the statute’s use of the word “request” means that courts may ask, but may not command, attorneys to represent civil litigants). Mallard did not address the possibility of pro bono appointment of counsel pursuant to an inherent authority of a court and that issue has not been resolved. However, this court finds it appropriate to explore other options for appointing counsel for pro se litigants who have been permitted to proceed pursuant to the provisions of 28 U.S.C. § 1915 and may be entitled to appointment of counsel pursuant to 28 U.S.C. § 1915(e), as well as for pro se defendants who have demonstrated a financial inability to secure counsel in a civil case.

The judges of this court will therefore institute a pilot program to provide for pro bono representation of pro se parties in civil cases through the use of attorneys willing to volunteer their services. These voluntary services may be utilized where exceptional circumstances are believed to exist, generally where summary judgment has been denied and the case is set for trial.

In light of the foregoing, **IT IS HEREBY ORDERED:**

The Clerk shall compile and maintain a list of attorneys who have expressed a willingness to be considered for appointment on a pro bono basis in pro se cases.

Attorneys interested in participating in the program shall complete the attached Pro Bono Representation Request Form and submit the form to the Clerk. The Clerk shall ensure that the interested attorney has been counsel of record in more than one civil action in a federal court or, alternatively, has the close assistance and supervision of an attorney who has previously served as counsel of record in a civil action in a federal court. If either condition is met, the Clerk will then place the attorney on a pro bono representation list.

If a judge of this court believes the appointment of counsel should be considered in a pro se case, attorneys on the pro bono representation list may be considered for appointment. For each such case, the presiding judge will have absolute discretion in making a determination of whether exceptional circumstances exist and whether appointment of a pro bono attorney is appropriate.

Upon receiving the first request from a judge of this court for appointment from the list, the Clerk shall randomly order all names on the list, select the first name and send a Notice of Appointment of Counsel via email regarding a particular civil case. The attorney may decline the appointment for any reason. If the attorney declines to accept the appointment, the attorney will remain on the panel list for a future appointment in another civil case. Subsequent appointments shall be made sequentially from the list.

Responses to the Notice of Appointment of Counsel shall be made within two business days. The Clerk may grant up to one written request (email is acceptable) for extension of time to decide whether to accept or decline an appointment, totaling

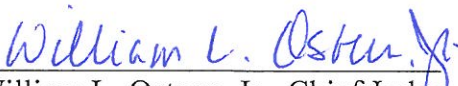



not more than 10 days. The Clerk shall not disclose the names on the list nor the details of any notice of appointment to the pro se litigant.


In the event of appointment of an attorney to a civil case under the circumstances described herein, the order of appointment shall advise the pro se litigant of the name, address, and telephone number of appointed counsel and, further, that the pro se litigant has no right to advancement of costs and expenses by counsel. The order shall specifically advise the pro se party the appointment is solely for the purpose of providing legal advice, counsel, and representation on behalf of the pro se party.

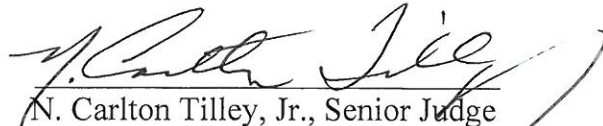
The procedures described herein shall remain in effect as a pilot program for a period of one year from the date of this order unless otherwise ordered by this court.

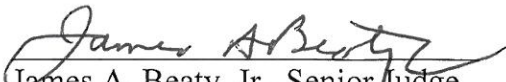
This the 8th day of October, 2014.

  
William L. Osteen, Jr., Chief Judge  
United States District Court

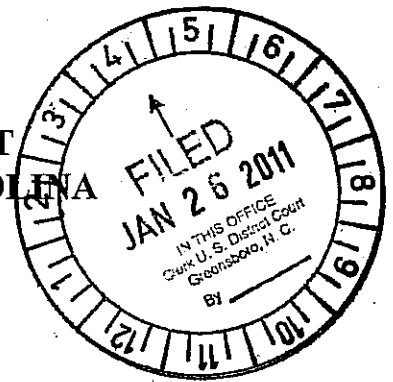
  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

  
James A. Beaty, Jr., Senior Judge  
United States District Court

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**



Standing Order 2	)	
Standing Order 3	)	
Standing Order 4	)	
Standing Order 15	)	Standing Orders No Longer
Standing Order 18	)	Considered Necessary
Standing Order 19	)	
Standing Order 25	)	
Standing Order 37	)	

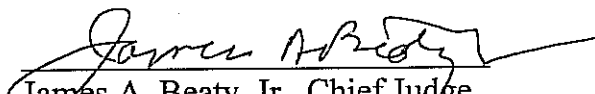
IT APPEARING THAT the following standing orders are no longer necessary due to the current policy, procedures and practices in the Middle District of North Carolina:

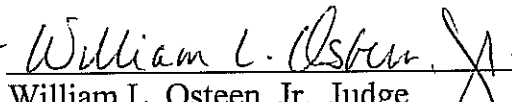
Standing Order 2	Use of Law Students as Part-Time Law Clerks
Standing Order 3	Implementing Plan for Furnishing Representation and Services Pursuant to the Criminal Justice Act of 1964
Standing Order 4	Disposition of Property in the Custody of Law Enforcement Officers in Criminal Cases
Standing Order 15	Conditions of Supervised Release
Standing Order 18	Discretionary Carrying of Firearms by Probation Officers
Standing Order 19	Conditions of Probation and Supervised Release
Standing Order 25	Minimum Requirements for Reporting Violations Probation and Supervised Release
Standing Order 37	Location Monitoring Program Conditions

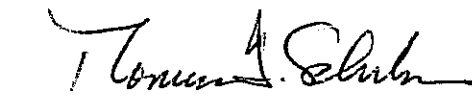
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing


orders are hereby revoked, effective immediately.

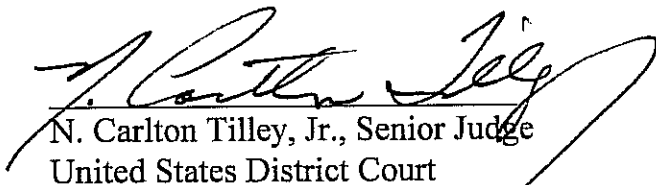
This the 26<sup>th</sup> day of January, 2011.

  
James A. Beaty, Jr., Chief Judge  
United States District Court

  
William L. Osteen, Jr., Judge  
United States District Court

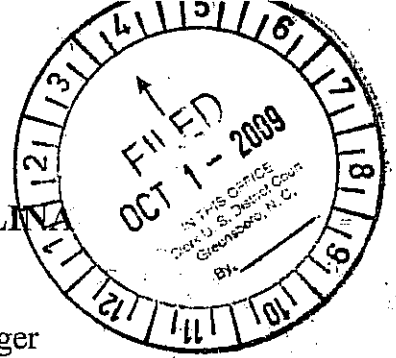
  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Standing Order 7	)	
Standing Order 12	)	Standing Orders No Longer
Standing Order 28	)	Considered Necessary
Standing Order 29	)	

IT APPEARING THAT the following standing orders are no longer necessary due to the current policy, procedures and practices in the Middle District of North Carolina:

Standing Order 7 Appointment of a Person to Serve Civil Process


Standing Order 12 In the Matter of Designating the Bankruptcy Clerk as Accountable Officer for Handling Bankruptcy Registry Funds, Costs and Other Matters

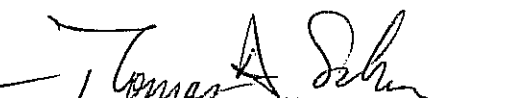
Standing Order 28 Entry of Judgments and Injunctions when Integrated Case Management System (ICMS) is Down

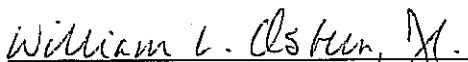
Standing Order 29 Designation of Non-Smoking Area in Courthouse

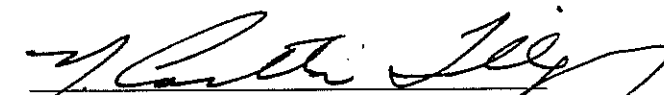
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing orders are hereby revoked, effective immediately.

This the 1<sup>st</sup> day of October, 2009.

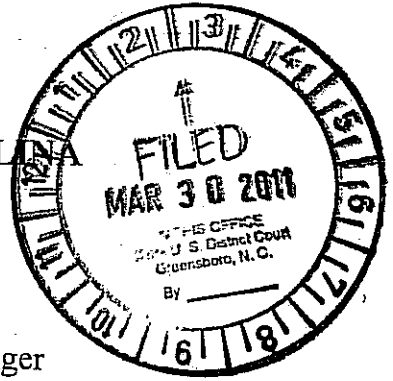
  
James A. Beaty, Jr., Chief Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
William L. Osteen, Jr., Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**



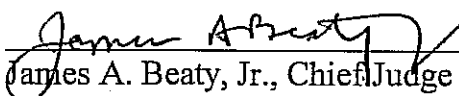
Standing Order 10	)	
Standing Order 11	)	
Standing Order 13	)	Standing Orders No Longer
Standing Order 20	)	Considered Necessary
Standing Order 21	)	
Standing Order 22	)	
Standing Order 34	)	

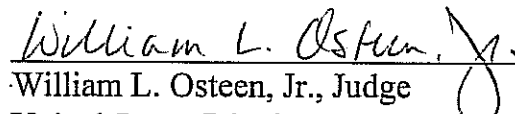
IT APPEARING THAT the following standing orders are included in the local rules of this Court effective April 1, 2011 and will no longer be considered necessary:

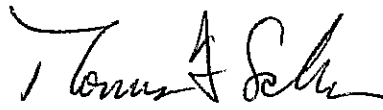
Standing Order 10	In the Matter of the Administration of the United States Bankruptcy Court for the Middle District of North Carolina	Moved to Local Civil Rule 83.11
Standing Order 11	Disclosure of Grand Jury Testimony in Criminal Cases	Moved to Local Criminal Rule 6.1
Standing Order 13	In the Matter of Establishing a Procedure for Objecting to a Bankruptcy Judge's Findings & Recommendations	Moved to Local Civil Rule 83.12
Standing Order 20	Implementation of Sentencing Procedures Under the Sentencing Reform Act of 1984	Moved to Local Criminal Rule 32.2
Standing Order 21	Confidentiality of Presentence Investigation Reports	Moved to Local Criminal Rule 32.3
Standing Order 22	Court Security	Moved to Local Civil Rule 83.8(b)

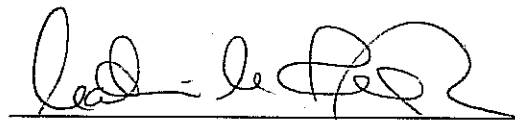
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing orders are hereby revoked, effective April 1, 2011.

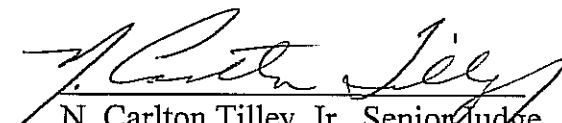
This the 30<sup>th</sup> day of March, 2011.

  
James A. Beaty, Jr., Chief Judge  
United States District Court

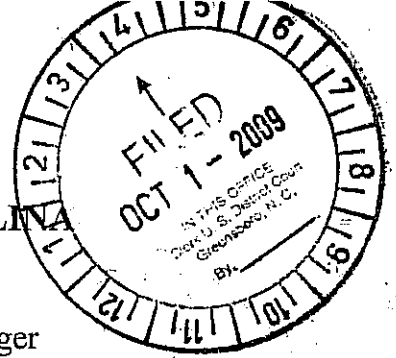
  
William L. Osteen, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Standing Order 7	)	
Standing Order 12	)	Standing Orders No Longer
Standing Order 28	)	Considered Necessary
Standing Order 29	)	

IT APPEARING THAT the following standing orders are no longer necessary due to the current policy, procedures and practices in the Middle District of North Carolina:

Standing Order 7 Appointment of a Person to Serve Civil Process


Standing Order 12 In the Matter of Designating the Bankruptcy Clerk as Accountable Officer for Handling Bankruptcy Registry Funds, Costs and Other Matters

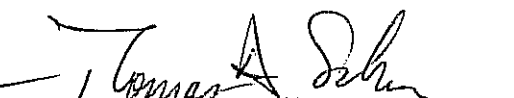
Standing Order 28 Entry of Judgments and Injunctions when Integrated Case Management System (ICMS) is Down

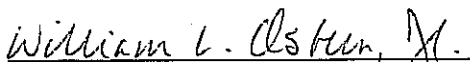
Standing Order 29 Designation of Non-Smoking Area in Courthouse

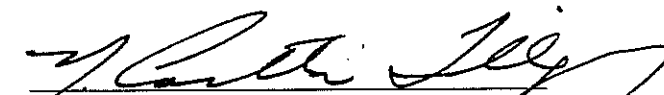
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing orders are hereby revoked, effective immediately.

