

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

IN RE: REVISED LOCAL RULES

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Administrative Order No. 26-RL-054

Pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure, the Court hereby gives notice of its consideration of amendments to the Local General Rules, the Local Civil Rules, and the Local Criminal Rules. The amendments are the result of a comprehensive review of rules that have been in effect since January 1, 2019. The revisions update and clarify a number of rules to better reflect the Court's current practices and expectations. An effort has been made to consolidate, streamline, and improve consistency within the rules.

At a regular meeting conducted June 12, 2026, the proposed amendments have been approved by the Judges of this Court for review and comment. The proposed rule amendments are attached to this order in both mark-up form, as well as a clean copy without markup. The rule amendments are also available on the Court's website or in paper form at the Clerk's Office.

NOTICE IS HEREBY GIVEN to all members of the public of their opportunity to review and comment on the attached proposed rule amendments. A copy of this order will be available in each divisional office and on the Court's website. In addition, the Clerk shall send electronic notice to all attorneys registered to use the CM/ECF system. The Clerk shall provide a copy of the proposed amendment to the West Michigan Federal Court Association, the State Bar of Michigan Committee on United States Courts, and the Michigan Lawyer's Weekly.

All comments should be in writing and must be received by the Court no later than Monday, July 27, 2026, or thirty days after posting on the website, whichever is later. Comments should be addressed to:

Ann Filkins, Clerk  
United States District Court  
399 Ford Federal Building  
110 Michigan St., N.W.  
Grand Rapids, MI 49503

or submitted electronically to [comments@miwd.uscourts.gov](mailto:comments@miwd.uscourts.gov). The Court will consider all comments before promulgating a final version of the proposed rules.

FOR THE COURT:

Dated: June 26, 2026

  
\_\_\_\_\_  
HALA Y. JARBOU  
CHIEF UNITED STATES DISTRICT JUDGE

**LOCAL RULES  
OF  
PRACTICE AND PROCEDURE**



United States District Court  
For the Western District of Michigan

Hon. Hala Y. Jarbou, Chief Judge

Hon. Paul L. Maloney

Hon. Robert J. Jonker

Hon. Jane M. Beckering

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# Local General Rules

## Local General Rule 1. Authority; scope; construction

1.1 Authority - These rules are promulgated pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure. Amendment of these rules is governed by LGenR 1.3, Rule 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure.

1.2 Short title - These rules may be cited and referred to individually as "W.D. Mich. LGenR \_\_\_\_."

1.3 Amendments - These rules may be amended by a majority vote of the district judges in conformity with Rule 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure. These rules include amendments through January 1, 2019 [insert 2026 date].

1.4 Applicability - These rules apply to all proceedings in this court.

1.5 Scope - These rules govern the procedure in the United States District Court for the Western District of Michigan, govern the practice of attorneys before this court, and supersede all previous rules promulgated by this court or any judge thereof. Administrative orders and single judge standing orders shall be maintained by the clerk on the court's website or made available upon request. All such orders shall be consistent with these rules and the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

1.6 Construction - These rules shall be construed to achieve an orderly administration of the business of this court and to secure the just, speedy and inexpensive determination of every action. References to the statutes, regulations or rules shall be interpreted to include all revisions and amendments thereto. References to the clerk shall be interpreted to mean the clerk of this court or any deputy clerk. Wherever used in these rules, the term "party", whether used in the singular or plural, shall include all parties appearing in the action *pro se* and the attorney or attorneys of record for represented parties, where appropriate. Unless otherwise noted, the terms judge(s) and judicial officer(s) are used interchangeably.

## Local General Rule 2. Attorneys

### 2.1 Attorney admission to practice

- (a) Applicant eligibility - An attorney may apply for admission to the bar of the court if the attorney:
- (i) has been admitted to practice before a court of record of a state or the District of Columbia;
  - (ii) is in good standing with that court of record of a state or the District of Columbia;
  - (iii) is of good moral and professional character.
- (b) Admission procedure - An applicant must pay the fee established by the court and provide the clerk of court with a completed application for admission as found on the court's website.
- (c) Government attorneys - An attorney representing the United States, an agency of the United States, or representing a party as a Federal Public Defender, is exempt from the fee payment, but must otherwise follow the admission procedure under LGenR 2.1(b).
- (d) Admission - The Chief Judge may grant or deny the application for admission. Alternatively, the Chief Judge may refer the application to a three-judge panel for decision pursuant to the procedure identified on the court's website.
- (e) Law student practice - A law student may appear before the court pursuant to the procedure established by this court and found on the court's website.

### 2.2 Permission to practice in a particular case

- (a) Pro hac vice admission - This court disfavors *pro hac vice* admission and prefers that all lawyers appearing before it become full members of the bar of the court. Judges retain discretion to allow *pro hac vice* admission on a temporary basis pending full admission. ~~*Pro hac vice* admission may nevertheless be allowed on a temporary basis pending full admission, or in unusual circumstances.~~

- (b) Sanctions - Nothing in this rule detracts from the court's power to sanction unprofessional conduct.

### 2.3 Attorney Discipline

- (a) Discipline Generally - Any attorney practicing before the court is subject to discipline by the court upon a showing that the attorney is:

- (i) currently reprimanded, suspended or disbarred by any admitting or licensing authority;
- (ii) convicted of a crime; or
- (iii) guilty of unprofessional conduct.

- (b) Discipline by admitting or licensing authority; Procedure

- (i) Attorney's duty to notify - An attorney practicing before the court who is publicly reprimanded, suspended or disbarred by any admitting or licensing authority must inform the clerk in writing of the public reprimand, suspension or disbarment, within ten (10) days after the effective date of any such public reprimand, suspension, or disbarment.
- (ii) Automatic reciprocal discipline; Discretion to enhance discipline - Unless otherwise ordered by the court, any ~~such~~ attorney who has been suspended or disbarred by any admitting or licensing authority, whether by suspension, revocation, or disbarment, shall automatically forfeit his or her right to practice law before this court during the same period that such attorney has been prohibited from practicing law by such other licensing authority, or, under the court's discretion, for a greater period of time. The clerk of court shall send a written notice to the attorney, together with a copy of this section of the Local Rules, informing the attorney of the forfeiture of his or her right to practice law before this court. Any failure or delay with regard to the sending of such notice shall not affect the automatic forfeiture provisions of this section.

- (iii) Grounds for challenge - Within thirty (30) days after the effective date of any suspension or disbarment by any admitting or licensing authority, the attorney may file a written challenge to the reciprocal discipline imposed under LGenR 2.3(b)(ii). To conclude that the entry of some other order is appropriate, the Chief Judge, or by reference, a three-judge panel, must find that the record underlying the attorney's suspension or disbarment clearly indicates that ~~the~~:
- (A) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
  - (B) the proof establishing the misconduct was so infirm that the court could not—consistent with its duty—accept the conclusion of the admitting or licensing authority as final;
  - (C) the court's disqualification of the attorney would result in grave injustice; or
  - (D) the court concludes that the misconduct underlying the attorney's suspension or disbarment warrants substantially different discipline.
- (iv) Finality of the action of the admitting or licensing authority - Unless the court determines that one of the grounds contained in LGenR 2.3(b)(iii) exists, the admitting or licensing authority's final adjudication of attorney misconduct conclusively establishes the misconduct for purposes of this court's discipline.
- (v) Reinstatement - Upon reinstatement of an attorney by any admitting or licensing authority, the attorney shall provide to the clerk of court written notice from the admitting or licensing authority confirming the reinstatement. The clerk of court shall transmit the confirmation to the Chief Judge who shall determine whether the attorney may be reinstated to practice before the court. Alternatively, the Chief Judge may refer the matter to a three-judge panel for decision.

- (c) Criminal charges - Upon being charged with a crime, the attorney must inform the clerk of court, in writing, of charges within ten (10) days of receiving notice of the charges. Upon conviction of a crime, the attorney must immediately notify the clerk of court, in writing, of the conviction and must, at that time, provide the clerk of court with a complete copy of the criminal record, including charging documents and all filings in the matter. The attorney is under a continuing duty to provide all materials from the criminal case to the clerk of court when available. The clerk of court shall transmit the information to the Chief Judge who shall determine whether the attorney may practice before the court. Alternatively, the Chief Judge may refer the matter to a three-judge panel for decision.
- (d) Discipline for unprofessional and improper conduct - If it appears to a judge of this court that an attorney practicing before the court has violated the rules of professional conduct or is guilty of other conduct unbecoming an officer of the court, ~~the any~~ judge may: (1) for discipline other than suspension or disbarment, order an attorney to show cause—within a specified time—why the court should not discipline the attorney; or (2) refer the matter to the Chief Judge of the district who shall determine whether the attorney should be disciplined or alternatively refer the matter to a three-judge panel ~~or 2) for discipline, except suspension or disbarment, order an attorney to show cause—within a specified time—why the court should not discipline the attorney.~~ Upon the expiration of the period specified or upon the attorney's response to the show cause order, the court will enter an appropriate order. In the case of entry of an order for discipline by a judge, Upon the entry of an order for discipline, the attorney may seek review of that order from the Chief Judge within twenty-one (21) days of the order ~~for discipline.~~ The Chief Judge may decide that appeal or refer it to a three-judge panel for review. In the case of entry of an order for discipline by a three-judge panel, the panel's decision is final. ~~Alternatively, the Chief Judge may refer the matter to a three-judge panel for decision.~~
- (e) Discipline for contempt - Disbarment from the court may be utilized as a sanction for contempt of court under the procedures contained in Rule 42 of the Federal

Rules of Criminal Procedure. Nothing in this rule shall limit the court's power to punish contempt.

- (f) Resignation in other jurisdictions - If an attorney resigns from the bar of another court of the United States while an investigation into allegations of misconduct is pending, the attorney shall immediately be suspended from the court. The attorney shall promptly inform the clerk of the resignation. An attorney knowingly violating this notification provision may be charged with criminal contempt. The Chief Judge shall enter an order suspending the attorney, effective as of the date of resignation in the other jurisdiction. An attorney may apply to the Chief Judge for modification or vacation of the suspension. The Chief Judge may modify or vacate the suspension, or alternatively refer the matter to a three-judge panel.

2.4 Local counsel - If the law practice of an attorney practicing before the court is not located ~~within the district in proximity to the place where court is held~~, the court may—in its discretion—require the attorney to designate local counsel. To require local counsel, the court must enter an order articulating the reasons local counsel is required.

2.5 Appearance of counsel - Unless the court orders otherwise, an attorney admitted to this court is deemed an attorney of record by:

- (a) appearing in court on behalf of a party;
- (b) filing an entry of appearance; or
- (c) signing a pleading, motion or other paper as attorney for a party.

The appearance of an attorney is deemed to be the appearance of the law firm. Any attorney in the firm may be required by the court to conduct a court-ordered conference or trial. Withdrawal of appearance may be accomplished only by leave of court.

### Local General Rule 3. Bankruptcy

3.1 Bankruptcy

- (a) Referral of cases under Title 11 to bankruptcy judges - Pursuant to the powers granted by 28 U.S.C. § 157(a), all cases under Title 11 and all proceedings arising

under Title 11 or arising in or related to a case under Title 11 previously filed or hereafter filed shall be referred to the bankruptcy judges of this district.

- (b) Bankruptcy court jurisdiction in core and noncore related proceedings - The bankruptcy judge shall determine whether proceedings are core, or noncore related, and shall enter appropriate orders and judgments subject to those appeal rights afforded by 28 U.S.C. § 158 and Part VIII of the Federal Rules of Bankruptcy Procedure. In those noncore related proceedings in which the parties timely object to the entry of a final judgment or order by the bankruptcy judge, the bankruptcy court shall file and serve proposed findings of fact and conclusions of law on all dispositive matters. Objections shall be filed in accordance with Fed. R. Bankr. P. 9033. Upon submission by the bankruptcy court clerk to the district court clerk of the proposed findings of fact and conclusions of law and all objections timely filed thereto, the matter will be randomly assigned to a district judge who will conduct all further proceedings and enter a dispositive order.
- (c) Jury trials - Pursuant to 28 U.S.C. § 157(e), the bankruptcy judges in this district are specially designated to conduct jury trials with the express consent of all parties, if the right to jury trial applies in any proceeding that may be heard by a bankruptcy judge. All bankruptcy judges shall adhere to the Jury Selection and Service Act, 28 U.S.C. §§ 1861-1878, and this court's jury selection plan. Upon request, the district court clerk shall supply a sufficient number of jurors for jury trials in the bankruptcy court. Procedure in jury cases, including time and form of jury demand, waiver, advisory juries and trial by consent shall be governed by local rule of the bankruptcy court.
- (d) Local bankruptcy rules - Pursuant to Rule 83 of the Federal Rules of Civil Procedure and Federal Rule of Bankruptcy Procedure 9029(a)(1), a majority of the bankruptcy judges of this district are authorized to make rules of practice and procedure consistent with the bankruptcy rules.

#### Local General Rule 4. Conduct in federal court facilities

##### 4.1 Facility and environs

(a) Security screening; definitions; requirements

- (i) As used in this rule, "federal court facility" includes any facility occupied by the United States District Court or any temporary facility occupied by a judge serving in the Western District of Michigan.
- (ii) All persons entering a federal court facility in the Western District of Michigan are required to present a valid government issued identification card with photo, pass through a security screening device, and have all belongings and packages subject to physical and/or security screening examination by the United States Marshals Service, court security officers, and employees of the Federal Protective Service. Any person who refuses to present a valid form of identification or pass through screening shall be denied entrance.
- (iii) Consent to provisions - Any person bringing in an electronic communication device as defined in LGenR ~~4.3(a)~~~~4.4(a)~~ shall be determined to have consented to the provisions of this rule.

(b) Soliciting, loitering, and disruptive behavior

- (i) The solicitation of business relating to bail bonds or to employment as counsel is prohibited.
- (ii) Loitering in or about federal court facilities is prohibited.
- (iii) Any behavior ~~that~~~~which~~ impedes or disrupts the orderly conduct of the business of the court is prohibited. Signs, placards, or banners may not be brought into a federal court facility or its environs.

(c) Recording of court proceedings

- (i) Except as specifically provided herein, the recording of any proceeding is prohibited and no camera or recording device shall be permitted in a federal court facility. This prohibition shall include any device or contrivance capable of preserving or transmitting a visual image and any device or

contrivance capable of recording, transmitting, or preserving any audible communication (except cell phones with camera features).

- (ii) The taking of photographs or video or audio recordings in connection with any judicial proceeding and the recording or broadcasting of judicial proceedings by radio, television or any other means is prohibited.
  - (A) As used in this rule, "judicial proceeding" includes proceedings before district, bankruptcy or magistrate judges, and sessions of the grand jury.
  - (B) As used in this rule, "in connection with any judicial proceeding" includes all participants in a judicial proceeding while they are in a courtroom or its environs.
- (iii) A judicial officer may authorize, by written notice to the United States Marshals Service, the use of electronic or photographic means for the presentation of evidence or for the perpetuation of the record.
- (iv) A judge may authorize, by written notice to the United States Marshals Service:
  - (A) the broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings; and
  - (B) the radio or television broadcasting, audio or video recording or photographing of court proceedings pursuant to a resolution of the Judicial Conference of the United States.
- (v) By written notice to the ~~U.S.~~United States Marshals Service, the General Services Administration (GSA) property manager or his or her designee ~~may~~ authorize an individual or contract group to possess a camera or recording device for the purpose of maintaining or enhancing the facility, to include repair and alterations.

#### 4.2 Firearms and weapons

- (a) It is illegal to possess a firearm or other dangerous weapon in a federal court facility with or without the intent to commit a crime (Title 18, U.S.C. § 930). Firearms, knives, explosives, and other weapons are prohibited in federal court facilities and subject to confiscation.
- (b) Exceptions to this rule include:
- (i) judicial officers, the United States ~~M~~marshal, deputy marshals, court security officers, and employees of the Federal Protective Service, as governed by any applicable administrative order;
  - (ii) federal law enforcement agencies having offices in a federal court facility are exempt from the provisions regarding the carrying of weapons while entering the building and while going to and from the floor where their offices are located;
  - (iii) employees of United States Probation and Pretrial Services who are authorized by law and agency regulations to carry firearms in the performance of their official duties may possess firearms in this facility to the extent necessary to transport such firearms by the most direct route available to and from their offices. In accordance with regulations of the ~~U.S.~~United States Probation and Pretrial Services, all firearms shall be secured while present within their offices. The Chief ~~U.S.~~United States Probation Officer will notify the United States Marshals Service in writing of all officers authorized to carry firearms on an annual basis. Employees of the United States Probation and Pretrial Services are prohibited from carrying firearms into courtrooms; and
  - (iv) state, county, and local law enforcement officers who are:
    - (A) escorting prisoners to and from court under the direction of the United States Marshals Service, or

- (B) assisting the United States Marshals Service by supporting or providing additional security, as directed, in and around federal court facilities.
- (c) All other federal, state or local law enforcement officers are required to identify themselves and store their weapons in weapons lock boxes maintained by the United States Marshals Service. For security purposes, officers may be required to be screened after securing their weapons.
- (d) The handling of firearms as exhibits in trials is governed by an [administrative order](#) issued by the court.
- (e) An exception to this rule regarding weapons or firearms may only be made by the Chief Judge or the judge in whose courtroom the proceedings are occurring.

#### 4.3 Electronic communication devices

- (a) Definition - "Electronic communication devices" are defined as cellular telephones, laptop computers, and other communication devices capable of transmitting data, video or audio electronically using cellular, wireless, or other means.
- (b) General policy - Except as provided in LGenR 4.3(c) and court orders, electronic communication devices are not permitted in federal court facilities.
- (c) Exempted persons - The following persons are permitted to carry and use electronic communication devices within federal court facilities in the Western District of Michigan:
  - (i) Officers of the court - attorneys appearing in their official capacity as officers of the court;
  - ~~(i)~~ (ii) Court contractors, including interpreters and court reporters;
  - ~~(ii)~~ (iii) Building tenants - employees and visiting employees of the federal court facility;
  - ~~(iii)~~ (iv) Parties to litigation - parties, other than defendants in criminal cases, who enter a federal court facility accompanied by their attorney, if their counsel

certifies to security staff that such devices are necessary to facilitate litigation pending before the court;

~~(iv)~~(v) U.S. United States Marshals Service personnel - including court security officers and contract guards;

~~(v)~~(vi) Other federal, state, local law enforcement - when appearing in their official capacity;

~~(vi)~~(vii) \_\_\_\_\_ GSA approved contractors - by written notice to the U.S. United States Marshals Service, the GSA property manager or his or her designee may authorize an individual or contract group to possess an electronic communication device for the purpose of maintaining or enhancing the facility, to include repair and alterations;

~~(vii)~~(viii) \_\_\_\_\_ Jurors - grand jury members, petit jury members, and persons appearing as directed pursuant to a jury summons;

~~(viii)~~(ix) \_\_\_\_\_ Judicial authority - upon request to the court, a judicial officer may issue an order granting permission to an individual or group, otherwise not authorized to possess an electronic communication device. The U.S. United States Marshals Service shall be notified of such order;

~~(ix)~~(x) Members of the press - members of the press who present official credentials satisfactory to the U.S. United States Marshals Service; and

~~(x)~~(xi) Federal credentialing clients - by written notice to the U.S. United States Marshals Service, the GSA property manager or his or her designee may authorize an individual, who is a newly-retained contractor or prospective Federal Government employee, and who has not yet received his or her credentials, to possess an electronic communication device to attend their appointment in the GSA credentialing office.

(d) Conditions for authorized use of electronic communication devices - Unless express permission to the contrary is given by the presiding judicial officer, the

following conditions and restrictions apply to those individuals authorized to carry an electronic communication device:

- (i) while in a courtroom, electronic communication devices shall be in the off position at all times, unless the presiding judicial officer gives permission for use of the device;
- (ii) the device may not be used and must be turned off except in designated areas of the court facility;
- (iii) the device cannot be initiated, answered, examined, or manipulated (for text messaging or otherwise) while in a courtroom;
- (iv) the device may be used for communication by non-building tenants only in designated areas. Designated areas will be identified by each court facility by administrative order, to be posted prominently in each facility and on the court's website; and
- (v) the electronic communication device may not be used for purposes of taking pictures or making any audio or video recording in violation of LGenR 4.1(c).

#### 4.4 Facility conduct conditions

- (a) Enforcement - The United States ~~M~~marshal, his or her deputies, and court security officers may demand from any individual in possession of an electronic communication device, to produce identification in aid of enforcement of this rule. If the identification does not satisfy the officer that the person in possession of the device is authorized in accordance with the terms of this rule, the officer may refuse admittance to this person and/or confiscate the device.
- (b) Violations
  - (i) Attorney discipline - An attorney violating this rule may be subject to discipline, including disbarment, in accordance with LGenR 2.

- (ii) Confiscation - A violation of this rule, including without limitation, unauthorized possession, use in an unauthorized space, possession of a device in an audible mode, and failing to turn off a device when required, shall result in immediate confiscation of the device. Any judicial officer may order confiscation of a cellular telephone or wireless communications device. Any United States ~~M~~arshal or deputy marshal or court security officer may also confiscate such a device. The ~~U.S.-United States~~ Marshals Service shall develop a procedure for handling and storing confiscated devices.
- (iii) Contempt of court - A violation of this rule may be punished as criminal contempt of court. A violation that disrupts a judicial proceeding may be punished by summary proceedings.

(c) Relief from confiscation of a device - An individual whose device has been confiscated may apply in writing no more than fourteen (14) days after confiscation for its return. The application shall be made to the judicial officer whose proceedings were disturbed by the violation, or, if there is no such judicial officer, to the Chief Judge. The judicial officer may grant or refuse the request. Confiscated devices that are not returned shall be disposed of in a manner directed by the Chief Judge. Nothing in this paragraph shall prohibit the judicial officer or his or her designee to return a device after the conclusion of a court matter.

### Local General Rule 5. Failure to Provide Notification of Change of Address

5.1 Any attorney and any unrepresented party must keep his or her contact information—consisting of his or her address, e-mail address, and telephone number—updated with the Court. If there is a change in the contact information, that person must promptly file and serve a notice with the new contact information. Failure to promptly file current contact information may subject that person or party to appropriate sanctions, which may include dismissal, default judgment, and costs.

# Local Civil Rules

## I. SCOPE OF RULES; FORM OF ACTION

### Local Civil Rule 1. Authority; scope; construction

1.1 Authority - These rules are promulgated pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure. Amendment of these rules is governed by LCivR 1.3 and Rule 83 of the Federal Rules of Civil Procedure.

1.2 Short title - These rules may be cited and referred to individually as "W.D. Mich. LCivR \_\_\_\_\_."

1.3 Amendments - These rules may be amended by a majority vote of the district judges in conformity with Rule 83 of the Federal Rules of Civil Procedure. These rules include amendments through January 1, 2019[insert 2026 date].

1.4 Applicability - These rules apply to all civil proceedings in this court.

1.5 Scope - These rules govern the procedure in the United States District Court for the Western District of Michigan, govern the practice of attorneys before this court, and supersede all previous rules promulgated by this court or any judge thereof. Administrative orders and single-judge standing orders shall be maintained by the clerk on the court's website or made available upon request. All such orders shall be consistent with these rules and the Federal Rules of Civil Procedure.

1.6 Construction - These rules shall be construed to achieve an orderly administration of the business of this court and to secure the just, speedy and inexpensive determination of every action. References to statutes, regulations or rules shall be interpreted to include all revisions and amendments thereto. References to the clerk shall be interpreted to mean the clerk of this court or any deputy clerk. Wherever used in these rules, the term "party," whether in the singular or plural, shall include all parties appearing in the action *pro se* and the attorney or attorneys of record for represented parties, where appropriate. Unless otherwise noted, the terms judge(s) and judicial officer(s) are used interchangeably.

## II. COMMENCING AN ACTION; SERVICE OF PROCESS; PLEADINGS, MOTIONS, AND ORDERS

### Local Civil Rule 3. Commencing an action; assignment to division and judge

3.1 Fee Payment - The fee provided by 28 U.S.C. § 1914 shall be paid to the Clerk of Court. The clerk may require that any payment be in cash or certified check, or made electronically under LCivR 5.7(c).

3.2 Assignment of cases to divisions - This district is composed of a Northern Division and a Southern Division. The residence of corporations, partnerships, and unincorporated associations shall be the division where the principal place of business is maintained. The Southern Division comprises the counties of Allegan, Antrim, Barry, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Clinton, Eaton, Emmet, Grand Traverse, Hillsdale, Ingham, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, Saint Joseph, Van Buren, and Wexford. The Northern Division comprises the counties of Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft. 28 U.S.C. § 102(b). All cases shall be assigned to a division by application of the following order of priorities:

- (a) if an action is removed from state court, the division embracing the county in which the case was pending in state court;
- (b) in bankruptcy appeals, the division in which the bankruptcy matter is pending;
- (c) if the action is local in nature, the division in which the real property is located;
- (d) in prisoner civil rights cases, the division in which the claim arose;
- (e) the division in which all plaintiffs reside;
- (f) the division in which all defendants reside;
- (g) the division in which the claim arose;
- (h) in a case in which a defendant is an officer or employee of the United States or any agency thereof acting in an official capacity, or under color of legal authority, or an

agency of the United States, the division in which an office of a defendant is located; or

- (i) the division in which the case is filed.

### 3.3.1 Assignment of cases to district judges

- (a) Method - Each civil action (except Social Security, Prisoner Civil Rights, and State Habeas cases) and each bankruptcy appeal, shall be assigned to a district judge, who shall continue in the case or matter until its final disposition, except as hereinafter provided. Each Social Security, Prisoner Civil Rights, and State Habeas action shall be assigned at random to a magistrate judge at the time of filing. The parties will thereafter be given an opportunity to consent voluntarily to the dispositive jurisdiction of the assigned magistrate judge pursuant to 28 U.S.C. § 636(c). If all parties do not timely consent, the case will be assigned to a district judge at random and will be referred to the originally assigned magistrate judge under 28 U.S.C. § 636(b)(1).
- (b) Sequence - At the commencement of each civil case, the clerk shall assign the case a sequential case number and assign the case to a judge in accordance with LCivR 3.3.1(c). The numbering and assignment of each case shall be completed before processing of the next case is commenced.
- (c) Procedure - The clerk shall assign new cases to judges at random, in the proportions established from time to time by administrative order. The clerk shall ensure that the name of the assigned judge appears on all paper filed documents and the electronic filing system~~mark or the electronic filing system shall identify the name of the assigned judge on the first document of the case.~~ The clerk shall preserve a record of such assignments.
- (d) Exceptions
  - (i) Refilings - If a case is dismissed or remanded to state court and later refiled, either in the same or similar form, upon refiled it shall be assigned or transferred to the judge to whom it was originally assigned.

- (ii) Subsequent proceedings - Subsequent proceedings in cases shall be assigned to the judge assigned to the original case, if that judge is still hearing cases.
- (iii) Related cases - Cases related to cases already assigned to a judge shall be assigned or transferred as set out below.
  - (A) Definition - Cases are deemed related when a filed case (1) relates to property involved in an earlier numbered pending suit, or (2) arises out of the same transaction or occurrence and involves one or more of the same parties ~~to~~ a pending suit, or (3) involves the validity or infringement of a patent already in suit in any pending earlier numbered case. “Same transaction or occurrence” is to be construed narrowly; it should generally be based on a substantial common nucleus of facts between the respective cases.
  - (B) Determination - When it appears to the clerk that two or more cases may be related cases, they shall be referred to the magistrate judge designated under 28 U.S.C. § 636(b)(1)(A) to assist in the earliest-filed case to determine whether or not the cases are related. If related, the cases will be assigned to the same district judge and the same magistrate judge. If cases are found to be related cases after assignment to different district judges, the Chief Judge may reassign the cases to the district judge assigned to the earliest-filed case, with the consent of both the transferor and transferee judge.~~they may be reassigned by the Chief Judge to the judge having the related case earliest filed. Cases reassigned under this rule shall be assigned to the magistrate judge assigned to the earliest-filed case.~~
- (e) Miscellaneous docket - The miscellaneous docket of the court shall be assigned at random to a magistrate judge at the time of filing. If a miscellaneous docket matter is contested and requires proceedings conducted before a district judge, the case will be randomly reassigned to a district judge and a new civil action number will

be assigned. If a miscellaneous docket matter requires decision by a district judge, a district judge will be assigned at random.

- (f) Effect - This rule is intended to provide for an orderly division of the business of the court and not to grant any right to any litigant.
- (g) Duty of parties - All parties shall notify the court in writing of all pending related cases and any dismissed or remanded prior cases.

### 3.3.2 Reassignment of cases

- (a) Reassignment of cases on grounds of geographic convenience - Promptly after all parties have appeared in any civil action, the parties may file a stipulation and motion requesting transfer of the action to a judge located in a different city, on the basis of the convenience of counsel, the parties, or witnesses. Reassignment of the action shall be at the discretion of the court and shall require the consent of all parties and of both the transferor and transferee judge.
- (b) Reassignment to promote judicial economy - The court may reassign cases from one district judge to another (i) to equalize and balance workloads among judges; (ii) to assign cases to senior or visiting judges or remove cases from their dockets as necessary; or (iii) for other reasons of judicial economy. Any case may be reassigned under this rule from one judge to another judge with the consent of both judges. Cases may also be reassigned by administrative order of the Chief Judge if approved by a majority of active district judges. If applicable, cases reassigned under this rule shall be assigned to the magistrate judge assigned to the earliest-filed case.
- (c) Reassignment of cognate cases
  - (i) Definition - Cognate cases are pending civil actions involving the same or similar questions of fact or law such that their assignment to a single judge is likely to effect a substantial saving of judicial effort and to avoid wasteful and duplicative proceedings for the court and the parties.

- (ii) Procedure for reassignment - When any judge determines that reassignment of cognate cases would serve the interests of justice and judicial economy, the judge will contact all other judges to whom cognate cases have been assigned. If all those judges agree to reassignment, the Chief Judge will enter an administrative order reassigning such cognate cases to the judge with the earliest numbered case. The administrative order may also provide for automatic assignment of future cognate cases to that judge, and for an adjustment in future case assignments to that judge to compensate for the increased workload. Cases reassigned under this rule shall be assigned to the magistrate judge assigned to the earliest-filed case.

#### 3.4 In forma pauperis proceedings

- (a) Motion and supporting documents - All persons applying to proceed *in forma pauperis* in this court or on appeal shall file with their complaint or notice of appeal a motion for leave to proceed *in forma pauperis* supported by the financial affidavit required under 28 U.S.C. § 1915(a)(1). In addition, any person incarcerated under a state or federal criminal conviction shall submit a certified copy of their ~~ir prisoner~~ trust fund account statement ~~for the prisoner~~ for the six-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined. The statement shall disclose (i) the amount then in the trust fund account; and (ii) all deposits and withdrawals from the account during the six-month period immediately preceding the filing of the complaint or notice of appeal as required by 28 U.S.C. § 1915(a)(2).
- (b) Determination of pauper status - A petition for leave to proceed *in forma pauperis* shall be presented by the clerk to the assigned magistrate judge. If the financial affidavit discloses that the person is unable to pay the full filing fee or fees for service of process, the magistrate judge shall grant the petition for pauper status. The magistrate judge shall nevertheless order that a prisoner pay, within a specified period, an initial partial filing fee and make monthly payments thereafter in accordance with 28 U.S.C. § 1915(b). If the person fails to comply with the order

for payment of all or any part of the filing fee, the complaint may be dismissed by a district judge or the appeal may be dismissed for want of prosecution by the Sixth Circuit Court of Appeals.

#### Local Civil Rule 4.1 Fee payment to marshal

4.1.1 A deposit in a sum deemed sufficient by the marshal to cover fees for the service to be performed shall be made in every instance in which the marshal is required to perform service. The marshal may require that any payment be by certified check.

#### Local Civil Rule 5. Serving and filing pleadings and other papers

5.2 Proof of service - Proof of service of all pleadings and other papers required or permitted to be served shall be filed promptly after service and may be made by written acknowledgment of service, by affidavit of the person making service or by written certification of counsel. Proof of service shall state the date and manner of service. Proof of service is unnecessary for documents filed and served electronically under LCivR 5.7(d)(i) and 5.7(i).

#### 5.3 Filing of discovery materials

- (a) Interrogatories, requests for production or inspection, requests for admissions, and responses or objections shall be served upon other parties, but shall not be filed with the court. Only a proof of service shall be filed with the court. The party responsible for service of these discovery materials shall retain the original and become the custodian.
- (b) Transcripts of depositions shall not be filed with the court.
- (c) If discovery materials are to be used at trial, relevant portions of the materials to be used shall be filed with the clerk at or before trial. If discovery materials are necessary to any motion, relevant portions of the materials shall be filed with the clerk with the motion or response.

5.4 Place of filing - Paper pleadings and other papers that may not be filed electronically under LCivR 5.7(d)(ii) may be filed with the clerk at any divisional office during walk-in business hours. If a hearing is scheduled, it is incumbent upon the party to ensure that the presiding judge receives

a copy of the pleadings or other papers ~~on the day they are received by the clerk, or in no event~~ later than three (3) business days prior to the hearing.

5.55.2 Rejection of filings - The court may order the rejection of any pleading or other paper that does not comply with these rules or the Federal Rules of Civil Procedure unless such noncompliance is expressly approved by the court. The clerk shall return any rejected filing to the party tendering it, along with a statement of the reasons for rejection.

5.65.3 Pleadings and other papers in particular cases

- (a) Actions by prisoners - Habeas corpus petitions or complaints brought under the Civil Rights Acts by prisoners proceeding *pro se* shall be in the form specified by the court. The clerk shall make such forms available to prisoners desiring to file such actions.
- (b) In pro per petitions ~~— In all proceedings brought in propria persona or in forma pauperis, if the court determines that a complaint or petition should be served on one or more opposing parties, the court may specifically order the filing party to provide additional copies to the clerk for this purpose. Unless specifically ordered to do so, a filing party should not submit additional copies of their complaint or petition for this purpose. Absent good cause, in all proceedings brought in propria persona or in forma pauperis, the petition or complaint shall not be accepted for filing unless it is accompanied by a copy or copies in number sufficient for service on the respondent(s) or the defendant(s).~~

5.75.4 Filing and service by electronic means

- (a) General information; definitions - Pursuant to Rule 5(d) of the Federal Rules of Civil Procedure, the clerk will accept pleadings and other papers filed and signed by electronic means in accordance with this rule. All papers filed by electronic means must comply with technical standards, if any, now or hereafter established by the Judicial Conference of the United States.

This rule shall apply to all civil actions maintained in the court's electronic case filing system. All documents, whether filed electronically or on paper, will be

placed into the electronic case filing system, except as provided below. Attorneys must file and serve all documents electronically by use of the ECF system unless (1) the attorney has been specifically exempted by the court for cause or (2) the document is not eligible for electronic filing under this rule.

