

# UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF ALABAMA LOCAL RULES

(As Effective December 1, 1993 - Current as of January 1, 2013)

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## **LR3.1 Civil Cover Sheet**

A completed civil cover sheet (Form JS-44c) shall be submitted to the Clerk with the initial civil complaint or notice of removal filed in this court by a litigant represented by counsel.

## **LR3.4 Disclosure Statement**

- (a) A corporation, association, joint venture, partnership, syndicate, or other similar entity appearing as a party or amicus in any proceeding shall file a Disclosure Statement, at the time of the filing of the initial pleading, or other court paper on behalf of that party or as otherwise ordered by the court, identifying all parent companies, subsidiaries, and affiliates that have issued shares or debt securities to the public. In emergency or any other situations where filing the Disclosure Statement with the initial pleading, or other court paper, is impossible or impracticable, it shall be filed within seven days of the date of the original filing, or such other time as the court may direct. For the purposes of this rule, “affiliate” shall be a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the specified

entity; “parent” shall be an affiliate controlled by such entity directly, or indirectly through intermediaries; and “subsidiary” shall be an affiliate controlled by such entity directly, or indirectly through one or more intermediaries.

- (b) The purpose of this Disclosure Statement is to enable the judges of this court to determine the need for recusal pursuant to 28 U.S.C. §455 or otherwise. Counsel shall have the continuing obligation to amend the disclosure statement to reflect relevant changes.
- (c) The statement shall identify the represented entity’s general nature and purpose and if the entity is unincorporated, the statement shall include the names of any members of the entity that have issued shares or debt securities to the public. No such listing need be made, however, of the names of members of a trade association or professional association. For purposes of this rule, a “trade association” is a continuing association of numerous organizations or individuals operated for the purpose of promoting the general commercial, professional, legislative, or other interests of the membership. The form of the Disclosure Statement is set forth in Appendix A to these Rules.

### **LR5.1 Non-filing of Discovery Materials in Civil Cases**

Except as otherwise directed by a judge of the court:

- (a) Depositions in civil cases shall not be filed with the Clerk except as provided in subsections (c) and (e) of this Rule.
- (b) Other discovery materials in civil cases (including interrogatories, requests for production, requests for admission, and responses thereto, as well as notices of depositions and discovery subpoenas) shall be served in accordance with the Federal Rules of Civil Procedure, but shall not be filed with the Clerk except as provided in subsections (c) and (e) of this Rule.
- (c) Discovery materials in civil cases shall be filed with the Clerk
  - (1) when directed by a judge of the court; or
  - (2) when and to the extent needed by any party
    - (A) in connection with any motion or response thereto, or
    - (B) for use at trial.

A request to a custodian to file discovery materials (when the requesting party does not have the original or a copy of the materials so needed) shall specify the particular materials (or portions thereof) needed for such purposes, and the custodian shall file such materials promptly upon receiving the request.
- (d) Counsel noticing a deposition or responsible for serving other non-filed discovery materials shall act for the court as custodian of such deposition or discovery material; shall preserve the same for filing as provided in subsection (c); and shall provide to other counsel (and to any parties appearing without counsel) reasonable access to such materials and reasonable opportunity to duplicate the same at the expense of the copying party. Other persons may, with leave of court, obtain from the custodian a copy of non-filed discovery material upon payment of the reasonable expense of the copy.
- (e) The provisions of this Rule for non-filing of discovery materials and their retention by counsel as custodian do not apply
  - (1) to depositions noticed by, or discovery materials to be served by, litigants who are not represented by counsel, or

(2) in civil actions instituted by inmate plaintiffs challenging the conditions of confinement.

Nor do these provisions preclude the Clerk from receiving and docketing discovery materials on file when a case is removed or transferred from another court.

- (f) Unless otherwise directed by a judge of the court, depositions and other discovery materials, if filed with the Clerk, shall be disposed of as provided for exhibits in LR5.2(b) and, if not filed with the Clerk, may be disposed of by the custodian 30 days after final disposition of the case (including any appeal or the expiration of the time for any appeal).

### **LR5.2 Removal of Court Files and Exhibits**

Except as otherwise directed by a judge of the court:

- (a) Court files, and the papers and documents filed therein, may be removed from the Clerk's office only by a member of the bar of this court in person and only in accordance with the conditions specified in a written authorization therefor from a judge of the court.
- (b) After final disposition of a case, exhibits which were received in evidence in such case shall be withdrawn from the custody of the Clerk upon submission of a detailed receipt therefor by the party who offered the same in evidence (or by such other person as may be entitled thereto); and exhibits not so withdrawn within thirty (30) days after such final disposition may thereafter be destroyed or otherwise disposed of by the Clerk.

### **LR5.3 Filing of Documents by Electronic Means**

Documents may be filed, signed and verified by electronic means to the extent and in the manner authorized by the court's General Order regarding Electronic Case Filing Policies and Procedures.

### **LR5.4 Service of Documents by Electronic Means**

Documents may be served through the court's transmission facilities by electronic means to the extent and in the manner authorized by the court's General Order regarding Electronic Case Filing Policies and Procedures. Transmission by the Notice of Electronic Filing constitutes service the filed document upon each party in the case who is registered as a Filing User. Any other party or parties shall be served documents according to the Local Rules, the Federal Rules of Civil Procedure and the Federal Rules of Criminal Procedure.

### **LR16.1 Scheduling Orders; Alternative Dispute Resolution**

- (a) Magistrate Judges may enter and modify scheduling orders under Fed. R. Civ. P. 16(b) in cases assigned to them by consent under 28 U.S.C. 636(c) and in cases referred to them by a District Judge, except that a Magistrate Judge shall not change a scheduling order entered by a District Judge without the express permission of a district judge of the court.
- (b) Except as otherwise ordered by a judge of the court in a particular case, a scheduling order need not be entered in the categories of cases exempted under LR26.1(d)(1) from the requirement of a meeting of the parties.
- (c) A judge of the court may, in a scheduling order or by separate order, direct that the litigants engage in one or more procedures for alternative dispute resolution as authorized and provided in the ADR plan adopted by the court.