This the 1<sup>st</sup> day of October, 2009.

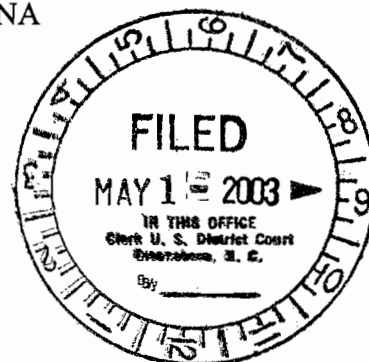
  
James A. Beaty, Jr., Chief Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
William L. Osteen, Jr., Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



STANDING ORDER NUMBER 14  
IN THE MATTER OF TRANSCRIPT RATES

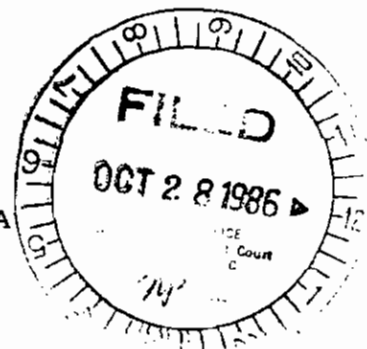
As of April 2, 1992, Standing Order 14 is superceded by Standing Order 27.

Dated this day of 1st May 2003.

  
J.P. Creekmore  
Clerk of Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

STANDING ORDER NUMBER 14  
IN THE MATTER OF TRANSCRIPT RATES



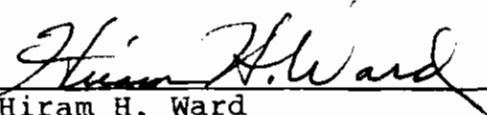
Pursuant to a resolution adopted by the Judicial Conference of the United States at its September 1986 meeting, the following maximum allowable transcript rates are approved and effective in this District as of 28<sup>th</sup> October, 1986, and until such time as the fee structure is further reviewed by the Judicial Conference of the United States:

	<u>Original</u>	<u>First Copy to Each Party</u>	<u>Each Additional Copy to the Same Party</u>
Ordinary Transcript	\$3.00	\$ .75	\$ .50
Expedited Transcript	4.00	.75	.50
Daily Transcript	5.00	1.00	.75
Hourly Transcript	6.00	1.00	.75

Said maximum allowable transcript rates will not apply to any transcripts paid for by funds from the Federal Treasury, such as and including any transcript ordered by the U. S. Attorney, or under the Criminal Justice Act, or on behalf of a person proceeding in forma pauperis as long as the Gramm/Rudman/Hollings Act is in effect.

This 28<sup>th</sup> day of October, 1986.

For the Court:

  
Hiram H. Ward  
Chief Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



EQUAL EMPLOYMENT )  
OPPORTUNITY PLAN )  
FOR )  
UNITED STATES DISTRICT )  
COURT FOR THE MIDDLE DISTRICT )  
OF NORTH CAROLINA )

STANDING ORDER  
NUMBER 16

I. Pursuant to resolutions of the Judicial Conference of the United States and for good cause appearing to the Court, this Court will promote equal employment opportunity through a program encompassing all facets of personnel management; including recruitment, hiring, promotion, advancement, etc.; and will provide equal employment opportunity to all persons regardless of their race, sex, color, national origin, religion, age (at least 40 years of age at the time of the alleged discrimination), or handicap. This program, which will be evaluated periodically, is not intended to modify or reduce the qualification standards for employment in the Federal courts as such standards have been approved by the Judicial Conference of the United States.

II. SCOPE OF COVERAGE.

This Equal Employment Opportunity Program applies to all court personnel including judges' staffs and court officers and their staffs.

### III. ORGANIZATION.

#### A. Implementation.

The court shall implement the Equal Employment

- Opportunity Program. On behalf of the court, the Chief Judge will submit modifications in the plan for Judicial Council approval.

#### B. Heads of Court Support units.

The heads of each court support unit must ensure that all vacancies are publicly announced to attract candidates who represent the make-up of persons available in the qualified labor market and all hiring decisions are based solely on job-related factors. They should make reasonable efforts to see that the skills, abilities, and potential of each employee are identified and developed, and that all employees are given equal opportunities for promotions by being offered, when the work of the court permits and within the limits of available resources, cross-training, reassignments, job restructuring, special assignments, and outside job-related training.

#### C. Judges, Court Managers, and Supervisors.

Judges and designated court managers and supervisors must apply equal employment opportunity practices and policies in their work units. This includes giving each employee a fair and equal opportunity to demonstrate his or her skills and, where those abilities exceed general performance standards, to be recommended for personnel actions and awards recognizing such achievements. As



resources permit, it also requires providing training programs which enable employees to develop their job skills fully.

D. Equal Employment Opportunity Coordinator.

The court will designate one person to be the Equal Employment Opportunity Coordinator. This person will be responsible for collecting, analyzing, and consolidating the statistical data and statements prepared by each court unit. The Coordinator will then prepare an annual report for the Chief Judge and the Administrative Office describing the court's achievements in providing equal employment opportunities, identifying those areas in which improvements are needed, and explaining those factors inhibiting achievement of equal employment opportunity objectives. Based upon this evaluation and report, the Coordinator will recommend modifications in the plan to the court. The Coordinator will also seek to resolve discrimination complaints informally and will provide EEO information to the public.

IV. PERSONNEL PRACTICES.

A. Recruitment.

Each court unit will seek qualified applicants who reflect the make-up of all such persons in the relevant labor market. Each unit will publicize all vacancies.

B. Hiring.

Each court unit will make its hiring decisions strictly upon an evaluation of a person's qualifications and ability to perform the duties of the position satisfactorily.

C. Promotion.

Each court unit will promote employees according to their experience, training, and demonstrated ability to perform duties of a higher level.

D. Advancement.

Each court unit will seek insofar as reasonably practicable to improve the skills and abilities of its employees through cross-training, job restructuring, assignments, details, and outside training.

E. Discrimination Complaints.

The court adopts the procedures for resolving discrimination complaints set forth in Appendix 1.

V. EVALUATIONS

Each court unit will prepare a brief report for the EEO Coordinator describing its efforts to provide equal employment opportunities in:

- a) Recruitment. Each court unit will describe briefly efforts made to bring a fair cross-section of the pool available for the position into its applicant pool,

including listing all employment sources used (e.g., state employment offices, schools, organizations, etc.).

Each unit will also explain the methods it uses to

- publicize vacancies.
- b) Hiring. Each court unit will identify where its recruitment efforts resulted in the hiring of a cross-section of the pool available and will, if known, explain those instances where members of the cross-section did not accept employment with the court when it was offered.
- c) Promotions. Each court unit will briefly describe promotional opportunities which occurred and will provide an analysis of the distribution of promotions, including a description of those persons who were promoted to supervisory positions.
- d) Advancement. Each court unit will describe what efforts were made to improve the skills and abilities of employees through cross-training, job restructuring, assignments, details, and outside training.

In addition, this evaluation should include information on factors inhibiting achievement of EEO objectives such as no vacancies, minimal numbers of qualified applicants in the relevant labor market, and on all persons in the unit who have received all relevant training. This report will also include a breakdown according to the race, sex, national origin, and handicap of the court's personnel involved on forms to be provided by the Administrative Office of the United States Courts.

The report will cover personnel actions occurring in the year ending September 30 and will be submitted to the EEO Coordinator by November 1 of each year.

VI. OBJECTIVES.

Each court unit will develop annually its own objectives which reflect those improvements needed in recruitment, hiring, promotions, and advancement, and will prepare a specific plan for the EEO Coordinator explaining how those objectives will be achieved.

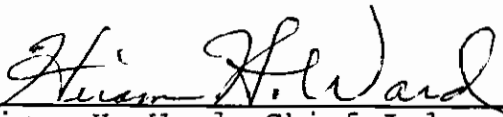
VII. ANNUAL REPORT.

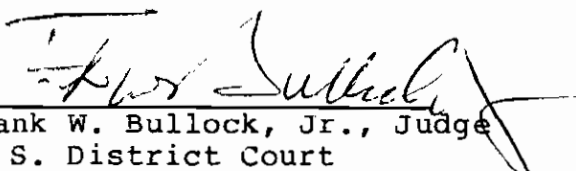
The EEO Coordinator will prepare for the court's approval an annual report for the year ending September 30, consolidating the data and statements received from each court unit. The report will include tables to be provided by the Administrative Office of the United States Courts consolidating the information provided by each court unit. It will also describe instances where significant achievements were made in providing equal employment opportunities, will identify areas where improvements are needed, and will explain factors inhibiting achievement of equal employment opportunity objectives. Upon approval of the court, this report will be submitted by the Chief Judge to the Administrative Office of the United States Courts by November 30 of each year.

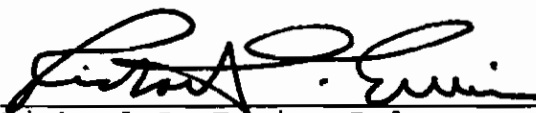
Accordingly, IT IS ORDERED that the foregoing Equal Employment Opportunity Plan and the attached Discrimination

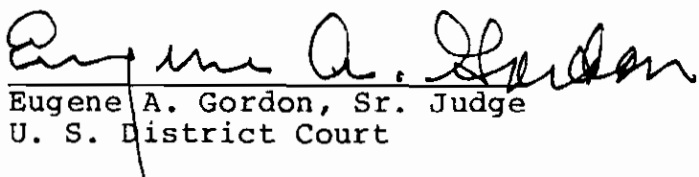
Complaint Procedures promulgated by the Judicial Conference of  
the United States are hereby ADOPTED.

This the 3rd day of March, 1987.

  
Hiram H. Ward, Chief Judge  
U. S. District Court

  
Frank W. Bullock, Jr., Judge  
U. S. District Court

  
Richard C. Erwin, Judge  
U. S. District Court

  
Eugene A. Gordon, Sr. Judge  
U. S. District Court

**JUDICIARY EQUAL EMPLOYMENT OPPORTUNITY PROGRAM**

**APPENDIX 1**

**DISCRIMINATION COMPLAINT PROCEDURES**

**Judicial Conference of the United States  
March 1980**

**(Rev. September 1986)**

## **I. SCOPE OF COVERAGE.**

All applicants for court positions and all court personnel may seek timely redress of discrimination complaints through these procedures. These procedures, however, are not intended to be a replacement for the working relationship which must exist between supervisors and employees, nor are they intended to interfere in the administrative processes of the courts.

## **II. DEFINITION.**

A discrimination complaint is any allegation that a person has been denied employment, promotion, or advancement, or has been affected in any other condition of employment, because of his or her race, sex, color, national origin, religion, age (at least 40 years of age at the time of the alleged discrimination), or handicap. It also includes allegations of restraint, interference, coercion, discrimination, or reprisal because a person has raised an allegation of discrimination or has served as a representative, a witness, or an EEO Coordinator in connection with a complaint. It does not include complaints relating other dissatisfactions in a person's conditions of employment which are commonly known as grievances.

## **III. RIGHTS OF PERSONNEL.**

### **A. Retaliation.**

Every complainant has the right to be free from retaliation, coercion, or interference because of filing a timely complaint.

### **B. Representation.**

Every complainant and every person against whom a complaint has been filed has the right to be represented by a person of his or her choice if such person is available and consents to be a representative. A court employee may accept the responsibilities of representation if it will not unduly interfere with his or her court duties or constitute a conflict of interest. A representative who is a court employee shall be free from restraint, interference, coercion, discrimination, and reprisal, and shall have a reasonable amount of official time to accompany, represent, and advise the complainant or the person complained against at any stage in the complaint procedures.