As used in these rules, the term:

- "ECF system" means the electronic case filing system maintained by this court;
- "registered attorney" means an attorney who is authorized pursuant to LCivR 5.7(b) to file documents electronically and to receive service on the ECF system;
- "initial pleading" means the complaint, petition or other document by which a civil action is initiated;
- "electronically filed document" means any order, opinion, judgment, pleading, notice, transcript, motion, brief or other paper submitted electronically to the ECF system;
- "paper filed document" means a pleading or other paper submitted to the clerk in paper form for filing;
- "NEF" means the Notice of Electronic Filing generated by the ECF system;
- "nonelectronic means of service" means one of the methods of service authorized by Rule 5(b) of the Federal Rules of Civil Procedure, except electronic service under Rule 5(b)(2)(E).

(b) Mandatory registration; [Attorney resources](#)

- (i) Every attorney practicing in this court must register to file and serve documents electronically by the ECF system.

- (ii) To be entitled to register as a user of the ECF system, an attorney must be admitted to practice in this district, be a member in good standing, and have filed with the clerk a completed ECF attorney registration form.

Detailed registration information is available on the court's website ([www.miwd.uscourts.gov](http://www.miwd.uscourts.gov)). A registered attorney may not knowingly cause or allow another person to file a document using the attorney's login name and password, except for members of the attorney's staff. Authorized use of an attorney's login name and password by a staff member is deemed to be the act of the attorney. However, a registered attorney must not allow an unregistered attorney, even a member of the same firm, to use his or her login name and password.

- (iii) The court will provide on its website [references and instructions](#) on the use of the ECF system. Law firms are encouraged to have individuals responsible for electronic filing (attorney, paralegal or automation specialist) make use of the materials available on the website. The ECF Help Desk is available during business hours to assist [via phone at \(616\) 456-2206 or \(800\) 290-2742, or via e-mail at \[ecfhelp@miwd.uscourts.gov\]\(mailto:ecfhelp@miwd.uscourts.gov\)](#).

- (c) Initial pleading - All attorneys must submit complaints and other initial pleadings in civil cases electronically, unless the pleading is ~~ineligible forexempt from~~ electronic filing under LCivR 5.7(d)(ii), or the attorney is granted an exception by the Chief Judge for good cause shown. Filing fees must be paid (or a motion for leave to proceed *in forma pauperis* must be filed) electronically at the time the initial pleading is electronically submitted. A civil case is not commenced until the initial pleading has been accepted by the ECF system and a Notice of Electronic Filing has issued. Unrepresented parties must file initial pleadings and pay the filing fee (or seek *in forma pauperis* status) on paper.

(d) Electronic filing

- (i) Mandatory electronic filing - All attorneys must file all pleadings and other papers permitted by the federal rules and the local rules of this court

electronically in all civil cases, subject to the exceptions set forth below. All electronically filed documents must be in PDF format and submitted in accordance with the [instructions](#) set forth on the court's website.

(ii) Papers that may not be filed electronically - The following documents must not be filed electronically, but must be submitted in paper form:

(A) documents submitted by a person who is not a registered attorney (for example, a *pro se* litigant who is not registered under the "Pro Se E-Filing and Service Protocol," posted by the clerk on the court's website);

(B) documents that are required by statute to be filed *in camera*, such as complaints and certain other filings submitted under the Federal False Claims Act or analogous state statutes;

(C) papers filed in cases that have been sealed in their entirety, except as authorized under LCivR 10.7; and

(D) garnishee disclosures and other documents submitted by unrepresented third parties in response to writs or other court process.

(iii) Electronic filing of affidavits and other original documents - The following documents must be filed electronically by submission of a scanned PDF version of the original document:

(A) affidavits in support of or in opposition to a motion (this rule does not apply to affidavits of service);

(B) declarations under penalty of perjury; and

(C) certified copies of judgments or orders of other courts.

The electronically filed version of such documents must bear a scanned image of all original manuscript signatures. The filer must meet the

requirements of LCivR 5.7(e)(viii) regarding evidence of an original signature.

- (iv) Deadlines - An electronically filed document is deemed filed upon completion of the transmission and issuance by the court's system of an NEF. In situations where LCivR 5.7(d)(~~iii~~<sup>iv</sup>) requires that attachments to an electronically filed document be submitted in paper form, the electronic document is deemed filed upon issuance of the NEF, provided that the ~~paper exhibits~~ attachments are filed and served within seventy-two (72) hours thereof. All electronic transmissions of documents must be completed (i.e., received completely by the clerk's office) prior to midnight, Eastern Time, in order to be considered timely filed that day. Where a specific time of day deadline is set by court order or stipulation, the electronic filing must be completed by that time.
- (v) Technical failures - The clerk shall deem the court's website to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon (Eastern Time) that day, in which case, filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings must be accompanied by a declaration or affidavit attesting to the filer's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay because of such technical failure. The initial point of contact for any practitioner experiencing difficulty filing a document electronically shall be the ECF Help Desk, available via phone at (616) 456-2206 or (800) 290-2742, or via e-mail at [ecfhelp@miwd.uscourts.gov](mailto:ecfhelp@miwd.uscourts.gov).
- (vi) Official record; discarding of paper filed documents - For purposes of Rule ~~79~~ of the Federal Rules of Civil Procedure, the record of filings and entries created by the ECF system for each case constitutes the docket. The official record of all proceedings in civil cases is the electronic file

maintained on the court's ECF system. The clerk's office will discard all paper filed documents after they have become part of the electronic record, ~~unless the document produces a low quality electronic file.~~

(vii) Exhibits and attachments

(A) Oversized documents - The [file size limit](#) is posted by the clerk on the court's website. No PDF document exceeding the file size limit may be filed in the CM/ECF system. Filers must divide such documents into component parts, each part not to exceed the posted limit, for purposes of electronic filing. The docket entry must clearly indicate that the document is filed in parts. An exhibit may be filed on paper only if it is ~~ineligible for exempt from~~ electronic filing under LCivR 5.7(d)(ii).

~~(B)~~ Requirements - Filers must not attach as an exhibit any pleading or other paper already on file with the court, but shall refer to that document by the ECF No. identified thereon, found in the document header displayed at the top of the electronically filed document. All exhibits and attachments must contain on their face a prominent exhibit number or letter as set forth in LCivR 10.8. If one or more attachments or exhibits to an electronically filed document are not being submitted electronically under this rule, the electronically filed document must contain a notice of that fact in its text.

~~(B)~~(C) Digital media – Attorneys must submit all digital media (e.g., audio or video files) via CM/ECF pursuant to the procedure on the court's website (pro se or unrepresented parties may utilize a portable storage device (e.g., disc, flash drive)). The Court will not accept physical storage devices from registered attorneys.

(e) Signature

(i) Attorneys - A registered attorney's use of the assigned login name and password to submit an electronically filed document serves as the registered

attorney's signature on that document for purposes of Rule 11 and for all other purposes under the Federal Rules of Civil Procedure and the local rules of this court. The identity of the registered attorney submitting the electronically filed document must be reflected at the end of the document by means of an "s/ [attorney's name]" block showing the attorney's name, followed by the attorney's business address, telephone number, and e-mail address. Graphic and other electronic signatures are discouraged.

- (ii) Multiple attorney signatures - The filer of any electronically filed document requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all the names of other attorney signatories by means of an "s/ [attorney's name]" block for each. By submitting such a document, the filer certifies that each of the other attorneys has expressly agreed to the form and substance of the document, that the filer has their actual authority to submit the document electronically, and that the requirements of LCivR 5.7(e)(viii) regarding evidence of original signature have been met. This paragraph does not apply to *pro se* or unrepresented parties, whose manuscript signature, in original or scanned form, must appear on the face of the document.
- (iii) Court reporters and transcribers - The electronic filing of a transcript by a court reporter/transcriptionist by use of their assigned login name and password shall be deemed the filing of a signed and certified original document for all purposes.
- (iv) Judges - The electronic filing of an opinion, order, judgment or other document by a judge (or authorized member of the judge's staff) by use of the judge's login and password shall be deemed the filing of a signed original document for all purposes.
- (v) Clerk of Court or deputy clerks - The electronic filing of any document by the clerk or a deputy clerk of this court, of the bankruptcy court of this district, or of any circuit court of appeals by use of that individual's login

and password shall be deemed the filing of a signed original document for all purposes.

- (vi) ~~U.S.~~United States Marshals Service - The ~~U.S.~~United States Marshals Service for this district is authorized to file and serve documents electronically. The electronic filing of any document by the U.S. Marshals Service by use of the assigned login and password shall be deemed the filing of a signed original document for all purposes.
- (vii) Officers of the court - If the court has appointed a special master, monitor, or other court adjunct who is required to make regular filings, the court may authorize the officer to file and serve documents electronically. The officer of the court shall complete a registration form, and upon assignment of a login and password to the system, has authority to file and serve documents electronically in the case in which the officer was appointed. The electronic filing of any document by a court officer by use of the assigned login and password shall be deemed the filing of a signed original document for all purposes.
- (viii) Evidence of original signature - Filers of documents containing signatures authorized by LCivR 5.7(e)(ii) (multiple attorney signatures) must maintain any records evidencing concurrence, and filers of documents containing signatures authorized by LCivR 5.7(d)(iii) (electronically filed affidavits, etc.) must maintain the documents bearing the original manual signature for subsequent production to the court or for inspection by a party until one year after the final resolution of the action (including appeal, if any). A non-filing signatory or party who disputes the authenticity of a signature on an electronically filed document must file an objection to the document within fourteen (14) days after service of that document.
- (f) Proposed pleadings - Except for proposed sealed filings, if the filing of an electronically submitted document requires leave of court, such as an amended complaint or brief in excess of word count or page limits, the proposed document must be attached as an exhibit to the motion seeking leave to file. If the court grants

leave to file the document, the clerk will electronically file the document without further action by the attorney. Requests to file documents under seal are governed by LCivR 10.67.

- (g) Proposed orders - Proposed orders ~~must~~ may be submitted electronically. ~~All proposed orders must be~~ in PDF format and must be: (1) attached as an exhibit to a motion or stipulation; or (2) contained within the body of a stipulation; or (3) submitted separately. Do not include the word *proposed* in the caption or title of the proposed order. Proposed orders must also be submitted in Word format via CM/ECF pursuant to the procedure on the Court's website (pro se litigants are exempt from this requirement). If the judge approves the proposed order, it will be refiled electronically under a separate document number.
- (h) Court orders, judgments, writs and other process - Judgments and orders may be filed electronically by the court or authorized court personnel. Any document filed electronically without the image of the manuscript signature of the judge or clerk has the same force and effect as a document bearing an original signature. The clerk may electronically affix the seal of the court on writs, summons, and other process, which shall have the same legal force and effect as process bearing an imprinted seal.
- (i) Service of electronically filed documents
- (i) Summons and initial pleading - Summons, writs and other court process may be issued in electronic form with electronically affixed signatures and seal. Service of the summons and complaint or other initial pleading must be made by one of the methods allowed by Rule 4 of the Federal Rules of Civil Procedure.
- (ii) Service on attorneys and pro se parties approved for electronic filing ~~registered attorneys~~ ~~By registering under this rule,~~ ~~A~~an attorney and a pro se party approved for electronic filing automatically consents to electronic service by both the court and any opposing attorney or approved party of any electronically filed document in any civil action in which the

registered attorney or approved party appears. Consequently, service of an electronically filed document upon an ~~an registered~~ attorney or approved party is deemed complete upon the transmission of an NEF to that attorney under LCivR 5.7(i)(iv) and no separate certificate of service should be filed. With the exception of the court, pPaper filed documents, restricted access documents, and sealed documents must be served on ~~registered~~ attorneys and approved parties by nonelectronic means of service, ~~and~~ A a proof of service must be filed.

- (iii) Service on unregistered attorneys and *pro se* parties - Counsel filing any pleading or other paper must serve attorneys not registered under this rule and *pro se* parties not registered under the “[Pro Se E-Filing and Service Protocol](#),” posted by the clerk on the court’s website, by nonelectronic means of service under Rule 5 of the Federal Rules of Civil Procedure. A proof of service must be filed.
- (iv) Method of electronic service - At the time a document is filed either electronically or by scanning paper submissions, the court’s system will generate an NEF, which will be transmitted by e-mail to the filer and all registered attorneys who have appeared on that case. The NEF will contain a hyperlink to the filed document. The attorney filing the document should retain a paper or digital copy of the NEF, which serves as the court’s date-stamp and proof of filing. Except in the case of sealed documents (see LCivR 10.6(d)), restricted access documents and *ex parte* filings (see LCivR 10.5(a)), transmission of the NEF to the registered e-mail address constitutes service of an electronically filed document upon any registered attorney or registered pro se party. Only service of the NEF by the court’s system constitutes electronic service; transmission of a document by one party to another by regular e-mail does not constitute service.
- (j) Remote access to electronically stored documents - ~~The general public, as well as any party to the litigation,~~ Any person may access and download any electronically stored document, with the following exceptions: (1) remote access to documents

filed in Social Security and immigration cases is restricted as required by Rule 5.2(c) of the Federal Rules of Civil Procedure; (2) access to certain documents may be restricted to the court or to the parties of record, by order or local rule; and (3) the court may restrict access to other classes of documents in conformity with resolutions of the Judicial Conference of the United States.

- (k) Facsimile ~~Other~~ transmissions - The clerk will not accept for filing any pleading or other paper submitted by alternative means (e.g., e-mail, facsimile transmission).

### III. PLEADINGS AND MOTIONS

#### Local Civil Rule 7. Motion practice

##### 7.1 Motions in general

- (a) Briefs - All motions, except those made orally during a hearing or trial, shall be accompanied by a supporting brief. Any party opposing a written motion shall do so by filing and serving a brief conforming to these rules. All briefs filed in support of or in opposition to any motion shall contain a concise statement of the reasons in support of the party's position and shall cite all applicable federal rules of procedure, all applicable local rules, and the other authorities upon which the party relies. References to the record shall comply with LCivR 10.9. Motions and b~~B~~riefs shall not be submitted in the form of a letter to the judge.
- (b) Supporting documents - When allegations of facts not appearing of record are relied upon in support of or in opposition to any motion, all affidavits or other documents relied upon to establish such facts shall accompany the motion. All discovery motions shall set forth verbatim, or have attached, the relevant discovery request and answer or objection. Exhibits and attachments in support of or in opposition to a motion shall comply with LCivR 5.3 and LCivR 5.7(d)(vii)(B). Absent leave of court, the number of pages of exhibits and attachments that may be filed in support of a motion is limited to either 1) two hundred (200) pages per party, or alternatively, 2) five hundred (500) pages, provided the parties meet and confer and jointly file the agreed upon exhibits and attachments. If leave of court is granted to exceed the page limits established for attachments, the parties will be permitted to

file the record they deem appropriate with a joint appendix. The joint appendix shall identify the documents attached and identify the specific documents or portion thereof, that the parties believe the court should review.

(c) Modification of limits - In its discretion, the court may in a particular case shorten or enlarge any time, word count, or page limit established by these rules, with or without prior notice or motion.

(d) Concurrence

(i) Attempt to obtain concurrence - With respect to all motions, the moving party shall ascertain whether the motion will be opposed.

(ii) Nondispositive motions

(A) In the case of all nondispositive motions, counsel or nonincarcerated pro se parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. To accomplish this, the movant must confer with the other parties and persons entitled to be heard on the motion in a manner that reasonably explains the basis for the motion and allows for an interactive process aimed at reaching agreement on the matter or those aspects of the matter that can be resolved without court intervention. The conference must be held sufficiently in advance of filing the motion to allow the opportunity for meaningful discussion.

(B) If court intervention remains necessary, the nondispositive motion shall be accompanied by a separately filed Ceertificate Regarding Motion Concurrence specifying the date, time, and duration of the conference; the participants in the conference; and a description of the issues addressed during the conference.

(C) In cases involving an incarcerated pro se party, the movant shall make reasonable efforts to comply with the provisions of this rule,

and the motion shall be accompanied by a separately filed certificate specifying the efforts to confer with the incarcerated party.

- (iii) Sanctions - The Court may impose sanctions for unreasonably withholding of concurrence and for violating this rule, which may include taxing costs and attorney's fees, denying the motion, and striking the filing.
- (e) Motion for expedited consideration - Where the relief requested by a motion may be rendered moot before the motion is briefed in accordance with the schedules set forth herein, the party shall so indicate by inserting the phrase "EXPEDITED CONSIDERATION REQUESTED," in boldface type, below the case caption, and shall identify in the motion the reason expedited consideration is necessary.
- (f) Unavailability of district judge - If it appears that any matter requires immediate attention, and the district judge to whom the case has been assigned, or in the usual course would be assigned, is not available, the matter shall be referred to the assigned magistrate judge, who shall decide the matter if it is within the magistrate judge's jurisdiction. If the matter can only be decided by a district judge, the magistrate judge shall determine whether the matter can be set for a hearing at a time when the assigned district judge is available. If the matter is determined by a magistrate judge to require an immediate hearing before a district judge, the case will be referred to the Chief Judge, or in the Chief Judge's absence, the next available district judge by seniority for decision or reassignment to an available district judge. After disposition of this emergency matter, the case will be returned to the originally assigned district judge. If the parties have consented to proceed before the magistrate judge under LCivR 73, and that magistrate judge is not available to attend to the emergency matter, it will be referred to the duty magistrate judge for determination.

## 7.2 Dispositive motions

- (a) Definition - Dispositive motions are motions for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and

to involuntarily dismiss an action, ~~and other dispositive motions as defined by law.~~ Motions for dismissal as a sanction pursuant to Federal Rules of Civil Procedure 16 or 37 shall be subject to the briefing schedule for nondispositive motions.

(b) Briefs

- (i) Length - Briefs filed in support of or in opposition to a dispositive motion that are produced on a computer shall not exceed ten thousand eight hundred (10,800) words, ~~to include~~including any headings, footnotes, citations and quotations. Not ~~to be~~ included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, ~~and~~ affidavits, and other addenda. Any such brief that is hand-written or produced on a typewriter shall not exceed twenty-five (25) pages in length, ~~similarly~~similarly, including and excluding items previously identified.
- (ii) Certificate of compliance - The brief must be accompanied by a Certificate of Compliance Regarding Word Count, indicating the number of words in the document as defined by LCivR 7.2(b)(i), as well as the name and version of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.
- (iii) Courtesy copy - The court may require one paper courtesy copy of all dispositive motion papers, including responses, replies and all accompanying exhibits, which must be submitted directly to the presiding judge's chambers. It shall consist of a printed copy of the document after filing (with the header), and an NEF must be attached to the front of the paper. Any exhibits must be properly tabbed and all papers firmly bound as required by LCivR 10.2. ~~A printed copy of the NEF must be attached to the front of the paper.~~ The courtesy copy must be hand delivered or sent via first class mail to chambers within twenty-four (24) hours of filing the original.

- (c) Briefing schedule - Unless otherwise ordered, any party opposing a dispositive motion shall, within twenty-eight (28) days after service of the motion, file a responsive brief and any supporting materials. The moving party may, within fourteen (14) days after service of the response, file a reply brief. A reply brief produced on a computer shall not exceed four thousand three hundred (4,300) words, ~~to include~~including any headings, footnotes, citations and quotations. Not ~~to be~~ included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, ~~and~~ affidavits, and other addenda. Any reply brief that is hand-written or produced on a typewriter may not exceed ten (10) pages. The court may permit or require further briefing.
- (d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party's brief. In its discretion, the court may schedule oral argument or may dispose of ~~at~~the motion without argument.

### 7.3 Nondispositive motions

- (a) Definition - Nondispositive motions are all motions not specifically listed in LCivR 7.2(a).
- (b) Briefs
- (i) Length - Briefs filed in support of or in opposition to a nondispositive motion that are produced on a computer shall not exceed four thousand three hundred (4,300) words, ~~to include~~including any headings, footnotes, citations and quotations. Not ~~to be~~ included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, affidavits and other addenda. Any such brief that is hand-written or produced on a typewriter shall not exceed ten (10) pages in length, similarly including and excluding items previously identified.
- (ii) Certificate of compliance - Briefs in support or in opposition to nondispositive motions exceeding one thousand (1,000) words shall be

accompanied by a Certificate of Compliance Regarding Word Count, indicating the number of words in the document as defined by LCivR-7.3(b)(i); as well as the name and version of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.

- (c) Briefing schedule - Unless otherwise ordered, any party opposing a nondispositive motion shall, within fourteen (14) days of service of the motion, file a responsive brief and supporting materials. Reply briefs may not be filed without leave of court.
- (d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party's brief. In its discretion, the court may schedule oral argument or may dispose of the motion without argument.

#### 7.4 Motions for reconsideration

- (a) Grounds - Generally, and without restricting the discretion of the court, motions for reconsideration ~~that~~which merely present the same issues ruled upon by the court shall not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled, but also show that a different disposition of the case must result from a correction thereof.
- (b) Response to motions for reconsideration - No ~~answer~~response to a motion for reconsideration will be allowed unless requested by the court, but a motion for reconsideration will ordinarily not be granted in the absence of such request. Any oral argument on a motion for reconsideration is reserved to the discretion of the court.

### Local Civil Rule 8. General rules of pleading

8.1 Complaints in Social Security cases - Complaints filed pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for benefits under Titles II, XVI and XVII of the Social Security Act shall contain, in addition to what is required under Rule 8(a) of the Federal Rules of Civil Procedure, the following information: (1) a statement that the action is brought under 42

U.S.C. §-405(g); (2) the identification of the final decision to be reviewed, including any identifying designation provided by the ~~Commissioner~~Commissioner with the final decision; (3) the name, as well as the county of residence, of the person for whom benefits are claimed; (4) in cases involving claims for retirement, survivors, disability, or health insurance, the last four digits of the social security number of the worker (who may or may not be the plaintiff) on whose wage record the application for benefits was filed; (5) in cases involving supplemental security income benefits, the social security number of the plaintiff; and (6) the type of benefits claimed.

- (a) Electronic service - The Clerk of Court shall, within seven days of the filing of the complaint, notify the Commissioner of the commencement of the action by transmitting a Notice of Electronic Filing to the appropriate office within the Social Security Administration's Office of General Counsel and the United States Attorney for the district where the action is filed.
- (b) Other service - If the complaint was not filed electronically, the ~~c~~Clerk of ~~c~~Court shall, within seven days of the filing of the complaint, notify the plaintiff of the transmission.
- (c) Service of summons and complaint - The plaintiff need not serve a summons and complaint under Federal Rules of Civil Procedure 4.

8.2 Answers and replies - Except in Social Security cases as provided in LCivR 8.3 and cases brought by a *pro se* plaintiff, a responsive pleading under Rule 8(b) of the Federal Rules of Civil Procedure shall recite verbatim that paragraph of the pleading, or amended pleading, to which it is responsive, followed by the response. Upon request, an attorney must provide to opposing counsel a copy of the complaint or other pleading to which a response is due, in native word processing format, so that opposing counsel may comply with this rule.

8.3 Answers in Social Security cases - In all Social Security cases filed under 42 U.S.C. §§-405(g) and 1383(c)(3), defendant shall have sixty (60) days after notification of the commencement of the action to file and serve upon plaintiff a certified copy of the administrative record of the proceedings, which shall constitute defendant's answer, or otherwise move against the complaint. No separate answer need be filed. Unless the court sets a different time, service

ofservicing a motion under Federal Rules of Civil Procedure 12 alters the time to answer as provided by Federal Rules of Civil Procedure 12(a)(4).

8.4 Presenting an action for decision - An action under § 405 is presented for decision by the parties' briefs. A brief must support assertions of fact by citations to particular parts of the record by PageID, in accordance with LCivR 10.9.

- (a) Plaintiff's brief - The plaintiff shall file and serve on the Commissioner a brief for the requested relief within thirty (30) days after the answer is filed or thirty (30) days after entry of an order disposing of the last remaining motion filed under Federal Rules of Civil Procedure 12, whichever is later.
- (b) Commissioner's brief - the Commissioner shall file a brief and serve it on the plaintiff within thirty (30) days after service of the plaintiff's brief.
- (c) Reply brief - The plaintiff may file a reply brief and serve it on the Commissioner within fourteen (14) days after service of the Commissioner's brief.

#### Local Civil Rule 10. Form of pleadings and other papers; filing requirements

10.1 Document size and format - All documents must be double spaced in 8 ½ x 11 inch format with writing on only the face of each sheet. Type must be no smaller than twelve (12) point type and all margins must be at least one inch. Electronically filed documents must be in rendered PDF digital format. Exhibits and attachments, not authored by the filer, may be in scanned PDF format.

10.2 Binding - All paper filed pleadings and other papers that have numerous pages must be bound with a fastener. Originals should be stapled or bound on the top margin with a two-hole fastener. Copies of paper filed documents may be bound in the same manner as originals or in a binder. Judges' courtesy copies shall be presented book style, in a binder, unless otherwise specified in a particular judge's judicial guidelines. Paper clips and other types of clips shall not be used; fasteners shall pass through the pages.

10.3 Date and contact information - All pleadings and other papers shall contain the date of signing and the address, telephone number and e-mail address of the signing attorney or *pro se* party.

10.4 Number of copies - All paper filed documents must contain an original manuscript signature.~~be filed in duplicate—the original and one copy. If service of any paper is to be made by the United States marshal, sufficient additional copies shall be supplied for service upon each other party.~~ If file stamped copies of documents are requested to be returned to the offering party, sufficient copies for this purpose and a suitable self-addressed, postage paid envelope shall be supplied.

10.5 Ex parte submissions

- (a) Filing of ex parte submissions - If the law allows a party to submit a pleading or other paper *ex parte*, the party may file the document with the clerk without serving a copy on any other party. The document shall be properly identified on its face as *Ex Parte*. A registered attorney must submit any *ex parte* filing electronically by ~~using use of~~ the appropriate CM/ECF event. An NEF will be generated for the *ex parte* document and will be transmitted to all parties. Unless modified by the filer, the NEF and docket entry will identify the document only as "*Ex Parte Document*" or "*Ex Parte Motion*."
- (b) Access to ex parte filings - The docket entry and the NEF for any *ex parte* filing will be available for public viewing. ~~Unless the court specifically orders otherwise,~~ Electronic access to *ex parte* documents will be available only to ~~the party submitting the filing (or that party's registered attorneys) and to the authorized~~ personnel of this court and the court of appeals, but not to the public or any ~~other~~ party.
- (c) Filings by the court - The court may issue restricted access orders in response to *ex parte* filings. ~~The docket entry and the NEF for any restricted access order will be identified as such and available for public viewing. Electronic a~~Access to these orders will be restricted to ~~the moving party, the authorized~~ personnel of this court and the court of appeals, ~~but not to the public or any party. The clerk shall provide a copy of the order to the moving party via secured electronic communication and will make an informational public docket entry on the CM/ECF system confirming the service of the document~~The docket entry and the NEF for any restricted access order will be identified as such and available for public viewing.

- (d) Sealed cases - If an entire case has been sealed, either by order or by operation of statute, then neither the *ex parte* submission nor any docket entry relating thereto will be available for public viewing, until such time as the court orders otherwise.

10.6 Sealed or restricted access documents (“Limited Access Documents”)

- (a) Policy - To preserve the qualified, common-law presumption of public access to judicial files in civil cases, the filing of a Limited Access Document (LAD) under seal should be the exception. LADs Sealing is are to be limited to information that is truly proprietary or confidential. The court strongly resists such filings the sealing of entire civil pleadings, motions or briefs, as it is rare that the entire document will merit confidential treatment. In lieu of seeking leave to file an entire document as an LAD under seal, parties should incorporate the confidential material in a separate document and seek leave to file only that document as an LAD under seal. Parties should also use redactions to avoid the need to seek leave to file an LAD if the redacted information is not relevant to the issue(s) pending before the court.
- (b) Motions Requests to authorize filing an LAD seal - The procedures set forth in this rule apply to cases that have not been sealed in their entirety. Documents may be submitted for filing as an LAD under seal only if authorized by statute or by the court for good cause shown. A party person seeking leave to file a document as an LAD under seal must file a motion requesting such relief, unless the court has entered a previous order that authorizes such a filing authorizing the submission of the document under seal or submission under seal is authorized by statute. The motion seeking leave to file an LAD under seal should generally be a public filing, unless the submitting party believes in good faith that public access to the motion will compromise the confidential matter. A party seeking to file a document as an LAD on the basis that the producing party has designated the document as covered by a protective order, unless the protective order authorizes the sealing of the document, must first confer with the producing party to determine whether such a filing is necessary. If so, the moving party must include in the motion a statement of good cause provided by the producing party. A proposed LAD sealed document submitted by a registered attorney must be submitted electronically as an LAD

~~under seal as a separate document,~~ under a separate docket entry, by using use of the appropriate CM/ECF event. The docket entry and the NEF for any LADsealed document will be available for public viewing; the description of the LADsealed document should therefore be general in nature (e.g., sealed affidavit or restricted access, sealed exhibit). The proposed LADsealed document shall be appropriately identified as such on its face as sealed, but should not contain the word "proposed." Proposed LADsealed documents submitted by parties persons other than registered attorneys must be filed in paper with the clerk of court in a sealed envelope bearing the case caption and number, the identity of the party submitting the documents, and a general description of the contents; the proposed LADsealed document will be scanned and maintained electronically as an LADunder seal. If the court denies the motion for filing an LADto seal in whole or in part, the proposed LADsealed document will remain as such sealed, but the court may order the submitting party to tender a redacted modified document, for public filing, or otherwise proceed to ensure that the public record includes, to the maximum extent possible, the basis for the Court's decision on any contested issue either sealed or not under seal, as the court directs. If the court grants leave to file the document as an LADunder seal, the clerk of court will modify the docket entry to remove reference to "proposed."

- (c) Access to LADsealed documents - ~~LADsA document filed under seal~~ may be accessed electronically only by authorized personnel of this court and the court of appeals, but not and not by the public or any attorney or party, except as authorized under LCivR 10.7.
- (d) Service of LADsealed documents - A party submitting an LAD document under seal must serve it by non-electronic means of service on all other parties and file a proof of service.

10.7 Sealed cases - The court may enter an order sealing an entire civil case file only if:

- (a) sealing is required by statute or court rule, or

- (b) sealing is justified by a showing of extraordinary circumstances and the absence of narrower feasible and effective alternatives (such as sealing discrete documents or redacting specific information), such that sealing an entire case file is a last resort.

Any order sealing an entire case file under LCivR 10.7(b) must contain specific findings justifying sealing. The order may be vacated on motion of any party or on the court's own motion when the reason for sealing has ended. ~~Government attorneys of record in miscellaneous cases involving grand jury matters will be afforded remote electronic access to the miscellaneous case.~~

10.8 Exhibits - All exhibits or attachments to pleadings, motions, briefs, or other papers must contain on their face a prominent exhibit number or letter.

10.9 Referencing the court record - A sequential pagination of the electronic court record initiates with the first filing in a case. The sequential page identification, referred to as the PageID, is applied by the ECF system and is found in the document header displayed at the top of every page of every electronically filed document. The PageID clearly, uniquely, and permanently identifies each page of the court record. In the case of documents in which no PageID is available, the page number of the document should be used for purposes of citation to the record. Otherwise, ~~a~~Any reference by an ~~an~~ registered attorney to a ~~portion~~page of the record ~~that has been in which it is to be~~ electronically filed shall be made by reference to the PageID identified thereon, following the cite form identified on the court's website. *Pro se* litigants are exempt from this requirement.

#### Local Civil Rule 16. Civil pretrial conferences; Alternative Dispute Resolution

16.1 Early scheduling conference - The court may order that an early scheduling conference be held before a judge either in open court, in chambers, or at the discretion of the court, by telephone, video conference, or other remote means. Following this conference, the court will issue a case management order establishing a timetable for disposition of the case. Parties may refer to the court's website for judicial guidelines on the court's pretrial and trial practice.

#### 16.2 Alternative Dispute Resolution: General provisions

- (a) ADR favored - The judges of this district favor alternative dispute resolution (ADR) methods in those cases where the parties and the court agree that ADR may help

resolve the case. The ADR methods approved by these rules include Voluntary Facilitative Mediation (LCivR 16.3); Early Neutral Evaluation (LCivR 16.4); Case Evaluation (LCivR 16.5); and Settlement Conferences (LCivR 16.6). In addition, the court will consider other ADR methods proposed by the parties (e.g., Summary Trials).

(b) Court administration of the ADR program

(i) Program description and administration - Each ADR program is governed by these rules and the provisions of a program description, which is incorporated into these rules by reference. The program description for each ADR method is available on the [court's website](#) and is published in a form suitable for reference by attorneys and their clients. The ADR program is administered by the clerk's office. Problems are initially handled by the ADR Administrator.

(c) Consideration of ADR in appropriate cases - In connection with the conference held pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, all litigants and counsel must consider and discuss the use of an appropriate ADR process at a suitable stage of the litigation.

(d) Confidentiality - All ADR proceedings are considered to be compromise negotiations within the meaning of ~~Federal Rules of Evidence~~ 408.

(e) Status of discovery, motions and trial during the ADR process - Any case referred to ADR continues to be subject to management by the judge to whom it is assigned. Parties may file motions and engage in discovery. Selection of a case for ADR has no effect on the normal progress of the case toward trial. Referral of a case to ADR is not grounds to avoid or postpone any deadline or obligation imposed by the case management order unless so ordered by the court.

(f) Qualifications for neutrals - To be qualified to act as a neutral (i.e., facilitative mediator, early neutral evaluator, case evaluator, or arbitrator), an attorney must satisfy all special requirements applicable to a particular ADR program as identified in the program description available on the [court's website](#).

- (g) Attorneys' responsibility for payment of fees - The attorney or law firm representing a party participating in ADR is directly responsible for fees payable to the court or to neutrals. *Pro se* parties are personally responsible for fees. To the extent consistent with ethical rules, the attorney or firm may seek reimbursement from the client. If any attorney or *pro se* party is delinquent in paying any fee required to be paid to a neutral under these rules, the neutral may petition the court for an order directing payment, and any judge assigned to the case may order payment, upon pain of contempt.
- (h) Pro bono service - In cases in which one or more parties cannot afford the fees of a neutral, the court may request that the neutral serve pro bono, by waiving or reducing the fee for all participating parties equally.

### 16.3 Voluntary Facilitative Mediation

- (a) Definition - Voluntary Facilitative Mediation (VFM) is a flexible, nonbinding dispute resolution process in which an impartial third party—the mediator—facilitates negotiations among the parties to help them reach settlement. VFM seeks to expand traditional settlement discussions and broaden resolution options, often by going beyond the issues in controversy. The mediator, who may meet jointly and separately with the parties, serves as a facilitator only and does not decide issues or make findings of fact.
- (b) Program description - Procedures and other details regarding the VFM process are governed by the program description, available on the [court's website](#).

### 16.4 Early Neutral Evaluation

- (a) Definition - Early Neutral Evaluation (ENE) is a flexible, nonbinding dispute resolution process in which an experienced neutral attorney meets with the parties early in the case to evaluate its strengths and weaknesses and the value that it may have, and also attempts to negotiate a settlement.
- (b) Program description - Procedures and other details regarding the ENE process are governed by the program description, available on the [court's website](#).

