

materials are essential. The Court may order any pleading or paper stricken if filed in violation of this rule.

(d) Civil Rights Actions by Prisoners, 42 U.S.C. §§ 1983. All *pro se* complaints filed by state prisoners seeking relief under 42 U.S.C. §§ 1983 shall be filed with the clerk in compliance with the instructions of the clerk and on appropriate forms which are available without charge in the clerk's office

LR 7.2 BRIEFS

(a) Contents. Opening briefs filed with the Court shall contain:

- (1) A statement of the nature of the matter before the Court.
- (2) A concise statement of the facts. Each statement of fact should be supported by reference to a part of the official record in the case.
- (3) A statement of the question or questions presented.
- (4) The argument, which shall refer to all statutes, rules and authorities relied upon.

Response briefs filed with the court shall contain items (2) and (4) above. There shall be no need to include items (1) or (3), but those items can be included at the election of respondent to any extent respondent desires to include those items and/or believes respondent's statement of those items would be helpful to the court.

Reply briefs filed with the court shall contain item (4) above and may contain item (2) to the limited extent of responding to factual matters newly raised in the response. There shall be no need to include items (1) or (3) and those items ordinarily should not be included.

(b) Citation of Published Decisions. For purposes of these rules, published decisions include decisions published in widely used reports and electronic databases, specifically including Westlaw and LEXIS. The preferred form of citation is in accordance with The Bluebook, a Uniform System of Citation.

(c) Citation of Unpublished Decisions. Unpublished decisions may be cited only if the unpublished decision is furnished to the Court and to opposing parties or their counsel when the brief is filed. Unpublished decisions should be cited as follows: *Wise v. Richardson*, No. C-70-191-S (M.D.N.C., Aug. 11, 1971).

(d) Citation of Decisions Not Appearing in Certain Published Reports. Decisions published only in reports other than the West Federal Reporter System, Westlaw, LEXIS, the official North Carolina reports and the official United States Supreme Court reports (e.g., C.C.H. Reports, Labor Reports, U.S.P.Q., reported decisions of other states or other specialized reporting services) may be cited only if the decision is furnished to the Court and to opposing parties or their counsel when the brief is filed.

LR 7.3 MOTION PRACTICE

(a) Form. All motions, unless made during a hearing or at trial, shall be in writing and shall be accompanied by a brief except as provided in section (j) of this rule.

Each motion shall be set out in a separate document.

(b) Content. All motions shall state with particularity the grounds therefor, shall cite any statute or rule of procedure relied upon, and shall set forth the relief or order sought.

(c) Decided on Motion Papers and Briefs.

(1) Motions shall be considered and decided by the Court on the pleadings, admissible evidence in the official court file, motion papers and briefs, without hearing or oral argument, unless otherwise ordered by the Court. Special considerations thought by counsel sufficient to warrant a hearing or oral argument may be brought to the Court's attention in the motion or briefs.

(2) The clerk shall give at least seven days' notice of the date and place of oral argument. The Court, however, for good cause shown may shorten the seven-day notice period.

(d) Limitations on Length of Briefs.

(1) Except with the Court's prior permission, briefs prepared on a computer in support of motions and responsive briefs shall not exceed 6,250 words and reply briefs shall not exceed 3,125 words. The word count shall include the body of the brief, headings and footnotes. The caption, signature lines, certificate of service, and any cover page or index are not included. Each brief shall include a certificate of word count, signed by counsel or a pro se party, which includes a certification that the brief complies with this rule. The filing party may rely on word count feature of word processing software in making this certification.

(2) Briefs prepared on a typewriter or by hand in support of motions and responsive briefs shall not exceed 20 pages, and reply briefs are limited to 10 pages.

(3) A party may not incorporate by reference portions of another brief or file multiple motions to circumvent these limits.

(4) In the absence of a court order, all parties that are represented by the same legal counsel must join together in a single brief. That single brief may not exceed the length limits in this rule. Absent leave of court, and for good cause shown, all issues raised on summary judgment under Fed. R. Civ. P. 56 must be raised by a party in a single motion supported by a single brief. When the alignment of the parties or other circumstances would warrant a different approach, the parties may address that matter in their Rule 26(f) report and/or by separate motion(s) setting out an alternative proposal to the Court.

(e) Movant's Supporting Documents. When allegations of facts not appearing of record are relied upon to support a motion, affidavits, parts of depositions, and other pertinent documents then available shall accompany the motion or related brief.