## **LR26.1 Disclosures; Discovery Limitations and Commencement; Meeting of Parties**

### **(a) Required Disclosures.**

- (1) Initial Disclosures. Except to the extent otherwise ordered, a party shall, without awaiting a discovery request:
  - (A) provide to other parties the name and, if known, the address and telephone number of each individual believed by it to have discoverable non-privileged personal knowledge concerning any significant factual issue specifically raised in the pleadings or identified by the parties in their report to the court under Fed. R. Civ. P. 26(f), appropriately indicating the subjects about which the person has such knowledge;
  - (B) make available to other parties for inspection and copying, as under Fed. R. Civ. P. 34, all documents, data compilations, and tangible things in its possession, custody, or control that may be used by it (other than solely for impeachment purposes) to support its contentions with respect to any significant factual issue in the case;
  - (C) provide to other parties a computation of any category of damages claimed by it, making available for inspection and copying, as under Fed. R. Civ. P. 34, the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered; and
  - (D) disclose to other parties the existence and extent of coverage of any insurance agreement under which any insurer may be liable to satisfy part or all of a judgment which may be entered against it in the action or to indemnify or reimburse it for payments made to satisfy the judgment. Unless otherwise ordered or stipulated, these disclosures shall be made at or within 20 days after the meeting of the parties under paragraph (d) of this rule. A party shall make its initial disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures. These disclosures are subject to a duty of supplementation, as provided in Fed. R. Civ. P. 26(e)(1), at least 30 days before the end of period allowed for discovery. Unless otherwise ordered by the court in a particular case, the requirements of this paragraph (a)(1) do not apply in the categories of cases exempted under paragraph (d)(1) of this rule from the requirement of a meeting of litigants or in cases brought as class actions under Fed. R. Civ. P. 23, and the parties may, by written stipulation, agree not to make the initial or supplemental disclosures or to modify the scope or timing of the disclosures.
- (2) Expert Testimony. Unless otherwise ordered by the court in a particular case, the requirements of Fed. R. Civ. P. 26(a)(2), relating to disclosure of expert testimony, do not apply in cases initially filed in, removed to, or transferred to this court before December 1, 1993, and by written stipulation the parties may agree to other times for providing information about expert testimony, to exempt one or

more experts from the requirement of a written report, or to modify the information to be contained in the written reports. Unless otherwise ordered by the court in a particular case, the plaintiff shall make its disclosures under Rule 26(a)(2) at least 90 days before the date the case is set for trial or to be ready for trial and the defendant shall make its disclosures under Rule 26(a)(2) within 30 days after the plaintiff's disclosures.

(3) Pretrial Disclosures. Unless otherwise ordered by the court in a particular case, the requirements of Fed. R. Civ. P. 26(a)(3), relating to final pretrial disclosure, do not apply in cases set for trial before February 1, 1994.

(4) Filing. Except as otherwise ordered by the court in a particular case, disclosures under paragraph (a)(3) of this rule shall be filed with the court promptly after being served, but disclosures under paragraphs (a)(1) and (a)(2) of this rule shall be filed only when, and to the extent, ordered by the court or needed by a party in connection with a motion (or response thereto) or for use at trial.

(b) Limits on Formal Discovery.

(1) Formal discovery under Fed. R. Civ. P. 30-36 is permissible in the following types of cases -- if initially filed in, removed to, or transferred to this court after December 1, 1993 -- only with prior approval of a judge of the court or upon the written stipulation of the parties:

Bankruptcy Appeals and Withdrawals (NOS: 422-23)

Condemnation Actions (NOS: 210)

Deportation Actions (NOS: 460)

Equal Access to Justice -- Fee Award Appeals (NOS: 900)

Forfeiture and statutory penalty actions (NOS: 610-690)

Freedom of Information actions (NOS: 895)

Government collection actions (NOS: 151-153)

Judgments -- actions to enforce or register (NOS: 150)

Prisoner actions to vacate sentence, for habeas corpus, or for mandamus (NOS: 510-40)

Selective Service actions (NOS: 810)

Social Security reviews (NOS: 861-65)

Summons/subpoenas -- proceedings to enforce/contest government summons and private party depositions

Third-party IRS tax actions (NOS: 871)

(2) Unless a different number is fixed by court order or by the parties' stipulation, the maximum number of interrogatories (including all discrete subparts) that one party may serve on another party is 25, and the maximum number of depositions (whether on oral examination or written questions) that may be taken by the plaintiff(s), by the defendant(s), or by the third-party defendant(s) is 10. Absent a court order, however, there is no limitation on the number of interrogatories or depositions in:

(A) cases brought as class actions under Fed. R. Civ. P. 23;

(B) cases filed in, removed to, or transferred to this court before December 1, 1993; or

(C) cases transferred to this court under 28 U.S.C. 1407, or joined with cases so transferred.

- (c) Commencement of Discovery. Except as otherwise stipulated in writing by the parties or ordered by the court in a particular case:
- (1) formal discovery under Fed. R. Civ. P. 30, 31, 33, and 36 may not be commenced before the meeting of the parties under Fed. R. Civ. P. 26(f) except in the following cases:
    - (A) cases exempted under paragraph (d)(1) from the requirement of a meeting of the parties;
    - (B) cases in which a temporary restraining order or preliminary injunction is sought; and
    - (C) cases in which discovery is needed to resolve a preliminary motion such as an objection to personal jurisdiction or venue; and
  - (2) a request for production under Fed. R. Civ. P. 34 may not be commenced before the requesting party and the party to whom the request is directed have appeared in the case.
- (d) Meeting of Parties. Unless otherwise ordered by the court in a particular case, the provisions of Fed. R. Civ. P. 26(f), requiring a meeting of and report from the parties, apply to all civil actions in this court, subject to the following modifications:
- (1) Unless otherwise ordered by the court in a particular case, the requirement of a meeting and report does not apply in:
    - (A) cases filed in, removed to, or transferred to this court before December 1, 1993;
    - (B) cases in which, under paragraph (b)(1) of this rule, discovery is permitted only with prior approval of a judge of the court;
    - (C) cases instituted pro se by prisoners;
    - (D) cases consolidated with a case in which the parties have met as provided in this paragraph (d) or in which a scheduling order under Fed. R. Civ. P. 16(b) has been entered; and
    - (E) cases transferred to this court under 28 U.S.C. 1407 or consolidated with cases so transferred, and cases subject to potential transfer to another court under 28 U.S.C. 1407 pursuant to a motion pending before the Judicial Panel on Multidistrict Litigation or a conditional transfer order entered by that Panel.
  - (2) Unless otherwise ordered by the court in a particular case, the meeting must be held within 45 days from the first appearance of a defendant and at least 14 days before any scheduling conference set by the court under Fed. R. Civ. P. 16(b).
  - (3) Unless otherwise ordered by the court in a particular case, the parties may, if the offices of their principal counsel are not within 100 miles of one another, agree to conduct the meeting by telephone.
  - (4) The report by the parties to the court shall substantially conform to the format indicated in Form 35 contained in the Appendix to the Fed. R. Civ. P., also including, however, a statement as to when the information specified in paragraph (a)(1) of this rule was or will be provided.