### **C. Notice.**

Every person against whom a complaint has been timely filed has the right to have notice of the charges filed against him or her. All persons involved have the right to reasonable notice of any hearing conducted on a complaint.

#### **D. Preparation.**

All court employees involved in a complaint procedure may use a reasonable amount of official time to prepare their case so long as it does not unduly interfere with the performance of their court duties.

### **IV. PROCEDURES.**

#### **A. Initiation of a Complaint.**

Any applicant or any court employee, or his or her representative, may file a timely discrimination complaint with the EEO Coordinator. If the EEO Coordinator is named in the complaint or otherwise directly involved in the complaint, he or she shall promptly transmit the complaint to the Chief Judge or a designee who will appoint another person to perform the functions of the EEO Coordinator with respect to the complaint in question. The complaint must be in writing, must allege all relevant facts constituting the basis for such complaint, and must specify the relief requested. A complaint form is available upon request.

#### **B. Informal Procedures.**

Upon receipt of a complaint, the EEO Coordinator:

1. May reject a complaint that was not timely filed and shall reject those allegations in the complaint that are not within the purview of Section II of these Discrimination Complaint Procedures, or that set forth identical matters contained in a pending or previous complaint filed by the same complainant;
2. Will make any investigation into the matter which he or she deems necessary;
3. Will consult with the involved parties and seek an informal resolution of the problem;
4. Will prepare a report to the parties identifying the issues, describing his or her findings and recommendations, explaining what resolution, if any, was achieved, and defining what corrective actions, if any, will be undertaken; and
5. May cancel a complaint because of the complainant's failure to prosecute the complaint.



### **C. Formal Procedures.**

#### **1. Filing.**

If either the complainant or the person against whom the complaint has been filed objects to the rejection or cancellation of the complaint or any portion thereof, or to the findings and recommendations of the EEO Coordinator, such person may file a written request with the Chief Judge or a designee to have the matter reviewed.

#### **2. Review.**

Upon receipt of a request to review the findings and recommendations of the EEO Coordinator, the Chief Judge or a designee will:

- a. Conduct any additional investigation which he or she deems necessary;
- b. Determine whether to interview the parties or other persons;
- c. Determine whether to hold a formal hearing on the matter; and
- d. Issue a final decision on the rejection, cancellation, or merits of the complaint if it is found that no interviews or hearings are necessary.

#### **3. Hearing.**

If the Chief Judge or a designee finds that a hearing is necessary, all parties will be notified of such action. At the hearing, each party will have the right to representation, to present evidence on his or her behalf, and to cross-examine adverse witnesses. The Chief Judge or a designee will issue a final decision on the merits based upon his or her findings.

### **D. Deadlines.**

Initial complaints and the review of complaints are subject to the following deadlines:

1. All complaints must be filed within 15 calendar days of a particular act or occurrence or within 15 calendar days of becoming aware of the act or occurrence, and no late filing will be accepted unless good cause is presented to the EEO Coordinator;
2. The EEO Coordinator will prepare a report within 20 calendar days after consultation with the involved parties;

3. All requests for review of the EEO Coordinator's findings must be submitted within 5 calendar days after receipt of the report;
4. The Chief Judge or a designee will issue a final decision within 45 calendar days after receipt of the request if no hearing is held;
5. The Chief Judge or a designee will issue a final decision within 30 calendar days after the close of a hearing; and
6. The Chief Judge may extend any of the above-mentioned deadlines for good cause.

#### **V. RECORDS**

All papers, files, and reports will be filed with the EEO Coordinator at the conclusion of any informal or formal proceeding in a complaint. No papers, files, or reports relating to a complaint will be filed in any employee's personnel folder, except as necessary to implement disciplinary action against any person who engaged in discriminatory conduct.

#### **VI. ANNUAL REPORT.**

The EEO Coordinator will prepare an annual report for the year ending September 30, indicating:

1. The number of complaints initiated;
2. The types of complaints initiated according to race, sex, color, national origin, religion, age or handicap;
3. The number of complaints resolved informally;
4. The number of complaints resolved formally without a hearing; and
5. The number of complaints resolved formally with a hearing.

(The foregoing information will not identify the names of the parties involved.)

A copy of the report will remain in the court and will be made available to the public upon request.

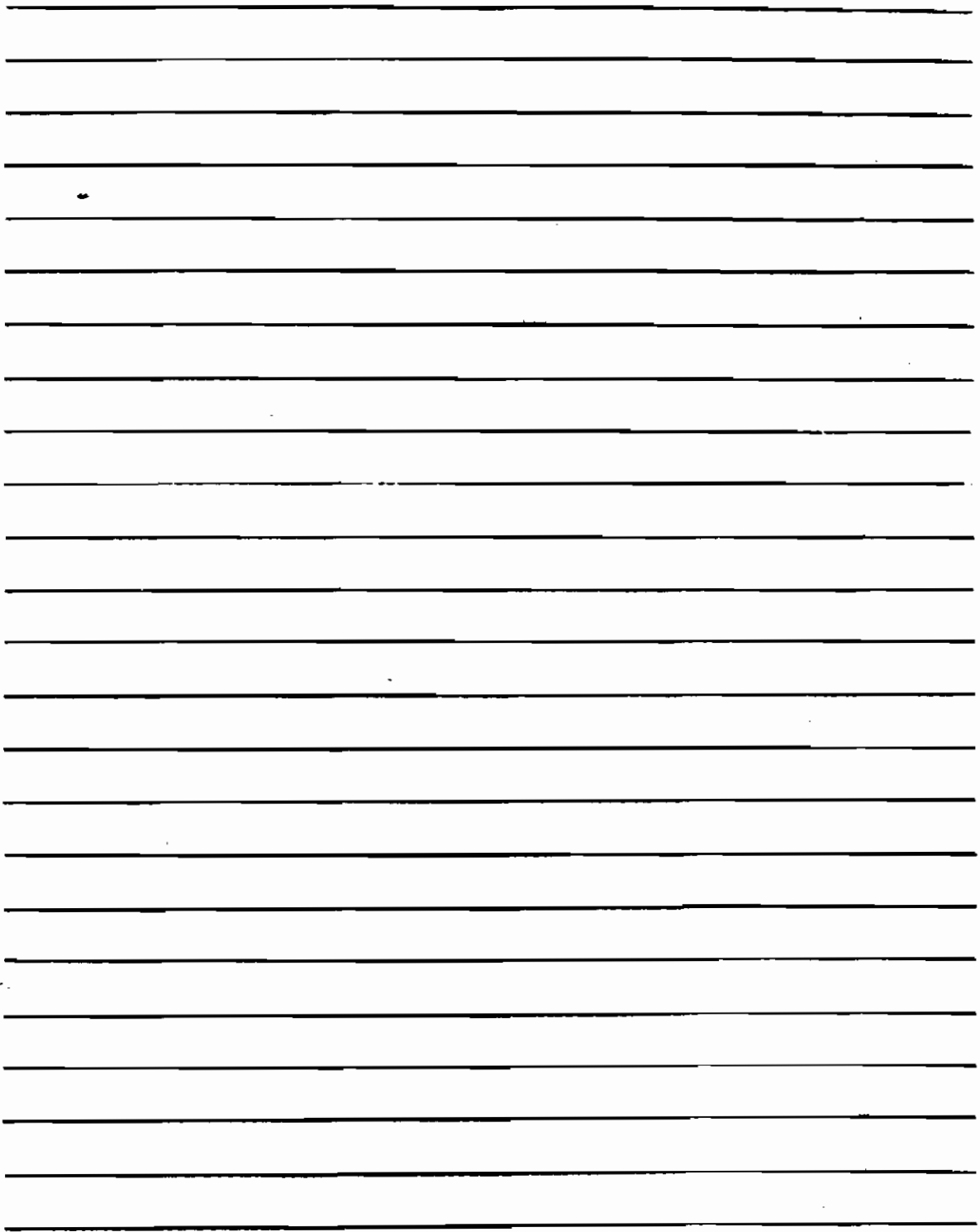
#### **VII. NOTICE.**

Copies of these procedures shall be given to all employees and, upon request, to members of the public.

COMPLAINT OF DISCRIMINATION  
UNDER THE JUDICIARY EQUAL EMPLOYMENT OPPORTUNITY PLAN

1. Full Name of Complainant: \_\_\_\_\_
2. Address: \_\_\_\_\_  
\_\_\_\_\_ Zip Code: \_\_\_\_\_
3. Home Phone: \_\_\_\_\_ Work: \_\_\_\_\_
4. If You Are Now a Court Employee, State the Title and Grade of Your Job: \_\_\_\_\_
5. Type of Alleged Discrimination: (Check and identify as many as are applicable) \_\_\_\_\_ Race \_\_\_\_\_  
\_\_\_\_\_ Sex \_\_\_\_\_ National Origin \_\_\_\_\_  
\_\_\_\_\_ Color \_\_\_\_\_ Handicap \_\_\_\_\_  
\_\_\_\_\_ Religion \_\_\_\_\_ Age \_\_\_\_\_
6. Date of alleged discrimination: \_\_\_\_\_
7. Please identify by name and position the official you believe discriminated against you.  
\_\_\_\_\_  
\_\_\_\_\_
8. Please summarize the events or occurrences giving rise to your complaint, and explain how you believe you were discriminated against (i.e., treated differently from other employees or applicants because of your RACE, SEX, COLOR, NATIONAL ORIGIN, RELIGION, AGE, OR HANDICAP). \* You should attach a copy of any documents that relate to your complaint, such as applications, resumes, notices of denial of employment or promotion, letters of reprimand, termination, etc.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\* Please use back if additional space is needed.



9. Corrective action sought by you:

---

---

---

---

---

---

---

---

---

---

10. Do you have an attorney or other person to represent you?

\_\_\_\_\_. If yes, name and address of attorney:

---

---

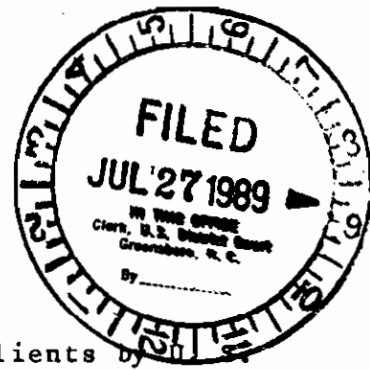
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

IN RE: U. S. PROBATION  
OFFICER'S SUPERVISION  
OF HIV CLIENTS

STANDING ORDER  
NUMBER 23



In order to provide for the effective supervision of clients by Probation Officers and specifically to provide guidance to probation officers who are supervising individuals on probation, bond supervision, parole, military parole, and supervised release, who are known to have tested positive for antibody exposure to the Human Immunodeficiency Virus (HIV) or who have developed symptomatic HIV disease, including Acquired Immune Deficiency Syndrome (AIDS), IT IS ORDERED THAT:

The Probation Officer shall, if possible, first attempt to have the supervisee give informed written consent authorizing the release of information about HIV infection to the U. S. Marshal, residential facilities, halfway houses, and jails. In the absence of such written consent, this information shall be disclosed to the U. S. Marshal when a violator's warrant is issued and to the health care provider and/or supervisor of the halfway house or jail facility when the supervisee is placed in their custody.

This the 27th day of July, 1989.

A handwritten signature in dark ink, appearing to read 'Richard C. Erwin'.

Richard C. Erwin  
Chief Judge  
United States District Court

A handwritten signature in dark ink, appearing to read 'Frank W. Bullock, Jr.'.

Frank W. Bullock, Jr.  
Judge  
United States District Court

A handwritten signature in dark ink, appearing to read 'N. Carlton Tilley, Jr.'.

N. Carlton Tilley, Jr.  
Judge  
United States District Court

A handwritten signature in dark ink, appearing to read 'Eugene A. Gordon'.

Eugene A. Gordon  
Senior Judge  
United States District Court

A handwritten signature in dark ink, appearing to read 'Hiram H. Ward'.

Hiram H. Ward  
Senior Judge  
United States District Court

All District  
Judges and  
Pretrial  
Services  
Officers

States have made it a crime to knowingly spread AIDS and Congress is considering making this a Federal crime.