(f) Response to Motion. A respondent, if opposing a motion, shall file a response brief, within 21 days after service of the motion (30 days if the motion is for summary judgment; see LR 56.1(d)) (14 days if the motion relates to discovery; see LR 26.2 and LR 37.1). If supporting documents are not then available, the respondent may

move for an extension of time in accordance with section (g) of this rule. For good cause appearing therefor, a respondent may be required to file any response brief and supporting documents within such shorter period of time as the Court may specify.

(g) Lead Plaintiff Briefing in PSLRA Cases. In matters to which the Private Securities Litigation Reform Act (“PSLRA”) applies, briefs in response to motions to serve as lead plaintiff shall be filed within seven (7) calendar days of the filing of the motion. No reply briefs shall be permitted.

(h) Reply Brief. A reply brief may be filed within 14 days after service of the response. A reply brief is limited to discussion of matters newly raised in the response. (7 days if the reply is related to a discovery motion; see LR 26.2 and LR 37.1).

(i) Suggestion of Subsequently Decided Authority. As an addendum to a brief, response brief, or reply brief - or after oral argument but before decision - a suggestion of subsequent pertinent and significant authorities may be filed at any time prior to the Court's ruling and shall contain only the citation to the case relied upon, if published, or a copy of the opinion if the case is unpublished.

(j) Motions Not Requiring Briefs. No brief is required by either movant or respondent, unless otherwise directed by the Court, with respect to the following motions: (1) discovery motions in which the parties have agreed to the expedited procedures described in LR 37.1(b); (2) for extension of time for the performance of an act required or allowed to be done, provided request therefor is made before the expiration of the period originally prescribed or as extended by previous orders; (3) to continue a pretrial conference, hearing, or the trial of an action; (4) to add parties; (5) to amend the pleadings; (6) to file supplemental pleadings; (7) to appoint a next friend or guardian ad litem; (8) for substitution of parties; (9) to stay proceedings to enforce judgment; and (10) for relief sought to which all parties to the action consent. The above motions, while not required to be accompanied by a brief, must state good cause therefor and cite any applicable rule, statute, or other authority justifying the relief sought. These motions must be accompanied by a proposed order.

(k) Failure to File and Serve Motion Papers. The failure to file a brief or response within the time specified in this rule shall constitute a waiver of the right thereafter to file such brief or response, except upon a showing of excusable neglect. A motion unaccompanied by a required brief may, in the discretion of the Court, be summarily denied. If no response brief is filed within the time required by this rule, the motion will be considered and decided as an uncontested motion, and ordinarily will be granted without further notice.

other preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the Court for renewal of the motion.

(c) **Class Action Counterclaims or Cross-Claims.** The foregoing provisions shall apply, with appropriate adaptations, to any counterclaim or cross-claim alleged to be brought for or against a class.

(d) **Burden of Proof; Notice.** The burden shall be upon any party seeking to maintain a case as a class action to present an evidentiary basis to the Court showing that the action is properly maintainable as such. If the Court determines that an action may be maintained as a class action, the party obtaining that determination shall initially bear the expenses of and be responsible for giving such notice as the Court may order to members of the class.

LR 26.1 DIFFERENTIATED CASE MANAGEMENT AND DISCOVERY

(a) **Differentiated Case Management and Commencement of Discovery.** Every case in which an initial pretrial order is entered pursuant to LR16.1(b)-(d) shall be assigned, by agreement of the parties (if adopted by the Court) or by order of the Court, to one of three case-management tracks. (See LR16.2 and 16.3 for forms of the Fed.R.Civ.P. 26(f) report wherein parties advise the Court regarding case management tracks.) Unless otherwise ordered by the Court or agreed upon by the parties, commencement of discovery in each case will be in accordance with the initial pretrial order once entered by the Court. In submitting their reports under LR 26.1, the parties shall address whether there is a reason to delay commencement of discovery or to place limits on the scope of discovery for a period of time.¹ When one or more of the parties advocates for delay in discovery or limitation of discovery, the report shall also set out the party's position on the scope and length of discovery needed absent or following any delay or limitation. Whether or not any party believes that the timing, scope, and/or sequence of discovery should be affected by a pending motion, the parties shall address the appropriate track for the case at whatever point discovery may proceed in the matter. The three tracks are defined as follows:

(1) **Standard.** Discovery (including all discovery with respect to experts) in cases assigned to this track shall be completed within four (4) months from the date of the commencement date established in the initial pretrial order. Presumptively, subject to stipulation of the parties or order of the Court on good cause shown, interrogatories (including subparts) and requests for admission are limited to 15 in number by each party. Depositions are presumptively limited to four (4) depositions (including any experts) by the plaintiffs, by the defendants, and by third-party defendants.

