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INTRODUCTION

It has long been the intent of the federal judges in Kentucky to make the practice of law in the federal courts as simple and understandable as possible for the Kentucky federal practitioner. While no federal statute mandates uniformity, the United States District Courts for the Eastern District and Western District of Kentucky promulgated Joint Local Rules in 1986. The 2016 revisions of the Joint Rules reflect the Joint Local Rule Commission's desire to ensure continuing continuity, clarity, and modernity in these Joint Rules.

The members of the Joint Local Rules Commission who participated in the revision and editing process are as follows:

Brian Haara, Esq., Chairman, Louisville, Kentucky
Honorable Joseph H. McKinley, Jr, Chief Judge, Western District of Kentucky
Honorable Karen Caldwell, Chief Judge, Eastern District of Kentucky
Honorable David J. Hale, Judge, Western District of Kentucky
Honorable Danny Reeves, Judge, Eastern District of Kentucky
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The Judges of the Eastern and Western Districts of Kentucky are grateful to the many lawyers who have worked on the Joint Local Rules Commission and for their ongoing efforts in the review of the Local Rules of Court. The invaluable contribution of these lawyers has made for the success of the Joint Local Rules Project between the Eastern and Western Districts.

Comments and suggestions for the improvements of the Local Rules should be directed to a Clerk of Court for the attention of the Joint Local Rules Commission.

JOINT LOCAL RULES OF CIVIL PRACTICE

LR 1.1 Scope, Purpose and Construction

These Joint Local Rules of Civil Practice for the United States District Courts for the Eastern and Western Districts of Kentucky provide standardized procedures for the convenience of the bench and bar. These rules must be construed to be consistent with the Federal Rules of Civil Procedure and to secure the just, efficient and economical determination of civil actions. These rules do not eliminate the statutory distinction between the United States District Courts for the Eastern and Western Districts of Kentucky.

LR 1.2 Definitions

References to "Court" or the "Clerk" mean the United States District Court for the Eastern District of Kentucky -- or the Clerk of that Court -- or the United States District Court for the Western District of Kentucky -- or the Clerk of that Court. A "party" or "you" refers to either the party or the attorney.

LR 3.1 Jury Divisions

(a) **United States District Court for the Eastern District of Kentucky.** The United States District Court for the Eastern District of Kentucky is divided into the following jury divisions with juries drawn from the counties within each docket:

(1) **Northern**. The Northern Division is divided into two dockets.

(A) **Ashland.** The following counties are in the Ashland Docket: Boyd, Carter, Elliott, Greenup, Lawrence, Lewis, Morgan, and Rowan.

(B) **Covington.** The following counties are in the Covington Docket: Boone, Bracken, Campbell, Gallatin, Grant, Kenton, Mason, Pendleton, and Robertson.

(2) **Central.** The Central Division is divided into two dockets;

(A) **Frankfort.** The following counties are in the Frankfort Docket: Anderson, Carroll, Franklin, Henry, Owen, Shelby, and Trimble.

(B) **Lexington.** The following counties are in the Lexington Docket: Bath, Bourbon, Boyle, Breathitt, Clark, Estill, Fayette, Fleming, Garrard, Harrison, Jessamine, Lee, Lincoln, Madison, Menifee, Mercer, Montgomery, Nicholas, Powell, Scott, Wolfe, and Woodford.

(3) **Southern.** The Southern Division is divided into two dockets:

(A) **London.** The following counties are in the London Docket: Bell, Clay, Harlan, Jackson, Knox, Laurel, Leslie, McCreary, Owsley, Perry, Pulaski, Rockcastle, Wayne, and Whitley.

(B) **Pikeville.** The following counties are in the Pikeville Docket: Floyd, Johnson, Knott, Letcher, Magoffin, Martin, and Pike.

(b) **United States District Court for the Western District of Kentucky.** The United States District Court for the Western District of Kentucky is divided into the following jury divisions:

(1) **Louisville.** The following counties are in the Louisville Division: Breckinridge, Bullitt, Hardin, Jefferson, Larue, Marion, Meade, Nelson, Oldham, Spencer, and Washington.

(2) **Bowling Green.** The following counties are in the Bowling Green Division:
Adair, Allen, Barren, Butler, Casey, Clinton, Cumberland, Edmonson, Green, Hart, Logan, Metcalf, Monroe, Russell, Simpson, Taylor, Todd, and Warren.

(3) **Owensboro.** The following counties are in the Owensboro Division: Daviess, Grayson, Hancock, Henderson, Hopkins, McLean, Muhlenberg, Ohio, Union, and Webster.

(4) **Paducah.** The following counties are in the Paducah Division: Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Hickman, Livingston, Lyon, McCracken, Marshall, and Trigg.

(c) **Assignment to a Division.** Jury division assignments may be changed by rule or by Court order.

LR 3.2 Assignment of Actions to Jury Division

(a) **Generally.** A civil action may be filed in any division courthouse. Civil actions are assigned to particular jury divisions as follows. In the event of improper assignment, the case will be transferred to the correct jury division. The validity of the filing is not affected by the Clerk's improper assignment.

(1) **Defendants in Same Division.** If all defendants reside in the same jury division, the case is assigned to the jury division where all defendants reside.