#### **LR47.1 Juror Interrogation**

Communications with a juror concerning a case on which such person has served as a juror or alternate juror shall not, without prior express approval of a judge of this court, be initiated by

any attorney, party, or representative of either, prior to the day following such person's release from jury service for such term of court.

#### **LR54.1 Costs**

Requests for taxation of costs (other than attorneys' fees) under Fed. R. Civ. P. 54(d) shall be filed with the Clerk within 20 days after entry of judgment.

#### **LR58.1 Payment of Judgments**

Except as otherwise directed by a judge of the court, there shall be added to each money judgment recovered in this court, including those entered on the minutes by the Clerk upon the verdict of a jury, the following language (or the equivalent thereof as adapted to the nature of the judgment):

"It is further ORDERED by the court that payment of the proceeds of the judgment and costs herein may be made directly to the attorneys of record for the plaintiff and that, upon receipt thereof, such attorneys will satisfy said judgment on the records of this court."

#### **LR72.1 References to Magistrate Judges**

(a) Nondispositive Matters. A magistrate judge of the court may be designated to hear and determine any pretrial matter pending before the court other than matters specified in subsection (b). Pretrial matters which may be referred to a magistrate judge under this subsection shall include (but not be limited to) the following:

(1) Criminal Proceedings.

- (A) General supervision of the criminal calendar, including calendar calls and motions to expedite or postpone the trial of cases.
- (B) Hearing and deciding procedural and discovery motions.
- (C) Hearing and deciding motions by the government to dismiss an indictment or information without prejudice to further proceedings, and any other motion or pretrial matter which is not specifically enumerated as an exception in 28 U.S.C. 636(b)(1)(A).
- (D) Issuance of subpoenas, writs of habeas corpus ad testificandum or ad prosequendum, or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings.
- (E) Conduct of pretrial conferences, omnibus hearings, and related proceedings.
- (F) Conduct of initial appearances and arraignments, acceptance of not guilty pleas, and the ordering of a presentence report on a defendant who consents thereto or signifies the desire to plead guilty.

(2) Civil Proceedings.

- (A) General supervision of the civil calendar, including the handling of calendar calls and motions to expedite or postpone the trial of cases.
- (B) Hearing and determining pretrial procedural and discovery motions, and other motions or pretrial matters which are not specifically enumerated as an exception in 28 U.S.C. 636(b)(1)(A).

- (C) Issuance of subpoenas, writs of habeas corpus ad testificandum or ad prosequendum, or other orders necessary to obtain the presence of parties or witnesses or evidence needed for court proceedings.
  - (D) Issuance of scheduling orders as provided Fed. R. Civ. P. 16(b), except that a magistrate judge shall not change any scheduling order entered by a district judge without the express permission of a district judge of the court.
  - (E) Conduct of preliminary and final pretrial conferences, status calls, and settlement conferences, including the preparation of a pretrial order following the conclusion of the final pretrial conference.
- (a) Decisions of the magistrate judge under this subsection shall be final, subject only to a right of review by the district judge in accord with the provisions of Fed. R. Civ. P. 72(a).
- (b) Dispositive Matters. A magistrate judge may be designated to review and consider, to conduct hearings (including evidentiary hearings), and to submit proposed findings of fact, conclusions of law, and recommendations for the disposition by the district judge of any of the following dispositive matters:
- (1) Criminal Proceedings.
    - (A) Motions to dismiss or quash an indictment or information made by the defendant in a criminal case.
    - (B) Motions to suppress evidence or for the return of seized property.
    - (C) Applications to revoke probation or supervised release (including the conduct of the "final" revocation hearing).
  - (2) Judicial Review of Administrative Proceedings.
    - (A) Decisions regarding benefits under the Social Security Act, the "Black Lung" benefits laws, and other similar statutes.
    - (B) Administrative awards or denials of licenses or similar privileges.
    - (C) Decisions by the Civil Service Commission or other appropriate agency in federal employee matters.
  - (3) Prisoner Petitions.
    - (A) Habeas corpus petitions filed by state prisoners under 28 U.S.C. 2254 or by federal prisoners under 28 U.S.C. 2241. In connection with such matters, the magistrate judge is expressly authorized to issue orders to show cause and other necessary orders or writs to obtain a complete record.
    - (B) Motions filed by federal prisoners for the correction or reduction of sentence under Fed. R. Crim. P. 35 or to vacate a conviction or sentence under 28 U.S.C. 2255.
    - (C) Petitions for writs of error coram nobis, mandamus, prohibition, and other relief under the All Writs Act (28 U.S.C. 1651) by federal prisoners or persons convicted of federal offenses.
    - (D) Original complaints by prisoners or detainees for the deprivation of constitutional rights. In connection with such matters, the magistrate judge is expressly authorized to take on-site depositions; gather evidence; conduct pretrial conferences; serve as a mediator at the holding facility; and conduct periodic reviews to insure compliance with previous orders of the court regarding conditions of confinement. The



magistrate judge is expressly authorized to conduct evidentiary hearings, including hearings on the ultimate issue of liability and relief.

- (4) Other Civil Proceedings.
  - (A) Motions for injunctive relief (temporary restraining orders and preliminary injunctions).
  - (B) Motions to dismiss for failure to state a claim upon which relief may be granted.
  - (C) Motions to involuntarily dismiss an action (and the review of default judgments).
  - (D) Motions to dismiss or to permit the maintenance of a class action.
  - (E) Motions for judgment on the pleadings or for summary judgment.
- (c) The procedure to be followed upon a reference under this subsection (b) shall be as specified in Fed. R. Civ. P. 72(b).
- (d) Order of Reference. Every reference of a matter to a magistrate judge under this rule, if not pursuant to a general order of reference with regard to a particular class or category of matters or cases, shall be by order signed by a district judge. The clerk shall serve notice of each reference made under this rule, other than those made by general order, upon all parties to the action.

#### **LR72.2 Designation of Magistrate Judge as Special Master**

A magistrate judge may by special order be designated to serve as a special master pursuant to the applicable provisions of law and Fed. R. Civ. P. 53 in the following circumstances:

- (a) In cases brought under the Civil Rights Act of 1964 if a district judge has not scheduled the case for trial within 120 days after issue has been joined, as authorized under 42 U.S.C. 2000e-5(f)(5).
- (b) In patent, antitrust, and other complex cases where there are a great many issues, claims, and documents, or in multiple disaster and class action cases where there are numerous claimants and diverse claims.
- (c) To determine compensation and assess damages in land condemnation cases as a Commissioner under Fed. R. Civ. P. 71A(h).
- (d) For the assessment of damages, such as in admiralty cases, and for the determination of attorney's fees under LR54.1.
- (e) When otherwise permitted by Fed. R. Civ. P. 53.