(2) **Complex.** Discovery (including all discovery with respect to experts) in

¹ For instance, when a party has filed a dispositive motion, particularly when filed in lieu of an answer, which could dispose of the entire case or significant issues in the case, there may be a good reason to delay the start of discovery or to place limits on discovery while the motion is pending.

(3) Counsel and their witness-clients shall not engage in private, off-the-record conferences while the deposition is proceeding in session, except for the purpose of deciding whether to assert a privilege. Counsel may confer with their clients during mid-morning, lunch, mid-afternoon, or overnight breaks in the deposition. However, counsel for a deponent may not request such a break while a question is pending or while there continues a line of questioning that may be completed within a reasonable time preceding such scheduled breaks.

(4) Deposing counsel shall provide to the witness's counsel a copy of all documents shown to the witness during the deposition. The copies shall be provided either before the deposition begins or contemporaneously with the showing of each document to the witness. The witness and the witness's counsel do not have the right to discuss documents privately before the witness answers questions about them.

LR 37.1 DISCOVERY RELATED MOTIONS

(a) Conference of Attorneys with Respect to Motions and Objections Relating to Discovery. The Court will not consider motions and objections relating to discovery unless moving counsel files a certificate that after personal consultation and diligent attempts to resolve differences the parties are unable to reach an accord. The certificate shall set forth the date of the conference, the names of the participating attorneys, and the specific results achieved. It shall be the responsibility of counsel for the movant to arrange for the conference and, in the absence of an agreement to the contrary, the conference shall be held in the office of the attorney nearest the court location where the initial pretrial conference was convened or, in the absence thereof, nearest to Greensboro. Alternatively, at any party's request, the conference may be held by telephone or video conference.

(b) Expedited Resolution of Some Discovery Disputes. If, after a LR 37.1(a) conference, the parties agree that a discovery dispute can be ruled upon in a telephone conference of no more than 30 minutes, the Magistrate Judge will schedule such a conference and rule on the dispute without briefing by the parties. Alternatively, if the parties agree that the dispute can be ruled upon in an in-court hearing of no more than one hour, without briefing, the Magistrate Judge will schedule an early hearing. The fact that these proceedings are expedited and without briefing does not alter the application of Fed.R.Civ.P. 37(a)(5) regarding the imposition of sanctions in discovery motions.

(c) Time for Filing Response and Reply. Any response to a discovery-related motion shall be filed within 14 days after service of the motion. Any reply to a response shall be filed within 7 days after service of the response.

LR 40.1 TRIAL DATES AND FINAL PRETRIAL PREPARATION

(a) Establishment of Trial Date. While the case is in discovery, the clerk shall establish a trial date and give at least 4 months' notice thereof to the parties. The case may be set on a trial calendar of the assigned Judge or placed on a master calendar to be called by one or more District Judges. A Magistrate Judge may assist with the master calendar, although no case may be referred to the Magistrate Judge for trial unless the parties consent to the Magistrate Judge's trial jurisdiction.

(b) Continuance of Trial. The Court will consider a request to continue a trial date only if the request is personally signed by both the party and counsel for the party.

(c) Final Pretrial Preparation.

(1) The parties shall comply in all respects with Fed. R. Civ. P. 26(a)(3) regarding final pretrial disclosures, including the time requirements set out therein.

(2) Additionally, no later than 21 days before trial, each party shall file a trial brief.

(3) In non-jury cases, the trial brief must be accompanied by proposed findings of fact and conclusions of law.

(4) In a jury case, the trial brief shall be accompanied by proposed jury instructions. Prior to submitting trial briefs under this rule, the parties shall meet and confer to endeavor to file one set of agreed upon jury instructions to the extent practicable. Where there is disagreement, competing jury instructions shall be included with the trial brief required above. An electronic Word version of the agreed-upon and any disputed jury instructions shall be emailed to the assigned judge's ECF mailbox.

(5) Except with the Court's prior permission, trial briefs must not exceed 6,250 words or 20 pages in the manner specified in LR 7.3(d), but proposed jury instructions and proposed findings of fact and conclusions of law do not count toward this limitation.

(6) Any party, or the Court on its own motion, may request a pretrial hearing or telephone conference to address matters relating to final pretrial preparation or settlement of the case. At any settlement conference, the Court may require the attendance of parties and insurers.

(d) Sealing Exhibits or Trial Testimony and Closing the Courtroom.