## 16.5 Case Evaluation

- (a) Definition - The case evaluation program affords litigants an ADR process patterned after that extensively used in the courts of the State of Michigan. See Mich. Comp. Laws §§ 600.4951-4969; Mich. Ct. R. 2.403. Case evaluation principally involves establishment of the settlement value of a case by a three-member panel of attorneys. The court may order that any civil case in which damages are sought be submitted to case evaluation; certain tort cases in which the rule of decision is supplied by Michigan law must be submitted to case evaluation, unless the parties unanimously agree to submit the case to voluntary facilitative mediation.
- (b) Program description - Procedures and other details regarding the standard and blue ribbon case evaluation processes are found in the program description, available on the [court's website](#).

16.6 Settlement conferences - The court may order a settlement conference to be held before a [district judge, a magistrate judge, or a bankruptcy judge](#). All parties may be required to be present. For parties that are not natural persons, a natural person representing that party who possesses ultimate settlement authority may be required to attend the settlement conference. In cases where an insured party does not have full settlement authority, an official of the insurer with ultimate authority to negotiate a settlement may also be required to attend.

## VI. TRIALS

### Local Civil Rule 40. Trial date

40.1 Scheduling - Cases shall be set for trial in the manner and at the time designated by the judge before whom the cause is pending. Any case may be assigned from one judge to another with the consent of both judges to promote the efficient administration of justice [under LCivR 3.3.2\(b\)](#).

40.2 Continuances - A motion for a continuance of a trial or other proceeding shall be made only for good cause and as soon as the need arises.

40.3 Notice of settlement - Whenever a case is settled or otherwise disposed out of court, counsel for all parties shall assure that immediate notice is given to the court. This shall be accomplished by both calling the court and e-filing a notice of settlement, unless otherwise specified in the judge's judicial guidelines posted on the court's website. Should a failure to provide immediate notice result in having jurors unnecessarily report for service in connection with the case, the court may, on its own motion, for good cause shown, assess costs incurred in having jurors report for service equally between the parties or against one or more of the parties responsible for failure to notify the court.

#### Local Civil Rule 41. Involuntary dismissal for want of prosecution or failure to follow rules

41.1 A judicial officer may issue an order to show cause why a case should not be dismissed for lack of prosecution or for failure to comply with these rules, the Federal Rules of Civil Procedure, or any court order. If good cause is not shown within the time set in the show cause order, the presiding judge may enter an order of dismissal with or without prejudice, with or without costs. Failure of a plaintiff to keep the court apprised of a current address shall be grounds for dismissal for want of prosecution.

#### Local Civil Rule 45. Service of subpoenas

45.1 Unless otherwise ordered, all subpoenas to be served by the United States Marshals Service shall allow a minimum of fourteen (14) days prior to the required appearance. A pro se party bears sole responsibility for ensuring that subpoenas are prepared and timely delivered to the United States Marshals, each subpoena of which must include the witness's full name and a complete and accurate street address for service (not a post office box). All subpoenas must comply with Rule 45 of the Federal Rules of Civil Procedure and LCivR 4.1-LCivR 4.1 governs payment of fees to the marshal.

#### Local Civil Rule 47. Confidentiality of juror information

##### 47.1 Confidentiality of juror information

- (a) All information obtained from juror questionnaires is confidential and may be used only for jury selection and in accordance with this rule.

- (b) ~~Juror questionnaires will be distributed by the clerk's office via secured electronic communication to counsel of record three (3) business days before trial. Electronic access will be protected by password set to expire automatically once jury selection begins. All copies of juror questionnaires must be destroyed or returned to the court upon completion of jury selection, or at any earlier time determined by the court.~~
- (c) ~~Paper copies of additional juror questionnaires collected before trial will be distributed to counsel on selection day. The court will also provide unrepresented parties with one paper copy of the juror questionnaires at the beginning of jury selection. Juror questionnaires will not be available via mail or facsimile transmission. For represented parties, counsel of record is responsible for maintaining the confidentiality and security of juror questionnaires, and must apply security practices no less stringent than those applicable to confidential client information. Unrepresented parties may use juror questionnaires only under supervision of the court, and may not reproduce the juror questionnaires in any form, or distribute them to anyone.~~
- (d) ~~For represented parties, counsel of record is responsible for maintaining the confidentiality and security of juror questionnaires and must apply security practices no less stringent than those applicable to confidential client information. Unrepresented parties may use juror questionnaires only under supervision of the court and may not reproduce the juror questionnaires in any form or distribute them to anyone. At the completion of jury selection, all paper copies of juror questionnaires will be collected for destruction by the court. Juror questionnaires will be electronically filed under restricted access three (3) business days before trial. Electronic access will be available to the court and counsel of record only. The court will provide unrepresented parties with one paper copy of the juror questionnaires at the beginning of jury selection. Juror questionnaires will not be available via mail or facsimile transmission.~~
- (e) Documents containing the name or signature of a juror shall be filed under restricted access. Electronic access will be available to the court ~~and counsel of record~~ only. Such restricted access documents may include but are not limited to a jury verdict

or juror notes and attachments thereto. A duplicate jury verdict or juror notes, with the name and signature of the juror redacted, will be electronically filed and available to the public.

## VII. JUDGMENT

### Local Civil Rule 54. Costs and Attorney's Fees

54.1 Taxation of costs - If the parties in a case can agree on costs, it is not necessary to file a cost bill with the clerk. If the parties cannot agree, a bill of costs shall be filed with the clerk within twenty-eight (28) days from the entry of judgment. If a bill of costs is filed, any party objecting to the taxation of costs must file a motion to disallow all or part of the claimed costs within fourteen (14) days of service of the bill of costs on that party. The motion and response thereto shall be governed by LCivR 7.1 and 7.3.

54.2 Attorney's fees in certain Social Security cases

- (a) Scope of rule - The procedures set forth in this rule apply to motions for attorney's fees brought under 42 U.S.C. § 406(b)(1)(A) (Social Security disability claims) or 42 U.S.C. § 1383(d)(2)(A) (supplemental security income claims), which allow an attorney to obtain fees from the client's award of past-due benefits for work performed in the district court. It is necessary to prescribe a special procedure for such cases, because the amount of past-due benefits is unknown at the time judgment for the claimant is entered in the district court. This rule does not apply to motions for fees under the Equal Access to Justice Act (EAJA), which are governed by the procedures set forth in that Act. 28 U.S.C. § 2412(d).
- (b) Procedure
  - (i) Deadline for filing motion - The attorney must file a motion for approval of fees under 42 U.S.C. §§ 406(b)(1)(A) or 1383(d)(2)(A) no later than thirty-five (35) days after the date shown on the face of the notice of award issued by the Social Security Administration.

- (ii) Requirements for motion - The motion must be accompanied by a supporting brief and all necessary documentation. The motion must state the following:
  - (A) the past due benefits;
  - (B) the total dollar amount withheld by the Commissioner out of the past due benefits to cover a potential award of attorneys fees in this court;
  - (C) the dollar amount (if any) of fees the attorney was awarded, has sought, or intends to seek pursuant to 42 U.S.C. § 406(a) for services performed at the administrative level of review;
  - (D) whether the attorney has knowledge of any other representative(s) who were awarded, sought, or will seek authorization for fees under 42 U.S.C. § 406(a);
  - (E) the dollar amount of fees sought pursuant to 42 U.S.C. § 406(b);
  - (F) the dollar amount of court costs, fees, and/or expenses sought or already awarded under the Equal Access to Justice Act (28 U.S.C. § 2412);
  - (G) an itemization of the services provided in judicial proceedings, specifying the hours worked, the work performed, and the attorney's hourly billing rate;
  - (H) an argument establishing that the fees sought are authorized under any applicable fee agreement, are reasonable; and
  - (I) in addition to complying with the requirements of LCivR 7.1, an affirmative statement that the attorney has discussed the matter of fees with the plaintiff and the plaintiff either has no objection to the amount of fees sought in the motion, or that the plaintiff and the attorney disagree as to the reasonableness of the fees sought.
- (iii) The fee motion must be accompanied by:

- (A) legible copies of all of the notices of award showing the amount of past due benefits and the amount(s) withheld by the Commissioner under 42 U.S.C. §§ 406, 1383;
  - (B) a copy of any fee agreement entered into between the plaintiff and the attorney; and
  - (C) a certificate of service that the attorney's fee motion and attachments have been served on the U.S. United States A attorney and on the plaintiff.
- (iv) Response - Any response by the client or defendant must be filed within twenty-one (21) days after the motion for attorney's fees is served. Reply briefs are not permitted absent leave of court.

## VIII. PROVISIONAL AND FINAL REMEDIES

### Local Civil Rule 65. Bonds and sureties

65.1 In all civil actions the clerk shall accept as surety upon bonds and other undertakings a surety company approved by the United States Department of Treasury, cash or an individual personal surety residing within the district. The clerk shall maintain a list of approved surety companies. Any personal surety must qualify as the owner of real estate within this district of the full net value of twice the face amount of the bond. Attorneys or other officers of this court shall not serve as sureties. This rule shall apply to supersedeas bonds and any other bonds required by law.

### Local Civil Rule 67. Deposit in court; payment of judgment

67.1 Deposit of funds - Any order requiring the clerk to make investment of funds in an interest bearing account shall not be effective until such order is personally served on the clerk.

67.2 Payment of judgment - Except with respect to litigation in which the United States is a party, the clerk will not, unless authorized by order of the court, accept payment of judgments. Upon receipt of payment of a judgment, however, the party shall file with the clerk an acknowledgment of payment.

## IX. SPECIAL PROCEEDINGS

### Local Civil Rule 72. Authority of magistrate judges

72.1 Authority, generally - The magistrate judges of this district are hereby empowered to perform all duties authorized by 28 U.S.C. § 636 and any other duty not inconsistent with the Constitution and laws of the United States, as more fully set forth below.

- (a) Duties under 28 U.S.C. § 636(a) - Each magistrate judge of this court is empowered to perform all duties prescribed by 28 U.S.C. § 636(a).
- (b) Determination of nondispositive pretrial matters - 28 U.S.C. § 636(b)(1)(A) - A magistrate judge may hear and determine any procedural or discovery motion or other pretrial matter in a case, other than the motions which are specified in LCivR 72.1(c).
- (c) Recommendations regarding case dispositive motions - 28 U.S.C. § 636(b)(1)(B) -
  - (i) A magistrate judge may submit to a district judge a report containing proposed findings of fact and recommendations for disposition by the district judge of the following pretrial motions in civil cases:
    - (A) motion for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;
    - (B) motions for judgment on the pleadings;
    - (C) motions for summary judgment;
    - (D) motions to dismiss or permit the maintenance of a class action;
    - (E) motions to dismiss for failure to state a claim upon which relief may be granted;
    - (F) motions to involuntarily dismiss an action; or
    - (G) motions for review of default judgments.

- (ii) A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this rule.
- (d) Prisoner cases under 28 U.S.C. §§ 2254 and 2255 - A magistrate judge may perform any or all of the duties imposed upon a district judge by the rules governing proceedings in the United States District Courts under §§ 2254 and 2255 of Title 28, United States Code and may review all other applications for relief made under 28 U.S.C. Chapter 153. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and may submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition. Except for cases in which the parties have consented to magistrate judge jurisdiction, ~~a~~Any order disposing of the petition may only be made by a district judge.
- (e) Prisoner cases under 42 U.S.C. § 1983 - A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and may submit to a district judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners challenging the conditions of their confinement. Except for cases in which the parties have consented to magistrate judge jurisdiction, ~~a~~Any order disposing of ~~at~~the petition may only be made by a district judge.
- (f) Other duties - A magistrate judge is also authorized to perform any additional duty not inconsistent with the Constitution and laws of the United States.

72.2 Assignment of matters to magistrate judges - ~~Unless otherwise ordered by the district judge to whom a case is assigned,~~ The magistrate judge assigned to any case may hear and determine any nondispositive pretrial matters in that case pursuant to the referral of the district judge~~without any further order of reference.~~

- (a) General cases - The method for assignment and reassignment of duties to a magistrate judge and for the allocation of duties among the ~~several~~ magistrate

judges of the court shall be made in accordance with orders of the court or by special designation of the Chief Judge.

- (b) Habeas corpus and prisoner civil rights cases - At the time of filing any habeas corpus or prisoner civil rights case, the clerk shall assign the case ~~to a district judge and~~ to a magistrate judge in accordance with procedures established by these rules and the implementing orders of the court. ~~The assigned magistrate judge may enter such orders and conduct such proceedings in that case as are authorized by statute or rule, without any further order of reference. An order disposing of the case may only be entered by a district judge.~~

### 72.3 Review and appeal of magistrate judge decisions

- (a) Appeal of nondispositive matters - 28 U.S.C. § 636(b)(1)(A) - Any party may appeal from a magistrate judge's order determining any motion or matter within fourteen (14) days after service of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or the district judge. Such party shall file and serve a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. In any case in which the decision of the magistrate judge is reflected only in an oral opinion on the record, the appealing party shall provide the district judge with a transcript of the oral opinion, unless excused by the district judge. Any party may respond to another party's objections within fourteen (14) days of service. Objections and responses shall conform to the word count and page limits for briefs set forth in LCivR 7.3(b). A district judge of the court shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.
- (b) Review of case dispositive motions and prisoner litigation - 28 U.S.C § 636(b)(1)(B) - Any party may object to a magistrate judge's proposed findings, recommendations or report within fourteen (14) days after being served with a copy thereof unless a different time is prescribed by the magistrate judge or a district judge. Such party shall file and serve written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which

objections are made and the basis for such objections. Any party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Objections and responses shall conform to the word count and page limits for briefs set forth in LCivR 7.2(b). A district judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district judge is required to, ~~however, need~~ conduct a new hearing only where required by law, and may consider the record developed before the magistrate judge, making a de novo determination on the basis of that record. The district judge may also receive further evidence, recall witnesses or remand~~recommit~~ the matter to the magistrate judge with instructions.

- (c) Special master reports - 28 U.S.C. § 636(b)(2) - Any party may seek review of, or action on, a special master report filed by a magistrate judge in accordance with the provisions of Rule 53(f) of the Federal Rules of Civil Procedure.
- (d) Appeals from other orders of a magistrate judge - Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by governing statute, rule, or decisional law.

#### Local Civil Rule 73. Consent jurisdiction of magistrate judges

73.1 Conduct of trials and disposition of cases - 28 U.S.C. § 636(c) - Upon the consent of all parties, and the approval of the assigned district judge, a magistrate judge may conduct any or all proceedings in any case, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c).

73.2 Assignment of cases to magistrate judges - In an effort to increase the number of consent cases, which serves the interests of promoting judicial economy, the court may issue an administrative order adopting procedures for assignment of some civil actions to magistrate judges.

73.3 Notice - The clerk shall notify the parties in cases of their option to consent to have a magistrate judge conduct any or all proceedings as provided by law.

73.4 Execution of consent - The clerk shall not accept a consent form unless it has been signed by all the parties in a case. No consent form will be made available, nor will its contents be made known, to any judge, unless all parties have consented to the reference to a magistrate judge. No magistrate judge or other court official may attempt to persuade or induce any party to consent to the reference of any matter to a magistrate judge. This rule, however, shall not preclude a district judge or magistrate judge from informing the parties that they have the option of consenting to a magistrate judge.

73.5 Reference - After the consent form has been executed and filed, the clerk shall transmit it to the district judge to whom the case has been assigned for approval and ~~transfer~~referral of the case to a magistrate judge, if necessary. Once the case has been assigned to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the clerk to enter a final judgment.

## X. DISTRICT COURTS AND CLERKS: CONDUCTING BUSINESS; ISSUING ORDERS

### Local Civil Rule 77. District courts and clerks; issuance of process

77.1 Time and place of holding court - The court shall be deemed to be in continuous session for transacting judicial business throughout the year. Proceedings may be held at such times and places within the district as the judge to whom the case is assigned shall designate.

77.2 Clerk's office - The court maintains Southern Division offices in Grand Rapids, Kalamazoo and Lansing, and a Northern Division office in Marquette.

77.3 Issuance of process - Any party requesting the issuance of any process or who initiates any proceeding in which the issuance of process is required by statute, rule or order, shall prepare all required forms, including the following: (a) summons; (b) warrants of seizure and monition; (c) subpoenas to witnesses; (d) certificates of judgment; (e) writs of execution; (f) orders of sale; and (g) all process in garnishment or other aid in execution. The party where necessary shall present the process to the clerk for signature and sealing. The clerk shall make official forms of process available to attorneys admitted to practice in this court, or their agents or employees.

## XI. GENERAL PROVISIONS

### Local Civil Rule 83. Miscellaneous

83.1 Certification of issues to state courts - Upon motion or after a hearing ordered by the judge sua sponte, the court may certify an issue for decision to the highest court of the state whose law governs any issue, claim or defense in the case. An order of certification shall be accompanied by written findings that: (a) the issue certified is an unsettled issue of state law; (b) the issue certified will likely affect the outcome of the federal suit; and (c) certification of the issue will not cause undue delay or prejudice. The order shall also include citation to authority authorizing the state court involved to resolve certified questions. In all such cases, the order of certification shall stay federal proceedings for a fixed time, which shall be subsequently enlarged only upon a showing that such additional time is required to obtain a state court decision. In cases certified to the Michigan Supreme Court, in addition to the findings required by this rule, the court must approve a statement of facts to be transmitted to the Michigan Supreme Court by the parties as an appendix to briefs filed therein.

83.2 Payment to court reporters and transcribers - All parties ordering a transcript must pay in advance by cash or certified check unless the court reporter/transcriber agrees to other arrangements.

# Local Criminal Rules

## I. APPLICABILITY

### Local Criminal Rule 1. Authority; scope; construction

1.1 Authority - These rules are promulgated pursuant to 28 U.S.C. § 2071 and Rule 57 of the Federal Rules of Criminal Procedure. Amendment of these rules is governed by LCrR 1.3 and Rule 57 of the Federal Rules of Criminal Procedure.

1.2 Short title - These rules may be cited and referred to individually as "W.D. Mich. LCrR \_\_\_\_\_."

1.3 Amendments - These rules may be amended by a majority vote of the district judges in conformity with Rule 57 of the Federal Rules of Criminal Procedure. These rules include amendments through ~~January 1, 2019~~[insert 2026].

1.4 Applicability - These rules apply to all criminal proceedings in this court.

1.5 Scope - These rules govern the procedure in the United States District Court for the Western District of Michigan, govern the practice of attorneys before this court, and supersede all previous rules promulgated by this court or any judge thereof. Administrative orders and single-judge standing orders shall be maintained by the clerk on the court's website or made available upon request. All such orders shall be consistent with these rules and the Federal Rules of Criminal Procedure.

1.6 Construction - These rules shall be construed to achieve an orderly administration of the business of this court and to secure the just, speedy and inexpensive determination of every action. References to statutes, regulations or rules shall be interpreted to include all revisions and amendments thereto. References to the clerk shall be interpreted to mean the clerk of this court or any deputy clerk. Wherever used in these rules, the term "party," whether in the singular or plural, shall include all parties appearing in the action *pro se* and the attorney or attorneys of record for represented parties, where appropriate. Unless otherwise noted, the terms judge(s) and judicial officer(s) are used interchangeably.

## II. [THIS SECTION INTENTIONALLY LEFT BLANK]

### III. THE GRAND JURY, THE INDICTMENT, AND THE INFORMATION

#### Local Criminal Rule 6. Grand juries

6.1 All grand juries are under the direct supervision of the court. They shall convene at such times and dates as ordered by the Chief Judge.

### IV. ARRAIGNMENT AND PREPARATION FOR TRIAL

#### Local Criminal Rule 10. Arraignment

10.1 Whenever the U.S. United States Attorney wishes to have a defendant appear for arraignment pursuant to a summons or change of plea, a date should be obtained from the chambers of the duty magistrate judge ~~presiding over the matter~~. The U.S. United States Attorney's office is responsible for notifying all necessary parties of the date and time for the proceeding, to include the marshal, the person responsible for issuing a writ, if needed, the probation office, the defendant and/or defendant's attorney.

#### Local Criminal Rule 11. Guilty pleas

11.1 Taking of guilty pleas in felony prosecutions; magistrate judge consent - With the consent of the district judge to whom the case is assigned, a magistrate judge may preside over the taking of guilty pleas in felony matters pursuant to Rule 11 of the Federal Rules of Criminal Procedure in the circumstances below.

- (a) The magistrate judge shall explain to the defendant that he or she has the right to have all proceedings, including the plea hearing, conducted by a district judge. The magistrate judge shall not proceed unless the defendant, defendant's attorney, and the attorney for the government all consent in writing and on the record to allow the magistrate judge to preside over the guilty plea proceedings.
- (b) If the parties consent to allow the magistrate judge to preside over the guilty plea proceeding, the magistrate judge shall conduct guilty plea proceedings, personally and in open court, following the procedures set forth in Rule 11 of the Federal Rules of Criminal Procedure. The magistrate judge shall set forth on the record findings concerning the knowing and voluntary nature of the guilty plea, the adequacy of

the factual basis for the plea, and any other relevant matter. If satisfied that all requirements of law have been met, the magistrate judge shall recommend to the district judge that the plea be accepted and order the preparation of a presentence investigation report. The magistrate judge shall inquire concerning the existence of a plea agreement but shall not accept or reject any such agreement, but shall specifically reserve acceptance of the plea agreement to the district judge.

11.2 Judicial preference - Parties shall reference the court's scheduling order or [judicial guidelines](#) available on the court's website to ascertain the time and manner in which the court will consider the taking of a guilty plea.

### Local Criminal Rule 12. Motion practice

12.1 Briefs - All motions, except those made orally during a hearing or trial, shall be accompanied by a supporting brief, in compliance with the requirements set forth in LCrR 47. Any party opposing a written motion shall do so by filing and serving a brief conforming to these rules. All briefs filed in support of or in opposition to any motion shall contain a concise statement of the reasons in support of the party's position and shall cite all applicable federal rules of procedure, all applicable local rules, and the other authorities upon which the party relies. References to the record shall comply with LCrR 49.11. Motions and briefs shall not be submitted in the form of a letter to the judge.

12.2 Supporting documents - When allegations of facts not appearing of record are relied upon in support of or in opposition to any motion, all affidavits or other documents relied upon to establish such facts shall accompany the motion. All discovery motions shall set forth verbatim, or have attached, the relevant discovery request and answer or objection. Exhibits and attachments in support of or in opposition to a motion shall comply with LCrR 49.10(d)(vii)(B).

12.3 Modification of limits - In its discretion, the court may in a particular case shorten or enlarge any time, word count, or page limit established by these rules, with or without prior notice or motion.

12.4 Attempt to obtain concurrence - With respect to all motions, the moving party shall ascertain whether the motion will be opposed. In addition, in the case of all nondispositive motions, counsel or *pro se* parties involved in the dispute shall confer in a good-faith effort to resolve the

dispute. All nondispositive motions shall be accompanied by a separately filed Certificate Regarding Motion Concurrence setting forth in detail the efforts of the moving party to comply with the obligation created by this rule.

12.5 Motion for expedited consideration - Where the relief requested by a motion may be rendered moot before the motion is briefed in accordance with the schedules set forth herein, the party shall so indicate by inserting the phrase "EXPEDITED CONSIDERATION REQUESTED," in boldface type, below the case caption, and shall identify in the motion the reason expedited consideration is necessary.

12.6 Unavailability of district judge - If it appears that any matter requires immediate attention, and the district judge to whom the case has been assigned, or in the usual course would be assigned, is not available, the matter shall be referred to the duty magistrate judge, who shall decide the matter if it is within the magistrate judge's jurisdiction. If the matter can only be decided by a district judge, the magistrate judge shall determine whether the matter can be set for a hearing at a time when the assigned district judge is available. If the matter is determined by a magistrate judge to require an immediate hearing before a district judge, the case will be referred to the Chief Judge, or in the Chief Judge's absence, the next available district judge by seniority for decision or reassignment to an available district judge. After disposition of this emergency matter, the case will be returned to the originally assigned district judge.

#### Local Criminal Rule 17. Service of subpoenas

17.1 Unless otherwise ordered, ~~a~~All subpoenas to be served by the United States Marshals Service shall allow a minimum of fourteen (14) days prior to the required appearance. A deposit in a sum deemed sufficient by the marshal to cover fees for the service to be performed shall be made in every instance in which the marshal is required to perform service. The marshal may require that any payment be by certified check.

### V. VENUE

#### Local Criminal Rule 18. Assignment of cases

18.1 All cases shall be assigned to the division in which the offense is alleged to have been committed.

## VI. TRIAL

### Local Criminal Rule 23. Trial date

23.1 Scheduling - Cases shall be set for trial in the manner and at the time designated by the judge before whom the cause is pending. Any case may be assigned from one judge to another with the consent of both judges to promote the efficient administration of justice under LCrR 56.6(a) or to comply with the Speedy Trial Act in another case.

23.2 Judicial preference - Parties shall reference this court's website for judicial guidelines on the court's pretrial and trial practice.

### Local Criminal Rule 24. Confidentiality of juror information

#### 24.1 Confidentiality of juror information

- (a) All information obtained from juror questionnaires is confidential and may be used only for jury selection and in accordance with this rule.
- (b) ~~Juror questionnaires will be distributed by the clerk's office via secured electronic communication to counsel of record three (3) business days before trial. Electronic access will be protected by password set to expire automatically once jury selection begins. All copies of juror questionnaires must be destroyed or returned to the court upon completion of jury selection, or at any earlier time determined by the court.~~
- (c) ~~Paper copies of additional juror questionnaires collected before trial will be distributed to counsel on selection day. The court will also provide unrepresented parties with one paper copy of the juror questionnaires at the beginning of jury selection. Juror questionnaires will not be available via mail or facsimile transmission. For represented parties, counsel of record is responsible for maintaining the confidentiality and security of juror questionnaires, and must apply security practices no less stringent than those applicable to confidential client information. Unrepresented parties may use juror questionnaires only under supervision of the court, and may not reproduce the juror questionnaires in any form, or distribute them to anyone.~~

- (d) ~~For represented parties, counsel of record is responsible for maintaining the confidentiality and security of juror questionnaires and must apply security practices no less stringent than those applicable to confidential client information. Unrepresented parties may use juror questionnaires only under supervision of the court and may not reproduce the juror questionnaires in any form or distribute them to anyone. At the completion of jury selection, all paper copies of juror questionnaires will be collected for destruction by the court. Juror questionnaires will be electronically filed under restricted access three (3) business days before trial. Electronic access will be available to the court and counsel of record only. The court will provide unrepresented parties with one paper copy of the juror questionnaires at the beginning of jury selection. Juror questionnaires will not be available via mail or facsimile transmission.~~
- (e) Documents containing the name or signature of a juror shall be filed under restricted access, with electronic access available to the court ~~and counsel of record~~ only. Such restricted access documents may include but are not limited to a jury verdict, juror notes and attachments thereto, as well as an indictment. A duplicate jury verdict, juror notes, or indictment, with the name and signature of the juror redacted, will be electronically filed and available to the public unless otherwise sealed by court order.

## VII. POST-CONVICTION PROCEDURES

### Local Criminal Rule 32. Sentencing

32.1 Notice - The chambers of the presiding judge setting the sentence will notify all necessary parties of the date of sentencing. This includes the marshal, the person responsible for issuing a writ, if needed, the probation office, the ~~U.S. United States A~~ttorney, the defendant and/or defendant's attorney, if the person is represented. This date may be set at the time of taking a plea or a verdict of guilty.

32.2 Presentence report - Unless waived pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, a presentence report must be prepared in every felony case and may be prepared in misdemeanor cases in the court's discretion.

- (a) Initial interview - The initial interview with the defendant, defendant's counsel, and the probation officer must be scheduled within seven (7) days of the date of the order setting the sentencing date. Counsel for the government must make available the offense conduct information, including all relevant conduct, within seven (7) days of the date of such order.
- (b) Disclosure of presentence report - At least forty-seven (47) days before the date scheduled for sentencing, the probation officer must provide a copy of the presentence report (except the sentencing rationale) to (1) counsel for the government, and (2) counsel for the defendant or, where the defendant is *pro se*, to the defendant. The sentencing judge may additionally direct the probation officer not to disclose the officer's recommendation on the sentence. Disclosure of the presentence investigation report (and any subsequent revisions and addenda thereto) to a defense attorney is deemed to be disclosure to the defendant. Defense counsel must provide a copy of the report to the defendant forthwith.
- (c) Time of disclosure
- (i) To represented parties: The presentence report is deemed disclosed to counsel for a represented defendant and to counsel for the government when the probation officer provides a copy via secured electronic communication. The probation officer will make an informational public docket entry on the CM/ECF system confirming service of the document—it is filed electronically by the probation officer on the CM/ECF system (access restricted to the court, the probation office, attorneys of record for the government and for the relevant defendant).
- (ii) To an unrepresented party: The presentence report is deemed disclosed to a *pro se* defendant when a copy of the report is physically delivered or three (3) days after a copy of the report has been mailed. The presentence report must contain the date of mailing. The probation officer will make an informational public docket entry on the CM/ECF system confirming service of the document to a *pro se* defendant.

- (d) Objections to presentence report - Within fourteen (14) days after disclosure of the presentence report, each counsel or *pro se* defendant must file a written response to the presentence report acknowledging disclosure and containing all objections, and supporting reasons, to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report. Alternatively, the response may affirmatively state that there is no objection to the report. Counsel ~~for the government and for defendant~~ must submit objections electronically ~~using the appropriate by the~~ CM/ECF ~~events~~ system (access restricted to the court, ~~and~~ the probation office, ~~attorneys of record for the government and for the relevant defendant~~) with proof of service on opposing counsel; the government must also serve objections pertaining to an unrepresented defendant on that defendant alone on paper, with proof of service. Unrepresented defendants must file their objections in writing with the ~~c~~Clerk of the ~~c~~Court, with a proof of service on government counsel. The clerk shall file the objections electronically by the CM/ECF system (access restricted to the court ~~and~~; the probation office, ~~and attorneys of record for the government~~).
- (e) Non-judicial resolution of objections - After receiving a timely objection, the probation officer must promptly conduct any further investigation and make any revisions to the presentence report that may be necessary. The probation officer may require each counsel and *pro se* defendant to meet with the officer to discuss unresolved factual and legal issues, and may request that such persons meet with each other for the same purpose.
- (f) Submission of presentence report - Not less than twenty-one (21) days before the date set for sentencing, the probation officer must submit the final presentence report electronically by the CM/ECF system (access restricted to the court ~~and~~; the probation office, ~~attorneys of record for the government and for the relevant defendant~~), ~~and provide a copy to counsel via secured electronic communication.~~ The probation officer will make an informational public docket entry on the CM/ECF system confirming service of the document. The report will be accompanied by an addendum setting forth any unresolved objections that counsel

or the *pro se* defendant may have, together with the officer's comments thereon. The probation officer must certify that the contents of the report, including any revisions and the addendum, have been disclosed to counsel and any *pro se* defendant, and that the addendum fairly states any remaining objections. When applicable, the report may be accompanied by Victim Impact Statements.

- (g) Motions for departure or variance; sentencing memoranda - Not less than fourteen (14) days before the date set for sentencing, any party seeking an upward or downward departure under the Sentencing Guidelines or a variance based on the application of the factors set forth in 18 U.S.C. § 3553(a), or both, must submit a separate and clearly captioned motion seeking such relief. All sentencing memoranda, including memoranda in support of a motion for departure or variance, must be filed by the same date. Not less than seven (7) days before the date for sentencing, any party may file a response to any previously filed motion or sentencing memoranda. Counsel must submit such motions and memoranda by the CM/ECF system. If sensitive or confidential information is contained therein, counsel ~~and~~ may move for leave to restrict access to the court, and the probation office, and must serve such documents in paper with proof of service on the opposing party ~~attorneys of record for the government and for the relevant defendant, if sensitive or confidential information is contained therein.~~ *Pro se* parties must file and serve such documents in paper, with proof of service on the opposing party.
- (h) Judicial resolution of objections - Upon receipt of the final report and attachments, the sentencing judge will determine the extent of any further proceedings necessary in light of the nature of any unresolved objections. The judge may hold all objections for resolution at the time of sentencing. In the alternative, the judge may resolve any objections prior to sentencing and may afford the parties a reasonable opportunity for the submission of further written objections before the imposition of sentence. Any objections must be made in the same manner as provided for in this rule. Where the court determines that a hearing is necessary to resolve the

disputed sentencing matters, a hearing may be held for that purpose, either on the date of sentencing or at an earlier time.

- (i) Late objections - Upon a showing of good cause, the court may allow a new objection to be raised at any time prior to the imposition of sentence.
- (j) Expedited procedures - The time periods set forth in this rule may be modified by the court for good cause shown, or upon its own motion, except that in no event shall sentence be imposed less than ten (10) days following disclosure of the presentence report without the consent of the defendant. The parties may agree in writing or on the record to an expedited sentencing procedure that shortens the times set forth in this rule or abbreviates the information otherwise required in the presentence report.
- (k) Limitations on disclosure - Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under the Federal Rules of Criminal Procedure.
- (l) Relationship to Fed. R. Crim. P. 32 - This rule shall not be construed to limit any sentencing procedure modifications permitted by Rule 32 of the Federal Rules of Criminal Procedure.
- (m) Release of presentence report to other officers - The Chief Probation Officer may, in his or her discretion, disclose a presentence report to a federal or state probation or parole officer in connection with that officer's conduct of official duties regarding a person previously sentenced by this court.

#### Local Criminal Rule 32.1.1 Actions against persons on probation or supervised release

~~32.1.1 Actions against persons on probation or supervised release requiring a hearing Whenever the probation office requests action against a probationer or person on supervised release, the probation office shall secure a date from the chambers of the judge conducting the preliminary, revocation, or modification hearing and notify all necessary parties. This includes the marshal, the person responsible for issuing a writ, if needed, the U.S. attorney, and the defendant and/or defendant's attorney.~~

(a) Preliminary or Revocation Proceedings

(i) Person not in custody: The probation office will prepare and electronically file the summons and serve the person under supervision with the summons. All other necessary parties will be notified of the date of the hearing by the CM/ECF system. This includes the marshal, the United States Attorney, the defendant's attorney, if the person is represented.

(ii) Person in custody: All necessary parties will be notified of the date of the hearing by the CM/ECF system. This includes the marshal, the person responsible for issuing a writ, if needed, the probation office, the United States Attorney, the defendant and/or the defendant's attorney, if the person is represented.

32.1.1(b) Modification Hearings – The probation office will secure the hearing date from the chambers of the judge conducting the hearing, prepare and electronically file the summons, and serve the person under supervision with the summons. All other necessary parties will be notified of the date of the hearing by the CM/ECF system. This includes the marshal, the United States Attorney, and the defendant's attorney, if the person is represented.