#### **LR72.3 Assignment of Additional Duties to Magistrate Judges**

A magistrate judge may be assigned such additional duties as are not inconsistent with the Constitution or laws of the United States. A formal order of reference shall not be necessary to implement an assignment of any of the duties hereafter enumerated. Such additional duties may include (but shall not be limited to) the following:

- (a) Receipt of grand jury returns, in accordance with Fed. R. Crim. P. 6(f).
- (b) Exoneration or forfeiture of bonds.
- (c) Service as a member of the court's Speedy Trial Act Planning Group, including service as the reporter.
- (d) Review of petitions in civil commitment proceedings under Title III of the Narcotic Addict Rehabilitation Act.
- (e) Disposition of civil violations under the Federal Boat Safety Act.

- (f) With consent of all the parties, the selection of a jury for the trial of a civil case.
- (g) With consent of all the parties, acceptance of petit jury verdicts in civil cases.
- (h) Supervision of proceedings on requests for letters rogatory in civil and criminal cases, provided that a special designation has been made by the district court as required under 28 U.S.C. 1782(a).
- (i) Examining judgment debtors under Fed. R. Civ. P. 69.
- (j) Review of default judgments and conduct of inquests on damages in cases involving default judgments.
- (k) Coordination of the court's efforts in such fields as the promulgation of local rules and procedures and the administration of the forfeiture of collateral system.
- (l) Conduct of proceedings under the Federal Debt Collection Procedures Act of 1990.

#### **LR72.4 Additional Powers and Duties of Magistrate Judges**

Each magistrate judge serving in the court shall have within the territorial jurisdiction prescribed by his or her appointment all powers and duties conferred or imposed upon United States magistrate judges by law or by the Federal Rules of Criminal Procedure. Such duties shall include (but not be limited to) the following:

- (a) Accepting complaints, finding probable cause and issuing appropriate arrest warrants or summonses for the named defendants under Fed. R. Crim. P. 4.
- (b) Issuance of search warrants upon a determination that probable cause for the warrants exists under Fed. R. Crim. P. 41.
- (c) Conduct of initial appearance proceedings for defendants, informing them of their rights, admitting them to bail, and imposing conditions of release under Fed. R. Crim. P. 5 and 18 U.S.C. 3146, and conduct of preliminary hearings under Fed. R. Crim. P. 32.1 when a person is in custody for violating a condition of probation or supervised release.
- (d) Appointment of attorneys for indigent defendants, together with the administration of the court's Criminal Justice Act Plan, the maintenance of a register of eligible attorneys, and the approval of attorneys' expense vouchers in appropriate cases.
- (e) Conduct of full preliminary examinations under Fed. R. Crim. P. 5.1 and 18 U.S.C. 3060.
- (f) Conduct of removal hearings for defendants charged in other districts and issuance of warrants of removal under Fed. R. Crim. P. 40.
- (g) Administering oaths and taking bail, acknowledgements, affidavits, and depositions.
- (h) Setting bail for material witnesses.
- (i) Upon special designation by the district court, the conduct of extradition proceedings.
- (j) Holding to security of the peace and for good behavior under 18 U.S.C. 3043.
- (k) Discharge of indigent prisoners or persons imprisoned for debt under process of execution issued by a federal court under 18 U.S.C. 3569 and 28 U.S.C. 2007.
- (l) Issuance of an attachment or order to enforce obedience to an Internal Revenue Service summons to produce records or give testimony under 26 U.S.C. 7604(b).
- (m) Issuance of administrative inspection warrants.
- (n) Instituting proceedings against persons violating certain civil rights statutes under 42 U.S.C. 1987.
- (o) Settling or certifying the nonpayment of seamen's wages under 46 U.S.C. 603.
- (p) Enforcing awards of foreign consuls in differences between captains and crews of vessels of the consul's nation under 22 U.S.C. 258(a).

- (q) Issuance of writs authorizing levy, entry, search, and seizure by the Internal Revenue Service requested pursuant to 26 U.S.C. 6331 upon a determination of probable cause.
- (r) Issuance of warrants of seizure requested by the government pursuant to 18 U.S.C. 981(b) and 21 U.S.C. 881(b).
- (s) Verifying consents by offenders to transfer from the United States pursuant to 18 U.S.C. 4107, and, when so assigned, performing (including performance beyond the territorial limits of the United States) the verification required by 18 U.S.C. 4108 and the appointment of counsel authorized by 18 U.S.C. 4109.

### **LR73.1 Designation of Magistrate Judge to Conduct Misdemeanor Trials**

- (a) Jurisdiction. A district judge may designate any full-time magistrate judge to try persons accused of, and to sentence persons convicted of, misdemeanors and other petty offenses committed within this district in accord with 18 U.S.C. 3401.
- (b) Procedures. Preliminary proceedings, trials, and appeals of misdemeanors and other petty offenses shall be governed by the provisions of 18 U.S.C. 3401 and 3402 and Fed. R. Crim. P. 58.
- (c) Appeal from Magistrate Judge. On an appeal from a decision, order, judgment, or sentence by a magistrate judge:
  - (1) The clerk shall require a filing fee of \$25.00 to be paid at the time the notice of appeal is filed unless a magistrate judge or district judge permits the defendant to file and proceed on appeal as a pauper.
  - (2) The record on appeal shall be as defined in Fed. R. Crim. P. 58(g)(2)(C). Promptly after a statement of appeal is filed, the clerk shall forward the record to the district judge, and notify the parties. A copy of the record shall be furnished to the defendant only if requested and, unless the defendant is allowed to proceed as a pauper, only after making payment therefor.
  - (3) The appellant shall served and file a brief within 30 days after notice that the record has been forwarded to the district judge; any brief by the appellee shall be served and filed within 30 days after service of the appellant's brief; and any reply brief by the appellant shall be served and filed within 14 days after service of the appellee's brief. If the appellant fails to file its initial brief within the time provided in this subsection, the appeal may be dismissed by the court on its own initiative or on motion by the appellee.

### **LR73.2 Conduct of Civil Trials by Magistrate Judges**

Subject to the limitations hereinafter stated, and upon the consent of the parties, a full-time magistrate judge who has been specially designated to exercise such jurisdiction may conduct any or all proceedings in a civil case, including the conduct of jury or nonjury trials and the entry of a final judgment, as provided by 28 U.S.C. 636(c).