(2) **Defendants in Different Divisions.** If at least one defendant resides in the district but the defendants do not all reside in the same jury division, the case is assigned as follows:

(A) To the jury division in which a substantial part of the events or omissions giving rise to the claim occurred, or in which a substantial part of property that is the subject of the action is situated; or

(B) If no jury division satisfies (A), to the jury division in which the first named resident defendant resides.

(3) **Non-Resident Defendants.** If none of the defendants reside in the district, the case is assigned as follows:

(A) To the jury division in which a substantial part of the events or omissions giving rise to the claim occurred, or in which a substantial part of property that is the subject of the action is situated; or

(B) If no jury division satisfies (A), to the jury division in which the first named plaintiff resides.

(b) **Removal Cases and 28 U.S.C. § 2254 Petitions.** A removal or state habeas corpus petition shall be assigned to the jury division that includes the court from which the removal is had or in which the challenged judgment, conviction or order was rendered.

(c) **Assignment of 28 U.S.C. § 2255 Motions.** A motion under 28 U.S.C. § 2255 should be assigned to the jury division in which the movant was originally tried or sentenced such that the motion is heard, if possible, by the same judge who presided over the part of the proceedings under attack.

(d) **Venue for Corporations.** A corporation is a resident of the county in which it has its principal place of business within the district. If a corporation does business throughout the district and has no operation which is its principal place of business, or if a non-resident corporation does not maintain a place of business within the district, the action is assigned to the jury division in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.

(e) **Governmental Venue**. For purposes of this rule, the United States, federal agencies, the Commonwealth of Kentucky, and agencies of the Commonwealth are deemed non-residents of the District. State or federal officials joined solely in their official capacities are deemed residents of the division in which they perform their official duties.

(f) **Transfer.** Any civil action or proceeding may, in the discretion of the Court, be transferred from the jury division in which it is pending to any other division for the convenience of the Court, parties, witnesses, or in the interest of justice.

LR 3.3 Place of Filing Pleadings and Other Papers

Pleadings, motions and other papers may be filed in any of the divisional offices of the Clerk for the district in which the action is filed or pending.

LR 4.1 Service of Process Through the Secretary of State

In addition to the filing procedures and fees of this Court, whenever a party intends to serve process through the Kentucky Secretary of State, the party initiating such service must also follow the filing procedures of the Kentucky Secretary of State.

LR 4.2 Service of Summons by United States Marshal

(a) **Generally.** If service of a summons by the United States Marshal is permitted, a party must present the following to the U.S. Marshal at least thirty (30) days before the compliance date specified in the summons:

(1) a properly completed summons; and

(2) a properly completed U.S. Marshal Form 285.

(b) **Service upon a Party in Custody.** If the party to be served is in state or federal custody, properly completed process must be presented to the U.S. Marshal at least thirty (30) working days before the compliance date specified in the summons.

LR 4.3 Preparation of Process

(a) **Generally.** Subject to current availability, the Clerk will make available reasonable supplies of blank official process forms. Any attorney – or any party proceeding pro se – who requests the issuance of process must prepare and present to the Clerk for signature and sealing all necessary forms, including the following:

(1) Summons;
(2) Warrants of Seizure and Monition;
(3) Summons to Alleged Bankrupts;
(4) Subpoenas to Witnesses;
(5) Certificates of Judgment;
(6) Writs of Execution;
(7) Orders of Sale;
(8) All Process in Garnishment or Other Aid in Execution;
(9) Civil Cover Sheet;
(10) U.S. Marshal's Form 285; and
(11) Notice of Stipulation to Magistrate Judge's Jurisdiction.

(b) **Time for Completion.** The Clerk must accept for filing any pleading or document tendered even if it is not accompanied by the appropriate forms. If the pleading is not accompanied by the appropriate forms, the attorney or party filing the pleading must comply with this rule within seven (7) working days of filing the pleading. If counsel or the party fails to comply with this order within seven (7) working days of filing the pleading, the Court will issue an order requiring the party to show cause why the pleading should not be stricken.

LR 5.1 Form of Pleadings

(a) **Name of Counsel.** All pleadings, motions and other papers must include the name, address, and telephone number of the filing party's attorney(s) of record or, if the party is not represented by counsel, of the filing party.

(b) **Paper Size.** All pleadings, motions and other papers filed with the Court must be filed on paper that is "8½ x 11".

LR 5.2 Pro Se Actions

(a) **Generally.** The following papers should be written on court-supplied forms, signed and verified:

(1) Pro se writ of habeas corpus filed under 28 U.S.C. § 2254; and
(2) Pro se motions attacking a conviction or sentence filed under 28 U.S.C. § 2255.
(3) Pro se civil rights complaints filed under 42 U.S.C. § 1983; and
(4) Pro se civil rights complaints filed under the authority of Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).

(b) **Papers Not on Court-Supplied Forms.** If a pro se litigant submits a paper identified in (a) above that is not on a court-supplied form, the Clerk will accept the paper for filing and forward it to an appropriate judicial officer for review. If directed by the appropriate judicial officer, the Clerk shall provide sufficient copies of the prescribed form, and instructions for preparing the form, to the pro se litigant along with directions to file the petition on the appropriate court-supplied form within thirty (30) days thereafter. When required to do so, a pro se litigant's failure to file his or her petition on a court-supplied form within thirty (30) days may be grounds for dismissal.