## VIII. GENERAL PROVISIONS

### Local Criminal Rule 44. Motion for appointment

44.1 If trial counsel was appointed under the Criminal Justice Act counsel must continue representation of the defendant on appeal unless relieved by the court of appeals. Counsel need not submit further proof of the defendant's indigence.

### Local Criminal Rule 47. Motions

#### 47.1 Dispositive motions

(a) Definition - Dispositive motions are motions to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a case, to involuntarily dismiss an action, and other dispositive motions as defined by law.

(b) Briefs

- (i) Length - Briefs filed in support of or in opposition to a dispositive motion that are produced on a computer shall not exceed ten thousand eight hundred (10,800) words, including any~~to include~~ headings, footnotes, citations and quotations. Not ~~to be~~ included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, affidavits and other addenda. Any such brief that is hand-written or produced on a typewriter shall not exceed twenty-five (25) pages in length, similarly including and excluding items previously identified.
- (ii) Certificate of compliance - The brief must be accompanied by a Certificate of Compliance Regarding Word Count, indicating the number of words in the document as defined by LCrR 47.1(b)(i), as well as the name and version of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.
- (iii) Courtesy copy - The court may require one paper courtesy copy of all dispositive motion papers, including responses, replies and all accompanying exhibits, which must be submitted directly to the presiding judge's chambers. It shall consist of a printed copy of the document after filing (with the header), and a notice of electronic filing (NEF) must be attached to the front of the paper. Any exhibits must be properly tabbed and all papers presented as required by LCrR 49.3. The courtesy copy must be hand delivered or sent via first class mail to chambers within twenty-four (24) hours of filing the original.
- (iv) References and supporting documents - References to the record shall comply with LCrR 49.11. Exhibits and attachments in support of or in opposition to a motion shall comply with LCrR 49.10(d)(vii)(B).

- (c) Briefing schedule - Unless otherwise ordered, any party opposing a dispositive motion shall, within twenty-eight (28) days after service of the motion, file a responsive brief and any supporting materials. The court may permit or require further briefing.
- (d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party's brief. In its discretion, the court may schedule oral argument or may dispose of ~~at~~the motion without argument.

#### 47.2 Nondispositive motions

- (a) Definition - Nondispositive motions are all motions not specifically listed in LCrR 47.1(a).
- (b) Briefs
  - (i) Length - Briefs filed in support of or in opposition to a nondispositive motion that are produced on a computer shall not exceed four thousand three hundred (4,300) words, ~~including to include~~ any headings, footnotes, citations and quotations. Not ~~to be~~included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, affidavits and other addenda. Any such brief that is hand-written or produced on a typewriter shall not exceed ten (10) pages in length, similarly including and excluding items previously identified.
  - (ii) Certificate of compliance - Briefs in support or in opposition to nondispositive motions exceeding one thousand (1,000) words shall be accompanied by a ~~C~~ertificate of ~~C~~ompliance Regarding Word Count, indicating the number of words in the document as defined by LCrR 47.2(b)(i), as well as the name and version of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.

~~(ii)~~(iii) References and supporting documents – References to the record shall comply with LCrR 49.11. Exhibits and attachments in support of or in opposition to a motion shall comply with LCrR 49.10(d)(vii)(B).

- (c) Briefing schedule - Unless otherwise ordered, any party opposing a nondispositive motion shall, within fourteen (14) days of service of the motion, file a responsive brief and any supporting materials. The court may permit or require further briefing. Reply briefs may not be filed without leave of court.
- (d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party's brief. In its discretion, the court may schedule oral argument or may dispose of the motion without argument.

#### 47.3 Motions for reconsideration

- (a) Grounds - Generally, and without restricting the discretion of the court, motions for reconsideration ~~that~~which merely present the same issues ruled upon by the court shall not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled, but also show that a different disposition of the case must result from a correction thereof.
- (b) Response to motions for reconsideration - No ~~response~~answer to a motion for reconsideration will be allowed unless requested by the court, but a motion for reconsideration will ordinarily not be granted in the absence of such request. Any oral argument on a motion for reconsideration is reserved to the discretion of the court.

#### Local Criminal Rule 49. Form of pleadings and other papers; filing requirements

49.1 Place of filing - Paper pleadings and other papers that may not be filed electronically under LCrR 49.10(d)(ii) may be filed with the clerk at any divisional office during walk-in business hours. If a hearing is scheduled, it is incumbent upon the party to ensure that the presiding judge receives a copy of the pleadings or other papers ~~on the day they are received by the clerk, or in no event~~ later than three (3) business days prior to the hearing.

49.2 Paper size and format - All documents must be double spaced in 8½ x 11 inch format with writing on only the face of each sheet. Type must be no smaller than twelve (12) point type and all margins must be at least one inch. Electronically filed documents must be ~~in~~ rendered in PDF digital format. Exhibits and attachments not authored by the filer may be in scanned PDF format.

49.3 Binding - All paper filed pleadings and other papers that have numerous pages must be bound with a fastener. Originals should be stapled or bound on the top margin with a two-hole fastener. Copies of paper filed documents may be bound in the same manner as originals or in a binder. Judges' courtesy copies shall be presented book style, in a binder, unless otherwise specified in a particular judge's judicial guidelines. Paper clips and other types of clips shall not be used; fasteners shall pass through the pages.

49.4 Date and contact information - All pleadings and other papers shall contain the date of signing and the address, telephone number, and e-mail address of the signing attorney or *pro se* party.

49.5 Number of copies -- All paper filed documents must contain an original manuscript signature. If service of any paper is to be made by the United States Marshal, sufficient copies shall be supplied for service upon each other party. If file stamped copies of documents are requested to be returned to the offering party, sufficient copies for this purpose and a suitable self-addressed, postage paid envelope shall be supplied.

49.6 Proof of service - Proof of service of all pleadings and other papers required or permitted to be served shall be filed promptly after service and may be made by written acknowledgment of service, by affidavit of the person making service or by written certification of counsel. Proof of service shall state the date and manner of service. Proof of service is unnecessary for documents filed and served electronically on a registered attorney under LCrR 49.10(d)(i) and 49.10(h).

49.7 Ex parte submissions

- (a) Filing of ex parte submissions - If the law allows a party to submit a pleading or other paper *ex parte*, the party may file the document with the clerk without serving a copy on any other party. The document shall be properly identified on its face as *Ex Parte*. A registered attorney must submit any *ex parte* filing electronically by use of the appropriate CM/ECF event. ~~An notice of electronic filing (NEF)~~ will be

generated for the *ex parte* document and will be transmitted to all parties. Unless modified by the filer, the NEF and docket entry will identify the document only as "Ex Parte Document" or "Ex Parte Motion."

- (b) Access to *ex parte* filings - The docket entry and the NEF for any *ex parte* filing will be available for public viewing. ~~Unless the court specifically orders otherwise, Electronic~~ access to *ex parte* documents will be available only to ~~the party submitting the filing (or that party's registered attorneys) and to the~~ authorized personnel of this court and the court of appeals, but not to the public or any ~~other~~ party.
- (c) Filings by the court - The court may issue restricted access orders in response to *ex parte* filings. ~~The docket entry and the NEF for any restricted access order will be identified as such and available for public viewing. Electronic~~ ~~a~~ Access to these orders will be restricted to the authorized moving party, ~~the~~ personnel of this court and the court of appeals, ~~but not to the public or any party. The clerk shall provide a copy of the order to the moving party via secured electronic communication and will make an informational public docket entry on the CM/ECF system confirming the service of the document. The docket entry and the NEF for any restricted access order will be identified as such and available for public viewing.~~
- (d) Sealed cases - If an entire case has been sealed, either by order or by operation of statute, then neither the *ex parte* submission nor any docket entry relating thereto will be available for public viewing, until such time as the court orders otherwise.

49.8 Sealed or restricted access documents ("Limited Access Documents")~~Filing documents under seal~~

- (a) Motions to authorize filing a Limited Access Document (LAD)~~Requests to seal~~ - The procedures set forth in this rule apply to cases that have not been sealed in their entirety. Documents may be submitted for filing as an LAD~~under seal~~ only if authorized by the court for good cause shown. A ~~party~~ person seeking leave to file a document as an LAD~~under seal~~ must file a motion requesting such relief, unless the court has entered a previous order that ~~authorizes~~ the submission of

~~the document under seal or submission under seal is authorized by statute such a filing.~~ The motion seeking leave to file an LAD under seal should generally be a public filing, unless the submitting party believes in good faith that public access to the motion will compromise the confidential matter. A proposed LAD sealed document submitted by a registered attorney must be submitted electronically as an LAD under seal as a separate document, under a separate docket entry, by using ~~of~~ the appropriate CM/ECF event. The docket entry and the NEF for any LAD sealed document will be available for public viewing; the description of the LAD sealed document should therefore be general in nature (e.g., sealed affidavit or ~~restricted access exhibit, sealed exhibit, sealed motion~~). The proposed LAD sealed document shall be appropriately identified as such on its face as sealed, but should not contain the word "proposed". Proposed LAD sealed documents submitted by ~~parties~~ persons other than registered attorneys must be filed in paper with the clerk of court in a sealed envelope bearing the case caption and number, the identity of the party submitting the documents, and a general description of the contents; the proposed LAD sealed document will be scanned and maintained electronically as an LAD under seal. If the court denies the motion for filing an LAD to seal in whole or in part, the proposed LAD sealed document will remain as such sealed, but the court may order the submitting party to tender a redacted modified document for public filing, or otherwise proceed to ensure that the public record includes, to the maximum extent possible, the basis for the Court's decision on any contested issue, either sealed or not under seal, as the court directs. If the court grants leave to file the document as an LAD under seal, the cClerk of cCourt will modify the docket entry to remove reference to "proposed."

~~(b)(a)~~ Access to LAD sealed documents — LADs A ~~document filed under seal~~ may be accessed electronically only by authorized personnel of this court and the court of appeals, but and not by the public or any attorney or party.

~~(e)(b)~~ Service of LAD sealed documents - A party submitting an LAD document under seal must serve it by non-electronic means of service on all other parties and file a proof of service.

~~(d)~~(c) Death penalty and other complex litigation - The parties to a death-eligible case, a death-penalty case, or other complex litigation involving numerous LADssealed documents may be ordered to comply with a special protocol for submission of LADssealed and *ex parte* documents, which will supersede the procedures set forth in this rule.

49.9 Rejection of filings - The court may order the rejection of any pleading or other paper that does not comply with these rules or the Federal Rules of Criminal Procedure unless such noncompliance is expressly approved by the court. The clerk shall return any rejected filing to the party tendering it, along with a statement of the reasons for rejection.

49.10 Filing and service by electronic means

(a) General information; definitions - Pursuant to Rule 49.10(d) of the Federal Rules of Criminal Procedure, the clerk will accept pleadings and other papers filed and signed by electronic means in accordance with this rule. All papers filed by electronic means must comply with technical standards, if any, now or hereafter established by the Judicial Conference of the United States.

This rule shall apply to all criminal actions maintained in the court's electronic case filing system. All documents, whether filed electronically or on paper, will be placed into the electronic case filing system, except as provided below. Attorneys must file and serve all documents electronically by use of the ECF system unless (1) the attorney has been specifically exempted by the court for cause, or (2) the a particular document is not eligible for electronic filing under this rule.

As used in these rules, the term:

- "ECF system" means the electronic case filing system maintained by this court;
- "registered attorney" means an attorney who is authorized pursuant to Rule 49.10(b) to file documents electronically and to receive service on the ECF system;

- "charging document" means the original complaint, indictment (or any superseding indictment), information or other document by which charges are brought in a criminal case;
- "electronically filed document" means any order, opinion, judgment, pleading, notice, transcript, motion, brief or other paper submitted electronically to the ECF system;
- "paper filed document" means a pleading or other paper submitted to the clerk in paper form for filing;
- "NEF" means the Notice of Electronic Filing generated by the ECF system;
- "nonelectronic means of service" means one of the methods of service authorized by Rule 49(b) of the Federal Rules of Criminal Procedure and Rule 5(b) of the Federal Rules of Civil Procedure, except electronic service under Rule 5(b)(2)(E).

(b) Mandatory registration; resources

- (i) Every attorney practicing in this court must register to file and serve documents electronically by the ECF system.
- (ii) To be entitled to register as a user of the ECF system, an attorney must be admitted to practice in this district, be a member in good standing, and have filed with the clerk a completed ECF attorney registration form.

Detailed registration information is available on the court's website ([www.miwd.uscourts.gov](http://www.miwd.uscourts.gov)). A registered attorney may not knowingly cause or allow another person to file a document using the attorney's login name and password, except for members of the attorney's staff. Authorized use of an attorney's login name and password by a staff member is deemed to be the act of the attorney. However, a registered attorney must not allow an unregistered attorney, even a member of the same firm, to use his or her login name and password.

(iii) The court will provide on its website [references and instructions](#) on the use of the ECF system. Law firms are encouraged to have individuals responsible for electronic filing (attorney, paralegal or automation specialist) make use of the materials available on the website. The ECF Help Desk is available during business hours to assist [via phone at \(616\) 456-2206 or \(800\) 290-2742, or via e-mail at \[ecfhelp@miwd.uscourts.gov\]\(mailto:ecfhelp@miwd.uscourts.gov\)](#).

(c) Charging documents - Charging documents may be filed in the following ways:

(i) in ~~paper, bearing manuscript signatures; or a scanned PDF document containing the image of original manuscript signatures.~~

(ii) electronically, with facsimile signatures created by use of the electronic signature pad; or

(iii) in ~~a scanned PDF document containing the image of original manuscript signatures and in accordance with LCrR 24.1(e) when applicable. paper, bearing manuscript signatures; or~~

The court may issue a summons or warrant electronically, but such process may be served only in accordance with Rule 4(c) of the Federal Rules of Criminal Procedure.

(d) Electronic filing

(i) Mandatory Electronic Filing - All attorneys must file all pleadings and other papers permitted by the federal rules and the local rules of this court (except charging documents) electronically in all criminal cases, subject to the exceptions set forth below. All electronically filed documents must be in PDF ~~digital~~ format and must be submitted in accordance with the [instructions](#) set forth on the court's website. *Pro se* parties who are not members of the bar of the court may not file pleadings or other papers electronically, but must submit them in paper form.

(ii) Papers that may not be filed electronically - The following documents may not be filed electronically, but must be submitted in paper form:

- (A) documents submitted by a person who is not a registered attorney (for example, a *pro se* litigant);
  - (B) papers filed in cases that have been sealed in their entirety;
  - (C) documents that are required by statute or court order to be filed *in camera*; and
  - (D) garnishee disclosures and other documents submitted by unrepresented third parties in response to writs or other court process.
- (iii) Electronic filing of affidavits and other original documents - The following documents must be filed electronically by submission of a scanned PDF version of the original document:
- (A) affidavits in support of or in opposition to a motion (This rule does not apply to affidavits of service.);
  - (B) declarations under penalty of perjury; and
  - (C) certified copies of judgments or orders of other courts.

The electronically filed version of such documents must bear a scanned image of all original manuscript signatures. The filer must meet the requirements of LCrR 49.10(e)(viii) regarding evidence of an original signature.

- (iv) Deadlines - An electronically filed document is deemed filed upon completion of the transmission and issuance by the court's system of an NEF. In situations where attachments to an electronically filed document are submitted in paper form, the electronic document is deemed filed upon issuance of the NEF, provided that the ~~attachments~~~~paper exhibits~~ are filed and served within seventy-two (72) hours thereof. All electronic transmissions of documents must be completed (i.e., received completely by the clerk's office) prior to midnight, Eastern Time, in order to be considered timely filed that day. Where a specific time of day deadline is

set by court order or stipulation, the electronic filing must be completed by that time.

- (v) Technical failures - The clerk shall deem the court's website to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon (Eastern Time) that day, in which case, filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings must be accompanied by a declaration or affidavit attesting to the filer's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay because of such technical failure. The initial point of contact for any practitioner experiencing difficulty filing a document electronically shall be the ECF Help Desk, available via phone at (616) 456-2206 or (800) 290-2742, or via e-mail at [ecfhelp@miwd.uscourts.gov](mailto:ecfhelp@miwd.uscourts.gov).
- (vi) Official record; discarding of paper filed documents - For purposes of Rule 55 of the Federal Rules of Criminal Procedure, the official record of all proceedings is the electronic file maintained on the court's ECF system. The clerk's office will discard all paper filed documents after they have become part of the electronic record, ~~unless the document produces a low quality electronic file.~~
- (vii) Exhibits and attachments
  - (A) Oversized documents - The [file size limit](#) is posted by the clerk on the court's website. No PDF document exceeding the file size limit may be filed in the CM/ECF system. Filers must divide such documents into component parts, each part not to exceed the posted limit, for purposes of electronic filing. The docket entry must clearly indicate that the document is filed in parts. An exhibit may be filed on paper only if it is ~~ineligible for~~ ~~exempt from~~ electronic filing under subrule (d)(ii) of this rule.

(B) Requirements - Filers must not attach as an exhibit any pleading or other paper already on file with the court, but shall refer to that document by the ECF No. identified thereon, found in the document header displayed at the top of the electronically filed document. All exhibits and attachments must contain on their face a prominent exhibit number or letter. If one or more attachments or exhibits to an electronically filed document are not being submitted electronically under this rule, the electronically filed document must contain a notice of that fact in its text.

~~(B)~~(C) Digital media – Attorneys must submit all digital media (e.g., audio or video files) via CM/ECF pursuant to the procedure on the Court’s website (pro se or unrepresented parties may utilize a portable storage device (e.g., disc, flash drive)). The court will not accept physical storage devices from registered attorneys.

(e) Signature

- (i) Attorneys - A registered attorney’s use of the assigned login name and password to submit an electronically filed document serves as the registered attorney’s signature on that document, for all purposes under the Federal Rules of Criminal ~~and Civil~~ Procedure and the local rules of this court. The identity of the registered attorney submitting the electronically filed document must be reflected at the end of the document by means of an "s/ [attorney’s name]" block showing the attorney’s name, followed by the attorney’s business address, telephone number, and e-mail address. Graphic and other electronic signatures are discouraged.
- (ii) Multiple attorney signatures - The filer of any electronically filed document requiring multiple signatures (e.g., stipulations, joint motions) must list thereon all the names of other attorney signatories by means of an "s/ [attorney’s name]" block for each. By submitting such a document, the filer certifies that each of the other attorneys has expressly agreed to the form and substance of the document, that the filer has their actual authority to

submit the document electronically, and that the requirements of LCrR 49.10(e)(viii) regarding evidence of original signature have been met. This paragraph does not apply to *pro se* or unrepresented parties, whose manuscript signature, in original or scanned form, must appear on the face of the document.

- (iii) Court reporters and transcribers - The electronic filing of a transcript by a court reporter/transcriptionist by use of their assigned login name and password shall be deemed the filing of a signed and certified original document for all purposes.
- (iv) Judges - The electronic filing of an opinion, order, warrant, judgment or other document by a judge (or authorized member of the judge's staff) by use of the judge's login and password shall be deemed the filing of a signed original document for all purposes.
- (v) Clerk of Court or deputy clerks - The electronic filing of any document by the clerk or a deputy clerk of this court or of the circuit court of appeals by use of that individual's login and password shall be deemed the filing of a signed original document for all purposes.
- (vi) Probation office and office of the U.S. United States Marshal - The probation office and office of the U.S. United States Marshal for this district are authorized to file and serve documents electronically. The electronic filing of any document by the probation office and office of the United States Marshal by use of the assigned login and password shall be deemed the filing of a signed original document for all purposes.
- (vii) Signature of defendant - Documents containing the original signature of the defendant must be submitted in one of four ways: (1) by use of the in-court electronic signature pad; (2) in a scanned PDF document containing the image of defendant's manuscript signature; (3) an image with a digital signature from a software program that creates a secure electronic signature that uniquely identifies the signer and ensures both the authenticity of the

signature, and that the signed document has not been altered or repudiated, including Docusign, Adobe Sign, and Sign Easy; or, (43) if none of these neither of the foregoing is feasible, in paper form.

(viii) Evidence of original signature - Filers of documents containing signatures authorized by LCrR 49(e)(ii) (multiple attorney signatures) must maintain any records evidencing concurrence, and filers of documents containing signatures authorized by LCrR 49(d)(iii) (electronically filed affidavits, etc.) and LCrR 49(e)(vii) (documents containing defendant's signature) must maintain the documents bearing the original manual signature for subsequent production to the court or for inspection by a party until one year after the final resolution of the action (including appeal, if any). A non-filing signatory or party who disputes the authenticity of a signature on an electronically filed document must file an objection to the document within fourteen (14) days after service of that document.

(f) Proposed pleadings - Except for proposed sealed filings, if the filing of an electronically submitted document requires leave of court, such as a brief in excess of word count or page limits, the proposed document must be attached as an exhibit to the motion seeking leave to file. If the court grants leave to file the document, the cE~~l~~erk of cE~~o~~urt will electronically file the document without further action by the attorney. Requests to file documents under seal are governed by LCrR 49.8.

~~(g)~~ Proposed orders - Proposed orders must be submitted electronically. ~~All proposed orders must be~~ in PDF format and must be: (1) attached as an exhibit to a motion or stipulation; or (2) contained within the body of a stipulation; or (3) submitted separately. Do not include the word *proposed* in the caption or title of the proposed order. Proposed orders must also be submitted in Word format via CM/ECF pursuant to the procedure on the Court's website (pro se litigants are exempt from this requirement). If the judge approves the proposed order, it will be refiled electronically under a separate document number.

~~(g)~~(h) Court ordered, judgments, writs and other processes – Judgments and orders may be filed electronically by the court or authorized court personnel. Any document

filed electronically without the image of the manuscript signature of the judge or clerk has the same force and effect as a document bearing an original signature. Upon entry of an order or judgment in a criminal proceeding, the clerk will transmit an NEF to all registered attorneys. Such transmission constitutes the notice to registered attorneys required by Rule 49(c) of the Federal Rules of Criminal Procedure. The clerk will provide notice to attorneys not registered under this rule and pro se parties by non-electronic means of service. The clerk may electronically affix the seal of the court on writs, summonses, and other processes, which shall have the same legal force and effect as process bearing an imprinted seal.

(h)(i) Service of electronically filed documents

- (i) Summonses and warrants - Warrants and summonses may be issued in electronic form with electronically affixed signatures and seal. Service of warrants and summonses, must be made in accordance with Rule 4(c) of the Federal Rules of Criminal Procedure.
- (ii) Service on registered attorneys - By registering under this rule, an attorney automatically consents to electronic service by both the court and any opposing attorney of any electronically filed document in any case in which the registered attorney appears. Consequently, service of an electronically filed document upon a registered attorney is deemed complete upon the transmission of an NEF to that attorney and no separate certificate of service should be filed. With the exception of the court, pPaper filed documents and LADs and sealed documents must be served on registered attorneys by nonelectronic means of service, and a proof of service must be filed.
- (iii) Service on United States Probation and Pretrial Services office - A registered attorney may serve the United States Probation Office electronically with a copy of sentencing memoranda, motions for departure or variance, or any other document that the Federal Rules of Criminal Procedure or these rules require to be served on the probation office. If such documents are filed by a registered attorney electronically, service will be accomplished by the ECF system automatically. If such documents are

paper filed, they must be served on the probation office by nonelectronic means of service.

- (iv) Service on unregistered attorneys and pro se parties - Counsel filing any pleading or other paper must serve attorneys not registered under this rule and pro se parties by nonelectronic means of service. A proof of service must be filed.
- (v) Method of electronic service - At the time a document is filed either electronically or by scanning paper submissions, the court's system will generate an NEF, which will be transmitted by e-mail to the filer and all registered attorneys who have appeared on that case. The NEF will contain a hyperlink to the filed document. The attorney filing the document should retain a paper or digital copy of the NEF, which serves as the court's date-stamp and proof of filing. Except in the case of ~~LADssealed documents~~ (see LCrR 49.8(c)) and *ex parte* filings (see LCrR 49.7(b), (c)), transmission of the NEF to the registered e-mail address constitutes service of an electronically filed document upon any registered attorney. Only service of the NEF by the court's system constitutes electronic service; transmission of a document by one party to another by regular e-mail does not constitute service.

~~(i) Court orders, judgments, writs and other process - Judgments and orders may be filed electronically by the court or authorized court personnel. Any document filed electronically without the image of the manuscript signature of the judge or clerk has the same force and effect as a document bearing an original signature. Upon entry of an order or judgment in a criminal proceeding, the clerk will transmit an NEF to all registered attorneys. Such transmission constitutes the notice to registered attorneys required by Rule 49(c) of the Federal Rules of Criminal Procedure. The clerk will provide notice to attorneys not registered under this rule and *pro se* parties by nonelectronic means of service. The clerk may electronically affix the seal of the court on writs, summons, and other process, which shall have the same legal force and effect as process bearing an imprinted seal.~~

- (j) Remote Access to electronically stored documents - Any person may review at the clerk's office filings in a criminal case that have not been sealed by the court or filed *ex parte*. Any person may retrieve a docket sheet in a criminal case through the PACER system and may access electronically the text of documents (except LADs-sealed documents, *ex parte* documents, and transcripts) stored on the ECF system and filed on or after November 1, 2004.
- (k) Other Facsimile-transmissions - The clerk will not accept for filing any pleading or other paper submitted by alternative means (e.g., e-mail and facsimile transmission).

49.11 Referencing the court record - A sequential pagination of the electronic court record initiates with the first filing in a case. The sequential page identification, referred to as the PageID, is applied by the ECF system and is found in the document header displayed at the top of every page of every electronically filed document. The PageID clearly, uniquely, and permanently identifies each page of the court record. In the case of documents in which no PageID is available, the page number of the document should be used for purposes of citation to the record. Otherwise, aAny reference by an un-registered attorney to a page of the record that has been electronically filed shall be made in which it is to be electronically filed shall be made by reference to the PageID identified thereon, following the cite form identified on the court's website. *Pro se* litigants are exempt from this requirement.

#### Local Criminal Rule 50. Prompt disposition of criminal cases

50.1 Pursuant to statutory requirements, the judges of the United States District Court for the Western District of Michigan have adopted a plan to minimize undue delay and further the prompt disposition of cases. Copies of the plan are available on the court's website or in the clerk's office.

#### Local Criminal Rule 56. District courts and clerks; issuance of process

56.1 Time and place of holding court - The court shall be deemed to be in continuous session for transacting judicial business throughout the year. Proceedings may be held at such times and places within the district as the judge to whom the case is assigned shall designate.

56.2 Clerk's Office - The court maintains Southern Division offices in Grand Rapids, Kalamazoo and Lansing and a Northern Division office in Marquette. The Southern Division comprises the counties of Allegan, Antrim, Barry, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Clinton, Eaton, Emmet, Grand Traverse, Hillsdale, Ingham, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, Saint Joseph, Van Buren, and Wexford. The Northern Division comprises the counties of Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft. 28 U.S.C. § 102(b).

56.3 Issuance of process - Any party requesting the issuance of any process or who initiates any proceeding in which the issuance of process is required by statute, rule or order, shall prepare all required forms. The party shall present the process to the clerk for signature and sealing when required. The clerk shall make official forms of process available to attorneys admitted to practice in this court, or their agents or employees.

56.4 Assignment of cases to judges

(a) New criminal cases - Upon the filing of an initial indictment or information, the clerk must assign the case the next sequential number.

(a)(b) Procedure - The case must be assigned to a district judge by automated means at random and, in the proportions established from time to time by administrative order. The clerk shall ensure that the name of the assigned judge appears on all paper filed documents and the electronic filing system. The clerk shall preserve a record of such assignments.

(b)(c) Exceptions

(i) Refilings - If a case is dismissed and later refiled, either in the same or similar form, the United States Attorney shall file at the earliest practicable time a statement notifying the clerk. Upon refiled it shall be assigned or transferred to the judge to whom it was originally assigned.

(ii) Subsequent proceedings - Post-conviction proceedings in criminal cases (including motions under section 2255 and proceedings to modify or revoke probation or supervised release) shall be assigned to the judge who sentenced the defendant, if that judge is still hearing cases.

(iii) Related cases

(A) Definition - Cases are deemed related when:

- (1) a superseding indictment or information has been filed; or
- (2) any other indictment or information is pending against the same defendant(s); or
- (3) an indictment or information charges contempt of court or other crime arising from alleged violation of an order entered in a previous case; or
- (4) an indictment is returned against a defendant who is then on probation or supervised release to a judge, provided the new case involves only the same defendant; or
- (5) two or more cases are based upon a substantial common nucleus of facts, events, or transactions.

(B) Determination - When it appears to the United States ~~A~~ttorney that two or more cases may be related cases, the United States ~~A~~ttorney shall file at the earliest practicable time a statement in all affected cases, describing in detail the basis for concluding that the cases may be related. The duty magistrate judge shall promptly determine whether the cases are related. If related, the cases will be assigned to the same judge. If cases are found to be related cases after assignment to different judges, they may be reassigned by the Chief Judge to the judge having the related case earliest filed.

~~(e)~~(d) Miscellaneous docket - The miscellaneous docket of the court shall be conducted and assigned at random to a magistrate judge at the time of filing, and it shall

include all grand jury matters. If a miscellaneous docket matter is contested and requires proceedings conducted before a district judge, the case will be randomly reassigned to a district judge and a. ~~If a miscellaneous matter is reassigned to a district judge because the matter is contested,~~ a new civil action number will be assigned.

~~(d)~~(e) Effect - This rule is intended to provide for an orderly division of the business of the court and not to grant any right to any litigant.

~~(e)~~(f) Duty of parties - All parties shall notify the court in writing of all pending related cases and any dismissed or remanded prior cases.

#### 56.5 Reassignment of cases

(a) Reassignment to promote judicial economy - The court may reassign cases from one district judge to another (i) to equalize and balance workloads among judges; (ii) to assign cases to senior or visiting judges or remove cases from their dockets as necessary; (iii) to comply with the requirements of the Speedy Trial Act, or (iv) for other reasons of judicial economy. Any case may be reassigned under this rule from one judge to another judge with the consent of both judges. Cases may also be reassigned by administrative order of the Chief Judge if approved by a majority of active district judges.

(b) Reassignment of cognate cases

(i) Definition – Cognate cases are pending criminal actions that have substantial questions of fact or law in common such that their assignment to a single judge is likely to effect a substantial saving of judicial effort and to avoid wasteful and duplicative proceedings for the court and the parties.

(ii) Procedure for reassignment – When a district judge determines that reassignment of cognate cases would serve the interests of justice and judicial economy, the judge will contact all other district judges to whom cognate cases have been assigned. If all those judges agree to reassignment, the Chief Judge will enter an administrative order reassigning such cognate

cases to the district judge with the earliest numbered case. The administrative order may also provide for automatic assignment of future cognate cases to that district judge, and for an adjustment of future case assignments to that district judge to compensate for the increased workload.

56.6 Criminal matters in the Northern Division - With the permission of the district judge to whom a case is assigned, any available district judge may take a guilty plea, preside over trial, or sentence a defendant in Northern Division cases.

#### Local Criminal Rule 57. Magistrate judges; miscellaneous

##### 57.1 Magistrate judges

- (a) Determination of nondispositive pretrial matters - 28 U.S.C. § 636(b)(1)(A) - A magistrate judge may hear and determine any procedural or discovery motion or other pretrial matters, other than motions to dismiss or quash an indictment or information made by a defendant and motions to suppress evidence.
- (b) Recommendations regarding case dispositive motions - 28 U.S.C. § 636(b)(1)(B) - A magistrate judge may submit to a district judge of the court a report containing proposed findings of fact and recommendations for disposition by the district judge of motions to dismiss or quash an indictment or information made against a defendant or motions to suppress evidence. A magistrate judge may determine any preliminary matters and conduct evidentiary hearing or other proceeding in connection with such recommendations.
- (c) Other duties - A magistrate judge is also authorized to:
  - (i) exercise all authority conferred upon United States magistrate judges by the Federal Rules of Criminal Procedure, including exercising case dispositive jurisdiction in petty offense and other misdemeanor prosecutions under Rule 58 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3401;
  - (ii) conduct pretrial conferences, ~~settlement conferences~~, omnibus hearings, and related pretrial proceedings in cases;

- (iii) conduct all nondispositive proceedings in cases not triable to the magistrate judge, including initial appearances, bond hearings, detention hearings, hearings on motion to revoke bond, arraignments, the taking of not-guilty pleas and the entering of not-guilty pleas for defendants standing mute; initial appearances may be conducted by video, and arraignments may be conducted by video with the defendant's consent; all other proceedings must be conducted in person;
- (iv) upon referral by a district judge, impanel grand juries, and receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure;
- (v) accept waivers of indictment and waivers of counsel;
- (vi) upon referral by a district judge, conduct voir dire and select petit juries to the extent allowed by law;
- (vii) upon referral by a district judge, accept petit jury verdicts in cases in the absence of a district judge;
- (viii) conduct necessary proceedings leading to the potential revocation of probation or supervised release;
- (ix) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for investigations or for court proceedings;
- (x) order the exoneration or forfeiture of bonds;
- (xi) perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;
- (xii) issue summons, search warrants, orders or other process authorizing agents and officers of the Internal Revenue Service or other authorized persons to enter premises and to make such search as is necessary in order to levy and

seize property pursuant to Section 6331 of the Internal Revenue Code or other applicable provision of law;

- (xiii) conduct proceedings in accordance with 26 U.S.C. §§ 7402(b) and 7604(b) regarding enforcement of Internal Revenue Service summonses;
- (xiv) conduct extradition proceedings in accordance with 18 U.S.C. § 3184;
- (xv) preside over guilty pleas in felony prosecutions in the circumstances allowed by LCrR 11; and
- (xvi) perform any additional duty not inconsistent with the Constitution and laws of the United States.

(d) Appeal from judgments in misdemeanor cases - 18 U.S.C. § 3402 - A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case by filing a notice of appeal within fourteen (14) days after entry of the judgment, and by serving a copy of the notice upon the United States ~~A~~attorney. If the case was previously assigned to a district judge, that judge shall hear any appeal from the decision of the magistrate judge; otherwise, the appeal shall be assigned to a district judge at random. The scope of appeal shall be the same as on an appeal from a judgment of the district court to the court of appeals.

(e) Appeals from other orders of a magistrate judge - Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by governing statute, rule, or decisional law. Such appeals shall be taken in accordance with the procedures set forth in LCivR 72.3.

(f) Unless otherwise prohibited by these rules, a~~A~~ny magistrate judge of this court may exercise nondispositive jurisdiction and perform the duties authorized by this rule in any criminal case, without the necessity of an order of reference.

## 57.2 Miscellaneous

(a) Probation office - No employee of ~~U.S.~~United States Probation and Pretrial Services shall, except as ~~permitted~~required by law, disclose to any person or organization any information obtained or maintained pursuant to official

duties. Any order, subpoena, or other demand for the testimony of a probation officer or the official records of the probation office must be made in accordance with the procedures set forth in the applicable regulations of the Judicial Conference of the United States. Whenever a probation officer of this court is served with an order, subpoena or other demand for testimony or the production of confidential presentence or probation records, the probation officer must not provide testimony or access to official records without the prior written approval of the Chief Probation Officer. Except when the request is made by a federal or state probation or parole officer, the Chief Probation Officer must consult with the Chief Judge of this court regarding the proper response to the order, subpoena, or other demand. Prior to consultation with the Chief Judge, the Chief Probation Officer, or other designee, shall advise the district judge or magistrate judge assigned to the case of the pending request and seek input. This rule does not apply to officers' testimony before this court when the proceedings are initiated by the probation office.