The Court will not close the courtroom during the testimony of a witness, seal the testimony of witnesses, or seal exhibits admitted at trial in whole or in part, including documents previously filed under seal, except in accordance with this Rule. As to any material, item, or testimony that a party believes is likely to be offered at trial, a written motion to seal must be filed. Before filing such a motion, the moving party must:

(1) Identify in its pretrial disclosures under Rule 26(a)(3) of the Federal Rules of Civil Procedure any witness testimony, trial exhibits, or parts of trial exhibits that it wishes to have sealed at trial;

(2) Identify in its objections to pretrial disclosures under Rule 26(a)(3) of the Federal Rules of Civil Procedure any witness testimony, trial exhibits, or

parts of trial exhibits identified by any other party that it wishes to have sealed at trial; and

(3) Promptly meet and confer with all other concerned parties in a good-faith effort to narrow the issues related to sealing that will be presented to the Court for review and consideration and to discuss the likelihood that an exhibit will be used at trial. The parties are encouraged to identify confidential but immaterial portions of an exhibit that can be redacted to allow the exhibit to be entered into evidence without sealing.

The motion to seal must be filed at least 7 days before trial and be accompanied by supporting evidence and a brief, which may be filed under seal. The motion or brief must summarize the substance of the meet and confer process and state the parties' positions about the likelihood that the testimony or exhibit(s) will be offered or used at trial. The movant must notify the case manager for the trial judge at or before the time the motion is filed, by e-mail to the Trial Judge's ECF mailbox. At least 3 days before the scheduled trial date, any other party may, but is not required to, file a response. No reply briefs are allowed.

The parties are discouraged, but not prohibited, from filing motions under this Rule as to exhibits or testimony that both parties believe are unlikely to be offered or used at trial. As to such testimony or exhibits, the parties may alert the court during a pretrial conference or at the start of the trial that there is evidence which, if offered or used, a party believes should be under seal.

LR 43.1 TRIAL PROCEDURE

(a) Opening Statements in Civil Actions. At the commencement of the trial of civil actions, the party with the burden of proof may, without argument, state his or her cause of action and the evidence by which the party expects to sustain the party's claim. The adverse party may then, without argument, state his or her defense and the evidence by which the adverse party expects to sustain a defense. If the trial is to a jury, the opening statement shall be made immediately after the jury is sworn. If the trial is to the Court, the opening statement shall be made immediately after the case is called for trial. Opening statements shall be subject to such time limitations as may be imposed by the Court.

(b) Documents, Other than Exhibits, Used at Trial. When counsel expects to examine or cross-examine a witness concerning a document which will not be offered as an exhibit, counsel shall have at trial a copy of the document for use by the Judge.

(c) Absence During Return of Verdict. In a jury trial, if a party or counsel is voluntarily absent from the courtroom prior to the return of the verdict, it shall be conclusively presumed that such party or counsel waived presence.

LR 54.1 TAXATION OF COSTS OTHER THAN ATTORNEYS' FEES

(a) Filing Bill of Costs.

(1) A prevailing party may request the clerk to tax allowable costs in a civil action as a part of a judgment or decree by filing a bill of costs, on form AO133 available in the clerk's office:

- (i) within 30 days after the expiration of time allowed for appeal of a final judgment or decree, or
- (ii) within 30 days after receipt by the clerk of a mandate (or, if applicable, the denial of a writ of certiorari or other final decision from the Supreme Court), terminating the action on appeal, or
- (iii) as the Court may otherwise direct.

(2) The original of the bill of costs shall be filed with the clerk, with copies served on all parties.

(3) The failure of a prevailing party to timely file a bill of costs shall constitute a waiver of any claim for costs.

(b) Objections to Bill of Costs.

(1) If an adverse party objects to the bill of costs or any item claimed by a prevailing party, the adverse party must state in writing its objection in a motion for disallowance with a supporting brief within fourteen (14) days after the filing of the bill of costs. Within seven days thereafter, the prevailing party may file a response. No reply is permitted. Unless a hearing is ordered by the clerk, a ruling will be made by the clerk on the record.

(2) A party may request review of the clerk's ruling by filing a motion within seven days after the action of the clerk. The Court's review of the clerk's action will be made on the existing record unless otherwise ordered.

(c) Taxable Costs.

(1) Items normally taxed include, without limitation:

- (i) Those items specifically listed on the bill of costs form. The costs incident to the taking of depositions (when allowable as necessarily obtained for use in the litigation) normally include only the reporter's attendance fee and charge for one transcript of the deposition.
- (ii) Premiums on required bonds.
- (iii) Actual mileage, subsistence, and attendance allowances for necessary witnesses at actual cost, but not to exceed the applicable statutory rates, whether they reside in or out of this district.
- (iv) One copy of the trial transcript for each party represented by separate counsel.