- (a) At the time a civil case is filed, the clerk shall provide to the plaintiff (with extra copies for service on the defendants with the complaint) written notice of the availability of a magistrate judge to exercise the court's jurisdiction with respect to such case, including a form on which a party may signify its consent to this jurisdiction. In removed cases, this notice shall be provided to the removing party, with copies for service on other parties. The notice shall be in a form approved by the court and shall also advise the parties of the opportunity to consent that any appeals be taken to the district court.

- (b) Each party who consents to exercise of the court's jurisdiction by a magistrate judge shall indicate that consent by filing with the clerk the appropriate form. Parties shall not communicate their consent, or withholding of consent, directly to a district judge or a magistrate judge. Consent to the exercise of the court's jurisdiction by a magistrate judge does not waive a party's objection to any jurisdiction being exercised by the court over it.
- (c) If, within 90 days after a civil case is filed or removed, all parties have submitted to the clerk their consent to the exercise of jurisdiction by a magistrate judge, their consents will be filed and docketed and the clerk will reassign the case to a magistrate judge selected at random from among the available magistrate judges, giving notice thereof to the affected judges and to the parties. After that time, a case may be reassigned under this rule to a magistrate judge only with the express permission of the district judge to whom the case is assigned.
- (d) Appeals from a judgment entered by a magistrate judge shall be to the court of appeals unless the parties have agreed, pursuant to 28 U.S.C. 636(c)(4) and Fed. R. Civ. P. 73(d), that appeals are to be made to a district judge, in which event the provisions of Fed. R. Civ. P. 74 and 75 shall govern such appeals.
- (e) If any party withholds its consent to the exercise of jurisdiction by a magistrate judge, the identity of the parties who consented or of those who withheld their consent shall not be disclosed to the district judge or to a magistrate judge. A district judge or magistrate judge may thereafter remind the parties of the availability of a magistrate judge, but, in so doing, shall also advise them that they are free to withhold their consent without adverse substantive consequences.
- (f) A district judge may, for good cause on his or her own initiative or under extraordinary circumstances shown by any party, vacate the assignment of a case to a magistrate judge.
- (g) Depending on workloads of the magistrate judges, the court may from time to time suspend the operation of this rule or temporarily withdraw the designation of a magistrate judge as available to exercise the jurisdiction of the court.

#### **LR81.1 Proceedings to Compel Testimony or Production**

Proceedings to compel the giving of testimony or the production of documents in accordance with a subpoena issued by an officer or agency of the United States under any statute of the United States shall be conducted in the following manner except to the extent otherwise required by statute or, for good cause shown, ordered by a judge of the court:

- (a) The pleading filed to commence such proceeding, however labeled, shall be treated as a petition for an order to show cause, if any there be, why the relief requested therein should not be granted. Affidavits under Fed. R. Civ. P. 56(e) may be attached to the petition. A copy of the petition and any attachments thereto, together with a copy of the show cause order, shall be served on the defendant(s) in accordance with Fed. R. Civ. P. 4.
- (b) Within the time specified in the show cause order (as may be extended by the court), each defendant shall serve an answer to the petition which shall consolidate all defensive matters, in law or in fact, including those which may be made by motion. Affidavits under Fed. R. Civ. P. 56(e) may be attached to the answer.
- (c) Upon filing of the answer(s), the case shall be deemed (without necessity for separate motions) to be tendered to the court on cross-motions for judgment on the pleadings or

for summary judgment under Fed. R. Civ. P. 12(c) and 56. If not disposed of under Rule 12(c) or 56, the case shall be expeditiously set for hearing.

- (d) Except as otherwise permitted by a judge of the court for good cause shown, Fed. R. Civ. P. 26-37 are inapplicable to such proceedings.

### **LR83.1 Attorneys**

- (a) Bar of Court. The bar of this court consists of those persons previously admitted to (and not removed from) the bar of this court and of those persons who hereafter are admitted under this Rule.
- (1) Any attorney who is admitted to practice before the Supreme Court of Alabama and who resides in Alabama or regularly engages in the practice of law in Alabama may be admitted to the bar of this court upon the submission of an application, payment of the prescribed fee, and
    - (A) the order of a judge of this court (on oral or written motion by a member of the bar of this court or on the court's own motion), and the administering of the prescribed oath before any judge (or other designee) of this court; or
    - (B) the filing of a certificate of good standing from the Clerk of the United States District Court located within the State of Alabama for the district in which the applicant resides or regularly practices law.
  - (2) By January 1, 1992 (and annually thereafter by the 1st day of January of each succeeding year), all attorneys whose status as members of the bar of this court shall not have been renewed during the preceding five years shall submit to the Clerk a statement respecting their eligibility to remain as members of the bar in good standing, together with the renewal fee prescribed by the court. Attorneys failing to submit such statement and renewal fee within 60 days from the date due shall cease to be members in good standing until such statement and renewal fee are submitted.
- (b) Appearance Pro Hac Vice. Any attorney who is not a member of the bar of this court but who is admitted to practice before the United States District Court for the district in which (or before the highest court in the state in which) such person resides or regularly practices law, may, upon request and payment of the prescribed fee (unless payment is waived by special order of the court), be allowed to appear in a case pro hac vice by an order of any district judge or bankruptcy judge of this court. Any such attorney who appears as counsel by filing any pleading or paper in any case pending in this court shall within ten days thereafter apply to appear pro hac vice as set out herein. An attorney permitted to appear under this subsection is deemed to have conferred disciplinary jurisdiction upon this court for any alleged misconduct arising in the course of, or in preparation for, proceedings in the case; and for purposes of subsection (h) of this Rule the attorney shall be treated as if a member of the bar of this court with respect to acts and conduct in connection with such case.
- (c) Appearance on behalf of United States. Any attorney representing the United States or any agency thereof, having the authority of the government to appear as its counsel, may appear specially and be heard in any case in which the government or such agency is a party, without formal or general admission. An attorney permitted to appear under this subsection is deemed to have conferred disciplinary jurisdiction upon this court for any

alleged misconduct arising in the course of, or in preparation for, proceedings in the case, and for purposes of subsection (h) of this Rule the attorney shall be treated as if a member of the bar of this court with respect to acts and conduct in connection with such case.