(c) **Filing.** Pleadings, motions or other papers in pro se civil rights cases must be addressed to the Clerk. A pleading, motion, or other paper addressed to an individual judge will be directed to the Clerk for assignment.

(d) **Disclosure of Contact Information; Sanctions.** In addition to the requirements of LR 5.1 (a), all pro se litigants must include, if available, in the caption of the litigant's first filing, the litigant's current telephone number, residential address, and, if different, mailing address. Failure to provide the required address and telephone information upon request may result in the dismissal of the litigant's case or other appropriate sanctions.

(e) **Notification of Change in Address; Sanctions.** All pro se litigants must provide written notice of a change of residential address, and, if different, mailing address, to the Clerk and to the opposing party or the opposing party's counsel. Failure to notify the Clerk of an address change may result in the dismissal of the litigant's case or other appropriate sanctions.

LR 5.3 Petitions or Complaints In Forma Pauperis

(a) **Prisoners**

(1) **Habeas Corpus Petitions.** A prisoner seeking leave to proceed in forma pauperis in a habeas corpus action must file a fully completed Application to Proceed Without Prepayment of Fees or a motion and affidavit that includes the same information. An application form may be obtained from the Clerk. No filing fee is required for motions filed under 28 U.S.C. § 2255.

(2) **Civil Rights Actions and All Other Civil Complaints.** Prisoners seeking leave to proceed without prepayment of the entire filing fee must comply with the requirements of the Prison Litigation Reform Act, 28 U.S.C. § 1915(a)(2) (1996).

(b) **Non-Prisoners.** A non-prisoner seeking leave to proceed in forma pauperis in a civil action must file a fully completed Application to Proceed Without Prepayment of Fees or a motion and affidavit that includes the same information. An application form may be obtained from the Clerk. The Court may order production of additional documents as necessary.

LR 5.4 Filing of Documents by Electronic Means

Documents shall be filed, signed and verified by electronic means to the extent and in the manner authorized by General Order 05-03 of the Court. A document filed by electronic means in compliance with this Local Rule constitutes a written document

for the purposes of applying these Local Rules and the Federal Rules of Civil Procedure. The General Orders of the Court referenced herein may be obtained from the Clerk's office on the following websites:

WDKY – "http://www.kywd.uscourts.gov/";
EDKY - "http://www.kyed.uscourts.gov/".

LR 5.5 Service of Documents by Electronic Means

Documents shall be served through the court's transmission facilities by electronic means to the extent and in the manner authorized by further General Order 05-03 of the Court. Transmission of the Notice of Electronic Filing (NEF), with a hyperlink to the electronically filed document, constitutes service of the filed document upon each party in the case who is registered as an electronic case filing user with the Clerk. Any other party or parties shall be served documents according to these Local Rules and the Federal Rules of Civil Procedure.

LR 5.6 Time of Filing and Service

Documents filed by electronic means under LR 5.4 shall be deemed filed on the date and time stated on the Notice of Electronic Filing which is transmitted, with a hyperlink to the electronically filed document, to the filing party.

Documents served by electronic means under LR 5.5 shall be deemed served on the date and time stated on the Notice of Electronic Filing which is transmitted, with a hyperlink to the electronically filed document, to the party served

LR 5.7 Filing Documents Under Seal

(a) **Presumption of public access.** Parties and counsel should presume that all documents filed in district court should be available for the public to access and that restricting public access can occur only in limited circumstances, as set forth in this Rule.

(b) **"Sealed Document" defined.** A "sealed document"' is defined as a document or motion filed pursuant to (1) a protective order restricting public access. (2) an order granting leave to file the sealed document or motion, in conjunction with a motion for leave to seal or a previously-filed redacted document, or (3) included within a category of documents considered sealed under a federal statute or federal rule of procedure, local rule, or standing order of this court. A sealed document or motion is not available electronically, or by any other means, to the parties, attorneys. or the public.

(c) **Specific Authority or l\fotion Required; Protective Orders.** Absent a federal statute or federal rule of procedure, local rule, or standing order of this court. a party seeking to file a sealed document must electronically file a motion for leave to seal. The motion must state why sealing is required and must establish that the document sought to be filed under seal is entitled to protection from public disclosure. Reference to a stipulation that allows a

party to designate certain documents as confidential is not sufficient grounds to establish that a document, or portions thereof warrants filing under seal.

(d) **Electronic Filing Rules and Procedures.** All procedures for filing documents under seal, whether pursuant to this Rule or a federal statute or foderal rule of procedure, are contained in the court's Amended Electronic Case filing Administrative Policies and Procedures, available from the Clerk's office on the following websites:

WDKY - http://www.kywd.uscourts.gov/
EDKY - http://www.kyed.uscourts.gov/

LR 6.1 "Last Day" Defined

For purposes of Federal Rule Civil Procedure 6(a)(4), unless a different time is set by a statute or court order, the "last day" ends for electronic filing at midnight, **EASTERN TIME**.

LR 6.2 Computation of Time – Date Certain

When any period of time set by Order of the Court or otherwise ends on a date certain and that date certain falls upon a Saturday, Sunday or legal holiday, the period of time continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

LR 7.1 Motions

(a) **Generally.** All motions must state precisely the relief requested. Except for routine motions -- such as motions for an extension of time -- each motion must be accompanied by a supporting memorandum. Failure to file a supporting memorandum may be grounds for denying the motion.