(2) Items normally not taxed include, without limitation:

- (i) Witness fees, subsistence, and mileage for individual parties, real parties in interest, parties suing in representative capacities, and the officers and directors of corporate parties.
- (ii) Daily copy of trial transcripts, unless prior court approval has been obtained.
- (iii) Costs of shipping/mailing transcripts.
- (iv) Mediation fees.
- (v) Costs for service by private process servers.
- (vi) Expert witness expenses.
- (vii) Jury consultant expenses.
- (viii) Expenses associated with electronic discovery.

(d) Costs in Settlements. The Court will not tax costs in any action terminated by compromise or settlement. Settlement agreements must resolve any issue relating to costs. In the absence of specific agreement, each party will bear its own costs.

(e) Payment of Costs. Costs are to be paid directly to the party entitled to reimbursement, who must file a certificate of satisfaction within 21 days of receipt of payment.

(f) Applicability. This Rule does not apply to requests for attorneys' fees. Such requests are instead governed by Local Rule 54.2

LR 54.2 AWARD OF STATUTORY ATTORNEYS' FEES

Consistent with Fed. R. Civ. P. 54(d)(2)(A), this Local Rule applies only where substantive law does not require attorneys' fees to be proved at trial as an element of damages. This Local Rule does not apply to attorneys' fees in Social Security appeals.

The Court will not consider a motion to award statutory attorneys' fees until moving counsel shall first advise the Court in writing that after consultation in person or by videoconference or by telephone conference the parties are unable to reach an agreement in regard to the fee award. Such consultation must include an explanation by the party opposing the fee amount of the reasons for the opposition and a discussion of ways to narrow or resolve the dispute. The statement of consultation shall set forth the date of the consultation, the names of the participating attorneys, and the specific results achieved.

Within twenty-one (21) days after the entry of a judgment, (i) the parties shall file an appropriate stipulation and request for an order if they have reached an agreement on an award of statutory attorneys' fees; or (ii) if the parties have not reached such an agreement, the moving party shall file the statement of consultation required by this rule and a motion. Consistent with the provision in Fed. R. Civ. P. 54(d)(2)(B) permitting variation in the time for filing a motion for attorneys' fees, the 14-day deadline in Fed. R. Civ. P. 54(d)(2)(B)(i) is modified to 21 days.

Whether or not agreement has been reached on attorneys' fees, the party seeking recovery of the fee shall prepare and file contemporaneously with the motion, and within the same twenty-one (21) day deadline, the following supporting materials: a brief, affidavit(s) addressing the following factors (1) the time and labor required; (2) the novelty and difficulty of the questions involved; (3) the skill requisite to perform the legal service properly; (4) the preclusion of other employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the "undesirability" of the case; (11) the nature and the length of the professional relationship with the client; (12) awards in similar cases, and (13) the hours expended and rates of timekeepers, the terms of applicable fee agreements, and itemization of time spent for each attorney for whom a fee is sought showing the dates and tasks performed sufficient for the Court to determine whether or not the work performed was compensable, or other evidence, setting forth the factual basis for each criterion which the Court will consider in making such an award. The supporting materials shall include all information necessary to allow the Court to evaluate the reasonableness of the requested fee. The Court reserves the right to require additional information it deems necessary to make such determination and to alter any of the deadlines provided in this Rule. The Court may, sua sponte or on motion of a party, extend the deadlines until after resolution of any appeal.

In addition, the motion may be accompanied by an affidavit regarding the reasonableness of the requested hourly fee from a disinterested attorney admitted to practice in the Middle District of North Carolina who is experienced in handling similar cases and familiar with the usual and customary charges by attorneys in the Middle District who have comparable experience in similar cases.

Motions to award statutory attorneys' fees shall be governed by LR 7.3, which provides the opportunity for adversary submissions contemplated by Federal Rule of Civil Procedure 54(d)(2)(C).

Unless a hearing is ordered by the Court, a ruling will be made by the Court on the record.

This rule also shall govern expenses not taxable as costs when recoverable under governing law incident to the award of fees, but any compensable expense shall be segregated from any attorneys' fee sought. Any such expense sought shall be supported by receipt.

As set out in the comments to Fed. R. Civ. P. 54(d), if an appeal is taken the Court may rule on the motion for fees, may defer its ruling on the motion, or may deny the motion without prejudice and direct a new period for filing after the appeal has been resolved.