To date the Committee is not aware of any jurisdiction which has imposed an affirmative duty on a probation officer to make third-party disclosures. In fact, some jurisdictions whose precedent suggests that such a duty might be imposed have actually prohibited non-consensual third-party disclosure. See, e.g., Tarasoff, 551 P.2d at 334 and Cal. Health and Safety Code § 199.21. But, see also Cal. Health and Safety Code § 199.25, which permits a physician to make a non-consensual disclosure to the spouse of a patient with HIV infection. In addition, some States which impose criminal liability for knowingly spreading HIV infection also impose civil and criminal penalties for making a non-consensual disclosure that an individual has HIV or AIDS. See Fla. Stat. § 384.24 and § 384.29, Idaho Code § 39-601 and § 39-606.

In summary, it seems impossible to devise a uniform procedure regarding third-party warnings that respects State public health laws because of the variations in State laws. For the reasons articulated in this comment, the Committee believes that on balance a policy of limited disclosure is advisable. However, as the law in this area evolves, this provision may need to be reconsidered. Moreover, the importance of assessing and following State law in this area cannot be stressed enough.

5. In all cases, the officer should first attempt to have the supervisee give informed, written consent authorizing the release of information about HIV infection to the U.S. Marshal, residential facilities, halfway houses and jails. In the absence of such written consent, this information should be disclosed to the U.S. Marshal when a violator's warrant is issued and to the health care provider and/or supervisor of the halfway house or jail facility when the supervisee is placed in their custody.

#### COMMENT

This provision is consistent with § 2.38-04(h) of the Parole Commission's instructions and reflects the concern that arresting officers and custodial officers should be aware of the potential risk of exposure to HIV infection. It also assists the custodial officers in responding to any medical needs of individuals in their custody.

6. When information concerning an individual's HIV antibody test result or information concerning a diagnosis of HIV infection is disclosed to the officer by a third party or by the client, the officer should seek the written, informed consent of the client before

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF NORTH CAROLINA

PROBATION OFFICE

WALTER BLACK, JR.  
CHIEF PROBATION OFFICER

P.O. BOX 3327  
GREENSBORO, N.C. 27402  
(919) 333-5341

REPLY TO:

- ( ) P.O. BOX 3327  
GREENSBORO, N.C. 27402
- ( ) P.O. BOX 106  
DURHAM, N.C. 27702
- ( ) P.O. BOX 1476  
ROCKINGHAM, N.C. 28379
- ( ) SUITE 140, YADKIN PLACE  
202 N. LEE STREET  
SALISBURY, N.C. 28144
- ( ) SUITE 500 FEDERAL BUILDING  
251 N. MAIN STREET  
WINSTON-SALEM, N.C. 27101

December 20, 1990

The Honorable Richard C. Erwin, Chief Judge  
United States District Court  
251 North Main Street, Suite 223-A  
Winston-Salem, North Carolina 27101

Dear Judge Erwin:

After careful deliberation and much consternation, we are presenting the attached documents as an interim plan for probation/supervised release supervision as a primary method to consider the recent U. S. Sentencing Commission policy statements. Please observe that the Commission issued only policy statements and as such they are not law and for the Court to be compliant, only judicial consideration of the policy statements is necessary before sentencing in a revocation matter.

Although there are small differences in probation and supervised release conditions, the Commission elected to develop a single set of policy statements for both. The Commission views the policy statements as the first step in an evolving process. Also, these policy statements should allow for greater flexibility in their initial application.

In our attempt to maintain a defined posture in the milieu of these ongoing changes, we have attempted to postulate a set of minimum standards to guide us in this evolutionary process. These standards are to help us absorb the impact of the policy statements and to some degree control our demands on the Court.

It is our feeling that these standards provide an encompassing aspect of our daily supervision needs. Presently, we use these standards in assessing our probation and parole clients and the policy statements are no more than an extension of our evaluative tools.

In the recently published policy statements, the Sentencing Commission directs that alleged Class A and B violators be promptly reported to the Court. Grade C violators are to be promptly reported unless the probation officer determines (1) that such violation is minor and not a part of a continuing pattern of violations and (2) non reporting will not present an undue risk to an individual or the public.



The Honorable Richard C. Erwin, Chief Judge  
Page 2  
December 20, 1990

The documents we are presenting to you are intended to give us a local policy in which we can operate. Hopefully, the Chief Probation Officer will reserve the responsibility of forwarding violations to the Court. The U. S. Probation Office will closely adhere to the criteria we are now presenting. The local criteria when combined with the Commission's policy recommendations will allow for the control of violation matters being constantly thrust upon the Court.

The proposed Standing Order is offered only as an interim measure to undergird our local criteria. Likewise, at the time specific guidelines are subsequently rendered by the Commission, we might only need to amend or update our Standing Order with only minor interruption.

Thanks for considering this proposal and should you need more details or information, please do not hesitate to contact us. We look forward to discussing this matter with you if necessary.

Sincerely,

*Walter Black Jr.*  
WALTER BLACK, JR.

Chief U. S. Probation Officer

WB/br

Attachments:

1. Proposed Standing Order (Draft)
2. Proposed Minimum Requirements
3. Format for Informal Violation Report

MIDDLE DISTRICT C NORTH CAROLINA: Policy/ Minimum requirements for reporting violations

GRADE A VIOLATIONS - Mandatory report required:

Conduct constituting federal, state or local offense punishable by a term of imprisonment exceeding twenty (20) years.

Conduct constituting a federal, state or local offense punishable by a term of imprisonment exceeding one (1) year that (a) is a crime of violence, (b) is a controlled substance, or (c) involves possession of a firearm or destructive device described in 26USC5845(a).

GRADE B VIOLATIONS - Mandatory report required

Conduct constituting any other federal, state or local offense punishable by a term of imprisonment exceeding one year.

GRADE C VIOLATIONS - Mandatory report required:

1. Failure to report in person within ten (10) working days of release from custody and whereabouts are unknown.
2. Arrest for any law violation (punishable by imprisonment of one (1) year or less) if conduct involved violence, firearms, controlled substances or DWI/DUI.
3. Absconder from supervision for more than 30 days.
4. Confirmed positive urinalysis.
5. Travel out of the District w/o authorization and failing to return within fifteen (15) working days.
6. Restitution or fine in default.
7. Association with person(s) engaged in criminal activity after being previously warned by PO.
8. Entering into an agreement to act as an informer or a Special Agent of any law enforcement agency w/o permission of the Court.
9. Failure to cooperatively participate in required CCC program, or comply with court ordered sanctions of Home Detention (to include electronic monitoring), or failure to perform court ordered community service.

GRADE C VIOLATIONS - Mandatory report required if two (2) willful violations occur within a six (6) month period:

GRADE C VIOLATION. (continued)

1. Failure to comply with requirements of court ordered substance abuse treatment program.
2. Failure to comply with requirements of court ordered mental health treatment program.
3. Failure to comply with any other Special Condition denoting risk control and/or correctional treatment.
4. Any violation of the law constituting a federal, state or local offense punishable by a term of imprisonment of 1 year or less (other than those offenses involving violence, firearms, possession of controlled substance or DWI/DUI).
5. Association with a felon w/o permission of PO, and after being previously warned.
6. Leaving the District w/o permission of PO.
7. Failure to submit a urine specimen upon demand.

GRADE C VIOLATIONS - Mandatory report required if three (3) willful violations within twelve (12) month period:

1. Failure to submit a truthful and complete written report within first ten (10) days of month.
2. Failure to report as directed.
3. Failure to notify PO within 72 hours of being arrested or questioned by a law enforcement officer.
4. Failure to notify PO within 72 hours of any change in residence or employment.
5. Failure to work at, and /or maintain suitable employment.
6. Failure to support legal dependents or manage other family responsibilities.
7. Excessive use of alcohol.

(a combination of three (3) or more of the above violations occurring within a 12 month period will mandate a report).

wdjr

**VIOLATION REPORT**

Name: \_\_\_\_\_

Judge: \_\_\_\_\_ Docket #: \_\_\_\_\_

Date Received: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

**NATURE OF VIOLATION(S) AND OFFICER'S EVIDENCE:****PREVIOUS VIOLATIONS REPORTED TO COURT:**☐ NONEViolationDate Reported**ACTION RECOMMENDED BY OFFICER:**DECISION OF JUDGE: ☐ Agree with Officer's Recommendation☐ Take Following Action:\_\_\_\_\_  
USPO DATE\_\_\_\_\_  
SUSPO DATE

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

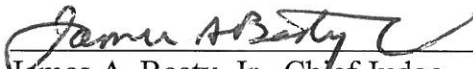


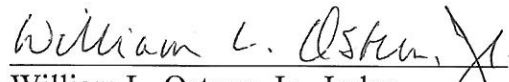
ADMISSION OF LAW  
CLERKS


) AMENDED  
) STANDING ORDER NO. 26  
)


Upon the admission to practice before this Court, a law clerk of a Judge of this Court or the U.S. Bankruptcy Court for this District shall have the fee for admission to practice waived.

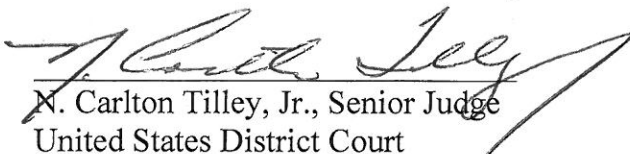
This the 26<sup>th</sup> day of September, 2012.

  
James A. Beaty, Jr., Chief Judge  
United States District Court

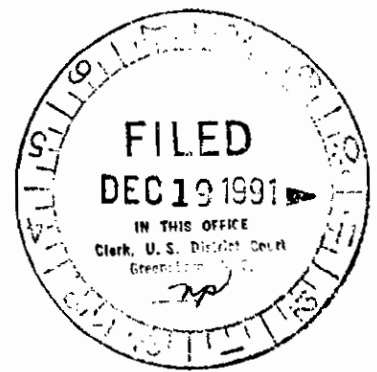
  
William L. Osteen, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA



ADMISSION OF LAW  
CLERKS

STANDING ORDER NO. 26

Upon the admission of a law clerk of a judge of this court to practice before this court, the fee for admission to practice is waived.

This 19<sup>th</sup> day of December, 1991.

Richard C. Erwin  
Richard C. Erwin, Chief Judge  
U. S. District Court

Frank W. Bullock, Jr.  
Frank W. Bullock, Jr., Judge  
U. S. District Court

N. Carlton Tilley, Jr.  
N. Carlton Tilley, Jr., Judge  
U. S. District Court

William L. Osteen  
William L. Osteen, Sr., Judge  
U. S. District Court

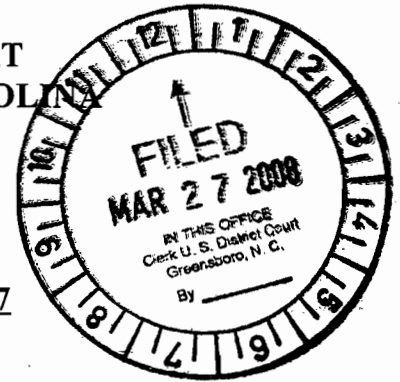
Eugene A. Gordon  
Eugene A. Gordon, Senior Judge  
U. S. District Court

Hiram H. Ward  
Hiram H. Ward, Senior Judge  
U. S. District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

RE: TRANSCRIPT RATES

)  
) AMENDED  
) STANDING ORDER NO. 27  
)



Transcripts of court proceedings may be charged at the maximum rates allowable by the Judicial Conference of the United States in accordance with the effective dates established by the Judicial Conference. The Clerk of Court shall maintain the current maximum rates on the Court's website. Transcripts ordered prior to the effective date of the current rate schedule shall be charged at the maximum rate allowable by the Judicial Conference that was in effect at the time the transcript was ordered.

This the 26 day of March, 2008.