- (b) Bonds and sureties - In all proceedings the clerk shall accept as surety upon bonds and other undertakings a surety company approved by the United States Department of Treasury, cash or an individual personal surety residing within the district. The clerk shall maintain a list of approved surety companies. Any personal surety must qualify as the owner of real estate within this district of the full net value of twice the face amount of the bond. Attorneys or other officers of this court shall not serve as sureties. This rule shall apply to supersedeas bonds and any other bonds required by law.
- (c) Other matters - All other matters scheduled before a judge shall be scheduled by a member of the judge's staff, who shall notify all parties or counsel of scheduled dates and the purpose of all court appearances.
- (d) Writs of habeas corpus
  - (i) Requirements - All writs of habeas corpus ad prosequendum or testificandum for an individual shall, in addition to stating a specific date and time, include the following phrase: "and at such other times and dates

as the Court may decree." Every effort shall be made to allow fourteen (14) days ~~between~~after service ~~and prior to~~ the required appearance.

(ii) Requests to seal - A request that the writ be issued under seal must state facts showing good cause supporting the request. The caption of both the application and the proposed order granting the writ must clearly identify the document as being filed under seal.

(e) Payment to court reporters and transcribers - All parties, except defendants represented by CJA counsel, ordering a transcript must pay in advance by cash or certified check unless the court reporter/transcriber agrees to other arrangements.

#### Local Criminal Rule 58. Misdemeanors; petty offenses and collateral forfeitures

58.1 Disposition of misdemeanor cases - 18 U.S.C. § 3401 - Each magistrate judge of this court is empowered to exercise all jurisdiction conferred by 18 U.S.C. § 3401, including jurisdiction to:

~~(a)~~ try persons accused of, and sentence persons convicted of, a petty offense;

~~(a)(b)~~ try persons accused of, and sentence persons convicted of misdemeanors, other than petty offenses, in this district, after receiving such consent as may be required by 18 U.S.C. § 3401;

~~(b)(c)~~ direct the probation ~~office~~service of the court to conduct a presentence investigation in such misdemeanor case;

~~(e)(d)~~ conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States; and

~~(d)(e)~~ conduct all post judgment proceedings, including petitions to revoke or modify probation or supervised release, for any misdemeanor defendant who was originally sentenced by a magistrate judge.

58.2 Petty offenses and collateral forfeitures

(a) Posting collateral in lieu of appearance - A person who is charged with a violation of a Federal Wildlife Act, parking regulation governing the federal building, National Forest offense, conduct on postal service property, violation of law on

military property or any other petty offense as defined in 18 U.S.C. § 19, may, in lieu of appearance, post collateral in the amount indicated for the offense, waive appearance before a magistrate judge, and consent to the forfeiture of collateral to the United States. The posting of said collateral shall signify that the offender does not contest the charge or request a hearing before the designated magistrate judge. If the collateral is forfeited, such action shall be tantamount to a finding of guilty. Collateral will be permitted only for those offenses specifically authorized by the court in separate orders. There shall be maintained in the office of the clerk and with each magistrate judge a current list of the petty offenses and collateral applicable thereto which the court has established as collateral forfeiture offenses.

- (b) Failure to post and forfeit collateral - If a person charged with an offense under this rule fails to post and forfeit collateral, any punishment, including fine, imprisonment or probation may be imposed within the limits established by law upon conviction.
- (c) Aggravated offenses - If, within the discretion of the law enforcement officer, the offense is of an aggravated nature, the law enforcement officer may require appearance. Any punishment, including fine, imprisonment or probation, may be imposed within the limits established by law upon conviction.
- (d) Appearance required - Nothing contained in this rule shall prohibit law enforcement officers from arresting a person for the commission of any offense, including those for which collateral may be posted and forfeited, and requiring the person charged to appear before a magistrate judge or, upon arrest, taking the person immediately before a magistrate judge.

**LOCAL RULES  
OF  
PRACTICE AND PROCEDURE**



United States District Court  
For the Western District of Michigan

Hon. Hala Y. Jarbou, Chief Judge

Hon. Paul L. Maloney

Hon. Robert J. Jonker

Hon. Jane M. Beckering

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# Local General Rules

## Local General Rule 1. Authority; scope; construction

1.1 Authority - These rules are promulgated pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure. Amendment of these rules is governed by LGenR 1.3, Rule 83 of the Federal Rules of Civil Procedure, and Rule 57 of the Federal Rules of Criminal Procedure.

1.2 Short title - These rules may be cited and referred to individually as "W.D. Mich. LGenR \_\_\_\_."

1.3 Amendments - These rules may be amended by a majority vote of the district judges in conformity with Rule 83 of the Federal Rules of Civil Procedure and Rule 57 of the Federal Rules of Criminal Procedure. These rules include amendments through [insert 2026 date].

1.4 Applicability - These rules apply to all proceedings in this court.

1.5 Scope - These rules govern the procedure in the United States District Court for the Western District of Michigan, govern the practice of attorneys before this court, and supersede all previous rules promulgated by this court or any judge thereof. Administrative orders and single judge standing orders shall be maintained by the clerk on the court's website or made available upon request. All such orders shall be consistent with these rules and the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

1.6 Construction - These rules shall be construed to achieve an orderly administration of the business of this court and to secure the just, speedy and inexpensive determination of every action. References to the statutes, regulations or rules shall be interpreted to include all revisions and amendments thereto. References to the clerk shall be interpreted to mean the clerk of this court or any deputy clerk. Wherever used in these rules, the term "party", whether used in the singular or plural, shall include all parties appearing in the action *pro se* and the attorney or attorneys of record for represented parties, where appropriate. Unless otherwise noted, the terms judge(s) and judicial officer(s) are used interchangeably.

## Local General Rule 2. Attorneys

2.1 Attorney admission to practice

- (a) Applicant eligibility - An attorney may apply for admission to the bar of the court if the attorney:
  - (i) has been admitted to practice before a court of record of a state or the District of Columbia;
  - (ii) is in good standing with that court of record of a state or the District of Columbia;
  - (iii) is of good moral and professional character.
- (b) Admission procedure - An applicant must pay the fee established by the court and provide the clerk of court with a completed application for admission as found on the court's website.
- (c) Government attorneys - An attorney representing the United States, an agency of the United States, or representing a party as a Federal Public Defender, is exempt from the fee payment, but must otherwise follow the admission procedure under LGenR 2.1(b).
- (d) Admission - The Chief Judge may grant or deny the application for admission. Alternatively, the Chief Judge may refer the application to a three-judge panel for decision pursuant to the procedure identified on the court's website.
- (e) Law student practice - A law student may appear before the court pursuant to the procedure established by this court and found on the court's website.

## 2.2 Permission to practice in a particular case

- (a) Pro hac vice admission - This court disfavors *pro hac vice* admission and prefers that all lawyers appearing before it become full members of the bar of the court. Judges retain discretion to allow *pro hac vice* admission on a temporary basis pending full admission.
- (b) Sanctions - Nothing in this rule detracts from the court's power to sanction unprofessional conduct.

## 2.3 Attorney Discipline

- (a) Discipline Generally - Any attorney practicing before the court is subject to discipline by the court upon a showing that the attorney is:
- (i) currently reprimanded, suspended or disbarred by any admitting or licensing authority;
  - (ii) convicted of a crime; or
  - (iii) guilty of unprofessional conduct.
- (b) Discipline by admitting or licensing authority; Procedure
- (i) Attorney's duty to notify - An attorney practicing before the court who is publicly reprimanded, suspended or disbarred by any admitting or licensing authority must inform the clerk in writing of the public reprimand, suspension or disbarment, within ten (10) days after the effective date of any such public reprimand, suspension, or disbarment.
  - (ii) Automatic reciprocal discipline; Discretion to enhance discipline - Unless otherwise ordered by the court, any attorney who has been suspended or disbarred by any admitting or licensing authority, whether by suspension, revocation, or disbarment, shall automatically forfeit his or her right to practice law before this court during the same period that such attorney has been prohibited from practicing law by such other licensing authority, or, under the court's discretion, for a greater period of time. The clerk of court shall send a written notice to the attorney, together with a copy of this section of the Local Rules, informing the attorney of the forfeiture of his or her right to practice law before this court. Any failure or delay with regard to the sending of such notice shall not affect the automatic forfeiture provisions of this section.
  - (iii) Grounds for challenge - Within thirty (30) days after the effective date of any suspension or disbarment by any admitting or licensing authority, the attorney may file a written challenge to the reciprocal discipline imposed under LGenR 2.3(b)(ii). To conclude that the entry of some other order is

appropriate, the Chief Judge, or by reference, a three-judge panel, must find that the record underlying the attorney's suspension or disbarment clearly indicates that:

- (A) the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
  - (B) the proof establishing the misconduct was so infirm that the court could not—consistent with its duty—accept the conclusion of the admitting or licensing authority as final;
  - (C) the court's disqualification of the attorney would result in grave injustice; or
  - (D) the court concludes that the misconduct underlying the attorney's suspension or disbarment warrants substantially different discipline.
- (iv) Finality of the action of the admitting or licensing authority - Unless the court determines that one of the grounds contained in LGenR 2.3(b)(iii) exists, the admitting or licensing authority's final adjudication of attorney misconduct conclusively establishes the misconduct for purposes of this court's discipline.
- (v) Reinstatement - Upon reinstatement of an attorney by any admitting or licensing authority, the attorney shall provide to the clerk of court written notice from the admitting or licensing authority confirming the reinstatement. The clerk of court shall transmit the confirmation to the Chief Judge who shall determine whether the attorney may be reinstated to practice before the court. Alternatively, the Chief Judge may refer the matter to a three-judge panel for decision.
- (c) Criminal charges - Upon being charged with a crime, the attorney must inform the clerk of court, in writing, of charges within ten (10) days of receiving notice of the charges. Upon conviction of a crime, the attorney must immediately notify the clerk of court, in writing, of the conviction and must, at that time, provide the clerk of

court with a complete copy of the criminal record, including charging documents and all filings in the matter. The attorney is under a continuing duty to provide all materials from the criminal case to the clerk of court when available. The clerk of court shall transmit the information to the Chief Judge who shall determine whether the attorney may practice before the court. Alternatively, the Chief Judge may refer the matter to a three-judge panel for decision.

- (d) Discipline for unprofessional and improper conduct - If it appears to a judge of this court that an attorney practicing before the court has violated the rules of professional conduct or is guilty of other conduct unbecoming an officer of the court, the judge may: (1) for discipline other than suspension or disbarment, order an attorney to show cause—within a specified time—why the court should not discipline the attorney; or (2) refer the matter to the Chief Judge of the district who shall determine whether the attorney should be disciplined or alternatively refer the matter to a three-judge panel. Upon the expiration of the period specified or upon the attorney’s response to the show cause order, the court will enter an appropriate order. In the case of entry of an order for discipline by a judge, the attorney may seek review of that order from the Chief Judge within twenty-one (21) days of the order. The Chief Judge may decide that appeal or refer it to a three-judge panel for review. In the case of entry of an order for discipline by a three-judge panel, the panel’s decision is final.
- (e) Discipline for contempt - Disbarment from the court may be utilized as a sanction for contempt of court under the procedures contained in Rule 42 of the Federal Rules of Criminal Procedure. Nothing in this rule shall limit the court’s power to punish contempt.
- (f) Resignation in other jurisdictions - If an attorney resigns from the bar of another court of the United States while an investigation into allegations of misconduct is pending, the attorney shall immediately be suspended from the court. The attorney shall promptly inform the clerk of the resignation. An attorney knowingly violating this notification provision may be charged with criminal contempt. The Chief Judge shall enter an order suspending the attorney, effective as of the date of resignation

in the other jurisdiction. An attorney may apply to the Chief Judge for modification or vacation of the suspension. The Chief Judge may modify or vacate the suspension, or alternatively refer the matter to a three-judge panel.

2.4 Local counsel - If the law practice of an attorney practicing before the court is not located within the district, the court may—in its discretion—require the attorney to designate local counsel. To require local counsel, the court must enter an order articulating the reasons local counsel is required.

2.5 Appearance of counsel - Unless the court orders otherwise, an attorney admitted to this court is deemed an attorney of record by:

- (a) appearing in court on behalf of a party;
- (b) filing an entry of appearance; or
- (c) signing a pleading, motion or other paper as attorney for a party.

The appearance of an attorney is deemed to be the appearance of the law firm. Any attorney in the firm may be required by the court to conduct a court-ordered conference or trial. Withdrawal of appearance may be accomplished only by leave of court.

### Local General Rule 3. Bankruptcy

3.1 Bankruptcy

- (a) Referral of cases under Title 11 to bankruptcy judges - Pursuant to the powers granted by 28 U.S.C. § 157(a), all cases under Title 11 and all proceedings arising under Title 11 or arising in or related to a case under Title 11 previously filed or hereafter filed shall be referred to the bankruptcy judges of this district.
- (b) Bankruptcy court jurisdiction in core and noncore related proceedings - The bankruptcy judge shall determine whether proceedings are core, or noncore related, and shall enter appropriate orders and judgments subject to those appeal rights afforded by 28 U.S.C. § 158 and Part VIII of the Federal Rules of Bankruptcy Procedure. In those noncore related proceedings in which the parties timely object to the entry of a final judgment or order by the bankruptcy judge, the bankruptcy

court shall file and serve proposed findings of fact and conclusions of law on all dispositive matters. Objections shall be filed in accordance with Fed. R. Bankr. P. 9033. Upon submission by the bankruptcy court clerk to the district court clerk of the proposed findings of fact and conclusions of law and all objections timely filed thereto, the matter will be randomly assigned to a district judge who will conduct all further proceedings and enter a dispositive order.

- (c) Jury trials - Pursuant to 28 U.S.C. § 157(e), the bankruptcy judges in this district are specially designated to conduct jury trials with the express consent of all parties, if the right to jury trial applies in any proceeding that may be heard by a bankruptcy judge. All bankruptcy judges shall adhere to the Jury Selection and Service Act, 28 U.S.C. §§ 1861-1878, and this court's jury selection plan. Upon request, the district court clerk shall supply a sufficient number of jurors for jury trials in the bankruptcy court. Procedure in jury cases, including time and form of jury demand, waiver, advisory juries and trial by consent shall be governed by local rule of the bankruptcy court.
- (d) Local bankruptcy rules - Pursuant to Rule 83 of the Federal Rules of Civil Procedure and Federal Rule of Bankruptcy Procedure 9029(a)(1), a majority of the bankruptcy judges of this district are authorized to make rules of practice and procedure consistent with the bankruptcy rules.

#### Local General Rule 4. Conduct in federal court facilities

##### 4.1 Facility and environs

- (a) Security screening; definitions; requirements
  - (i) As used in this rule, "federal court facility" includes any facility occupied by the United States District Court or any temporary facility occupied by a judge serving in the Western District of Michigan.
  - (ii) All persons entering a federal court facility in the Western District of Michigan are required to present a valid government issued identification card with photo, pass through a security screening device, and have all

belongings and packages subject to physical and/or security screening examination by the United States Marshals Service, court security officers, and employees of the Federal Protective Service. Any person who refuses to present a valid form of identification or pass through screening shall be denied entrance.

- (iii) Consent to provisions - Any person bringing in an electronic communication device as defined in LGenR 4.3(a) shall be determined to have consented to the provisions of this rule.

(b) Soliciting, loitering, and disruptive behavior

- (i) The solicitation of business relating to bail bonds or to employment as counsel is prohibited.
- (ii) Loitering in or about federal court facilities is prohibited.
- (iii) Any behavior that impedes or disrupts the orderly conduct of the business of the court is prohibited. Signs, placards, or banners may not be brought into a federal court facility or its environs.

(c) Recording of court proceedings

- (i) Except as specifically provided herein, the recording of any proceeding is prohibited and no camera or recording device shall be permitted in a federal court facility. This prohibition shall include any device or contrivance capable of preserving or transmitting a visual image and any device or contrivance capable of recording, transmitting, or preserving any audible communication (except cell phones with camera features).
- (ii) The taking of photographs or video or audio recordings in connection with any judicial proceeding and the recording or broadcasting of judicial proceedings by radio, television or any other means is prohibited.
  - (A) As used in this rule, "judicial proceeding" includes proceedings before district, bankruptcy or magistrate judges, and sessions of the grand jury.

- (B) As used in this rule, "in connection with any judicial proceeding" includes all participants in a judicial proceeding while they are in a courtroom or its environs.
- (iii) A judicial officer may authorize, by written notice to the United States Marshals Service, the use of electronic or photographic means for the presentation of evidence or for the perpetuation of the record.
- (iv) A judge may authorize, by written notice to the United States Marshals Service:
  - (A) the broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings; and
  - (B) the radio or television broadcasting, audio or video recording or photographing of court proceedings pursuant to a resolution of the Judicial Conference of the United States.
- (v) By written notice to the United States Marshals Service, the General Services Administration (GSA) property manager or his or her designee may authorize an individual or contract group to possess a camera or recording device for the purpose of maintaining or enhancing the facility, to include repair and alterations.

#### 4.2 Firearms and weapons

- (a) It is illegal to possess a firearm or other dangerous weapon in a federal court facility with or without the intent to commit a crime (Title 18, U.S.C. § 930). Firearms, knives, explosives, and other weapons are prohibited in federal court facilities and subject to confiscation.
- (b) Exceptions to this rule include:
  - (i) judicial officers, the United States Marshal, deputy marshals, court security officers, and employees of the Federal Protective Service, as governed by any applicable administrative order;

- (ii) federal law enforcement agencies having offices in a federal court facility are exempt from the provisions regarding the carrying of weapons while entering the building and while going to and from the floor where their offices are located;
- (iii) employees of United States Probation and Pretrial Services who are authorized by law and agency regulations to carry firearms in the performance of their official duties may possess firearms in this facility to the extent necessary to transport such firearms by the most direct route available to and from their offices. In accordance with regulations of the United States Probation and Pretrial Services, all firearms shall be secured while present within their offices. The Chief United States Probation Officer will notify the United States Marshals Service in writing of all officers authorized to carry firearms on an annual basis. Employees of the United States Probation and Pretrial Services are prohibited from carrying firearms into courtrooms; and
- (iv) state, county, and local law enforcement officers who are:
  - (A) escorting prisoners to and from court under the direction of the United States Marshals Service, or
  - (B) assisting the United States Marshals Service by supporting or providing additional security, as directed, in and around federal court facilities.
- (c) All other federal, state or local law enforcement officers are required to identify themselves and store their weapons in weapons lock boxes maintained by the United States Marshals Service. For security purposes, officers may be required to be screened after securing their weapons.
- (d) The handling of firearms as exhibits in trials is governed by an [administrative order](#) issued by the court.

- (e) An exception to this rule regarding weapons or firearms may only be made by the Chief Judge or the judge in whose courtroom the proceedings are occurring.

#### 4.3 Electronic communication devices

- (a) Definition - "Electronic communication devices" are defined as cellular telephones, laptop computers, and other communication devices capable of transmitting data, video or audio electronically using cellular, wireless, or other means.
- (b) General policy - Except as provided in LGenR 4.3(c) and court orders, electronic communication devices are not permitted in federal court facilities.
- (c) Exempted persons - The following persons are permitted to carry and use electronic communication devices within federal court facilities in the Western District of Michigan:
  - (i) Officers of the court - attorneys appearing in their official capacity as officers of the court;
  - (ii) Court contractors, including interpreters and court reporters;
  - (iii) Building tenants - employees and visiting employees of the federal court facility;
  - (iv) Parties to litigation - parties, other than defendants in criminal cases, who enter a federal court facility accompanied by their attorney, if their counsel certifies to security staff that such devices are necessary to facilitate litigation pending before the court;
  - (v) United States Marshals Service personnel - including court security officers and contract guards;
  - (vi) Other federal, state, local law enforcement - when appearing in their official capacity;
  - (vii) GSA approved contractors - by written notice to the United States Marshals Service, the GSA property manager or his or her designee may authorize an individual or contract group to possess an electronic communication device

for the purpose of maintaining or enhancing the facility, to include repair and alterations;

- (viii) Jurors - grand jury members, petit jury members, and persons appearing as directed pursuant to a jury summons;
  - (ix) Judicial authority - upon request to the court, a judicial officer may issue an order granting permission to an individual or group, otherwise not authorized to possess an electronic communication device. The United States Marshals Service shall be notified of such order;
  - (x) Members of the press - members of the press who present official credentials satisfactory to the United States Marshals Service; and
  - (xi) Federal credentialing clients - by written notice to the United States Marshals Service, the GSA property manager or his or her designee may authorize an individual, who is a newly-retained contractor or prospective Federal Government employee, and who has not yet received his or her credentials, to possess an electronic communication device to attend their appointment in the GSA credentialing office.
- (d) Conditions for authorized use of electronic communication devices - Unless express permission to the contrary is given by the presiding judicial officer, the following conditions and restrictions apply to those individuals authorized to carry an electronic communication device:
- (i) while in a courtroom, electronic communication devices shall be in the off position at all times, unless the presiding judicial officer gives permission for use of the device;
  - (ii) the device may not be used and must be turned off except in designated areas of the court facility;
  - (iii) the device cannot be initiated, answered, examined, or manipulated (for text messaging or otherwise) while in a courtroom;

- (iv) the device may be used for communication by non-building tenants only in designated areas. Designated areas will be identified by each court facility by administrative order, to be posted prominently in each facility and on the court's website; and
- (v) the electronic communication device may not be used for purposes of taking pictures or making any audio or video recording in violation of LGenR 4.1(c).

#### 4.4 Facility conduct conditions

- (a) Enforcement - The United States Marshal, his or her deputies, and court security officers may demand from any individual in possession of an electronic communication device, to produce identification in aid of enforcement of this rule. If the identification does not satisfy the officer that the person in possession of the device is authorized in accordance with the terms of this rule, the officer may refuse admittance to this person and/or confiscate the device.
- (b) Violations
  - (i) Attorney discipline - An attorney violating this rule may be subject to discipline, including disbarment, in accordance with LGenR 2.
  - (ii) Confiscation - A violation of this rule, including without limitation, unauthorized possession, use in an unauthorized space, possession of a device in an audible mode, and failing to turn off a device when required, shall result in immediate confiscation of the device. Any judicial officer may order confiscation of a cellular telephone or wireless communications device. Any United States Marshal or deputy marshal or court security officer may also confiscate such a device. The United States Marshals Service shall develop a procedure for handling and storing confiscated devices.

- (iii) Contempt of court - A violation of this rule may be punished as criminal contempt of court. A violation that disrupts a judicial proceeding may be punished by summary proceedings.
- (c) Relief from confiscation of a device - An individual whose device has been confiscated may apply in writing no more than fourteen (14) days after confiscation for its return. The application shall be made to the judicial officer whose proceedings were disturbed by the violation, or, if there is no such judicial officer, to the Chief Judge. The judicial officer may grant or refuse the request. Confiscated devices that are not returned shall be disposed of in a manner directed by the Chief Judge. Nothing in this paragraph shall prohibit the judicial officer or his or her designee to return a device after the conclusion of a court matter.

#### Local General Rule 5. Failure to Provide Notification of Change of Address

5.1 Any attorney and any unrepresented party must keep his or her contact information—consisting of his or her address, e-mail address, and telephone number—updated with the Court. If there is a change in the contact information, that person must promptly file and serve a notice with the new contact information. Failure to promptly file current contact information may subject that person or party to appropriate sanctions, which may include dismissal, default judgment, and costs.

# Local Civil Rules

## I. SCOPE OF RULES; FORM OF ACTION

### Local Civil Rule 1. Authority; scope; construction

1.1 Authority - These rules are promulgated pursuant to 28 U.S.C. § 2071 and Rule 83 of the Federal Rules of Civil Procedure. Amendment of these rules is governed by LCivR 1.3 and Rule 83 of the Federal Rules of Civil Procedure.

1.2 Short title - These rules may be cited and referred to individually as "W.D. Mich. LCivR \_\_\_\_\_."

1.3 Amendments - These rules may be amended by a majority vote of the district judges in conformity with Rule 83 of the Federal Rules of Civil Procedure. These rules include amendments through [insert 2026 date].

1.4 Applicability - These rules apply to all civil proceedings in this court.

1.5 Scope - These rules govern the procedure in the United States District Court for the Western District of Michigan, govern the practice of attorneys before this court, and supersede all previous rules promulgated by this court or any judge thereof. Administrative orders and single-judge standing orders shall be maintained by the clerk on the court's website or made available upon request. All such orders shall be consistent with these rules and the Federal Rules of Civil Procedure.

1.6 Construction - These rules shall be construed to achieve an orderly administration of the business of this court and to secure the just, speedy and inexpensive determination of every action. References to statutes, regulations or rules shall be interpreted to include all revisions and amendments thereto. References to the clerk shall be interpreted to mean the clerk of this court or any deputy clerk. Wherever used in these rules, the term "party," whether in the singular or plural, shall include all parties appearing in the action *pro se* and the attorney or attorneys of record for represented parties, where appropriate. Unless otherwise noted, the terms judge(s) and judicial officer(s) are used interchangeably.

## II. COMMENCING AN ACTION; SERVICE OF PROCESS; PLEADINGS, MOTIONS, AND ORDERS

### Local Civil Rule 3. Commencing an action; assignment to division and judge

3.1 Fee Payment - The fee provided by 28 U.S.C. § 1914 shall be paid to the Clerk of Court. The clerk may require that any payment be in cash or certified check, or made electronically under LCivR 5.7(c).

3.2 Assignment of cases to divisions - This district is composed of a Northern Division and a Southern Division. The residence of corporations, partnerships, and unincorporated associations shall be the division where the principal place of business is maintained. The Southern Division comprises the counties of Allegan, Antrim, Barry, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Clinton, Eaton, Emmet, Grand Traverse, Hillsdale, Ingham, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, Saint Joseph, Van Buren, and Wexford. The Northern Division comprises the counties of Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft. 28 U.S.C. § 102(b). All cases shall be assigned to a division by application of the following order of priorities:

- (a) if an action is removed from state court, the division embracing the county in which the case was pending in state court;
- (b) in bankruptcy appeals, the division in which the bankruptcy matter is pending;
- (c) if the action is local in nature, the division in which the real property is located;
- (d) in prisoner civil rights cases, the division in which the claim arose;
- (e) the division in which all plaintiffs reside;
- (f) the division in which all defendants reside;
- (g) the division in which the claim arose;
- (h) in a case in which a defendant is an officer or employee of the United States or any agency thereof acting in an official capacity, or under color of legal authority, or an

agency of the United States, the division in which an office of a defendant is located; or

- (i) the division in which the case is filed.

### 3.3.1 Assignment of cases to district judges

- (a) Method - Each civil action (except Social Security, Prisoner Civil Rights, and State Habeas cases) and each bankruptcy appeal, shall be assigned to a district judge, who shall continue in the case or matter until its final disposition, except as hereinafter provided. Each Social Security, Prisoner Civil Rights, and State Habeas action shall be assigned at random to a magistrate judge at the time of filing. The parties will thereafter be given an opportunity to consent voluntarily to the dispositive jurisdiction of the assigned magistrate judge pursuant to 28 U.S.C. § 636(c). If all parties do not timely consent, the case will be assigned to a district judge at random and will be referred to the originally assigned magistrate judge under 28 U.S.C. § 636(b)(1).
- (b) Sequence - At the commencement of each civil case, the clerk shall assign the case a sequential case number and assign the case to a judge in accordance with LCivR 3.3.1(c). The numbering and assignment of each case shall be completed before processing of the next case is commenced.
- (c) Procedure - The clerk shall assign new cases to judges at random, in the proportions established from time to time by administrative order. The clerk shall ensure that the name of the assigned judge appears on all paper filed documents and the electronic filing system. The clerk shall preserve a record of such assignments.
- (d) Exceptions
  - (i) Refilings - If a case is dismissed or remanded to state court and later refiled, either in the same or similar form, upon refileing it shall be assigned or transferred to the judge to whom it was originally assigned.

- (ii) Subsequent proceedings - Subsequent proceedings in cases shall be assigned to the judge assigned to the original case, if that judge is still hearing cases.
- (iii) Related cases - Cases related to cases already assigned to a judge shall be assigned or transferred as set out below.
  - (A) Definition - Cases are deemed related when a filed case (1) relates to property involved in an earlier numbered pending suit, or (2) arises out of the same transaction or occurrence and involves one or more of the same parties to a pending suit, or (3) involves the validity or infringement of a patent already in suit in any pending earlier numbered case. “Same transaction or occurrence” is to be construed narrowly; it should generally be based on a *substantial* common nucleus of facts between the respective cases.
  - (B) Determination - When it appears to the clerk that two or more cases may be related cases, they shall be referred to the magistrate judge designated under 28 U.S.C. § 636(b)(1)(A) to assist in the earliest-filed case to determine whether or not the cases are related. If related, the cases will be assigned to the same district judge and the same magistrate judge. If cases are found to be related cases after assignment to different district judges, the Chief Judge may reassign the cases to the district judge assigned to the earliest-filed case, with the consent of both the transferor and transferee judge. Cases reassigned under this rule shall be assigned to the magistrate judge assigned to the earliest-filed case.
- (e) Miscellaneous docket - The miscellaneous docket of the court shall be assigned at random to a magistrate judge at the time of filing. If a miscellaneous docket matter is contested and requires proceedings conducted before a district judge, the case will be randomly reassigned to a district judge and a new civil action number will be assigned. If a miscellaneous docket matter requires decision by a district judge, a district judge will be assigned at random.

- (f) Effect - This rule is intended to provide for an orderly division of the business of the court and not to grant any right to any litigant.
- (g) Duty of parties - All parties shall notify the court in writing of all pending related cases and any dismissed or remanded prior cases.

### 3.3.2 Reassignment of cases

- (a) Reassignment of cases on grounds of geographic convenience - Promptly after all parties have appeared in any civil action, the parties may file a stipulation and motion requesting transfer of the action to a judge located in a different city, on the basis of the convenience of counsel, the parties, or witnesses. Reassignment of the action shall be at the discretion of the court and shall require the consent of all parties and of both the transferor and transferee judge.
- (b) Reassignment to promote judicial economy - The court may reassign cases from one district judge to another (i) to equalize and balance workloads among judges; (ii) to assign cases to senior or visiting judges or remove cases from their dockets as necessary; or (iii) for other reasons of judicial economy. Any case may be reassigned under this rule from one judge to another judge with the consent of both judges. Cases may also be reassigned by administrative order of the Chief Judge if approved by a majority of active district judges. If applicable, cases reassigned under this rule shall be assigned to the magistrate judge assigned to the earliest-filed case.
- (c) Reassignment of cognate cases
  - (i) Definition - Cognate cases are pending civil actions involving the same or similar questions of fact or law such that their assignment to a single judge is likely to effect a substantial saving of judicial effort and to avoid wasteful and duplicative proceedings for the court and the parties.
  - (ii) Procedure for reassignment - When any judge determines that reassignment of cognate cases would serve the interests of justice and judicial economy, the judge will contact all other judges to whom cognate cases have been

assigned. If all those judges agree to reassignment, the Chief Judge will enter an administrative order reassigning such cognate cases to the judge with the earliest numbered case. The administrative order may also provide for automatic assignment of future cognate cases to that judge, and for an adjustment in future case assignments to that judge to compensate for the increased workload. Cases reassigned under this rule shall be assigned to the magistrate judge assigned to the earliest-filed case.

3.4 *In forma pauperis* proceedings

- (a) Motion and supporting documents - All persons applying to proceed *in forma pauperis* in this court or on appeal shall file with their complaint or notice of appeal a motion for leave to proceed *in forma pauperis* supported by the financial affidavit required under 28 U.S.C. § 1915(a)(1). In addition, any person incarcerated under a state or federal criminal conviction shall submit a certified copy of their prisoner trust fund account statement for the six-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined. The statement shall disclose (i) the amount then in the trust fund account; and (ii) all deposits and withdrawals from the account during the six-month period immediately preceding the filing of the complaint or notice of appeal as required by 28 U.S.C. § 1915(a)(2).
- (b) Determination of pauper status - A petition for leave to proceed *in forma pauperis* shall be presented by the clerk to the assigned magistrate judge. If the financial affidavit discloses that the person is unable to pay the full filing fee or fees for service of process, the magistrate judge shall grant the petition for pauper status. The magistrate judge shall nevertheless order that a prisoner pay, within a specified period, an initial partial filing fee and make monthly payments thereafter in accordance with 28 U.S.C. § 1915(b). If the person fails to comply with the order for payment of all or any part of the filing fee, the complaint may be dismissed by a district judge or the appeal may be dismissed for want of prosecution by the Sixth Circuit Court of Appeals.

## Local Civil Rule 4.1 Fee payment to marshal

4.1.1 A deposit in a sum deemed sufficient by the marshal to cover fees for the service to be performed shall be made in every instance in which the marshal is required to perform service. The marshal may require that any payment be by certified check.

## Local Civil Rule 5. Serving and filing pleadings and other papers

5.2 Proof of service - Proof of service of all pleadings and other papers required or permitted to be served shall be filed promptly after service and may be made by written acknowledgment of service, by affidavit of the person making service or by written certification of counsel. Proof of service shall state the date and manner of service. Proof of service is unnecessary for documents filed and served electronically under LCivR 5.7(d)(i) and 5.7(i).

### 5.3 Filing of discovery materials

- (a) Interrogatories, requests for production or inspection, requests for admissions, and responses or objections shall be served upon other parties, but shall not be filed with the court. Only a proof of service shall be filed with the court. The party responsible for service of these discovery materials shall retain the original and become the custodian.
- (b) Transcripts of depositions shall not be filed with the court.
- (c) If discovery materials are to be used at trial, relevant portions of the materials to be used shall be filed with the clerk at or before trial. If discovery materials are necessary to any motion, relevant portions of the materials shall be filed with the clerk with the motion or response.

5.4 Place of filing - Paper pleadings and other papers that may not be filed electronically under LCivR 5.7(d)(ii) may be filed with the clerk at any divisional office during walk-in business hours. If a hearing is scheduled, it is incumbent upon the party to ensure that the presiding judge receives a copy of the pleadings or other papers no later than three (3) business days prior to the hearing.

5.5 Rejection of filings - The court may order the rejection of any pleading or other paper that does not comply with these rules or the Federal Rules of Civil Procedure unless such

noncompliance is expressly approved by the court. The clerk shall return any rejected filing to the party tendering it, along with a statement of the reasons for rejection.