LR 56.1 SUMMARY JUDGMENT MOTIONS

distribution of earnings is made to court cases. The custodian is further authorized and directed by this Order to withhold and pay federal taxes due on behalf of the DOF.

LR 72.1 AUTHORITY OF MAGISTRATE JUDGES

(a) Designation to Conduct Trials and to Perform Other Duties.

(1) Magistrate Judges are authorized and designated to exercise the powers and authority and to perform the duties enumerated in 28 U.S.C. §§ 636(b)(1) and (2).

(2) Magistrate Judges serving this Court are specially designated to:

- (i) exercise civil jurisdiction to conduct any or all proceedings in jury or non-jury cases and order the entry of judgment in any case referred to them for that purpose, pursuant to 28 U.S.C. §§ 636(c), and
- (ii) exercise jurisdiction to try persons accused of, and sentence persons convicted of, criminal misdemeanors.

(b) Authority to Perform Additional Duties. Pursuant to 28 U.S.C. §§ 636(b)(3), Magistrate Judges are authorized to perform additional functions and duties, including the following:

- (1) Conduct pretrial conferences, settlement conferences, omnibus hearings, and related pretrial proceedings;
- (2) Conduct calendar and status calls for civil and criminal calendars, and determine motions to expedite or postpone the trial of cases;
- (3) Conduct arraignments in cases not triable by the Magistrate Judge to the extent of taking a not guilty plea or noting a defendant's intention to plead guilty or nolo contendere and ordering a presentence report in appropriate cases;
- (4) Conduct voir dire and select petit juries for the Court;
- (5) Accept petit jury verdicts in civil cases in the absence of a District Judge;
- (6) Conduct preliminary proceedings relating to the potential revocation of probation;
- (7) Issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings;
- (8) Order the exoneration or forfeiture of bonds;
- (9) Conduct proceedings for the collection of civil penalties of not more than \$200 assessed under the Federal Boat Safety Act of 1971, in accordance with 46 U.S.C. §§ 1484(d);
- (10) Conduct examinations of judgment debtors, in accordance with Rule 69 of the Federal Rules of Civil Procedure;
- (11) Review petitions in civil commitment proceedings under Title III of the Narcotic Addict Rehabilitation Act;
- (12) Conduct such hearings as are necessary or appropriate, and submit to a District Judge proposed findings of fact and recommendations for disposition of applications for judgment by default pursuant to Rule 55(b) of the Federal Rules of Civil

Procedure, or motions to set aside judgments by default pursuant to Rule 55(c) of the Federal Rules of Civil Procedure;

(13) Consider an application by complainant pursuant to 42 U.S.C. §§ 2000e-5(f)(1), and in such circumstances as may be deemed just, appoint an attorney for such complainant, and authorize the commencement of an action without payment of fees, costs, or giving security therefor;

(14) Issue orders or warrants authorizing acts necessary in the performance of the duties of administrative and regulatory agencies and departments of the United States Government;

(15) Conduct extradition proceedings, in accordance with 18 U.S.C. §§ 3184;

(16) Supervise proceedings conducted pursuant to letters rogatory, in accordance with 28 U.S.C. §§ 1782;

(17) Require compliance with local rules with regard to *pro se* petitions under 42 U.S.C. §§ 1983;

(18) Issue orders of withdrawal from the court registry of funds pursuant to 28 U.S.C. §§ 2042;

(19) Pursuant to 28 U.S.C. § 3008, conduct any proceedings under the Federal Debt Collection Procedure Act, 28 U.S.C. §§ 3001-3308; and

(20) Perform any additional duty which is not inconsistent with the Constitution and laws of the United States.

LR 72.2 ASSIGNMENT OF MATTERS TO MAGISTRATE JUDGES

Duties and cases may be assigned or referred to a Magistrate Judge by a court order entered in the action or by the clerk in compliance with standing orders or the instructions of a District Judge.

LR 72.3 STAY OF ORDER

Application for stay of a Magistrate Judge's order pending review of objections made thereto must first be made to the Magistrate Judge.

LR 72.4 OBJECTIONS AND RESPONSES TO RECOMMENDATION OR ORDER

Objections and responses to a magistrate judge's recommendations or orders shall not exceed 6,250 words or 20 pages in the manner specified in LR 7.3(d).

custody of the party offering them, subject to the orders of the Court. Such exhibits shall include, but not be limited to, the following types of bulky or sensitive exhibits: narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and documents or physical exhibits of unusual bulk or weight.