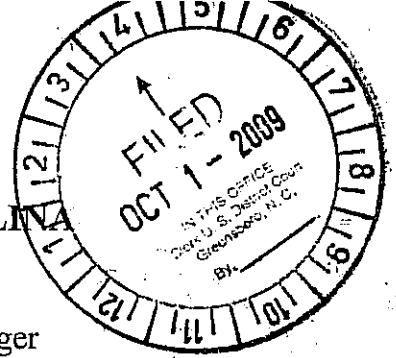
James A. Beaty, Jr., Chief Judge  
United States District Court

N. Carlton Tilley, Jr., Judge  
United States District Court

William L. Osteen, Jr., Judge  
United States District Court

Thomas D. Schroeder, Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Standing Order 7	)	
Standing Order 12	)	Standing Orders No Longer
Standing Order 28	)	Considered Necessary
Standing Order 29	)	

IT APPEARING THAT the following standing orders are no longer necessary due to the current policy, procedures and practices in the Middle District of North Carolina:

Standing Order 7 Appointment of a Person to Serve Civil Process

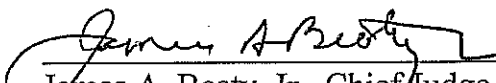
Standing Order 12 In the Matter of Designating the Bankruptcy Clerk as Accountable Officer for Handling Bankruptcy Registry Funds, Costs and Other Matters

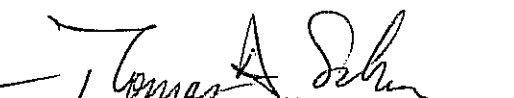
Standing Order 28 Entry of Judgments and Injunctions when Integrated Case Management System (ICMS) is Down

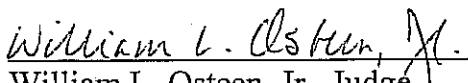
Standing Order 29 Designation of Non-Smoking Area in Courthouse

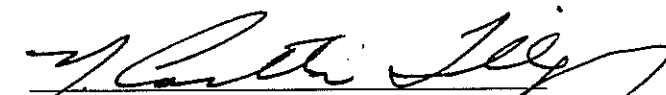
NOW, THEREFORE, for good cause, IT IS ORDERED that the above standing orders are hereby revoked, effective immediately.

This the 1<sup>st</sup> day of October, 2009.

  
James A. Beaty, Jr., Chief Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
William L. Osteen, Jr., Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



RE: MODIFICATION OF CIVIL  
CASE ASSIGNMENT PLAN

)  
)  
)

AMENDED  
STANDING ORDER NO. 30

In order to alleviate the backlog of civil cases, which has been created by the extremely heavy and time-consuming criminal docket of this Court, and attain the objective of the Civil Justice Reform Act of 1990 of reducing delays in the trial of civil cases, it is necessary to modify the Civil Case Assignment Plan of this District to more effectively benefit from the talents and abilities of the Magistrate Judges of this Court in the disposition and trial of civil cases. Before making this modification, the District Judges have found that Magistrate Judges L. Patrick Auld, Joi Elizabeth Peake and Joe L. Webster are fully qualified to rule upon and try any civil case arising before this Court. Accordingly:

1. Three out of each twenty-one cases (or such ratio as may be determined by the Court from time to time), excluding (1) prisoner cases, including those arising under 28 U.S.C. §§ 2254, 2255, 2241, and 1651, and 42 U.S.C. § 1983, (2) appeals from the Bankruptcy Court, (3) Multi-District Litigation cases (MDL), (4) Social Security cases, and (5) patent cases, will be randomly assigned to the Magistrate Judges to conduct all proceedings, including the ultimate trial upon consent. Each Magistrate Judge will receive an equal distribution. A District Judge will be paired with each case assigned to a Magistrate Judge at the time the case is initially assigned. The pairing of District Judges

in these cases will be rotated so that the same District Judge is not always paired with the same Magistrate Judge. The name of the District Judge paired on a particular case will not be disclosed by the Clerk's office until after the parties have determined whether to consent to the trial jurisdiction of the Magistrate Judge as provided below.

2. When all parties have made an appearance in these cases, the parties shall be given notice of this administrative assignment. The notice and forms sent to the parties shall inform them of their opportunity to consent to the trial jurisdiction of the Magistrate Judge and their duty to communicate their decision to the Clerk. The notice and forms shall be substantially in the form of the attachments to this Order.

3. The Clerk shall hold confidential the decisions of the parties on the issue of consent and shall not inform any District Judge or Magistrate Judge of the parties' responses unless all parties consent, by written affirmative response.

4. If all parties give written consent to the trial jurisdiction of a Magistrate Judge, the Clerk shall prepare for the assigned District Judge an Order of Reference pursuant to 28 U.S.C. § 636(c). On entry of such an order, the Clerk shall file the responses that have been submitted by the parties.

5. Appeal of a judgment entered by a Magistrate Judge in a case in which an Order of Reference has been made under 28 U.S.C. § 636(c) will be to the Court of Appeals for the Fourth Circuit.

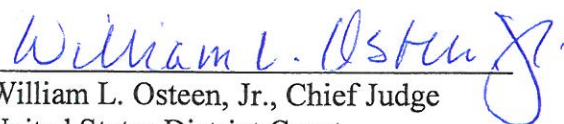
6. If all of the parties do not give written consent to the trial jurisdiction of the Magistrate Judge, the Magistrate Judge to whom the case is assigned will rule or make


recommendations upon all motions, both non-dispositive and dispositive, as provided in 28 U.S.C. § 636(b). If either party objects to a decision of the Magistrate Judge, the objection will be ruled upon by the District Judge paired with the Magistrate Judge.

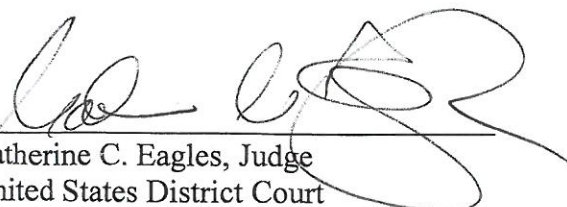
7. This rule shall be interpreted and enforced so as to protect the voluntariness of the parties' consent. No official of the Court shall take any action that implies that there will be adverse substantive consequences if consent is withheld.

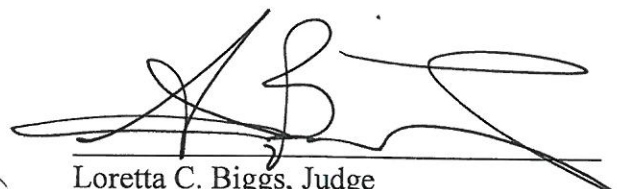
8. This Order is effective upon a date provided to the Clerk by the Chief District Judge.

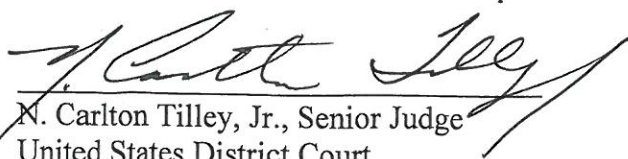
This the 21<sup>st</sup> day of September, 2016.

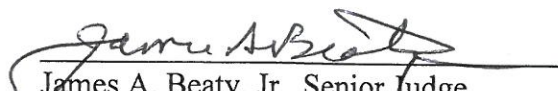
  
William L. Osteen, Jr., Chief Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
Loretta C. Biggs, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

  
James A. Beaty, Jr., Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



RE: MODIFICATION OF CIVIL  
CASE ASSIGNMENT PLAN

)  
)  
)

AMENDED  
STANDING ORDER NO. 30

In order to alleviate the backlog of civil cases, which has been created by the extremely heavy and time-consuming criminal docket of this Court, and attain the objective of the Civil Justice Reform Act of 1990 of reducing delays in the trial of civil cases, it is necessary to modify the Civil Case Assignment Plan of this District to more effectively benefit from the talents and abilities of the Magistrate Judges of this Court in the disposition and trial of civil cases. Before making this modification, the District Judges have found that Magistrate Judges L. Patrick Auld, Joi Elizabeth Peake and Joe L. Webster are fully qualified to rule upon and try any civil case arising before this Court. Accordingly:

1. Three out of each twelve cases (or such ratio as may be determined by the Court from time to time), excluding (1) prisoner cases arising under 28 U.S.C. §§ 2254, 2255, 2241, and 1651, and 42 U.S.C. § 1983, (2) appeals from the Bankruptcy Court, (3) Multi-District Litigation cases (MDL), (4) Social Security cases, and (5) patent cases, will be randomly assigned to the Magistrate Judges to conduct all proceedings, including the ultimate trial upon consent. Each Magistrate Judge will receive an equal distribution. A District Judge will be paired with each case assigned to a Magistrate Judge at the time the case is initially assigned. The pairing of District Judges in these cases will be rotated

so that the same District Judge is not always paired with the same Magistrate Judge. The name of the District Judge paired on a particular case will not be disclosed by the Clerk's office until after the parties have determined whether to consent to the trial jurisdiction of the Magistrate Judge as provided below.

2. When all parties have made an appearance in these cases, the parties shall be given notice of this administrative assignment. The notice and forms sent to the parties shall inform them of their opportunity to consent to the trial jurisdiction of the Magistrate Judge and their duty to communicate their decision to the Clerk. The notice and forms shall be substantially in the form of the attachments to this Order.

3. The Clerk shall hold confidential the decisions of the parties on the issue of consent and shall not inform any District Judge or Magistrate Judge of the parties' responses unless all parties consent, by affirmative response in the form of written consent.

4. If all parties give written consent to the trial jurisdiction of a Magistrate Judge, the Clerk shall prepare for the Chief Judge an Order of Reference pursuant to 28 U.S.C. § 636(c). On entry of such an order, the Clerk shall file the responses that have been submitted by the parties.

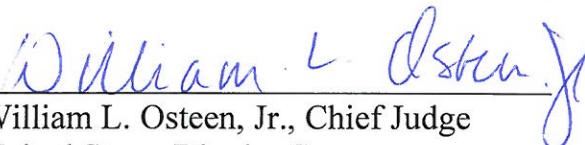
5. Appeal of a judgment entered by a Magistrate Judge in a case in which an Order of Reference has been made under 28 U.S.C. § 636(c) will be to the Court of Appeals for the Fourth Circuit.

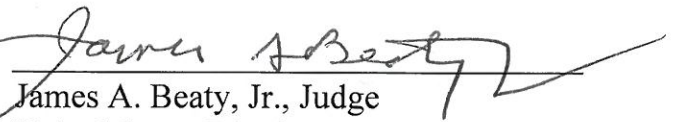
6. If all of the parties do not give written consent to the trial jurisdiction of the Magistrate Judge, the Magistrate Judge to whom the case is assigned will rule or make

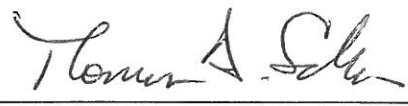
recommendations upon all motions, both non-dispositive and dispositive, as provided in 28 U.S.C. § 636(b). If either party objects to a decision of the Magistrate Judge, the objection will be ruled upon by the District Judge paired with the Magistrate Judge.

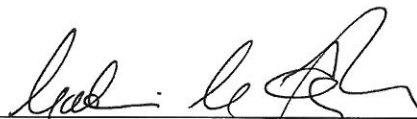
7. This rule shall be interpreted and enforced so as to protect the voluntariness of the parties' consent. No official of the Court shall take any action that implies that the parties are not free to withhold consent without adverse substantive consequences.

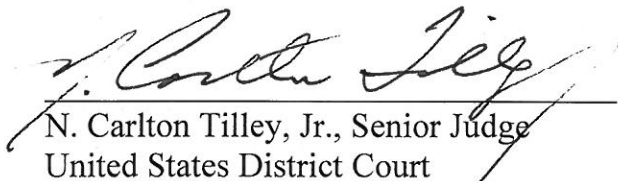
This the 24<sup>th</sup> day of January, 2013.

  
William L. Osteen, Jr., Chief Judge  
United States District Court

  
James A. Beaty, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court



Dear Counsel:

The above-entitled case has been randomly selected from the combined dockets of all district judges and administratively assigned to Magistrate Judge \_\_\_\_\_ to conduct all pretrial proceedings, including recommendation on dispositive motions. Because of the dramatic increase in the number of criminal cases in recent years, district judges have had to give priority to the criminal docket as required by law. Under these circumstances, your case can experience a significant delay, which can result in cost increases, before it can be tried by a district judge. Congress' enactment of the Civil Justice Reform Act has required the court to give increased attention to addressing costs and delays in resolving civil disputes. The Judicial Conference of the United States has encouraged the designation of magistrate judges to conduct all proceedings in civil cases, both jury and non-jury.

Magistrate Judges L. Patrick Auld, Joi Elizabeth Peake, and Joe L. Webster all are well qualified to handle civil cases from discovery through dispositive motions and trial. Trial before a magistrate judge, in addition to an earlier trial date, will also enable the court to give counsel and the parties a special setting. Appeal from a judgment entered by a magistrate judge will be to the Court of Appeals for the Fourth Circuit.