#### 5.6 Pleadings and other papers in particular cases

- (a) Actions by prisoners - Habeas corpus petitions or complaints brought under the Civil Rights Acts by prisoners proceeding *pro se* shall be in the form specified by the court. The clerk shall make such forms available to prisoners desiring to file such actions.
- (b) In pro per petitions – In all proceedings brought *in propria persona* or *in forma pauperis*, if the court determines that a complaint or petition should be served on one or more opposing parties, the court may specifically order the filing party to provide additional copies to the clerk for this purpose. Unless specifically ordered to do so, a filing party should not submit additional copies of their complaint or petition for this purpose.

#### 5.7 Filing and service by electronic means

- (a) General information; definitions - Pursuant to Rule 5(d) of the Federal Rules of Civil Procedure, the clerk will accept pleadings and other papers filed and signed by electronic means in accordance with this rule. All papers filed by electronic means must comply with technical standards, if any, now or hereafter established by the Judicial Conference of the United States.

This rule shall apply to all civil actions maintained in the court's electronic case filing system. All documents, whether filed electronically or on paper, will be placed into the electronic case filing system, except as provided below. Attorneys must file and serve all documents electronically by use of the ECF system unless (1) the attorney has been specifically exempted by the court for cause or (2) the document is not eligible for electronic filing under this rule.

As used in these rules, the term:

- "ECF system" means the electronic case filing system maintained by this court;

- "registered attorney" means an attorney who is authorized pursuant to LCivR 5.7(b) to file documents electronically and to receive service on the ECF system;
- "initial pleading" means the complaint, petition or other document by which a civil action is initiated;
- "electronically filed document" means any order, opinion, judgment, pleading, notice, transcript, motion, brief or other paper submitted electronically to the ECF system;
- "paper filed document" means a pleading or other paper submitted to the clerk in paper form for filing;
- "NEF" means the Notice of Electronic Filing generated by the ECF system;
- "nonelectronic means of service" means one of the methods of service authorized by Rule 5(b) of the Federal Rules of Civil Procedure, except electronic service under Rule 5(b)(2)(E).

(b) Mandatory registration; Attorney resources

- (i) Every attorney practicing in this court must register to file and serve documents electronically by the ECF system.
- (ii) To be entitled to register as a user of the ECF system, an attorney must be admitted to practice in this district, be a member in good standing, and have filed with the clerk a completed ECF attorney registration form.

Detailed registration information is available on the court's website ([www.miwd.uscourts.gov](http://www.miwd.uscourts.gov)). A registered attorney may not knowingly cause or allow another person to file a document using the attorney's login name and password, except for members of the attorney's staff. Authorized use of an attorney's login name and password by a staff member is deemed to be the act of the attorney. However, a registered attorney must not allow an

unregistered attorney, even a member of the same firm, to use his or her login name and password.

- (iii) The court will provide on its website [references and instructions](#) on the use of the ECF system. Law firms are encouraged to have individuals responsible for electronic filing (attorney, paralegal or automation specialist) make use of the materials available on the website. The ECF Help Desk is available during business hours to assist via phone at (616) 456-2206 or (800) 290-2742, or via e-mail at [ecfhelp@miwd.uscourts.gov](mailto:ecfhelp@miwd.uscourts.gov).
- (c) Initial pleading - All attorneys must submit complaints and other initial pleadings in civil cases electronically, unless the pleading is ineligible for electronic filing under LCivR 5.7(d)(ii), or the attorney is granted an exception by the Chief Judge for good cause shown. Filing fees must be paid (or a motion for leave to proceed *in forma pauperis* must be filed) electronically at the time the initial pleading is electronically submitted. A civil case is not commenced until the initial pleading has been accepted by the ECF system and a Notice of Electronic Filing has issued. Unrepresented parties must file initial pleadings and pay the filing fee (or seek *in forma pauperis* status) on paper.
- (d) Electronic filing
  - (i) Mandatory electronic filing - All attorneys must file all pleadings and other papers permitted by the federal rules and the local rules of this court electronically in all civil cases, subject to the exceptions set forth below. All electronically filed documents must be in PDF format and submitted in accordance with the [instructions](#) set forth on the court's website.
  - (ii) Papers that may not be filed electronically - The following documents must not be filed electronically, but must be submitted in paper form:
    - (A) documents submitted by a person who is not a registered attorney (for example, a *pro se* litigant who is not registered under the "Pro Se E-Filing and Service Protocol," posted by the clerk on the court's website);

- (B) documents that are required by statute to be filed *in camera*, such as complaints and certain other filings submitted under the Federal False Claims Act or analogous state statutes;
  - (C) papers filed in cases that have been sealed in their entirety, except as authorized under LCivR 10.7; and
  - (D) garnishee disclosures and other documents submitted by unrepresented third parties in response to writs or other court process.
- (iii) Electronic filing of affidavits and other original documents - The following documents must be filed electronically by submission of a scanned PDF version of the original document:
- (A) affidavits in support of or in opposition to a motion (this rule does not apply to affidavits of service);
  - (B) declarations under penalty of perjury; and
  - (C) certified copies of judgments or orders of other courts.

The electronically filed version of such documents must bear a scanned image of all original manuscript signatures. The filer must meet the requirements of LCivR 5.7(e)(viii) regarding evidence of an original signature.

- (iv) Deadlines - An electronically filed document is deemed filed upon completion of the transmission and issuance by the court's system of an NEF. In situations where LCivR 5.7(d)(iii) requires that attachments to an electronically filed document be submitted in paper form, the electronic document is deemed filed upon issuance of the NEF, provided that the attachments are filed and served within seventy-two (72) hours thereof. All electronic transmissions of documents must be completed (i.e., received completely by the clerk's office) prior to midnight, Eastern Time, in order to be considered timely filed that day. Where a specific time of day deadline

is set by court order or stipulation, the electronic filing must be completed by that time.

- (v) Technical failures - The clerk shall deem the court's website to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon (Eastern Time) that day, in which case, filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings must be accompanied by a declaration or affidavit attesting to the filer's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay because of such technical failure. The initial point of contact for any practitioner experiencing difficulty filing a document electronically shall be the ECF Help Desk, available via phone at (616) 456-2206 or (800) 290-2742, or via e-mail at [ecfhelp@miwd.uscourts.gov](mailto:ecfhelp@miwd.uscourts.gov).
- (vi) Official record; discarding of paper filed documents - For purposes of Rule 79 of the Federal Rules of Civil Procedure, the record of filings and entries created by the ECF system for each case constitutes the docket. The official record of all proceedings in civil cases is the electronic file maintained on the court's ECF system. The clerk's office will discard all paper filed documents after they have become part of the electronic record.
- (vii) Exhibits and attachments
  - (A) Oversized documents - The [file size limit](#) is posted by the clerk on the court's website. No PDF document exceeding the file size limit may be filed in the CM/ECF system. Filers must divide such documents into component parts, each part not to exceed the posted limit, for purposes of electronic filing. The docket entry must clearly indicate that the document is filed in parts. An exhibit may be filed on paper only if it is ineligible for electronic filing under LCivR 5.7(d)(ii).

- (B) Requirements - Filers must not attach as an exhibit any pleading or other paper already on file with the court, but shall refer to that document by the ECF No. identified thereon, found in the document header displayed at the top of the electronically filed document. All exhibits and attachments must contain on their face a prominent exhibit number or letter as set forth in LCivR 10.8. If one or more attachments or exhibits to an electronically filed document are not being submitted electronically under this rule, the electronically filed document must contain a notice of that fact in its text.
- (C) Digital media – Attorneys must submit all digital media (e.g., audio or video files) via CM/ECF pursuant to the procedure on the court’s website (pro se or unrepresented parties may utilize a portable storage device (e.g., disc, flash drive)). The Court will not accept physical storage devices from registered attorneys.

(e) Signature

- (i) Attorneys - A registered attorney’s use of the assigned login name and password to submit an electronically filed document serves as the registered attorney’s signature on that document for purposes of Rule 11 and for all other purposes under the Federal Rules of Civil Procedure and the local rules of this court. The identity of the registered attorney submitting the electronically filed document must be reflected at the end of the document by means of an “s/ [attorney’s name]” block showing the attorney’s name, followed by the attorney’s business address, telephone number, and e-mail address. Graphic and other electronic signatures are discouraged.
- (ii) Multiple attorney signatures - The filer of any electronically filed document requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all the names of other attorney signatories by means of an “s/ [attorney’s name]” block for each. By submitting such a document, the filer certifies that each of the other attorneys has expressly agreed to the form and substance of the document, that the filer has their actual authority to

submit the document electronically, and that the requirements of LCivR 5.7(e)(viii) regarding evidence of original signature have been met. This paragraph does not apply to *pro se* or unrepresented parties, whose manuscript signature, in original or scanned form, must appear on the face of the document.

- (iii) Court reporters and transcribers - The electronic filing of a transcript by a court reporter/transcriptionist by use of their assigned login name and password shall be deemed the filing of a signed and certified original document for all purposes.
- (iv) Judges - The electronic filing of an opinion, order, judgment or other document by a judge (or authorized member of the judge's staff) by use of the judge's login and password shall be deemed the filing of a signed original document for all purposes.
- (v) Clerk of Court or deputy clerks - The electronic filing of any document by the clerk or a deputy clerk of this court, of the bankruptcy court of this district, or of any circuit court of appeals by use of that individual's login and password shall be deemed the filing of a signed original document for all purposes.
- (vi) United States Marshals Service - The United States Marshals Service for this district is authorized to file and serve documents electronically. The electronic filing of any document by the U.S. Marshals Service by use of the assigned login and password shall be deemed the filing of a signed original document for all purposes.
- (vii) Officers of the court - If the court has appointed a special master, monitor, or other court adjunct who is required to make regular filings, the court may authorize the officer to file and serve documents electronically. The officer of the court shall complete a registration form, and upon assignment of a login and password to the system, has authority to file and serve documents electronically in the case in which the officer was appointed. The electronic

filing of any document by a court officer by use of the assigned login and password shall be deemed the filing of a signed original document for all purposes.

- (viii) Evidence of original signature - Filers of documents containing signatures authorized by LCivR 5.7(e)(ii) (multiple attorney signatures) must maintain any records evidencing concurrence, and filers of documents containing signatures authorized by LCivR 5.7(d)(iii) (electronically filed affidavits, etc.) must maintain the documents bearing the original manual signature for subsequent production to the court or for inspection by a party until one year after the final resolution of the action (including appeal, if any). A non-filing signatory or party who disputes the authenticity of a signature on an electronically filed document must file an objection to the document within fourteen (14) days after service of that document.
- (f) Proposed pleadings - Except for proposed sealed filings, if the filing of an electronically submitted document requires leave of court, such as an amended complaint or brief in excess of word count or page limits, the proposed document must be attached as an exhibit to the motion seeking leave to file. If the court grants leave to file the document, the clerk will electronically file the document without further action by the attorney. Requests to file documents under seal are governed by LCivR 10.6.
- (g) Proposed orders - Proposed orders must be submitted electronically in PDF format and must be: (1) attached as an exhibit to a motion or stipulation; or (2) contained within the body of a stipulation; or (3) submitted separately. Do not include the word *proposed* in the caption or title of the proposed order. Proposed orders must also be submitted in Word format via CM/ECF pursuant to the procedure on the Court's website (*pro se* litigants are exempt from this requirement). If the judge approves the proposed order, it will be refiled electronically under a separate document number.
- (h) Court orders, judgments, writs and other process - Judgments and orders may be filed electronically by the court or authorized court personnel. Any document filed

electronically without the image of the manuscript signature of the judge or clerk has the same force and effect as a document bearing an original signature. The clerk may electronically affix the seal of the court on writs, summons, and other process, which shall have the same legal force and effect as process bearing an imprinted seal.

(i) Service of electronically filed documents

- (i) Summons and initial pleading - Summons, writs and other court process may be issued in electronic form with electronically affixed signatures and seal. Service of the summons and complaint or other initial pleading must be made by one of the methods allowed by Rule 4 of the Federal Rules of Civil Procedure.
- (ii) Service on attorneys and *pro se* parties approved for electronic filing-An attorney and a *pro se* party approved for electronic filing automatically consents to electronic service by both the court and any opposing attorney or approved party of any electronically filed document in any civil action in which the registered attorney or approved party appears. Consequently, service of an electronically filed document upon an attorney or approved party is deemed complete upon the transmission of an NEF to that attorney under LCivR 5.7(i)(iv) and no separate certificate of service should be filed. With the exception of the court, paper filed documents, restricted access documents, and sealed documents must be served on attorneys and approved parties by nonelectronic means of service, and a proof of service must be filed.
- (iii) Service on unregistered attorneys and *pro se* parties - Counsel filing any pleading or other paper must serve attorneys not registered under this rule and *pro se* parties not registered under the “[Pro Se E-Filing and Service Protocol](#),” posted by the clerk on the court’s website, by nonelectronic means of service under Rule 5 of the Federal Rules of Civil Procedure. A proof of service must be filed.

- (iv) Method of electronic service - At the time a document is filed either electronically or by scanning paper submissions, the court's system will generate an NEF, which will be transmitted by e-mail to the filer and all registered attorneys who have appeared on that case. The NEF will contain a hyperlink to the filed document. The attorney filing the document should retain a paper or digital copy of the NEF, which serves as the court's date-stamp and proof of filing. Except in the case of sealed documents (see LCivR 10.6(d)), restricted access documents and *ex parte* filings (see LCivR 10.5(a)), transmission of the NEF to the registered e-mail address constitutes service of an electronically filed document upon any registered attorney or registered *pro se* party. Only service of the NEF by the court's system constitutes electronic service; transmission of a document by one party to another by regular e-mail does not constitute service.
- (j) Remote access to electronically stored documents - Any person may access and download any electronically stored document, with the following exceptions: (1) remote access to documents filed in Social Security and immigration cases is restricted as required by Rule 5.2(c) of the Federal Rules of Civil Procedure; (2) access to certain documents may be restricted to the court or to the parties of record, by order or local rule; and (3) the court may restrict access to other classes of documents in conformity with resolutions of the Judicial Conference of the United States.
- (k) Other transmissions - The clerk will not accept for filing any pleading or other paper submitted by alternative means (e.g., e-mail, facsimile transmission).

### III. PLEADINGS AND MOTIONS

#### Local Civil Rule 7. Motion practice

##### 7.1 Motions in general

- (a) Briefs - All motions, except those made orally during a hearing or trial, shall be accompanied by a supporting brief. Any party opposing a written motion shall do so by filing and serving a brief conforming to these rules. All briefs filed in support

of or in opposition to any motion shall contain a concise statement of the reasons in support of the party's position and shall cite all applicable federal rules of procedure, all applicable local rules, and the other authorities upon which the party relies. References to the record shall comply with LCivR 10.9. Motions and briefs shall not be submitted in the form of a letter to the judge.

- (b) Supporting documents - When allegations of facts not appearing of record are relied upon in support of or in opposition to any motion, all affidavits or other documents relied upon to establish such facts shall accompany the motion. All discovery motions shall set forth verbatim, or have attached, the relevant discovery request and answer or objection. Exhibits and attachments in support of or in opposition to a motion shall comply with LCivR 5.3 and LCivR 5.7(d)(vii)(B). Absent leave of court, the number of pages of exhibits and attachments that may be filed in support of a motion is limited to either 1) two hundred (200) pages per party, or alternatively, 2) five hundred (500) pages, provided the parties meet and confer and jointly file the agreed upon exhibits and attachments. If leave of court is granted to exceed the page limits established for attachments, the parties will be permitted to file the record they deem appropriate with a joint appendix. The joint appendix shall identify the documents attached and identify the specific documents or portion thereof, that the parties believe the court should review.
- (c) Modification of limits - In its discretion, the court may in a particular case shorten or enlarge any time, word count, or page limit established by these rules, with or without prior notice or motion.
- (d) Concurrence
  - (i) Attempt to obtain concurrence - With respect to all motions, the moving party shall ascertain whether the motion will be opposed.
  - (ii) Nondispositive motions
    - (A) In the case of all nondispositive motions, counsel or nonincarcerated pro se parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. To accomplish this, the movant must

confer with the other parties and persons entitled to be heard on the motion in a manner that reasonably explains the basis for the motion and allows for an interactive process aimed at reaching agreement on the matter or those aspects of the matter that can be resolved without court intervention. The conference must be held sufficiently in advance of filing the motion to allow the opportunity for meaningful discussion.

- (B) If court intervention remains necessary, the nondispositive motion shall be accompanied by a separately filed Certificate Regarding Motion Concurrence specifying the date, time, and duration of the conference; the participants in the conference; and a description of the issues addressed during the conference.
- (C) In cases involving an incarcerated pro se party, the movant shall make reasonable efforts to comply with the provisions of this rule, and the motion shall be accompanied by a separately filed certificate specifying the efforts to confer with the incarcerated party.
- (iii) Sanctions - The Court may impose sanctions for unreasonable withholding of concurrence and for violating this rule, which may include taxing costs and attorney's fees, denying the motion, and striking the filing.
- (e) Motion for expedited consideration - Where the relief requested by a motion may be rendered moot before the motion is briefed in accordance with the schedules set forth herein, the party shall so indicate by inserting the phrase "EXPEDITED CONSIDERATION REQUESTED," in boldface type, below the case caption, and shall identify in the motion the reason expedited consideration is necessary.
- (f) Unavailability of district judge - If it appears that any matter requires immediate attention, and the district judge to whom the case has been assigned, or in the usual course would be assigned, is not available, the matter shall be referred to the assigned magistrate judge, who shall decide the matter if it is within the magistrate judge's jurisdiction. If the matter can only be decided by a district judge, the

magistrate judge shall determine whether the matter can be set for a hearing at a time when the assigned district judge is available. If the matter is determined by a magistrate judge to require an immediate hearing before a district judge, the case will be referred to the Chief Judge, or in the Chief Judge's absence, the next available district judge by seniority for decision or reassignment to an available district judge. After disposition of this emergency matter, the case will be returned to the originally assigned district judge. If the parties have consented to proceed before the magistrate judge under LCivR 73, and that magistrate judge is not available to attend to the emergency matter, it will be referred to the duty magistrate judge for determination.

## 7.2 Dispositive motions

- (a) Definition - Dispositive motions are motions for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. Motions for dismissal as a sanction pursuant to Federal Rules of Civil Procedure 16 or 37 shall be subject to the briefing schedule for non-dispositive motions.
- (b) Briefs
  - (i) Length - Briefs filed in support of or in opposition to a dispositive motion that are produced on a computer shall not exceed ten thousand eight hundred (10,800) words, including any headings, footnotes, citations and quotations. Not included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, affidavits, and other addenda. Any such brief that is hand-written or produced on a typewriter shall not exceed twenty-five (25) pages in length, similarly, including and excluding items previously identified.
  - (ii) Certificate of compliance - The brief must be accompanied by a Certificate of Compliance Regarding Word Count, indicating the number of words in the document as defined by LCivR 7.2(b)(i), as well as the name and version

of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.

- (iii) Courtesy copy - The court may require one paper courtesy copy of all dispositive motion papers, including responses, replies and all accompanying exhibits, which must be submitted directly to the presiding judge's chambers. It shall consist of a printed copy of the document after filing (with the header), and an NEF must be attached to the front of the paper. Any exhibits must be properly tabbed and all papers firmly bound as required by LCivR 10.2. The courtesy copy must be hand delivered or sent via first class mail to chambers within twenty-four (24) hours of filing the original.
- (c) Briefing schedule - Unless otherwise ordered, any party opposing a dispositive motion shall, within twenty-eight (28) days after service of the motion, file a responsive brief and any supporting materials. The moving party may, within fourteen (14) days after service of the response, file a reply brief. A reply brief produced on a computer shall not exceed four thousand three hundred (4,300) words, including any headings, footnotes, citations and quotations. Not included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, affidavits, and other addenda. Any reply brief that is hand-written or produced on a typewriter may not exceed ten (10) pages. The court may permit or require further briefing.
- (d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party's brief. In its discretion, the court may schedule oral argument or may dispose of a motion without argument.

### 7.3 Nondispositive motions

- (a) Definition - Nondispositive motions are all motions not specifically listed in LCivR 7.2(a).
- (b) Briefs

- (i) Length - Briefs filed in support of or in opposition to a nondispositive motion that are produced on a computer shall not exceed four thousand three hundred (4,300) words, including any headings, footnotes, citations and quotations. Not included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, affidavits and other addenda. Any such brief that is hand-written or produced on a typewriter shall not exceed ten (10) pages in length, similarly including and excluding items previously identified.
- (ii) Certificate of compliance - Briefs in support or in opposition to nondispositive motions exceeding one thousand (1,000) words shall be accompanied by a Certificate of Compliance Regarding Word Count, indicating the number of words in the document as defined by LCivR 7.3(b)(i); as well as the name and version of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.
- (c) Briefing schedule - Unless otherwise ordered, any party opposing a nondispositive motion shall, within fourteen (14) days of service of the motion, file a responsive brief and supporting materials. Reply briefs may not be filed without leave of court.
- (d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party's brief. In its discretion, the court may schedule oral argument or may dispose of the motion without argument.

#### 7.4 Motions for reconsideration

- (a) Grounds - Generally, and without restricting the discretion of the court, motions for reconsideration that merely present the same issues ruled upon by the court shall not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled, but also show that a different disposition of the case must result from a correction thereof.

- (b) Response to motions for reconsideration - No response to a motion for reconsideration will be allowed unless requested by the court, but a motion for reconsideration will ordinarily not be granted in the absence of such request. Any oral argument on a motion for reconsideration is reserved to the discretion of the court.

#### Local Civil Rule 8. General rules of pleading

8.1 Complaints in Social Security cases - Complaints filed pursuant to § 205(g) of the Social Security Act, 42 U.S.C. § 405(g), for benefits under Titles II, XVI and XVII of the Social Security Act shall contain, in addition to what is required under Rule 8(a) of the Federal Rules of Civil Procedure, the following information: (1) a statement that the action is brought under 42 U.S.C. § 405(g); (2) the identification of the final decision to be reviewed, including any identifying designation provided by the Commissioner with the final decision; (3) the name, as well as the county of residence, of the person for whom benefits are claimed; (4) in cases involving claims for retirement, survivors, disability, or health insurance, the last four digits of the social security number of the worker (who may or may not be the plaintiff) on whose wage record the application for benefits was filed; (5) in cases involving supplemental security income benefits, the social security number of the plaintiff; and (6) the type of benefits claimed.

- (a) Electronic service - The Clerk of Court shall, within seven days of the filing of the complaint, notify the Commissioner of the commencement of the action by transmitting a Notice of Electronic Filing to the appropriate office within the Social Security Administration's Office of General Counsel and the United States Attorney for the district where the action is filed.
- (b) Other service - If the complaint was not filed electronically, the clerk of court shall, within seven days of the filing of the complaint, notify the plaintiff of the transmission.
- (c) Service of summons and complaint - The plaintiff need not serve a summons and complaint under Federal Rules of Civil Procedure 4.

8.2 Answers and replies - Except in Social Security cases as provided in LCivR 8.3 and cases brought by a *pro se* plaintiff, a responsive pleading under Rule 8(b) of the Federal Rules of Civil

Procedure shall recite verbatim that paragraph of the pleading, or amended pleading, to which it is responsive, followed by the response. Upon request, an attorney must provide to opposing counsel a copy of the complaint or other pleading to which a response is due, in native word processing format, so that opposing counsel may comply with this rule.

8.3 Answers in Social Security cases - In all Social Security cases filed under 42 U.S.C. §§ 405(g) and 1383(c)(3), defendant shall have sixty (60) days after notification of the commencement of the action to file and serve upon plaintiff a certified copy of the administrative record of the proceedings, which shall constitute defendant's answer, or otherwise move against the complaint. No separate answer need be filed. Unless the court sets a different time, service of a motion under Federal Rules of Civil Procedure 12 alters the time to answer as provided by Federal Rules of Civil Procedure 12(a)(4).

8.4 Presenting an action for decision - An action under § 405 is presented for decision by the parties' briefs. A brief must support assertions of fact by citations to particular parts of the record by PageID, in accordance with LCivR 10.9.

- (a) Plaintiff's brief - The plaintiff shall file and serve on the Commissioner a brief for the requested relief within thirty (30) days after the answer is filed or thirty (30) days after entry of an order disposing of the last remaining motion filed under Federal Rules of Civil Procedure 12, whichever is later.
- (b) Commissioner's brief - the Commissioner shall file a brief and serve it on the plaintiff within thirty (30) days after service of the plaintiff's brief.
- (c) Reply brief - The plaintiff may file a reply brief and serve it on the Commissioner within fourteen (14) days after service of the Commissioner's brief.

#### Local Civil Rule 10. Form of pleadings and other papers; filing requirements

10.1 Document size and format - All documents must be double spaced in 8 ½ x 11 inch format with writing on only the face of each sheet. Type must be no smaller than twelve (12) point type and all margins must be at least one inch. Electronically filed documents must be in rendered PDF digital format. Exhibits and attachments, not authored by the filer, may be in scanned PDF format.

10.2 Binding - All paper filed pleadings and other papers that have numerous pages must be bound with a fastener. Originals should be stapled or bound on the top margin with a two-hole fastener. Copies of paper filed documents may be bound in the same manner as originals or in a binder. Judges' courtesy copies shall be presented book style, in a binder, unless otherwise specified in a particular judge's judicial guidelines. Paper clips and other types of clips shall not be used; fasteners shall pass through the pages.

10.3 Date and contact information - All pleadings and other papers shall contain the date of signing and the address, telephone number and e-mail address of the signing attorney or *pro se* party.

10.4 Number of copies - All paper filed documents must contain an original manuscript signature. If file stamped copies of documents are requested to be returned to the offering party, sufficient copies for this purpose and a suitable self-addressed, postage paid envelope shall be supplied.

10.5 Ex parte submissions

- (a) Filing of ex parte submissions - If the law allows a party to submit a pleading or other paper *ex parte*, the party may file the document with the clerk without serving a copy on any other party. The document shall be properly identified on its face as *Ex Parte*. A registered attorney must submit any *ex parte* filing electronically by using the appropriate CM/ECF event. An NEF will be generated for the *ex parte* document and will be transmitted to all parties. Unless modified by the filer, the NEF and docket entry will identify the document only as "*Ex Parte* Document" or "*Ex Parte* Motion."
- (b) Access to ex parte filings - The docket entry and the NEF for any *ex parte* filing will be available for public viewing. Electronic access to *ex parte* documents will be available only to authorized personnel of this court and the court of appeals, but not to the public or any party.
- (c) Filings by the court - The court may issue restricted access orders in response to *ex parte* filings. The docket entry and the NEF for any restricted access order will be identified as such and available for public viewing. Electronic access to these orders

will be restricted to authorized personnel of this court and the court of appeals, but not to the public or any party. The clerk shall provide a copy of the order to the moving party via secured electronic communication and will make an informational public docket entry on the CM/ECF system confirming the service of the document.

- (d) Sealed cases - If an entire case has been sealed, either by order or by operation of statute, then neither the *ex parte* submission nor any docket entry relating thereto will be available for public viewing, until such time as the court orders otherwise.

#### 10.6 Sealed or restricted access documents (“Limited Access Documents”)

- (a) Policy - To preserve the qualified, common-law presumption of public access to judicial files in civil cases, the filing of a Limited Access Document (LAD) should be the exception. LADs are to be limited to information that is truly proprietary or confidential. The court strongly resists such filings of entire civil pleadings, motions or briefs, as it is rare that the entire document will merit confidential treatment. In lieu of seeking leave to file an entire document as an LAD, parties should incorporate the confidential material in a separate document and seek leave to file only that document as an LAD. Parties should also use redactions to avoid the need to seek leave to file an LAD if the redacted information is not relevant to the issue(s) pending before the court.
- (b) Motions to authorize filing an LAD - The procedures set forth in this rule apply to cases that have not been sealed in their entirety. Documents may be submitted for filing as an LAD only if authorized by statute or by the court for good cause shown. A party seeking leave to file a document as an LAD must file a motion requesting such relief, unless the court has entered a previous order that authorizes such a filing. The motion seeking leave to file an LAD should generally be a public filing, unless the submitting party believes in good faith that public access to the motion will compromise the confidential matter. A party seeking to file a document as an LAD on the basis that the producing party has designated the document as covered by a protective order, unless the protective order authorizes the sealing of the document, must first confer with the producing party to determine whether such a filing is necessary. If so, the moving party must include in the motion a statement

of good cause provided by the producing party. A proposed LAD submitted by a registered attorney must be submitted electronically as an LAD under a separate docket entry, by using the appropriate CM/ECF event. The docket entry and the NEF for any LAD will be available for public viewing; the description of the LAD should therefore be general in nature (*e.g.*, sealed affidavit or restricted access exhibit). The proposed LAD shall be appropriately identified as such, but should not contain the word "proposed." Proposed LADs submitted by parties other than registered attorneys must be filed in paper with the clerk of court in a sealed envelope bearing the case caption and number, the identity of the party submitting the documents, and a general description of the contents; the proposed LAD will be scanned and maintained electronically as an LAD. If the court denies the motion for filing an LAD in whole or in part, the proposed LAD will remain as such, but the court may order the submitting party to tender a redacted document for public filing, or otherwise proceed to ensure that the public record includes, to the maximum extent possible, the basis for the Court's decision on any contested issue. If the court grants leave to file the document as an LAD, the clerk of court will modify the docket entry to remove reference to "proposed."

- (c) Access to LADs - LADs may be accessed electronically only by authorized personnel of this court and the court of appeals, but not by the public or any attorney or party.
- (d) Service of LADs - A party submitting an LAD must serve it by non-electronic means of service on all other parties and file a proof of service.

10.7 Sealed cases - The court may enter an order sealing an entire civil case file only if:

- (a) sealing is required by statute or court rule, or
- (b) sealing is justified by a showing of extraordinary circumstances and the absence of narrower feasible and effective alternatives (such as sealing discrete documents or redacting specific information), such that sealing an entire case file is a last resort.

Any order sealing an entire case file under LCivR 10.7(b) must contain specific findings justifying sealing. The order may be vacated on motion of any party or on the court's own motion when the reason for sealing has ended.

10.8 Exhibits - All exhibits or attachments to pleadings, motions, briefs, or other papers must contain on their face a prominent exhibit number or letter.

10.9 Referencing the court record - A sequential pagination of the electronic court record initiates with the first filing in a case. The sequential page identification, referred to as the PageID, is applied by the ECF system and is found in the document header displayed at the top of every page of every electronically filed document. The PageID clearly, uniquely, and permanently identifies each page of the court record. In the case of documents in which no PageID is available, the page number of the document should be used for purposes of citation to the record. Otherwise, any reference by an attorney to a page of the record that has been electronically filed shall be made by reference to the PageID identified thereon, following the [cite form identified on the court's website](#). *Pro se* litigants are exempt from this requirement.

#### Local Civil Rule 16. Civil pretrial conferences; Alternative Dispute Resolution

16.1 Early scheduling conference - The court may order that an early scheduling conference be held before a judge either in open court, in chambers, or at the discretion of the court, by telephone, video conference, or other remote means. Following this conference, the court will issue a case management order establishing a timetable for disposition of the case. Parties may refer to the court's website for [judicial guidelines](#) on the court's pretrial and trial practice.

#### 16.2 Alternative Dispute Resolution: General provisions

- (a) ADR favored - The judges of this district favor alternative dispute resolution (ADR) methods in those cases where the parties and the court agree that ADR may help resolve the case. The ADR methods approved by these rules include Voluntary Facilitative Mediation (LCivR 16.3); Early Neutral Evaluation (LCivR 16.4); Case Evaluation (LCivR 16.5); and Settlement Conferences (LCivR 16.6). In addition, the court will consider other ADR methods proposed by the parties (e.g., Summary Trials).

- (b) Court administration of the ADR program
- (i) Program description and administration - Each ADR program is governed by these rules and the provisions of a program description, which is incorporated into these rules by reference. The program description for each ADR method is available on the [court's website](#) and is published in a form suitable for reference by attorneys and their clients. The ADR program is administered by the clerk's office. Problems are initially handled by the ADR Administrator.
- (c) Consideration of ADR in appropriate cases - In connection with the conference held pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, all litigants and counsel must consider and discuss the use of an appropriate ADR process at a suitable stage of the litigation.
- (d) Confidentiality - All ADR proceedings are considered to be compromise negotiations within the meaning of Federal Rules of Evidence 408.
- (e) Status of discovery, motions and trial during the ADR process - Any case referred to ADR continues to be subject to management by the judge to whom it is assigned. Parties may file motions and engage in discovery. Selection of a case for ADR has no effect on the normal progress of the case toward trial. Referral of a case to ADR is not grounds to avoid or postpone any deadline or obligation imposed by the case management order unless so ordered by the court.
- (f) Qualifications for neutrals - To be qualified to act as a neutral (i.e., facilitative mediator, early neutral evaluator, case evaluator, or arbitrator), an attorney must satisfy all special requirements applicable to a particular ADR program as identified in the program description available on the [court's website](#).
- (g) Attorneys' responsibility for payment of fees - The attorney or law firm representing a party participating in ADR is directly responsible for fees payable to the court or to neutrals. *Pro se* parties are personally responsible for fees. To the extent consistent with ethical rules, the attorney or firm may seek reimbursement from the client. If any attorney or *pro se* party is delinquent in paying any fee

required to be paid to a neutral under these rules, the neutral may petition the court for an order directing payment, and any judge assigned to the case may order payment, upon pain of contempt.

- (h) Pro bono service - In cases in which one or more parties cannot afford the fees of a neutral, the court may request that the neutral serve pro bono, by waiving or reducing the fee for all participating parties equally.

### 16.3 Voluntary Facilitative Mediation

- (a) Definition - Voluntary Facilitative Mediation (VFM) is a flexible, nonbinding dispute resolution process in which an impartial third party—the mediator—facilitates negotiations among the parties to help them reach settlement. VFM seeks to expand traditional settlement discussions and broaden resolution options, often by going beyond the issues in controversy. The mediator, who may meet jointly and separately with the parties, serves as a facilitator only and does not decide issues or make findings of fact.
- (b) Program description - Procedures and other details regarding the VFM process are governed by the program description, available on the [court's website](#).

### 16.4 Early Neutral Evaluation

- (a) Definition - Early Neutral Evaluation (ENE) is a flexible, nonbinding dispute resolution process in which an experienced neutral attorney meets with the parties early in the case to evaluate its strengths and weaknesses and the value that it may have, and also attempts to negotiate a settlement.
- (b) Program description - Procedures and other details regarding the ENE process are governed by the program description, available on the court's website.

### 16.5 Case Evaluation

- (a) Definition - The case evaluation program affords litigants an ADR process patterned after that extensively used in the courts of the State of Michigan. See Mich. Comp. Laws §§ 600.4951-.4969; Mich. Ct. R. 2.403. Case evaluation principally involves establishment of the settlement value of a case by a three-

member panel of attorneys. The court may order that any civil case in which damages are sought be submitted to case evaluation; certain tort cases in which the rule of decision is supplied by Michigan law must be submitted to case evaluation, unless the parties unanimously agree to submit the case to voluntary facilitative mediation.