At the conclusion of a trial or proceeding, the party offering such exhibits shall retain custody of them and be responsible to the Court for preserving them in their condition as of the time admitted until any appeal is resolved or the time for appeal has expired. The party retaining custody shall make such exhibits available to opposing counsel for use in preparation of an appeal and be responsible for their safe transmission to the appellate court, if required.

(c) Disposition of Exhibits, Sealed Documents, and Filed Depositions by Clerk. Any exhibit, sealed document, disk, or filed deposition in the clerk's custody more than 30 days after the time for appeal, if any, has expired, or an appeal has been decided and mandate received, may be returned to the parties or destroyed by the clerk.

(d) Depositions. Depositions read into the court record are considered exhibits for which the parties shall be responsible as provided in section (b) above. Depositions on file admitted into evidence but not read into the record shall be retained in the clerk's custody and disposed of as authorized in section (c) of this rule.

LR 83.1 ATTORNEYS

(a) Roll of Attorneys. The bar of this Court shall consist of those attorneys admitted to practice before this Court.

(b) Eligibility and Admission. To be eligible for admission to the bar of the Court, a person must be admitted to the practice of law in this state and in good standing with the Supreme Court of North Carolina. A Judge will consider a request for admission only upon motion made in open court by a member of the bar of this Court. Prior to being admitted to practice, an attorney must certify, on the application for admission to practice form provided for use in this Court, that the attorney has read and is familiar with the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Local Rules of this Court, and the North Carolina Code of Professional Responsibility. Attorneys seeking admission to practice in this Court must take an oath or make an affirmation in a form approved by the Court and pay the filing fee required by the Administrative Office of the United States Courts for admission to practice in this district. When the application form prescribed for use by this Court is completed and the appropriate filing fee has been paid to the Clerk of Court of this Court, a judge or magistrate judge of the Eastern or Western Districts of North Carolina, upon being presented evidence that the above-mentioned application has been filed and that the requisite fees have been paid, may admit an attorney who is qualified according to these rules to practice before this Court. Attorneys already admitted to the bars of either the United States District Court for the Eastern District of North Carolina or the United

States District Court for the Western District of North Carolina may be admitted to the bar of this Court upon tendering the application and fees required by this rule, together with a copy of the order admitting the attorney to practice or certificate of good standing from either of the aforementioned districts.

(c) Litigants Must Be Represented by a Member of the Bar of this Court.

(1) Litigants in civil and criminal actions and parties in bankruptcy proceedings before this Court, except parties appearing *pro se*, must be represented by at least one attorney who is a member of the bar of this Court. Federal government attorneys representing the interests of the United States are not required to secure local counsel. The service of all pleadings and papers permitted by the Federal Rules of Civil and Criminal Procedure shall be sufficient if made upon such attorney.

(2) All pleadings and papers presented to the clerk for filing, except by attorneys representing governmental agencies or parties appearing *pro se*, shall be signed by a member of the bar of this Court.

(d) Special Appearance.

(1) Attorneys who are members in good standing of the bar of the highest court of any state or the District of Columbia may practice in this Court for a particular case in association with a member of the bar of this Court. To appear by special appearance, an attorney shall associate with a member of the bar of this Court, shall register as a filing user with the Court's CM/ECF system, shall enter a Notice of Special Appearance, and shall pay any appearance fee required by the Court. See LR 5.3(c)(1). No motion is required. By entering an appearance, an attorney agrees that:

(i) the attorney will be responsible for ensuring the presence of an attorney who is familiar with the case and has authority to control the litigation at all conferences, hearings, trials and other proceedings; and that

(ii) the attorney submits to the disciplinary jurisdiction of the Court for any misconduct in connection with the litigation for which the attorney is specially appearing.

(2) A member of the bar of this Court who accepts employment in association with a specially appearing attorney is responsible to this Court for the conduct of the litigation or proceeding and must review and sign all pleadings and papers, except for certificates of service. Such member must be present during pretrial conferences, potentially dispositive proceedings, and trial.

(e) Withdrawal of Appearance. No attorney who has entered an appearance in any civil or criminal action shall be permitted to withdraw an appearance, or have it stricken from the record, except as follows:

(1) By Notice of Withdrawal. A party's attorney may withdraw from a case by filing and serving a notice of withdrawal, effective upon filing, if another attorney has entered an appearance, on behalf of the party from the same firm, organization, or government agency, which includes the United States, and that attorney will still be the party's counsel of record after the attorney seeking to withdraw does so. A notice of withdrawal may be filed on the withdrawing attorney's behalf if that attorney is no longer employed by the firm, organization, or agency.