If your client, after consultation with you, consents to the trial jurisdiction of the magistrate judge, please return the enclosed consent form to the Clerk's Office within thirty (30) days. Cases in which consent is not given will nevertheless be first considered by the magistrate judge, who will make rulings or recommendations on all motions, including dispositive ones. You are required by law to communicate your decision to the Clerk. 28 U.S.C. § 636(c)(2). Accordingly, the Clerk may contact you if you have not responded within 30 days.

Very truly yours,

William L. Osteen, Jr.  
Chief Judge

Enclosure

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. _____
	)	
	)	
	)	
Defendant.	)	

**CONSENT TO JURISDICTION BY A  
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28 U.S.C. § 636(c), the undersigned party or parties to the above-captioned civil matter hereby voluntarily consent to have a United States magistrate judge conduct any and all further proceedings in the case, including trial, entry of a final judgment, and ruling on post-judgment matters. An appeal from a judgment entered by a magistrate judge shall be taken directly to the United States court of appeals for this judicial circuit in the same manner as any appeal from any other judgment of a district court.

_____ Date	_____ Signature
_____ Date	_____ Signature

**NOTE: Return this form to the Clerk of the Court if you consent to jurisdiction by a magistrate judge. Do not send a copy of this form to any district judge or magistrate judge.**



IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



RE: MODIFICATION OF CIVIL ) AMENDED  
CASE ASSIGNMENT PLAN ) STANDING ORDER NO. 30  
)

In order to alleviate the backlog of civil cases, which has been created by the extremely heavy and time-consuming criminal docket of this court, and attain the objective of the Civil Justice Reform Act of 1990 of reducing delays in the trial of civil cases, it is necessary to modify the Civil Case Assignment Plan of this district to more effectively benefit from the talents and abilities of the magistrate judges of this court in the disposition and trial of civil cases. Before making this modification, the district judges have found that Magistrate Judges Russell A. Eliason, P. Trevor Sharp and Wallace W. Dixon are experienced judicial officers who for over twenty years have regularly handled civil cases from discovery through dispositive motions and trial. They are fully qualified to rule upon and try any civil case arising before this court.

Accordingly:

1. Twenty-Four out of each fifty-two, excluding (1) prisoner cases arising under 28 U.S.C. § 2254, 28 U.S.C. § 2255, and 42 U.S.C. § 1983, (2) non-prisoner pro se cases; and (3) appeals from the Bankruptcy Court, will be randomly assigned to the magistrate judges to conduct all proceedings, including the ultimate trial upon consent. Each magistrate judge will receive an equal distribution. A district judge will be paired

with each case assigned to a magistrate judge at the time the case is initially assigned.

The pairing of district judges in these cases will be rotated so that the same judge is not always paired with the same magistrate judge. The name of the district judge paired on a particular case will not be disclosed initially by the clerk's office.

2. The magistrate judge to whom the case is assigned will rule or make recommendations upon all motions, both non-dispositive and dispositive. If either party objects to a decision of the magistrate judge on a motion prior to trial in a case wherein consent has not been given, the objection will be ruled upon by the district judge paired with the magistrate judge. Subsequent motions in the case will be referred to the magistrate judge for ruling or recommendation.

3. When the issues are joined in these cases, the parties shall be given notice of this administrative assignment. The notice and forms sent to the parties shall inform them of their opportunity to consent to the trial jurisdiction of the magistrate judge and their duty to communicate their decision to the Clerk. The notice and forms shall be substantially in the form of the attachments to this Order.

4. The Clerk shall hold confidential the decisions of the parties on the issue of consent and shall not inform any district judge or magistrate judge of the parties' responses unless all parties consent, by affirmative response in the form of written consent.

5. If all parties give written consent to the trial jurisdiction of a magistrate judge, the Clerk shall prepare for the Chief Judge an Order of Reference pursuant to 28 U.S.C. § 636(c). On entry of such an order, the Clerk shall file the responses that have been

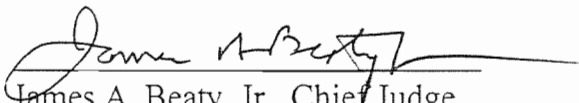
submitted by the parties.


6. Appeal of a judgment entered by a magistrate judge will be to the Court of Appeals for the Fourth Circuit.

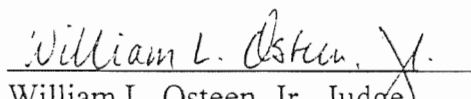
7. This rule shall be interpreted and enforced so as to protect the voluntariness of the parties' consent. No official of the court shall take any action that implies that the parties are not free to withhold consent without adverse substantive consequences.


This order will be effective February 4, 2008.

This the 30<sup>th</sup> day of January, 2008.

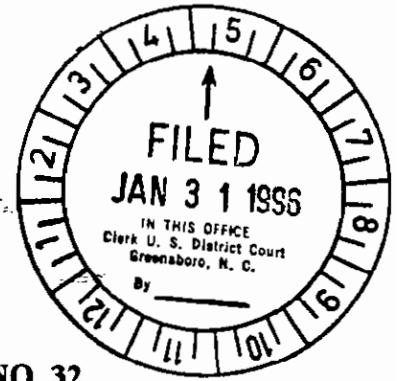
  
James A. Beaty, Jr., Chief Judge  
United States District Court

  
N. Carlton Tilley, Jr., Judge  
United States District Court

  
William L. Osteen, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



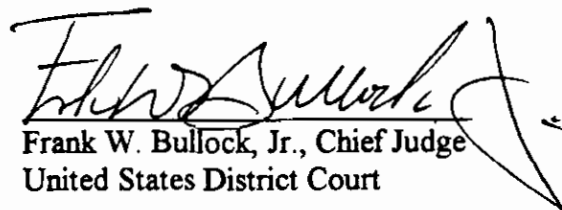
RE: CRIMINAL  
COVER SHEET

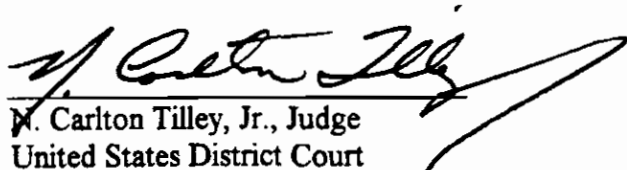
)  
)  
) STANDING ORDER NO. 32  
)  
)

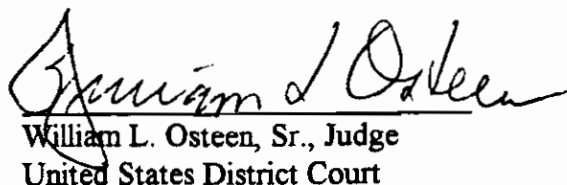
-----

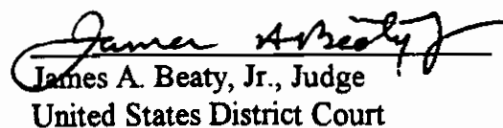
To assist the court in better managing its criminal cases, IT IS ORDERED that each time a criminal case is filed by the U.S. Attorney that the filings shall be accompanied by a filled in Criminal Case Cover Sheet, MIDDLE DISTRICT OF NORTH CAROLINA-CR-1 (Jan 96), a copy of which is attached hereto.

This the 31<sup>st</sup> day of January, 1996.

  
Frank W. Bullock, Jr., Chief Judge  
United States District Court

  
M. Carlton Tilley, Jr., Judge  
United States District Court

  
William L. Osteen, Sr., Judge  
United States District Court

  
James A. Beaty, Jr., Judge  
United States District Court

**Criminal Case Cover Sheet****U.S. District Court  
Middle District North Carolina****Place of Offense:**

County \_\_\_\_\_

**Related Case Information:**Superseding Indictment \_\_\_\_\_ Docket Number \_\_\_\_\_  
Same Defendant \_\_\_\_\_ New Defendant \_\_\_\_\_  
Magistrate Judge Case Number \_\_\_\_\_  
Search Warrant Case No. \_\_\_\_\_  
R 20/ R 40 from District of \_\_\_\_\_**Defendant Information:**

Juvenile \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_

Defendant Name \_\_\_\_\_

Alias Name \_\_\_\_\_

Address \_\_\_\_\_

Birthdate \_\_\_\_\_ SS # \_\_\_\_\_ Sex \_\_\_\_\_ Race \_\_\_\_\_ Nationality \_\_\_\_\_

**U.S. Attorney Information:**

AUSA \_\_\_\_\_ Bar # \_\_\_\_\_

Interpreter: ☐ No ☐ Yes List language and/or dialect: \_\_\_\_\_**Location Status:**

Arrest Date \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Already in Federal Custody as of \_\_\_\_\_  
Already in State Custody  
On Pretrial ReleaseTotal # of Counts: \_\_\_\_\_ ☐ Petty ☐ Misdemeanor ☐ Felony

<u>Index Key/Code</u> (Clerk's Office Use Only)	<u>Citation and Description of Offense Charged</u>	<u>Count(s)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(May be continued on second sheet)

\_\_\_\_\_  
Signature of AUSA: \_\_\_\_\_

District Court Case Number (To be filled in by deputy clerk): \_\_\_\_\_

### U.S.C. CITATIONS (continued)

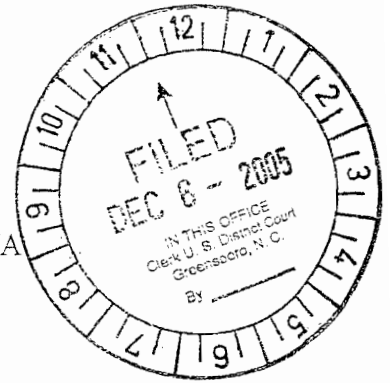
**Index Key/Code**  
(Clerk's Office Use Only)

**Citation and Description of Offense Charged**

**Count(s)**

[illegible]

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



TESTIMONY OF JUDICIARY )  
PERSONNEL AND PRODUCTION )  
OF JUDICIARY RECORDS IN )  
LEGAL PROCEEDINGS )

STANDING ORDER 35

For good cause appearing to the Court, this court adopts the regulations established by the Judicial Conference of the United States at its March 2003 meeting regarding Testimony of Judiciary Personnel and Production of Judiciary Records in Legal Proceedings. These regulations shall apply to the probation office staff and are applicable to official court records maintained by the probation office. The Court further adopts the following additions and modifications to the Judicial Conference Regulations.

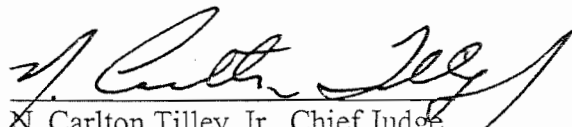
IT IS ORDERED that:

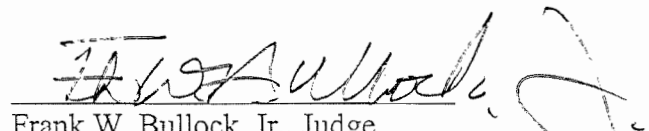
1. The determining officer as defined by Judicial Conference Regulations shall consult with the Chief Judge regarding any subpoena or order served on judiciary staff requesting testimony or production of records.
2. If the Chief Judge is unavailable, the determining officer shall consult with the sentencing judge if that judge is available or the next most senior judge in the sentencing judge's absence regarding any subpoena or order served on judiciary staff requesting testimony or production of records.

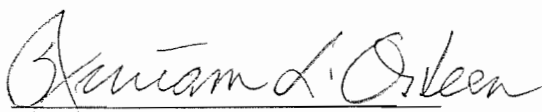
3. The presentence report is to be maintained as a confidential court document and shall enjoy the same confidentiality standards which are described in paragraph 7 of Standing Order 20. The court has final discretion to permit or withhold disclosure of presentence or supervision information. The court, as the entity for which the information is collected and as the employer of the probation officer, retains the authority to permit or deny release of that information.

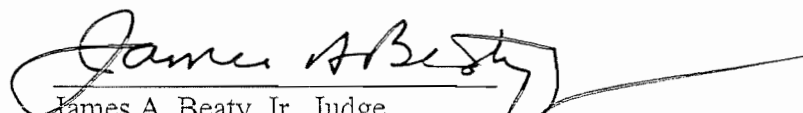
Accordingly, IT IS ORDERED that the local modifications and the attached Judicial Conference Regulations are hereby adopted.