(b) **Motions for an Extension of Time.** Subject to any deadlines established by the Court, parties may extend time limits by agreed order. Absent an agreement, the party seeking the extension must file a motion setting forth the reasons the extension is sought and tender a proposed order. A memorandum opposing the motion must be filed within seven (7) days of service of the motion.

(c) **Time for Filing Memoranda in Response and Reply.** A party opposing a motion must file a response memorandum within twenty-one (21) days of service of the motion. Failure to timely respond to a motion may be grounds for granting the motion. A party may file a reply memorandum within fourteen (14) days of service of the response. When a party requests an extension of time to file a memorandum, please do so by agreed order or state whether other parties consent.

(d) **Limitations on Memoranda.** Supporting and opposing memoranda may not exceed forty (40) pages without leave of Court. Reply memoranda may not exceed fifteen (15) pages without leave of Court.

(e) **Proposed Order.** A party filing a motion must also file a separate proposed order. Any proposed order imposing sanctions must be provided separately from a proposed order pertaining to any other matter.

(f) **Hearing or Oral Arguments on Motions.** A party may request a hearing or oral argument by motion.

(g) **Submission to the Court.** A motion is submitted to the Court for decision after completion of the hearing or oral argument -- or if none -- after the reply memorandum is filed, or the time for filing the reply memorandum has expired.

(h) **Copies of Cited Authority.** If a motion or memoranda contains a citation to any authority not available electronically, you must attach a copy of the authority. Upon request, a party must provide a copy of any cited unpublished or non-Kentucky state case or statute to the opposing party.

LR 8.1 **Residence Required to be Stated in Complaint or Other Initial Pleading**

A party commencing a civil action must include in the complaint or other initial pleading the following information:

(a) the defendant's or defendants' county of residence;

(b) the plaintiff's or plaintiffs' county of residence; or

(c) if located in Kentucky, the jury division in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated.

LR 16.1 **Exemptions from Federal Rule of Civil Procedure 16.** The following are exempt from the requirements of Federal Rule of Civil Procedure 16(b):

(a) an action for review on an administrative record;

(b) a petition for habeas corpus or other proceeding to challenge a criminal conviction or sentence;

(c) an action brought without counsel by a person in custody of the United States, a state, or a state subdivision;

(d) an action to enforce or quash an administrative summons or subpoena;

(e) an action by the United States to recover benefit payments;

(f) an action by the United States to collect on a student loan guaranteed by the United States;

(g) a proceeding ancillary to proceedings in other courts; and

(h) an action to enforce an arbitration award.

LR 16.2 **Alternative Dispute Resolution.** Upon motion of any party, or sua sponte, any judicial officer may require parties in civil cases to consider some form of alternative dispute resolution process, including but not limited to, mediation, early neutral evaluation, minitrial, or arbitration. Mediation may be conducted under the auspices of a private professional mediator or a judicial officer. Positions taken and statements or concessions made during the mediation process shall not be admissible as evidence during any court proceedings. The mediator shall not be called or listed as a witness to any matter in which such mediator shall have served. Each District Court may, by separate General Order, designate a person to implement, administer, oversee, and evaluate alternative dispute resolution in such District.

LR 26.1 Discovery Responses.

(a) **Repetition of Request.** In responding to interrogatories, requests for production of documents or things or for entry upon land, and requests for admission, the responding party must repeat the question or request immediately before the answer or objection.

(b) **Custodian of Discovery Documents.** The party responsible for service of a discovery document not filed of record pursuant to F.R.Civ.P. 5(d), including disclosures, notices, interrogatories, requests and answers or responses thereto, shall be the custodian and must retain the original document. The custodian must provide access to all parties of record during the pendency of the action.

LR 37.1 Motions Relating to Discovery

Prior to filing a discovery motion, all counsel must make a good faith effort to resolve extrajudicially any dispute relating to discovery. The Court will not entertain discovery motions unless counsel have conferred -- or attempted to confer -- with other affected parties in an effort to resolve their dispute. The moving party must attach to every discovery motion a certification that counsel have conferred and are unable to resolve their differences. The certification must detail counsel's attempts to resolve the dispute.

LR 40.1 Assignment of Cases Among Judges and Calendaring

(a) **Assignment of Cases Among Judges**. Cases are assigned among the various judges within a district in a manner established by the Court's General Order. Unless otherwise ordered, cases are calendared for trial or other appropriate proceedings by the assigned judge.

(b) **Reassignment of Cases; Motion to Reassign Related Cases**. A case may be reassigned to another judge within the district upon the Court's own motion, in the interests of justice, for reasons stated in an order of reassignment. A party may file a motion to reassign a case if it is related to another case pending in the district. Cases may be considered related if they meet the requirements of F.R.Civ.P.42(a), or if a substantial savings of judicial time and resources would result if they were handled by the same judge. The Court will determine a motion to reassign on the basis of whether reassignment is in the interests of justice.

(c) **Judge Not Available**. If it appears that any matter demands immediate attention and the judge to whom the case has been assigned is not or will not be available, the Clerk -- upon request -- must determine if another judge is available who will consent to hear the matter.

LR 41.1 Dismissal for Failure to Prosecute

If no action has been taken on a case for one year, the Clerk may issue an order requiring the plaintiff to show cause why the case should not be dismissed for lack of prosecution.