(2) By Motion. An attorney who seeks to withdraw other than under paragraph (1) must move to withdraw and make an appropriate showing in support. The motion to withdraw must be served on the client and include the client's mailing address in the certificate of service.

LR 83.2 COURTROOM PRACTICES

(a) **Addressing the Court.** Attorneys or litigants shall rise when addressing the Court and shall make all statements to the Court from behind the counsel table or the lectern facing the Court. They shall not approach the bench, except upon the permission of the Court.

(b) **Questioning Witnesses.** While questioning witnesses, attorneys or *pro se* litigants shall remain seated or standing behind the counsel table or standing at the lectern. They shall not approach the witness except for the purpose of examining the witness with respect to an exhibit. Only one attorney for each party may participate in the examination or cross-examination of a witness.

LR 83.3 SETTLEMENT

Attorneys or *pro se* litigants shall immediately notify the clerk of an agreement in principle reached by the parties which resolves the litigation as to any or all parties. Whenever any civil action scheduled for a jury trial is settled or otherwise disposed of in advance of the actual trial, then, except for good cause shown, all jury costs, including any marshal's fees, mileage and per diem, may be assessed equally against the parties or otherwise assessed as determined by the Court, unless the clerk's office is notified at least one full business day prior to the date on which the action is scheduled for trial or in sufficient time to notify jurors that their presence will not be required.

LR 83.4 SANCTIONS

(a) **Imposition of Sanctions.** If an attorney or a party fails to comply with a local rule of this Court, the Court may impose sanctions against the attorney or party, or both. The Court may make such orders as are just under the circumstances of the case, including the following:

(1) an order that designated matters or facts shall be taken as established for purposes of the action;

(2) an order refusing to allow the failing party to support or oppose designated claims or defenses, or prohibiting the party from introducing designated matters in evidence;

LR 83.9c MEDIATORS

(a) Certification. The clerk shall maintain a list of mediators who have agreed to serve under these rules. The list shall identify areas of subject matter expertise of each mediator according to the categories identified in LR 83.9b(a) and include such biographical information as each mediator may wish to provide. Attorneys who have been certified as mediators pursuant to the rules of the North Carolina Supreme Court and who have a total of at least 8 years of civil trial practice, judgeship on a state or federal court, and/ or membership on the faculty of an accredited law school may serve on the panel of mediators. All district, magistrate, and bankruptcy judges of the Middle District of North Carolina are authorized to act as mediators or neutrals in this district without application or requiring certification from the North Carolina Supreme Court. Appointment to the list does not guarantee any mediator that he or she will be appointed to serve in any case before the Court.

(b) Compensation of Mediators. Mediators under these rules shall be compensated by the parties at an hourly rate and in a manner set by the Chief Judge, except that in the case of an agreed-upon mediator, the parties may agree to greater compensation and expense reimbursement. Unless otherwise agreed by the parties and the mediator, the parties shall make payment directly to the mediator at the termination of the mediated settlement conference, whether or not the case is settled. When a mediator is Court-appointed, the mediator shall be compensated for up to 2 hours of preparation time and for the time expended in the conference, and the only compensable expense of the mediator may be travel mileage at the ordinary government rate. For all mediations, each party or third party represented by separate counsel is responsible for that party's equal share of the mediator's fee and expenses, unless otherwise agreed by all parties or ordered by the Court in the interest of fairness. For purposes of this rule, multiple parties shall be considered one party when they are represented by the same counsel.

(c) Compensation of Mediators when a Party is Unable to Pay. If a party contends it is unable to pay its share of the mediator's fee, that party shall, no later than 7 days after the mediation conference has concluded, file a motion with the Court to be relieved of the obligation to pay. The motion shall be accompanied by an affidavit of financial standing. The mediated settlement conference should proceed without payment by the moving party, and the Court will rule on the motion upon completion of the case. The Court will take into consideration the outcome of the case, whether by settlement or judgment, and may relieve the party of its obligation to pay the mediator if payment would cause a substantial financial hardship. If the party is relieved of its obligation, the mediator shall remain uncompensated as to that portion of his or her fee, a circumstance that reflects the mediator's duty of pro bono service.

(d) Procedure for Mediators to seek a Remedy when a Party Has Not Paid. In the event that a mediator, after reasonable good-faith efforts to collect on an outstanding mediation invoice, has not been paid by a party which has not otherwise been excused by the Court from such payment, the mediator may petition the Court for an order regarding the payment of same. The mediator shall serve such petition upon all