This the 6<sup>th</sup> day of December, 2005

  
N. Carlton Tilley, Jr., Chief Judge  
United States District Court

  
Frank W. Bullock, Jr., Judge  
United States District Court

  
William L. Osteen, Judge  
United States District Court

  
James A. Beaty, Jr., Judge  
United States District Court



## TESTIMONY OF JUDICIARY PERSONNEL AND PRODUCTION OF JUDICIARY RECORDS IN LEGAL PROCEEDINGS

### Section 1. Purpose.

(a) These regulations establish policy, assign responsibilities and prescribe procedures with respect to: (1) the production or disclosure of official information or records by the federal judiciary, and (2) the testimony of present or former judiciary personnel relating to any official information acquired by any such individual as part of that individual's performance of official duties, or by virtue of that individual's official status, in federal, state, or other legal proceedings covered by these regulations.

(b) The purpose of these regulations is, among other things, to: (1) conserve the time of federal judicial personnel for conducting official business; (2) minimize the involvement of the federal judiciary in issues unrelated to its mission; (3) maintain the impartiality of the federal judiciary in disputes between private litigants; (4) avoid spending the time and money of the United States for private purposes; and (5) protect confidential and sensitive information and the deliberative processes of the federal judiciary.

### Section 2. Authority.

These regulations are promulgated under the authority granted the Director of the Administrative Office of the United States Courts, under the supervision and direction of the Judicial Conference of the United States, to "[s]upervise all administrative matters relating to the offices of clerks and other clerical and administrative personnel of the courts," 28 U.S.C. § 604(a)(1); to "[p]erform such other duties as may be assigned to him by . . . the Judicial Conference of the United States," 28 U.S.C. § 604(a)(24); to "make, promulgate, issue, rescind, and amend rules and regulations . . . as may be necessary to carry out the Director's functions, powers, duties, and authority," 28 U.S.C. § 604(f); and to "delegate any of the Director's functions, powers, duties, and authority . . . to such officers and employees of the judicial branch of Government as the Director may designate," 28 U.S.C. § 602(d).

### Section 3. Definitions.

(a) Request. An order, subpoena, or other demand of a court, or administrative or other authority, of competent jurisdiction, under color of law, or any other request by whatever method, for the production, disclosure, or release of information or records by the federal judiciary, or for the appearance and testimony of federal judicial personnel as witnesses as to matters arising out of the performance of their official duties, in legal proceedings. This definition includes requests for voluntary production or testimony in the absence of any legal process.

(b) Judicial personnel. All present and former officers and employees of the federal judiciary and any other individuals who are or have been appointed by, or subject to the supervision, jurisdiction, or control of, the federal judiciary, including individuals hired through

contractual agreements by or on behalf of the federal judiciary, or performing services under such agreements for the federal judiciary, such as consultants, contractors, subcontractors, and their employees and personnel. This phrase also includes alternative dispute resolution neutrals or mediators, special masters, individuals who have served and are serving on any advisory committee or in any advisory capacity, and any similar personnel performing services for the federal judiciary.

(c) Legal proceedings. All pretrial, trial, and post-trial stages of all existing or anticipated judicial or administrative actions, hearings, investigations, cases, controversies, or similar proceedings, including grand jury proceedings, before courts, agencies, commissions, boards or other tribunals, foreign and domestic, or all legislative proceedings pending before any state or local body or agency, other than those specified in section 4(b).

(d) Information or records. All information, records, documents, or materials of any kind, however stored, that are in the custody or control of the federal judiciary or were acquired by federal judicial personnel in the performance of their official duties or because of their official status.

(e) Testimony. Any written or oral statement in any form by a witness arising out of the performance of the witness' official duties, including personal appearances and statements in court or at a hearing or trial, depositions, answers to interrogatories, affidavits, declarations, interviews, telephonic, televised, or videotaped remarks, or any other response during discovery or similar proceedings that would involve more than production of documents.

#### Section 4. Applicability.

(a) These regulations apply to:

(1) All components of the federal judiciary and their personnel, except the Supreme Court of the United States, the Federal Judicial Center, and the United States Sentencing Commission, and their personnel.

(b) These regulations do not apply to:

(1) Legal proceedings in which the federal judiciary or a court or office of the federal judiciary is a party.

(2) Legal proceedings, arising out of the performance of official duties by federal judicial personnel, in which federal judicial personnel are parties.

(3) Legal proceedings in which federal judicial personnel are to testify while in leave or off-duty status as to matters that do not arise out of the performance of official duties. These regulations do not seek to deny federal judicial personnel access to the courts as citizens in

their private capacities on off-duty time.

(4) Congressional requests for testimony or documents.

(5) Requests governed by the Regulations for Garnishment of Pay of Officers and Employees of the Federal Judiciary, Guide to Judiciary Policies and Procedures, Vol. I-C, Chap. XI, Part A.

(6) Proceedings conducted under the Judicial Conduct and Disability Act, 28 U.S.C. § 372(c), under the authority conferred on the judicial councils of the respective federal judicial circuits by 28 U.S.C. § 332, or under the authority conferred on the Judicial Conference of the United States by 28 U.S.C. § 331.

(7) Requests by members of the public, when properly made through the procedures established by a court for that purpose, for records or documents, such as court files or dockets, routinely made available to members of the public for inspection or copying.

#### Section 5. Policy.

(a) Federal judicial personnel may not provide testimony or produce records in legal proceedings except as authorized in accordance with these regulations.

(b) Testimony may be taken from federal judicial personnel only at the federal judicial personnel's place of business, or at any other place authorized by the determining officer designated in section 7(b). Additional conditions may be specified by the determining officer. The time for such testimony shall be reasonably fixed so as to avoid substantial interference with the performance of official duties by federal judicial personnel.

(c) Nothing in these regulations shall restrict in any way any defenses, objections, or privileges that may be asserted by federal judicial personnel in response to a request.

(d) These regulations are not intended to, and do not:

(1) Waive the sovereign immunity of the United States; or

(2) Infringe upon or displace the responsibilities committed to the Department of Justice in conducting litigation on behalf of the United States in appropriate cases.

(e) These regulations are intended only to govern the internal operation of the federal judiciary and are not intended to create, do not create, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable in law or equity against the United States or against the federal judiciary or any court, office, or personnel of the federal judiciary.

#### Section 6. Contents and timeliness of a request.

(a) The request for testimony or production of records shall set forth, or shall be accompanied by an affidavit setting forth, a written statement by the party seeking the testimony or production of records, or by counsel for the party, containing an explanation of the nature of the testimony or records sought, the relevance of the testimony or records sought to the legal proceedings, and the reasons why the testimony or records sought, or the information contained therein, are not readily available from other sources or by other means. This explanation shall contain sufficient information for the determining officer designated in section 7(b) to determine whether or not federal judicial personnel should be allowed to testify or the records should be produced. Where the request does not contain an explanation sufficient for this purpose, the determining officer may deny the request or may ask the requester to provide additional information.

(b) The request for testimony or production of records, including the written statement required by section 6(a), shall be provided to the federal judicial personnel from whom testimony or production of records is sought at least fifteen (15) working days in advance of the time by which the testimony or production of records is to be required. Failure to meet this requirement shall provide a sufficient basis for denial of the request.

(c) The determining officer designated in section 7(b) has the authority to waive the requirements of this section (6) in the event of an emergency under conditions which the requester could not reasonably have anticipated and which demonstrate a good faith attempt to comply with the requirements of these regulations. In no circumstance, however, shall a requester be entitled to consideration of an oral or untimely request; to the contrary, whether to permit such an exceptional procedure is a decision within the sole discretion of the determining officer.

#### Section 7. Identity of determining officer.

(a) Federal judicial personnel shall not, in response to a request for testimony or the production of records in legal proceedings, comment, testify, or produce records without the prior approval of the determining officer designated in section 7(b).

(b) The determining officer authorized to make determinations under these regulations shall be as follows:

(1) In the case of a request directed to a federal court of appeals judge, district judge, Court of International Trade judge, Court of Federal Claims judge, bankruptcy judge, or magistrate judge, or directed to a current or former member of such a judge's personal staff (such as a judge's secretary, law clerk, or courtroom deputy clerk), the determining officer shall be the federal court of appeals judge, district judge, Court of International Trade judge, Court of Federal Claims judge, bankruptcy judge, or magistrate judge himself or herself.

(2) In the case of a request directed to a former federal court of appeals judge, district judge, Court of International Trade judge, Court of Federal Claims judge, bankruptcy judge, or magistrate judge, or directed to a former member of a former judge's personal staff who is no longer a court employee and thus is not covered by sections 7(b)(1) or (3), the determining officer shall be the chief judge of the court on which the former judge previously served.

(3) In the case of a request directed to an employee or former employee of a court office (other than an employee or former employee covered by section 7(b)(1)), such as the office of the clerk of court, the office of the circuit executive, the staff attorneys' and/or preargument attorneys' office, the probation and/or pretrial services office, and the office of the Federal Public Defender, the determining officer shall be the unit head of the particular office, such as the clerk of court, the circuit executive, the senior staff attorney, the chief probation officer, the chief pretrial services officer, or the Federal Public Defender. In these instances, the determining officer (except the Federal Public Defender, as provided below) shall, as provided by local rule or order, consult with the chief judge of the court served by the particular office regarding the proper response to a request. The Federal Public Defender, in the case of a request related to the defender office's administrative function (but not requests related to the defender office's provision of representation pursuant to the Criminal Justice Act, 18 U.S.C. 3006A, and related statutes), shall, as provided by local rule or order, consult with the chief judge of the court of appeals that appoints the Federal Public Defender regarding the proper response to such a request.

(4) In the case of a request directed to an employee or former employee of the Administrative Office of the United States Courts, the determining officer shall be the General Counsel of the Administrative Office.

(5) In the case of a request not specified in subsections (1) through (4) above (such as, for example, a request made to federal judicial personnel as defined by section 3(b) above who are not current or former judges or their staff, employees of a court office, or employees of the Administrative Office), the determining officer shall be the officer designated to serve as the determining officer by the chief judge of the court served by the recipient of the request. In these instances, the determining officer (if someone other than the chief judge of the relevant court) shall, if the circumstances warrant, consult with the chief judge of the relevant court regarding the proper response to a request.

#### Section 8. Procedure when request is made.

(a) In response to a request for testimony or the production of records by federal judicial personnel in legal proceedings covered by these regulations, the determining officer may determine whether the federal judicial personnel may be interviewed, contacted, or used as witnesses, including as expert witnesses, and whether federal judicial records may be produced, and what, if any conditions will be imposed upon such interview, contact, testimony, or production of records. The determining officer may deny a request if the request does not meet

any requirement imposed by these regulations. In determining whether or not to authorize the disclosure of federal judicial information or records or the testimony of federal judicial personnel, the determining officer will consider, based on the following factors, the effect in the particular case, as well as in future cases generally, which testifying or producing records will have on the ability of the federal judiciary or federal judicial personnel to perform their official duties.

(1) The need to avoid spending the resources of the United States for private purposes, to conserve the time of federal judicial personnel for the performance of official duties, and to minimize the federal judiciary's involvement in issues unrelated to its mission.

(2) Whether the testimony or production of records would assist the federal judiciary in the performance of official duties.

(3) Whether the testimony or production of records is necessary to prevent the perpetration of fraud or injustice in the case or matter in question.

(4) Whether the request is unduly burdensome or is inappropriate under applicable court or administrative rules.

(5) Whether the testimony or production of records is appropriate or necessary under the rules of procedure governing the case or matter in which the request arises, or under the relevant substantive law of privilege.

(6) Whether the request is within the proper authority of the party making it.

(7) Whether the request meets the requirements of these regulations.

(8) Whether the request was properly served under applicable court, administrative, or other rules.

(9) Whether the testimony or production of records would violate a statute, regulation, or ethical rule.

(10) Whether the testimony or production of records would disclose information regarding the exercise of judicial or quasi-judicial responsibilities by federal judicial personnel in the decisional or deliberative process.

(11) Whether the testimony or production of records would disclose confidential information from or pertaining to a presentence investigation report or pertaining to an individual's probation, parole, or supervised release, or would disclose any other information that is confidential under any applicable statute or regulation.

(12) Whether the testimony or production of records reasonably could be expected to result in the appearance of the federal judiciary favoring one litigant over another, or endorsing or supporting a position advocated by a litigant.



(13) Whether the request seeks testimony, records or documents available from other sources.