LR 45.1 Service of Subpoenas by United States Marshal

If service of a subpoena by the United States Marshal is permitted, a party must present the following to the U.S. Marshal Service at least fourteen (14) days before the compliance date specified in the subpoena:

(1) a properly completed subpoena;
(2) a properly completed U.S. Marshal Form 285; and
(3) attendance fees and mileage to be tendered to the person to whom the subpoena is directed.

LR 47.1 Trial Jurors

(a) **Contact with Jurors**. Unless permitted by the Court, no person, party or attorney, nor representative of a party or attorney, may contact, interview, or communicate with any juror before, during, or after the trial.

(b) **Peremptory Jury Challenges**. Unless the Court orders otherwise, the parties must exercise their peremptory challenges simultaneously.

(c) **Attorneys Not to Request any Person's Excuse from Jury Service**. No attorney -- or an employee of an attorney or law firm -- may request a judge to excuse any person lawfully summoned for jury service.

LR 54.1 Notice of Settlements

If parties settle a civil action, counsel must promptly notify the Clerk. Failure to give prompt notice may be grounds for assessing any jury costs against one or more of the parties or their counsel.

LR 54.3 Time for Filing Bill of Costs

The prevailing party must file a Bill of Costs with the Clerk and serve a copy of the Bill on each adverse party within thirty (30) days of entry of judgment. If the Bill of Costs is not filed within thirty (30) days, costs, other than those of the Clerk, taxable pursuant to 28 U.S.C. § 1920, shall be waived. The Court may, on motion filed within the time for the filing of the Bill of Costs, extend the time for filing.

LR 54.4 Time for Filing Motion for Attorney's Fees and Nontaxable Expenses

Unless othenvise provided by statute, a motion for attorney's fees and related nontaxable litigation expenses, pursuant to Fed. R. Civ. P. 54(d)(2), must be filed no later than 30 days after entry of judgment. If a motion for attorney's fees or nontaxable expenses is not filed within 30 days, such fees and nontaxable expenses shall be waived. The Court may, on motion filed within the time provided for filing a motion for attorney's fees or nontaxable expenses, extend the time for filing such a motion.

LR 65.1.1 Bond and Surety Requirements

(a) **General Requirements.** In all civil and bankruptcy actions, the Clerk may -- unless the Court orders otherwise -- accept only the following as surety on a bond:

(1) a surety company approved by the United States Department of Treasury;

(2) cash in an amount set by the Court; or

(3) a personal surety secured by real estate that complies with subsections (d), (e), (f), and (g) below.

(b) **Powers of Attorney.** A Treasury Department approved surety company may designate an agent in Kentucky to execute bonds. If so, the power of attorney designating the agent may be filed with the Clerk in the jury division in which the action is pending. In lieu of filing the power of attorney with the Clerk, a copy of the power of attorney must be appended to each bond executed.

(c) **Unacceptable Personal Sureties.** The Clerk must not accept the following as a personal surety on any bond:

(1) an attorney;

(2) a Court officer or employee; or

(3) the United States Marshal or any deputy marshal.

(d) **Personal Surety Secured by Real Estate; Generally.** The Clerk must accept a personal surety secured by real estate under the following conditions:

(1) The real estate is located in Kentucky;

(2) The real estate has an unencumbered value of at least 110% of the bond amount;

(3) The real estate is not owned by a corporation or partnership; and

(4) If the property is held jointly, all joint tenants have executed the bond.

(e) **Procedure for Posting Real Estate Bond.** To post a real estate bond, the sureties must execute an affidavit providing the following information:

(1) the owners' names and addresses;

(2) an affiant's statement as to the assessed value from the Property Valuation Administrator's Office or, if that is not available, an appraisal by a licensed appraiser; and

(3) a listing of all liens and mortgages on the property, including all but the current year's real estate taxes.

(f) **Affidavit on Appearance Bonds.** On appearance bonds, the affidavit required in (e) must be incorporated by reference in the Justification of Sureties portion of the Appearance Bond Form.

(g) **Bond Execution and Deed Deposit.** All parties to the deed and the bond must execute the bond and take the oath. The deed, or certified copy of the deed, must be deposited with the Clerk. Upon receipt of the deed, or certified copy of the deed, the Clerk must provide a receipt to the owner. If the bond is not forfeited, the deed must be returned to the property owner in person, or by certified mail, at the conclusion of the case.

(h) **Lis Pendens Notice and Fees.** The Clerk must file a lis pendens notice against the property in the County Clerk's Office in the county where the property is located. The required fee for filing the notice and release of lis pendens is required upon execution of the bond.

LR 72.1 Duties of United States Magistrate Judges

All magistrate judges may perform any of the duties authorized by 28 U.S.C. § 636(a), (b), and (c).

LR 72.2 Objections To Non-Dispositive Ruling of Magistrate Judge

Subject to any deadlines established by the Court, a party objecting to a non-dispositive order of a magistrate judge must file a written objection with fourteen (14) days of service of the non-dispositive order. Unless directed by the Court, no party may file any response to a written objection.

LR 73.1 Consent to Judgment by a Magistrate Judge

(a) **Generally.** If the parties consent, all magistrate judges are designated within the meaning of 28 U.S.C. § 636(c)(1) to conduct all proceedings and to enter judgment in civil matters.