- (b) Program description - Procedures and other details regarding the standard and blue ribbon case evaluation processes are found in the program description, available on the [court's website](#).

16.6 Settlement conferences - The court may order a settlement conference to be held before a district judge, a magistrate judge, or a bankruptcy judge. All parties may be required to be present. For parties that are not natural persons, a natural person representing that party who possesses ultimate settlement authority may be required to attend the settlement conference. In cases where an insured party does not have full settlement authority, an official of the insurer with ultimate authority to negotiate a settlement may also be required to attend.

## VI. TRIALS

### Local Civil Rule 40. Trial date

40.1 Scheduling - Cases shall be set for trial in the manner and at the time designated by the judge before whom the cause is pending. Any case may be assigned from one judge to another with the consent of both judges to promote the efficient administration of justice under LCivR 3.3.2(b).

40.2 Continuances - A motion for a continuance of a trial or other proceeding shall be made only for good cause and as soon as the need arises.

40.3 Notice of settlement - Whenever a case is settled or otherwise disposed out of court, counsel for all parties shall assure that immediate notice is given to the court. This shall be accomplished by both calling the court and e-filing a notice of settlement, unless otherwise specified in the judge's [judicial guidelines](#) posted on the court's website. Should a failure to provide immediate notice result in having jurors unnecessarily report for service in connection with the case, the court may, on its own motion, for good cause shown, assess costs incurred in having jurors report for

service equally between the parties or against one or more of the parties responsible for failure to notify the court.

#### Local Civil Rule 41. Involuntary dismissal for want of prosecution or failure to follow rules

41.1 A judicial officer may issue an order to show cause why a case should not be dismissed for lack of prosecution or for failure to comply with these rules, the Federal Rules of Civil Procedure, or any court order. If good cause is not shown within the time set in the show cause order, the presiding judge may enter an order of dismissal with or without prejudice, with or without costs. Failure of a plaintiff to keep the court apprised of a current address shall be grounds for dismissal for want of prosecution.

#### Local Civil Rule 45. Service of subpoenas

45.1 Unless otherwise ordered, all subpoenas to be served by the United States Marshals Service shall allow a minimum of fourteen (14) days prior to the required appearance. *A pro se* party bears sole responsibility for ensuring that subpoenas are prepared and timely delivered to the United States Marshals, each subpoena of which must include the witness's full name and a complete and accurate street address for service (not a post office box). All subpoenas must comply with Rule 45 of the Federal Rules of Civil Procedure and LCivR 4.1.

#### Local Civil Rule 47. Confidentiality of juror information

##### 47.1 Confidentiality of juror information

- (a) All information obtained from juror questionnaires is confidential and may be used only for jury selection and in accordance with this rule.
- (b) Juror questionnaires will be distributed by the clerk's office via secured electronic communication to counsel of record three (3) business days before trial. Electronic access will be protected by password set to expire automatically once jury selection begins.
- (c) Paper copies of additional juror questionnaires collected before trial will be distributed to counsel on selection day. The court will also provide unrepresented parties with one paper copy of the juror questionnaires at the beginning of jury

selection. Juror questionnaires will not be available via mail or facsimile transmission.

- (d) For represented parties, counsel of record is responsible for maintaining the confidentiality and security of juror questionnaires and must apply security practices no less stringent than those applicable to confidential client information. Unrepresented parties may use juror questionnaires only under supervision of the court and may not reproduce the juror questionnaires in any form or distribute them to anyone. At the completion of jury selection, all paper copies of juror questionnaires will be collected for destruction by the court.
- (e) Documents containing the name or signature of a juror shall be filed under restricted access. Electronic access will be available to the court only. Such restricted access documents may include but are not limited to a jury verdict or juror notes and attachments thereto. A duplicate jury verdict or juror notes, with the name and signature of the juror redacted, will be electronically filed and available to the public.

## VII. JUDGMENT

### Local Civil Rule 54. Costs and Attorney's Fees

54.1 Taxation of costs - If the parties in a case can agree on costs, it is not necessary to file a cost bill with the clerk. If the parties cannot agree, a bill of costs shall be filed with the clerk within twenty-eight (28) days from the entry of judgment. If a bill of costs is filed, any party objecting to the taxation of costs must file a motion to disallow all or part of the claimed costs within fourteen (14) days of service of the bill of costs on that party. The motion and response thereto shall be governed by LCivR 7.1 and 7.3.

### 54.2 Attorney's fees in certain Social Security cases

- (a) Scope of rule - The procedures set forth in this rule apply to motions for attorney's fees brought under 42 U.S.C. § 406(b)(1)(A) (Social Security disability claims) or 42 U.S.C. § 1383(d)(2)(A) (supplemental security income claims), which allow an attorney to obtain fees from the client's award of past-due benefits for work

performed in the district court. It is necessary to prescribe a special procedure for such cases, because the amount of past-due benefits is unknown at the time judgment for the claimant is entered in the district court. This rule does not apply to motions for fees under the Equal Access to Justice Act (EAJA), which are governed by the procedures set forth in that Act. 28 U.S.C. § 2412(d).

(b) Procedure

- (i) Deadline for filing motion - The attorney must file a motion for approval of fees under 42 U.S.C. §§ 406(b)(1)(A) or 1383(d)(2)(A) no later than thirty-five (35) days after the date shown on the face of the notice of award issued by the Social Security Administration.
- (ii) Requirements for motion - The motion must be accompanied by a supporting brief and all necessary documentation. The motion must state the following:
  - (A) the past due benefits;
  - (B) the total dollar amount withheld by the Commissioner out of the past due benefits to cover a potential award of attorneys fees in this court;
  - (C) the dollar amount (if any) of fees the attorney was awarded, has sought, or intends to seek pursuant to 42 U.S.C. § 406(a) for services performed at the administrative level of review;
  - (D) whether the attorney has knowledge of any other representative(s) who were awarded, sought, or will seek authorization for fees under 42 U.S.C. § 406(a);
  - (E) the dollar amount of fees sought pursuant to 42 U.S.C. § 406(b);
  - (F) the dollar amount of court costs, fees, and/or expenses sought or already awarded under the Equal Access to Justice Act (28 U.S.C. § 2412);

- (G) an itemization of the services provided in judicial proceedings, specifying the hours worked, the work performed, and the attorney's hourly billing rate;
  - (H) an argument establishing that the fees sought are authorized under any applicable fee agreement, are reasonable; and
  - (I) in addition to complying with the requirements of LCivR 7.1, an affirmative statement that the attorney has discussed the matter of fees with the plaintiff and the plaintiff either has no objection to the amount of fees sought in the motion, or that the plaintiff and the attorney disagree as to the reasonableness of the fees sought.
- (iii) The fee motion must be accompanied by:
- (A) legible copies of all of the notices of award showing the amount of past due benefits and the amount(s) withheld by the Commissioner under 42 U.S.C. §§ 406, 1383;
  - (B) a copy of any fee agreement entered into between the plaintiff and the attorney; and
  - (C) a certificate of service that the attorney's fee motion and attachments have been served on the United States Attorney and on the plaintiff.
- (iv) Response - Any response by the client or defendant must be filed within twenty-one (21) days after the motion for attorney's fees is served. Reply briefs are not permitted absent leave of court.

## VIII. PROVISIONAL AND FINAL REMEDIES

### Local Civil Rule 65. Bonds and sureties

65.1 In all civil actions the clerk shall accept as surety upon bonds and other undertakings a surety company approved by the United States Department of Treasury, cash or an individual personal surety residing within the district. The clerk shall maintain a list of approved surety companies. Any personal surety must qualify as the owner of real estate within this district of the

full net value of twice the face amount of the bond. Attorneys or other officers of this court shall not serve as sureties. This rule shall apply to supersedeas bonds and any other bonds required by law.

#### Local Civil Rule 67. Deposit in court; payment of judgment

67.1 Deposit of funds - Any order requiring the clerk to make investment of funds in an interest bearing account shall not be effective until such order is personally served on the clerk.

67.2 Payment of judgment - Except with respect to litigation in which the United States is a party, the clerk will not, unless authorized by order of the court, accept payment of judgments. Upon receipt of payment of a judgment, however, the party shall file with the clerk an acknowledgment of payment.

### IX. SPECIAL PROCEEDINGS

#### Local Civil Rule 72. Authority of magistrate judges

72.1 Authority, generally - The magistrate judges of this district are hereby empowered to perform all duties authorized by 28 U.S.C. § 636 and any other duty not inconsistent with the Constitution and laws of the United States, as more fully set forth below.

- (a) Duties under 28 U.S.C. § 636(a) - Each magistrate judge of this court is empowered to perform all duties prescribed by 28 U.S.C. § 636(a).
- (b) Determination of nondispositive pretrial matters - 28 U.S.C. § 636(b)(1)(A) - A magistrate judge may hear and determine any procedural or discovery motion or other pretrial matter in a case, other than the motions which are specified in LCivR 72.1(c).
- (c) Recommendations regarding case dispositive motions - 28 U.S.C. § 636(b)(1)(B) -
  - (i) A magistrate judge may submit to a district judge a report containing proposed findings of fact and recommendations for disposition by the district judge of the following pretrial motions in civil cases:
    - (A) motion for injunctive relief, including temporary restraining orders and preliminary and permanent injunctions;

- (B) motions for judgment on the pleadings;
  - (C) motions for summary judgment;
  - (D) motions to dismiss or permit the maintenance of a class action;
  - (E) motions to dismiss for failure to state a claim upon which relief may be granted;
  - (F) motions to involuntarily dismiss an action; or
  - (G) motions for review of default judgments.
- (ii) A magistrate judge may determine any preliminary matters and conduct any necessary evidentiary hearing or other proceeding arising in the exercise of the authority conferred by this rule.
- (d) Prisoner cases under 28 U.S.C. §§ 2254 and 2255 - A magistrate judge may perform any or all of the duties imposed upon a district judge by the rules governing proceedings in the United States District Courts under §§ 2254 and 2255 of Title 28, United States Code and may review all other applications for relief made under 28 U.S.C. Chapter 153. In so doing, a magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and may submit to a district judge a report containing proposed findings of fact and recommendations for disposition of the petition. Except for cases in which the parties have consented to magistrate judge jurisdiction, any order disposing of the petition may only be made by a district judge.
- (e) Prisoner cases under 42 U.S.C. § 1983 - A magistrate judge may issue any preliminary orders and conduct any necessary evidentiary hearing or other appropriate proceeding and may submit to a district judge a report containing proposed findings of fact and recommendations for the disposition of petitions filed by prisoners challenging the conditions of their confinement. Except for cases in which the parties have consented to magistrate judge jurisdiction, any order disposing of a petition may only be made by a district judge.

- (f) Other duties - A magistrate judge is also authorized to perform any additional duty not inconsistent with the Constitution and laws of the United States.

72.2 Assignment of matters to magistrate judges - The magistrate judge assigned to any case may hear and determine any nondispositive pretrial matters in that case pursuant to the referral of the district judge.

- (a) General cases - The method for assignment and reassignment of duties to a magistrate judge and for the allocation of duties among the magistrate judges of the court shall be made in accordance with orders of the court or by special designation of the Chief Judge.
- (b) Habeas corpus and prisoner civil rights cases - At the time of filing any habeas corpus or prisoner civil rights case, the clerk shall assign the case to a magistrate judge in accordance with procedures established by these rules and the implementing orders of the court.

72.3 Review and appeal of magistrate judge decisions

- (a) Appeal of nondispositive matters - 28 U.S.C. § 636(b)(1)(A) - Any party may appeal from a magistrate judge's order determining any motion or matter within fourteen (14) days after service of the magistrate judge's order, unless a different time is prescribed by the magistrate judge or the district judge. Such party shall file and serve a written statement of appeal which shall specifically designate the order, or part thereof, appealed from and the basis for any objection thereto. In any case in which the decision of the magistrate judge is reflected only in an oral opinion on the record, the appealing party shall provide the district judge with a transcript of the oral opinion, unless excused by the district judge. Any party may respond to another party's objections within fourteen (14) days of service. Objections and responses shall conform to the word count and page limits for briefs set forth in LCivR 7.3(b). A district judge of the court shall consider the appeal and shall set aside any portion of the magistrate judge's order found to be clearly erroneous or contrary to law.

- (b) Review of case dispositive motions and prisoner litigation - 28 U.S.C § 636(b)(1)(B) - Any party may object to a magistrate judge's proposed findings, recommendations or report within fourteen (14) days after being served with a copy thereof unless a different time is prescribed by the magistrate judge or a district judge. Such party shall file and serve written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objections are made and the basis for such objections. Any party may respond to another party's objections within fourteen (14) days after being served with a copy thereof. Objections and responses shall conform to the word count and page limits for briefs set forth in LCivR 7.2(b). A district judge shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The district judge is required to conduct a new hearing only where required by law, and may consider the record developed before the magistrate judge, making a de novo determination on the basis of that record. The district judge may also receive further evidence, recall witnesses or remand the matter to the magistrate judge with instructions.
- (c) Special master reports - 28 U.S.C. § 636(b)(2) - Any party may seek review of, or action on, a special master report filed by a magistrate judge in accordance with the provisions of Rule 53(f) of the Federal Rules of Civil Procedure.
- (d) Appeals from other orders of a magistrate judge - Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by governing statute, rule, or decisional law.

#### Local Civil Rule 73. Consent jurisdiction of magistrate judges

73.1 Conduct of trials and disposition of cases - 28 U.S.C. § 636(c) - Upon the consent of all parties, and the approval of the assigned district judge, a magistrate judge may conduct any or all proceedings in any case, including the conduct of a jury or non-jury trial, and may order the entry of a final judgment, in accordance with 28 U.S.C. § 636(c).

73.2 Assignment of cases to magistrate judges - In an effort to increase the number of consent cases, which serves the interests of promoting judicial economy, the court may issue an administrative order adopting procedures for assignment of some civil actions to magistrate judges.

73.3 Notice - The clerk shall notify the parties in cases of their option to consent to have a magistrate judge conduct any or all proceedings as provided by law.

73.4 Execution of consent - The clerk shall not accept a consent form unless it has been signed by all the parties in a case. No consent form will be made available, nor will its contents be made known, to any judge, unless all parties have consented to the reference to a magistrate judge. No magistrate judge or other court official may attempt to persuade or induce any party to consent to the reference of any matter to a magistrate judge. This rule, however, shall not preclude a district judge or magistrate judge from informing the parties that they have the option of consenting to a magistrate judge.

73.5 Reference - After the consent form has been executed and filed, the clerk shall transmit it to the district judge to whom the case has been assigned for approval and transfer of the case to a magistrate judge, if necessary. Once the case has been assigned to a magistrate judge, the magistrate judge shall have the authority to conduct any and all proceedings to which the parties have consented and to direct the clerk to enter a final judgment.

## X. DISTRICT COURTS AND CLERKS: CONDUCTING BUSINESS; ISSUING ORDERS

### Local Civil Rule 77. District courts and clerks; issuance of process

77.1 Time and place of holding court - The court shall be deemed to be in continuous session for transacting judicial business throughout the year. Proceedings may be held at such times and places within the district as the judge to whom the case is assigned shall designate.

77.2 Clerk's office - The court maintains Southern Division offices in Grand Rapids, Kalamazoo and Lansing, and a Northern Division office in Marquette.

77.3 Issuance of process - Any party requesting the issuance of any process or who initiates any proceeding in which the issuance of process is required by statute, rule or order, shall prepare all required forms, including the following: (a) summons; (b) warrants of seizure and monition; (c)

subpoenas to witnesses; (d) certificates of judgment; (e) writs of execution; (f) orders of sale; and (g) all process in garnishment or other aid in execution. The party where necessary shall present the process to the clerk for signature and sealing. The clerk shall make official forms of process available to attorneys admitted to practice in this court, or their agents or employees.

## XI. GENERAL PROVISIONS

### Local Civil Rule 83. Miscellaneous

83.1 Certification of issues to state courts - Upon motion or after a hearing ordered by the judge sua sponte, the court may certify an issue for decision to the highest court of the state whose law governs any issue, claim or defense in the case. An order of certification shall be accompanied by written findings that: (a) the issue certified is an unsettled issue of state law; (b) the issue certified will likely affect the outcome of the federal suit; and (c) certification of the issue will not cause undue delay or prejudice. The order shall also include citation to authority authorizing the state court involved to resolve certified questions. In all such cases, the order of certification shall stay federal proceedings for a fixed time, which shall be subsequently enlarged only upon a showing that such additional time is required to obtain a state court decision. In cases certified to the Michigan Supreme Court, in addition to the findings required by this rule, the court must approve a statement of facts to be transmitted to the Michigan Supreme Court by the parties as an appendix to briefs filed therein.

83.2 Payment to court reporters and transcribers - All parties ordering a transcript must pay in advance by cash or certified check unless the court reporter/transcriber agrees to other arrangements.

# Local Criminal Rules

## I. APPLICABILITY

### Local Criminal Rule 1. Authority; scope; construction

1.1 Authority - These rules are promulgated pursuant to 28 U.S.C. § 2071 and Rule 57 of the Federal Rules of Criminal Procedure. Amendment of these rules is governed by LCrR 1.3 and Rule 57 of the Federal Rules of Criminal Procedure.

1.2 Short title - These rules may be cited and referred to individually as "W.D. Mich. LCrR \_\_\_\_\_."

1.3 Amendments - These rules may be amended by a majority vote of the district judges in conformity with Rule 57 of the Federal Rules of Criminal Procedure. These rules include amendments through [insert 2026].

1.4 Applicability - These rules apply to all criminal proceedings in this court.

1.5 Scope - These rules govern the procedure in the United States District Court for the Western District of Michigan, govern the practice of attorneys before this court, and supersede all previous rules promulgated by this court or any judge thereof. Administrative orders and single-judge standing orders shall be maintained by the clerk on the court's website or made available upon request. All such orders shall be consistent with these rules and the Federal Rules of Criminal Procedure.

1.6 Construction - These rules shall be construed to achieve an orderly administration of the business of this court and to secure the just, speedy and inexpensive determination of every action. References to statutes, regulations or rules shall be interpreted to include all revisions and amendments thereto. References to the clerk shall be interpreted to mean the clerk of this court or any deputy clerk. Wherever used in these rules, the term "party," whether in the singular or plural, shall include all parties appearing in the action *pro se* and the attorney or attorneys of record for represented parties, where appropriate. Unless otherwise noted, the terms judge(s) and judicial officer(s) are used interchangeably.

II. [THIS SECTION INTENTIONALLY LEFT BLANK]

### III. THE GRAND JURY, THE INDICTMENT, AND THE INFORMATION

#### Local Criminal Rule 6. Grand juries

6.1 All grand juries are under the direct supervision of the court. They shall convene at such times and dates as ordered by the Chief Judge.

### IV. ARRAIGNMENT AND PREPARATION FOR TRIAL

#### Local Criminal Rule 10. Arraignment

10.1 Whenever the United States Attorney wishes to have a defendant appear for arraignment pursuant to a summons, a date should be obtained from the chambers of the duty magistrate judge. The United States Attorney's office is responsible for notifying all necessary parties of the date and time for the proceeding, to include the marshal, the person responsible for issuing a writ, if needed, the probation office, the defendant and/or defendant's attorney.

#### Local Criminal Rule 11. Guilty pleas

11.1 Taking of guilty pleas in felony prosecutions; magistrate judge consent - With the consent of the district judge to whom the case is assigned, a magistrate judge may preside over the taking of guilty pleas in felony matters pursuant to Rule 11 of the Federal Rules of Criminal Procedure in the circumstances below.

- (a) The magistrate judge shall explain to the defendant that he or she has the right to have all proceedings, including the plea hearing, conducted by a district judge. The magistrate judge shall not proceed unless the defendant, defendant's attorney, and the attorney for the government all consent in writing and on the record to allow the magistrate judge to preside over the guilty plea proceedings.
- (b) If the parties consent to allow the magistrate judge to preside over the guilty plea proceeding, the magistrate judge shall conduct guilty plea proceedings, personally and in open court, following the procedures set forth in Rule 11 of the Federal Rules of Criminal Procedure. The magistrate judge shall set forth on the record findings concerning the knowing and voluntary nature of the guilty plea, the adequacy of the factual basis for the plea, and any other relevant matter. If satisfied that all

requirements of law have been met, the magistrate judge shall recommend to the district judge that the plea be accepted and order the preparation of a presentence investigation report. The magistrate judge shall inquire concerning the existence of a plea agreement but shall not accept or reject any such agreement, but shall specifically reserve acceptance of the plea agreement to the district judge.

11.2 Judicial preference - Parties shall reference the court's scheduling order or judicial guidelines available on the court's website to ascertain the time and manner in which the court will consider the taking of a guilty plea.

### Local Criminal Rule 12. Motion practice

12.1 Briefs - All motions, except those made orally during a hearing or trial, shall be accompanied by a supporting brief, in compliance with the requirements set forth in LCrR 47. Any party opposing a written motion shall do so by filing and serving a brief conforming to these rules. All briefs filed in support of or in opposition to any motion shall contain a concise statement of the reasons in support of the party's position and shall cite all applicable federal rules of procedure, all applicable local rules, and the other authorities upon which the party relies. References to the record shall comply with LCrR 49.11. Motions and briefs shall not be submitted in the form of a letter to the judge.

12.2 Supporting documents - When allegations of facts not appearing of record are relied upon in support of or in opposition to any motion, all affidavits or other documents relied upon to establish such facts shall accompany the motion. All discovery motions shall set forth verbatim, or have attached, the relevant discovery request and answer or objection. Exhibits and attachments in support of or in opposition to a motion shall comply with LCrR 49.10(d)(vii)(B).

12.3 Modification of limits - In its discretion, the court may in a particular case shorten or enlarge any time, word count, or page limit established by these rules, with or without prior notice or motion.

12.4 Attempt to obtain concurrence - With respect to all motions, the moving party shall ascertain whether the motion will be opposed. In addition, in the case of all nondispositive motions, counsel or *pro se* parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. All nondispositive motions shall be accompanied by a separately filed Certificate

Regarding Motion Concurrence setting forth in detail the efforts of the moving party to comply with the obligation created by this rule.

12.5 Motion for expedited consideration - Where the relief requested by a motion may be rendered moot before the motion is briefed in accordance with the schedules set forth herein, the party shall so indicate by inserting the phrase "EXPEDITED CONSIDERATION REQUESTED," in boldface type, below the case caption, and shall identify in the motion the reason expedited consideration is necessary.

12.6 Unavailability of district judge - If it appears that any matter requires immediate attention, and the district judge to whom the case has been assigned, or in the usual course would be assigned, is not available, the matter shall be referred to the duty magistrate judge, who shall decide the matter if it is within the magistrate judge's jurisdiction. If the matter can only be decided by a district judge, the magistrate judge shall determine whether the matter can be set for a hearing at a time when the assigned district judge is available. If the matter is determined by a magistrate judge to require an immediate hearing before a district judge, the case will be referred to the Chief Judge, or in the Chief Judge's absence, the next available district judge by seniority for decision or reassignment to an available district judge. After disposition of this emergency matter, the case will be returned to the originally assigned district judge.

#### Local Criminal Rule 17. Service of subpoenas

17.1 Unless otherwise ordered, all subpoenas to be served by the United States Marshals Service shall allow a minimum of fourteen (14) days prior to the required appearance. A deposit in a sum deemed sufficient by the marshal to cover fees for the service to be performed shall be made in every instance in which the marshal is required to perform service. The marshal may require that any payment be by certified check.

### V. VENUE

#### Local Criminal Rule 18. Assignment of cases

18.1 All cases shall be assigned to the division in which the offense is alleged to have been committed.

## VI. TRIAL

### Local Criminal Rule 23. Trial date

23.1 Scheduling - Cases shall be set for trial in the manner and at the time designated by the judge before whom the cause is pending. Any case may be assigned from one judge to another with the consent of both judges to promote the efficient administration of justice under LCrR 56.6(a) or to comply with the Speedy Trial Act in another case.

23.2 Judicial preference - Parties shall reference this court's website for [judicial guidelines](#) on the court's pretrial and trial practice.

### Local Criminal Rule 24. Confidentiality of juror information

#### 24.1 Confidentiality of juror information

- (a) All information obtained from juror questionnaires is confidential and may be used only for jury selection and in accordance with this rule.
- (b) Juror questionnaires will be distributed by the clerk's office via secured electronic communication to counsel of record three (3) business days before trial. Electronic access will be protected by password set to expire automatically once jury selection begins.
- (c) Paper copies of additional juror questionnaires collected before trial will be distributed to counsel on selection day. The court will also provide unrepresented parties with one paper copy of the juror questionnaires at the beginning of jury selection. Juror questionnaires will not be available via mail or facsimile transmission.
- (d) For represented parties, counsel of record is responsible for maintaining the confidentiality and security of juror questionnaires and must apply security practices no less stringent than those applicable to confidential client information. Unrepresented parties may use juror questionnaires only under supervision of the court and may not reproduce the juror questionnaires in any form or distribute them

to anyone. At the completion of jury selection, all paper copies of juror questionnaires will be collected for destruction by the court..

- (e) Documents containing the name or signature of a juror shall be filed under restricted access, with electronic access available to the court only. Such restricted access documents may include but are not limited to a jury verdict, juror notes and attachments thereto, as well as an indictment. A duplicate jury verdict, juror notes, or indictment, with the name and signature of the juror redacted, will be electronically filed and available to the public unless otherwise sealed by court order.

## VII. POST-CONVICTION PROCEDURES

### Local Criminal Rule 32. Sentencing

32.1 Notice - The chambers of the presiding judge setting the sentence will notify all necessary parties of the date of sentencing. This includes the marshal, the person responsible for issuing a writ, if needed, the probation office, the United States Attorney, the defendant and/or defendant's attorney, if the person is represented. This date may be set at the time of taking a plea or a verdict of guilty.

32.2 Presentence report - Unless waived pursuant to Rule 32(c) of the Federal Rules of Criminal Procedure, a presentence report must be prepared in every felony case and may be prepared in misdemeanor cases in the court's discretion.

- (a) Initial interview - The initial interview with the defendant, defendant's counsel, and the probation officer must be scheduled within seven (7) days of the date of the order setting the sentencing date. Counsel for the government must make available the offense conduct information, including all relevant conduct, within seven (7) days of the date of such order.
- (b) Disclosure of presentence report - At least forty-seven (47) days before the date scheduled for sentencing, the probation officer must provide a copy of the presentence report (except the sentencing rationale) to (1) counsel for the government, and (2) counsel for the defendant or, where the defendant is *pro se*, to

the defendant. The sentencing judge may additionally direct the probation officer not to disclose the officer's recommendation on the sentence. Disclosure of the presentence investigation report (and any subsequent revisions and addenda thereto) to a defense attorney is deemed to be disclosure to the defendant. Defense counsel must provide a copy of the report to the defendant forthwith.

(c) Time of disclosure

(i) To represented parties: The presentence report is deemed disclosed to counsel for a represented defendant and to counsel for the government when the probation officer provides a copy via secured electronic communication. The probation officer will make an informational public docket entry on the CM/ECF system confirming service of the document.

(ii) To an unrepresented party: The presentence report is deemed disclosed to a *pro se* defendant when a copy of the report is physically delivered or three (3) days after a copy of the report has been mailed. The presentence report must contain the date of mailing. The probation officer will make an informational public docket entry on the CM/ECF system confirming service of the document to a *pro se* defendant.

(d) Objections to presentence report - Within fourteen (14) days after disclosure of the presentence report, each counsel or *pro se* defendant must file a written response to the presentence report acknowledging disclosure and containing all objections, and supporting reasons, to any material information, sentencing classifications, sentencing guideline ranges, and policy statements contained in or omitted from the report. Alternatively, the response may affirmatively state that there is no objection to the report. Counsel must submit objections electronically using the appropriate CM/ECF event (access restricted to the court and the probation office) with proof of service on opposing counsel; the government must also serve objections pertaining to an unrepresented defendant on that defendant alone on paper, with proof of service. Unrepresented defendants must file their objections in writing with the clerk of the court, with a proof of service on government counsel. The clerk

shall file the objections electronically by the CM/ECF system (access restricted to the court and the probation office).

- (e) Non-judicial resolution of objections - After receiving a timely objection, the probation officer must promptly conduct any further investigation and make any revisions to the presentence report that may be necessary. The probation officer may require each counsel and *pro se* defendant to meet with the officer to discuss unresolved factual and legal issues, and may request that such persons meet with each other for the same purpose.
- (f) Submission of presentence report - Not less than twenty-one (21) days before the date set for sentencing, the probation officer must submit the final presentence report electronically by the CM/ECF system (access restricted to the court and the probation office), and provide a copy to counsel via secured electronic communication. The probation officer will make an informational public docket entry on the CM/ECF system confirming service of the document. The report will be accompanied by an addendum setting forth any unresolved objections that counsel or the *pro se* defendant may have, together with the officer's comments thereon. The probation officer must certify that the contents of the report, including any revisions and the addendum, have been disclosed to counsel and any *pro se* defendant, and that the addendum fairly states any remaining objections. When applicable, the report may be accompanied by Victim Impact Statements.
- (g) Motions for departure or variance; sentencing memoranda - Not less than fourteen (14) days before the date set for sentencing, any party seeking an upward or downward departure under the Sentencing Guidelines or a variance based on the application of the factors set forth in 18 U.S.C. § 3553(a), or both, must submit a separate and clearly captioned motion seeking such relief. All sentencing memoranda, including memoranda in support of a motion for departure or variance, must be filed by the same date. Not less than seven (7) days before the date for sentencing, any party may file a response to any previously filed motion or sentencing memoranda. Counsel must submit such motions and memoranda by the CM/ECF system. If sensitive or confidential information is contained therein,

counsel may move for leave to restrict access to the court and the probation office, and must serve such documents in paper with proof of service on the opposing party. *Pro se* parties must file and serve such documents in paper, with proof of service on the opposing party.

- (h) Judicial resolution of objections - Upon receipt of the final report and attachments, the sentencing judge will determine the extent of any further proceedings necessary in light of the nature of any unresolved objections. The judge may hold all objections for resolution at the time of sentencing. In the alternative, the judge may resolve any objections prior to sentencing and may afford the parties a reasonable opportunity for the submission of further written objections before the imposition of sentence. Any objections must be made in the same manner as provided for in this rule. Where the court determines that a hearing is necessary to resolve the disputed sentencing matters, a hearing may be held for that purpose, either on the date of sentencing or at an earlier time.
- (i) Late objections - Upon a showing of good cause, the court may allow a new objection to be raised at any time prior to the imposition of sentence.
- (j) Expedited procedures - The time periods set forth in this rule may be modified by the court for good cause shown, or upon its own motion, except that in no event shall sentence be imposed less than ten (10) days following disclosure of the presentence report without the consent of the defendant. The parties may agree in writing or on the record to an expedited sentencing procedure that shortens the times set forth in this rule or abbreviates the information otherwise required in the presentence report.
- (k) Limitations on disclosure - Nothing in this rule requires the disclosure of any portions of the presentence report that are not disclosable under the Federal Rules of Criminal Procedure.
- (l) Relationship to Fed. R. Crim. P. 32 - This rule shall not be construed to limit any sentencing procedure modifications permitted by Rule 32 of the Federal Rules of Criminal Procedure.

- (m) Release of presentence report to other officers - The Chief Probation Officer may, in his or her discretion, disclose a presentence report to a federal or state probation or parole officer in connection with that officer's conduct of official duties regarding a person previously sentenced by this court.

#### Local Criminal Rule 32.1.1 Actions against persons on probation or supervised release

##### 32.1.1 Actions against persons on probation or supervised release requiring a hearing

- (a) Preliminary or Revocation Proceedings
  - (i) Person not in custody: The probation office will prepare and electronically file the summons and serve the person under supervision with the summons. All other necessary parties will be notified of the date of the hearing by the CM/ECF system. This includes the marshal, the United States Attorney, the defendant's attorney, if the person is represented.
  - (ii) Person in custody: All necessary parties will be notified of the date of the hearing by the CM/ECF system. This includes the marshal, the person responsible for issuing a writ, if needed, the probation office, the United States Attorney, the defendant and/or the defendant's attorney, if the person is represented.
- (b) Modification Hearings – The probation office will secure the hearing date from the chambers of the judge conducting the hearing, prepare and electronically file the summons, and serve the person under supervision with the summons. All other necessary parties will be notified of the date of the hearing by the CM/ECF system. This includes the marshal, the United States Attorney, and the defendant's attorney, if the person is represented.

## VIII. GENERAL PROVISIONS

### Local Criminal Rule 44. Motion for appointment

44.1 If trial counsel was appointed under the Criminal Justice Act counsel must continue representation of the defendant on appeal unless relieved by the court of appeals. Counsel need not submit further proof of the defendant's indigence.

### Local Criminal Rule 47. Motions

#### 47.1 Dispositive motions

- (a) Definition - Dispositive motions are motions to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a case, to involuntarily dismiss an action, and other dispositive motions as defined by law.
- (b) Briefs
  - (i) Length - Briefs filed in support of or in opposition to a dispositive motion that are produced on a computer shall not exceed ten thousand eight hundred (10,800) words, including any headings, footnotes, citations and quotations. Not included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, affidavits and other addenda. Any such brief that is hand-written or produced on a typewriter shall not exceed twenty-five (25) pages in length, similarly including and excluding items previously identified.
  - (ii) Certificate of compliance - The brief must be accompanied by a Certificate of Compliance Regarding Word Count, indicating the number of words in the document as defined by LCrR 47.1(b)(i), as well as the name and version of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.
  - (iii) Courtesy copy - The court may require one paper courtesy copy of all dispositive motion papers, including responses, replies and all

accompanying exhibits, which must be submitted directly to the presiding judge's chambers. It shall consist of a printed copy of the document after filing (with the header), and a notice of electronic filing (NEF) must be attached to the front of the paper. Any exhibits must be properly tabbed and all papers presented as required by LCrR 49.3. The courtesy copy must be hand delivered or sent via first class mail to chambers within twenty-four (24) hours of filing the original.

- (iv) References and supporting documents - References to the record shall comply with LCrR 49.11. Exhibits and attachments in support of or in opposition to a motion shall comply with LCrR 49.10(d)(vii)(B).
- (c) Briefing schedule - Unless otherwise ordered, any party opposing a dispositive motion shall, within twenty-eight (28) days after service of the motion, file a responsive brief and any supporting materials. The court may permit or require further briefing.
- (d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party's brief. In its discretion, the court may schedule oral argument or may dispose of a motion without argument.

#### 47.2 Nondispositive motions

- (a) Definition - Nondispositive motions are all motions not specifically listed in LCrR 47.1(a).
- (b) Briefs
  - (i) Length - Briefs filed in support of or in opposition to a nondispositive motion that are produced on a computer shall not exceed four thousand three hundred (4,300) words, including any headings, footnotes, citations and quotations. Not included in the word count limit are the case caption, cover sheets, any table of contents, any table of authorities, the signature block, attachments, exhibits, affidavits and other addenda. Any such brief that is

hand-written or produced on a typewriter shall not exceed ten (10) pages in length, similarly including and excluding items previously identified.