(14) Whether the request seeks testimony of federal judicial personnel as expert witnesses.

(15) Whether the request seeks personnel files, records or documents pertaining to a current or former federal judicial officer or employee, and (1) the personnel files, records or documents sought by the request may be obtained from the current or former federal judicial officer or employee in question, or (2) the personnel files, records or documents sought by the request would be made available to the requester with the written consent or authorization of the current or former federal judicial officer or employee in question.

(16) Any other consideration that the determining officer designated in section 7(b) may consider germane to the decision.

(b) Federal judicial personnel upon whom a request for testimony or the production of records in legal proceedings is made shall promptly notify the determining officer designated in section 7(b). If the determining officer determines, upon consideration of the requirements of these regulations and the factors listed in section 8(a), that the federal judicial personnel upon whom the request was made should not comply with the request, the federal judicial personnel upon whom the request was made shall notify the requester of these regulations and shall respectfully decline to comply with the request. In appropriate circumstances federal judicial personnel may -- through the Department of Justice, or with the assistance of retained legal counsel if the Department of Justice is unavailable -- file a motion, before the appropriate court or other authority, to quash such a request or to obtain other appropriate relief.

(c) If, after federal judicial personnel have received a request in a legal proceeding and have notified the determining officer in accordance with this section, a response to the request is required before instructions from the determining officer are received, federal judicial personnel shall notify the requester of these regulations and inform the requester that the request is under review pursuant to these regulations. If necessary, federal judicial personnel may -- through the Department of Justice, or with the assistance of retained legal counsel if the Department of Justice is unavailable -- seek a stay of the request pending a final determination by the determining officer, or seek other appropriate relief.

(d) If, in response to action taken under section 8(c), a court of competent jurisdiction or other appropriate authority declines to stay the effect of a request pending a determination by the determining officer, or if such court or other authority orders that the request be complied with notwithstanding the final decision of the determining officer, the federal judicial personnel upon whom the request was made shall notify the determining officer and shall comply with the determining officer's instructions regarding compliance with the order or request. Unless and until otherwise instructed by the determining officer, however, the federal judicial personnel upon whom the request was made shall respectfully decline to comply with the order or request. See United States ex rel. Touhy v. Ragen, 340 U.S. 462 (1951).

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



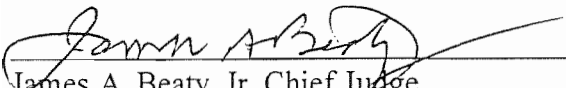
LIMITED AUTHORIZATION     )  
TO RELEASE PRESENTENCE    )  
REPORTS                        )

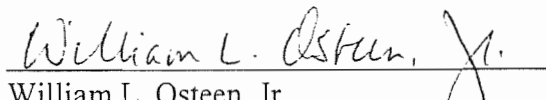
STANDING ORDER NO. 36

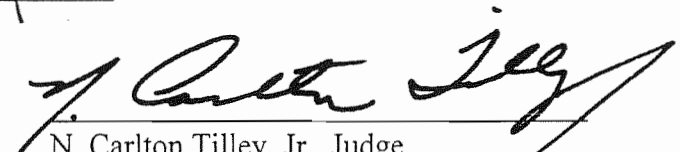
For good cause appearing to the Court, this court authorizes the probation office to release copies of the presentence report to the government and counsel representing defendants who are seeking relief available due to a retroactive amendment of the sentencing guidelines under 18 U.S.C. § 3582(c)(2) and USSG § 1B1.10. Under these provisions, Courts must evaluate the effect of a retroactive amendment on the guideline range that was calculated at a defendant's sentencing. If a defendant seeking relief under 18 U.S.C. § 3582(c)(2) and USSG § 1B1.10 through legal counsel or the United States specifically requests a copy of that defendant's Presentence Report (PSR), the Court authorizes the Probation Office to disclose that PSR to the government and legal counsel for said defendant. In accordance with current Federal Bureau of Prisons policy, no PSRs will be provided to inmates.

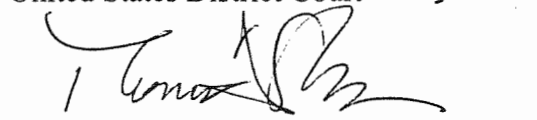
IT IS SO ORDERED.

This 30<sup>th</sup> day of JANUARY, 2008.

  
James A. Beaty, Jr., Chief Judge  
United States District Court

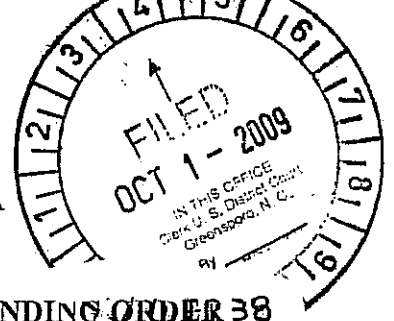
  
William L. Osteen, Jr.  
United States District Court

  
N. Carlton Tilley, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court



UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF NORTH CAROLINA



IN RE: )  
SUPPLEMENTAL JUROR ATTENDANCE FEES )

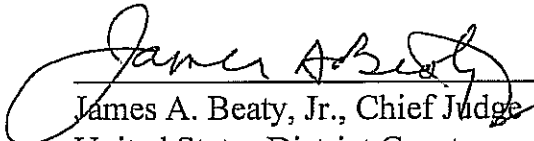
STANDING ORDER 38

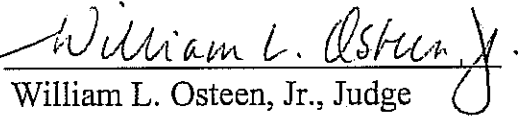
ORDER

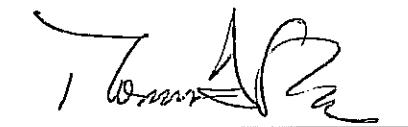
Pursuant to Title 28, United States Code, Section 1871(b)(2) a petit juror required to attend more than ten days in hearing one case may be paid an additional fee, not exceeding \$10 more than the attendance fee for each day in excess of ten days. Pursuant to Title 28, United States Code, Section 1871(b)(3), a grand juror may be paid an additional fee not exceeding \$10 more than the attendance fee for each day in excess of forty-five (45) days of actual service.

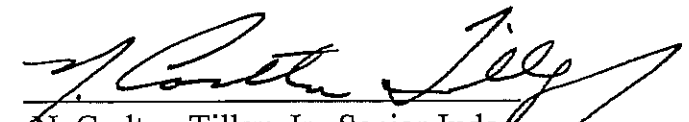
IT IS ORDERED that the supplemental \$10 fee is to be applied automatically to petit and grand jurors when they reach the statutory minimum for the increase, without prior leave of the court.

This the 1<sup>st</sup> day of October, 2009.

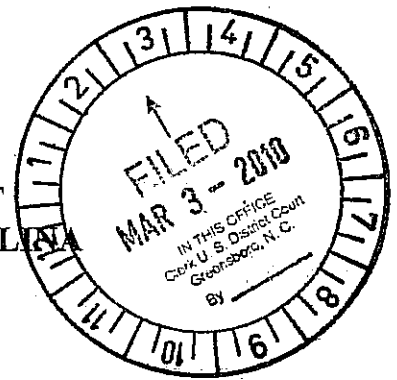
  
James A. Beaty, Jr., Chief Judge  
United States District Court

  
William L. Osteen, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



IN RE: )

REFUND POLICY FOR ERRONEOUS )  
ELECTRONIC FILING FEES )  
\_\_\_\_\_ )

STANDING ORDER 39

**ORDER**

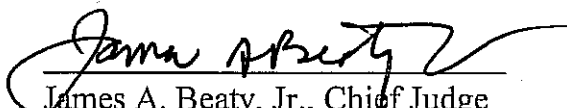
Pursuant to longstanding Judicial Conference Policy, there has been a general prohibition against the refund of filing fees. In recent years, the Judicial Conference has recognized that the use of credit cards to pay filing fees via credit cards for electronically filing documents may result in errors, and, accordingly, has given guidance to courts for establishing policies to be followed to refund erroneously charged filing fee payments.

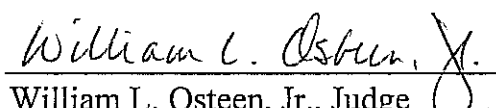
In consideration of the Judicial Conference's guidelines regarding the refund of electronic filing fees, it is Ordered that the Clerk of Court, or the Clerk's designee, shall be authorized to refund a filing fee erroneously paid via credit card:

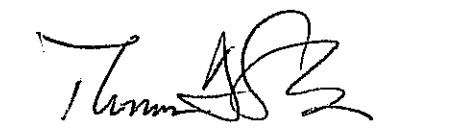
- (1) if discovered by the Court or the Clerk's Office that a fee has been erroneously paid; or
- (2) if an attorney requests a refund and it can be determined by the Clerk of Court, or the Clerk's designee, that the fee has been erroneously paid.

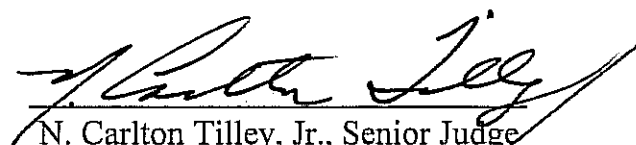
Upon verification of the error, the refund shall be processed back to the same credit card from which the erroneous payment was made and written record of the refund maintained in the Clerk's financial records.

This the 3<sup>rd</sup> day of March, 2010.

  
James A. Beaty, Jr., Chief Judge  
United States District Court

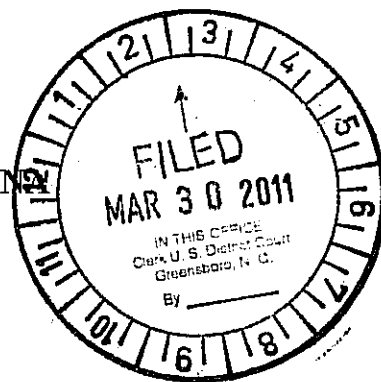
  
William L. Osteen, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ORDER ADOPTING LOCAL RULES OF )  
CIVIL AND CRIMINAL PRACTICE )



IT APPEARING to the Court that the Committee on Rules of Practice and Procedures of the Judicial Conference of the United States Court has issued Guidelines on the use of standing orders and local rules, and that the content of Standing Orders 10, 11, 13, 20, 21, 22 and 34 should be placed in the Court's local rules;

IT FURTHER APPEARING that the provisions of Local Civil Rule 7.1(b) regarding personal data identifiers are no longer needed in the Court's local rules as the personal data identifier rules are now included in Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1;

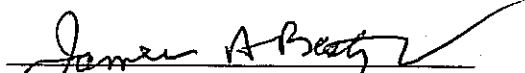
IT FURTHER APPEARING that certain typographical errors, gender descriptions and minor organizational changes should be made to the Court's local rules; and

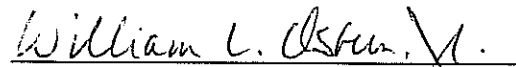
IT FURTHER APPEARING that changes have been proposed to the Local Rules to address the above described concerns, and that such changes have been given appropriate notice and opportunity for comment as required by 28 U.S.C. § 2071(b), Rule 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure.

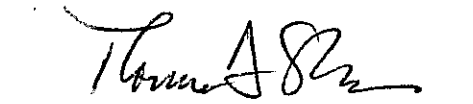
IT IS THEREFORE ORDERED that the following Local Rules of Civil and Criminal Practice in the United States District court for the Middle District of North Carolina be, and, they hereby are, adopted, effective 12:01 a.m., on the 1<sup>st</sup> day of April,


2011. At that time these local rules shall supersede local rules theretofore in effect and shall apply to all pending cases.

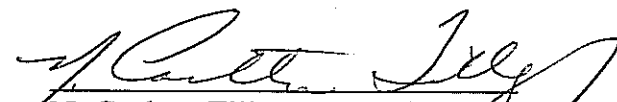
This the 30<sup>th</sup> day of March, 2011.

  
James A. Beaty, Jr., Chief Judge  
United States District Court

  
William L. Osteen, Jr., Judge  
United States District Court

  
Thomas D. Schroeder, Judge  
United States District Court

  
Catherine C. Eagles, Judge  
United States District Court

  
N. Carlton Tilley, Jr., Senior Judge  
United States District Court