(b) **Duty of Plaintiff.** Upon filing an action, each plaintiff must obtain from the Clerk copies of notices setting forth the provisions of 28 U.S.C. § 636(c)(2). Each plaintiff must serve a copy of that notice with the summons and complaint on each defendant in the action.

(c) **Duty of Clerk.** If the parties file a stipulation that a magistrate judge may try an action, the Clerk will reassign the case from the judge's docket to the magistrate judge's docket.

LR 77.1 Service Date for Electronic Notice of Entry of Court Judgments and Orders

When the Notice of Electronic Filing transmitted to a party contains a complete court order and states there is no document attached, notice of entry of the order shall be deemed served on the date and time stated on the Notice of Electronic Filing that is transmitted to the party served.

In all other cases, court judgments and orders shall be deemed served on the date and time stated on the Notice of Electronic Filing that is transmitted, with a hyperlink to the judgment or order, to the party served.

LR 79.1 Original Pleadings

Originals of pleadings, motions and other papers filed with the Court must not be withdrawn from Court files, unless ordered by the Court.

LR 83.1 Attorney Admission to Practice

(a) **Applicant Eligibility.** An attorney may apply for admission to the Bar of the Court if:

(1) The attorney has been admitted to practice before the Supreme Court of Kentucky;

(2) The attorney is in good standing with the Supreme Court of Kentucky; and

(3) The attorney is of good moral and professional character.

(b) **Admission Procedure.** An applicant must provide the Clerk with the following:

(1) an Application for Admission;

(2) an Authorization and Release;
(3) an affidavit of sponsorship signed by a member of the bar; and
(4) the prescribed fee; and
(5) a statement identifying the method of training completed before use of the Court's electronic filing system.

(c) **Admission.** After the Court grants the attorney's application, the applicant may be admitted by mail or by appointment in open court.

(1) **Admission by Mail.** Upon request, the Clerk will promptly mail a Certificate of Admission to the applicant.

(2) **Admission in Open Court.** Upon request, the Clerk will arrange for a hearing at which time the sponsor will move to admit the applicant. The presiding judge will administer the attorney's oath or affirmation in open court.

LR 83.2 Permission to Practice in a Particular Case*

(a) **Procedure.** An attorney who has not been admitted to the Bar of the Court – but who is in good standing in the Bar of any state, territory, or the District of Columbia – may represent parties before the Court if the attorney has paid the prescribed *pro hac vice* admission fee to the Clerk of the Court and been granted leave by the Court to appear *pro hac vice* in a particular case. A separate motion for each attorney requesting *pro hac vice* admission must include the following information:

(1) *Admission Status*. The motion must identify each Bar in which the attorney is a member and attach a certificate of good standing issued by the highest court of the state, territory, or the District of Columbia in which the attorney is a resident. The certificate of good standing must be issued no more than ninety (90) days before the filing of the motion.

(2) *Disciplinary History*. The motion must disclose whether the attorney is currently or has ever been disbarred, suspended from practice, or subject to other disciplinary action by any court, state, territory, or the District of Columbia.

(3) *Consent to Jurisdiction*. The motion must include a statement indicating that the attorney consents to be subject to the jurisdiction and rules of the Kentucky Supreme Court governing professional conduct.

(4) *ECF Training*. The motion must identify the method of training completed by the attorney before use of the Court's electronic filing system.

(b) The Attorney General or any other bar member of the Department of Justice, or of any federal agency, including federal public defenders or panel attorneys that cross district lines, need not seek admission *pro hac vice* under this rule.

(c) **Sanctions.** Nothing in this rule detracts from the Court's power to sanction unprofessional conduct.

*The Attorney General or any other officer of the Department of Justice need not seek admission pro hac vice under this rule. See 28 U.S.C. § 515(a).

LR 83.3 Attorney Discipline

(a) **Discipline Generally.** Any attorney practicing before the Court is subject to discipline by the Court upon a showing that:

(1) The attorney is currently suspended or disbarred by any admitting or licensing authority; or

(2) The attorney is guilty of unprofessional conduct in the matter pending before the Court.

(b) **Discipline By Admitting or Licensing Authority; Procedure.**

(1) **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.

(2) *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.

(3) *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 section (2). To conclude that the entry of some other order is appropriate, the Court 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.

(4) *Finality of the Action of the Admitting or Licensing Authority.* Unless the Court determines that one of the grounds contained in (3) above exists, the admitting or licensing authority's final adjudication of attorney misconduct conclusively establishes the misconduct for purposes of this Court's discipline.

(5) *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 then transmit the confirmation to the Chief Judge who shall determine whether the attorney may be reinstated to practice before the Court.

(c) **Discipline for Unprofessional and Improper Conduct.** If it appears to the Court that an attorney practicing before the Court has violated the rules of the Kentucky Supreme Court governing professional conduct or is guilty of other conduct unbecoming an officer of the Court, any judge may 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. If requested by the responding attorney, the Court will conduct a hearing prior to determining the appropriate order.

(d) **Discipline for Contempt.** Disbarment from the Court may be utilized as a sanction for contempt of court under the procedures contained in Federal Rule of Criminal Procedure 42. Nothing in this rule shall limit the Court's power to punish contempt.

LR 83.4 Local Counsel

If the law practice of an attorney practicing before the Court is not located 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.