- (ii) Certificate of compliance - Briefs in support or in opposition to nondispositive motions exceeding one thousand (1,000) words shall be accompanied by a Certificate of Compliance Regarding Word Count, indicating the number of words in the document as defined by LCrR 47.2(b)(i), as well as the name and version of the word processing software that was used to generate the word count. The word count provided by the word processing software used to create the brief may be relied upon for purposes of the certificate of compliance.
  - (iii) References and supporting documents – References to the record shall comply with LCrR 49.11. Exhibits and attachments in support of or in opposition to a motion shall comply with LCrR 49.10(d)(vii)(B).
- (c) Briefing schedule - Unless otherwise ordered, any party opposing a nondispositive motion shall, within fourteen (14) days of service of the motion, file a responsive brief and any supporting materials. The court may permit or require further briefing. Reply briefs may not be filed without leave of court.
  - (d) Oral argument - Any party desiring oral argument shall include a request for oral argument in the caption and the heading of the party's brief. In its discretion, the court may schedule oral argument or may dispose of the motion without argument.

#### 47.3 Motions for reconsideration

- (a) Grounds - Generally, and without restricting the discretion of the court, motions for reconsideration that merely present the same issues ruled upon by the court shall not be granted. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled, but also show that a different disposition of the case must result from a correction thereof.
- (b) Response to motions for reconsideration - No response to a motion for reconsideration will be allowed unless requested by the court, but a motion for

reconsideration will ordinarily not be granted in the absence of such request. Any oral argument on a motion for reconsideration is reserved to the discretion of the court.

#### Local Criminal Rule 49. Form of pleadings and other papers; filing requirements

49.1 Place of filing - Paper pleadings and other papers that may not be filed electronically under LCrR 49.10(d)(ii) may be filed with the clerk at any divisional office during walk-in business hours. If a hearing is scheduled, it is incumbent upon the party to ensure that the presiding judge receives a copy of the pleadings or other papers no later than three (3) business days prior to the hearing.

49.2 Paper size and format - All documents must be double spaced in 8½ x 11 inch format with writing on only the face of each sheet. Type must be no smaller than twelve (12) point type and all margins must be at least one inch. Electronically filed documents must be rendered in PDF digital format. Exhibits and attachments not authored by the filer may be in scanned PDF format.

49.3 Binding - All paper filed pleadings and other papers that have numerous pages must be bound with a fastener. Originals should be stapled or bound on the top margin with a two-hole fastener. Copies of paper filed documents may be bound in the same manner as originals or in a binder. Judges' courtesy copies shall be presented book style, in a binder, unless otherwise specified in a particular judge's judicial guidelines. Paper clips and other types of clips shall not be used; fasteners shall pass through the pages.

49.4 Date and contact information - All pleadings and other papers shall contain the date of signing and the address, telephone number, and e-mail address of the signing attorney or *pro se* party.

49.5 Number of copies – All paper filed documents must contain an original manuscript signature. If service of any paper is to be made by the United States Marshal, sufficient copies shall be supplied for service upon each other party. If file stamped copies of documents are requested to be returned to the offering party, sufficient copies for this purpose and a suitable self-addressed, postage paid envelope shall be supplied.

49.6 Proof of service - Proof of service of all pleadings and other papers required or permitted to be served shall be filed promptly after service and may be made by written acknowledgment of service, by affidavit of the person making service or by written certification of counsel. Proof of service shall state the date and manner of service. Proof of service is unnecessary for documents filed and served electronically on a registered attorney under LCrR 49.10(d)(i) and 49.10(h).

49.7 Ex parte submissions

- (a) Filing of ex parte submissions - If the law allows a party to submit a pleading or other paper *ex parte*, the party may file the document with the clerk without serving a copy on any other party. The document shall be properly identified on its face as *Ex Parte*. A registered attorney must submit any *ex parte* filing electronically by use of the appropriate CM/ECF event. An NEF will be generated for the *ex parte* document and will be transmitted to all parties. Unless modified by the filer, the NEF and docket entry will identify the document only as "*Ex Parte* Document" or "*Ex Parte* Motion."
- (b) Access to ex parte filings - The docket entry and the NEF for any *ex parte* filing will be available for public viewing. Electronic access to *ex parte* documents will be available only to authorized personnel of this court and the court of appeals, but not to the public or any party.
- (c) Filings by the court - The court may issue restricted access orders in response to *ex parte* filings. The docket entry and the NEF for any restricted access order will be identified as such and available for public viewing. Electronic access to these orders will be restricted to the authorized personnel of this court and the court of appeals, but not to the public or any party. The clerk shall provide a copy of the order to the moving party via secured electronic communication and will make an informational public docket entry on the CM/ECF system confirming the service of the document.
- (d) Sealed cases - If an entire case has been sealed, either by order or by operation of statute, then neither the *ex parte* submission nor any docket entry relating thereto will be available for public viewing, until such time as the court orders otherwise.

49.8 Sealed or restricted access documents ("Limited Access Documents")

Motions to authorize filing a Limited Access Document (LAD) - The procedures set forth in this rule apply to cases that have not been sealed in their entirety. Documents may be submitted for filing as an LAD only if authorized by the court for good cause shown. A party seeking leave to file a document as an LAD must file a motion requesting such relief, unless the court has entered a previous order that authorizes such a filing. The motion seeking leave to file an LAD should generally be a public filing, unless the submitting party believes in good faith that public access to the motion will compromise the confidential matter. A proposed LAD submitted by a registered attorney must be submitted electronically as an LAD under a separate docket entry, by using the appropriate CM/ECF event. The docket entry and the NEF for any LAD will be available for public viewing; the description of the LAD should therefore be general in nature (*e.g.*, sealed affidavit or restricted access exhibit). The proposed LAD shall be appropriately identified as such, but should not contain the word "proposed". Proposed LADs submitted by parties other than registered attorneys must be filed in paper with the clerk of court in a sealed envelope bearing the case caption and number, the identity of the party submitting the documents, and a general description of the contents; the proposed LAD will be scanned and maintained electronically as an LAD. If the court denies the motion for filing an LAD in whole or in part, the proposed LAD will remain as such, but the court may order the submitting party to tender a redacted document for public filing, or otherwise proceed to ensure that the public record includes, to the maximum extent possible, the basis for the Court's decision on any contested issue. If the court grants leave to file the document as an LAD, the clerk of court will modify the docket entry to remove reference to "proposed."

- (a) Access to LADs – LADs may be accessed electronically only by authorized personnel of this court and the court of appeals, but not by the public or any attorney or party.
- (b) Service of LADs - A party submitting an LAD must serve it by non-electronic means of service on all other parties and file a proof of service.

- (c) Death penalty and other complex litigation - The parties to a death-eligible case, a death-penalty case, or other complex litigation involving numerous LADs may be ordered to comply with a special protocol for submission of LADs and *ex parte* documents, which will supersede the procedures set forth in this rule.

49.9 Rejection of filings - The court may order the rejection of any pleading or other paper that does not comply with these rules or the Federal Rules of Criminal Procedure unless such noncompliance is expressly approved by the court. The clerk shall return any rejected filing to the party tendering it, along with a statement of the reasons for rejection.

49.10 Filing and service by electronic means

- (a) General information; definitions - Pursuant to Rule 49.10(d) of the Federal Rules of Criminal Procedure, the clerk will accept pleadings and other papers filed and signed by electronic means in accordance with this rule. All papers filed by electronic means must comply with technical standards, if any, now or hereafter established by the Judicial Conference of the United States.

This rule shall apply to all criminal actions maintained in the court's electronic case filing system. All documents, whether filed electronically or on paper, will be placed into the electronic case filing system, except as provided below. Attorneys must file and serve all documents electronically by use of the ECF system unless (1) the attorney has been specifically exempted by the court for cause, or (2) the document is not eligible for electronic filing under this rule.

As used in these rules, the term:

- "ECF system" means the electronic case filing system maintained by this court;
- "registered attorney" means an attorney who is authorized pursuant to Rule 49.10(b) to file documents electronically and to receive service on the ECF system;

- "charging document" means the original complaint, indictment (or any superseding indictment), information or other document by which charges are brought in a criminal case;
- "electronically filed document" means any order, opinion, judgment, pleading, notice, transcript, motion, brief or other paper submitted electronically to the ECF system;
- "paper filed document" means a pleading or other paper submitted to the clerk in paper form for filing;
- "NEF" means the Notice of Electronic Filing generated by the ECF system;
- "nonelectronic means of service" means one of the methods of service authorized by Rule 49(b) of the Federal Rules of Criminal Procedure and Rule 5(b) of the Federal Rules of Civil Procedure, except electronic service under Rule 5(b)(2)(E).

(b) Mandatory registration; resources

- (i) Every attorney practicing in this court must register to file and serve documents electronically by the ECF system.
- (ii) To be entitled to register as a user of the ECF system, an attorney must be admitted to practice in this district, be a member in good standing, and have filed with the clerk a completed ECF attorney registration form.

Detailed registration information is available on the court's website ([www.miwd.uscourts.gov](http://www.miwd.uscourts.gov)). A registered attorney may not knowingly cause or allow another person to file a document using the attorney's login name and password, except for members of the attorney's staff. Authorized use of an attorney's login name and password by a staff member is deemed to be the act of the attorney. However, a registered attorney must not allow an unregistered attorney, even a member of the same firm, to use his or her login name and password.

(iii) The court will provide on its website [references and instructions](#) on the use of the ECF system. Law firms are encouraged to have individuals responsible for electronic filing (attorney, paralegal or automation specialist) make use of the materials available on the website. The ECF Help Desk is available during business hours to assist via phone at (616) 456-2206 or (800) 290-2742, or via e-mail at [ecfhelp@miwd.uscourts.gov](mailto:ecfhelp@miwd.uscourts.gov).

(c) Charging documents - Charging documents may be filed in the following ways:

- (i) in paper, bearing manuscript signatures; or
- (ii) electronically, with facsimile signatures created by use of the electronic signature pad; or
- (iii) in a scanned PDF document containing the image of original manuscript signatures and in accordance with LCrR 24.1(e) when applicable.

The court may issue a summons or warrant electronically, but such process may be served only in accordance with Rule 4(c) of the Federal Rules of Criminal Procedure.

(d) Electronic filing

- (i) Mandatory Electronic Filing - All attorneys must file all pleadings and other papers permitted by the federal rules and the local rules of this court (except charging documents) electronically in all criminal cases, subject to the exceptions set forth below. All electronically filed documents must be in PDF format and must be submitted in accordance with the [instructions](#) set forth on the court's website. *Pro se* parties who are not members of the bar of the court may not file pleadings or other papers electronically, but must submit them in paper form.
- (ii) Papers that may not be filed electronically - The following documents may not be filed electronically, but must be submitted in paper form:
  - (A) documents submitted by a person who is not a registered attorney (for example, a *pro se* litigant);

- (B) papers filed in cases that have been sealed in their entirety;
  - (C) documents that are required by statute or court order to be filed *in camera*; and
  - (D) garnishee disclosures and other documents submitted by unrepresented third parties in response to writs or other court process.
- (iii) Electronic filing of affidavits and other original documents - The following documents must be filed electronically by submission of a scanned PDF version of the original document:
- (A) affidavits in support of or in opposition to a motion (This rule does not apply to affidavits of service.);
  - (B) declarations under penalty of perjury; and
  - (C) certified copies of judgments or orders of other courts.

The electronically filed version of such documents must bear a scanned image of all original manuscript signatures. The filer must meet the requirements of LCrR 49.10(e)(viii) regarding evidence of an original signature.

- (iv) Deadlines - An electronically filed document is deemed filed upon completion of the transmission and issuance by the court's system of an NEF. In situations where attachments to an electronically filed document are submitted in paper form, the electronic document is deemed filed upon issuance of the NEF, provided that the attachments are filed and served within seventy-two (72) hours thereof. All electronic transmissions of documents must be completed (i.e., received completely by the clerk's office) prior to midnight, Eastern Time, in order to be considered timely filed that day. Where a specific time of day deadline is set by court order or stipulation, the electronic filing must be completed by that time.

- (v) Technical failures - The clerk shall deem the court's website to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon (Eastern Time) that day, in which case, filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings must be accompanied by a declaration or affidavit attesting to the filer's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay because of such technical failure. The initial point of contact for any practitioner experiencing difficulty filing a document electronically shall be the ECF Help Desk, available via phone at (616) 456-2206 or (800) 290-2742, or via e-mail at [ecfhelp@miwd.uscourts.gov](mailto:ecfhelp@miwd.uscourts.gov).
- (vi) Official record; discarding of paper filed documents - For purposes of Rule 55 of the Federal Rules of Criminal Procedure, the official record of all proceedings is the electronic file maintained on the court's ECF system. The clerk's office will discard all paper filed documents after they have become part of the electronic record.
- (vii) Exhibits and attachments
  - (A) Oversized documents - The [file size limit](#) is posted by the clerk on the court's website. No PDF document exceeding the file size limit may be filed in the CM/ECF system. Filers must divide such documents into component parts, each part not to exceed the posted limit, for purposes of electronic filing. The docket entry must clearly indicate that the document is filed in parts. An exhibit may be filed on paper only if it is ineligible for electronic filing under subrule (d)(ii) of this rule.
  - (B) Requirements - Filers must not attach as an exhibit any pleading or other paper already on file with the court, but shall refer to that document by the ECF No. identified thereon, found in the document

header displayed at the top of the electronically filed document. All exhibits and attachments must contain on their face a prominent exhibit number or letter. If one or more attachments or exhibits to an electronically filed document are not being submitted electronically under this rule, the electronically filed document must contain a notice of that fact in its text.

(C) Digital media – Attorneys must submit all digital media (e.g., audio or video files) via CM/ECF pursuant to the procedure on the Court’s website (*pro se* or unrepresented parties may utilize a portable storage device (e.g., disc, flash drive)). The court will not accept physical storage devices from registered attorneys.

(e) Signature

(i) Attorneys - A registered attorney’s use of the assigned login name and password to submit an electronically filed document serves as the registered attorney’s signature on that document, for all purposes under the Federal Rules of Criminal Procedure and the local rules of this court. The identity of the registered attorney submitting the electronically filed document must be reflected at the end of the document by means of an "s/ [attorney’s name]" block showing the attorney’s name, followed by the attorney’s business address, telephone number, and e-mail address. Graphic and other electronic signatures are discouraged.

(ii) Multiple attorney signatures - The filer of any electronically filed document requiring multiple signatures (e.g., stipulations, joint motions) must list thereon all the names of other attorney signatories by means of an "s/ [attorney's name]" block for each. By submitting such a document, the filer certifies that each of the other attorneys has expressly agreed to the form and substance of the document, that the filer has their actual authority to submit the document electronically, and that the requirements of LCrR 49.10(e)(viii) regarding evidence of original signature have been met. This paragraph does not apply to *pro se* or unrepresented parties, whose

manuscript signature, in original or scanned form, must appear on the face of the document.

- (iii) Court reporters and transcribers - The electronic filing of a transcript by a court reporter/transcriptionist by use of their assigned login name and password shall be deemed the filing of a signed and certified original document for all purposes.
- (iv) Judges - The electronic filing of an opinion, order, warrant, judgment or other document by a judge (or authorized member of the judge's staff) by use of the judge's login and password shall be deemed the filing of a signed original document for all purposes.
- (v) Clerk of Court or deputy clerks - The electronic filing of any document by the clerk or a deputy clerk of this court or of the circuit court of appeals by use of that individual's login and password shall be deemed the filing of a signed original document for all purposes.
- (vi) Probation office and office of the United States Marshal - The probation office and office of the United States Marshal for this district are authorized to file and serve documents electronically. The electronic filing of any document by the probation office and office of the United States Marshal by use of the assigned login and password shall be deemed the filing of a signed original document for all purposes.
- (vii) Signature of defendant - Documents containing the original signature of the defendant must be submitted in one of four ways: (1) by use of the in-court electronic signature pad; (2) in a scanned PDF document containing the image of defendant's manuscript signature; (3) an image with a digital signature from a software program that creates a secure electronic signature that uniquely identifies the signer and ensures both the authenticity of the signature, and that the signed document has not been altered or repudiated, including Docusign, Adobe Sign, and Sign Easy; or, (4) if none of these is feasible, in paper form.

- (viii) Evidence of original signature - Filers of documents containing signatures authorized by LCrR 49(e)(ii) (multiple attorney signatures) must maintain any records evidencing concurrence, and filers of documents containing signatures authorized by LCrR 49(d)(iii) (electronically filed affidavits, etc.) and LCrR 49(e)(vii) (documents containing defendant's signature) must maintain the documents bearing the original manual signature for subsequent production to the court or for inspection by a party until one year after the final resolution of the action (including appeal, if any). A non-filing signatory or party who disputes the authenticity of a signature on an electronically filed document must file an objection to the document within fourteen (14) days after service of that document.
- (f) Proposed pleadings - Except for proposed sealed filings, if the filing of an electronically submitted document requires leave of court, such as a brief in excess of word count or page limits, the proposed document must be attached as an exhibit to the motion seeking leave to file. If the court grants leave to file the document, the clerk of court will electronically file the document without further action by the attorney. Requests to file documents under seal are governed by LCrR 49.8.
- (g) Proposed orders - Proposed orders must be submitted electronically in PDF format and must be: (1) attached as an exhibit to a motion or stipulation; or (2) contained within the body of a stipulation; or (3) submitted separately. Do not include the word *proposed* in the caption or title of the proposed order. Proposed orders must also be submitted in Word format via CM/ECF pursuant to the procedure on the Court's website (*pro se* litigants are exempt from this requirement). If the judge approves the proposed order, it will be refiled electronically under a separate document number.
- (h) Court ordered, judgments, writs and other processes – Judgments and orders may be filed electronically by the court or authorized court personnel. Any document filed electronically without the image of the manuscript signature of the judge or clerk has the same force and effect as a document bearing an original signature. Upon entry of an order or judgment in a criminal proceeding, the clerk will transmit

an NEF to all registered attorneys. Such transmission constitutes the notice to registered attorneys required by Rule 49(c) of the Federal Rules of Criminal Procedure. The clerk will provide notice to attorneys not registered under this rule and pro se parties by non-electronic means of service. The clerk may electronically affix the seal of the court on writs, summonses, and other processes, which shall have the same legal force and effect as process bearing an imprinted seal.

(i) Service of electronically filed documents

- (i) Summons and warrants - Warrants and summonses may be issued in electronic form with electronically affixed signatures and seal. Service of warrants and summonses, must be made in accordance with Rule 4(c) of the Federal Rules of Criminal Procedure.
- (ii) Service on registered attorneys - By registering under this rule, an attorney automatically consents to electronic service by both the court and any opposing attorney of any electronically filed document in any case in which the registered attorney appears. Consequently, service of an electronically filed document upon a registered attorney is deemed complete upon the transmission of an NEF to that attorney and no separate certificate of service should be filed. With the exception of the court, paper filed documents and LADs must be served on registered attorneys by nonelectronic means of service, and a proof of service must be filed.
- (iii) Service on United States Probation and Pretrial Services office - A registered attorney may serve the United States Probation Office electronically with a copy of sentencing memoranda, motions for departure or variance, or any other document that the Federal Rules of Criminal Procedure or these rules require to be served on the probation office. If such documents are filed by a registered attorney electronically, service will be accomplished by the ECF system automatically. If such documents are paper filed, they must be served on the probation office by nonelectronic means of service.

- (iv) Service on unregistered attorneys and pro se parties - Counsel filing any pleading or other paper must serve attorneys not registered under this rule and pro se parties by nonelectronic means of service. A proof of service must be filed.
- (v) Method of electronic service - At the time a document is filed either electronically or by scanning paper submissions, the court's system will generate an NEF, which will be transmitted by e-mail to the filer and all registered attorneys who have appeared on that case. The NEF will contain a hyperlink to the filed document. The attorney filing the document should retain a paper or digital copy of the NEF, which serves as the court's date-stamp and proof of filing. Except in the case of LADs (see LCrR 49.8(c)) and *ex parte* filings (see LCrR 49.7(b), (c)), transmission of the NEF to the registered e-mail address constitutes service of an electronically filed document upon any registered attorney. Only service of the NEF by the court's system constitutes electronic service; transmission of a document by one party to another by regular e-mail does not constitute service.
- (j) Remote access to electronically stored documents - Any person may review at the clerk's office filings in a criminal case that have not been sealed by the court or filed *ex parte*. Any person may retrieve a docket sheet in a criminal case through the PACER system and may access electronically the text of documents (except LADs, *ex parte* documents, and transcripts) stored on the ECF system and filed on or after November 1, 2004.
- (k) Other transmissions - The clerk will not accept for filing any pleading or other paper submitted by alternative means (e.g., e-mail and facsimile transmission).

49.11 Referencing the court record - A sequential pagination of the electronic court record initiates with the first filing in a case. The sequential page identification, referred to as the PageID, is applied by the ECF system and is found in the document header displayed at the top of every page of every electronically filed document. The PageID clearly, uniquely, and permanently identifies each page of the court record. In the case of documents in which no PageID is available, the page number of the document should be used for purposes of citation to the record. Otherwise,

any reference by an attorney to a page of the record that has been electronically filed shall be made by reference to the PageID identified thereon, following [the cite form identified on the court's website](#). *Pro se* litigants are exempt from this requirement.

#### Local Criminal Rule 50. Prompt disposition of criminal cases

50.1 Pursuant to statutory requirements, the judges of the United States District Court for the Western District of Michigan have adopted a [plan](#) to minimize undue delay and further the prompt disposition of cases. Copies of the [plan](#) are available on the court's website or in the clerk's office.

#### Local Criminal Rule 56. District courts and clerks; issuance of process

56.1 Time and place of holding court - The court shall be deemed to be in continuous session for transacting judicial business throughout the year. Proceedings may be held at such times and places within the district as the judge to whom the case is assigned shall designate.

56.2 Clerk's Office - The court maintains Southern Division offices in Grand Rapids, Kalamazoo and Lansing and a Northern Division office in Marquette. The Southern Division comprises the counties of Allegan, Antrim, Barry, Benzie, Berrien, Branch, Calhoun, Cass, Charlevoix, Clinton, Eaton, Emmet, Grand Traverse, Hillsdale, Ingham, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, Saint Joseph, Van Buren, and Wexford. The Northern Division comprises the counties of Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft. 28 U.S.C. § 102(b).

56.3 Issuance of process - Any party requesting the issuance of any process or who initiates any proceeding in which the issuance of process is required by statute, rule or order, shall prepare all required forms. The party shall present the process to the clerk for signature and sealing when required. The clerk shall make official forms of process available to attorneys admitted to practice in this court, or their agents or employees.

56.4 Assignment of cases to judges

- (a) New criminal cases - Upon the filing of an initial indictment or information, the clerk must assign the case the next sequential number.

- (b) Procedure - The case must be assigned to a district judge by automated means at random and in the proportions established from time to time by administrative order. The clerk shall ensure that the name of the assigned judge appears on all paper filed documents and the electronic filing system. The clerk shall preserve a record of such assignments.
- (c) Exceptions
- (i) Refilings - If a case is dismissed and later refiled, either in the same or similar form, the United States Attorney shall file at the earliest practicable time a statement notifying the clerk. Upon refileing it shall be assigned or transferred to the judge to whom it was originally assigned.
- (ii) Subsequent proceedings - Post-conviction proceedings in criminal cases (including motions under section 2255 and proceedings to modify or revoke probation or supervised release) shall be assigned to the judge who sentenced the defendant, if that judge is still hearing cases.
- (iii) Related cases
- (A) Definition - Cases are deemed related when:
- (1) a superseding indictment or information has been filed; or
  - (2) any other indictment or information is pending against the same defendant(s); or
  - (3) an indictment or information charges contempt of court or other crime arising from alleged violation of an order entered in a previous case; or
  - (4) an indictment is returned against a defendant who is then on probation or supervised release to a judge, provided the new case involves only the same defendant; or
  - (5) two or more cases are based upon a substantial common nucleus of facts, events, or transactions.

- (B) Determination - When it appears to the United States Attorney that two or more cases may be related cases, the United States Attorney shall file at the earliest practicable time a statement in all affected cases, describing in detail the basis for concluding that the cases may be related. The duty magistrate judge shall promptly determine whether the cases are related. If related, the cases will be assigned to the same judge. If cases are found to be related cases after assignment to different judges, they may be reassigned by the Chief Judge to the judge having the related case earliest filed.
- (d) Miscellaneous docket - The miscellaneous docket of the court shall be conducted and assigned at random to a magistrate judge at the time of filing, and it shall include all grand jury matters. If a miscellaneous docket matter is contested and requires proceedings conducted before a district judge, the case will be randomly reassigned to a district judge and a new civil action number will be assigned.
- (e) Effect - This rule is intended to provide for an orderly division of the business of the court and not to grant any right to any litigant.
- (f) Duty of parties - All parties shall notify the court in writing of all pending related cases and any dismissed or remanded prior cases.

#### 56.5 Reassignment of cases

- (a) Reassignment to promote judicial economy - The court may reassign cases from one district judge to another (i) to equalize and balance workloads among judges; (ii) to assign cases to senior or visiting judges or remove cases from their dockets as necessary; (iii) to comply with the requirements of the Speedy Trial Act, or (iv) for other reasons of judicial economy. Any case may be reassigned under this rule from one judge to another judge with the consent of both judges. Cases may also be reassigned by administrative order of the Chief Judge if approved by a majority of active district judges.
- (b) Reassignment of cognate cases

- (i) Definition – Cognate cases are pending criminal actions that have substantial questions of fact or law in common such that their assignment to a single judge is likely to effect a substantial saving of judicial effort and to avoid wasteful and duplicative proceedings for the court and the parties.
- (ii) Procedure for reassignment – When a district judge determines that reassignment of cognate cases would serve the interests of justice and judicial economy, the judge will contact all other district judges to whom cognate cases have been assigned. If all those judges agree to reassignment, the Chief Judge will enter an administrative order reassigning such cognate cases to the district judge with the earliest numbered case. The administrative order may also provide for automatic assignment of future cognate cases to that district judge, and for an adjustment of future case assignments to that district judge to compensate for the increased workload.

56.6 Criminal matters in the Northern Division - With the permission of the district judge to whom a case is assigned, any available district judge may take a guilty plea, preside over trial, or sentence a defendant in Northern Division cases.

#### Local Criminal Rule 57. Magistrate judges; miscellaneous

##### 57.1 Magistrate judges

- (a) Determination of nondispositive pretrial matters - 28 U.S.C. § 636(b)(1)(A) - A magistrate judge may hear and determine any procedural or discovery motion or other pretrial matters, other than motions to dismiss or quash an indictment or information made by a defendant and motions to suppress evidence.
- (b) Recommendations regarding case dispositive motions - 28 U.S.C. § 636(b)(1)(B) - A magistrate judge may submit to a district judge of the court a report containing proposed findings of fact and recommendations for disposition by the district judge of motions to dismiss or quash an indictment or information made against a defendant or motions to suppress evidence. A magistrate judge may determine any preliminary matters and conduct evidentiary hearing or other proceeding in connection with such recommendations.

- (c) Other duties - A magistrate judge is also authorized to:
- (i) exercise all authority conferred upon United States magistrate judges by the Federal Rules of Criminal Procedure, including exercising case dispositive jurisdiction in petty offense and other misdemeanor prosecutions under Rule 58 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3401;
  - (ii) conduct pretrial conferences, omnibus hearings, and related pretrial proceedings in cases;
  - (iii) conduct all nondispositive proceedings in cases not triable to the magistrate judge, including initial appearances, bond hearings, detention hearings, hearings on motion to revoke bond, arraignments, the taking of not-guilty pleas and the entering of not-guilty pleas for defendants standing mute; initial appearances may be conducted by video, and arraignments may be conducted by video with the defendant's consent; all other proceedings must be conducted in person;
  - (iv) upon referral by a district judge, impanel grand juries, and receive grand jury returns in accordance with Rule 6(f) of the Federal Rules of Criminal Procedure;
  - (v) accept waivers of indictment and waivers of counsel;
  - (vi) upon referral by a district judge, conduct voir dire and select petit juries to the extent allowed by law;
  - (vii) upon referral by a district judge, accept petit jury verdicts in cases in the absence of a district judge;
  - (viii) conduct necessary proceedings leading to the potential revocation of probation or supervised release;
  - (ix) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, or other orders necessary to obtain the presence of parties, witnesses, or evidence needed for investigations or for court proceedings;

- (x) order the exoneration or forfeiture of bonds;
  - (xi) perform the functions specified in 18 U.S.C. §§ 4107, 4108, and 4109, regarding proceedings for verification of consent by offenders to transfer to or from the United States and the appointment of counsel therein;
  - (xii) issue summons, search warrants, orders or other process authorizing agents and officers of the Internal Revenue Service or other authorized persons to enter premises and to make such search as is necessary in order to levy and seize property pursuant to Section 6331 of the Internal Revenue Code or other applicable provision of law;
  - (xiii) conduct proceedings in accordance with 26 U.S.C. §§ 7402(b) and 7604(b) regarding enforcement of Internal Revenue Service summonses;
  - (xiv) conduct extradition proceedings in accordance with 18 U.S.C. § 3184;
  - (xv) preside over guilty pleas in felony prosecutions in the circumstances allowed by LCrR 11; and
  - (xvi) perform any additional duty not inconsistent with the Constitution and laws of the United States.
- (d) Appeal from judgments in misdemeanor cases - 18 U.S.C. § 3402 - A defendant may appeal a judgment of conviction by a magistrate judge in a misdemeanor case by filing a notice of appeal within fourteen (14) days after entry of the judgment, and by serving a copy of the notice upon the United States Attorney. If the case was previously assigned to a district judge, that judge shall hear any appeal from the decision of the magistrate judge; otherwise, the appeal shall be assigned to a district judge at random. The scope of appeal shall be the same as on an appeal from a judgment of the district court to the court of appeals.
- (e) Appeals from other orders of a magistrate judge - Appeals from any other decisions and orders of a magistrate judge not provided for in this rule should be taken as provided by governing statute, rule, or decisional law. Such appeals shall be taken in accordance with the procedures set forth in LCivR 72.3.

- (f) Unless otherwise prohibited by these rules, any magistrate judge of this court may exercise nondispositive jurisdiction and perform the duties authorized by this rule in any criminal case, without the necessity of an order of reference.

## 57.2 Miscellaneous

- (a) Probation office - No employee of United States Probation and Pretrial Services shall, except as permitted by law, disclose to any person or organization any information obtained or maintained pursuant to official duties. Any order, subpoena, or other demand for the testimony of a probation officer or the official records of the probation office must be made in accordance with the procedures set forth in the applicable regulations of the Judicial Conference of the United States. Whenever a probation officer of this court is served with an order, subpoena or other demand for testimony or the production of confidential presentence or probation records, the probation officer must not provide testimony or access to official records without the prior written approval of the Chief Probation Officer. Except when the request is made by a federal or state probation or parole officer, the Chief Probation Officer must consult with the Chief Judge of this court regarding the proper response to the order, subpoena, or other demand. Prior to consultation with the Chief Judge, the Chief Probation Officer, or other designee, shall advise the district judge or magistrate judge assigned to the case of the pending request and seek input. This rule does not apply to officers' testimony before this court when the proceedings are initiated by the probation office.
- (b) Bonds and sureties - In all proceedings the clerk shall accept as surety upon bonds and other undertakings a surety company approved by the United States Department of Treasury, cash or an individual personal surety residing within the district. The clerk shall maintain a list of approved surety companies. Any personal surety must qualify as the owner of real estate within this district of the full net value of twice the face amount of the bond. Attorneys or other officers of this court shall not serve as sureties. This rule shall apply to supersedeas bonds and any other bonds required by law.

- (c) Other matters - All other matters scheduled before a judge shall be scheduled by a member of the judge's staff, who shall notify all parties or counsel of scheduled dates and the purpose of all court appearances.
- (d) Writs of habeas corpus
  - (i) Requirements - All writs of habeas corpus ad prosequendum or testificandum for an individual shall, in addition to stating a specific date and time, include the following phrase: "and at such other times and dates as the Court may decree." Every effort shall be made to allow fourteen (14) days between service and the required appearance.
  - (ii) Requests to seal - A request that the writ be issued under seal must state facts showing good cause supporting the request. The caption of both the application and the proposed order granting the writ must clearly identify the document as being filed under seal.
- (e) Payment to court reporters and transcribers - All parties, except defendants represented by CJA counsel, ordering a transcript must pay in advance by cash or certified check unless the court reporter/transcriber agrees to other arrangements.

#### Local Criminal Rule 58. Misdemeanors; petty offenses and collateral forfeitures

58.1 Disposition of misdemeanor cases - 18 U.S.C. § 3401 - Each magistrate judge of this court is empowered to exercise all jurisdiction conferred by 18 U.S.C. § 3401, including jurisdiction to:

- (a) try persons accused of, and sentence persons convicted of, a petty offense;
- (b) try persons accused of, and sentence persons convicted of misdemeanors, other than petty offenses, after receiving such consent as may be required by 18 U.S.C. § 3401;
- (c) direct the probation office of the court to conduct a presentence investigation in such misdemeanor case;
- (d) conduct a jury trial in any misdemeanor case where the defendant so requests and is entitled to trial by jury under the Constitution and laws of the United States; and

- (e) conduct all post judgment proceedings, including petitions to revoke or modify probation or supervised release, for any misdemeanor defendant who was originally sentenced by a magistrate judge.

## 58.2 Petty offenses and collateral forfeitures

- (a) Posting collateral in lieu of appearance - A person who is charged with a violation of a Federal Wildlife Act, parking regulation governing the federal building, National Forest offense, conduct on postal service property, violation of law on military property or any other petty offense as defined in 18 U.S.C. § 19, may, in lieu of appearance, post collateral in the amount indicated for the offense, waive appearance before a magistrate judge, and consent to the forfeiture of collateral to the United States. The posting of said collateral shall signify that the offender does not contest the charge or request a hearing before the designated magistrate judge. If the collateral is forfeited, such action shall be tantamount to a finding of guilty. Collateral will be permitted only for those offenses specifically authorized by the court in separate orders. There shall be maintained in the office of the clerk and with each magistrate judge a current list of the petty offenses and collateral applicable thereto which the court has established as collateral forfeiture offenses.
- (b) Failure to post and forfeit collateral - If a person charged with an offense under this rule fails to post and forfeit collateral, any punishment, including fine, imprisonment or probation may be imposed within the limits established by law upon conviction.
- (c) Aggravated offenses - If, within the discretion of the law enforcement officer, the offense is of an aggravated nature, the law enforcement officer may require appearance. Any punishment, including fine, imprisonment or probation, may be imposed within the limits established by law upon conviction.
- (d) Appearance required - Nothing contained in this rule shall prohibit law enforcement officers from arresting a person for the commission of any offense, including those for which collateral may be posted and forfeited, and requiring the person charged

to appear before a magistrate judge or, upon arrest, taking the person immediately before a magistrate judge.