- (d) **By Whom Parties May Appear.** In all cases filed in or removed to this court, a party may appear and be represented of record only by a member of the bar of this court, by an attorney permitted to appear pursuant to subsection (b) or (c) of this Rule, or, if an individual, by himself or herself pro se.
- (e) **Continuing Representation.** Unless disbarred or suspended, attorneys shall be held at all times to represent the parties for whom they appear of record in the first instance until, after formal motion and notice to such parties and to opposing counsel, they are permitted by order of court to withdraw from such representation. The court may, however, without formal motion and notice, permit withdrawal for good cause shown or if other counsel have entered an appearance for the party.
- (f) **Standards for Professional Conduct; Obligations.** Each attorney who is admitted to the bar of this court or who appears in this court pursuant to subsection (b) or (c) of this Rule is required to be familiar with, and shall be governed by, the Local Rules of this court and, to the extent not inconsistent with the preceding, the Alabama Rules of Professional Conduct adopted by the Alabama Supreme Court and, to the extent not inconsistent with the preceding, the American Bar Association Model Rules of Professional Conduct, except Rule 3.8(f) thereof. Acts and omissions by any such attorney which violate such standards, individually or in concert with any other persons, shall constitute misconduct, whether or not occurring in the course of an attorney-client relationship, and shall be grounds for discipline, as shall the commission by an attorney of any serious crime. Discipline under this Rule may consist of disbarment, suspension, censure, reprimand, removal from a particular case, ineligibility for appointment as court-appointed counsel, ineligibility to appear under subsections (b) and (c), monetary sanctions, or any other sanction the court may deem appropriate.

An attorney admitted to the bar of this court, or who appears in this court pursuant to subsection (b) or (c) of this Rule, shall promptly notify the Clerk of this court upon (i) being disbarred, suspended, or publicly disciplined by another court or disciplinary authority, (ii) resigning from another bar while an investigation into allegations of misconduct is pending, or (iii) being convicted by any court of any serious crime.

- (g) **Grievance Committee.** The court shall from time to time appoint members of the bar of the court to its "Grievance Committee." The court shall designate one of the members to serve as Chairman. Any three or more members of the committee may act on behalf of the committee when so designated by the Chairman.

- (1) **Purpose and Function.** The purpose and function of the Grievance Committee is to conduct, upon referral by the court or a judge thereof, inquiries and investigations with respect to alleged misconduct or commission of a serious crime by an attorney or with respect to reinstatement of an attorney; to conduct and preside over disciplinary hearings; to consider, upon referral by the court or a judge thereof, matters relating to possible incompetency, incapacity, or impairment of an attorney; and to submit written findings and recommendations to the court or referring judge for appropriate action. The Committee shall not

initiate an investigation or conduct hearings without prior referral by the court or a judge thereof.

- (2) Powers of Committee. In addition to powers described elsewhere in this Rule, the Grievance Committee shall be vested with such powers as are necessary to conduct the proper and expeditious disposition of any matter referred to it, including the power to compel the attendance of witnesses, to take or cause to be taken the deposition of any witnesses, and to order the production of books, records, or other documentary evidence. The Chairman or, in the Chairman's absence, any member of the Committee has the power to administer oaths and affirmations to witnesses, which oath or affirmation shall include the obligation not to disclose the existence of the proceedings or the identity of the attorney involved unless and until such proceedings are authorized by the court to be made public.
  - (3) Special Counsel. The Grievance Committee may request the court to appoint special counsel to investigate or assist in any investigation or in the conduct of any hearing authorized under this Rule.
  - (4) Immunities. The members of the Grievance Committee and any person acting as special counsel for the Committee under paragraph (3) shall, with respect to their actions in such capacities, be considered as representatives of, and acting under the powers and immunities of, the court and shall enjoy all such immunities while acting in good faith and in their official capacities.
  - (5) Confidentiality. All complaints, referrals, orders, and proceedings before, and reports, of the Grievance Committee shall be confidential except as provided in this Rule or until otherwise directed by the court.
- (h) Discipline.
- (1) Misconduct. The court or a judge thereof may refer to the Grievance Committee any accusation or evidence of misconduct by a member of the bar of this court for such investigation, hearing, and report as may be appropriate.
    - (A) Any matter referred to the Committee may, in its discretion, be further referred by it to an appropriate committee or official of the Alabama State Bar either for preliminary investigation or for conduct of such proceedings as may be appropriate.
    - (B) If after its preliminary investigation and review the Committee concludes that a formal disciplinary proceeding should not be initiated against an attorney because of the insufficiency of evidence, because of the insubstantial nature of the conduct involved, because of the pendency of another proceeding against the attorney the disposition of which should be awaited before further action is considered, because of other disciplinary or corrective action already taken, or for any other valid reason, the Committee shall file with the court a recommendation for disposition of the matter, whether by dismissal, deferral, or other action, setting forth the reasons therefor. If the matter is dismissed or deferred, the attorney who is the subject of the investigation need not be notified that a complaint has been submitted or of its ultimate disposition.

- (C) If from its preliminary investigation the Committee concludes that a formal proceeding should be initiated, the Committee shall file with the court a written report of its investigation, together with a proposed order for entry by a judge of the court setting forth the particular conduct on the basis of which the attorney is believed to be subject to discipline and requiring the attorney to show cause to the Committee in writing within 20 days after service of that order why he or she should not be disciplined. A copy of the report shall be served on the attorney along with the show cause order. If requested by the attorney in a timely response, the matter shall, upon at least 10 days' notice, be set for hearing before the Committee, at which time the attorney shall have the right to be present at the taking of testimony, to present witnesses and other evidence, to cross examine witnesses, and to be represented by counsel. All testimony presented before the Committee shall be transcribed, and the accused attorney shall be entitled to a copy thereof at his or her own cost. Proceedings before the Committee shall be guided by the spirit of the Federal Rules of Evidence, but the Committee may receive and consider hearsay evidence that it finds to be reliable and trustworthy. Unless the attorney asserts a privilege or right properly available under applicable federal or state law, the attorney may be called as a witness by the Committee to make specific and complete disclosure of all matters material to the charge of misconduct. If the attorney does not respond to the show cause order, does not timely request a hearing, or agrees to the matters asserted, the Committee may take summary action, reporting its recommendations forthwith to the court.
- (D) Upon completion of a disciplinary proceeding the Committee shall make a full written report to the court, containing its findings of fact as to the charges, its recommendations as to whether or not the attorney should be found guilty of misconduct justifying disciplinary action, and its recommendations as to any disciplinary measures that should be imposed by the court. The report shall be accompanied by a transcript of any proceedings before the Committee, all pleadings, and all evidentiary exhibits. A copy of the report shall also be furnished to the attorney.
- (E) Upon receiving a report by the Committee finding that misconduct occurred and recommending disciplinary action, the court shall issue an order requiring the attorney to show cause in writing why the Committee's recommendation should not be adopted by the court. After considering the attorney's response, the court, by a majority vote of the active judges thereof, may adopt, modify, or reject the Committee's findings with respect to misconduct, and may impose the sanctions recommended by the Committee or other penalties deemed appropriate under the circumstances.
- (F) In lieu of, or in addition to, referring a matter involving possible misconduct to the Grievance Committee, the court or a judge thereof may refer such matter to any other court or to any professional



disciplinary agency for such investigation and action as that court or agency may deem appropriate.