LR 83.5 Appearance of Counsel

Unless the Court orders otherwise, an attorney is deemed an attorney of record by:

(a) appearing in court on behalf of a party;

(b) filing an entry of appearance;

(c) signing a pleading, motion or other paper as attorney for a party; or

(d) listing his or her name as an attorney -- other than of counsel -- on a pleading, motion, or other paper.

LR 83.6 Substitution or Withdrawal of Attorney of Record

Unless a compelling reason exists, an attorney of record is not permitted to withdraw within twenty-one (21) days of trial or a hearing on any motion for judgment or dismissal. At any other time, an attorney of record may withdraw from a case only under the following circumstances:

(a) The attorney files a motion, his or her client consents in writing, and another attorney enters his or her appearance; or

(b) The attorney files a motion, certifies the motion was served on the client, makes a showing of good cause, and the Court consents to the withdrawal on whatever terms the Court chooses to impose.

(c) In cases where an attorney seeks to be substituted for another as attorney of record, and both attorneys are within the same partnership or other legal professional association, a notice of substitution must be filed by the withdrawing attorney and the substitute attorney with an affirmative representation stating that the substitution is made with the client's consent; the notice may, but need not be, signed by the client.

LR 83.8 Writs of Habeas Corpus Ad Testificandum

If a person in state or federal custody is needed for testimony or for trial in a civil case, the party desiring the person's attendance must move for a writ of habeas corpus ad testificandum at least thirty (30) working days before the date the person is needed in court to appear or testify unless exigent circumstances otherwise exist.

LR 83.9 Courtroom Decorum

(a) **Persons Permitted Inside the Bar of the Courtroom**. Only those persons authorized by the Court, or those persons having an official function, are permitted inside the bar of the courtroom during proceedings held in open court.

(b) **Possession and Use of Electronic or Photographic Equipment; Generally.** Except as permitted by (c), no person may operate any visual or audio recording, broadcasting or transmitting device or equipment in any courtroom. This rule applies regardless of whether court is actually in session.

(c) **Permitted Uses of Electronics.** The presiding judge may permit the following:

(1) Use of electronic or photographic means for presenting evidence or perpetuating the record; and/or

(2) The broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.

(3) Any wireless or internet communication device approved by the Court.

(d) **Devices and Equipment in Courthouses.** By General Order, the Eastern and Western Districts may regulate the possession of electronic devices and equipment within each courthouse. Notice of any such General Order shall be posted in a conspicuous place in all federal court buildings in the District, and will be available on the Clerk's website.

LR 83.10 Exhibits

Unless the Court orders otherwise, exhibits must be managed as follows:

(a) **Method of Designation.** All exhibits and materials to be used during a civil trial must be marked for identification purposes with labels obtained from the Clerk.

(1) Joint exhibits (JX) must be numbered using white labels;
(2) Plaintiff's exhibits (PX) must be numbered using pink labels;
(3) Defendant's exhibits (DX) must be numbered using blue labels;
(4) Third-party exhibits (TPX) must be numbered using green labels;
(5) If the proceeding involves multiple plaintiffs or multiple defendants, the identification assigned to each exhibit must contain the individual party's surname or corporate name.

(b) **Uniform Designation.** Proposed exhibits must be uniformly identified during all phases of the case. This rule applies to all proposed exhibits, including exhibits appended to discovery requests or depositions and exhibits to be used at trial.

(c) **Disposition of Exhibits.** The Clerk may direct counsel of record to retrieve their exhibits from the Clerk's custody by a specific date. The Clerk may destroy any exhibits that remain unclaimed two weeks after counsel of record has been directed to retrieve them.

(d) **X-Rays, Hospital Records and Medical Reports.** The Clerk may deliver x-ray negatives, hospital records and medical reports to the witness through whom the exhibit was introduced in evidence.

(e) **Contraband.** If not claimed within two (2) weeks of final disposition of a case, the Clerk may deliver all contraband filed as exhibits to the appropriate agency for disposition.

LR 83.11 Social Security Cases

(a) **Service of Social Security Number on Separate Paper than Complaint.** Any person seeking judicial review of a decision of the Commissioner of Social Security under § 205(g) of the Social Security Act, 42 U.S.C. §405(g), shall provide, on a separate sheet of paper attached to the copies of the complaint served on the Commissioner and the Unites States Attorney, the name and social security number of the worker on whose wage record the application for benefits was filed. The person shall also state in the complaint itself that the name and social security number have been attached to the copies served upon the Commissioner and the United States Attorney. Failure to provide a social security number in this manner is not grounds for dismissal of the complaint. However, in addition to other sanctions that the Court may order, the Commissioner's time for filing an answer and transcript will not begin until the Commissioner has been served in compliance with this subsection. To note for the record any period of tolling of the time to file an answer under this subsection, the United Stated Attorney must file a notice showing the plaintiff's failure to comply.

(b) **Commissioner's Time to Respond.** Within sixty (60) days of service of the complaint, the Commissioner of Social Security must file an answer and transcript of the administrative proceedings. An initial extension of up to sixty (60) days may be granted, for good cause, upon motion of the Commissioner. If the responsible Social Security Administration official files an affidavit detailing the circumstances that require additional time, a

second extension of time to respond may be granted. No other extension will be granted.