(2) Commission of Serious Crime.

- (A) If a member of the bar of this court is convicted in any court of any serious crime, whether resulting from a plea of guilty, nolo contendere, verdict after trial, or otherwise, and regardless of the pendency of any appeal, the court shall enter an order directing that within 20 days after service of the order (or, if longer, the resolution of any appeal from such conviction) the attorney show cause to the court in writing why he or she should not be disbarred. As part of the order the attorney shall be immediately suspended pending the resolution of the show cause order; provided that the court may vacate such suspension when it appears in the interest of justice to do so.
- (B) In lieu of proceeding under subparagraph (A), the court, or a judge thereof, may refer an accusation or evidence that a member of the bar has committed a serious crime to the Grievance Committee for investigation, hearing, and report as under paragraph (1). If a final judgment of conviction has been entered, the referral shall be made by issuance of a show cause order as under paragraph (1)(C), in which the sole issue to be determined by the Committee is the extent of discipline that should be recommended.
- (C) The term "serious crime" means any felony, as well as any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction in which it was entered, involves false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, or an attempt, conspiracy, or solicitation of another to commit a "serious crime."
- (D) A certified copy of a final judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime for purposes of discipline under this Rule. If a conviction is reversed, any suspension imposed under subparagraph (A) shall be vacated, but disciplinary proceedings may be commenced or proceed under subparagraph (B), in which event the Committee shall also determine and report its findings as to whether the attorney committed the crime.

(3) Discipline Imposed By Other Courts and Disciplinary Authorities.

- (A) If a member of the bar of this court is suspended, disbarred, transferred to inactive status, or otherwise publicly disciplined by another court or disciplinary authority, this court may enter an order directing that within 20 days after service of that order the attorney show cause to this court in writing why, for any of the grounds set forth in subparagraph (C) hereof, the imposition of appropriate disciplinary action as stated therein (which, except for monetary sanctions, shall ordinarily be substantially identical to that imposed by such other court or disciplinary authority) would be unwarranted. As part of the order the court may direct that the attorney be suspended pending the resolution of such inquiry. Sanctions under Federal Rule of Civil Procedure 11 and similar rules do not

constitute, for purposes of this paragraph and subsection (f), public discipline unless the sanction is disbarment or suspension.

- (B) If the discipline imposed in the other jurisdiction has been stayed, any reciprocal disciplinary proceedings instituted or discipline imposed in this court shall be deferred until such stay expires.
- (C) This court shall impose the disciplinary action stated in the order unless in the response the attorney clearly demonstrates to the court that:
  - i. the procedure in the other jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;
  - ii. there was such an infirmity of proof establishing misconduct that the court should not accept as final the conclusions of the other jurisdiction;
  - iii. the imposition of the disciplinary action stated in the order would result in grave injustice; or
  - iv. the misconduct is deemed by this court to warrant substantially different discipline from that stated in the order.

Unless this court determines that element (i) or (ii) exists--in which event it shall enter such order as it deems appropriate--a final determination by another court or disciplinary authority that an attorney has been guilty of misconduct shall establish conclusively the misconduct for purpose of proceedings in this court.

- (D) If an attorney has consented to disbarment by another bar, or has resigned from another bar while an investigation into allegations of misconduct was pending, the court may, in lieu of the other procedures of this paragraph (3), order that the attorney be forthwith disbarred and removed from the bar of this court.
  - (E) In lieu of the procedures set forth in this paragraph (3), this court may at any stage ask the Grievance Committee to conduct disciplinary proceedings under paragraph (1) or to make recommendations to the court for appropriate action in light of the discipline imposed by another court or disciplinary authority.
- (4) Disbarment on Consent While Under Disciplinary Investigation or Prosecution. A member of the bar of this court who is the subject of an investigation or a pending proceeding involving allegations of misconduct may consent to disbarment or removal from the bar of this court, but only by delivering to this court an affidavit stating that the attorney desires to consent to disbarment or removal and that:
- (A) the consent is knowingly, freely, and voluntarily rendered, without coercion or duress; and
  - (B) the attorney is aware that there is a presently pending investigation or proceeding involving allegations of misconduct and acknowledges either that the material facts so alleged are true or that, upon prosecution of the charges relating to the matters under investigation, the attorney could not successfully defend himself or herself.

Upon receipt of the required affidavit, this court shall enter an order disbaring or removing the attorney from the bar of this court. The order shall be a matter of

public record. However, the affidavit required pursuant to this paragraph shall not be publicly disclosed or made available for use in any other proceeding except upon order of this court.

- (5) Service of Papers and Other Notices. Service of an order to show cause instituting, or in furtherance of, formal disciplinary proceeding shall be made by personal service or by registered or certified mail addressed to the affected attorney at the last address provided by such person to the court. Service of any other papers or notices required by this Rule shall be deemed to have been made if such paper or notice is mailed to the attorney at such address or to the person's attorney at the address indicated in the most recent pleading or document filed by them in the course of any proceeding under this Rule.

- (6) Duties of the Clerk.

(C) Upon being informed that an attorney who is a member of the bar of this court has been convicted of any serious crime or has been disbarred, suspended, or publicly disciplined by another court or disciplinary authority, the Clerk of this court shall promptly obtain and submit to the court a certified or exemplified copy of the conviction or disciplinary judgment or order.

(D) Whenever any attorney has been convicted in this court of any serious crime or has been disbarred, suspended, censured, or otherwise publicly disciplined by this court, the Clerk of this court shall, within ten days thereafter, transmit a certified or exemplified copy of the conviction or of the order of disbarment, suspension, censure, or disciplinary action (i) to the National Discipline Bank operated by the American Bar Association and (ii) to any jurisdiction or court which, to the Clerk's knowledge, has previously admitted such person to the practice of law.

- (i) Incompetency, Incapacity, Disability, Impairment. If it appears that a member of the bar of this court has demonstrated a lack of competency to represent clients adequately in proceedings before this court or may be physically, mentally, emotionally, or psychologically incapacitated, disabled, or impaired, whether by addiction to or abuse of drugs or alcohol or for other reason, in a manner that jeopardizes the attorney's ability to represent clients adequately in such proceedings, the court or a judge thereof may refer the matter to the Grievance Committee for appropriate inquiry, investigation, counseling, and report. The availability of this procedure shall not preclude the court from acting under subsection (h) with respect to misconduct, notwithstanding such misconduct may have been the result of, or attributable to, incompetency, incapacity, disability, or impairment.

- (1) Nature of referral. A referral under this subsection is not considered as a disciplinary matter and does not implicate the formal procedures described in subsection (h). Upon receiving the referral, the Committee shall, if feasible, seek to meet informally with the attorney, explain the nature of the inquiry and the circumstances giving rise to the referral, and consider the comments and explanations of the attorney. The Committee shall then conduct such further inquiry and investigation as is needed to determine whether such incompetency, incapacity, disability, or impairment exists and, if so, what remedial actions could be taken to correct such condition.

- (2) Determination of Competency. If the Committee determines that incompetency, incapacity, disability, or impairment does not exist to the extent of jeopardizing adequate representation of clients by the attorney, it shall so advise the court and the attorney, and the inquiry shall be considered closed. Such a resolution does not, however, preclude the court from proceeding with possible disciplinary action under subsection (h) if otherwise warranted.
  - (3) Condition Jeopardizing Representation. If the Committee determines that incompetency, incapacity, disability, or impairment does exist to the extent of jeopardizing adequate representation of clients by the attorney, it shall ascertain whether the attorney is willing to resign from the bar of this court or, if the condition may be correctable within a reasonable time, to cease further representation of clients in this court until the condition is corrected, whether by treatment, counseling, education, or other remedial measures.
    - (A) If the attorney resigns, the Committee shall so advise the court, and the matter shall be considered closed. The attorney may apply for reinstatement under subsection (j) when the condition has been corrected.
    - (B) If the attorney agrees to take corrective action and to cease further representation of clients until the condition is corrected, the Committee shall so advise the court, indicating the remedial measures to be undertaken. The Committee shall further advise the court when the condition appears to have been remedied, at which time the attorney may resume the representation of clients in this court.
    - (C) If the matter is not resolved voluntarily under subparagraphs (A) or (B), the Committee shall, after any additional investigation that may be needed, submit to the court a written report as under subdivision (h)(1)(C) in order that the matter may thereafter proceed as a disciplinary matter.
- (j) Reinstatement. An attorney suspended for three months or less shall be automatically reinstated at the end of the period of suspension upon the filing with this court of an affidavit of compliance with the provisions of the order. An attorney suspended for more than three months, or disbarred or removed from the bar of this court, may not resume the practice of law before this court until reinstated by order of the court. An attorney who has been disbarred or removed from the bar of this court after hearing or consent may not petition for reinstatement until such person is a member in good standing of Alabama State Bar and at least five years have expired after the effective date of disbarment or removal, except that such a petition by a person removed because of incompetency, incapacity, or impairment may be made prior to expiration of such five year period upon a showing that the incompetency, incapacity, or impairment no longer exists.
- (1) Petition for Reinstatement. Petitions for reinstatement by a disbarred, removed, or suspended attorney under this Rule shall be filed with the Chief Judge of this court. Upon receipt of the petition, the Chief Judge may submit the petition to the court or may refer it to the Grievance Committee, which shall promptly schedule a hearing at which the petitioner shall have the burden of establishing by clear and convincing evidence that he or she has the moral qualifications, capacity, competency, and learning in the law required for admission to practice before this

court and that resumption by such person of the practice of law will not be detrimental to the integrity and standing of the bar or the administration of justice or disserve the public interest. Upon completion of the hearing the Committee shall make a full report to the court. The Committee shall include its findings of fact as to the petitioner's fitness to resume the practice of law and its recommendations as to whether or not the petitioner should be reinstated.

- (2) Order. If after consideration of the Committee's report and recommendation the court finds that the petitioner is unfit to resume the practice of law, the petition shall be denied. If after consideration of the Committee's report and recommendation the court finds that the petitioner is fit to resume the practice of law, the court shall reinstate the petitioner, provided that the reinstatement may be made conditional (i) upon the payment of all or part of the costs of the proceedings, and the making of partial or complete restitution to all parties harmed by the conduct of the petitioner which led to the suspension or disbarment; (ii), if the petitioner was suspended or disbarred for five years or more, upon the furnishing of proof of competency and learning in the law, which proof may include certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment; and (iii) upon any other or additional terms which the court in its discretion deems appropriate.
  - (3) Successive Petitions. No petition for reinstatement under this Rule shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.
  - (4) Expenses. Petitions for reinstatement under this Rule shall be accompanied by a deposit in an amount to be set from time to time by the court in consultation with the Grievance Committee to cover anticipated costs of the reinstatement proceeding.
- (k) Retained Powers. The provisions of subsections (h) and (i) do not apply to or limit the imposition of sanctions or other disciplinary or remedial action as may be authorized by the Federal Rules of Civil Procedure or the Federal Rules of Criminal Procedure, or through exercise of the inherent or statutory powers of the court in maintaining control over proceedings conducted before it, such as proceedings for contempt under Title 18 of the United States Code or under Rule 42 of the Federal Rules of Criminal Procedure. Nor do the provisions of such subsections limit the court's power to refer matters to appropriate committees or officials of the Alabama State Bar for such investigation and action as may be appropriate.

### **LR83.2 Broadcasting and Photographs**

Whether or not court is actually in session, there shall be no radio or television broadcasting or taking of photographs in or from the courtrooms or their environs during the progress of, or in connection with, any judicial proceeding, including proceedings before a Magistrate. This restriction does not apply to naturalization ceremonies or other ceremonial proceedings.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA**

\_\_\_\_\_)  
vs. \_\_\_\_\_) No. \_\_\_\_\_)  
\_\_\_\_\_)

**DISCLOSURE STATEMENT PURSUANT TO LOCAL RULE 3.4**

Pursuant to Local Rule 3.4 of the Northern District of Alabama and to enable District Judges and Magistrate Judges to evaluate possible disqualification or recusal, the undersigned counsel for \_\_\_\_\_ in the above-captioned action certifies that the general nature and purpose of the foregoing entity or entities is \_\_\_\_\_.

Counsel also certifies that the following are parents, subsidiaries and/or affiliates of said party or parties that have issued shares or debt securities to the public:  
\_\_\_\_\_.

**or**

Counsel also certifies that there are no parents, subsidiaries and/or affiliates of said party or parties that have issued shares or debt securities to the public.

**and**

(If any above-captioned entity is unincorporated)

Counsel further certifies that defendant \_\_\_\_\_ is unincorporated and members(s) \_\_\_\_\_ has/have issued shares or debt securities to the public.

Date \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney or Litigant