(c) **Judicial Review.** At the discretion of the judge to whom the case is assigned, judicial review may occur on written motion or oral argument. Unless otherwise ordered motion practice will occur as follows:

(1) Plaintiff must move for summary judgment or judgment on the pleadings within sixty (60) days of the filing of the answer and administrative transcript.

(2) The Commissioner must file a countermotion or a response to the plaintiff's motion within thirty (30) days of service of the Plaintiff's motion.

(3) The Clerk must submit the case to the judicial officer immediately following the filing of the Commissioner's countermotion or response.

(4) Extensions of time may be granted only if good cause is shown or there is no objection from any party.

(d) **Attorney's Fees Petitions Under Social Security Act.** Plaintiff's counsel may petition for attorneys's fees, awardable under § 206(b) of the Social Security Act, 42 U.S.C. § 406(b), within thirty (30) days of a final favorable decision for plaintiff.

(1) **Petition.** The attorneys's fee petition must include an itemization of the services provided in both the administrative and the judicial proceedings. Plaintiff's counsel must serve a copy of the fee petition on the claimant and the United States Attorney.

(2) **Response by the Claimant.** The United States Attorney must respond to the attorneys's fee petition within thirty (30) days of the petition's filing. The government's response must include a statement of accrued benefits and must advise the Court whether the government considers the fee to be reasonable. The government must serve a copy of the response on the claimant and the petitioning attorney. The claimant may respond to the attorney's fee petition within thirty (30) days of the petition's filing.

LR 83.12 Bankruptcy Matters

(a) **Generally.** The powers of law, equity and admiralty vested in the District Court are referred to the United States Bankruptcy Court as a unit of the District Court. The following cases and proceedings are referred to the Bankruptcy Court judges for the District:

(1) Cases, matters and proceedings in cases, under the Bankruptcy Act pending in the Bankruptcy Court on July 9, 1984;

(2) All matters arising under -- or arising in or related to cases arising under -- Title 11 of the United States Code that were pending in the Bankruptcy Court on July 9, 1984, except proceedings involving tort claims for personal injury or wrongful death;

(3) All matters arising under -- or arising in or related to cases arising under -- Title 11 of the United States Code filed on or after July 10,

1984, except proceedings involving tort claims for personal injury or wrongful death;

(4) All actions for removal of claims under 28 U.S.C. §1452(a) and (b) that relate to bankruptcy cases, except proceedings involving tort claims for personal injury or wrongful death;

(5) All venue matters relating to bankruptcy cases under 28 U.S.C. § §1406 and 1412.

(b) **Filing.** All matters in (a) must be filed in accordance with the local rules of the United States Bankruptcy Court.

LR 83.13 Advance Payment of Fees

(a) **Generally.** The Clerk, the United States Marshal Service, or any other officer of the Court entitled to collect fees for services rendered may require fees to be paid in advance. This rule includes fees for filing cases.

(b) **Payment of Fees in Seamen's Suit.**
Seamen may institute and prosecute suits in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor. In all such actions in which a seaman prevails, either by judgment or by settlement, no dismissal or satisfaction of judgment shall be filed or entered until all fees of the marshal and clerk have been paid. It shall be the responsibility of counsel handling the payment of any settlement to see to it that all fees are paid whether or not any dismissal or satisfaction of judgment entry is applied for.

LR 83.14 Modification or Amendment of Local Rules

(a) **Modification in Particular Case.** A judge may modify any local rule in a case by entering an appropriate order.

(b) **Amendments to the Joint Local Rules.** The Courts may amend these rules by entering an appropriate order in each District under the procedures in Federal Rule of Civil Procedure 83. The Courts have agreed not to adopt an amendment to the Joint Local Rules of Civil or Criminal Practice until considered by the Joint Local Rules Commission.

(c) **Joint Local Rules Commission Membership**

(1) **Generally.** The Joint Local Rules Commission is comprised of the following members:

(A) two judges from each District;

(B) four practicing attorneys from each District;

(C) a chairperson selected by -- and serving at the will of -- the Chief Judges of the Districts.

(2) **Judge Members.** Judge members of the Commission must include the Chief Judges of the respective Districts -- or his or her designee -- and one other judge selected by the judges of each Court.

(3) **Attorney Members.** The Board of Governors of the Kentucky Bar Association must appoint the attorney members of the Commission. Attorney members must be selected from those attorneys currently

practicing in the Eastern or Western District of Kentucky -- or in both Districts. The Board should select attorneys so as to maintain geographic representation for all Bar members in Kentucky.

(d) **Terms of Office for Attorney Members.** Attorney members of the Commission must be appointed for a four year period. The initial appointments must be staggered terms of one, two, three or four years to achieve continuity on the Commission. Commission members at the time this rule takes effect may be reappointed to the Commission in appropriately staggered terms to maintain continuity.

(e) **Meetings.** The Commission will meet bi-annually in a place convenient to as many members as possible. If no one identifies any agenda items to the chairperson prior to the scheduled meeting, the meeting may be canceled. A quorum consists of the following:

(1) one judge from each District; and

(2) two attorneys from each District.

LR 85.1 Citation

These rules may be known as the Joint Local Rules of Civil Practice, and cited as "LR ___."

LR 86.1 Effective Date

These rules are effective December 1, 2009. Except for jury plans, speedy trial plans and criminal justice plans for each district, these rules supersede all previous local rules and court orders.

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